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HOUSE OF REPRESENTATIVES—*Wednesday, September 15, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. BRADLEY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 15, 2004.

I hereby appoint the Honorable JEB BRADLEY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend L. John Gable, Pastor, Crossroads Presbyterian Church, Mequon, Wisconsin, offered the following prayer:

God of grace and glory, Your word instructs us to pray for those in leadership and for those who are in positions of authority over us. As we gather here today, we recognize that we are those very leaders. Yet we humbly confess that our strength and wisdom is insufficient for the issues of our day, so we pray for Your wisdom, strength and guidance, and our openness to it.

We pray for those gathered in this hall and for the decisions that will be discussed and made here. We pray for our President and for all those who serve the common good that their actions and decisions might be in accordance with Your perfect will for peace, justice and freedom.

Save us, O Lord, as a people and as a Nation from the self-confidence that forgets its dependence on You; yet inspire us in the realization that the work we do is important in the serving of Your purposes.

Lord, bless us and bless our Nation that we in turn may be a blessing to You. This we pray in Your Holy Name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Hawaii (Mr. CASE) come forward and lead the House in the Pledge of Allegiance.

Mr. CASE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

> H.R. 5008. An act to provide an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through September 30, 2004, and for other purposes.

The message also announced that the Secretary be directed to request the return to the Senate (S. 2261) entitled "An Act to expand certain preferential trade treatment for Haiti," in compliance with a request of the Senate for the return thereof.

The message also announced that pursuant to Public Law 105–292, as amended by Public Law 106–55, and as further amended by Public Law 107–228, the Chair, on behalf of the President pro tempore, upon the recommendation of the Democratic Leader, appoints the following individual to the United States Commission on International Religious Freedom, for a term of two years:

Preeta D. Bansal of Nebraska.

WELCOMING THE REVEREND L. JOHN GABLE

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, it is with particular pleasure that I rise to welcome the Reverend L. John Gable and his wife Kris to the Chamber of the United States House of Representatives today.

Reverend Gable is a graduate of Princeton Theological Seminary as well as Hanover College in Hanover, Indiana, and his ministry has carried him through Ohio, Iowa, and now he serves as senior pastor for a decade at Crossroads Presbyterian Church in Mequon, Wisconsin. The Good Book says, "If you owe debts, pay debts." I rise today to discharge a large one in my life, for it was 25 years ago as a young man at Hanover College that the then student John Gable, more than anyone else, challenged me to take seriously the claims of Christ. I will never forget the day, Mr. Speaker, that young John Gable said to me, "Remember, MIKE, you have got to wear it in your heart before you wear it around your neck."

As those at Crossroads Presbyterian Church know and people in Ohio and Iowa and all over the country, John Gable has made a difference in America, in the lives of thousands, and he most certainly made a difference in mine. It is my pleasure to welcome the Reverend L. John Gable and his wife Kris to the United States House of Representatives today as our chaplain.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 5 one-minute speeches on each side of the aisle.

TRIBUTE TO SCOTT ERWIN

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, so many times in our lives, blessings appear to us without our knowing. At other times, Providence just slaps us in the face.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

In the summer of 2002, a young man named Scott Erwin, a senior at the University of Richmond, came to work in my office as an intern and made an immediate impact on my staff. To the staff assistants who supervised him and the senior staff who gave him his assignments, Scott revealed himself in short order as a special young man, a man of intelligence, humor and gumption. He was the kind of man who was going to make a difference in the world and leave it better than he found it.

Toward that end, while Scott's classmates spent their senior year taking gut courses and working on their graduate school applications, Scott went to Iraq. He transported a class on American democracy, which he had developed and taught as a student at Richmond to the Coalition Provisional Authority in Iraq, where he taught the class to Iraqi university students. He showed them how the institutions and history of American democracy might be translated into Iraqi culture to help the liberated Iraqi people build a democratic society of their own.

On his way back from class one Wednesday this past June, Scott's car was ambushed by terrorists, either Saddam loyalists or foreign killers. They riddled the car with bullets, killing two of those inside. Scott himself was hit three times, once in each arm, once in the abdomen. His life was saved twice in those terrifying moments, once by the translator sitting next to him who pulled him under the seats and once by a very small battery he was carrying near his identification card over his heart which deflected the bullet that would have otherwise killed him. Iraqi police scared off the terrorists and Scott received immediate medical attention. He was soon flown to Germany and then home to the United States, where he is still recovering from his wounds and the surgeries conducted to save his life.

It makes you wonder how you spent your senior year in college.

As I said, Mr. Speaker, sometimes Providence is not a breeze but a hurricane. Sometimes it comes in the shape of a battery, and sometimes it comes in the shape of an intrepid 22-year-old serving his country and all countries in the cause of human freedom.

Scott Erwin came to work for me in 2002 and gave my office a jolt of enthusiasm and wit, to say nothing of extraordinary candlepower. Those are the traits he took with him to Iraq and the traits he brings with him every day to physical therapy as he continues to recover.

Today, Scott Erwin is back at the University of Richmond, still fighting, still working, finishing his degree in political science and the classics. He does not know I am even here speaking these words about him, and maybe that is how he would prefer it. But these words deserve the saying just the same.

So, Scott, wherever you are, on behalf of everyone in my office and everyone here on Capitol Hill, thank you for your service, thank you for your courage, and we all look forward to seeing what you do with both of them in the future.

Good luck, Scott, and God bless you.

URGING THE PRESIDENT TO SPEAK CANDIDLY

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, yesterday in Denver the President said, "When the American President speaks, he must mean what he says."

That is interesting coming from an administration that told us the Medicare bill would actually cost $395 billion, all the while knowing it would cost $540 billion.

From an administration that said it would take less than 100,000 troops to secure the peace in Iraq and then fired General Shinseki, who told us the true number.

From an administration that promised to leave no child behind but purposely left them $10 billion short.

From an administration that said Iraq had reconstituted their nuclear capability, even though its own intelligence report said the opposite.

From an administration that said a memo detailing al Qaeda's plans to attack the United States was historical and not a warning.

From an administration that says it will cut the deficit in half while proposing $3 trillion in additional new spending.

From an administration that said their economic policies would create 5.5 million jobs. We are only 2.6 million short.

From an administration that promised a tax cut for everyone but failed to include a provision increasing the child tax credit for 6.5 million working families and military families.

Mr. Speaker, this is a funny way to promise to restore truth and honesty to the White House.

INTRODUCTION OF CONSTITUTIONAL AMENDMENT ALLOWING NATURALIZED CITIZENS TO SERVE AS PRESIDENT

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, this morning I have introduced a constitutional amendment that will provide the American people with a wider range of presidential candidates. My amendment will allow all those who have been citizens of the United States for more than 20 years to serve as President. This constitutional amendment is fully consistent with my long-held support for a generous policy of legal immigration but at the same time vigorously opposing all illegal immigration.

There are those here today who will interpret this constitutional proposal permitting a naturalized citizen to serve as President as a political ploy designed to permit a prominent California elected official who immigrated to the United States from Central Europe and who still speaks with a thick accent to be eligible to be elected President of the United States.

This is no ploy. I honestly believe that TOM LANTOS should be allowed to seek the highest office in the land just like any other elected official from California.

I ask my colleagues to join me in supporting this constitutional amendment.

IVAN THREATENS NEW ORLEANS

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, barely have we recovered from Hurricane Hugo and we are seeing Hurricane Ivan pose the threat that has long been feared by those in Louisiana, that this actually might represent the loss of the City of New Orleans. Located 15 feet below sea level, there is the potential of a 30-foot wall of water putting at risk $100 billion of infrastructure and industry and countless lives.

We all hope that it does veer to the west as projected, but I hope that this brings us to a realization that now is the time for the Federal Government to deal with policies that will make a difference protecting people. Careful planning, strong building codes and balanced transportation are not slogans and bureaucratic hoops. These are simple, commonsense provisions that can save lives, protect property and prevent countless billions of dollars in disaster aid from the Federal Government.

AGAINST MATRICULA CONSULAR CARDS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, last night the House voted to strip language in the Treasury bill that would have made a small step towards restoring some sense of sanity to our national immigration policy. Even though we are supposed to be reforming our immigration system in the aftermath of 9/11, Time Magazine has just reported that 3 million illegal aliens will enter this country, adding to the 10 million who are already here. This is the largest number since 2001, the year we were attacked. Is this progress? No.

And now we are allowing these matricula consular cards which are issued as a form of identification in Mexico. We are allowing this form of ID even though the FBI reports that there is no centralized database for issuing these cards, there are no uniform standards for its issuance, and in some cases all an applicant has to do is simply say, I am who I am. The FBI determined that these are not adequate standards and that they are fraught with fraud. I wholeheartedly agree.

Mr. Speaker, I am disappointed that we are allowing these ID cards to be used. I am deeply concerned that their use places our national security at risk.

WASHINGTON RESULTS BODE WELL FOR DEMOCRATS

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, my home State of Washington is considered a swing State this November. Yesterday, Washington held its fall primary election, the first litmus test between Republicans and Democrats. The results make clear that Washington is going to vote Democratic in a very big way on November 2.

Christine Gregoire is going to make a fine Democratic Governor.

PATTY MURRAY, Senator MURRAY, will remain a U.S. Senator.

Dave Ross is going to make a fine Democratic Congressman from the Eighth Congressional District, one new seat for the Democrats.

Don Barbieri is going to make a fine Democratic Congressman from the Fifth Congressional District. That is another new seat for the Democrats.

People know, Mr. Speaker, what 4 years of Republican control has done to America. People know and they are paying attention.

So, Mr. Speaker, ask the President to keep coming out to Washington and spend all the money he can. It will be good for tourism. It might even create a job or two, more than he has done in the other Washington.

By the way, Mr. Speaker, I got 86 percent, too. We are all coming back and we are going to get our country back in 47 days and a wake-up.

NBC GETS MEDIA BIAS AWARD

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, last week I announced a weekly award for the worst example of a biased liberal media report. The nominees for the first Media Bias Award are: NBC's "Today" show for interviewing Kitty Kelley for 3 consecutive days about her book on the President's family, filled with second-hand sources, rumors, and falsehoods; Newsweek Magazine for this week's cover story on "The Secret Money War" in the Presidential campaign. Newsweek neglected to report that the top five outside money groups all have Democratic Party ties and have spent a combined $91 million attacking President Bush; the New York Times for repeatedly hammering Republicans for their get-out-the-vote efforts among church members while never criticizing Democrats for political speeches in churches; The Washington Post for its coverage of the Democratic and Republican conventions. The day after the Democratic convention, The Post ran three positive front-page stories about the Democratic nominee; but the day after the Republican convention, The Post featured two negative and only one positive front-page story on President Bush.

Mr. Speaker, the winner of the first Media Bias Award is NBC for its decision to feature Bush critic Kitty Kelley on the Today show 3 days in a row. This is the Media Bias Award to NBC.

IN PRAISE OF NORTH CAROLINA SENATOR JOHN EDWARDS

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise today to praise my friend and colleague, North Carolina Senator JOHN EDWARDS. I want to call attention to a specific accomplishment on behalf of ordinary Americans that has earned him the reputation as a people's lawyer.

Valerie Lakey, a 5-year-old girl, was maimed when a swimming pool drain malfunctioned. Her family had nowhere else to turn, and JOHN EDWARDS proved the company that made the drain knew it was dangerous to children, yet did nothing.

Jennifer Campbell was born in 1979 with severe brain damage because, as a jury later determined, her mother's doctor botched the delivery. The hospital covered up the malpractice and Jennifer's parents were forced to turn to JOHN EDWARDS for a measure of justice.

My Republican colleagues talk about what they call "lawsuit abuse" as part of their negative ads on JOHN EDWARDS and JOHN KERRY. But let the record be clear: JOHN EDWARDS has spent his entire life fighting for ordinary folks who could not fight for themselves. JOHN EDWARDS and JOHN KERRY have a plan to make North Carolina a stronger home and respected in the world. I am proud of my friend JOHN EDWARDS and know he will make a great Vice President.

LAWSUIT ABUSE REDUCTION ACT

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, I rise today to thank my colleagues for passing H.R. 4571, which is the Lawsuit Abuse Reduction Act.

In the NFL, a coach can challenge a referee's call; but if he is wrong, he has to give up a time out. It seems fair. But there is no personal risk for an unscrupulous trial lawyer to file a lawsuit against a company or a person and then offer to settle a dispute for less than the cost to defend the case in court. In the criminal laws, this would be termed extortion. But under the tort laws, it becomes a thriving industry.

Mr. Speaker, when the Senate passes the Lawsuit Abuse Reduction Act, it will be illegal to sue someone for an imaginary offense and cause them to pay thousands of dollars in legal fees in order for a judge to make a final official ruling. When one of these cases is deemed without merit, the attorney filing the suit will be responsible for paying the legal fees of the defendant. It seems like a simple commonsense approach to me.

I urge my colleagues to join me in asking the Senate to take immediate action to pass lawsuit abuse reduction in the United States.

THE NATIONAL DEBT

(Mr. CASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CASE. Mr. Speaker, it has been 1,215 days since the current administration assumed stewardship over our Federal budget. During that time, our national private debt has increased by 1.733 trillion. According to the Web site for the Bureau of the Public Debt at the U.S. Department of Treasury, yesterday our Nation's outstanding privately held debt alone was $4.343 trillion, an increase of 39 percent in just 3½ years. And foreign holdings of that debt now total $1.79 trillion, an increase of $780 billion since January, 2001, and now 41 percent of all privately held debt.

Total Federal debt at the end of this current fiscal year in just 15 days, including obligations to Social Security and Medicare, is projected to be $7.372 trillion.

It is time to stop the bleeding.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). Pursuant to House Resolution 770 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5025.

□ 1022

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, with Mr. ISAKSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose on Tuesday, September 14, 2004, the amendment by the gentlewoman from New York (Mrs. KELLY) had been disposed of and the bill was open for amendment from page 76, line 8 through Page 166, line 3.

Pursuant to the order of the House of that day, no further amendment to the bill may be offered except:

Pro forma amendments offered at any point by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

amendment 1;

amendment 2, debatable for 1 hour;

amendment 5, debatable for 40 minutes;

an amendment by the gentleman from Oklahoma (Mr. ISTOOK) regarding GSA;

an amendment by the gentleman from Massachusetts (Mr. OLVER) regarding Federal Motor Vehicle Safety Standards, debatable for 30 minutes;

an amendment by the gentleman from Massachusetts (Mr. OLVER) regarding the IRS or regarding election reform, debatable for 20 minutes;

an amendment by the gentleman from Ohio (Mr. BROWN) regarding the definition of manufacturing;

an amendment by the gentleman from Maryland (Mr. VAN HOLLEN) regarding OMB circular A-76, debatable for 20 minutes;

an amendment by the gentlewoman from West Virginia (Mrs. CAPITO) regarding private collection, debatable for 20 minutes;

an amendment by the gentleman from Arizona (Mr. FLAKE) regarding Cuba, debatable for 1 hour;

an amendment by the gentleman from Massachusetts (Mr. DELAHUNT) regarding Cuba;

an amendment by the gentleman from New York (Mr. RANGEL) regarding Cuba;

an amendment by the gentlewoman from California (Ms. LEE) regarding Cuba;

an amendment by the gentlewoman from California (Ms. WATERS) regarding Cuba;

an amendment by the gentleman from Texas (Mr. STENHOLM) regarding the debt limit, debatable for 20 minutes;

an amendment by the gentleman from Illinois (Mr. GUTIERREZ) regarding the Comptroller of the Currency, debatable for 30 minutes;

an amendment by the gentleman from Virginia (Mr. MORAN) regarding chapter 89 of title 5 of the United States Code, debatable for 20 minutes;

an amendment by the gentleman from North Carolina (Mr. BUTTERFIELD) on disadvantaged business enterprises;

and an amendment by the gentlewoman from the District of Columbia (Ms. NORTON) regarding Federal employee health benefit plans.

Each amendment may be offered only by the Member named in the request or a designee, or the Member who caused it to be printed or a designee; shall be considered as read; shall not be subject to amendment except pro forma amendments offered by the chairman or ranking minority member of the Committee on Appropriations for the purpose of debate; and shall not be subject to a demand for a division of the question.

Except as specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent. An amendment shall be considered to fit the description stated in the request if it addresses in whole or in part the object described.

AMENDMENT OFFERED BY MR. GUTIERREZ

Mr. GUTIERREZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. ISAKSON). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GUTIERREZ:

At the end of the bill before the short title, insert the following new section:

SEC. ____. None of the funds made available in this Act to the Secretary of the Treasury may be used to take any action to enforce the rule submitted by the Comptroller of the Currency relating to bank activities and regulations, published at 69 Fed. Reg. 1895 (2004) or the rule submitted by the Comptroller of the Currency relating to bank activities and regulations, published at 69 Fed. Reg. 1904 (2004).

The CHAIRMAN pro tempore. Pursuant to the order of the House on Tuesday, September 14, the gentleman from Illinois (Mr. GUTIERREZ) and the gentleman from Oklahoma (Mr. ISTOOK) each will control 15 minutes.

The Chair recognizes the gentleman from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. Mr. Chairman, I yield myself such time as I may consume.

I regret having to offer this amendment, which blocks funds to implement and enforce the OCC preemption regulations issued earlier this year. The last time we addressed this issue on the House floor was during consideration of the Commerce, Justice, State appropriations bill. The gentleman from California (Mr. SHERMAN) and the gentleman from Idaho (Mr. OTTER), my able colleagues, offered an amendment at that time that would have prevented any funds in that bill from being used to enforce these preemption regulations.

At that time the opposition did not argue against the substance of our concerns, these ill advised preemption regulations that prevent State attorneys general from protecting their consumers. Instead, those opposed to our amendment merely put forward procedural arguments and indicated that this matter should be taken up under regular order, considered in the Committee on Financial Services.

We strongly agreed with those sentiments. In fact, 10 members of the Committee on Financial Services sent a bipartisan letter to the chairman of the committee as well as to the chairman of the Financial Institutions and Consumer Credit Subcommittee. In this letter, we asked for consideration of legislation to overturn the preemption regulations that I introduced in April of this year. This letter was sent 2 months ago, July 21, 2004, and we have not received the courtesy of an acknowledgment, much less a substantive reply. Therefore, we are forced to once again address this issue on appropriation legislation.

That is truly unfortunate, Mr. Chairman, because many Members on both sides of the aisle believe that these regulations not only represent a drastic expansion of the OCC's power but they also greatly exceed the OCC's congressionally granted preemption authority. Furthermore, the OCC's regulations effectively deny citizens the protections of their States' predatory lending and other consumer protection laws. While the OCC claims that it can provide consumer protection equal to that currently provided by State consumer protection agencies and the State attorneys general, we are concerned that replicating the functions of 50 State consumer protection agencies would require an enormous increase in the budget and the power of the OCC, yet will still deny millions of consumers the same level of protection they currently enjoy today from their State regulatory agencies.

Perhaps the most important question regarding the preemption amendments is whether Congress intended to allow the OCC to preempt all State consumer protection laws applicable to national banks. Clearly it was not the intent of Congress to create a national banking consumer protection agency when it granted the OCC limited preemption authority.

I thank the gentleman from Texas (Mr. PAUL) for his cosponsorship in support on this issue. But there is still time to enact on this legislation before the end of session. After all, we are only asking that we have a subcommittee hearing.

Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the gentleman from Illinois (Mr. GUTIERREZ) and his concerns over this issue; and it is my understanding, and I am sure he will correct me if I am wrong, that after we spend the time on the debate that the amendment is actually going to be withdrawn.

□ 1030

But it does not mean that the gentleman does not raise important issues.

The conflict between chartering and laws related to State banks and national banks is an ongoing one and, frankly, I have not studied it enough to know whether I would agree or disagree with the gentleman and his comments.

But I do know that this is not the proper forum to have this debate. This is something that probably should be brought up by the authorizing committee, because this goes so much to the heart of the very structure of the banking system in the United States. It should not be decided lightly. It should not be the subject of quick debate and superficial thought by this body. It demands long consideration. It requires hearings, and it requires very, very careful scrutiny.

The regulations which the gentleman mentions have already been in effect for a great number of months. Catastrophe has not happened. I do not believe that it is necessary for this House to adopt this amendment, and certainly, it is not proper for us to decide banking structure of the entire country in a few minutes of superficial debate on this crucial issue.

This is not the bill where we should decide this issue. This is not the time. This is not the place, and I oppose adoption of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. GUTIERREZ. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I thank the gentleman from Illinois, the home of the greatest Republican President of the United States, for yielding me this time.

I hearken back to the Grand Old Party that gave us Teddy Roosevelt and reflect on how far that party has fallen in the area of consumer protection, to the point where we now have the most anticonsumer administration in the history of this country, an administration so dedicated to stripping away all protections for consumers, so dedicated to unbridled corporate power, that they would trample on other values they claim to hold dear, all in an effort to expose consumers to some of the worst practices in the home mortgage market.

The Grand Old Party claims to care about States' rights, and then they use the power of renegade regulators to strip away all State authority to protect consumers in home mortgage lending situations, when our land law and our mortgage law has traditionally been a matter of State jurisdiction. They claim to care about democracy, but instead of this major decision being made by the elected representatives of the people, it is made in the bowels of the bureaucracy.

The gentleman from Oklahoma correctly points out that the committee of jurisdiction should be focused on this, but instead, a party dedicated to corporate power does not deal with this in the Committee on Financial Services where the gentleman from Illinois and I both sit.

Mr. Chairman, there is one other value that is trampled on, and that is the value of fair market competition. Because what this OCC regulation does is it says that if you are a national bank, you do not have to abide by any of the State laws. But if you are one of one-half of the banks that is State chartered, well, then, you do. And frankly, some of those laws are rather Draconian. So it provides a very unfair advantage to one-half of the competitors, particularly the largest ones.

Finally, it creates a race to the bottom among bank regulators. Now, the national banks are exempt from consumer regulation, so what do the State regulators do if they want market share, if they want to stay in business, if they want to have any banks to regulate? The pressure is on them: Race to the bottom.

What we need instead is to get rid of this regulation, to return to a democratic process in which States can protect consumers and where, if we are going to have national standards, they are established by a Congress not looking to strip away all consumer protection but rather a Congress looking to provide a reasonable level of consumer protection and a reasonable level of access to credit.

It is time to rein in the renegade regulators. One would have thought that the folks on the other side of the aisle would be saying just that.

Mr. ISTOOK. Mr. Chairman, I reserve the balance of my time.

Mr. GUTIERREZ. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. OLVER), the ranking member of the subcommittee.

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the Comptroller of the Currency's regulations, preemption regulations, are a huge expansion of that office's power. They exceed the OCC's congressionally-granted preemption authority. The rules effectively deny citizens the protections of their State's predatory lending and other consumer protection laws.

The OCC claims that it can provide the consumers protection equal to that currently provided by State consumer protection agencies. However, replicating the functions of 50 State consumer protection agencies will require an enormous increase in their budget and power. Congress did not grant, in any understanding of mine, the OCC unlimited preemption authority so the OCC could preempt all State consumer laws applicable to the national banks and, thus, become a national consumer protection agency.

Even supporters of this expansion should be concerned when such changes in policy are undertaken without the explicit consent of Congress. Expanding OCC's preemption authority should come only after a full debate and a vote by the people's representatives in this Congress, not by the agency's unilateral action.

This amendment, which is a limitation amendment, a limitation on funds, is the only opportunity to have this debate. Since stand-alone legislation is not likely to be considered by Congress this year, despite the efforts of the opponents of OCC's preemption to work with the Committee on Financial Services to advance legislation dealing with this issue.

Because it is a limitation amendment, while I agree with the chairman of my subcommittee that the issue ought to be taken up at the authorizing level, it is entirely appropriate to be brought up here as a limitation amendment by the gentleman from Illinois, and I support the amendment as a limitation amendment as entirely legitimate in controlling this abuse of power and this grab of power that, it seems to me, is not authorized by the legislation as it sits.

Mr. GUTIERREZ. Mr. Chairman, I yield myself such time as I may consume.

Let me just say that we wrote this letter on July 21, after we had the appropriations markup here on the House Floor. And it was stated by the gentleman from Alabama (Mr. BACHUS) that we should go back to our committee.

Well, 10 Members, bipartisan, sent the letter and said, Let us have that markup; let us look at the OCC.

I just want everyone to understand that they have said continuously that local government, State government at the local level are the incubators of democracy, and we should let local governments do it because they do it best, and we should get the Federal bureaucracy less and less out of people's lives. Well, guess what the OCC, the big Federal bureaucracy has just done to every

Attorney General across this country? It said, Step aside, we are in charge of consumer protection. That is wrong.

Lastly, just so that my colleagues know, you only can call them Monday through Thursday, Monday through Thursday if you have a complaint. I have checked all the 50 States and all of the attorneys general of all the 50 States. Fortunately, they work 5 days a week, some of them more than 5 days a week, with local offices closely accessible.

So I am going to withdraw the amendment but suggest that we are going to continue to have these debates until we have a vote up or down on the OCC and whether it can or cannot do this.

Mrs. MALONEY. Mr. Chairman, I rise in support of the Gutierrez amendment barring the use of funds to enforce the OCC preemption regulations. This amendment is supported by a bipartisan group of members of the Financial Services Committee who have been frustrated in our efforts to bring legislation on this important issue before the Committee for full debate and action. We are concerned that the recently issued OCC preemption and visitatorial regulations deny our constituents the benefits of State predatory lending and other consumer protection laws.

The OCC's assertions that it will provide the same level of consumer protection are simply not realistic. To duplicate the State regulatory apparatus would require a huge increase in the size and budget of the OCC—and more to the point, a huge increase in regional experience and intelligence that the agency simply does not have. Recent crises such as the Riggs Bank fiasco have put in doubt whether the OCC can do the job it has now, let alone taking over the job of the 50 State banking regulators.

Legislation has been introduced to address this issue. Ten members of the Financial Services Committee, including myself, signed a letter asking that it be brought up under regular order. But there has been no action to allow members of the Committee to debate and vote on it, and to bring it to the floor.

This matter is urgent, and it is not appropriate to simply bury it by inaction. Thus, we are forced to offer this amendment as a way to arrest the regulations so that we can have the appropriate process to debate and vote on this important issue. It is a regrettable, but, unfortunately necessary, step.

I ask for your support for the Gutierrez amendment so that this body can all have a chance to examine the OCC preemption regulations before they take effects and damage our State regulatory systems.

Mr. OXLEY. Mr. Chairman, I rise in strong opposition to the amendment.

By seeking to undo regulations governing the proper application of State laws to national banks, this amendment goes to the heart of the Financial Services Committee's jurisdiction over banking matters. During this Congress, the Financial Services Committee has held two hearings addressing the OCC's regulations. The hearings revealed deep divisions between those who, like the proponents of this amendment, are critical of the OCC's regulations, and those who believe they represent a thoughtful codification of long-standing statutory and judicial precedents. I fall into the latter camp.

Based on the Committee's hearings, it is clear that there is no consensus at the present time on the merits of the OCC's regulations. Legislation introduced by Mr. GUTIERREZ to invalidate the regulations under the Congressional Review Act has received little support. To attempt to legislate a resolution to this highly contentious issue in an appropriations bill—over the strong objection of the leadership of the Committee with jurisdiction over the substantive issue and with no opportunity for input from that Committee—subverts the regular order of this House.

The rules that Mr. GUTIERREZ disagrees with were finalized earlier this year, after a lengthy period for public notice and comment. The rules have been in full force and effect for most of the year, and the dire consequences predicted by Mr. GUTIERREZ have simply not materialized. National banks continue to be closely monitored for compliance with applicable consumer protection laws, and the State banking system remains strong. Two Federal judges have recently dismissed legal challenges to the OCC regulations filed by States against national banks, upholding the OCC's exclusive authority to regulate the lending activities of national banks and their operating subsidiaries.

Finally, it is unclear what effect—if any—this amendment might have. Given that the OCC is self-funded, and any litigation to enforce the regulation would be undertaken by the Department of Justice and not the Department of the Treasury, I am unclear about what effect this amendment might have.

For all of these reasons, I urge Members—regardless of their views on the underlying OCC regulations at issue—to strongly oppose this amendment.

Mr. GUTIERREZ. Mr. Chairman, I ask unanimous consent that my amendment be withdrawn.

The CHAIRMAN pro tempore (Mr. ISAKSON). Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just wanted to use this as an opportunity to notify Members who are listening: We are here on the floor. We have entered into time agreements for discussion on amendments, but the Members who are to present those amendments are not here on the floor. We need them to come to the floor to present their amendments so that we may move forward and resolve the consideration of this bill.

We know that we are not going to be able to complete bill consideration today because we have a short day so that Members can be home for Rosh Hashana observances later today, but I want to make sure that Members who have amendments are notified that they need to be coming to the floor. They need to be coming to the floor right now if they expect to present their amendments. Otherwise, they would lose the opportunity, of course, to do so.

Mr. Chairman, at this time, I am not aware of any amendments that are ready with Members here on the floor to present them.

So I have nothing further to add to my remarks at this time if the Chair wants us to wait a few minutes for Members to arrive. But I wanted to give that information.

The CHAIRMAN pro tempore. The Committee will wait for Members offering amendments.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to take this opportunity to say that the chairman has already indicated that we have a list of about 20 people who supposedly have amendments. And some of these have been planned for specific times, but some of them are open and have been planned for today. And if they have their amendments and they have been planned for today, then they should be here at this time.

But, in the meantime, I think it is worth spending just a few minutes in reviewing the situation that we found ourselves in last night. The legislation that we have before us is the yearly appropriations bill for the Subcommittee on Transportation, Treasury, and Independent Agencies appropriations. Year after year, this committee operates within the authorization by the Committee on Transportation and Infrastructure, and now, in this particular year, we do not have an authorization for at least 11-plus months of the year. And the authorization for most of the major transportation issues, which include the Federal Highway Administration, the Federal Transit Administration and the Federal Rail Administration, are all included in that bill which has not yet been passed. The authorization for even the extensions of authorization are only until September 24, just a matter of a week or so away, a little bit more than a week away, and do not extend into the fiscal year for which we are passing legislation.

So the Committee on Transportation and Infrastructure, which obviously has been trying to get an authorization bill through, and there has been tension between the House and the other body and with the President, with the administration, over what that bill should look like, have clearly not been able to make a bill that can be passed by the House and the other body and passed into law so that we could operate within our normal authorization process.

So, I think, while I am not sure of this, but in order to get to that point where they can get a bill passed, they felt it necessary to essentially eliminate all of the sections, all of the money sections, a total of $50 billion in expenditures which have to do with transportation procedures, and to eliminate essentially all of that last night, through points of order which, under our rules, were sustained, and therefore, $50 billion of expenditure for all of our important transportation programs got held up, taken out of the bill.

□ 1045

Construction dollars are worth 40 to 45,000 jobs per billion dollars of construction moneys. Not all of that was construction dollars, but a great portion of it was construction dollars; and so that has a very major effect upon the whole economy of the country.

So in the process, we have now a situation where we will not be able to do an authorization bill within the time frame of the fiscal year apparently; and, therefore, we will be stuck in a process where this appropriations bill itself cannot be completed, maybe it was not going to be completed, until some time in November; but it may not now be possible to complete it until some time into next year. Probably will not be possible to complete it until there is an authorization bill, whenever that happens to be.

So it has been a really horrendous kind of a process, a real failure of the legislative process. It has been impossible to get an authorization bill prior to the appropriation legislation.

AMENDMENT OFFERED BY MR. BUTTERFIELD

Mr. BUTTERFIELD. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. ISAKSON). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BUTTERFIELD:

At the end of the bill before the short title, insert the following:

SEC. 647. None of the funds made available in this Act shall be used to pay administrative expenses to State and local departments of transportation that the Secretary of Transportation determines do not recognize a certification of a disadvantaged business enterprise by any other State (as defined in section 401 of title 23, United States Code).

Mr. ISTOOK. Mr. Chairman, I reserve a point of order.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentleman from North Carolina (Mr. BUTTERFIELD) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. BUTTERFIELD).

Mr. BUTTERFIELD. Mr. Chairman, I yield myself such time as I may consume.

I thank the Chair for the opportunity to offer this amendment. I want to speak on this briefly, and then I will withdraw it.

The Federal Government has a stated goal of supporting small businesses and, in particular, minority-and women-owned small businesses. One way the Federal Government promotes these businesses owned by minorities and women is through the Department of Transportation's Disadvantaged Business Enterprise Program. This program has been shown to be effective when implemented properly.

In order to become certified as a DBE, the business must go through a long and rigorous approval process of interviews, audits, reviews, and visits so as to ensure that a company and its owners are who they claim to be. However, once certified, a business is forced to go through the process all over again if it wishes to conduct business in another State. The forms and criteria do not change from region to region, as they are all clearly standardized by the Department of Transportation. The two inches of paperwork and the approval process is so time consuming that companies can miss deadlines and thus lose contracts while waiting for a certification.

Since construction projects frequently cross political boundaries, these bureaucratic delays are frequent. This amendment, if signed into law, would prohibit the use of funds from this bill to be spent on administrative expenses and public agencies that do not recognize DBE certifications by other State or local DOTs.

Mr. Chairman, I ask unanimous consent to withdraw this amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AMENDMENT NO. 1 OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. HEFLEY:

At the end of the bill (before the short title), insert the following:

SEC. ___. Each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1 percent.

The CHAIRMAN pro tempore. Pursuant to the order of the House on Tuesday, September 14, 2004, the gentleman from Colorado (Mr. HEFLEY) and the gentleman from Oklahoma (Mr. ISTOOK) each will control 5 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

I rise today to offer an amendment that would reduce this appropriations bill by 1 percent, which would have been $899 million at what we started out. I am not sure what it will be now, 1.25 maybe if it continues like it was last night; but I am sure that this money will come back into the bill as we go along. So I would like to offer this 1 percent amendment.

My amendment is not intended in any way to slight the chairman or the ranking member. I know this has been a difficult task to draft this bill, and it is still difficult to try to put it together and make it come out like it should, and they are doing a good job of that. The chairman has worked with me very closely on some of this effort.

However, I again today offer the amendment to cut the level of funding in this appropriations bill. As most Members are aware, I have offered a series of these amendments over the last weeks as we have dealt with the appropriations bills. If we had adopted these amendments, Congress would have saved $3.2 billion for the American taxpayer. Currently, the projected deficit is over $422 billion for just the next fiscal year, and I do not believe it is too much to ask that we tighten our belt just a bit; and by just a bit, I mean we tight our belt by 1 cent on the dollar.

We have to draw the line somewhere. The budget we have is too large. We can do something about the deficit right now. By voting for my amendment, my colleagues are stating to the American taxpayers that they should not have to pay higher taxes in the future because we cannot control our spending today.

Mr. Chairman, I encourage support for this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the amendment.

With all due respect to my good friend from Colorado, I do rise in opposition to his amendment not because I oppose reducing spending. I wish the budget that we have adopted for this year was spending less money than we are overall. However, at some point, we make decisions, we develop a group consensus and we have to go ahead with that.

We made those decisions, Mr. Chairman, when we adopted the budget earlier this year. There were proposals for lower spending limits along the lines of what the gentleman from Colorado (Mr. HEFLEY) is talking about. I believe I supported those efforts, but we did reach a decision on what is the total amount of spending in this year's budget. We made the allocation to the individual subcommittees, and now we need to work within that particular framework.

If we adopted a revisiting of the amount today on one bill, then we do on other bills and so forth, that is fine; but we could do it at the next stage and next stage and so forth. We have to have a concept of finality. We have reached conclusions on the overall spending level for this year. Once we have done those, we need to work within those guidelines.

Secondly, when my colleagues want to reduce spending, as I do want to reduce Federal spending, it is much better to take a thoughtful approach and go through bills and say if we are not going to spend as much, this is where we cut because it is not as high a priority as some other things that we are doing in that piece of legislation.

The gentleman from Colorado's (Mr. HEFLEY) approach is not as good as that. It is an across-the-board approach. It reduces high-priority programs by the same amount that it reduces low-priority programs. That is not the best approach that we should be taking.

Again, we have made the decision on the overall spending for this year, and we should accept that decision and move forward with the appropriations process.

Mr. HEFLEY. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Colorado.

Mr. HEFLEY. Mr. Chairman, let me correct just one thing.

The gentleman makes a very good argument. By the way, we should have dealt with this at budget time; there is no question about that. The way this amendment is crafted, it does not reduce high-priority programs as well as low-. It allows the administration to determine where the 1 percent comes from; and, hopefully, they have got the good sense to not take it out of the high-priority programs.

I thank the gentleman for yielding.

Mr. ISTOOK. Mr. Chairman, I appreciate the gentleman's comments. I have a lot of faith in this administration. However, when we are deciding what is high priority and what is a lower priority and, therefore, where our reductions should be made, I want to make sure that this Congress is involved in exercising our judgment, not only the administration.

Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding me time.

I, too, oppose this amendment. This is a bill which I had already indicated last night is very underfunded. Every one of the transportation programs in the bill, even before last night's activities of striking out parts of the bill, had been underfunded, and that includes, at least in terms of an inflationary increase, even the Highway Administration; but the Federal Aviation Administration and the Federal Rail Administration and the Federal Transit Administration are all below last year's 2004 enacted numbers in their totality, as well as the Treasury being in a similar situation.

They are in a situation where even before the things that had been removed last night had been done, the Rail Administration was $365 million below the enacted 2004 number. Under the Federal Transit Administration, the New Starts was $130 million below last year's enacted amount. The FAA's facilities and equipment program was $362 million below the enacted amount. The Secretary of the Treasury and the Department were $120 million below last year's enacted amounts, and the Internal Revenue Service was $107 million below last year's enacted amount.

All of these throughout the bill, there are those kinds of things which are already considerably more than 1 percent kinds of cuts from the previous year, and so I think that we are far from where we ought to be with this bill at the moment, and I am hoping the gentleman's amendment is not adopted.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) will be postponed.

AMENDMENT NO. 10 OFFERED BY MRS. CAPITO

Mrs. CAPITO. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mrs. CAPITO:

Page 166, after 3, insert the following new section:

SEC. 647. None of the funds appropriated by the Act may be used to plan, enter into, implement, or provide oversight of contracts between the Secretary of the Treasury, or his designee, and any private collection agency.

The CHAIRMAN pro tempore. Pursuant to the order of the House on Tuesday, September 14, 2004, the gentlewoman from West Virginia (Mrs. CAPITO) and the gentleman from Oklahoma (Mr. ISTOOK) each will control 10 minutes.

The Chair recognizes the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Chairman, I yield myself such time as I may consume.

My amendment to H.R. 5025 seeks to keep the collection of taxes in the IRS and not to a private debt collector. I wish to make it clear today that I am in complete support of efficient and effective enforcement of tax collection activities at all levels of the Federal Government. I also realize that we must recover the billions and billions of dollars in uncollected and delinquent tax revenue, but at what cost.

If we authorize the Treasury to allow the IRS to contract with private companies to collect delinquent Federal taxes, I am extremely concerned that harm could result from handing over sensitive personal and financial tax information to private sector businesses to carry out what OMB and IRS have officially characterized as an inherently governmental function.

Allowing for private debt collection contracts could create a multitude of problems. For instance, any negligent or criminal disclosure of sensitive taxpayer data by private sector tax collectors could result in fraudulent charges through identity theft and ruined credit histories for innocent taxpayers.

Moreover, the potential for harassment by debt collectors is compounded by the private sector tax collection practice of using incentive-based commission compensation. In other words, the more aggressive one is in their collection practices, through misrepresentations or threatening to take actions a person should not take, the more money they can personally make as a private sector tax collector. This system could encourage much more confrontational and abusive tactics that could violate the Fair Debt Collection Practices Act.

Additionally, the Federal Government has tested this concept of private sector tax collection in the past. In 1996, a pilot program provided $13 million to examine the impact of private tax collection. The General Accounting Office reported that private companies collected $3.1 million in revenue while incurring expenses to the Federal Government in the exact same amount. Moreover, the GAO found that the pilot program caused the Internal Revenue Service to lose as much as $17 million in lost collection opportunities. We cannot afford to implement this type of inefficiency.

Mr. Chairman, the Reagan administration rejected private sector tax collection in 1986; and they stated: "The public must be assured at all times that the person collecting taxes derives no personal benefits from that activity and that the integrity of the tax system will not be compromised."

□ 1100

I urge my colleagues to support this amendment so that we can continue to ensure the integrity of our tax system and the American taxpayers are protected.

Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate Mrs. CAPITO's amendment and the seriousness of this issue. When we talk about private collection of debts, we should understand that the Federal Government is already using private debt collectors in other areas. One significant example is student loans. I have certainly visited facilities where private companies are handling the confidential information involved. They are handling it with responsibility. They are handling it in compliance with all legal standards, and they are doing a very good job for the Government, not only getting revenue that we would lose otherwise if we did not collect on the debts but collecting on debts that the Federal Government was having difficulty being able to collect upon.

Not only is this happening in the Federal Government, it is happening in State government. We have a number of States that already use private vendors to collect delinquent taxes on behalf of their State government. Again, they manage to handle these issues of confidentiality in a very responsible manner. There is no reason to believe that a private entity is unable to do this.

There is reason to believe, however, that we have to do some serious things about improving the collection process. There is some $16 billion that the IRS says is not only owed but is collectible. However, it is not always efficient for the IRS to be the entity that does so. We need to have a mix of the people that are working directly for the IRS and those that are working for a private entity to collect these debts.

And for those that are concerned about our shifting jobs away from a particular area where debt collectors may be located, remember those same people can be hired in that area just as easily, in fact, sometimes more easily than they can in another. It is not a job loss issue for local communities. We have seen so often, when we make a transition to try to involve private enterprise, that often they will be in the same area as the public enterprise was located to collect these.

This is an issue that is, frankly, premature, however, because even though there are good reasons to go to this, we do not have legislation that now permits it. Mrs. CAPITO's amendment says: Do not do this. Well, guess what? Under the current law, we cannot do it anyway. So it is not necessary to adopt an amendment to say do not do something that the law currently does not permit you to do.

I would like us to move in that direction. I will certainly acknowledge that, but we are not there yet, and it is unnecessary to have an amendment that stops us from doing something we cannot do at the current time. For these reasons, I oppose the gentlewoman's amendment.

Mr. Chairman, I reserve the balance of my time.

Mrs. CAPITO. Mr. Chairman, I yield 4 minutes to my colleague, the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Chairman, I commend my colleague, the gentlewoman from West Virginia (Mrs. CAPITO), for offering this very important amendment to ensure the fair treatment of the American taxpayer.

Mr. Chairman, it was just back in 1998, in response to concerns over overly-aggressive IRS collection tactics against individual taxpayers, that the Congress passed the IRS Restructuring and Reform Act. That act specifically prevents IRS agents and their supervisors from being evaluated or rewarded based on the amount of tax revenues they bring in or that they collect.

And the reason for that was very simple and straightforward: We want to make sure that IRS agents treat taxpayers fairly and with respect and that they look at each situation objectively. We wanted to make sure they did not have a personal financial stake in the outcome of one of their disputes for the taxpayer. We should not turn IRS agents into bounty hunters for their own personal profit.

Well, now let us fast forward to this year. In the corporate tax legislation that we considered earlier this year, the FSC/ETI bill, there was tucked in a provision that would authorize private contractors to take up these collection efforts and directly benefit on a commission basis by how much they collect. How quickly we forget. This is a direct contradiction to the policy this Congress took back in 1998 when we said we are not going to allow our Federal civil servants to do this. But, hey, it is okay to turn it over to private contractors and turn them into bounty hunters.

Now, it is true, as the chairman of the subcommittee said, that that is not current law yet. But that bill is in the conference committee right now with that provision that this House passed. I do not think many Members of this House realized, who voted for that bill, when they passed that corporate tax bill, they passed a provision that would empower private collection agents to go out and collect taxes and personally profit based on the amount of taxes they collect, these same individuals who, in 1998, voted to prevent public civil servants at the IRS from doing it.

This Congress was right back in 1998 when it passed that measure to ensure objective and fair treatment of the American taxpayer, and it is amazing to me that this Congress would try to reverse that policy and turn some private collection agents into vigilantes to go out and try to collect this money.

I offered a resolution last year, H. Con. Resolution 213, on exactly this issue. We have many cosponsors on that legislation. I am pleased to hear today we have additional recruits to that very important cause. We have a system that works now. We need to do better and be more efficient at the collection of taxes and revenues in order to be fair to those people paying their taxes in a regular and fair manner.

But it makes no sense to reverse the policy this Congress took in 1998 when it tried to prevent overly-aggressive and abusive tax collection by the IRS and say we are going to allow these private contractors to do what we will not allow our public servants to do. We were right then; we should stick to that policy. I commend my colleague for offering this very important amendment, and I urge adoption.

Mr. ISTOOK. Mr. Chairman, how much time remains on either side?

The CHAIRMAN pro tempore (Mr. ISAKSON). The gentleman from Oklahoma (Mr. ISTOOK) has 7 minutes remaining, and the gentlewoman from West Virginia (Mrs. CAPITO) has 4 minutes remaining.

Mr. ISTOOK. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I must admit that I find the idea of putting private, sensitive information in the hands of debt collectors very troubling, and tax collection is a fundamental responsibility of government.

However, in this instance, this program is limited to the effort, the proposal at least. And there is, as the chairman has pointed out, there is no legislation yet allowing this to be done. The proposal that has been put forward is only to use private collectors to go after what monies have already been adjudicated but not collected, that have just not been paid in after the judgments have been reached and the determinations by the normal staff of the IRS as to what was owed has been determined.

So there is out there for years people who have just avoided doing that. And it is not our business, necessarily, to go after them and waste a lot of time on the part of our staff in the IRS to go after that, nor is it necessary that there be any particular information, sensitive information, that has to be involved in that kind of process. The collection agency, as proposed, would merely go out and take what record is there of the determination of the tax case and try to negotiate a payment so that that record could be cleared. There are billions of dollars of that sort.

Now, that has nothing to do with the $300 billion of unpaid tax monies each year that are essentially evaded year by year, people who just are not paying what is owed under the tax laws in the normal process on a year-by-year basis. That kind of money is not involved in this whatsoever.

It is also true that the process has been tried a couple of times in a pilot form and has not been particularly successful. So it needs to be looked at rather carefully. I do not, as the chairman has said, think that we really have a problem, but I do not think we should eliminate the possibility of having that arrangement as a way that we can collect the delinquent, long-time unpaid judgments that the IRS has obtained over time.

It is my understanding, at least in the proposal that had been put forward, that there would be no effect upon the number of employees that were the regular employees of the Internal Revenue Service. So it is quite apart, but it has not been authorized and really does not require this. The amendment is not really needed.

Mrs. CAPITO. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Chairman, I thank the gentlewoman from West Virginia for yielding me this time, and I rise in support of her amendment.

Essentially, what her amendment does is prevent the privatizing of tax collection, and I think this is really very important. My overriding objection to privatizing tax collection is that it has always been treated as an inherently governmental function. And I think that the Federal employees who do this do a great job, and we should be proud of them. Speaking for myself, I am a Federal employee, and I have spent many years of my life as a Federal employee. I think the Federal employees do a great job.

I have met in my congressional district with IRS employees who work on these important tasks, and they themselves have expressed to me serious concerns about the proposal that this amendment will correct.

I think that, in this era of electronic information sharing, we have to be very careful with how we outsource or privatize some of these tasks. On that basis, I support the gentlewoman's amendment and thank her for it.

Mr. ISTOOK. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. RAMSTAD).

Mr. RAMSTAD. Mr. Chairman, I thank the chairman for yielding me this time, and I rise in opposition to the amendment by my colleague and friend from West Virginia.

Preventing the IRS from using the professional services of private collection agencies to help collect past-due income taxes is bad policy for taxpayers, and it is bad for IRS collection efforts. It is fundamentally unfair, Mr. Chairman, to people who pay their taxes for those who do not pay their taxes, the deadbeats, to get off scot-free. And right now, we are losing millions and millions of dollars because of deadbeat taxpayers. In fact, the backlog for the IRS is at $280 billion; that is billion with a "b" and growing every year.

The concerns raised by my friend and colleague can be dispelled by objective study of the IRS proposal. The Subcommittee on Oversight of the Committee on Ways and Means has examined the issue extensively, and we have solid evidence of the success of private collection agencies in collecting other debts for the Federal Government and the more than 40 States that also use them to help collect State income taxes.

First, the security and privacy of sensitive taxpayer information is absolutely essential. Nobody doubts that. That is why IRS employees, anyone performing work under contract with the IRS, would be subject to heavy, heavy criminal penalties for violations of security and privacy.

In addition, a taxpayer could bring a civil suit under the Fair Debt Collection Practices Act against private collection agency employees for any unauthorized disclosure of taxpayer information. So there are protections to guarantee against the type of abuses that have been cited.

Second, private collection agencies would not be compensated solely based on dollars collected. The IRS has developed a set of criteria, including quality of service, taxpayer satisfaction and case resolution, in addition to collection results. These would all be components, elements in determining how PCAs would be paid for the work performed for the IRS.

Third, Mr. Chairman, more than 40 States already use private collection agencies to assist with their State tax collection efforts.

□ 1115

In the last fiscal year, total collections by these private collection agencies for the Department of Education, the Department of Health and Human Services and Treasury were $546 million, up 23 percent from the previous year.

Mr. Chairman, let us get real. Disturbing allegations raised regarding the practices of one contractor should not taint the quality work done by many other collection contractors who are serving the States and Federal Government well. It is important to remember these collection contracts would only involve cases in which the tax liability is not in dispute because taxpayers have admitted to the liability. They have admitted they owe the tax. The more complex cases where liability is disputed would remain with the professional employees at IRS. I urge my colleagues to support taxpayer equity and vote no on this amendment.

Mrs. CAPITO. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Chairman, I rise in support of the Capito amendment to H.R. 5025. The attempt to significantly change the policy of Federal tax collections without serious discussion or debate among Members of Congress is extremely short-sighted. Federal tax collection is currently and should remain an inherently governmental function. Shifting the responsibility from the Federal Government to third-party entities has proven disastrous.

The IRS attempted private tax collection in the past with dismal results. The 1996 pilot program for private collection was so unsuccessful it was cancelled after 12 months, despite the fact it was authorized and scheduled to operate for 2 years. A review by the IRS Office of Inspector General found that contractors participating in the pilot programs regularly violated the Fair Debt Collection Practices Act, did not adequately protect the security of personal taxpayer information, and even failed to bring in a net increase in revenue. In fact, the IRS had a net loss of $17 million for the failed pilot program.

When privatizing tax collection was proposed in 1986 during the Reagan administration, then-Treasury Secretary James Baker opposed the concept. The department's then general counsel in a letter to the House Committee on the Judiciary wrote, "The Department strongly opposes contracting out of the collection of taxes because it is likely to result in considerable adverse public reaction. The public must be assured at all times that the person collecting taxes derives no personal benefits from that activity and the integrity of the tax system will not be compromised."

The Federal tax collection system must retain the highest level of confidence among our constituents. While no one enjoys paying taxes, they at least want assurance that their personal information is protected by the government and used only for legitimate purposes in determining individual tax liability. Wrongful disclosure of tax information will do irreparable harm to the entire system. I urge my colleagues to support the Capito amendment.

Mrs. CAPITO. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Chairman, I rise to support the Capito amendment.

As a former FBI agent, we would be asked to get a subpoena to get the records contained in a tax filer's information, even as a Federal law enforcement agent in an agency right next door. Why, because it is the most invasive information the government asks of its citizens. And not only asks, but tells us we must submit. This is information worth protecting.

Any slip, any slide that takes away the faith and comfort and belief in the Federal Government to protect that information is wrong. They have not clearly shown in any way that they can protect this information.

I would strongly urge that we all stand together on this. For those of us who disagree with positions of the IRS or do not disagree, the information does not belong to the government, it belongs to the people. We should do everything in our power to keep it, including keeping inherently governmental functions within the government. At least there is accountability.

Mrs. CAPITO. Mr. Chairman, I yield the balance of my time to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Chairman, I congratulate the gentlewoman from West Virginia (Mrs. CAPITO) for her leadership on this amendment, and include my prepared remarks for the RECORD.

I would like to point out that we appreciate the expertise and competence of the employees of the IRS, and I am happy to be here to support the gentlewoman's amendment which reaffirms our faith in these Federal employees.

Mr. Chairman, I rise in support of the Capito amendment to H.R. 5025. Under the proposed authority granted to the IRS in the FSC/ETI legislation to "contract out" Federal tax collections, the Federal Government is held harmless for any violations committed by contractors. Specifically, the legislation states:

> "No Federal Liability.—The United States shall not be liable for any act or omission of any person performing services under a qualified collection contract." .(section 6306(d) of H.R. 4520)

While the government can write contracts prescribing certain actions by contractors or their employees, the IRS does not have adequate contract oversight capabilities to ensure compliance. The Treasury Inspector General for Tax Administration (TIGTA) as recently as March, 2004 found that ". . . a contractor's employees committed numerous security violations that placed IRS equipment and taxpayer data at risk. In some cases, contractors blatantly circumvented IRS policies and procedures even when security personnel identified inappropriate practices." (TIGTA Audit No. 200320010)

Currently, IRS employees are the only personnel who may contact taxpayers and collect Federal income tax. These individuals are thoroughly trained in all laws and regulations governing the collection of taxes and are held accountable to the people. If IRS personnel commit violations, they are disciplined or terminated and taxpayers may take legal action against the IRS for such abuse.

Under this proposal, the accountability shifts to third-party contractors whose employees may or may not have any specific training and who are motivated by an economic incentive, through a commission based payment, to "push the envelope".

Because this proposal was contained in a very complex international tax bill, Members did not have the opportunity to directly consider this significant policy change. The Capito amendment provides Members with the opportunity and I urge all my colleagues to support the amendment.

Mr. ISTOOK. Mr. Chairman, I yield myself the balance of my time.

I want to repeat my opposition to this amendment. I think Members recognize that private debt collectors sometimes behave in an abusive manner. I think we also realize that sometimes government debt collectors sometimes behave in an abusive manner. It is not a question of whether that person is employed by the government or in the private sector, it is the question of whether that person is a responsible individual that is well-trained and is handling themselves with integrity. That can be just as true in the private sector as in the public sector.

Many States already use private debt collection and have seen their rate of collections increase because of that. The Federal Government already employs private debt collectors to assist in collecting other Federal debts. For example, student loans that involve sensitive personal and financial information, that is done successfully as well.

The amendment is not only something that opposes something which I think is a promising opportunity, but it is also unnecessary because current law does not permit the IRS to hire private debt collectors. Therefore, the amendment really accomplishes no change from the current law and is unnecessary. I oppose the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. ISAKSON). The question is on the amendment offered by the gentlewoman from West Virginia (Mrs. CAPITO).

The amendment was agreed to.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

Mr. FLAKE. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have stood to offer this same amendment, an amendment to restore the basic right of Americans to travel to Cuba. The Flake amendment has, for the past 3 years, enjoyed broad bipartisan support in Congress, and for good reason.

For the last 45 years, we have attempted to bring about regime change in Cuba, only to see Fidel Castro outlast nine U.S. Presidents, all the while his countrymen have been denied their most basic human rights. A compelling case could be made that our policy of isolating Cuba made sense during the Cold War. As a part of the Soviet Union, Cuba was actively exporting revolution with its troops around the world, but we are more than a decade removed from the Cold War. We now face new challenges, challenges that it can be safely said do not include the spread of Cuban-style communism.

Our challenge is to export freedom to Cuba, and for this cause our current policy is as outdated as the cars that ply the highways of Havana. How can we promote liberty in Cuba with a policy that denies our own citizens the right to travel to the island? How can we foster respect for basic human dignity when we tell Cuban Americans they can no longer send soap and toothpaste to their long-suffering relatives in Cuba? Have we failed to see the long-term consequences of our policy? In a word, yes.

I should note that this blindness does not only inflict the Republican Party; the Democratic leadership has not offered a vision that is much clearer. Unfortunately, neither party can see past Florida when trying to decide what to do about Cuba.

With this bill today, and in other bills this year, we will appropriate tens of millions of dollars relating to Cuba. It is fitting that we ask for what purpose. So the think tanks in Miami can churn out more reports telling the Congress, unsurprisingly, that we ought to continue the current policy which includes giving them more money; so that daily television programs can be produced in Miami that Cubans will never see; so that a Little League team in Arizona will not be able to play baseball with their peers in Cuba; so that faith-based groups in Indiana distributing Bibles in Cuba can be fined for their evangelical zeal; or so a grieving daughter in South Carolina will not be able to attend her mother's funeral in Cuba?

As a Republican, I fail to see anything conservative about these policies. There is a saying no man is an island, yet our policy assumes that Fidel Castro is Cuba's only resident. The people of Cuba have suffered decades under his rule. Our policies, particularly those enacted just months ago, which limit family charity, have only added to their burdens.

Unfortunately, the timing of this legislation this year does not lend itself to a reasoned and thoughtful debate about our policy toward Cuba. Our efforts in this area have always been bipartisan in nature, but with elections so close and politics so raw, this debate would not receive the thoughtful deliberation it deserves.

I would like to thank those Members of Congress on both sides of the aisle who are working so hard for a more effective and reasonable Cuban policy, those who believe that promoting freedom in Cuba is best achieved by giving Americans more freedom. Our efforts will resume as soon as the electoral smoke clears.

It is my understanding that the gentleman from Florida (Mr. DAVIS) will offer an amendment to roll back the new restrictions on family travel by Cuban Americans to Cuba. My colleagues and I look forward to helping the gentleman with his worthy efforts.

Mr. ISTOOK. Mr. Chairman, I would like to be clear for the record and inquire of the gentleman from Arizona (Mr. FLAKE), this means the gentleman is not offering the Flake amendment either at this time or at any later time?

Mr. FLAKE. Mr. Chairman, if the gentleman would continue to yield, that is correct.

Mr. ISTOOK. Mr. Chairman, I ask unanimous consent that the pertinent portion of the existing unanimous consent agreement be amended accordingly to indicate the Flake amendment will not be considered.

The CHAIRMAN pro tempore. The Chair would advise the gentleman from Oklahoma (Mr. ISTOOK) his unanimous consent request must be made in the whole House.

AMENDMENT OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN of Virginia:

Page 166, after line 3, insert the following:

SEC. 647. None of the funds made available in this Act may be used to carry out, enter into, or renew any contract under chapter 89 of title 5, United States Code, which provides for a health savings account or a health reimbursement account.

The CHAIRMAN pro tempore. Pursuant to the order of the House on Tuesday, September 14, 2004, the gentleman from Virginia (Mr. MORAN) and the gentleman from Oklahoma (Mr. ISTOOK) each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would prohibit the Office of Personnel Management from being able to offer or administer health savings accounts or health reimbursement accounts as part of the Federal Employee Health Benefits Plan.

Just yesterday, the Office of Personnel Management announced that starting on January 1, the Federal Employee Health Benefits Plan will include the option of Federal employees to enroll in high deductible health plans which offer health savings accounts or health reimbursement accounts.

A bipartisan group of Members in both the House and Senate have expressed very strong concern that these plans are untested in either the public or the private sector. For that reason, they should be viewed very cautiously in terms of whether or not they should be included in the Federal Employee Health Benefits Plan.

As Members know, Mr. Chairman, the Medicare prescription drug bill which was enacted this past December included a provision unrelated to either Medicare or to prescription drug coverage. It expanded and renamed medical savings accounts as health savings accounts. They are the same thing. Because there was so much controversy surrounding medical savings accounts, I guess they felt renaming it, they will have a better chance of getting it through, but the same objections apply.

☐ 1130

Health savings accounts are plans that combine a high-deductible, catastrophic insurance policy with a tax-exempt savings account dedicated for health care expenses. Health reimbursement accounts are similar to these HSAs except that they are not tax-exempt and the plan account credits may only be used for health care expenses.

The general concern is that health savings accounts and health reimbursement accounts circumvent the fundamental principles of group health insurance by dividing healthy people from sick people, putting them into different coverage options. Healthier enrollees tend to gravitate to the health savings accounts and other so-called consumer-driven financing schemes because low health care users, those who are younger and healthier, oftentimes more affluent, they are rewarded with unspent balances or credits at the end of each year. But the less healthy enrollees, the older enrollees, the poorer enrollees, they avoid health savings accounts and these so-called consumer-driven plans because they could pay out-of-pocket costs in the thousands of dollars. They are almost sure to use up the entire deductible, so it becomes prohibitively expensive for older people to use these kinds of plans. As a result, higher health care users use the traditional comprehensive plans. The phenomenon is called adverse selection. And it forces insurance carriers to raise premiums, to cut benefits, in fact, to squeeze the people who need health insurance coverage out of the market. They are not going to be able to afford the kind of health insurance cost that they need because they are reducing the risk pool.

Adverse selection occurred when these health savings accounts as similar plans were offered to public employees in Ada County, Idaho and in Jersey City, New Jersey. As a result, the county and city stopped offering these plans to their employees. They did not work. We have that empirical experience. The nonpartisan Congressional Budget Office says that legislation introduced in the 105th Congress to make medical savings accounts available to the Federal Employees Health Benefits Program would have cost taxpayers $1 billion over 5 years. This plan will cost taxpayers $1 billion over 5 years and there is no offset in this bill for that additional cost. It is also projected that enrollee costs would skyrocket above the average annual premium increases. Obviously they are going to skyrocket because as you reduce the pool to the older, the sicker, the less affluent, it is a much higher risk pool and the insurance premiums are going to go through the roof.

Mr. Chairman, the Federal Employee Health Benefits Program has long been heralded as the model health care plan. However, the inclusion of these health savings accounts or health reimbursement accounts will jeopardize the quality and it will raise the cost, the FEHBP program will not be as successful as it has been in the past, and many people will suffer as a result. We should not proceed with implementing these untested plans without knowing the impact of these very high deductible health plans, what impact they will have on the future of the Federal Employees Health Benefits Plan.

That is why this amendment is absolutely necessary. It is essential for the future viability of the Federal Employee Health Benefits Plan. We should not be making Federal employees a Petri dish for these ideological ideas, Mr. Chairman. They have not been tested. In the few places where they have been tested they have not worked.

Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. I thank the gentleman for yielding time.

Mr. Chairman, I want to address just the main criticism the gentleman from Virginia just mentioned. Two things. He says adverse selection, which means healthy and wealthy people will leave other health care plans and premiums will go up for everybody else. Point number one. The Office of Personnel Management took this concern very seriously. So when they constructed this new health savings account option within the Federal Employee Health Benefit Plan, an additional option for Federal employees, they designed the premium so that that would not happen. Specifically, Federal employees would pay $42.25 every 2 weeks for the Mail Handlers high deductible plan compared to $45.16 for the standard coverage, an insignificant difference of $2.81 for every 2 weeks. For family coverage, the difference would be 11 cents. These very small differences in premiums will ensure that healthy employees are not attracted to HSAs by their premium. So the concern of the gentleman, which is a concern, was already addressed by the OPM.

But one more point and the second point is this. All of the data on adverse selection has been coming back and none of it has been true. This was a concern that we were very concerned about. We want to make sure that the healthy and wealthy were not fleeing traditional health care plans, leaving them in jeopardy, raising premiums for other people.

Since these plans have been offered since January and believe me, Mr. Chairman, they have been really proliferating, the data is showing us the opposite has occurred. The data is showing us that sicker, older people are being more attracted to health savings accounts.

A couple of statistics. Assurant Health Care Plan, the leading provider of these in America, happens to be located in Milwaukee; 43 percent of their HSA applicants did not have any prior coverage at all. Forty-three percent of the people who bought these HSAs were uninsured. Thirty-two percent of HSA applicants had not had coverage for at least 6 months prior to enrollment. Half of all HSA applicants had incomes under $35,000. That is from eHealthInsurance, the major clearinghouse of all HSA products, the big Web site you go to to buy an HSA. Half of all their applicants earned under $35,000. EHealthInsurance again, the clearinghouse. 46 percent of HSA purchasers have family incomes less than 50 grand.

We are seeing that lower income workers and families are going toward HSAs and older, less healthy people are going toward HSAs. So the data is showing that that is not true.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself 30 seconds.

I would say to my very bright friend who I know feels very strongly about this, but the statistics that he cites are not with regard to public employees nor does it apply to the Federal Employees Health Benefits Plan, a very successful plan, one of the most successful in the country, where every Federal employee participates.

I would say to my friend that I do not know any Federal employee that has asked for this. Every Federal employee wants the system the way it is working now. I know thousands of Federal employees who are opposed to this.

Mr. Chairman, I yield 3 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman for his amendment because what he is trying to do is to save the FEHBP from a catastrophic illness of its own. This plan is trumpeted as the model for the country. It will not be that way much longer.

I buy the gentleman's notion, my friend on the other side, that sicker and older people and even poorer people are sometimes trying to use these health savings accounts. The reason they are trying to do so is they are trying to reduce the rising cost of health care. What they do not know, of course, is what we already know, and that is that what occurs in the existing health care plan where people have comprehensive coverage is adverse selection that drives up premiums. I do not know if we have to go through the catastrophe ourselves. We have already had the most populous county in Idaho to go through it. They withdrew from the very same kind of plan that we have here in our system because of a huge rise in health care premiums as some employees got out, leaving those employees who were in the system in Idaho with a greatly elevated health care premium.

I do not know how many Idahos you have to have before it gets to the FEHBP. I do know this. Idaho pulled out, this county in Idaho, the largest county in Idaho, with the most people, and one of the few public employers who in fact has used health savings accounts, they pulled out before the year was out because the escalation was immediate.

We have had a 7 percent rise in the Federal Employees Health Benefit Plan this year. This is the first time we have not been in double digits. It had nothing to do with health savings accounts. As we all know, it has had to do with the wild fluctuations in these accounts. What the gentleman offers is so important that if in our wisdom we do not in fact act now to prevent what I will call the Idaho catastrophe, where this public employer came out after less than a year of experience, that I put the House on notice that I will have an amendment that will keep people from gaming the system, because what Idaho found was that people will come into the system and when they recognize that their health services will go up in the next year they get out in time to go back into the comprehensive system, leaving, of course, people who are in that system all the time with the problem of continuing escalated coverage. I will have a fallback amendment if the House does not approve the Moran amendment.

I very much thank him for offering his amendment because his amendment is the right answer.

Mr. ISTOOK. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, the gentleman from Virginia, whose opinion I respect on many issues, I think is just wrong on this. He mentioned a few minutes ago that he knows of no other Federal employees who would like to have this option. I cannot speak for all of the Federal employees, but I can speak for over a quarter of a million Minnesota public employee union members who want to have access to health savings accounts. Will they all choose them? I do not know. But I have letters here from the Minneapolis Police Relief Association thanking me and encouraging me to make certain that they have access to health savings accounts. I have a letter here from Teamsters Local 320 that represents public and law enforcement employees in the State of Minnesota both at the State and local level. They are encouraging me to make certain that they have access to health savings accounts. I have a letter here from the Minneapolis Firefighters' Relief Association. They want access to health savings accounts. I have a letter here from the Public Employees Retirement Association of Minnesota representing over 150,000 Minnesotans who want access to health savings accounts. I have a letter here from the Minnesota State Retirement System.

Mr. Chairman, what we have here is a conflict of visions. This is an important and very critical debate in where we go with health care reform. The question is whether or not we are smart enough to make all of these decisions on behalf of these folks or if we allow them to make more decisions on their own behalf. I can only say that we have gone out and visited with representatives of public employee unions in the State of Minnesota, we have shown them the facts, we have shown them how these programs work, we have allowed them to make the decision, and the answer is almost unanimous, they at least want to have access to this option.

No one says that Federal employees or State employees have to choose this option. But if the Moran amendment passes, you will take that option away from them. Please do not do that. Please listen to the employees themselves.

MINNEAPOLIS POLICE
RELIEF ASSOCIATION,
Minneapolis, MN, June 30, 2004.

Congressman GIL GUTKNECHT,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: We are writing to you seeking your continued leadership in addressing Health Savings Accounts (HSA's). As you are well aware, in the 2003 Medicare Act, individuals over the age of 65 were excluded from participating in the newly created HSA's.

It is important that not only do the changes to the Medicare Reform Act of 2003 include participation for those over age 65 in the HSA's but the language which ties Medicare ineligibility to HSA participation must also be removed. HSA participation would provide a very modest way in which our over 65 retiree's could tax defer some of their financial resources.

Our public safety retirees put in their time and duty and had planned on living out their retirement years with not having to face financial difficulties. However, health care costs for those over 65 years of age have increased dramatically over the last decade. Supplemental insurance to Medicare can cost a retired couple up to $8,000 per year.

We strongly encourage you to work with other members of Congress and the Bush Administration to correct his discrimination against our retirees.

Again, thank you for all your support and past leadership in the HSA's. Please continue to assist us in this battle for affordable health care.

Sincerely,

RICHARD M. NELSON,
Vice President.

MINNESOTA STATE RETIREMENT SYSTEM,
St. Paul, MN, July 26, 2004.

Congressman GIL GUTKNECHT,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: I want to thank you for your leadership in establishing Health Savings Accounts for those under age 65. I strongly encourage you to support similar accounts that would be valuable for retirees age 65 and over.

As you know, rising health care costs and prescription drug costs have made it difficult, if not impossible, for many people to afford adequate health care coverage. Health Savings Accounts would provide a modest and extremely effective way to help pay for these costs.

On behalf of the 50,000 state employees and 23,000 benefit recipients covered by the Minnesota State Retirement System (MSRS), I encourage you to work with members of Congress and the Bush Administration to provide Health Savings Accounts to all retirees.

Again, thank your for your support and leadership on this and your attempts to lower prescription drug costs.

Sincerely,

DAVID BERGSTROM,
Executive Director.

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION OF MINNESOTA,
Saint Paul, MN, July 20, 2004.

Hon. GIL GUTKNECHT,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: The Public Employees Retirement Association (PERA) of Minnesota is seeking your continued leadership in addressing the issues associated with the Healthcare Savings Accounts (HSA). As you are well aware, with the enactment of the 2003 Medicare Act, individuals over the age of 65 were not included for participation in the newly created accounts.

Important to our participants—150,000 of whom are currently working local government employees and about 60,000 of whom receive monthly benefits from PERA—is ensuring not only a change in the Medicare Reform Act of 2003 to include the availability of the HSA to individuals over the age of 65, but also removing the language which ties Medicare ineligibility to HSA participation. HSA participation would provide a very modest way in which our over-age-65 retirees could defer taxes on some of their financial resources.

Our public safety retirees typically retire earlier than other public employees due to the physical and emotional stresses associated with their positions. Due to the earlier retirement, many begin paying their health insurance at younger ages, hoping to live out their retirement years without having to face financial difficulties. The HSA will help these early retirees until age 65, but as you know health care costs for those over the age of 65 are rising at a significant rate. Supplemental insurance to Medicare can cost a retired couple up to $8,000 a year. Losing the availability of the HSA at age 65 will prove ever more burdensome to individuals on limited retirement incomes.

We strongly encourage you to work with other members of Congress and the Bush Administration to advance legislation that is fair to retirees of all ages.

Again, thank you for all of your support and the leadership you have demonstrated in enacting the HSA legislation thus far. We look forward to your continuing assistance in this battle for affordable health care.

Sincerely,

MARY MOST VANEK,
PERA Executive Director.

MINNEAPOLIS FIREFIGHTERS' RELIEF ASSOCIATION,
Minneapolis, MN, July 6, 2004.

Congressman GIL GUTKNECHT,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: We are writing to you seeking your continued leadership in addressing Health Savings Accounts (HSA's). As you are well aware, in the 2003 Medicare Act, individuals over the age of 65 were excluded from participating in the newly created HSA's.

It is important that not only do the changes to the Medicare Reform Act of 2003 include participation for those over age 65 in the HSA's but the language which ties Medicare ineligibility to HSA participation must also be removed. HSA participation would provide a very modest way in which our over 65 retirees could tax defer some of their financial resources.

Our Firefighter retirees have dedicated their lives to serving the public and planned on living out their retirement years with not having to face financial difficulties. However, health care costs for those over 65 years of age have increased dramatically over the last decade. Supplemental insurance to Medicare can cost a retired couple up to $8,000 per year.

We strongly encourage you to work with other members of Congress and the Bush Administration to correct this discrimination against our retirees.

Again, thank you for all your support and past leadership in the HSA's. Please continue to assist us in the battle for affordable health care.

Sincerely,

WALTER C. SCHIRMER,
Executive Secretary.

MINNESOTA TEAMSTERS PUBLIC & LAW ENFORCEMENT EMPLOYEES' UNION, LOCAL NO. 320,
Minneapolis, MN, July 1, 2004.

Congressman GIL GUTKNECHT,
Cannon House Office Bldg.,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: We are writing to you seeking your continued leadership in addressing Health Savings Accounts (HSA's). As you are well aware, in the 2003 Medicare Act, individuals over the age of 65 were excluded from participating in the newly created HSA's.

It is important that not only do the changes to the Medicare Reform Act of 2003 include participation for those over age 65 in the HSA's but the language which ties Medicare ineligibility to HSA participation must also be removed. HSA participation would provide a very modest way in which our over 65 retiree's could tax defer some of their financial resources.

Our public safety retirees put in their time and duty and had planned on living out their retirement years with not having to face financial difficulties. However, health care costs for those over 65 years of age have increased dramatically over the last decade. Supplemental insurance to Medicare can cost a retired couple up to $8,000 per year.

We strongly encourage you to work with other members of Congress and the Bush Administration to correct his discrimination against our retirees.

Again, thank you for all your support and past leadership in the HSA's. Please continue to assist us in this battle for affordable health car.

Sincerely,

SUE MAUREN,
Secretary-Treasurer.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore (Mr. ISAKSON). The gentleman from Virginia is recognized for 1 minute.

Mr. MORAN of Virginia. Mr. Chairman, I appreciate the information we were just provided by the gentleman from Minnesota, but the fact is that none of the employees that he cites would be affected by this amendment. This amendment only affects Federal employees, and every Federal employee organization is in favor of my amendment and opposes putting health savings accounts, the same thing as MSAs, into the Federal Employees Health Benefits Plan. I have a letter from the National Association of Retired Federal Employees. This is their biggest issue. Don't do this to us. More than a million people are saying, don't do this. I have a letter from the National Treasury Employees Union supporting my amendment, opposing what this bill would do. The American Federation of Government Employees opposes it.

The gentleman from Wisconsin cited some other employees apparently that said it was a good thing, but they are not members of the Federal Employees Health Benefits Plan. Those who would be affected do not want it.

Support this amendment.

☐ 1145

Mr. ISTOOK. Mr. Chairman, I yield myself 1 minute.

I fail to understand how anybody is threatened by opportunity. When people say I want to keep the type of health plan I already have, they still have that option. They are not hurt by saying they have the options they have already and they have a new option; if they do not want it, do not take it. If somebody else wants it, let them take it. Why do we want to shut it off?

That is what the Moran amendment is all about, shutting off opportunity, telling people that if they do not like any of their current options, too bad, they do not get any other choices. The Office of Personnel Management has acted in a responsible manner to expand choices for people. We should let it happen. We should not have a knee-jerk reaction from people who feel threatened, for what reason I do not know; but there is no reason to fear what is going on here. We should reject the Moran amendment accordingly.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Chairman, I could not agree with the chairman more. This amendment provides us with an interesting twist on the norm. Usually, when we talk about Federal employees' health benefits, we hear arguments that other people deserve the benefits that Federal employees enjoy. Is it that you do not want the employees to enjoy the benefits that we are trying to get for the general public?

In today's debate, the landscape is different. I am astounded that the gentleman from Virginia is keeping something that the public enjoys out of the Federal system. He is telling us that HSAs are good enough for the American public, but not good enough for Federal employees.

I do not buy that. Let us take a look at the facts. HSAs put consumers back in the driver's seat. And Federal employees deserve that choice as well. A high-deductible plan means lower premiums, and lower premiums mean more cash to put away in an account to save for medical expenses as they arise. And contrary to critics' claims that HSAs are untested, HSAs have seen astonishing success since their enactment in the Medicare bill. Tens of thousands of people have opened accounts. A host of insurers are offering plans, including Aetna, Cigna, and Assurant. HSAs have reduced the number of uninsured Americans, are working for people and their families from all backgrounds and ages. And, quite frankly, they belong in the Federal employee health benefit plan.

I think that we need to make all America equal; and, therefore, we should reject this amendment.

Mr. ISTOOK. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the chairman for yielding me this time, for this opportunity to speak in opposition to the Moran amendment.

It is important to know that nationwide, 49 percent of HSAs are being sold to families with children. That makes perfect sense. There are many years when young families do not have many medical expenses; but often during those years they have very expensive dental bills for braces. Does it not make absolute sense to let that family spend less money on premiums and have more money in their HSA so they can cover braces, which practically no employer plan covers?

That is why in this Nation we need to dedicate fewer dollars to the premium portion of health care and have more dollars in our consumer accounts because they can spend those dollars on anything under the Tax Code. That is broader than any employer-provided health plan in the Nation.

So of course families want HSAs. They can pay for braces. They can pay for glasses. If they have a child with a hearing deficit, and we know how many more children there are in America that need very significant and expensive health care in our special ed programs, they can pay for those kinds of costs out of their HSA.

Their HSA dollars can be employer-provided 100 percent. They can be employer-provided or pretax dollars from them. It is flexible. It is better health care coverage than any other employer-provided plan. And every Federal employee deserves the right, deserves the right, to dedicate fewer dollars to the insurance component of health and offer him or herself, frankly, the opportunity to buy with employer-provided or pretax dollars the full range of health and welfare benefits that those plans can afford. So I urge opposition to this amendment.

Mr. ISTOOK. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Chairman, just three points need to be made about this amendment.

Point number one, this is an option from which Federal employees can choose. Why deprive them of this additional choice? They do not want the product, they do not have to have it. Why take it away from them?

Point number two, just in case these adverse selection concerns are valid, that is why OPM designed this product with identical premiums so it does not occur. So they already addressed the concern just in case there is any adverse selection that occurs out there.

But now what we are seeing from the data is that adverse selection not only is not happening. The opposite is happening. Lower-income, older, sicker people are buying health savings accounts. The data we get every day is disproving this notion of adverse selection. But just in case OPM designed this so that the premium is virtually identical to the rest of the premiums so that there is a safety valve, an insurance policy, to make sure that those concerns are not validated, do not manifest themselves.

Do not take this option away from 8 million families. I urge a vote "no" on this amendment.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I thank the gentleman from Massachusetts for yielding to me and for his leadership on this bill.

Mr. Chairman, there are several things that have been said that need to be clarified. First of all, this concept of medical savings accounts, health savings accounts, that is the same thing, has, in fact, not been shown to be successful. It has not even been tested. It just passed in December with the Medicare prescription drug bill. I mentioned two situations where they tried it out in Ada County, Idaho, and in Jersey City, New Jersey; and it was so unsuccessful, they had to terminate it. This does not work.

The gentlewoman from Connecticut talked about the need to be able to buy eyeglasses and dentures and so on. That is flexible spending accounts. We are in favor of flexible spending accounts. There is no problem with flexible spending accounts. That is not what we are talking about. We are talking about introducing a relatively radical new concept and using Federal employees as the guinea pigs.

The Federal employees health benefits plan has 249 different options, 249 different plans. This is not a problem with choice. The gentleman from Minnesota (Mr. GUTKNECHT), I believe it was, mentioned several public employees. They may not have the options. I am quite confident they do not have the options that Federal employees have. But the Federal employees health benefits plan is working. It is working better than any other health plan in the country, as far as I can see.

And now what do we want to do and why is this amendment so important? People who for ideological reasons, I think, more than any, perhaps to save some money, they are offering to young people, people who are the least likely to get sick, people whose priorities are buying a home, providing for their start-up family, any number of things, purchasing an automobile and so on, health care costs are not a big priority because they are young and they are healthy. And relative to the rest of the country, they are relatively affluent.

So it makes sense for them to purchase these HSAs. Some will because there will be a lot of aggressive marketing telling them how much they will save. But the deductibles are enormous. If they do get sick, if there is an accident, then they are in tough shape. But a lot of young people are willing to take the chance. I would have taken the chance. Most of us, when we were in our 20s and early 30s, take the chance. But that chance is not availability to older and sicker people. That is why the National Association of Retired Federal Employees has this as their number one priority. Because what happens when these younger healthier people choose these HSAs, MSAs, they pull out of the risk pool. They are no longer insured. And as a result, we have two different classes. We have the young and the healthy who are insured by these HSAs, and we are going to have the older and the sicker who are in the traditional comprehensive plans because health care is a much greater priority for them.

So what happens to these traditional plans for the older, the less healthy, to some extent the less affluent people, what happens? The risk pool is reduced. It is more exclusively the people who are most likely to have serious illnesses, and so the premiums go through the roof. They skyrocket. What we have done is to divide up the health benefits plans between the young and healthy and the older and the sicker, and it is the older and the sicker who will not be able to afford the medical care they need.

What happens to the medical profession? We are going to start squeezing. The same thing is going to happen to Medicare. We will start squeezing reimbursement because we cannot afford the kinds of premiums. We cannot afford to pay 72 percent of the average cost of premiums. The Federal Government cannot; so we will be cutting back. So doctors will have their reimbursement back. Everyone is going to suffer except those folks who are willing to take the risk. And one day, 20 or 30 years from that decision-making point, they are going to wish that they were part of the larger pool.

This is terribly dangerous, Mr. Chairman. We cannot let this happen. Do not do this to Federal employees. Do not do it to the Federal employees' health benefits plan. Support this amendment.

The CHAIRMAN pro tempore (Mr. ISAKSON). The question is on the amendment offered by the gentleman from Virginia (Mr. MORAN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. MORAN of Virginia. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. MORAN) will be postponed.

AMENDMENT OFFERED BY MR. ISTOOK

Mr. ISTOOK. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ISTOOK:

At the end of title VI (before the short title), insert the following:

SEC. . The amount otherwise provided by this Act for deposit in the Federal Buildings Fund is hereby reduced by $152,979,000, and, notwithstanding any other provision of this Act, the amount available from revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for in the aggregate amount of $8,619,023,000.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentleman from Oklahoma (Mr. ISTOOK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

This is a simple housekeeping amendment. As we noted yesterday, the various points of order that were raised would have the effect of increasing the amount of spending in the bill beyond our subcommittee's allocation. This amendment simply brings the bill back within our allocation pursuant to our 302(b) allocation and with what we told the House before.

Mr. Chairman, I reserve the balance of my time.

Mr. OLVER. Mr. Chairman, I do not seek time in opposition. I rise merely to accept the amendment.

The CHAIRMAN pro tempore. No one seeks time in opposition.

The question is on the amendment offered by the gentleman from Oklahoma (Mr. ISTOOK).

The amendment was agreed to.

☐ 1200

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. ISAKSON). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROWN of Ohio:

At the end of the bill (before the short title), insert the following:

SEC. . None of the funds made available in this Act may be used by the Council of Economic Advisers to produce an Economic Report of the President regarding the inclusion of employment at a retail fast food restaurant as part of the definition of manufacturing employment.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, the gentleman from Ohio (Mr. BROWN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

When it comes to jobs, President Bush has a credibility problem, not just the White House applauding the offshore outsourcing of American jobs as a "good thing" then trying to explain that a good thing does not really mean a good thing; not just his Labor Department issuing guidelines to help companies avoid paying overtime to middle-class and low-income workers then insisting that they did not really mean for employers to actually use that guidance to avoid paying overtime; not just the fact that George Bush promised 6 million jobs with his tax cuts and has fallen 7 million short of that goal; not just that President Bush, in a 63-minute speech at the Republican Convention, mentioned the word "jobs" one time.

The particular credibility problem I am talking about can be summed up in one word: McManufacturing.

In the President's Economic Report, this is put out every year, signed by the President of the United States, by George Bush, this report referred to, in trying to answer the problem of lost manufacturing jobs in our country, and my State alone has lost 170,000, my State of Ohio alone has lost 170,000 manufacturing jobs, 150 jobs every single day since George Bush was sworn in 3½ years ago. So to deflect that, they have talked about changing the definition of manufacturing, and here is what they said. This is on page 73 of the President's economic report: "The definition of a manufactured product is not straightforward. When a fast food restaurant sells a hamburger, is it providing a service, or is it combining inputs to manufacture products?"

So here is what we got, according to the Bush administration, who knows they have a problem with the loss of manufacturing jobs, we got the kid in the restaurant at McDonald's or Burger King, whatever. He is setting up an assembly line. He unwraps the package, and then he puts the bun out. And then they chemically treat the beef. We call it cooking, but in George Bush administration legalese, I guess they call it chemically treat the beef. They put that on the bun. And then they take the lettuce, and they put that on and slice the tomato, part of the manufacturing process, and put that on. Then they chemically treat the cheese. We would call it melting the cheese. And then they get a foreign component. They bring french fries in and make some kind of happy meal of some sort.

I am not making this up. This is in this economic report.

My point is, Mr. Chairman, that we know what manufacturing is. We know what manufacturing is not, and these are the kinds of games the Bush administration plays to try to deflect attention away from what they have done with American manufacturing.

In my State of Ohio, we have lost one out of every six, one out of every six manufacturing jobs since George Bush took office. And his answer every time is more tax cuts for the richest people. If you are making $1 million, you get a $123,000 tax cut. That is not creating jobs in Ohio and across the Midwest in this country.

His other response is more trade agreements that continue to ship jobs overseas. It is clear, Mr. Chairman, we need a different direction. That different direction is to extend unemployment benefits to the 60,000 or 70,000 Ohioans who are looking for jobs but have lost their benefits; they have expired. This Congress will not extend unemployment benefits.

We also need to quit giving incentives to companies that send their jobs overseas. We continue to give them tax breaks instead of passing the bipartisan Crane-Rangel bill, which will give those companies that manufacture domestically, give them incentives. We need to stop those tax breaks, as I said, that ship jobs overseas and stop those tax breaks for those companies, in giving those companies contracts with the Government, like Halliburton and other companies, that continue to violate so much of what we stand for in our country.

Then the President wants to pass the Central American Free Trade Agreement which will, again, be more of the same. We need to stop these kinds of trade agreements. We need to pass unemployment compensation. We need to pass bipartisan legislation to give incentives to those companies who manufacture in America.

This amendment, while modest in its goals, I believe at least is honest in its goals and honest in deciding what really is manufacturing, what is not manufacturing. It stops the games. This Congress needs to stay in session and pass legislation that really will create jobs.

Mr. Chairman, I yield back the balance of my time and ask support of the amendment.

Mr. ISTOOK. Mr. Chairman, I claim the time in opposition, and I yield myself such time as I may consume.

I will be brief on this because I do not think this amendment does any damage, and I will not oppose its adoption to our bill.

However, I think it is a mistake to pretend that it accomplishes anything. I know of no serious effort to change the definition of manufacturing that the gentleman from Ohio (Mr. BROWN) wants to make sure that we do not. But I do think it is important to address some of the other things that he mentioned.

For example, if we look at the fast food sector, typically, most of us see the counter. And maybe we get a glimpse into the kitchen behind it. Maybe, sometimes, we are there when a large semi truck pulls up to deliver some of the product that is involved in there. But there is a lot more that we do not see.

For example, let me tell you about Lopez Foods, a minority-owned business in Oklahoma City. Lopez Foods is one of the principal suppliers to McDonald's. It is a part of the fast food industry, but we do not see it when we are in the restaurant. If one visits their facility, one will see that it is a large, modern, clean facility, and it is filled with high-tech. You would not believe the kind of computer systems and mechanical systems that are necessary for the quality control to make sure the ingredients are in the same universal proportion for the product that is going to be shipped to McDonald's all over the country.

We do not see that in the fast food sector. It is a very different image from that of the smiling, young person or perhaps senior citizen that may be waiting on you on the other side of the counter. We need to understand that every sector, fast food included, has a supply chain. It has a logistics chain that is a part of that industry the same as the person who waits on you is a part of it. We need to understand that and realize that there are a lot of contributions to the economy of the United States of America that come from the restaurants that are sometimes demeaned with the term fast food, but it should not be considered a term of lightness at all.

So we will not oppose the amendment, but I certainly do oppose some of the characterizations that we heard earlier on it.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. LATOURETTE). The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

The amendment was agreed to.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE) for purposes of a colloquy with the chairman and myself.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman for yielding to me. I thank the chairman and Ranking Member OLVER. I thank my colleagues for the opportunity to discuss the issue of rail security in the context of H.R. 5025 and the urgent need for the House to work for new measures to be introduced by the conferees to address this issue.

While the committee members have made provisions in the Federal Transit Administration's Transit Planning and Research Account for initiatives like rural transportation assistance, metropolitan planning, and State planning, there is no specific outlay made for increasing rail security. I understand that the leading subcommittee of jurisdiction on this issue has been placed in the hands of the Subcommittee on Homeland Security of the Committee on Appropriations. However, I am sure that my colleagues will agree that the urgency of this matter should at least warrant some level of attention in conference for this bill.

Might I just finish by saying additionally, I sit on the Select Committee on Homeland Security, the authorizing committee, and am well aware of the jurisdictional combining that we have. I in no way am attempting to negate that structure. I think it is very, very important. However, I also think it is important for the Subcommittee on Transportation, Treasury, and Independent Agencies to coalesce and allude to this very important issue.

Mr. OLVER. Mr. Chairman, reclaiming my time, in response to those comments, I would address the chairman, that I agree that it is appropriate for the conferees on the Subcommittee on Transportation, Treasury, and Independent Agencies to be concerned about security, security for rail operations, which operate actually under the jurisdiction of our subcommittee, but as to the security on them, the primary jurisdiction does fall within the Subcommittee on Homeland Security of the Committee on Appropriations.

Ms. JACKSON-LEE of Texas. Mr. Chairman, if the gentleman will yield, let me just cite why I think this is important. Again, I want to always qualify that we are not here on the floor taking away jurisdiction; we are adding a collaborative aspect because of the importance of rail security.

On March 11, 2004, an al Qaeda bombing of commuter trains in Madrid, Spain, killed nearly 200 people and wounded more than 1,500. A minor fire incident in a Washington, D.C., subway system recently gave us a glimpse of the potential for disruption to our public transit system. Failure to invest in the security of passenger rail and public transit could leave these critical systems vulnerable to terrorist attack.

Millions of Americans rely on mass transit systems on a daily basis. Making these systems as safe as they can be from terrorist attacks must be a high priority whenever appropriations are made for transportation-related matters as well as for the Department of Homeland Security. It is, I think, an issue both of the Subcommittee on Homeland Security of the Committee on Appropriations but also some collaborative efforts with the Subcommittee on Transportation, Treasury, and Independent Agencies.

Let us be reminded that, in our own Nation, these rail systems run through our neighborhoods, our rural communities, near our schools, our churches, our homes. They are a part of our neighborhood, and it is an important question.

Mr. OLVER. Mr. Chairman, reclaiming my time, I, again, agree with the urgency of the issue that has come up in terrorism, and I think it does appropriately ask for collaboration. I think is the word that the gentlewoman has used, collaboration with the other committee, and I hope that the gentleman from Oklahoma (Mr. ISTOOK), within that context, that the gentleman and I might be able to work together as this subcommittee goes to conference since, probably, the Subcommittee on Homeland Security will be part of the same overall omnibus conference in that process and to make certain that rail somehow is not left out and that the security on rail is to our liking as well.

Mr. ISTOOK. Mr. Chairman, if the gentleman will yield, as the gentleman is well aware and the gentlewoman is also, of course, the Department of Transportation, which is within the jurisdiction of our subcommittee, no longer has jurisdiction over transportation security issues. That is with the subcommittee that oversees the Department of Homeland Security.

I know that the gentleman from Kentucky (Chairman ROGERS) is diligently reviewing this issue with the Transportation Security Administration and will be attentive to the comments that need to be referred, as the gentleman mentioned, to him.

The gentleman opines that perhaps we might be a part of the same package bill. I do not know that that will be the case, but I do know we will be in communication with the gentleman from Kentucky (Chairman ROGERS).

Mr. GONZALEZ. Mr. Chairman, I would like to bring the House's attention to the important issue of election reform funding in H.R. 5025, the fiscal year 2005 appropriations bill for the Departments of Transportation and Treasury, and independent agencies.

Late last year, the four members of the U.S. Election Assistance Commission were finally confirmed and able to begin their work to provide election assistance grants and guidelines to the states. Since they assumed office and the Commission began its work in earnest, it has provided over $1.5 billion to the states to meet the requirements of the Help America vote Act (HAVA) for the development of innovative election technology, pilot programs to test election technology, and programs to promote youth involvement in elections.

I am very pleased that in the past two years, we in Congress have provided most of the funds promised for implementing the Help America vote Act. There remains, however, an unpaid balance of $800 million. I am disappointed that this bill does not pay off that balance. While some may say that the funds we have already appropriated for election reform grants has not been spent, and therefore more funds are not necessary at this time, I would argue that now that we have a functioning EAC, we can expect the pace of grants provided to the states to increase sharply.

I am very encouraged that this bill contains funding needed by the EAC to become fully operational. In particular, I support the bill's appropriation of $10 million for the EAC's operating expenses and $5 million for research authorized by HAVA. I hope that these funding provisions will receive wide support from my colleagues and remain intact as this bill works its way through the legislative process.

The EAC is currently understaffed and stretched thin to fulfill its mission. With the funds provided by this bill, the EAC will be able to more quickly provide states with their election assistance grants, and fulfill other mandates of the Help America Vote Act. These are critical to restoring the trust in our elections that was so greatly damaged by the deficiencies in our electoral system exposed by the 2000 general election. One of the most important functions of the EAC that this bill will fund is the development of voting system guidelines that states are waiting for in order to make important decisions about which voting systems to acquire. These guidelines will be developed in consultation with the National Institute of Standards and Technology and the technical Guidelines Development Committee, and will also result in a national program to test, certify, and decertify voting system.

HAVA created many new requirements in election administration, and many states are looking toward the EAC for guidance on how to implement these requirements, such as provisional voting, voting information requirements, implementation of identification provisions, and implementation the statewide computerized voter registration databases. With the operating funds included in this bill, the EAC will be able to provide such guidance and states will in turn be able to appropriately spend the election assistance grants they have received so far.

Other important EAC functions that this bill funds are audit and oversight responsibilities to ensure that states are appropriately administering their grants and submitting relevant reports required by HAVA.

Finally, the EAC's research funds included in this bill will be used to study and report on best practices and other matters relevant to the effective administration of federal elections.

In summary, Mr. Chairman, this bill provides the funding necessary to make the Election Assistance Commission an effective tool in helping states restore the public's confidence in our voting process. If we are to remain the world's greatest democracy, we cannot hesitate to make this investment.

Mrs. MALONEY. Mr. Chairman, this bill funds many good projects and will be a welcome relief to many communities. Unfortunately, the current version is woefully deficient because it provides no funding whatsoever for a project that is one of the best in the Nation—the Second Avenue Subway. The Second Avenue Subway is recommended by the Federal Transit Administration and was included in President Bush's FY2005 budget.

On day one, the Second Avenue Subway will move more people than any other project currently planned anywhere in the country. It will (i) relieve overcrowding on the most overcrowded subway in the nation, (ii) add capacity to a subway system that has not added capacity in 60 years and (iii) reach areas of New York City that currently are not served by any subway system. A report released by the Regional Plan Association December 2003 shows that Second Avenue Subway can create 156,000 jobs, boost business creation and retention, improve air quality, save travel time and create alternative routes to the city's business centers—something 9/11 proved is essential to New York's security.

There is already a strong market for mass transit in New York. Because 70–75 percent of all the people commuting to jobs along the route of the subway use mass transit to get to work, the highest proportion of mass transit use anywhere in the United States. There are 1.2 million jobs and nearly 650,000 residents along the proposed route of the Second Avenue Subway.

This project is moving ahead in a timely fashion. It received a record of decision from the FTA in July and is expected to go into Final Design and Engineering shortly.

The Second Avenue Subway, a sure mass transit success, should be among the earmarks included in this appropriation bill. The Second Avenue Subway was funded in the last four appropriations bills and, thanks to the efforts of Senators SCHUMER and CLINTON, is included in the Senate bill. I hope that the conferees will accept the Senate language and that the Second Avenue Subway will receive funding in the final bill.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 1 offered by Mr. HEFLEY of Colorado and an amendment offered by Mr. MORAN of Virginia.

The Chair will reduce to 5 minutes the time for the second electronic vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. HEFLEY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 15-minute vote followed by a second 5-minute vote.

The vote was taken by electronic device, and there were—ayes 69, noes 333, not voting 31, as follows:

[Roll No. 455]

AYES—69

Akin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Blackburn
Brady (TX)
Burton (IN)
Buyer
Chabot
Chocola
Coble
Collins
Cox
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeMint
Diaz-Balart, M.
Feeney
Flake
Fossella
Franks (AZ)
Gibbons
Graves
Gutknecht
Hayworth
Hefley
Herger
Hoekstra
Hostettler
Isakson
Jenkins
Jones (NC)
Kaptur
Keller
King (IA)
Lewis (KY)
Linder
Mica
Musgrave
Myrick
Norwood
Otter
Paul
Pence
Petri
Pitts
Ramstad
Reynolds
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Smith (MI)
Stearns
Tancredo
Tanner
Taylor (NC)
Terry
Toomey
Wamp
Wilson (SC)

NOES—333

Abercrombie
Aderholt
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chandler
Clay
Clyburn
Cole
Cooper
Costello
Cramer
Crane
Crenshaw
Cubin
Culberson

Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Frank (MA)
Frelinghuysen
Frost
Gephardt
Gerlach
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (OH)
Kanjorski
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nussle
Oberstar
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Renzi
Reyes
Rodriguez
Rogers (AL)
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Shaw
Shays
Sherman
Sherwood
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—31

Ackerman
Alexander
Bachus
Baker
Ballenger
Berkley
Boehlert
Bonner
Cannon
Conyers
Crowley
Duncan
Engel
Everett
Gallegly
Garrett (NJ)
Hensarling
John
Johnson, E. B.
Langevin
McInnis
Miller (FL)
Nethercutt
Nunes
Obey
Schrock
Serrano
Slaughter
Tauzin
Taylor (MS)
Wilson (NM)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. LATOURETTE) (during the vote). There are 2 minutes remaining in this vote.

□ 1238

Ms. LINDA T. SÁNCHEZ of California, Messrs. SMITH of Washington, PUTNAM, SHERWOOD, DICKS, RANGEL, Mrs. EMERSON, and Ms. HARRIS changed their vote from "aye" to "no."

Mr. GUTKNECHT and Mr. TAYLOR of North Carolina changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mrs. WILSON of New Mexico. Mr. Chairman, on rollcall No. 455 I was unavoidably detained. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. MORAN OF VIRGINIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. MORAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 181, noes 223, not voting 29, as follows:

[Roll No. 456]

AYES—181

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Chandler
Clay
Clyburn
Costello
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Goode
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sherman
Simmons
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wolf
Woolsey
Wu
Wynn

NOES—223

Aderholt
Akin
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Cardoza
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Ehlers
Emerson
English
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Majette
Manzullo
Marshall
Matheson
McCotter
McCrery
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul

Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryan (WI)
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)
Young (FL)

NOT VOTING—29

Ackerman
Alexander
Baker
Ballenger
Berkley
Boehlert
Bonner
Cannon
Conyers
Crowley
Deal (GA)
Dunn
Engel
Everett
Gallegly
Hensarling
John
Johnson, E. B.
Kennedy (RI)
Langevin
McInnis
Miller (FL)
Nethercutt
Obey
Schrock
Serrano
Slaughter
Tauzin
Taylor (MS)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). There are 2 minutes remaining in this vote.

☐ 1253

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. NETHERCUTT. Mr. Chairman, I was unavoidably detained due to a prior obligation and missed the following votes. Had I been present I would have voted "yea" on rollcall vote No. 454 on agreeing to the Kelly amendment to H.R. 5025; "yea" on rollcall vote No. 453 on agreeing to the DeLauro amendment to H.R. 5025; "nay" on rollcall vote No. 455 on agreeing to the Hefley amendment to H.R. 5025; "nay" on rollcall vote No. 456 on agreeing to the Moran amendment to H.R. 5025.

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Chairman, I was unable to be present for rollcall votes 452, 453, 454, 455, and 456. Had I been present, I would have voted "aye" on rollcall votes 452, 453, 454, and 456. I would have voted "nay" on rollcall vote 455.

PERSONAL EXPLANATION

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, on Tuesday, September 14, 2004, I was granted an official leave of absence as a result of my illness. Therefore, I was unable to make rollcall votes 455 to 456. I ask unanimous consent that my statement appear in the RECORD that had I been here, I would have voted "no" for rollcall No. 455, the Hefley Amendment; "yes" for rollcall No. 456, the Moran Amendment.

Mr. ISTOOK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. KLINE) having assumed the chair, Mr. LATOURETTE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the further consideration of H.R. 5025, and that I may include tabular material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

AMENDING LIMITATION ON AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 5025, DEPARTMENTS OF TRANSPORTATION AND TREASURY AND INDEPENDENT AGENCIES APPROPRIATIONS ACT

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that the order of the House of yesterday regarding further consideration of H.R. 5025 in the Committee of the Whole be amended to strike any provision for the amendment by the gentleman from Arizona (Mr. FLAKE) regarding Cuba.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise for the purpose of inquiring of the distinguished minority whip the schedule for the week to come.

Mr. BLUNT. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Missouri.

Mr. BLUNT. Mr. Speaker, next week the House will convene on Tuesday at 12:30 for morning hour debates and 2 p.m. for legislative business. We will consider several matters under the suspension of the rules. A final list of those bills will be sent to Members' offices by the end of this week. Any votes we have on Tuesday will be after 6:30 p.m. We also expect to complete consideration of H.R. 5025, the Transportation-Treasury appropriations bill, on Tuesday afternoon.

In addition, next week we expect to consider H.R. 2028, the Pledge Protection Act; and finally, as we approach the end of this Congress, it is important to take note that we have a number of conference reports that we are working through. Members should expect votes on those at any time.

Mr. HOYER. Mr. Speaker, I thank the gentleman for those comments.

Apparently we are going to do some suspension bills on Tuesday, and then we will go back to the Transportation-Treasury appropriation bill?

Mr. BLUNT. Yes, that is the schedule at this time.

Mr. HOYER. Mr. Speaker, my question is in light of the fact that general debate and most of the bill has been objected to or much it has been objected to, there are still pending amendments. At what time do we need to advise Members who have amendments that are pending that they must be here? Obviously we are starting at 2. There are suspension bills, but can we give them some perhaps target time that they should be here to protect themselves in the offering of those amendments?

Mr. BLUNT. Mr. Speaker, I appreciate the gentleman's question, and I would say while we do have some suspension bills scheduled, sometimes they can go quicker than at other times. I know Members with amendments would not want to see an opportunity to offer those amendments pass by. If I had an amendment, I would be here not much after 2. I know at one time today the chairman had to ask Members to come to the floor because the bill had moved much quicker than expected.

Mr. HOYER. Mr. Speaker, I will so advise Members.

Mr. Whip, you indicated some of the legislation we are going to consider, and you did not specifically mention Friday. Can the gentleman advise us at this time what the intention is for Friday of next week?

Mr. BLUNT. At this point we are still scheduled to work on Friday because of the number of conference committee reports that are out there that we hope to see come to some conclusion, maybe some next week, and we would be working Friday. If that does not appear to be the case, we will try to give as much notice as possible and Friday would be a day that will be dependent on some of the conference committees coming to a conclusion.

Mr. HOYER. Mr. Speaker, assuming on Tuesday or Wednesday we pass the Transportation-Treasury bill, that will leave only the VA-HUD bill pending from the Committee on Appropriations from the House perspective. Can the gentleman advise us whether or not the VA-HUD bill may be coming to the floor next week? It was not mentioned for next week, but the week following?

Mr. BLUNT. We are still working through that and at this point the leader has not scheduled that bill for the floor.

Mr. HOYER. Are you pretty confident it will not be on the floor next week?

Mr. BLUNT. I think it is unlikely that bill would be ready for the floor by next week, but we are still working on it, and hope to get it and the rest of the appropriations work done.

Mr. HOYER. Mr. Whip, we are approximately 15 days from the end of the fiscal year. The only appropriation bill signed by the President is the defense bill, leaving 12 appropriation bills still pending. Presumably we are either going to do something that would be extraordinary, passing those bills within the time frame left to us, which I guess is 6 or 7 legislative days at most, or passing some type of CR or omnibus. Can the gentleman advise the House as to what the leadership's current thinking is on how we are going to proceed as we approach the end of the fiscal year on September 30?

Mr. BLUNT. Mr. Speaker, I would say at this point we do not expect to consider a CR next week. We would very much like to get our work done during the time between now and the time we take a break. Before we go to a CR, which we obviously have to deal with some time in that 15-day period, we would like to have a clearer picture of exactly where the process is. We are continuing to do everything we can to encourage that process to reach conclusion in every possible area and perhaps even in all possible areas, but we would like a little clearer picture than what we will have next week before we deal with a CR.

Mr. HOYER. Mr. Speaker, may I inquire of the gentleman, if a CR is needed and the appropriation bill does not move forward or some omnibus does not move forward, can the leadership inform us as to how long a period of time they may be contemplating a CR would cover?

Mr. BLUNT. Mr. Speaker, again, I think we need to wait and see where the process is, how close it is to completion before we decide what period of time to recommend that CR would go. We are working hard to complete the entire process in the shortest possible time.

□ 1300

Mr. HOYER. Reclaiming my time, we are all enthusiastic about that objective. We are now 9½ months into pursuing that objective and it has not happened yet, but perhaps it will.

But let me ask the gentleman more pointedly, I suppose, as it relates to the length of the CR, it is my understanding that there was some expression from the highest junctures of leadership in his party that a lame duck session was not particularly favored by the leadership but we hear rumors about possibly having a lame duck, that possibly being sometime in mid-November when his organization and probably ours will be scheduled. Can the gentleman shed any light on his current thinking, in light of the fact we have 15 days left to go in the fiscal year and about, I suppose, another 20 or 25 days left before we presumably will recess or adjourn prior to the elections, as to whether or not there is a substantial probability or possibility of a lame duck session?

Mr. BLUNT. Mr. Speaker, I think it would be fair to say that in our discussions we are doing everything we can to get our work done before we take the break for the elections. It is certainly possible we might have to come back, and I believe the time the gentleman suggested for our reorganization is the time that we are intending to schedule that. If there is anything that has to be done, it would clearly be the best thing to do if we are in agreement on the time to come back, to do all those things or start all those things at least at one time. But we have been very focused across the board this week in trying to get to that goal of having this year's work done by the time we leave here sometime in October.

Mr. HOYER. A couple of other questions, if I might, Mr. Speaker.

The transportation bill is one of those conferences that the gentleman referred to that is pending that possibly will come back. If it does not come back next week, does the gentleman contemplate having an additional extension? The present extension, as the gentleman knows, expires very shortly in terms of the continuation of the previous authorization of the highway bill. Does the gentleman contemplate having another extension? And, if so, has there been discussion about how long a period of time that might be for?

Mr. BLUNT. Mr. Speaker, we are again hopeful and working hard to get the transportation bill completed. We think it is better to work toward that completion right now than to extend the deadline. The pressure of the deadline may help in that process. It certainly does not work against the process of getting the bill. I believe both our chairman on this side of the building and the ranking member are working hard, working together, as others are, and we will not be addressing the question of extension until we move a little further along and hopefully are able to bring not an extension to the floor but an agreed-to transportation bill.

Mr. HOYER. Reclaiming my time, I appreciate that objective and I want to tell the whip, as I have, I think privately, that this side of the aisle will be very supportive of, I think, any figure that the majority can agree among itself, the White House, the Senate and the House, between the House-passed bill which passed overwhelmingly in a bipartisan fashion and in fact, of course, as the gentleman knows, Democrats, Chairman YOUNG and all of the Republican members and Democratic members of the Committee on Transportation and Infrastructure believe we ought to have a substantially higher number to meet the needs of the Nation than was passed here or passed in the Senate. My representation to the gentleman from Missouri would be that I think that the votes will be there on our side for, I hear a figure of very close to $300 billion being mentioned. I think on this side of the aisle in talking to the gentleman from Minnesota (Mr. OBERSTAR), we will be obviously substantially influenced by what the gentleman from Minnesota recommends as our ranking member but we would be very, I think, supportive and we could forge a significant majority to send that bill down to the President and have the President consider it.

As the gentleman knows, every $1 billion that we have in that bill creates 42,000 jobs here in America. We believe that bill is very important. We would have hoped it would have passed last year, but I want to tell my friend that he and I have the similar responsibilities of trying to count votes and I think we will have the overwhelming majority of our people for a bill. If we just split the difference between the Senate and the House, which is essentially what is being talked about, I think we would support it on this side of the aisle. I hope the gentleman's Members would support it on his side of the aisle, we send it to the President and obviously the executive, a coequal but separate branch of government, would have to make its determination as to what it wanted to do. I do not know if that is a possibility but I think we could work together in a bipartisan fashion to get that done.

I yield to my friend if he wants to make a comment.

Mr. BLUNT. I thank my friend for yielding, and I share the gentleman's sense that an overwhelming number of Members of the House would like to get this work done, get this bill done this year. Of course this would not be the place for the gentleman and I to try to negotiate a number, but I think the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Alaska (Mr. YOUNG) are both working hard to achieve a result that gets that work going and allows the States and others affected by this to begin the contracting process and even begin some of the work. I am very hopeful at this point that we will get that number agreed to, get our friends on the other side of this building moving forward with us and get agreement from the White House as they need to ultimately sign whatever bill we pass.

Mr. HOYER. Reclaiming my time, I think the gentleman has put his finger on the impasse, and that is the White House. I think frankly the Congress can reach agreement on this and I think we ought to. I urge the majority reaching consensus in the Congress and, as a separate and coequal branch of government, sending our judgment down to the White House. Obviously the White House then has its full prerogatives to exercise its judgment. But we have waited far too long on that, I believe.

The last question or the last inquiry I would make of the whip is there has been a lot of talk, of course, about the middle-class tax cuts. I think both sides of the aisle feel very strongly that we want to make sure the middle-class tax cuts continue. In particular, we have focused on the child tax credit, as the gentleman knows. There has been a lot of discussion back and forth. That has been held up for a very long period of time, particularly extension to those families making up to $26,000. There are some 200,000 service families, as the gentleman knows, that are not qualifying for the child tax credit at this point in time.

Can the gentleman tell us whether or not he has any optimism about that conference report coming back to us anytime soon?

Mr. BLUNT. Mr. Speaker, I would say in response to that previous comment that I am not sure that our friends on the other side of this building are as united yet as perhaps our Members are who represent the House side on the transportation number. We want to move forward there.

Chairman THOMAS tells me that he sees good work happening on the family tax package that the gentleman mentioned, the marriage penalty relief, the $1,000 child credit, the 10 percent tax bracket, that new tax bracket we put in place. We think it is very likely that we could have that extension on the floor next week.

Mr. HOYER. I thank the gentleman for that information.

ADJOURNMENT TO FRIDAY, SEPTEMBER 17, 2004, AND ADJOURNMENT FROM FRIDAY, SEPTEMBER 17, 2004 TO TUESDAY, SEPTEMBER 21, 2004

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on Friday, September 17, 2004; and further, when the House adjourns on that day, it adjourn to meet at 12:30 p.m. on Tuesday, September 21, for morning hour debates.

The SPEAKER pro tempore (Mr. KLINE). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON THURSDAY, SEPTEMBER 23, 2004, FOR THE PURPOSE OF RECEIVING IN JOINT MEETING HIS EXCELLENCY AYAD ALLAWI, INTERIM PRIME MINISTER OF THE REPUBLIC OF IRAQ

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Thursday, September 23, 2004, for the Speaker to declare a recess, subject to the call of the Chair, for the purpose of receiving in joint meeting His Excellency Ayad Allawi, Interim Prime Minister of the Republic of Iraq.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

HOUR OF MEETING ON THURSDAY, SEPTEMBER 23, 2004

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Wednesday, September 22, 2004, it adjourn to meet at 9 a.m. on Thursday, September 23.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CONGRESS BESTS LOBBYISTS ONCE AGAIN IN CHARITY BASKETBALL GAME

(Mr. QUINN asked and was given permission to address the House for 1 minute.)

Mr. QUINN. Mr. Speaker, I am here to report to the House and to the general public the results of last evening's sixth annual benefit basketball game between Members of Congress and the lobbying community here in Washington. I am here also to report that the outcome was a 58–41 victory for the Members of Congress.

I would like to mention the players, our bipartisan team of JEFF FLAKE, VITO FOSSELLA, HAROLD FORD, KENNY HULSHOF, DEVIN NUNES, TODD PLATTS, TIM RYAN, JOHN SHIMKUS, and TODD TIAHRT.

In the past 6 years I am also happy to report that the House Members have a 5–1 record after last night's game, but to report after 6 years that the game has raised over $150,000 for charities here in Washington, D.C., particularly the Hortons Kids charity that services inner city young children.

Special thanks also, Mr. Speaker, to Mr. Paul Miller and others at the American League of Lobbyists, who worked tirelessly during the year to put the game together. As we go forward in the next year, hopefully we can do bigger and better things.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on any motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

EXPRESSING THANKS OF THE HOUSE TO AMERICAN POW/MIAs ON NATIONAL POW/MIA RECOGNITION DAY

Mr. SIMMONS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 771) expressing the thanks of the House of Representatives and the Nation for the contributions to freedom made by American POW/MIAs on National POW/MIA Recognition Day.

The Clerk read as follows:

H. RES. 771

Whereas from World War II to the present, more than 88,000 members of the Untited States Armed Forces remain unaccounted for;

Whereas nearly 50,000 former American prisoners of war are currently living in the United States;

Whereas the United States owes a significant debt of gratitude for the sacrifice and hardships endured by former prisoners of war and missing personnel;

Whereas former prisoners of war continue to serve and inspire our nation;

Whereas National POW/MIA Recognition Day is one of the six days specified by law as days on which the POW/MIA flag is to be flown over specified Federal facilities and national cemeteries, post offices, and military installations; and

Whereas tens of thousands of American families have loved ones who are still listed as unaccounted for and daily endure tremendous hardship and emotional suffering: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes that National POW/MIA Recognition Day is one of the six days specified by law (pursuant to section 902 of title 36, United States Code) as a day on which the POW/MIA flag is to be flown over specified Federal facilities and national cemeteries, military installations, and post offices;

(2) extends the gratitude of the House of Representatives and the Nation to those who have served their nation in captivity to hostile forces as prisoners of war;

(3) recognizes and honors the more than 88,000 members of the United States Armed Forces who remain unaccounted for and their families;

(4) recognizes the untiring efforts of national POW/MIA organizations to ensuring that America never forgets the contribution of the Nation's prisoners of war and unaccounted for military personnel; and

(5) calls on all Americans to recognize National POW/MIA Recognition Day with appropriate remembrances, ceremonies, and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SIMMONS) and the gentleman from Arkansas (Mr. SNYDER) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SIMMONS).

GENERAL LEAVE

Mr. SIMMONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SIMMONS. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H. Res. 771, a resolution that recognizes the sacrifices made by prisoners of war and missing in action on National POW/MIA Recognition Day. The resolution is very straightforward and my colleague from Georgia (Mr. COLLINS) and I are seeking to give proper acknowledgment to National POW/MIA Recognition Day.

Today, nearly 50,000 former American prisoners of war are living in the United States. These are family members, these are friends and neighbors, men and women who fought for our freedom and often suffered tremendous hardship during their detention. Today, we send a message from this Capitol that their contribution to the great story of America's freedom is not forgotten.

Since World War II, more than 88,000 members of the Armed Forces remain unaccounted for. Today we offer our sympathies to the families of these soldiers, sailors, airmen and women and Marines missing in action. Their family members are our family members, they are our friends and our neighbors, and they wait patiently for their loved ones to be recovered and returned home for a proper burial. It is hard for those of us who have not suffered or endured this type of hardship to imagine how these families deal with their grief. Again today, we pause to say that on behalf of the Congress and the American people, thank you. Thank you very much.

This legislation also recognizes that National POW/MIA Recognition Day is one of the six days specified by law on which the POW/MIA flag is to be flown over specified Federal facilities and national cemeteries. Flying this flag is a visible reminder of the sacrifices of our POWs and MIAs.

As many of my colleagues know, the recovery of MIAs has long been a passion of mine. In April of last year, I left the U.S. for Vietnam in the hopes of finding the remains of American soldiers still missing after nearly 30 years in the Vietnam War. Specifically, my hope was to recover the remains of Captain Arnold Holm of Waterford, Connecticut, whose helicopter was shot down over Vietnam in 1972. I met his widow several years ago and learned that for 30 years she had not had a funeral ceremony or a memorial service because she held out the hope that her husband's remains would be found and that he would be brought back home to Waterford, Connecticut.

□ 1315

This trip was the first time that I had been back to Vietnam in almost 30 years, having served there in the U.S. Army in the 1960s and in the CIA in the 1970s.

I spent 2 days with American and Vietnamese officers, with the joint POW/MIA Accounting Command in the jungles near Hue, Vietnam. We recovered watches, boots, and other assorted items. But we were unable to recover the crash site or the remains of Captain Holm. This was an emotional mission for me, for my family, for the family of Captain Holm, and for his friends. And this mission continues. We will continue to search for the remains of our missing.

Several families in Connecticut have been blessed with the recovery of the remains of their loved ones, and this would include Robert Bush of Hamden; Legrande Cole of Danbury; Crosley Fitton of Hartford; Irwin Lerner of Stratford; Richard Rich of Stamford; John Brooks Sherman of Darien; Larry Thorne of Norwalk; and from my own district, Peter McCarthur Cleary of Colchester, Connecticut, whose remains were identified February of 2002.

Every day that the POW/MIA flag flies over the Rotunda of this Capitol it is an important reminder to Members, staff, and visitors of the sacrifice made by American prisoners of war and the missing in action. However, on this important day, that flag also flies over the dome of our Capitol, an important reminder to the world that today we pause to commemorate National POW/MIA Recognition Day.

Mr. Speaker, I reserve the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 771 and commend the gentleman from Connecticut (Mr. SIMMONS) for presenting this bill to the House today.

The intent of this legislation, the intent of the country, is to honor the 50,000 former POWs and the 88,000 still missing in action, U.S. service people that have served this country so well and so honorably.

Yesterday was National POW/MIA Recognition Day, in which once a year we formally remember these very important people. It is such a tremendous honor to serve in the Congress and to represent Arkansas, but one of the great honors is the opportunity to meet such wonderful and great people. A person I recently met from Saline County, Bill McGinley, is the only person I had ever met who was presented the Purple Heart posthumously, and I got to talk to him about that experience.

How does that happen? On January 29, 1944, he was in a bomber and was flying over Belgium. In fact, the actor Jimmy Stewart was the squadron commander. Their plane was shot up. He and another man had to bail out, and he spent the next 9 months hiding out, helped by a family in Belgium that hid him. His family was first notified that he was missing, and he has this wonderful scrapbook that he shows me, the newspaper articles and the letters; and it goes through the progression of the notification from the War Department that he was missing and then the letter from his Congressman that they were sad to report that he was missing. And finally came the notice that he was presumed dead, and then the letter from the Member of Congress expressing great sorrow that he was presumed dead. And at some point his family was presented with a Purple Heart. And, of course, this story ended happily because 9 months later he was found by allied troops and his family was notified that he was alive and well.

Not all of these stories end happily. And like the gentleman from Connecticut (Mr. SIMMONS), it was my honor in November of 2000 to go back to Vietnam and to spend time with two sons, Dan and David Evert. Their father was Captain Lawrence Evert, and he was shot down in 1967 in an F-105 and was presumed dead. There was really not much doubt about the possibility of his being alive since people had seen a fireball when his plane went down. But these two young boys, now grown men, told a story of how, when they were youngsters, they would wear the bracelet in honor of their dad, and they would tell stories of how they dreamed of growing up and getting big enough that they could go to North Vietnam and rescue their dad.

It was very moving to be out at the site of the excavation of this plane where remains were discovered, and with the two sons. President Clinton was there. It was a very formal and sobering ceremony. The two sons had gone there the day before by themselves, and they had a little ceremony where they buried somewhere on the site the bracelet that they wore in honor of their dad for all those many years.

And, of course, we remember our POWs and the tremendous suffering that many of them went through, the uncertainty that their families thought and knew about what was going on in their life, and the legacy that they still carry with them today of being separated from not only their family but from their country for so long a time.

And, finally, Mr. Speaker, we remember today all of our troops, all of our men and women serving in uniform; and we particularly remember the 150,000 serving in Iraq and Afghanistan that know that they are always at risk of becoming missing or a POW and who work so hard at doing right by their country, serving their country honorably and carrying out the foreign policy of this country so well.

Mr. Speaker, I reserve the balance of my time.

Mr. SIMMONS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Georgia (Mr. COLLINS), fellow co-sponsor of this legislation.

Mr. COLLINS. Mr. Speaker, I thank the gentleman from Connecticut (Mr. SIMMONS) for introducing this resolution and helping to work it through the channels to make sure that we could get it to the floor today.

H.R. 771 pays recognition and says thanks and gratitude to the prisoners of war and to the families of the missing in action who have contributed quite a bit, many paid the ultimate price, so that we could enjoy the freedoms that we enjoy today. I would like to also pay tribute to the National League of Families, those who have insisted and worked and tried to bring to a closure missing in action from Vietnam and to discover all of the information that possibly could be found and also help with our missing in action from other wars.

Under the leadership of the president of the National League of Families is Jo Anne Shirley from Dalton, Georgia; the executive director in Washington, Ms. Ann Griffith. I have visited with them a number of times, and they never quit. They do not know when the end of the day comes because they are constantly working, trying to find and discover remains of our missing in action, particularly those from Vietnam.

One has to look no further than right here in this Chamber at one of our colleagues to see what it cost many to be prisoners of war. The gentleman from Texas (Mr. SAM JOHNSON), shake his hand and one will see some of the results of brutality that he went through as a prisoner of war in Vietnam for 6½ years. Watch him as he walks, his back, as he was injured in the ejection from his aircraft after being shot down over Hanoi and went without medical service for months and months. One of thousands of people like the gentleman from Texas (Mr. SAM JOHNSON) who has suffered at the hands of the enemy, his captors.

I recommend that my colleagues get the gentleman's book and read it, "Captive Warriors." It will give them a lot of information and insight from someone who has been there and served as a POW. And his wife and the wives of many of our POWs who insisted that contact be made while they were captive, insisted that our government continue to search and to try to reach out to find out more information on our POWs.

And I go back to the family members of the National League of Families who insist today that the Vietnamese Government extend more information and extend a helping hand. Oftentimes that helping hand has not come forth. In my opinion, they have been very lax. They have not done the things that they could have done in Vietnam. I have made trips there myself, seeking information, only to be disappointed in the results that we received while we were there, the lack of information that we received while there. But, hopefully, the rewards from those trips will come at a later date.

We still have some 1,850-plus who are missing in action from Vietnam, Cambodia and Laos. We do have a U.S./Russian Commission that was established to help to try to find and discover more information about the remains of those from the Vietnam War. Hopefully, that commission will be able to make some good reports back, and, again, that comes at the dedication of the National League of Families.

But there were other wars. Thousands are still missing from World War II, Korea. I remember as a young boy growing up in rural Georgia, an aunt of mine who talked about her brother who served in Korea, missing in action, never heard from him to this day. He has never been heard from or any remains or any information given on her brother.

May we never forget, Mr. Speaker, may we never forget the service, the dedication, the patriotism of those who served and those who have been captured and the families of those who have been missing; and may we always extend all efforts to find those and never leave one behind, to see that they are returned to this soil, to their families.

Yes, we owe a lot to our service personnel throughout the history of this country. We owe a lot to our POWs and our MIAs. God be with their souls and may God continue to bless the United States of America for patriots like those who have served as POWs and those who are missing in action.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. EVANS).

Mr. EVANS. Mr. Speaker, I rise in support of H. Res. 771, legislation recognizing the contributions toward our freedoms by our POWs, and I am proud to co-sponsor the resolution which has been introduced by the good Member from Connecticut. I praise his efforts on this issue and many others.

I have served on the House Committee on Veterans' Affairs for almost the last 22 years. It has given me an opportunity to meet a lot of our country's heroes. I have always had the utmost respect for our POWs and our MIAs for their sacrifices, and their sacrifices leaves us all silenced in their respect.

I would also like to recognize the government of Vietnam, which has provided the recovery of our service members' remains. Our growing relationship with Vietnam has been conditional on their cooperation and support in the recovery of our fallen servicemembers. Deputy Under Secretary Jerry Jennings who leads the American efforts has praised the cooperation and the openness by the government of Vietnam that has ensured the repatriation of nearly 800 remains of our missing servicemembers. It has been an important task that provides a great deal for the members of the service and their families, which will continue until every fallen soldier is brought back home.

I urge my colleagues to support this resolution.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

I appreciate once again the gentleman from Connecticut (Mr. SIMMONS) presenting this House resolution to the Congress, to the floor; and I support it and urge all Members to support it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SIMMONS. Mr. Speaker, I yield myself such time as I may consume.

In closing, I would simply like to echo the comments of the gentleman from Georgia (Mr. COLLINS) in thanking the National League of Families for their work and for their faith in the fact that we will be able to locate the remains of their loved ones, wherever they may be around the world.

Specifically talking about Vietnam, I would also like to share with my colleagues that these recovery efforts that are ongoing jointly between officials of the United States of America and the Vietnamese Government are not safe. They are difficult projects to conduct.

□ 1330

In April of 2001, a helicopter that was carrying officials from both companies crashed, killing seven Americans and seven Vietnamese. But I think that we can gather hope from the fact that this joint effort between our two countries is going forward. And for whatever wounds remain from that war, they will be bound up and healed by this humanitarian effort to locate the remains and recover the remains of both Americans and Vietnamese missing in action.

Again, in conclusion, on behalf of this Congress, I thank all of those men and women who have offered their lives in defense of the freedom and democracy that we enjoy, and in particular, for those families who have loved ones as yet unrecovered, we thank them for their service, their sacrifice, and their suffering.

Mr. REYES. Mr. Speaker, I rise today in strong support of H. Res. 771, expressing the thanks of the House of Representatives and the Nation for the contributions to freedom made by American POW/MIAs on National POW/MIA Recognition Day.

Today we honor the sacrifices made by POW/MIAs and remember our brave men and women in uniform whose fate remains unknown. We owe these heroes more than we could ever repay through mere words for what they have done for our country. However, with National POW/MIA Recognition Day and this resolution, we remind all Americans to keep their memory close in our minds and hearts.

Mr. Speaker, as a Vietnam veteran, I have witnessed firsthand the heroism of America's soldiers, sailors, airmen, and marines in combat. May we never forget those who were held as POWs in defense of our country, and those who paid the ultimate price for America and are still missing in action. In their memory, and on behalf of the families of all MIAs, may we also renew and strengthen our dedication to bringing those missing in action home at long last. I proudly fly the POW/MIA flag in both of my congressional offices and I encourage my colleagues, and all Americans, to do the same.

Again, Mr. Speaker, I strongly urge my colleagues to join me in honoring our Nation's POW/MIA heroes by supporting the passage of this very important legislation.

Mr. CASE. Mr. Speaker, I rise today in support of H. Res. 771.

As we remember our POW and MIAs, I want to share with my colleagues the text of a speech I recently delivered to a conference in Honolulu sponsored by the Asia-Pacific Center for Security Studies and the Defense POW/Missing Personnel Office (DPMO). At this conference were representatives from our own country as well as five countries of Asia, including Burma, Vietnam, Cambodia, Laos and Thailand.

Mr. Speaker, I urge swift passage of this important resolution and continued strong Congressional support for the DPMO.

U.S. POW/MIA ACCOUNTING EFFORTS: PROCESS AND OPERATIONS, AUGUST 11, 2004

Thank you, Department of Defense Assistant Secretary Jennings, for your very kind introduction.

Thank you also to Dr. Whitley, General Stackpole (who has contributed so much to Hawaii), and General Whitfield, or "Q," the Commander of our Joint Personnel Operating Command, located just down the road.

And please allow me to introduce my wife, Audrey, and my staff assistant, Jackie Conant, both of whose ancestral roots, like so many of Hawaii's people, lie with you in Asia.

But most of all, Mingalar Par, Zdravstvuite, and Chao ong, or Aloha! Welcome to Hawaii, and Mahalo!, or thank you, to each of you for joining us at this vitally important conference this week, Your simple presence tells the people of my country everything about the commitment of your countries and peoples to assisting us all in finding, identifying and repatriating the sailors, soldiers, marines, airmen and civilians of our country currently unaccounted for throughout Asia.

I am ED CASE and I am a Member of the Congress of the United States, I directly represent 650,000 Americans living in Hawaii's great Second District, which includes all eight of Hawaii's major islands, as well as the Northwestern Hawaiian Islands all the way past Midway Island to Kure Atoll.

Under our system of governance, we have three separate, independent and coequal branches of federal government: our executive branch, headed by our President; our legislative branch, made up of me and my colleagues in congress; and our judicial branch, headed by our Supreme Court. From beyond our shores, it often looks like a pretty messy system, as we argue and disagree in public over what we should do and not do, and as we contest elections for our presidency and for Congress.

Many of our deepest disagreements and our elections have been and are about whether and under what circumstances we should have taken or we should take military action beyond our shores, as was the case with what we refer to as the Korean and Vietnam Wars and as is the case today in Iraq, and I recognize with you tonight as citizens of our world the terrible personal and national tragedies of those and other hostilities and pay homage to the fallen whoever they were. But if I can leave you with one and only one message tonight, it is this: in our country, we are one in our commitment to find and bring home our missing.

I came of age during the time of Vietnam in a small community on my home Island of Hawaii. Robbie Peacock was a handsome and well-liked boy, also from that island, who graduated some years ahead of me, went off to college, enlisted as a pilot, and was sent to Asia. His plane disappeared on a mission and his remains have thus far not been found. His mother has passed away and his father grieves for him still. But, far worse, is that for almost 35 years they have had no finality, no resolution.

I represent Ms. Michie Sasaki in Congress. Her brother, Private First Class Takeshi Sasaki, went missing in Korea on April 25, 1951. At the end of 1953, his status was amended to "Missing in Action and Presumed Dead."

Fifty years later, Ms Sasaki, along with her sisters, traveled to Washington DC to attend the 2004 Annual Korean War/Cold War Government Briefings sponsored by Secretary Jennings and our Defense Prisoner of War/Missing Personnel Office. Over 500 individuals representing 225 loss cases attended the briefings. There weren't just sister or brothers of those missing in attendance, but nieces and nephews, sons and daughters, and even some grandsons and granddaughters.

Some 89,000 Americans are still unaccounted for on the world's battlefields since World War II, including 6,000 Korea and 2,000 Vietnam. 73 of Hawaii's own are missing in Korea and 12 in Vietnam.

Here's the point: our missing touch each of us, personally, in our homes, our families and our memories. We have not forgotten them, we all seek resolution, and we are united in our efforts.

We know that we are not alone. We know that in the cities and countrysides of your own countries you have countless friends and family members similarly unaccounted for. We know that you and yours also feel still not only your losses but the lack of resolution. We must help each other.

The endeavors of people like Secretary Jennings, General Whitfield, the individuals at the Defense Prisoner of War/Missing Personnel Office (DPMO) and Joint Personnel Accounting Command (JPAC), and the 600 Americans working fulltime worldwide to account for our missing is one of our most important missions. From your country, I salute you all.

And I thank our foreign visitors for your efforts thus far. You can't imagine the effect even today up Americans like Michie Sasaki when they read a headline such as that of a few weeks ago, "U.S. POW/MIA Official Breakthrough in Vietnam," reporting that joint operations will soon resume in the Central Highlands of Vietnam. Congratulations to Secretary Jennings and the representatives of Vietnam for your mutual advancement of our mutual effort.

So, as you all complete your vital work this week and return to your homes, please take with you these thoughts. First, for our country, our commitment to accounting for our missing rises above any internal disagreements; we all want to finish this mission, and all branches of our government are united behind and supportive of the efforts of DMPO and others in our focus on doing so. And second, we want to help you do the same, for our interests are mutual and exist notwithstanding the borders within which we live and the nature of our past, present or future relations.

Perhaps in our joint efforts on this purely humanitarian cause lie the roots of true peace in our world. Mahalo, and aloha!

Mr. SIMMONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KLINE). All time for debate has expired.

The question is on the motion offered by the gentleman from Connecticut (Mr. SIMMONS) that the House suspend the rules and agree to the resolution, H. Res. 771.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

HONORING THE COMMUNITY OF GRAVETTE, ARKANSAS

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, first of all, I would like to congratulate the gentleman from Connecticut (Mr. SIMMONS) and the gentleman from Arkansas (Mr. SNYDER) on their work on that resolution, which is so important.

Mr. Speaker, I rise today to honor the community of Gravette, Arkansas, for winning an Arkansas Community of Excellence Award.

The ACE awards, administered by the Arkansas Department of Economic Development, go to communities that do not wait for ideal circumstances to attract development but actively work to create an environment that welcomes growth.

To that end, the community of Gravette embarked on a plan for change that highlighted their town as the heart of hometown America. Their plan, which included everything from minor beautification projects to a $5 million rural water project, put them in a position to attract more jobs to Gravette. As the town continues to grow, important infrastructure upgrades, like the completion of the railroad overpass, will be crucial to dealing with the changes this growth brings.

Mr. Speaker, the community of Gravette, under the leadership of Mayor Dean Fladager, deserves this award. They put a lot of work into this plan, and it is sure to pay off as this community continues to grow.

FEDERAL DISASTER HELP FOR HURRICANE VICTIMS

(Ms. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARRIS. Mr. Speaker, as we meet this afternoon, our friends and neighbors on the Gulf Coast face yet another threat of a devastating hurricane. As we keep them in our thoughts and prayers, let us reassure them that this body will do everything possible to help recover and rebuild.

Let us also remind the victims of Hurricane Charley and Hurricane Frances that we will not forget their continued suffering. Thanks to the leadership of the gentleman from Florida (Chairman YOUNG), we acted swiftly and decisively in appropriating an initial $2 billion for hurricane relief last week; a good start, but a small fraction of the assistance that the victims so desperately need right now.

The President has submitted a request for an additional $3.1 billion which the gentleman from Florida (Chairman YOUNG) introduced in the form of H.R. 5072. Predictably, the temptation exists to address the other disasters that have recently occurred across our Nation as part of this bill.

I believe we should consider amendments that add relief for hurricanes Charley and Frances caused outside of Florida and also provide assistance for all of Ivan's victims, whether they reside at the point of landfall or far inland.

We cannot, however, afford to get bogged down in considering measures that do not specifically relate to hurricane relief. Hurricane victims facing an emergency cannot afford to wait while we evaluate unrelated disaster assistance proposals, as worthy as they might be.

RIO GRANDE FOREST PRODUCTS IN ESPANOLA, NEW MEXICO

(Mr. PEARCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEARCE. Mr. Speaker, I addressed this House last evening about the policies in our Forest Service which are causing jobs to go overseas, which are killing industries, which are causing infrastructure to be abandoned. After I made that presentation, we received a call today.

Rio Grande Forest Products, operating in New Mexico and the northern district of New Mexico from a town called Espanola in New Mexico, had 100 employees. Rio Grande Forest Products shut down last year due to the Forest Service restricting the harvesting of large-diameter trees. Basically, the Forest Service is blocking them from pursuing harvest. The Forest Service would not facilitate the harvesting despite numerous submittals and requests for assistance.

The employees who lost their jobs have been unemployed, and it is because of restrictive policies that are pushed by extremists in our country who would block any effort to harvest the resources from this country. The sawmill was located on 60 acres, 180,000 feet of idle space.

Mr. Speaker, it is ourselves who are causing the loss of American jobs in this country, not the President.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE GREATEST DANGER: IRAN'S PURSUIT OF NUCLEAR WEAPONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, last month, Iran successfully tested the latest version of its Shahab-3 intermediate-range ballistic missile. According to Iran's Defense Ministry, the flight was the culmination of Tehran's efforts to improve the range and accuracy of the Shahab-3, which Western experts believe can strike targets anywhere within Israel and also threatens U.S. forces arrayed in neighboring Iraq and around the Persian Gulf.

Tehran's ballistic missile program is worrisome in its own right, but coupled with the increasingly alarming details of Iran's nuclear program, the danger is magnified.

For the past year, the United States and our European allies have been working through the International Atomic Energy Agency, the IAEA, to prevent Iran from continuing its pursuit of nuclear weapons. The IAEA is considering a draft resolution authored by Britain, France, and Germany that will give Tehran until November to reveal in detail its nuclear program.

Our Government has advocated a tougher approach by pressing the IAEA to set specific benchmarks for Iran and by asking the agency to refer the matter to the U.N. Security Council which has the power to take punitive action, including the imposition of sanctions.

Until Tehran sees that its continued nuclear activities have economic and diplomatic costs, they are unlikely to begin serious negotiations that might lead to the shutdown of their nuclear program. Unfortunately, there does not appear to be sufficient support in the IAEA for a tougher line with Iran.

Over the past 2 years, IAEA inspectors have discovered a number of undeclared nuclear activities in Iran that clearly point to a nuclear weapons development program, despite assertions by Iranian officials that one of the world's leading oil exporters was building nuclear reactors to produce energy.

Inspectors have found evidence of unreported uranium imports from China, in 1991, as well as uranium enrichment programs using both centrifuges and lasers. The IAEA also uncovered Iranian efforts to reprocess plutonium and evidence of efforts to produce polonium 210, an isotope that can trigger a nuclear explosion.

In November of last year, the European Union secured an Iranian declaration that it would suspend all enrichment and reprocessing activities. Tehran also agreed to sign an additional protocol that would allow inspectors to provide more tough and unannounced inspections. But Iran reneged, and when challenged for its failures, it bridled, warning that it was likely to resume enrichment in the future.

In addition, there is evidence of continued centrifuge-related activities by private workshops, calling further into question its pledges to the EU.

Finally, Iran recently announced that it was prepared to convert approximately 40 tons of yellowcake into uranium hexaflouride gas, which is the raw material for centrifuge equipment. This is a sufficient quantity to produce nuclear weapons.

There is no doubt that Iran's pursuit of nuclear weapons, along with the ongoing standoff with North Korea over its nuclear weapons program, constitute the gravest threat to American national security today. How we deal with this threat will shape our global security environment for decades. When coupled with the desire by terrorists to acquire and use these weapons against the U.S., the prospect of a nuclear-armed Iran and North Korea is petrifying.

In his new book, Nuclear Terrorism: The Ultimate Preventable Catastrophe, Graham Allison, founding dean of Harvard's JFK School of Government, states that if a terrorist were to acquire a nuclear weapon, its delivery to an American target may be almost impossible to stop.

Since coming to the Congress, I have advocated strengthening the Cooperative Threat Reduction Program that seems to secure enormous amounts of fissile material in the former Soviet Union and to expand that effort worldwide.

While securing this material is one element of preventing the production of nuclear weapons, we also have to make structural changes in the global regime that controls the manufacture, transfer and use of fissile material for peaceful use by governments. Chief among these structures is the "grand bargain" of the Nuclear Nonproliferation Treaty, the NPT, first articulated by President Eisenhower's "Atoms for Peace" proposal.

In exchange for the commitment to forgo the acquisition of nuclear weapons and to agree to IAEA safeguards and inspections, the NPT guarantees non-nuclear weapons states who are parties to the Treaty assistance in developing nuclear energy. The problem with this bargain is that it allows nations like Iran and North Korea to access fissile material and technological know-how that are necessary precursers to a nuclear program. When the state feels confident it is ready to proceed with a weapons program, it simply opts out of the NPT. Unfortunately, the path of least resistance, the acquisition of a nuclear bomb, may run right through the NPT, not around it.

In February, the President gave a speech in which he proposed a series of tough steps. He asked, among other things, for the 40-nation Nuclear Suppliers Group not to sell uranium enrichment equipment and reprocessing equipment to countries that are not already in possession of those technologies. Months have passed. We have done little as a Nation in this area, and time, Mr. Speaker, is running out.

EXCHANGE OF SPECIAL ORDER TIME

Mr. FEENEY. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Florida (Mr. WELDON).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

SHOCKING EVIDENCE REGARDING FORMER U.S. PRESIDENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FEENEY) is recognized for 5 minutes.

Mr. FEENEY. Mr. Speaker, it is very rare that I come to the well to encourage my colleagues to pay attention to television in general or the news in specific, but I do that here today because there are unconfirmed reports that there are some shocking documents that may be produced tonight by 60 Minutes and CBS News concerning some American presidents.

It turns out that, reportedly, CBS News has documentary evidence that Washington did not cross the Delaware to surprise the British but, rather, in an attempt to surrender in the American Revolutionary War. We are waiting to see the specifics of these documents.

Apparently, President Eisenhower, on the day of D-Day, was not commanding the American and allied troops but, rather, was golfing somewhere in the British Isles, and the allegations are that there may be a golf scorecard produced tonight on CBS and 60 Minutes news.

It turns out that President Richard Nixon, apparently, we again have not seen the evidence yet, never did have a dog named Checkers. Actually, the Nixon dog was named Alger Hiss, for whom the Nixons were secret admirers.

And finally, apparently, there is evidence that we may see tonight that President Reagan was all along a closet socialist and urged Mr. Gorbachev to tear down that wall to provide an opportunity to roll through and conquer Western Europe.

Mr. Speaker, 60 Minutes allegedly is not going to renounce any of these allegations until they have definitive proof to the contrary, and I would urge my colleagues not to always believe what you hear. And sometimes, do not even believe what you see.

□ 1345

SMART SECURITY

The SPEAKER pro tempore (Mr. KLINE). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, earlier this year people from around the world saw photographs of the mistreatment, the torture, the sexual abuse of Iraqi prisoners that took place at Abu Ghraib. If anti-American sentiment was not strong enough after the United States invaded a country that never had weapons of mass destruction and never once threatened us, these callous images of American soldiers torturing prisoners sealed the deal. Still, Bush administration officials deny any responsibility for the actions of these soldiers.

Secretary of Defense Donald Rumsfeld shamefully called it the action of "a few bad apples." This scandal continues to get worse. It has come to light in recent months that prisoners also have been abused in Afghanistan and Guantanamo Bay and, moreover, evidence was uncovered earlier this week indicating American abuse of Iraqi prisoners in the northern Iraqi city of Mosul.

An American inquiry into the prisoner abuse uncovered the existence of ghost detainees, prisoners hidden from International Red Cross inspectors and kept off the inmate list of each prison, and military personnel have indicated that the number of ghost detainees may total in the hundreds. Even someone who does not closely follow the quagmire in Iraq would readily acknowledge the real possibility that the widespread prisoner abuse may not be the unfortunate actions of just a few bad apples.

In fact, the evidence overwhelmingly suggest that prison bias by U.S. forces has been coordinated by the Bush administration. The New Yorker Magazine recently detailed a high level Pentagon plan to encourage physical coercion, otherwise known as torture, of Iraqi prisoners in an attempt to produce intelligence about the postwar insurgency in Iraq. If abusing prisoners is not quite official U.S. policy, the widespread nature of these crimes indicate that they were at least deemed acceptable at the highest levels of command. Perhaps the few bad apples are located at the Pentagon and in the White House, not serving in Iraq.

Sadly, it has become obvious that while a few soldiers are standing trial for the prison abuse, the Bush administration and the Republicans in this House have no plans whatsoever to hold any high ranking officials accountable for these terrible misdeeds. In fact, the House Republican leadership refuses to hold hearings on this subject. The House GOP leaders could learn something from the Senate, which has readily investigated this widespread scandal, and it does appear from their hearings to extend to the highest levels of our government.

What has President Bush done about this situation? Absolutely nothing. The White House continues to deny, dodge and deflect any and all rumors that individuals in the administration may have been involved at any level in the prison abuse scandal.

Mr. Speaker, there must be a better way, because the current method of hiding prisoners from humanitarian agencies and using vicious attack dogs to help conduct so-called prisoner interrogations is further hindering the war on terror and encouraging anti-American sentiment around the world. That is why I have introduced H. Con. Res. 3792, a SMART security platform for the 21st century. My SMART plan will keep America safe.

SMART stands for sensible multi-lateral American response to terrorism. SMART means interrogation, not torture. It encourages open government, not a secretive government that fails to investigate and covers its own back. SMART security encourages negotiations and leadership, not aggression and unilateralism. SMART invests in developmental and humanitarian aid for the most impoverished nations, not an expensive and unproven missile defense system and certainly not the inhumane treatment of prisoners.

The situation in Iraq requires the best America has to offer. SMART security, accordingly, relies on the very best of America, our commitment to peace and freedom, our compassion for the people of the world, and our capacity for multi-lateral leadership. SMART security treats war as a last resort to be considered only after every diplomatic alternative has been exhausted, and it controls the widespread use of weapons of mass destruction with a renewed commitment of nonproliferation.

EXCHANGE OF SPECIAL ORDER TIME

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Indiana (Mr. BURTON).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FREEDOM OF SPEECH FOR OUR CHURCHES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I have been on the floor for the last 3 or 4 years from time to time to talk about the need, the importance of having our spiritual leaders in America to have freedom of speech, to speak on a Sunday or Saturday and talk about the moral and political issues of the day. This year has probably been one of the worst I have seen as far as the attack on people of faith in this great Nation.

Let me read from the St. Petersburg Times, an article from today. It says, "As the political influence of churches grows, opponents are wielding the Tax Code as a weapon against them."

State Representative Arthenia Joyner, a Tampa Democrat who is African American, she says, "It could have a chilling effect. I see it as a way to try to intimidate people, but I think it's not going to work."

I would say to Representative Joyner she is exactly right. That is why I hope that she and many other people, both here in the Congress as well as other State representatives, will get behind this effort to return the freedom of speech to our churches and synagogues.

A lot of people do not know the history, but prior to 1954 any speech or sermon by a minister, priest or rabbi in this great Nation was protected by the first amendment rights.

In 1954 Lyndon Baines Johnson's amendment on a revenue bill going through the Senate basically stifled our churches because our churches are 501(c)(3)s. Well, it seemed like not really much of a law that was enforced until the early 1970s and mid-1980s, when the moral majority got involved in campaigns. When I say got involved in campaigns, I meant speaking out about the moral issues of the day and saying to their congregation who stands for protecting morality. But what has happened even this year in the last 3 months? First of all a Catholic bishop, Bishop Sheridan in Colorado Springs wrote a pastoral letter to 125,000 Catholics. He said nothing about President Bush or Senator KERRY. He did use the word "pro-life."

You might say, well, what is wrong with that? That is what the Catholic church stands for. That is what many churches stand for and also synagogues. Well, the problem is that the Internal Revenue Service has said because of the Johnson amendment there are certain code words that cannot be used. Because Bishop Sheridan used the word "pro-life" in his pastoral letter, Barry Lynn with the American Center for the Separation of Church and State filed a complaint. In addition to that, he has filed a complaint against a Reverend Ronnie Floyd, a Baptist minister in Arkansas. He is now with a group of 100 volunteers monitoring churches in Kansas each Sunday to see what the minister might be saying about morality and might be saying about how we can protect the Judeo-Christian principles of America.

I want to say to Representative Joyner that she is exactly right. The great movements of this country, such as Martin Luther King and the civil rights movement never would have happened if it had not been for the churches. The churches do have a role in this Nation and our synagogues, and that is to ensure and to help protect morality.

So I am hoping this year that maybe the House will look seriously at this legislation that has been introduced. We have 164 co-sponsors. It is time to protect the moral future of America, and the way that is going to happen is with our spiritual leaders of America being free with the first amendment rights that are guaranteed by the men and women serving this great Nation in Iraq and Afghanistan.

With that, Mr. Speaker, I just want to say again that a nation built on Judeo-Christian principles, if it is going to survive, then we have got to be able to have our spiritual leaders speaking freely with the first amendment rights.

With that I would like to make one close and then I will finish. I first ask that the good Lord bless our men and women in uniform and their families, and I do ask the good Lord to please bless America. America is in trouble and we need the blessings of our Lord and Savior.

EXCHANGE OF SPECIAL ORDER TIME

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Oregon (Mr. DEFAZIO).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SHAMEFUL MEDICARE INCREASE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, President Bush said about a year ago he would veto any Medicare bill that cost taxpayers more than $400 billion. The President then signed a bill that cost $551 billion. His Medicare Administrator, who had lied to Congress, who had not shared any of this information as they continued to say it was $400 billion to people on both sides of the aisle, his Medicare Administrator knew the true bill's cost long before the President signed it, and you have got to think that the President knew what the bill cost since the Medicare Administrator works for the President, that the President knew what the bill cost before he picked up his pen and signed that legislation late last year.

Seniors would have been outraged had they known that this bloated bill that the President signed would have increased their Medicare premiums 17 percent. Image that, the Medicare premiums that seniors have paid, they have fluctuated a little over the years, but imagine a 17 percent increase, the largest increase in Medicare premiums in Medicare history. Thirty-eight years of Medicare, never an increase like this. But seniors would obviously have been outraged to know that Republicans in Congress and the Administrator not only made this happen by passing that bill, but that the President and the administration and the Republican leadership knew that this increase was going to happen because of this bill.

But, of course, this increase happened. Of course, George Bush had to push forward and announce a 17 percent increase. Why? Because of the increased subsidies in the Medicare bill for the insurance industry, for the HMOs. The health maintenance organizations had a 50 percent profit increase last year, yet we are subsidizing them additionally under this bill to the tune of billions of dollars. So, of course, we have to take money out of seniors' pockets in increased Medicare premiums and then turn that money over to Medicare HMOs.

Here is how it works. In this Medicare bill that Congress passed last year, a year ago, starting in March 2004, Medicare HMOs got from taxpayers $229 million. In April they got $229 million. Still no Medicare drug benefit, which does not go into effect until 2006, but the HMOs were getting subsidized by the Federal Government.

In June, $229 million. In July $229 million from seniors and taxpayers to the Medicare HMOs, to the health maintenance organizations, yet still no Medicare drug benefit. July $229 million. August $229 million. This month, $229 million more, and still no prescription drug benefit for seniors. September, October, November, December and all of next year Medicare HMOs, private insurance companies, will continue to get a subsidy from the Federal Government of $229 million extra that they were not getting before this Medicare bill took effect.

Of course, the President had to increase premiums 17 percent to pay these insurance companies subsidies. Why would the President raise Medicare premiums to give money to insurance companies? Well, it might be the fact that insurance companies have given tens of millions of dollars to the President's reelection, tens of millions of dollars to my friends on the other side of the aisle. It might have something to do, too, with the fact that this Medicare bill was written by the drug companies, written by the insurance companies.

Drug company profits will go up $180 billion over the next 10 years because of this prescription drug bill. Insurance companies subsidies, subsidies directly from seniors through higher premiums and taxpayers will go up literally tens of billions of dollars to those insurance companies, to those HMOs.

The whole Medicare bill, middle of the night debate, vote at 6 o'clock in the morning after the rolls were kept open for 3 hours. One Republican Member accused his own leadership of trying to bribe him on the House floor; arm twisting in the middle of the night; and then the secrecy of trying to foist this 17 percent Medicare increase by announcing it sort of under the cover of darkness, late in the afternoon, right before Labor Day weekend; the secrecy of this whole administration, and ultimately the payoff that this Medicare bill has done, the payoff to the drug and insurance industries because of political contributions.

Remember, a 17 percent increase; a record in the history of Medicare; never an increase this big; 17 percent, the largest premium increase in Medicare history in order to subsidize the insurance companies, in order to give even bigger profits to this country's drug companies.

Mr. Speaker, it is shameful.

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HONORING THE LIFE OF FLOYD ALEXANDER PINYAN

The SPEAKER pro tempore (Mr. COLE). Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, I rise today to pay tribute to the life of Floyd Alexander Pinyan, a good and honorable American, Georgian, family man and Marine. He passed away on August 27, 2004. He was my constituent in the 11th District of Georgia.

His family has described him as a kind Christian man who raised his children to know the difference between right and wrong. By the family's accounts, it is clear that they were the most important thing in his life. Mrs. Pinyan said she could not have asked for a more wonderful, caring, loving husband than Floyd. She has always admired the respect and love her husband had for others; and if someone asked him for help, he was going to "move mountains" to assist them.

The day after Pearl Harbor, Mr. Pinyan and his brothers enlisted in the armed services. Initially, Floyd tried to enlist in the Navy, but he was turned down because of problems with his feet. Undeterred, he then went to the Marines; and when he asked the recruiter, What are the Marines, the recruiter replied, Sign here and you'll find out.

Mr. Pinyan served honorably with the United States Marines in the Pacific Theatre during World War II, specifically in Guam, Iwo Jima, and China. He also served in Korea and Vietnam and retired after 41 years of distinguished service. Upon retirement, he held the rank of gunnery sergeant.

Floyd Pinyan remained active after his retirement from the Marines, working for the city of Atlanta as a business license inspector for some 15 years.

Mr. Pinyan is survived by his wife of 53 years, Christine; sons, Charles and Carl; daughter, Sharon; eight grandchildren; and five great-grandchildren. His children have continued his honorable service to our country by joining the Army, the Navy and the Marines.

Mr. Speaker, I ask that all of my colleagues join me in honoring the life of Floyd Pinyan of Cobb County, Mableton, Georgia, and in sending our thoughts and prayers to his family.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4885

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 4885.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

THE ESSENCE OF SCIENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. BAIRD) is recognized for 5 minutes.

Mr. BAIRD. Mr. Speaker, I rise today to speak about a matter that should be important to us all, regardless of political persuasion, and that is, the matter of scientific integrity, which I believe is under profound and dangerous attack under this administration and unfortunately under this Congress.

The great Nobel Prize winning physicist Richard Feynman once observed that as scientists we have "a lot of experience with ignorance, doubt and uncertainty. We have found it of paramount importance" he wrote "that in order to progress we must recognize our ignorance and leave room for doubt. Scientific knowledge is a body of statements of varying degrees of certainty, some most unsure, some nearly sure, but none absolutely certain."

Feynman saw this familiarity with uncertainty, with doubt as an important strength, indeed a responsibility that scientists can offer to the society as a whole. He went on to say, "If we suppress all discussion, all criticism, proclaiming 'This is the answer, my friends; man is saved!' we will" in the process "doom humanity for a long time to the chains of authority, confined to the limits of our present imagination." Feynman asserted, "It has been done so many times before."

Feynman was right. It has been done so many times before; and I believe if he were with us today, he would say it is being done yet again. In countless subtle and not-so-subtle ways, this administration and the majorities in the House and the Senate are deliberately and systematically suppressing discussion and criticism and distorting the scientific process. The modalities of these discussions, or distortions, are manifold; and collectively, they constitute nothing less than a coordinated attack on virtually every stage and every aspect of the science/policy interaction.

Evidence of this attack comes from many sources, including a GAO study which I am holding up here, which I requested along with my ranking member on the Committee on Science, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON). Interestingly and perhaps tellingly, we had asked that a full committee hearing be conducted to study this matter; but we were denied that privilege, leaving us to hold a somewhat symbolic hearing of our own.

Nevertheless, based on testimony from that hearing and numerous other sources, it is apparent to me and others that the assaults on scientific independence and integrity includes all of the following: limitations of the questions that are allowed to be asked; constraints on the methods that are used to seek answers to questions; limits or elimination of funding and resources to pursue certain questions that are not politically correct; biased selections of people who will be allowed to ask questions or serve on scientific panels; active and intentional suppression of findings that are not to official liking; unjustified claims and inflation of studies or results that are approved of by the administration; punishment or ridicule of scientists who disagree with official administration dogma; retribution for political involvement on the part of scientists; disregard of discomfiting scientific evidence; placement of nongovernmental ideologues in charge of international missions to supervise U.S. positions, vis-a-vis, scientific discussion; and creation of a climate in which scientists and policymakers have begun actually to self-censor or self-select and actually leave government service.

Thomas Jefferson wrote in a letter to his nephew: "Question with boldness even the existence of a God because, if there be one, He must more approve the homage of reason, than that of blindfolded fear." Clearly, at least in his private letters, Jefferson was not one to believe in limiting questions, and indeed, if one visits Monticello and sees his love for science, one realizes how important that was to him.

When one considers that Benjamin Franklin was considered one of the greatest scientists of his age and that Madison, Jefferson, and Washington and many of the Founders had a profound interest in science, we realize the importance of that principle to the founding principles of this Nation.

But we must contrast that attitude of the Framers with an administration that removes from a National Cancer Institute Web site fact sheets showing there is no empirical evidence linking abortion to breast cancer. Contrast that attitude of scientific inquiry with suppressing analyses of clean air legislation that will save lives and cut pollution at negligible cost. Contrast the Framers' attitude with initiatives in Congress to cut funding for research relating to sexually transmitted disease prevention. Contrast that attitude with limits to stem cell research. Contrast that attitude of the Framers with the selective appointment or withdrawal of experts on scientific advisory panels. Contrast that attitude with the willful stacking of advisory committees and removal of any voices deemed unfriendly to a predetermined outcome.

Within the scientific community, the effect of the administration's and congressional actions have been chilling and demoralizing. Researchers are practicing self-censorship or leaving government careers entirely.

Let me conclude, if I may, with one final comment of Richard Feynman. He said, "It is our responsibility as scientists, knowing the great process which comes from a satisfactory philosophy of ignorance, knowing of the great progress which is the fruit of freedom of thought, to proclaim the value of this freedom; to teach how doubt is not to be feared but welcomed and discussed; and to demand this freedom as our duty to all coming generations."

We must do that not only as scientists but as Representatives.

TORT REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. PEARCE) is recognized for 5 minutes.

Mr. PEARCE. Mr. Speaker, I would like to speak about tort reform, but before I do that I would like to use some of the comments of my colleague and friend who has just spoken about scientific integrity and maybe the creation of a climate that self-selects facts but disregards the scientific evidence, the active suppression of that evidence and questioning and removal of voices that are contrary to predetermined outcomes.

I was certain that he was going to bring in CBS news and Dan Rather into the thing, but he stopped one step short. So I would like to add CBS news and Dan Rather to the list of people who preselect their facts, who preselect and predetermine the outcomes, and then compliment CBS news and Dan Rather for their pursuit of truth in front of the American people.

Mr. Speaker, one of the things that we continue to talk about on this House floor is the way that businesses are driven off the shores of America into other countries. Very often we seem to simply omit the discussion of tort reform and the need for tort reform and the cost to not only businesses but to individuals in this country for lawsuits, for frivolous lawsuits, litigation.

Mr. Speaker, the U.S. Chamber ran an ad 2 years ago which described the cost of every car to include $500 for the cost of legal protection. That means that every consumer who buys a new car contributes $500 to the trial lawyers in this Nation. Is it any surprise then, Mr. Speaker, that this year the trial lawyers have contributed hundreds of millions of dollars into the 527s in order to buy influence and to influence the outcome of the elections?

It is no surprise to me, Mr. Speaker, because we find that the trial lawyers right now are pulling somewhere between 2.5 to 3 percent of the Nation's economy. Keep in mind that we are trying at this moment to get a 4 percent rate of growth year after year, and we are doing that; but at the same time, the trial lawyers are pulling 2.5 to 3 percent of the economy out the bottom.

Now, if that money were going to productivity and the hiring of people, that would be one thing; but what we find is that trial lawyers are escalating into the category of the world's richest people, not based on productivity, not based on what they add to the economy, but based on what they take out of the economy.

This affects every single one of us when they go to get a job. We find that the companies pay less because of the threat of lawsuits.

American Express told us in New York last year, a group of business leaders who were in the Congress, at that point that if we do not limit the frivolous lawsuits, if we do not limit class action lawsuits in this Nation, that we are going to drive out every single major corporation; that, in fact, within 20 years there would not be a single major corporation left in America.

We have to wonder then where are we going to get our pension plans funded. Where are we going to have the taxes that are paid to the Federal Government to support our retirees? It is a huge problem, and yet the trial lawyers continue to buy influence at an amazing rate, and they buy influence in this institution.

Here in the House, we have passed multiple forms of lawsuit abuse protection; but somehow, once they leave the doors of this institution, they simply are bottled up and kept dormant.

Mr. Speaker, it is time for the partisan politics that limit the debate and that limit the actions to stop the frivolous lawsuits. It is time for the partisan politics to stop and for us to protect the American consumer, for us to protect American businesses.

At one point last year, the insurance agents' representative for the Nation came into my office and gave me a list of maybe 30 or 40 new businesses, new activities that will not be covered under insurance this coming year. That means that every company that does those activities will not function because you cannot function without liability insurance in this country.

So what we are doing is we are continuing to limit the number of activities that we can have, jobs produced for Americans, all at the benefit of the trial lawyers of America.

HONORING THE LIFE OF JOE KARY WESTMORELAND

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, I stand to pay tribute to an outstanding and distinguished human being, Joe Kary Westmoreland, from my district who died just recently.

Joe began his musical career by singing and playing the piano at a very early age in New Morning Star Baptist Church. After graduating from Booker T. Washington High School, he moved to Los Angeles to continue his education. He attended Los Angeles City College and the University of California at Los Angeles where he earned a bachelor's degree in 1981.

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In 2000, Joe received a doctoral degree from the Pentecostal Bible College, West Coast Campus.

Joe taught choral music at Duarte High School, Occidental College, and UCLA. For over a quarter of a century, he served the First African Methodist Episcopal Church of Los Angeles, many of these years as Minister of Music. Since 1976, his gospel music compositions have been presented in over 100 concerts by major orchestras and two films, Music in Time and Zubin Rocks Gospel, and are in public libraries around the country. One aired on three segments of CBS' 60 Minutes.

The North Carolina Symphony and Interdenominational Choir performed seven of Joe's compositions at the Shaw University Heritage Festival, from 1977 through 1980. He conceived and helped produce the noted, Hallelujah Concert: A Tribute to Gospel Music, held at the Great Western Forum in Inglewood, California. Joe was the first composer of gospel music to have his works performed by Zubin Mehta and the Los Angeles Philharmonic Orchestra as well as the New York Philharmonic Orchestra.

In 1982, Joe was commissioned by the Albany Symphony to write a gospel mass. This music was also performed by the Utah Symphony Orchestra in 1983. And in 1987, together with Charles May, he wrote the gospel opera, Job, which starred Reverend Daryl Coley and the First AME Freedom Choir. It was performed again in 1988 for the Los Angeles Festival and for the AME General Conference in Fort Worth, Texas.

His credits go on and on in the area of music and gospel and bringing the two together. He wrote the gospel opera, Jezebel, which was performed in the Vision Theater in Los Angeles for a full month. His musical talents have not been unrewarded, and he has received every single award across the board.

Mr. Speaker, this is the kind of citizen that we need more of. He leaves a tremendous legacy in music and song but, most of all, in spirituality. And I want to extend my sympathy to his wife who stood by him all of those years, through an automobile accident, through several strokes and heart attacks, but he was still able to write and perform. He had been married to his wife for 39 years.

We pay tribute to his spirit, to his life, and we wish him a rest that is well-deserved in the hands of our Lord.

SCIENCE POLICY/STEM CELL RESEARCH

The SPEAKER pro tempore (Mr. COLE). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, a number of my colleagues have already spoken on, I think, a very important initiative or series of initiatives that require, unfortunately, the attention of this Congress and certainly the attention of many of our committees and particularly the one I serve on, the House Committee on Science.

I believe that the administration's science policy is adrift. We have not focused on the important needs of this Nation as relate to issues dealing with nanotechnology and basic research, environmental issues, and, of course, stem cell research, space exploration, and the International Space Station.

I rise in the backdrop of some 2 years since the tragedy of Columbia VII with so many of our brilliant scientists that flew into space with great hopes and aspirations to be able to press for space exploration, to be able to enhance a better quality of life for those of us who live on earth.

Space exploration has found, in many instances, ways to create a better life for human beings. It was the beginning of the understanding of the human genome. It certainly has been at the backbone of research dealing with cancer, diabetes, HIV/AIDS, heart conditions, stroke and aging. So we know there is value in exploring space. Other technological advances have been the beneficiary of that, yet I do not think we have done enough on Admiral Gehman's report on the issue of safety. I do not believe we have yet to complete, legislatively, the instructions that Admiral Gehman gave to us. The administration has been slow in acting.

I, for many months now, have been asking for a full and complete hearing on the questions of safety on the International Space Station. Just recently, we determined there was a leakage that had to be fixed by the only two remaining astronauts on the International Space Station. We have yet to create a vehicle that can allow additional travel for additional astronauts to go back and forth to enhance the safety of the International Space Station by repairing some of the problems with that space station.

Mr. Speaker, I call on my colleagues on the House Committee on Science to move forward on a hearing now on the safety questions of the International Space Station and begin again hearings to hear from NASA as to its implementation or its proposals for ensuring that human space shuttles fly again. These matters have not been attended to, and it puts us very far behind the work we should be doing in science.

I also note for those who have been following the discussion dealing with the stem cell research that, in the United States, millions of people are suffering needlessly. They are suffering because the administration is putting aside a century-long commitment to investing in and making use of good science in order to better the lives of the American people.

Furthermore, I am sorry to say that this Congress has been derelict in its duty to critically oversee the administration and to push creative and thoughtful legislation that will keep this Nation moving forward.

We discovered a few weeks ago articles reporting on the decrease, the dumbing down of dollars going into our research laboratories and our other research facilities such that professors and those who are graduating this year with the expertise of research, who can be part of new discoveries for the 21st century, are wondering whether they will have positions in research institutions around the Nation, whether or not there are enough Federal dollars to create opportunities for research. We would be certainly remiss if we did not fight for and seek to increase those dollars to keep from losing that talent.

We are finding now that international students, likewise, are finding their way to research labs elsewhere rather than coming to the United States and providing us the opportunity of being first in line with outstanding research that will again increase our quality of life. It was at the beginning of the new computer age, the Internet, the Web, all of that created by new bright minds, some of those in military research facilities, with dollars that were provided from our Federal Government.

As of this week, more than 5,000 scientists have signed on to a statement produced by the Union of Concerned Scientists accusing the administration of misusing and fully abusing scientific methodology. Signers include 48 Nobel laureates, 62 National Medal of Science recipients, and 127 members of the National Academy of Sciences. A number of these scientists have served in multiple administrations, both Democratic and Republican, underscoring the unprecedented nature of this administration's practices in demonstrating that the issues of scientific integrity transcend partisan politics.

We will speak to that as we continue throughout the remaining time of this Congress, that people are suffering needlessly because we have limited our research in stem cell research. Approximately 25 million people are living with diabetes, Parkinson's disease, Alzheimer's, Lupus, and other degenerative diseases. That is nearly 10 percent of our entire population. Over the course of decades, treating and caring for this Nation's sick will come at an incredible financial cost to taxpayers, families, and the U.S. health care system. In fact, Alzheimer's is the third most expensive disease to treat in America. The human cost is incalculable.

Stem cell research offers the promise of one day finding significant treatment and perhaps even cures for these diseases. If given the opportunity by our Federal Government, our scientists and researchers could potentially unlock the secret to reversing the horrible effects of Alzheimer's, Parkinson's, Lou Gehrig's disease, Lupus, and many others. In the longer term, stem cell therapies may help spinal cord injury patients benefit from an even limited restoration of lost functions, such as gaining partial use of a limb instead of none or restoring bladder control or being free from pain. This could mean a world of difference to millions of affected individuals.

Tragically, this administration would rather forego the preservation and improvement of life for political gains. On August 9, 2001, the administration announced restrictions on Federal funding for stem cell research and immediately froze progress on a valuable branch of scientific research. The President claims his opposition to expanded funding comes from his unwillingness to cross a strict moral line. When he cuts funding for prenatal and perinatal care, when he pursues a violent and expensive foreign policy, the strict moral line becomes blurred.

The President's Federal policy was already outdated the day it came out. He limited Federal funding for research using one of 78 cell lines available on August 9, 2001. Unfortunately, since then, it has been discovered that only 19 of those lines are actually functional, and of those 19, many are of diminished quality and value. Why spend any money at all to do second-quality research with thirdhand tools?

The President's policy is resulting in a reverse brain drain. Instead of working on outdated stem cell lines in U.S. labs, many of our brightest scientists are conducting research in the United Kingdom where the government fully funds stem cell research. When progress occurs in British labs, it will be British patients who will be the first beneficiaries of these new techniques.

Many argue that the Bush policy does nothing to inhibit advances in stem cell research. I beg to differ. The problem is that, as richer states and institutions advance the science of stem cell biology, it will be our institutions that will suffer.

Mr. Speaker, let me close by simply saying that even the former First Lady Nancy Reagan has begged us to find cures so that we can prevent the ravages of these unchecked diseases, such as Alzheimer's. I would only hope that the Committee on Science, lead by the Republicans and joined by the Democrats, will do its work before this Congress ends; that we will find ways to ensure the safety of space exploration in the International Space Station; and that we will find ways to do the right kind of research for stem cell research.

Mr. Speaker, I am here today with two of my colleagues from the Science Committee. We are concerned about the record of this administration, as it pertains to science. Their record has shown a blatant tendency to favor ideology over peer reviewed science. Research under the administration is drifting. There also has been a cavalier disregard for any possible assistance to U.S. industry that would match the subsidies and support offered by foreign governments to industries abroad. This ideological approach to science has put us at a serious competitive disadvantage.

In the United States millions of people are suffering needlessly. They are suffering because the administration is putting aside a century-long commitment to investing in, and making use of, good science in order to better the lives of the American people. Furthermore, I am sorry to say that this Congress has been derelict in its duty to critically oversee the administration, and to push creative and thoughtful legislation that will keep this Nation moving forward.

As of this week, more than 5,000 scientists have signed onto a statement produced by the Union of Concerned Scientist, accusing the Bush administration of misusing and fully abusing scientific methodology. Signers include 48 Nobel laureates, 62 National Medal of Science recipients, and 127 members of the National Academy of Sciences. A number of these scientists have served in multiple administrations, both Democratic and Republican, underscoring the unprecedented nature of this administration's practices and demonstrating that the issues of scientific integrity transcend partisan politics.

This afternoon a handful of Democratic members of the Science Committee will highlight some of the glaring areas where this administration and the congressional leadership are not properly using science to serve the American people.

As I said, people are suffering needlessly. Approximately 25 million people are living with diabetes, Parkinson's disease, Alzheimer's, Lupus, and other degenerative diseases. That's nearly 10 percent or our entire population. Over the course of decades, treating and caring for this Nation's sick will come at an incredible financial cost to families, taxpayers, and the U.S. health care system. In fact, Alzheimer's is the third most expensive disease to treat in American. The human cost is incalculable.

Stem cell research offers the promise of one day finding significant treatment and perhaps even cures for these diseases. If given the opportunity by our Federal Government, our scientists and researchers could potentially unlock the secret to reversing the horrible effects of Alzheimer's Parkinson's, diabetes, Lou Gehrig's disease, Lupus, and many others. In the longer term, stem cell therapies may help spinal cord injury patients benefit from an even limited restoration of lost functions—such as gaining partial use of a limb instead of none, or restoring bladder control, or being freed from pain. This could mean a world of difference to millions of affected individuals.

Tragically, this administration would rather forego the preservation and improvement of life, for political gains. On August 9, 2001, President Bush announced restrictions on Federal funding for stem cell research, and immediately froze progress on a valuable branch of scientific research. The President claims that his opposition to expanded funding comes from his unwillingness to cross "a strict moral line" When he cuts funding for prenatal and perinatal care, when he pursues a violent and expensive foreign policy, the President's "strict" line becomes more blurry.

The President's Federal policy was already out-dated the day it came out. He limited Federal funding to research using one of 78 cell lines available on August 9, 2001. Unfortunately, since then it has been discovered that only 19 of those lines are actually functional. Of those 19, many are of diminished quality and value. Why spend any money at all to do second-quality research, with third-hand tools?

The administration's policy is resulting in a reverse brain drain. Instead of working on outdated stem cell lines in U.S. labs, many of our brightest scientists are conducting research in the United Kingdom where the government fully funds stem cell research. When progress occurs in British labs, it will be British patients who will be the first to benefit from these new techniques.

Many argue that the President's policy does nothing to inhibit advances in stem cell research since privately funded scientists can work at will. The problem is that as richer States and institutions advance the science of stem cell biology, it will be those institutions and communities that will benefit from an increase in jobs, the boost to the local economy, and increased access to cutting edge medical treatments. Under this scenario, critical patents will be held by a limited number of institutions, further impeding even privately funded research. This will only add to the growing health disparities between the rich and the poor, the urban and the rural, the haves and the have-nots. Our Federal Government must seize this opportunity to counteract this effect that will have devastating impacts on patients, their families, and their friends.

Former first lady Nancy Reagan saw the ravages of unchecked disease, as President Reagan waged his own personal decade-long battle with Alzheimer's. She is now adding her voice to the call for a more rational and progressive stem cell policy. She has stated, "Science has presented us with a hope called stem cell research, which may provide our scientists with many answers that for so long have been beyond our grasp. I just don't see how we can turn our backs on this."

Mr. Speaker, the hope of which former First Lady Reagan spoke must be met, not only with optimism, but also with political will and decisive action. On April 28, more than 200 Members of the House of Representatives sent a letter to the President urging him to expand Federal funding for stem cell research. On June 4, 58 Members of the Senate sent a similar letter urging that the President relax his restrictions on Federal funds and repeal his antiquated policy. We approached the President with the purpose of honest and healthy debate. The President has refused to hear our arguments. This is an issue that could bring

Americans together to save lives. Instead, we are wasting time and taxpayer dollars, playing politics—debating divisive issues that are going nowhere.

Now is the time to reverse the negative effects of the administration's policy. It is time to implement a policy that encourages science, creates jobs, expands health care, and saves lives. It is time for an expansion of Federal funding for stem cell research in America.

AMERICANS NEED THE RIGHT TO VOTE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Illinois (Mr. JACKSON) is recognized for 60 minutes as the designee of the minority leader.

Mr. JACKSON of Illinois. Mr. Speaker, the Congressional Black Caucus today will be hosting here on the floor a special order regarding the protection of the fundamental right to vote for all Americans. Given the crucial nature of the up and coming election, the caucus' chairman, the gentleman from Maryland (Mr. CUMMINGS) and other members of the CBC have requested this time to talk with all Americans about some fundamental flaws that exist in our system.

Mr. Speaker, the Bible tells us, in the story of Matthew, of a wise man who built his house on a rock, and when the rain fell and the floods came and the winds blew and beat upon his house, it did not fall because he built it on a rock. But there was a foolish man who built his house on sand, and when the rain fell and the floods came and the winds blew and beat against his house, it fell.

Mr. Speaker, elections in the United States are like the foolish man who built his house on sand. Our election system is built on the sand of States' rights. We need to build it on a rock, the rock of a new amendment to the Constitution, affirmatively guaranteeing every American an individual right to vote and granting Congress the authority to create a unitary voting system.

The United States sees itself as the center of world democracy, so most Americans will be surprised, even shocked, to discover that we do not have the right to vote. Unlike the Constitution's First Amendment guarantee of an individual right to freedom of religion, to freedom of press, to freedom of assembly, the individual right to vote is not in the Constitution.

Most Americans are also unaware that, according to a joint study by Caltech and MIT, somewhere between 4 and 6 million votes nationally were not counted in 2000. Many States had similar problems to what occurred in Florida. My State of Illinois was the worst. Florida got the attention only because of the closeness of their vote.

Voting in America is overseen by 13,000 different election administrations, all separate and unequal, which is reminiscent of the legal theory that established Jim Crow segregation for 58 years as a result of the 1896 Plessy v. Ferguson decision.

□ 1430

The 15th, 19th and 26th amendments prohibit discrimination in voting on the basis of race, sex and age respectively, but they do not affirmatively guarantee the right to vote. Voting in America is essentially a 10th amendment issue, States rights, and therefore we end up with 50 different State systems, 3,067 different county systems and 20,000 different municipal systems in the United States.

The Supreme Court ruled in Bush v. Gore that the individual citizen has no fundamental constitutional right to vote for electors for President of the United States. In other words, Florida's State right to oversee the election took precedence over counting every individual vote; or legally, States rights triumphed over individual rights. In essence the Court said since there is no affirmative right to vote in the Constitution, what does the Florida State statute say? It says that the former Secretary of State is in charge of the election, and according to Florida law, all of the votes must be counted by midnight, December 12.

Since the Court decision came down at 10 p.m. on December 12, the Secretary of State said, in essence, if you cannot count all of the votes in the next 2 hours, President Bush is the President. But just in case the Court had ordered all of the votes counted and it turned out that Vice President Gore had won the most popular votes in Florida, the Republican controlled, or it could be a Democratic controlled, legislature had a backup plan: Based on the fact there is no right to vote in the Constitution of the United States for the individual citizen, that the Constitution says the right to elect electors resides in the State legislature. The Florida State legislature was prepared to ignore the 6 million popular votes, elect their own electors and send them to Congress for certification. That would have been both legally and constitutionally permissible.

The Help America Vote Act, or HAVA, is not the answer. It is built on sand, States' rights. I am convinced if Congress had the will, under our current Constitution it could do much more than HAVA to strengthen the administration of a unitary voting system and protect and fully count all votes.

But I am unconvinced, absent a voting rights amendment, that any solution to these and any of our other most pressing voting rights problems will be universal or sustainable. How do we change the current system and prevent another Florida, another Illinois, or some Ohio or some other State from undermining our election system? How can we achieve equal protection under the law in 13,000 separate and unequally administered voting jurisdictions? Some voting jurisdictions use computers. Others use punch card voting. Some allow Internet voting, others do not. Some allow lever voting systems. Some voters simply write an "X" next to the candidate of their choice; all separate and all unequal.

If we as Americans can guarantee for the people of Afghanistan the fundamental right to vote, and we can guarantee the fundamental right to vote for the people of Iraq, then of course we should be able to guarantee for every single American the fundamental right to vote.

Look at the issue of felons. In the State of Illinois if one commits a felony, after one has served their time, the State of Illinois under State law reenfranchises felons. In Florida once one commits a felony, one will never be reenfranchised because the State prohibits felons who have served their time from ever regaining the franchise. But in Vermont, even if you are in jail you are still allowed to vote in presidential and local elections, in some local elections.

Mr. Speaker, we need to guarantee the fundamental right to vote for every single American in our Constitution and only by adding an affirmative right to vote amendment to the Constitution, such an amendment would give Congress the power to establish a unitary voting system, ensure that every vote is counted, and grant equal protection under the law for all voters.

House Joint Resolution 28 is such an amendment, and I urge Members to sign on as cosponsors.

Mr. Speaker, no one has been traveling across the country as much, analyzing the Nation's voting system and trying to raise the consciousness of the Congress to guarantee and secure democracy for all Americans quite like the chairman of the Congressional Black Caucus, the gentleman from Maryland (Mr. CUMMINGS).

FIGHTING FOR A RIGHT TO VOTE CONSTITUTIONAL AMENDMENT

(By Congressman Jesse L. Jackson, Jr.)

Most Americans believe that the "legal right to vote" in our democracy is explicit (not just implicit) in our Constitution and laws. However, our Constitution only provides for non-discrimination in voting on the basis of race, sex, and age in the 15th, 19th and 26th Amendments respectively.

The U.S. Constitution contains no explicit affirmative individual right to vote!

Even though the "vote of the people" is perceived as supreme in our democracy—because voting rights are protective of all other rights—the Supreme Court in Bush v. Gore constantly reminded lawyers that there is no explicit or fundamental right to suffrage in the Constitution—"the individual citizen has no federal constitutional right to vote for electors for the President of the United States." (Bush v. Gore, 531 U.S. 98, 104 (2000).

Chief Justice William Rehnquist and Associate Justice Antonin Scalia besieged Gore's lawyer with inquiries premised on the assumption that there is no constitutional right of suffrage in the election of a president, and state legislatures have the legal power to choose presidential electors without recourse to a popular vote. "In the eyes of the [Supreme] Court, democracy is rooted not in the right of the American people to vote and govern but in a set of state-based institutional arrangements for selecting leaders." (Overruling Democracy—The Supreme Court v. The American People, by James B. Raskin, p. 7)

While a voting rights constitutional amendment would be strictly non-partisan, nevertheless, the 2000 election is a splendid example of the undemocratic nature of our currently administered election systems—and there are literally thousands of them. Each state and the District of Columbia (51), counties (3,067), and thousands of municipalities administer their own election system under state law, with great flexibility on many issues in the variously administered voting jurisdictions. That's the chaotic dynamic that was in play in Florida's 67 counties.

In 2000, if every American had had an individual constitutional right to vote, every vote would have had to be counted. However, under our current "states' rights" arrangement the state legislature and state law took legal precedence over the individual vote and the individual voter.

It is also important to point out that if candidate George Bush had lost in the Supreme Court in 2000, Florida's Republican-controlled legislature was prepared to ignore the six million popular votes cast in Florida. Under state law, they were determined to elect, select, choose, and hand pick, if necessary, their own "Bush presidential electors" and send them to Congress for certification—even if it had turned out that Al Gore won the most popular votes in Florida.

Thus, in terms of the political consequences of our present arrangement, if all of the votes legally cast in 2000 had been counted, Al Gore and not George Bush would be President of the United States today.

The principled commitment ought to be honest, fair and efficient elections for everyone, for all time. However, after 2000, any Democrat who cannot support adding a voting rights amendment to the Constitution ought to be asked to explain why!

Thus, even if all votes had been counted and Al Gore had won Florida's popular vote, and his electors had been sent to Congress, under our current Constitution the Florida legislature could have sent their slate of Bush electors to Congress and it would have been perfectly legal—and a "strict constructionist" or necessary constitutional interpretation—for Congress to have recognized the Bush electors.

Only a Voting Rights Amendment can fix these flaws in our Constitution and administration of elections.

The 10th Amendment to the Constitution states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the State, are reserved to the States respectively, or to the people." Since the word "vote" appears in the Constitution only with respect to non-discrimination, the so-called right to vote is a "state right." Only a constitutional amendment would give every American an individual affirmative citizenship right to vote.

Without the constitutional right to vote, Congress can pass voter legislation—and I support progressive electoral reform legislation—but it leaves the "states' rights" system in place. Currently, Congress mostly uses financial and other incentives to entice the states to cooperate and comply with the law. It's one reason there have been so many problems with the recently passed Help America Vote Act, and why many states still have not fully complied with the law.

Our "states' rights" voting system is structured to be "separate and unequal." As we saw in the 2000 election, there are 50 states, 3,067 counties, tens of thousands of cities, and many different machines and methods of voting—all "separate and unequal."

There's only one way to legally guarantee "an equal right to vote" to every individual American and that is to add a Voting Rights Amendment to the Constitution!

The lack of basic political rights for all Americans was made even clearer in Alexander v. Mineta, a case to gain political representation for the disenfranchised citizens in our nation's capital, the District of Columbia. Ignoring the democratic ideal of voting, the court said, "The Equal Protection Clause does not protect the right of all citizens to vote, but rather the right of all qualified citizens to vote" (Alexander v. Daley, 90 F. Supp. 2d, 35, 66, emphasis added) "To be qualified, you must belong to a 'state' within the meaning of Article I and the Seventeenth Amendment and must be granted the right to vote by the state." (Overruling Democracy—The Supreme Court vs. The American People, By Jamin B. Raskin, p. 36)

I believe that voting is not only a democratic right, it's a human right. That human right is not in our Constitution! That's why I have proposed legislation to add a voting rights amendment to the U.S. Constitution based on the individual right of all Americans to vote. It was introduced in the U.S. House of Representatives as House Joint Resolution 28. It reads as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

'Section 1. All citizens of the United States, who are eighteen years or age or older, shall have the right to vote in any public election held in the jurisdiction in which the citizen resides. The right to vote shall not be denied or abridged by the United Sates, any State, or any other public or private person or entity, except that the United States or any State may establish regulations narrowly tailored to produce efficient and honest elections.

'Section 2. Each State shall administer public elections in the State in accordance with election performance standards established by the Congress. The Congress shall reconsider such election performance standards at least once every four years to determine if higher standards should be established to reflect improvements in methods and practices regarding the administration of elections.

'Section 3. Each State shall provide any eligible voter the opportunity to register and vote on the day of any public election.

'Section 4. Each State and the District constituting the seat of Government of the United States shall establish and abide by rules for appointing its respective number of Electors. Such rules shall provide for the appointment of Electors on the day designated by the Congress for holding an election for President and Vice President and shall ensure that each Elector votes for the candidate for President and Vice President who received a majority of the popular vote in the State or District.

'Section 5. The Congress shall have power to enforce this article by appropriate legislation.'

With this amendment in the Constitution, all of the votes in 2000—to the best of our human ability and using credible and uniform criteria—would have had to have been counted. No unnecessary or arbitrary timeline cutoff would have been allowed with regard to counting votes. And the Florida legislature could not have even thought about ignoring the six million popular Florida votes in order to select presidential electors independent of the popular vote. Under this amendment, the popular vote could never be ignored and an independent legislative selection of electors could never happen.

In light of the presidential fiasco in Florida in 2000, and during the South Carolina Democratic presidential candidate's debate on May 3, 2003, Rev. Al Sharpton asked Florida Senator Bob Graham if he would support adding a voting rights amendment to the Constitution. In essence he said the following: "I haven't seen the legislation, but probably not. I believe states should remain in control of election procedures. And I'm against federalizing the election process."

Let's analyze his statement.

1. It means Senator Graham essentially supports the status quo when it comes to voting rights because, under current law, 2000 could happen again in Florida or elsewhere. The winner of the popular vote losing has happened three previous times in our history—1824, 1876 and 1888. Most Americans are totally unaware that, nationally, according to a joint study by the California Institute of Technology and Massachusetts Institute of Technology, somewhere between four and six million votes were not counted in 2000 because many states had similar problems to what occurred in Florida. Other states' election systems didn't get the same exposure as Florida's because the winner in other states was not in doubt. For example, Illinois was worse than Florida—it didn't count nearly 200,000 votes with similar problems to Florida's—but because Gore won Illinois by over 300,000 votes, the winner of the state's electoral votes was not in doubt. In Illinois and other states too, most of the problems—with voting and machines—were concentrated in the poor and minority communities.

"Amazingly, the government of the United States conducts and provides no official count of the vote for president." (Overruling Democracy—The Supreme Court vs. The American People, by Jamin B. Raskin, p. 66) Can you imagine the United States recognizing a close and hotly contested third world "democratic" election where the citizens had no right to vote, as much as six percent of the total vote was not counted; where there were no official results provided by the government; and where that country's Supreme Court declared its personal and ideological friend the winner, even though the declared winner did not get the most popular votes?

2. It means Senator Graham supports "states' rights" when it comes to voting rights. But I would remind Senator Graham and others, slavery was not supported directly in the Constitution. The word "slavery" never appeared in the Constitution.

Slavery was supported constitutionally because states had a right—"states' rights"—to provide legal cover allowing private citizens to own other human beings. That same states' rights system was at work in the 2000 election with respect to voting and it continues today.

3. H.J. Res. 28 does not federalize voting any more than the First Amendment federalizes free speech or freedom of religion. The First Amendment's right to free speech and religion is an individual citizenship right applicable to every American—not a "federal" right—protected by the federal government and its courts. It's an individual right that can be upheld in a federal court of law. Likewise, a voting rights amendment would grant every American an individual citizenship right to vote that, because it would be a right for every American, would ultimately be validated by Congress through legislation, and the Supreme Court through interpretation.

4. In essence, then, in the South Carolina debate, Senator Graham chose "states' rights" over an "individual right."

5. Attorney General John Ashcroft sent a letter to the National Rifle Association asserting that every American has an individual constitutional right to a gun. In it he wrote; "Let me state unequivocally my view that the text and the original intent of the Second Amendment clearly protect the right of individuals to keep and bear firearms." Some agree and others disagree with that interpretation.

However, there can be no debate or disagreement about the right to vote. The Supreme Court made it absolutely clear in Bush v. Gore—there is no individual citizenship right to vote in the Constitution!

If Americans had a choice between the right to a gun and the right to vote, it would be nearly unanimous. Americans would choose the right to vote! If that is the priority of the American people, then we should have the wisdom and political will to codify it in the form of a constitutional amendment.

What are the advantages of fighting for human rights and constitutional amendments? Human rights and constitutional amendments are non-partisan (they're neither Democratic nor Republican), they're non-ideological (they're not liberal, moderate, or conservative), they're non-programmatic (they don't require a particular means, approach or program to realize them), and they're non-special interest (they're for all Americans). We can experiment to find the best means of fulfilling such a constitutional right!

August 6th was the 38th anniversary of the signing of the 1965 Voting Rights Act. But the Voting Rights Act is really misnamed and, to some extent, misleading. It's not actually a voting rights act. In fulfillment of the 15th Amendment to the Constitution, added in 1870, the 1965 Voting Rights Act was actually a non-discrimination in voting act.

To fulfill the democratic ideal, an affirmative voting rights constitutional amendment still lies in the future. According to Harvard's constitutional law professor Alexander Keyssar one-hundred-and-eight (108) of the one-hundred-and-nineteen (119) nations in the world that elect their representatives to all levels of government in some democratic fashion explicitly guarantee their citizens the right to vote in their constitution. Both Afghanistan's constitution and Iraq' interim legal document contains a right to vote. The United States is one of the eleven nations in the world that doesn't provide an explicit right to vote in its Constitution.

If we pass a new voting rights amendment, the next civil rights movement will emerge fighting for congressional legislation that can advance even further the central democratic idea of universal voting—only partially enabled through the 1965 Voting Rights Act, Motor Voter and the Help America Vote Act. With a voting rights amendment, a new civil rights movement would emerge to fight to fully implement the amendment, while also using the federal courts to interpret voting rights more fully.

What can I do? If you would like to help me put this voting rights amendment in the Constitution, call your congressperson at 202–225–3121 (or call their local office) and urge them to become a co-sponsor of H.J. Res. 28. If you need more information about this legislation call my office at 202–225–0773.

Mr. Speaker, I yield the balance of my time to the gentleman from Maryland (Mr. CUMMINGS), chairman of the Congressional Black Caucus.

The SPEAKER pro tempore (Mr. COLE). The Chair will reallocate control of the balance of the leadership time to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Speaker, I thank the gentleman from Illinois (Mr. JACKSON) for all of his hard work. I thank the gentleman for constantly standing up for what is right, so often finding himself standing alone.

But as I have often said with regard to the Congressional Black Caucus when the question is asked why is it that you stand up over and over again when it appears you cannot win this battle or that battle, what we do is we consistently stand up, not necessarily to win but to set the trend for justice and for righteousness.

Mr. Speaker, I rise this afternoon with my fellow members of the Congressional Black Caucus to highlight the importance of protecting the right to vote in our Nation. I have often said this is not a black, yellow, brown, reddish. It is not about race, it is not about culture. It is not about religion. This is a red, white and blue issue.

When we talk about the right to vote and have your vote counted, it is clear when we look at our democracy that the very building blocks of the great thing that we call democracy and that so many other countries emulate or try to emulate is built on the individual's right to go to his or her polling place and pull a lever to select someone who will represent him or her in local or State or Federal Government, and that person will hopefully reflect that citizen's viewpoints when it comes to making policy. That is what it is all about. That is what our democracy is all about. That is why voting is so important.

When we take away that right to the vote or when you deny a person after they have voted the right to have their vote counted, then we are literally taking away the building blocks of what we call this great democracy.

Mr. Speaker, we are now 48 days from what will be one of the most decisive elections of our lifetime. I have said on many occasions that it is not only a decisive election, but that it is probably the most important election. This is that election where we will select the President who will decide who will be the next two or three new members of the Supreme Court, and who will decide exactly where we go with this Iraq war. This is the election which will probably decide the course of America's history for the next 50 years. Therefore, it is critical that within the next 48 days we educate people on registration deadlines, early voting, and the rights each American is entitled to when they go to the polls.

As an African American elected official, I am particularly sensitive to the issue of voting rights because when the Declaration of Independence was penned, it did not have my independence in mind. It did not have my independence in mind, nor did it have my great grandfather's, my grandfather's, nor my mother or father.

Mr. Speaker, our recent national history record records a time when the right to elect one's own representatives in Congress, in State houses and in the White House was a conditional right. It was dependent upon which State a person resided in, whether a person was born male or female, the color of one's skin or the ability to pass a literacy test. Indeed, our voting rights were limited by a vision of our national future that was clouded by prejudice and by dogged political ambition.

Mr. Speaker, I am sure you can remember a time just over 40 years ago when the country was in the grips of a national revolution. Freedom fighters took to the streets in protest of an America that did not recognize that its strength was indeed in its diversity. The Voting Rights Act of 1965, one of the products of that revolution, did not come about because Congress had finally come to its senses. Instead it was the manifestation of a slave's dream deferred.

As Dr. Walter Scott Thomas of the New Psalmist Baptist Church said this weekend at the Congressional Black Caucus prayer breakfast, when a people fail to dream, when they fail to dream of a better day, then they have indeed doomed their future.

So the Voting Rights Act of 1965 grew out of the sweat, blood and tears shed by brave men and women marching hopefully across the Edmund Pettis Bridge in Selma, Alabama, only to be met by police batons and tear gas on the other side. And it grew out of the work of so many other patriots whose names will never be recorded in our history books who may have never been recorded on the front pages of the Washington Post or the Boston Globe, but the fact of the matter is they made significant contributions.

It is because of the Voting Rights Act which outlawed the racist policies which shut blacks out of the voting booths that the dean of the Congressional Black Caucus, the gentleman from Michigan (Mr. CONYERS), was elected to serve in the United States Congress.

Mr. Speaker, our Nation was founded upon the basic belief in a people's government elected by and for the people. Yet for so many years in our history, African Americans were denied the fundamental right to elect their representatives. In this very Chamber, African-American members who were elected by voters in their district were denied seats in the people's House of Representatives and sent back home simply because of their race, simply because they were born black in America.

In fact, Mr. Speaker, before there ever was a Congressional Black Caucus, five of the first 20 African Americans elected to serve in the House were not allowed to be seated in this Chamber which in essence invalidated the will and the intent of voters which elected them to office. As a Nation, we have been fortunate to overcome these and other trying times in our history. For the most part we have learned the important lessons of our past.

Yet as evidenced by the contested 2000 presidential election, there are still remnants of that ugly past which seeks to remerge with a new name yet created the same result. We may not call it Jim Crow anymore, but voter suppression by any other name is voter suppression just the same.

Mr. Speaker, some estimates suggest that there were between 4 and 6 million Americans whose votes were thrown out in the last presidential election. According to a report submitted to the Committee on Government Reform on which I sit, the General Accounting Office stated that counties with higher percentages of minority residents tended to have higher percentages of uncounted Presidential votes.

Some would have us believe it is mere coincidence that the African American votes were more unlikely to go uncounted and be invalidated in the 2000 election, but we in the Congressional Black Caucus know better. If Members remember, we came to the well of this very Chamber on January 6, 2001, to express our outrage at the systemic disenfranchisement of so many voters in our own communities.

□ 1445

Mr. Speaker, as it was clearly shown in Fahrenheit 9/11, it was the Congressional Black Caucus that stood up to protest the Florida vote so that we could merely speak for an hour and a half. But back then, January 2, 2001, we could not get one Senator to join in with us so that we could at least have a dialogue, because it was our position that whenever one American is denied their right to vote, whenever one American's vote is not counted, then that is one too many. And we were determined to make sure that history would not be recorded, when our great grandchildren and great-great grandchildren would read the history many, many years from now, we did not want it said that we did not stand up and at least protest what had happened in the great State of Florida. We each lined up one by one at this very podium, not because President Bush won or because Al Gore lost, but because the issue was bigger than any one individual. We came to the House floor because the fundamental right to vote had been tampered with solely for political gain and we were not going to stand for it. Unfortunately, in that effort, again now made famous by Michael Moore's documentary, Fahrenheit 9/11, we were silenced and our voices were not heard.

Mr. Speaker, we come to the well of the House this afternoon to declare that this will not happen again, not on our watch. Recent news reports from the New York Times and other reputable papers across the country document an organized campaign taking hold of minority communities aimed at discouraging people from fulfilling their civic duty and voting this November. In my very district at the last election, notices were put out all across the City of Baltimore telling people that if they were behind in their rent or if they were behind in their gas and electric payments or if they had any kind of problems with the Motor Vehicle Administration, they would be subject to arrest if they were to go to the polls. But not only did the notice do that, it also told them that they should appear at the polls to vote the day after the election was to take place. Again, this was another effort on the part of some to stand in the way of people voting and having their votes counted.

The Help America Vote Act, a wonderful act which was enacted by this great Congress, has provisions with regard to provisional voting. When we look back at the past election and look at what happened to a lot of those provisional votes, a lot of them, the vast majority in many States were thrown out for simple things, as if on one side of the room was precinct one and one side of the room was precinct two, if the person actually was supposed to vote in precinct one and mistakenly voted in precinct two, a provisional ballot, the ballot was thrown out.

While we want to make sure that we protect the integrity of every ballot, I do believe that the founders of this great country when they crafted the Constitution of the United States wanted to make sure that every citizen had the right to vote.

Let me just give you a few examples, Mr. Speaker. Recently the New York Times reported that police officers visited the homes of elderly African Americans in Orlando, Florida, flaunting their guns and questioning them about their voter registration activities. Just this week in an editorial, the Times quotes a State legislator in Michigan saying, and I quote, if we do not suppress the Detroit vote, we're going to have a tough time in this election. The Houston Chronicle tells of students at a historically black college, Prairie View A&M University, being told that if they dared to vote in local elections using their college address, they would be prosecuted.

Now, Mr. Speaker, there is no question in anyone's mind that these types of activities are geared toward intimidating voters, particularly minority voters, into staying home on November 2. After all, 81 percent of Detroit's population is African American. By suggesting suppression of the Detroit vote, the Michigan State legislator was publicly suggesting suppression of the black vote. The Supreme Court case which established the right of students to vote on campus was actually initiated by a case involving Prairie View University some 26 years ago. Here it is 26 years later and the same forces that sought to disenfranchise students in the seventies and eighties have been reincarnated in 2004.

It was just recently that Bishop Vashti McKenzie of the AME Church said, and I quote, that while we may have new battles, and she was referring to African Americans today, we are basically fighting our fathers' and our grandfathers' same battles. We are only dealing with a different person but they are the same battles. Indeed, she was correct.

Mr. Speaker, I am sure some people may be listening to this across the country and think that the Congressional Black Caucus is somehow paranoid. But I ask that they simply read the headlines in their local papers. Just 2 weeks ago, voters in Florida's primary were turned away from the polls because they did not have proper identification. The poll workers conveniently neglected to tell people that all they had to do was sign an affidavit attesting to their identity. A spokeswoman for the Florida Secretary of State is quoted as saying, "The affidavit option in the law is merely a courtesy to the voter." I have news for the Florida Secretary of State and anyone else in the country who is thinking about threatening, miseducating or otherwise dissuading people from voting on November 2. The ability to vote is not a courtesy. It is the law. I along with my colleagues in the Congressional Black Caucus will defend that law by any means necessary.

Mr. Speaker, it is time that our country get about the serious business of defending this democracy that we champion so proudly abroad. One first step would be to fully fund the Election Assistance Commission. As you know, the Election Assistance Commission was created as part of the Help America Vote Act of 2002 to fix our country's broken electoral system. There are some that have argued that the system is not broken. It does not take a rocket scientist to understand that it is. All one has to do is do a replay of the 2000 election. But what you and people across this country probably do not know is the fact that the Election Assistance Commission was so severely underfunded that it could not even afford to pay the rent on its office space this year. That is simply incredible.

Congress and this President has got to stop giving lip service to the idea of protecting the right to vote. We must act and we must act now. Unless the Election Assistance Commission gets an additional appropriation, they will be forced to pay their rent, salaries and, by the way, oversee an entire Federal election with only $2 million. Not even the greatest magician in the world could pull off that trick. The four election assistance commissioners and their staffs are working around the clock with State election officials to ensure a seamless election process in November. However, by refusing to provide adequate funding for their work, Congress and the President is setting the commission up for failure.

Mr. Speaker, as we have been throughout the last 2 years, the Congressional Black Caucus will travel to communities across this great Nation again this weekend to inform voters of their rights. We do not want people to get discouraged by the challenges that some seek to mount against them in November. Instead, we want to awaken a spirit of rebellion against these voter suppression tactics. We want mothers, fathers, teachers and community leaders to feel a sense of urgency this November. If there are forces working against us, we as a community must work harder against them. We must work together, Democrats and Republicans alike, to reinvigorate the civil rights battle cry that famously proclaimed one man, one vote.

Mr. Speaker, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman for his kind introduction and I appreciate very much the leadership that he has shown on these issues. I join with him in standing with the Congressional Black Caucus on these very vital issues, but I believe it is enormously important that we pronounce not only to the Nation but even to the world that the question of the Constitution and the importance of one person, one vote in America has no color.

I am reminded of the early signs before the civil rights movement and the opening of accommodations in America, we would see the signs colored here, colored restroom, colored drinking fountain, colored entrance. It seems as if whenever we begin to talk about civil rights, for some reason there are those who wish to put a color sign, one that establishes civil rights as belonging only to one community. The idea of voting in America should clearly be that of every single citizen. I hope that as America focuses attention on the November 2 election, listening to polls go up and down, splintering by the finest of point the remarks of each presidential candidate, I hope they will understand that the only analysis that ever counts will be their vote on November 2, 2004.

And so we are standing today, and I am standing today because I believe that we will need to have an ignited electorate, a voting public that is both incensed about the depredation of their votes or the depriving of the right to vote but as well an incensed electorate to be energized about protecting their right to vote.

Might I just cite for those who are listening the numbers of issues that are so very important in our community around voter rights. After the 2000 election that saw a great disappointment across America, 500,000 individuals voted in the majority for a candidate that did not ultimately become President of the United States. When I visited Florida, I did not speak only to Florida A&M students who were denied their right to vote or individuals who happened to be African-American males who were told that they were convicted felons and denied their right to vote but I spoke to senior citizens in West Palm Beach who happened to be white Floridians who indicated their frustration with the voting ballot and the inability to ask questions at the voting booth and their frustration with having been forced inappropriately because of the faulty ballot in voting for someone they did not desire to vote for. Or how about talking to the disabled persons that I met who were shedding tears because they could not access the particular polling place because it was closed off to them.

Voting has no color. There is in fact no sign at the voting booth that should say colored here or white here. But yet in Florida in 2000 and in Illinois and in other places, there were many, many people who were denied the right to vote. Of course the Voting Rights Act of 1965 clearly enunciated principles that dealt with African Americans. It was a result of the civil rights movement, a movement of Dr. King and A. Phillip Randolph, Hosea Williams and Julian Bond and John Lewis and many others who fought and came together around the empowerment of voting for African Americans who had heretofore been denied, who could not even pay poll tax and get to vote. So many of us have parents who were intimidated away from the voting booth.

So we came to 2001, and some of us took advantage on January 6, 2001, to be able to stand up and reject the tally in the State of Florida. But even that could not turn back what had happened in November of 2000 and that is why we stand here today arguing for what we believe is the most crucial aspect of your empowerment, and that is the right to vote. We want every senior citizen to be able to vote. We want every student to be able to vote. We want every legal status citizen to have the right to vote. Every military personnel to have the right to vote. Every overseas American to have the right to vote and their vote to be counted.

But, Mr. Speaker, in doing that, let me make it perfectly clear, I want their rights to be counted and their right to vote to be filled with legalities as opposed to illegalities.

Let me raise for my colleagues some of the concerns we have as it relates to voter intimidation.

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It has been noted by People for the American Way a number of a series of intimidation. We know how we were intimidated in years passed. I worked for the Southern Christian Leadership Conference, and I worked in registering individuals to vote in North Carolina and South Carolina, Georgia, Mississippi, Alabama. It was interesting to go on those plantations where sharecroppers still lived and to see the voting place where they had to go. Some of my colleagues may be reminded of this. It was a tattered building with a tattered sheet covering where one would vote, and the overseer stood by while sharecroppers voted.

That was intimidation. And, in fact, in places where I went, an overseer stood by with a rifle on his lap as those who wanted to vote tried to walk past him. That is intimidation. And we must come away from that, come through the life that Fannie Lou Hamer led on her plantation in Mississippi where she was intimidated for even trying to participate in the Mississippi Democratic Party and in the Democratic National Convention.

So intimidation we know, and we stand today to argue against that. And some of that intimidation still continues: challenges and threats against individual voters at the polls by armed private guards; off-duty law enforcement officers; local creditors; fake poll monitors and poll workers and monitors; signs posted at polling places warning of penalties for voter fraud and noncitizen voting or illegally urging support for a candidate; poll workers assisting voters in filling out their ballots and instructing them how to vote; criminal tampering with voter registration rolls and records; fliers and radio ads containing false information about where, when, and how to vote; voter eligibility and false threat of penalty; setting up roadblocks near polling areas to intimidate voters; internal memos from party officials in which the explicit goal of expressing African American voter turnout is outlined; in 1982 in the State of Texas, having individuals in all polls in the African American community, standing and intimidating voters, intimidating the precinct judges, asking them whether they were allowing voters to come in without their identification.

This is voter intimidation, and this is what we have to cease and desist; and I would argue vigorously that, in doing so, we need to use existing laws of the land. We need to also make note that many of our cities, counties, and voting jurisdictions have utilized the electronic voting.

And so I will be offering a resolution to offer to this House that we demand that wherever it is possible that individual jurisdiction be required, be encouraged, be asked to include a paper trail. In the Federal legislation that we passed in this Congress in the last session, we were not able to get into that legislation a system of paper balloting. And so we are finding out in a very frightening way that electronic voting systems can be tampered with. We in Harris County requested our county clerk to include a paper trail. That county clerk refused, and we are contemplating a lawsuit. And I would encourage jurisdictions around the country, it is not too late to go in and seek injunctive relief even to require their jurisdiction, some of them wealthy enough to be able to implement it at this time, to put in the paper trail necessary to protect the vote.

Might I bring to the attention of my colleagues that, even though I started out by saying that I hope that we will ensure that the votes are taken and counted of all Americans, those overseas, those in the United States military, that none of their rights be denied, that no Secretary of State like the Secretary of State in the State of Florida in 2000 be able to close off the lights and close the door and the curtains on the various counties that were counting votes on that fateful Sunday when we heard from the Secretary of State of Florida who said, We will not take any more of the recounted votes; your time is up, and those votes will not be counted. We hope we will hear none of that anymore.

But let me remind my colleagues that we still have to perform oversight. My understanding is that the Pentagon is asking that the votes of the United States military not be sent to the various election polling places or the places where they belong, but they are being asked to be sent to the Pentagon. I do not know, Mr. Speaker, whether the Pentagon has ever cited itself as a duly counted electoral system where they have the oversight and the checks and balances to be able to open the thousands upon thousands of ballots coming in from enlisted personnel, National Guard and Reservists, sergeants, and others that might be intimidated by having to send their ballots to the Pentagon.

If the chairman would please stand just for a moment. And I see the distinguished gentleman from North Carolina (Mr. WATT) on the floor, and I know that he will be joining us, but I just want to be able to conclude on a final point. But with our great respect for the United States military, I know that we honor Shoshana Johnson and we have military now in respective communities, our respect for them on the front lines of Afghanistan and Iraq; but I would ask the chairman that we come together around a resolution, one, but also a letter inquiring about the process on behalf of our constituents who will be voting and sending their ballots, will they give us a precise process of how these ballots will be going to the Pentagon and ask for a reordering of that order such that those ballots can go somewhere else.

Mr. CUMMINGS. Mr. Speaker, reclaiming my time, one of the things that, as she was speaking, I could not help but think about is how in my district when we go to vote, the voter, and I am sure this is the case throughout the United States, is entitled to a certain level of privacy to cast their ballot. And certainly when the gentlewoman raised the question of what happens to ballots when perhaps they will be sent to the Pentagon, the privacy question comes up, the integrity of the system comes up. So I agree with the gentlewoman totally that we should write a letter. We will do that, and we will look into further action so that we can guarantee the integrity of those ballots coming from our military.

They are citizens of the United States of America. They are entitled to the same rights as all others. So it just seems logical to me that on their behalf and certainly on behalf of all citizens of our country, we will want to ensure the integrity and perhaps have that order reversed so that they could go directly, as they would normally, to whatever the various precincts are in their local voting offices throughout the country. So we will take a look at that and write that letter

Ms. JACKSON-LEE of Texas. Mr. Speaker, if the gentleman will continue to yield, I thank the chairman very much for his response.

Just in closing, it is interesting. This is the most powerful country in the world and the country that has the greatest technology. Would one not think that we would have the kind of precise technology, because these are absentee ballots, that could ZIP code these military personnel and send them back to their jurisdictions without tampering with and not going by way of the Pentagon? I think that would be certainly an appropriate manner of handling those particular ballots.

Mr. CUMMINGS. Mr. Speaker, reclaiming my time, one of the things that I think we have to keep in mind is a lot of people listen to this discussion and say it seems like these Members of Congress are not trusting the military. It is not about trusting. It is a thing of integrity of a system. One of the things that I think people want to know is that their ballot and the ballot of their sons and daughters and friends and neighbors are, in fact, being counted properly and being sent to the appropriate places so that we can maintain that integrity. And we do not even want the appearance of any kind of improper procedures.

One thing is for sure. When we talk about a democracy, we also talk about people's confidence in that democracy. As I am sure the gentlewoman has seen and heard, there were some people who were so discouraged by the 2000 election, they began to question why they should vote. And, of course, we have a ready answer to that. But the fact is we want everybody to know that their vote will be properly counted and that they will have the opportunity to vote. So I think people need to take all of that into consideration because I think it is very important.

Ms. JACKSON-LEE of Texas. Mr. Speaker, if the gentleman will continue to yield, I agree with the gentleman, and I think the idea of this Special Order is to put forward one term, and that is "preparedness." We want not only the people of America to be prepared to vote, but we want the governmental entities and those of us who have responsibility and have respect for the Voting Rights Act of 1965 and the integrity of the voting process to be prepared.

So my final words are these: One, I think that we should collaborate around this issue of dealing with the paper trail. I know that we will be studying the issue in Texas, and it may warrant litigation in terms of insisting that our particular county look into and pursue establishing a paper trail. My understanding is that constituents around the Nation are particularly frightened by the fact that their votes can be tampered with.

The second thing is for every poll where someone else has a poll watcher, we need to make sure that we have one. I say to all of the voters who may be going to vote to be prepared with every documentation that they need and be aware of the fact that they have a right to attest their authority, they are called many different names, but an affidavit that they can do so. Be prepared that they can attest the fact that they have the right to vote.

And, lastly, I would say do not leave a voting place. I am not asking people to get arrested en mass. But let me say this: Voting is important. If one feels civil disobedience warrants persisting in staying at the poll, they have the right to be able to get all the information that they need before they are taken away or shunned away from the poll. I say to them to wait on someone to come to them. There will be legal teams all over this country who will be assisting them, but to wait before being turned away so that they can get the right information or call back or come back.

This will not be a repeat of 2000. And it will not be that because we are going to be prepared and we are going to utilize every aspect of the Constitution, the Voting Rights Act of 1965, and local jurisdictional law, including the elections legislation that we passed, to make sure that every vote is counted. And I hope, as we move toward November, we will find ourselves prepared.

Mr. CUMMINGS. Mr. Speaker, reclaiming my time, I was thinking as she talked about the Voting Rights Act of 1965, in a way it is a kind of sad thing that we are even standing here talking about this, talking about guaranteeing the right to vote and to have a vote counted here in 2004. But we do and we have to stand up. Every second January, come January, we put up our right hand and we swear to uphold the Constitution of the United States, and part of that Constitution is our right to vote.

So I am very pleased that the gentleman from North Carolina has joined us. The next chairman of our Congressional Black Caucus, who is, without a doubt, one who has consistently looked at our Constitution very carefully, as the gentlewoman from Texas (Ms. JACKSON-LEE) has. And whenever there was what might appear as a violation of that Constitution, they have consistently raised that on the floor of this great House. And I think history will go down and it will be written, and maybe hundreds of years from now somebody may just be flipping through some pages and hear about members of the Congressional Black Caucus, particularly those in the Committee on the Judiciary, standing up for what they believe in.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. CUMMINGS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to add my appreciation. I appreciate the gentleman from Maryland (Mr. CUMMINGS) mentioning our service on the Committee on the Judiciary. Just to add that we spent some time in the Committee on the Judiciary this morning with, again, legislation that did eliminate opportunity to enter into the courthouse on questions of grievance regarding in this instance the Pledge of Allegiance.

But I think the important point is that we stand here today talking about voter rights when we have legislative initiatives by this body, and I think our colleagues need to hear this, that are slamming the door shut. So for all we know, Mr. Speaker, we may talk about going into the courthouse on the Voting Rights Act or going into the courthouse on electronic voting, and before we know it, we may have legislation saying no one is allowed to pursue Federal court jurisdiction or appellate court jurisdiction on issues dealing with the Voting Rights Act of 1965. I just thought I would share that, as the gentleman from North Carolina (Mr. WATT) was coming to the microphone, to let everyone know how serious we are today. I thank the gentleman for his leadership.

I rise today to address an issue that I and members of the Congressional Black Caucus have worked tirelessly for, the issue of voters rights. The issue of voters rights is one that is central to our democratic government based on the Constitution and it is an issue that will be fundamental in this year's Presidential election.

The importance of each American's vote can not be understated; it was former President Lyndon Johnson who said: "The vote is the most powerful instrument ever devised by man for breaking down injustice and destroying the terrible walls which imprison men because they are different from other men." Voters rights are guaranteed to every American, but clearly voters rights have been more dubious for minority voters, especially those in the African American community.

The Fourteenth Amendment states that all persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. The citizens of Florida were denied equal protection from faulty voting equipment, misinformed or unschooled Election Day poll workers and confusing ballots. They were denied equal protection from unreliable vote tabulation methods that were not able to discern voter intent. They were denied an opportunity, tested and approved by time to use manual hand counts to determine the intent of a voter to vote and for which, if any, candidate they desired to vote for.

Disparate treatment of voters in our Nation is inherent in the arcane and disjointed method of local, State, and national elections. The condition of the Florida election was the fruit of this disparity in that the variations in the methods of voting lead to different methods of tallying votes and different success or failure rates in the accuracy of those tallies. The more modern pencil mark to fill an oval on a paper ballot that is fed into a computer to tally votes was found to only hold a 3 percent error rate while the punch card method of tallying votes had a 15 percent error rate.

Congress passed the voting Rights Act of 1965 in response to widespread evidence of disenfranchisement of black citizens in several southern States, of which Florida is numbered. This act was designed to protect citizens' right to vote primarily by forbidding these States from using tests of any kind to determine eligibility to vote, by requiring these States to obtain Federal approval before enacting any election laws, and by assigning Federal officials to monitor the registration process in certain localities.

It is clear that the injured party in the 2000 elections was the voters of Florida who had to suffer through the biased actions of a Secretary of State who acted as the Co-State Chair for the Bush for President effort in the State of Florida. The voters struggled to be heard in the face of repeated challenges and disruptions designed to end an order process of discerning voter intent when the machine failed in that determination. A constitution is the property of a nation, and not of those who exercise the government.

The United States Declaration of Independence states, "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness—That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed, that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its Foundation on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness." The Declaration of Independence continues with, ". . . when a long Train of Abuses and Usurpations, pursuing invariably the same Objective, evinces a Design to reduce them under absolute Despotism, it is their Right, it is their Duty, to throw off such Government, and to provide new Guards for their future Security."

This passage of the Declaration of Independence adequately describes the plight of minority and poor Americans in their struggle for an equal voice in the governance of our Nation's democracy.

African American voters were there on Election Day, but soon after the election was over we knew that something had happened to stop our vote from being counted with its full effect.

In the 19th Century following the Civil War, the Congress passed 2 amendments to the Constitution; the Fourteenth and Fifteenth Amendments in order to guarantee the equal rights of African Americans and grant voting rights to black men. Following the enactment of these two amendments 22 African Americans served in the Congress and over 700 served in Southern State legislatures, with some States being nominally under black control. Unfortunately by 1902 whites found enough ways to prevent the intent of the Fourteenth and Fifteenth Amendments from being followed that the number of African American elected officials dwindled to zero. It took over 70 years for the voting rights of African Americans to be restored to a level where the election of African Americans to Federal offices was to some degree assured from disruption due to the institutional blockade of African American citizens voting rights.

The battle over at-large elections which effectively diluted black votes was not overcome until 1973, when the Supreme Court ruled in White v. Register that at-large elections schemes were unconstitutional, if such schemes diluted minority voting strength which they did in most cases. While we were victorious in that battle, the challenges to obtaining true voting rights have been evident till this day and we must fix what is a flawed and prejudicial system.

The 2000 presidential election revealed a plethora of barriers to voting. In NAACP hearings on voting irregularities we heard testimony from law enforcement, poll workers, educators, civil rights organizations, state and federal legislators, and disenfranchised voters recounting the following:

1. That citizens who were properly registered were denied the right to vote because election officials could not find their names on the precinct rolls;

2. That registered voters were denied the right to vote because of minor discrepancies and clerical errors;

3. That first-time voters who sent in voter registration forms prior to the state's deadline for registration were denied the right to vote because their registration forms were not processed;

4. That African American voters were singled out for criminal background checks at some precincts and that one voter who had never been arrested was denied the right to vote after being told that he had a prior felony conviction;

5. That African American voters were required to show photo identification while white voters at the same precincts were not subjected to the same requirement;

6. That voters who requested absentee ballots did not receive them but were denied the right to vote when they went to the precinct in person on Election Day;

7. That hundreds of absentee ballots of registered voters in various counties throughout the nation were improperly rejected by the Supervisor of Elections and not counted;

8. That African American voters who requested assistance at the polls were denied assistance;

9. That African American voters who requested the assistance of a volunteer to translate the ballot for limited proficient voters were denied such assistance.

There allegations raise potential violations of Sections 2 and 5 of the Voter Rights Act of 1965, 42 U.S.C. sec. 1973, as well as several provisions of the National Voter Registration Act of 1993, 42 U.S.C. sec. 1973gg–5(a) which affirms the right of every U.S. citizen to case a ballot and have that ballot be counted must be protected without compromise and without regard to the voter's race. This was truly a time in which justice delayed was justice denied. In addition to the number of allegations of voting irregularities that occurred in the State of Florida, it was revealed that a total of 180,000 ballots were not counted in Florida's presidential vote. The Gore Campaign, members of the Congressional Black Caucus, civil rights attorney's and the disenfranchised voters themselves sought for every Floridian's vote to be counted by requesting a hand count in the 4 counties that demonstrated voting irregularities. In these 4 counties in which the hand count was sought—all heavily Democratic areas—over 73,000 ballots were not counted in the presidential tally.

Beyond these egregious voting irregularities, millions of Americans were denied their fundamental right to vote simply because they were unable to vote due to prior work commitments. In fact, the great untold story in the last election and in most elections in America is the voting disparity that exists between those who can afford to take time off work to vote and those who cannot. Moreover, this perpetual disparity has caused a voting gap that threatens the very fabric of our representational democracy and has challenged our nation to find a solution that addresses this great disparity.

In the words of "Freedom," a poem by Langston Hughes we hear the threat to our national existence, "freedom will not come today, this year nor ever, through compromise and fear. I have as much right as the other fellow has to stand on my two feet and own the land. I tire so of hearing people say, let things take their course. Tomorrow is another day. I do not need my freedom when I'm dead. I cannot live on tomorrow's bread. Freedom is a strong seed planted in the soil. I live here too. I want freedom just as you."

The question before us now is how do we make sure that this type of disenfranchisement never again rears its ugly head, especially in a year when we again face a Presidential election bound to be decided by a few thousand or even hundred votes. We know that in 2001 here in the State of Florida they passed a $32 million election reform package. The measure is supposed to eliminate punch card and hand-counted paper ballots and all mechanical-lever voting. Because of this reform, never again in the State of Florida will an election be decided based on hanging, dangling or pregnant chads. However, just because we may have eliminated antiquated voting systems in this State, it does not mean that voters can not be disenfranchised. More modern electronic voting systems have shown to have a multitude of questions surrounding them. First, is the question of fraud, these new electronic systems must be proven to be tamper proof from outside sources. More so, we must insure that the companies who supply these machines do not have any partisan stake in the election they are helping to determine. These questions were raised earlier this year about Diebold Inc, which will supply many of the electronic voting machines throughout the country and whose President has very close links to President Bush and the Republican Party. While I do not make accusations that have not been fully proven, my point is that even with newer and more advanced equipment there are questions and issues that need to be addressed. Many of these electronic voting machines do not even leave a paper trail record to review in case questions of fraud or tampering were ever raised in an election. As our society has grown more technological we have come to depend more and more on computers, but I think we all still recognize that while computers are free from bias, they are not completely free from error or misuse. Which is why I was truly disappointed to learn that the Governor of this State, Jeb Bush recently denied a request to conduct a statewide, independent audit of voting systems. This despite the fact that electronic voting computers crashed in May and November of 2003, erasing information from the September 2002 gubernatorial primaries and other elections. I am disappointed that officials in this State or any other State in this Nation for that matter would not take every step possible to ensure a proper election this year. The truth unfortunately, is that proper voting rights is not as much of an issue for some people whose rights have always been protected and recognized, as it is for people in our community who after more than two hundred years are still longing for true equality.

While there is much reform to be done on the local, State and national level to make sure that every vote is counted, the real reform begins and ends with each of us. We must continue to go to the polls and we must be vigilant. In this year's election if we see a brother or sister being told that they are not registered even though they are or we see a fellow neighbor being harassed while others are allowed to vote freely; we must stand up for them. Together as a community there is no hurdle we can not overcome, we will not allow our rights to be frittered away. It is equality we have strived for since before we were even born and it is equality we will achieve because our struggle is righteous and our means are just.

Mr. CUMMINGS. Mr. Speaker, I yield to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Speaker, I thank the gentleman for yielding to me. And were the subject of this Special Order not so immeasurably important, I could spend many minutes talking about the issue that the gentlewoman from Texas just identified that was dealt with in the Committee on the Judiciary.

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But if she will be kind enough to allow me, I think I will wait until next week to make that debate. That bill will be on the floor, and hopefully, we will have ample opportunity to point that out.

I am honored today to join my colleagues from the Congressional Black Caucus, the chairman of the Congressional Black Caucus, the gentleman from Maryland (Mr. CUMMINGS) and the gentlewoman from Texas (Ms. JACKSON-LEE) to be a part of this Special Order which focuses on voter intimidation and efforts that are being made by some in our society to deter people who wish to exercise their democratic rights, the right to vote.

I would be less than honest if I said I was delighted to be here debating this, because I concur with the chairman of our caucus that these many years after the passage of the Voting Rights Act, we would like to be in a position not to have to be here to engage in these kinds of discussions on the floor of the House concerning voter intimidation, deterrence of voters from exercising their right to vote. And I would add to that that I do not think there would be any people who would be more delighted on November 3 of this year than the Congressional Black Caucus if we could stand up and say on November 3 that we overreacted and did not need to be here today talking about this. But if that eventuality occurs, I am going to get up; I am coming to the floor to say, I am delighted to say that we overreacted, because I will be happy about it.

I do not think we can talk about voter intimidation without putting it in a larger context, and that is the context of democracy. All around the world, the United States was recognized by country after country after country as the gold standard for democracy for years and years and years, and I wish I could say that the United States still holds that distinction. Unfortunately, we do not have that distinction anymore.

While we were encouraging the government, the forming government, of South Africa to assure representation of all factions in their new government, we were at the same time in the United States Supreme Court discouraging minority representation in the United States. While we were encouraging the residents of South Africa to make their ballots understandable by putting pictures on the ballots if necessary to identify the candidates, we were at the same time making it impossible for folks to cast ballots that did not have hanging chads and other problems in the United States. While we were encouraging the folks of South Africa to make it easier for people to vote by allowing voters to cast their votes on Saturdays and Sundays, in the United States, that is anathema to us. Although, it seems to me and other members of the Congressional Black Caucus that that would be the ideal to maximize voter participation. So we do not have the honor of holding the gold standard of democracy anymore.

Those of us who believe that, somehow, Florida was the exception rather than the rule are deluding ourselves because not only in Florida were we having problems in 2000, but in every single State where votes were being cast, there were problems with the voting process. And unfortunately, those problems were disproportionately disqualifying minority voters from voting and poor people because they had the worst machines in every jurisdiction.

So if one checks all around America, this is not a Florida problem that we are talking about. This is a national problem that deprives America from being able to hold out its chest and say, we are the gold standard for a democracy. If we ignore that larger context when we talk about voter intimidation and discouraging people from voting, then we miss a major point.

Now, there is intimidation going on, and there is discouragement going on, and I want to make sure that America knows and that everybody knows that we are preparing to be ready for that kind of intimidation, discouragement, roadblocks by police, every kind of negative discouragement of our voters from voting on November 2. We are preparing to combat that.

It is a shame that somebody could show up at our meeting today and hand out a flyer saying, we are recruiting 10,000 lawyers to be available on Election Day in the United States of America. Who could imagine that we would need 10,000 lawyers to assure that people in the United States, in our democracy, get to do what our Constitution says they are entitled to do. There is something wrong with that picture, and I just wanted to be here today to add my voice to the chairman's voice and to our caucus' voice that, on November 2, this simply will not be tolerated.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentleman for his statement.

So it is, Mr. Speaker, that, again, the Congressional Black Caucus stands up for Americans' right to vote and to have their vote counted.

COMMUNICATION FROM THE ATTENDING PHYSICIAN OF THE HOUSE

The SPEAKER pro tempore (Mr. KLINE) laid before the House the following communication from the Attending Physician of the House of Representatives:

THE ATTENDING PHYSICIAN,
CONGRESS OF THE UNITED STATES,
September 13, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House, that a member of my staff has received a subpoena for documents issued by the Office of Compliance.

After consulting with the Office of General Counsel, I determined that compliance with the subpoena is consistent with the privileges and rights of the House.

Sincerely,
JOHN F. EISOLD, M.D., F.A.C.P.

COMMUNICATION FROM MILITARY LIAISON OF HON. DAVE WELDON OF FLORIDA, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Toni Mahoney, Military Liaison of the Honorable DAVE WELDON of Florida, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 8, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I was served with a civil trial subpoena, issued by the County Court for Brevard County, Florida, for testimony and documents.

After consulting with the Office of General Counsel, I determined that compliance with the subpoena was inconsistent with the privileges and rights of the House.

Sincerely,
TONI MAHONEY,
Military Liaison.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. EDDIE BERNICE JOHNSON of Texas (at the request of Ms. PELOSI) for today on account of medical reasons.

Mr. LANGEVIN (at the request of Ms. PELOSI) for September 13, 14, and 15 on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. SCHIFF, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. BAIRD, for 5 minutes, today.

Mr. MILLER of North Carolina, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, September 22.

Mr. PEARCE, for 5 minutes, today.

Mr. FEENEY, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1576—An act to revise the boundary of Harpers Ferry National Historical Park, and for other purposes.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 361. to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

ADJOURNMENT

Mr. CUMMINGS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 24 minutes p.m.), under its previous order, the House adjourned until Friday, September 17, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9570. A letter from the Administrator, FAA, Department of Transportation, transmitting the Administration's third report, as required by the Pilot Records Improvement Act of 1996 (PRIA), pursuant to Public Law 104-264, section 502, 49 U.S.C. 44703(h)(12); to the Committee on Transportation and Infrastructure.

9571. A letter from the United States Trade Representative, Executive Office of the President, transmitting consistent with section 2105(a)(1)(B) of the Trade Act of 2002, a description of the change to an existing law that would be required to bring the United States into compliance with the United States-Morocco Free Trade Agreement; to the Committee on Ways and Means.

9572. A letter from the Acting Chief, Publication and Regulations, Internal Revenue Service, transmitting the Service's final rule—Application of Section 904 to Income Subject to Separate Limitations [TD 9141] (RIN: 1545-AX88) received July 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9573. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Purpose and scope of exception of reorganization exchanges (Rev. Rul. 2004-83) received July 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9574. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Transfers to Provide for Satisfaction of Contested Liabilities [TD 9140] (RIN: 1545-BA90) received July 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9575. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Rev. Rul. 2004-87) received July 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9576. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Pul. 2004-84) received July 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9577. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting the Department's notification to Congress of determinations that institutions of higher education have a policy or practice of denying military recruiting personnel entry to campuses, access to students on campus, or access to student recruiting information, pursuant to 10 U.S.C. 983; jointly to the Committees on Armed Services and Education and the Workforce.

9578. A letter from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's Annual Report on the Federal Work Force for Fiscal Year 2003, pursuant to 42 U.S.C. 2000e-4(e); jointly to the Committees on Government Reform and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POMBO: Committee on Resources. H.R. 3479. A bill to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other ares of the United States, and for other purposes; with an amendment (Rept. 108-687 Pt. 1).

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 4794. A bill to amend the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 to extend the authorization of appropriations, and for other purposes (Rept. 108-688 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration. H.R. 3479 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 3479. Referral to the Committee on Agriculture extended for a period ending not later than September 15, 2004.

H.R. 4794. Referral to the Committee on International Relations extended for a period ending not later than October 2, 1004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SAXTON (for himself, Mr. WOLF, Mr. MILLER of Florida, Mr. SHERWOOD, Mrs. CHRISTENSEN, Mr. LOBIONDO, Mr. WILSON of South Carolina, Ms. BORDALLO, Mr. TANCREDO, Mr. SANDLIN, Mr. GIBBONS, Mr. BASS, Mr. TOWNS, and Mr. TIAHRT):

H.R. 5079. A bill to amend the Internal Revenue Code of 1986 to allow employers a $1,000 credit against income tax for every 3 years that they employ a military reservist; to the Committee on Ways and Means.

By Mr. SAXTON (for himself, Mr. BURR, Mr. WILSON of South Carolina, Mr. CARDOZA, Mr. MEEHAN, Mr. WALSH, Mr. GARRETT of New Jersey, Mr. STENHOLM, Mr. SHERWOOD, Mr. LOBIONDO, Ms. ROS-LEHTINEN, Mr. SANDLIN, Mr. SENSENBRENNER, Mr. GIBBONS, and Mr. TOWNS):

H.R. 5080. A bill to amend the Internal Revenue Code of 1986 to allow employers a $1,000 credit against income tax for every 3 years that they employ a veteran; to the Committee on Ways and Means.

By Mr. BEAUPREZ (for himself and Mr. SWEENEY):

H.R. 5081. A bill to amend title 10, United States Code, to provide for a new program of educational assistance for certain reserve component members of the Armed Forces who perform active service; to the Committee on Armed Services.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, Mr. LIPINSKI, Mr. SHUSTER, and Mr. MENENDEZ):

H.R. 5082. A bill to authorize the Secretary of Transportation to award grants to public transportation agencies and over-the-road bus operators to improve security, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. NETHERCUTT (for himself, Mrs. JOHNSON of Connecticut, and Ms. DUNN):

H.R. 5083. A bill to designate certain lower-elevation Federal lands in the Skykomish River valley of the State of Washington as wilderness, to designate a portion of such lands for management as a backcountry wilderness management area, and for other purposes; to the Committee on Resources.

By Ms. SOLIS:

H.R. 5084. A bill to authorize the Secretary of Education to make formula grants to States to ensure that all families have access to high-quality, voluntary preschool education, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BERRY:

H.R. 5085. A bill to suspend temporarily the duty on Cobaltate(1-), bis[3-[[1-(3-chlorophenyl)-4,5-dihydro-3-methyl-5-(oxo-kO)-1H-pyrazol-4-yl]azo-kN1]-4-(hydroxy-kO)benzenesulfonamidato(2-)]-,sodium; to the Committee on Ways and Means.

By Mr. BERRY:

H.R. 5086. A bill to suspend temporarily the duty on 2-[[3,3'-Dichloro-4'-[[1-[[(2,4-dimethylphenyl)amino-carbony]-2-oxopropyl]azo][1,1'-biphenyl]-4-yl]azo]-3-oxo-N-(o-tolyl) u tyramide; to the Committee on Ways and Means.

By Mr. BERRY:

H.R. 5087. A bill to suspend temporarily the duty on 3-Hydroxy-4-[(4-methyl-2-sulfophenyl)azo]-2-naphthalenecarbo xylic acid, calcium salt; to the Committee on Ways and Means.

By Mr. BERRY:

H.R. 5088. A bill to suspend temporarily the duty on Benzenesulfonic acid, [[chloracetyl)amino]methyl] [4-[[4-(cyclohexylamino)-9,10-dihydro-9,10-dihydro-9,10-dio o-1 anthraceny 1]amino]phenoxy]meth yl-, monosodium salt; to the Committee on Ways and Means.

By Mr. BERRY:

H.R. 5089. A bill to suspend temporarily the duty on 2,2'-[(3,3'-Dichloro[1,1'-biphenyl]-4,4'-diyl)bis(azo)[bis[N -(2,4-dimethylphenyl)-3-oxobutyramide] Butanamide, 2,2'-[(3,3'-dichloro[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis[N -(2,4-dimethylphenyl)-3-oxo-]; to the Committee on Ways and Means.

By Mr. COLE (for himself, Mr. LUCAS of Oklahoma, Mr. SULLIVAN, Mr. ISTOOK, and Mr. PETERSON of Pennsylvania):

H.R. 5090. A bill to amend the Internal Revenue Code of 1986 to provide that the credit for producing fuel from a nonconventional source shall apply to gas produced onshore from a formation more than 15,000 feet deep; to the Committee on Ways and Means.

By Mr. DAVIS of Illinois (for himself, Mr. ISSA, Mr. JACKSON of Illinois, and Mr. DINGELL):

H.R. 5091. A bill to provide a technical correction to the Federal preemption of State or local laws concerning the markings and identification of imitation or toy firearms entering into interstate commerce; to the Committee on Energy and Commerce.

By Mr. TOM DAVIS of Virginia (for himself, Mr. Moran of Virginia, and Mr. Wolf):

H.R. 5092. A bill to amend part A of title I of the Elementary and Secondary Education Act of 1965 to include hold-harmless provisions for local educational agencies that no longer meet the minimum eligibility criteria for targeted grants and education finance incentive grants, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ENGLISH:

H.R. 5093. A bill to amend the Internal Revenue Code of 1986 to provide for small business tax incentives, to amend the Fair Labor Standards Act of 1938 to increase the minimum wage and to increase the exemption for annual gross volume of sales made or business done by an enterprise, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOLEY (for himself, Mr. Shaw, Mr. Boyd, Ms. Ros-Lehtinen, Mr. Mario Diaz-Balart of Florida, Mr. Hastings of Florida, Mr. Goss, Mr. Bilirakis, Mr. Davis of Florida, Ms. Corrine Brown of Florida, Mr. Lincoln Diaz-Balart of Florida, Mr. Keller, Ms. Ginny Brown-Waite of Florida, Mr. Miller of Florida, Ms. Harris, Mr. Deutsch, Mr. Mica, Mr. Wexler, Mr. Camp, Mr. English, Mr. Weller, Mr. Houghton, Mr. Wilson of South Carolina, Mr. Burton of Indiana, Mr. Taylor of North Carolina, and Mr. Pickering):

H.R. 5094. A bill to amend the Internal Revenue Code of 1986 to allow withdrawals from individual retirement plans without penalty by individuals within areas determined by the President to be disaster areas by reason of certain natural disasters occurring in 2004; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts:

H.R. 5095. A bill to provide for an indefinite freeze on increases in the monthly premiums for Medicare, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILCHREST:

H.R. 5096. A bill to assist in the conservation of flagship species throughout the world; to the Committee on Resources.

By Mr. GUTIERREZ (for himself and Mrs. Kelly):

H.R. 5097. A bill to amend the Federal Deposit Insurance Act to prevent conflicts of interest by establishing post-employment limitations on bank examiners-in-charge, and for other purposes; to the Committee on Financial Services.

By Mr. GUTIERREZ:

H.R. 5098. A bill to provide more effective congressional oversight over the operations and administrative expenses of the Comptroller of the Currency, and for other purposes; to the Committee on Financial Services.

By Mr. HASTINGS of Florida:

H.R. 5099. A bill to reinstate the repealed criminal provisions relating to assault weapons and large capacity ammunition feeding devices; to the Committee on the Judiciary.

By Mrs. McCARTHY of New York (for herself, Mr. Hoeffel, Mr. Ferguson, and Mr. Castle):

H.R. 5100. A bill to reinstate for 10 years the repealed criminal provisions relating to assault weapons and large capacity ammunition feeding devices; to the Committee on the Judiciary.

By Mr. MEEHAN:

H.R. 5101. A bill to amend the Rules of the House of Representatives to provide greater legislative input from the minority, to provide more time for Members to read legislation before its consideration, and to improve House oversight of the executive branch, to amend the Lobbying Disclosure Act of 1995 to improve lobbying disclosure, and for other purposes; to the Committee on Rules, and in addition to the Committees on the Judiciary, Standards of Official Conduct, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROHRABACHER:

H.R. 5102. A bill to encourage the promotion of democracy, free, fair, and transparent elections, and respect for human rights and the rule of law in Ukraine; to the Committee on International Relations, and in addition to the Committees on the Judiciary, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATERS:

H.R. 5103. A bill to repeal mandatory minimum sentencing for certain Federal crimes and restore justice and fairness to Federal sentencing practices; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROHRABACHER:

H.J. Res. 104. A joint resolution proposing an amendment to the Constitution of the United States to make eligible for the Office of President a person who is not a natural born citizen of the United States but has been a United States citizen for at least 20 years; to the Committee on the Judiciary.

By Mr. ENGLISH:

H.J. Res. 105. A joint resolution proposing an amendment to the Constitution of the United States to lower the age qualification for Senators from 30 years of age to 21 years of age and for Members of the House of Representatives from 25 years of age to 21 years of age; to the Committee on the Judiciary.

By Mr. RANGEL (for himself, Mr. Dingell, Mr. Stark, and Mr. Brown of Ohio):

H. Res. 776. A resolution of inquiry requesting the President and directing the Secretary of Health and Human Services provide certain documents to the House of Representatives relating to estimates and analyses of the cost of the Medicare prescription drug legislation; which was referred, jointly, to the Committees on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

425. The SPEAKER presented a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 272 memorializing the Congress of the United States to review the issue of the number of gasoline types refined across the country and to enact legislation that will sharply reduce the number of gasoline types required to meet local environmental standards; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 583: Mrs. Wilson of New Mexico.

H.R. 648: Mrs. Miller of Michigan, Mr. Cannon, and Mr. Hall.

H.R. 677: Mr. Spratt.

H.R. 997: Mrs. Biggert.

H.R. 1097: Ms. Linda T. Sánchez of California.

H.R. 1160: Mr. Upton.

H.R. 1200: Mr. Olver.

H.R. 1205: Mr. Ryan of Ohio.

H.R. 1251: Ms. Schakowsky.

H.R. 1329: Mr. Larsen of Washington.

H.R. 1513: Mr. Weller.

H.R. 1524: Mr. Waxman.

H.R. 1567: Mr. Gary G. Miller of California.

H.R. 1631: Mr. Manzullo.

H.R. 1688: Mrs. Napolitano.

H.R. 2028: Ms. Hart.

H.R. 2034: Mr. McNulty.

H.R. 2181: Mr. Sensenbrenner.

H.R. 2237: Mr. Souder.

H.R. 2256: Mr. Mollohan.

H.R. 2505: Mr. Stark.

H.R. 2680: Mr. LaHood, Mr. Kirk, Mr. Issa, Mr. Costello, Mr. Pomeroy, Ms. Baldwin, Mr. Taylor of Mississippi, Ms. Velázquez, Mr. Weiner, Mr. Price of North Carolina, Mr. Rodriguez, Mr. Michaud, Ms. Herseth, Mr. Doggett, Mr. Cardin, Mrs. Capps, Mr. Farr, Mr. Davis of Tennessee, Mr. Edwards, Mr. Hinojosa, Ms. Roybal-Allard, Mr. Tanner, Mr. Mollohan, Mr. Kind, Mr. Hoeffel, Mr. John, and Ms. McCarthy of Missouri.

H.R. 3015: Mr. Chandler and Mr. Brown of South Carolina.

H.R. 3090: Mr. Bradley of New Hampshire.

H.R. 3193: Mr. Pomeroy.

H.R. 3522: Mr. Bradley of New Hampshire.

H.R. 3634: Mr. Weiner.

H.R. 3651: Mr. Dreier.

H.R. 3831: Mr. Leach, Ms. Pelosi, Mr. Jefferson, and Ms. Berkley.

H.R. 4091: Mr. Lampson.

H.R. 4108: Mr. Carson of Oklahoma.

H.R. 4187: Mr. Gilchrest.

H.R. 4192: Mr. Rodriguez and Mr. Berman.

H.R. 4355: Mr. Cardoza and Mr. Etheridge.

H.R. 4420: Mr. Ferguson, Mr. Wicker, Mr. Hulshof, and Mr. Costello.

H.R. 4454: Mr. Otter and Mr. Larsen of Washington.

H.R. 4491: Mr. Tiberi, Mr. Davis of Tennessee, Mr. Goodlatte, Mr. Meeks of New York, Mr. Pallone, Mr. Peterson of Pennsylvania, Mrs. Maloney, Mr. Weldon of Pennsylvania, Mr. Mollohan, Mrs. Lowey, and Mr. Fattah.

H.R. 4575: Mr. Berman, Mr. Weiner, and Mr. Olver.

H.R. 4595: Ms. Eddie Bernice Johnson of Texas and Mr. Simmons.

H.R. 4620: Mr. LARSEN of Washington.

H.R. 4682: Mr. ROSS, Ms. NORTON, Mr. TIERNEY, and Ms. CARSON of Indiana.

H.R. 4689: Mrs. CAPPS.

H.R. 4758: Ms. SCHAKOWSKY.

H.R. 4793: Ms. SCHAKOWSKY.

H.R. 4830: Mrs. LOWEY and Mr. FROST.

H.R. 4832: Mr. SMITH of Michigan, Mr. MCDERMOTT, and Mr. TOWNS.

H.R. 4834: Mr. SHIMKUS, Ms. KAPTUR, Mr. BURTON of Indiana, and Mr. MCCOTTER.

H.R. 4900: Ms. WOOLSEY and Mr. KENNEDY of Rhode Island.

H.R. 4910: Mr. WYNN, Mr. WEXLER, Mr. PASTOR, Ms. ROYBAL-ALLARD, and Mr. HOEFFEL.

H.R. 4978: Mr. WEXLER and Mr. MCDERMOTT.

H.R. 4994: Mr. MILLER of North Carolina.

H.R. 5024: Ms. NORTON.

H.R. 5040: Mr. FRANK of Massachusetts.

H.R. 5046: Mr. FORBES.

H.R. 5055: Ms. HERSETH, Mr. WYNN, Mr. LARSON of Connecticut, Mr. EMANUEL, Mrs. DAVIS of California, Mr. MCINTYRE, Mrs. NAPOLITANO, Mr. SPRATT, Mrs. MCCARTHY of New York, Mr. LEACH, Mrs. JOHNSON of Connecticut, Mr. NADLER, Mr. ROHRABACHER, Mr. GUTKNECHT, Mr. EHLERS, Mr. HALL, Mr. BAIRD, Mr. SANDERS, Mr. SNYDER, Mr. OBERSTAR, Mrs. EMERSON, Mr. WEINER, Ms. WATSON, Mr. KILDEE, Mr. EDWARDS, Mr. WELDON of Pennsylvania, Mr. LUCAS of Kentucky, Mr. DAVIS of Alabama, Mr. HONDA, Ms. KILPATRICK, Mr. EVANS, Mr. MEEKS of New York, Mr. MCGOVERN, Mr. MEEHAN, Mr. MENENDEZ, Mr. NEAL of Massachusetts, Mr. SCOTT of Virginia, Mr. JACKSON of Illinois, Mr. BECERRA, Ms. KAPTUR, Mr. CARSON of Oklahoma, Mr. JOHN, Mr. CARDOZA, Mr. CASE, Mr. GEORGE MILLER of California, Mr. DAVIS of Tennessee, Mr. ROSS, Mrs. JO ANN DAVIS of Virginia, Mr. FORBES, Mr. INSLEE, Ms. ESHOO, Ms. SCHAKOWSKY, Mr. TAYLOR of Mississippi, Mr. BISHOP of Georgia, Ms. MILLENDER-MCDONALD, Mr. HINCHEY, Ms. BALDWIN, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Mr. LATOURETTE, Mr. RYAN of Wisconsin, Mr. CAPUANO, Ms. HOOLEY of Oregon, Ms. DEGETTE, Mr. YOUNG of Florida, Mr. MARSHALL, Mr. KIND, Mr. GREEN of Texas, Mr. RUPPERSBERGER, Mr. HOEFFEL, Mr. HOLT, Mr. MATSUI, Mr. OTTER, Mr. SWEENEY, and Mr. CRAMER.

H.R. 5057: Mr. HOEFFEL, Mr. YOUNG of Florida, and Mr. FROST.

H.R. 5061: Mr. SHIMKUS, Mr. OLVER, Mr. HOEFFEL, Mrs. JONES of Ohio, Mr. CONYERS, and Mr. WOLF.

H.R. 5068: Mr. COX, Mr. CAMP, Mr. SESSIONS, Mr. SANDLIN, Mr. LANGEVIN, and Mr. ABECROMBIE.

H.R. 5069: Mr. COX, Mr. CAMP, and Mr. SESSIONS.

H.J. Res. 38: Mr. BURGESS.

H. Con. Res. 399: Ms. EDDIE BERNICE JOHNSON of Texas.

H. Con. Res. 430: Mr. KENNEDY of Rhode Island.

H. Con. Res. 441: Mr. PASTOR and Mr. PETERSON of Pennsylvania.

H. Res. 720: Mr. MANZULLO, Mr. MCCOTTER, and Mr. SESSIONS.

H. Res. 771: Mr. SAM JOHNSON of Texas.

H. Res. 774: Mr. DOYLE, Ms. WATSON, Ms. BERKLEY, Mr. MARKEY, Mr. SHAYS, Mr. SCOTT of Virginia, Ms. ROS-LEHTINEN, and Mr. PAYNE.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 5025

OFFERED BY: MS. WATERS

AMENDMENT NO. 12: At the end of the bill (before the short title), insert the following:

SEC. . None of the funds made available in this Act may be used to implement any sanction imposed by the United States on private commercial sales of agricultural commodities (as defined in section 402 of the Agricultural Trade Development and Assistance Act of 1954) or medicine or medical supplies (within the meaning of section 1705(c) of the Cuban Democracy Act of 1992) to Cuba (other than a sanction imposed pursuant to agreement with one or more other countries).

SENATE—*Wednesday, September 15, 2004*

The Senate met at 9:45 a.m. and was called to order by the Honorable ELIZABETH DOLE, a Senator from the State of North Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Spirit of God, from generation to generation, people of faith speak of Your greatness. You sit enthroned in majesty. Your glory covers all the Earth. Thank You for the strength You give to all who love You and for the blessings You bestow upon America.

Today, we join with our Jewish Senators and staff in celebrating Rosh Hashanah, "the head of the year." As we joyously recall the creation of the world, we ask that You would stir us to repentance and bring us into a closer relationship with You.

Bless all of our Senators and their staffs. May their words and deeds honor You. Guide them in righteous paths that will keep our Nation strong. Equip them to conduct the work of freedom with justice and humility. Give them the contentment that comes from knowing and serving You. We pray in Your majestic Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ELIZABETH DOLE led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 15, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ELIZABETH DOLE, a Senator from the State of North Carolina, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mrs. DOLE thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Madam President, I will be brief this morning because we will get started immediately with our business for the day. Chairman STEVENS is having an Appropriations Committee markup, and we want to accommodate that important work today. We have made real progress on the appropriations bills thus far, and we will continue to do so both in committee as well as here on the Senate floor.

In a moment, we will begin the Military Construction appropriations bill under the agreement that we reached last night. We expect that bill to take an hour or less this morning. I will be discussing with the Democratic leadership a time for the vote on passage of that measure, and I will be able to make that announcement shortly.

We will also be discussing other agreements relative to the appropriations measures, and we hope to reach consent on several of those items today.

ORDER OF PROCEDURE

Mr. FRIST. Madam President, I now ask unanimous consent that following the disposition of the Military Construction appropriations bill today, the Senate proceed to a period of morning business, with the first 30 minutes under the control of the majority and the second 30 minutes under the control of the minority.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROSH HASHANAH

Mr. FRIST. Madam President, as the Chaplain just mentioned, and as we all know, the Jewish new year, Rosh Hashanah, is one of the holiest days of the year in the Jewish faith. For the Jewish people, Rosh Hashanah marks the anniversary of the creation of the world. It is a day for contemplation and prayer—and, indeed, we just opened our proceedings today with prayer—to look forward to the year ahead and to reflect on past deeds and to ask for God's forgiveness.

So as so many prepare to celebrate their holy day, I think we should all take that opportunity to reflect on what this holiday represents to all of us, something we do every day and in a global sense, as we look at humanity broadly.

APPROPRIATIONS AND INTELLIGENCE REFORM

Mr. FRIST. Madam President, I thank, again, the chairman and ranking member—Senator THAD COCHRAN—for doing a tremendous job over the last week on the Homeland Security appropriations bill. It was a tremendous accomplishment. As we set out our business before the Senate last week, before we adjourn, we will focus on the issues that are important to America—the safety and security of the American people. We are going to continue that shortly with the Military Construction appropriations bill.

We were able to take up and complete Homeland Security. Right now as we meet, we are looking at intelligence reform in this body through both the task force and through the Governmental Affairs Committee as intelligence reform applies to the executive branch. The leadership task force that is chaired by Senator MCCONNELL and Senator REID is meeting now and will be making some announcements later today. And the Governmental Affairs Committee, I know there is a press conference later today to update people with regard to the reform that is underway. Not this week but the week after, the Senate we will be devoted to that reform.

Let me close by thanking everyone for their hard work in completing the Homeland Security bill late last night. The specifics of the schedule for the next several days I will have more to say about later this morning.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to consideration of S. 2674, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 2674) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

AMENDMENTS NOS. 3660 AND 3661

The ACTING PRESIDENT pro tempore. Under the previous order, the managers' amendments are agreed to.

The amendments (Nos. 3660 and 3661) were agreed to, as follows:

AMENDMENT NO. 3660

(Purpose: To direct the Defense Department to assess the impacts on the military family housing program if the family housing privatization limitation is not eliminated)

At the appropriate place, insert the following:

SEC. . (a) ASSESSMENT OF BUDGET AUTHORITY LIMITATION ON MILITARY HOUSING PRIVATIZATION INITIATIVE.—(1) The Secretary of Defense shall assess the impacts on the military family housing program of having the total value of contracts and investments undertaken under the Military Housing Privatization Initiative reach the limitation on budget authority for the initiative specified in section 2883(g) of Title 10, United States Code.

(2) The assessment shall include: an estimate of the appropriations and period of time necessary to provide the level and quality of housing contemplated under the Military Housing Privatization Initiative in the event that limitation in 10 USC 2883(g) is not eliminated and the potential impact on military families if the limitation is not eliminated.

(b) The Secretary of Defense shall, no later than December 31, 2004, provide to the congressional defense communities a report of the assessment required by subparagraph (a).

(c) MILITARY HOUSING PRIVATIZATION INITIATIVE DEFINED.—In this section, the term "military housing privatization initiative" means the programs and activities undertaken under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code.

AMENDMENT NO. 3661

(Purpose: To make available additional funds for the Commission on Review of Overseas Military Facility Structure of the United States)

At the appropriate place, insert the following:

SEC. 131. Of the amount appropriated by this Act, $1,500,000 shall be available to the Commission on Review of Overseas Military Family Structure of the United States.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 1 hour of debate equally divided.

The Senator from Texas.

Mrs. HUTCHISON. Madam President, I yield such time as he needs to the distinguished chairman of the Homeland Security Appropriations Committee, who did such a wonderful job this week passing our Homeland Security appropriations bill that is going to fund homeland security for all of our country, after which I would like to reclaim the floor for the Military Construction Subcommittee report.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. Madam President, I thank the distinguished Senator from Texas for yielding briefly to me.

I take this opportunity to thank the staff members who worked so hard on the appropriations subcommittee for homeland defense for helping ensure the passage of the bill and handling the bill in such a professionally competent way. They all reflected credit on the Senate by their professional way of handling their duties. It was because of their hard work that we successfully completed action on the bill last night. I commend them all.

On our side of the aisle, Rebecca Davies is the chief clerk of that subcommittee. She is assisted ably by Carol Cribbs, Les Spivey, James Hayes, Kimberly Nelson, and Avery Forbes. The staff members who served on the minority side were equally professional and helpful in carrying out their duties.

I commend Senator BYRD for his cooperation with our efforts to complete action on the bill. I especially thank Senator REID, the assistant leader, who was actively involved on the floor helping to ensure the orderly flow of amendments. I am very grateful for his assistance as well.

My good friend Senator TED STEVENS of Alaska was here when he was needed during the handling of that bill, and without his guidance and good judgment on several occasions, we would not have successfully completed action on the bill last evening.

But for all Senators who cooperated with us on time agreements and the like, I express my deepest appreciation and thank them.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I am very pleased to bring forward for the Senate's consideration the fiscal year 2005 Military Construction appropriations bill. I am also pleased to be joined by the ranking member of the Military Construction Subcommittee, Senator FEINSTEIN from California. We have worked very closely on this bill. That has been our tradition. We have never had a problem with our Military Construction bill. Frankly, we have done some very important work and begun to help the Department of Defense shape the military for the future.

Our bill provides, including $5.3 billion for military construction, $4.2 billion for military family housing; $166 million for NATO infrastructure, and $246 million for base realignment and closure costs.

Although the military construction needs continue to exceed resources available, I am very pleased that the bill provides a significant increase over last year's funding. I believe the bill we have on the floor today attends both to the President's most pressing priorities and to the concerns of Senators.

Since September 11, 2001, we have made great demands on our military personnel as they have waged the global war on terror. The sacrifices have been widely shared, but the demands have been particularly acute for our Reserve components who have faced deployments on a scale and for durations unprecedented in the post-World-War II era. Facilities support for the Guard and Reserve have traditionally failed to keep pace with need.

I am pleased that this year the administration increased the request for Reserve component funding by 68 percent. Even this higher figure, however, is not adequate and the bill adds an additional $194 million or 31 percent more for critically needed projects in the Guard and Reserve. We believe this bill does a very good job of providing the resources needed to accomplish our military mission. But nothing is so critical to the mission as the people who carry it out, particularly in a time in which so much is being asked of them. For that reason, we have paid particular attention to projects that enhance the quality of life of our military members and their families.

The bill provides over $1 billion for construction of new modern barracks, $188 million for design and construction of new hospital and medical facilities, and $11 million for child development centers to serve our military families. It also provides a 9-percent increase over last year for family housing construction operations and maintenance.

Because we are concerned about the quality of life of our military families, I want to comment briefly on a provision that is addressed in our bill and is very important to meeting the needs in the future for military housing. In 1996, Congress passed legislation to provide the Defense Department with authority to enter into partnerships with private entities for the acquisition and management of military family housing. Because the initiative was unprecedented, the budget authority for the program was capped at $850 million, pending an evaluation of the program's success. The success has been striking.

To date, the Department of Defense has awarded 34 privatization projects comprising 63,200 housing units. Another 63 projects involving 116,000 housing units in 37 States and the District of Columbia are pending. The program has accelerated significantly the elimination of inadequate housing for our Armed Forces and has placed thousands of military families in better housing far sooner than would have been possible otherwise. Customer satisfaction with privatized housing is extremely high, and the Defense Department estimates the program will decrease long-term housing costs by 10 to 15 percent due to more efficient maintenance. The Department expects to reach the statutory cap late this fall, and the cap must be raised or the program would end. However, the Congressional Budget Office has decided to change its methods for scoring the additional authority, counting not just the annual appropriations required to fund the Government's contribution to privatized housing but also all the estimated benefits that accrue to the Government over time.

Effectively, the CBO intends to score the additional authority to enter into partnerships as though there were no partnerships, and the Government was paying for all of the new housing itself and paying for it all this year. That approach, besides seriously overstating the Government's expenditures for housing, negates any advantage of privatized housing over traditional military construction.

Public-private partnerships are relatively new, and we recognize CBO is struggling to account for them properly. We acknowledge the appeal of a theoretically comprehensive accounting of Federal financial activities. But the practical reality of CBO's proposed approach will be prolonged substandard housing for tens of thousands of our military families, with not a dollar difference in the amount of money Government is spending. So we are not going to allow that to stand.

I hope a sensible solution to this issue will prevail. We are going to continue to work with the Budget Committee, CBO, the Armed Services Committee, and in our own Military Construction conference. In the meantime, there is an amendment that is now part of our package that will direct the Defense Department to assess the impact on our military families if we fail to resolve this issue and, by doing so, put a marker down to address the issue in conference if it is not settled elsewhere.

Last year this bill differed from the administration's request in only one significant way, and that was overseas construction. The administration was in the early stages of its global posture review and there were many uncertainties about the future of the U.S. military presence overseas. Today, the Department's vision is clearer. The Department has made significant progress in thinking about the future of our overseas military facilities and, over the recess, began to publicly disclose some of that thinking. They have made a major step in the right direction. The Independent Overseas Basing Commission created by last year's Military Construction Appropriations bill is up and running and has begun its assessment of overseas infrastructure needs. The commission's work will help inform our evaluation of our overseas construction requirements.

I and my colleague, Senator FEINSTEIN, have visited numerous military installations all over the world. I know our colleagues have as well. I am certain they have found the same thing we have—that the needs at these installations almost always outstrip the resources we are able to direct to them. Although most of the needs are eventually addressed, sometimes the urgency of the requirement isn't fully appreciated here in Washington, where the budget requests are being prepared.

This bill provides funding for a number of projects which are badly needed at particular installations and are in the future years defense plan, but which were not included in this year's budget request. All of them have been carefully screened by the military services to ensure that they meet urgent military requirements; all are top priorities for installation commanders, and all have been authorized in the Senate version of the Defense authorization bill. A significant percentage of them support our Guard and Reserve forces, and I am pleased we were able to include them in this bill. They are a priority.

The bill before the Senate was approved by the Committee on Appropriations on a unanimous vote of 29–0. I thank my ranking member, Senator FEINSTEIN, for her cooperation and counsel throughout this process, and compliment her staff, Christina Evans and B.G. Wright, who have worked so cooperatively with my staff in preparing this bill. My staff, Dennis Ward and Sean Knowles, also have done a terrific job. They have traveled to the bases where we have requests to find out for themselves that these requests are needed and how we can best meet the needs of all of the military installations in our country and where our troops are based overseas. I so appreciate their professionalism and support.

I am pleased to offer the 2005 Military Construction appropriations bill for the Senate's consideration.

I yield the floor to my colleague, Senator FEINSTEIN.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I am pleased to join my chairman, Senator HUTCHISON, in recommending the 2005 Military Construction appropriations bill to the Senate. I thank her because it has been quite wonderful for me to work with her over the years. We have exchanged positions, ranking and chairman, on this subcommittee. I think we have always worked in a collegial and very productive way. Her leadership has been outstanding and I, for one, am very grateful. I also thank Senator STEVENS and Senator BYRD for their leadership and assistance in guiding this bill through committee and to the floor.

America's men and women in uniform need all the support we can give them, so expeditious consideration of defense bills, such as this one, sends an important signal of support to our troops. I know both Senator HUTCHISON and I want to send that signal.

The President's budget request for MilCon was $9.55 billion. That was only 2.5 percent over last year's enacted level. But with the support of Chairman STEVENS and Senator INOUYE, the committee was able to add another $450 million to meet the urgent construction needs of our active and reserve military bases.

As Senator HUTCHISON indicated, one issue that dominated discussion in the 2005 Military Construction program is the question of how to rescue the military family housing privatization initiative from running out of budget authority. I agree very much with my chairman. By accelerating the pace at which new family housing can be provided, the program has had a tremendous impact on the quality of life for thousands of military families. The question is, what do we do now? This year, the subcommittee was faced with that dilemma because we will shortly be out of money. So as the chairman said, we hope the authorizing committee—the Budget Committee as well as the Armed Services Committee—can find a solution to this problem by the time this bill is in conference.

Again this year, the subcommittee was faced with a still evolving proposal for realigning our overseas military force structure. I want to take a couple of minutes to discuss it because I think it is important. Last year, the Defense Department unveiled a preliminary plan for a major restructuring of forces in Europe and Korea, a plan that has now evolved into a wide-ranging global rebasing plan. The President publicly announced the plan last month, noting that 60,000 to 70,000 troops currently stationed overseas would return home over the next decade. Unfortunately, the administration offered few other details about the plan, and it appears some key basing decisions remain unresolved. This year's budget request included more than $700 million for overseas military construction.

The planning and rebuilding of military facilities is a complicated process, constrained by long lead times, and the lack of a fully developed basing plan by the Department of Defense has hampered the subcommittee's ability to make prudent and informed decisions about overseas military construction.

For this reason, several proposed overseas construction projects were deleted from the Senate bill pending a clearer understanding of how they might be affected by the global basing plan.

It is clear the Department is continuing to fine-tune and adjust its global realignment plan. Although the President has announced plans to realign and significantly reduce the number of U.S. troops stationed overseas, the committee has received no requests from the Defense Department that would support moving forces back to the United States; nor has the Defense Department provided Congress with any cost estimate or timetable for its global restructuring plan. It is said that "the devil is in the details" and we do need those details. Only when the Defense Department provides Congress with a comprehensive, well-reasoned plan will the committee have a sufficient understanding of the associated military construction requirements to proceed with confidence.

Until the Defense Department completes its overseas basing review and presents a plan to Congress, projects supporting activities that may be subject to further change should remain on hold. I think we are both in agreement on that.

The Overseas Basing Commission that Senator HUTCHISON led, and I supported, was established last year. That, we hope, will provide some valuable insights for Congress regarding this process. We have given this matter great consideration, and I commend Senator HUTCHISON for laying out the position of the subcommittee so clearly and completely in the report accompanying our bill. I very much agree with that.

I thank Chairman Hutchison and the members of the Appropriations staff, Dennis Ward and Sean Knowles, for their hard work on this bill. I also thank my Appropriations staff, Christina Evans and B. G. Wright, sitting to my left, and my personal staff, Michael Schiffer and Chris Thompson, who does our appropriations, for their contributions.

The work of the Military Construction Subcommittee enhances our Nation's efforts to build quality facilities for our military men and women, and I urge my colleagues to approve this bill.

Mr. President, I want the chairman to know that at the appropriate time, I would like to enter into a colloquy between Senator NELSON and myself, to which the chairman has agreed.

Mrs. HUTCHISON. Mr. President, this would now be the appropriate time because I know of no speakers.

Mrs. FEINSTEIN. There is one, and I would like to yield a few minutes to the Senator from Delaware, if I may, Senator CARPER.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I thank Senator FEINSTEIN for yielding to me at this time. I wish to express my appreciation on behalf of everyone at Dover Air Force Base for project funds that are included in this bill.

Is this an appropriate time for me to make that statement?

Mrs. FEINSTEIN. Certainly.

Mr. CARPER. I will proceed. Dover Air Force Base has been in existence a half century or more. The oldest control tower on any Air Force base in America, as far as I am aware, is at Dover Air Force Base. There has been a request for a number of years to try to replace that tower and put in new technology to provide better safety control of our aircraft on the Delmarva Peninsula.

The committee sought to include that project last year and was unable to do so for the 2004 funding cycle. Senator FEINSTEIN has been terrific in making sure it was included in the funding for this year. I express my gratitude to her and to Senator HUTCHISON for that inclusion.

The importance of airlift today is great. We have, as my colleagues know, operations in Iraq and Afghanistan, supporting our personnel in Nigeria, Haiti—all over the world. The importance of airlift is only going to grow in the years ahead because of the redeployment of our forces, as we bring folks home and the need in the future to deploy them through airlift, and if we want to do it quickly, airlift is the key. Bases where we provide airlift today will only be more critical to our Nation's military security. There are a lot of Air Force bases. I do not know of any base on the east coast that does more in terms of providing the lift for our men, women, troops, materiel, and equipment than Dover Air Force Base.

Within a few weeks, we are going to be breaking ground at Dover Air Force Base for a new aerial port. This is a new huge modernized cargo warehouse through which equipment will move from ground transportation, truck and rail, onto aircraft to be shipped all around the world, and, in other cases, off the aircraft to the port, and distributed through this country. It is a huge project. It was funded in the 2004 budget, and we break ground in a few days. We are excited about it. And we are finally seeing the oldest control tower in the Air Force being replaced by a modern, technologically current tower.

There are 5,000 people who work at Dover Air Force Base. Many are families. A lot of their loved ones are abroad. Today they are all over the world. Their housing is not especially good. I believe there is some money in this Military Construction bill to help us on the housing side as well.

For all of that and for all the families at Dover Air Force Base, for those of us who know how important the base is to our military readiness, we say our heartfelt thanks.

Mrs. FEINSTEIN. Mr. President, before I yield back the remainder of my time, I would like to thank the Senator from Delaware for his comments. The control tower at Dover Air Force Base, which is I think about a $9 million appropriation, was on their ask list in 2004. Unfortunately, we could not do it, so we made it a high priority this year. I know both Senator HUTCHISON and I were really pleased to be able to do it.

It is very nice for the Senator from Delaware to come to the floor to say thank you. Very few do that. It is appreciated. I thank the Senator very much.

Mr. CARPER. Mr. President, speaking not only for myself, I know I speak for Senator BIDEN as well, for both of us.

Mrs. FEINSTEIN. I thank the Senator.

Mrs. HUTCHISON. Mr. President, before Senator FEINSTEIN yields the floor, in case she has anything else to say, I say to the Senator from Delaware that he was very persistent last year. We did everything to try to help him with that last component of the increase in the capacity for Dover. We were not able to do that last year.

Senator FEINSTEIN did make it her highest priority this year. I want the Senators from Delaware to know that. I supported it fully, but we did remember that the Senator had pressed hard.

Every one of us knows the great role that Dover Air Force Base plays in our military. They have one of the hardest jobs in all of our military, and that is the comforting of families when their loved ones are returned home, many times no longer alive in body but certainly in spirit. That is a huge job that is done beautifully at Dover. We appreciate that.

We have added to the capacity of Dover Air Force Base that has such an important place in our military facilities throughout our whole country. We thank the Senator from Delaware for coming to the floor of the Senate to reemphasize that importance. I thank him very much.

Mrs. FEINSTEIN. Mr. President, I believe I can yield back the remainder of our time.

Mr. REID. Mr. President, before the Senator from California yields back her time, may I be recognized?

Mrs. FEINSTEIN. Absolutely.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I had some meetings this morning and was not planning on coming to the Chamber, but walking through the Senate today took me back to when I went to law school.

When I went to law school in a very large class at George Washington University, as I recall, we had two women in that very large class. When I took the bar in Nevada after having graduated from law school, I think we had one woman who took the bar.

It has been a while since I went to law school and took the bar but not that long, and the face of America has changed dramatically. Since I have come to the national legislature, the face of the legislature has changed dramatically. The biggest change and I believe the most positive change that has taken place is women. Half the people going to law school today are now women. There are significantly larger numbers of women in the Congress than when I came here 22 years ago.

When I first saw this Military Construction Appropriations subcommittee, this big important committee, being chaired by two women, I was so impressed I gave a little speech at that time.

I cannot express my satisfaction of walking into this Chamber and seeing two women in charge of something as important as this Subcommittee on Appropriations. The legal profession—I have only picked that one area—and the second area I pick is the national legislature, are much better places as a result of women being involved, and there is no better example of that than these two wonderful human beings, the Senator from Texas and the Senator from California, who lead us on this committee.

I hope people watching understand what a message this sends. It is said young girls are shunted aside because they do not have proclivities to go into science; let them do other things; let them become teachers and nurses—they have different kinds of minds. They are not scientists.

One of the people I worked with, a brilliant man, told me women would never be able to be lawyers because their briefcases were too heavy. All of these old ideas are gone and these young girls who are hopefully watching or hear about this should focus on these two women who are leading us on this multibillion-dollar bill.

I am so, I guess, enthralled with it. Walking into this Chamber and seeing these women lead this committee, I know—and I say this wherever I go, if I have the opportunity—we do much better work as a result of women becoming more a part of our legislative body. As far as I am concerned, there are no two better Senators than these two women who are on the Senate floor today directing what we should do in spending for our military construction throughout the world.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, the Senator from Nevada appeared on the floor and said similar words a year ago. I never expected he would come back a second time and do that again. I had his words printed up and gave a copy to my chairman and put one copy in my memory book. What should not be so rare, but I guess is rare, is the fact that women can do this work, women can participate in the great public policy debates of our day, women can work together, they can be effective and I think the fact that that is now becoming the given is important.

The message Senator REID sent to young women who may be out there saying, could I do this job some day, is absolutely, yes, if they get an education.

The old proverbial myths that women cannot work together or women are jealous or women are this or women are that are not true. We are living examples of this, both Republican and Democratic women in the Senate. It is one of the great treats of our service that we are able to share, develop collegiality, be real professionals, and care about the people we represent.

It is a great pleasure for me to hear and see the Senator from Nevada saying these things, and also, as I said before, to be able to work with Senator HUTCHISON. We have become good friends in the process. We do not always agree, but that does not matter. The point is there is a basic integrity and a commitment to do the right thing for the people we represent and the people in the military.

So I thank Senator REID and my thanks to my chairman. I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank Senator REID for his very kind words. It means a lot to Senator FEINSTEIN and myself that he would come to the floor and recognize the job we are doing. It is very thoughtful and we appreciate it very much.

Once again, I think we have a good bill that has taken into consideration the priorities of our military, our administration, and the Senators who all came together to put a bill on the floor that would address the needs in a fair and balanced way throughout our country, and I thank my colleague from California. We have a great working relationship, which shows in the bill because it passed unanimously out of the committee, and I think it will pass unanimously out of the Senate. Hopefully we can go forward to start the construction projects October 1, the beginning of fiscal year 2005.

I yield back the remainder of my time.

FLORIDA NATIONAL GUARD HURRICANE DAMAGE

Mr. NELSON of Florida. Mr. President, would the Senators from Texas and California be willing to engage me in a colloquy?

Mrs. HUTCHISON. I would be pleased to engage in a colloquy with the Senator from Florida.

Mrs. FEINSTEIN. I would also be willing to engage in a colloquy with my friend from Florida.

Mr. NELSON of Florida. Mr. President, I have come to the floor today to speak about the Florida National Guard and the damage to their critical facilities as a result of Hurricanes Charley and Frances. Although no armory or readiness center was lost to total destruction, there are many significant problems to over thirty facilities that need immediate attention. I am concerned that funds are made immediately available to fix buildings to ensure that they are not exposed to further damage and that the Florida National Guard can return to its high readiness in their home stations.

I have received the assurances of LTG Steve Blum, Chief of the National Guard Bureau, that the $5 million necessary to make repairs to Florida's armories is already available in contingency accounts and will be released for obligation as soon as practical. Accordingly, I will not seek additional funds in the military construction bill for this purpose.

The Florida National Guard has performed its State and Federal missions superbly over the last 2 years. At home and overseas the Florida National Guard has time and again been there for the people of the United States and Florida. We owe them our total support in the fastest possible repair of their facilities so that they can remain ready for all that we will continue to ask them to do in the days ahead.

Mrs. HUTCHISON. I thank the Senator from Florida for bringing this issue to the attention of our committee and the Senate. Contingency funds exist to support the requirements of the Florida National Guard and I am confident they will have what they need when they need it.

Mrs. FEINSTEIN. I also thank the Senator from Florida for bringing this to our attention. I appreciate his sharp attention to the needs of Florida in this time of crisis, his determined efforts on behalf of their relief, and his unwavering support of the Florida National Guard.

Mr. NELSON of Florida. I thank the distinguished chairman and ranking member for their interest and I look forward to working with them on the range of issues that confront Florida in its recovery from these hurricanes.

The PRESIDING OFFICER. All time having been yielded back, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 4837, which the clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the text of the Senate measure is substituted for the House bill. The question is on the engrossment of the amendment and the third reading of the bill.

The bill was read the third time.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of morning business to be equally divided, with the first 30 minutes under the control of the majority leader or his designee and the second 30 minutes under the control of the minority leader or his designee.

Who yields time?

Mrs. HUTCHISON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUING THE FIGHT AGAINST ANTI-SEMITISM

Mr. VOINOVICH. Mr. President, I rise today to call attention to the disturbing rise in anti-Semitism that the world has witnessed during the last several years. I believe it is important that Senator FRIST, Senator SANTORUM and others have come together to highlight the urgent need to take action to combat this serious problem.

As a public official and private citizen, I have had the opportunity to visit the State of Israel on six separate occasions. I will never forget the time that I spent at Yad Vashem in Jerusalem in 1980, and on several other visits. Nor will the images that I saw at the Diaspora Museum in Tel Aviv ever leave my mind. Those experiences truly brought home to me the horrors of the Holocaust, and the role that anti-Semitism played in leading to the Holocaust. I vowed that I would do everything in my power to prevent this from ever happening again. Quite frankly, as I have said before, this is something that I never thought I would see again in my lifetime.

In May 2002, following a disturbing number of anti-Semitic incidents in Europe, I joined members of the Helsinki Commission in a hearing to examine the rise of anti-Semitic violence in Europe. I was shocked by the reports that I heard. Today, the news is equally as disturbing. Even during the last month, we have seen numerous acts of anti-Semitism, which some of my colleagues will be referencing today. I will also name a few:

In Paris, France, on August 14, 2004, anti-Semitic graffiti, including a sign saying "death to Jews" and a swastika, was found scrawled on a wall on the grounds of Notre Dame Cathedral;

In Wellington, New Zealand, on August 6, 2004, a Jewish chapel was destroyed by fire and up to 90 Jewish headstones were pulled out of the ground and smashed at a cemetery, on the outskirts of the nation's capital;

In Calgary, Canada over the night of August 22, 2004, vandals sprayed swastikas and anti-Semitic messages on a condominium complex a block from the Calgary Jewish Center;

In the Czech Republic on August 10, 2004 more than 80 tombstones were overturned at a Jewish cemetery; and

In Birmingham, United Kingdom, during the night of August 22, 2004, sixty Jewish gravestones were destroyed in a local cemetery. Community officials reported that stickers with the logo of a Neo-Nazi group were found on some of the stones.

It is also important to stress that we are not exempt here in the United States. At the end of March, the Anti-Defamation League released a report on anti-Semitic incidents that took place in the United States in 2003. In total, ADL counted more than 1,500 acts of anti-Semitism here at home. According to their count, 25 of these incidents occurred in my own State.

Last month, I met with a group of individuals in my home state to discuss concern with growing anti-Semitism. There was general consensus that this is, in fact, a problem in our own communities. Our conversation underscored the need to do all that we can to make the fight against anti-Semitism a priority in the United States, just as we redouble our efforts to encourage other countries to take action.

We should recognize positive efforts underway to promote tolerance and understanding, both at home and abroad. I am encouraged by action that is taking place in Ohio to work toward this end. For instance, last year, community leaders in Cleveland came together to form an organization called "Ishmael and Isaac." This program brings together members of Ohio's Jewish and Muslim communities in an effort to raise money for the medical needs of Israelis and Palestinians.

Other efforts to promote diversity and anti-bias education are critical if we are to succeed in creating more accepting and tolerant environments in cities and towns across the country. For instance, the Anti-Defamation League's "A World of Difference Institute" provides hands-on training and education programs that are used to promote tolerance and counter messages of hate in schools and universities, as well as corporations and law enforcement agencies in 29 cities in the United States and 14 other countries. Such programs should continue, and they deserve our full support.

We cannot be silent and stand on the sidelines as anti-Semitism festers at home and abroad. At sunset today, Jewish people across the world will begin the observance of Rosh Hashanah, marking the beginning of a New Year. It is my sincere hope that in this new year, the United States and members of the international community will make a renewed effort to stamp out anti-Semitism wherever it exists.

In recent months, the United States has taken significant steps in the fight against anti-Semitism. In April, Secretary of State Colin Powell traveled to Berlin for a conference of the Organization for Security and Cooperation in Europe—OSCE—dedicated to the fight against anti-Semitism.

At that conference, 55 participating states of the OSCE pledged to take action. During the conference, a strong declaration was agreed to, which outlines steps that will be taken to address anti-Semitism. Mr. President, I ask unanimous consent that this be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Distinguished delegates,

Let me sum up the proceedings of this Conference in what I would like to call "Berlin Declaration".

Based on consultations I conclude that OSCE participating States,

Reaffirming the Universal Declaration on Human Rights, which proclaims that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, religion or other status,

Recalling that Article 18 of the Universal Declaration on Human Rights and Article 18 of the International Covenant on Civil and Political Rights state that everyone has the right to freedom of thought, conscience and religion,

Recalling also the decisions of the OSCE Ministerial Councils at Porto and Maastricht, as well as previous decisions and documents, and committing ourselves to intensify efforts to combat anti-Semitism in all its manifestations and to promote and strengthen tolerance and non-discrimination,

Recognizing that anti-Semitism, following its most devastating manifestation during the Holocaust, has assumed new forms and expressions, which, along with other forms of intolerance, pose a threat to democracy, the values of civilization and, therefore, to overall security in the OSCE region and beyond,

Concerned in particular that this hostility toward Jews—as individuals or collectively—on racial, social, and/or religious grounds, has manifested itself in verbal and physical attacks and in the desecration of synagogues and cemeteries,

1. Condemn without reserve all manifestations of anti-Semitism, and all other acts of intolerance, incitement, harassment or violence against persons or communities based on ethnic origin or religious belief, wherever they occur;

2. Also condemn all attacks motivated by anti-Semitism or by any other forms of religious or racial hatred or intolerance, including attacks against synagogues and other religious places, sites and shrines;

3. Declare unambiguously that international developments or political issues, including those in Israel or elsewhere in the Middle East, never justify anti-Semitism;

In addition, I note that the Maastricht Ministerial Council in its Decision on Tolerance and Non-Discrimination, tasked the Permanent Council "to further discuss ways and means of increasing the efforts of the OSCE and the participating States for the promotion of tolerance and non-discrimination in all fields."In light of this Ministerial Decision, I welcome the April 22 Permanent Council Decision on Combating Anti-Semitism and, in accordance with that Decision, incorporate it into this Declaration.

1. The OSCE participating States commit to:

Strive to ensure that their legal systems foster a safe environment free from anti-Semitic harassment, violence or discrimination in all fields of life;

Promote, a appropriate, educational programmers for combating anti-Semitism;

Promote remembrance of and, as appropriate, education about the tragedy of the Holocaust, and the importance of respect for all ethnic and religious groups;

Combat hate crimes, which can be fuelled by racist, xenophobic and anti-Semitic Propaganda in the media and on the Internet;

Encourage and support international organization and NGO efforts in thee areas;

Collect and maintain reliable information and statistics about anti-Semitic crimes, and other hate crimes, committed within their territory, report such information periodically to the OSCE Office for Democratic Institutions and human Rights (ODIHR), and make this information available to the public;

Endeavour to provide the ODIHR with the appropriate resources to accomplish the tasks agreed upon in the Maastricht Ministerial Decision on Tolerance and Non-Discrimination;

Work with the OSCE Parliamentary Assembly to determine appropriate ways to review periodically the problem of anti-Semitism;

Encourage development of informal exchanges among experts in appropriate fora on best practices and experiences in law enforcement and education;

2. To task the ODIHR to:

Follow closely, in full co-operation with other OSCE institutions as well as the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the European Commission against Racism and Intolerance (ECRI), the European Monitoring Centre on Racism and Xenophobia (EUMC) and other relevant international institutions and NGOs, anti-Semitic incidents in the OSCE area making use of all reliable information available;

Report its findings to the Permanent Council and to the Human Dimension Implementation Meeting and make these findings public. These reports should also be taken into account in deciding on priorities for the work of the OSCE in the area of intolerance; and

Systematically collect and disseminate information throughout the OSCE area on best practices for preventing and responding to anti-Semitism and, if requested, offer advice to participating Stats in their efforts to fight anti-Semitism;

This decision will be forwarded to he Ministerial Council for endorsement at its Twelfth Meeting.

Mr. VOINOVICH. As this document makes clear, the OSCE, through its Office of Democratic Institutions and Human Rights—ODIHR, will for the first time monitor and report on acts of anti-Semitism. Moreover, the OSCE will keep track of positive steps countries are taking to address the problem. This will be high on the agenda at the OSCE Ministerial this December, and, next spring, Spain will host a meeting to follow-up on the specific recommendations made at the Berlin Conference, and to exercise oversight of the progress ODIHR is making in complying with the Berlin Declaration.

I have encouraged Secretary Powell to ensure that the United States not only supports these efforts, but that we do all that we can to make certain that the OSCE has the resources necessary to effectively do the job that it has been called upon to do to monitor anti-Semitism. I have been assured by our Ambassador to the OSCE, Stephan Minikes, that the United States will in fact do all that it can to support the work of the OSCE in this regard. Ambassador Minikes has also assured me that the OSCE, with the help of the United States and other member countries, has the funding it needs to begin this crucial work. It is not enough to pass Declarations and to have tables. What we need to do is give the organization that is supposed to get the job done, the money and the resources.

While I had hoped to attend the Berlin Conference on anti-Semitism at the invitation of Secretary Powell, I was unable to be at this historic gathering due to pressing business here in the Senate. However, while the conference was underway, an article that I co-authored with a leading member in the fight against anti-Semitism in the German Bundestag, Professor Gert Weisskirchen, ran in the Washington Post.

Mr. President, I ask unanimous consent that this article, entitled "Halting the New Hatred," be printed in the Congressional Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Apr. 28, 2004]

Halting the New Hatred

Two years ago members of Congress and the German Bundestag launched a joint project that will come to fruition this week in Berlin. More than 500 representatives from the 55-nation Organization for Security and Cooperation in Europe (OSCE) are meeting to formulate an action plan to tackle the growing problem of anti-Semitism.

Today anti-Semitism is no longer directed solely against Jews an individuals. "Israel, in effect, is emerging as the collective Jew among nations," writes Mortimer B. Zuckerman in U.S. News & World report. The old conspiracy theories, prejudices and "world domination" fantasies are emerging in new guises and are exploiting the conflict between Israelis and Palestinians.

While the "old" anti-Semitism sought to stigmatize Jews as individual threats to local coexistence, the "new" anti-Semitism seeks to stigmatize Israel as a collective threat to global coexistence. At the core of the new anti-Semitism is the "Auschwitz Lie"—that the Holocaust was invented as an excuse for Jews to converge on Palestine in order to oppress Arabs and conquer the world.

In both its old and new forms, anti-Semitism is merely an attempt to divert attention from the perpetrators' motives for committing acts of violence and injustice. In fighting anti-Semitism we must turn our attention toward strengthening peace and justice. The real battle against anti-Semitism lies ahead of us, and it will affect the foundations of our democracies.

Globalization is bringing ideas, cultures and lifestyles into contact—and sometimes conflict—with one another in new and unusual ways. Our task is to determine how our political systems can shape the outcome in a positive way. Will we be tolerant enough to create space for differences, and allow them to develop and flourish? Globalization means that we all have a shared fate.

Anti-Semitism is a problem for every OSCE state, because it seeks to break down the pillars of our societies: rule of law, equality, decency, tolerance and faith. Its violence is felt by all, regardless of faith. Its most diabolical offspring is terrorism, a force that in its embrace of death tears down everything in its path. Its aim is to destroy all that is humane.

In Berlin we will build on last year's groundbreaking OSCE conference in Vienna, where governments expressed their willingness to take action. In Berlin we must concentrate on specific steps to which governments and societies commit themselves: collecting and analyzing data on hate crimes, training police and educating children for tolerance, and measuring the effectiveness of these steps. Rather than asking if we can afford to take such steps, we should ask whether we can afford not to when the costs of inaction are so great.

We are not fighting anti-Semitism solely in order to protect Jewish people, although the safety of any one group is intrinsic to the safety of all. We are waging this battle because we want to ensure that we do not again sink into barbarity—and we will win this struggle. Democracy is stronger than hate.

Mr. VOINOVICH. As we wrote then:

We are not fighting anti-Semitism solely in order to protect Jewish people, although the safety of any one group is intrinsic to the safety of all. We are waging this battle because we want to ensure that we do not again sink into barbarity—and we will win this struggle. Democracy is stronger than hate.

Today, I continue to repeat this message. We cannot become complacent in the fight against anti-Semitism. There is too much at stake.

I remain in close contact with the State Department to encourage our highest-ranking diplomats to make the fight against anti-Semitism a top priority in our bilateral relationships and interaction with international organizations such as the OSCE, the European Union and the United Nations.

At the end of last month, Under Secretary of State for Political Affairs Marc Grossman sent me a letter, in which he outlined some of the positive steps that our Government is taking to combat anti-Semitism. This includes our work with the OSCE, as well as efforts taken by United States Ambassadors and other officials in countries throughout the world. This is a priority, now, for our Ambassadors all over the world. Mr. President, I ask unanimous consent that a copy of this letter be printed in the Congressional Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Under Secretary of State
for Political Affairs,
Washington, August 24, 2004.

Hon. George V. Voinovich,
U.S. Senate.

Dear Senator Voinovich: This is to follow up our conversation concerning the Department's efforts to combat anti-Semitism.

This Administration recognizes that anti-Semitism is a serious human rights problem and is strongly committed to fighting it. We are taking the following steps to combat anti-Semitism and related violence, using the range of tools at our disposal to advance human rights standards and norms.

Reporting: Two annual reports (the "International Religious Freedom Report" and the "Country Reports on Human Rights Practices") describe in detail both the trend of anti-Semitism throughout the world as well as the specific anti-Semitism incidents that have occurred during the reporting period. The Department formally reports on anti-Semitism every six months. These reports are posted on embassy websites for public dissemination. In our instructions for the 2004 Country Report, we have made explicit the guidelines for reporting acts of violence against Jewish people and Jewish community institutions. Embassies have supplied detailed information on the level of anti-Semitism in their host country.

Demarches and Interventions: Our embassies abroad regularly press host countries on combating anti-Semitism, particularly in Europe where anti-Semitism has increased significantly during the past few years. Our ambassadors are very involved in this effort. We also maintain close contact with the local Jewish communities.

OSCE: The Department took the lead in convincing the OSCE to sponsor two conferences on combating anti-Semitism (in Vienna in June 2003, in Berlin in April 2004). Secretary Powell participated in the Berlin Conference. As a result of those conferences, the OSCE is implementing a process to monitor and report in a consistent manner on anti-Semitism incidents within the OSCE region.

These conferences were the first multilateral gatherings devoted solely to this subject and also the first to deal with anti-Semitism as a human rights issue. They have substantially increased awareness of this serious problem and the need to take strong steps to deal with it.

The United States also supports a third anti-Semitism meeting, scheduled for 2005 in Spain, to assess implementation by member states of the OSCE commitments.

Public Diplomacy: Department officers regularly address this issue in speeches to foreign audiences, the American public and in testimony before the Congress (see enclosure). The issue of anti-Semitism was a core component of testimony before the Congress on several occasions in recent months.

Holocaust Task Force: In 2003–2004, the United States chaired the Task Force for International Cooperation on Holocaust Education, Remembrance and Research. This group now comprises 18 countries that promote understanding of the Holocaust as a means to prevent a recurrence of the hatred that resulted in that tragic event.

Speaking Out: Our Chiefs of Mission in Europe and Eurasia are under specific instructions to be both vigilant and vocal in denouncing anti-Semitism, and they do so.

Multilateral Efforts: The United States has been successful in including anti-Semitism language in several resolutions of the United Nations Commission on Human Rights (UNCHR). We will continue to press for inclusion of such language at the UNCHR and elsewhere.

I hope this overview of Department of State efforts to combat anti-Semitism is helpful to you. Please do not hesitate to contact me if I can be of further assistance. We want to work closely with you to end anti-Semitism.

Sincerely,

MARC GROSSMAN.

THE DEPARTMENT OF STATE AND COMBATING ANTI-SEMITISM

The Department of State has been deeply involved in combating anti-Semitism. Policy level officials most frequently involved in our efforts to stem the tide of anti-Semitism include the Secretary, Deputy Secretary, Under Secretary for Political Affairs, the Assistant Secretary for European and Eurasian Affairs, the Assistant Secretary for Democracy, Human Rights and Labor, the Special Envoy for Holocaust Issues and the Ambassador-at Large for International Religious Freedom.

These officials regularly testify before the Congress and make public speeches calling attention to anti-Semitism and the need to combat it.

The Special Envoy for Holocaust Issues heads up the staff level work on this issue and coordinates closely with U.S. NGOs. He works particularly closely with the U.S. Ambassador to the OSCE who has represented the United States in the preparations for the separate OSCE conferences on anti-Semitism in Vienna in June 2003 and in Berlin in April 2004.

The Bureau of Democracy, Human Rights and Labor produces two annual reports (International Religious Freedom, Country Report on Human Rights Practices), both of which include extensive coverage of anti-Semitism and anti-Semitic incidents.

Our ambassadors abroad and their staffs engage with host countries on this issue. Ambassadors have mentioned their concern about anti-Semitism in the host country during their initial meetings with the Prime Minister. Our ambassadors speak out forcefully and meet with visiting representatives of American Jewish organizations to review anti-Semitism trends.

Senior-level Department officials and officers travel from Washington to our posts in Europe and Eurasia. They meet with representatives of Jewish communities to discuss their concerns first-hand and to demonstrate Washington's strong interest.

The Vienna and Berlin OSCE conferences were largely the result of efforts by the United States to have the OSCE focus on anti-Semitism. Secretary Powell addressed the Berlin conference.

The conferences and a decision by the December 2003 Ministerial Council led to the establishment of an OSCE program to monitor and report on anti-Semitic developments in the OSCE region. The Conferences also sensitized all of the participants to the reality of the increased level of anti-Semitism in Europe in recent years and also generated considerable publicity on the issue.

The Department of State also works assiduously to include this issue in resolutions of the United Nations and its subsidiary bodies. In 2003, the U.S. delegation succeeded in getting language on anti-Semitism into the UN Commission on Human Rights resolution on the Elimination of All Forms of Religious Intolerance. In 2004, the Department of State again succeeded in getting mention of the issue in the resolution on the Elimination of All Forms of Religious Intolerance and also in the resolution on The Incompatibility between Democracy and Racism.

Mr. VOINOVICH. Mr. President, the United States Government should be commended for the good work that is being done to raise awareness regarding growing anti-Semitism, both at home and abroad. However, our work is not done.

Earlier this year, I introduced Senate Bill 2292, the Global Anti-Semitism Review Act of 2004. This legislation requires the State Department to enhance its reporting on anti-Semitism worldwide. It requires the State Department to submit to Congress a report on anti-Semitism this November. This report must include detailed information for each country, including, first, a description of physical violence against or harassment of Jewish people or community institutions, such as schools, synagogues, or cemeteries, that occurred in that country, and, second, the response of the government of that country to such attacks;

What are they doing about that?

Third, actions by the government of that country to enact and enforce laws relating to the protection of the right to religious freedom with respect to Jewish people; and finally, the efforts by that government to promote anti-bias and tolerance education.

Following the report this November, my legislation requires enhanced reporting on anti-Semitism in two existing annual reports: the International Religious Freedom Report and the Human Rights Report.

The Senate passed this critical legislation with strong, bipartisan support on May 7, 2004. Twenty-four of my colleagues joined me as co-sponsors. This underscores the high priority that the United States Senate has given to the fight against anti-Semitism.

It is my sincere hope that the House of Representatives will soon pass this legislation, so that we can see the President sign the Global Anti-Semitism Review Act into law this year. We must do all that we can to move toward the goal of zero-tolerance of anti-Semitism in the world today. The United States must be the leader.

I want my colleagues to know that I made a vow back in 1982 that if the ugly head of anti-Semitism rose, I would do everything in my power to make sure that we cut it off.

I want my colleagues to know this is a passion with me, and I hope it becomes a passion with them. It is important to the world, and it is important to the United States of America.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, let me start by thanking my colleague from Ohio for his passion and for his commitment on this issue. As you know, my colleague from Ohio is very tenacious when he digs into something. It is easy in many ways, perhaps, for me to speak about anti-Semitism. I am of the Jewish faith. It is a very personal issue for me, but if we just talk about it, it is not enough.

I have been through Yad Vashem, which is the museum on the Holocaust in Israel. And there is part of Yad Vashem that is dedicated to the righteous gentiles, those not of the Jewish faith who showed great courage and at times risked their lives and were outspoken in opposition to the Holocaust and helped the Jewish people and other victims of the Holocaust.

I have a deep and profound respect for my colleague from Ohio for all that he has done. That passion is real. It is reflected in all he does, and it is greatly appreciated by all of us concerned about this issue.

Mr. COLEMAN. Mr. President, over 200 year ago, it was written:

> The condition upon which God hath given liberty to man is eternal vigilance; which condition if he break, servitude is at once the consequence of his crime and the punishment of his guilt.

Mr. Jefferson came up with the short version: Eternal vigilance is the price of liberty.

The message is clear and it is urgent. We need to be constantly on the look out for hatred of any kind. And like the spouting of a dangerous weed, we need to deal with it when it is small and before it grows.

That is why a number of us have taken the floor to call attention to a disturbing rise in incidents of anti-Semitism. This is not a fringe expression of free speech. It is the leading edge of danger that has appeared all too often in the last 2,000 years of human history.

One of the ironies of this subject lies in the word "anti-Semitic." In common usage it means prejudice or bigotry against Jews. But when you look up the root word "Semite," you see it refers to members of the Jewish and Arab peoples. Strictly speaking to be "anti-Semitic" could mean expressing hatred of Arabs.

That illustrates an important point. A statement of hatred against any group of people should be abhorred by freedom loving people from every group. Because hatred has a way of spreading and hurting people all around its intended target.

As Dr. King wrote in his famous letter from the Birmingham jail, "Injustice anywhere is a threat to justice everywhere."

Six million Jews were killed in Europe during the Holocaust. We vowed we would never let it happen again.

But the new millennium has brought to Europe a wave of anti-Semitism unlike anything we have seen since the 1930s.

In France, which is home to Europe's largest Jewish community—with about 600,000—there have been and continue to be more anti-Semitic attacks than elsewhere in Europe. Just last month the Jewish cemetery in Lyon was spray-painted with swastikas, and other anti-Semitic symbols. In Paris this spring, a 12-year-old girl coming out of a Jewish school was attacked by two men who carved a swastika into her face.

Excuses abound for the rise in European anti-Semitism: The changing demography of Europe, as more Muslim immigrants arrive; anger about the renewed Intifada between Israel and the Palestinians; anti-Americanism or anti-globalism manifest as anti-Semitic behavior; and a resurgence of Neo-Nazis and skinhead movements.

At the end of the day, though, there is simply no excuse. Anti-Semitism takes many forms: defaming of Jewish cemeteries; arson of synagogues and Jewish schools; Holocaust denial or inadequate Holocaust education; biased media coverage; and graffiti that says "Sharon=Hitler." This comparison is not only grossly unfair to the Israeli Prime Minister, but more ominously minimizes what Hitler did and stood for. Ominously in this country, we have seen bumper stickers making similar comparisons with our President.

The winning entry in the British Political Cartoon Society's 2003 competition was a picture of Ariel Sharon eating the head of a Palestinian baby with a burning city in the background. "What's wrong," reads the caption, "you've never seen a politician kissing a baby?"

This is not humor, this is hate.

Some will say, "Surely a person can criticize the policies of the Israeli government without being an anti-Semite?" And the answer is of course, yes.

But when criticism of Israel is so prevalent and one-sided, when fully one-third of votes at the U.N. General Assembly criticize Israel and Israel only, when a European public opinion poll finds Israel to be considered the top threat to world peace—ahead of North Korea or Iran, when a U.N. conference in South Africa on racism devolves into a diatribe against Israel—and only Israel, when even non-violent responses by the government of Israel to defend its citizens against terrorism are disparaged, then you have a problem.

Natan Sharansky—a great man for his advocacy for the Soviet Jews and today an Israeli government official—has talked about three ways to determine whether criticism of Israel rises to the level of anti-Semitism. He talks about three Ds: Demonization, double standards, and delegitimization:

Demonization—when Israeli actions are blown so far out of proportion that the account paints Israel as the embodiment of all evil;

Double Standards—when Israel is criticized soundly for things any other government would be viewed as justified in doing, like protecting its citizens from terrorism;

Deligitimization—a denial of Israel's right to exist or the right of the Jewish people to aspire to live securely in a homeland.

When European criticism of Israel is so one-sided and so filled with exaggeration, it reflects a broader bias. And while this kind of criticism of Israel may not always equal anti-Semitism, it certainly creates an atmosphere that tolerates and breeds anti-Semitism.

In recent years, Europe has seen a marked increase in anti-Semitism, but Europe is not alone. Anti-Semitism abounds in the Middle East. It abounds in the Nadrasas, the schools, that teach hate. We have our own problems here in the United States, particularly on our college campuses. And one of the deadliest acts of terror in South America remains the 1994 bombing of the AMIA Jewish Community Center in Argentina—a crime for which not one perpetrator has yet been brought to justice.

The good news is that things in Europe have improved in the last year, and the key to that improvement is leadership.

The Organization of Security and Cooperation in Europe has held important conferences on anti-Semitism. My colleague from Ohio has talked about that, introducing into the RECORD some of the evidence of the works which have drawn attention to anti-Semitism and those that have led to the identification of anti-Semitism as a specific human rights issue as well as a commitment to track anti-Semitic incidents in order to build a better understanding of the problem.

French President Jacques Chirac, to his credit, has said when a Jew is attacked in France, it is an attack on the whole of France. He is right, not just because it is so morally repugnant to target any one group for this kind of violence and hate but because Jews are the canary in the coal mine. Remember, Hitler was not satisfied to simply wipe out the Jews; he set his sights on the disabled, gypsies, Blacks, and others.

Let me reflect about the situation in the United States, particularly on our college campuses. College is supposed to be a place where young people are exposed to diverse experiences and other peoples. Tragically, anti-Semitism in America has found a home on college campuses. There, anti-Semitism at times is fashionable and politically correct. We can forget about diversity of opinion when it comes to Israel.

On our campuses, anti-Semitism looks like virulently anti-Israel professors of Middle Eastern studies; harassment of Jewish students; pro-Palestinian rallies have crossed the line into anti-Semitism, with slogans like "Hitler did not finish the job;" fliers around campuses depicting Palestinian children slaughtered according to Jewish rites under American license; vandalism of Hillel buildings at Rutgers in September of this year, at UC Berkeley in the winter of 2002, at the University of Colorado in March of 2002 and again in September of that year.

The poster behind me is of a photograph taken at Cornell University: Weapons of mass destruction. Leader is a war criminal. U.N. resolution occupies foreign countries, with a notation "bomb Israel."

It crosses the line. This is not about free speech. This is about hate. This is not something we should see on college campuses, but we do, far too often. That is unfortunate. That is wrong.

A professor at UC Berkeley presented the following course description for a poetry class:

> The brutal Israeli military occupation of Palestine [ongoing] since 1948, has systematically displaced, killed, and maimed millions of Palestinian people. And yet from under the brutal weight of occupation, Palestinians have produced their own culture and poetry of resistance . . . This class takes as a starting point the right of Palestinians to fight for their own self-determination.

That is for a poetry class. And the posting ends with the suggestion, "Conservative thinkers are encouraged to seek other sections."

In 2001 to 2002, anti-Semitic incidents at college campuses increased to a worrisome 24 percent, according to the Stephen Roth Institute at Tel Aviv University.

I read an account of a Berkeley student, Micki Weinberg, who was walking to campus September 12, 2001, the day after the horrific attacks on our Nation. At the entrance to the campus there were huge sheets of blank paper spread out at an impromptu memorial for students, faculty, and others to write thoughts. He saw a message written in big letters. Micki Weinberg set out to add his own thoughts, until he saw one message written in big letters: "It's the Jews, stupid."

In closing, I return to the idea that hatred against Jewish people is everyone's concern. I was in Israel a couple weeks ago. The vision that this President has and so many have had is Israel living side by side with a Palestinian state, people free to live their lives and raise their families and grow up with the sense of safety and security. That is what it is about. Safety and security is a prelude to peace and people living together, but the level of hatred, which in the end is a denial of the existence of Israel, simply goes too far. That level of hatred is spread throughout Europe. It has spread to college campuses. It is wrong.

The Reverend Martin Niemoller was a Lutheran pastor living in Germany in the 1930s. His words should be taken to heart by all:

> First they came for the Communists, and I didn't speak up, because I wasn't a Communist. Then they came for the Jews, and I didn't speak up, because I wasn't a Jew. Then they came for the Catholics, and I didn't speak up, because I was a Protestant. Then they came for me, and by that time there was no one left to speak up for me.

We have seen genocide in Europe. We have seen it in Rwanda. We are seeing it today in Sudan. We need to speak up against hatred wherever it rears its head because it literally threatens everyone. The question is, How do we get the hate genie back in the bottle? The genie is out. There is too much hatred. We see it all around us. We see it certainly in what we are seeing today with anti-Semitism. We are seeing it on the American political scene. We have to get the genie of hate back in the bottle. We can do it by educating. We can do it by strengthening our families. We can do it by strengthening our faith, by doing what we are doing today, speaking out on the floor in the hallowed Halls of this great institution and telling the people of this country and telling the people of this world that anti-Semitism is wrong, that we must do all in our power to speak out and make sure it stops. And when it does, the world will be a safer and better place.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Mr. President, I am pleased to be in the Senate today with my colleague, NORM COLEMAN. NORM is one of my esteemed new colleagues and can speak with considerable insight on the issue of anti-Semitism, as he hails from the Jewish faith and genealogy. I honor him for being down here speaking about an issue that has been a cancer in the human soul for a long time, and that is anti-Semitism.

I learned at my mother's knee to fight against bigotry and discrimination. I am not Jewish. I was born into the Mormon faith to Mormon parents who in our history knew something of persecution. In fact, many of my Jewish families are surprised to learn that extermination orders have actually been ordered before, even before the pogroms that have beset the tribes of Judah. They were once issued by a Governor of Missouri on the Mormon pioneers, and they set about exterminating them and drove them literally from what was then the United States.

So as a young boy, I had an interest in history. I would watch newsreels of what had recently happened in Germany to the Jewish people. I had a particular sensitivity to that and, again, learned from my mother to befriend the children of Israel.

But what besets the human heart in the form of anti-Semitism is ancient in its origin, even prophesied in Jewish history and Scripture. This morning, as I contemplated Rosh Hashanah, which is the new year, the beginning of the world in the Jewish calendar, I turn to a verse of Scripture that I remember reading many times throughout my life, and that is in the 49th chapter of Genesis where the prophet Jacob is giving blessings to his twelve sons. We know the names of Abraham, Isaac, and Jacob, and Jacob had four wives. His first wife was Leah, and Leah bore him a number of sons, but one of them was named Judah. The blessing that Jacob gave to Judah is very instructive. He says:

> Judah, thou art he whom thy brethren shall praise: thy hand shall be in the neck of thine enemies; thy father's children shall bow down before thee.
>
> Judah is a lion's whelp: from the prey, my son, thou art gone up: he stooped down, he couched as a lion, and as an old lion; who shall rouse him up?
>
> The sceptre shall not depart from Judah, nor a lawgiver from between his feet, until Shiloh come; and unto him shall the gathering of the people be.

If you can break down that language, you will understand that Judah was a leader among the sons of Jacob, and in this patriarchal blessing he was given a leadership role, and he was to be, and his descendants, something of a thorn in the neck of his enemies.

The Torah is full of promises, predictions, prophecies of the Diaspora, of the affliction of the Tribe of Judah. Indeed, there are places in the Torah where it says that all nations will be turned against Israel. The question for us, as human beings and as Americans, is, do we turn against Israel?

I have regarded it as one of the important cornerstones of American foreign policy, that since the Holocaust in the Second World War, the American Nation has stood by the Tribe of Judah in the form of the State of Israel, defended its right to exist, and been an ally to it in its darkest days.

The feelings of anti-Semitism in this world, they ebb and they flow. But I would suggest to you, and all listening, Mr. President, that anti-Semitism is something of a barometer of the human heart. And when we have those feelings, we are on the wrong side. We need not have those feelings. We must not have those feelings because if too many Americans do, the American Nation will join other nations who turn on the State of Israel and the Tribe of Judah.

So, for me, I guess you can discern from my remarks this is a principle of faith, it is a belief that I hold deeply, that part of my public service has, as a cornerstone, friendship to the Jewish people. So as I contemplate what is happening in the world today, as nations turn against Israel again, I am determined to push back. And I am determined to speak out against vicious lies that have been told for centuries against the Jewish people. I would like to share a few of them with you.

I touched briefly upon the depravity of the Second World War, that resulted in the misery and death of 6 million Jews. Yet that spirit that led to such a policy exists in some places even still. Unfortunately, it exists in many of the lands of the Middle East.

Let me give you a few examples.

In November and December of 2002, Egypt aired on state television a series based on the forged and notorious anti-Semitic tract, the so-called "Protocols of the Elders of Zion." The "Protocols of the Elders of Zion" is a fraudulent document that reported the alleged proceedings of a 19th century conference of Jews during which they discussed plans to overthrow Christianity and control the world. It has been proven a fraud time and again. Yet some governments of civilized nations continue to propagate this heinous lie.

The Saudi Government daily newspaper Al-Riyadh, in a March 2002 article titled "The Jewish Holiday of Purim," charged that Jews used the blood of non-Jewish youngsters in preparing their pastries for the Purim holiday.

To be precise, the columnist writes:

> Before I go into the details, I would like to clarify that the Jews' spilling human blood to prepare pastry for their holidays is a well-established fact, historically and legally, all throughout history. This was one of the main reasons for the persecution and exile that were their lot in Europe and Asia at various times.

That is a hideous lie. Yet it is reported in a newspaper in Saudi Arabia.

Also reported in this same paper, Al-Riyadh, a Saudi Crown Prince remarked to a gathering of leading government officials and academics in Jeddah that "Zionists" and "followers of Satan" are to blame for recent terrorist attacks in the kingdom of Saudi Arabia, in particular, a May 1 terrorist attack on foreign oil workers in the city of Yanbu that killed 6 people and injured 25.

This was done by al-Qaida, not the Jews. Yet a Crown Prince of Saudi Arabia felt to blame it on the Jews. Specifically, the Crown Prince said: "Zionism is behind everything."

Another issue, a journal titled "The Muslim Soldier," which is published by the Religious Affairs Department of the Saudi Armed Forces, recently contained an article claiming:

> The majority of revolutions, coups d'etat, and wars which have occurred in the world, those that are occurring, and those that will occur, are almost entirely the handiwork of the Jews. They turned to [these methods] in order to implement the injunctions of the fabricated Torah, the Talmud, and the "Protocols [of the Elders of Zion]," all of which command the destruction of all non-Jews in order to achieve their goal—namely, world domination.

Again, these are disgusting lies that are propagated supposedly by Syria's people.

The author of an article in an Egyptian Government daily titled "The Lie About the Burning of the Jews" defended his piece on Egyptian television by saying:

> This article was scientific research, which relied on many European and American sources concerning this lie, one of the lies upon which the State of Israel was established—the lie about the burning of the Jews in the Nazis' ovens.

I have been to those ovens. I have been to Auschwitz. I have seen the pictures. I have seen the ashes. Any representation like that must be refuted in places like this.

And in Syria, according to the State Department's 2003 International Religious Freedom Report, the:

> Government primarily cites tense relations with Israel as the reason for barring Jews from government employment and for exempting them from military service obligations.

Despite the fact that state-sponsored anti-Semitism is more prevalent in the Arab world, it unfortunately exists in other countries as well. In certain states of India, schools are required to use textbooks that condone Nazism, including detailing its achievements and omitting any reference to Nazi extermination policies or concentration camps.

In Belarus, anti-Semitic literature is sold in government buildings and in stores directly connected with the Belarusian Orthodox Church.

The fact that this kind of hatred exists in the hearts of some people is something that we unfortunately are unable to control. But what we can do, what we must do, is express our distaste and indeed our revulsion that governments around the world feel it is appropriate to promote such hatred.

At the G–8 summit in Sea Island, Georgia, this June, President Bush reached out to our allies to establish a Partnership with the Broader Middle East and North Africa in an effort to advance freedom, democracy, and prosperity in the region. I support the President's approach for peace in the Middle East, and I believe it will only occur if the countries at stake are working together.

So I ask, if governments are actively supporting anti-Semitism and even, at times, the destruction of the Jewish state, how will they be able to convince their populations that peaceful coexistence with Israel is an appropriate course of action? How will they expect their children to live in harmony with their Jewish peers? How will they ever reconcile their malevolent views of the Jewish people?

State-sponsored anti-Semitism around the world is a sinister fact with potentially devastating consequences. We must work tirelessly to highlight its insidious nature at every opportunity. And there are many friends in the Jewish community who ought to be thanked for their efforts to try to stem the tide of anti-Semitism: Specifically, Jess Hordes and Abe Foxman at the Anti-Defamation League for their work on this vital front as well as many of my colleagues here who stand in the Senate to bring attention to this issue.

Anti-Semitism cannot take root unless it starts in our hearts individually. If it starts in our hearts individually, it goes to our homes, our neighborhoods, our schools, and then it hits into our governments. That America never be one of those governments turned against Israel is my hope and my prayer.

I yield the floor.

Mr. BUNNING. Mr. President, as the Senate prepares to adjourn for the Jewish holiday of Rosh Hashanah, I would like to address a recent rise in anti-Semitic events abroad.

In the 50 years since the atrocities committed against the Jewish people in Europe during World War II, we have seen other occasional incidents of anti-Semitism. While anti-Israelism and anti-Semitism are regrettably still commonplace in the Middle East, recent events in France and Indonesia have shown us these feelings of intolerance are on the rise internationally.

Israel has a unique position in the modern world. Its cities and landmarks are sacred to Christian, Jewish, and Muslims cultures. And today, as throughout much of recorded history, it is a land struggling to find peace. Yet despite the conflicts of history and culture, Israel has had the courage to stand strong with the United States of America as an ally in the war on terror and a pillar of strength in an unstable region.

Anti-Semitism, racism, and bigotry all serve to undermine the efforts of peace loving people throughout the world. These misguided prejudices are chains that hold us back from compromise and harmony. The people of America, Europe, the Middle East, and Southeast Asia should not accept the anti-Semitism that has become all too prevalent in the world. As we work toward peace it is important that people from all nations approach international relations with an open mind.

I am pleased that my colleagues in the Senate have brought attention to the growing problem of anti-Semitism in the world today. As several of our colleagues celebrate the Jewish New Year this coming week, let us all take the time to think about ways we can promote understanding and acceptance.

The PRESIDING OFFICER. The minority leader.

ROSH HASHANAH

Mr. DASCHLE. Mr. President, this evening, Jewish families and communities will come together to celebrate Rosh Hashanah, the Jewish New Year, and offer their prayers for a sweet and peaceful year ahead.

Growing up in Aberdeen, my family was close to three Jewish families, the Franks, Feinsteins, and the Preds. They introduced me to the Rosh Hashanah celebration. I have always remembered the warmth of their celebration as well as the generosity and friendship they offered to a young Catholic boy growing up in the neighborhood.

I wanted to take this opportunity to extend my wishes for a Shana Tova, a good year, to my friends in the Jewish community across the country and around the world.

This year, Rosh Hashanah arrives at an auspicious anniversary. This month, we mark the 350th anniversary of the first Jewish settlement in America.

In September of 1654, a small ship carrying 23 Jews from Brazil arrived at the southern tip of Manhattan.

They had been told of a new land founded in the name of religious freedom. So this small group of settlers set out across the ocean to find a home where they could live in peace and follow the tenets of their faith and the dictates of their conscience.

As has been the case with so many immigrants of every faith, from every part of the world and every generation since, they found that home in America.

Throughout the generations, the American Jewish community has been a leader in the effort to ensure that the fundamental American value of religious freedom is honored and protected.

While the history of the American Jewish community offers this Rosh Hashanah a special sweetness, the Jewish community and its friends welcome the High Holy Days with a certain anxiety, as well.

While Israel has taken important steps toward increasing its own security, Israeli families still live under the shadow of terrorism, and the Palestinian Authority has yet to take concrete steps to end the violence.

Just 2 weeks ago, two simultaneous attacks by Hamas suicide bombers took the lives of 16 Israelis. It came as a terrible reminder of the fear that continues to pervade the lives of Israelis.

In addition, friends of Israel have also watched with growing concern as Iran, which is sworn to the destruction of the Jewish state, takes steps toward becoming a nuclear power.

The instability in Iraq, if not brought under control, may one day threaten the stability of that entire region, including Israel.

At the same time, Jews throughout the world have watched as the terrible specter of anti-Semitism re-emerges in Europe. Jewish cemeteries have been vandalized. Synagogues and Jewish schools have been the targets of terrorism. School children have been attacked for no other reason than they were identified as Jews.

At the recent Berlin Conference on Anti-Semitism held by the Organization for Security and Cooperation in Europe, Elie Wiesel expressed the shock and surprise shared by many of us who hoped that Europe could not so soon forget the history and lessons of the Holocaust.

"Had any pessimist told me," Wiesel said, "that in my lifetime, I would hear stories of Jews in Berlin or Paris being advised by friends not to wear a [skullcap] in the street so as not to attract hostility and peril, I would not have believed it. But it now has become reality."

Wiesel concluded by warning the conferees that "the history of Nazism teaches us that hatred is like cancer. It often grows underground, and when detected it is too late. If unchecked immediately, it will invade its natural surroundings. What began in the mind will destroy the brain. Then the heart."

The OSCE's Berlin Declaration, calling for a coordinated, international response against the crimes of anti-Semitism and racism, was an important step forward for Europe and the world. But its words must be backed with real action and commitment.

It is not enough to speak out against racist attacks Wherever the crime of anti-Semitism is committed, the world has a shared responsibility to ensure the perpetrators are punished.

Therefore, I have asked the U.S. Commission on International Religious Freedom to follow through on each of the recommendations of the Berlin Declaration.

In addition, later today Senator DODD and I will send a letter to the Commission calling on it to investigate why 10 years after the bombing of the Jewish Community Center in Buenos Aires, none of the terrorists responsible have been brought to justice.

The United States must make a clear statement. If you wish to be a member of the family of nations, you cannot turn a blind eye to the violence of anti-Semitism and racism.

We are all bound by a common obligation to fight for justice and to fight for peace. And in a way, Rosh Hashanah can serve as a reminder of these shared responsibilities.

This year also represents another anniversary celebrated by Americans and the American Jewish community in particular. 2004 marks the centennial of the birth of one of America's greatest writers and storytellers, Isaac Bashevis Singer.

In a story entitled, "Joy," Singer tells of a Rabbi from a small Russian village who suffers the loss of each of his six children. His faith is shaken, and he turns his back on his tradition and community. On the eve of Rosh Hashana, he sees a vision of his youngest daughter who had died many years earlier, and his faith is restored. He immediately goes to the synagogue and asks to speak. Because of the lunar calendar, Rosh Hashana always coincides with the new moon. So he asks, what is the meaning of the fact that "the moon is obscured on Rosh Hashanah?"

The answer, he says, is that "on Rosh Hashana one prays for life, and life means free choice, and freedom is mystery. . . . If hell and paradise were in the middle of the marketplace, everyone would be a saint.

"Of all the blessings bestowed on man, the greatest lies in the fact that God's face is hidden from him.

"Men are the children of the Almighty, and He plays hide and seek with them. He hides His face, and the children seek Him, while they have faith that He exists."

In a way, the search that Singer speaks of connects us all. Individually and as a nation we try to find the wisdom and the courage to do what is right, and to extend justice here at home and throughout the world.

The way may not always be clear. But alongside our friends in the Jewish community, this Rosh Hashana we can recommit ourselves to creating a world where no one, anywhere in the world, suffers the kind of persecution and violence that led that small band of Jewish settlers to flee half way across the world more than 350 years ago. The memory of their voyage and the beginning of Rosh Hashana remind us of this historic aspect of our Nation's role in the world, and call us back to our duty.

VIOLENCE AGAINST WOMEN ACT

Mr. DASCHLE. Mr. President, today marks the 10th anniversary of the Violence Against Women Act. We are also coming up on the 2nd anniversary of the loss of two champions of the fight to end domestic violence.

Senator Paul Wellstone was a key leader in the bipartisan effort to pass the Violence Against Women Act. And, as she was in every great cause he took on, Sheila Wellstone was Paul's indispensable partner. Paul and Sheila's commitment to ending domestic violence continues today through the work of Wellstone Action and the Sheila Wellstone Institute. This morning, Paul and Sheila's work was recalled at a gathering here in the Capitol of people who are working to protect America's families from domestic violence. We applaud them.

Much good has come about because of the Violence Against Women Act. There are more domestic abuse hotlines today than there were 10 years ago, and more shelters. There are more doctors, nurses, therapists, teachers, police officers, judges and others today who recognize the signs of domestic violence, and know how to help if they see those signs. We have made progress. But there is more we need to do.

Each year, more than 1 million women in America are victims of domestic violence, and more than 3 million American children witness domestic violence every year. Protecting the victims of domestic violence is essential but it is not enough. Next year, when Congress reauthorizes the Violence Against Women Act, we need to do more to prevent domestic violence, and to help the children who witness such violence. It's the only way we will ever break the cycle of violence.

In South Dakota, in Rapid City and on the Pine Ridge Reservation, a nonprofit organization called Sacred Circle is helping to break the cycle of violence by providing domestic violence prevention and intervention services. There are similar organizations doing good work in communities all across America—native and non-native, rich and poor.

On this 10th anniversary of the Violence Against Women Act, we thank those organizations for the life-saving work they are doing. We acknowledge the victims and survivors of domestic violence. And let us also vow to do even more to finally break the cycle of domestic violence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

ROSH HASHANAH AND HOPE

Mr. KENNEDY. Mr. President, it is entirely appropriate that the Senate pause today at the celebration of Rosh Hashanah. This, the people's body—the House of Representatives and the Senate—demonstrate their great respect for a very important Jewish holiday that symbolizes so much that is important not only in terms of their faith, but also underlies a very important value and spirit of this country, and that is the spirit of hope and optimism, portrayed by the dipping of apples into honey, symbolizing that one is going to have a better, more hopeful, and sweeter year. It is a message of hope, and it reminds us of a long tradition that hope is deeply rooted in a spiritual setting. It is entirely appropriate for us as a nation as well to share that sense with our Jewish friends, and also draw lessons from that very special occasion.

So I pay tribute to all of our friends who are celebrating this spiritual holiday today and thank them again for reminding us as a nation and reminding the world of that extraordinary spirit, which is reflected in that tradition and which is symbolized today in Israel in its continued struggle for existence and for religious liberty.

Mr. President, I speak today about this issue of hope, and where it is and where it is not in terms of our own society, and what I think we should be attempting to do about it.

I believe we ought to take a look at what is being represented to the American people, particularly on the issues of the economy. Under our constitutional system, we are in a period where we will be making judgments as to the course we are charting for the future. I believe, on the one hand, that we do have a road toward hope, particularly for working families. I think the last 3 years has been a road of burden and a quaky road for hard-working Americans.

I review the record for the Senate again and for the American people as we are looking forward to these next 6 or 7 weeks and making judgments and decisions about the direction that we should follow. I don't think it is anywhere clearer than in the state of our economy and what has happened to average working Americans in our Nation. There has been an economic squeeze that has resulted in American families working harder, working longer, and falling further and further behind. It doesn't have to be this way.

We have seen at other times when we have had Presidential leadership, where we have had the strong, expanding, and growing economy, with economic growth and price stability, and the reduction of unemployment. We have seen it in most recent times under President Clinton. We saw it in the early 1960s under President Kennedy prior to the time of the Vietnam war buildup in the latter part of the 1960s.

Really, the issues of economic growth, price stability, and economic expansion is directly related to Presidential leadership. What is happening to the middle class today is an extraordinary set of pressures on working Americans that is giving them an extraordinary squeeze in terms of their sense of hope and optimism in terms of the future. I have reviewed, in the course of my discussions yesterday, what is happening in terms of the health care crisis—the fact that premiums in the area of Medicare have increased fivefold, five times the increase that seniors are receiving in their Social Security from their COLA benefits. As a result, the pressure is going onto our seniors. But if we look at this chart, which is a reflection of the last year, we will find that health insurance premiums—this is as of July 2004. We have also seen in the last month that this figure is 11.2 percent for employee-provided coverage. But in this year, private health insurance premiums have gone up 8.5 percent; the cost of tuition this year is up 14.6 percent; housing is up 7.7 percent; and what has happened to wages of workers in real terms is that they are down .9 percent.

Workers are working longer, families are working harder. Nonetheless, when you take the indicators, they need the health insurance. And more often than not, they have children they are trying to educate, and they are finding college tuition going up and the cost of housing is increasing, but their wages are not.

Yet we hear time and again that the economy is getting stronger and the economy is getting better. The President says that time and again. He said it just this last week. If you look at this, he said:

> The economy of ours is strong and it's getting stronger.

He said that on September 13 in Muskegon, MI. Since Bush took office, we have seen 250,000 jobs lost in Michigan, and 80,000 jobs lost in Colorado. This idea about the economy getting stronger has been repeated time and again over the course of this last year.

The President said there would be tax cuts for the middle class and then gave the tax cuts to the wealthy. He said those tax cuts were for economic stimulus, but we know if the President had spent the $700 billion on programs such as unemployment insurance, tax cuts for low-wage workers who really need it, instead of giving the $700 billion in tax breaks to the wealthy, 2 million more Americans would be employed today, and economic growth would have been twice as fast.

You cannot believe this administration on the economy, and you cannot trust them to do the right thing for the middle class. Middle-class working families are being squeezed in every direction by the Bush economy. And the ability of American families to live the American dream is increasingly out of reach with each passing year as they find it harder and harder to earn a living, pay a mortgage, pay rent, pay their medical bills, their food and energy bills, and still send their sons and daughters to college.

Yet we keep hearing only happy talk from the administration. As I mentioned, in Muskegon, MI, the President praised the economy: This economy of ours is strong and getting stronger. But still we have seen the loss of jobs. Michigan is one of 44 States that has higher unemployment today than when the recession began.

A week and a half ago at the Republican convention, the President said: We have seen a shaken economy rise to its feet. Our economy is growing again, creating jobs. Nothing will hold us back. But since the President took office, the overall number of jobs in the economy has fallen by 900,000. Since many of the new jobs created are in the public sector, the private sector is down even more, 1.7 million jobs, and manufacturing has been especially hard hit, 2.7 million jobs. President Bush has the worst job record of any administration since the Great Depression.

Vice President CHENEY has a novel approach to the economy. He said the lackluster economic indicators do not reflect reality because they do not include the hundreds of thousands who make money selling on e-Bay. That is a source that did not even exist 10 years ago. CHENEY told an audience in Cincinnati last week that 400,000 people make some money trading on e-Bay.

First the Bush administration tried to count hamburger flippers as manufacturing jobs. Now they want to call e-Bay traders an economic indicator. No wonder the Vice President told a crowd of workers in New Hampshire last week: We think we are on the right track and we are headed in the right direction.

Tell that to the more than 8 million Americans who are currently unemployed, and tell that to the 1.6 million long-term unemployed who have been out of work more than 6 months, more than double when the President took office.

We have to look at these employment figures and what has happened over the recent year. This chart shows the job growth of this President, which is the worst since World War II. These are the total job recoveries. This blue line is before 1991. This green line is an indicator of what happened with job growth from 1991 to 1993, and the red line is the current recovery. This is all from the Bureau of Economic Analysis. These are all solid figures. The fact is, we are growing in employment at a slower rate.

Let's just take the total number of jobs in our country in the private sector. In January 2001, there were 111,609,000 jobs. As of August 2004, 1.7 million jobs have been lost from 2001 to 2004, and yet we have this administration saying the economy is strong, the economy has never been better, the economy is getting stronger.

What planet is this President living on?

Let's look at what has happened in terms of the jobs that have been created. Let's look at what the pay was for the jobs that have been replaced.

Mr. President, $51,270 is the average pay for industries that are losing jobs. The new jobs, those in growing industries, pay 41 percent less. So here we have a record that is indefensible in terms of the number of jobs that are out there in the private sector, in particular, and then when we look at what the salaries are for people who are working, we find out they are getting paid less when health care costs are going through the roof, tuition is going through the roof, and rent is going through the roof.

What does this mean in real terms? What is happening to American families? What with all of these statements that are being made by this President and the Vice President out on the campaign trail, let's just look at what has been happening in our country over the last 3 years.

There are 13 million children hungry or on the verge of hunger, 8 million Americans unemployed, and nearly 3 million have lost unemployment benefits since the Republicans ended the program with $20 billion in surplus in the unemployment compensation fund that these workers paid into.

Do you hear me? These workers paid into that fund, and this administration is denying them the ability to draw on it. That is the 3 million who have lost unemployment benefits and, oh, yes, the economy is getting better.

We have 7 million low-wage workers who have been waiting 7 years for an increase in the minimum wage—7 years. I noted last night when I was watching the news that the House of Representatives, under the Republican leadership, just voted itself another pay increase, the seventh pay increase since the last time we increased the minimum wage—seven pay increases.

We cannot even get an up-or-down vote on minimum wage because of the Republican leadership in the Senate of the United States and because of the Republican President. It has only been in the last few years that this has become a partisan issue. President Nixon voted for an increase in the minimum wage. President Bush 1 voted for an increase in the minimum wage. President Reagan voted for an increase in the minimum wage. But not President Bush 2. No, no, we are not going to permit an increase in the minimum wage. We are going to give tax breaks to wealthy individuals but nothing in terms of an increase in the minimum wage.

And 6 million workers have lost overtime protections, and in spite of the fact that a bipartisan coalition in the House of Representatives and the Senate of the United States rejected that policy, they still have gone forward with it. This chart shows the votes on overtime protection. The Senate voted September 10, 2003, to reject the restrictions on overtime advanced by the administration. The House voted on October 2, 2003, 221 to 203. The Senate voted May 4, 2004, 52 to 47. The Senate voted on May 4, 99 to 0. The House voted on September 9, 2004, 223 to 193. The House of Representatives in a bipartisan vote and the Senate in a bipartisan vote said no, and still they are going ahead. And the President says they are the friends of working families?

We heard the administration trying to defend this overtime restriction that it has been long overdue and it will provide greater relief for lower income working families; they will have greater stability in their pay increases, and this is a simplification of the rules. Always look out when you hear that kind of chatter. Always look a little behind the rationale for taking such policy.

Look at this:

> The National Restaurant Association requests that the Department of Labor include chefs under the creative professional category as well as the learned professional category. . . .

That was from a National Restaurant Association letter to the Department of Labor. Here we have the National Restaurant Association urging the administration to restrict the coverage of overtime in terms of those who are working in the kitchen.

> The Department concludes to the extent a chef has primary duty of work requiring invention, imagination, originality or talent, such chef may be considered an exempt creative professional.

Here is the association asking the administration to restrict overtime, and guess what. It is just what the administration did.

The list goes on. We have other charts that indicate for other industries as well. That is illustrative. We have 4.3 million more Americans living in poverty.

There are 800,000 more children living in poverty today than 2001, 4.3 million more Americans in total living in poverty. They are against any increase in the minimum wage, cutting back on the unemployment compensation that could help these families transition, pay their mortgages, pay their bills. No, we are cutting that out. These are hard-working Americans who paid in. No, they are not going to get that. That is what they have done. But, no, the economy is strong and getting stronger. Yet there are 4.3 million more Americans who are living in poverty, 800,000 of them children.

I have given the example of what was happening for individual jobs, for contracting industries and expanding industries, the disparity in payment in the new jobs. This also affects the household income because we know now that many more women are working and they are participating in the market, too. So is it not fair to say, let us look at what has happened in household income?

Remember the first chart that showed health care going up through the roof, that showed tuition going up through the roof, that showed rent or housing going up through the roof? This is what has happened now. In the year 2000, median household income in the United States was $44,853. The median income in 2004 is $43,318. It is a drop of $1,500 for average working families in America. That is last year, and this year it goes down even further. And everything is fine for working families, for middle-income families?

The same administration, again, is against increases in minimum wage, unemployment, and against overtime. This is what results. They are shipping jobs overseas, and they support a Tax Code that the administration knows has loopholes which they refuse to close down. This is what is happening.

Let me give a couple of other indicators of what is happening to middle-income families. Look what has happened to gasoline. I do not know how it is in South Carolina, but I know how it is in Massachusetts, and that is that many workers have to drive many miles in order to get employment. That has been fairly consistent. We had great pockets of significant unemployment for years. The interstate system and rail have opened up some hope and some opportunities, and here we find out what has happened with gas. Gas has gone up 23 percent in 2004, and the wages again are down. They pay more in terms of gas.

One of the most extraordinary things that absolutely amazes me is what has happened to milk. When I was home in Massachusetts a week ago in a grocery store, milk was $4.11 a gallon. I do not know, maybe it is a little bit less in some other parts of the country, but how in the world, when one is making $5.15 an hour, does a family or a single mom afford a gallon of milk in order to provide for their child? How do they do that with milk prices going up? These are the real economic indicators.

That is why the credibility of this administration, when it says everything is rosy, the economy is fine, is no better than it was when it misrepresented the facts in Iraq. They misrepresented, distorted, deceived the American people as to what was happening in Iraq and brought us into the terrible quagmire we are facing today, and the same is true with regards to the economy. It is incompetency, and that is what has been happening.

Well, we can say, all right, Senator KENNEDY, look, there has certainly been some increase for the workers with jobs. Well, let us look at productivity. Let us look at the American workers. Is it the American workers' fault?

This chart is from the Economic Policy Institute, their analysis of data from the Bureau of Labor Statistics. This is what is happening from 2001 through 2004 in the areas of productivity and wages. Historically, when we have had an increase in productivity, we have seen wages go up. I can put five more charts up going on back to the postwar period and they would all reflect the fact that with increase in productivity, there are increased wages, but not under the Bush administration. Workers are more productive today than they have ever been, but do my colleagues think that has been reflected in wages? Absolutely not. Why? No overtime, cutting back on the overtime. And because of the minimum wage, failing to get the bump for those who are working at the lower wage. This productivity represents the greatest gap we have had since the Great Depression, and there is a squeeze on the wages of the American economy. But, no, no, this economy is strong and getting stronger.

Well, it is for some in America, and this chart indicates who the economy is getting strong and stronger for. All one has to do is look at this chart from 2001 through 2004 and see where the workers' efforts are going. I just showed what was happening in productivity. Well, look what has happened. Corporate profits, their share has gone up 65 percent. They have effectively swallowed up all of the productivity. Do my colleagues think they have shared it with the American workers? Absolutely not. They have sucked all of that productivity up in these corporate profits. What does the administration say? Look, the economy is getting along fine. It is working well. It is strong and it is getting stronger. As a result of this, it is no mystery about what has been happening in America.

This shows the pay of the average CEO. We now have the highest paid disparity between CEOs and the average worker. The average worker makes $26,000, and the difference is 300 times, and that is what is happening.

I will show what has happened historically when I was talking about the increase in productivity, and then what we have seen is the increase in corporate earnings that has reached the record figures. Look what happened during the average last eight recoveries: Corporate profits went up 14 percent, wages 8.6 percent. That is what has happened really over the period of the last 50 years—the corporate profits went up and wages went up.

Look what has happened in the current recovery. Corporate profits are up 39.6 percent, and workers' wages lost five-tenths of 1 percent. Oh, the economy is fine.

Does it begin to have a ring, I say to my friends? Take any indicator—wages, productivity, what is happening with minimum wage, unemployment compensation, and overtime—take any indicator in terms of where working families are in this economy and they are falling further and further behind.

One of the areas that I feel so strongly about is the issue of the increase in the minimum wage. I have been proud to be a sponsor of the increases since I arrived in the Senate in the early 1960s. We have had some success, in a bipartisan way, trying to get the minimum wage up so people do not have to live in poverty. Without the increase in the minimum wage, it is now at $5.15. Its purchasing power by the year 2005 will put it at one of the lowest levels of purchasing power ever.

Who are these workers with a minimum wage? These are proud men and women, men and women of dignity. They clean out the great buildings of American industry every day. They are assistants to teachers in urban and rural areas all across this country. They work at nursing homes, looking after our parents. Our parents are in these nursing homes. These minimum wage workers are men and women of dignity. They have not gotten any increase over the period of the last 7 years, in spite of the fact we in the Congress have voted ourselves pay increases six times, and more recently in the House seven times. Over $20,000 for the individual Members of the House and Senate, but we cannot get a vote on raising the minimum wage in the Senate.

The issue of minimum wage is a women's issue, because the great majority of those who receive minimum wage are women. The great majority of the women who receive the minimum wage have children, so it is a women's issue and a children's issue. It is basically a family issue.

We hear a lot of rhetoric here about family and family values. The minimum wage is a family issue. Will these women, single women for the most part, be able to see their children? No, they have to get two or three jobs. They are lucky if they see their children at all. It is a family issue.

It is a civil rights issue because so many of those who work at the minimum wage are women of color. Women's issue, children's issue, civil rights issue—but most of all, it is a fairness issue. What the American people understand is fairness. What the American people understand is, if people are ready to work 40 hours a week, 52 weeks a year, they should not have to live in poverty and their children should not have to live in poverty, either.

Oh, no, says President Bush. Oh, no, says President Bush. Oh, no, says the Republican leadership. You can't even have a vote in the Senate. When we offered that minimum wage increase on the State Department reauthorization, what did our Republican friends do? No, no, we are not going to vote; we are scared of that. We pulled the bill. We pulled the bill, so you are denied the opportunity to vote on it.

America, do you hear me? That is this Bush administration and that Republican leadership. They are saying: Oh, the economy is fine. Everything is fine. This is a wonderful economy, growing stronger. What about those 7 million men and women at lower level jobs? What about those who have been on unemployment? What about all those who have given up? We thought we were one country with one history and one destiny. Oh, no.

I have described some of what I think are the basic failings of the current administration. I want to include in the RECORD today the answers to many of these failings that my friend and colleague, Senator KERRY, has proposed. He has done so during the course of the campaign. It is on the Web site. He has outlined in great detail today in Cobo Hall in Detroit. The article is in the Wall Street Journal today, "My Economic Policy." He outlines what he will do to create jobs. He understands middle-class taxes and their health care costs.

I read into the RECORD yesterday what President Bush had to say about health care. I am sure he meant it in a flattering way. He said, out in Michigan: And JOHN KERRY has a program that is going to be costly. What can you expect from a Senator from Massachusetts? Ha-ha-ha. And he got some laughter out in the audience on that part.

I will tell you what I care about in health care, having battled for it for 30 years, and that is every American have the same kind of health care as President Bush has. That is what I care about. That is what JOHN KERRY cares about. You can distort it, misrepresent it, which President Bush did, and then differ with it, which he did as well. That is an easy debate technique that is used around here frequently. Let's recognize it for what it is. Distortion, misrepresentation—does this have a ring to it? You didn't get the facts when he came to Iraq, why in the world should you believe it when they distort and misrepresent JOHN KERRY's health care program?

There is a basic limitation on American people being able to buy into the kind of health care program that every Member of the Senate and House has. I wonder how many of those people, the 3,000 or 4,000 people out there listening to the President, have the same kind of benefit program we have? We pay a 25-percent premium and the taxpayers pay 75 percent. Wouldn't every American like that one?

If we are so concerned about the Federal employees' health insurance, let's give it up and go back, like every other American, except those 11 million or 12 million of us who are able to get in the Federal employees' program. How about it? Not a chance.

So until you do, let's be easy in characterizing JOHN KERRY's program. Here it is: creation of jobs, cut middle-class health care costs, restore America's competitive edge, cut the deficit, restore economic confidence. I will not read through it.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 15, 2004]

MY ECONOMIC POLICY

(By John Kerry)

As I travel across this country, I meet store owners, stock traders, factory foremen and optimistic entrepreneurs. Their experiences may be different, but they all agree that America can do better under an administration that is better for business. Business leaders like Warren Buffett, Lee Iacocca and Robert Rubin are joining my campaign because they believe that American businesses will do better if we change our CEO.

Since January 2001, the economy has lost 1.6 million private-sector jobs. The typical family has seen its income fall more than $1,500, while health costs are up more than $3,500.

Today, American companies are investing less and exporting less than they were in 2000—the first time investment and exports have been down during any presidential term in over 70 years. At the same time, our trade deficit has grown to more than 5% of the economy for the first time ever, a troublesome and unsustainable development.

The economy still has not turned the corner. Over the last year, real wages are still down and even the jobs created in the past 12 months represent the worst job performance for this period of a recovery in over 50 years. Indeed, the total of 1.7 million jobs created over the last year is weaker than even the worst year of job creation under President Clinton, and below what is needed just to find jobs for new applicants entering the work force.

Forty-three months into his presidency, George Bush's main explanation for this dismal economic record is an assortment of blame and excuses. Yet what President Bush cannot explain is how the last 11 presidents before him—Democrats and Republicans—faced wars, recessions and international crises, and yet only he has presided over lost jobs, declining real exports, and the swing from a $5.6 trillion surplus to trillions of dollars of deficits.

While the private sector will always be America's engine for innovation and job creation, President Bush has failed to take any responsibility for missing opportunities to strengthen the conditions for investment, economic confidence and job creation.

When the economy needed short-run stimulus without increasing the long-run deficit, President Bush got it backwards, passing an initial round of tax cuts that Economy.com found had no effect in lifting us out of recession. He then passed more deficit-increasing tax cuts that Goldman Sachs described as "especially ineffective as a stimulative measure." When small businesses and families needed relief from skyrocketing health-care and energy costs, he chose sweetheart deals for special interests over serious plans to reduce costs and help spur new job creation.

With the right choices on the economy, America can do better. American businesses and workers are the most resilient, productive and innovative in the world. And they deserve policies that are better for our economy. My economic plan will do the following: (1) Create good jobs, (2) cut middle-class taxes and health-care costs, (3) restore America's competitive edge, and (4) cut the deficit and restore economic confidence.

Create good jobs. I strongly believe that America must engage in the global economy, and I voted for trade opening from Nafta to the WTO. But at the same time, I have always believed that we need to fight for a level playing field for America's workers.

I am not trying to stop all outsourcing, but as president, I will end every single incentive that encourages companies to outsource. Today, taxpayers spend $12 billion a year to subsidize the export of jobs. If a company is trying to choose between building a factory in Michigan or Malaysia, our tax code actually encourages it to locate in Asia.

My plan would take the entire $12 billion we save from closing these loopholes each year and use it to cut corporate tax rates by 5%. This will provide a tax cut for 99% of taxpaying corporations. This would be the most sweeping reform and simplification of international taxation in over 40 years. In addition, I have proposed a two-year new jobs tax credit to encourage manufacturers, other businesses affected by outsourcing, and small businesses that created jobs.

American businesses are the most competitive in the world, yet when it comes to enforcing trade agreements the Bush administration refuses to show our competitors that we mean business. They have brought only one WTO case for every three brought by the Clinton administration, while cutting trade enforcement budgets and failing to stand up to China's illegal currency manipulation. That not only costs jobs, it threatens to erode support for open markets and a growing global economy.

Cut middle-class taxes and health costs. Families are being increasingly squeezed by falling incomes and rising costs for everything from health care to college. But spiraling health-care and energy costs squeeze businesses too, encouraging them to lay off workers and shift to part-time and temporary workers.

Under my plan, the tax cuts would be extended and made permanent for 98% of Americans. In addition, I support new tax cuts for college, child care and health care—in total, more than twice as large as the new tax cuts President Bush is proposing.

I have proposed a health plan that would increase coverage while cutting costs. It builds on and strengthens the current system, giving patients their choice of doctors, and providing new incentives instead of imposing new mandates.

My health plan will offer businesses immediate relief on their premiums. By providing employers some relief on catastrophic costs that are driving up premiums for everyone, we will save employers and workers about 10% of total health premiums.

Our hospitals and doctors have the best technology for saving lives, but often still rely on pencil and paper when it comes to tracking medical tests and billing. As a result, we spend over $350 billion a year on red tape, not to mention the cost of performing duplicative or redundant tests. My plan will modernize our information technology, create private electronic medical records, and create incentives for the adoption of the latest disease management.

And I won't be afraid to take on prescription drug or medical malpractice costs. We will make it easier for generic drugs to come to market and allow the safe importation of pharmaceuticals from countries like Canada. Finally, we will require medical malpractice plaintiffs to try nonbinding mediation, oppose unjustified punitive damage awards and penalize lawyers who file frivolous suits with a tough "three strikes and you're out" rule.

This plan will make our businesses more competitive by making our health care more affordable.

Restore America's competitive edge. America has fallen to 10th in the world in broadband technology. Some of our best scientists are being encouraged to work overseas because of the restrictions on federal funding for stem-cell research. President Bush has proposed cutting 21 of the 24 research areas that are so critical to long-term growth. We need to invest in research because when we shortchange research we shortchange our future.

My plan would invest in basic research and end the ban on stem-cell research. It would invest more in energy research, including clean coal, hydrogen and other alternative fuels. It would boost funding at the National Science Foundation and continue increases at the National Institutes of Health and other government research labs. It will provide tax credits to help jumpstart broadband in rural areas and the new higher-speed broadband that has the potential to transform everything from e-government to telemedicine. I would promote private-sector innovation policies, including the elimination of capital gains for long-term investments in small business start-ups.

To ensure we have the workers to compete in an innovation economy, we need more young people to not only enter but complete college, we need more young women and minorities to enter the fields of math and science, and we need to make it easier for working parents to get the lifelong learning opportunities they need to excel at both their current and their future jobs.

Cut the deficit and restore economic confidence. When President Bush was in New York for the Republican convention, he did not even pay lip service to reducing the deficit. His record makes even Republicans wary. From missions to Mars to a pricey Medicare bill, President Bush has proposed or passed more than $6 trillion in initiatives without paying for any of them. The record is clear: A deficit reduction promise from

George W. Bush is not exactly a gilt-edged bond.

Americans can trust my promise to cut the deficit because my record backs up my word. When I first joined the Senate, I broke with my own party to support the Gramm-Rudman-Hollings deficit reduction plan, which President Reagan signed into law. In 1993, I cast a deciding vote to bring the deficit under control. And in 1997, I supported the bipartisan balanced budget agreement.

I will restore fiscal discipline and cut the deficit in half in four years. First, by imposing caps, so that discretionary spending—outside of security and education—does not grow faster than inflation. If Congress cannot control spending, it will automatically be cut across the board. Second, I will reinstitute the "pay as you go" rule, which requires that no one propose or pass a new program without a way to pay for it. Third, I will ask for Congress to grant me a constitutionally acceptable version of line-item veto power and to establish a commission to eliminate corporate welfare like the one John McCain and I have fought for.

I am not waiting for next year to change the tone on fiscal discipline. Every day on the campaign trail, I explain how I pay for all my proposals. By rolling back the recent Bush tax cuts for families making over $200,000 per year, we can pay for health care and education. By cutting subsidies to banks that make student loans and restoring the principle that "polluters pay," we can afford to invest in national service and new energy technologies. My new rules won't just apply to programs I don't like; they will apply to my own priorities as well.

Cleaning up President Bush's fiscal mess will not be easy, but to ensure a strong and sustainable economic future we have to make the tough choices to move America's growing deficits back in the right direction.

On Nov. 2 we will have a national shareholders meeting. On the ballot will be the choice to continue with President Bush's policies or return to the fiscal sanity and pro-growth polices that proved so successful in the 1990s. You will choose.

Mr. KENNEDY. Mr. President, I want to review again the circumstances we are facing. We have many Americans in working families working longer and working harder. The fact is, Americans work longer and harder than people in most of the industrialized world. We are one of the few—I don't know another one—where we have seen real income for working families drop, as we have seen over the period of the last 3 years.

This is an indication of a failed and flawed economic policy. No matter how many times you tell the American people that everything is rosy, that is clearly not speaking about Main Street. They may be talking about Wall Street, but they are not talking about Main Street.

When we hear the Vice President saying the lackluster economic indicators don't reflect the reality because they don't include the hundreds of thousands who "make money selling on eBay, that is a source that didn't even exist 10 years ago," and when they try to characterize flipping hamburgers as "industrial jobs," we are not getting the real story. We are not getting the real story on Iraq. We are not getting the real story on health care. We are not getting the real story on education. We are not getting the real story on the economy.

I hope the American people will pay careful attention over the next 6 weeks and try to understand the real story. When they do, I believe JOHN KERRY will have their support.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. LANDRIEU. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

MORNING BUSINESS

Ms. LANDRIEU. Madam President, I ask unanimous consent that there be a period of morning business for debate up to 90 minutes, with the first 45 minutes under the control of the Democratic leader and the remaining time under the control of the majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

HURRICANES

Ms. LANDRIEU. Madam President, I rise to speak this morning about a very important issue for the country, particularly for the gulf coast region and the State of Louisiana.

Madam President, as you know, although your State of Alaska is not located in the southern part of the Nation, you and other members of society are well aware of the devastation that occurred to our coastal communities, whether on the eastern coast or southeastern coast or the central gulf.

As is the case this morning, Hurricane Ivan, a category 4 hurricane bearing down on the gulf coast region, according to the latest weather reports and indications based on good research that is being done here by many of our Federal agencies, we can somewhat predict the path of the hurricane. With our most sophisticated systems, radar and weather tracking, pinpointing with some accuracy, there is a projection of where this killer storm, this major storm, may hit. It seems as though it has turned north and is headed right now to the Mississippi-Alabama line, but it could move within the next 12 hours to the east or to the west.

As we wrap up our business here in Washington, the entire gulf coast, and the State I represent, Louisiana being one of those Gulf Coast States, Mississippi and Alabama and the panhandle of Florida, is under a mandatory evacuation. Why? It is because this is a huge storm. It is a category 4. We hope and pray, and there are some indications, that it will change to a category 3. But it is a major storm with high winds of 165 miles per hour.

It is not the first time a storm of this size or intensity has hit the gulf coast. We know by reading history. Several decades ago, some of us actually lived through extremely powerful and killer storms like Camille or Betsy in Louisiana and other States throughout the gulf coast that proved to be very dangerous, with loss of life and billions of dollars in property loss.

We don't have to be reminded that Florida has just been hit in the last 3 weeks twice already. This one will be of historic devastation in Florida, having had three hurricanes hit in such a short period of time.

I want to speak this morning about what we can do here in Washington a little better, with a little more energy, with a little more focus to help the people in Louisiana and throughout the gulf coast area. Not only do they deserve our help, but because of the energy industry and the economic benefits they bring to the whole country, they not only need our help, they deserve our help. They deserve our attention.

As I have stated, the hurricane is to make landfall sometime in early Thursday morning, sometime between 1 a.m. and 6 or 7 a.m.

The people of Louisiana know the devastation this kind of storm can bring. Let me show a picture because I think a picture is worth a thousand words. While this looks terrible and horrible—and it is very frightening, as you can see a woman, standing water rising over her waist, trying to get to safety—this is not a hurricane. This is only a tropical storm. This was Tropical Storm Isidore that hit the gulf coast in 2002. This wasn't a category 1 hurricane. We are talking about severe devastation when a category 3 or category 4 or category 5 hurricane pushes that water out of the gulf, out of Lake Ponchartrain into the tremendously populated areas around the gulf coast.

This is what people have been fleeing from for the last 36 hours. When I say fleeing, I mean all of the interstates going north out of Mississippi, Alabama, and Louisiana, and interstates going west, as people try to leave the east and head for safety toward Houston. They have been, at times, in bumper-to-bumper traffic for hours. People can walk faster than the rate the cars are moving. Luckily, the Governors of these States are very skilled and able, the local elected officials have been through this many times and were quick to see the danger, even though the path could not be predicted, and were quick to call for evacuations days ago. This morning, we received reports that the highways are clearing in some parts along the Gulf of Mexico.

Some families spent yesterday 12, 13, 14 hours in automobiles, going less than 5 miles per hour as they tried to find safety and shelter all along the gulf coast to flee a storm of this magnitude.

Again, this is not a picture of a hurricane. This is a tropical storm. That is why people are fleeing in the gulf area.

I will speak for a moment about energy and about what the gulf coast contributes to the energy independence and energy security of this Nation. As millions of people have been leaving their homes to flee to higher ground, 442 rigs or platforms have been deserted by companies in the Gulf of Mexico. When I say deserted, not just, of course, left to wreak havoc, but they have been tied down, secured, supported. All nonessential emergency personnel have had to move out of the Gulf of Mexico. This evacuation represents 50 percent of the manned rigs and platforms in the gulf.

Right now, oil and gas from the Gulf of Mexico and coastal Louisiana represents 60 percent of the entire Gulf of Mexico production. For the time being, that has been shut down because of Ivan. I have discussed with Members of this Senate the importance of our LOOP facility. The Louisiana Offshore Oil Port sits right out on the Continental Shelf, near Port Fourchon Louisiana, and is a superport responsible for the entrance of 1 million barrels of oil a day.

We are in Iraq, in an important battle, but part of our objective there is to secure an oil supply for the region and for the Nation and to use that for the betterment of the people of Iraq, for their growth and development and the security and stability of the world, as well as to fight for other issues. We are fighting to get 1 to 3 million barrels out of Iraq, and right here in the Gulf of Mexico, today, we have a facility that has virtually been shut down because of a hurricane. Nearly a million barrels is being imported in this country, and exported, a year.

Port Fourchon is a small port that sits at the very edge of Highway 1. It is unbelievable to view the picture. This is Highway 1 in Tropical Storm Isidore. That was another storm, not a hurricane. This damage occurs in a tropical storm. We cannot see the highway because it is covered with water. The highway leads down to the gulf. Port Fourchon, the LOOP facility, is right off of this shore where 18 percent of the offshore oil and gas revenues flow into this country through this little road called LA 1 that we have been fighting now for several years. With the leadership of Senator MURRAY and Senator REID and others, Senator JEFFORDS and Members on the Republican side, as well, we have been able to get a designation as a special highway, but we are still waiting for the big bucks to help with lifting this highway and expanding it so we can have a functioning port.

The hurricane is scheduled to hit Mobile or west of Mobile right now. I just spoke to the Port Fourchon Port Director and they expect this highway to be underwater by 1 p.m. today—again. This is the major route of oil and gas into the United States of America. This is Highway 1, Port Fourchon, and the LOOP facility, which is the only facility in the Nation that imports and exports oil and gas at that rate and at that level.

My point is, I hope we will again use this opportunity to focus on the critical infrastructure needs necessary for Louisiana and the gulf coast of Mississippi and Alabama primarily to protect itself not just from homeland security threats from terrorists but real threats of weather.

People might say: Senator, why did they build the port here in the first place? I understand that. If we could do it again, knowing what we know now, perhaps that would not have been done. I will speak for a minute about that because I want people to understand the argument. Men and women are here because the oil and gas is here. If we could figure out a way to have people live in Chicago and commute every day down to the Gulf of Mexico to get the oil and gas out of the ground, then people would not have to live here, but we have not figured that out yet. So real life men and women and children and families live here. They have to live here to serve as the platform for the oil and gas that keeps the lights on all over the country. Yet we ask them time and time and time again to literally risk their lives to do so, and we cannot find a few million dollars in this budget to lift this highway so either they can get out or they can be safe.

This is a heavy rain. This occurs in a tropical storm in a heavy rain. I don't know what will happen with the hurricane. That is why people are not panicked but are most certainly concerned. This picture shows the main bayou that runs inland. The only way the rigs can get out of the gulf, they can either dock along the ports—Morgan City, New Iberia, Galveston, and come into Houston for some protection, the only way they can get in is through the Mississippi, up inland, through this bayou. They cannot get in when this bridge is down. The people cannot get out unless the bridge is down. So every time there is a storm, the local officials in my State have to say: OK, kids and families, you all go over the bridge. And they hold up the rigs. Then they let some of the rigs through, and they hold up the families trying to get out.

This is outrageous. We have money in the budget to build this bridge so we can move our infrastructure out of the gulf. And the Presiding Officer understands the magnitude of the barges, cranes, and sheer weight and size of the equipment I am talking about. It is not a Tonka toy. It is not Legos. It is big, heavy equipment that has to be moved at great danger to the men and women who have to move it to save insurance companies money, to save taxpayers money, to save shareholders money for these companies.

Let me talk about what else is going on. Louisiana wetlands are not a beach. I have spent a lot of my life growing up in the gulf area, and I have spent a lot of time on the Florida beaches, and I have never seen anything more beautiful. We in Louisiana support those beaches. We understand the tourism. We are some of the tourists that go there. But our coast is not a beach. We do not have a beach unless you want to count Grand Isle. It is beautiful and wonderful, but does not look like Destin, Florida. It is a lovely small beach. That is about the only beach we have. The rest of our coast is not a beach. It is a wetlands. It is not the wetlands of Louisiana, it is America's wetlands. It has been washing away at an alarming rate. The difference between a major hurricane coming out of the gulf in 1940 and a major hurricane coming out of the gulf this year in 2004 is we have lost thousands and thousands of acres. The size of the State of Rhode Island has been lost in the last 50 years, so the buffer has been shrinking that protects the city of New Orleans and much of the populated portions of Mississippi. That has been lost.

So the people who live on the gulf coast of Mississippi and the southern part of Mississippi and Louisiana are at greater and greater risk because those barrier islands that once existed, those acres and acres and square miles of wetlands, have been eroded. Why? For two reasons. One, we leveed the Mississippi River for commerce, not just to benefit Mississippi and Louisiana but to benefit the Midwest, the Northeast, the West, to open up trade and opportunity up and down that Mississippi River. We had no choice.

If you want to go to before the trade and go to when the country started, we had to anchor the mouth of the Mississippi to literally create the Nation—unless we wanted to stop at the Kentucky border or the Shenandoah Valley, which was a choice at one time. We could have just made the United States go from the east coast to the Shenandoah Valley, and we could have had a wonderful nation right there in the East. But we decided to go West. We decided to go all the way to the Oregon Trail with Lewis and Clark. President Jefferson had a vision, but that vision could not possibly happen without anchoring the security of the mouth of the Mississippi River. So we did. We had to basically try to tame this very wild place, very wet place, very low-lying place.

But we did it not just for ourselves; we did it for the whole Nation, with the

Nation's help and support. We did not pay for everything, but we contributed a great deal. Today we continue to give billions of dollars out of the gulf coast in oil and gas revenues and taxes that go to this country. We continue to send our labor and our support and our money to this Nation. Yet time and time again, when Louisiana comes to ask, Could we please have just a portion of the revenue that we send?—we are not asking for charity; we are asking for something we earned; we are happy to share with the rest of the country to help invest in infrastructure—we are told: We cannot do it this year. We do not have enough money. It is not a high enough priority.

Well, I do not know when it is going to get to be a high enough priority. I hate to say maybe it is going to take the loss thousands of lives on the gulf coast to make this country wake up and realize in what we are under-investing. Again, we lose a football field every 30 minutes. We have lost more than 1,900 square miles in the past 70 years, and the U.S. Geological Survey predicts we will lose another 1,000 square miles if decisive action is not taken now.

Now, we have made good plans in the last several years to save the Everglades. We are well on our way to do that. We have plans underway to restore the Chesapeake Basin, which is an extremely important ecosystem to this part of the country. We have some preliminary plans underway in the Great Lakes. But no area—not the Everglades, not the Chesapeake, and not the Great Lakes—of this great Nation contributes more economically or energy-wise than the wetlands of America that lay to the south along the gulf coast. They do not compare to the energy contribution; they do not compare to the fisheries contribution; they do not compare to the commerce contribution of this Nation or the port contribution when you put it together. Yet we seem to be getting less, not more.

So we have to stop the vanishing wetlands. We have plans in Congress. We are going to continue to push, with LAMAR ALEXANDER's help, on the Energy bill. We have a new bill moving through Congress called the Americans Outdoors Act that seeks to dedicate a portion of those revenues for coastal States, even States that do not produce oil and gas off of their coast. I think we should be willing to share some of these coastal revenues for coastal-related issues. Some people disagree.

The people of Louisiana do not mind sharing. It is sort of our natural way. We are happy to do that. We do not even want it all. We just want our fair share. That is what this bill does.

We also have a bill through the WRDA legislation, which is the traditional funding for the Corps of Engineers, the Federal agency primarily responsible to keep the waterways dredged, to keep the levees up as high as possible, to work with our local flood control folks, particularly our levee boards in Louisiana, which are some of the most important public entities we have, that literally keep people dry from heavy rains and from floods and storms of this nature.

But let me also repeat, again for the record, I know every time a hurricane hits in North Carolina or South Carolina or Florida, other people who are not familiar with hurricanes say: Why do the people live along the coast? Why do we let people live along the coast? I think that is a legitimate argument that could be made for resort communities. It is not mandatory they live there. They choose to live there because, of course, the coastlines are very pleasant and beautiful places to live. In fact, Americans really agree with that because two-thirds of the entire population of the United States live within 50 miles of the coast. So that is an issue that could be debated, and we could talk about that.

But Louisiana people who live in Port Fourchon, while they enjoy living there, believe me, and while they love to shrimp and they love to fish, they are there doing a great service for this Nation, working in an energy industry and trying to dig out of the gulf the resources this country needs. Where people live along these bayous, they are fishing and they are contributing to industries. They do not have a lot of fish in downtown New York. They do not have a lot of fish in Chicago. The only place you are going to catch fish is in the water. So you have to live there basically to catch the fish. They are living there for a livelihood.

In addition, New Orleans itself was settled as the security as this Nation grew. Now people want to say, maybe we should—if a big storm hits—just move New Orleans. I do not know how you move a major metropolitan area. But I also say this about my great city, where I grew up and have represented, still to this day—and in many different ways throughout my life—the people, the city is 9 feet generally below sea level. But we have some of the most sophisticated pumping systems in the world.

In fact, the engineers who built the pumping stations that supply New Orleans with flood control were the engineers who helped Holland and studied in Venice. We do not have halfway pumping systems. We have the best in the world. We have the best engineers, the finest pumping systems. We are an old city, and we spend a lot of our money to keep those pumping systems up to date. In fact, the Federal Government has been a major partner. I am proud to have led the effort. The Southeast Louisiana Flood Control program has invested hundreds of millions of dollars, Federal and State money, to upgrade those pumping systems. So we are not Pollyanna about this. We are not Johnny-come-lately. We have great engineers. We are smart. If fact, we have taught the world how to drain floodwaters because we have been doing it the longest, for over 300 years.

But the city can do just so much, when it has a population that is challenged. We are not the wealthiest State. We are not the richest State. We need our Federal Government to understand that we are happy to share our resources and riches with the world, but we do deserve a greater portion of these revenues to keep our people safe, to keep our infrastructure intact, and, most certainly, to be respectful of what the people of Louisiana and the entire gulf coast contribute to our national well-being and security.

I want to put up another picture. This is another picture of LA 1. This is on a day when you see the traffic backed up. Obviously, there was something wrong with the Leeville Bridge. But this is what the traffic looks like trying to get out before a hurricane: the trucks, the cars, the schoolbuses, trying to leave a place where they were working on behalf of not only themselves but on behalf of this Nation. The least we can do is send a little money to fix this highway and to keep people safe and high and dry in these storms.

Let's pray, Madam President, that Hurricane Ivan does not hit the city of New Orleans directly. I am going to submit a front-page article from the Washington Post for the RECORD. It is an article about what that might be like. One of our emergency personnel who has been working on an emergency plan has stored several thousand body bags in the event of a major flood in the city of New Orleans. Let's hope that never happens. But I have to say, as a Senator representing the State of Louisiana, the chances of it happening sometime are pretty good. If we do not improve our transportation evacuation routes, invest in protecting this infrastructure, and focusing on reinvesting some of the tremendous wealth that has been taken from this area, and reinvesting it back, we will only have ourselves to blame.

Madam President, I ask unanimous consent that the article entitled "Awaiting Ivan in the Big Uneasy" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 14, 2004]

AWAITING IVAN IN THE BIG UNEASY

NEW ORLEANS GIRDS FOR MAJOR DAMAGE

(By Michael Grunwald and Manuel Roig-Franzia)

NEW ORLEANS, SEPT. 14.—Walter Maestri, an emergency manager here in America's most vulnerable metropolitan area, has 10,000 body bags ready in case a major hurricane ever hits New Orleans. As Hurricane

Ivan's expected path shifted uncomfortably close to this low-lying urban soup bowl Tuesday, Maestri said he might need a lot more.

If a strong Category 4 storm such as Ivan made a direct hit, he warned, 50,000 people could drown, and this city of Mardi Gras and jazz could cease to exist.

"This could be The One," Maestri said in an interview in his underground bunker. "You're talking about the potential loss of a major metropolitan area."

Forecasters said Tuesday night that they expected Ivan to veer at least 70 miles east of New Orleans before making landfall early Thursday, somewhere along the Gulf Coast extremities of Louisiana, Alabama or Mississippi. But Ivan has consistently drifted farther west than their predictions. This port city's levees are designed to withstand only a Category 3 storm, and officials begged residents to evacuate the area "if you have the means."

By evening, the city's few escape routes were spectacularly clogged, and authorities acknowledged that hundreds of thousands of residents would not get out in time. The stranded will not be able to turn to the Red Cross, because New Orleans is the only city in which the relief agency refuses to set up emergency storm shelters, to ensure the safety of its own staff. Even if a 30-foot-high wall of water crashes through the French Quarter—Maestri's worst-case scenario—stranded residents will be on their own.

New Orleans is often described as a disaster waiting to happen—it is mostly below sea level, practically surrounded by water, artificially kept dry by pumps and levees, rapidly losing its natural storm protection. But rarely have its leaders sounded so afraid that the wait could be over soon.

"I'm terrified," said Windell Curole, director of the South Lafourche Levee District in the swampy bayous south of the city. "I'm telling you, we've got no elevation. This isn't hyperbole. The only place I can compare us to is Bangladesh."

More than 100,000 Bangladeshis died in a 1991 storm, and Curole is genuinely afraid that a similar tragedy could strike New Orleans, most of which sits six to eight feet lower than the surrounding waters of the Mississippi River, Lake Pontchartrain and the Gulf of Mexico. Ivan is the strongest storm to threaten the region since Hurricane Betsy nailed New Orleans in 1965. It brought more than $7 billion in havoc at a time when southern Louisiana was less populated and less exposed.

The doomsayers are quick to add a caveat: Ivan might not turn out to be The One. The National Hurricane Center expects the storm to swerve toward the area between Gulfport, Miss., and Mobile, Ala. Officials in Louisiana, Alabama, Mississippi and the Florida Panhandle were urging residents Tuesday to leave coastal areas. "I beg people on the coast: Do not ride this storm out," Mississippi's Gov. Haley Barbour (R) said.

A dozen coastal casinos were shuttered in Mississippi, and Barbour's evacuation order for coastal areas was mandatory. In Alabama, Gov. Bob Riley (R) ordered evacuations from Gulf Shores, Orange Beach and Fort Morgan, and some towns postponed runoff elections scheduled for Tuesday. Evacuation was mandatory in parts of Escambia, Bay and Walton counties in Florida, and most schools in the Panhandle were closed.

Most scientists, engineers and emergency managers agree that if Ivan does spare southern Louisiana this time, The One is destined to arrive some day. The director of the U.S. Geological Survey has warned that New Orleans is on a path to extinction. Gregory W. Stone, director of the Coastal Studies Institute at Louisiana State University, frets that near misses such as Hurricane Georges—a Category 2 storm that swerved away from New Orleans a day before landfall in 1998—only give residents a false sense of security. The Red Cross has rated a hurricane inundating New Orleans as America's deadliest potential natural disaster—worse than a California earthquake.

"I don't mean to be an alarmist, but the doomsday scenario is going to happen eventually," Stone said. "I'll stake my professional reputation on it."

The main problem with southern Louisiana is that it is dangerously low, and getting lower. The levees that imprisoned the Mississippi River into its shipping channel and helped make New Orleans one of the world's busiest ports have also prevented the muddy river from spreading sediment around its delta.

As a result, southern Louisiana is sinking into the Gulf, losing about 25 square miles of coastal marshes and barrier islands every year. Those marshes and islands used to help slow storms as they approached New Orleans; computer simulations now predict that the loss of these natural storm barriers will increase storm surges and waves by several feet.

On a seaplane tour of the region Tuesday, Gerald M. Duszynsi, assistant secretary of the Louisiana Department of Natural Resources, pointed out an area near the tiny bayou town of Leesville, where he fished for redfish and flounder 25 years ago. Once a solid patch of green tidal marsh, it is now mostly open water, with a few strips and splotches of green.

"This used to be perfect, and now look at it," Duszynski said. "The buffer is gone. Now even the little storms give a big influx."

Louisiana's politicians, environmentalists and business leaders have been pushing for a $14 billion coastal restoration project to try to bring back those lost marshes and islands—in order to help protect New Orleans as well as an oil and gas industry that handles nearly a third of the nation's supply.

The Bush administration forced the state to scale down its request to $1.2 billion last year, and a Senate committee authorized $375 million. But Mark Davis, executive director of the coalition to Restore Coastal Louisiana, believes that even if Ivan bypasses the region, its scary approach could help galvanize support for a more comprehensive fix.

"We're running out of tomorrows," Davis said. "God willing, if there's still a southern Louisiana next week, I'm not talking about the politics of the possible anymore. It's now a question of which side are you on: Do you support the obliteration of a region, or do you want to try to save it?"

On Tuesday, though, most local officials were thinking more about the potential danger than the potential opportunity. If Ivan does pound New Orleans tidal surges could leave the city underwater for months, since its pumps can remove only about an inch every hour, creating a "toxic soup" of chemicals, rodents, poisons and snakes.

The local officials said they could not order a mandatory evacuation in a city as poor as New Orleans in which more than 100,000 residents have no cars, but they urged people to find some way to escape. "If you want to take a chance buy a lottery ticket," said Jefferson Parish President Aaron Broussard. "Don't take a chance on this hurricane."

New Orleans Mayor C. Ray Nagin seemed flustered as he pleaded with his constituents to flee, at one point suggesting that they take shelter in area hospitals. Visitors were also urged to find somewhere else to go—including 10,000 conventioneers in town for the annual meeting of the National Safety Council

"This is not a drill," Nagin said. "This is the real deal."

But the logistics of exit are quite formidable in the Big Easy. In 1998, as more than 300,000 people fled Hurricane Georges, Interstate 10 turned into a parking lot. Similar miles-long snarls unfolded Tuesday. Flights were canceled and the airport prepared to close. The town that gave the world "A Streetcar Named Desire" idled its streetcars.

The underlying problem, Maestri said, is that the city never should have been built in the first place. It is a teriffic location for business but a lousy location for safety.

"The Chamber of Commerce gets really mad at me when I say this, but does New Orleans get rebuilt?" Maestri asked. The answer, he said could very well be no.

I thank the Chair for the time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LACK OF DIRECTION

Mr. LAUTENBERG. Madam President, I rise to voice deep concern about what is happening in our war with Iraq, what is happening within our country, and a lack of direction that is pronounced as far as I am concerned.

We hear the political debate that goes on: What is your plan for getting us out of Iraq? Well, what is yours?

Since our Commander in Chief is in charge, I would think that he would lead the country and lead the direction of the campaign, telling the American people about when it is we are going to be able to expect our troops to come home, when these families will be reunited.

Last week, the 33rd soldier from New Jersey died in Iraq. Our country has now lost a total of 1,018 of our troops in Iraq. Of these deaths, 877 troops have died since the President announced that major combat operations in Iraq were over, finished. He made that announcement during a political appearance on an aircraft carrier on May 1, 2003.

If we look at this picture, we see our sailors lined up. I know what they are thinking. I was a veteran, and I remember so vividly when I was on a ship bound for Japan after serving in Europe and the war suddenly ended and how relieved I was. I was concerned for myself, of course, but I was concerned for my brothers and sisters in arms as well. So these sailors are standing at attention, and there were rousing cheers when the President made his statement. And he boldly declared: "Mission accomplished."

It turned out to be more theater than reality. The mission accomplished debacle is illustrative of President Bush's failure to execute a coherent plan to win the war in Iraq. Even after reaching a thousand dead, President Bush has not come forward with a plan. We have not heard one word about when those troops are expected to come home. When will the fighting really stop? When can we look at the situation in Iraq and say, good grief, it is finally resolved? Every day more and more people are killed, and many are Americans. But lots of times the structure in Iraq promotes this kind of dispute and violence.

I say to President Bush, stop this killing. Our troops are putting their lives on the line for our country.

The President refuses to show the kind of leadership we need to have in a time of war. Even as the fighting continues, we hear promises that somehow or other it is going to get better, when in fact the situation has worsened.

I ask my colleagues: What are we doing there? What is our plan? What kind of a government do we think we are going to see there? We have sort of turned it over to the Iraqis, but since that turnover has been made the violence and the numbers killed each day has accelerated. I don't know whether anyone here knows what, if any, our plans are. As the killing continues overseas, the President is inviting a new risk to begin here at home.

Madam President, this Senate, the Congress, failed to extend the life of the assault weapons ban. Ultimately, the failure to extend this law falls on the desk of President Bush. He has not done anything—not lifted a finger—to urge the Republican leaders to extend this ban. As a matter of fact, in earlier days, he said he would sign a bill. But he knows very well, and all America knows very well, if he doesn't encourage the Republican leadership to present a bill, there is no bill to sign. So all kinds of boastful comments can be made about how he would sign it, but to my knowledge he never has picked up the phone and called the leadership of the House or Senate and said we need a bill, we don't want these crazy weapons around our country.

Assault weapons are semiautomatic, civilian versions of weapons designed for military use. They are the weapons of choice of criminals and terrorists because they are capable of holding large-capacity magazines that allow a shooter to fire up to 150 shots without having to reload.

These weapons are specifically designed for military use in order to kill greater numbers of people more effectively and quickly.

This placard illustrates some of the new products available at local gun stores, thanks to the President's lack of leadership. We took an action here that said we would like to continue the ban, but it fell when the House refused to deal with it.

We could not find weapons of mass destruction in Iraq, and we are finding weapons that easily destroy lives right here at home. FBI statistics show that one in five law enforcement officers slain in the line of duty were killed by an assault weapon. That is why police officers across the country are outraged that we did not extend this ban. Why in the world we need these weapons, I cannot figure out. Who do we please when we say let's have these automatic weapons on our streets in New York? For what purpose? Target shooting? Shooting deer? Maybe shooting neighbors. Maybe drug dealers, yes. Maybe policemen. That is who gets shot when these guns are available.

The International Association of Chiefs of Police, the Fraternal Order of Police, the International Brotherhood of Police Officers, the Major Cities Chiefs Association, the Major County Sheriffs Association—every one of them want us to extend the assault weapons ban. But our ears were closed.

Madam President, these law enforcement officers put their lives on the line every day, and they should not have to face criminals armed with an Uzi pistol or an AK-47 rifle, a Street Sweeper, or a TEC-9 pistol during a drug bust or school shooting. This Nation should never forget the school shooting at Columbine High School in Littleton, CO, where two teenage students, using a TEC-DC9 assault pistol and other weapons, went on a shooting rampage that killed 12 other students and a teacher. Who can ever forget the pictures of the students hanging out the windows begging for mercy, begging for a way to escape the rampage that was taking place?

We should never forget it. But we don't want to do anything about it; that is the tragedy. Nor should the Nation forget another school shooting in Stockton, CA, in 1989, where an AK-47 was used in a schoolyard full of kids, firing over 100 rounds in less than 2 minutes and killing 5 children and wounding 29 others.

Then there is the issue of terrorism. If anyone thinks for a second that the expiration of the assault weapons ban will not be noticed by foreign terrorists, then we are hiding our heads in the sand.

Found in the ruble of a terrorist training camp in Afghanistan was a manual. It is entitled, "How Can I Train Myself for Jihad?"

The placard contains a quote from that manual:

> In other countries, e.g., some states of the USA, South Africa, it is perfectly legal for members of the public to own certain types of firearms. If you live in such a country, obtain an assault rifle legally, preferably AK-47 or variations, learn how to use it properly and go and practice in the areas allowed for such training.

That is training on how to kill innocent people.

This placard also says:

> "How Can I Train Myself for Jihad," a guide originally published on the Azzam.com, a website dedicated to the worldwide jihad (now shut down). The guide was found in the ruins of a terrorist training center south of Kabul, Afghanistan, after it was destroyed by U.S. air strikes in late 2001.

Those are the people who want to get their hands on these weapons. Those are the people who say that the United States is easy pickings if you want to buy a gun and kill a lot of people.

Terrorists know, they are aware of our weak gun laws. It just became weaker. For all of President Bush's statements on terrorism, he has chosen to stand with the NRA rather than protecting our communities from this brand of terror.

In my view, the President's behavior on the assault weapons ban is one of those things we call a flip-flop. It is when you say one thing and do something else. We saw an angry U.S. Senator on the floor of the convention a couple of weeks ago when he said that the worst thing to do is say something and do nothing. That is his definition of a flip-flop.

This is a flip-flop of the worst order. It endangers our families, our children, and our Nation's law enforcement officers. I wish it were not so, and apparently there is not going to be any going back on the assault weapons ban. I wish there were a way to resurrect it. We are where we are. What we have done is we have encouraged the sale of these weapons. I heard there are gun manufacturers who were preparing for a burst of sales activity when these weapons were available. I ask myself: Who wants to buy these kinds of weapons? What are they going to do with them? They are going to endanger our families and our kids and other innocents. That is what they are going to do.

It is too bad because we are now in the midst of a terrible situation with the war, with the casualties continuing to escalate, and with a situation totally out of control in Iraq. I was there shortly before the government was turned over to an interim group to be followed by an election in January. The fact is that it does not look like there is going to be an election in January. I heard statements from those in leadership in Iraq who suggest an election might be tough to hold. But one thing is for sure, this is not a mission accomplished. This is a mission that is still underway, and the cost is terrible.

I went to visit some wounded from Iraq at Walter Reed a few weeks ago, after a burial at Arlington Cemetery, to meet young people who will never function the way they used to. There was a man who was blinded from an attack who said to me: I will never see my 28-month-old daughter, but I still want to hold her.

That is the condition that continues to develop each and every day: Over 1,000 killed, many more thousands wounded, and we just hope and pray they will recover and we will be able to conclude this effort in Iraq successfully but quickly.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I ask unanimous consent that I might proceed as if in morning business.

The PRESIDING OFFICER. We are in morning business.

LEGITIMACY OF NEWS STORIES

Mr. BENNETT. Mr. President, if I might reminisce for a moment as a predicate for what I am about to say. I go back to a time in my career when I was the center of considerable national press attention. The occasion was the 1970s. The issue was Watergate. I will not bother to describe why I was there; I will just tell my colleagues of a phone call I received one night just before the "Evening News with Walter Cronkite" came on CBS.

A reporter called me to say that Dan Rather was going to be speaking about me that night, and he read to me the piece that had been written for Dan Rather to give on the evening news. Frankly, it terrified me because if it had been delivered in just the way it was read to me on the phone, it would have destroyed my business, destroyed my career, made it impossible for me to continue to represent the various clients I had in my public relations and consulting firm.

I said that to the reporter. I said: This is terrible, it is not true, and you will destroy my career. We had a brief conversation about the details of what it is he had in his report, and he said, well, I see your point, I will do the best I can, and hung up at about 10 minutes before the news broadcast was to begin.

As anyone can understand, I watched the news with great interest that night, and Walter Cronkite began by saying: Tonight, Dan Rather has important new information about the Watergate scandal that he will be bringing us from Washington. It was about 20 minutes after the hour when he got around to Rather, and Dan Rather then gave a report, mentioned me by name but said the things that I had said to the reporter, along with some of the things he had already prepared. It was not a pleasant experience for me, but it was nowhere near what it sounded as if it would be some half hour before.

Within 10 minutes after the news broadcast ended, the phone rang again at my home, and it was Dan Rather. I thanked him for paying attention to the points I was trying to make, and he said: Well, you had a strong advocate, referring to the reporter who had been talking to me. Then he said: I have been in this town long enough to know the difference between a legitimate news story that has somehow come out and a situation that is being laid on me for the purpose of getting the information forward. He said: Mr. BENNETT, this was not a legitimate news story. This is something that was laid on me by someone who obviously wishes you ill. Who do you think your enemies might be in this situation?

We then had that discussion. That is neither here nor there, but obviously I always will remember that time. We do remember the times in our lives when trauma comes upon us. I remembered it fondly, with respect for Dan Rather and his willingness to listen to something other than the preconception that had been handed to him, and for his journalistic instinct to tell him that this just might not be a legitimate story, this just might be something that someone was feeding to him for a purpose and a hidden agenda.

We now know about the great controversy that has surrounded the documents that have come forward with respect to President Bush's service in the Texas National Guard. I regret, from my personal experience, to find that this newsman whom I have respected all these years is in the center of this particular controversy. It would seem to me that this time, Dan Rather's instinct has failed him. The instinct that told him some 30 years ago, again in his words, that "something was being laid on him" deserted him this time. It is very clear that documents were forged, they were laid on him, and this time he bit.

I do not join in the chorus that is arising on talk radio and elsewhere that he must somehow be driven from the air. I don't think he deserves that. But I do think this is a cautionary tale and we need to spend a little time talking about it because it represents a new phenomenon in the information age where someone has used information-age technology to forge documents and then insert those forged documents and the false information they contain into the political debate at a time that is crucial.

This is the first indication I know of where we have seen that sort of thing, a deliberate attempt on the part of a forger to change the course of an election and a situation where respected organizations, such as the Boston Globe and CBS News, have been conned by that forger and have become unwitting participants in foisting a forgery and a fraud upon the electorate.

I believe I am something of an expert on forgery. In this same period of time, back in the 1970s, I worked for Howard Hughes. I was working for the Hughes organization when we had two of the most significant forgery attempts of the last century. The first one was the autobiography of Howard Hughes. The second one was the will of Howard Hughes.

We now know, looking back, that the autobiography of Howard Hughes was written by a man named Clifford Irving, who had never met Howard Hughes, never spoke to him, never had any contact with him at all. But, perhaps a parallel to today's situation, two very respected and prestigious national organizations bought the Clifford Irving forgery, paying $1 million to Clifford Irving for that manuscript. McGraw-Hill Publishing Company was going to publish the book, and Time-Life, the publishers of Time and Life magazines, now part of Time Warner, was going to publish excerpts from the book.

I won't go into the details of that, but I do remember very clearly when the leading investigative reporter for Life magazine came into my office to discuss the Howard Hughes autobiography, and I said to him there is no way in the world that Howard Hughes has ever met Clifford Irving. That is absolute, provable, irrefutable. Clifford Irving and Howard Hughes had never, ever met each other.

The reporter said to me: That may be true. Irving is probably lying about how he got the manuscript, but the manuscript itself is genuine. The evidence is overwhelming.

I said: What evidence?

He said: The handwriting experts. The handwriting experts have looked at the handwriting on the note that Clifford Irving put forward—supposedly written by Howard Hughes—validating the manuscript, and he said the handwriting experts are unanimous, Howard Hughes wrote that note.

Now we know, of course, Howard Hughes did not write that note. Clifford Irving wrote that note.

In the course of his trial, one of the prosecutors said to Clifford Irving: Is it really possible that you were the man who wrote that note? Is it really possible that you had the skills of forgery so that you could write something that would fool the best experts in the country on handwriting analysis?

Clifford Irving took a legal pad, wrote out a letter from Howard Hughes to this particular prosecutor, signed it "Howard Hughes," and handed it over to him. The prosecutor had it framed and it is hanging on his wall.

One of the major lessons I learned from that experience is that the experts can be wrong. The experts can be fooled. A good forger who concentrates in the right area can, in fact, come up with forgeries that can get by some forensic experts.

I don't think that is the case with the forgeries with respect to President Bush's Texas National Guard service. I think the forgeries are fairly clumsy and the expert that CBS has quoted validated only the signature and not the document as a whole.

But the thing I have learned from dealing with the Hughes forgeries, the fake autobiography and the fake will, is that one must look at a forgery not only for the forensic side of it but also for the content and ask this fundamental question whenever something magically appears: Why did this appear at this particular time?

If, indeed, Howard Hughes was planning to write an autobiography, why did it appear just after there was a major shakeup in the Hughes organization and there was a tremendous amount of publicity about Howard Hughes' reclusiveness? Isn't that coincidence a little bit too close?

The will that would have left hundreds of millions of dollars to a service station attendant in the state of Utah, why did that appear just as the press was reporting that Howard Hughes had died without signing a will? What caused this to come forward at just that moment? Isn't that content suspicious? Doesn't that suggest that somebody has an agenda that is not just a coincidence?

The third area of forgery with which I am familiar says exactly the same thing. I had friends with whom I went to college who were killed by the forger-murderer Mark Hoffman. Mark Hoffman earned his living over decades forging documents that had relationship to the Mormon Church.

Looking back on it, now that Hoffman is in jail, we should have recognized, once again, the great coincidence that these documents would come forward at just the right time. There would be scholars who would be speculating as to whether the founder of the church had any connection with folk magic, and suddenly, at just the right time, documents saying that he did have connections with folk magic began to appear. We now know they were forged. They came from Mark Hoffman. They were created out of whole cloth.

But they seemed logical because of the context in which they came.

The application of that to these documents relating to President Bush is obvious.

Why, if these documents have been sitting in the records of the Texas National Guard for all of these years, did they suddenly come forward with exactly the right amount of validation of the accusations that are being made by President Bush's opponents at just the right time in the campaign when the Kerry campaign seemed to need a little boost?

That alone, once again, in historic context, says be on your guard. That alone should have alerted Dan Rather's journalistic instincts that this is not really a legitimate leak. This is something somebody is laying on him for the purpose of their own agenda.

The rest of the press has gone in after all of the forensic evidence.

I looked at it with great interest because of my background in forgery. I agreed that the memos that are purported to be true do not fit with the memos that are written in the Texas National Guard. I agree that the typeface is suspect. I agree there can be no explanation other than forgery for the fact that someone sat down at a modern computer and recreated the memo exactly. You cannot do that with memos that are typed on typewriters. You have to go back to the original typewriter to recreate a memo and have it match exactly.

I agree with all of the forensic evidence, and I agree that there is absolutely no question that this is a forgery.

But instead of wallowing in the delight of having caught the Boston Globe or CBS in their gullibility, having caught them in the mistake of having bought this whole thing, let us ask the more fundamental question: Who did it? Who is concerned with the campaign to such a degree that they are willing to falsify documents and peddle them to national media organizations?

I have heard three explanations. There are people who have speculated on this. Frankly, the speculation in its own way can add to the poison of this situation.

The first speculation I heard was that it was done by supporters of President and Senator CLINTON. As they put it, the Clinton supporters want to make sure KERRY didn't win so that the 2008 nomination would be open to Senator CLINTON, and they are the ones who forged the documents and then put them forward in a way that they knew would be embarrassing to the Kerry campaign.

The second speculation is that Karl Rove did it; that the Republicans are the ones who did this; that this is a Republican dirty trick; that they are so anxious to destroy KERRY they are willing to forge documents and foist them onto an unsuspecting CBS and Boston Globe.

The third explanation, to me, is the only one that makes any sense, which is that there is an overzealous KERRY supporter, or, if you will, a Bush hater who is really stupid. This was a really dumb thing for someone who supports Senator KERRY to have done.

I cannot believe it was done by anyone in the Kerry campaign because they are smarter than that. But very often in politics we have the experience called up from my father when someone was trying to help him in the campaign: I can take care of my enemies, may the Good Lord save me from my friends.

But someone who wanted Bush to lose and KERRY to win said if the documents to support the charge on the National Guard issue aren't there, I will see that they are there. I will do it anonymously. This will be my contribution to the campaign.

It is a really stupid thing to do. But I believe that is the explanation of where this came from.

Stupidity trumps Machiavelli almost every time when you are looking for an explanation.

However, I think everyone ought to focus on finding out who did it. Until we do find out who did it, we will continue to poison the atmosphere with the suggestion that maybe the Clintons did it, maybe Karl Rove did it, or the Republicans played a dirty trick. We know there are other forces at work.

We owe it to clear the atmosphere by finding out who it is that forged these documents.

Back to my own history, we cleared the atmosphere with respect to Howard Hughes when we found out and made public the fact that the H.R. Hughes to whom the million-dollar payment was made by McGraw Hill was, in fact, Clifford Irving's wife. She opened a Swiss bank and told them her name was Helga R. Hughes, and asked McGraw Hill to please make the checks out to H.R. Hughes. And then Clifford Irving's wife deposited them into her account. Naturally, the signature card that endorsed the check H.R. Hughes matched the signature card in the bank because Clifford Irving wrote them. Once we knew that, then the air was cleared.

The air was cleared with respect to the Howard Hughes will and who wrote the will. When Melvin Dumar, the service station attendant who would have inherited $100 million from Howard Hughes, exclaimed he knew nothing about it, yet was surprised when he came forward and was confronted in court by the fact that his thumbprint was on the will inside a sealed envelope when the will was found. Again, the air was cleared, and there was no more mystery as to where this came from.

The air was cleared with Mark Hoffman and all of the documents that he forged when the murders occurred and we found out that he was trying to cover up his forgery by killing people who were in a position to expose him.

The air needs to be cleared here. We should not just stop at snickering at newspapers and television stations that seem to have been taken in. We should go deeper than that and find out who actually did it. Then we can lay to rest the conspiracy theory that says it came from all of these other places.

I end as I began by saying, over the years, I have always had a warm spot in my heart and a great sense of respect for Dan Rather because of the way he treated a story in which I was a principal some 30 years ago. I know he is a journalist with the highest professional standards. I extend to him my regrets at this time that his journalistic instincts failed him, and he didn't realize this was one that was being laid on him in the hope that he would be taken in. I hope he will recover from this. I know at some point he will recognize that he was taken in and step forward and make that acknowledgment clear.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I have enjoyed listening to my friend from Utah. He always speaks eloquently and brings a different insight than most of us can to issues. It is a remarkable saga which he recounts. It also makes me think that here we are, 6 weeks before a Presidential election, which all parties are describing as one of the most important in our history, when we are at war and we have significant issues of health care, immigration—we could make a list a mile long—and jobs, can we keep our jobs in the competitive marketplace, and the dominant issue of the moment is the media covering the media about something that might or probably didn't happen 30 years ago.

My hope is that we recognize that Senator KERRY served, President Bush served, and they both supported the war in Iraq. It is now at the forefront of American consciousness. And the question before us in the Presidential race is which one of these men is the best prepared to be Commander in Chief to lead us into the future? My hope is the media coverage would be more on those issues, more on the future. I don't want to hear too much more about what happened 30 years ago.

The distinguished occupant of the chair was heroic in his service 30 years ago. We admire that. But he spent most of his time looking toward the future, as I do mine, and I think the American people do. We are not elected to CBS president of the United States.

It is my hope that whatever the circumstances, if they made a mistake, admit it—we politicians have learned the hard way that is the best thing to do—and get on with it. Talk about 30 years from now, instead of the media covering the media about what happened 30 years ago or what might not have happened 30 years ago.

Earlier, the Senator from Louisiana, Ms. LANDRIEU, came to the Chamber and talked primarily about the devastating hurricane in New Orleans. Having lived in New Orleans a year, at the time of another great hurricane in 1965, I know how difficult that is going to be for New Orleans, Mobile, and that part of the world. Our hearts and support are with the people of the gulf coast. We are thinking about them and their families and hope they are safe.

LAND AND WATER CONSERVATION FUND

Mr. ALEXANDER. The Senator from Louisiana also mentioned the 40th anniversary of the Land and Water Conservation Fund. She and I intended today to speak together about that. She spoke about it and she will have more to say. She has worked very hard on it for the last several years.

I take a few minutes in honor of the 40th anniversary of what we call the Land and Water Conservation Fund, or the LWCF in this country. Forty years ago, in September of 1964, President Johnson signed legislation establishing the fund. It has been an important factor in preserving open spaces in our country ever since.

The idea began under a Republican President, President Eisenhower, who signed legislation creating a commission to determine what should be done to preserve outdoor space for recreation. Then a Democratic President, President Kennedy, submitted legislation to Congress creating the Land and Water Conservation Fund. In submitting the draft legislation, President Kennedy wrote:

> The Nation needs a land acquisition program to preserve both prime Federal and State areas for outdoor recreation purposes. . . . In addition to the enhancement of spiritual, cultural, and physical values resulting from the preservation of those resources, the expenditure for their preservation are a sound financial investment.

Shortly thereafter, it passed the House by a vote voice and the Senate with only one vote in opposition. Then President Johnson signed it into law. This is an idea that has had bipartisan support from the very beginning.

Since that time, 40 years ago, 37,300 Land and Water Conservation Fund State grants, totalling more than $3 billion, have been instrumental in preserving 2.3 million acres and building 27,000 recreational facilities. For example, one park that was preserved by grants from the LWCF is Fall Creek Falls in Tennessee. Grants from the fund totalling $376,000 helped acquire land and built facilities at this spectacular park, which I have visited many times, boasts the highest waterfall in North America east of the Rocky Mountains. Chances are pretty good many parks we have hiked would not even exist if it were not for the Land and Water Conservation Fund.

Yet since the early 1980s, the Land and Water Conservation Fund has been consistently shortchanged of funding. During most of the 1980s and 1990s, funding levels were kept to about one-third of the authorized level—$300 million of $900 million authorized, for example. By the late 1990s, funding for State grants under the Land and Water Conservation Fund was cut to zero.

In recent years, we have seen some improvements. Funding for State grants averaged about $100 million since 2001, but it is not hard to do better when you are doing nothing.

While funding has declined, demand for conserved areas has dramatically increased. Since the Land and Water Conservation Fund was first established, the population of the United States has grown by more than 40 percent. A growing population puts pressure on open spaces in two ways: First, more people want to enjoy the great outdoors so they need more space for it; second, more land is being used for other purposes—such as new subdivisions, shopping malls, office buildings, and more—which makes open space more scarce, especially in areas where most of us live. The demand for parks and open space is higher than ever before, especially for city parks, the parks down the street in which we walk, run and enjoy the outdoors.

How can we fund conservation efforts in the time of tight budgets? The Americans Outdoors Act of 2004, which Senator MARY LANDRIEU and I introduced in the Senate earlier this year, provides the answer.

The act provides a reliable stream of funding by collecting what we call a conservation royalty on revenues from drilling for oil and gas on offshore Federal lands. It uses this conservation royalty to fully fund three existing Federal programs. First, the State side of the Land and Water Conservation Fund is $450 million annually. Second, the Wildlife Conservation Fund is $350 million annually. And third, Urban Parks Initiatives is $125 million annually. It also provides 500 million additional dollars each year for coastal impact assistance including wetlands protection.

This new conservation royalty is not such a new idea at all. It is modeled after the existing State royalty for onshore oil and gas drilling created in the Mineral Lands Leasing Act of 1920. The act gives 50 cents of every dollar from drilling onshore—and in the case of Alaska, 90 cents out of every dollar—as a royalty to the State in which the drilling occurs.

In a similar way, our Americans Outdoors Act of 2004 would create a conservation royalty of about 25 percent for revenues of the funds collected from offshore drilling on Federal lands. Some of the royalty would go to States such as Texas where the drilling occurs. More would go to all States for parks, game and fish commissions, and projects funded by the Land and Water Conservation Fund.

The premise of this legislation is simple. If drilling for oil and gas creates an environmental impact, it makes sense to use some of the proceeds to create an environmental benefit. In 2001, the Federal Government received $7.5 billion in oil and gas revenues from Federal offshore leases. This revenue comes from the Outer Continental Shelf which supplies more oil to the United States than any other country, including Saudi Arabia.

I mentioned at the beginning this was a bipartisan idea. I should mention one other President who was involved in this idea. His name was Ronald Reagan. In 1985, President Reagan asked me to chair the President's Commission on Americans Outdoors which looked ahead for a generation to try to see what we could do now to help us—today, as it turns out, nearly 20 years later—to enjoy the great American outdoors. One of the major recommendations from President Reagan's Commission on Americans Outdoors was that we take some of the money from offshore oil drilling and devote it to wildlife preservation, to city parks, and to the State and Federal sides of the Land and Water Conservation Fund.

Senator LANDRIEU and I intend to add an amendment that includes the Federal side of the Land and Water Conservation Fund to our proposal.

Today, we celebrate 40 years of a good idea with a new suggestion for how to improve it: a conservation royalty on offshore revenues that we treat exactly the same way we have treated onshore revenues for 50 years. We give it to the States and to the Federal side of the Land and Water Conservation Fund for wildlife preservation and city parks.

Someone once said Italy has its art, England has its history, and the United States has the great American outdoors. Our magnificent land, as much as our love of liberty, is at the core of our character. It has inspired our pioneer spirit, our resourcefulness, and our generosity. Its greatness has fueled our individualism and our optimism and made us believe anything is possible. It has influenced our music, our literature, our science, and our language. It has served as our training ground for athletes and philosophers, of poets and defenders of American ideas.

So let us come together to conserve the great open spaces of our country for generations to come. That is why the generation before us—Presidents Eisenhower and Kennedy and Johnson and Reagan—worked to establish the Land and Water Conservation Fund 40 years ago. That is why we should make sure it is fully funded today. The Americans Outdoors Act will do just that.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

EXTENSION OF MORNING BUSINESS

Mr. CORNYN. Mr. President, I understand that morning business is set to expire soon. I ask unanimous consent that period be extended so other Senators may speak during this extended period of morning business for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, to make sure I do not run out of time—my remarks may take a couple minutes more—I ask unanimous consent that I be allowed to speak for so much time as I may consume, not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Thank you, Mr. President.

TRIBUTE TO JUDGE REYNALDO GUERRA GARZA

Mr. CORNYN. Mr. President, I rise today to pay tribute to Judge Reynaldo Guerra Garza, who passed away yesterday in Brownsville, TX, at the age of 89. Judge Garza was the first Mexican American to serve as a Federal district court judge and a Federal appellate judge. Today, I join my fellow Texans in mourning this loss, along with his wife of 65 years, Bertha Garza, and his five children. By any measure of Reynaldo Garza's stature in the community, he was a mountain of a man.

Reynaldo Garza was born in 1915 in Brownsville, TX, a first-generation American whose parents had fled civil unrest in Mexico. It was during the Depression when he decided to become a lawyer, so he worked as a laborer for the WPA to save money for tuition at the University of Texas.

He excelled in his studies at the University of Texas and developed a great many political friendships, including a longstanding friendship with then-congressional candidate Lyndon Baines Johnson. In 1939, he graduated from the University of Texas Law School and opened his own law office in Brownsville, TX. A solo firm was financially risky for such a green young lawyer, but Reynaldo Garza strongly believed he should practice law in his community, among his family and his friends.

Reynaldo Garza served for 4 years as a gunnery sergeant in World War II and returned to Brownsville with a growing reputation as a civic leader and a brilliant lawyer. He was invited to join the largest firm in town as a partner, where he practiced commercial and insurance law for more than a decade.

When a Federal judicial vacancy came up in 1961, President John F. Kennedy nominated Reynaldo Garza to fill the seat with broad support from the Texas leadership. After being confirmed, Judge Garza plowed through a heavy 2-year backlog of cases in exceptional time. As his profile grew, Judge Garza became a symbol for many young, hard-working Hispanics to pursue their goals of leadership within the legal, business, and social community, blazing a trail for others to follow.

Those in Brownsville, TX, who saw Judge Garza as a model to follow included a junior high school student named Juliet Garcia, who became the first Mexican-American woman president of a university, and a young attorney, Federico Pena, who was to become U.S. Transportation Secretary.

Garza wrote:

> I've always said I hope I got the appointment because I was qualified, not because I was Mexican American. But I knew I had to do a good job or else my actions would reflect not only my ability, but also that of other Mexican Americans.

It was in December of 1976 when President-elect Jimmy Carter called Judge Garza personally to ask him to join his Cabinet as Attorney General. But Judge Garza thought it was a prank call, so he simply hung up the phone. Eventually, after being convinced this was indeed the real thing, a request from the President-elect, Judge Garza gracefully declined the offer because he wanted to stay close to home and stay close to his community.

But it was in 1978, when President Carter called again, and this time offering him a nomination to serve on the Fifth Circuit Court of Appeals—after having been confirmed by the Senate—he became the first Mexican-American Federal appellate court judge. At every step of the way, Reynaldo Garza blazed a trail for others.

U.S. Ambassador to Mexico Tony Garza, who practiced law in Brownsville from 1983 until 1988, told the Associated Press today that everybody who knew Judge Garza had a story to tell. He said:

> I remember him telling me when I was a lawyer, "Don't ever forget you'll have a lot of clients, if you're lucky, but hopefully your clients will only have one attorney."

The Ambassador said:

> I will never forget that advice.

Judge Garza retired from active service in 1982, but he continued to serve on the Fifth Circuit Court of Appeals with a reduced workload. His last court sitting was in 2001, and he continued working as a circuit court judge until the time of his death. He never lost that dedication or belief in the importance of hard work and perseverance.

Let me share with you one additional story. This one is from the Brownsville Herald of today. It was reported:

> Garza touched many [lives] in the legal community, both professionally and personally.
>
> Undeterred by his illness, he officiated the swearing in of U.S. District Judge Ricardo H. Hinojosa in McAllen as chairman of the federal sentencing commission. The ceremony was performed in [Judge] Garza's hospital room in Brownsville on Aug. 3, Hinojosa said.
>
> [Judge] Hinojosa met [Judge] Garza when he was on the bench at the federal courthouse in Brownsville. Their two courtrooms were located on the same floor.
>
> "Judge Garza was a great mentor and immediately made me feel at home . . . he was

always ready to provide advice and counsel," [Judge] Hinojosa said.

Hinojosa said he has admired Garza since he was a boy. He remembers attending naturalization ceremonies in Starr County, which [Judge] Garza presided over.

"I remember sitting there and not realizing that someday I would be working on the same floor as he did," Hinojosa said. "He's an example of anything that is possible in this great county."

"The rest of us have come along after him because he opened doors for us. He opened doors that remain open for the rest of us."

Mr. President, today, I offer this salute to the memory of Judge Reynaldo Garza.

I remember when I served on the State judiciary, we were at Southern Methodist University School of Law trying to help young law students become effective advocates on a moot court panel. He and I served on the same panel. I remember his great humor, his great intelligence, and his incisive questioning.

It may seem as if Judge Garza is gone from us now, but he is still here as long as we bear his memory in our hearts, as long as we honor what he gave to us during his time here on Earth, and as long as his example inspires a child to dream of greater things.

May God bless Reynaldo Garza. And may God bless his family.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

ANTI-SEMITISM

Mr. BOND. Mr. President, today my subject is going to be one which we had hoped would not be facing us. But it still faces us today, and that is the age-old plague of anti-Semitism. Like so many other diseases, we thought it had been wiped off the face of the Earth. But it has returned in new and, unfortunately, virulent forms.

In July of this year, Australia's largest synagogue in the west coast city of Perth was defaced with anti-Semitic graffiti that read "6 million more please with fries." Recently, in the United States, and at least 14 other countries, anti-Semitic incidents have been recorded, and the trend is not promising. Mass expulsions, forced conversions, bans on land ownership, job and housing discrimination all mark a people who have been singled out, not because of what they have done but because of who they are—Jews.

Now, many of us who came of age in the post-World-War-II era harbored the illusion that the last remnants of anti-Semitism perished in Hitler's gas chambers. Many believed that what American GI's discovered in Nazi concentration camps was so horrendous and shocking that it finally put an end to what historian Robert Wistrich had dubbed "the longest hatred"—that of anti-Semitism.

Unfortunately, we are witnessing a rapid re-emergence of anti-Semitism. From the Middle East where sermons from mosques single out Jews for death; to Paris, where Jewish schools are firebombed and Jewish children are routinely attacked, to the conference against racism in Durban, South Africa, which quickly became a carnival attacking Israel; to the inordinate number of anti-Israeli resolutions in the U.N. General Assembly, to U.S. college campuses, where anti-Israel rallies become forums with chants that disintegrate into cries of "Death to the Jews", anti-Semitic acts have become commonplace and even fashionable once again. As Natan Sharansky wrote in Commentary magazine, November 2003, "Israel has become the world's Jew and anti-Zionism is simply a substitute for anti-Semitism."

In Washington, the recent attacks on Doug Feith and the so-called neo-conservatives such as Paul Wolfowitz and Richard Perle charging Jewish DoD officials with manipulating U.S. intelligence in order to "force" the United States to take out Saddam in Iraq contain familiar anti-Semitic overtones. The fact is the Senate Intelligence Committee, after an exhaustive review of pre-war U.S. intelligence, found absolutely no evidence of pressure being put on intelligence analysts to change their official assessments by any officer of the administration.

The Jewish state has tried in earnest to sacrifice "land for peace". We witnessed Prime Minister Barak's offer to Chairman Arafat: shared sovereignty over Jerusalem, Muslim control of the Temple Mount, 97 percent of the West Bank and Gaza, and a land swap in the Negev for a corridor around Jerusalem that couldn't be given away, a "right of return" for thousands of Palestinian refugees, and a compensatory package for those that couldn't be re-absorbed. The offer was so generous that many were privately apprehensive about what would become of Israel if Arafat were to have accepted it. Yet, Arafat walked away from the negotiating table and responded with violence which has remained unmitigated ever since. Over 1,000 innocent Israelis have lost their lives for simply riding on buses, or going out to eat pizza with their families.

Under Article 51 of the U.N. charter, a nation's primary responsibility is to protect the lives of its citizens. When Israel tried to do that, by building a defensive barrier to keep out terrorists, which has resulted in a 90 percent decrease in terrorist attacks, the U.N. General Assembly voted to refer it to the International Court of Justice, in the Hague. The ICJ declared Israel's security fence "immoral" and demanded that it be removed. The security fence will disrupt the Palestinian's travel, but inconvenience is not final, death is.

The ICJ decided that only Israel should be singled out for moral opprobrium—for building a security fence to defend the lives of its civilian population. This is occurring while Muslims with less dark pigment in their skin are systematically murdering Muslims with more dark pigment in their skin, in the Darfur region of the Sudan, to the tune of 1,000 a week. When a Jew or Israel is judged by a different, more stringent standard than that used to judge any other person or nation, there is just one term for it: anti-Semitism.

Unfortunately, the scourge of anti-Semitism is prolonged when the institutions we depend upon for community and regional stability are infected by it. Take for example the United Nations Relief and Works Agency, UNRWA.

The United Nations Relief and Works Agency was established in 1949 to provide humanitarian services to Arabs who left their homes during the war against Israel's independence. UNRWA is the only U.N. agency assigned to serve only one class of people, and the only refugee agency whose mandate does not include the resettlement of its wards. Fifty-four years after its founding, UNRWA is providing assistance to the grandchildren and great-grandchildren of those who left. Soon it will be providing services to the grandchildren of the grandchildren. All other refugees are the responsibility of the U.N. High Commissioner for Refugees; who serves 21.8 million persons in 120 countries with the aim of resettling them.

This situation, unintended at first, is perpetuated now by a combination of naivete, inertia and ill design. It is responsible in large measure for the intractable nature of Palestinian and Arab claims against the State of Israel, and makes the Palestinians tools in the continuing Arab struggle to delegitimize and ultimately eliminate Israel. The difficulties created for the Palestinian people by this are legion.

With the exception of Jordan, Arab states in which they live have refused to grant citizenship to them or to their descendants born after 1948.

In some countries, Lebanon in particular, laws strictly limit the professions these persons may enter, the schools they may attend, or the places they may live.

UNRWA schools, according to the State Department, provide children with textbooks that "contain anti-Israeli and anti-Jewish content." This is a mild statement. In fact, many of the texts contain exceptionally lurid and hateful propaganda.

UNRWA-administered camps are filled with weapons, as has been acknowledged by UNRWA personnel in statements to the media. The Government of Israel has charged that UNRWA warehouses have been and are being used to store weapons and bomb making material.

Each year UNRWA-financed projects, such as the Union of Youth Activities

Centers, sponsor gigantic "right of return" rallies throughout the West Bank and Gaza, encouraging people to believe the existence of Israel is temporary and will be reversed by the U.N.

UNRWA is financed by voluntary contributions and, according to U.N. records, the United States has consistently contributed about 25 percent of UNRWA costs. In 2002, that amounted to $110 million. UNRWA is funded annually, providing an opportunity for countries to examine the mandate, propose changes, and decide whether or not it will renew funding. It is time to initiate a thorough investigation into the finances of this agency. We must work to eliminate institutional hatred as exemplified by the anti-Semitic culture resident within UNRWA.

Some will say that America would not be targeted by terrorism if it did not support Israel to the degree that it does. If we stand by and witness this hatred without intervening or supporting our democratic ally then we would become as venal as the rest of the world. Appeasement of hatred and murder would only come back to haunt us just as appeasement to terrorism in the 1980s and 1990s did on 9/11. Giving in to the prevailing, fashionable wind of anti-Semitism and anti-Zionism would directly contradict the ideals that this country has been founded upon.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

HISPANIC HERITAGE MONTH

Mrs. CLINTON. Mr. President, I rise in recognition of the start of Hispanic Heritage Month. As we embark on this month-long festivity, I am pleased to take this opportunity to celebrate the extraordinary contributions to our country that the Hispanic community embodies.

Today it is clear to all of us that Hispanic Americans are flourishing in every State in our Nation. The diversity of the population is such a tribute to the freedom and opportunity America promises.

Hispanic Americans are starting growing businesses, contributing to the safety and security of our Nation through their service in the Armed Forces, going on to college in high rates, and making a real difference in every part of American life. So there is much to celebrate during Hispanic Heritage Month 2004.

There are also serious concerns that should involve all of us—not only those who themselves are of Hispanic heritage or those like myself who are privileged to represent a very vibrant, dynamic Latino community in New York, but for all Americans—because the issues facing Hispanic Americans are the same ones that are important to every American.

I have been concerned because I think on so many fronts the record of the current administration is one that by any objective analysis is found wanting. Time and time again, the administration has promised or told us one thing, only to proceed to do something else and to establish a record of broken promises.

For example, on health care, Hispanic Americans, as all Americans, are dependent in their older years on Medicare. Medicare provides vital services to Hispanic seniors. They were listening last year as President Bush claimed his Medicare bill would benefit them. He repeated that claim in his speech at his party's political convention. And the next day, what did we see? The largest increase in Medicare premiums in history.

While Hispanic parents, like all parents, look to our public schools to help their children acquire the tools to be successful in our very competitive global economy, again, the Bush administration has proposed over and over in its budget to cut key programs such as bilingual education, dropout prevention, migrant and seasonal Head Start, and Hispanic Serving Institutions that do so much in every community across our Nation. Yet in the fiscal year 2005 budget, all of these programs are targeted for dramatic cuts. This is happening at the same time that we know the administration has continued to underfund the No Child Left Behind Act.

In New York City, we have the largest school district in the country, with a million students. That seems shocking to some of my colleagues who come from States that don't even have a million people. In very difficult circumstances, that school district is struggling to deal with the obligations imposed upon it by the No Child Left Behind Act. Among the obligations is to provide testing to children in their native language. Yet we know that is still not being fulfilled by the administration. We know there are all kinds of issues with overcrowding because we are letting people move from school to school under the transfer provision, but we don't have adequate space for them to move into. Because of the very highly concentrated Hispanic population in New York, that falls disproportionately on the children I represent. I worry that what was held out as a great promise under No Child Left Behind, because of a broken promise and a failure to fund what had been promised, the burdens of complying with that act are falling on those least able to bear them.

Perhaps most alarmingly, the President continues to tell us, against the evidence we see with our own eyes, that the economy is strong and that the budget deficit, estimated to be at least $422 billion—and more likely $445 billion—is not to be worried about. In fact, recently, on a national news program, the President was asked whether he thought the budget deficit—the highest in our history—was pretty good. The President answered, "Yes, I do, I do." Well, I could not disagree more. There is nothing pretty good about a record budget surplus in 2001 being transformed into a record budget deficit. All the while, the number of Americans without health care goes up, the number of Americans in the middle class falling into poverty goes up.

Since the President took office, the number of Americans living in poverty has increased by more than 4.3 million men, women, and children. Median household income for families is down 3.4 percent. However, the picture for Hispanic Americans is even bleaker because so many of them start at the bottom of the economic ladder, where they work and strive and accomplish so much to lift themselves and their children out of poverty. So while 11.7 percent of all Americans live in poverty, 21.4 percent of Hispanics live in poverty. Last year, median income fell, on average, $63 nationally, but it dropped $864 for Hispanic families.

The list goes on and on because so many of the pillars of the American middle-class dream—a dream that sustained my family, that motivated me, that has brought many of us to this Chamber—are beginning to erode. What does it mean if the income you get from a job is not enough to sustain yourself and your family? What does it mean for a minimum wage when you work 40 hours a week and you remain mired in poverty? What does it mean if you can get a job but it doesn't have health care benefits? What does it mean if your pension is at risk and the Pension Benefit Guaranty Corporation, the Federal Government's promise to try to guarantee those pensions, is tottering as well?

Mark my words, we are on a path that will undermine the economic viability not only of American businesses in this competitive global economy but of Americans, American families, and traditionally disadvantaged communities will suffer disproportionately.

When people sort of dismiss the importance of the Federal budget deficit, I don't know what economic text they have been studying. We know that it is inevitable that interest rates will rise, capital will be squeezed as the Government takes more and more. But what is even worse is we become increasingly dependent on foreign lenders. I for one am not enthusiastic about the fact that we borrow tens of billions of dollars from the Governments of Japan, China, and South Korea. How can we look ourselves in the mirror and know we are now the world's biggest debtor nation, and among our creditors are nations we built, we saved, we economically propped up or are our competitors strategically and economically for the future? We are setting up a house of cards. When it will begin to totter adequately for all to see, I cannot predict, but I know we are living on both borrowed money and borrowed time.

I do not wish to dampen the celebration of Hispanic Heritage Month, but none of this sounds pretty good to me. The Latino community has made so many contributions to our history, our culture, our economy, and our society. I wish every one of my colleagues could march with me in the many parades we hold in New York, celebrating the various diverse heritages that make New York the most dynamic, extraordinary place on this wonderful planet of ours. Just to see and hear the excitement, the music, the color, and the vivacity would lift your spirit.

I am so proud and honored to represent the most diverse Hispanic community in our Nation. Yet I worry that if we don't focus on what is happening in our health care system, our education system, and our economy, all Americans will wake up to find that the future is not as bright as it should be, that the promise we all feel is part of our birthright—those of us born here and those of us who came here—has somehow been undermined.

It gives me great pleasure to celebrate Hispanic Heritage Month but to ask that we do more, to ask that we pass legislation such as AgJobs, ask that we pass the DREAM Act and continue to do everything we can to ensure the promise of the American dream for Hispanic Americans and every American.

Mr. REID. Mr. President, I rise to commemorate an occasion that is becoming more important with every passing year.

In 1968, Congress designated the week of September 15 Hispanic Heritage Week. The celebration was subsequently extended to include the entire month from September 15 to October 15.

September 15 was chosen as the opening of Hispanic Heritage Month to honor the independence day of several Latin American countries including Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. The nations of Mexico and Chile also gained their independence on September 16 and 18, respectively.

Today, Hispanic Heritage Month not only recognizes and celebrates the important contributions that Latinos make to our Nation's cultural, economic, and political life, it also reminds us of the strength we draw from diversity.

People all over the world have flocked to America in search of freedom and opportunity. This has made us one of the most diverse countries on earth, and Latinos are an important part of that diversity.

Hispanics in the United States are not one monolithic, homogeneous group. In fact, they come from many different cultural and ethnic backgrounds.

Latinos in the United States can trace their ancestry to more than 20 countries and territories, spanning an area of thousands of miles, from as far north as Puerto Rico to as far south as Argentina, and encompassing a wide array of cultures and histories.

The families of some Hispanics have been in this land since the 16th Century. Others are newcomers to our Nation, drawn by the same sense of hope that has always made America a beacon for immigrants.

Some Latinos speak Spanish. Others speak only English, and many are conversant in both languages.

But taken as a whole, Latinos in the United States reflect the diversity and breadth of Hispanic culture and history.

Today, Latinos are not simply a small isolated minority group in our country; rather they take part in every aspect of American life.

Many prominent American citizens are Latinos.

People like Cesar Chavez, founder of the United Farm Workers Association; Bill Richardson, Governor of New Mexico; Julia Alvarez, internationally recognized author of "In the Time of the Butterflies;" and John Leguizamo, actor and 2004 recipient of the Hispanic Heritage Award in the Arts have made great social, political and artistic contributions to this Nation.

Latinos are also active in every facet of business.

They are the entrepreneurs of family companies and the CEOs of large corporations. They are bankers and builders, manufacturers and marketers.

So there is no way to stereotype Hispanics, they are simply too diverse.

But beneath that diversity, I believe there are some strong values that are shared not only by Americans with Hispanic heritage, but by Americans of all backgrounds.

We all believe in opportunity.

Every person should have a chance to realize his or her dreams.

The power of that idea has propelled the United States from an upstart nation to the most powerful country on earth. And it is just as powerful today as it was 228 years ago.

We all believe in hard work. Every individual deserves an opportunity, but then it is up to the individual to make the most of that opportunity.

And we all know that our families are a source of strength and inspiration. The love of our families sustains us, and drives us to make the world better for our children and grandchildren.

Nevada has a particularly strong historical connection to Hispanic culture. Latinos have been in my State since long before the United States gained independence.

In fact, there were Mexicans working in some of the oldest mining claims in the State and they contributed greatly to Nevada's mining industry.

One of the richest silver mines in the world, the Comstock Mine near Virgina City, was first discovered by Ignacio Paredes from the State of Sonora in Mexico.

It was Sonoran miners who introduced the use of a pan for creek bed mining, and the process known as "dry digging" that facilitates mining in areas where water is scarce.

Hispanics also played a role in the early days of the hospitality industry in Nevada. A man of Mexican decent by the name of Bony Aguilar is considered one of the pioneers of the tourism and entertainment industry in my State.

Originally a miner, Bony Aguilar settled in Silver Peak Marsh in 1870, where he built a resort and saloon along with a bathhouse that utilized the natural hot springs at the site.

The resort prospered and people came from across the State to enjoy the hot springs, hear Mr. Aguilar's stories, and stay at the resort.

Mexican workers played an integral role in the construction of the San Pedro, Los Angeles, and Salt Lake Railroad that gave the city of Las Vegas its beginnings.

And Mexicans were among some of the first residents of Las Vegas.

Hispanics were also involved in early ranching in Nevada. The Altube brothers, although of Spanish decent, came to Nevada via South America.

They established the Spanish Ranch in northeastern Nevada and employed many Mexican cowboys, who were known to be some of the best in the State.

The Spanish Ranch became one of the largest ranches in the history of Nevada, encompassing 60,000 acres.

The important role of Latinos in Nevada has continued right up to this day. In 1976 a small group of Cuban Americans established the Latin Chamber of Commerce in Las Vegas with the goal of promoting the economic advancement of the Latino community and the State of Nevada.

Since then the Latin Chamber of Commerce has played an important role in Nevada's Hispanic community. Its members have successfully advocated for educational equality and equal government hiring practices.

In the Reno area, the Northern Nevada Hispanic Chamber is also a strong force for progress.

These are just a few of the contributions that Hispanics have made to Nevada.

As you can see, Hispanics have been in Nevada since before it became a State, and they continue to play an important role today both in my State and throughout the country.

I would like to commend Dr. M. L. Miranda for his pioneering scholarship of Hispanics in Nevada. Without his original research, there would be little acknowledgement of the influence of Hispanics throughout Nevada's history.

I would also like to acknowledge the many Hispanics serving in our armed forces.

This is a critical time in our Nation's history, and our troops are deployed all around the world. Many Latinos have followed the call to service, and they risk their lives every day in defense of our freedom at home.

I am sincerely grateful to all those who leave their families behind to serve their country.

On this, the first day of Hispanic Heritage Month, I am honored to have been able to share with you the stories of some of the Hispanics that helped establish the "Battle-Born state," and to pay tribute to the diversity of this great Nation.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I come to the Senate floor on another topic at this moment, but I want to reflect briefly on what my colleague from New York said about the Hispanic community of New York. I would like to speak about the ones of Idaho. They are some of the most upwardly mobile, achieving communities in my State today, with great successes. They are out to become Americans, or are becoming Americans, by their ingenuity, creativity, and their energy. While I don't think they are looking for a handout, they are certainly looking for a hand up, and they are getting that. I am proud of them, and they have every reason to be proud of themselves during this month as we celebrate their heritage.

ENERGY

Mr. CRAIG. Mr. President, I come to the floor to talk about energy once again. Here we are now, with record gas and oil prices, and several of the opponents of the energy bill produced by Senator DOMENICI, myself, and others—my Democrat colleagues on the other side of the aisle—are now claiming that the bill does little, if it were passed and if it were law, to reduce our dependence upon oil or other fossil fuels. Less dependence is something we all share.

First of all, I challenge my Democratic opponents to pass the law. First pass the law, get it into production, see where it takes us, instead of simply carp and carp very loudly about energy prices and dependency on oil, and then do nothing about it except talk in political terms in a very political year.

What I am going to suggest and show you in the next few moments about one aspect of the bill—one relatively small aspect of the bill—I think argues that if the bill were law today and if it were allowed to be implemented, it would give us the opportunity to rapidly begin to decrease our dependence on foreign oil and other fossil fuels.

The one provision I am talking about in the bill by itself could reduce our dependence on gas and other foreign oils by as much as 12 billion gallons. To understand how wrong my Democratic colleagues are on this issue, let's look at the provisions of the bill that would enable loan guarantees to help kick-start the cellulose ethanol industry. Cellulose ethanol could develop very quickly as an industry and have a major impact on rural incomes and the environment as well as our energy security.

What is cellulose ethanol? Cellulose ethanol looks, smells, and acts like regular ethanol, but instead of being made from corn, it is made from what we call agricultural residues. Agricultural residues are a part of the plants for which we have no commercial productive use today. When a crop is grown—grain, for example—we use the grain for food, both animal food and human food. Some of the plant is often left on the ground to keep the soil fertile and from eroding. We call it straw. And the rest must be disposed of as a form of residue. Sometimes it is burned, sometimes it is bailed and used for livestock bedding, and a variety of other purposes. But residue is straw from which wheat and barley grow in my State and nearly every other State in the Nation. It is the corn stover, the stalks, the husks, the cobs from the Corn Belt. It is the sugar bagasse or cotton stalks from Florida or Texas. It is that residue that American agriculture produces.

Farmers often pay to dispose of this material. We have known for a long time that cellulose in this material can be transformed into hydrocarbons. Now it seems that the technology to do so is closer than ever before.

The Wall Street Journal reported on April 21 of this year that Iogen, a Canadian company, had begun to produce cellulose ethanol commercially. That ethanol produced from wheat straw is now being sold and used in small quantities in Ottawa and surrounding areas.

The cover of the August 30 issue of Fortune magazine, a magazine I hold in my hand, says "How to Kick the Oil Habit." The article mentions alternative fuels as one of the four ways to kick the habit. It also focuses on Iogen and cellulose ethanol in this article. So cellulose ethanol seems to be on its way.

But why should any of us care about this? What does it have to do with our Energy bill? The Energy bill contains a provision that would allow commercial cellulose ethanol production to begin in the United States within a matter of a couple of years.

Iogen has partnered with Shell Oil, and together they want to build the world's first full-scale cellulose ethanol production facility right here in the United States. But as long as the Energy bill is stalled, so is this project. A lot of lipservice can be given, but until this Congress acts and until my colleagues on the other side of the aisle line up with us to allow this technology to come on line, there can be a lot of talk, but the dependence on foreign oil will continue.

Also stalled today would be an opportunity to begin to fill the gas tanks of Americans with a fuel that would be grown in the heartland of America. Certainly, we have and will continue to use corn-based ethanol, and the Energy bill I talk about would go a long way toward bringing more of that into production. But there is a limit as to how much corn we can dedicate to energy production.

On the other hand, with cellulose ethanol, we are not talking about small quantities. This summer, Secretary of Agriculture Ann Veneman announced the results of a study that showed there is enough agricultural residue produced on our farms to support 200 of these types of ethanol plants and that those plants could displace 7 to 10 percent of the gasoline we consume today. That is a reasonable guesstimate.

You have heard me right: If we get this industry going by simply using waste materials from America's farms, we could knock almost 10 percent off our gas imports. What does that say as to our ability to negotiate in a world market? It says a great deal because now we have leverage, and the leverage is a product being produced right here at home.

This will not happen unless we are able to implement this bill and bring it on board. Just one cellulose ethanol plant would enhance energy security by replacing a gasoline component of the crude oil imports from 2.4 to 2.9 million barrels per year; increase farm income by $25 million per year by creating economic value for residues that currently, as I said, have little to no value or are simply viewed as waste; create economic development by creating over 1,000 new jobs during peak construction, and almost 200 new permanent jobs and about 450 spinoff jobs.

That is positive economics when you can talk in those terms, and those terms are not just talk. That is reality if we implement the Energy bill.

It would reduce net emissions of carbon dioxide by 355,000 metric tons annually and would reduce emissions of major air components targeted by the Clean Air Act.

A mature cellulose ethanol industry based on agricultural residues alone would multiply these benefits: Enhance U.S. energy security by displacing up to 10 to 12 billion gallons of gas annually, which represents 7 to 10 percent of current U.S. gas consumption; provide approximately 200 to 300 rural communities with more jobs and farmers with more income, and certainly a stronger economy for American agriculture; reduce carbon dioxide, CO2, emissions from 65 to 100 million metric tons.

We are talking about putting money into U.S. farmers' pockets instead of the pockets of the oil sheiks of the Middle East.

About 29 States currently produce ethanol, and those States clearly have the ability to produce cellulose ethanol in a tremendous way. Chart 1 shows the States that are capable of doing that. Can you imagine, instead of having only a few oil-producing States in our Nation, we would have nearly 25 States capable of producing? That is the value of this program, and adding nearly $25 million a year to the local economy. That is what we are talking about with regard to this Energy bill and what it could do.

So not only are we talking about that, but our second chart shows what is extremely important, and that is in carbon savings reported by various studies by bringing this kind of production online. Reducing demand on gasoline from foreign oil from 15 to 20 percent creates anywhere from $5 billion to $7.5 billion annually in economic growth in rural America. That is what we are talking about, and that is what I think chart 3 represents so clearly. It is tremendously important.

Here is today's gas engines, in relation to greenhouse gas emissions. Here is the diesel hybrid that we are all excited about today in hybrid production, again a decline. Here is the hydrogen fuel cell car. Our President has been leading and talking about the new hydrogen technologies for surface transportation. Then we have today's ethanol engine, today's ethanol fuel cell engine.

As a country, we are simply on hold at this moment because for 5 long years this Congress has debated but has refused to pass a comprehensive national energy policy that not only advances these technologies but incentivizes the marketplace to go after these technologies.

So when our colleagues on the other side of the aisle simply say the Energy bill will do nothing for the American consumer, I say politically and in reality, shame on them. They know better. They worked with us in trying to develop this bill over the last 5 years. It has become a bipartisan working piece in a very comprehensive way.

Today, I have taken just a small piece of that bill, the cellulose ethanol production capability of this country, and to suggest that it would reduce our dependence by 12 percent or even more, that it would improve American agriculture and put $25 million a year into the heartland of America, oh, my goodness, we cannot as a country look forward in that way, shame on us.

I hoped we could have passed a national energy bill this year. We are certainly going to in the future because the American public, I trust, is going to get fed up with paying $2.10 or more a gallon for their fuel and finding themselves increasingly dependent upon the Middle East. That is something the American consumer should not tolerate and that the American politician ought not stall out or block from happening.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak for up to 10 minutes.

CONSERVATION ROYALTIES

Ms. LANDRIEU. Mr. President, I see my colleague from Tennessee is again on the Senate floor, and it is my pleasure this afternoon to spend a few minutes with him marking the 40th anniversary of the creation of the Land and Water Conservation Fund, a fund that has been extraordinarily helpful and useful to Governors, mayors, local elected officials, and advocates for conservation and for preservation for these 40 years.

When it was passed and signed into law by President Lyndon Johnson, it was a very farsighted and bold legislation that acknowledged that one of the great characteristics that separates America from the rest of the world, particularly the old world represented by the European countries. The essence of America, having such great expanses and great outdoors, separates it from an old world that was relatively small geographically and somewhat cramped. The United States of America has many special characteristics about it, but the one that really stands out that people of all political persuasions and from all geographic areas really appreciate and grasp is the value of the vastness of our land and the great open spaces. Our mighty rivers, our deep canyons, our extraordinary lush forests and green spaces, our breathtakingly beautiful deserts are all the things that make this country what it is.

Although the country was created this way and a great gift to all of us from the Creator, it is not going to stay this way unless we take some affirmative actions to preserve what we can, to give our people and our population places to grow, expand, earn livings, and create jobs. We have an obligation, as stewards, as the Senator said earlier, not just to our constituents but actually we have a moral obligation to the Creator who created this beauty to be good stewards of the land and the gift that has been given.

Looking at the 40th anniversary of the Land and Water Conservation Fund, while we have done a good job, while we have made a fine effort, while we can point to many success stories of the Land and Water Conservation Fund, I stand today on the 40th anniversary with the Senator from Tennessee to say that we must do better. There are terrible gaps in funding that are leaving beautiful States such as Tennessee and magnificent States such as Louisiana and other States throughout our Nation desperate for Federal help to finish the good work that was started late in the last century.

President Roosevelt, who is even credited today with being such a great visionary conservationist, was an advocate of the preservation of special places in America. That is what we come today to talk about, how important it is to recommit ourselves, on this 40th anniversary, to setting aside the proper amount of money, not more than we need but an adequate amount of money to help our Governors and our mayors and support a new effort for wildlife preservation and support our coastal areas in light of the original vision of the Land and Water Conservation Fund.

So the Senator from Tennessee and I have introduced the Americans Outdoors Act of 2004. I commend the chairman, PETE DOMENICI from New Mexico, who, in this very challenging year, has already allowed us a hearing on this bill. We look forward to working with the members of the Energy Committee, which has jurisdiction, of course, and the Department of Interior as we move this great legislation through seeking a more reliable source of funding.

We propose in our legislation to basically establish the same conservation royalty that the Federal Government now gives for onshore production of oil and natural gas. This bill will create a conservation royalty for offshore production of oil and natural gas and have it distributed in a way that complements and fulfills the promise of the Land and Water Conservation Fund. It is like saying the great wealth of this resource, of oil and natural gas, should be invested, as the Senator said, in the Federal Treasury to help economic development and building highways and the space program and should support our military.

A large percentage of these tax dollars should go for general uses, but a small percentage, 25 percent of these billions of dollars that are generated, should really go to a conservation royalty to acknowledge the creation that we have inherited, to acknowledge the great land and water that we have inherited, and to say on this day we believe it is wrong to take and never to give back. We believe it is our political and moral responsibility to be good stewards of the wealth that is generated and to turn back a portion of that money for conservation. It is our responsibility to give to our grandchildren and great grandchildren the great gift and the great land that was given to us by our forefathers and our Presidents, both Republican and Democrat, who have argued and established this great fund.

So it is my hope, with the Senator from Tennessee, that we will be joined by other Senate leaders as we pursue this effort to find a reliable stream of revenue to create a conservation royalty that will fully fund the State side of the Land and Water Conservation Fund, a robust coastal program for the States in our Nation, and a wildlife restoration fund, as well as the urban parks component of the State side of the bill.

I think we should explore and try to look for opportunities to find a reliable stream of money for the Federal side as we continue to build and expand on public lands in the United States.

Let me say there is no one in this Senate who understands the great value of private property more than do I and the Senator from Tennessee. I go all over the world doing a lot of work on economic development and lifting people out of poverty. I have been probably to more orphanages and homes for poor children than most. Many Senators do that great work. I am well aware that, in order for countries to create wealth, owning private property and building equity in a home or getting a mortgage for a farm is essential. That is the founding essence of America. This bill we intend to reinvigorate today is not a threat to private property. It complements the great commitment we have to private property, by saying that some lands, a small portion of lands, should be in public hands. The majority should be in private hands. It is an extraordinary partnership that gives value to both.

The Land and Water Conservation Fund envisions that strong partnership making all of our land more valuable, cleaner, more user friendly, open and beautiful for us to give to future generations.

I see the Senator from Tennessee, who may want to add a few additional words. But I ask unanimous consent to have printed in the Record the distribution of money to the Land and Water Conservation Fund. It is not blown up, but I think the cameras at least can zoom in to see how volatile the funding has been, up and down, up and down, since 1965. Our bill attempts to equal this out by creating a conservation royalty so we can rely on these dollars and we can make good plans, spend taxpayer money well and wisely, creating beautiful bike paths and trails, helping to make more robust our park systems and our public lands for the benefit of our grandchildren in a way that complements the private sector, private property, and the economic development efforts that will continue to be underway for generations to come in this great Nation.

I also ask unanimous consent to have printed in the Record a news release that was issued by the Department of Interior, saying how proud they are to have distributed some money, royalties, for conservation to interior States.

There being no objection, the material was ordered to be printed in the Record, as follows:

States Receive More Than $1 Billion From Share of Federal Mineral Revenues

Washington.—Secretary of the Interior Gale Norton announced today that 36 states received more than $1 billion during 2003 as part of their share of federal revenues collected by the Department's Minerals Management Service.

The $1,096,699,888 distributed to states during the year, was nearly 46 percent more than 2002 payments to states that totaled $753 million.

"Responsible energy development on public lands and offshore areas contribute greatly to states and local governments," Norton said. "The money enables local governments to fund important projects for the betterment of communities and the lives of Americans."

The nearly $1.1 billion distributed through December of last year represents the states' cumulative share of revenues collected from mineral production on federal lands located within their borders, and from federal offshore oil and gas tracts adjacent to their shores.

"In many cases states share their revenues with counties, which apply the money to meet needs like infrastructure improvements and school funding," MMS Director Johnnie Burton said.

During calendar year 2003, the state of Wyoming again led all states by receiving more than $503 million as its share of revenues collected from mineral production on federal lands within its borders, including oil, gas and coal production. New Mexico's share was more than $318 million, while $62.7 million was received by the state of Colorado. Other states sharing revenues included Utah with more than $54.4 million; Louisiana with $31.5 million; Montana at $26.9 million; and California with more than $25.3 million. (Complete table provided below.)

A state is entitled to a share of the mineral revenues collected from federal lands located within that state's boundaries. For the majority of onshore federal lands, states receive 50 percent of the revenues while the other 50 percent goes to various funds of the U.S. Treasury, including the DOI Reclamation Fund. Alaska receives a 90 percent share as prescribed by the Alaska Statehood Act. States may also receive appropriations from the offshore royalty-funded Land and Water Conservation Fund to help them with park and land acquisitions.

In addition, coastal states with producing federal offshore tracts adjacent to their seaward boundaries receive 27 percent of those mineral royalties. Remaining offshore revenues collected by the Minerals Management Service are deposited in various accounts of the U.S. Treasury, with the majority of those revenues going to the General Fund.

MMS is the federal agency in the U.S. Department of the Interior that manages the nation's oil, natural gas, and other mineral resources on the outer continental shelf in federal offshore waters. The agency also collects, accounts for, and disburses mineral revenues from Federal and American Indian lands. Between 1982 and 2003, MMS distributed more than $135 billion in revenues from onshore and offshore lands, an average of more than $6 billion per year, to the Nation, States and American Indians. Nearly $1 billion from those revenues goes into the Land and Water Conservation Fund annually for the development of State and Federal park and recreation lands.

Alabama	$14,601,401
Alaska	13,126,183
Arizona	128,474
Arkansas	4,379,518
California	25,336,757
Colorado	62,703,158
Florida	387,298
Georgia	54
Idaho	1,880,786
Illinois	100,822
Indiana	6,438
Kansas	1,928,091
Kentucky	55,782
Louisiana	31,561,211
Michigan	425,844
Minnesota	17,427
Mississippi	1,231,716
Missouri	169,832
Montana	26,906,699
Nebraska	15,125
Nevada	5,015,687
New Mexico	318,768,793
North Carolina	118
North Dakota	5,139,095
Ohio	301,952
Oklahoma	3,541,950
Oregon	30,608
Pennsylvania	22,312
South Carolina	20,602
South Dakota	413,977
Texas	19,069,085
Utah	54,443,508
Virginia	2,099
Washington	815,708
West Virginia	379,821
Wyoming	503,771,957
Total	1,096,699,888

LAND AND WATER CONSERVATION FUND—STATE AND FEDERAL APPROPRIATIONS

Fiscal year	State appropriation	Federal appropriation	Total appropriation
1965	$10,375,000	$5,563,000	$16,000,000
1966	82,409,000	38,428,349	122,114,349
1967	56,531,000	36,206,591	95,006,591
1968	61,520,000	39,902,359	103,940,359
1969	44,938,000	63,991,000	111,500,000
1970	61,832,000	66,156,000	131,100,000
1971	185,239,000	168,226,000	357,400,000
1972	255,000,000	102,187,000	361,500,000
1973	181,800,000	117,721,000	300,000,000
1974	65,767,000	5,480,000	76,223,000
1975	179,880,000	121,700,000	307,492,000
1976	175,739,000	135,587,000	316,986,000
1977	175,315,000	356,286,000	537,799,000
1978	305,694,000	490,880,000	805,000,000
1979	369,602,000	360,776,000	737,025,000
1980	299,703,000	202,540,000	509,194,000
1981	173,745,000	108,282,000	288,593,000
1982	0	175,546,000	179,927,000
1983	110,819,000	220,093,000	335,093,000
1984	72,919,000	226,890,000	301,890,000
1985	71,853,000	213,130,000	286,612,000
1986	45,993,000	120,646,000	168,209,000
1987	32,700,000	175,656,000	210,626,000
1988	16,567,000	150,478,000	170,464,000
1989	16,700,000	186,233,000	206,233,000
1990	29,843,000	211,719,000	231,481,000
1991	19,748,000	308,446,000	341,671,000
1992	19,748,000	294,148,000	317,392,000
1993	24,788,000	255,437,000	283,652,000
1994	24,750,000	227,498,000	255,551,000
1995	24,703,000	188,848,000	216,795,000
1996	0	136,573,000	138,073,000
1997	0	227,498,000	159,379,000
1998	0	270,098,000	271,098,000
Title V*	0	699,000,000	699,000,000
1999	0	328,467,000	328,467,000
2000	40,000,000	419,000,000	459,000,000
2001	90,500,000	445,500,000	536,000,000
2002	144,000,000	429,000,000	573,000,000
2003	97,000,000	313,000,000	410,000,000
2004	95,500,000	177,000,000	242,500,000

LAND AND WATER CONSERVATION FUND—STATE AND FEDERAL APPROPRIATIONS—Continued

Fiscal year	State appropriation	Federal appropriation	Total appropriation
Total	3,663,220,000	8,819,816,499	12,498,986,299

*Title V Funds are supplemental to the FY 98 Appropriation.

Ms. LANDRIEU. We ask the same, that the same process that is in the law for onshore oil and gas drilling be in the law for off-shore oil and gas drilling. The onshore revenue provision has been in place since the early 1920s.

The record is clear. This, basically, is the essence of what our bill does to mark the 40th anniversary of the creation of the Land and Water Conservation Fund. Let's actually find a way to fund it. That is what our bill will do.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. I commend the Senator from Louisiana. She has worked hard for 6 years on legislation like this. I am proud to join her on the 40th anniversary of the Land and Water Conservation Fund to continue its bipartisan support.

If I may ask through the Chair a question to the Senator from Louisiana. She mentions that for 50 years we have had a tradition in this country of a State royalty. In other words, if you drill for oil in Wyoming, for example, there is a royalty paid to the State of Wyoming, which is 50 cents out of every dollar of revenues.

I wonder if the Senator from Louisiana knows what amount of money that royalty produced for the State of Wyoming this year?

Ms. LANDRIEU. Yes, I do. I happen to have that document right here.

I understand the State of Wyoming, according to this document, has received over $500 million. Yes, $503,771,000 this year, which was the State royalty for Wyoming.

For the record, New Mexico received this year $318,768,000 in the same account.

Mr. ALEXANDER. I thank the Senator from Louisiana.

The Senator and I understand that those concerned about the appropriations process in the Senate have to deal with this issue. Today, under our budget rules, if we were to create a conservation royalty for offshore oil drilling and made it identical to what we have been doing for 50 years with onshore oil drilling, that would require us to treat it in a different way today than they did 50 years ago when they started it. We know that. But what we are trying to suggest is there is no real difference between creating a royalty on oil drillings or gas drillings onshore and oil or gas drillings offshore. In fact, there is a better argument for creating a conservation royalty than for creating just any old royalty for the State of Wyoming or the State of New Mexico or Arizona or Montana.

The logic is this. I am one who votes for more drilling for oil and gas because I don't like us relying so much on the Middle East for it, so I vote for that. But I don't know why we cannot agree that, if we have an environmental burden on the one hand, we cannot create an environmental benefit on the other hand.

This is a subject the Senator from Louisiana and I hope to talk over with our Members and say yes, this is an issue. We understand that. But for 50 years we have been taking 50 cents out of every dollar that comes from drilling on Federal lands onshore—90 cents in Alaska—and leaving it in the State where the drilling is done. What we are suggesting is we take about 25 cents of every dollar from offshore drilling and create a conservation royalty for the State to fund these programs the Senator talked about. We think that makes good sense, and that it is in the 40-year bipartisan tradition of the Land and Water Conservation Fund.

I am convinced there is a bipartisan conservation majority in the United States of America, and that on this legislation there will eventually be a bipartisan conservation majority in support of the Americans Outdoors Act.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

SQUEEZE ON MIDDLE-INCOME FAMILIES

Mr. DODD. Mr. President, I want to take a few minutes this afternoon and express my concern and the concern of many of us around the country about the growing squeeze that is occurring on middle-income families in the United States. This is a very alarming trend we are seeing.

I address not only that point but also the issue of what is happening with the rising level of poverty in the country, particularly poverty among our youngest citizens in the earliest ages, and the number of children being born in the United States who are being born into extreme poverty—not just living in poverty but living below half the poverty line.

When you think of the combination of the squeeze occurring on the middle income and watching the growing numbers of children living in poverty in this country, all of us ought to be supremely alarmed about those trendlines.

Add to that the fact that there now appears to be the largest single deficit in the history of the United States, and the failure to create new jobs in the country, which is the worst performance of job creation since just prior to the beginning of the Great Depression back in the 1920s. We have lost somewhere between 1 million and 1.5 million jobs in this country in the last 4 years. When you compare that to the 20 million jobs created during the 1990s, there is a startling contrast in what is happening to America's economy.

I think it is critically important in these days that the American people be well informed factually about what is occurring as we make the difficult choices in the coming days about the leadership of this Nation.

Let me begin with the middle-income squeeze because I think it is important to know what is happening to families out there. We are watching a tremendous decline in household incomes. Household incomes have fallen about 3.4 percent during the last 4 years.

Let me put that in terms of dollars and cents.

To give you some idea of the median household income in the year 2000, the median household income was almost $45,000 a year—actually $44,853. Today, that median income is now $43,318. That is a decline of $1,500 in median household income. That is a drop in earning power.

If you have merely a decline in income and also a commensurate decline in costs, you would say that is not great, but certainly given the cost of essential items that middle-income families must acquire, those prices are going down, then the declining income would not be startling. But what is happening is quite the opposite.

We have watched median household income decline by $1,500, and simultaneously watched gas prices during the same period of time go up almost 20 percent in the United States. College tuition has gone up some 28 percent in that same 4-year period, and family health care premiums have risen 45 percent just in the last 2 years by 26 percent—11 percent in 1 year and 15 percent the next. So we are watching household median income decline by $1,500, and then we are watching college tuition, health care premiums, and gasoline prices soar. This is the squeeze. This is what is happening to average families in this country.

Also, as I mentioned at the outset, we are watching jobs not being created. We are short of well over a million jobs that we need in order to maintain a growing economy. But even these jobs are not coming back. We saw 144,000 new jobs created in the month of August. That is certainly vastly improved over the 32,000 new jobs created in July. Understand that just to keep pace with the new entries into the job market we should be creating about 220,000 jobs every month. That is what we need to do in an economy such as ours with a population of almost 300 million people: You have it produce about 220,000 new jobs every month just to stay even.

When we start talking about 32,000 jobs or 144,000 jobs, while certainly 133,000 is positive news, it still is well below what we ought to be doing if we are going to keep people working at levels that will allow them to provide for their families.

As I mentioned a moment ago, we are watching incomes decline. This is even more true when you start talking about new entrants into the job market from people who have lost a job and then go back to work. They are making about $9,000 less a year overall, putting all incomes together, than they were before.

While we are creating some new jobs, the wages these jobs are paying and the benefits being provided are very different than they were with the previous jobs held by these very same people. This is tough news.

Again, there are choices that will be made in the next 45 or 50 days.

I point out for the purposes of discussion—sometimes it all gets lost—that there are those who are claiming there is nothing to worry about, that in fact our economy is good and strong.

I noted the other day that there was a speech the President gave in Michigan when he talked about how well our economy was doing. I think it was in Muskegon, MI. He was speaking just 2 days ago:

> This economy of ours is strong, and it's getting stronger.

That was a speech given in Muskegon and Greenwood Village, CO.

Since the President has taken office, less than 4 years ago, the State of Michigan has lost 250,000 jobs. In Colorado, there has been a loss of 80,000 jobs.

I don't know how you square a statement of saying the economy is strong and getting stronger when a quarter of a million people in one of the most industrial States in the United States have lost work, and 80,000 jobs in the State of Colorado no longer exist. How is that a strong economy or a stronger growing economy? I don't see that. I don't think most Americans would.

JOHN KERRY, our colleague, who is running for the Presidency, has promised to create 10 million new jobs during the first 4 years of his administration. We need job creation in this country. We need to be talking about creating tax cuts for middle-income families and smaller businesses. That is where real growth occurs when you provide the kind of stimulus to smaller businesses and industries. They need the relief financially to modernize, to buy new equipment, to make themselves more competitive in a global economy. We need more of that kind of economic thinking than what we have seen in the last few years which has contributed to the worsening economic program at home.

I am an optimist and believe we ought to talk about good things that can happen in our country. It is very difficult to go anywhere in this country and have that kind of a conversation when people are out there struggling every day harder and harder to make ends meet, watching their incomes decline and their costs rise, and wondering how they will deal with the issues.

There are an additional 1.2 million Americans who no longer have health insurance. That number is up to 45 million in our country; it was below 44 million, but in the last year or so that number has jumped by 1.2 million. Those people are working Americans who have lost their health care coverage because of the rising premium costs of smaller and midsized businesses. Their employers are not mean spirited. They just cannot afford to maintain the cost of the health care premiums and some are dropping their employees from this kind of coverage.

So now we have working Americans who have watched their health care premiums jump tremendously. The average home health care premium in 2000 was $6,351 a year. Less than 4 years later it has jumped to well over $9,000, almost $10,000. That is staggering. Employers just do not have the resources to pay these bills. So we find now 1.2 million working families in the ranks of the uninsured in our country. That adds to our problems.

I mentioned a moment ago child poverty. I will share with my colleagues my deep and growing concern about these numbers because this worries me. This is not the America that I was raised to believe in.

We are talking about a generation of kids coming along who will have to be the best educated, best prepared our Nation has ever produced. We are now in a highly competitive marketplace in the world. When kids grew up a generation or two ago you worried, if you were in Connecticut, that you might end up competing with a young person from New Mexico or you might compete with a person in Oregon. That was what it was like in this country.

Today, for a child growing up in New Mexico or in Oregon or Connecticut, their competition will be in Beijing, it will be in Moscow, it will be in Sydney, in Johannesburg, London. A global economy will be the challenge. How well prepared is this generation coming along?

We may be in the most unique position of any generation of Americans in watching a succeeding generation be less well off, less well prepared than we were as a generation. Every other generation throughout the more than 200-year history of our country has left their children and grandchildren in a stronger position. That has been our legacy as a nation. We are now precariously close to setting back for the first time in our history where a generation coming along may not be as well prepared, particularly when the challenges are going to be greater than ever before.

I worry very much when we see the jump, by 4.3 million, of Americans living in poverty over the last 3 years. In the year 2000, of the 300 million Americans, there were 31.6 million Americans living in poverty. Today that number is close to 36 million, up 4.3 million people living in poverty in the United States. Of those numbers, we have almost 13 million of that 36 million who are children.

While the overall child poverty rate is 17.6 percent, the poverty rate for children under 5 is 20 percent. That makes the fastest growing group among the poor today, families with children under the age of 5.

Those are the facts. That is the legacy of 36 months—not quite, almost 40 months of leadership here. We are finding ourselves in worse shape.

We are fighting tooth and nail to get some resources for child care, for nutrition, for WIC programs to try to do something to assist these kids and these families. It is like pulling teeth around here to get some help for the kids who, through no fault of their own, are living in poverty. Yet the children are the ones who will be asked to defend our country, to become well educated, to provide for the strength of America in the 21st century.

I am deeply alarmed about the trendlines. We are not spending enough time addressing and talking about what we might do. This is the largest annual increase in child poverty in 10 years that has occurred in our country. Overall child poverty increased by 5.4 percent in 2003 while children living in extreme poverty increased by 11.6 percent. In fact, extreme poverty for children under 5 increased by 16.2 percent.

According to the Census Bureau, over 40 percent of children under the age of 18 who are being raised by a single mom are poor. Over half of them live in extreme poverty. That is below the poverty level.

More than half of our children under the age of five who are being raised by a single mom are poor. And, 60 percent of them—three of every five poor 5 year olds being raised by a single mother—are living in extreme poverty.

I addressed the issue of the squeeze that is occurring on middle-income families, watching the incomes decline and the costs rise. They are dramatic over the last few years. I am worried about the crushing blow that is occurring to children and the level of poverty that is occurring.

I raise these issues because we are going to have to change direction. We cannot continue the path we are on and expect these numbers to change. Every indication we have is the numbers are going to get worse and not better if we do not take dramatic steps in a different direction. I raise them today, and I pointed out earlier, and these are not personal attacks, they are choices we have to make. The candidates for President have entirely different views on how we ought to address this.

I mentioned earlier our colleague, Senator KERRY, has talked directly about tax cuts and where they ought to occur—for middle-income people, for smaller businesses; a health care plan that would start taking people off the rolls of the uninsured, put people in insurance programs and relieve them of the fear of a child or a loved one being caught with a crippling illness or accident and bankrupting a family overnight because of their absence of insurance protection; of seeing to it that people who work overtime get paid for the overtime instead of shutting them off and depriving them of the extra income they need; of raising the minimum wage instead of depriving people of the kind of increases they need to make ends meet.

The tax incentives make a difference. Those are choices. The President says the economy is strong and getting stronger. Tell that to the 250,000 people in Michigan or the 80,000 Coloradans who have lost their jobs. I think they will agree. This is hardly getting better.

We need a change. That change will be available to people in less than 50 days.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time does the Senator from New Mexico have?

The PRESIDING OFFICER. Each Senator has 10 minutes in morning business.

Mr. DOMENICI. I will use 10 and I know there is another Republican Senator who is not here but he gave me another 10. I am just kidding. We will try to get by with 10.

I say to my good friend, I am just wondering, we have a President who is in the hinterland campaigning and we have an opposition candidate from your side. I wonder, how come all of you are coming to the Senate, one after another, telling us what your candidate is going to do? Can't he tell Americans for himself? Does he need you all to come down here and give a speech every day, five or six of you, one after another, talking about what your candidate is going to do?

No, I will not yield at this point. You have been talking for a long, long time, so let me speak.

Mr. DODD. How long did the Senator from Connecticut speak?

Mr. DOMENICI. Ten minutes and I gave you 2 extra minutes.

Mr. DODD. That is a long time.

THE ECONOMY

Mr. DOMENICI. Mr. President, I have a speech on energy, but the Senator energized me so much that I want to speak a little bit about what he spoke about and then I will talk about the people in the Senate on their side of the aisle.

First, isn't it wonderful to say, fellow Americans, we need 10 million new jobs.

Senator SMITH, you own a business; you know how people get jobs, right? Your business employs them, right? If things are bad in the economy, you cannot hire more, right? What good does it do for a politician to come up here and say we need 10 million new jobs? That is true. In fact, I would say we probably could use 20, although the truth is, we do not have that many people to be hired, but we could say that.

Well, that is no plan. That is a statement. How are you going to do it? Who are you going to follow? Are you going to follow the Clinton model? They say that did all those things. There is a lot of question whether that plan did all that. But why don't Democrats say: We are going to follow the Clinton plan? The Clinton plan was to raise taxes. It just happened that the economy was recovering. And the Democrats will say: Yes, but the country got very confident once we put in the increase in taxes because they thought we were going to reduce the deficit. That is really their idea of where they got their great, new jobs. That may be true, but nobody is saying they are going to do that.

They stand up and say: We need 10 million jobs. Bush is not producing them. We need 10 million jobs. Elect our man. That will take care of it. Does anybody believe that? It used to be they would say something better. When I came to the Senate, and we would have a downturn, the Democrats would come to the floor and say: We are going to add jobs. How? They would say: We are going to spend money. Do you know what they used to do? They would put a public works jobs bill on the floor and say: We are going to build bridges. We are going to build roads. We are going to build all these things. And the American people, like big, fat suckers, would say: Let's pass it. We are going to get new jobs.

We stopped doing that. I say to the Presiding Officer, have you ever heard of anybody doing that since you have been here? No. Do you know why? Because it does not work. By the time those new jobs would come on, do you know how many years passed, on average? Three years before they started; 7 years before they got finished. By then, there was a whole new set of problems. Right? The downturn was gone. It did not have anything to do with it, but they passed something. Or they said: Let's double all the spending in all these programs we have. That will put everybody to work.

Maybe we could get a chart here and say: We need 10 million new jobs. Let's put them to work with Government programs. We would see what that produced. The American people would say: Are you nuts? You want to spend $50 billion to put people to work? And then it would be invented work.

So the truth is, you have to say, when you talk about 10 million jobs: I have the secret of how to make the American economy grow—not how you wish it would, but how you are going to make it grow.

And I have not heard much. I have heard there is going to be more middle-income people getting tax cuts. Interesting. Has anybody put on a board how much that will cost? And will they really do it? And how much are they going to give the middle income back? And what will that do to create jobs? Most interesting. I would like to see it. Enough of that.

Second issue. Health care costs are too high. Let's take a poll. I say to Senators, put up your hand as to how many of you think health care costs are too high? I imagine you would get 100 votes. Right? One hundred Senators say health care costs are too high, health care costs are going up too much. Wonderful.

Now, let's go out to America and tell them that: I am running, and health care costs are too high. That is good. But now the question is, Are you telling us you know how to reduce the health care costs? What is your plan? What is your secret? Do you have some new way to do it? Let's hear how. I do not hear that because the one thing that is being said is, maybe the Government ought to take more people and let the Government take care of them in health care. But then, when you say, what do you want to do that for, is it that you mean you want more Government-owned and operated health care?

Now, I know when you say "socialized medicine," they get very upset. But maybe you do not want socialized medicine. Maybe you only want half socialized medicine, not all of it. But, frankly, I do not see any plan. The only one I have heard about is the importation of drugs. And I am not going to argue that today. It has been argued back and forth.

I will just say, I have read everything I can about the importation of drugs and its impact on the costs of prescription drugs in America. And I guess I am prepared to say that there is very little empirical evidence that across the board, for really good kinds of medicines that are important today, and to our seniors, that in the long run, unless you physically take your body on a train or an airplane or car and drive to a foreign country and buy the prescription and bring it back, there is very little evidence that you are sure to get the right kind and that the price will be right if you ask it be shipped. Now, enough of that.

So the question is, we need 10 million more jobs. How will the Democrat

Presidential candidate do it? And let's talk about it. And then we need to reduce health care costs; and let's ask, how would we do it?

Now, let me tell you, there is a lot of talk about the uninsured. Frankly, the most interesting thing is, they speak about a lot of children being uninsured. I submit that may be true. But when we were working 8 or 9 or 10 years ago on health care, I was involved. We asked some insurance companies: Well, how much does it cost to insure kids? Do you know what they said? "We don't insure kids, children. We don't have any insurance policy that insures children." "Are you kidding?" "Yes, we don't do that."

Well, frankly, before that year was out, we pushed somebody. One insurance company finally put out a brochure that said: We will insure children. Do you know what. Very cheap. The thing is, most children are not covered that way. They are covered derivatively through their parents. Right? One of their parents gets a job. Their parent's job covers them and their kids. They buy insurance. They don't buy it only for themselves, they buy it for them and their children.

So, in essence, it is good to say: We need to cover more people. It is hard to say how you are going to do it. I submit if you put what the President is proposing side by side with what the Democratic candidate is saying, you at least have some very positive things you can measure that are being done that the President is proposing. The other one is untried, nice to talk about, beautiful rhetoric. But I think the President's basic ones, with some additional things added to it, will probably be the way we go as a country anyway.

Now, all the other issues that were raised by my good friend on behalf of their nominee could all be answered much the same way. So there are more poor people than there were before. Good statement. Not quite as many as they say, not quite as big a problem as they allege. But the question is, What are you going to do about it? How are you going to fix it?

Most of the time, we are down here on the floor of the Senate talking about education and the inadequacy of our education. It is most compelling to me that about 4 weeks ago, Alan Greenspan, who normally does not have anything to do with education, was being asked a question in one of our committees about the fact that we have a lot of people who are unemployed, we have a lot of people underemployed, we have very tough competition from overseas. What do we do about it, Dr. Greenspan? I say to my colleagues, he did not talk about any single American program. He did not say: Let's increase the Small Business Administration so it would help more small businesses. He did not say: Let's give a tax cut to somebody. Do you know what he said? He said: Well, if that is the case, I guess we better start educating our children better. That will do more for the unemployment, more for the underemployment than anything else: better technical education for children. I am surprised—

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. DOMENICI. I ask Senator MURKOWSKI, could I have 2 additional minutes? I say to the Senator, you are next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. But I am surprised that is not what we are talking about: How do we take that tremendous number of young people walking our streets, who are not educated, who do not have diplomas, and make them educated so they will get out of poverty? Not just coming down and saying they are but that they will get out of it. How will we be competitive? Because that kind of person will become technologically capable, and they will help make us competitive.

NEED FOR ENERGY LEGISLATION

Mr. DOMENICI. Mr. President, I said a couple weeks ago, 10 days ago, I was going to come to the floor once every day to talk about the Energy bill. I did not do that, but this is my third or fourth time.

We are rudderless, a ship that has no capacity to guide itself, when it comes to energy policy. We have a bill ready to go that can steer us to a better future. But there are still a number of Senators who refuse to hear the warning bells that require our action.

How much louder can those bells be ringing? There was a huge blackout in August in the East. A complete energy meltdown occurred in the West just a few summers ago. Oil prices are surging to record heights. Natural gas demands are increasing.

Prices of coal are higher and going up. Consumers are paying beyond the reasonable price at the gas pump. Our critical infrastructure lacks adequate investment—that is, in electricity and other things that relate to energy, refineries. Our electricity grid has no mandatory reliability rules, meaning we may have blackouts again which we thought Americans would never have again. If we pass the bill, we will be able to tell them that. Efforts to increase efficiency and renewable energy are anemic. The list can continue for a frighteningly long time unless we pass the Energy bill. I am committed to the Energy bill because it is necessary. It is the first step we must take in order to change our economy's destiny.

We can't increase domestic oil and natural gas production overnight. We can't snap our fingers and modernize our Nation's electric transmission grid. We can't expect renewable energy to appear online tomorrow. We can't move away from foreign oil toward a clean, hydrogen future all of a sudden.

We need an energy policy plan to move us forward to reach those goals. We need an energy policy in place so that businesses and investors have regulatory certainty. We need to make having an energy policy a priority.

Today, as we speak, there are events affecting our oil situation.

OPEC has decided to up its quota. Big deal. They were already producing over their last quota and are still over this most recently announced one.

Right now, OPEC is not in charge of how much a barrel of oil costs in the spot market. Why? They don't have enough capacity to weather the demands of the global market.

The weather, on the other hand, can affect the market greatly.

Hurricane Ivan is making OPEC look pretty weak. Oil prices have been volatile with each report of Ivan's predicted impact.

Right now, oil prices are just over $44. This morning the U.S. Minerals Management Service announced that 73 percent of the Gulf of Mexico oil production—that is about 1.25 million barrels of oil—and 41 percent of the gulf's gas production—about 5 billion feet of natural gas—have been shut in.

The longer the storm and its aftermath lasts, the longer imports from Venezuela will take to get to our southern ports. If refineries are shut down in Texas, Mississippi, and Louisiana due to Ivan, a 5-to-7-day delay in products getting to the market could occur.

The warning bells are ringing. We are living on the bleeding edge of supply and demand for oil, natural gas, coal, and renewable fuels. Let's get off the edge of this cliff and focus on achieving some energy security.

Instead of wringing our hands at each crisis and passing political blame around, we need to work together to get an energy policy in place. We have such a policy ready for action. It is called the energy bill. If the Democrats would agree to limit the number of amendments to about 10, we can pass this much-needed legislation. If they will not agree, then I want the American people to know for whom the bell tolls. It tolls for those that refuse to come to the floor and get this energy bill done.

Let's get to work and pass it.

I am quite surprised that when Members come to the floor of the Senate and talk about jobs, about growth, about competition, that they are not talking about energy. But they are not.

We have Hurricane Ivan, which makes OPEC look very weak. Oil prices have become very volatile, and the hurricanes, including "Ivan the Terrible," are causing us to shut in huge amounts of oil all over the coastal areas because they can't leave those deep wells open in the wake of the hurricane. So they are creating another big uncertainty. I don't want to make it sound like I am only worried about energy and hurricanes; I just want to state the facts.

While we do that, I want to say that all of us, whether we come from a State far away from hurricanes, are deeply worried about what has happened and what might happen. We don't know. Nobody knows how heartfelt Americans are from the rest of the United States. We are prayerful. We are worried, and we hope and pray that what we hear about possible damage to parts of Louisiana doesn't happen. It would be without precedent if it happens—just terrible. So let energy set aside for a little bit as we look at that problem and hope we can do something to be helpful.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I appreciate being able to follow the comments of my esteemed colleague and the chairman of the Energy Committee speaking about the importance of energy. He and I would agree that is a topic we just haven't heard enough of lately on this floor, the Energy bill and an energy policy that this country so desperately needs, whether it is Americans looking at the price they are paying for gasoline at the pump, whether it is Americans looking at our utility statements and realizing the price of natural gas is going beyond a level we feel comfortable with, just recognizing that we as a country do not have a notion, do not have a real solid policy for how our energy supply meets up with our energy demand. That is something we in Alaska have talked about for far too long. We have urged this body to move forward with an energy policy, one that makes sense.

I like to say that Alaska is prepared to be or in effect is the energy bank for the country. All we are waiting for is the opportunity to make a withdrawal from what we have in our incredible resources. But as we know, we have some issues we need to work through. Whether it is permitting issues for a natural gas pipeline, whether it is those financial incentives that make this megaproject, this $20 billion project possible so we can supply domestic reserves of natural gas to this country, we have the ability to make it happen in Alaska. We just need a little assistance from the Congress in moving forward.

We can't leave this conversation without talking about ANWR and the opportunities for us as a nation, recognizing the known reserves we have up there, recognizing that we are in a position in the State of Alaska to provide for enhanced domestic reserves of oil supplies at a time when we know the supplies are questionable from the sources we are currently receiving them, whether it is because of political instability or just declining reserves. We have an opportunity in the State of Alaska. Again, we just need the ability to move forward. .

My purpose today in addressing the body is not to speak to the Energy bill or the importance of the Energy bill; it is to speak to an incident that happened this morning in the Energy Committee when we, as a committee, took up a series of land bills. It was a business meeting this morning that was designed to take up and pass, again, some land issues. It was kind of a cats and dogs type of a hearing. Most of the issues we took up were relatively noncontroversial.

We have a history in the Energy Committee of working in a very good, strong, solid bipartisan way. The committee works well together. The chairman and the ranking member work well together. We move forward on issues, it is fair to say, in a good and enviable manner. We accomplish things. So this morning was a bit of a surprise when, instead of doing the business that was before us, we had members of the Democratic Party leave, essentially stage a walkout on a business meeting of the Energy Committee.

As an individual Senator coming from my State, working on legislation that is important and, quite honestly, isolated to my State, as I am working through issues that affect Alaskans, I would ask for certain consideration from my colleagues on Alaska-related issues as we work through them. Today's episode or incident in the Energy Committee doesn't allow Alaska to move forward with a series of our issues.

So what exactly happened? We had 22 bills move through the markup without question or controversy. I had an agenda item that was a bill to resolve certain conveyances and provide for alternative land selection under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation and for other purposes, with an amendment in the nature of a substitute. I read that from this morning's agenda.

I indicated to the chairman that I had an amendment in the nature of a substitute and moved to discuss those portions of the amended bill, and the minority members of the committee proceeded to leave the committee, which left us without a quorum and no ability to move forward on the business. The business remaining were two bills I had been working, this Cape Fox bill as well as another very specific Alaska lands-related issue.

As we discussed in the committee, after our Democratic colleagues had left, one of my Republican colleagues informed me that in his 24 years on the committee, it had been the first time members of the committee had walked out, which left me, as the Republican Senator for Alaska working on these very specific Alaska pieces, to wonder: Wait a minute, I am here to represent my State on very specific Alaska issues. If I can't have my colleagues debate back and forth on the merits of the amendment, if we don't have the opportunity in these sessions to do the business that needs to be done to allow my State to move forward on these land issues, how do I move forward with legislation?

So it causes me to look back and say: Well, was there a failing on my part, on my staff's part, or on the committee's part? As we had attempted to move this legislation forward, had we failed to work in a bipartisan manner, failed to reach out in an attempt to accommodate on issues that had caused concern?

Let me speak to the two different bills we had before us. The first one related to the Cape Fox Land Entitlement Adjustment Act. Essentially, what this act is destined to do is an equity issue for an Alaska Native corporation. It allows for an exchange to resolve an inequity to the Cape Fox shareholders through a land selection process. This is a land selection process authorized under our Native Claim Settlement Act. The shareholders were denied the ability to select certain lands within 6 miles of their area. It created an inequity.

The only way this inequity can be resolved is through Federal legislation. So what we have done is created logical boundaries that improve Forest Service management. Essentially, this is a land exchange that would allow the Cape Fox shareholders to receive certain lands. It consolidated private ownership and increased the role of State government in the environmental regulatory process. It created economic opportunities for Cape Fox and Sealaska through certain leasing agreements that would be made possible. It allowed for native hire and vocational education in an area where, as I recall, the unemployment rate in that very small community is 25.6 percent, almost 420 percent of the State's unemployment rate. This is an area that can definitely use some equitable economic assistance.

So the legislation itself is good. It is sound. So the question must be, OK, did we fail to reach out? Were we not working with the other side on this?

This is not legislation that is new to the process. This is legislation that was actually passed in the 107th Congress. This is legislation that was passed through the House committee with unanimous support earlier this year.

I introduced this legislation in June of last year. In August of 2003, the Subcommittee on Public Lands and Forests held a hearing in Anchorage, AK.

Subsequent to that time, we held a public hearing in Juneau, AK—a town-hall meeting—in September to hear the comments and concerns of Alaskans who are located down in the area where this exchange is to take place.

After that, in March of 2004, we held another subcommittee hearing here in Washington, DC. We were then placed on the agenda in mid-March for markup—it was March 24. But there was no consensus so we began to attempt to work out a compromise to address the concerns that had been expressed by some of the environmental community, by Alaskans, and by some of our Democratic colleagues; and so what we did was we had prepared an amendment that was the amendment we were prepared to offer as a complete substitute today. That amendment would maintain the view shed in an area where we have recreational opportunities for kayakers and boaters, so we inserted an amendment to provide for view shed protection, an amendment to provide for public access; and we provided a provision that would ensure that all exchanged lands would be based on appraisal reports in accordance with the uniform appraisal standards of the Federal Land Acquisition Act.

We essentially had worked through the process. We had worked with the committee. After that markup that didn't happen in March of 2004, we had discussions with minority staff, which had occurred prior to that intended markup date, as well as after. Those discussions continued through the third week in July of this year. We were making every effort to accommodate the concerns and considerations of the minority on this legislation yet still maintain the integrity and meet the needs of the Cape Fox Corporation and the Sealaska Corporation.

In looking at the bill and what we were intending to do, the entire intent of the Cape Fox legislation was to correct this inequity to this small southeast village, which has 431 residents, where the unemployment rate is 25.6 percent, as I indicated. So we were prepared to move forward with this legislation today. We had shared the amendment with the minority in July and, quite honestly, were stunned when the minority members walked out of that committee hearing.

I need to point out that not only did minority members walk out, which put us in a situation where we no longer had a quorum, but another minority member attempted to enter the committee room to join us in committee, when that individual was literally pushed back out of the committee room so a quorum would not be had. So not only was there a walkout but there was a lockout.

Again, it causes one to wonder. If the legislation that I am working on as a Senator from Alaska is so Alaska-specific, so Alaska-germane, and I cannot get the cooperation of colleagues to move it through even the committee process, it causes you to wonder what is going on.

Let's look at the second bill that was on the calendar this morning. Was this what was being objected to? The second piece of legislation that was before the committee was S. 1466, "a bill to facilitate the transfer of land in the State of Alaska, and for other purposes."

Again, what we are talking about here is entirely Alaska-specific. This legislation relates to no other State. What we are faced with in the State of Alaska, through multiple land acts, through statehood we were promised certain lands. We were promised certain lands under the Alaska Claims Settlement Act. We are a young State, only 45 years old, but we are still waiting for vast amounts of our land to be conveyed to us—the land promised at statehood.

We still have some 89 million acres of land yet to be conveyed to the State of Alaska, promised some 45 years ago. We had a hearing on this legislation—a subcommittee hearing—in Anchorage last year. I asked the agency people at the time: Given how long it has taken the Federal agencies to work through the conveyance process and kind of estimating forward, how long do you figure it will take for the State of Alaska to receive conveyance of all the land to which it is entitled? The response that I received was: Anywhere from 30 years to 300 years.

Thirty years to 300 years to get the lands that were promised to us at statehood.

Mr. President, it is absolutely unacceptable. Any other State would have said, no, this is wrong and you have to deliver on your promises.

So what are we doing? I have introduced this legislation to say: Hey, Federal Government, hey, agencies, you have a promise, you made the promise. Do the job you are required to do by law. Move through the conveyance process. I know it is complicated. I know we have overlapping land issues. It is a complicated process, but do what you need to do, and if you need additional assistance, let us know how. This is essentially legislation that helps speed up, if you will, helps expedite the process.

Let's look at a few of the provisions we are talking about here. We are clarifying and streamlining the conveyance process. We have technical amendments that move forward filing deadlines. We have a situation right now where if there is any survey that is not exactly accurate, even by a tiny amount if you are exceeded, then you basically have to start all over in terms of completing your surveys.

What we have done is get the survey down to the last hundredths of an acre and if, in fact, it is not exactly entirely precise, you do not have to start all over again.

We set final acreage for the 10 regional Native corporations.

We allow the Secretary to make certain withdrawals for two of the regional corporations which right now do not have sufficient land selection.

We are attempting to solve the problems of old ACSA-related withdrawals that closed public lands in Alaska to full operation of public land laws.

We provide that the Natives in Kaktovik are allowed to receive their full entitlement under the agreement made in 1983.

There are some people who have said: Oh, my gosh, you are opening up ANWR for oil and gas development. The authorization does not change or lift the prohibitions on oil and gas development in the refuge. This is not what this is about. This is all about the Natives in this community being able to complete their selections as all Alaska Natives should be allowed to do.

There are other technical amendments streamlining the process, the deadline for Native corporations in the State of Alaska to identify their final land priorities. There is a title that directs the Secretary of Interior to speed up the hearings appeals and probates. It establishes an Alaska-based branch office and requires the Secretary to report on the progress in implementing these land exchanges within 3 years of enactment.

It is very clear how Alaska-specific this legislation is.

Again, the question must be asked: Was there a failure, was there a problem in how we worked the committee process? Was this being rushed through the committee? Did we fail to reach out to the minority and the staff on this?

Again, I refer to the timeline. The bill was introduced last year. We held a subcommittee hearing on public lands and forest in Anchorage. We had a further subcommittee hearing in Washington, DC, in February of this year, and within a few days of that hearing, my staff met with both minority and majority committee staff members, and everyone agreed they were going to meet 1 day a week for as long as it took to work out a joint staff substitute.

We were told at that time by the minority that they were working on another Member's bill, and once they completed that, they would turn their full attention to 1466.

We made repeated requests in May, June, and the first part of July to the minority staff, and it did not result in any meetings. Meetings were later held in the latter part of July, and we made substantial progress with the assignments agreed to by the committee staff.

The minority had a number of requests for changes and concessions, looking for additional information and analysis. They offered to provide assistance with technical edits and even to draft at least one provision.

We continued to work on the bill throughout the August recess. We were incorporating all this that we were working through the committee process. We had taken massive comments from Alaskan organizations and individuals and Native organizations, working the process as the process should be worked.

We truly did make substantial headway. We were prepared this morning to move forward with a committee substitute and put forward the substance of that substitute to the minority staff on September 2. It was a good-faith effort to accommodate all the requested changes without sacrificing the goal of completing these land transfers by our 50th anniversary of statehood, or the year 2009.

As of last Friday, less than a week ago, we were hearing very positive reports about the progress we were making on both sides and truly believed we were going to be in a position to offer a joint staff substitute at today's meeting.

It was not until yesterday that we were abruptly informed no such substitute would be possible. So I proceeded with an amendment on my own, an amendment that really does reflect the very bipartisan effort that was going on in this very important bill.

Again, I need to stress the importance of this legislation: land conveyances owed to the State of Alaska since statehood, land conveyances owed to Alaska Natives since passage of the Native Claims Settlement Act, promises made by the Federal Government to Alaska that need to be promises kept.

I am very committed to my work in the Senate. I am very committed to doing my utmost best for the people of the State of Alaska. These two pieces of legislation we were prepared to take up this morning and that we were thwarted in our efforts to move forward are very important to Alaskans. They do make a difference in how we move forward with our lands.

Put your State in this position. If you do not have the ability to move forward with your lands, if you do not even know what the status of your land title is, how complicated the future is for your State. We need to get these issues resolved.

All I ask for is the ability to do my job, and my job, as we all know, requires a cooperative process. We cannot move legislation through this body if we do not have cooperation, and cooperation begins at that very beginning level, working through the committees, as we have with both of these legislations. It then moves forward to that next step—to move the legislation through the committee—so we can move it to the floor.

I am happy to engage in debate on the merits. If you do not like the amendments, if you think they can be made better, wonderful, let's make it happen, but let's at least allow the process to work. When we fail, when we as Senators abdicate the duty and say, Alaska, or whatever State, you are on your own, nothing is going to move forward, we are not doing our job.

I know this is a contentious time. We are in the middle of all the hot political debates. I am a Senator who is standing for election now. We know that causes interesting things to happen within the process. But I would certainly like to think that what we do here in the course of our work should not harm our constituents. We ought to be able to do the business that needs to be done in a cooperative manner.

I am very hopeful we will be able to move forward with not only these bills and hopefully see them on the floor of this body, but other legislation that pertains to all of us. We all come to this body with our very unique issues. They are very particular to our home States. I ask that we all respect one another in our efforts to accomplish those things that are truly very local to our States.

So I look forward to next week and an opportunity to again bring forward very important issues for my State.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

HOMELAND SECURITY APPROPRIATIONS

Mr. FEINGOLD. Mr. President, I want to add my thoughts to the debate on the Department of Homeland Security appropriations bill for fiscal year 2005.

First, I want to preface my remarks by thanking the chairman and ranking member of the Homeland Security Appropriations Subcommittee for working so diligently on this bill despite the constraints they have faced. The fight against terrorism is our number one priority, and this appropriations bill is a key component in that fight.

I also thank the Nation's first responders and the employees of the Department of Homeland Security, DHS, who work daily to protect this Nation. They are on the front lines of the fight against terrorism. They are the ones who are called on to stop and respond to any future attack upon our Nation. This bill includes important resources these brave men and women need to perform their critical tasks.

The Senate bill is a vast improvement over the President's proposed budget. It increases funding for such important things as port security, FIRE Act grants, Federal air marshals, Emergency Management Performance Grants, and the SAFER program. The Senate bill also includes funding for research and development on next generation explosive detection equipment, a priority identified by the 9/11 Commission. These are just a few examples of the many areas where the Senate bill is far superior to the administration's request.

I was also pleased that the Senate bill includes a number of amendments I sponsored. The Senate adopted my amendment requiring DHS to create a strategic transportation security plan and to base future transportation security budgets on that plan. This amendment will make sure that taxpayer dollars are spent efficiently and effectively to meet our Nation's most pressing transportation security needs, rather than the current well-intended but ad hoc method of spending. This amendment was based on one of the recommendations of the 9/11 Commission and, it is one of the first of the Commission's recommendations to be adopted by the Senate.

The Senate also adopted my amendment to extend to the Department of Homeland Security for fiscal year 2005 a provision included in the fiscal year 2004 omnibus appropriations law that requires all departments and agencies to report to Congress on purchases of foreign-made goods. It is important that the government make every effort to purchase American-made goods and that it explain to the public whenever it fails to do so.

I was also pleased that the Senate adopted my amendment requiring the Department of Homeland Security to report to Congress on its use of data-mining in fiscal year 2005. This amendment will provide the American people with critical information about the use of data-mining technology and the way highly personal information, like credit reports, travel records and other personal information, is obtained and used by our government. Periodically, after millions of dollars have been spent, we learn about a new data-mining program under development by the Federal Government. This amendment will not stop any data-mining. It simply requires the Department of Homeland Security to report to Congress on any data-mining programs it is using or developing and how these programs implicate the civil liberties and privacy of all Americans. With complete information, the American people will be able to make considered judgments about which programs should and should not go forward.

Although this bill does a lot to help protect this Nation, including providing much-needed resources for our first responders, it does not do enough. I was disappointed that many good amendments were not adopted by the Senate. For example, an amendment offered by Senator BYRD, which I cosponsored, would have canceled purchases of oil to the Strategic Petroleum Reserve and directed the $470 million in savings to critical homeland security needs. Yet the Senate rejected this amendment even though it would have helped to ease gas prices by freeing more oil for the market and provided important funding for our homeland security programs.

I also regret that this bill was so severely limited by a budget allocation that did not provide adequate funding for homeland security, choosing instead to make tax cuts its highest priority. That is why I supported several amendments that would have added funding for critical security needs. I want to point out to my colleagues that I do not take lightly my decision to vote in favor of spending more money. Fiscal responsibility is one of my highest priorities and I constantly look for ways to limit government spending. I am honored that the Concord Coalition and others have recognized me for my efforts in this regard. Although fiscal responsibility remains one of my top priorities, it is imperative that we provide the resources needed to combat terrorism.

I voted for this bill because it provides necessary funding. However, our Nation's vulnerabilities demand more, and I will continue to work to ensure that our vital homeland security needs are met.

INTELLIGENCE REFORM

Mr. KENNEDY. Mr. President, last night, the Republican majority in the Senate voted 49–45 to table an amendment I offered on intelligence reform. The amendment would have required the President to give Congress a copy of the 2001 report by the Scowcroft Commission on intelligence reform. A classified annex could be provided if necessary.

In May 2001, before 9/11, President Bush ordered a review of U.S. intelligence, and General Brent Scowcroft was named to lead a commission to provide recommendations.

The report of the Scowcroft Commission was submitted to the White House in December 2001, three months after 9/11, but it continues to be classified, despite repeated requests from Congress to release it.

The 9/11 Commissioners had full access to the Scowcroft recommendations as background for their work, and the final report from the commission drew significantly from the recommendations.

Clearly, before we act on intelligence reform later this month, Congress should also have the benefit of General Scowcroft's recommendations.

But the Republican majority blocked it. They rallied behind the President and argued that the report could not be provided because of what they called "executive privilege." Frankly, that's ridiculous.

The White House did not invoke executive privilege when they gave the 9/11 Commission full access to the Scowcroft report. They did not invoke executive privilege when they allowed National Security Advisor Condoleezza Rice to testify before the 9/11 Commission.

In these cases, the administration concluded that the benefit of protecting the Nation's security outweighed other considerations about privileged information. It should have done the same in this case.

Secretary Rumsfeld told the Senate Armed Services Committee that he could not see any reason why the Scowcroft report should not be declassified. Our colleague Senator ROBERTS, chairman of the Intelligence Committee, and our colleague Senator WARNER, chairman of the Armed Services Committee, have requested the report, but it still has not been made available.

There is no compelling reason to keep this information classified. What are the White House and the Republicans in the Senate trying to protect? The Nation's security? Hardly. They are trying to protect President Bush. Why? Because President Bush had General Scowcroft's recommendations on intelligence reform for nearly 3 years and failed to act on them.

Congress needs the report, and we deserve to have it before we act on intelligence reform. We are talking about our national security, and President Bush is playing politics by stonewalling us. It is already clear that the administration sat on the Scowcroft recommendations for 3 years, and the Nation has obviously suffered because of it. Had the reforms been implemented, we very well may have known that there were no weapons of mass destruction in Iraq.

Congress and the American people deserve to know how much greater progress we could have made in the war on terrorism if President Bush had not buried the Scowcroft recommendations and allowed them to collect dust on a shelf at the White House.

VOTE EXPLANATION

Mr. NELSON of Florida. Mr. President, I was unavoidably detained during rollcall vote No. 178 on Senate amendment No. 3632 to H.R. 4567, the Department of Homeland Security appropriations bill. If present I would have voted "aye," in favor of the motion to waive the Budget Act. It would not have changed the outcome of the vote.

BYRD AMENDMENT NO. 3649

Mr. ROCKEFELLER. Mr. President, I am proud to cosponsor and to speak in support of the amendment offered yesterday by my colleague from West Virginia, Senator BYRD. As members of Congress, our most sacred duty is protecting our fellow Americans. We do this in several ways, of course, by supporting our troops at home and abroad, by our oversight of the intelligence community, and now, with the creation of the Department of Homeland Security, with an annual appropriation to fund the security activities of the various agencies that make up DHS, and to fund grant programs to states, localities, and private industry to make certain that citizens of the United States are protected from terrorist attacks, life-threatening accidents, and acts of God.

In the last 3 years I have sat down with hundreds of first responders around my State of West Virginia, as well as local elected officials and experts from my State's core industries, to discuss what they were doing to protect West Virginians, and to hear from them directly where they needed help from the Federal Government. I am sure that each of my colleagues has had similar meetings. While I would not presume to know specifically what was said at these meetings, I would be willing to wager that no Member of Congress heard anything other than "We have huge unmet security needs and we need federal resources to make our country safer."

When we created the Department of Homeland Security, and when we authorized many billions of dollars in additional funding to protect this Nation, I am sure we convinced some people that we had learned the harsh lessons of September 11. In fact, I think we have done well making increased safety and security priority issues for the Federal Government and for all Americans. Unfortunately, we have fallen short on addressing these needs, and the Byrd amendment is a very good step in the right direction. This amendment would not do everything that needs to be done for Congress to be able to say we are delivering the goods to our first responders, State and local officials, and to the industries that make up our critical infrastructure, but it would be a much-needed boost for all those trying to make America safer.

I commend Senator BYRD for making his usual strong, principled stand on this matter. Let me be clear, too, that I do not believe the funding levels in the underlying bill reflect any lack of understanding of the scope of the problem on the part of our colleagues on the other side of the aisle. The chairman of the Homeland Security Subcommittee, my friend, Senator COCHRAN, has done very well with the amount he was given to distribute. The problem is, quite simply, that the administration's past policy choices and the need to adequately support our troops in Iraq and Afghanistan have left Senator COCHRAN and his fellow appropriators with too little to do this all-important job.

It is not a question, let me reiterate, of our Republican colleagues or the President not wanting to see our Nation adequately protected. I do question, I am sad to say, the idea that it is vitally important to make unaffordable tax cuts permanent, but it is not more immediately important to secure our chemical facilities, our railroads, our electricity grid, or provide training and technical assistance to our firefighters and emergency medical personnel.

I hope that my colleagues will see just how important this is. It would be a tragedy beyond measure if we failed to do the right thing when we had the chance, and only provided funding, for instance, to fix the problem of interoperable radios after another tragedy where first responders were at risk because they could not talk to each other.

Mr. NICKLES. Mr. President, yesterday the Senate completed action of the second of 13 appropriations bills for fiscal year 2005, the Department of Homeland Security appropriations bill.

Although the Senate has not yet adopted a new concurrent resolution on the budget, we did establish a discretionary spending allocation for the Appropriations Committee in the recently enacted Department of Defense appropriations bill. That allocation, and the subcommittee allocations that were derived from it, enabled us to consider the Homeland appropriations bill under the usual budget enforcement protections.

During debate on the Homeland appropriations bill, a total of 10 budget points of order were raised against amendments that sought to increase spending by an incredible $19.9 billion in 2005 alone. If those amendments had been enacted and incorporated into the discretionary spending baseline, their 10-year cost is a staggering $220.2 billion. Including debt service costs, that number increases to $285.3 billion.

I am happy to inform my colleagues that the Senate upheld all 10 budget points of order and rejected each one of these spending increases.

Unfortunately, the Senate did adopt an amendment providing $2.98 billion in emergency spending for agriculture disaster assistance. I opposed that amendment because it did not belong on this appropriations bill, and it should be paid for and not add to the deficit. I want my colleagues to know that I will continue to seek to have this spending dropped from the bill or offset with appropriate spending cuts.

I congratulate my good friend from Mississippi, Senator COCHRAN, who managed the Homeland appropriations bill for using the Budget Act successfully to control the spending in his bill. I look forward to working with my colleagues on the remaining appropriations bills to continue that success.

I ask unanimous consent that a table displaying the budget points of order raised during consideration of the Department of Homeland Security appropriations bill for fiscal year 2005 and their cost be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEN-YEAR COST OF DEMOCRATIC AMENDMENTS TO THE FISCAL YEAR 2005 HOMELAND SECURITY APPROPRIATIONS BILL DEFEATED BY BUDGET POINTS OF ORDER

[Budget authority, in billions of dollars]

Amendment[a]	PoO[b]	2005	2005–14
3580—Schumer—Port security R&D grants	302(f)	0.2	1.7
3596—Murray—Port security	302(f)	0.3	3.3
3597—Byrd—Misc. homeland programs	302(f)	2.0	22.1
3604—Dodd—First responders	302(f)	15.8	175.2
3617—Lautenberg—Coast Guard	302(f)	0.1	1.1
3624—Mikulski—Firefighter assistance grants	302(f)	0.2	1.7
3632—Clinton—High threat area funding increase	302(f)	0.6	6.9
3649—Byrd—TSA and SPR	501(b)	0.0	0.5
3655—Schumer—Border security	302(f)	0.4	3.9
3656—Schumer—Rail security	302(f)	0.4	3.9
Subtotal	....	19.9	220.2
Interest on amendments[c]	....	0.0	65.2
Total including interest	....	19.9	285.3

[a] The increases in spending in several of these amendments may be for very similar or identical purposes.

[b] 302(f): Amendment exceeded Homeland Security 302(b) allocation; 501(b): Amendment provided advance appropriations in an account not identified for advance appropriations by the conference report on H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004.

[c] Approximated based on budget authority.

Source: Senate Budget Committee Republican Staff.

TRIBUTE TO ERNIE ALLEN OF KENTUCKY

Mr. McCONNELL. Mr. President, I rise today to pay tribute to a friend of over 40 years—a fellow Kentuckian who has had a national impact. It is an honor and a privilege to congratulate my good friend, Ernie Allen, on winning the Henry Clay Distinguished Kentuckian Award from the Kentucky Society of Washington. Ernie's work as President and CEO of the National Center for Missing and Exploited Children makes him a most worthy recipient. As I mentioned, I've known Ernie for over 40 years, dating back to our days at Manual High School in Louisville. On the same day I won election as president of the high school, Ernie was elected president of the junior high school. We both went on to attend the University of Louisville, and were fraternity brothers.

Knowing Ernie so well, I can assure you that his dedication to rescuing missing children runs deep. Over twenty years ago, when I was the Jefferson County Judge-Executive, Ernie was the Director of the Louisville/Jefferson County Crime Commission. That Commission was the first of its kind to bring police officers and social workers together on behalf of kids. Just one innovation Ernie came up with back then was to make a fingerprint card for as many Kentucky kids as possible, and send that card home to the child's parents to hang on to in the awful event their child ever went missing. A young man on my staff today still has his card, two decades later.

Ernie's work in Kentucky established him as a national leader for his cause as early as 1981. At that time, no nationwide organization existed to share and distribute information on missing children. If a child was abducted and taken over a State line, or even a county line, the chances that law enforcement in the new jurisdiction had all the information necessary to save that child were small. Ernie led the effort to lobby Congress to establish laws so that police could talk to each other across boundaries about missing kids. His work and patience bore fruit in 1984, when President Ronald Reagan signed the bill creating the National Center for Missing and Exploited Children as a public-private partnership.

Under Ernie's leadership, the Center has created the CyberTipline, an online reporting service that former Vice President Al Gore has called "the 911 for the Internet." They created the AMBER Alert System, notifying citizens statewide when a child has been kidnapped. They've worked on over 98,000 cases, and have been involved in the successful recovery of over 83,000 kids. Last year they had an astonishing success rate of 95 percent.

Mr. President, Ernie has labored for 20 years to save children from ghastly fates, and parents from horrible nightmares. It's a heartbreaking job at times. It provides a window into the ugliest parts of the human soul. But thanks to Ernie and the Center, there are a lot of success stories. Last month, a woman in Oklahoma City left her four-month-old baby in the back seat of her running car to pick up her other child from school. When she emerged a minute later, the car was gone. The police issued an AMBER Alert. They quickly tracked down the car and collared the kidnapper. Thankfully, the baby was still safely strapped in his car seat. We can all imagine his mother's relief. Multiply that feeling by 83,000 children saved, and you begin to see the good Ernie and the National Center do.

Twenty years ago, it was literally easier to find a stolen car than a missing child. Now because of Ernie, that is no longer the case. Parents across America owe Ernie thanks for the peace of mind they have every day, knowing that should the unspeakable ever happen, an incredible man is running a fine organization dedicated to rescuing their child. Kentucky, America, and the United States Senate pay tribute to Ernie Allen, and hope he will be on the side of justice and mercy for many years to come.

Mr. President, I ask my colleagues to join me in honoring this American hero whose roots run deep in the Kentucky Bluegrass.

I yield the floor.

ALEJANDRO FERNANDEZ

Mr. REID. Mr. President, I rise today to recognize Alejandro Fernandez as one of Mexico's leading musical performers and a strong supporter of philanthropic causes throughout the world.

A Latin Grammy award winner, Mr. Fernandez is among Mexico's most famous balladeers. He has entertained sold-out audiences throughout the world and is performing in Las Vegas today in celebration of Hispanic Heritage Month.

Alejandro's musical talent is hardly surprising. His father, Vicente Fernandez, is a legend in Mexico as the undisputed king of the style of music called "ranchera."

Alejandro Fernandez has contributed tremendously to global music and culture and has also used his fame to support many charitable endeavors. He has worked with the Ronald McDonald House Foundation Charity to support the Hispanic American Commitment to Education Resources scholarship program, the Nation's largest scholarship program for Hispanic students. Mr. Fernandez also has been a strong supporter of World Children's Day, a global fundraising effort that benefits the Ronald McDonald House Foundation Charity and other children's organizations in over 100 countries.

I hope my colleagues will join me in thanking Alejandro Fernandez for sharing his tremendous musical talents with the citizens of Las Vegas today and for his efforts to support charitable programs throughout the world.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law sending a signal that violence of any kind is unacceptable in our society.

On August 18, 2001 in Ithaca, NY, Michael Palahicky, 20, punched a man and called him an anti-gay epithet. He was charged with harassment as a bias crime.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

FORMER SENATOR BROCK ADAMS

Ms. CANTWELL. Mr. President, last week, Washington State and the Nation lost a dedicated civic servant who gave much of his life to serving the public when former Senator Brock Adams passed away following a long battle with Parkinson's disease.

Today, his family and friends are gathered to remember his life and legacy—and it is truly a long legacy—from fighting for civil rights to protecting the environment to standing up for people suffering from AIDS.

Brock made his commitment to public service clear early in his life by serving as student body president at the University of Washington. It was not long afterwards that he became the youngest United States attorney in the entire Nation.

Over the course of his career, Brock would go on to serve the people of Washington State in the House of Representatives and ultimately in the Senate. He also served the country, as President Jimmy Carter's Secretary of Transportation. His accomplishments in that role are epitomized by his work to help create Amtrak.

Brock will be long remembered for hard work on behalf of Washington and the Nation. My thoughts and prayers are with his wife Betty and the rest of his family during this sad time.

AMERICAN YOUTH PHILHARMONIC ORCHESTRA

Mr. WARNER. Mr. President, I rise to commend and congratulate the American Youth Philharmonic Orchestra of Annandale, VA on its fortieth anniversary.

The cultural and political history of the United States has changed dramatically over the last five decades. During that time, however, the American Youth Philharmonic Orchestras have provided a vital service for young musicians throughout northern Virginia and the District of Columbia. The 2004–05 concert season will commemorate the 40th year in which the American Youth Philharmonic Orchestras have trained new generations of children, teenagers, and young adults to become extraordinary musicians. To give an example of the marvelous impact that this institution has had, over 100 public and private schools from Washington's metropolitan area are represented within the orchestra's current enrollment. The students of the American Youth Philharmonic constantly strive for excellence in their performances; such preparation increases the chance that they will seek to make a positive impact on our society, whether through the arts or other endeavors.

With a group of approximately 400 students, the orchestra has represented Virginia and the District of Columbia with distinction in the performances at the Kennedy Center, the Festival of Youth Orchestras, and the Spoleto Festival in South Carolina. Remembering this Nation's tragic losses on September 11, 2001, the Philharmonic performed a touching concert, entitled "The Spirit of Freedom," at New York's Carnegie Hall in January 2002. In addition to their exceptional performances in the United States, the American Youth Philharmonic was a dignified cultural ambassador for this country at the International Rachmaninoff Festival in Russia, the Aberdeen International Youth Festival in Scotland, and the British Festival of Youth Orchestras. The young men and women of the orchestra have offered the diplomatic language of music to our friends abroad, and they deserve to be recognized for their efforts.

If we were to gauge the success of the American Youth Philharmonic by the rate at which its students are accepted to the best musical and educational schools in the United States, we would see that the American Youth Philharmonic is unrivaled in its training of our Nation's best and brightest. Members of the American Youth Philharmonic have continued their study of music at the Oberlin Conservatory, the Juilliard School, Carnegie Mellon, and the Cleveland Institute of Music, while others proudly accepted offers to Harvard, Princeton, Stanford, and the University of Southern California, to name a few.

Beyond the beauty of the sound generated in their performances, the American Youth Philharmonic Orchestras have given their time and service to the surrounding communities of Northern Virginia and the District of Columbia. The American Youth Philharmonic created a music mentorship program that trains designed high-school members to offer free tutoring to younger musicians in the area. In this way, the students of the orchestra are able to strengthen their own abilities as teachers while providing an enriching experience to those who are limited by financial circumstances or their special needs. Recognizing the value of this community service, the First Place Arts Council of Fairfax County, VA recognized the American Youth Philharmonic with the Arts for Special Audiences Award in 2000.

We must also credit the constant dedication of Maestro Luis Haza for the brilliance of the American Youth Philharmonic. Mr. Haza has given 20 years of service to this ensemble in addition to his 29 years of ongoing performance as a violinist with the esteemed National Symphony Orchestra. Born in Santiago, Cuba, Mr. Haza was honored with a Washington Immigrant Achievement Award in 2004, and he truly demonstrates a commitment to the values of democracy and freedom on which this country was founded. While Mr. Haza has shared his talent for musical direction with the London Symphony Orchestra, our own National Symphony Orchestra, and the national orchestras of Panama, El Salvador, and Guatemala, his passion for music is never more evident than in his direction of the American Youth Philharmonic. Mr. Haza has dedicated a lifetime to sharing the gift of music with young people throughout the Americas, and his legacy to this country will be reflected in the values of his students for many years to come.

CONGRATULATING GEORGE BRUNSTAD

Mr. DODD. Mr. President, I congratulate one of my Connecticut constituents, George Brunstad, on an extraordinary achievement. A few weeks ago, George, a resident of Ridgefield, became the oldest person to swim across the English Channel.

George, who celebrated his 70th birthday on August 25, began his record-breaking swim three days later when he left Dover, England shortly after 9 a.m. on Saturday, August 28. He reached Sangatte, on the French coast, after midnight on Sunday, completing the 21-mile stretch in 15 hours and 59 minutes. Prior to George, the oldest person to swim the Channel was Clifford Batts, who was about 100 days shy of his 68th birthday.

Let me tell my colleagues a little about George Brunstad. He is a retired Air Force pilot who flew B–52 bombers. For 20 years, he piloted jumbo jets for American Airlines. Currently, he is a swim coordinator for children at the YMCA in Wilton, CT, where he is affectionately known as "Grandpa George." George and his wife Judy are active members of the Wilton Baptist Church, where George serves as a Deacon. For 20 years, George has been associated with Pivot Ministries, a group that helps men who are recovering from drug and alcohol addiction.

While George was on the swim team in college, he had been away from the sport for 20 years before he saw a sign at the Wilton YMCA advertising competitive swimming for adults. That was 31 years ago, and George Brunstad hasn't stopped swimming since. He is a World Masters Open Water Swimming Champion and has won more than 100 national championship medals in U.S. Masters Swimming.

But George Brunstad's feat last month was much more than an athletic achievement. Last year, George and Judy traveled on a mission to the island nation of Haiti with their church. They were appalled by the incredible poverty that continues to afflict that nation. They were particularly saddened by the large numbers of homeless children they saw in Haiti. And they decided to do what they could to help those children.

George and Judy are founding members of the board of directors of the Center of Hope, an organization devoted to building an orphanage and school in the Haitian city of Hinche. Hinche has 80,000 people, most of whom are desperately poor and lack basic needs like clean water, shelter, medical care, transportation, and education.

George decided that his swim across the Channel would be a perfect way to raise money for the Center of Hope. In total, he managed to raise over $11,000. As someone who has been to Haiti numerous times, and as a Senator who has done his best to try to direct our attention to Haiti's dire needs, I'm particularly pleased that George Brunstad chose to turn his moment of personal triumph into one that will help better the lives of some of the residents of an impoverished nation only a few hundred miles from our shores.

This coming weekend, the Wilton Baptist Church and the Center of Hope will be holding a special celebration in George's honor. I send George, Judy, their family, and all those who will be attending the celebration my best wishes, and my enthusiastic congratulations.

FEDERAL TRADE COMMISSION REAUTHORIZATION ACT

Mr. McCAIN. Mr. President, I am pleased that the Senate has agreed by unanimous consent to pass a substitute amendment to the Federal Trade Commission Reauthorization Act, S. 1234. The bill would reauthorize the Federal Trade Commission in furtherance of its mission to enhance the efficient operation of the marketplace by both eliminating acts or practices that are unfair or deceptive and preventing anti-competitive conduct. Further, the legislation would authorize funding for the FTC through 2008, and enhance the Commission's ability to combat international—or cross-border—fraud.

In addition to reauthorizing this vital consumer protection agency for the period 2005 through 2008, the bill, as amended, is also designed to mitigate the challenges that the FTC increasingly faces in combating cross-border fraud. The FTC's consumer protection responsibilities are essential, particularly in today's global climate of high-speed information and marketing, which know no international borders.

This legislation is crucial to the FTC's ability to protect American consumers by authorizing the Commission to: Share information involving cross-border fraud with foreign consumer protection agencies; secure confidential information from those foreign agencies; work in conjunction with the U.S. Department of Justice to seek redress for American consumers in foreign courts; make criminal referrals to the DOJ for cross-border criminal activity; and generally strengthen its relationship with foreign consumer protection agencies.

Under the FTC's current authority the agency is not able to exchange information with its foreign counterparts to shut down consumer scams originating outside the United States, but perpetrated against American consumers. As a consequence, the FTC is left without the ability to seek redress on behalf of defrauded consumers. In addition, the FTC is not currently considered a "market regulator," and thus, banking agencies may not share suspicious consumer information with the FTC. As a result, the FTC is not able to trade funds derived from illegal Internet schemes sent through U.S. banks and placed in offshore bank accounts. Thus, those who devise and carry out such schemes are too often allowed to escape the grasp of the FTC. But even if the FTC were able to share information with its foreign counterparts and market regulators, the FTC would be unable to litigate consumer protection cases in foreign courts.

While these are descriptions of merely a few gaps in the FTC's current international consumer protection authority, they underscore how vulnerable American consumers are to cross-border fraud. This legislation would fill these and other gaps in the FTC's current international consumer protection authority, and allow the FTC to function more effectively in carrying out its Congressional mandate to protect American consumers.

This bill, as amended, would also grant authority to the FTC to provide investigative and other services to a requesting domestic law enforcement agency and receive from that agency, if offered, reimbursement for the FTC's involvement. Finally, the amendment would provide to the Commission the authority it has requested to receive gifts or items that would be useful to the Commission as long as a conflict of interest is not created by such receipt.

The underlying bill was considered and reported unanimously last year by the Senate Committee on Commerce, Science, and Transportation. Since being placed on the Senate Calendar, its provisions have been thoroughly vetted on a bipartisan basis with the multiple federal agencies that have a vested interest in its enactment. We have worked with and received sign off from each affected agency on this substitute amendment.

REPUBLICAN HIGH TECH TASK FORCE

Mr. ENSIGN. Mr. President, I rise to speak about the critical role of technology and innovation in maintaining our Nation's security and prosperity in the future. Technology and the intellectual property that accompanies it is the very lynchpin of our modern economy. Technology is changing all the rules, from the way we do business to how we communicate. It is saving lives, and it is protecting our homeland. In recognition of the critical role that technology plays in the lives of all Americans, Majority Leader BILL

FRIST has made technology a top priority by devoting significant time and resources to the Senate Republican High Tech Task Force which serves as the focal point for technology-related issues in the United States Senate.

I have been honored to serve as the chairman of the Senate Republican High Tech Task Force during the 108th Congress. I have been privileged to meet the leading innovators of our great Nation and talk directly to the employees who have made technology their career and are delivering every day the promise of the new "next big thing."

The work of the Senate Republican High Tech Task Force increases in importance each day, as technology becomes ever more a part of our lives. It is the responsibility of the Task Force to be leaders on technology issues in the Senate. We are tasked by the majority leader to reach out to the technology community to listen and learn and then advise our colleagues and lead on legislation related to this important sector of our economy. And we have been very successful this year. Senate Republican High Tech Task Force members have passed important legislation that protects technology and helps foster continued innovation. Just a few of the many accomplishments in the past few months include the following: Senator ALLEN has championed intellectual property protection and has utilized his position with the Committee on Foreign Affairs to ensure that American intellectual property is protected abroad and that overseas piracy of copyrighted materials is fought to the fullest extent possible. Senator ALLEN was also successful in passing legislation out of the Senate to keep State, local, and Federal tax collectors from driving up the cost of broadband with Internet access taxes.

Senator GRASSLEY has championed free trade agreements with Singapore, Chile and Australia. Free trade is the life blood of our economy and ensuring that American companies are able to access new markets on a fair footing with all appropriate intellectual property protections creates and protects American jobs.

Senator SUNUNU has led Senate efforts in protecting nascent voice over internet protocol technology which promises to provide new data services for businesses and consumers, fundamentally changing the way we look at phone service.

Senator BURNS worked tirelessly to successfully secure passage of the CAN-SPAM Act which was passed unanimously by the United States Senate. Unsolicited commercial e-mails are overwhelming our telecommunications infrastructure and costing Americans productivity and now, more alarmingly, affecting their confidence in online transactions. The CAN-SPAM Act was a successful first step, and the Task Force will continue to work to restore confidence and protect American consumers from SPAM.

Senator SMITH and I have been successful in seeing the Invest in the USA Act passed out of the Senate. This important legislation will bring back a cash infusion of over $400 billion to be reinvested in America and create over 600,000 American jobs. This will allow money that American companies earn overseas to be brought back to the United States where it can create jobs and grow our economy.

My colleagues and I have been very busy during the 108th Congress. We have visited technology centers around the United States and met with top innovators and the most talented employees in the world. The work of the High Tech Task Force will continue through the remainder of this session and into the 109th Congress.

The Senate Republican High Tech Task Force remains focused on securing final passage of important priorities such as: final passage of the JOBS Bill that includes international tax reform, extension of the R&D Tax Credit and the Invest in the USA Act; preserving broad-based employee stock option plans that are threatened by FASB; class action reform to stop frivolous lawsuits that stifle innovation and drive up costs for consumers; bringing an end to patent fee diversion that harms the ability of U.S. innovators to bring their exciting products to market. Four-year delays to obtain patents hurt innovation; final passage of the Internet Tax Moratorium legislation to keep state, local, and federal tax collectors from driving up the cost of Internet access; final passage of the Spectrum Relocation Bill which will provide additional spectrum for the wireless revolution and has the potential to yield more than $500 billion in economic and consumer benefits over the next decade, spur $50 billion or more in capital investment, and create thousands of American jobs.

These priorities are critical to our country's continued leadership in the world, and we are redoubling our efforts to see these issues through to signature by the President. We are more committed than ever to ensuring that American workers are getting the best education in order to become the innovators of the future. And yet there are new issues arising each day. Members of the task force will be intimately involved with rewriting the Telecommunications Act of 1996. Issues such as the regulatory treatment of voice over internet protocol and hastening the availability of spectrum for next-generation wireless broadband, along with many others, will be added to our list of priorities for the coming session of Congress.

In conclusion, we have accomplished much over the past year on many technology issues. The Senate Republican High Tech Task Force has been an effective voice for technology on Capitol Hill. Our members are leaders on every major technology issue and are fighting to protect American innovation. While we have been very successful in pursuing our policy platform, technology is ever-changing. We will work diligently to ensure that we stay ahead of the curve and, if nothing else, help keep government out of the way to allow American innovators and entrepreneurs to bring the latest and greatest to the doorsteps of all Americans.

EMPLOYMENT OPPORTUNITIES FOR NATIVE PEOPLE

Ms. MURKOWSKI. Mr. President, when troubles befall our Nation, whether it is a hurricane in Florida, a tornado in Oklahoma, or an earthquake in my State of Alaska, America turns to the Federal Emergency Management Agency, FEMA, to help it recover.

FEMA, in turn, relies upon some 4,000 part time, temporary employees called disaster assistance employees to help it meet the heightened workload demands. These disaster reservists, who live in all corners of our Nation, are organized into cadres and are pressed into service when their services are needed.

The Federal Government transports these individuals from their home to the disaster site, houses them, pays a Federal civil service wage for their services and returns them home at Federal expense when their services are no longer needed.

In the native villages of my home State and in native communities across the Nation, the level of unemployment is unacceptably high. Native people are often left with the choice of relocating to urban areas where jobs are in greater supply, leaving their native culture behind or remaining in their communities where jobs are scarce.

I suspect that native people who live in the rural villages of Alaska will find the opportunity for intermittent employment with FEMA desirable. Employment such as that offered by FEMA in the Disaster Assistance Employee cadres allows my native people to participate in the cash economy without completely losing their ties with the traditional subsistence culture in their villages. I expect the same is true for native people who live on our Indian reservations and native Hawaiians.

Last evening, joined by Senator INOUYE and Senator STEVENS, I offered an amendment to H.R. 4567, the Homeland Security Appropriations Bill on this subject. This amendment encourages the Secretary of Homeland Security to make an effort to improve the representation of American Indians, Alaska natives and native Hawaiians in the Disaster Assistance Employee cadres by actively recruiting in our native communities. The amendment was adopted by unanimous consent last evening, and I want to thank my colleagues for supporting it.

I hope that this amendment will serve its intended purpose, which is to encourage FEMA to be proactive in identifying opportunities to reduce unemployment among our qualified and motivated native workforce, and I hope that this lesson will not be lost on the other Federal agencies.

As thousands of native people from across our Nation descend on Washington next week for the opening of the National Museum of the American Indian, it is fitting that our Federal Government renew its commitment to provide native people, many of whom reside in the remotest parts of our Nation, with access to Federal employment opportunities. Last night the Senate did just that, and I am grateful to my colleagues for their support of my amendment.

TENTH ANNIVERSARY OF THE PASSAGE OF THE VIOLENCE AGAINST WOMEN ACT

Ms. LANDRIEU. Mr. President, today I rise to commemorate the tenth anniversary of the passage of the Violence Against Women Act, VAWA. One of the most prominent woman Latin American writers, Isabel Allende, once said, "How can one not speak about war, poverty, and inequality when people who suffer from these afflictions don't have a voice to speak?" Ten years ago today, this body rose up and spoke for a group in our society that is frequently left voiceless.

The number of women in the United States who have been murdered by an intimate partner is greater than the number of soldiers killed during the Vietnam War. In 1996 alone, over 30 percent of all female murder victims in the United States were slain by their husbands or boyfriends. These women who lost their lives in the war of domestic violence that plagues our country began to have a voice because of the passage of VAWA.

Today, there are roughly 143.4 million women in the United States. Of this population, it is predicted that almost 28.7 million, or 20 percent, will be raped during their lifetime, and one-third will be physically or sexually abused. Battery is the single greatest cause of injury to women in the United States, accounting for more emergency room visits than all other injuries combined. Yet, with these sobering statistics there are three times more shelters for neglected animals than there are shelters for battered women.

Jane Addams said, "Action indeed is the sole medium of expression for ethics." Ten years ago on this day, the United States Congress acted to ensure that all women who are victims of violence receive the protection and support they need and deserve. However, there is still more work to be done. Domestic violence is a problem that continues to afflict our country.

It is estimated that family violence costs our Nation from $5 to $10 billion annually in medical expenses, police and court costs, shelters, foster care, sick leave, absenteeism, and non-productivity. Remarkably, the VAWA domestic violence programs have helped to save money, while saving lives. The original VAWA that was authorized 10 years ago saved taxpayers at least $14.8 billion in net averted social costs. This year, as we move through the appropriations process, I ask all of my colleagues to remember the millions of innocent women in this country who have been the victims of violence and the effects that violence has had, not only on them, but also on their families and our society.

Mr. LAUTENBERG. Mr. President, I rise to commemorate an important event in this country's history. Today marks the tenth anniversary of the passage of Violence Against Women Act. I am proud that I was an original cosponsor of that bill which has done so much to reduce domestic violence.

The Violence Against Women Act, or VAWA, was originally passed in 1994, and reauthorized in 2000, both times by overwhelming bipartisan majorities. It created our current framework for a comprehensive, coordinated response to domestic violence, stalking and sexual assault. Before VAWA, domestic violence was too often considered to be a 'family matter' to which the police turned a blind eye. There were no Federal penalties for stalking, domestic violence or violating a protection order. And in sexual assault cases, a victim's past sexual history was considered a legitimate subject for the defense to bring up in the courtroom. All of these basic considerations became law as a result of VAWA.

As a result of this landmark legislation millions of dollars in grants are distributed to States and local communities to put these cost effective programs into practice. The first VAWA, authorized in 1994, cost $15.50 per woman and has been estimated to save $159 per woman, totaling a savings of nearly $14.8 billion since its creation in averted costs of victimization. VAWA programs have helped train thousands of law enforcement officers, prosecutors, court officials and victim advocates to respond effectively to domestic violence. In the first five years after VAWA became law, intimate partner violence dropped significantly, and by 2002, violent crimes against women were less than half of what they were in 1993. This is a record of which we can be very proud.

On a related note, I am proud to have my name associated with a law that has done a great deal to make families safer, the Domestic Violence Gun Ban. This law prohibits those convicted of a crime involving domestic violence—whether a felony or a misdemeanor—from acquiring or possessing a gun. Research shows that the presence of a gun in a household where a woman is battered increases the chances of her death significantly: often, the only difference between a battered woman and a dead woman is the presence of a gun. Since many abusers do not get convicted of felonies, this law has helped to keep guns out of the hands of thousands of people who are dangerous to their partners and families. Since its passage this law has prevented the sale of almost 30,000 guns, potentially saving countless lives.

We cannot mark the passage of this landmark legislation without making mention of two particular champions in the campaign to stop violence against women. Our friend and former colleague Senator Paul Wellstone and his wife Sheila were tireless fighters against domestic violence. The Sheila Wellstone Institute, in the first year of its existence, has been at the forefront of the movement to institute effective policies to stop violence against women and children. On this anniversary we should remember their wonderful work, and commit to finishing it.

We still have much more to do. Even today, approximately 4.9 million intimate partner rapes and physical assaults are perpetrated against U.S. women annually and nearly one in every four women experiences at least one physical assault by a partner. When I think about my legislative agenda I look to my family: my three daughters and son, and my ten grandchildren. The thought that a woman could be the subject of abuse is repulsive. Domestic violence doesn't just happen to women; it happens to families. That is why we must continue to fund programs to help victims, enforce laws protecting women, and teach respect and nonviolent problem-solving to our children. We need to make this country a place where women and children are safe, whether walking down a city street or in their own homes. I hope that my colleagues will join me in making this goal a reality.

FUNDING FOR HURRICANE DAMAGE

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the letter from Lieutenant General Steven Blum, Chief of the National Guard Bureau to me regarding funding for hurricane damage repair for National Guard facilities in Florida be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GUARD BUREAU,
OFFICE OF THE CHIEF,
Arlington, VA, September 14, 2004.

Hon. BILL NELSON,
U.S. Senate, Washington, DC.

DEAR SENATOR NELSON: Major General Doug Burnett, The Adjutant General of Florida, has identified approximately $5 million of repairs to Florida National Guard facilities which were damaged by the recent hurricanes.

As I indicated to General Burnett and reiterate to you, I am committed to immediately providing sufficient funding from the National Guard Bureau to accomplish the necessary repairs. I would surmise that most, if not all, the required work will be able to be accomplished with National Guard Operations and Maintenance funding and within my authority to allocate. However, if there are instances where reprogramming will require Congressional approval, I will ask for your assistance in expediting that action.

Thank you for your continued support of our National Guard. The 21st Centry Minutemen of the Florida National Guard are proving themselves through their stellar actions both in the state and abroad.

Sincerely,

H. STEVEN BLUM,
Lieutenant General, U.S. Army, Chief, National Guard Bureau.

ADDITIONAL STATEMENTS

SUSANNA GOODIN

• Mr. ENZI. Mr. President, I take this time to congratulate Susanna Goodin for being honored with the Wyoming Professor of the Year Award in 2003.

This recognition represents the culmination of a great deal of hard work and determined effort. It recognizes her outstanding dedication to teaching and exceptional commitment to her students. She should be very proud of this honor.

Now more than ever before, Wyoming needs the skills and talents of college professors like Susanna Goodin. She understands the importance of a well-rounded college education for students if we are to produce the next generation of our State's and our Nation's leaders. We are very grateful for all she does to make a difference. Her efforts are greatly appreciated.

Congratulations again to one of Wyoming's special citizens. Diana joins in sending our best wishes.•

CAPTAIN KRISTINE GEDDINGS

• Mr. CRAIG. Mr. President, I rise to recognize a dedicated patriot, sailor, wife and mother: CAPT Kristine Geddings, U.S. Navy. I had the privilege of getting to know Captain Geddings when she served in my office on Capitol Hill as a legislative fellow, and I have continued to follow her career. I am pleased to offer this tribute to her achievements.

Before joining the Navy, this remarkable lady spent 15 years as a housewife and mother. As her daughter entered high school, and having gained her Bachelor of Science degree at the University of North Florida, Captain Geddings decided upon a Naval Career, and applied to and was accepted into Officer Candidate School at Newport, RI. At the age of 34, she was one of the oldest cadets to ever graduate from OCS, yet she met all the qualifications, including physical requirements, that were designed for cadets closer to the age of her daughter.

By the time her granddaughter Amber commences sixth grade this fall, Captain Geddings will have retired from active duty after 23 years of service in the United States Navy. Captain Geddings has served the Nation and the Navy faithfully and well over these many years. Her personal leadership, intelligence, stewardship, and compassionate commitment to her sailors and the United States Navy mark a career most worthy of our recognition.

Captain Geddings' initial assignment was to Patrol Squadron Thirty, Naval Air Station, Jacksonville, FL, where she served both as personnel and legal officer. She next reported to Naval Management Engineering Center, Detachment Jacksonville as a Management Analyst and team leader. During this tour, she completed her Master of Arts in Administration through Central Michigan University.

Next, she was assigned to Navy Recruiting District, Jacksonville, FL, where she took on the most challenging assignment in recruiting, the Enlisted Programs Officer. Seeking the next most challenging job in recruiting, she accepted the job of executive officer of the recruiting station in New Orleans, LA. Finally, in 1998, Captain Geddings assumed command of Navy Recruiting District, Richmond, VA, where she led 192 recruiters and support personnel in 42 recruiting stations spread over 5 States to be named Navy Recruiting Command District of the Year, bronze. On her watch during these years as a Navy recruiter, the Navy won its "Battle for Talent." Because of the efforts of recruiters like Captain Geddings, the Navy did more than just maintain the status quo. They brought the Navy a high quality sailor, and because of that high quality sailor, the Navy's retention, readiness, and quality of life were improved.

Captain Geddings accepted orders to Naples, Italy on the staff of COMFAIRMED in 1989. That very same year, her husband Gerry retired from the Navy after 20 years of service, and their daughter Michelle was married to her husband, Trace Wilson. After her tour in Naples, and follow-on assignment as a student at Command and Staff College, Quantico, VA, and Joint Forces Staff College, Norfolk, VA, Captain Geddings completed her Joint Professional Military Education.

In 1996 she was selected for the Legislative Fellows Program and reported to Washington, DC, for orientation at America's oldest public policy research institution, the Brookings Institution. The remainder of her fellowship, she served as my Legislative Assistant for Veteran's Affairs. Captain Geddings reported to the Department of the Navy, Organization, Management, and Infrastructure Team as a Senior Analyst and as administrative aide under the Deputy Under Secretary of the Navy.

In December 1999, Captain Geddings served on the Joint Staff, and was assigned as a Joint Education Planner in J-7, Operational Plans and Joint Force Development, with primary responsibility as the Chairman of the Joint Chiefs of Staff's representative for the Department of Defense Centers for Regional Security Studies. It was during this tour of duty that the attacks of September 11, 2001, on the World Trade Center and the Pentagon occurred. Shortly thereafter, Captain Geddings reported to the OPNAV staff in July, 2002, as the Head, Joint, and Contingency Matters and N-1 Planner.

It is a great honor and personal privilege for me to recognize the exemplary service of CAPT Kristine Geddings and her family today. She is an individual of uncommon character, and an amiable personality who will be sincerely missed. I wish her and her family fair winds and following seas as she closes her distinguished military career. I also wish them continued success and happiness they so well deserve.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate.

H.R 1084. An act to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

H.R. 1787. An act to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

H.R. 4571. An act to amend Rule 11 of the Federal Rules of Civil Procedure to improve attorney accountability, and for other purposes.

ENROLLED BILLS SIGNED

At 3:30 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1576. An act to revise the boundary of Harpers Ferry National Historical Park, and for other purposes.

H.R. 361. A act to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

H.R. 3908. An act to provide for the conveyance of the real property located at 1081 West Main Street in Revenna, Ohio.

H.R. 5008. An act to provide an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through September 30, 2004, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4571. An act to amend Rule 11 of the Federal Rules of Civil Procedure to improve attorney accountability, and for other purposes; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–9219. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revision of Flow Control Data in Nitrogen Oxides Budget Trading Program" (FRL#7805–7) received on September 13, 2004; to the Committee on Environment and Public Works.

EC–9220. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Indiana; Revised Mobile Source Inventories and Motor Vehicle Emissions Budgets for 2005 and 2007 Using MOBILE6" (FRL#7806–5) received on September 13, 2004; to the Committee on Environment and Public Works.

EC–9221. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL#7805–1) received on September 13, 2004; to the Committee on Environment and Public Works.

EC–9222. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of Iowa" (FRL#7805–4) received on September 13, 2004; to the Committee on Environment and Public Works.

EC–9223. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Primary Drinking Water Regulations: Analytical Method for Uranium" (FRL#7805–5) received on September 13, 2004; to the Committee on Environment and Public Works.

EC–9224. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "OMB Approvals Under the Paperwork Reduction Act; Final Rule" (FRL#7803–6) received on September 13, 2004; to the Committee on Environment and Public Works.

EC–9225. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Arizona State Implementation Plan, Arizona Department of Environmental Quality" (FRL#7789–9) received on September 13, 2004; to the Committee on Environment and Public Works.

EC–9226. A communication from the Assistant Secretary of the Army for Civil Works, Department of Defense, a report relative to construction of a hurricane and storm damage reduction project for the area from Barnegat Inlet to Little Egg Inlet, on Long Beach Island, New Jersey; to the Committee on Environment and Public Works.

EC–9227. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report relative to the impacts and control of combined sewer overflows (CSOs) and sanitary sewer overflows (SSOs); to the Committee on Environment and Public Works.

EC–9228. A communication from the Deputy Assistant Secretary for Policy, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Electronic Requirements for Investment Advisers to be Investment Managers Under Title I of ERISA" (RIN1210–AA94) received on August 26, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9229. A communication from the Chairman, Railroad Retirement Board, transmitting, pursuant to law, the Board's fiscal year 2006 budget request; to the Committee on Health, Education, Labor, and Pensions.

EC–9230. A communication from the Regulations Coordinator, Centers for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program, Hospice Wage Index for Fiscal Year 2005" (RIN0938–AM78) received on September 6, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9231. A communication from the Regulations Coordinator, Centers for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update Notice" (RIN0938–AM46) received on September 6, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9232. A communication from the Regulations Coordinator, Centers for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System (CMS–1360–N)" (RIN0938–AM82) received on September 6, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9233. A communication from the Director, Regulations and Policy Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Civil Money Penalties Hearings; Maximum Penalty Amounts and Compliance With the Federal Civil Penalties Inflation Adjustment Act" (Doc. No. 2003N–0308) received on September 6, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9234. A communication from the Director, Regulations and Policy Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "General and Plastic Surgery Devices; Classification of Silicone Sheeting" (Doc. No. 2002N–0500) received on September 6, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9235. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Comprehensive Community Mental Health Services for Children and Their Families Program"; to the Committee on Health, Education, Labor, and Pensions.

EC–9236. A communication from the Regulations Coordinator, Centers for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 2005" (RIN0938–AN16) received on September 9, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9237. A communication from the Regulations Coordinator, Centers for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Part A Premium for 2005 for the Uninsured, Aged, and for Certain Disabled Individuals Who Have Exhausted Other Entitlement" (RIN0938–AN15) received on September 9, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9238. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Civil Money Penalties Hearings; Maximum Penalty Amounts and Compliance With the Federal Civil Penalties Inflation Adjustment Act Correction" (Doc. No. 2003N–0308) received on September 9, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9239. A communication from the Assistant Secretary, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Indian Reservation Roads Program" (RIN1076–AE17) received on September 14, 2004; to the Committee on Indian Affairs.

EC–9240. A communication from the Deputy Chief, Administrative Law Division, Central Intelligence Agency, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of General Counsel, Central Intelligence Agency, received on August 26, 2004; to the Select Committee on Intelligence.

EC–9241. A communication from the Deputy Chief, Administrative Law Division, Central Intelligence Agency, transmitting, pursuant to law, the report of a nomination confirmed for the position of Deputy Director of Central Intelligence for Community Management, Central Intelligence Agency, received on August 26, 2004; to the Select Committee on Intelligence.

EC–9242. A communication from the Deputy Chief, Administrative Law Division, Central Intelligence Agency, transmitting, pursuant to law, the report of a vacancy, designation of acting officer, and nomination for the position of Director of Central Intelligence, Central Intelligence Agency, received on August 26, 2004; to the Select Committee on Intelligence.

EC–9243. A communication from the Secretary, Judicial Conference of the United States, transmitting, pursuant to law, a legislative proposal to include a federal public defender designated by the Judicial Conference as an ex officio, nonvoting member of the United States Sentencing Commission; to the Committee on the Judiciary.

EC–9244. A communication from the Assistant Chief, Alcohol and Tobacco Tax and Trade Bureau, Treasury Department, transmitting, pursuant to law, the report of a rule entitled "Importation of Tobacco Products and Cigarette Papers and Tubes; Recodification of Regulations: Administrative Changes Due to the Homeland Security Act of 2002" (RIN1513–AA20) received on September 6, 2004; to the Committee on the Judiciary.

EC–9245. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the October 15, 2003 attack on an official American Embassy Tel Aviv motorcade; to the Committee on Foreign Relations.

EC–9246. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to Russian proliferation to countries of proliferation concern for calendar 2002; to the Committee on Foreign Relations.

EC–9247. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to U.S. military personnel and U.S. individual civilians retained as contractors involved in the anti-narcotics campaign in Colombia; to the Committee on Foreign Relations.

EC–9248. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to defense articles and services that were licensed for export during Fiscal Year 2002; to the Committee on Foreign Relations.

EC–9249. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled "Report to Congress on Arms Control, Nonproliferation, and Disarmament Studies Completed in 2003"; to the Committee on Foreign Relations.

EC–9250. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; McCook, NE Doc. No. 04–ACE–34" (RIN2120–AA66) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9251. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Mosby, MO Doc. No 04–ACE–33" (RIN2120–AA66) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9252. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Lexington, NE Doc. No. 04–ACE–40" (RIN2120–AA66) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9253. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Wahoo, NE Doc. No. 04–ACE–37" (RIN2120–AA66) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9254. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Scottsbluff, NE Doc. No. 04–ACE–28" (RIN2120–AA66) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9255. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Chardon, NE Doc. No. 04–ACE–41" (RIN2120–AA66) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9256. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Broken Bow, NE Doc. No. 04–ACE–39" (RIN2120–AA66) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9257. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; North Platte, NE Doc. No. 04–ACE–35" (RIN2120–AA66) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9258. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Ogallala, NE Doc. No. 04–ACE–36" (RIN2120–AA66) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9259. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company (GE); CT72D1 Turboshaft Engines Doc. No. 2004–NE–24" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9260. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Airplanes Doc. No. 2003–NM–107" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9261. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757 and 767 Airplanes Doc. No. 2003–NM–83" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9262. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767–200 and 300 Airplanes Equipped with Off-wing Escape Slides; Doc. No. 2002–NM–151" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9263. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC–8–400, 401, and 402 Airplanes Doc. No. 2002–NM–132" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9264. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Augusta SpA Model A109K2 Helicopters; Doc. No. 2004–SW–14" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9265. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Operations Limited Avro 146–RJ Airplanes Doc. No. 2003–NM–92" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9266. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes Doc. No. 2000–NM–419" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9267. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Gulfstream Aerospace LP Model Galaxy and Model Gulfstream 200 Airplanes Doc. No. 2002–NM–325" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9268. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: MD Helicopters Inc. Model MD900 Helicopters Doc. No. 2004–SW–10" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9269. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Thales Avionics Traffic Advisory/Resolution Advisory (TA/RA) Vertical Speed Indicator-Traffic Alert and Collision Avoidance System (VSI–TCAS) Indicators Installed on but not Limited to Certain Transport Category Airplanes Equipped with TCAS II Changes 7 Computers (ACAS II)" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9270. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Short Brothers Model SD3 Series Airplanes Doc. No. 2002–NM–209" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9271. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Short Brothers SD3 Airplanes Doc. No. 2003–NM–178" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9272. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF34–34A1 and 3B1 Series Turbofan Engines Doc. No. 2004–NE–26" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9273. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model EC155B and B1 Helicopters; Doc. No. 2003–SW–40" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9274. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319–131, 132, and 133; A320–231, 232, and 233 and A321–131 and 231 Airplanes Doc. No. 2004–NM–56" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9275. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Sikorsky Aircraft Corporation Model S–61L, S–61N, S–61NM, and S–61R Helicopters Doc. No. 2003–SW–35" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9276. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model BAE 146 and Avro 146–RJ Series Airplanes Doc. No. 2003–NM–172" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9277. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A330, A340–200, and A340–300 Series Airplanes Doc. No. 2004–NM–83" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9278. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce plc RB211 Turbofan Engines Correction Doc. No. 2003–NE–12" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9279. A communication from the Paralegal Specialist, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC–9–81 (MD–81), DC 9–82 (MD–82), DC–9–83 (MD–83) and DC–9–87 (MD–87) Airplanes Model and MD–90–30 Airplanes Doc. No. 2003–NM–122" (RIN2120–AA64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9280. A communication from the Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Importation of Nonconforming Vehicles by Registered Importers" (RIN2127–AH67) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9281. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Improving Public Safety Communications in the 800 MHz Band" (FCC04–168) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SHELBY, from the Committee on Appropriations, without amendment:

S. 2806. An original bill making appropriations for the Departments of Transportation and Treasury, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 2005, and for other purposes (Rept. No. 108–342).

By Mr. CAMPBELL, from the Committee on Indian Affairs, without amendment:

H.R. 2912. A bill to reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government (Rept. No. 108–343).

By Mr. GREGG, from the Committee on Appropriations, without amendment:

S. 2809. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2005, and for other purposes (Rept. No. 108–344).

By Mr. SPECTER, from the Committee on Appropriations, without amendment:

S. 2810. An original bill making appropriations for the Departments of Labor, Health, and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2005, and for other purposes (Rept. No. 108–345).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. CANTWELL:

S. 2805. A bill to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University; to the Committee on Energy and Natural Resources.

By Mr. SHELBY:

S. 2806. An original bill making appropriations for the Departments of Transportation and Treasury, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 2005, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. CRAPO (for himself, Mr. Feingold, Mrs. Murray, Mr. Smith, Ms. Collins, Mr. Craig, Mr. Burns, and Ms. Cantwell):

S. 2807. A bill to amend the Internal Revenue Code of 1986 to exempt containers used primarily in potato farming from the excise tax on heavy trucks and trailers; to the Committee on Finance.

By Mr. BYRD:

S. 2808. A bill to amend title 5, United States Code, to make the date of the signing of the United States Constitution a legal public holiday, and for other purposes; to the Committee on the Judiciary.

By Mr. GREGG:

S. 2809. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2005, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. SPECTER:

S. 2810. An original bill making appropriations for the Departments of Labor, Health, and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2005, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. SPECTER:

S. 2811. A bill to establish the Department of Intelligence, to modify and enhance authorities and responsibilities relating to the administration of intelligence and the intelligence community, and for other purposes; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SARBANES (for himself and Ms. Mikulski):

S. Res. 426. A resolution commending Maryland's Olympians on their accomplishments at the 2004 Summer Olympic Games in Athens, Greece; considered and agreed to.

By Mr. SARBANES (for himself, Ms. Snowe, Mr. Levin, Mr. Biden, Mr. Breaux, Mr. Schumer, Mr. Wyden, Mr. Corzine, Mr. Lugar, Mr. Daschle, Mr. Allen, Mr. Feingold, Mr. Kerry, Mr. Sununu, Mr. Miller, Mr. Chafee, Mr. Voinovich, Mr. Dorgan, Mr. Lautenberg, Mr. Kohl, Mr. Gregg, Mr. Dayton, Ms. Murkowski, Ms. Mikulski, Mrs. Murray, Mrs. Boxer, Mrs. Clinton, Mr. Specter, Mr. Lieberman, Mr. Reed, and Mr. Fitzgerald):

S. Res. 427. A resolution congratulating the citizens of Greece, the members of the Athens 2004 Organizing Committee for the Olympic and Paralympic Games, the International Olympic Committee, the United States Olympic Committee, the 2004 United States Olympic Team, athletes from around the world, and all the personnel who participated in the 2004 Olympic Summer Games in Athens, Greece; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER (for himself, Mr. Santorum, Mr. Cochran, and Mr. Hagel):

S. Res. 428. A resolution reauthorizing the John Heinz Senate Fellowship Program; to the Committee on Rules and Administration.

By Mr. DURBIN (for himself, Mr. Craig, Mr. Akaka, and Mr. Dayton):

S. Res. 429. A resolution establishing a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism; to the Committee on Rules and Administration.

By Mr. FRIST (for himself, Mr. DASCHLE, Mr. DEWINE, and Mr. NELSON of Nebraska):

S. Con. Res. 137. A concurrent resolution calling for the suspension of Sudan's membership on the United Nations Commission on Human Rights; considered and agreed to.

ADDITIONAL COSPONSORS

S. 1482

At the request of Mr. INOUYE, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1482 , a bill to amend the Internal Revenue Code of 1986 to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 1510

At the request of Mr. LEAHY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1510, a bill to amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

S. 1684

At the request of Ms. LANDRIEU, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1684, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer.

S. 1890

At the request of Mr. ENZI, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1890, a bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes.

S. 2447

At the request of Mr. LIEBERMAN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2447, a bill to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the National Institute of Child Health and Human Development to study the role and impact of electronic media in the development of children.

S. 2461

At the request of Mr. DEWINE, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2461, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 2488

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2488, a bill to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes.

S. 2493

At the request of Mr. GREGG, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2493, a bill to amend the Federal Food, Drug, and Cosmetic Act to protect the public health from the unsafe importation of prescription drugs and from counterfeit prescription drugs, and for other purposes.

S. 2568

At the request of Mr. BIDEN, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2661

At the request of Mr. GRASSLEY, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2661, a bill to clarify the effects of revocation of a visa, and for other purposes.

S. 2718

At the request of Mr. DEWINE, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2718, a bill to provide for programs and activities with respect to the prevention of underage drinking.

S. 2719

At the request of Mr. ENZI, the names of the Senator from New Hampshire (Mr. GREGG) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 2719, a bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes.

S. 2780

At the request of Ms. STABENOW, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2780, a bill to amend title XVIII of the Social Security Act to stabilize the amount of the medicare part B premium.

S. 2781

At the request of Mr. LUGAR, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2781, a bill to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes.

S. 2784

At the request of Mr. BROWNBACK, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2784, a bill to promote freedom and democracy in Vietnam.

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 422

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S. Res. 422, a resolution expressing the sense of the Senate that the President should designate the week beginning September 12, 2004, as "National Historically Black Colleges and Universities Week".

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 2811. A bill to establish the Department of Intelligence, to modify and enhance authorities and responsibilities relating to the administration of intelligence and the intelligence community, and for other purposes; to the Committee on Governmental Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to introduce the Intelligence Reformation Act of 2004, also known as the "9/11 Act." This bill creates clear, unambiguous lines of authority in the intelligence community, which assures both accountability and sufficient command authority for a new Department and Director of Intelligence to manage and coordinate the intelligence community, break down existing stovepipes, demand accountability among the agencies, set requirements, and use new directive authority to quickly task collection and analysis while moving personnel and resources to respond to new and emerging situations.

The unanimous recommendations which accompany the Report of the National Commission on Terrorist Attacks Against the United States ("9/11 Commission"), and the Executive orders issued on August 27, 2004, relating to information sharing, intelligence community management, and the National Counterterrorism Center, are intended to address systematic, long-term problems with the U.S. Intelligence Community that have been highlighted by the various investigations into the 9/11 tragedy, including the findings of the Senate Intelligence

Committee on Iraq Pre-War Intelligence, and the congressional Joint Inquiry recommendations issued in 2002. Our country has during the last decade suffered through an escalating cycle of intelligence failures while witnessing the onset of new global threats—most notably terrorism and proliferation of weapons of mass destruction. The existing intelligence community structure is disorganized and dysfunctional, and thus incapable of effectively responding to these threats.

The restructuring recommendations of the President and 9/11 Commission are consistent with the reorganization efforts I undertook as chairman of the Senate Intelligence Committee during the 104th Congress, my efforts to install a Director of National Intelligence beginning in 1986, and my work in 1998–1999 on the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction (“WMD Commission”), as well as that of no fewer than 15 independent commissions and legislative or executive branch attempts at restructuring the intelligence community, beginning in 1955 with the Second Hoover Commission.

It is imperative that we immediately put into place a national security structure that is competent to confront this enemy. While the 9/11 Commission and recent Executive orders provide helpful guidance, much discretion is left to Congress in determining the scope and nature of the restructuring of the intelligence community.

Under the legislation I introduce today, budgetary authority will be a principal means for the new Director of Intelligence to maintain supervision and control of the intelligence community. For example, the Director would have the National Foreign Intelligence Program appropriation go directly to him, and that appropriation would remain under his jurisdiction through the budget execution process.

Further, enhanced tasking authority would facilitate coordinated intelligence collection and analysis and overcome the “culture of concealment” that exists among intelligence entities.

And clear lines of authority, including the ability of the Director to hire and fire intelligence community personnel, will in turn avoid the uncertainty of “serving two masters.” Clear lines of authority means that intelligence community personnel will not suffer from the disorder and paralysis that epitomized the community prior to 9/11, and which continues today. This legislation differs from the 9/11 Commission recommendations on restructuring the intelligence community in two main respects: the institution of a ten-year term for the Director of Intelligence in order to remove him from political influence, and the direct control and supervision by the Director of the major national intelligence community entities, rather than the untested “dual hatting” approach favored by the 9/11 Commission.

I also believe that any legislation must address the FBI failures that preceded 9/11. By placing the certain FBI functions under the direction of the new Director of Intelligence, FBI missteps in communication, intelligence gathering and analysis that contributed to failures in anticipating the 9/11 attack and in intercepting the hijackers can be averted in the future, while adding necessary safeguards to protect privacy and civil liberties. And this bill, like the bill I have introduced with Senators MCCAIN and LIEBERMAN, codifies the 9/11 Commission recommendations on FBI reform.

Other important reforms undertaken by this legislation are also contained in the 9/11 Commission bill. For example, consistent with the recent conclusions of the Senate Intelligence Committee, the legislation would require the National Intelligence Council to incorporate alternative views held by elements of the intelligence community into National Intelligence Estimates (NIE), and be certified as approved for publication by the Director of Intelligence and the Chair of the National Intelligence Council.

The Director and Department of Intelligence that I recommend fully integrate the 9/11 Commission and President's important tenets of central direction, coordination, and control by a high-ranking intelligence official and would bring crucial expertise and immediate direction to the many intelligence challenges we face. Creating a Department of Intelligence, run by a Director empowered with full budget execution and clear line authority over national intelligence, but without a large new bureaucratic infrastructure, is a proposal which best meets the need of the intelligence community.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 426—COMMENDING MARYLAND'S OLYMPIANS ON THEIR ACCOMPLISHMENTS AT THE 2004 SUMMER OLYMPIC GAMES IN ATHENS, GREECE

Mr. SARBANES (for himself and Ms. MIKULSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 426

Whereas the 2004 Summer Olympic Games, which recently concluded in Athens, Greece, was a resounding success;

Whereas the athletes of the United States who participated in the 2004 Summer Olympic Games reflected the ideals of the Olympic movement by exhibiting determination, honor, sportsmanship, and excellence throughout the competitions;

Whereas Maryland's athletes played a prominent role in the 2004 Summer Olympic Games and represented the talent and diversity of the athletes of the United States;

Whereas markswoman Libby Callahan of Upper Marlboro, through her wisdom and experience, and swimmer Katie Hoff of Abingdon, through her youthful exuberance, both displayed the spirit of Olympic competition;

Whereas Liz Filter, from Stevensonville, and Nancy Haberland, who coaches the Naval Academy sailing team, both displayed the Olympic spirit in their decisions to participate in the sailing competitions in the face of challenging life circumstances;

Whereas Jun Gao of Gaithersburg shone with Olympic spirit when, on day 4 of the table tennis competition, as the only remaining member of the United States table tennis team left in competition, she shouldered the hopes of her teammates;

Whereas paddlers Joe Jacobi and Scott Parsons, both from Bethesda, reflected the Olympic spirit by focusing on the experience and joy of their performances and the opportunity to compete on the world stage;

Whereas Baltimore's Carmelo Anthony displayed the Olympic spirit in his refusal to quit after the men's basketball team suffered a series of difficult and surprising losses;

Whereas gymnast Courtney Kupets of Gaithersburg and Judo competitor Rhadi Ferguson of Columbia demonstrated enormous bravery by overcoming serious injuries to make the United States team and compete for their country and, in the case of Ms. Kupets, to medal in 2 events;

Whereas Towson swimmer Michael Phelps, who won 6 gold and 2 bronze medals, showed that the team is more important than individual accomplishment when he yielded his spot on the 4 x 100 medley relay squad and an opportunity for further glory to allow teammate Ian Crocker to compete and be part of a winning effort in the finals;

Whereas Tiombe Hurd of Upper Marlboro, who is legally blind, showed tremendous heart and courage by overcoming her vision impairment to finish 22nd in a crowded triple jump field;

Whereas Bernard Williams, who brought home a silver in the 200 meter sprint, and James Carter, who finished fourth in the 400 meter hurdles, did their Baltimore alma maters, Carver Vocational-Technical High School and Mergenthaler Vocational-Technical High School, proud by showing enormous poise and grit in the face of stiff competition;

Whereas the people of Maryland take great pride in these athletes and the communities that helped to nurture and support them through their years of training, and celebrate their successes and achievements; and

Whereas the people of Maryland send their best wishes for success to Maryland's 6 Paralympic athletes—Antoinette Davis, Jessica Long, Joseph Aukward, Larry Hughes, Tatyana McFadden, and Susan Katz—as they head to Athens for the Paralympic Games, which are set to begin on September 17, 2004: Now, therefore, be it

Resolved, That the Senate commends the athletes of Maryland for the grace, sportsmanship, and determination they exhibited throughout the 2004 Summer Olympic Games and for the accomplishments that flowed from maintaining that Olympic spirit on and off the field of competition.

SENATE RESOLUTION 427—CONGRATULATING THE CITIZENS OF GREECE, THE MEMBERS OF THE ATHENS 2004 ORGANIZING COMMITTEE FOR THE OLYMPIC AND PARALYMPIC GAMES, THE INTERNATIONAL OLYMPIC COMMITTEE, THE UNITED STATES OLYMPIC COMMITTEE, THE 2004 UNITED STATES OLYMPIC TEAM, ATHLETES FROM AROUND THE WORLD, AND ALL THE PERSONNEL WHO PARTICIPATED IN THE 2004 OLYMPIC SUMMER GAMES IN ATHENS, GREECE

Mr. SARBANES (for himself, Ms. SNOWE, Mr. LEVIN, Mr. BIDEN, Mr. BREAUX, Mr. SCHUMER, Mr. WYDEN, Mr. CORZINE, Mr. LUGAR, Mr. DASCHLE, Mr. ALLEN, Mr. FEINGOLD, Mr. KERRY, Mr. SUNUNU, Mr. MILLER, Mr. CHAFEE, Mr. VOINOVICH, Mr. DORGAN, Mr. LAUTENBERG, Mr. KOHL, Mr. GREGG, Mr. DAYTON, Ms. MURKOWSKI, Ms. MIKULSKI, Mrs. MURRAY, Mrs. BOXER, Mrs. CLINTON, Mr. SPECTER, Mr. LIEBERMAN, Mr. REED, and Mr. FITZGERALD) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

Whereas Greece—birthplace of the Olympics—was selected on September 5, 1997, as the host of the 2004 Olympic Summer Games;

Whereas from August 13 to August 29, 2004, the Olympic Summer Games returned to Greece, more than 100 years after Athens staged the first modern Olympics in 1896 and nearly 3 millennia after Greece staged the first Olympics in 776 B.C.;

Whereas the people of Greece opened their hearts to the athletes who came together from all over the world and took part in the 2004 Olympic Summer Games in the best spirit of good sportsmanship;

Whereas the President and Managing Director of the Athens 2004 Organizing Committee for the Olympic and Paralympic Games and their associates, the Mayor of Athens, and the Government of Greece—particularly the officials from the Ministry of Culture in collaboration with the Ministry of Public Works—did an outstanding job in staging a great Olympic Summer Games in a manner that embodied the legacy, ideals, and values that Hellenic culture has given the world;

Whereas the Government of Greece, entrusted with the responsibility of protecting the athletes, coaches, judges, and spectators of the 2004 Olympic Summer Games, rose to the challenges to provide a safe Olympic Summer Games;

Whereas 10,500 athletes and 5,500 team officials from a record 201 National Olympic Committees prepared for and competed in the Olympic Summer Games with unmatched dedication, and inspired the world with their spirit of peaceful competition;

Whereas over 5,000 athletes from 140 nations will compete in the 2004 Paralympic Summer Games in Athens, Greece, representing the broadest country participation in Paralympic history and reminding the world that physical challenges are no limit to human achievement;

Whereas the Olympic venues constructed by Greece have been hailed as world class and have set a new standard of modernity for all future Olympic Games;

Whereas the 531 members of the United States Olympic Team added substantially to the great legacy of sportsmanship and athleticism that has characterized the history of United States Olympic competition;

Whereas the security personnel at the 2004 Olympic Summer Games all worked to ensure that the 2004 Olympic Summer Games were safe and secure for athletes and spectators alike;

Whereas over 5,000 individuals of Greece and other citizens from around the world volunteered their time and talents to show the world the best that Greece has to offer; and

Whereas the 2004 Olympic Summer Games accomplished the principles set forth by the Olympic movement, including the aim to "encourage the Olympic spirit of peace and harmony, which brings the people from across the world together around Olympic sport": Now, therefore, be it

Resolved, That the Senate extends its heartiest congratulations for a job well done to the citizens of Greece, the members of the Athens 2004 Organizing Committee for the Olympic and Paralympic Games, the International Olympic Committee, the United States Olympic Committee, the members, coaches, and officials of the 2004 United States Olympic Team, athletes from around the world, and the security personnel and volunteers who ensured that the 2004 Olympic Summer Games in Athens was a great success.

Mr. SARBANES. Mr. President, the 2004 Summer Olympic Games in Athens, which took place between August 13–29, have added a vivid and memorable chapter to the Olympic tradition, which first took shape in Greece nearly three millennia ago, and which in its modern form dates back to 1896. The Athens 2004 Organizing Committee, the U.S. Olympic Committee, the International Olympic Committee and dozens of other organizations, the U.S. Olympic Team and thousands of athletes from all over the world, the unwavering determination to meet unprecedented challenges and the good will and hard work of the people of Greece all contributed to assuring the success of the Games. In tribute to their magnificent achievement, today I am joined by a number of my colleagues in introducing a resolution to express our gratitude and congratulations.

Greece took on a daunting challenge when, in 1997, the nation was designated by the International Olympic Committee to serve as host to the 2004 Summer Games. With the exception of Finland, where the 1952 Games took place, in terms of population Greece is the smallest Olympic host ever. To prepare for the return of the Games to Athens, where the first modern Olympics were held in 1896, the whole nation came together in a great common effort. The President and Managing Director of the Athens 2004 Organizing Committee for the Olympic and Paralympic Games and their associates worked closely with the Mayor of Athens, the Ministries of Public Works and Culture and other government agencies to assure a setting and facilities uniquely appropriate to the great events. The people of Greece, in Athens and also in communities around the Nation, gave their full support to the preparatory efforts and opened their hearts to the athletes.

The events of September 11, 2001 raised the challenge of preparing for the Olympic Games to unprecedented heights, for they fundamentally changed the security and logistical context for all major international events—and indeed, as we know from our recent political conventions, for all large gatherings. As the Athens Games were the first summer Games to occur after 9/11, Greece had neither precedents nor guidelines upon which to rely in planning for the security of some 10,500 Olympic athletes, 5,500 team officials and literally millions of visitors. The challenges were all the more formidable because many of the events, including soccer and shot put, were held in places as distant from Athens as Thessaloniki and ancient Olympia.

Greece undertook to do everything "humanly possible" to ensure the safety and success of the Games. The Athens 2004 Organizing Committee carried out a careful study and analysis of the security arrangements for the somewhat smaller Winter Games that had taken place in 2002, in Salt Lake City. A specially trained security force of 45,000 men and women was deployed, which included military and air force personnel, coast guards, fire fighters, law enforcement officials and private security contractors. The government of Greece worked in close collaboration with the United States, Britain, Israel, France, Germany, Australia, and Spain, along with NATO, guided by two principles: every single nation had an interest in having its athletes compete safely, and all nations working toward a common objective—the ultimate success of the Games—would provide the most effective deterrent to a terrorist act. As a result, while security measures were comprehensive and complex they were expertly and unobtrusively carried out, in no way detracting from the spirit of the Games. Athletes and visitors alike moved about unimpeded, and competition went forward in the finest Olympic tradition.

Major investments in infrastructure also contributed significantly to the smooth functioning of the Games. Athens today is a city transformed. Since 1997, when the International Olympic Committee designated Greece as the host country for the 2004 Games, transportation and telecommunications systems have been expanded and modernized. The investments Greece has made in connection with the Olympics have created unprecedented opportunities for the future. The Olympic stadium complex, which includes the aquatic and tennis center, as well as the indoor arena and main stadium, will serve as major training facilities for many years to come. The soccer facilities will be highly sought after for international soccer events. Overall, infrastructure improvements have laid a sound foundation for economic growth and prosperity nationwide. Having met a daunting challenge, Greece is now poised to take on new responsibilities in an expanded European Union, and in the broad international community. Where the cherished tradition of the Summer Olympics is concerned, Greece has shown what can be accomplished. The experience in Athens will surely prove invaluable to China, which fours years from now will play host to the Games in Beijing.

As a Marylander, I am especially proud of the signal accomplishments of Maryland athletes, and I am sure my colleagues take similar pride in the athletes from their respective states. The performance of the U.S. Olympic Team members in one stirring event after another will long be remembered, as anyone fortunate enough to have witnessed the competition firsthand will attest.

Above and beyond the excitement and the triumphs of the different events, however, the Athens Olympics gave us something more. The 2004 Games showed that even in uncertain and turbulent times, it is possible with determination and planning and foresight to bring together men and women of good will from every corner of the globe in a great common endeavor. This is for all of us a both a reminder and an inspiration.

Mr. President, I ask unanimous consent that several articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Aug. 30, 2004]

GREECE CELEBRATES SUCCESSFUL GAMES

(By Candus Thomson)

ATHENS.—Under the soft light of a full moon, the Greeks said goodbye to the sports spectacle they invented in 776 B.C. and revived in 1896.

After 16 days of competition, the 28th Summer Olympiad ended its run in a ceremony filled with folk music, dancing and sighs of relief.

This was the Olympics burdened with the fears of construction delays and terrorism. But the venues were done on time and everyone remained safe.

Gianna Angelopoulos-Daskalaki, the Athens 2004 president, drew a roar from the crowd of 72,000 with her opening remarks.

"I ask our foreign guests: Did you enjoy yourselves in Greece?" she asked. "We loved having you here. You wave your national flags. You stood for every anthem. You danced to our music. We even heard you speak your first words of Greek. To you, we say, thank you."

Jacques Rogge, president of the International Olympic Committee, pronounced himself satisfied with the Athens Olympics.

"Dear Greek friends, you have won," he said to much cheering.

Earlier, Rogge told reporters he never doubted that the organizers would accelerate construction and meet their deadline.

"I'm an extremely happy president of the IOC," Rogge said. "I've always said I believed there was enough time to finish the preparations in due time. Many did not believe me. I think our friends have delivered in Athens in a very spiendid way."

SLOW START, BIG FINISH

Like the preparations, the Games started slowly, with lagging ticket sales and sparse attendance. Ticket scalpers blamed bad publicity, terrorism and a slow European economy.

But the second week came back gangbusters.

"We knew we would host successful Games because the stakes for Greece were huge. And we knew because of our Olympic heritage we would do a good job," said Achilles Paparsenos, the press officer for the Greek Embassy in Washington. "The results speak for themselves. All of the so-called experts should apologize to Greece at some point."

With a total of 103 medals, the U.S. team exceeded the total of 97 four years ago in Sydney, Australia, and met its goal of 100 medals. But just 35 medals were gold, fewer than the 40 in Sydney and 44 in Atlanta in 1996.

The U.S. team also won 39 silver medals and 29 bronze. Russia finished second in total medals with 92; China finished third with 63.

For the first week, these were the Michael Phelps Olympics. If he were a nation, Phelps would have tied Thailand, Denmark, Kazakhstan and the Czech Republic for 24th our of 202 nations in total medals. The Baltimore County swimmer won eight, equaling the record for most at one Olympics with six gold and two bronze medals. But he could not eclipse Mark Spitz's 1972 record of seven gold medals.

And there were other notable U.S. accomplishments. After disastrous showings in Sydney four years ago, Americans were crowned the all-around men's and women's gymnastics champions, and both teams earned silver medals.

But while Carly Patterson is being hailed as the new Mary Lou Retton, winner of the previous women's all-around gold medal in 1984, Paul Hamm is fighting to keep his gold.

A scoring error allowed Hamm to slip past South Korean Yang Tae Young, and team officials didn't challenge the result until too late. Hours before the start of the closing ceremony, Yang filed a protest with the Court of Arbitration for Sport, which will hear the dispute in Lausanne, Switzerland, home of the International Olympic Committee.

Despite the medals harvest, there are ominous signs for other U.S. sports. The men's basketball team had to settle for a bronze medal, and the men's soccer and baseball teams didn't even qualify. The U.S. sailing team won just two medals—a gold and a silver—tying its worst showing in 20 years.

And there are troubling signs for the Olympics, which picked up a new nickname: the Doping Games.

The final tally of athletes stripped of their medals or disciplined isn't known, but is expected to top two dozen after the IOC analyzes samples.

The list grew almost daily and included the Hungarian gold medalist in discus and silver medalist in hammer throw, the Russian gold medalist in women's shot put, a Belarus high jumper, a Kenyan boxer, two Greek baseball players and two Greek sprinters, a Swiss cyclist, a Spanish canoeist and an Irish distance runner.

Nearly one in four athletes was tested, and Rogge said the IOC will expand its program over the next two Olympics.

"These were the Games where it became increasingly difficult to cheat," he said.

But there were magical moments, too.

Athletes set 15 world records in six sports.

Windsurfer Gal Fridman won Israel's first gold medal.

U.S. women earned gold in soccer, basketball and softball, led by Mia Hamm, Dawn Staley and Lisa Fernandez, players heading for retirement.

Morocco's Hicham El Guerrouj won both the 5,000-meter and 1,500-meter races after failing to earn a gold medal in Atlanta and Sydney. The overjoyed runner, who swept the middle-distance races for the first time in 80 years, delighted the crowd by dancing to a Greek tune and leaping into the stands to hug his 3-month-old daughter.

Kayaker Alexandros Dimitriou, laboring through the whitewater rapids, at any moment ready to capsize, was lifted by the rhythmic clapping of thousands of spectators to music from Zorba the Greek. He finished 24th out of 25, but the crowd made him a winner.

THE ROAD AHEAD

As host, Greece will be stuck with the tab. The government built more than 120 miles of highway, a new subway system and an airport.

Some athletic venues still aren't finished. And no one is sure what will become of the gyms, ballparks and pools built for 16 days of competition for an estimated $8.6 billion—$5.5 billion over budget.

The Greek government says it may have no choice but to tax its 11 million citizens to pay the Olympic-size bill.

But those are worries for another day.

Near the end of the closing ceremony, the mayor of Athens, Dora Bakoyannis, presented Rogge with an Olympic flag that he passed to Bejing's mayor, Wang Qishan. The 2008 Summer Games will begin there about 1,500 days from now.

Rogge declared the Games closed, the cauldron was extinguished and the party began.

"I really feel sorry for people who did not come to Greece because they were dissuaded by the doubting Thomases and Cassandras of doom and gloom," said Paparsenos, who attended the party. "They missed such a unique experience, a celebration of sports where the Olympics were born."

[From the Washington Post, Aug. 30, 2004]

PROUD COUNTRY SHOWS THE WORLD "GREAT THINGS GREEKS CAN DO"

(By Craig Whitlock)

Under a brilliant full moon and the burning Olympic flame, the Greeks danced. They clapped, they sang, kicked up their legs and celebrated an Olympics that at one point was almost taken away, but in the end left them jumping with national pride.

Afer sponsoring more than two weeks of competition, and enduring years of ridicule and doubt from the rest of the world about whether the Games deserved to return to their birthplace, the Greeks danced and danced in their modern Olympics Stadium. About 75,000 spectators clapped along as performers served up a giant Greek wedding feast of a Closing Ceremonies, joyful that so much had gone right during the Games of the XXVIII Olympiad, and that so little had gone wrong.

Gone were the fears about terrorist attacks and smoggy traffic jams and unfinished stadiums. The Athens Olympics had come to an end, and for the most part everything worked just fine.

Greece was the smallest nation in 52 years to host the Summer Olympics, determined to recast Athens as a modern European city known for more than its ancient past. In doing so, the country spent at least $7.2 billion on the Games, including $1.5 billion to provide security—an enormous sum that will take many years, if not decades, to pay off.

But complaints about costs were hard to find Sunday night, as Greece proudly handed off the Olympics flame to a nation 125 times its size—China, host of the 2008 Summer Games—secure that it had proved itself to the world.

"The Olympics came home and we showed the world the great things Greeks can do," Giana Angelopoulos-Daskalaki, president of the Athens Organizing Committee, told the crowd. "On this stage, the world discovered a new Greece."

"Hellas! Hellas!" the crowd shouted, waving Greek flags and white hankies.

Organizers flooded the stadium with 250,000 balloons as thousands of fireworks lit up the sky. Under the dazzling light show, a succession of Greek singers and folk musicians kept the audience dancing throughout the Closing Ceremonies. Toward the end, the mood became so infectious that small groups of athletes from Brazil, Britain, France and other nations broke away from the security cordon in the stadium infield and danced around the track.

Despite the festive atmosphere, strict security measures remained in place until the end. Several helicopters and a blimp circled the stadium throughout the ceremonies.

Worries about political disruptions also kept U.S. Secretary of State Colin Powell from attending; he canceled a planned trip to Athens after Greek anti-war protesters angry about his visit clashed with police Friday in downtown Athens.

Unlike the Opening Ceremonies, where fans loudly cheered the delegations from Iraq and Afghanistan and gave the silent treatment to U.S. athletes, politics were not on display Sunday night. Athletes from 202 nations entered the stadium at the same time, mixing together on the infield.

The United States led the overall medal standings with 103, capped off by an unexpected silver in the last event of the Games, the men's marathon.

American athletes dominated the competition in track and field, women's team sports and the swimming pool, where Maryland's 19-year-old Michael Phelps won a record eight medals. A major disappointment: the men's basketball team, which lost three games and settled for bronze.

The biggest controversies were athletic ones, thanks to cheaters and judges who shook up several events.

At least 22 competitors were flagged for drug-testing violations, resulting in the revocation of seven medals. Greece in particular was shamed by the expulsion of two national heroes, medal-winning sprinters Kostas Kenteris and Katerina Thanou, who were kicked off the team after missing several drug tests.

Olympic officials said athletes had gotten the message that doping would not be tolerated. "These were the Games where it became increasingly difficult to cheat and where clean athletes were protected," Jacques Rogge, president of the International Olympic Committee, told the audience.

Earlier, Rogge cheered the Greeks in attendance by thanking them for their hospitality. "Dear Greek friends, you have won," he said in their native language, before lapsing into French. "You have won by brilliantly meeting the tough challenge of holding the Games."

Four years earlier, the IOC came close to yanking the Olympics away from Athens. Construction projects and other preparations had barely progressed since the Games were awarded to Greece in 1997. Former IOC president Juan Antonio Samaranch revealed recently that Olympic overseers were about three months from making an emergency decision to move the Games to South Korea.

Spurred on by the threat, Greek officials worked feverishly over the next four years to prove that it could get ready on time. The challenges were substantial: Athens needed a new international airport, new highways, an expanded subway system and more than a dozen new athletic arenas.

As the deadline neared—the roof on the Olympic stadium slid into place just three months ago—there was little time for testing. Even Olympic officials wondered if things would work when the crowds showed up. By and large, they did.

"At the end of the day, the biggest surprise to everybody is that there were no major issues," Ioannis Spanudakis, managing director for the Athens 2004 organizing committee, said in an interview.

Not everything went exactly as organizers hoped. While the Athens committee met its attendance projections by selling more than 3.5 million tickets, many athletes performed in front of sparse crowds. Television ratings were higher than in Sydney four years earlier, but cameras couldn't conceal the fact that stadiums were often largely empty.

The Closing Ceremonies, however, were a sellout. Even after the music died down, many * * *.

[From the Chicago Tribune, Aug. 23, 2004]

GREECE STRIKES GOLD WITH MORE THAN JUST GAMES

(By Tom Hundley)

ATHENS.—It hardly matters that Greek athletes have won only a handful of medals in their hometown Olympics. As far as most people here are concerned, Greece already has emerged as the big winner of the 2004 Games.

This summer has marked a turning point for a country that often was dismissed by Europeans as little more than a cheap package-tour destination and denigrated by Americans as too small, too poor and too disorganized to mount a successful Olympics.

Not only has Greece put on a surprisingly laid-back, glitch-free and not overly commercialized games, but earlier this month, it completed construction of an architecturally stunning suspension bridge that links western Greece with the Peloponnese. The 1.79-mile Harilaos Trikoupis Bridge was completed six months ahead of schedule and within its $900 million budget.

On top of that, underdog Greece recently won the European soccer championship—its first-ever championship in the one sport that truly matters in Europe.

The cumulative effect of all this is a growing sense of self-confidence in a country long plagued by a low self-esteem and a feeling that "Europe" referred to someplace else.

"People are stopping me in the street and congratulating me, but I tell them it's not me, it's all of us," said Spyros Capralos, general secretary of the Olympic Games for the Greek government. "Greeks will have a new sense of self-respect after this. The whole nation feels it."

Ted Couloumbis, a historian and political analyst at Athens University, agreed, but cautioned that it would take some time before popular perceptions catch up with the reality of a rapidly modernizing Greece.

"Many people here still think we are the Greece of the past; the poor Greece, the backward Greece, the politically unstable Greece," he said. "But the successful delivery of a high-tech, highly complex Olympics in a post-Sept. 11 climate is going to contribute tremendously to Greeks' perception of themselves."

DOUBTERS UNTIL THE LAST MINUTE

With a population of 11 million, Greece is the smallest country ever to stage the Summer Games, and doubters were numerous right up until the opening ceremony.

But even if workers were bolting down the last seats in the Olympic Aquatic Center just 20 minutes before the start of the first event there, the experience of staging such a large spectacle has given Greece a wealth of technical expertise and a cadre of young professionals confident in their abilities.

"The human resources, the know-how, the working methods and organizing methods, the new cooperation between the private sector and public section—these are the intangibles that come with the Olympics," said Evangelos Venizelos, and opposition leader who is a former minister of culture.

Economists and other experts point to expected improvements in the service and tourism sectors, while Greek engineering and construction companies now have the experience to compete for large-scale projects almost anywhere.

SKYROCKETING COSTS

The price tag has been high. Because Greece fell far behind schedule during the first six years of Olympic construction and then had to make a man dash to the finish line over the last year, costs skyrocketed from $5.6 billion to more than $8.4 billion, or more than 5 percent of Greece's gross domestic product.

But even that figure is dwarfed by the $56 billion that the government is spending between 2000 and 2006 on infrastructure overhaul that is expected to transform Greece into a mainstream European player. About 60 percent of the funding comes from European Union sources while Greece is handling the rest, mainly in the form of long-term loans and private investment.

"The bridge is the most symbolic example of the country's modernization, but there's a long list of new infrastructure projects, and not only in Athens but in Thessaloniki and Patras and Volos," Venizelos said.

The new suspension bridge was built by a French-Greek consortium. It crosses the Gulf of Corinth with five spans that add up to the world's longest cable-suspended deck. Physically and psychologically, the bridge brings Greece closer to Europe, linking it with the continent's main road and rail networks.

SETTING ASIDE BITTER MEMORIES

All of this is helping shape a new Greek self-image. Just as the crowd-pleasing Barcelona Olympics of 1992 formally laid to rest the gloomy legacy of Gen. Francisco Franco's 36-year dictatorship and reintroduced Spain to Europe, Athens 2004 is helping Greece set aside lingering memories of a bitter civil war, military dictatorships in the 1960s and '70s, and years of tense relations with neighboring Turkey.

"We are in the process of becoming a normal European country that want to be in the core of Europe," said Couloumbis, the historian. "If there is a Europe of concentric circles, Greeks want to be in the center."

When the Olympic caravan folds its tent Sunday and begins the long trek to Beijing, the next venue for the games, Athens inevitably will suffer from a case of post-Olympic blues.

"People will ask if the huge investment was justified," Couluombis said. "There will be finger-pointing about the cost overruns."

Venizelos, the opposition leader, said the real benefits for Greece would not be counted during the 16 days between the Games' opening and closing ceremonies.

"Was it worth it? We will know in the next 50 years," he said.

[Knight Ridder Newspapers, Aug. 31, 2004]

THE ULTIMATE STAR OF THESE OLYMPICS: ATHENS

(By Ann Killion)

ATHENS, GREECE.—The star of these Olympics is easy to pick. It is the lady with the funny hat and long spear, the gal who sprouted fully grown out of the head of her dad, Zeus.

Athena, the goddess of wisdom. She and her namesake city win the gold.

Each Olympics produces a lasting image or two. In Sydney it was Cathy Freeman and Marion Jones. In Atlanta it was Michael Johnson and Kerri Strug.

These Games produced their own stars and scandals. Among the high points: Michael Phelps, who won more medals than many countries; America's golden girls Natalie Coughlin and Carly Patterson, beach volleyball, along with the softball, soccer and basketball teams.

Among the lows: drugs, incompetent judges and a red-kilted attacker on the marathon course.

But the most defining memory from these Games will be the performance of Athens and her citizens. We always cheer for the underdog. We love it when the underestimated and overlooked come up big.

And there has never been an Olympic underdog like Athens. Or one that has rallied to victory as drastically.

The city was doubted, scoffed, maligned. Athenians mortgaged their future to bring the Olympics home to their birthplace. They felt disrespected by the rest of the world.

But the city and her people performed under pressure. From the beginning until the very end, as the massive crowds moved smoothly Monday through Eleftherios Benizelos Airport, Athens shone.

The people who invested the ancient Games hosted a very modern event, from the billion-dollar-plus security bill to the doping shadow looming over the event.

The security worked. The scariest thing about being in Athens was riding in a taxi. It's still debatable how well the doping control works. More than 20 athletes tested positive, more than at any previous Olympics. IOC President Jacques Rogge called each positive test "a blessing," proving that the system works. But as Balco has taught us the invisible, undetectable menace is still there.

Doping was at the root of Greece's most embarrassing moment, when track stars Kostas Kenteris and Ekaterini Thanou withdrew after missing a drug test. Another shameful moment was the Paul Hamm mess. A judging mistake was compounded by the Federation of International Gymnastics' ham-handed approach, asking Hamm to give back his medal. Hamm was already home. The USOC was furious. And poor South Korean Yang Tae-young was left a victim of Olympic incompetence.

Before every Olympics, the cynics say the Games are dying, pierced through the heart with a syringe, strangled by corporate greed and political motivation.

But the 2004 Olympics drew huge television ratings. NBC recorded the highest ratings for a Summer Olympics held outside the United States. For the public, scandals seemed to only add to the Games' intrigue and soap opera plot.

Politics, as always, was unavoidable. A member of the Iranian judo team deliberately missed weight rather than fight an Israeli. The Iraqi soccer team balked at being used as a political tool in the American presidential campaign.

But the Olympic moments still shine through. Moroccan Hicham el Guerrouj overcame his Olympic struggles to win two gold medals. Israeli windsurfer Gal Fridman won the first gold medal in his country's 52-year Olympic history and said he would take the medal to the memorial honoring the 11 Israeli Olympians murdered in 1972 and "show it to them, to show they are always with us." Greeks spontaneously sang the national anthem when beloved weightlifter Pyrros Dimas won a bronze.

The hosts were gracious and accommodating. How did such a small country pull it off? I got a taste of the Greek approach before the Games ever began.

Traveling with my family to Athens, our ferry from a small island to the island of Santorini was scheduled to leave at 2:30. Apparently everybody else knew it really left at 4. When it finally pulled out at 4:15, we were in danger of missing our flight to Athens and being stranded until morning.

As we neared Santorini, I spoke with the ship workers. They shook their heads. Our task would be impossible. There would be no taxis at the port. The airport is on the other side of the island.

There was no hope. But they discussed my plight some more, cited the politics of ferry schedules, pointed out the beautiful cliff villages and told the story of the volcano eruption to distract me from my worries.

Finally, they decided it could be done. They helped us with our luggage. They spotted taxis waiting on shore. They pulled us off the boat before the gangplank was fully down, shouting as we dashed for the taxi, "You'll make it with half an hour to spare!"

We made it with five minutes to spare.

It's the Greek way, cynical, analytical, taking a break to appreciate the beauty and history of their land, and then rallying with complete enthusiasm.

The Olympic flame was extinguished under a full moon that reflected off the Acropolis and bathed the city in a golden light. Athena would be proud.

[From The State, Aug. 29, 2004]

AN APOLOGY—AND THANK YOU, BEFORE LEAVING

(By Dave Barry)

ATHENS.—I'm leaving the Olympics and heading home, assuming the plane can lift me. This is a concern because I've gained many kilometers of mass from eating Greek food, especially "baklava," which is the Greek word for "carbohydrates."

But before I leave I have something to say to Greece:

Dear Greece,

I owe you an apology. Every negative thought I had about you before I got here—every worry, every concern—turned out to be wrong.

When I got to Greece, I thought you wouldn't be ready for the Olympics. But you were—more ready than my country was in 1996 when the Olympics came to Atlanta. Your facilities were finished, or at least finished enough; the buses ran on time; the phones worked; and an army of ever-cheerful volunteers stood by to deal with what few glitches there were. The Games went beautifully. I still don't understand rhythmic gymnastics, but that's not your fault.

FEELING SAFE

When I got to Greece, I was worried about terrorism. But my only moments of terror involved public toilets last cleaned by the Goths, and of course the Athens taxis, which are a menace to all humanity everywhere. (If we keep sending robots to Mars, sooner or later one of them will be run over by an Athens taxi.) But the Games themselves, and your country, always felt safe. The security, even though there was a lot of it, never felt oppressive. I wish I felt as safe in my own country as I did in yours.

When I got to Greece, I was worried about pickpockets. My company sent me to a scary security-training session that left me convinced I'd wind up lying in some Athens alley, stripped of money, clothes and key bodily organs. But nobody took anything from me. Instead, people kept giving me things: pins, maps, guidebooks, smiles, and—most precious of all—directions. Whenever I looked lost—which was often—people would stop and ask me, in English, if I needed help. Often they'd walk with me, going out of their way, making sure I was on the right path, sometimes even handing me off to another Greek, passing me across Athens, a human baton in the Clueless American Relay.

A FAMILY AFFAIR

When I got to Greece, I was worried about bringing my 4-year-old daughter, Sophie. But you opened your arms to her, as you do to all children. We couldn't get on a bus without somebody offering Sophie a seat; we couldn't walk around our neighborhood without somebody shouting "Sophie!" and running over to say hi to her. At home, I'm a newspaper columnist; in Greece, I'm the guy who accompanies Sophie.

When I got to Greece. I was worried about not understanding the language. But it turned out the only Greek word I really needed to know was "efharisto," which means (I hope) "thank you." I said it a hundred times a day.

So, Greece, I apologize. You took on a huge task, and you did it well, and your competence was matched by your warmth. You treated my family like your family; we've already decided we're coming back (after all, Sophie will want to see her friends).

Until then, Greece, from my heart: efharisto.

SENATE RESOLUTION 428—REAUTHORIZING THE JOHN HEINZ SENATE FELLOWSHIP PROGRAM

Mr. SPECTER (for himself, Mr. SANTORUM, Mr. COCHRAN, and Mr. HAGEL) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 428

Resolved,

SECTION 1. JOHN HEINZ SENATE FELLOWSHIP PROGRAM.

Senate Resolution 356, 102d Congress, agreed to October 7, 1992, is amended by striking section 5 and inserting the following:

"SEC. 5. FUNDS.

"There are authorized to be appropriated to carry out the provisions of this resolution $85,000 for each of fiscal years 2005 through 2009.".

Mr. SPECTER. Mr. President, I have sought recognition to submit a resolution reauthorizing the John Heinz Senate Fellowship Program. This Congressional fellowship program, created in 1992, is a fitting tribute to my late colleague and dear friend, United States Senator John Heinz. Senator Heinz dedicated his life and much of his Congressional career to improving the lives of senior citizens. He believed that Congress has a special responsibility to serve as a guardian for those who cannot protect themselves. This fellowship program, which focuses on aging issues, honors the life and continues the legacy of Senator Heinz.

During his 20 years in the Congress, John Heinz compiled an enviable record of accomplishments. While he was successful in many areas, he built a national reputation for his strong commitment to improving the quality of life of our Nation' s elderly. Pennsylvania, with nearly 2 million citizens aged 65 or older—over 15 percent of the population—houses the second largest elderly population nationwide. As John traveled throughout the State, he listened to the concerns of this important constituency and came back to Washington to address their needs through policy and legislation.

Senator Heinz led the fight against age discrimination by championing legislation to eliminate the requirement that older Americans must retire at age 65, and by ensuring full retirement pay for older workers employed by factories forced to close. During his Chairmanship of the Senate Special Committee on Aging from 1981–1986 and his tenure as Ranking Minority Member from 1987–1991, Senator Heinz used his position to improve health care accessibility and affordability for senior citizens and to reduce fraud and abuse within Federal health care programs. Congress enacted his legislation to provide Medicare recipients a lower cost alternative to fee-for-service medicine, as well as his legislation to add a hospice benefit to the Medicare program.

John also recognized the great need for nursing home reforms. He was successful in passing legislation mandating that safety measures be implemented in nursing homes and ensuring that nursing home residents cannot be bound and tied to their beds or wheelchairs.

The John Heinz Senate Fellowship Program will help continue the efforts of Senator Heinz to give our Nation's elderly the quality of life they deserve. The program encourages the identification and training of new leadership in aging policy by awarding fellowships to qualified candidates to serve in a Senate office or with a Senate Committee. The goal of this program is to advance the development of public policy in issues affecting senior citizens. Administered by the Heinz Family Foundation in conjunction with the Secretary of the Senate, the program allows fellows to bring their firsthand experience in aging issues to the work of Congress. Heinz fellows who are advocates for aging issues spend a year to help us learn about the effects of Federal policies on our elderly citizens, those who are social workers help us find better ways to protect our nation's elderly from abuse and neglect, and those who are health care providers help us to build a strong health care system that addresses the unique needs of our seniors.

The Heinz fellowship enables us to train new leaders in senior citizen advocacy and aging policy. The fellows return to their respective careers with a new understanding about how to work effectively with government, so they may better fulfill their goals as senior citizen advocates.

The John Heinz Senate Fellowship Program has been a valuable tool for Congress and our communities since its establishment in 1992. The continuation of this vital program will signal a sustained commitment to our nation's elderly. I urge my colleagues to join me in cosponsoring this resolution, and urge its swift adoption.

SENATE RESOLUTION 429—ESTABLISHING A SPECIAL COMMITTEE OF THE SENATE TO INVESTIGATE THE AWARDING AND CARRYING OUT OF CONTRACTS TO CONDUCT ACTIVITIES IN AFGHANISTAN AND IRAQ AND TO FIGHT THE WAR ON TERRORISM

Mr. DURBIN (for himself, Mr. CRAIG, Mr. AKAKA, and Mr. DAYTON) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 429

Whereas the wars in Iraq and Afghanistan have exerted very large demands on the Treasury of the United States and required tremendous sacrifice by the members of the Armed Forces of the United States;

Whereas Congress has a constitutional responsibility to ensure comprehensive oversight of the expenditure of United States Government funds;

Whereas waste and corporate abuse of United States Government resources are particularly unacceptable and reprehensible during times of war;

Whereas the magnitude of the funds involved in the reconstruction of Afghanistan and Iraq and the war on terrorism, together with the speed with which these funds have been committed, presents a challenge to the effective performance of the traditional oversight function of Congress and the auditing functions of the executive branch;

Whereas the Senate Special Committee to Investigate the National Defense Program, popularly know as the Truman Committee, which was established during World War II, offers a constructive precedent for bipartisan oversight of wartime contracting that can also be extended to wartime and postwar reconstruction activities;

Whereas the Truman Committee is credited with an extremely successful investigative effort, performance of a significant public education role, and achievement of fiscal savings measured in the billions of dollars; and

Whereas the public has a right to expect that taxpayer resources will be carefully disbursed and honestly spent: Now, therefore, be it

Resolved,

SECTION 1. SPECIAL COMMITTEE ON WAR AND RECONSTRUCTION CONTRACTING.

There is established a special committee of the Senate to be known as the Special Committee on War and Reconstruction Contracting (hereafter in this resolution referred to as the "Special Committee").

SEC. 2. PURPOSE AND DUTIES.

(a) PURPOSE.—The purpose of the Special Committee is to investigate the awarding and performance of contracts to conduct military, security, and reconstruction activities in Afghanistan and Iraq and to support the prosecution of the war on terrorism.

(b) DUTIES.—The Special Committee shall examine the contracting actions described in subsection (a) and report on such actions, in accordance with this section, regarding—

(1) bidding, contracting, accounting, and auditing standards for Federal Government contracts;

(2) methods of contracting, including sole-source contracts and limited competition or noncompetitive contracts;

(3) subcontracting under large, comprehensive contracts;

(4) oversight procedures;

(5) consequences of cost-plus and fixed price contracting;

(6) allegations of wasteful and fraudulent practices;

(7) accountability of contractors and Government officials involved in procurement and contracting;

(8) penalties for violations of law and abuses in the awarding and performance of Government contracts; and

(9) lessons learned from the contracting process used in Iraq and Afghanistan and in connection with the war on terrorism with respect to the structure, coordination, management policies, and procedures of the Federal Government.

(c) EVIDENCE CONSIDERED.—In carrying out its duties, the Special Committee shall ascertain and evaluate the evidence developed by all relevant governmental agencies regarding the facts and circumstances relevant to contracts described in subsection (a).

SEC. 3. COMPOSITION OF SPECIAL COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Special Committee shall consist of 7 members of the Senate of whom—

(A) 4 members shall be appointed by the President pro tempore of the Senate, in consultation with the majority leader of the Senate; and

(B) 3 members shall be appointed by the minority leader of the Senate.

(2) DATE.—The appointments of the members of the Special Committee shall be made not later than 90 days after the date of the enactment of this Act.

(b) VACANCIES.—Any vacancy in the Special Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) SERVICE.—Service of a Senator as a member, chairman, or ranking member of the Special Committee shall not be taken into account for the purposes of paragraph (4) of rule XXV of the Standing Rules of the Senate.

(d) CHAIRMAN AND RANKING MEMBER.—The chairman of the Special Committee shall be designated by the majority leader of the Senate, and the ranking member of the Special Committee shall be designated by the minority leader of the Senate.

(e) Quorum.—

(1) Reports and recommendations.—A majority of the members of the Special Committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate.

(2) Testimony.—One member of the Special Committee shall constitute a quorum for the purpose of taking testimony.

(3) Other business.—A majority of the members of the Special Committee, or ⅓ of the members of the Special Committee if at least one member of the minority party is present, shall constitute a quorum for the purpose of conducting any other business of the Special Committee.

SEC. 4. RULES AND PROCEDURES.

(a) Governance Under Standing Rules of Senate.—Except as otherwise specifically provided in this resolution, the investigation, study, and hearings conducted by the Special Committee shall be governed by the Standing Rules of the Senate.

(b) Additional Rules and Procedures.—The Special Committee may adopt additional rules or procedures if the chairman and ranking member agree that such additional rules or procedures are necessary to enable the Special Committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and procedures—

(1) shall not be inconsistent with this resolution or the Standing Rules of the Senate; and

(2) shall become effective upon publication in the Congressional Record.

SEC. 5. AUTHORITY OF SPECIAL COMMITTEE.

(a) In General.—The Special Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) Hearings.—The Special Committee or, at its direction, any subcommittee or member of the Special Committee, may, for the purpose of carrying out this resolution—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Special Committee or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Special Committee considers advisable.

(c) Issuance and Enforcement of Subpoenas.—

(1) Issuance.—Subpoenas issued under subsection (b) shall bear the signature of the Chairman of the Special Committee and shall be served by any person or class of persons designated by the Chairman for that purpose.

(2) Enforcement.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoehaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(d) Meetings.—The Special Committee may sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

SEC. 6. REPORTS.

(a) Initial Report.—The Special Committee shall submit to the Senate a report on the investigation conducted pursuant to section 2 not later than 270 days after the appointment of the Special Committee members.

(b) Updated Report.—The Special Committee shall submit an updated report on such investigation not later than 180 days after the submission of the report under subsection (a).

(c) Additional Reports.—The Special Committee may submit any additional report or reports that the Special Committee considers appropriate.

(d) Findings and Recommendations.—The reports under this section shall include findings and recommendations of the Special Committee regarding the matters considered under section 2.

(e) Disposition of Reports.—Any report made by the Special Committee when the Senate is not in session shall be submitted to the Clerk of the Senate. Any report made by the Special Committee shall be referred to the committee or committees that have jurisdiction over the subject matter of the report.

SEC. 7. ADMINISTRATIVE PROVISIONS.

(a) Staff.—

(1) In general.—The Special Committee may employ in accordance with paragraph (2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Special Committee, or the chairman or the ranking member, considers necessary or appropriate.

(2) Appointment of staff.—

(A) In general.—The Special Committee shall appoint a staff for the majority, a staff for the minority, and a nondesignated staff.

(B) Majority staff.—The majority staff shall be appointed, and may be removed, by the chairman and shall work under the general supervision and direction of the chairman.

(C) Minority staff.—The minority staff shall be appointed, and may be removed, by the ranking member of the Special Committee, and shall work under the general supervision and direction of such member.

(D) Nondesignated staff.—Nondesignated staff shall be appointed, and may be removed, jointly by the chairman and the ranking member, and shall work under the joint general supervision and direction of the chairman and ranking member.

(b) Compensation.—

(1) Majority staff.—The chairman shall fix the compensation of all personnel of the majority staff of the Special Committee.

(2) Minority staff.—The ranking member shall fix the compensation of all personnel of the minority staff of the Special Committee.

(3) Nondesignated staff.—The chairman and ranking member shall jointly fix the compensation of all nondesignated staff of the Special Committee, within the budget approved for such purposes for the Special Committee.

(c) Reimbursement of Expenses.—The Special Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by such staff members in the performance of their functions for the Special Committee.

(d) Payment of Expenses.—There shall be paid out of the applicable accounts of the Senate such sums as may be necessary for the expenses of the Special Committee. Such payments shall be made on vouchers signed by the chairman of the Special Committee and approved in the manner directed by the Committee on Rules and Administration of the Senate. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.

SEC. 8. TERMINATION.

The Special Committee shall terminate on February 28, 2007.

SENATE CURRENT RESOLUTION 137—CALLING FOR THE SUSPENSION OF SUDAN'S MEMBERSHIP ON THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS

Mr. FRIST (for himself, Mr. DASCHLE, Mr. DEWINE, and Mr. NELSON of Nebraska) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 137

Whereas, in Darfur, Sudan, more than 30,000 innocent civilians have been murdered, more than 400 villages have been destroyed, more than 130,000 men, women, and children have been forced from their villages into neighboring countries, and more than 1,000,000 people have been internally displaced;

Whereas the United States Government has been, and remains as of September 2004, the largest contributor of assistance to the people of Darfur, having provided over $200,000,000 in assistance, which constitutes more than 70 percent of the total assistance provided to that region;

Whereas the United States has pledged $299,000,000 in humanitarian aid to Darfur through fiscal year 2005, as well as $11,800,000 in support of the African Union mission in that region, and is likely to provide support in excess of those pledges;

Whereas United States citizens and private organizations, as well as the United States Government, have admirably worked, at great risk and through great effort, to ease suffering in Darfur, Sudan, and in eastern Chad;

Whereas, based on credible reports, Congress determined in late July 2004 that acts of genocide were occurring in Darfur, Sudan, and that the Government of Sudan bears direct responsibility for many of those acts of genocide;

Whereas, expressing its grave concern at the ongoing humanitarian crisis and widespread human rights violations in Darfur, including continued attacks on civilians that place thousands of lives at risk, the United Nations Security Council on July 30, 2004, unanimously adopted Security Council Resolution 1556, which called upon the Government of Sudan to fulfill immediately its obligations to facilitate humanitarian relief efforts, to take steps to disarm immediately the Janjaweed militias responsible for attacks on civilians and bring the perpetrators of such attacks to justice, and to cooperate with independent United Nations-sponsored investigations of human rights violations;

Whereas the Government of Sudan has failed to take credible steps to comply with the demands of the international community as expressed through the United Nations Security Council;

Whereas, according to press reports, reports from nongovernmental organizations, first-hand accounts from refugees, and other sources, the Janjaweed attacks on the civilians of Darfur continue unabated as of September 2004;

Whereas there are credible reports from some of these same sources that the Government of Sudan is providing assistance to the Janjaweed militias and, in some cases, that Government of Sudan forces have participated directly in attacks on civilians;

Whereas the United States Government, after conducting more than 1,000 interviews with survivors and refugees, has determined that genocide has occurred in Darfur, that it may still be occurring, and that both the Janjaweed and the Government of Sudan bear responsibility for these acts;

Whereas the Secretary of State has determined that the attacks by the Government of Sudan and the Janjaweed on the non-Arab people of Darfur and their villages are based on race, not religion;

Whereas the United States has recently introduced a new resolution in the United Nations Security Council that calls for the Government of Sudan to cooperate fully with an expanded African Union force and for a cessation of Sudanese military flights over Darfur;

Whereas the introduced resolution also provides for international overflights of the Darfur region to monitor the situation on the ground and requires the United Nations Security Council to review the record of compliance of the Government of Sudan to determine whether the United Nations should impose sanctions on Sudan, including sanctions affecting the petroleum sector in that country;

Whereas the resolution also urges the Government of Sudan and the Sudanese People's Liberation Movement to conclude negotiations on a comprehensive peace accord and, most important, calls for a United Nations investigation into all violations of international humanitarian law and human rights law that have occurred in Darfur in order to ensure accountability;

Whereas the United Nations Security Council, in United Nations Security Council Resolution 1556, emphasized that the Government of Sudan bears primary responsibility for respecting human rights and protecting the people of Sudan;

Whereas United Nations Security Council Resolution 1556 calls upon the Government of Sudan to cooperate with the United Nations;

Whereas the United Nations Human Rights Commission, established in 1946 and given the responsibility of drafting the Universal Declaration of Human Rights, is responsible for promoting respect for and observance of, human rights and fundamental freedoms for all;

Whereas the Universal Declaration of Human Rights declares that all human beings are born free and equal in dignity and rights, that everyone is entitled to all the rights and freedoms set forth in the Declaration regardless of race, color, sex, language, religion, political or other opinion, or national or social origin, property, birth, or other status that everyone has the right to life, liberty and security of person, that no one shall be held in slavery or servitude, and that no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment;

Whereas the Convention on the Prevention and Punishment of Genocide, done at Paris on December 9, 1948 (hereafter in this resolution referred to as the "Genocide Convention"), delineates the criteria that constitute genocide and requires parties to prevent and punish genocide;

Whereas Sudan is a state party to the Genocide Convention and remains a member of the United Nations Commission on Human Rights;

Whereas the Secretary of State determined that, according to United States law, the Government of Sudan is a state sponsor of terrorism and has been since 1993 and therefore remains ineligible for U.S. foreign assistance;

Whereas, due to the human rights situation in Darfur, it would be consistent with United States obligations under the Genocide Convention for the Secretary of State and the United States Permanent Representative to the United Nations to seek the immediate suspension of Sudan from the United Nations Commission on Human Rights and, in the event a formal investigation results in a determination by the UN that genocide has occurred in Darfur, the ultimate removal of Sudan from such Commission; and

Whereas it is a mockery of human rights as a universal principle, a challenge to the United Nations as an institution, and an affront to all responsible countries that embrace and promote human rights that a government under investigation by the United Nations for committing genocide against, and violating the human rights of, its own citizens sits in judgment of others as a member in good standing of the United Nations Commission on Human Rights: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes and approves of the findings of the Secretary of State that genocide has occurred and may still be occurring in Darfur, Sudan, and that the Government of Sudan bears responsibility for such acts;

(2) supports the Secretary of State's call for a full and unfettered investigation by the United Nations into all violations of international humanitarian law and human rights law that have occurred in Darfur, with a view to ensuring accountability;

(3) supports the resolution introduced by the United States Government in the United Nations Security Council on September 9, 2004, with regard to the situation in Darfur;

(4) calls upon the Secretary of State and the United States Permanent Representative to the United Nations to take immediate steps to pursue the establishment of a formal United Nations investigation, under Article VIII of the Genocide Convention, to determine whether the actions of the Government of Sudan in Darfur constitute acts of genocide;

(5) calls upon the Secretary of State and the United States Permanent Representative to the United Nations to take immediate steps to pursue the immediate suspension of Sudan from the United Nations Commission on Human Rights;

(6) calls upon the Secretary of State and the United States Permanent Representative to the United Nations to take further steps to ensure that the suspension of Sudan from the United Nations Commission on Human Rights remains in effect unless and until the Government of Sudan meets all of its obligations, as determined by the United Nations Security Council, under United Nations Security Council Resolution 1556 of July 30, 2004, and any subsequent United Nations Security Council resolutions regarding this matter;

(7) calls upon the Secretary of State and the United States Permanent Representative to the United Nations to take steps to ensure that, in the event that the formal investigation of acts of genocide in Sudan results in a determination by the UN that genocide has occurred or is occurring in Darfur, the United States Government takes appropriate actions to ensure that Sudan is removed from the United Nations Human Rights Commission;

(8) calls upon the member states of the United Nations Commission on Human Rights to convene an immediate special session to consider the urgent and acute human rights situation in Sudan for the purpose of considering whether Sudan should be suspended from membership in such Commission; and

(9) expects the Secretary of State to report to Congress on progress made toward taking the actions and accomplishing the objectives outlined in this resolution not later than 60 days after the date on which Congress agrees to the resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3660. Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2674, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

SA 3661. Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2674, supra.

SA 3662. Mr. FRIST (for Mr. McCAIN (for himself, Mr. HOLLINGS, and Mr. SMITH)) submitted an amendment intended to be proposed by Mr. FRIST to the bill S. 1234, to reauthorize the Federal Trade Commission, and for other purposes.

SA 3663. Mr. FRIST (for Mrs. FEINSTEIN (for herself, Mr. DOMENICI, and Mr. BINGAMAN)) proposed an amendment to the bill H.R. 2828, to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

TEXT OF AMENDMENTS

SA 3660. Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2674, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . (a) ASSESSMENT OF BUDGET AUTHORITY LIMITATION ON MILITARY HOUSING PRIVATIZATION INITIATIVE.—(1) The Secretary of Defense shall assess the impact on the military family housing program of having the total value of contracts and investments undertaken under the Military Housing Privatization Initiative reach the limitation on budget authority for the initiative specified in section 2883(g) of Title 10, United States Code.

(2) The assessment shall include: an estimate of the appropriations and period of time necessary to provide the level and quality of housing contemplated under the Military Housing Privatization Initiative in the event that limitation in 10 USC 2883(g) is not eliminated and the potential impact on military families if the limitation is not eliminated.

(b) The Secretary of Defense shall, no later than December 31, 2004, provide to the congressional defense committees a report on the assessment required by subparagraph (a).

(c) MILITARY HOUSING PRIVATIZATION INITIATIVE DEFINED.—In this section, the term "military housing privatization initiative" means the programs and activities undertaken under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code.

SA 3661. Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2674, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. 131. Of the amount appropriated by this Act, $1,500,000 shall be available to the Commission on Review of Overseas Military Facility Structure of the United States.

SA 3662. Mr. FRIST (for Mr. MCCAIN (for himself, Mr. HOLLINGS, and Mr. SMITH)) submitted an amendment intended to be proposed by Mr. FRIST to the bill S. 1234, to reauthorize the Federal Trade Commission, and for other purposes; as follows:

SECTION 1. SHORT TITLE; FINDINGS; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "International Consumer Protection Act of 2004.".

(b) FINDINGS.—The Congress finds the following:

(1) The Federal Trade Commission protects consumers from fraud and deception. Cross-border fraud and deception are growing international problems that affect American consumers and businesses.

(2) The development of the Internet and improvements in telecommunications technologies have brought significant benefits to consumers. At the same time, they have also provided unprecedented opportunities for those engaged in fraud and deception to establish operations in one country and victimize a large number of consumers in other countries.

(3) An increasing number of consumer complaints collected in the Consumer Sentinel database maintained by the Commission, and an increasing number of cases brought by the Commission, involve foreign consumers, foreign businesses or individuals, or assets or evidence located outside the United States.

(4) The Commission has legal authority to remedy law violations involving domestic and foreign wrongdoers, pursuant to the Federal Trade Commission Act. The Commission's ability to obtain effective relief using this authority, however, may face practical impediments when wrongdoers, victims, other witnesses, documents, money and third parties involved in the transaction are widely dispersed in many different jurisdictions. Such circumstances make it difficult for the Commission to gather all the information necessary to detect injurious practices, to recover offshore assets for consumer redress, and to reach conduct occurring outside the United States that affects United States consumers.

(5) Improving the ability of the Commission and its foreign counterparts to share information about cross-border fraud and deception, to conduct joint and parallel investigations, and to assist each other is critical to achieving more timely and effective enforcement in cross-border cases.

(c) PURPOSE.—The purpose of this Act is to enhance the ability of the Federal Trade Commission to protect consumers from cross-border fraud and deception and other consumer protection law violations.

SEC. 2. FOREIGN LAW ENFORCEMENT AGENCY DEFINED.

Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following:

"'Foreign law enforcement agency' means—

"(A) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters; and

"(B) any multinational or multiagency organization to the extent that it is acting on behalf of an entity described in subparagraph (A).".

SEC. 3. AVAILABILITY OF REMEDIES.

Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by adding at the end the following:

"(4)(A) For purposes of this subsection, the term 'unfair or deceptive acts or practices' includes unfair or deceptive acts or practices involving foreign commerce that—

"(i) cause or are likely to cause reasonably foreseeable injury within the United States; or

"(ii) involve material conduct occurring within the United States.

"(B) All remedies available to the Commission with respect to unfair and deceptive acts or practices shall be available for acts and practices described in this paragraph, including restitution to domestic or foreign victims.".

SEC. 4. POWERS OF THE COMMISSION.

(a) PUBLICATION OF INFORMATION; REPORTS.—Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) is amended—

(1) by inserting "(1)" after "such information" the first place it appears; and

(2) by striking "purposes." and inserting "purposes, and (2) to any officer or employee of any foreign law enforcement agency under the same circumstances that making material available to foreign law enforcement agencies is permitted under section 21(b).".

(b) OTHER POWERS OF THE COMMISSION.—Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is further amended by inserting after subsection (i) and before the proviso the following:

"(j) INVESTIGATIVE ASSISTANCE FOR FOREIGN LAW ENFORCEMENT AGENCIES.—

"(1) IN GENERAL.—Upon a written request from a foreign law enforcement agency to provide assistance in accordance with this subsection, if the requesting agency states that it is investigating, or engaging in enforcement proceedings against, possible violations of laws prohibiting fraudulent or deceptive commercial practices, or other practices substantially similar to practices prohibited by any provision of the laws administered by the Commission, other than Federal antitrust laws (as defined in section 12(5) of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211(5))), to provide the assistance described in paragraph (2) without requiring that the conduct identified in the request constitute a violation of the laws of the United States.

"(2) TYPE OF ASSISTANCE.—In providing assistance to a foreign law enforcement agency under this subsection, the Commission may—

"(A) conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance, using all investigative powers authorized by this Act; and

"(B) when the request is from an agency acting to investigate or pursue the enforcement of civil laws, or when the Attorney General refers a request to the Commission from an agency acting to investigate or pursue the enforcement of criminal laws, seek and accept appointment by a United States district court of Commission attorneys to provide assistance to foreign and international tribunals and to litigants before such tribunals on behalf of a foreign law enforcement agency pursuant to section 1782 of title 28, United States Code.

"(3) CRITERIA FOR DETERMINATION.—In deciding whether to provide such assistance, the Commission shall consider all relevant factors, including—

"(A) whether the requesting agency has agreed to provide or will provide reciprocal assistance to the Commission;

"(B) whether compliance with the request would prejudice the public interest of the United States; and

"(C) whether the requesting agency's investigation or enforcement proceeding concerns acts or practices that cause or are likely to cause injury to a significant number of persons.

"(4) INTERNATIONAL AGREEMENTS.—If a foreign law enforcement agency has set forth a legal basis for requiring conclusion of an international agreement as a condition for reciprocal assistance, or as a condition for provision of materials or information to the Commission, the Commission, with prior approval and ongoing oversight of the Secretary of State, and with final approval of the agreement by the Secretary of State, may negotiate and conclude an international agreement, in the name of either the United States or the Commission, for the purpose of obtaining such assistance, materials, or information. The Commission may undertake in such an international agreement to

"(A) provide assistance using the powers set forth in this subsection;

"(B) disclose materials and information in accordance with subsection (f) and section 21(b); and

"(C) engage in further cooperation, and protect materials and information received from disclosure, as authorized by this Act.

"(5) ADDITIONAL AUTHORITY.—The authority provided by this subsection is in addition to, and not in lieu of, any other authority vested in the Commission or any other officer of the United States.

"(6) LIMITATION.—This subsection does not authorize the Commission to take any action or exercise any power with respect to a bank, a savings and loan institution described in section 18(f)(3) (15 U.S.C. 57a(f)(3)), a Federal credit union described in section 18(f)(4) (15 U.S.C. 57a(f)(4)), or a common carrier subject to the Act to regulate commerce, except in accordance with the undesignated proviso following the last designated subsection of section 6 (15 U.S.C. 46).

"(7) ASSISTANCE TO CERTAIN COUNTRIES.—The Commission may not provide investigative assistance under this subsection to a foreign law enforcement agency from a country that the Secretary of State has determined, in accordance with section 6(j) of the

Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App. 2405(j)(4)).

"(k) Referral of Evidence for Criminal Proceedings.—

"(1) In general.—Whenever the Commission obtains evidence that any person, partnership, or corporation, either domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law, to transmit such evidence to the Attorney General, who may institute criminal proceedings under appropriate statutes. Nothing in this paragraph affects any other authority of the Commission to disclose information.

"(2) International information.—The Commission should endeavor to ensure, with respect to memoranda of understanding and international agreements it may conclude, that material it has obtained from foreign law enforcement agencies acting to investigate or pursue the enforcement of foreign criminal laws may be used for the purpose of investigation, prosecution, or prevention of violations of United States criminal laws.

"(1) Expenditures for Cooperative Arrangements.—To expend appropriated funds for—

"(1) operating expenses and other costs of bilateral and multilateral cooperative law enforcement groups conducting activities of interest to the Commission and in which the Commission participates; and

"(2) expenses for consultations and meetings hosted by the Commission with foreign government agency officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to the Commission's mission, development and implementation of cooperation agreements, and provision of technical assistance for the development of foreign consumer protection or competition regimes, such expenses to include necessary administrative and logistic expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including—

"(A) such incidental expenses as meals taken in the course of such attendance;

"(B) any travel and transportation to or from such meetings; and

"(C) any other related lodging or subsistence.".

(c) Authorization of Appropriations.—The Federal Trade Commission is authorized to expend appropriated funds not to exceed $100,000 per fiscal year for purposes of section 6(l) of the Federal Trade Commission Act (15 U.S.C. 46(l)) (as added by subsection (b) of this section), including operating expenses and other costs of the following bilateral and multilateral cooperative law enforcement agencies and organizations:

(1) The International Consumer Protection and Enforcement Network.

(2) The International Competition Network.

(3) The Mexico-U.S.-Canada Health Fraud Task Force.

(4) Project Emptor.

(5) The Toronto Strategic Partnership and other regional partnerships with a nexus in a Canadian province.

(d) Conforming Amendment.—Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by striking "clauses (a) and (b)" in the proviso following subsection (l) (as added by subsection (b) of this section) and inserting "subsections (a), (b), and (j)".

SEC. 5. REPRESENTATION IN FOREIGN LITIGATION.

Section 16 of the Federal Trade Commission Act (15 U.S.C. 56) is amended by adding at the end the following:

"(c) Foreign Litigation.—

"(1) Commission attorneys.—With the concurrence of the Attorney General, the Commission may designate Commission attorneys to assist the Attorney General in connection with litigation in foreign courts on particular matters in which the Commission has an interest.

"(2) Reimbursement for foreign counsel.—The Commission is authorized to expend appropriated funds, upon agreement with the Attorney General, to reimburse the Attorney General for the retention of foreign counsel for litigation in foreign courts and for expenses related to litigation in foreign courts in which the Commission has an interest.

"(3) Limitation on use of funds.—Nothing in this subsection authorizes the payment of claims or judgments from any source other than the permanent and indefinite appropriation authorized by section 1304 of title 31, United States Code.

"(4) Other authority.—The authority provided by this subsection is in addition to any other authority of the Commission or the Attorney General.".

SEC. 6. SHARING INFORMATION WITH FOREIGN LAW ENFORCEMENT AGENCIES.

(a) Material Obtained Pursuant to Compulsory Process.—Section 21(b)(6) of the Federal Trade Commission Act (15 U.S.C. 57b–2(b)(6)) is amended by adding at the end the following: "The custodian may make such material available to any foreign law enforcement agency upon the prior certification of an appropriate official of any such foreign law enforcement agency, either by a prior agreement or memorandum of understanding with the Commission or by other written certification, that such material will be maintained in confidence and will be used only for official law enforcement purposes, if—

"(A) the foreign law enforcement agency has set forth a bona fide legal basis for its authority to maintain the material in confidence;

"(B) the materials are to be used for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of—

"(i) foreign laws prohibiting fraudulent or deceptive commercial practices, or other practices substantially similar to practices prohibited by any law administered by the Commission;

"(ii) a law administered by the Commission, if disclosure of the material would further a Commission investigation or enforcement proceeding; or

"(iii) with the approval of the Attorney General, other foreign criminal laws, if such foreign criminal laws are offenses defined in or covered by a criminal mutual legal assistance treaty in force between the government of the United States and the foreign law enforcement agency's government;

"(C) the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) or, in the case of a Federal credit union, the National Credit Union Administration, has given its prior approval if the materials to be provided under subparagraph (B) are requested by the foreign law enforcement agency for the purpose of investigating, or engaging in enforcement proceedings based on, possible violations of law by a bank, a savings and loan institution described in section 18(f)(3) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(3)), or a Federal credit union described in section 18(f)(4) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(4)); and

"(D) the foreign law enforcement agency is not from a country that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App. 2405(j)(4)).

Nothing in the preceding sentence authorizes the disclosure of material obtained in connection with the administration of the Federal antitrust laws or foreign antitrust laws (as defined in paragraphs (5) and (7), respectively, of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)) to any officer or employee of a foreign law enforcement agency.".

(b) Information Supplied by and About Foreign Sources.—Section 21(f) of the Federal Trade Commission Act (15 U.S.C. 57b–2(f)) is amended to read as follows:

"(f) Exemption From Public Disclosure.—

"(1) In general.—Any material which is received by the Commission in any investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission, and which is provided pursuant to any compulsory process under this Act or which is provided voluntarily in place of such compulsory process shall not be required to be disclosed under section 552 of title 5, United States Code, or any other provision of law, except as provided in paragraph (2)(B) of this section.

"(2) Material obtained from a foreign source.—

"(A) In general.—Except as provided in subparagraph (B) of this paragraph, the Commission shall not be required to disclose under section 552 of title 5, United States Code, or any other provision of law—

"(i) any material obtained from a foreign law enforcement agency or other foreign government agency, if the foreign law enforcement agency or other foreign government agency has requested confidential treatment, or has precluded such disclosure under other use limitations, as a condition of providing the material;

"(ii) any material reflecting a consumer complaint obtained from any other foreign source, if that foreign source supplying the material has requested confidential treatment as a condition of providing the material; or

"(iii) any material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign law enforcement agencies or other foreign government agencies.

"(B) Savings provision.—Nothing in this subsection authorizes the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.".

SEC. 7. CONFIDENTIALITY; DELAYED NOTICE OF PROCESS.

(a) In General.—The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 21 the following:

"SEC. 21A. CONFIDENTIALITY AND DELAYED NOTICE OF COMPULSORY PROCESS FOR CERTAIN THIRD PARTIES.

"(a) Application With Other Laws.—The Right to Financial Privacy Act (12 U.S.C.

3401 et seq.) and chapter 121 of title 18, United States Code, shall apply with respect to the Commission, except as otherwise provided in this section.

"(b) In General.—The procedures for delay of notification or prohibition of disclosure under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) and chapter 121 of title 18, United States Code, including procedures for extensions of such delays or prohibitions, shall be available to the Commission, provided that, notwithstanding any provision therein—

"(1) a court may issue an order delaying notification or prohibiting disclosure (including extending such an order) in accordance with the procedures of section 1109 of the Right to Financial Privacy Act (12 U.S.C. 3409) (if notification would otherwise be required under that Act), or section 2705 of title 18, United States Code, (if notification would otherwise be required under chapter 121 of that title), if the presiding judge or magistrate judge finds that there is reason to believe that such notification or disclosure may cause an adverse result as defined in subsection (g) of this section; and

"(2) if notification would otherwise be required under chapter 121 of title 18, United States Code, the Commission may delay notification (including extending such a delay) upon the execution of a written certification in accordance with the procedures of section 2705 of that title if the Commission finds that there is reason to believe that notification may cause an adverse result as defined in subsection (g) of this section.

"(c) Ex Parte Application by Commission.—

"(1) In General.—If neither notification nor delayed notification by the Commission is required under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or chapter 121 of title 18, United States Code, the Commission may apply ex parte to a presiding judge or magistrate judge for an order prohibiting the recipient of compulsory process issued by the Commission from disclosing to any other person the existence of the process, notwithstanding any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia. The presiding judge or magistrate judge may enter such an order granting the requested prohibition of disclosure for a period not to exceed 60 days if there is reason to believe that disclosure may cause an adverse result as defined in subsection (g). The presiding judge or magistrate judge may grant extensions of this order of up to 30 days each in accordance with this subsection, except that in no event shall the prohibition continue in force for more than a total of 9 months.

"(2) Application.—This subsection shall apply only in connection with compulsory process issued by the Commission where the recipient of such process is not a subject of the investigation or proceeding at the time such process is issued.

"(3) Limitation.—No order issued under this subsection may prohibit any recipient from disclosing to a Federal agency that the recipient has received compulsory process from the Commission.

"(d) No Liability for Failure To Notify.—If neither notification nor delayed notification by the Commission is required under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or chapter 121 of title 18, United States Code, the recipient of compulsory process issued by the Commission under this Act shall not be liable under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, or under any contract or other legally enforceable agreement, for failure to provide notice to any person that such process has been issued or that the recipient has provided information in response to such process. The preceding sentence does not exempt any recipient from liability for—

"(1) the underlying conduct reported;

"(2) any failure to comply with the record retention requirements under section 1104(c) of the Right to Financial Privacy Act (12 U.S.C. 3404), where applicable; or

"(3) any failure to comply with any obligation the recipient may have to disclose to a Federal agency that the recipient has received compulsory process from the Commission or intends to provide or has provided information to the Commission in response to such process.

"(e) Venue and Procedure.—

"(1) In general.—All judicial proceedings initiated by the Commission under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), chapter 121 of title 18, United States Code, or this section may be brought in the United States District Court for the District of Columbia or any other appropriate United States District Court. All ex parte applications by the Commission under this section related to a single investigation may be brought in a single proceeding.

"(2) In camera proceedings.—Upon application by the Commission, all judicial proceedings pursuant to this section shall be held in camera and the records thereof sealed until expiration of the period of delay or such other date as the presiding judge or magistrate judge may permit.

"(f) Section Not To Apply to Antitrust Investigations or Proceedings.—This section shall not apply to an investigation or proceeding related to the administration of Federal antitrust laws or foreign antitrust laws (as defined in paragraphs (5) and (7), respectively, of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211).

"(g) Adverse Result Defined.—For purposes of this section the term 'adverse result' means—

"(1) endangering the life or physical safety of an individual;

"(2) flight from prosecution;

"(3) the destruction of, or tampering with, evidence;

"(4) the intimidation of potential witnesses; or

"(5) otherwise seriously jeopardizing an investigation or proceeding related to fraudulent or deceptive commercial practices or persons involved in such practices, or unduly delaying a trial related to such practices or persons involved in such practices, including, but not limited to, by—

"(A) the transfer outside the territorial limits of the United States of assets or records related to fraudulent or deceptive commercial practices or related to persons involved in such practices;

"(B) impeding the ability of the Commission to identify persons involved in fraudulent or deceptive commercial practices, or to trace the source or disposition of funds related to such practices; or

"(C) the dissipation, fraudulent transfer, or concealment of assets subject to recovery by the Commission.".

(b) Conforming Amendment.—Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) by striking "or" after the semicolon in subparagraph (C);

(2) by inserting "or" after the semicolon in subparagraph (D); and

(3) by inserting after subparagraph (D) the following:

"(E) under section 21A of this Act;".

SEC. 8. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is further amended by adding after section 21A (as added by section 7 of this Act) the following:

"SEC. 21B. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

"(a) In General.—

"(1) No Liability for Providing Certain Material.—An entity described in paragraph (2) or (3) of subsection (d) of this section that voluntarily provides material to the Commission that such entity reasonably believes is relevant to—

"(A) a possible unfair or deceptive act or practice, as defined in section 5(a) of this Act; or

"(B) assets subject to recovery by the Commission, including assets located in foreign jurisdictions;

shall not be liable to any person under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, for such provision of material or for any failure to provide notice of such provision of material or of intention to so provide material.

(2) Limitations.—Nothing in this subsection shall be construed to exempt any such entity from liability—

(A) for the underlying conduct reported; or

(B) to any Federal agency for providing such material or for any failure to comply with any obligation the entity may have to notify a Federal agency prior to providing such material to the Commission.

"(b) Certain Financial Institutions.—An entity described in paragraph (1) of subsection (d) of this section shall, in accordance with section 5318(g)(3) of title 31, United States Code, be exempt from liability for making a voluntary disclosure to the Commission of any possible violation of law or regulation, including—

"(1) a disclosure regarding assets, including assets located in foreign jurisdictions—

"(A) related to possibly fraudulent or deceptive commercial practices;

"(B) related to persons involved in such practices; or

"(C) otherwise subject to recovery by the Commission; or

"(2) a disclosure regarding suspicious chargeback rates related to possibly fraudulent or deceptive commercial practices.

"(c) Consumer Complaints.—Any entity described in subsection (d) that voluntarily provides consumer complaints sent to it, or information contained therein, to the Commission shall not be liable to any person under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, for such provision of material or for any failure to provide notice of such provision of material or of intention to so provide material. This subsection does not provide any exemption from liability for the underlying conduct.

"(d) Application.—This section applies to the following entities, whether foreign or domestic:

"(1) A financial institution as defined in section 5312 of title 31, United States Code.

"(2) To the extent not included in paragraph (1), a bank or thrift institution, a commercial bank or trust company, an investment company, a credit card issuer, an operator of a credit card system, and an issuer, redeemer, or cashier of travelers' checks, money orders, or similar instruments.

"(3) A courier service, a commercial mail receiving agency, an industry membership organization, a payment system provider, a consumer reporting agency, a domain name registrar or registry acting as such, and a provider of alternative dispute resolution services.

"(4) An Internet service provider or provider of telephone services.".

SEC. 9. STAFF EXCHANGES.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by adding after section 25 the following new section:

"SEC. 25A. STAFF EXCHANGES.

"(a) In General.—The Commission may—

"(1) retain or employ officers or employees of foreign government agencies on a temporary basis as employees of the Commission pursuant to section 2 of this Act or section 3101 or 3109 of title 5, United States Code; and

"(2) detail officers or employees of the Commission to work on a temporary basis for appropriate foreign government agencies.

"(b) Reciprocity and Reimbursement.—The staff arrangements described in subsection (a) need not be reciprocal. The Commission may accept payment or reimbursement, in cash or in kind, from a foreign government agency to which this section is applicable, or payment or reimbursement made on behalf of such agency, for expenses incurred by the Commission, its members, and employees in carrying out such arrangements.

"(c) Standards of Conduct.—A person appointed under subsection (a)(1) shall be subject to the provisions of law relating to ethics, conflicts of interest, corruption, and any other criminal or civil statute or regulation governing the standards of conduct for Federal employees that are applicable to the type of appointment.".

SEC. 10. INFORMATION SHARING WITH FINANCIAL REGULATORS.

Section 1112(e) of the Right to Financial Privacy Act (12 U.S.C. 3412(e)) is amended by inserting "the Federal Trade Commission," after "the Securities and Exchange Commission,".

SEC. 11. AUTHORITY TO ACCEPT REIMBURSEMENTS, GIFTS, AND VOLUNTARY AND UNCOMPENSATED SERVICES.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

(1) by redesignating section 26 as section 28; and

(2) by inserting after section 25A, as added by section 9 of this Act, the following:

"SEC. 26. REIMBURSEMENT OF EXPENSES.

"The Commission may accept payment or reimbursement, in cash or in kind, from a domestic or foreign law enforcement agency, or payment or reimbursement made on behalf of such agency, for expenses incurred by the Commission, its members, or employees in carrying out any activity pursuant to a statute administered by the Commission without regard to any other provision of law. Any such payments or reimbursements shall be considered a reimbursement to the appropriated funds of the Commission.

"SEC. 27. GIFTS AND VOLUNTARY AND UNCOMPENSATED SERVICES.

"(a) In General.—In furtherance of its functions the Commission may accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property and, notwithstanding section 1342 of title 31, United States Code, accept voluntary and uncompensated services.

"(b) Limitations.—

"(1) Conflicts of interest.—The Commission shall establish written guidelines setting forth criteria to be used in determining whether the acceptance, holding, administration, or use of a gift, donation, or bequest pursuant to subsection (a) would reflect unfavorably upon the ability of the Commission or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.

"(2) Voluntary services.—A person who provides voluntary and uncompensated service under subsection (a) shall be considered a Federal employee for purposes of—

"(A) chapter 81 of title 5, United States Code, (relating to compensation for injury); and

"(B) the provisions of law relating to ethics, conflicts of interest, corruption, and any other criminal or civil statute or regulation governing the standards of conduct for Federal employees.

"(3) Tort liability of volunteers.—A person who provides voluntary and uncompensated service under subsection (a), while assigned to duty, shall be deemed a volunteer of a nonprofit organization or governmental entity for purposes of the Volunteer Protection Act of 1997 (42 U.S.C. 14501 et seq.). Subsection (d) of section 4 of such Act (42 U.S.C. 14503(d)) shall not apply for purposes of any claim against such volunteer.".

SEC. 12. PRESERVATION OF EXISTING AUTHORITY.

The authority provided by this Act, and by the Federal Trade Commission Act (15 U.S.C. 41 et seq.) and the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), as such Acts are amended by this Act, is in addition to, and not in lieu of, any other authority vested in the Federal Trade Commission or any other officer of the United States.

SEC. 13. REPORT.

Not later than 3 years after the date of enactment of this Act, the Federal Trade Commission shall transmit to Congress a report describing its use of and experience with the authority granted by this Act, along with any recommendations for additional legislation. The report shall include—

(1) the number of cross-border complaints received by the Commission;

(2) identification of the foreign agencies to which the Commission has provided nonpublic investigative information under this Act;

(3) the number of times the Commission has used compulsory process on behalf of foreign law enforcement agencies pursuant to section 6 of the Federal Trade Commission Act (15 U.S.C. 46), as amended by section 4 of this Act;

(4) a list of international agreements and memoranda of understanding executed by the Commission that relate to this Act;

(5) the number of times the Commission has sought delay of notice pursuant to section 21A of the Federal Trade Commission Act, as added by section 7 of this Act;

(6) a description of the types of information private entities have provided voluntarily pursuant to section 21B of the Federal Trade Commission Act, as added by section 8 of this Act;

(7) a description of the results of cooperation with foreign law enforcement agencies under section 21 of the Federal Trade Commission Act (15 U.S.C. 57-2) as amended by section 6 of this Act;

(8) an analysis of whether the lack of an exemption from the disclosure requirements of section 552 of title 5, United States Code, with regard to information or material voluntarily provided relevant to possible unfair or deceptive acts or practices, has hindered the Commission in investigating or engaging in enforcement proceedings against such practices; and

(9) a description of Commission litigation brought in foreign courts.

SEC. 14. REAUTHORIZATION.

The text of section 25 of the Federal Trade Commission Act (15 U.S.C. 57c) is amended to read as follows:

"There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission not to exceed $224,695,000 for fiscal year 2005, $235,457,000 for fiscal year 2006, $249,000,000 for fiscal year 2007, and $264,000,000 for fiscal year 2008.".

SA 3663. Mr. FRIST (for Mrs. Feinstein (for herself, Mr. Domenici, and Mr. Bingaman)) proposed an amendment to the bill H.R. 2828, to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Water Supply, Reliability, and Environmental Improvement Act".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Bay Delta program.
Sec. 104. Management.
Sec. 105. Reporting requirements.
Sec. 106. Crosscut budget.
Sec. 107. Federal share of costs.
Sec. 108. Compliance with State and Federal law.
Sec. 109. Authorization of appropriation.

TITLE II—MISCELLANEOUS

Sec. 201. Salton Sea study program.
Sec. 202. Alder Creek water storage and conservation project feasibility study and report.
Sec. 203. Folsom Reservoir temperature control device authorization.

TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Calfed Bay-Delta Authorization Act".

SEC. 102. DEFINITIONS.

In this title:

(1) Calfed bay-delta program.—The terms "Calfed Bay-Delta Program" and "Program" mean the programs, projects, complementary actions, and activities undertaken through coordinated planning, implementation, and assessment activities of the State agencies and Federal agencies as set forth in the Record of Decision.

(2) California bay-delta authority.—The terms "California Bay-Delta Authority" and "Authority" mean the California Bay-Delta Authority, as set forth in the California Bay-

Delta Authority Act (Cal. Water Code §79400 et seq.).

(3) DELTA.—The term "Delta" has the meaning given the term in the Record of Decision.

(4) ENVIRONMENTAL WATER ACCOUNT.—The term "Environmental Water Account" means the Cooperative Management Program established under the Record of Decision.

(5) FEDERAL AGENCIES.—The term "Federal agencies" means—

(A) the Department of the Interior, including—

(i) the Bureau of Reclamation;

(ii) the United States Fish and Wildlife Service;

(iii) the Bureau of Land Management; and

(iv) the United States Geological Survey;

(B) the Environmental Protection Agency;

(C) the Army Corps of Engineers;

(D) the Department of Commerce, including the National Marine Fisheries Service (also known as "NOAA Fisheries");

(E) the Department of Agriculture, including—

(i) the Natural Resources Conservation Service; and

(ii) the Forest Service; and

(F) the Western Area Power Administration.

(6) FIRM YIELD.—The term "firm yield" means a quantity of water from a project or program that is projected to be available on a reliable basis, given a specified level of risk, during a critically dry period.

(7) GOVERNOR.—The term "Governor" means the Governor of the State of California.

(8) RECORD OF DECISION.—The term "Record of Decision" means the Calfed Bay-Delta Program Record of Decision, dated August 28, 2000.

(9) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(10) STATE.—The term "State" means the State of California.

(11) STATE AGENCIES.—The term "State agencies" means—

(A) the Resources Agency of California, including—

(i) the Department of Water Resources;

(ii) the Department of Fish and Game;

(iii) the Reclamation Board;

(iv) the Delta Protection Commission;

(v) the Department of Conservation;

(vi) the San Francisco Bay Conservation and Development Commission;

(vii) the Department of Parks and Recreation; and

(viii) the California Bay-Delta Authority;

(B) the California Environmental Protection Agency, including the State Water Resources Control Board;

(C) the California Department of Food and Agriculture; and

(D) the Department of Health Services.

SEC. 103. BAY DELTA PROGRAM.

(a) IN GENERAL.—

(1) RECORD OF DECISION AS GENERAL FRAMEWORK.—The Record of Decision is approved as a general framework for addressing the Calfed Bay-Delta Program, including its components relating to water storage, ecosystem restoration, water supply reliability (including new firm yield), conveyance, water use efficiency, water quality, water transfers, watersheds, the Environmental Water Account, levee stability, governance, and science.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsections (c) through (f) consistent with—

(i) the Record of Decision;

(ii) the requirement that Program activities consisting of protecting drinking water quality, restoring ecological health, improving water supply reliability (including additional storage, conveyance, and new firm yield), and protecting Delta levees will progress in a balanced manner; and

(iii) this title.

(B) MULTIPLE BENEFITS.—In selecting activities and projects, the Secretary and the heads of the Federal agencies shall consider whether the activities and projects have multiple benefits.

(b) AUTHORIZED ACTIVITIES.—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsections (c) through (f) in furtherance of the Calfed Bay-Delta Program as sêt forth in the Record of Decision, subject to the cost-share and other provisions of this title, if the activity has been—

(1) subject to environmental review and approval, as required under applicable Federal and State law; and

(2) approved and certified by the relevant Federal agency, following consultation and coordination with the Governor, to be consistent with the Record of Decision.

(c) AUTHORIZATIONS FOR FEDERAL AGENCIES UNDER APPLICABLE LAW.—

(1) SECRETARY OF THE INTERIOR.—The Secretary of the Interior is authorized to carry out the activities described in paragraphs (1) through (10) of subsection (d), to the extent authorized under the reclamation laws, the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(2) ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency is authorized to carry out the activities described in paragraphs (3), (5), (6), (7), (8), and (9) of subsection (d), to the extent authorized under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), and other applicable law.

(3) SECRETARY OF THE ARMY.—The Secretary of the Army is authorized to carry out the activities described in paragraphs (1), (2), (6), (7), (8), and (9) of subsection (d), to the extent authorized under flood control, water resource development, and other applicable law.

(4) SECRETARY OF COMMERCE.—The Secretary of Commerce is authorized to carry out the activities described in paragraphs (2), (6), (7), and (9) of subsection (d), to the extent authorized under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(5) SECRETARY OF AGRICULTURE.—The Secretary of Agriculture is authorized to carry out the activities described in paragraphs (3), (5), (6), (7), (8), and (9) of subsection (d), to the extent authorized under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.

(d) DESCRIPTION OF ACTIVITIES UNDER APPLICABLE LAW.—

(1) WATER STORAGE.—

(A) IN GENERAL.—Activities under this paragraph consist of—

(i) planning and feasibility studies for projects to be pursued with project-specific study for enlargement of—

(I) the Shasta Dam in Shasta County; and

(II) the Los Vaqueros Reservoir in Contra Costa County;

(ii) planning and feasibility studies for the following projects requiring further consideration—

(I) the Sites Reservoir in Colusa County; and

(II) the Upper San Joaquin River storage in Fresno and Madera Counties;

(iii) developing and implementing groundwater management and groundwater storage projects; and

(iv) comprehensive water management planning.

(B) STORAGE PROJECT AUTHORIZATION AND BALANCED CALFED IMPLEMENTATION.—

(i) IN GENERAL.—If on completion of the feasibility study for a project described in clause (i) or (ii) of subparagraph (A), the Secretary, in consultation with the Governor, determines that the project should be constructed in whole or in part with Federal funds, the Secretary shall submit the feasibility study to Congress.

(ii) FINDING OF IMBALANCE.—If Congress fails to authorize construction of the project by the end of the next full session following the submission of the feasibility study, the Secretary, in consultation with the Governor, shall prepare a written determination making a finding of imbalance for the Calfed Bay-Delta Program.

(iii) REPORT ON REBALANCING.—

(I) IN GENERAL.—If the Secretary makes a finding of imbalance for the Program under clause (ii), the Secretary, in consultation with the Governor, shall, not later than 180 days after the end of the full session described in clause (ii), prepare and submit to Congress a report on the measures necessary to rebalance the Program.

(II) SCHEDULES AND ALTERNATIVES.—The report shall include preparation of revised schedules and identification of alternatives to rebalance the Program, including resubmission of the project to Congress with or without modification, construction of other projects, and construction of other projects that provide equivalent water supply and other benefits at equal or lesser cost.

(C) WATER SUPPLY AND YIELD STUDY.—

(i) IN GENERAL.—The Secretary, acting through the Bureau of Reclamation and in coordination with the State, shall conduct a study of available water supplies and existing and future needs for water—

(I) within the units of the Central Valley Project;

(II) within the area served by Central Valley Project agricultural, municipal, and industrial water service contractors; and

(III) within the Calfed Delta solution area.

(ii) RELATIONSHIP TO PRIOR STUDY.—In conducting the study, the Secretary shall incorporate and revise, as necessary, the results of the study required by section 3408(j) of the Central Valley Project Improvement Act of 1992 (Public Law 102–575; 106 Stat. 4730).

(iii) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report describing the results of the study, including—

(I) new firm yield and water supply improvements, if any, for Central Valley Project agricultural water service contractors and municipal and industrial water service contractors, including those identified in Bulletin 160;

(II) all water management actions or projects, including those identified in Bulletin 160, that would—

(aa) improve firm yield or water supply; and

(bb) if taken or constructed, balance available water supplies and existing demand with due recognition of water right priorities and environmental needs;

(III) the financial costs of the actions and projects described under subclause (II); and

(IV) the beneficiaries of those actions and projects and an assessment of the willingness of the beneficiaries to pay the capital costs and operation and maintenance costs of the actions and projects.

(D) MANAGEMENT.—The Secretary shall conduct activities related to developing groundwater storage projects to the extent authorized under law.

(E) COMPREHENSIVE WATER PLANNING.—The Secretary shall conduct activities related to comprehensive water management planning to the extent authorized under law.

(2) CONVEYANCE.—

(A) SOUTH DELTA ACTIONS.—

(i) IN GENERAL.—In the case of the South Delta, activities under this subparagraph consist of—

(I) the South Delta Improvements Program through actions to—

(aa) increase the State Water Project export limit to 8,500 cfs;

(bb) install permanent, operable barriers in the South Delta, under which Federal agencies shall cooperate with the State to accelerate installation of the permanent, operable barriers in the South Delta, with an intent to complete that installation not later than September 30, 2007;

(cc) evaluate, consistent with the Record of Decision, fish screens and intake facilities at the Tracy Pumping Plant facilities; and

(dd) increase the State Water Project export to the maximum capability of 10,300 cfs;

(II) reduction of agricultural drainage in South Delta channels, and other actions necessary to minimize the impact of drainage on drinking water quality;

(III) evaluation of lower San Joaquin River floodway improvements;

(IV) installation and operation of temporary barriers in the South Delta until fully operable barriers are constructed; and

(V) actions to protect navigation and local diversions not adequately protected by temporary barriers.

(ii) ACTIONS TO INCREASE PUMPING.—Actions to increase pumping shall be accomplished in a manner consistent with the Record of Decision requirement to avoid redirected impacts and adverse impacts to fishery protection and with any applicable Federal or State law that protects—

(I) water diversions and use (including avoidance of increased costs of diversion) by in-Delta water users (including in-Delta agricultural users that have historically relied on water diverted for use in the Delta);

(II) water quality for municipal, industrial, agricultural, and other uses; and

(III) water supplies for areas of origin.

(B) NORTH DELTA ACTIONS.—In the case of the North Delta, activities under this subparagraph consist of—

(i) evaluation and implementation of improved operational procedures for the Delta Cross Channel to address fishery and water quality concerns;

(ii) evaluation of a screened through-Delta facility on the Sacramento River; and

(iii) evaluation of lower Mokelumne River floodway improvements.

(C) INTERTIES.—Activities under this subparagraph consist of—

(i) evaluation and construction of an intertie between the State Water Project California Aqueduct and the Central Valley Project Delta Mendota Canal, near the City of Tracy, as an operation and maintenance activity, except that the Secretary shall design and construct the intertie in a manner consistent with a possible future expansion of the intertie capacity (as described in subsection (f)(1)(B)); and

(ii) assessment of a connection of the Central Valley Project to the Clifton Court Forebay of the State Water Project, with a corresponding increase in the screened intake of the Forebay.

(D) PROGRAM TO MEET STANDARDS.—

(i) IN GENERAL.—Prior to increasing export limits from the Delta for the purposes of conveying water to south-of-Delta Central Valley Project contractors or increasing deliveries through an intertie, the Secretary shall, not later than 1 year after the date of enactment of this Act, in consultation with the Governor, develop and initiate implementation of a program to meet all existing water quality standards and objectives for which the Central Valley Project has responsibility.

(ii) MEASURES.—In developing and implementing the program, the Secretary shall include, to the maximum extent feasible, the measures described in clauses (iii) through (vii).

(iii) RECIRCULATION PROGRAM.—The Secretary shall incorporate into the program a recirculation program to provide flow, reduce salinity concentrations in the San Joaquin River, and reduce the reliance on the New Melones Reservoir for meeting water quality and fishery flow objectives through the use of excess capacity in export pumping and conveyance facilities.

(iv) BEST MANAGEMENT PRACTICES PLAN.—

(I) IN GENERAL.—The Secretary shall develop and implement, in coordination with the State's programs to improve water quality in the San Joaquin River, a best management practices plan to reduce the water quality impacts of the discharges from wildlife refuges that receive water from the Federal Government and discharge salt or other constituents into the San Joaquin River.

(II) COORDINATION WITH INTERESTED PARTIES.—The plan shall be developed in coordination with interested parties in the San Joaquin Valley and the Delta.

(III) COORDINATION WITH ENTITIES THAT DISCHARGE WATER.—The Secretary shall also coordinate activities under this clause with other entities that discharge water into the San Joaquin River to reduce salinity concentrations discharged into the River, including the timing of discharges to optimize their assimilation.

(v) ACQUISITION OF WATER.—The Secretary shall incorporate into the program the acquisition from willing sellers of water from streams tributary to the San Joaquin River or other sources to provide flow, dilute discharges of salt or other constituents, and to improve water quality in the San Joaquin River below the confluence of the Merced and San Joaquin Rivers, and to reduce the reliance on New Melones Reservoir for meeting water quality and fishery flow objectives.

(vi) PURPOSE.—The purpose of the authority and direction provided to the Secretary under this subparagraph is to provide greater flexibility in meeting the existing water quality standards and objectives for which the Central Valley Project has responsibility so as to reduce the demand on water from New Melones Reservoir used for that purpose and to assist the Secretary in meeting any obligations to Central Valley Project contractors from the New Melones Project.

(vii) UPDATING OF NEW MELONES OPERATING PLAN.—The Secretary shall update the New Melones operating plan to take into account, among other things, the actions described in this title that are designed to reduce the reliance on New Melones Reservoir for meeting water quality and fishery flow objectives, and to ensure that actions to enhance fisheries in the Stanislaus River are based on the best available science.

(3) WATER USE EFFICIENCY.—

(A) WATER CONSERVATION PROJECTS.—Activities under this paragraph include water conservation projects that provide water supply reliability, water quality, and ecosystem benefits to the California Bay-Delta system.

(B) TECHNICAL ASSISTANCE.—Activities under this paragraph include technical assistance for urban and agricultural water conservation projects.

(C) WATER RECYCLING AND DESALINATION PROJECTS.—Activities under this paragraph include water recycling and desalination projects, including groundwater remediation projects and projects identified in the Bay Area Water Plan and the Southern California Comprehensive Water Reclamation and Reuse Study and other projects, giving priority to projects that include regional solutions to benefit regional water supply and reliability needs.

(D) WATER MEASUREMENT AND TRANSFER ACTIONS.—Activities under this paragraph include water measurement and transfer actions.

(E) URBAN WATER CONSERVATION.—Activities under this paragraph include implementation of best management practices for urban water conservation.

(F) RECLAMATION AND RECYCLING PROJECTS.—

(i) PROJECTS.—This subparagraph applies to—

(I) projects identified in the Southern California Comprehensive Water Reclamation and Reuse Study, dated April 2001 and authorized by section 1606 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–4); and

(II) projects identified in the San Francisco Bay Area Regional Water Recycling Program described in the San Francisco Bay Area Regional Water Recycling Program Recycled Water Master Plan, dated December 1999 and authorized by section 1611 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–9).

(ii) DEADLINE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(I) complete the review of the existing studies of the projects described in clause (i); and

(II) make the feasibility determinations described in clause (iii).

(iii) FEASIBILITY DETERMINATIONS.—A project described in clause (i) is presumed to be feasible if the Secretary determines for the project—

(I) in consultation with the affected local sponsoring agency and the State, that the existing planning and environmental studies for the project (together with supporting materials and documentation) have been prepared consistent with Bureau of Reclamation procedures for projects under consideration for financial assistance under the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.); and

(II) that the planning and environmental studies for the project (together with supporting materials and documentation) demonstrate that the project will contribute to the goals of improving water supply reliability in the Calfed solution area or the Colorado River Basin within the State and otherwise meets the requirements of section 1604 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–2).

(iv) REPORT.—Not later than 90 days after the date of completion of a feasibility study or the review of a feasibility study under this subparagraph, the Secretary shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report describing the results of the study or review.

(4) WATER TRANSFERS.—Activities under this paragraph consist of—

(A) increasing the availability of existing facilities for water transfers;

(B) lowering transaction costs through permit streamlining; and

(C) maintaining a water transfer information clearinghouse.

(5) INTEGRATED REGIONAL WATER MANAGEMENT PLANS.—Activities under this paragraph consist of assisting local and regional communities in the State in developing and implementing integrated regional water management plans to carry out projects and programs that improve water supply reliability, water quality, ecosystem restoration, and flood protection, or meet other local and regional needs, in a manner that is consistent with, and makes a significant contribution to, the Calfed Bay-Delta Program.

(6) ECOSYSTEM RESTORATION.—

(A) IN GENERAL.—Activities under this paragraph consist of—

(i) implementation of large-scale restoration projects in San Francisco Bay and the Delta and its tributaries;

(ii) restoration of habitat in the Delta, San Pablo Bay, and Suisun Bay and Marsh, including tidal wetland and riparian habitat;

(iii) fish screen and fish passage improvement projects, including the Sacramento River Small Diversion Fish Screen Program;

(iv) implementation of an invasive species program, including prevention, control, and eradication;

(v) development and integration of Federal and State agricultural programs that benefit wildlife into the Ecosystem Restoration Program;

(vi) financial and technical support for locally-based collaborative programs to restore habitat while addressing the concerns of local communities;

(vii) water quality improvement projects to manage or reduce concentrations of salinity, selenium, mercury, pesticides, trace metals, dissolved oxygen, turbidity, sediment, and other pollutants;

(viii) land and water acquisitions to improve habitat and fish spawning and survival in the Delta and its tributaries;

(ix) integrated flood management, ecosystem restoration, and levee protection projects;

(x) scientific evaluations and targeted research on Program activities; and

(xi) strategic planning and tracking of Program performance.

(B) REPORTING REQUIREMENTS.—The Secretary or the head of the relevant Federal agency (as appropriate under clause (ii)) shall provide to the appropriate authorizing committees of the Senate and the House of Representatives and other appropriate parties in accordance with this subparagraph—

(i) an annual ecosystem program plan report in accordance with subparagraph (C); and

(ii) detailed project reports in accordance with subparagraph (D).

(C) ANNUAL ECOSYSTEM PROGRAM PLAN.—

(i) IN GENERAL.—Not later than October 1 of each year, with respect to each ecosystem restoration action carried out using Federal funds under this title, the Secretary, in consultation with the Governor, shall submit to the appropriate authorizing committees of the Senate and the House of Representatives an annual ecosystem program plan report.

(ii) PURPOSES.—The purposes of the report are—

(I) to describe the projects and programs to implement this subsection in the following fiscal year; and

(II) to establish priorities for funding the projects and programs for subsequent fiscal years.

(iii) CONTENTS.—The report shall describe—

(I) the goals and objectives of the programs and projects;

(II) program accomplishments;

(III) major activities of the programs;

(IV) the Federal agencies involved in each project or program identified in the plan and the cost-share arrangements with cooperating agencies;

(V) the resource data and ecological monitoring data to be collected for the restoration projects and how the data are to be integrated, streamlined, and designed to measure the effectiveness and overall trend of ecosystem health in the Bay-Delta watershed;

(VI) implementation schedules and budgets;

(VII) existing monitoring programs and performance measures;

(VIII) the status and effectiveness of measures to minimize the impacts of the program on agricultural land; and

(IX) a description of expected benefits of the restoration program relative to the cost.

(iv) SPECIAL RULE FOR LAND ACQUISITION USING FEDERAL FUNDS.—For each ecosystem restoration project involving land acquisition using Federal funds under this title, the Secretary shall—

(I) identify the specific parcels to be acquired in the annual ecosystem program plan report under this subparagraph; or

(II) not later than 150 days before the project is approved, provide to the appropriate authorizing committees of the Senate and the House of Representatives, the United States Senators from the State, and the United States Representative whose district would be affected, notice of any such proposed land acquisition using Federal funds under this title submitted to the Federal or State agency.

(D) DETAILED PROJECT REPORTS.—

(i) IN GENERAL.—In the case of each ecosystem restoration program or project funded under this title that is not specifically identified in an annual ecosystem program plan under subparagraph (C), not later than 45 days prior to approval, the Secretary, in coordination with the State, shall submit to the appropriate authorizing committees of the Senate and the House of Representatives recommendations on the proposed program or project.

(ii) CONTENTS.—The recommendations shall—

(I) describe the selection of the program or project, including the level of public involvement and independent science review;

(II) describe the goals, objectives, and implementation schedule of the program or project, and the extent to which the program or project addresses regional and programmatic goals and priorities;

(III) describe the monitoring plans and performance measures that will be used for evaluating the performance of the proposed program or project;

(IV) identify any cost-sharing arrangements with cooperating entities;

(V) identify how the proposed program or project will comply with all applicable Federal and State laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(VI) in the case of any program or project involving the acquisition of private land using Federal funds under this title—

(aa) describe the process and timing of notification of interested members of the public and local governments;

(bb) describe the measures taken to minimize impacts on agricultural land pursuant to the Record of Decision; and

(cc) include preliminary management plans for all properties to be acquired with Federal funds, including an overview of existing conditions (including habitat types in the affected project area), the expected ecological benefits, preliminary cost estimates, and implementation schedules.

(7) WATERSHEDS.—Activities under this paragraph consist of—

(A) building local capacity to assess and manage watersheds affecting the Delta system;

(B) technical assistance for watershed assessments and management plans; and

(C) developing and implementing locally-based watershed conservation, maintenance, and restoration actions.

(8) WATER QUALITY.—Activities under this paragraph consist of—

(A) addressing drainage problems in the San Joaquin Valley to improve downstream water quality (including habitat restoration projects that improve water quality) if—

(i) a plan is in place for monitoring downstream water quality improvements; and

(ii) State and local agencies are consulted on the activities to be funded;

except that no right, benefit, or privilege is created as a result of this subparagraph;

(B) implementation of source control programs in the Delta and its tributaries;

(C) developing recommendations through scientific panels and advisory council processes to meet the Calfed Bay-Delta Program goal of continuous improvement in Delta water quality for all uses;

(D) investing in treatment technology demonstration projects;

(E) controlling runoff into the California aqueduct, the Delta-Mendota Canal, and other similar conveyances;

(F) addressing water quality problems at the North Bay Aqueduct;

(G) supporting and participating in the development of projects to enable San Francisco Bay Area water districts, and water entities in San Joaquin and Sacramento Counties, to work cooperatively to address their water quality and supply reliability issues, including—

(i) connections between aqueducts, water transfers, water conservation measures, institutional arrangements, and infrastructure improvements that encourage regional approaches; and

(ii) investigations and studies of available capacity in a project to deliver water to the East Bay Municipal Utility District under its contract with the Bureau of Reclamation, dated July 20, 2001, in order to determine if such capacity can be utilized to meet the objectives of this subparagraph;

(H) development of water quality exchanges and other programs to make high quality water available for urban and other users;

(I) development and implementation of a plan to meet all Delta water quality standards for which the Federal and State water projects have responsibility;

(J) development of recommendations through science panels and advisory council processes to meet the Calfed Bay-Delta Program goal of continuous improvement in water quality for all uses; and

(K) projects that are consistent with the framework of the water quality component of the Calfed Bay-Delta Program.

(9) SCIENCE.—Activities under this paragraph consist of—

(A) supporting establishment and maintenance of an independent science board, technical panels, and standing boards to provide oversight and peer review of the Program;

(B) conducting expert evaluations and scientific assessments of all Program elements;

(C) coordinating existing monitoring and scientific research programs;

(D) developing and implementing adaptive management experiments to test, refine, and improve scientific understandings;

(E) establishing performance measures, and monitoring and evaluating the performance of all Program elements; and

(F) preparing an annual science report.

(10) DIVERSIFICATION OF WATER SUPPLIES.—Activities under this paragraph consist of actions to diversify sources of level 2 refuge supplies and modes of delivery to refuges while maintaining the diversity of level 4 supplies pursuant to section 3406(d)(2) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4723).

(e) NEW AND EXPANDED AUTHORIZATIONS FOR FEDERAL AGENCIES.—

(1) IN GENERAL.—The heads of the Federal agencies described in this subsection are authorized to carry out the activities described in subsection (f) during each of fiscal years 2005 through 2010, in coordination with the Governor.

(2) SECRETARY OF THE INTERIOR.—The Secretary of the Interior is authorized to carry out the activities described in paragraphs (1), (2), and (4) of subsection (f).

(3) ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY AND THE SECRETARIES OF AGRICULTURE AND COMMERCE.—The Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the Secretary of Commerce are authorized to carry out the activities described in subsection (f)(4).

(4) SECRETARY OF THE ARMY.—The Secretary of the Army is authorized to carry out the activities described in paragraphs (3) and (4) of subsection (f).

(f) DESCRIPTION OF ACTIVITIES UNDER NEW AND EXPANDED AUTHORIZATIONS.—

(1) CONVEYANCE.—Of the amounts authorized to be appropriated under section 109, not more than $184,000,000 may be expended for the following:

(A) SAN LUIS RESERVOIR.—Funds may be expended for feasibility studies, evaluation, and implementation of the San Luis Reservoir lowpoint improvement project, except that Federal participation in any construction of an expanded Pacheco Reservoir shall be subject to future congressional authorization.

(B) INTERTIE.—Funds may be expended for feasibility studies and evaluation of increased capacity of the intertie between the State Water Project California Aqueduct and the Central Valley Project Delta Mendota Canal.

(C) FRANKS TRACT.—Funds may be expended for feasibility studies and actions at Franks Tract to improve water quality in the Delta.

(D) CLIFTON COURT FOREBAY AND THE TRACY PUMPING PLANT.—Funds may be expended for feasibility studies and design of fish screen and intake facilities at Clifton Court Forebay and the Tracy Pumping Plant facilities.

(E) DRINKING WATER INTAKE FACILITIES.—

(i) IN GENERAL.—Funds may be expended for design and construction of the relocation of drinking water intake facilities to in-Delta water users.

(ii) DRINKING WATER QUALITY.—The Secretary shall coordinate actions for relocating intake facilities on a time schedule consistent with subsection (d)(2)(A)(i)(I)(bb) or take other actions necessary to offset the degradation of drinking water quality in the Delta due to the South Delta Improvement Program.

(F) NEW MELONES RESERVOIR.—

(i) IN GENERAL.—In addition to the other authorizations granted to the Secretary by this title, the Secretary shall acquire water from willing sellers and undertake other actions designed to decrease releases from the New Melones Reservoir for meeting water quality standards and flow objectives for which the Central Valley Project has responsibility to assist in meeting allocations to Central Valley Project contractors from the New Melones Project.

(ii) PURPOSE.—The authorization under this subparagraph is solely meant to add flexibility for the Secretary to meet any obligations of the Secretary to the Central Valley Project contractors from the New Melones Project by reducing demand for water dedicated to meeting water quality standards in the San Joaquin River.

(iii) FUNDING.—Of the amounts authorized to be appropriated under section 109, not more than $30,000,000 may be expended to carry out clause (i).

(G) RECIRCULATION OF EXPORT WATER.—Funds may be used to conduct feasibility studies, evaluate, and, if feasible, implement the recirculation of export water to reduce salinity and improve dissolved oxygen in the San Joaquin River.

(2) ENVIRONMENTAL WATER ACCOUNT.—

(A) IN GENERAL.—Of the amounts authorized to be appropriated under section 109, not more than $90,000,000 may be expended for implementation of the Environmental Water Account.

(B) NONREIMBURSABLE FEDERAL EXPENDITURE.—Expenditures under subparagraph (A) shall be considered a nonreimbursable Federal expenditure in recognition of the payments of the contractors of the Central Valley Project to the Restoration Fund created by the Central Valley Project Improvement Act (Title XXXIV of Public Law 102–575; 106 Stat. 4706).

(C) USE OF RESTORATION FUND.—

(i) IN GENERAL.—Of the amounts appropriated for the Restoration Fund for each fiscal year, an amount not to exceed $10,000,000 for any fiscal year may be used to implement the Environmental Water Account to the extent those actions are consistent with the fish and wildlife habitat restoration and improvement purposes of the Central Valley Project Improvement Act.

(ii) ACCOUNTING.—Any such use of the Restoration Fund shall count toward the 33 percent of funds made available to the Restoration Fund that, pursuant to section 3407(a) of the Central Valley Project Improvement Act, are otherwise authorized to be appropriated to the Secretary to carry out paragraphs (4) through (6), (10) through (18), and (20) through (22) of section 3406(b) of that Act.

(iii) FEDERAL FUNDING.—The $10,000,000 limitation on the use of the Restoration Fund for the Environmental Water Account under clause (i) does not limit the appropriate amount of Federal funding for the Environmental Water Account.

(3) LEVEE STABILITY.—

(A) IN GENERAL.—For purposes of implementing the Calfed Bay-Delta Program within the Delta (as defined in Cal. Water Code § 12220)), the Secretary of the Army is authorized to undertake the construction and implementation of levee stability programs or projects for such purposes as flood control, ecosystem restoration, water supply, water conveyance, and water quality objectives.

(B) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Army shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report that describes the levee stability reconstruction projects and priorities that will be carried out under this title during each of fiscal years 2005 through 2010.

(C) SMALL FLOOD CONTROL PROJECTS.—Notwithstanding the project purpose, the authority granted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) shall apply to each project authorized under this paragraph.

(D) PROJECTS.—Of the amounts authorized to be appropriated under section 109, not more than $90,000,000 may be expended to—

(i) reconstruct Delta levees to a base level of protection (also known as the “Public Law 84–99 standard”);

(ii) enhance the stability of levees that have particular importance in the system through the Delta Levee Special Improvement Projects Program;

(iii) develop best management practices to control and reverse land subsidence on Delta islands;

(iv) develop a Delta Levee Emergency Management and Response Plan that will enhance the ability of Federal, State, and local agencies to rapidly respond to levee emergencies;

(v) develop a Delta Risk Management Strategy after assessing the consequences of Delta levee failure from floods, seepage, subsidence, and earthquakes;

(vi) reconstruct Delta levees using, to the maximum extent practicable, dredged materials from the Sacramento River, the San Joaquin River, and the San Francisco Bay in reconstructing Delta levees;

(vii) coordinate Delta levee projects with flood management, ecosystem restoration, and levee protection projects of the lower San Joaquin River and lower Mokelumne River floodway improvements and other projects under the Sacramento-San Joaquin Comprehensive Study; and

(viii) evaluate and, if appropriate, rehabilitate the Suisun Marsh levees.

(4) PROGRAM MANAGEMENT, OVERSIGHT, AND COORDINATION.—

(A) IN GENERAL.—Of the amounts authorized to be appropriated under section 109, not more than $25,000,000 may be expended by the Secretary or the other heads of Federal agencies, either directly or through grants, contracts, or cooperative agreements with agencies of the State, for—

(i) Program support;

(ii) Program-wide tracking of schedules, finances, and performance;

(iii) multiagency oversight and coordination of Program activities to ensure Program balance and integration;

(iv) development of interagency cross-cut budgets and a comprehensive finance plan to allocate costs in accordance with the beneficiary pays provisions of the Record of Decision;

(v) coordination of public outreach and involvement, including tribal, environmental justice, and public advisory activities in accordance with the Federal Advisory Committee Act (5 U.S.C. App.); and

(vi) development of Annual Reports.

(B) PROGRAM-WIDE ACTIVITIES.—Of the amount referred to in subparagraph (A), not less than 50 percent of the appropriated amount shall be provided to the California Bay-Delta Authority to carry out Program-wide management, oversight, and coordination activities.

SEC. 104. MANAGEMENT.

(a) COORDINATION.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall coordinate their activities with the State agencies.

(b) PUBLIC PARTICIPATION.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall cooperate with local and tribal governments and the public through an advisory committee established in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) and other appropriate means, to seek input on Program planning and design, technical assistance, and development of peer review science programs.

(c) SCIENCE.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall seek to ensure, to the maximum extent practicable, that—

(1) all major aspects of implementing the Program are subjected to credible and objective scientific review; and

(2) major decisions are based upon the best available scientific information.

(d) GOVERNANCE.—

(1) IN GENERAL.—In carrying out the Calfed Bay-Delta Program, the Secretary and the Federal agency heads are authorized to participate as nonvoting members of the California Bay-Delta Authority, as established in the California Bay-Delta Authority Act (Cal. Water Code §79400 et seq.), to the extent consistent with Federal law, for the full duration of the period the Authority continues to be authorized by State law.

(2) RELATIONSHIP TO FEDERAL LAW AND AGENCIES.—Nothing in this subsection shall preempt or otherwise affect any Federal law or limit the statutory authority of any Federal agency.

(3) CALIFORNIA BAY-DELTA AUTHORITY.—

(A) ADVISORY COMMITTEE.—The California Bay-Delta Authority shall not be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(B) FINANCIAL INTEREST.—The financial interests of the California Bay-Delta Authority shall not be imputed to any Federal official participating in the Authority.

(C) ETHICS REQUIREMENTS.—A Federal official participating in the California Bay-Delta Authority shall remain subject to Federal financial disclosure and conflict of interest laws and shall not be subject to State financial disclosure and conflict of interest laws.

(e) ENVIRONMENTAL JUSTICE.—The Federal agencies, consistent with Executive Order 12898 (59 Fed. Reg. 7629), should continue to collaborate with State agencies to—

(1) develop a comprehensive environmental justice workplan for the Calfed Bay-Delta Program; and

(2) fulfill the commitment to addressing environmental justice challenges referred to in the Calfed Bay-Delta Program Environmental Justice Workplan, dated December 13, 2000.

(f) LAND ACQUISITION.—Federal funds appropriated by Congress specifically for implementation of the Calfed Bay-Delta Program may be used to acquire fee title to land only where consistent with the Record of Decision.

SEC. 105. REPORTING REQUIREMENTS.

(a) REPORT.—

(1) IN GENERAL.—Not later than February 15 of each year, the Secretary, in cooperation with the Governor, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report that—

(A) describes the status of implementation of all components of the Calfed Bay-Delta Program;

(B) sets forth any written determination resulting from the review required under subsection (b) or section 103(d)(1)(B); and

(C) includes any revised schedule prepared under subsection (b) or section 103(d)(1)(B)(iii)(II).

(2) CONTENTS.—The report required under paragraph (1) shall describe—

(A) the progress of the Calfed Bay-Delta Program in meeting the implementation schedule for the Program in a manner consistent with the Record of Decision;

(B) the status of implementation of all components of the Program;

(C) expenditures in the past fiscal year for implementing the Program;

(D) accomplishments during the past fiscal year in achieving the objectives of additional and improved—

(i) water storage;

(ii) water quality, including—

(I) the water quality targets described in section 2.2.9 of the Record of Decision; and

(II) any pending actions that may affect the ability of the Calfed Bay-Delta Program to achieve those targets and requirements;

(iii) water use efficiency;

(iv) ecosystem restoration;

(v) watershed management;

(vi) levee system integrity;

(vii) water transfers;

(viii) water conveyance;

(ix) water supply reliability (including new firm yield), including progress in achieving the water supply targets described in section 2.2.4 of the Record of Decision and any pending actions that may affect the ability of the Calfed Bay-Delta Program to achieve those targets; and

(x) the uses and assets of the environmental water account described in section 2.2.7 of the Record of Decision;

(E) Program goals, current schedules, and relevant financing agreements, including funding levels necessary to achieve completion of the feasibility studies and environmental documentation for the surface storage projects identified in section 103 by not later than September 30, 2008;

(F) progress on—

(i) storage projects;

(ii) conveyance improvements;

(iii) levee improvements;

(iv) water quality projects; and

(v) water use efficiency programs;

(G) completion of key projects and milestones identified in the Ecosystem Restoration Program, including progress on project effectiveness, monitoring, and accomplishments;

(H) development and implementation of local programs for watershed conservation and restoration;

(I) progress in improving water supply reliability and implementing the Environmental Water Account;

(J) achievement of commitments under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and endangered species law of the State;

(K) implementation of a comprehensive science program;

(L) progress toward acquisition of the Federal and State permits (including permits under section 404(a) of the Federal Water Pollution Control Act (33 U.S.C. 1344(a))) for implementation of projects in all identified Program areas;

(M) progress in achieving benefits in all geographic regions covered by the Program;

(N) legislative action on—

(i) water transfer;

(ii) groundwater management;

(iii) water use efficiency; and

(iv) governance;

(O) the status of complementary actions;

(P) the status of mitigation measures; and

(Q) revisions to funding commitments and Program responsibilities.

(b) ANNUAL REVIEW OF PROGRESS AND BALANCE.—

(1) IN GENERAL.—Not later than November 15 of each year, the Secretary, in cooperation with the Governor, shall review progress in implementing the Calfed Bay-Delta Program based on—

(A) consistency with the Record of Decision; and

(B) balance in achieving the goals and objectives of the Calfed Bay-Delta Program.

(2) REVISED SCHEDULE.—If, at the conclusion of each such annual review or if a timely annual review is not undertaken, the Secretary or the Governor determines in writing that either the Program implementation schedule has not been substantially adhered to, or that balanced progress in achieving the goals and objectives of the Program is not occurring, the Secretary and the Governor, in coordination with the Bay-Delta Public Advisory Committee, shall prepare a revised schedule to achieve balanced progress in all Calfed Bay-Delta Program elements consistent with the intent of the Record of Decision.

(c) FEASIBILITY STUDIES.—Any feasibility studies completed as a result of this title shall include identification of project benefits and a cost allocation plan consistent with the beneficiaries pay provisions of the Record of Decision.

SEC. 106. CROSSCUT BUDGET.

(a) IN GENERAL.—The President's budget shall include such requests as the President considers necessary and appropriate for the appropriate level of funding for each of the Federal agencies to carry out its responsibilities under the Calfed Bay-Delta Program.

(b) REQUESTS BY FEDERAL AGENCIES.—The funds shall be requested for the Federal agency with authority and programmatic responsibility for the obligation of the funds, in accordance with subsections (b) through (f) of section 103.

(c) REPORT.—Not later than 30 days after submission of the budget of the President to Congress, the Director of the Office of Management and Budget, in coordination with the Governor, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a financial report certified by the Secretary containing—

(1) an interagency budget crosscut report that—

(A) displays the budget proposed, including any interagency or intra-agency transfer, for each of the Federal agencies to carry out the Calfed Bay-Delta Program for the upcoming fiscal year, separately showing funding requested under both pre-existing authorities and under the new authorities granted by this title; and

(B) identifies all expenditures since 1998 by the Federal and State governments to achieve the objectives of the Calfed Bay-Delta Program;

(2) a detailed accounting of all funds received and obligated by all Federal agencies and State agencies responsible for implementing the Calfed Bay-Delta Program during the previous fiscal year;

(3) a budget for the proposed projects (including a description of the project, authorization level, and project status) to be carried out in the upcoming fiscal year with the Federal portion of funds for activities under subsections (b) through (f) of section 103; and

(4) a listing of all projects to be undertaken in the upcoming fiscal year with the Federal portion of funds for activities under subsections (b) through (f) of section 103.

SEC. 107. FEDERAL SHARE OF COSTS.

(a) IN GENERAL.—The Federal share of the cost of implementing the Calfed Bay-Delta Program for fiscal years 2005 through 2010 in the aggregate, as set forth in the Record of Decision, shall not exceed 33.3 percent.

(b) PAYMENT FOR BENEFITS.—The Secretary shall ensure that all beneficiaries, including beneficiaries of environmental restoration and other Calfed program elements, shall pay for the benefit received from all projects or activities carried out under the Calfed Bay-Delta Program.

(c) INTEGRATED RESOURCE PLANNING.—Federal expenditures for the Calfed Bay-Delta Program shall be implemented in a manner that encourages integrated resource planning.

SEC. 108. COMPLIANCE WITH STATE AND FEDERAL LAW.

Nothing in this title—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water;

(3) preempts or modifies any State or Federal law or interstate compact governing water quality or disposal;

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource; or

(5) alters or modifies any provision of existing Federal law, except as specifically provided in this title.

SEC. 109. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated to the Secretary and the heads of the Federal agencies to pay the Federal share of the cost of carrying out the new and expanded authorities described in subsections (e) and (f) of section 103 $389,000,000 for the period of fiscal years 2005 through 2010, to remain available until expended.

TITLE II—MISCELLANEOUS

SEC. 201. SALTON SEA STUDY PROGRAM.

Not later than December 31, 2006, the Secretary of the Interior, in coordination with the State of California and the Salton Sea Authority, shall complete a feasibility study on a preferred alternative for Salton Sea restoration.

SEC. 202. ALDER CREEK WATER STORAGE AND CONSERVATION PROJECT FEASIBILITY STUDY AND REPORT.

(a) STUDY.—Pursuant to Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), the Secretary of the Interior (referred to in this section as the "Secretary"), through the Bureau of Reclamation, and in consultation and cooperation with the El Dorado Irrigation District, is authorized to conduct a study to determine the feasibility of constructing a project on Alder Creek in El Dorado County, California, to store water and provide water supplies during dry and critically dry years for consumptive use, recreation, in-stream flows, irrigation, and power production.

(b) REPORT.—

(1) TRANSMISSION.—On completion of the study authorized by subsection (a), the Secretary shall transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the results of the study.

(2) CONTENTS OF REPORT.—The report shall contain appropriate cost sharing options for the implementation of the project based on the use and possible allocation of any stored water.

(3) USE OF AVAILABLE MATERIALS.—In developing the report under this section, the Secretary shall use reports and any other relevant information supplied by the El Dorado Irrigation District.

(c) COST SHARE.—

(1) FEDERAL SHARE.—The Federal share of the costs of the feasibility study authorized by this section shall not exceed 50 percent of the total cost of the study.

(2) IN-KIND CONTRIBUTION FOR NON-FEDERAL SHARE.—The Secretary may accept as part of the non-Federal cost share the contribution such in-kind services by the El Dorado Irrigation District as the Secretary determines will contribute to the conduct and completion of the study.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000.

SEC. 203. FOLSOM RESERVOIR TEMPERATURE CONTROL DEVICE AUTHORIZATION.

Section 1(c) of Public Law 105–295 (112 Stat. 2820) (as amended by section 219(b) of Public Law 108–137 (117 Stat. 1853)) is amended in the second sentence by striking "$3,500,000" and inserting "$6,250,000".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet on Wednesday, September 15, 2004, at 10 a.m., on "Impacts of Climate Change."

The PRESIDING OFFICER. Without objection, it so ordered.

COMMITTEEE ON ENERGY AND NATURAL RESOURCES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Wednesday, September 15 at 9:30 a.m., to consider pending calendar business.

Agenda Item 1: S. Con. Res. 121—A concurrent resolution supporting the goals and ideals of the World Year of Physics.

Agenda Item 2: S. 437—A bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes.

Agenda Item 3: S. 511—A bill to provide permanent funding for the Payment in Lieu of Taxes program, and for other purposes.

Agenda Item 7: S. 1064—A bill to establish a commission to commemorate the sesquicentennial of the American Civil War, and for other purposes.

Agenda Item 9: S. 1354—A bill to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes.

Agenda Item 12: S. 1462—A bill to adjust the boundary of the Cumberland Island Wilderness, to authorize tours of the Cumberland Island National Seashore, and for other purposes.

Agenda Item 13: S. 1466—A bill to facilitate the transfer of land in the State of Alaska, and for other purposes.

Agenda Item 14: S. 1614—A bill to designate a portion of White Salmon River as a component of the National Wild and Scenic Rivers System.

Agenda Item 15: S. 1649—A bill to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes.

Agenda Item 16: S. 1678—A bill to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes.

Agenda Item 17: S. 1852—A bill to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin.

Agenda Item 18: S. 1876—A bill to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project.

Agenda Item 19: S. 2086—A bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines.

Agenda Item 20: S. 2142—A bill to authorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes.

Agenda Item 21: S. 2181—A bill to adjust the boundary of Rocky Mountain National Park in the State of Colorado.

Agenda Item 23: S. 2334—A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System.

Agenda Item 24: S. 2374—A bill to provide for the conveyance of certain lands to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes.

Agenda Item 25: S. 2408—A bill to adjust the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in the State of Montana.

Agenda Item 26: S. 2432—A bill to expand the boundaries of Wilson's Creek Battlefield National Park, and for other purposes.

Agenda Item 27: S. 2567—A bill to adjust the boundary of Redwood National Park in the State of California.

Agenda Item 28: S. 2622—A bill to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historic Park in the State of New Mexico.

Agenda Item 31: H.R. 1113—To authorize an exchange of land at Fort Frederica National Monument, and for other purposes.

Agenda Item 32: H.R. 1446—To support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes.

Agenda Item 33: H.R. 1964—To assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes.

Agenda Item 34: H.R. 2010—To protect the voting rights of members of the Armed Services in elections for the Delegate representing American Samoa in the United States House of Representatives, and for other purposes.

Agenda Item 35: H.R. 3706—To adjust the boundary of the John Muir National Historic site, and for other purposes.

Agenda Item 36: H.R. 4516—To require the Secretary of Energy to carry out a program of research and development to advance high-end computing.

In addition, the committee may turn to any other measures that are ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open executive session during the session on September 15, 2004, at 10 a.m., to consider favorably reporting S. 333, a bill to promote elder justice, and the nomination of Joey Russell George, to be Treasury Inspector General for Tax Administration, U.S. Department of Treasury.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 15, 2004, at 9:30 a.m., to hold a hearing on "Accelerating U.S. Assistance to Iraq."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, September 15, 2004, at 10 a.m., in room 485 of the Russell Senate Office Building to conduct a business meeting on pending committee matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Stephen Kosack, a fellow in my office, be granted the privilege of the floor during the remainder of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005

On Tuesday, September 14, 2004, the Senate passed H.R. 4567, as follows:

H.R. 4567

Resolved, That the bill from the House of Representatives (H.R. 4567) entitled "An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and for executive management of the Department of Homeland Security, as authorized by law, $82,206,000: Provided, That not to exceed $50,000 shall be available for allocation within the Department for official reception and representation expenses as the Secretary may determine.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701–705 of the Homeland Security Act of 2002 (6 U.S.C. 341–345), $245,579,000: Provided, That of the total amount provided, $65,081,000 shall remain available until expended solely for the alteration and improvement of facilities and for relocation costs to consolidate the Department's headquarters' operations.

DEPARTMENT-WIDE TECHNOLOGY INVESTMENTS

For development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, $222,000,000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

OPERATING EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $82,317,000, of which not to exceed $100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

BORDER AND TRANSPORTATION SECURITY

OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Under Secretary for Border and Transportation Security, as authorized by subtitle A of title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.), $8,864,000.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note), $340,000,000, to remain available until expended.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; acquisition, lease, maintenance and operation of aircraft; purchase and lease of up to 4,500 (3,935 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $4,466,960,000; of which $3,000,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $40,000 shall be for official reception and representation expenses; of which not to exceed $126,162,000 shall remain available until September 30, 2006, for inspection and surveillance technology, and equipment for the Container Security Initiative; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; and of which not to *exceed $5,000,000 shall be available for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration: Provided, That none of the funds appropriated shall be available to compensate any employee for overtime in an annual amount in excess of $30,000, except that the Under Secretary for Border and Transportation Security may exceed that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided, $12,725,000 shall be for activities to enforce laws against forced child labor in fiscal year 2005, of which not to exceed $4,000,000 shall remain available until expended: Provided further, That of the total amount provided, not less than $4,750,000 may be for the enforcement of the textile transshipment provisions provided for in chapter 5 of title III of the Customs Border Security Act of 2002 (Public Law 107–210; 116 Stat. 988 et seq.).*

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, $449,909,000, to remain available until expended, of which not less than $321,690,000 shall be for the development of the Automated Commercial Environment: Provided, That none of the funds appropriated under this heading may be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Under Secretary for Border and Transportation Security that:

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 3;

(2) complies with the Bureau of Customs and Border Protection's enterprise information systems architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) is reviewed and approved by the Bureau of Customs and Border Protection Investment Review Board, the Department of Homeland Security, and the Office of Management and Budget; and

(5) is reviewed by the Government Accountabililty Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $91,718,000, to remain available until expended.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 2,300 (2,000 for replacement only) police-type vehicles, $2,413,438,000, of which not to exceed $5,000,000 shall be available until expended for conducting special operations pursuant to section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $203,000 shall be for Project Alert; of which $5,000,000 shall be a grant for activities related to the investigations of exploited children and shall remain available until expended; and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: Provided, That none of the funds appropriated shall be available to compensate any employee for overtime in an annual amount in excess of $30,000, except that the Under Secretary for Border and Transportation Security may waive that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided, $3,045,000 shall be for activities to enforce laws against forced child labor in fiscal year 2005, of which not to exceed $2,000,000 shall remain available until expended: Provided further, That of the total amount provided for, not less than $4,750,000 may be for the enforcement of the textile transshipment provisions provided for in chapter 5 of title III of the Customs Border Security Act of 2002 (Public Law 107–210; 116 Stat. 988 et seq.).

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $662,900,000.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account, not to exceed $478,000,000, shall be available until expended for necessary expenses related to the protection of federally owned and leased buildings and for the operations of the Federal Protective Service.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $39,605,000, to remain available until expended.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Bureau of Immigration and Customs Enforcement; and at the discretion of the Under Secretary for Border and Transportation Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $267,535,000, to remain available until expended: Provided, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to Bureau of Immigration and Customs Enforcement requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2005 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $26,179,000, to remain available until expended.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597), $4,386,083,000, to remain available until expended, of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That of the total amount provided under this heading, not to exceed $2,076,733,000 shall be for passenger screening activities; not to exceed $1,512,460,000 shall be for baggage screening activities, of which $210,000,000 shall be available only for procurement of checked baggage explosive detection systems and $75,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $796,890,000 shall be for airport security direction and enforcement presence, of which $217,890,000 shall be available for airport information technology: Provided further, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections: Provided further, That, except as provided in the following proviso, the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2005, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,563,083,000: Provided further, That the Government Accountability Office shall review, using a methodology deemed appropriate by the Comptroller General, the calendar year 2000 cost information for screening passengers and property pursuant to section 44940(a)(2) of title 49, United States Code, of air carriers and foreign air carriers engaged in air transportation and intrastate air transportation and report the information within six months of enactment of the Act but no earlier than March 31, 2005, to the Committees on Appropriations of the Senate and House of Representatives and Committee on Commerce, Science, and Transportation: Provided further, That the Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access, for the purpose of reviewing such cost information, to the personnel and to the books; accounts; documents; papers; records (including electronic records); and automated data and files of such air carriers, airport authorities, and their contractors; that the Comptroller General deems relevant for purposes of reviewing the information sought pursuant to the provisions of the preceding proviso: Provided further, That the Comptroller General may obtain and duplicate any such records, documents, working papers, automated data and files, or other information relevant to such reviews without cost to the Comptroller General and the Comptroller General's right of access to such information shall be enforceable pursuant to section 716(c) of title 31, United States Code: Provided further, That the Comptroller General shall maintain the same level of confidentiality for information made available under the preceding provisos as that required under section 716(e) of title 31, United States Code: Provided further, That upon the request of the Comptroller General, the Secretary of the Department of Homeland Security shall transfer to the Government Accountability Office from appropriations available for administration expenses of the Transportation Security Administration, the amount requested by the Comptroller General, not to exceed $5,000,000, to cover the full costs of any review and report of the calendar year 2000 cost information conducted by the Comptroller General, with 15 days advance notice by the Transportation Security Administration to the Committees on Appropriations of the Senate and House of Representatives: Provided further, That the Comptroller General shall credit funds transferred under the authority of the preceding proviso to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the review and report: Provided further, That any funds transferred and credited under the authority of the preceding provisos that are not needed for the Comptroller General's performance of such review and report shall be returned to the Department of Homeland Security and credited to the appropriation from which transferred: Provided further, That beginning with amounts due in calendar year 2005, if the result of this review is that an air carrier or foreign air carrier has not paid the appropriate fee to the Transportation Security Administration pursuant to section 44940(a)(2) of title 49 United States Code, the Secretary of Homeland Security shall undertake all necessary actions to ensure that such amounts are collected: Provided further, That such collections received during fiscal year 2005 shall be credited to this appropriation as offsetting collections and shall be available only for security modifications at commercial airports: Provided further, That if the Secretary exercises his discretion to set the fee under 44940(a)(2) of title 49 United States Code, such determination shall not be subject to judicial review: Provided further, That any security service fees collected pursuant to section 44940 of title 49 note, United States Code, in excess of the amount appropriated under this heading shall be treated as offsetting collections in fiscal year 2006.

MARITIME AND LAND SECURITY

For necessary expenses of the Transportation Security Administration related to maritime and land transportation security grants and services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597), $44,000,000: Provided, That not to exceed $53,000,000 may be provided for transportation worker identification credentialing and $2,000,000 for tracking trucks carrying hazardous material.

In addition, fees authorized by section 520 of Public Law 108–90 shall be credited to this appropriation and shall be available until expended: Provided, That in fiscal year 2005, fee collections shall be used for initial administrative costs of credentialing activities.

INTELLIGENCE

For necessary expenses for intelligence activities pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597), $14,000,000.

RESEARCH AND DEVELOPMENT

For necessary expenses for research and development related to transportation security, $181,000,000, to remain available until expended: Provided, That of the total amount provided under this heading, $57,000,000 shall be available for the research and development of explosive detection devices.

ADMINISTRATION

For necessary administrative expenses of the Transportation Security Administration to carry out the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597), $534,852,000.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard not otherwise provided for, purchase or lease of not to exceed 25 passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note), section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and recreation and welfare, $5,153,220,000, of which $1,090,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund; and of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That none of the funds appropriated by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds provided by this Act shall be available for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation: Provided further, That notwithstanding section 1116(c) of title 10, United States Code, amounts made available under this heading may be used to make payments into the Department of Defense Medicare-Eligible Retiree Health Care Fund for fiscal year 2005 under section 1116(a) of such title: Provided further, That not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives, a report on opportunities for integrating the process by which the Coast Guard issues letters of recommendation for proposed liquefied natural gas marine terminals, including the elements of such process relating to vessel transit, facility security assessment and facility security plans under the Maritime Transportation Security Act, and the process by which the Federal Energy Regulatory Commission issues permits for such terminals under the National Environmental Policy Act: Provided further, That the report shall include an examination of the advisability of requiring that activities of the Coast Guard relating to vessel transit, facility security assessment and facility security plans under the Maritime Transportation Security Act be completed for a proposed liquefied natural gas marine terminal before a final environmental impact statement for such terminal is published under the Federal Energy Regulatory Commission process.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $17,000,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program, personnel and training costs, equipment, and services, $117,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $1,062,550,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund; of which $19,750,000 shall be available until September 30, 2009, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $3,800,000 shall be available until September 30, 2009, to increase aviation capability; of which $185,000,000 shall be available until September 30, 2007, for other equipment; of which $5,000,000 shall be available until September 30, 2007, for shore facilities and aids to navigation facilities; of which $73,000,000 shall be available for personnel compensation and benefits and related costs; of which $776,000,000 shall be available until September 30, 2009, for the Integrated Deepwater Systems program: Provided, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2007, only for Rescue 21: Provided further, That the budget for fiscal year 2006 that is submitted under section 1105(a) of title 31, United States Code, may include an amount for the Coast Guard that is sufficient to fund delivery of a long-term maritime patrol aircraft capability that is consistent with the original procurement plan for the CN–235 aircraft beyond the three aircraft already funded in previous fiscal years.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $15,400,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation, and for maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $18,500,000, to remain available until expended, of which $2,000,000 shall be derived from the Oil Spill Liability Trust Fund: Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,085,460,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 610 vehicles for police-type use, which shall be for replacement only, and hire of passenger motor vehicles; purchase of American-made sidecar compatible motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions, $1,159,125,000, of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,100,000 shall be for forensic and related support of investigations of missing and exploited children: Provided, That up to $18,000,000 provided for protective travel shall remain available until

September 30, 2006: Provided further, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,633,000, to remain available until expended.

TITLE III—PREPAREDNESS AND RECOVERY

OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

For necessary expenses for the Office of State and Local Government Coordination and Preparedness, $25,000,000.

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,845,081,000, which shall be allocated as follows:

(1) $970,000,000 for formula-based grants and $400,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714), of which $50,000,000 shall be used for grants to identify, acquire, and transfer homeland security technology, equipment, and information to State and local law enforcement agencies: Provided, That the application for grants shall be made available to states within 45 days after enactment of this Act; that States shall submit applications within 45 days after the grant announcement; and that the Office of State and Local Government Coordination and Preparedness shall act within 15 days after receipt of an application: Provided further, That each State shall obligate not less than 80 percent of the total amount of the grant to local governments within 60 days after the grant award; and

(2) $1,200,000,000 for discretionary grants for use in high-threat, high-density urban areas, as determined by the Secretary of Homeland Security: Provided, That $150,000,000 shall be for port security grants; $15,000,000 shall be for trucking industry security grants; $10,000,000 shall be for intercity bus security grants; and $150,000,000 shall be for intercity passenger rail transportation (as defined in section 24102(5) of title 49, United States Code), freight rail, and transit security grants: Provided further, That no less than 80 percent of any grant to a State shall be made available by the State to local governments within 60 days after the receipt of the funds: Provided further, That section 1014(c)(3) of the USA PATRIOT ACT (42 U.S.C. 3714(c)(3)) shall not apply to these grants;

(3) $275,081,000 for training, exercises, technical assistance, and other programs:

Provided, That none of the grants provided under this heading shall be used for the construction or renovation of facilities: Provided further, That notwithstanding the previous proviso, funds under this heading may be used for a minor perimeter security project, the cost of which shall not exceed $1,000,000, as deemed necessary by the Secretary of Homeland Security: Provided further, That funds under this heading may be used to provide a reasonable stipend to part-time and volunteer first responders who are not otherwise compensated for travel to or participation in terrorism response courses approved by the Office for Domestic Preparedness, which stipend shall not be paid if such first responder is otherwise compensated by an employer for such time and shall not be considered compensation for purposes of rendering such first responder an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.): Provided further, That grantees shall provide additional reports on their use of funds, as deemed necessary by the Secretary: Provided further, That not to exceed 10 percent of funds appropriated for law enforcement terrorism prevention grants under paragraph (1) and discretionary grants under paragraph (2) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with Office of State and Local Government Coordination and Preparedness certified training, as needed.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229), $700,000,000, to remain available until September 30, 2006: Provided, That not to exceed 5 percent of this amount shall be available for program administration.

FIRE DEPARTMENT STAFFING ASSISTANCE GRANTS

For necessary expenses for programs authorized by section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a), to remain available until September 30, 2006, $100,000,000: Provided, That not to exceed 5 percent of this amount shall be available for program administration: Provided, further, That the amount appropriated by title I under the heading "OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT" is hereby reduced by $70,000,000, the amount appropriated by title IV under the heading "INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION MANAGEMENT AND ADMINISTRATION" is hereby reduced by $20,000,000, and the amount appropriated by title IV under the heading "SCIENCE AND TECHNOLOGY MANAGEMENT AND ADMINISTRATION" is hereby reduced by $10,000,000.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reductions Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $180,000,000: Provided, That total administrative costs shall not exceed 3 percent of the total appropriation.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary of Homeland Security, to reimburse any Federal agency for the costs of providing support to counter, investigate, or respond to unexpected threats or acts of terrorism, including payment of rewards in connection with these activities, $10,000,000, to remain available until expended: Provided, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days prior to the obligation of any amount of these funds in accordance with section 502 of this Act.

EMERGENCY PREPAREDNESS AND RESPONSE

OFFICE OF THE UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE

For necessary expenses for the Office of the Under Secretary for Emergency Preparedness and Response, as authorized by section 502 of the Homeland Security Act of 2002 (6 U.S.C. 312), $4,211,000.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

For necessary expenses for preparedness, mitigation, response, and recovery activities of the Directorate of Emergency Preparedness and Response, $231,499,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That of the total amount appropriated, $30,000,000 shall be for Urban Search and Rescue Teams, of which not to exceed 3 percent may be made available for administrative costs.

ADMINISTRATIVE AND REGIONAL OPERATIONS

For necessary expenses for administrative and regional operations of the Emergency Preparedness and Response Directorate, $196,939,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

PUBLIC HEALTH PROGRAMS

For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, $34,000,000.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2005, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: Provided, That the methodology for assessment and collection of fees shall be fair and equitable; and shall reflect costs of providing such services, including administrative costs of collecting such fees: Provided further, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2005, and remain available until expended.

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $2,221,000,000 to remain available until expended, of which $70,000,000 is designated by Congress as an emergency requirement under section 502(c) of H. Con. Res. 95 (108th Cong.) and shall be made available for a grant to the American Red Cross for disaster relief, recovery expenditures, and emergency services in response to Tropical Storm Bonnie, Hurricane Charley, and Hurricane Frances.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $567,000: Provided, That gross obligations for the principal amount of direct loans shall not *exceed $25,000,000: Provided further, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).*

FLOOD MAP MODERNIZATION FUND

For necessary expenses pursuant to section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $200,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: Provided, That total administrative costs shall not exceed 3 percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), not to exceed $33,336,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and not to exceed $79,257,000 for flood hazard mitigation, to remain available until September 30, 2006, including up to $20,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2006, and which amount shall be derived from offsetting collections assessed and collected pursuant to section 1307 of that Act (42 U.S.C. 4014), and shall be retained and used for necessary expenses under this heading: Provided, That in fiscal year 2005, no funds in excess of: (1) $55,000,000 for operating expenses; (2) $562,881,000 for agents' commissions and taxes; and (3) $30,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund.

MITIGATION GRANTS

For activities designed to reduce the risk of flood damage to structures pursuant to the National Flood Insurance Act of 1968, notwithstanding subsections (b)(3) and (f) of section 1366, and for a pre-disaster mitigation grant program pursuant to title II of the Disaster Relief Act of 1974 (42 U.S.C. 5131 et seq.), $170,000,000, of which $20,000,000 shall be derived from the National Flood Insurance Fund, to remain available until September 30, 2006, and $150,000,000, to remain available until expended, for the Pre-Disaster Mitigation Fund: Provided, That grants made for pre-disaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of the Disaster Relief Act of 1974 (42 U.S.C. 5133(g)), and notwithstanding section 203(f) of such Act, shall be made without reference to State allocations, quotas, or other formula-based allocation of funds: Provided further, That total administrative costs for pre-disaster mitigation shall not exceed 3 percent of the total appropriation.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to subtitle B of title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11341 et seq.), $153,000,000, to remain available until expended: Provided, That total administrative costs shall not exceed 3.5 percent of the total appropriation.

TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES

CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services for backlog reduction activities, $140,000,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal cell phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $181,440,000, of which up to $36,174,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2006; and of which not to exceed $12,000 shall be for official reception and representation expenses: Provided, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $42,917,000, to remain available until expended: Provided, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

MANAGEMENT AND ADMINISTRATION

For necessary expenses of the Directorate of Information Analysis and Infrastructure Protection, including the immediate Office of the Under Secretary for Information Analysis and Infrastructure Protection, for management and administration of programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $157,064,000.

ASSESSMENTS AND EVALUATIONS

For necessary expenses for information analysis and infrastructure protection as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $718,512,000, to remain available until September 30, 2006, of which not to exceed $20,000 may be used for official reception and representation expenses: Provided, That none of the funds available under this heading shall be available for sole-source contractual agreements unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such decision, or the Secretary of Homeland Security certifies to the Committee that such agreement is necessary to respond to a national emergency or prevent an impending terrorist attack.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $52,550,000.

RESEARCH, DEVELOPMENT, ACQUISITION AND OPERATIONS

For expenses of science and technology research, including advanced research projects; development; test and evaluation; acquisition; operations; and all salaries and expenses for field personnel, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $1,016,647,000, to remain available until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2005, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose; (5) relocates an office or employees; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees, unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriation Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2005, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress, unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: Provided, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

SEC. 503. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2005 from appropriations for salaries and expenses for fiscal year 2005 in this Act shall remain available through September 30, 2006, in the account and for the purposes for which the appropriations were provided: Provided, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 502 of this Act.

SEC. 504. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of *section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2005 until the enactment of an Act authorizing intelligence activities for fiscal year 2005.*

SEC. 505. The Federal Law Enforcement Training Center shall establish an accrediting body, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to establish standards for measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 506. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000 unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and House of Representatives at least 3 full business days in advance: Provided, That no notification shall involve funds that are not available for obligation.

SEC. 507. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 508. The Director of the Federal Law Enforcement Training Center (FLETC) shall schedule basic and advanced law enforcement training at all four training facilities under FLETC's control to ensure that these training centers are operated at the highest capacity throughout the fiscal year.

SEC. 509. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 510. None of the funds appropriated or otherwise made available by this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Transportation Security Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to aviation security: Provided, That the prohibition of funds in this section does not apply to—

(1) negotiations between the agency and airport sponsors to achieve agreement on "below-market" rates for these items, or

(2) space for necessary security checkpoints.

SEC. 511. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 512. The Secretary of Homeland Security is directed to research, develop, and procure certified systems to inspect and screen air cargo on passenger aircraft at the earliest date possible: Provided, That until such technology is procured and installed, the Secretary shall take all possible actions to prohibit high-risk cargo from being transported on passenger aircraft.

SEC. 513. None of the funds made available by this or previous appropriations Acts may be obligated for contracting out a full-time equivalent position of the Department of Homeland Security for which funds have been made available unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance.

SEC. 514. (a)None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Computer Assisted Passenger Prescreening System (CAPPS II) or Secure Flight or other follow on/successor programs, that the Transportation Security Administration (TSA) plans to utilize to screen aviation passengers, until the Government Accountability Office has reported to the Committees on Appropriations of the Senate and the House of Representatives that—

(1) a system of due process exists whereby aviation passengers determined to pose a threat are either delayed or prohibited from boarding their scheduled flights by the TSA may appeal such decision and correct erroneous information contained in CAPPS II or Secure Flight or other follow on/successor programs;

(2) the underlying error rate of the government and private data bases that will be used both to establish identity and assign a risk level to a passenger will not produce a large number of false positives that will result in a significant number of passengers being treated mistakenly or security resources being diverted;

(3) the TSA has stress-tested and demonstrated the efficacy and accuracy of all search tools in CAPPS II or Secure Flight or other follow on/successor programs and has demonstrated that CAPPS II or Secure Flight or other follow on/successor programs can make an accurate predictive assessment of those passengers who may constitute a threat to aviation;

(4) the Secretary of Homeland Security has established an internal oversight board to monitor the manner in which CAPPS II or Secure Flight or other follow on/successor programs are being developed and prepared;

(5) the TSA has built in sufficient operational safeguards to reduce the opportunities for abuse;

(6) substantial security measures are in place to protect CAPPS II or Secure Flight or other follow on/successor programs from unauthorized access by hackers or other intruders;

(7) the TSA has adopted policies establishing effective oversight of the use and operation of the system;

(8) there are no specific privacy concerns with the technological architecture of the system; and

(9) the TSA has, pursuant to the requirements of section 44903 (i)(2)(A) of title 49, United States Code, modified CAPPS II or Secure Flight or other follow on/successor programs with respect to intrastate transportation to accommodate States with unique air transportation needs and passengers who might otherwise regularly trigger primary selectee status.

(b) During the testing phase permitted by paragraph (a) of this section, no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a government watch list.

(c) The Government Accountability Office shall submit the report required under paragraph (a) of this section no later than February 15, 2005.

SEC. 515. Notwithstanding any other provisions of this Act, none of the funds appropriated by this Act may be used to make an award, pursuant to a competition under Office of Management and Budget Circular A-76, to a source for the performance of services that were provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants unless—

(1) the Secretary of Homeland Security submits to Congress, not later than 60 days before making such award, a report that describes—

(A) the performance requirements for the services;

(B) the estimated savings to be derived from the performance of such services by that source;

(C) the actions that are to be taken to effectuate the transition to performance either by Federal Government employees under the applicable most efficient organization plan or by a contractor, as the case may be; and

(D) the strategy for mitigating the adverse effects of such award, if any, on Federal Government employees; and

(2) the making of the award to that source will not result in the closure of an immigration information service center that was in operation on June 1, 2004.

This section shall take effect one day after the date of the bill's enactment.

SEC. 516. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 517. INVESTIGATION OF SHOCKOE CREEK DRAIN FIELD, RICHMOND, VIRGINIA, as soon as practicable after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall conduct an investigation of the Shockoe Creek drain field in Richmond, Virginia, to determine means of preventing future damage in that area from floods and other natural disasters.

SEC. 518. (a) The total amount appropriated by title II for the Office of the Under Secretary for Border and Transportation Security under the heading "AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT" is hereby increased by $200,000,000. Of such total amount, as so increased, $200,000,000 shall be available for the establishment and operation of air bases in the States of Michigan, Montana, New York, North Dakota, and Washington.

(b) The total amount appropriated under the heading "IMMIGRATION AND CUSTOMS ENFORCEMENT, FEDERAL AIR MARSHALS" is hereby increased by $50,000,000. Of such total amount, as so increased, $50,000,000 is for the continued operations of the Federal Air Marshals program.

(c) The total amount appropriated under the heading "OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS, STATE AND LOCAL PROGRAMS" is hereby increased by $50,000,000. Of such total amount, as so increased, $50,000,000 is for discretionary assistance to non-profit organizations (as defined under section 501 (c)(3) of the Internal Revenue Code of 1986) determined by the Secretary of Homeland Security to be at high-risk of international terrorist attacks.

(d) The total amount appropriated under the heading "OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS, FIREFIGHTER ASSISTANCE GRANTS" is hereby increased by $50,000,000. Of such total amount, as so increased, $50,000,000 is for the program authorized by section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229).

(e) The total amount appropriated under the heading "OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS, EMERGENCY MANAGEMENT PERFORMANCE GRANTS" is hereby increased by $20,000,000. Of such total amount, as so increased, $20,000,000 is for emergency management performance grants.

(f) Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 1, 2005" and inserting "June 1, 2005".

SEC. 519. (a) The total amount appropriated under the heading "CUSTOMS AND BORDER PROTECTION, SALARIES AND EXPENSES" is hereby increased by $150,000,000. Of such total amount, as so increased, $50,000,000 is provided for radiation detection devices, $50,000,000 is provided for additional border inspectors, and $50,000,000 is provided for additional border patrol agents.

(b) The total amount appropriated under the heading "IMMIGRATION AND CUSTOMS ENFORCEMENT, SALARIES AND EXPENSES" is hereby increased by $100,000,000. Of such total amount, as so increased, $50,000,000 is provided for additional investigator personnel, and $50,000,000 is provided for detention and removal bedspace and removal operations.

(c) The total amount appropriated under the heading "OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS, STATE AND LOCAL PROGRAMS" is hereby increased by $128,000,000. The total amount provided in the aforementioned heading for discretionary grants is increased by $128,000,000. Of that total amount, as so increased, the amount for rail and transit security grants is increased by $128,000,000.

(d) The total amount appropriated under heading "OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS, EMERGENCY MANAGEMENT PERFORMANCE GRANTS" is hereby increased by $36,000,000. Of such total amount, as so increased, $36,000,000 is provided for emergency management performance grants.

(e) In Section 1303 1(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 as amended by this Act, strike "June 1, 2005" and insert "September 30, 2005."

SEC. 520. Of the amount appropriated by title II for the Office of the Under Secretary for Border and Transportation Security under the heading "AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT", $5,000,000 may be used for a pilot project to test interoperable communications between the first Northern Border Air Wing, Bellingham, Washington, and local law enforcement personnel.

SEC. 521. (a) The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall—

(1) develop and maintain an integrated strategic transportation security plan; and

(2) base future budget requests on the plan.

(b) The integrated strategic transportation security plan shall—

(1) identify and evaluate the United States transportation assets that need to be protected;

(2) set risk-based priorities for defending the assets identified;

(3) select the most practical and cost-effective ways of defending the assets identified; and

(4) assign transportation security roles and missions to the relevant Federal, State, regional, and local authorities and to the private sector.

(c) The Secretary of Homeland Security shall submit the integrated strategic transportation security plan to Congress not later than February 1, 2005 and shall submit updated plans, including assessments of the progress made on implementation of the plan, on the first day of February each year thereafter. Any part of the plan that involves information that is properly classified under criteria established by Executive order shall be submitted to Congress separately in classified form.

SEC. 522. (a) Not later than 180 days after the end of fiscal year 2005, the Secretary of Homeland Security shall submit a report to Congress that describes the articles, materials, and supplies acquired by the Department of Homeland Security during fiscal year 2005 that were manufactured outside of the United States.

(b) The report submitted under subsection (a) shall separately indicate—

(1) the dollar value of each of the articles, materials, and supplies acquired by the Department of Homeland Security that were manufactured outside of the United States;

(2) an itemized list of all waivers granted with respect to such articles, materials, or supplies under the Buy American Act (41 U.S.C. 10a et seq.); and

(3) a summary of the total funds spent by the Department of Homeland Security on goods manufactured within the United States compared with funds spent by the Department of Homeland Security on goods manufactured outside of the United States.

(c) The Secretary of Homeland Security shall make the report submitted under this section publicly available to the maximum extent practicable.

SEC. 523. Section 835 of the Homeland Security Act of 2002 (Public Law 107-296; 6 U.S.C. 395) is amended—

(1) in subsection (a), by inserting before the period ", or any subsidiary of such an entity";

(2) in subsection (b)(1), by inserting "before, on, or" after the "completes";

(3) in subsection (c)(1)(B), by striking "which is after the date of enactment of this Act and"; and

(4) in subsection (d), by striking "homeland" and inserting "national".

SEC. 524. During fiscal year 2005, the Secretary of Homeland Security and the Secretary of Defense shall permit the New Mexico Army National Guard to continue performing vehicle and cargo inspection activities in support of the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement under the authority of the Secretary of Defense to support counterdrug activities of law enforcement agencies.

SEC. 525. (a) Not later than 3 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives and to the Committee on Governmental Affairs and the Committee on Environment and Public Works of the Senate and the Committee on Homeland Security of the House of Representatives on the implementation of Homeland Security Presidential Directive Seven.

(b) The report under this section shall include—

(1) the Department's plan and associated timeline for the mapping of the United States critical infrastructure;

(2) an assessment of the resource requirements of relevant States, counties, and local governments so that full participation by those entities may be integrated into the plan;

(3) the Department's plan for oversight of all geospatial information systems management, procurement, and interoperability; and

(4) the timeline for creating the Department-wide Geospatial Information System capability under the direction of the Chief Information Officer.

SEC. 526. Notwithstanding any other provision of law, the fiscal year 2004 aggregate overtime limitation prescribed in subsection 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 261 and 267) shall be $30,000 and the total amount appropriated by title II under the heading "CUSTOMS AND BORDER PROTECTION SALARIES AND EXPENSES" is hereby reduced by $1,000,000.

SEC. 527. Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the Secretary of Homeland Security shall provide to the Committee on Commerce, Science, and Transportation and the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate, a classified report on the number of individuals serving as Federal Air Marshals. Such report shall include the number of Federal Air Marshals who are women, minorities, or employees of departments or agencies of the United States Government other than the Department of Homeland Security, the percentage of domestic and international flights that have a Federal Air Marshal aboard, and the rate at which individuals are leaving service as Federal Air Marshals.

SEC. 528. (a) Congress finds that (1) there is a disproportionate number of complaints against the Transportation Security Administration for alleged violations of equal employment opportunity and veterans preference laws as those laws apply to employment of personnel in airport screener positions in the Transportation Security Administration, and (2) there is a significant backlog of those complaints remaining unresolved.

(b)(1) Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the personnel policies of the Department of Homeland Security that apply to the employment of airport screeners in the Transportation Security Administration, particularly with regard to compliance with equal employment opportunity and veterans preference laws.

(2) The report under this subsection shall include an assessment of the extent of compliance of the Transportation Security Administration with equal employment opportunity and veterans' preference laws as those laws apply to employment of personnel in airport screener positions in the transportation Security Administration, a discussion of any systemic problems that could have caused the circumstances giving rise to the disproportionate number of complaints described in subsection (a), and the efforts of the Secretary of Homeland Security and the Under Secretary for Border and Transportation Security to eliminate the backlog of unresolved complaints and to correct any systemic problems identified in the report.

(3) In conducting the review necessary for preparing the report, the Comptroller General shall examine the experience regarding the airport screener positions at particular airports in various regions, including the Louis Armstrong New Orleans International Airport.

SEC. 529. No funds appropriated or otherwise made available by this Act shall be used to pursue, implement, or enforce any law, procedure, guideline, rule, regulation, or other policy that exposes the identity of an air marshal to any party not designated by the Secretary of the Department of Homeland Security.

SEC. 530. (a) The Secretary of Homeland Security, in coordination with the head of the Transportation Security Administration and the Under Secretary for Science and Technology, shall prepare a report on protecting commercial aircraft from the threat of man-portable air defense systems (referred to in this section as "MANPADS").

(b) The report required by subsection (a) shall include the following:

(1) An estimate of the number of organizations, including terrorist organizations, that have access to MANPADS and a description of the risk posed by each organization.

(2) A description of the programs carried out by the Secretary of Homeland Security to protect commercial aircraft from the threat posed by MANPADS.

(3) An assessment of the effectiveness and feasibility of the systems to protect commercial aircraft under consideration by the Under Secretary for Science and Technology for use in phase II of the counter-MANPADS development and demonstration program.

(4) A justification for the schedule of the implementation of phase II of the counter-MANPADS development and demonstration program.

(5) An assessment of the effectiveness of other technology that could be employed on commercial aircraft to address the threat posed by MANPADS, including such technology that is—

(A) either active or passive;

(B) employed by the Armed Forces; or

(C) being assessed or employed by other countries.

(6) An assessment of alternate technological approaches to address such threat, including ground-based systems.

(7) A discussion of issues related to any contractor liability associated with the installation or use of technology or systems on commercial aircraft to address such threat.

(8) A description of the strategies that the Secretary may employ to acquire any technology or systems selected for use on commercial aircraft at the conclusion of phase II of the counter-MANPADS development and demonstration program, including—

(A) a schedule for purchasing and installing such technology or systems on commercial aircraft; and

(B) a description of—

(i) the priority in which commercial aircraft will be equipped with such technology or systems;

(ii) any efforts to coordinate the schedules for installing such technology or system with private airlines;

(iii) any efforts to ensure that aircraft manufacturers integrate such technology or systems into new aircraft; and

(iv) the cost to operate and support such technology or systems on a commercial aircraft.

(9) A description of the plan to expedite the use of technology or systems on commercial aircraft to address the threat posed by MANPADS if intelligence or events indicate that the schedule for the use of such technology or systems, including the schedule for carrying out development and demonstration programs by the Secretary, should be expedited.

(10) A description of the efforts of the Secretary to survey and identify the areas at domestic and foreign airports where commercial aircraft are most vulnerable to attack by MANPADS.

(11) A description of the cooperation between the Secretary and the Administrator of the Federal Aviation Administration to certify the airworthiness and safety of technology and systems to protect commercial aircraft from the risk posed by MANPADS in an expeditious manner.

(c) The report required by subsection (a) shall be transmitted to Congress along with the budget for fiscal year 2006 submitted by the President pursuant to section 1105(a) of title 31, United States Code.

SEC. 531. None of the funds available in this Act shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

SEC. 532. DATA-MINING REPORT. (a) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term "data-mining" means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government or a non-Federal entity acting on behalf of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist, criminal, or other law enforcement related activity.

(2) DATABASE.—The term "database" does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(b) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—The head of each agency in the Department of Homeland Security or the privacy officer, if applicable, that is engaged in any activity to use or develop data-mining technology shall each submit a public report to Congress on all such activities of the agency under the jurisdiction of that official.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology, the plans for the use of such technology, the data that will be used, and the target dates for the deployment of the data-mining technology.

(B) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(C) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(D) Any necessary classified information in an annex that shall be available to the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(3) TIME FOR REPORT.—Each report required under paragraph (1) shall be submitted not later than 90 days after the end of fiscal year 2005.

SEC. 533. (a) Of any funds previously made available to the Federal Emergency Management Agency in response to the September 11, 2001, attacks in New York City, not less than $4,450,000 shall be provided, subject to the request of the Governor of New York, to those mental health counseling service entities that have historically provided mental health counseling through Project Liberty to personnel of the New York City Police Department, the New York City Fire Department, and other emergency services agencies, to continue such counseling.

SEC. 534. SENSE OF THE SENATE CONCERNING THE AMERICAN RED CROSS AND CRITICAL BIOMEDICAL SYSTEMS. (a) FINDINGS.—The Senate finds that—

(1) the blood supply is a vital public health resource that must be readily available at all times, particularly in response to terrorist attacks and natural disasters;

(2) the provision of blood is an essential part of the critical infrastructure of the United States and must be protected from threats of terrorism;

(3) disruption of the blood supply or the compromising of its integrity could have wide-ranging implications on the ability of the United States to react in a crisis; and

(4) the need exists to ensure that blood collection facilities maintain adequate inventories to prepare for disasters at all times in all locations.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Department of Homeland Security's Information Analysis and Infrastructure Protection should consult with the American Red Cross to—

(1) identify critical assets and interdependencies;

(2) perform vulnerability assessments; and

(3) identify necessary resources to implement protective measures to ensure continuity of operations and security of information technology systems for blood and blood products.

SEC. 535. It is the sense of the Senate that—

(1) the Director of the Office for State and Local Government Coordination and Preparedness be given limited authority to approve requests from the senior official responsible for emergency preparedness and response in each State to reprogram funds appropriated for the State Homeland Security Grant Program of the Office for State and Local Government Coordination and Preparedness to address specific security requirements that are based on credible threat assessments, particularly threats that arise after the State has submitted an application describing its intended use of such grant funds;

(2) for each State, the amount of funds reprogrammed under this section should not exceed 10 percent of the total annual allocation for such State under the State Homeland Security Grant Program; and

(3) before reprogramming funds under this section, a State official described in paragraph (1) should consult with relevant local officials.

SEC. 536. DISASTER ASSISTANCE EMPLOYEE CADRES OF EMERGENCY PREPAREDNESS AND RESPONSE DIRECTORATE.

(a) IN GENERAL.—The Secretary of Homeland Security is encouraged to place special emphasis on the recruitment of American Indians, Alaska Natives, and Native Hawaiians for positions within Disaster Assistance Employee cadres maintained by the Emergency Preparedness and Response Directorate.

(b) REPORT.—The Secretary of Homeland Security shall report periodically to the Senate and the House of Representatives with respect to—

(1) the representation of American Indians, Alaska Natives, and Native Hawaiians in the Disaster Assistance Employee cadres; and

(2) the efforts of the Secretary of Homeland Security to increase the representation of such individuals in the cadres.

SEC. 537. Sections 702 and 703 of the Homeland Security Act of 2002 (6 U.S.C. 342 and 343) are amended by striking ", or to another official of the Department, as the Secretary may direct" each place it appears.

SEC. 538. Section 208(a) of Public Law 108–137; 117 Stat. 1849 is amended by striking "current" and inserting "2005".

SEC. 539. LIAISON FOR DISASTER EMERGENCIES. (a) DEPLOYMENT OF DISASTER LIAISON.—If requested by the Governor or the appropriate State agency of the affected State, the Secretary of Agriculture may deploy disaster liaisons to State and local Department of Agriculture Service Centers in a federally declared disaster area whenever Federal Emergency Management Agency Personnel are deployed in that area, to coordinate Department programs with the appropriate disaster agencies designated under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(b) QUALIFICATIONS.—A disaster liaison shall be selected from among Department employees who have experience providing emergency disaster relief in federally declared disaster areas.

(c) DUTIES.—A disaster liaison shall—

(1) serve as a liaison to State and Federal Emergency Services;

(2) be deployed to a federally declared disaster area to coordinate Department interagency programs in assistance to agricultural producers in the declared disaster area;

(3) facilitate the claims and applications of agricultural producers who are victims of the disaster that are forwarded to the Department by the appropriate State Department of Agriculture agency director; and

(4) coordinate with the Director of the State office of the appropriate Department agency to assist with the application for and distribution of economic assistance.

(d) DURATION OF DEPLOYMENT.—The deployment of a disaster liaison under subsection (a) may not exceed 30 days.

(e) DEFINITION.—In this section, the term "federally declared disaster area" means—

(1) an area covered by a Presidential declaration of major disaster, including a disaster caused by a wildfire, issued under section 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); or

(2) determined to be a disaster area, including a disaster caused by a wildfire, by the Secretary under subpart A of part 1945 of title 7, Code of Federal Regulations.

TITLE VI—EMERGENCY AGRICULTURAL DISASTER ASSISTANCE

SEC. 501. CROP DISASTER ASSISTANCE. (a) DEFINITIONS.—In this section:

(1) ADDITIONAL COVERAGE.—The term "additional coverage" has the meaning given the term in section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)).

(2) INSURABLE COMMODITY.—The term "insurable commodity" means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(3) NONINSURABLE COMMODITY.—The term "noninsurable commodity" means an eligible crop for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(b) EMERGENCY FINANCIAL ASSISTANCE.—Notwithstanding section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)), the Secretary of Agriculture (referred to in this title as the "Secretary") shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this section available to producers on a farm that have incurred qualifying crop or quality losses for the 2003 or 2004 crop (as elected by a producer), but not both, due to damaging weather or related condition, as determined by the Secretary.

(c) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.

(d) REDUCTION IN PAYMENTS.—The amount of assistance that a producer would otherwise receive for a qualifying crop or quality loss under this section shall be reduced by the amount of assistance that the producer receives under the crop loss assistance program announced by the Secretary on August 27, 2004.

(e) INELIGIBILITY FOR ASSISTANCE.—Except as provided in subsection (f), the producers on a farm shall not be eligible for assistance under this section with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—

(1) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the crop incurring the losses; and

(2) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for the crop incurring the losses.

(f) CONTRACT WAIVER.—The Secretary may waive subsection (e) with respect to the producers on a farm if the producers enter into a contract with the Secretary under which the producers agree—

(1) in the case of an insurable commodity, to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) providing additional coverage for the insurable commodity for each of the next 2 crops; and

(2) in the case of a noninsurable commodity, to file the required paperwork and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity for each of the next 2 crops under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(g) EFFECT OF VIOLATION.—In the event of the violation of a contract under subsection (f) by a producer, the producer shall reimburse the Secretary for the full amount of the assistance provided to the producer under this section.

SEC. 502. LIVESTOCK ASSISTANCE PROGRAM. (a) IN GENERAL.—The Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2003 or 2004 losses (as elected by a producer), but not both, in a county that has received an emergency designation by the President or the Secretary after January 1, 2003, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(c) MITIGATION.—In determining the eligibility for or amount of payments for which a producer is eligible under the livestock assistance program, the Secretary shall not penalize a producer that takes actions (recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.

SEC. 503. TREE ASSISTANCE PROGRAM. The Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide assistance under the tree assistance program established under subtitle C of title X of the Farm Security and Rural Investment Act of 2002 to producers who suffered tree losses during the winter of 2003 through 2004.

SEC. 504. COMMODITY CREDIT CORPORATION. The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

SEC. 505. REGULATIONS. (a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) PROCEDURE.—The promulgation of the regulations and administration of this title shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 506. EMERGENCY DESIGNATION. Amounts appropriated or otherwise made available in this title are each designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1014).

This Act may be cited as the "Department of Homeland Security Appropriations Act, 2005".

CALLING FOR THE SUSPENSION OF SUDAN'S MEMBERSHIP ON THE U.N. COMMISSION ON HUMAN RIGHTS

Mr. FRIST. Mr. President, in a few minutes, I will be propounding a number of unanimous consent requests and completing business for the day. One of the unanimous consent requests I will propound shortly has to do with one of the most significant humanitarian crises of recent years—and most people would say it is the most dramatic humanitarian global crisis of today—the atrocities that are occurring in Sudan, in the Darfur region of Sudan, which is a region in western Sudan which is about the size of France.

Sudan is a huge country, and this whole Darfur region since a year before last February has been the geographic location where 30,000 to 50,000 people have died; with another 1.4 million and maybe as high as 1.7 million people displaced from their homes—action that we condemned on the floor of the Senate, and the House did likewise, at the end of July before our recess, and designating in the most dramatic terms that this is genocide.

Unfortunately, not a lot has happened on the ground that is constructive since that point in time. Thirty days passed and a United Nations determination on what was going on didn't have very much teeth to it, and the Government in Khartoum of Sudan simply hasn't responded. Thus these atrocities—the rape, the pillaging, the murder, the total destruction of the villages—have continued. It is important that the United Nations continue to act and address this issue. It is also important, since the United Nations has not really acted, that we in the United States lead with clarity, boldness, and, I would say, moral clarity.

The resolution we will be addressing shortly takes that next step for what we in this legislative body can do. The resolution calls upon the Secretary of State to take action to push for the immediate suspension of Sudan's membership on the United Nations Commission on Human Rights. A government that is engaged in committing genocide should simply not have a seat on the Commission on Human Rights.

Since the initial resolution we passed in July designating this as genocide, I have had the opportunity to go to Sudan once again, which I do at least once a year as part of the medical mission work I do. But this time I had the opportunity to go to the country of Chad, which is just west of the Darfur region of Sudan where we have had thousands and thousands of people flee to escape the Janjaweed, the militia that is being funded by the Government of Khartoum.

In these refugee camps—Tulum is one I immediately think of where 15,000 people fled—the stories you hear would be a woman who says: Last month, I was there with my three little kids, and my husband was in the fields working, and the Janjaweed military in uniform came and destroyed our entire village. My two children, I don't know where they are. I assume they have been killed. Here is one child with me. My husband is dead, and I have no home and nowhere to go, so I am in the refugee camp.

That is going on. After 1,200 interviews that have occurred over the last month, the Secretary of State this past week in a Foreign Relations hearing said: Yes. Based on our findings independent of what Congress decided, this is genocide.

What we don't have yet is a determination by the United Nations because there are countries such as China and Russia and Pakistan and others that sit on the Security Council. Basically they have not yet made a determination. Meanwhile people continue to die. The atrocities continue. Thus, this body today in this resolution will take action to push for the immediate suspension of Sudan's membership on the United Nations Commission on Human Rights.

The Senate resolution further states that the United Nations should immediately move to determine whether genocide has been conducted in Darfur, and if it has, that the Secretary of State should push for Sudan's removal from the United Nations Commission on Human Rights. A government, as I said, engaged in genocide should not have a seat on this Commission. It makes a mockery of the Human Rights Commission. This is an affront to all responsible countries that embrace and promote human rights.

The 1948 Genocide Convention calls on state parties to punish genocide—those are the words it uses—when it occurs. The United States is party to this 1948 Convention on Genocide and so is Sudan. The United States has taken a number of actions to provide relief to the people of Sudan. We have introduced resolutions to the U.N. condemning Khartoum's actions. We have taken a number of actions. The United States has already placed comprehensive sanctions on Sudan for its actions as a state sponsor of terrorism.

What we are doing today is pushing to suspend Sudan from the Human Rights Commission, which is consistent with our obligations under that Genocide Convention. It makes sense. It is the right thing to do. I hope the House of Representatives will take up this resolution quickly and pass it forthwith. I also hope in the meantime, Secretary Powell will listen to the will and intent of the Congress and begin taking appropriate action. If we are going to preserve the credibility of the United Nations and its separate commissions, if we are going to advance the causes of human rights, if we are going to protect oppressed peoples around the globe, and especially in Darfur, then the U.N. must take more aggressive action.

I turn to the resolution and ask unanimous consent the Senate proceed to the immediate consideration of S. Con. Res. 137, which was submitted earlier today by Senators FRIST and DASCHLE.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 137) calling for the suspension of Sudan's membership on the United Nation's Commission on Human Rights.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DASCHLE. Mr. President, I am pleased to have joined Senator FRIST in the submission of S. Con. Res. 137.

It is a shame, really, that we need to be here on the floor again to discuss Sudan. Yet we were confronted again this morning with even more troubling and disconcerting news about the Darfur region of Sudan. According to this morning's newspapers, the United Nations has concluded that between 6,000 and 10,000 people are dying from disease and violence each month in Sudan's Darfur region.

What is worse is that the United Nations—like the United States—has concluded that each and every one of these deaths is entirely preventable.

Unfortunately, however, the Sudanese government continues to support marauding militias that not only murder people whose only offense is to be of a different ethnicity, but those militias continue to hinder efforts to respond to one of Africa's worst humanitarian crises.

This resolution also calls attention to a separate tragedy: That Sudan was granted a seat on the United Nations Human Rights Commission. It won that seat at a time when its tolerance and even support for militias in Darfur was widely known. Unfortunately, not only did no one in the Arab world object to Sudan taking this seat, neither did the administration use its clout at the United Nations to stop this.

This resolution says very clearly that a government that appears to be tolerating genocide has no business serving on the UN Human Rights Commission.

I also want to take a minute to discuss an additional effort on Sudan that Senators LEAHY, MCCONNELL, FRIST and I were able to work out this morning.

We all recognize that we will soon face mounting costs to ease the suffering caused by this humanitarian disaster in Darfur. As such, we were able to come to a straightforward, commonsense agreement that the President and Secretary of State should re-direct $150 million in unused reconstruction money from Iraq to Darfur and for the African Union forces that are attempting to stabilize the situation there.

Let me be clear: This is not money for our troops in Iraq, but is unused reconstruction money. This is the right thing to do, and I commend my colleagues for their efforts to make sure it happens.

Mr. FRIST. I ask that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 137) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 137

Whereas, in Darfur, Sudan, more than 30,000 innocent civilians have been murdered, more than 400 villages have been destroyed, more than 130,000 men, women, and children have been forced from their villages into neighboring countries, and more than 1,000,000 people have been internally displaced;

Whereas the United States Government has been, and remains as of September 2004, the largest contributor of assistance to the people of Darfur, having provided over $200,000,000 in assistance, which constitutes more than 70 percent of the total assistance provided to that region;

Whereas the United States has pledged $299,000,000 in humanitarian aid to Darfur through fiscal year 2005, as well as $11,800,000 in support of the African Union mission in that region, and is likely to provide support in excess of those pledges;

Whereas United States citizens and private organizations, as well as the United States Government, have admirably worked, at great risk and through great effort, to ease suffering in Darfur, Sudan, and in eastern Chad;

Whereas, based on credible reports, Congress determined in late July 2004 that acts of genocide were occurring in Darfur, Sudan, and that the Government of Sudan bears direct responsibility for many of those acts of genocide;

Whereas, expressing its grave concern at the ongoing humanitarian crisis and widespread human rights violations in Darfur, including continued attacks on civilians that place thousands of lives at risk, the United Nations Security Council on July 30, 2004, unanimously adopted Security Council Resolution 1556, which called upon the Government of Sudan to fulfill immediately its obligations to facilitate humanitarian relief efforts, to take steps to disarm immediately the Janjaweed militias responsible for attacks on civilians and bring the perpetrators of such attacks to justice, and to cooperate with independent United Nations-sponsored investigations of human rights violations;

Whereas the Government of Sudan has failed to take credible steps to comply with the demands of the international community as expressed through the United Nations Security Council;

Whereas, according to press reports, reports from nongovernmental organizations, first-hand accounts from refugees, and other sources, the Janjaweed attacks on the civilians of Darfur continue unabated as of September 2004;

Whereas there are credible reports from some of these same sources that the Government of Sudan is providing assistance to the Janjaweed militias and, in some cases, that Government of Sudan forces have participated directly in attacks on civilians;

Whereas the United States Government, after conducting more than 1,000 interviews with survivors and refugees, has determined that genocide has occurred in Darfur, that it may still be occurring, and that both the Janjaweed and the Government of Sudan bear responsibility for these acts;

Whereas the Secretary of State has determined that the attacks by the Government of Sudan and the Janjaweed on the non-Arab people of Darfur and their villages are based on race, not religion;

Whereas the United States has recently introduced a new resolution in the United Nations Security Council that calls for the Government of Sudan to cooperate fully with an expanded African Union force and for a cessation of Sudanese military flights over Darfur;

Whereas the introduced resolution also provides for international overflights of the Darfur region to monitor the situation on the ground and requires the United Nations Security Council to review the record of compliance of the Government of Sudan to determine whether the United Nations should impose sanctions on Sudan, including sanctions affecting the petroleum sector in that country;

Whereas the resolution also urges the Government of Sudan and the Sudanese People's Liberation Movement to conclude negotiations on a comprehensive peace accord and, most important, calls for a United Nations investigation into all violations of international humanitarian law and human rights law that have occurred in Darfur in order to ensure accountability;

Whereas the United Nations Security Council, in United Nations Security Council Resolution 1556, emphasized that the Government of Sudan bears primary responsibility for respecting human rights and protecting the people of Sudan;

Whereas United Nations Security Council Resolution 1556 calls upon the Government of Sudan to cooperate with the United Nations;

Whereas the United Nations Human Rights Commission, established in 1946 and given the responsibility of drafting the Universal Declaration of Human Rights, is responsible for promoting respect for and observance of, human rights and fundamental freedoms for all;

Whereas the Universal Declaration of Human Rights declares that all human beings are born free and equal in dignity and rights, that everyone is entitled to all the rights and freedoms set forth in the Declaration regardless of race, color, sex, language, religion, political or other opinion, or national or social origin, property, birth, or other status that everyone has the right to life, liberty and security of person, that no one shall be held in slavery or servitude, and that no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment;

Whereas the Convention on the Prevention and Punishment of Genocide, done at Paris on December 9, 1948 (hereafter in this resolution referred to as the "Genocide Convention"), delineates the criteria that constitute genocide and requires parties to prevent and punish genocide;

Whereas Sudan is a state party to the Genocide Convention and remains a member of the United Nations Commission on Human Rights;

Whereas the Secretary of State determined that, according to United States law, the Government of Sudan is a state sponsor of terrorism and has been since 1993 and therefore remains ineligible for U.S. foreign assistance;

Whereas, due to the human rights situation in Darfur, it would be consistent with United States obligations under the Genocide Convention for the Secretary of State and the United States Permanent Representative to the United Nations to seek the immediate suspension of Sudan from the United Nations Commission on Human Rights and, in the event a formal investigation results in a determination by the UN that genocide has occurred in Darfur, the ultimate removal of Sudan from such Commission; and

Whereas it is a mockery of human rights as a universal principle, a challenge to the United Nations as an institution, and an affront to all responsible countries that embrace and promote human rights that a government under investigation by the United Nations for committing genocide against, and violating the human rights of, its own citizens sits in judgment of others as a member in good standing of the United Nations Commission on Human Rights: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes and approves of the findings of the Secretary of State that genocide has occurred and may still be occurring in Darfur, Sudan, and that the Government of Sudan bears responsibility for such acts;

(2) supports the Secretary of State's call for a full and unfettered investigation by the United Nations into all violations of international humanitarian law and human rights law that have occurred in Darfur, with a view to ensuring accountability;

(3) supports the resolution introduced by the United States Government in the United Nations Security Council on September 9, 2004, with regard to the situation in Darfur;

(4) calls upon the Secretary of State and the United States Permanent Representative to the United Nations to take immediate steps to pursue the establishment of a formal United Nations investigation, under Article VIII of the Genocide Convention to determine whether the actions of the Government of Sudan in Darfur constitute acts of genocide;

(5) calls upon the Secretary of State and the United States Permanent Representative to the United Nations to take immediate steps to pursue the immediate suspension of Sudan from the United Nations Commission on Human Rights;

(6) calls upon the Secretary of State and the United States Permanent Representative to the United Nations to take further steps to ensure that the suspension of Sudan from the United Nations Commission on Human Rights remains in effect unless and until the Government of Sudan meets all of its obligations, as determined by the United Nations Security Council, under United Nations Security Council Resolution 1556 of July 30, 2004, and any subsequent United Nations Security Council resolutions regarding this matter;

(7) calls upon the Secretary of State and the United States Permanent Representative to the United Nations to take steps to ensure that, in the event that the formal investigation of acts of genocide in Sudan results in a determination by the UN that genocide has occurred or is occurring in Darfur, the United States Government takes appropriate actions to ensure that Sudan is removed from the United Nations Human Rights Commission;

(8) calls upon the member states of the United Nations Commission on Human Rights to convene an immediate special session to consider the urgent and acute human rights situation in Sudan for the purpose of considering whether Sudan should be suspended from membership in such Commission; and

(9) expects the Secretary of State to report to Congress on progress made toward taking the actions and accomplishing the objectives outlined in this resolution not later than 60 days after the date on which Congress agrees to the resolution.

UNANIMOUS CONSENT AGREEMENT—S. 2666

Mr. FRIST. Mr. President, I ask on Tuesday, September 21, at a time to be determined by the majority leader in consultation with the Democratic leader, the Senate proceed to the consideration of Calendar No. 635, S. 2666, the Legislative Branch appropriations bill; that the four managers' amendments at the desk be agreed to, and no other amendments be in order. I further ask that there be 1 hour of debate yielded back of the time, and the bill, as amended, be read the third time and returned to the Senate calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I further ask that the Appropriations Committee then be discharged from further consideration and the Senate proceed to the consideration of H.R. 4755, the House-passed Legislative Branch appropriations bill, that the text of the bill relating solely to the House remain; that all other text be stricken, and the text of the Senate bill, as amended, be inserted, and the Senate then proceed to a vote on H.R. 4755, as amended, all without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I further ask upon passage of the bill the bill be held at the desk as if a House message.

Mr. REID. Mr. President, I think the work that we did this past several days on the Homeland Security appropriations bill should set the tone and the direction that we can take the next few weeks to complete any number of appropriations bills. If we continue with the same bipartisan spirit that we have had before—I know we have had a lot of extraneous matters, just dealing with the matters dealing with the appropriations bills as we started the Homeland Security appropriations bill with more than 200 amendments. We were able to work through those. I don't know how many votes we had, but we had a lot of votes. I would hope that next week we can make some serious progress on some of these appropriations bills before we get into the last 2 weeks of being here when we have to deal with the September 11 report and other such matters. We have the right to pat ourselves on the back for the work we have done the last few days in the Senate relating to this appropriations process.

The PRESIDING OFFICER. Without objection, the request is agreed to.

Mr. REID. And I say this, too: Senator BYRD and Senator STEVENS did some good work in allowing Members to get to this work, along with you and Senator DASCHLE, so the whole body should be favorably inclined. This has been hard work. We read off a few words, but it is easier to read them than what it took to write this down. I personally appreciate the work of the two leaders of the Appropriations Committee and the Democratic and Republican leaders in their work.

Mr. FRIST. Mr. President, that same spirit is what we plan to continue to address in this appropriations bill, and we will continue to address in other appropriations bills as they become available.

FEDERAL TRADE COMMISSION REAUTHORIZATION ACT OF 2003

Mr. FRIST. I ask that the Senate now proceed to the immediate consideration of Calendar 251, S. 1234.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1234) to reauthorize the Federal Trade Commission, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Federal Trade Commission Reauthorization Act of 2003".

[TITLE I—REAUTHORIZATION

[SEC. 101. REAUTHORIZATION.

[The text of section 25 of the Federal Trade Commission Act (15 U.S.C. 57c) is amended to read as follows:

["There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission not to exceed $194,742,000 for fiscal year 2004, $224,695,000 for fiscal year 2005, and $235,457,000 for fiscal year 2006.".

[SEC. 102. AUTHORITY TO ACCEPT REIMBURSEMENTS, GIFTS, AND VOLUNTARY AND UNCOMPENSATED SERVICES.

[The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

[(1) by redesignating section 26 as section 28; and

[(2) by inserting after section 25 the following:

["SEC. 26. REIMBURSEMENT OF EXPENSES.

["The Commission may accept payment or reimbursement, in cash or in kind, from a domestic or foreign law enforcement authority, or payment or reimbursement made on behalf of such authority, for expenses incurred by the Commission, its members, or employees in carrying out any activity pursuant to a statute administered by the Commission without regard to any other provision of law. Any such payments or reimbursements shall be considered a reimbursement to the appropriated funds of the Commission.

["SEC. 27. GIFTS AND VOLUNTARY AND UNCOMPENSATED SERVICES.

["(a) IN GENERAL.—In furtherance of its functions the Commission may accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property and, notwithstanding section 1342 of title 31, United States Code, accept voluntary and uncompensated services.

["(b) LIMITATIONS.—

["(1) CONFLICTS OF INTEREST.—Notwithstanding subsection (a), the Commission may not accept, hold, administer, or use a gift, donation, or bequest if the acceptance, holding, administration, or use would create a conflict of interest or the appearance of a conflict of interest.

["(2) VOLUNTARY SERVICES.—A person who provides voluntary and uncompensated service under subsection (a) shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, (relating to compensation for injury) and section 2671 through 2680 of title 28, United States Code, (relating to tort claims).".

[TITLE II—INTERNATIONAL CONSUMER PROTECTION

[SEC. 201. FINDINGS.

[The Congress finds the following:

[(1) The Federal Trade Commission protects consumers from fraud and deception. Cross-border fraud and deception are growing international problems that affect American consumers and businesses.

[(2) The development of the Internet and improvements in telecommunications technologies have brought significant benefits to consumers. At the same time, they have also provided unprecedented opportunities for those engaged in fraud and deception to establish operations in one country and victimize a large number of consumers in other countries.

[(3) An increasing number of consumer complaints collected in the Consumer Sentinel database maintained by the Commission, and an increasing number of cases brought by the Commission, involve foreign consumers, foreign businesses or individuals, or assets or evidence located outside the United States.

[(4) The Commission has legal authority to remedy law violations involving domestic and foreign wrongdoers, pursuant to the Federal Trade Commission Act. The Commission's ability to obtain effective relief using this authority, however, may face practical impediments when wrongdoers, victims, other witnesses, documents, money and third parties involved in the transaction are widely dispersed in many different jurisdictions. Such circumstances make it difficult for the Commission to gather all the information necessary to detect injurious practices, to recover offshore assets for consumer redress, and to reach conduct occurring outside the United States that affects United States consumers.

[(5) Improving the ability of the Commission and its foreign counterparts to share information about cross-border fraud and deception, to conduct joint and parallel investigations, and to assist each other is critical to achieve more timely and effective enforcement in cross-border cases.

[(6) Consequently, Congress should enact legislation to provide the Commission with more tools to protect consumers across borders.

[SEC. 202. FOREIGN LAW ENFORCEMENT AGENCY DEFINED.

[Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following:

["'Foreign law enforcement agency' means—

["(1) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters;

["(2) any multinational organization, to the extent that it is acting on behalf of an entity described in paragraph (1); or

["(3) any organization that is vested with authority, as a principal mission, to enforce laws against fraudulent, deceptive, misleading, or unfair commercial practices affecting consumers, in accordance with criteria laid down by law, by a foreign state or a political subdivision of a foreign state.".

[SEC. 203. SHARING INFORMATION WITH FOREIGN LAW ENFORCEMENT AGENCIES.

[(a) IN GENERAL.—Section 21(b)(6) of the Federal Trade Commission Act (15 U.S.C. 57b–2(b)(6)) is amended by adding at the end "The custodian may make such material available to any foreign law enforcement agency upon the prior certification of any officer of any such foreign law enforcement agency that such material will be maintained in confidence and will be used only for official law enforcement purposes, provided that the foreign law enforcement agency has set forth a legal basis for its authority to maintain the material in confidence. Nothing in the preceding sentence authorizes disclosure of material obtained in connection with the administration of Federal antitrust laws or foreign antitrust laws (within the meaning of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)) to any officer or employee of a foreign law enforcement agency.”.

[(b) Publication of Information; Reports.—Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) is amended—

[(1) by striking “agencies or to any officer or employee of any State law enforcement agency” and inserting “agencies, to any officer or employee of any State law enforcement agency, or to any officer or employee of any foreign law enforcement agency”;

[(2) by striking “Federal or State law enforcement agency” and inserting “Federal, State, or foreign law enforcement agency”; and

[(3) by adding at the end “Such information shall be disclosed to an officer or employee of a foreign law enforcement agency only if the foreign law enforcement agency has set forth a legal basis for its authority to maintain the information in confidence. Nothing in the preceding sentence authorizes the disclosure of material obtained in connection with the administration of Federal antitrust laws or foreign antitrust laws (within the meaning of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)) to any officer or employee of a foreign law enforcement agency.”.

[SEC. 204. OBTAINING INFORMATION FOR FOREIGN LAW ENFORCEMENT AGENCIES.

[Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by adding at the end the following:

[“(j)(1) Upon request from a foreign law enforcement agency, to provide assistance in accordance with this subsection if the requesting agency states that it is investigating, or engaging in enforcement proceedings against, possible violations of laws prohibiting fraudulent, deceptive, misleading, or unfair commercial conduct, or other conduct that may be similar to conduct prohibited by any provision of the laws administered by the Commission, other than Federal antitrust laws (within the meaning of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)), the Commission may, in its discretion—

[“(A) conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance, using all investigative powers authorized by this Act; and

[“(B) seek and accept appointment by a United States district court of Commission attorneys to provide assistance to foreign and international tribunals and to litigants before such tribunals on behalf of a foreign law enforcement agency pursuant to section 1782 of title 28, United States Code.

[“(2) The Commission may provide assistance under paragraph (1) without regard to whether the conduct identified in the request would also constitute a violation of the laws of the United States.

[“(3) In deciding whether to provide such assistance, the Commission shall consider—

[“(A) whether the requesting agency has agreed to provide or will provide reciprocal assistance to the Commission; and

[“(B) whether compliance with the request would prejudice the public interest of the United States.

[“(4) If a foreign law enforcement agency has set forth a legal basis for requiring execution of an international agreement as a condition for reciprocal assistance, or as a condition for disclosure of materials or information to the Commission, the Commission, after consultation with the Secretary of State, may negotiate and conclude an international agreement, in the name of either the United States or the Commission and with the final approval of the agreement by the Secretary of State, for the purpose of obtaining such assistance or disclosure. The Commission may undertake in such an international agreement—

[“(A) to provide assistance using the powers set forth in this subsection;

[“(B) to disclose materials and information in accordance with subsection (f) of this section and section 21(b)(6) of this Act; and

[“(C) to engage in further cooperation, and protect materials and information received from disclosure, as authorized by this Act.

[“(5) The authority in this subsection is in addition to, and not in lieu of, any other authority vested in the Commission or any other officer of the United States.”.

[SEC. 205. INFORMATION SUPPLIED BY AND ABOUT FOREIGN SOURCES.

[Section 21(f) of the Federal Trade Commission Act (15 U.S.C. 57b–2(f)) is amended—

[(1) by inserting “(1)” before “Any”; and adding at the end the following:

[“(2)(A) Except as provided in subparagraph (C) of this paragraph, the Commission shall not be compelled to disclose—

[“(i) material obtained from a foreign law enforcement agency or other foreign government agency, if the foreign law enforcement agency or other foreign government agency has requested confidential treatment as a condition of disclosing the material;

[“(ii) material reflecting consumer complaints obtained from any other foreign source, if that foreign source supplying the material has requested confidential treatment as a condition of disclosing the material; or

[“(iii) material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign law enforcement agencies or other foreign government agencies.

[“(B) For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.

[“(C) Nothing in this paragraph shall authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.”.

[SEC. 206. CONFIDENTIALITY AND DELAYED NOTICE OF PROCESS.

[(a) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 21 (15 U.S.C. 57b–2) the following:

[“SEC. 21A. CONFIDENTIALITY AND DELAYED NOTICE OF COMPULSORY PROCESS FOR CERTAIN THIRD PARTIES.

[“(a) Confidentiality of Compulsory Process Issued by the Commission.—

[“(1) This subsection shall apply only in connection with compulsory process issued by the Commission where the recipient of such process is not a subject of the investigation or proceeding at the time such process is issued.

[“(2) Notwithstanding any law or regulation of the United States, any constitution, law or regulation of any State or political subdivision of any State or any Territory or the District of Columbia, or any contract or other legally enforceable agreement, the Commission may seek an order requiring the recipient of compulsory process described in paragraph (1) to keep such process confidential, upon an ex parte showing to an appropriate United States district court that there is a reason to believe that disclosure may—

[“(A) result in the transfer of assets or records outside the territorial limits of the United States;

[“(B) impede the ability of the Commission to identify or trace funds;

[“(C) endanger the life or physical safety of an individual;

[“(D) result in flight from prosecution;

[“(E) result in destruction of or tampering with evidence;

[“(F) result in intimidation of potential witnesses;

[“(G) result in the dissipation or concealment of assets; or

[“(H) otherwise seriously jeopardize an investigation or unduly delay a trial.

[“(3) Upon a showing described in paragraph (2), the presiding judge or magistrate judge shall enter an ex parte order prohibiting the recipient of process from disclosing that information has been submitted or that a request for information has been made, for such period as the court deems appropriate.

[“(b) Materials Subject to Government Notification Under the Right to Financial Privacy Act.—

[“(1) When section 1105 or 1107 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3405 or 3407) would otherwise require notice, notwithstanding such requirements, the Commission may obtain from a financial institution access to or copies of financial records of a customer, as these terms are defined in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401), through compulsory process described in subsection (a)(1) or through a judicial subpoena, without prior notice to the customer, upon an ex parte showing to an appropriate United States district court that there is reason to believe that the required notice may cause an adverse result described in subsection (a)(2).

[“(2) Upon such showing, the presiding judge or magistrate judge shall enter an ex parte order granting a delay of notice for a period not to exceed 90 days and an order prohibiting the financial institution from disclosing that records have been submitted or that a request for records has been made.

[“(3) The court may grant extensions of the period of delay of notice provided in paragraph (2) of up to 90 days, upon a showing that the requirements for delayed notice under subsection (a)(2) continue to apply.

[“(4) Upon expiration of the periods of delay of notice ordered under paragraphs (2) and (3), the Commission shall serve upon, or deliver by registered or first-class mail, or as otherwise authorized by the court to, the customer a copy of the process together with notice that states with reasonable specificity the nature of the law enforcement inquiry, informs the customer or subscriber when the process was served, and states that notification of the process was delayed under this subsection.

[“(c) Materials Subject to Government Notification Under the Electronic Communications Privacy Act.—

[“(1) When section 2703(b)(1)(B) of title 18 would otherwise require notice, notwithstanding such requirements, the Commission may obtain, through compulsory process described in subsection (a)(1) or through judicial subpoena, [“(A) from a provider of remote computing services, access to or copies of the contents of a wire or electronic communication described in section 2703(b)(1) of title 18, and as those terms are defined in section 2510 of title 18, or

[“(B) from a provider of electronic communications services, access to or copies of the contents of a wire or electronic communication that has been in electronic storage in an electronic communications system for more than 180 days, as those terms are defined in section 2510 of title 18,

[without prior notice to the customer or subscriber, upon an ex parte showing to an appropriate United States district court by a Commission official that there is reason to believe that notification of the existence of the process may cause an adverse result described in subsection (a)(2). Upon such a showing, the presiding judge or magistrate judge shall issue an exparte order granting a delay of notice for a period not to exceed 90 days. A court may grant extensions of the period of delay of notice of up to 90 days, upon application by the Commission and a showing that the requirements for delayed notice under subsection (b)(2) continue to apply.

[“(2) The Commission may apply to a court for an order prohibiting a provider of electronic communications service or remote computing service to whom process has been issued under this subsection, for such period as the court deems appropriate, from disclosing that information has been submitted or that a request for information has been made. The court shall enter such an order if it has reason to believe that such disclosure may cause an adverse result described in subsection (b)(2).

[“(3) Upon expiration of the periods of delay of notice ordered under subparagraph (1), the Commission shall serve upon, or deliver by registered or first-class mail, or as otherwise authorized by the court to, the customer or subscriber a copy of the process together with notice that states with reasonable specificity the nature of the law enforcement inquiry, informs the customer or subscriber when the process was served, and states that notification of the process was delayed under this subsection.

[“(4) Nothing in the Electronic Communications Privacy Act shall prohibit a provider of electronic communications services or remote computing services from disclosing complaints received by it from a customer or subscriber or information reflecting such complaints to the Commission.

[“(d) LIABILITY LIMITATION.—The recipient of compulsory process under subsections (a), (b), or (c) shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State or any Territory or the District of Columbia, or under any contract or other legally enforceable agreement, for failure to provide notice that such process has been issued or that the recipient has provided information in response to such process. The preceding sentence does not provide any exemption from liability for the underlying conduct reported.

[“(e) IN-CAMERA PROCEEDINGS.—Upon application by the Commission, all judicial proceedings pursuant to this section shall be held in camera and the records thereof sealed until expiration of the period of delay or such other date as the presiding judge or magistrate judge may permit.

[“(f) PROCEDURE INAPPLICABLE TO CERTAIN PROCEEDINGS.—This section shall not apply to compulsory process issued in an investigation or proceeding related to the administration of Federal antitrust laws or foreign antitrust laws (within the meaning of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)).”.

[(b) Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

[(1) by striking “or” after the semicolon in subparagraph (C);

[(2) by striking “Act;” in subparagraph (D) and inserting “Act; or”; and

[(3) by inserting after subparagraph (D) the following:

[“(E) under section 21a of this Act;”.

[SEC. 207. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

[The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 21a, as added by section 206 of this title, the following:

[“SEC. 21B. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

[“(a) IN GENERAL.—An entity described in subsection (d)(1) that voluntarily provides material to the Commission that it reasonably believes is relevant to—

[“(1) a possible unfair or deceptive act or practice, as defined in section 5(a) of this Act, or

[“(2) assets subject to recovery by the Commission, including assets located in foreign jurisdictions,

[shall not be liable to any person under any law or regulation of the United States, or any constitution, law, or regulation of any State or political subdivision of any State or any Territory or the District of Columbia, for such disclosure or for any failure to provide notice of such disclosure. The preceding sentence does not provide any exemption from liability for the underlying conduct reported.

[“(b) LIABILITY LIMITATION.—An entity described in subsection (d)(2) that makes a voluntary disclosure to the Commission regarding the subjects described in subsection (a)(1) and (2) shall be exempt from liability in accordance with the provisions of section 5318(g)(3) of title 31, United States Code.

[“(c) FOIA EXEMPTION.—Material submitted pursuant to this section with a request for confidential treatment shall be exempt from disclosure under section 552 of title 5, United States Code.

[“(d) ENTITIES TO WHICH SECTION APPLIES.—This section applies to the following entities, whether foreign or domestic:

[“(1) A courier service, a commercial mail receiving agency, an industry membership organization, a payment system provider, a consumer reporting agency, a domain name registrar and registry, a provider of remote computing services or electronic communication services, to the limited extent such a provider is disclosing consumer complaints received by it from a customer or subscriber, or information reflecting such complaints; and

[“(2) a bank or thrift institution, a commercial bank or trust company, an investment company, a credit card issuer, an operator of a credit card system, and an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments.”.

[SEC. 208. INFORMATION SHARING WITH FINANCIAL REGULATORS.

[Section 1112(e) of the Right to Financial Privacy Act (12 U.S.C. 3412(e)) is amended by inserting “the Federal Trade Commission,” after “the Securities and Exchange Commission,”.

[SEC. 209. REPRESENTATION IN FOREIGN LITIGATION.

[Section 16 of the Federal Trade Commission Act (15 U.S.C. 56) is amended by adding at the end the following:

[“(c)(1) The Commission may designate Commission attorneys to assist the Department of Justice in connection with litigation in foreign courts in which the Commission has an interest, pursuant to the terms of a memorandum of understanding to be negotiated by the Commission and the Department of Justice.

[“(2) The Commission is authorized to expend appropriated funds for the retention of foreign counsel for consultation and for litigation in foreign courts, and for expenses related to consultation and to litigation in foreign courts in which the Commission has an interest.”.

[SEC. 210. AVAILABILITY OF REMEDIES.

[Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end the following:

[“(o) UNFAIR OR DECEPTIVE ACTS OR PRACTICES INVOLVING FOREIGN COMMERCE.—

[“(1) IN GENERAL.—For purposes of subsection (a), the term ‘unfair or deceptive acts or practices’ includes such acts or practices involving foreign commerce that—

[“(A) cause or are likely to cause reasonably foreseeable injury within the United States; or

[“(B) involve material conduct occurring within the United States.

[“(2) APPLICATION OF REMEDIES TO SUCH ACTS OR PRACTICES.—All remedies available to the Commission with respect to unfair and deceptive acts or practices shall be available for acts and practices described in paragraph (1), including restitution to domestic or foreign victims.”.

[SEC. 211. CRIMINAL REFERRALS.

[Section 6 of the Federal Trade Commission Act (15 U.S.C. 46), as amended by section 204 of this title, is amended by adding at the end the following:

[“(k) REFERRAL OF EVIDENCE FOR CRIMINAL PROCEEDINGS.—Whenever the Commission obtains evidence that any person, partnership or corporation, either domestic or foreign, may have engaged in conduct that could give rise to criminal proceedings, to transmit such evidence to the Attorney General who may, in his discretion, institute criminal proceedings under appropriate statutes. Provided that nothing in this subsection affects any other authority of the Commission to disclose information.”.

[SEC. 212. STAFF EXCHANGES.

[The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 25 (15 U.S.C. 57c) the following:

[“SEC. 25A. STAFF EXCHANGES.

[“(a) IN GENERAL.—The Congress consents to—

[“(1) the retention or employment of officers or employees of foreign government agencies on a temporary basis by the Commission under section 3109 of title 5, United States Code, section 202 of title 18, United States Code, or section 2 of this Act (15 U.S.C. 42); and

[“(2) the retention or employment of officers or employees of the Commission on a temporary basis by such foreign government agencies.

[“(b) FORM OF ARRANGEMENTS.—Staff arrangements under subsection (a) need not be reciprocal. The Commission may accept payment or reimbursement, in cash or in kind, from a foreign government agency to which this section is applicable, or payment or reimbursement made on behalf of such agency, for expenses incurred by the Commission, its members, and employees in carrying out such arrangements.".

[SEC. 213. EXPENDITURES FOR COOPERATIVE ARRANGEMENTS.

[(a) In General.—Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) as amended by section 211 of this title, is further amended by adding at the end the following:

["(p) To expend appropriated funds for—

["(1) operating expenses and other costs of bilateral and multilateral cooperative law enforcement groups conducting activities of interest to the Commission and in which the Commission participates; and

["(2) expenses for consultations and meetings hosted by the Commission with foreign government agency officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to the Commission's mission, development and implementation of cooperation agreements, and provision of technical assistance for the development of foreign consumer protection or competition regimes, such expenses to include necessary administrative and logistic expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including—

["(A) such incidental expenses as meals taken in the course of such attendance;

["(B) any travel and transportation to or from such meetings; and

["(3) any other related lodging or subsistence.".

[(b) Authorization of Appropriations.—The Federal Trade Commission is authorized to expend appropriated funds not to exceed $100,000 per fiscal year for purposes of section 6(p) of the Federal Trade Commission Act (15 U.S.C. 46(p)), including operating expenses and other costs of the following bilateral and multilateral cooperative law enforcement groups:

[(1) The International Consumer Protection and Enforcement Network.

[(2) The International Competition Network.

[(3) The Mexico-U.S.-Canada Health Fraud Task Force.

[(4) Project Emptor.

[(5) The Toronto Strategic Partnership and other regional partnerships with a nexus in a Canadian province.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Trade Commission Reauthorization Act of 2003".

TITLE I—REAUTHORIZATION

SEC. 101. REAUTHORIZATION.

The text of section 25 of the Federal Trade Commission Act (15 U.S.C. 57c) is amended to read as follows:

"There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission not to exceed $194,742,000 for fiscal year 2004, $224,695,000 for fiscal year 2005, $235,457,000 for fiscal year 2006, and $245,000,000 for fiscal year 2007.".

SEC. 102. AUTHORITY TO ACCEPT REIMBURSEMENTS, GIFTS, AND VOLUNTARY AND UNCOMPENSATED SERVICES.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

(1) by redesignating section 26 as section 28; and

(2) by inserting after section 25 the following:

"SEC. 26. REIMBURSEMENT OF EXPENSES.

"The Commission may accept payment or reimbursement, in cash or in kind, from a domestic or foreign law enforcement authority, or payment or reimbursement made on behalf of such authority, for expenses incurred by the Commission, its members, or employees in carrying out any activity pursuant to a statute administered by the Commission without regard to any other provision of law. Any such payments or reimbursements shall be considered a reimbursement to the appropriated funds of the Commission.

"SEC. 27. GIFTS AND VOLUNTARY AND UNCOMPENSATED SERVICES.

"(a) In General.—In furtherance of its functions the Commission may accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property and, notwithstanding section 1342 of title 31, United States Code, accept voluntary and uncompensated services.

"(b) Limitations.—

"(1) Conflicts of Interest.—Notwithstanding subsection (a), the Commission may not accept, hold, administer, or use a gift, donation, or bequest if the acceptance, holding, administration, or use would create a conflict of interest or the appearance of a conflict of interest.

"(2) Voluntary Services.—A person who provides voluntary and uncompensated service under subsection (a) shall be considered a Federal employee for purposes of—

"(A) chapter 81 of title 5, United States Code, (relating to compensation for injury);

"(B) sections 2671 through 2680 of title 28, United States Code, (relating to tort claims); and

"(C) for purposes of the provisions of law relating to ethics, conflicts of interest, corruption, and any other criminal or civil statute or regulation governing the standards of conduct for Federal employees.".

SEC. 103. PEER-TO-PEER FILE SHARING RISK EDUCATION.

The Federal Trade Commission shall, as part of its existing consumer education programs, educate consumers concerning the potential risks to their privacy and personal security, as well as educate consumers about potentially inappropriate behavior resulting from purposeful or accidental misuse of peer-to-peer file sharing technology.

TITLE II—INTERNATIONAL CONSUMER PROTECTION

SEC. 201. FINDINGS.

The Congress finds the following:

(1) The Federal Trade Commission protects consumers from fraud and deception. Cross-border fraud and deception are growing international problems that affect American consumers and businesses.

(2) The development of the Internet and improvements in telecommunications technologies have brought significant benefits to consumers. At the same time, they have also provided unprecedented opportunities for those engaged in fraud and deception to establish operations in one country and victimize a large number of consumers in other countries.

(3) An increasing number of consumer complaints collected in the Consumer Sentinel database maintained by the Commission, and an increasing number of cases brought by the Commission, involve foreign consumers, foreign businesses or individuals, or assets or evidence located outside the United States.

(4) The Commission has legal authority to remedy law violations involving domestic and foreign wrongdoers, pursuant to the Federal Trade Commission Act. The Commission's ability to obtain effective relief using this authority, however, may face practical impediments when wrongdoers, victims, other witnesses, documents, money and third parties involved in the transaction are widely dispersed in many different jurisdictions. Such circumstances make it difficult for the Commission to gather all the information necessary to detect injurious practices, to recover offshore assets for consumer redress, and to reach conduct occurring outside the United States that affects United States consumers.

(5) Improving the ability of the Commission and its foreign counterparts to share information about cross-border fraud and deception, to conduct joint and parallel investigations, and to assist each other is critical to achieve more timely and effective enforcement in cross-border cases.

(6) Consequently, Congress should enact legislation to provide the Commission with more tools to protect consumers across borders.

SEC. 202. FOREIGN LAW ENFORCEMENT AGENCY DEFINED.

Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following:

" 'Foreign law enforcement agency' means—

"(1) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters; or

"(2) any multinational organization, to the extent that it is acting on behalf of an entity described in paragraph (1).".

SEC. 203. SHARING INFORMATION WITH FOREIGN LAW ENFORCEMENT AGENCIES.

(a) In General.—Section 21(b)(6) of the Federal Trade Commission Act (15 U.S.C. 57b-2(b)(6)) is amended by adding at the end "The custodian may make such material available to any foreign law enforcement agency upon the prior certification of any officer of any such foreign law enforcement agency that such material will be maintained in confidence and will be used only for official law enforcement purposes, if—

"(A) the foreign law enforcement agency has set forth a bona fide legal basis for its authority to maintain the material in confidence; and

"(B) the materials are to be used for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of—

"(i) foreign laws prohibiting fraudulent or deceptive commercial practices or other practices similar to practices prohibited by any law administered by the Commission;

"(ii) law administered by the Commission, if disclosure of the material would further a Commission investigation or enforcement proceeding; or

"(iii) with the approval of the Attorney General, foreign criminal laws.

Nothing in the preceding sentence authorizes the disclosure of material obtained in connection with the administration of the Federal antitrust laws or foreign antitrust laws (as defined in paragraphs (5) and (7), respectively, of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (16 U.S.C. 6211) to any officer or employee of a foreign law enforcement agency.".

(b) Publication of Information; Reports.—Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) is amended—

(1) by inserting "(1)" after "such information" the first place it appears; and

(2) by striking "purposes." and inserting "purposes, and (2) to any officer or employee of any foreign law enforcement agency under the same circumstances that sharing material with foreign law enforcement agencies is permitted under section 21(b)(6) of this Act.".

SEC. 204. OBTAINING INFORMATION FOR FOREIGN LAW ENFORCEMENT AGENCIES.

Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by adding at the end the following:

"(j)(1) Upon request from a foreign law enforcement agency, to provide assistance in accordance with this subsection if the requesting

agency states that it is investigating, or engaging in enforcement proceedings against, possible violations of laws prohibiting fraudulent or deceptive commercial practices, or other practices that may be similar to practices prohibited by any provision of the laws administered by the Commission, other than Federal antitrust laws (as defined in section 12(5) of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211(5))), the Commission may, in its discretion—

"(A) conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance, using all investigative powers authorized by this Act; and

"(B) seek and accept appointment by a United States district court of Commission attorneys to provide assistance to foreign and international tribunals and to litigants before such tribunals on behalf of a foreign law enforcement agency pursuant to section 1782 of title 28, United States Code, when the request is from an agency acting to investigate or pursue the enforcement of civil laws or when the Attorney General refers such a request to the Commission.

"(2) The Commission may provide assistance under paragraph (1) without requiring that the conduct identified in the request also constitutes a violation of the laws of the United States.

"(3) In deciding whether to provide such assistance, the Commission shall consider all relevant factors, including—

"(A) whether the requesting agency has agreed to provide or will provide reciprocal assistance to the Commission;

"(B) whether compliance with the request would prejudice the public interest of the United States; and

"(C) whether the requesting agency's investigation or enforcement proceeding concerns acts or practices that cause or are likely to cause injury to a significant number of persons.

"(4) If a foreign law enforcement agency has set forth a legal basis for requiring execution of an international agreement as a condition for reciprocal assistance, or as a condition for disclosure of materials or information to the Commission, the Commission, after consultation with the Secretary of State, may negotiate and conclude an international agreement, in the name of either the United States or the Commission and with the final approval of the agreement by the Secretary of State, for the purpose of obtaining such assistance or disclosure. The Commission may undertake in such an international agreement—

"(A) to provide assistance using the powers set forth in this subsection;

"(B) to disclose materials and information in accordance with subsection (f) of this section and section 21(b)(6) of this Act; and

"(C) to engage in further cooperation, and protect materials and information received from disclosure, as authorized by this Act.

"(5) The authority in this subsection is in addition to, and not in lieu of, any other authority vested in the Commission or any other officer of the United States.".

SEC. 205. INFORMATION SUPPLIED BY AND ABOUT FOREIGN SOURCES.

Section 21(f) of the Federal Trade Commission Act (15 U.S.C. 57b–2(f)) is amended—

(1) by inserting "(1) before "Any"; and adding at the end the following:

"(2)(A) Except as provided in subparagraph (C) of this paragraph, the Commission shall not be compelled to disclose—

"(i) material obtained from a foreign law enforcement agency or other foreign government agency, if the foreign law enforcement agency or other foreign government agency has requested confidential treatment, or has precluded such disclosure under other use limitations, as a condition of disclosing the material;

"(ii) material reflecting consumer complaints obtained from any other foreign source, if that foreign source supplying the material has requested confidential treatment as a condition of disclosing the material; or

"(iii) material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign law enforcement agencies or other foreign government agencies.

"(B) For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(C) Nothing in this paragraph shall authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.".

SEC. 206. CONFIDENTIALITY AND DELAYED NOTICE OF PROCESS.

(a) IN GENERAL.—The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 21 the following:

"SEC. 21A. CONFIDENTIALITY AND DELAYED NOTICE OF COMPULSORY PROCESS FOR CERTAIN THIRD PARTIES.

(a) IN GENERAL.—The provisions for delay or prohibition of notice under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) and the Electronic Communication Privacy Act (18 U.S.C. 2701 et seq.) shall be available to the Commission—

(1) upon a finding by the presiding judge or magistrate judge pursuant to an ex parte application by the Commission that there is reason to believe that notification may cause an adverse result; or

(2) where notification is delayed pursuant to section 2705(a)(1)(B) of title 18, a finding by the Commission that there is reason to believe that notification may cause an adverse result.

(b) EX PARTE APPLICATION BY COMMISSION.—If the provisions for delayed notice described in subsection (a) do not apply, the Commission may apply ex parte to a presiding judge or magistrate judge for an order commanding the recipient of compulsory process issued by the Commission not to notify any other person of the existence of the process, notwithstanding any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia. The presiding judge or magistrate judge shall enter such an order granting the requested delay for a period not to exceed 90 days, or for such period as the presiding judge or magistrate judge deems appropriate, if there is reason to believe that notification may cause an adverse results. The presiding judge or magistrate judge may grant extensions of this delay of notice of up to 90 each in accordance with this subsection.

(c) NO LIABILITY FOR COMPLIANCE.—The recipient of compulsory process issued by the Commission under this section shall not be liable under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, or under any contract or other legally enforceable agreement, for failure to provide notice that such process has been issued or that the recipient has provided information in response to such process. The preceding sentence does not provide any exemption from liability for the underlying conduct.

(d) VENUE AND PROCEDURE.—

(1) IN GENERAL.—All judicial proceedings under this section may be brought in the United States District Court for the District of Columbia or any other appropriate United States District Court. All ex parte applications by the Commission under this section related to a single investigation may be brought in a single proceeding.

(2) IN CAMERA PROCEEDINGS.—Upon application by the Commission, all judicial proceedings pursuant to this section shall be held in camera and the records thereof sealed until expiration of the period of delay or such other date as the presiding judge or magistrate judge may permit.

(e) SECTION NOT TO APPLY TO ANTITRUST INVESTIGATIONS OR PROCEEDINGS.—This section shall not apply to an investigation or proceeding related to the administration of federal antitrust laws or foreign antitrust laws (within the meaning of section 6211 of this title).

(f) ADVERSE RESULT DEFINED.—In this section the term 'adverse result' means—

"(1) the transfer of assets or records outside the territorial limits of the United States;

"(2) impeding the ability of the Commission to identify or trace funds;

"(3) endangering the life or physical safety of an individual;

"(4) flight from prosecution;

"(5) the destruction of, or tampering with, evidence;

"(6) the intimidation of potential witnesses;

"(7) the dissipation or concealment of assets; or

"(8) otherwise seriously jeopardizing an investigation or unduly delaying a trial.".

(b) CONFORMING AMENDMENT.—Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) by striking "or" after the semicolon in subparagraph (C);

(2) by inserting "and" after the semicolon in subparagraph (D); and

(3) by inserting after subparagraph (D) the following:

"(E) under section 21a of this Act;".

SEC. 207. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 21a, as added by section 206 of this title, the following:

"SEC. 21B. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

"(a) IN GENERAL.—An entity described in subsection (e)(1) that voluntarily provides material to the Commission that it reasonably believes is relevant to—

"(1) a possible unfair or deceptive act or practice, as defined in section 5(a) of this Act, or

"(2) assets subject to recovery by the Commission, including assets located in foreign jurisdictions,

shall not be liable to any person under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, for such disclosure or for any failure to provide notice of such disclosure. The preceding sentence does not provide any exemption from liability for the underlying conduct.

"(b) LIABILITY LIMITATION.—An entity described in subsection (e)(2) that makes a voluntary disclosure to the Commission regarding the subjects described in subsection (a)(1) and (2) shall be exempt from liability in accordance with the provisions of section 5318(g)(3) of title 31, United States Code.

"(c) CONSUMER COMPLAINTS.—Any entity described in subsection (e) that makes a voluntary disclosure of consumer complaints sent to it, or information contained therein, to the Commission shall not be liable to any person under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, for such disclosure or for any failure to

provide notice of such disclosure. The preceding sentence does not provide any exemption from liability for the underlying conduct.

"(d) FOIA Exemption.—Material submitted pursuant to this section with a request for confidential treatment shall be exempt from disclosure under section 552 of title 5, United States Code, to the extent it could reasonably be expected to disclose either the identity of persons, partnerships, or corporations that are the subject of such disclosures, or the identification of particular financial accounts, their ownership, or confidential records of account activity. This exemption is in addition to, and not in lieu of, any other applicable exemptions from disclosure in such section 552.

"(e) Entities to Which Section Applies.—This section applies to the following entities, whether foreign or domestic:

"(1) A courier service, a commercial mail receiving agency, an industry membership organization, a payment system provider, a consumer reporting agency, a domain name registrar and registry, and a provider of alternative dispute resolution services;

"(2) a bank or thrift institution, a commercial bank or trust company, an investment company, a credit card issuer, an operator of a credit card system, and an issuer, redeemer, or cashier of travelers' checks, money orders, or similar instruments; and

"(3) an Internet service provider or provider of telephone services.".

SEC. 208. INFORMATION SHARING WITH FINANCIAL REGULATORS.

Section 1112(e) of the Right to Financial Privacy Act (12 U.S.C. 3412(e)) is amended by inserting "the Federal Trade Commission," after "the Securities and Exchange Commission,".

SEC. 209. REPRESENTATION IN FOREIGN LITIGATION.

Section 16 of the Federal Trade Commission Act (15 U.S.C. 56) is amended by adding at the end the following:

"(c)(1) The Commission may designate Commission attorneys to assist the Department of Justice in connection with litigation in foreign courts in which the Commission has an interest, pursuant to the terms of a memorandum of understanding to be negotiated by the Commission and the Department of Justice. The preceding sentence is in addition to, and not in lieu of, any other authority vested in the Commission or any other officer of the United States.

"(2) The Commission is authorized to expend appropriated funds for the retention of foreign counsel for consultation and for litigation in foreign courts, and for expenses related to consultation and to litigation in foreign courts in which the Commission has an interest.

"(3) Nothing in this section authorizes the payment of claims or judgments from any source other than the permanent and indefinite appropriation authorized by section 1304 of title 31, United States Code.".

SEC. 210. AVAILABILITY OF REMEDIES.

Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end the following:

"(o) Unfair or Deceptive Acts or Practices Involving Foreign Commerce.—

"(1) In general.—For purposes of subsection (a), the term 'unfair or deceptive acts or practices' includes such acts or practices involving foreign commerce that—

"(A) cause or are likely to cause reasonably foreseeable injury within the United States; or

"(B) involve material conduct occurring within the United States.

"(2) Application of remedies to such acts or practices.—All remedies available to the Commission with respect to unfair and deceptive acts or practices shall be available for acts and practices described in paragraph (1), including restitution to domestic or foreign victims.".

SEC. 211. CRIMINAL REFERRALS.

Section 6 of the Federal Trade Commission Act (15 U.S.C. 46), as amended by section 204 of this title, is amended by adding at the end the following:

"(k) Referral for Griminal Proceedings.—

"(1) In general.—Whenever the Commission obtains evidence that any person, partnership or corporation, either domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law, to transmit such evidence to the Attorney General who may, in his discretion, institute criminal proceedings under appropriate statutes. Nothing in this paragraph affects any other authority of the Commission to disclose information.

"(2) International information.—The Commission shall endeavor to ensure, with respect to memoranda of understanding and international agreements it may conclude, that material it has obtained from foreign law enforcement agencies acting to investigate or pursue the enforcement of foreign criminal laws may be used for the purpose of investigation, prosecution, or prevention of violations of United States criminal laws.".

SEC. 212. STAFF EXCHANGES.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 25 (15 U.S.C. 57c) the following:

"SEC. 25A. STAFF EXCHANGES.

"(a) In General.—The Congress consents to—

"(1) the retention or employment of officers or employees of foreign government agencies on a temporary basis by the Commission under section 3109 of title 5, United States Code, section 202 of title 18, United States Code, or section 2 of this Act (15 U.S.C. 42); and

"(2) the retention or employment of officers or employees of the Commission on a temporary basis by such foreign government agencies.

"(b) Form of Arrangements.—Staff arrangements under subsection (a) need not be reciprocal. The Commission may accept payment or reimbursement, in cash or in kind, from a foreign government agency to which this section is applicable, or payment or reimbursement made on behalf of such agency, for expenses incurred by the Commission, its members, and employees in carrying out such arrangements.".

SEC. 213. EXPENDITURES FOR COOPERATIVE ARRANGEMENTS.

(a) In General.—Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) as amended by section 211 of this title, is further amended by adding at the end the following:

"(p) To expend appropriated funds for—

"(1) operating expenses and other costs of bilateral and multilateral cooperative law enforcement groups conducting activities of interest to the Commission and in which the Commission participates; and

"(2) expenses for consultations and meetings hosted by the Commission with foreign government agency officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to the Commission's mission, development and implementation of cooperation agreements, and provision of technical assistance for the development of foreign consumer protection or competition regimes, such expenses to include necessary administrative and logistic expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including—

"(A) such incidental expenses as meals taken in the course of such attendance;

"(B) any travel and transportation to or from such meetings; and

"(3) any other related lodging or subsistence.".

(b) Authorization of Appropriations.—The Federal Trade Commission is authorized to expend appropriated funds not to exceed $100,000 per fiscal year for purposes of section 6(p) of the Federal Trade Commission Act (15 U.S.C. 46(p)), including operating expenses and other costs of the following bilateral and multilateral cooperative law enforcement groups:

(1) The International Consumer Protection and Enforcement Network.

(2) The International Competition Network.

(3) The Mexico-U.S.-Canada Health Fraud Task Force.

(4) Project Emptor.

(5) The Toronto Strategic Partnership and other regional partnerships with a nexus in a Canadian province.

Mr. FRIST. I ask unanimous consent that the McCain-Hollings substitute amendment at the desk be agreed to, the committee-reported substitute, as amended, be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table en bloc, and any statements relating to the bill appear at the appropriate place in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3662) was agreed to.

(The amendment is printed in today's Record under "Text of Amendments.")

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1234), as amended, was read the third time and passed.

COMMENDING MARYLAND'S OLYMPIANS ON THEIR ACCOMPLISHMENTS AT THE 2004 SUMMER OLYMPIC GAMES IN ATHENS, GREECE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 426, submitted earlier today by Senators Sarbanes and Mikulski.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 426) commending Maryland's Olympians on their accomplishments at the 2004 Summer Olympic Games in Athens, Greece.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SARBANES. Mr. President, I rise today to commend the American athletes for their participation in the 2004 Olympic Games. These athletes made us proud not only of their victories, but also of their sportsmanship. The heart, focus and perseverance exhibited by these men and women offered us an opportunity to reflect on the values and characteristics that embody the very best of the American Spirit.

All of our athletes should be commended, but because they played a very prominent role in these games, I want to take a moment to acknowledge the hard work and dedication of Maryland's Olympic athletes. This year, we were very fortunate to have fourteen Marylanders compete. This group of athletes, which included both the youngest and the oldest members of the U.S. team, represented Maryland and the United States with honor and dignity and excelled in their various competitions. Marylanders participated in a variety of sports ranging from swimming and track and field, to whitewater slalom canoeing and table tennis. Our State boasted household names like Michael Phelps and Carmelo Anthony as well as rising stars like Bernard Williams and Courtney Kupets. The delegation included individuals from all over the State, from the City of Annapolis to Howard County, from Bethesda to Gaithersburg to Baltimore City, and from Upper Marlboro to Towson and Abingdon.

And although they come from a diversity of backgrounds, each demonstrated the common spirit of what it means to be a true Olympian. We saw that spirit in Carmelo Anthony's refusal to quit after the men's basketball team suffered a series of difficult and surprising losses. We saw it in the decisions of Liz Filter and Nancy Haberland to compete in the face of challenging life circumstances. It was reflected in the wisdom and experience of Libby Callahan as well as the youthful exuberance of 15 year-old swimmer Katie Hoff. It shined through Jun Gao when on day four of the table tennis competition, as the only member of the U.S. team still in competition, she shouldered the hopes of her teammates.

The Olympic spirit was further reflected in paddlers Joe Jacobi and Scott Parsons, who focused on the experience and joy of the performance. Courtney Kupets and Rhadi Ferguson showed enormous bravery by overcoming serious injuries to make the U.S. team and compete for their country. Ms. Kupets brought home two medals, a silver in the team competition and a bronze in the individual uneven bars. And Michael Phelps, who won six gold and two bronze medals, showed that the team is more important than individual accomplishment when he yielded his spot on the 4 x 100 medley relay squad and an opportunity for further glory to teammate Ian Crocker.

Finally, Maryland's track and field athletes should be commended for their heart and concentration. Tiombe Hurd, who is legally blind, overcame her vision obstacles to finish 22nd in a crowded triple jump field. Bernard Williams and James Carter, who hail from Baltimore public schools, Carver Vocational-Technical High School and Mergenthaler Vocational-Technical High School, showed the world the kind of talent and poise Baltimore City's public schools can produce, taking home a silver in the 200 meter sprint and a fourth place finish in the 400 meter hurdles.

Maryland, and America, should be proud of their Olympic athletes. Through their actions both on and off the field of competition, they exhibited the grace, sportsmanship, and determination that signify a true Olympian. Congratulations are due to all of our athletes both for their individual successes and for the way they, as a team, showed the world the best our nation has to offer.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 426) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 426

Whereas the 2004 Summer Olympic Games, which recently concluded in Athens, Greece, was a resounding success;

Whereas the athletes of the United States who participated in the 2004 Summer Olympic Games reflected the ideals of the Olympic movement by exhibiting determination, honor, sportsmanship, and excellence throughout the competitions;

Whereas Maryland's athletes played a prominent role in the 2004 Summer Olympic Games and represented the talent and diversity of the athletes of the United States;

Whereas markswoman Libby Callahan of Upper Marlboro, through her wisdom and experience, and swimmer Katie Hoff of Abingdon, through her youthful exuberance, both displayed the spirit of Olympic competition;

Whereas Liz Filter, from Stevensonville, and Nancy Haberland, who coaches the Naval Academy sailing team, both displayed the Olympic spirit in their decisions to participate in the sailing competitions in the face of challenging life circumstances;

Whereas Jun Gao of Gaithersburg shone with Olympic spirit when, on day 4 of the table tennis competition, as the only remaining member of the United States table tennis team left in competition, she shouldered the hopes of her teammates;

Whereas paddlers Joe Jacobi and Scott Parsons, both from Bethesda, reflected the Olympic spirit by focusing on the experience and joy of their performances and the opportunity to compete on the world stage;

Whereas Baltimore's Carmelo Anthony displayed the Olympic spirit in his refusal to quit after the men's basketball team suffered a series of difficult and surprising losses;

Whereas gymnast Courtney Kupets of Gaithersburg and Judo competitor Rhadi Ferguson of Columbia demonstrated enormous bravery by overcoming serious injuries to make the United States team and compete for their country and, in the case of Ms. Kupets, to medal in 2 events;

Whereas Towson swimmer Michael Phelps, who won 6 gold and 2 bronze medals, showed that the team is more important than individual accomplishment when he yielded his spot on the 4 x 100 medley relay squad and an opportunity for further glory to allow teammate Ian Crocker to compete and be part of a winning effort in the finals;

Whereas Tiombe Hurd of Upper Marlboro, who is legally blind, showed tremendous heart and courage by overcoming her vision impairment to finish 22nd in a crowded triple jump field;

Whereas Bernard Williams, who brought home a silver in the 200 meter sprint, and James Carter, who finished fourth in the 400 meter hurdles, did their Baltimore alma maters, Carver Vocational-Technical High School and Mergenthaler Vocational-Technical High School, proud by showing enormous poise and grit in the face of stiff competition;

Whereas the people of Maryland take great pride in these athletes and the communities that helped to nurture and support them through their years of training, and celebrate their successes and achievements; and

Whereas the people of Maryland send their best wishes for success to Maryland's 6 Paralympic athletes—Antoinette Davis, Jessica Long, Joseph Aukward, Larry Hughes, Tatyana McFadden, and Susan Katz—as they head to Athens for the Paralympic Games, which are set to begin on September 17, 2004: Now, therefore, be it

Resolved, That the Senate commends the athletes of Maryland for the grace, sportsmanship, and determination they exhibited throughout the 2004 Summer Olympic Games and for the accomplishments that flowed from maintaining that Olympic spirit on and off the field of competition.

NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 422, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 422) expressing the sense of the Senate that the President should designate the week beginning September 12, 2004, as "National Historically Black Colleges and Universities Week."

There being no objection, the Senate proceeded to consider the resolution.

Mr. LIEBERMAN. Mr. President, America's Historically Black Colleges and Universities have served as precious portals of opportunity for African-Americans since the first, Cheyney University of Pennsylvania, was founded 167 years ago. I join all Americans in commemorating these proud institutions of higher learning this week, which the President has proclaimed "National Historically Black Colleges and Universities Week."

Mary McLeod Bethune once said, "We firmly believe education has the irresistible power to dissolve the shackles of slavery." It was this moral commitment to education for African-Americans that inspired Ms. Bethune to found her famous day school in Daytona, FL—now known as Bethune Cookman College—100 years ago. It was also this ideal that inspired the establishment of 130 other Historically

Black Colleges and Universities nationwide. And the "irresistible power" of these institutions for the African-American community is clear. Fully 42 percent of all the PhDs earned each year by African-Americans are earned by graduates of HBCUs.

But despite playing a central role in our Nation's economic, cultural, social and spiritual life, HBCUs have been physically eroding, victims of chronic neglect and underfunding. A 1990 General Accounting Office study concluded that 712 properties on 103 HBCU campuses nationwide were in need of repair or renovation, at an estimated cost of $755 million.

That is why 2 years ago I joined with Congressman JIM CLYBURN in the cause of repairing, restoring, rebuilding, and revitalizing HBCUs. With the support of Senators LANDRIEU, MILLER, and others, our legislation to authorize $50 million in new funding for HBCUs passed the Senate in January 2003, and was signed into law by the President in February of that year. We appropriated $3 million for the program last year, and hope to continue such robust funding this appropriations cycle.

I saw firsthand the effect that this legislation can have. When I visited Allen University in South Carolina in 2002, I went to Arnett Hall—a building that had been transformed from an eyesore into a beautiful and stately facility with the help of Federal funds. In the past, students and faculty who walked into the dilapidated hall would be left with the clear impression that we are neglecting these historic treasures. Now, they visit the restored hall and are left with the impression that we consider Historically Black Colleges and Universities central to our history and to our future.

Our HBCU legislation was an important step to fulfilling the dream, as Dr. Martin Luther King famously captured it, of an America true to its creed that we are all created equal. Each of these 130 institutions of higher learning, educating 300,000 African-American students, is a living memorial to the dream of equal educational opportunity for all—living memorials we are morally bound to preserve. This week, let us recall the proud heritage and valuable contribution Historically Black Colleges and Universities make to our Nation, and redouble our efforts to keep their doors open for future generations.

Ms. LANDRIEU. Mr. President, today I rise to honor the Historically Black Colleges and Universities around the country that serve over 215,000 of our finest African-American students.

Since the first HBCU was founded in 1837, HBCUs have played an important role in our higher education system. They have educated some of our most prominent African-American leaders, such as the Reverend Dr. Martin Luther King, Jr., former U.S. Supreme Court Justice Thurgood Marshall, educator Booker T. Washington, former U.S. Surgeon General David Satcher, Nobel Laureate Toni Morrison, and Louisiana native and former United Nations Ambassador Andrew Young, Jr., to just name a few. Today, 65 percent of all African-American physicians, 50 percent of African-American engineers, and 35 percent of African-American lawyers are graduates of an HBCU. It is clear that HBCUs have and continue to play a vital role in our higher education system, and for that, I honor them today.

I would specifically like to praise the six HBCUs in my home state of Louisiana that produce exceptionally fine graduates: Dillard University in New Orleans, Grambling State University in Grambling, Southern University and Agricultural and Mechanical College in Baton Rouge, Southern University in New Orleans, Southern University in Shreveport, and Xavier University in New Orleans. These schools serve roughly 30,000 Louisiana higher education students and prepare them to be tomorrow's leaders. For that, I say thank you.

Recognizing the importance of HBCUs, I am proud to lend my support to S. Res. 422, designating this week as "National Historically Black Colleges and Universities Week." And, I am proud to support the College Quality, Affordability, and Diversity Improvement Act, S. 1793, which extends and increases the Title V, Part B programs under the Higher Education Act that strengthen HBCUs. As we enter the final weeks of the 108th Congress, I look forward to discussing, debating, and passing this important piece of legislation, and as we move through the appropriations process, I urge my colleagues to ensure that adequate funding is given to HBCUs.

Historically Black Colleges and Universities have given a great amount to our higher education system through the years, and today I give them my thanks and praise.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 422) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 422

Whereas there are 105 historically Black colleges and universities in the United States;

Whereas historically Black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas historically Black colleges and universities have a rich heritage and have played a prominent role in the history of the United States;

Whereas historically Black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically Black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week beginning September 12, 2004, as "National Historically Black Colleges and Universities Week".

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week beginning September 12, 2004, as "National Historically Black Colleges and Universities Week"; and

(2) calling on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically Black colleges and universities in the United States.

Mr. FRIST. Mr. President, this resolution relates to historically black colleges and universities and the designation of a period of time to express appreciation for the tremendous function and job they carry out in this great country of ours.

In my own city of Nashville, my hometown, and where I live now, we have two wonderful historically black institutions of learning. One is a medical center, Meharry Medical College; and the another is Fisk University. The contributions those two institutions of learning have made to our community, and indeed to the global community, and in the sense of Meharry to the national community of physicians, has been just tremendous.

I know both sides of the aisle take great pleasure in once again recognizing this period of time that we can celebrate the great work that is done.

THE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following Calendar numbers en bloc: 466 through 469, 522, 524 through 527, 533, 600 through 604, 611 through 618, 626 through 629, and 675 through 689.

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. FRIST. Mr. President, I ask unanimous consent that all committee amendments, where applicable, be agreed to, the bills, as amended, if amended, be read a third time and passed, the title amendments, where applicable, be adopted, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPLEMENTATION OF FISH PASSAGE AND SCREENING FACILITIES AT NON-FEDERAL WATER PROJECTS

The Senate proceeded to consider the bill (S. 1307) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. DEFINITIONS.

[As used in this Act—

[(1) "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation;

[(2) "Reclamation" means the Bureau of Reclamation, United States Department of the Interior;

[(3) "Fish passage and screening facilities" means ladders, collection devices, and all other kinds of facilities which enable fish to pass through, over, or around water diversion structures; facilities and other constructed works which modify, consolidate, or replace water diversion structures in order to achieve fish passage; screens and other devices which reduce or prevent entrainment and impingement of fish in a water diversion, delivery, or distribution system; and any other facilities, projects, or constructed works which are designed to provide for or improve fish passage while maintaining water deliveries and to reduce or prevent entrainment and impingement of fish in a water storage, diversion, delivery, or distribution system of a water project;

[(4) "Federal reclamation project" means a water resources development project constructed, operated, and maintained pursuant to the Reclamation Act of 1902 (32 Stat. 388), and acts amendatory thereof and supplementary thereto;

[(5) "Non-Federal party" means any non-Federal party, including federally recognized Indian tribes, non-Federal governmental and quasi-governmental entities, private entities (both profit and non-profit organizations), and private individuals;

[(6) "Snake River Basin" means the entire drainage area of the Snake River, including all tributaries, from the headwaters to the confluence of the Snake River with the Columbia River; and

[(7) "Columbia River Basin" means the entire drainage area of the Columbia River located in the United States, including all tributaries, from the headwaters to the Columbia River estuary.

[SEC. 2. AUTHORIZATION.

[(a) Subject to the requirements of this Act, the Secretary is authorized to plan, design, and construct, or provide financial assistance to non-Federal parties to plan, design, and construct, fish passage and screening facilities at any non-Federal water diversion or storage project located anywhere in the Columbia River Basin when, and only when, the Secretary determines that such facilities would enable Reclamation to meet its obligations under 16 U.S.C. 1536(a)(2) regarding the construction and continued operation and maintenance of all Federal reclamation projects located in the Columbia River Basin, excluding the Federal reclamation projects located in the Snake River Basin.

[SEC. 3. LIMITATIONS.

[(a) The Secretary may undertake the construction of, or provide financial assistance covering the cost to the non-Federal parties to construct, fish passage and screening facilities at non-Federal water diversion and storage projects located anywhere in the Columbia River Basin only after entering into a voluntary, written agreement with the non-Federal party or parties who own, operate, and maintain the project, and any associated lands, involved.

[(b) Any financial assistance made available pursuant to this Act shall be provided through grant agreements or cooperative agreements entered into pursuant to and in compliance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501).

[(c) The Secretary may require such terms and conditions as will ensure performance by the non-Federal party, protect the Federal investment in fish passage and screening facilities, define the obligations of the Secretary and the non-Federal party, and ensure compliance with this Act and all other applicable Federal, State, and local laws.

[(d) All right and title to, and interest in, any fish passage and screening facilities constructed or funded pursuant to the authority of this Act shall be held by the non-Federal party or parties who own, operate, and maintain the non-Federal water diversion and storage project, and any associated lands, involved. In addition, the operation, maintenance, and replacement of such facilities shall be the sole responsibility of such party or parties and shall not be a project cost assignable to any Federal reclamation project.

[(e) Consultation under Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) shall not be required based solely on the provision of financial assistance under this Act. Projects or activities that affect listed species shall remain subject to applicable provisions of the Endangered Species Act of 1973.

[SEC. 4. OTHER REQUIREMENTS.

[(a) In carrying out this Act, the Secretary shall be subject to all Federal laws applicable to the actions to be undertaken for the construction of fish passage and screening facilities. The Secretary shall assist the non-Federal party or parties who own, operate, and maintain a non-Federal water diversion or storage project, and any associated lands, to obtain and comply with any required State, local, or tribal permits.

[(b) The Secretary shall comply with State water law in the application of this Act. All water rights shall remain with the owner or operator of any non-Federal water diversion and storage project who receives assistance pursuant to this Act.

[(c) The Secretary shall coordinate with the Northwest Power Planning Council; appropriate agencies of the States of Idaho, Oregon, and Washington; and appropriate federally recognized Indian tribes in carrying out the program authorized by this Act.

[SEC. 5. INAPPLICABILITY OF FEDERAL RECLAMATION LAW.

[(a) The Reclamation Act of 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto, shall not apply to the non-Federal water projects at which the fish passage and screening facilities authorized by this Act are located, nor to the lands which such projects irrigate.

[(b) Notwithstanding any provision of law to the contrary, the expenditures made by the Secretary pursuant to this Act shall not be a project cost assignable to any Federal reclamation project (either as a construction cost or as an operation and maintenance cost) and shall be non-reimbursable and nonreturnable to the United States Treasury.

[SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such amounts as are necessary for the purposes of this Act.]

SECTION 1. DEFINITIONS.

As used in this Act—

(1) "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation;

(2) "Reclamation" means the Bureau of Reclamation, United States Department of the Interior;

(3) "Fish passage and screening facilities" means ladders, collection devices, and all other kinds of facilities which enable fish to pass through, over, or around water diversion structures; facilities and other constructed works which modify, consolidate, or replace water diversion structures in order to achieve fish passage; screens and other devices which reduce or prevent entrainment and impingement of fish in a water diversion, delivery, or distribution system; and any other facilities, projects, or constructed works or strategies which are designed to provide for or improve fish passage while maintaining water deliveries and to reduce or prevent entrainment and impingement of fish in a water storage, diversion, delivery, or distribution system of a water project;

(4) "Federal reclamation project" means a water resources development project constructed, operated, and maintained pursuant to the Reclamation Act of 1902 (32 Stat. 388), and acts amendatory thereof and supplementary thereto;

(5) "Non-Federal party" means any non-Federal party, including federally recognized Indian tribes, non-Federal governmental and quasi-governmental entities, private entities (both profit and non-profit organizations), and private individuals;

(6) "Snake River Basin" means the entire drainage area of the Snake River, including all tributaries, from the headwaters to the confluence of the Snake River with the Columbia River;

(7) "Columbia River Basin" means the entire drainage area of the Columbia River located in the United States, including all tributaries, from the headwaters to the Columbia River estuary; and

(8) "Habitat improvements" means work to improve habitat for aquatic plants and animals within a currently existing stream channel below the ordinary high water mark, including stream reconfiguration to rehabilitate and protect the natural function of streambeds, and riverine wetland construction and protection.

SEC. 2. AUTHORIZATION.

(a) IN GENERAL.—Subject to the requirements of this Act, the Secretary is authorized to plan, design, and construct, or provide financial assistance to non-Federal parties to plan, design, and construct, fish passage and screening facilities or habitat improvements at any non-Federal water diversion or storage project located anywhere in the Columbia River Basin when the Secretary determines that such facilities would enable Reclamation to meet its obligations under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)) regarding the construction and continued operation and maintenance of all Federal reclamation projects located in the Columbia River Basin, excluding

the Federal reclamation projects located in the Snake River Basin.

(b) Prohibition of Acquisition of Land for Habitat Improvements.—Notwithstanding subsection (a), nothing in this Act authorizes the acquisition of land for habitat improvements.

SEC. 3. LIMITATIONS.

(a) Written Agreement.—The Secretary may undertake the construction of, or provide financial assistance covering the cost to the non-Federal parties to construct, fish passage and screening facilities at non-Federal water diversion and storage projects or habitat improvements located anywhere in the Columbia River Basin only after entering into a voluntary, written agreement with the non- Federal party or parties who own, operate, or maintain the project, or any associated lands involved.

(b) Federal Share.—The Federal share of the total costs of constructing the fish passage and screening facility or habitat improvements shall be not more than 75 percent.

(c) Non-Federal Share.—

(1) Except as provided in paragraph (4), a written agreement entered into under subsection (a) shall provide that the non-Federal party agrees to pay the non-Federal share of the total costs of constructing the fish passage and screening facility or habitat improvements.

(2) The non-Federal share may be provided in the form of cash or in-kind services.

(3) The Secretary shall—

(A) require the non-Federal party to provide appropriate documentation of any in-kind services provided; and

(B) determine the value of the in-kind services.

(4) The requirements of this subsection shall not apply to Indian tribes.

(d) Grant and Cooperative Agreements.—Any financial assistance made available pursuant to this Act shall be provided through grant agreements or cooperative agreements entered into pursuant to and in compliance with chapter 63 of title 31, United States Code.

(e) Terms and Conditions.—The Secretary may require such terms and conditions as will ensure performance by the non-Federal party, protect the Federal investment in fish passage and screening facilities or habitat improvements, define the obligations of the Secretary and the non-Federal party, and ensure compliance with this Act and all other applicable Federal, State, and local laws.

(f) Rights and Duties of Non-Federal Parties.—All right and title to, and interest in, any fish passage and screening facilities constructed or funded pursuant to the authority of this Act shall be held by the non-Federal party or parties who own, operate, and maintain the non-Federal water diversion and storage project, and any associated lands, involved. The operation, maintenance, and replacement of such facilities shall be the sole responsibility of such party or parties and shall not be a project cost assignable to any Federal reclamation project.

SEC. 4. OTHER REQUIREMENTS.

(a) Permits.—The Secretary may assist a non-Federal party who owns, operates, or maintains a non-Federal water diversion or storage project, and any associated lands, to obtain and comply with any required State, local, or tribal permits.

(b) Federal Law.—In carrying out this Act, the Secretary shall be subject to all Federal laws applicable to activities associated with the construction of a fish passage and screening facility or habitat improvements.

(c) State Water Law.—

(1) In carrying out this Act, the Secretary shall comply with any applicable State water laws.

(2) Nothing in this Act affects any water or water-related right of a State, an Indian tribe, or any other entity or person.

(d) Required Coordination.—The Secretary shall coordinate with the Northwest Power and Conservation Council; appropriate agencies of the States of Idaho, Oregon, and Washington; and appropriate federally recognized Indian tribes in carrying out the program authorized by this Act.

SEC. 5. INAPPLICABILITY OF FEDERAL RECLAMATION LAW.

(a) In General.—The Reclamation Act of 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto, shall not apply to the non-Federal water projects at which the fish passage and screening facilities authorized by this Act are located, nor to the lands which such projects irrigate.

(b) Nonreimbursable and Nonreturnable Expenditures.—Notwithstanding any provision of law to the contrary, the expenditures made by the Secretary pursuant to this Act shall not be a project cost assignable to any Federal reclamation project (either as a construction cost or as an operation and maintenance cost) and shall be non-reimbursable and non-returnable to the United States Treasury.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such amounts as are necessary for the purposes of this Act.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1307), as amended, was read the third time and passed.

WALLOWA LAKE DAM REHABILITATION AND WATER MANAGEMENT ACT OF 2004

The Senate proceeded to consider the bill (S. 1355) to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Wallowa Lake Dam Rehabilitation and Water Management Act of 2003".

SEC. 2. DEFINITIONS.

[In this Act:

[(1) Associated ditch companies, incorporated.—The term "Associated Ditch Companies, Incorporated" means the non-profit corporation by that name (as established under the laws of the State of Oregon) that operates Wallowa Lake Dam.

[(2) Secretary.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

[(3) Wallowa lake dam rehabilitation program.—The term "Wallowa Lake Dam Rehabilitation Program" means the program for the rehabilitation of the Wallowa Lake Dam in Oregon, as contained in the engineering document entitled, "Phase I Dam Assessment and Preliminary Engineering Design", dated October 2001, and on file with the Bureau of Reclamation.

[(4) Wallowa valley water management plan.—The term "Wallowa Valley Water Management Plan" means the program developed for the Wallowa River watershed, as contained in the document entitled "Wallowa Lake Dam Rehabilitation and Water Management Plan Vision Statement", dated February 2001, and on file with the Bureau of Reclamation.

[SEC. 3. AUTHORIZATION TO PARTICIPATE IN PROGRAM.

[(a) Authorization.—The Secretary—

[(1) may provide funding to the Associated Ditch Companies, Incorporated, in order for the Associated Ditch Companies, Incorporated, to plan, design and construct facilities needed to implement the Wallowa Lake Dam Rehabilitation Program; and

[(2) in cooperation with tribal, State and local governmental entities, may participate in planning, design and construction of facilities needed to implement the Wallowa Valley Water Management Plan.

[(b) Cost Sharing.—

[(1) In general.—The Federal share of the costs of activities authorized under this Act shall not exceed 80 percent.

[(2) Exclusions from federal share.—There shall not be credited against the Federal share of such costs—

[(A) any expenditure by the Bonneville Power Administration in the Wallowa River watershed; and

[(B) expenditures made by individual farmers in any Federal farm or conservation program.

[(c) Compliance With State Law.—The Secretary, in carrying out this Act, shall comply with otherwise applicable State water law.

[(d) Prohibition on Holding Title.—The Federal Government shall not hold title to any facility rehabilitated or constructed under this Act.

[(e) Prohibition on Operation and Maintenance.—The Federal Government shall not be responsible for the operation and maintenance of any facility constructed or rehabilitated under this Act.

[(f) Ownership and Operation of Fish Passage Facility.—Any facility located at Wallowa Lake Dam for trapping and transportation of migratory adult salmon may be owned and operated only by the Nez Perce Tribe.

[SEC. 4. RELATIONSHIP TO OTHER LAW.

[Activities funded under this Act shall not be considered a supplemental or additional benefit under the Act of June 17, 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

[SEC. 5. APPROPRIATIONS.

[There is authorized to be appropriated to the Secretary $32,000,000 for the Federal share of the costs of activities authorized under this Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wallowa Lake Dam Rehabilitation and Water Management Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) Associated ditch companies, incorporated.—The term "Associated Ditch Companies, Incorporated" means the nonprofit corporation established under the laws of the State of Oregon that operates Wallowa Lake Dam.

(2) Phase II and phase III of the Wallowa valley water management plan.—The term "Phase II and Phase III of the Wallowa Valley Water Management Plan" means the Phase II program for fish passage improvements and water conservation measures, and the Phase III program for implementation of water exchange infrastructure, developed for the Wallowa River

watershed, as contained in the document entitled "Wallowa Lake Dam Rehabilitation and Water Management Plan Vision Statement", dated February 2001, and on file with the Bureau of Reclamation.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(4) WALLOWA LAKE DAM REHABILITATION PROGRAM.—The term "Wallowa Lake Dam Rehabilitation Program" means the program for the rehabilitation of the Wallowa Lake Dam in Oregon, as contained in the engineering document entitled, "Phase I Dam Assessment and Preliminary Engineering Design", dated December 2002, and on file with the Bureau of Reclamation.

SEC. 3. AUTHORIZATION TO PARTICIPATE IN PROGRAM.

(a) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants to, or enter into cooperative or other agreements with, tribal, State, and local governmental entities and the Associated Ditch Companies, Incorporated, to plan, design, and construct facilities needed to implement the Wallowa Lake Dam Rehabilitation Program and Phase II and Phase III of the Wallowa Valley Water Management Plan.

(b) CONDITIONS.—As a condition of providing funds under subsection (a), the Secretary shall ensure that—

(1) the Wallowa Lake Dam Rehabilitation Program meets the standards of the dam safety program of the State of Oregon;

(2) the Associated Ditch Companies, Incorporated, agrees to assume liability for any work performed, or supervised, with funds provided to it under this Act; and

(3) the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to a facility rehabilitated or constructed under this Act.

(c) COST SHARING.—

(1) IN GENERAL.—The Federal share of the costs of activities authorized under this Act shall not exceed 80 percent.

(2) EXCLUSIONS FROM FEDERAL SHARE.—There shall not be credited against the Federal share of such costs—

(A) any expenditure by the Bonneville Power Administration in the Wallowa River watershed; and

(B) expenditures made by individual agricultural producers in any Federal commodity or conservation program.

(d) COMPLIANCE WITH STATE LAW.—The Secretary, in carrying out this Act, shall comply with otherwise applicable State water law.

(e) PROHIBITION ON HOLDING TITLE.—The Federal Government shall not hold title to any facility rehabilitated or constructed under this Act.

(f) PROHIBITION ON OPERATION AND MAINTENANCE.—The Federal Government shall not be responsible for the operation and maintenance of any facility constructed or rehabilitated under this Act.

(g) OWNERSHIP AND OPERATION OF FISH PASSAGE FACILITY.—Any facility constructed using Federal funds authorized by this Act located at Wallowa Lake Dam for trapping and transportation of migratory adult salmon may be owned and operated only by the Nez Perce Tribe.

SEC. 4. RELATIONSHIP TO OTHER LAW.

Activities funded under this Act shall not be considered a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to the pay the Federal share of the costs of activities authorized under this Act $25,600,000.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1355), as amended, was read the third time and passed.

ALASKA NATIVE ALLOTMENT SUBDIVISION ACT

The Senate proceeded to consider the bill (S. 1421) to authorize the subdivision and dedication of restricted land owned by Alaska Natives, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1421

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Alaska Native Allotment Subdivision Act".

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) Alaska Natives that own land subject to Federal restrictions against alienation and taxation need to be able to subdivide the restricted land for the purposes of—

[(A) transferring by gift, sale, or devise separate interests in the land; or

[(B) severing, by mutual consent, tenancies in common;

[(2) for the benefit of the Alaska Native restricted landowners, any persons to which the restricted land is transferred, and the public in general, the Alaska Native restricted landowners should be authorized to dedicate—

[(A) rights-of-way for public access;

[(B) easements for utility installation, use, and maintenance; and

[(C) additional land for other public purposes;

[(3)(A) the lack of an explicit authorization by Congress with respect to the subdivision and dedication of Alaska Native land that is subject to Federal restrictions has called into question whether such subdivision and dedication is legal; and

[(B) this legal uncertainty has been detrimental to the rights of Alaska Native restricted landowners to use or dispose of the restricted land in the same manner as other landowners are able to use and dispose of land;

[(4) extending to Alaska Native restricted land owners the same authority that other landowners have to subdivide and dedicate land should be accomplished without depriving the Alaska Native restricted landowners of any of the protections associated with restricted land status;

[(5) confirming the right and authority of Alaska Native restricted land owners, subject to the approval of the Secretary of the Interior, to subdivide their land and to dedicate their interests in the restricted land, should be accomplished without affecting the laws relating to whether tribal governments or the State of Alaska (including political subdivisions of the State) have authority to regulate land use;

[(6) Alaska Native restricted land owners, persons to which the restricted land is transferred, State and local platting authorities, and members of the general public have formed expectations in reliance on past subdivisions and dedications; and

[(7) those expectations should be fulfilled by ratifying the validity under Federal law of the subdivisions and dedications.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) RESTRICTED LAND.—The term "restricted land" means land in the State that is subject to Federal restrictions against alienation and taxation.

[(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[(3) STATE.—The term "State" means the State of Alaska.

[SEC. 4. SUBDIVISION AND DEDICATION OF ALASKA NATIVE RESTRICTED LAND.

[(a) IN GENERAL.—An Alaska Native owner of restricted land may, subject to the approval of the Secretary—

[(1) subdivide the restricted land in accordance with the laws of the—

[(A) State; or

[(B) applicable local platting authority; and

[(2) execute a certificate of ownership and dedication with respect to the restricted land subdivided under paragraph (1) with the same effect under State law as if the restricted land subdivided and dedicated were held by unrestricted fee simple title.

[(b) RATIFICATION OF PRIOR SUBDIVISIONS AND DEDICATIONS.—Any subdivision or dedication of restricted land executed before the date of enactment this Act that has been approved by the Secretary and by the relevant State or local platting authority, as appropriate, shall be considered to be ratified and confirmed by Congress as of the date on which the Secretary approved the subdivision or dedication.

[SEC. 5. EFFECT.

[(a) IN GENERAL.—Nothing in this Act validates or invalidates any assertion—

[(1) that a Federally recognized Alaska Native tribe has or lacks jurisdiction with respect to any land in the State;

[(2) that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist in the State; or

[(3) that, except as provided in section 4, the State or any political subdivision of the State does or does not have the authority to regulate the use of any individually owned restricted land.

[(b) EFFECT ON STATUS OF LAND NOT DEDICATED.—Except in a case in which a specific interest in restricted land is dedicated under section (4)(a)(2), nothing in this Act terminates, diminishes, or otherwise affects the continued existence and applicability of Federal restrictions against alienation and taxation on restricted land or interests in restricted land (including restricted land subdivided under section 4(a)(1)).]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alaska Native Allotment Subdivision Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) RESTRICTED LAND.—The term "restricted land" means land in the State that is subject to Federal restrictions against alienation and taxation.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) STATE.—The term "State" means the State of Alaska.

SEC. 3. SUBDIVISION AND DEDICATION OF ALASKA NATIVE RESTRICTED LAND.

(a) IN GENERAL.—An Alaska Native owner of restricted land may, subject to the approval of the Secretary—

(1) subdivide the restricted land in accordance with the laws of the—

(A) State; or

(B) applicable local platting authority; and

(2) execute a certificate of ownership and dedication with respect to the restricted land subdivided under paragraph (1) with the same effect under State law as if the restricted land subdivided and dedicated were held by unrestricted fee simple title.

(b) Ratification of Prior Subdivisions and Dedications.—Any subdivision or dedication of restricted land executed before the date of enactment of this Act that has been approved by the Secretary and by the relevant State or local platting authority, as appropriate, shall be considered to be ratified and confirmed by Congress as of the date on which the Secretary approved the subdivision or dedication.

SEC. 4. EFFECT ON STATUS OF LAND NOT DEDICATED.

Except in a case in which a specific interest in restricted land is dedicated under section 3(a)(2), nothing in this Act terminates, diminishes, or otherwise affects the continued existence and applicability of Federal restrictions against alienation and taxation on restricted land or interests in restricted land (including restricted land subdivided under section 3(a)(1)).

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1421), as amended, was read the third time and passed.

SOUTHWEST FOREST HEALTH AND WILDFIRE PREVENTION ACT OF 2004

The bill (H.R. 2696) to establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West was considered, ordered to a third reading, read the third time, and passed.

ARCH HURLEY CONSERVANCY DISTRICT WATER CONSERVATION PROJECT FEASIBILITY STUDY

The Senate proceeded to consider the bill (S. 1071) to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on a water conservation project within the Arch Hurley Conservancy District in the State of New Mexico, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

(Strike the part shown in black brackets and insert the part shown in italic)

S. 1071

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY AUTHORIZATION.

(a) Authorization.—Pursuant to reclamation laws, the Secretary of the Interior, through the Bureau of Reclamation, and in consultation and cooperation with the Arch Hurley Conservancy District and the State Engineer in New Mexico, is authorized to conduct a study to determine the feasibility of implementing a water conservation project that will minimize water losses from the irrigation conveyance works of the Arch Hurley Conservancy District, and to consider—

(1) options for utilizing any saved water made available from the conservation project including the possible conveyance of such water, in accordance with State law, to the Pecos River basin to address water supply issues in that basin;

(2) the impacts that the conservation project could have on the local water supply in and around the Arch Hurley Conservancy District and any appropriate mitigation that may be necessary if the project is implemented; and

(3) appropriate cost-sharing options for implementation of the project based on the use and possible allocation of any conserved water.

(b) Report.—

(1) Upon completion of the feasibility study authorized by this Act, the Secretary of the Interior shall transmit to Congress a report containing the results of the study.

(2) In developing the report, the Secretary shall utilize reports or any other relevant information supplied by the Arch Hurley Conservancy District or the State Engineer in New Mexico.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) Amount.—There are authorized to be appropriated **[$500,000]** *$2,500,000* to carry out this Act.

(b) Cost Share.—

(1) The Federal share of the costs of the feasibility study shall not exceed 50 percent of the total, except that the Secretary of the Interior is authorized to waive or limit the required non-Federal cost share for the feasibility study if the Secretary determines, based upon a demonstration of financial hardship on the part of the Arch-Hurley Conservancy District, that the District is unable to contribute such required share.

(2) The Secretary of the Interior may accept as part of the non-Federal cost share the contribution of such in-kind services by the Arch Hurley Conservancy District as the Secretary determines will contribute substantially toward the conduct and completion of the study.

The committee amendment was agreed to.

The bill (S. 1071), as amended, was read the third time and passed.

VALLES CALDERA PRESERVATION ACT OF 2004

The Senate proceeded to consider the bill (S. 1582) to amend the Valles Caldera Preservation Act to improve the perservation of the Valles Caldera, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Valles Caldera Preservation Act of 2003".

[SEC. 2. AMENDMENTS TO THE VALLES CALDERA PRESERVATION ACT.

[(a) Trust Employment.—Section 106(d) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(d)) is amended—

[(1) in paragraph (1)—

[(A) by striking "The Trust" and inserting the following:

["(A) Appointment.—The Trust";

[(B) by inserting after the first sentence the following:

["(B) Contract or employment agreement.—Employees of the Trust may be employed under an employment agreement, the terms and conditions of which shall be determined by the Trust subject to this subsection."; and

[(C) by striking "No employee" and inserting the following:

["(C) Maximum compensation.—No employee"; and

[(2) in paragraph (2)—

[(A) in subparagraph (A), by striking "shall" each place it appears and inserting "may"; and

[(B) by adding at the end the following:

["(C) Eligibility for competitive service.—

["(i) In general.—An employee of the Trust shall not be precluded from consideration for a position in the competitive service that is open to other Federal employees.

["(ii) Classification and pay rate.—In considering an employee of the Trust for a position in the competitive service under clause (i), the employing agency shall consider a position with the Trust to be comparable in classification and General Schedule pay rates to a similar position in the competitive service.".

[(b) Obligations and Expenditures.—Section 106(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(e)) is amended by adding at the end the fsollowing:

["(4) Obligations and expenditures.—Subject to the laws applicable to Government corporations, the Trust shall determine—

["(A) the character of, and the necessity for, any obligations and expenditures of the Trust; and

["(B) the manner in which obligations and expenditures shall be incurred, allowed, and paid.".

[(c) Solicitation of Donations.—Section 106(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(g)) is amended by striking "The Trust may solicit" and inserting "The members of the Board of Trustees and any employees of the Trust designated by the Board of Trustees may solicit".

[(d) Use of Proceeds.—Section 106(h)(1) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(h)(1)) is amended by striking "subsection (g)" and inserting "subsection (g), from claims, judgments, or settlements arising from activities occurring on the Baca Ranch or the Preserve after October 27, 1999,".

[(e) Claims and Judgments.—Section 106(j) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(j)) is amended—

[(1) in the first sentence, by striking "The Trust" and inserting the following:

["(1) In general.—The Trust"; and

[(2) by adding at the end the following:

["(2) Permanent judgment appropriation.—During any fiscal year in which funds have been appropriated to the Trust or the Secretary to carry out this title, the Trust shall not be precluded from using the permanent judgment appropriation under section 1304 of title 31, United States Code, for a claim, judgment, or settlement against the Trust or the Secretary in the name of the United States.".

[SEC. 3. BOARD OF TRUSTEES.

[Section 107(e) of the Valles Caldera Preservation Act (U.S.C. 698v–5(e)) is amended—

[(1) in paragraph (2), by striking "Trustees" and inserting "Except as provided in paragraph (3), Trustees"; and

[(2) in paragraph (3)—

[(A) by striking "Trustees" and inserting the following:

["(A) SELECTION.—Trustees"; and

[(B) by adding at the end the following:

["(B) COMPENSATION.—On request of the chair, the chair may be compensated at a rate determined by the Board of Trustees, but not to exceed the daily equivalent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) in which the chair is engaged in the performance of duties of the Board of Trustees.

["(C) MAXIMUM RATE OF PAY.—The total amount of compensation paid to the chair for a fiscal year under subparagraph (B) shall not exceed 25 percent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

[SEC. 4. RESOURCE MANAGEMENT.

[(a) PROPERTY DISPOSAL LIMITATIONS.—Section 108(c)(3) of the Valles Caldera Preservation Act (16 U.S.C. 698v–6(c)(3)) is amended—

[(1) in the first sentence, by striking "The Trust may not dispose" and inserting the following:

["(A) IN GENERAL.—The Trust may not dispose";

[(2) in the second sentence, by striking "The Trust" and inserting the following:

["(B) MAXIMUM DURATION.—The Trust";

[(3) in the last sentence, by striking "Any such" and inserting the following:

["(C) TERMINATION.—The"; and

[(4) by adding at the end the following:

["(D) EXCLUSIONS.—For the purposes of this paragraph, the disposal of real property does not include the sale or other disposal of forage, forest products, or marketable renewable resources.".

[(b) LAW ENFORCEMENT AND FIRE MANAGEMENT.—Section 108(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v–6(g)) is amended—

[(1) in the first sentence, by striking "The Secretary" and inserting the following:

["(1) LAW ENFORCEMENT.—The Secretary";

[(2) in the second sentence, by striking "The Trust" and inserting the following:

["(B) FEDERAL AGENCY.—The Trust"; and

[(3) by striking "At the request of the Trust" and all that follows through the end of the paragraph and inserting the following:

["(2) FIRE MANAGEMENT.—To the extent generally authorized at other units of the National Forest System, the Secretary shall provide, under a cooperative agreement entered into between the Secretary and the Trust—

["(A) fire suppression and rehabilitation services; and

["(B) wildland fire severity funding for extraordinary fire preparedness.".]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Valles Caldera Preservation Act of 2004".

SEC. 2. AMENDMENTS TO THE VALLES CALDERA PRESERVATION ACT.

(a) ACQUISITION OF OUTSTANDING MINERAL INTERESTS.—Section 104(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v–2(e)) is amended—

(1) by striking "The acquisition" and inserting the following:

"(1) IN GENERAL.—The acquisition";

(2) by striking "The Secretary" and inserting the following:

"(2) ACQUISITION.—The Secretary";

(3) by striking "on a willing seller basis";

(4) by striking "Any such" and inserting the following:

"(3) ADMINISTRATION.—Any such"; and

(5) by adding at the end the following:

"(4) AVAILABLE FUNDS.—Any such interests shall be acquired with available funds.

"(5) DECLARATION OF TAKING.—

"(A) IN GENERAL.—If negotiations to acquire the interests are unsuccessful by the date that is 60 days after the date of enactment of this paragraph, the Secretary shall acquire the interests pursuant to section 3114 of title 40, United States Code.

"(B) SOURCE OF FUNDS.—Any difference between the sum of money estimated to be just compensation by the Secretary and the amount awarded shall be paid from the permanent judgment appropriation under section 1304 of title 31, United States Code.".

(b) OBLIGATIONS AND EXPENDITURES.—Section 106(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(e)) is amended by adding at the end the following:

"(4) OBLIGATIONS AND EXPENDITURES.—Subject to the laws applicable to Government corporations, the Trust shall determine—

"(A) the character of, and the necessity for, any obligations and expenditures of the Trust; and

"(B) the manner in which obligations and expenditures shall be incurred, allowed, and paid.".

(c) SOLICITATION OF DONATIONS.—Section 106(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(g)) is amended by striking "The Trust may solicit" and inserting "The members of the Board of Trustees, the executive director, and 1 additional employee of the Trust in an executive position designated by the Board of Trustees or the executive director may solicit".

(d) USE OF PROCEEDS.—Section 106(h)(1) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(h)(1)) is amended by striking "subsection (g)" and inserting "subsection (g), from claims, judgments, or settlements arising from activities occurring on the Baca Ranch or the Preserve after October 27, 1999,".

SEC. 3. BOARD OF TRUSTEES.

Section 107(e) of the Valles Caldera Preservation Act (U.S.C. 698v–5(e)) is amended—

(1) in paragraph (2), by striking "Trustees" and inserting "Except as provided in paragraph (3), trustees"; and

(2) in paragraph (3)—

(A) by striking "Trustees" and inserting the following:

"(A) SELECTION.—Trustees"; and

(B) by adding at the end the following:

"(B) COMPENSATION.—On request of the chair, the chair may be compensated at a rate determined by the Board of Trustees, but not to exceed the daily equivalent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) in which the chair is engaged in the performance of duties of the Board of Trustees.

"(C) MAXIMUM RATE OF PAY.—The total amount of compensation paid to the chair for a fiscal year under subparagraph (B) shall not exceed 25 percent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

SEC. 4. RESOURCE MANAGEMENT.

(a) PROPERTY DISPOSAL LIMITATIONS.—Section 108(c)(3) of the Valles Caldera Preservation Act (16 U.S.C. 698v–6(c)(3)) is amended—

(1) in the first sentence, by striking "The Trust may not dispose" and inserting the following:

"(A) IN GENERAL.—The Trust may not dispose";

(2) in the second sentence, by striking "The Trust" and inserting the following:

"(B) MAXIMUM DURATION.—The Trust";

(3) in the last sentence, by striking "Any such" and inserting the following:

"(C) TERMINATION.—The"; and

(4) by adding at the end the following:

"(D) EXCLUSIONS.—For the purposes of this paragraph, the disposal of real property does not include the sale or other disposal of forage, forest products, or marketable renewable resources.".

(b) LAW ENFORCEMENT AND FIRE MANAGEMENT.—Section 108(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v–6(g)) is amended—

(1) in the first sentence, by striking "The Secretary" and inserting the following.

"(1) LAW ENFORCEMENT.—

"(A) IN GENERAL.—The Secretary";

(2) in the second sentence, by striking "The Trust" and inserting the following:

"(B) FEDERAL AGENCY.—The Trust"; and

(3) by striking "At the request of the Trust" and all that follows through the end of the paragraph and inserting the following:

"(2) FIRE MANAGEMENT.—

"(A) NON-REIMBURSABLE SERVICES.—

"(i) DEVELOPMENT OF PLAN.—The Secretary shall, in consultation with the Trust, develop a plan to carry out fire preparedness, suppression, and emergency rehabilitation services on the Preserve.

"(ii) CONSISTENCY WITH MANAGEMENT PROGRAM.—The plan shall be consistent with the management program developed pursuant to subsection (d).

"(iii) COOPERATIVE AGREEMENT.—To the extent generally authorized at other units of the National Forest System, the Secretary shall provide the services to be carried out pursuant to the plan under a cooperative agreement entered into between the Secretary and the Trust.

"(B) REIMBURSABLE SERVICES.—To the extent generally authorized at other units of the National Forest System, the Secretary may provide presuppression and nonemergency rehabilitation and restoration services for the Trust at any time on a reimbursable basis.".

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1582), as amended, was read the third time and passed.

MANHATTAN PROJECT NATIONAL HISTORICAL PARK STUDY ACT

The Senate proceeded to consider the bill (S. 1687) to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Manhattan Project National Historical Park Study Act of 2003".

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) the Manhattan Project, the World War II effort to develop and construct the world's first atomic bomb, represents an extraordinary era of American and world history that—

[(A) included remarkable achievements in science and engineering made possible by innovative partnerships among Federal agencies, universities, and private industries; and

[(B) culminated in a transformation of the global society by ushering in the atomic age;

[(2) the Manhattan Project was an unprecedented $2,200,000,000, 3-year, top-secret effort that employed approximately 130,000 men and women at its peak;

[(3) the Manhattan Project sites contain historic resources that are crucial for the interpretation of the Manhattan Project, including facilities in—

[(A) Oak Ridge, Tennessee (where the first uranium enrichment facilities and pilot-scale nuclear reactor were built);

[(B) Hanford, Washington (where the first large-scale reactor for producing plutonium was built);

[(C) Los Alamos, New Mexico (where the atomic bombs were designed and built); and

[(D) Trinity Site, New Mexico (where the explosion of the first nuclear device took place);

[(4) the Secretary of the Interior has recognized the national significance in American history of Manhattan Project facilities in the study area by—

[(A) designating the Los Alamos Scientific Laboratory in the State of New Mexico as a National Historic Landmark in 1965 and adding the Laboratory to the National Register of Historic Places in 1966;

[(B) designating the Trinity Site on the White Sands Missile Range in the State of New Mexico as a National Historic Landmark in 1965 and adding the Site to the National Register of Historic Places in 1966;

[(C) designating the X-10 Graphite Reactor at the Oak Ridge National Laboratory in the State of Tennessee as a National Historic Landmark in 1965 and adding the Reactor to the National Register of Historic Places in 1966;

[(D) adding the Oak Ridge Historic District to the National Register of Historic Places in 1991;

[(E) adding the B Reactor at the Hanford Site in the State of Washington to the National Register of Historic Places in 1992; and

[(F) by adding the Oak Ridge Turnpike, Bear Creek Road, and Bethel Valley Road Checking Stations in the State of Tennessee to the National Register of Historic Places in 1992;

[(5) the Hanford Site has been nominated by the Richland Operations Office of the Department of Energy and the Washington State Historic Preservation Office for addition to the National Register of Historic Places;

[(6) a panel of experts convened by the Advisory Council on Historic Preservation in 2001 reported that the development and use of the atomic bomb during World War II has been called "the single most significant event of the 20th century" and recommended that various sites be formally established "as a collective unit administered for preservation, commemoration, and public interpretation in cooperation with the National Park Service";

[(7) the Advisory Council on Historic Preservation reported in 2001 that the preservation and interpretation of the historic sites of the Manhattan Project offer significant value as destinations for domestic and international tourists; and

[(8) preservation and interpretation of the Manhattan Project historic sites are necessary for present and future generations to fully appreciate the extraordinary undertaking and complex consequences of the Manhattan Project.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[(2) STUDY.—The term "study" means the study authorized by section 4(a).

[(3) STUDY AREA.—The term "study area" means the following Manhattan Project sites:

[(A) Los Alamos National Laboratory and townsite in the State of New Mexico.

[(B) The Trinity Site on the White Sands Missile Range in the State of New Mexico.

[(C) The Hanford Site in the State of Washington.

[(D) Oak Ridge Laboratory in the State of Tennessee.

[(E) Other significant sites relating to the Manhattan Project determined by the Secretary to be appropriate for inclusion in the study.

[SEC. 4. SPECIAL RESOURCE STUDY.

[(a) STUDY.——

[(1) IN GENERAL.—The Secretary shall conduct a special resource study of the study area to assess the national significance, suitability, and feasibility of designating the various historic sites and structures of the study area as a unit of the National Park System in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

[(2) ADMINISTRATION.—In conducting the study, the Secretary shall—

[(A) consult with the Secretary of Energy, the Secretary of Defense, State, tribal, and local officials, representatives of interested organizations, and members of the public; and

[(B) evaluate, in coordination with the Secretary of Energy and the Secretary of Defense, the compatibility of designating the study area, or 1 or more parts of the study area, as a national historical park or national historic site with maintaining security, productivity and management goals of the Department of Energy and the Department of Defense, and public health and safety.

[(b) REPORT.—Not later than 1 year after the date on which funds are made available to carry out the study, the Secretary shall submit to Congress a report that describes the findings of the study and any conclusions and recommendations of the Secretary.

[SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Manhattan Project National Historical Park Study Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STUDY.—The term "study" means the study authorized by section 3(a).

(3) STUDY AREA.—

(A) IN GENERAL.—The term "study area" means the historically significant sites associated with the Manhattan Project.

(B) INCLUSIONS.—The term "study area" includes—

(i) Los Alamos National Laboratory and townsite in the State of New Mexico;

(ii) the Hanford Site in the State of Washington; and

(iii) Oak Ridge Reservation in the State of Tennessee.

SEC. 3. SPECIAL RESOURCE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall conduct a special resource study of the study area to assess the national significance, suitability, and feasibility of designating 1 or more sites within the study area as a unit of the National Park System in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

(2) ADMINISTRATION.—In conducting the study, the Secretary shall—

(A) consult with interested Federal, State, tribal, and local officials, representatives of organizations, and members of the public;

(B) evaluate, in coordination with the Secretary of Energy, the compatibility of designating 1 or more sites within the study area as a unit of the National Park System with maintaining the security, productivity, and management goals of the Department of Energy and public health and safety; and

(C) consider research in existence on the date of enactment of this Act by the Department of Energy on the historical significance and feasibility of preserving and interpreting the various sites and structures in the study area.

(b) REPORT.—Not later than 2 years after the date on which funds are made available to carry out the study, the Secretary shall submit to Congress a report that describes the findings of the study and the conclusions and recommendations of the Secretary.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1687), as amended, was read the third time and passed.

CRAIG RECREATION LAND PURCHASE ACT

The Senate proceeded to consider the bill (S. 1778) to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Craig Recreation Land Purchase Act".

[SEC. 2. AUTHORIZATION FOR CONVEYANCE.

[If the City of Craig, Alaska, ("City") tenders all right, title and interest of the City in and to the municipal lands identified on the map entitled "Informational Map, Sunnahae Trail and Recreation Parcel and Craig Cannery Property" and dated August 2003, to the Secretary of Agriculture ("Secretary") within six months of the date the City receives the results of the appraisal conducted pursuant to section 4, the Secretary shall accept such tender.

[SEC. 3. ACQUISITION OF LAND BY THE CITY OF CRAIG.

[(a) Funds received by the City under section 2 shall be used by the City for the purchase of lands shown on the map entitled "Wards Cove Property," dated March 24, 1969.

[(b) The purchase of lands by the City under subsection (a) shall be for an amount equal to the appraised value of the lands conveyed to the Secretary by the City, except that the Secretary and the City may equalize the values by adjusting acreage or by payments not to exceed $100,000.

[SEC. 4. APPRAISAL.

[Prior to any conveyance, the Secretary shall—

[(1) conduct an appraisal of the lands identified for conveyance by the City, in accordance with and conforming to the most current versions of the Uniform Appraisal Standards for Federal Land Acquisitions, Uniform Standards of Professional Practice, and U.S. Forest Service Appraisal Directives; and

[(2) notify the City of the results of the appraisal.

[SEC. 5. MANAGEMENT OF CONVEYED LANDS.

[Lands received by the Secretary shall be included in the Tongass National Forest and shall be managed in accordance with the laws, regulations, and forest plan applicable to the Tongass National Forest.

[SEC. 6. AUTHORIZATION.

[There are authorized to be appropriated—

[(1) to the Forest Service for the reconstruction of the Sunnahae Trail $250,000; and

[(2) such sums as are necessary to carry out this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Craig Recreation Land Purchase Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) City.—The term "City" means the City of Craig, Alaska.

(2) Secretary.—The term "Secretary" means the Secretary of Agriculture.

SEC. 3. CONVEYANCE TO SECRETARY OF AGRICULTURE.

(a) In General.—If, not later than 180 days after the date on which the City receives a copy of the appraisal conducted under subsection (c), the City offers to convey to the Secretary all right, title, and interest of the City in and to the parcels of non-Federal land described in subsection (b), the Secretary, subject to the availability of appropriations, shall—

(1) accept the offer; and

(2) on conveyance of the land to the Secretary, pay to the City an amount equal to the appraised value of the land, as determined under subsection (c).

(b) Description of Land.—The non-Federal land referred to in subsection (a) consists of—

(1) the municipal land identified on the map entitled "Informational Map, Sunnahae Trail and Recreation Parcel and Craig Cannery Property" and dated August 2003;

(2) lots 1 and 1A, Block 11–A, as identified on the City of Craig Subdivision Plat, Craig Tideland Addition, Patent # 155 (Inst. 69–982, Ketchikan Recording Office), dated April 21, 2004, consisting of approximately 22,353 square feet of land; and

(3) the portion of Beach Road eastward of a projected line between the southwest corner of lot 1, Block 11, USS 1430 and the northwest corner of lot 1, Block 11–A, as identified on the City of Craig Subdivision Plat, Craig Tideland Addition, Patent # 155 (Inst. 69–982, Ketchikan Recording Office), dated April 21, 2004, consisting of approximately 4,700 square feet of land.

(c) Appraisals.—

(1) In general.—Before conveying the land under subsection (a), the Secretary shall—

(A) conduct an appraisal of the land, in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions;

(ii) the Uniform Standards of Professional Appraisal Practice; and

(iii) Forest Service Appraisal Directives; and

(B) submit to the City a copy of the appraisal.

(2) Payment of costs.—

(A) City.—The City shall pay the costs of appraising the land described in subsection (b)(1).

(B) Secretary.—The Secretary shall pay the costs of appraising the land described in paragraphs (2) and (3) of subsection (b).

(d) Management.—Any land acquired under subsection (a) shall be—

(1) included in the Tongass National Forest; and

(2) administered by the Secretary in accordance with the laws (including regulations) and forest plan applicable to the Tongass National Forest.

SEC. 4. ACQUISITION OF LAND BY THE CITY OF CRAIG.

The amount received by the City under section 3(a)(2) shall be used by the City to acquire the Craig cannery property, as depicted on the map entitled "Informational Map, Sunnahae Trail and Recreation Parcel and Craig Cannery Property" and dated August 2003.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Forest Service for the reconstruction of the Sunnahae Trail, $250,000; and

(2) such sums as are necessary to carry out this Act.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1778), as amended, was read the third time and passed.

LEASE LOT CONVEYANCE ACT OF 2002 AMENDMENTS

The bill (S. 1791) to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LEASE LOT CONVEYANCE.

Section 4(b) of the Lease Lot Conveyance Act of 2002 (116 Stat. 2879) is amended—

(1) by striking "As consideration" and inserting the following:

"(1) In general.—As consideration"; and

(2) by adding at the end the following:

"(2) Use.—Amounts received under paragraph (1) shall be—

"(A) deposited by the Secretary, on behalf of the Rio Grande Project, in the reclamation fund established under the first section of the Act of June 17, 1902 (43 U.S.C. 391); and

"(B) made immediately available to the Irrigation Districts, to be credited in accordance with section 4(I) of the Act of December 5, 1924 (43 U.S.C. 501).".

JOHNSTOWN FLOOD NATIONAL MEMORIAL BOUNDARY ADJUSTMENT ACT OF 2003

The bill (H.R. 1521) to provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

EXTENSION OF THE TERM OF FOREST COUNTIES PAYMENTS COMMITTEES

The bill (H.R. 3249) to extend the term of the Forest Counties Payments Committee, was considered, ordered to a third reading, read the third time, and passed.

ARAPAHO AND ROOSEVELT NATIONAL FORESTS LAND EXCHANGE ACT OF 2004

The Senate proceeded to consider the bill (S. 2180) to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Arapaho and Roosevelt National Forests Land Exchange Act of 2004".

[SEC. 2. LAND EXCHANGE, ARAPAHO AND ROOSEVELT NATIONAL FORESTS, COLORADO.

[(a) Conveyance by the City of Golden.—

[(1) Lands described.—The land exchange directed by this section shall proceed if, within 30 days after the date of the enactment of this Act, the City of Golden, Colorado (in the section referred to as the "City"), offers to convey title acceptable to the United States to the following non-Federal lands:

[(A) Certain lands located near the community of Evergreen in Park County, Colorado, comprising approximately 80 acres, as generally depicted on a map entitled "Non-Federal Lands—Cub Creek Parcel", dated June, 2003.

[(B) Certain lands located near Argentine Pass in Clear Creek and Summit Counties, Colorado, comprising approximately 55.909 acres in 14 patented mining claims, as generally depicted on a map entitled "Argentine Pass/Continental Divide Trail Lands", dated September 2003.

[(2) Conditions of conveyance.—The conveyance of lands under paragraph (1)(B) to the United States shall be subject to the absolute right of the City to permanently enter upon, utilize, and occupy so much of the surface and subsurface of the lands as may be reasonably necessary to access, maintain, repair, modify, make improvements in, or otherwise utilize the Vidler Tunnel to the same extent that the City would have had such right if the lands had not been conveyed to the United States and remained in City ownership. The exercise of such right shall not require the City to secure any permit or other advance approval from the United States. Upon acquisition by the United States, such lands are hereby permanently withdrawn from all forms of entry and appropriation under the public land laws, including the mining and mineral leasing laws, and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

[(b) CONVEYANCE BY UNITED STATES.—Upon receipt of acceptable title to the non-Federal lands identified in subsection (a), the Secretary of Agriculture shall simultaneously convey to the City all right, title and interest of the United States in and to certain Federal lands, comprising approximately 9.84 acres, as generally depicted on a map entitled "Empire Federal Lands—Parcel 12", dated June 2003.

[(c) EQUAL VALUE EXCHANGE.—

[(1) APPRAISAL.—The values of the Federal lands identified in subsection (b) and the non-Federal lands identified in subsection (a)(1)(A) shall be determined by the Secretary through appraisals performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions (December 20, 2000) and the Uniform Standards of Professional Appraisal Practice. Except as provided in paragraph (3), the conveyance of the non-Federal lands identified in subsection (a)(1)(B) shall be considered a donation for all purposes of law.

[(2) SURPLUS OF NON-FEDERAL VALUE.—If the final appraised value, as approved by the Secretary, of the non-Federal lands identified in subsection (a)(1)(A) exceeds the final appraised value, as approved by the Secretary, of the Federal land identified in subsection (b), the values may be equalized—

[(A) by reducing the acreage of the non-Federal lands identified in subsection (a) to be conveyed, as determined appropriate and acceptable by the Secretary and the City;

[(B) the making of a cash equalization payment to the City, including a cash equalization payment in excess of the amount authorized by section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)); or

[(C) a combination of acreage reduction and cash equalization.

[(3) SURPLUS OF FEDERAL VALUE.—If the final appraised value, as approved by the Secretary, of the Federal land identified in subsection (b) exceeds the final appraised value, as approved by the Secretary, of the non-Federal lands identified in subsection (a)(1)(A), the Secretary shall prepare a statement of value for the non-Federal lands identified in subsection (a)(1)(B) and utilize such value to the extent necessary to equalize the values of the non-Federal lands identified in subsection (a)(1)(A) and the Federal land identified in subsection (b). If the Secretary declines to accept the non-Federal lands identified in subsection (a)(1)(B) for any reason, the City shall make a cash equalization payment to the Secretary as necessary to equalize the values of the non-Federal lands identified in subsection (a)(1)(A) and the Federal land identified in subsection (b).

[(d) EXCHANGE COSTS.—To expedite the land exchange under this section and save administrative costs to the United States, the City shall be required to pay for—

[(1) any necessary land surveys; and

[(2) the costs of the appraisals, which shall be performed in accordance with Forest Service policy on approval of the appraiser and the issuance of appraisal instructions.

[(e) TIMING AND INTERIM AUTHORIZATION.—It is the intent of Congress that the land exchange directed by this Act shall be completed no later than 120 days after the date of the enactment of this Act. Pending completion of the land exchange, the City is authorized, effective on the date of the enactment of this Act, to construct a water pipeline on or near the existing course of the Lindstrom ditch through the Federal land identified in subsection (b) without further action or authorization by the Secretary, except that, prior to initiating any such construction, the City shall execute and convey to the Secretary a legal document that permanently holds the United States harmless for any and all liability arising from the construction of such water pipeline and indemnifies the United States against all costs arising from the United States' ownership of the Federal land, and any actions, operations or other acts of the City or its licensees, employees, or agents in constructing such water pipeline or engaging in other acts on the Federal land prior to its transfer to the City. Such encumbrance on the Federal land prior to conveyance shall not be considered for purposes of the appraisal.

[(f) ALTERNATIVE SALE AUTHORITY.—If the land exchange is not completed for any reason, the Secretary is hereby authorized and directed to sell the Federal land identified in subsection (b) to the City at its final appraised value, as approved by the Secretary. Any money received by the United States in such sale shall be considered money received and deposited pursuant to Public Law 90–171 (16 U.S.C. 484(a); commonly known as the "Sisk Act", and may be used, without further appropriation, for the acquisition of lands for addition to the National Forest System in the State of Colorado.

[(g) INCORPORATION, MANAGEMENT, AND STATUS OF ACQUIRED LANDS.—Land acquired by the United States under the land exchange shall become part of the Arapaho and Roosevelt National Forests, and the exterior boundary of such forest is hereby modified, without further action by the Secretary, as necessary to incorporate the non-Federal lands identified in subsection (a) and an additional 40 acres as depicted on a map entitled "Arapaho and Roosevelt National Forest Boundary Adjustment—Cub Creek", dated June 2003. Upon their acquisition, lands or interests in land acquired under the authority of this Act shall be administered in accordance with the laws, rules and regulations generally applicable to the National Forest System. For purposes of Section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Arapaho and Roosevelt National Forests, as adjusted by this subsection shall be deemed to be the boundaries of such forest as of January 1, 1965.

[(h) TECHNICAL CORRECTIONS.—The Secretary, with the agreement of the City, may make technical corrections or correct clerical errors in the maps referred to in this section or adjust the boundaries of the Federal lands to leave the United States with a manageable post-exchange or sale boundary. In the event of any discrepancy between a map, acreage estimate, or legal description, the map shall prevail unless the Secretary and the City agree otherwise.

[(i) REVOCATION OF ORDERS AND WITHDRAWAL.—Any public orders withdrawing any of the Federal lands identified in subsection (b) from appropriation or disposal under the public land laws are hereby revoked to the extent necessary to permit disposal of the Federal lands. Upon the enactment of this Act, if not already withdrawn or segregated from the entry and appropriation under the public land laws, including the mining and mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), the Federal lands are hereby withdrawn until the date of their conveyance to the City.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arapaho and Roosevelt National Forests Land Exchange Act of 2004".

SEC. 2. LAND EXCHANGE, ARAPAHO AND ROOSEVELT NATIONAL FORESTS, COLORADO.

(a) CONVEYANCE BY CITY OF GOLDEN.—

(1) NON-FEDERAL LAND DESCRIBED.—The land exchange directed by this section shall proceed if, not later than 30 days after the date of enactment of this Act, the City of Golden, Colorado (referred to in this section as the "City"), offers to convey title acceptable to the Secretary of Agriculture (referred to in this section as the "Secretary") to the following non-Federal land:

(A) Certain land located near the community of Evergreen in Park County, Colorado, comprising approximately 80 acres, as generally depicted on the map entitled "Non-Federal Lands—Cub Creek Parcel", dated June 2003.

(B) Certain land located near Argentine Pass in Clear Creek and Summit Counties, Colorado, comprising approximately 55.909 acres, as generally depicted on the map entitled "Argentine Pass/Continental Divide Trail Lands", dated September 2003.

(2) CONDITIONS OF CONVEYANCE.—

(A) VIDLER TUNNEL.—The conveyance of land under paragraph (1)(B) to the Secretary shall be subject to the continuing right of the City to permanently enter on, use, and occupy so much of the surface and subsurface of the land as reasonably is necessary to access, maintain, modify, or otherwise use the Vidler Tunnel to the same extent that the City would have had that right if the land had not been conveyed to the Secretary and remained in City ownership.

(B) ADVANCE APPROVAL.—The exercise of that right shall not require the City to secure any permit or other advance approval from the United States except to the extent that the City would have been required had the land not been conveyed to the Secretary and remained in City ownership.

(C) WITHDRAWAL.—On acquisition by the Secretary, the land is permanently withdrawn from all forms of entry and appropriation under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(b) FEDERAL LAND DESCRIBED.—On receipt of title to the non-Federal land identified in subsection (a) that is acceptable to the Secretary, the Secretary shall simultaneously convey to the City all right, title, and interest of the United States in and to certain Federal land, comprising approximately 9.84 acres, as generally depicted on the map entitled "Empire Federal Lands—Parcel 12", dated June 2003.

(c) EQUAL VALUE EXCHANGE.—

(1) APPRAISAL.—

(A) IN GENERAL.—The values of the Federal land identified in subsection (b) and the non-Federal land identified in subsection (a)(1)(A) shall be determined by the Secretary through appraisals performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(B) DONATION.—Except as provided in paragraph (3), the conveyance of the non-Federal land identified in subsection (a)(1)(B) shall be considered a donation for all purposes of law.

(2) SURPLUS OF NON-FEDERAL VALUE.—If the final appraised value (as approved by the Secretary) of the non-Federal land identified in subsection (a)(1)(A) exceeds the final appraised value (as approved by the Secretary) of the Federal land identified in subsection (b), the values may be equalized by—

(A) reducing the acreage of the non-Federal land identified in subsection (a)(1)(A) to be conveyed. as determined appropriate and acceptable by the Secretary and the City;

(B) making a cash equalization payment to the City, including a cash equalization payment in excess of the amount authorized by section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)); or

(C) a combination of acreage reduction and cash equalization.

(3) SURPLUS OF FEDERAL VALUE.—

(A) APPRAISAL.—If the final appraised value (as approved by the Secretary) of the Federal land identified in subsection (b) exceeds the final appraised value (as approved by the Secretary) of the non-Federal land identified in subsection (a)(1)(A), the Secretary shall—

(i) conduct an appraisal in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice for the non-Federal land to be conveyed pursuant to subsection (a)(1)(B); and

(ii) use the value to the extent necessary to equalize the values of the non-Federal land identified in subsection (a)(1)(A) and the Federal land identified in subsection (b).

(B) CASH EQUALIZATION PAYMENT.—If the Secretary declines to accept the non-Federal land identified in subsection (a)(1)(B) for any reason or if the value of the Federal land described in subsection (b) exceeds the value of all of the non-Federal land described in subsection (a)(1), the City may make a cash equalization payment to the Secretary, including a cash equalization payment in excess of the amount authorized by section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(d) EXCHANGE COSTS.—The City shall pay for—

(1) any necessary land surveys; and

(2) the costs of the appraisals, on approval of the appraiser and the issuance of appraisal instructions.

(e) TIMING AND INTERIM AUTHORIZATION.—

(1) TIMING.—It is the intent of Congress that the land exchange directed by this Act shall be completed not later than 180 days after the date of enactment of this Act.

(2) INTERIM AUTHORIZATION.—Pending completion of the land exchange, not later than 45 days after the date of enactment of this Act, subject to applicable law, the Secretary shall authorize the City to construct approximately 140 feet of water pipeline on or near the existing course of the Lindstrom ditch through the Federal land identified in subsection (b).

(f) ALTERNATIVE SALE AUTHORITY.—

(1) IN GENERAL.—If the land exchange is not completed for any reason, the Secretary shall sell the Federal land identified in subsection (b) to the City at the final appraised value of the land, as approved by the Secretary.

(2) SISK ACT.—Public Law 90–171 (commonly known as the "Sisk Act") (16 U.S.C. 484a) shall, without further appropriation, apply to any cash equalization payment received by the United States under this section.

(g) INCORPORATION, MANAGEMENT, AND STATUS OF ACQUIRED LAND.—

(1) INCORPORATION.—Land acquired by the United States under the land exchange shall become part of the Arapaho and Roosevelt National Forests.

(2) BOUNDARY.—The exterior boundary of the Forests is modified, without further action by the Secretary, as necessary to incorporate—

(A) the non-Federal land identified in subsection (a); and

(B) approximately an additional 80 acres as depicted on the map entitled "Arapaho and Roosevelt National Forest Boundary Adjustment- -Cub Creek", dated June 2003.

(3) ADMINISTRATION.—On acquisition, land or interests in land acquired under this section shall be administered in accordance with the laws (including rules and regulations) generally applicable to the National Forest System.

(4) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Arapaho and Roosevelt National Forests (as adjusted by this subsection) shall be deemed to be the boundaries of the Forests as of January 1, 1965.

(h) TECHNICAL CORRECTIONS.—The Secretary, with the agreement of the City, may make technical corrections or correct clerical errors in the maps referred to in this section.

(i) REVOCATION OF ORDERS AND WITHDRAWAL.—

(1) REVOCATION OF ORDERS.—Any public orders withdrawing any of the Federal land identified in subsection (b) from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(2) WITHDRAWAL.—On the date of enactment of this Act, if not already withdrawn or segregated from entry and appropriation under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), the Federal land identified in subsection (b) is withdrawn until the date of the conveyance of the Federal land to the City.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2180), as amended, was read the third time and passed.

EXTENSION OF THE DEADLINE FOR CONSTRUCTION TO COMMENCE ON A HYDROELECTRIC PROJECT IN ALASKA

The bill (S. 2243) to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska, was considered, read the third time, and passed, as follows:

S. 2243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 11480, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods beyond the date that is 4 years after the date of issuance of the license.

CARPINTERIA AND MONTECITO WATER DISTRIBUTION SYSTEMS CONVEYANCE OF 2003

The bill (H.R. 1648), to authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley Water District and the Montecito Water District, was considered, ordered to a third reading, read the third time, and passed.

WILLIAMSON COUNTY WATER RECYCLING ACT OF 2003

The bill (H.R. 1732), to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT TO THE RECLAMATION PROJECT AUTHORIZATION ACT OF 1972

The bill (H.R. 3209), to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project was considered, ordered to a third reading, read the third time, and passed.

NATIONAL AVIATION HERITAGE AREA ACT

The Senate proceeded to consider the bill (S. 180) to establish the National Aviation Heritage Area, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[TITLE I—NATIONAL AVIATION HERITAGE AREA

[SECTION 101. SHORT TITLE.

[This title may be cited as the "National Aviation Heritage Area Act".

[SEC. 102. FINDINGS AND PURPOSE.

[(a) FINDINGS.—Congress finds the following:

[(1) Few technological advances have transformed the world or our Nation's economy, society, culture, and national character as the development of powered flight.

[(2) The industrial, cultural, and natural heritage legacies of the aviation and aerospace industry in the State of Ohio are nationally significant.

[(3) Dayton, Ohio, and other defined areas where the development of the airplane and aerospace technology established our Nation's leadership in both civil and military aeronautics and astronautics set the foundation for the 20th Century to be an American Century.

[(4) Wright-Patterson Air Force Base in Dayton, Ohio, is the birthplace, the home, and an integral part of the future of aerospace.

[(5) The economic strength of our Nation is connected integrally to the vitality of the aviation and aerospace industry, which is responsible for an estimated 11,200,000 American jobs.

[(6) The industrial and cultural heritage of the aviation and aerospace industry in the State of Ohio includes the social history and living cultural traditions of several generations.

[(7) The Department of the Interior is responsible for protecting and interpreting the Nation's cultural and historic resources, and there are significant examples of these resources within Ohio to merit the involvement of the Federal Government to develop programs and projects in cooperation with the Aviation Heritage Foundation, Incorporated, the State of Ohio, and other local and governmental entities to adequately conserve, protect, and interpret this heritage for the educational and recreational benefit of this and future generations of Americans, while providing opportunities for education and revitalization.

[(8) Since the enactment of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419), partnerships among the Federal, State, and local governments and the private sector have greatly assisted the development and preservation of the historic aviation resources in the Miami Valley.

[(9) An aviation heritage area centered in Southwest Ohio is a suitable and feasible management option to increase collaboration, promote heritage tourism, and build on the established partnerships among Ohio's historic aviation resources and related sites.

[(10) A critical level of collaboration among the historic aviation resources in Southwest Ohio cannot be achieved without a congressionally established national heritage area and the support of the National Park Service and other Federal agencies which own significant historic aviation-related sites in Ohio.

[(11) The Aviation Heritage Foundation, Incorporated, would be an appropriate management entity to oversee the development of the National Aviation Heritage Area.

[(12) Five National Park Service and Dayton Aviation Heritage Commission studies and planning documents "Study of Alternatives: Dayton's Aviation Heritage", "Dayton Aviation Heritage National Historical Park Suitability/Feasibility Study", "Dayton Aviation Heritage General Management Plan", "Dayton Historic Resources Preservation and Development Plan", and Heritage Area Concept Study (in progress) demonstrated that sufficient historical resources exist to establish the National Aviation Heritage Area.

[(13) With the advent of the 100th anniversary of the first powered flight in 2003, it is recognized that the preservation of properties nationally significant in the history of aviation is an important goal for the future education of Americans.

[(14) Local governments, the State of Ohio, and private sector interests have embraced the heritage area concept and desire to enter into a partnership with the Federal Government to preserve, protect, and develop the Heritage Area for public benefit.

[(15) The National Aviation Heritage Area would complement and enhance the aviation-related resources within the National Park Service, especially the Dayton Aviation Heritage National Historical Park, Ohio.

[(b) PURPOSE.—The purpose of this title is to establish the Heritage Area to—

[(1) encourage and facilitate collaboration among the facilities, sites, organizations, governmental entities, and educational institutions within the Heritage Area to promote heritage tourism and to develop educational and cultural programs for the public;

[(2) preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, structures, facilities, and sites within the National Aviation Heritage Area;

[(3) encourage within the National Aviation Heritage Area a broad range of economic opportunities enhancing the quality of life for present and future generations;

[(4) provide a management framework to assist the State of Ohio, its political subdivisions, other areas, and private organizations, or combinations thereof, in preparing and implementing an integrated Management Plan to conserve their aviation heritage and in developing policies and programs that will preserve, enhance, and interpret the cultural, historical, natural, recreation, and scenic resources of the Heritage Area; and

[(5) authorize the Secretary to provide financial and technical assistance to the State of Ohio, its political subdivisions, and private organizations, or combinations thereof, in preparing and implementing the private Management Plan.

[SEC. 103. DEFINITIONS.

[For purposes of this title:

[(1) BOARD.—The term "Board" means the Board of Directors of the Foundation.

[(2) FINANCIAL ASSISTANCE.—The term "financial assistance" means funds appropriated by Congress and made available to the management entity for the purpose of preparing and implementing the Management Plan.

[(3) HERITAGE AREA.—The term "Heritage Area" means the National Aviation Heritage Area established by section 4 to receive, distribute, and account for Federal funds appropriated for the purpose of this title.

[(4) MANAGEMENT PLAN.—The term "Management Plan" means the management plan for the Heritage Area developed under section 106.

[(5) MANAGEMENT ENTITY.—The term "management entity" means the Aviation Heritage Foundation, Incorporated (a nonprofit corporation established under the laws of the State of Ohio).

[(6) PARTNER.—The term "partner" means a Federal, State, or local governmental entity, organization, private industry, educational institution, or individual involved in promoting the conservation and preservation of the cultural and natural resources of the Heritage Area.

[(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[(8) TECHNICAL ASSISTANCE.—The term "technical assistance" means any guidance, advice, help, or aid, other than financial assistance, provided by the Secretary.

[SEC. 104. NATIONAL AVIATION HERITAGE AREA.

[(a) ESTABLISHMENT.—There is established in the States of Ohio and Indiana, the National Aviation Heritage Area.

[(b) BOUNDARIES.—The Heritage Area shall include the following:

[(1) A core area consisting of resources in Montgomery, Greene, Warren, Miami, Clark, and Champaign Counties in Ohio.

[(2) The Neil Armstrong Air & Space Museum, Wapakoneta, Ohio, and the Wilbur Wright Birthplace and Museum, Millville, Indiana.

[(3) Sites, buildings, and districts within the core area recommended by the Management Plan.

[(c) MAP.—A map of the Heritage Area shall be included in the Management Plan. The map shall be on file in the appropriate offices of the National Park Service, Department of the Interior.

[(d) MANAGEMENT ENTITY.—The management entity for the Heritage Area shall be the Aviation Heritage Foundation.

[SEC. 105. AUTHORITIES AND DUTIES OF THE MANAGEMENT ENTITY.

[(a) AUTHORITIES.—For purposes of implementing the Management Plan, the management entity may use Federal funds made available through this Act to—

[(1) make grants to, and enter into cooperative agreements with, the State of Ohio and political subdivisions of that State, private organizations, or any person;

[(2) hire and compensate staff; and

[(3) enter into contracts for goods and services.

[(b) DUTIES.— The management entity shall—

[(1) develop and submit to the Secretary for approval the proposed Management Plan in accordance with section 106;

[(2) give priority to implementing actions set forth in the Management Plan, including taking steps to assist units of government and nonprofit organizations in preserving resources within the Heritage Area and encouraging local governments to adopt land use policies consistent with the management of the Heritage Area and the goals of the Management Plan;

[(3) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area in developing and implementing the Management Plan;

[(4) maintain a collaboration among the partners to promote heritage tourism and to assist partners to develop educational and cultural programs for the public;

[(5) encourage economic viability in the Heritage Area consistent with the goals of the Management Plan;

[(6) assist units of government and nonprofit organizations in—

[(A) establishing and maintaining interpretive exhibits in the Heritage Area;

[(B) developing recreational resources in the Heritage Area;

[(C) increasing public awareness of and appreciation for the historical, natural, and architectural resources and sites in the Heritage Area; and

[(D) restoring historic buildings that relate to the purposes of the Heritage Area;

[(7) assist units of government and nonprofit organizations to ensure that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are placed throughout the Heritage Area;

[(8) conduct public meetings at least quarterly regarding the implementation of the Management Plan;

[(9) submit substantial amendments to the Management Plan to the Secretary for the approval of the Secretary; and

[(10) for any year in which Federal funds have been received under this Act—

[(A) submit an annual report to the Secretary that sets forth the accomplishments of the management entity and its expenses and income;

[(B) make available to the Secretary for audit all records relating to the expenditure of such funds and any matching funds; and

[(C) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of such funds.

[(c) USE OF FEDERAL FUNDS.—

[(1) IN GENERAL.—The management entity shall not use Federal funds received under this Act to acquire real property or an interest in real property.

[(2) OTHER SOURCES.—Nothing in this Act precludes the management entity from using Federal funds from other sources for authorized purposes.

[SEC. 106. MANAGEMENT PLAN.

[(a) PREPARATION OF PLAN.—Not later than 3 years after the date of enactment of this Act, the management entity shall submit to the Secretary for approval a proposed Management Plan that shall take into consideration State and local plans and involve residents, public agencies, and private organizations in the Heritage Area.

[(b) CONTENTS.—The Management Plan shall incorporate an integrated and cooperative approach for the protection, enhancement, and interpretation of the natural, cultural, historic, scenic, and recreational resources of the Heritage Area and shall include the following:

[(1) An inventory of the resources contained in the core area of the Heritage Area, including the Dayton Aviation Heritage Historical Park, the sites, buildings, and districts listed in section 202 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419), and any other property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, or maintained because of its significance.

[(2) An assessment of cultural landscapes within the Heritage Area.

[(3) Provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with the purposes of this Act.

[(4) An interpretation plan for the Heritage Area.

[(5) A program for implementation of the Management Plan by the management entity, including the following:

[(A) Facilitating ongoing collaboration among the partners to promote heritage tourism and to develop educational and cultural programs for the public.

[(B) Assisting partners planning for restoration and construction.

[(C) Specific commitments of the partners for the first 5 years of operation.

[(6) The identification of sources of funding for implementing the plan.

[(7) A description and evaluation of the management entity, including its membership and organizational structure.

[(c) DISQUALIFICATION FROM FUNDING.—If a proposed Management Plan is not submitted to the Secretary within 3 years of the date of the enactment of this Act, the management entity shall be ineligible to receive additional funding under this Act until the date on which the Secretary receives the proposed Management Plan.

[(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—The Secretary, in consultation with the State of Ohio, shall approve or disapprove the proposed Management Plan submitted under this Act not later than 90 days after receiving such proposed Management Plan.

[(e) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a proposed Management Plan, the Secretary shall advise the management entity in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed Management Plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

[(f) APPROVAL OF AMENDMENTS.—The Secretary shall review and approve substantial amendments to the Management Plan. Funds appropriated under this Act may not be expended to implement any changes made by such amendment until the Secretary approves the amendment.

[SEC. 107. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

[(a) TECHNICAL AND FINANCIAL ASSISTANCE.—Upon the request of the management entity, the Secretary may provide technical assistance, on a reimbursable or nonreimbursable basis, and financial assistance to the Heritage Area to develop and implement the Management Plan. The Secretary is authorized to enter into cooperative agreements with the management entity and other public or private entities for this purpose. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

[(1) conserving the significant natural, historic, cultural, and scenic resources of the Heritage Area; and

[(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

[(b) DUTIES OF OTHER FEDERAL AGENCIES.—Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

[(1) consult with the Secretary and the management entity with respect to such activities;

[(2) cooperate with the Secretary and the management entity in carrying out their duties under this Act;

[(3) to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

[(4) to the maximum extent practicable, conduct or support such activities in a manner which the management entity determines will not have an adverse effect on the Heritage Area.

[SEC. 108. COORDINATION BETWEEN THE SECRETARY AND THE SECRETARY OF DEFENSE AND THE ADMINISTRATOR OF NASA.

[The decisions concerning the execution of this title as it applies to properties under the control of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall be made by such Secretary or such Administrator, in consultation with the Secretary of the Interior.

[SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—To carry out this title there is authorized to be appropriated **$10,000,000**, except that not more than **$1,000,000** may be appropriated to carry out this title for any fiscal year.

[(b) 50 PERCENT MATCH.—The Federal share of the cost of activities carried out using any assistance or grant under this title shall not exceed 50 percent.

[SEC. 110. SUNSET PROVISION.

[The authority of the Secretary to provide assistance under this title terminates on the date that is 15 years after the date of enactment of this title.

[TITLE II—WRIGHT COMPANY FACTORY STUDY

[SEC. 201. STUDY.

[(a) IN GENERAL.—The Secretary shall conduct a special resource study updating the study required under section 104 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419) and detailing alternatives for incorporating the Wright Company factory as a unit of Dayton Aviation Heritage National Historical Park.

[(b) CONTENTS.—The study shall include an analysis of alternatives for including the Wright Company factory as a unit of Dayton Aviation Heritage National Historical Park that detail management and development options and costs.

[(c) CONSULTATION.—In conducting the study, the Secretary shall consult with the Delphi Corporation, the Dayton Aviation Heritage Commission, the Aviation Heritage Foundation, State and local agencies, and other interested parties in the area.

[SEC. 202. REPORT.

[Not later than 3 years after funds are first made available for this title, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the study conducted under section 201.]

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is us follows:

Sec. 1. Table of contents.

TITLE I—NATIONAL AVIATION HERITAGE AREA

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. National Aviation Heritage Area.
Sec. 104. Management plan.
Sec. 105. Administration.
Sec. 106. Technical and financial assistance; other Federal agencies.
Sec. 107. Authorization of appropriations.
Sec. 108. Termination of authority.

TITLE II—WRIGHT COMPANY FACTORY STUDY

Sec. 201. Definitions.
Sec. 202. Study.
Sec. 203. Report.

TITLE I—NATIONAL AVIATION HERITAGE AREA

SEC. 101. SHORT TITLE.

This title may be cited as the "National Aviation Heritage Area Act".

SEC. 102. DEFINITIONS.

In this title:

(1) HERITAGE AREA.—The term "Heritage Area" means the National Aviation Heritage Area established by section 103(a).

(2) MANAGEMENT ENTITY.—The term "management entity" means the Aviation Heritage Foundation, Incorporated, a nonprofit corporation established under the laws of the State of Ohio.

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan for the Heritage Area developed under section 104.

(4) PARTNER.—The term "partner" means—

(A) a Federal, State, or local governmental entity; or

(B) an organization, private industry, or person involved in promoting the conservation and preservation of the cultural and natural resources of the Heritage Area.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 103. NATIONAL AVIATION HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the States of Ohio and Indiana the National Aviation Heritage Area.

(b) BOUNDARIES.—

(1) IN GENERAL.—The Heritage Area shall include—

(A) a core area consisting of resources in Montgomery, Greene, Warren, Miami, Clark, Shelby, Auglaize, and Champaign Counties in the State of Ohio;

(B) the Neil Armstrong Air & Space Museum, Wapakoneta, Ohio;

(C) the Wilbur Wright Birthplace and Museum, Millville, Indiana; and

(D) any sites, buildings, and districts within the core area described in subparagraph (A) that are recommended for inclusion in the Heritage Area in the management plan.

(2) MAP.—

(A) IN GENERAL.—The Secretary shall prepare a map of the Heritage Area for inclusion in the management plan.

(B) AVAILABILITY.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 104. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the management entity shall submit to the Secretary for approval a management plan for the Heritage Area.

(b) REQUIREMENTS.—The management plan shall—

(1) incorporate an integrated and cooperative approach for the protection, enhancement, and interpretation of the natural, cultural, historic, scenic, and recreational resources of the Heritage Area;

(2) take into consideration Federal, State, and local plans;

(3) involve residents, public agencies, and private organizations in the Heritage Area;

(4) include—

(A) an assessment of cultural landscapes in the Heritage Area;

(B) provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area that are consistent with the purposes of this title;

(C) an interpretation plan for the Heritage Area;

(D) a program for the implementation of the management plan by the management entity that includes—

(i) provisions for facilitating ongoing collaboration among the partners to—

(I) promote heritage tourism; and

(II) develop educational and cultural programs for the public;

(ii) provisions for assisting partners in plans for restoration and construction of the Heritage Area; and

(iii) to the maximum extent practicable, specific commitments from partners for the first 5 years of operation of the Heritage Area; and

(E) an inventory of the resources contained in the core area of the Heritage Area, including—

(i) the Dayton Aviation Heritage Historical Park;

(ii) the sites, buildings, and districts listed in section 202 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419); and

(iii) any other property that—

(I) is related to the themes of the Heritage Area; and

(II) should be preserved, restored, managed, or maintained because of the significance of the property;

(5) identify sources of funding for the implementation of the management plan; and

(6) describe and evaluate the management entity, including a description and evaluation of—

(A) the membership of the management entity; and

(B) the organizational structure of the management entity.

(c) FAILURE TO SUBMIT.—If the management entity fails to submit the management plan by the date described in subsection (a), the Secretary shall not provide any additional funding under this title to the management entity until the date on which the management entity submits a management plan to the Secretary.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLANS.—

(1) IN GENERAL.—Not later than 90 days after the date of the receipt of the management plan under subsection (a), the Secretary, in consultation with the State of Ohio, shall approve or disapprove the plan.

(2) DISAPPROVAL AND REVISION.—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—

(A) advise the management entity in writing of the reasons for the disapproval;

(B) make recommendations for revisions to the management plan; and

(C) not later than 90 days after the receipt of any proposed revision of the management plan from the management entity, approve or disapprove the proposed revision.

(e) AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review each amendment to the management plan that the Secretary determines may make a substantial change to the management plan.

(2) USE OF FUNDS.—Funds made available under this title shall not be expended to implement an amendment described in paragraph (1) until the Secretary approves the amendment.

SEC. 105. ADMINISTRATION.

(a) IN GENERAL.—The management entity shall administer the Heritage Area in accordance with this title.

(b) AUTHORITIES.—The management entity may, for purposes of implementing the management plan, use Federal funds made available under this title to—

(1) make grants to, and enter into cooperative agreements with—

(A) the State of Ohio (including a political subdivision of the State);

(B) a private organization; or

(C) any person;

(2) hire and compensate staff;

(3) contract for goods and services; and

(4) obtain funds from any source (including a program that has a cost-sharing requirement).

(c) DUTIES OF MANAGEMENT ENTITY.—In addition to developing the management plan under section 104, in carrying out this title, the management entity shall—

(1) give priority to the implementation of actions set forth in the management plan, including—

(A) assisting units of government and nonprofit organizations in preserving the resources of the Heritage Area; and

(B) encouraging local governments to adopt land use policies that are consistent with—

(i) the management of the Heritage Area; and

(ii) the goals of the management plan;

(2) in developing and implementing the management plan, consider the interests of diverse governmental, business, and nonprofit organizations in the Heritage Area;

(3) maintain a collaboration among the partners to promote heritage tourism;

(4) assist partners in developing educational and cultural programs for the public;

(5) encourage economic viability in the Heritage Area in accordance with the goals of the management plan;

(6) assist units of government and nonprofit organizations in—

(A) establishing and maintaining interpretive exhibits in the Heritage Area;

(B) developing recreational resources in the Heritage Area;

(C) increasing public awareness of and appreciation for the historical, natural, and architectural resources and sites of the Heritage Area;

(D) installing throughout the Heritage Area, clear, consistent, and environmentally appropriate signs that identify access points and sites of interest; and

(E) restoring historic buildings that relate to the purposes of the Heritage Area;

(7) conduct public meetings at least quarterly regarding the implementation of the management plan;

(8) submit to the Secretary for approval substantial amendments to the management plan; and

(9) for any fiscal year for which Federal funds are made available to carry out this Act under section 107—

(A) submit to the Secretary a report that describes, for the fiscal year—

(i) any activities conducted by the management entity with respect to the Heritage Area; and

(ii) any expenses incurred by the management entity in carrying out this title;

(B) make available to the Secretary for audit all records relating to the expenditure of the funds and any matching funds; and

(C) require, for all agreements authorizing the expenditure of Federal funds by any entity, that the receiving entity make available to the Secretary for audit all records relating to the expenditure of the funds.

(d) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—

(1) USE OF FEDERAL FUNDS.—The management entity shall not use Federal funds made available under this title to acquire real property or any interest in real property.

(2) FUNDS FROM OTHER SOURCES.—The management entity may acquire real property or an interest in real property using non-Federal funds.

SEC. 106. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—On the request of the management entity, the Secretary may provide to the Heritage Area technical assistance, on a reimbursable or nonreimbursable basis, and financial assistance for use in the development and implementation of the management plan.

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into a cooperative agreement with the management entity or other public or private organizations for purposes of providing technical or financial assistance under paragraph (1).

(3) PRIORITY FOR ASSISTANCE.—In providing technical or financial assistance under paragraph (1), the Secretary shall give priority to actions that assist in—

(A) conserving the significant historical, cultural, and natural resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(b) OPERATIONAL ASSISTANCE.—Subject to the availability of appropriations, the Secretary may provide to public or private organizations in the Heritage Area such operational assistance as is appropriate to support the implementation of the management plan.

(c) DUTIES OF OTHER FEDERAL AGENCIES.—A Federal agency conducting or supporting any activity directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to the activity;

(2) cooperate with the Secretary and the management entity in carrying out the duties of the Secretary and the management entity under this title;

(3) to the maximum extent practicable, coordinate the activity with the duties of the Secretary and the management entity under this title; and

(4) conduct or support the activity in a manner that, to the maximum extent practicable, will not have an adverse effect on the Heritage Area, as determined by the management entity.

(d) COORDINATION BETWEEN THE SECRETARY, THE SECRETARY OF DEFENSE, AND THE ADMINISTRATOR OF NASA.—Any decision relating to the application of this title to properties under the jurisdiction of the Secretary of Defense or the Administrator of the National Aeronautics and Space Administration shall be made by the Secretary of Defense or the Administrator, respectively, in consultation with the Secretary.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $10,000,000, *of which not more than $1,000,000 may be made available for any fiscal year.*

(b) FEDERAL SHARE.—The Federal share of the total cost of any activity assisted under this title shall be not more than 50 percent.

SEC. 108. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this title terminates on the date that is 15 years after the date of enactment of this Act.

TITLE II—WRIGHT COMPANY FACTORY STUDY

SEC. 201. DEFINITIONS.

In this title:

(1) FACTORY.—The term "Factory" means the Wright Company factory in Dayton, Ohio.

(2) PARK.—The term "park" means the Dayton Aviation Heritage National Historical Park in the State of Ohio.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 202. STUDY.

(a) IN GENERAL.—The Secretary shall conduct a special resource study that—

(1) updates the study required under section 104 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419); and

(2) describes alternatives for incorporating the Factory as a unit of the Park.

(b) CONTENTS.—The study shall include an analysis of the alternatives described under subsection (a)(2), including an analysis of management and development options and costs.

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with—

(1) the Delphi Corporation;

(2) the Aviation Heritage Foundation;

(3) State and local agencies; and

(4) other interested parties in the area in which the Factory is located.

SEC. 203. REPORT.

Not later than 3 years after the date on which funds are first made available to carry out this title, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes the results of the study conducted under this title.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 180), as amended, was read the third time and passed.

NORTHERN RIO GRANDE NATIONAL HERITAGE AREA ACT

The bill (S. 211), to establish the Northern Rio Grande National Heritage Area in the State of New Mexico, and for other purposes, was considered, read the third time, and passed, as follows:

S. 211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Rio Grande National Heritage Area Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) northern New Mexico encompasses a mosaic of cultures and history, including eight Pueblos and the descendants of Spanish ancestors who settled in the area in 1598;

(2) the combination of cultures, languages, folk arts, customs, and architecture make northern New Mexico unique;

(3) the area includes spectacular natural, scenic, and recreational resources;

(4) there is broad support from local governments and interested individuals to establish a National Heritage Area to coordinate and assist in the preservation and interpretation of these resources;

(5) in 1991, the National Park Service study Alternative Concepts for Commemorating Spanish Colonization identified several alternatives consistent with the establishment of a National Heritage Area, including conducting a comprehensive archaeological and historical research program, coordinating a comprehensive interpretation program, and interpreting a cultural heritage scene; and

(6) establishment of a National Heritage Area in northern New Mexico would assist local communities and residents in preserving these unique cultural, historical and natural resources.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "heritage area" means the Northern Rio Grande Heritage Area; and

(2) the term "Secretary" means the Secretary of the Interior.

SEC. 4. NORTHERN RIO GRANDE NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Northern Rio Grande National Heritage Area in the State of New Mexico.

(b) BOUNDARIES.—The heritage area shall include the counties of Santa Fe, Rio Arriba, and Taos.

(c) MANAGEMENT ENTITY.—

(1) The Northern Rio Grande National Heritage Area, Inc., a non-profit corporation chartered in the State of New Mexico, shall serve as the management entity for the heritage area.

(2) The Board of Directors for the management entity shall include representatives of the State of New Mexico, the counties of Santa Fe, Rio Arriba and Taos, tribes and pueblos within the heritage area, the cities of Santa Fe, Espanola and Taos, and members of the general public. The total number of Board members and the number of Directors representing State, local and tribal governments and interested communities shall be established to ensure that all parties have appropriate representation on the Board.

SEC. 5. AUTHORITY AND DUTIES OF THE MANAGEMENT ENTITY.

(a) MANAGEMENT PLAN.—

(1) Not later than 3 years after the date of enactment of this Act, the management entity shall develop and forward to the Secretary a management plan for the heritage area.

(2) The management entity shall develop and implement the management plan in cooperation with affected communities, tribal and local governments and shall provide for public involvement in the development and implementation of the management plan.

(3) The management plan shall, at a minimum—

(A) provide recommendations for the conservation, funding, management, and development of the resources of the heritage area;

(B) identify sources of funding;

(C) include an inventory of the cultural, historical, archaeological, natural, and recreational resources of the heritage area;

(D) provide recommendations for educational and interpretive programs to inform the public about the resources of the heritage area; and

(E) include an analysis of ways in which local, State, Federal, and tribal programs may best be coordinated to promote the purposes of this Act.

(4) If the management entity fails to submit a management plan to the secretary as provided in paragraph (1), the heritage area shall no longer be eligible to receive Federal funding under this Act until such time as a plan is submitted to the Secretary.

(5) The Secretary shall approve or disapprove the management plan within 90 days after the date of submission. If the Secretary disapproves the management plan, the Secretary shall advise the management entity in writing of the reasons therefore and shall make recommendations for revisions to the plan.

(6) The management entity shall periodically review the management plan and submit to the Secretary any recommendations for proposed revisions to the management plan. Any major revisions to the management plan must be approved by the Secretary.

(b) AUTHORITY.—The management entity may make grants and provide technical assistance to tribal and local governments, and other public and private entities to carry out the management plan.

(c) DUTIES.—The management entity shall—

(1) give priority in implementing actions set forth in the management plan;

(2) coordinate with tribal and local governments to better enable them to adopt land use policies consistent with the goals of the management plan;

(3) encourage by appropriate means economic viability in the heritage area consistent with the goals of the management plan; and

(4) assist local and tribal governments and non-profit organizations in—

(A) establishing and maintaining interpretive exhibits in the heritage area;

(B) developing recreational resources in the heritage area;

(C) increasing public awareness of, and appreciation for, the cultural, historical, archaeological and natural resources and sits in the heritage area;

(D) the restoration of historic structures related to the heritage area; and

(E) carrying out other actions that the management entity determines appropriate to fulfill the purposes of this Act, consistent with the management plan.

(d) PROHIBITION ON ACQUIRING REAL PROPERTY.—The management entity may not use Federal funds received under this Act to acquire real property or an interest in real property.

(e) PUBLIC MEETINGS.—The management entity shall hold public meetings at least annually regarding the implementation of the management plan.

(f) ANNUAL REPORTS AND AUDITS.—

(1) For any year in which the management entity receives Federal funds under this Act, the management entity shall submit an annual report to the Secretary setting forth accomplishments, expenses and income, and each entity to which any grant was made by the management entity.

(2) The management entity shall make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds. The management entity shall also require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organization make available to the Secretary for audit all records concerning the expenditure of those funds.

SEC. 6. DUTIES OF THE SECRETARY.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may, upon request of the management entity, provide technical and financial assistance to develop and implement the management plan.

(b) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give priority to actions that facilitate—

(1) the conservation of the significant natural, cultural, historical, archaeological, scenic, and recreational resources of the heritage area; and

(2) the provision of educational, interpretive, and recreational opportunities consistent with the resources and associated values of the heritage area.

SEC. 7. SAVINGS PROVISIONS.

(a) NO EFFECT ON PRIVATE PROPERTY.—Nothing in this Act shall be construed—

(1) to modify, enlarge, or diminish any authority of Federal, State, or local governments to regulate any use of privately owned lands; or

(2) to grant the management entity any authority to regulate the use of privately owned lands.

(b) TRIBAL LANDS.—Nothing in this Act shall restrict or limit a tribe from protecting cultural or religious sites on tribal lands.

(c) AUTHORITY OF GOVERNMENTS.—Nothing in this Act shall—

(1) modify, enlarge, or diminish any authority of Federal, State, tribal, or local governments to manage or regulate any use of land as provided for by law or regulation; or

(2) authorize the management entity to assume any management authorities over such lands.

(d) TRUST RESPONSIBILITIES.—Nothing in this Act shall diminish the Federal Government's trust responsibilities or government-to-government obligations to any federally recognized Indian tribe.

SEC. 8. SUNSET.

The authority of the Secretary to provide assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act **$10,000,000**, of which not more than **$1,000,000** may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity assisted under this Act shall be not more than 50 percent.

ATCHAFALAYA NATIONAL HERITAGE AREA ACT

The Senate proceeded to consider the bill (S. 323) to establish the Atchafalaya National Heritage Area, Louisiana, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Atchafalaya National Heritage Area Act".

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) the Atchafalaya Basin area of Louisiana, designated by the Louisiana Legislature as the "Atchafalaya Trace State Heritage Area" and consisting of the area described in section 5(b), is an area in which natural, scenic, cultural, and historic resources form a cohesive and nationally distinctive landscape arising from patterns of human activity shaped by geography;

[(2) the significance of the area is enhanced by the continued use of the area by people whose traditions have helped shape the landscape;

[(3) there is a national interest in protecting, conserving, restoring, promoting, and interpreting the benefits of the area for the residents of, and visitors to, the area;

[(4) the area represents an assemblage of rich and varied resources forming a unique aspect of the heritage of the United States;

[(5) the area reflects a complex mixture of people and their origins, traditions, customs, beliefs, and folkways of interest to the public;

[(6) the land and water of the area offer outstanding recreational opportunities, educational experiences, and potential for interpretation and scientific research; and

[(7) local governments of the area support the establishment of a national heritage area.

[SEC. 3. PURPOSES.

[The purposes of this Act are—

[(1) to protect, preserve, conserve, restore, promote, and interpret the significant resource values and functions of the Atchafalaya Basin area and advance sustainable economic development of the area;

[(2) to foster a close working relationship with all levels of government, the private sector, and the local communities in the area so as to enable those communities to conserve their heritage while continuing to pursue economic opportunities; and

[(3) to establish, in partnership with the State, local communities, preservation organizations, private corporations, and landowners in the Heritage Area, the Atchafalaya Trace State Heritage Area, as designated by the Louisiana Legislature, as the Atchafalaya National Heritage Area.

[SEC. 4. DEFINITIONS.

[In this Act:

[(1) HERITAGE AREA.—The term "Heritage Area" means the Atchafalaya National Heritage Area established by section 5(a).

[(2) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the local coordinating entity for the Heritage Area designated by section 5(c).

[(3) MANAGEMENT PLAN.—The term "management plan" means the management plan for the Heritage Area developed under section 7.

[(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[(5) STATE.—The term "State" means the State of Louisiana.

[SEC. 5. ATCHAFALAYA NATIONAL HERITAGE AREA.

[(a) ESTABLISHMENT.—There is established in the State the Atchafalaya National Heritage Area.

[(b) BOUNDARIES.—The Heritage Area shall consist of the whole of the following parishes in the State: St. Mary, Iberia, St. Martin, St. Landry, Avoyelles, Pointe Coupee, Iberville, Assumption, Terrebonne, Lafayette, West Baton Rouge, Concordia, and East Baton Rouge.

[(c) LOCAL COORDINATING ENTITY.—

[(1) IN GENERAL.—The Atchafalaya Trace Commission shall be the local coordinating entity for the Heritage Area.

[(2) COMPOSITION.—The local coordinating entity shall be composed of 13 members appointed by the governing authority of each parish within the Heritage Area.

[SEC. 6. AUTHORITIES AND DUTIES OF THE LOCAL COORDINATING ENTITY.

[(a) AUTHORITIES.—For the purposes of developing and implementing the management plan and otherwise carrying out this Act, the local coordinating entity may—

[(1) make grants to, and enter into cooperative agreements with, the State, units of local government, and private organizations;

[(2) hire and compensate staff; and

[(3) enter into contracts for goods and services.

[(b) DUTIES.—The local coordinating entity shall—

[(1) submit to the Secretary for approval a management plan;

[(2) implement the management plan, including providing assistance to units of government and others in—

[(A) carrying out programs that recognize important resource values within the Heritage Area;

[(B) encouraging sustainable economic development within the Heritage Area;

[(C) establishing and maintaining interpretive sites within the Heritage Area; and

[(D) increasing public awareness of, and appreciation for the natural, historic, and cultural resources of, the Heritage Area;

[(3) adopt bylaws governing the conduct of the local coordinating entity; and

[(4) for any year for which Federal funds are received under this Act, submit to the Secretary a report that describes, for the year—

[(A) the accomplishments of the local coordinating entity; and

[(B) the expenses and income of the local coordinating entity.

[(c) ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds received under this Act to acquire real property or an interest in real property.

[(d) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least quarterly.

[SEC. 7. MANAGEMENT PLAN.

[(a) IN GENERAL.—The local coordinating entity shall develop a management plan for the Heritage Area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, scenic, cultural, historic, and recreational resources of the Heritage Area.

[(b) CONSIDERATION OF OTHER PLANS AND ACTIONS.—In developing the management plan, the local coordinating entity shall—

[(1) take into consideration State and local plans; and

[(2) invite the participation of residents, public agencies, and private organizations in the Heritage Area.

[(c) CONTENTS.—The management plan shall include—

[(1) an inventory of the resources in the Heritage Area, including—

[(A) a list of property in the Heritage Area that—

[(i) relates to the purposes of the Heritage Area; and

[(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

[(B) an assessment of cultural landscapes within the Heritage Area;

[(2) provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with this Act;

[(3) an interpretation plan for the Heritage Area; and

[(4) a program for implementation of the management plan that includes—

[(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the Heritage Area; and

[(B) the identification of existing and potential sources of funding for implementing the plan.

[(d) SUBMISSION TO SECRETARY FOR APPROVAL.—

[(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the local coordinating entity shall submit the management plan to the Secretary for approval.

[(2) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this Act until a management plan for the Heritage Area is submitted to the Secretary.

[(e) APPROVAL.—

[(1) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under subsection (d)(1), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

[(2) ACTION FOLLOWING DISAPPROVAL.—

[(A) IN GENERAL.—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—

[(i) advise the local coordinating entity in writing of the reasons for the disapproval;

[(ii) make recommendations for revisions to the management plan; and

[(iii) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

[(B) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

[(f) REVISION.—

[(1) IN GENERAL.—After approval by the Secretary of a management plan, the local coordinating entity shall periodically—

[(A) review the management plan; and

[(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any revisions to the management plan that the local coordinating entity considers to be appropriate.

[(2) EXPENDITURE OF FUNDS.—No funds made available under this Act shall be used to implement any revision proposed by the local coordinating entity under paragraph (1)(B) until the Secretary approves the revision.

[SEC. 8. EFFECT OF ACT.

[Nothing in this Act or in establishment of the Heritage Area—

[(1) grants any Federal agency regulatory authority over any interest in the Heritage Area, unless cooperatively agreed on by all involved parties;

[(2) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act;

[(3) grants any power of zoning or land use to the local coordinating entity;

[(4) imposes any environmental, occupational, safety, or other rule, standard, or permitting process that is different from those in effect on the date of enactment of this Act that would be applicable had the Heritage Area not been established;

[(5)(A) imposes any change in Federal environmental quality standards; or

[(B) authorizes designation of any portion of the Heritage Area that is subject to part C of title I of the Clean Air Act (42 U.S.C. 7470 et seq.) as class 1 for the purposes of that part solely by reason of the establishment of the Heritage Area;

[(6) authorizes any Federal or State agency to impose more restrictive water use designations, or water quality standards on uses of or discharges to, waters of the United States or waters of the State within or adjacent to the Heritage Area solely by reason of the establishment of the Heritage Area;

[(7) abridges, restricts, or alters any applicable rule, standard, or review procedure for permitting of facilities within or adjacent to the Heritage Area; or

[(8) affects the continuing use and operation, where located on the date of enactment of this Act, of any public utility or common carrier.

[SEC. 9. REPORTS.

[For any year in which Federal funds have been made available under this Act, the local coordinating entity shall submit to the Secretary a report that describes—

[(1) the accomplishments of the local coordinating entity; and

[(2) the expenses and income of the local coordinating entity.

[SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

[There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 shall be made available for any fiscal year.

[SEC. 11. TERMINATION OF AUTHORITY.

[The Secretary shall not provide any assistance under this Act after September 30, 2017.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Atchafalaya National Heritage Area Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term "Heritage Area" means the Atchafalaya National Heritage Area established by section 3(a).

(2) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the local coordinating entity for the Heritage Area designated by section 3(c).

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan for the Heritage Area developed under section 5.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) STATE.—The term "State" means the State of Louisiana.

SEC. 3. ATCHAFALAYA NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State the Atchafalaya National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of the whole of the following parishes in the State: St. Mary, Iberia, St. Martin, St. Landry, Avoyelles, Pointe Coupee, Iberville, Assumption, Terrebonne, Lafayette, West Baton Rouge, Concordia, and East Baton Rouge.

(c) LOCAL COORDINATING ENTITY.—

(1) IN GENERAL.—The Atchafalaya Trace Commission shall be the local coordinating entity for the Heritage Area.

(2) COMPOSITION.—The local coordinating entity shall be composed of 13 members appointed by the governing authority of each parish within the Heritage Area.

SEC. 4. AUTHORITIES AND DUTIES OF THE LOCAL COORDINATING ENTITY.

(a) AUTHORITIES.—For the purposes of developing and implementing the management plan and otherwise carrying out this Act, the local coordinating entity may—

(1) make grants to, and enter into cooperative agreements with, the State, units of local government, and private organizations;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) DUTIES.—The local coordinating entity shall—

(1) submit to the Secretary for approval a management plan;

(2) implement the management plan, including providing assistance to units of government and others in—

(A) carrying out programs that recognize important resource values within the Heritage Area;

(B) encouraging sustainable economic development within the Heritage Area;

(C) establishing and maintaining interpretive sites within the Heritage Area; and

(D) increasing public awareness of, and appreciation for the natural, historic, and cultural resources of, the Heritage Area;

(3) adopt bylaws governing the conduct of the local coordinating entity; and

(4) for any year for which Federal funds are received under this Act, submit to the Secretary a report that describes, for the year—

(A) the accomplishments of the local coordinating entity; and

(B) the expenses and income of the local coordinating entity.

(c) ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds received under this Act to acquire real property or an interest in real property.

(d) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least quarterly.

SEC. 5. MANAGEMENT PLAN.

(a) IN GENERAL.—The local coordinating entity shall develop a management plan for the Heritage Area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, scenic, cultural, historic, and recreational resources of the Heritage Area.

(b) CONSIDERATION OF OTHER PLANS AND ACTIONS.—In developing the management plan, the local coordinating entity shall—

(1) take into consideration State and local plans; and

(2) invite the participation of residents, public agencies, and private organizations in the Heritage Area.

(c) CONTENTS.—The management plan shall include—

(1) an inventory of the resources in the Heritage Area, including—

(A) a list of property in the Heritage Area that—

(i) relates to the purposes of the Heritage Area; and

(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

(B) an assessment of cultural landscapes within the Heritage Area;

(2) provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with this Act;

(3) an interpretation plan for the Heritage Area; and

(4) a program for implementation of the management plan that includes—

(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the Heritage Area; and

(B) the identification of existing and potential sources of funding for implementing the plan.

(d) SUBMISSION TO SECRETARY FOR APPROVAL.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary

by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this Act until a management plan for the Heritage Area is submitted to the Secretary.

(e) Approval.—

(1) In general.—Not later than 90 days after receiving the management plan submitted under subsection (d)(1), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) Action following disapproval.—

(A) In general.—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—

(i) advise the local coordinating entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(B) Deadline for approval of revision.—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(f) Revision.—

(1) In general.—After approval by the Secretary of a management plan, the local coordinating entity shall periodically—

(A) review the management plan; and

(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any revisions to the management plan that the local coordinating entity considers to be appropriate.

(2) Expenditure of funds.—No funds made available under this Act shall be used to implement any revision proposed by the local coordinating entity under paragraph (1)(B) until the Secretary approves the revision.

SEC. 6. EFFECT OF ACT.

Nothing in this Act or in establishment of the Heritage Area—

(1) grants any Federal agency regulatory authority over any interest in the Heritage Area, unless cooperatively agreed on by all involved parties;

(2) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act;

(3) grants any power of zoning or land use to the local coordinating entity;

(4) imposes any environmental, occupational, safety, or other rule, standard, or permitting process that is different from those in effect on the date of enactment of this Act that would be applicable had the Heritage Area not been established;

(5)(A) imposes any change in Federal environmental quality standards; or

(B) authorizes designation of any portion of the Heritage Area that is subject to part C of title I of the Clean Air Act (42 U.S.C. 7470 et seq.) as class 1 for the purposes of that part solely by reason of the establishment of the Heritage Area;

(6) authorizes any Federal or State agency to impose more restrictive water use designations, or water quality standards on uses of or discharges to, waters of the United States or waters of the State within or adjacent to the Heritage Area solely by reason of the establishment of the Heritage Area;

(7) abridges, restricts, or alters any applicable rule, standard, or review procedure for permitting of facilities within or adjacent to the Heritage Area; or

(8) affects the continuing use and operation, where located on the date of enactment of this Act, of any public utility or common carrier.

SEC. 7. REPORTS.

For any year in which Federal funds have been made available under this Act, the local coordinating entity shall submit to the Secretary a report that describes—

(1) the accomplishments of the local coordinating entity; and

(2) the expenses and income of the local coordinating entity.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 shall be made available for any fiscal year.

(b) Cost-Sharing Requirement.—The Federal share of the total cost of any activity assisted under this Act shall be not more than 50 percent.

SEC. 9. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance to the local coordinating entity under this Act terminates on the date that is 15 years after the date of enactment of this Act.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 323), as amended, was read the third time and passed.

KATE MULLANY NATIONAL HISTORIC SITE ACT

The Senate proceeded to consider the bill (S. 1241) to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Kate Mullany National Historic Site Act".

[SEC. 2. FINDINGS AND PURPOSES.

[(a) Findings.—Congress finds that—

[(1) the Kate Mullany House in Troy, New York, is listed on the National Register of Historic Places and has been designated as a National Historic Landmark;

[(2) the National Historic Landmark Theme Study on American Labor History concluded that the Kate Mullany House appears to meet the criteria of national significance, suitability, and feasibility for inclusion in the National Park System;

[(3) the city of Troy, New York—

[(A) played an important role in the development of the collar and cuff industry and the iron industry in the 19th century, and in the development of early men's and women's worker and cooperative organizations; and

[(B) was the home of the first women's labor union, led by Irish immigrant Kate Mullany;

[(4) the city of Troy, New York, has entered into a cooperative arrangement with 6 neighboring cities, towns, and villages to create the Hudson-Mohawk Urban Cultural Park Commission to manage the valuable historic resources in the area, and the area within those municipalities has been designated by the State of New York as a heritage area to represent industrial development and labor themes in the development of the State;

[(5) the area, known as the "Hudson-Mohawk Urban Cultural Park" or "RiverSpark", has been a pioneer in the development of partnership parks in which intergovernmental and public and private partnerships bring about the conservation of the area's heritage and the attainment of goals for preservation, education, recreation, and economic development; and

[(6) establishment of the Kate Mullany National Historic Site and cooperative efforts between the National Park Service and the Hudson-Mohawk Urban Cultural Park Commission will—

[(A) provide opportunities for the illustration and interpretation of important themes of the heritage of the United States; and

[(B) provide unique opportunities for education, public use, and enjoyment.

[(b) Purposes.—The purposes of this Act are—

[(1) to preserve and interpret the nationally significant home of Kate Mullany for the benefit, inspiration, and education of the people of the United States; and

[(2) to interpret the connection between immigration and the industrialization of the United States (including the history of Irish immigration, women's history, and worker history).

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) Historic site.—The term "historic site" means the Kate Mullany National Historic Site established by section 4.

[(2) Plan.—The term "plan" means the general management plan developed under section 6(d).

[(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

[SEC. 4. ESTABLISHMENT OF KATE MULLANY NATIONAL HISTORIC SITE.

[(a) Establishment.—There is established as a unit of the National Park System the Kate Mullany National Historic Site in the State of New York.

[(b) Description.—The historic site shall consist of the home of Kate Mullany, comprising approximately .05739 acre, located at 350 Eighth Street in Troy, New York, as generally depicted on the map entitled ______ and dated ______.

[SEC. 5. ACQUISITION OF PROPERTY.

[(a) Real Property.—The Secretary may acquire land and interests in land within the boundaries of the historic site and ancillary real property for parking or interpretation, as necessary and appropriate for management of the historic site.

[(b) Personal Property.—The Secretary may acquire personal property associated with, and appropriate for, the interpretation of the historic site.

[(c) Means.—An acquisition of real property or personal property may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

[SEC. 6. ADMINISTRATION OF HISTORIC SITE.

[(a) In General.—The Secretary shall administer the historic site in accordance with this Act and the law generally applicable to units of the National Park System, including—

[(1) the Act of August 25, 1916 (16 U.S.C. 1 et seq.); and

[(2) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

[(b) Cooperative Agreements.—In carrying out this Act, the Secretary may consult with and enter into cooperative agreements with the State of New York, the Hudson-Mohawk Urban Cultural Park Commission, and other public and private entities to facilitate public understanding and enjoyment of the life and work of Kate Mullany through the development, presentation, and funding of exhibits and other appropriate activities related to the preservation, interpretation, and use of the historic site and related historic resources.

[(c) EXHIBITS.—The Secretary may display, and accept for the purposes of display, items associated with Kate Mullany, as may be necessary for the interpretation of the historic site.

[(d) GENERAL MANAGEMENT PLAN.—

[(1) IN GENERAL.—Not later than 2 full fiscal years after the date of enactment of this Act, the Secretary shall—

[(A) develop a general management plan for the historic site; and

[(B) submit the plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

[(2) CONTENTS.—The plan shall include recommendations for regional wayside exhibits to be carried out through cooperative agreements with the State of New York and other public and private entities.

[(3) REQUIREMENTS.—The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a–7(b)).]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kate Mullany National Historic Site Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) CENTER.—The term "Center" means the American Labor Studies Center.

(2) HISTORIC SITE.—The term "historic site" means the Kate Mullany National Historic Site established by section 3(a).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. KATE MULLANY NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established as an affiliated area of the National Park System the Kate Mullany National Historic Site in the State of New York.

(2) COMPONENTS.—The historic site shall consist of the home of Kate Mullany, located at 350 Eighth Street in Troy, New York.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Center shall own, administer, and operate the historic site.

(2) APPLICABILITY OF NATIONAL PARK SYSTEM LAWS.—The historic site shall be administered in accordance with—

(A) this Act; and

(B) the laws generally applicable to units of the National Park System, including—

(i) the Act of August 25, 1916 (commonly known as the "National Park Service Organic Act") (16 U.S.C. 1 et seq.); and

(ii) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(c) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with the Center under which the Secretary may provide to the Center technical, planning, interpretive, construction, and preservation assistance for—

(A) the preservation of the historic site; and

(B) educational, interpretive, and research activities relating to the historic site and any related sites.

(2) The Secretary may provide to the Center financial assistance in an amount equal to not more than $500,000 to assist the Center in acquiring from a willing seller the structure adjacent to the historic site, located at 352 Eighth Street in Troy, New York. On acquisition of the structure, the Secretary shall revise the boundary of the historic site to reflect the acquisition. The non-Federal share of the total cost of acquiring the structure shall be at least 50 percent.

(d) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 full fiscal years after the date on which funds are made available to carry out this Act, the Secretary, in cooperation with the Center, shall develop a general management plan for the historic site.

(2) CONTENTS.—The general management plan shall define the role and responsibilities of the Secretary with respect to the interpretation and preservation of the historic site.

(3) APPLICABLE LAW.—The general management plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a–7(b)).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1241), as amended, was read the third time and passed.

ADDITIONAL APPROPRIATIONS FOR THE RECLAMATION SAFETY OF DAMS ACT OF 1978

The Senate proceeded to consider the bill (S. 1727) to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1727

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[**SECTION 1. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR THE RECLAMATION SAFETY OF DAMS ACT OF 1978.**

[(a) REIMBURSEMENT OF CERTAIN MODIFICATION COSTS.—Section 4(c) of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 508(c)) is amended by striking "(c) With respect to" and all that follows through "2001" and inserting the following:

["(c) REIMBURSEMENT OF CERTAIN MODIFICATION COSTS.—With respect to the additional amounts authorized to be appropriated by section 5".

[(b) AUTHORIZATION OF APPROPRIATIONS.—Section 5 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended in the first sentence—

[(1) by striking "and effective October 1, 2001" and inserting "effective October 1, 2001";

[(2) by inserting "and, effective October 1, 2003, not to exceed an additional $540,000,000 (October 1, 2003, price levels)," after "(October 1, 2001, price levels),"; and

[(3) by striking "$750,000" and inserting "$1,250,000 (October 1, 2003, price levels), as adjusted to reflect any ordinary fluctuations in construction costs indicated by applicable engineering cost indexes,".]

SECTION 1. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR THE RECLAMATION SAFETY OF DAMS ACT OF 1978.

(a) REIMBURSEMENT OF CERTAIN MODIFICATION COSTS.—Section 4(c) of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 508(c)) is amended by striking "(c) With respect to" and all that follows through "2001" and inserting the following:

"(c) REIMBURSEMENT OF CERTAIN MODIFICATION COSTS.—With respect to the additional amounts authorized to be appropriated by section 5".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 5 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended in the first sentence—

(1) by inserting "and, effective October 1, 2003, not to exceed an additional $540,000,000 (October 1, 2003, price levels)," after "(October 1, 2001, price levels),"; and

(2) by striking "$750,000" and inserting "$1,250,000 (October 1, 2003, price levels), as adjusted to reflect any ordinary fluctuations in construction costs indicated by applicable engineering cost indexes,".

SEC. 2. PARTICIPATION BY PROJECT BENEFICIARIES.

(a) COST CONTAINMENT; MODIFICATION STATUS.—Section 4 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 508) is amended by adding at the end the following:

"(e)(1) During the construction of the modification, the Secretary shall consider cost containment measures recommended by a project beneficiary that has elected to consult with the Bureau of Reclamation on a modification.

"(2) The Secretary shall provide to project beneficiaries on a periodic basis notice regarding the costs and status of the modification.".

(b) PROJECT BENEFICIARIES.—The Reclamation Safety of Dams Act of 1978 is amended by inserting after section 5 (43 U.S.C. 509) the following:

"SEC. 5A. (a) On identifying a Bureau of Reclamation facility for modification, the Secretary shall provide to the project beneficiaries written notice—

"(1) describing the need for the modification and the process for identifying and implementing the modification; and

"(2) summarizing the administrative and legal requirements relating to the modification.

"(b) The Secretary shall—

"(1) provide project beneficiaries an opportunity to consult with the Bureau of Reclamation on the planning, design, and construction of the proposed modification; and

"(2) in consultation with project beneficiaries, develop and provide timeframes for the consultation described in paragraph (1).

"(c)(1) Prior to submitting the reports required under section 5, the Secretary shall consider any alternative submitted in writing, in accordance with the timeframes established under subsection (b), by a project beneficiary that has elected to consult with the Bureau of Reclamation on a modification.

"(2) The Secretary shall provide to the project beneficiary a timely written response describing proposed actions, if any, to address the recommendation.

"(3) The response of the Secretary shall be included in the reports required by section 5.

"(d) The Secretary may waive 1 or more of the requirements of subsections (a), (b), and (c), if the Secretary determines that implementation of the requirement could have an adverse impact on dam safety or security.".

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1727), as amended, was read the third time and passed.

UNITED STATES-MEXICO TRANSBOUNDARY AQUIFER ASSESSMENT ACT

The Senate proceeded to consider the bill (S. 1957) to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "United States-Mexico Transboundary Aquifer Assessment Act".

[SEC. 2. FINDINGS AND PURPOSE.

[(a) FINDINGS.—Congress finds that—

[(1) rapid population growth in the United States-Mexico border region over the last decade has placed major strains on limited water supplies in the region;

[(2) water quantity and quality issues are likely to be the determining and limiting factors affecting future economic development, population growth, and human health in the border region;

[(3) increasing use of groundwater resources in the border region by municipal and other water users has raised serious questions concerning the long-term availability of the water supply;

[(4) cooperation between the United States and Mexico in assessing and understanding transboundary aquifers is necessary for the successful management of shared groundwater resources by State and local authorities in the United States and appropriate authorities in Mexico, including management that avoids conflict between the United States and Mexico;

[(5) while there have been some studies of binational groundwater resources along the United States-Mexico border, additional data and analyses are needed to develop an accurate understanding of the long-term availability of useable water supplies from transboundary aquifers; and

[(6) the Border States—

[(A) are primarily responsible for the management and allocation of groundwater resources within the respective boundaries of the Border States; and

[(B) should have a cooperative role in the analysis and characterization of transboundary aquifers.

[(b) PURPOSE.—The purpose of this Act is to direct the Secretary of the Interior to establish a United States-Mexico transboundary aquifer assessment program to—

[(1) systematically assess priority transboundary aquifers; and

[(2) provide the scientific foundation necessary for State and local officials to address pressing water resource challenges in the United States-Mexico border region.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) AQUIFER.—The term "aquifer" means a subsurface water-bearing geologic formation from which significant quantities of water may be extracted.

[(2) BORDER STATE.—The term "Border State" means each of the States of Arizona, California, New Mexico, and Texas.

[(3) INDIAN TRIBE.—The term "Indian tribe" means an Indian tribe, band, nation, or other organized group or community—

[(A) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

[(B) the reservation of which includes a transboundary aquifer within the exterior boundaries of the reservation.

[(4) PRIORITY TRANSBOUNDARY AQUIFER.—The term "priority transboundary aquifer" means a transboundary aquifer that has been designated for study and analysis under the program.

[(5) PROGRAM.—The term "program" means the United States-Mexico transboundary aquifer assessment program established under section 4(a).

[(6) RESERVATION.—The term "reservation" means land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination.

[(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

[(8) TRANSBOUNDARY AQUIFER.—The term "transboundary aquifer" means an aquifer that underlies the boundary between the United States and Mexico.

[(9) TRI-REGIONAL PLANNING GROUP.—The term "Tri-Regional Planning Group" means the binational planning group comprised of—

[(A) the Junta Municipal de Aqua y Saneamiento de Ciudad Juarez;

[(B) the El Paso Water Utilities Public Service Board; and

[(C) the Lower Rio Grande Water Users Organization.

[(10) WATER RESOURCES RESEARCH INSTITUTES.—The term "water resources research institutes" means the institutes within the Border States established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

[SEC. 4. ESTABLISHMENT OF PROGRAM.

[(a) IN GENERAL.—The Secretary, in consultation and cooperation with the Border States, the Water Resources Research Institutes, Sandia National Laboratories, and other appropriate entities in the United States and Mexico, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model transboundary groundwater resources along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

[(b) OBJECTIVES.—The objectives of the program are to—

[(1) develop and implement an integrated scientific approach to assess transboundary groundwater resources, including—

[(A)(i) identifying fresh and saline transboundary aquifers; and

[(ii) prioritizing the transboundary aquifers for further analysis by assessing—

[(I) the proximity of the transboundary aquifer to areas of high population density;

[(II) the extent to which the transboundary aquifer is used; and

[(III) the susceptibility of the transboundary aquifer to contamination;

[(B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;

[(C) creating a geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and

[(D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop any additional data that are needed to define aquifer characteristics to the extent necessary to enable the development of groundwater flow models to assess sustainable water yields for each priority transboundary aquifer;

[(2) expand existing agreements, as appropriate, between the United States Geological Survey, the Border States, the Water Resources Research Institutes, and appropriate authorities in the United States and Mexico, to—

[(A) conduct joint scientific investigations;

[(B) archive and share relevant data; and

[(C) carry out any other activities consistent with the program; and

[(3) produce scientific products for each priority transboundary aquifer to provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.

[(c) DESIGNATION OF CERTAIN AQUIFERS.—For purposes of the program, the Secretary shall designate the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico as priority transboundary aquifers.

[(d) COOPERATION WITH MEXICO.—To ensure a comprehensive assessment of transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.

[(e) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants or enter into cooperative agreements and other agreements with the Water Resource Research Institutes and other Border State entities to carry out the program.

[SEC. 5. STATE AND TRIBAL ROLE.

[(a) COORDINATION.—The Secretary shall coordinate the activities carried out under the program with—

[(1) the appropriate water resource agencies in the Border States; and

[(2) any affected Indian tribes.

[(b) NEW ACTIVITY.—After the date of enactment of this Act, the Secretary shall not initiate any field studies to develop data or develop any groundwater flow models for a priority transboundary aquifer under the program before consulting with, and coordinating the activity with, the Border State water resource agency that has jurisdiction over the aquifer.

[SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act $50,000,000 for the period of fiscal years 2005 through 2014.

[(b) DISTRIBUTION OF FUNDS.—Of the amounts made available under subsection (a), 50 percent shall be made available to the Water Resource Research Institutes to provide funding to appropriate entities in the Border States (including Sandia National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and Mexico to conduct activities under the program, including the binational collection and exchange of scientific data.

[SEC. 7. REPORTS.

[Not later than 5 years after the date of enactment of this Act, and on completion of the program in fiscal year 2014, the Secretary shall submit to the appropriate water resource agency in the Border States, an interim and final report, respectively, that describes—

[(1) any activities carried out under the program;

[(2) any conclusions of the Secretary relating to the status of transboundary aquifers; and

[(3) the level of participation in the program of entities in Mexico.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Mexico Transboundary Aquifer Assessment Act".

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of the Interior to establish a United States-Mexico transboundary aquifer assessment program to—

(1) systematically assess priority transboundary aquifers; and

(2) provide the scientific foundation necessary for State and local officials to address pressing water resource challenges in the United States-Mexico border region.

SEC. 3. DEFINITIONS.

In this Act:

(1) AQUIFER.—The term "aquifer" means a subsurface water-bearing geologic formation from which significant quantities of water may be extracted.

(2) BORDER STATE.—The term "Border State" means each of the States of Arizona, California, New Mexico, and Texas.

(3) INDIAN TRIBE.—The term "Indian tribe" means an Indian tribe, band, nation, or other organized group or community—

(A) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(B) the reservation of which includes a transboundary aquifer within the exterior boundaries of the reservation.

(4) PRIORITY TRANSBOUNDARY AQUIFER.—The term "priority transboundary aquifer" means a transboundary aquifer that has been designated for study and analysis under the program.

(5) PROGRAM.—The term "program" means the United States-Mexico transboundary aquifer assessment program established under section 4(a).

(6) RESERVATION.—The term "reservation" means land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(8) TRANSBOUNDARY AQUIFER.—The term "transboundary aquifer" means an aquifer that underlies the boundary between the United States and Mexico.

(9) TRI-REGIONAL PLANNING GROUP.—The term "Tri-Regional Planning Group" means the binational planning group comprised of—

(A) the Junta Municipal de Aqua y Saneamiento de Ciudad Juarez;

(B) the El Paso Water Utilities Public Service Board; and

(C) the Lower Rio Grande Water Users Organization.

(10) WATER RESOURCES RESEARCH INSTITUTES.—The term "water resources research institutes" means the institutes within the Border States established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

SEC. 4. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation and cooperation with the Border States, the water resources research institutes, Sandia National Laboratories, and other appropriate entities in the United States and Mexico, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model transboundary groundwater resources along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

(b) OBJECTIVES.—The objectives of the program are to—

(1) develop and implement an integrated scientific approach to assess transboundary groundwater resources, including—

(A)(i) identifying fresh and saline transboundary aquifers; and

(ii) prioritizing the transboundary aquifers for further analysis by assessing—

(I) the proximity of the transboundary aquifer to areas of high population density;

(II) the extent to which the transboundary aquifer is used;

(III) the susceptibility of the transboundary aquifer to contamination; and

(IV) any other relevant criteria;

(B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;

(C) creating a new, or enhancing an existing, geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and

(D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop—

(i) the additional data necessary to adequately define aquifer characteristics; and

(ii) scientifically sound groundwater flow models to assist with State and local water management and administration, including modeling of relevant groundwater and surface water interactions;

(2) expand existing agreements, as appropriate, between the United States Geological Survey, the Border States, the water resources research institutes, and appropriate authorities in the United States and Mexico, to—

(A) conduct joint scientific investigations;

(B) archive and share relevant data; and

(C) carry out any other activities consistent with the program; and

(3) produce scientific products for each priority transboundary aquifer that—

(A) are capable of being broadly distributed; and

(B) provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.

(c) DESIGNATION OF PRIORITY TRANSBOUNDARY AQUIFERS.—

(1) IN GENERAL.—For purposes of the program, the Secretary shall designate as priority transboundary aquifers—

(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico; and

(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico.

(2) ADDITIONAL AQUIFERS.—The Secretary shall, using the criteria under subsection (b)(1)(A)(ii), evaluate and designate additional priority transboundary aquifers.

(d) COOPERATION WITH MEXICO.—To ensure a comprehensive assessment of transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.

(e) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants or enter into cooperative agreements and other agreements with the water resources research institutes and other Border State entities to carry out the program.

SEC. 5. IMPLEMENTATION OF PROGRAM.

(a) COORDINATION WITH STATES, TRIBES, AND OTHER ENTITIES.—The Secretary shall coordinate the activities carried out under the program with—

(1) the appropriate water resource agencies in the Border States;

(2) any affected Indian tribes; and

(3) any other appropriate entities that are conducting monitoring and metering activity with respect to a priority transboundary aquifer.

(b) NEW ACTIVITY.—After the date of enactment of this Act, the Secretary shall not initiate any new field studies or analyses under the program before consulting with, and coordinating the activity with, any Border State water resource agencies that have jurisdiction over the aquifer.

(c) STUDY PLANS; COST ESTIMATES.—

(1) IN GENERAL.—The Secretary shall work closely with appropriate Border State water resource agencies, water resources research institutes, and other relevant entities to develop a study plan, timeline, and cost estimate for each priority transboundary aquifer to be studied under the program.

(2) REQUIREMENTS.—A study plan developed under paragraph (1) shall, to the maximum extent practicable—

(A) integrate existing data collection and analyses conducted with respect to the priority transboundary aquifer;

(B) if applicable, improve and strengthen existing groundwater flow models developed for the priority transboundary aquifer; and

(C) be consistent with appropriate State guidelines and goals.

SEC. 6. EFFECT.

Nothing in this Act affects—

(1) the jurisdiction or responsibility of a Border State with respect to managing surface or groundwater resources in the Border State; or

(2) the water rights of any person or entity using water from a transboundary aquifer.

SEC. 7. REPORTS.

Not later than 5 years after the date of enactment of this Act, and on completion of the program in fiscal year 2014, the Secretary shall submit to the appropriate water resource agency in the Border States, an interim and final report, respectively, that describes—

(1) any activities carried out under the program;

(2) any conclusions of the Secretary relating to the status of transboundary aquifers; and

(3) the level of participation in the program of entities in Mexico.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act $50,000,000 for the period of fiscal years 2005 through 2014.

(b) DISTRIBUTION OF FUNDS.—Of the amounts made available under subsection (a), 50 percent shall be made available to the water resources research institutes to provide funding to appropriate entities in the Border States (including Sandia National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and Mexico to conduct activities under the program, including the binational collection and exchange of scientific data.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1957), as amended, was read the third time and passed.

LAND EXCHANGE IN EVERGLADES NATIONAL PARK

The Senate proceeded to consider the bill (S. 2046) to authorize the exchange of certain land in Everglades National Park, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. EVERGLADES NATIONAL PARK LAND EXCHANGE.

[Section 102 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–6) is amended by adding at the end the following:

["(h) LAND EXCHANGE.—

["(1) DEFINITIONS.—In this subsection:

["(A) DISTRICT.—The term 'District' means the South Florida Water Management District.

["(B) FEDERAL LAND.—The term 'Federal land' means the approximately 1,054 acres of land located in the Rocky Glades area of the park and identified on the map as 'NPS Exchange Lands'.

["(C) MAP.—The term 'map' means the map entitled 'Boundary Modification for C–111 Project, Everglades National Park', numbered 160/80,007, and dated April 30, 2002.

["(D) NON-FEDERAL LAND.—The term 'non-Federal land' means the approximately 1,054 acres of District land located in the Southern Glades Wildlife and Environmental Area and identified on the map as 'South Florida Water Management District Exchange Lands'.

["(2) EXCHANGE.—The Secretary shall convey to the District the fee title to the Federal land in exchange for the fee title to the non-Federal land.

["(3) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

["(4) USE OF FEDERAL LAND.—The Federal land conveyed to the District shall be used by the District compatible with the purposes of the C–111 project, including restoration of the Everglades natural system.

["(5) BOUNDARY ADJUSTMENT.—On completion of the land exchange under paragraph (2), the Secretary shall modify the boundary of the park to reflect the exchange of the Federal land and non-Federal land.".]

SECTION 1. EVERGLADES NATIONAL PARK.

Section 102 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–6) is amended—

(1) in subsection (a)—

(A) by striking "The park boundary" and inserting the following:

"(1) IN GENERAL.—The park boundary";

(B) by striking "The map" and inserting the following:

"(2) AVAILABILITY OF MAP.—The map"; and

(C) by adding at the end the following:

"(3) ACQUISITION OF ADDITIONAL LAND.—

"(A) IN GENERAL.—The Secretary may acquire from 1 or more willing sellers not more than 10 acres of land located outside the boundary of the park and adjacent to or near the East Everglades area of the park for the development of administrative, housing, maintenance, or other park purposes.

"(B) ADMINISTRATION; APPLICABLE LAW.—On acquisition of the land under subparagraph (A), the land shall be administered as part of the park in accordance with the laws (including regulations) applicable to the park."; and

(2) by adding at the end the following:

"(h) LAND EXCHANGES.—

"(1) DEFINITIONS.—In this subsection:

"(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of General Services.

"(B) COUNTY.—The term 'County' means Miami-Dade County, Florida.

"(C) COUNTY LAND.—The term 'County land' means the 2 parcels of land owned by the County totaling approximately 152.93 acres that are designated as 'Tract 605–01' and 'Tract 605–03'.

"(D) DISTRICT.—The term 'District' means the South Florida Water Management District.

"(E) DISTRICT LAND.—The term 'District land' means the approximately 1,054 acres of District land located in the Southern Glades Wildlife and Environmental Area and identified on the map as 'South Florida Water Management District Exchange Lands'.

"(F) GENERAL SERVICES ADMINISTRATION LAND.—The term 'General Services Administration land' means the approximately 595.28 acres of land designated as 'Site Alpha' that is declared by the Department of the Navy to be excess land.

"(G) MAP.—The term 'map' means the map entitled 'Boundary Modification for C–111 Project, Everglades National Park', numbered 160/80,007A, and dated May 18, 2004.

"(H) NATIONAL PARK SERVICE LAND.—The term 'National Park Service land' means the approximately 1,054 acres of land located in the Rocky Glades area of the park and identified on the map as 'NPS Exchange Lands'.

"(2) EXCHANGE OF GENERAL SERVICES ADMINISTRATION LAND AND COUNTY LAND.—The Administrator shall convey to the County fee title to the General Services Administration land in exchange for the conveyance by the County to the Secretary of fee title to the County land.

"(3) EXCHANGE OF NATIONAL PARK SERVICE LAND AND DISTRICT LAND.—

"(A) IN GENERAL.—As soon as practicable after the completion of the exchange under paragraph (2), the Secretary shall convey to the District fee title to the National Park Service land in exchange for fee title to the District land.

"(B) USE OF NATIONAL PARK SERVICE LAND.—The National Park Service land conveyed to the District shall be used by the District for the purposes of the C–111 project, including restoration of the Everglades natural system.

"(C) BOUNDARY ADJUSTMENT.—On completion of the land exchange under subparagraph (A), the Secretary shall modify the boundary of the park to reflect the exchange of the National Park Service land and the District land.

"(4) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.".

SEC. 2. BIG CYPRESS NATIONAL PRESERVE.

Subsection (d)(3) of the first section of Public Law 93–440 (16 U.S.C. 698f) is amended by striking "The amount described in paragraph (1)" and inserting "The amount described in paragraph (2)".

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2046), as amended, was read the third time and passed.

TAPOCO PROJECT LICENSING ACT OF 2004

The Senate proceeded to consider the bill (S. 2319) to authorize and facilitate hydroelectric power licensing of the Tapoco Project, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Tapoco Project Licensing Act of 2004".

[SEC. 2. PURPOSE.

[The purpose of this Act is to resolve jurisdictional issues regarding hydroelectric power licensing of FERC Project No. 2169 (the Tapoco Project or Project) by authorizing—

[(1) the Secretary of the Interior to complete, as soon as practicable after the date of enactment of this Act, an exchange of certain land; and

[(2) after the exchange of land is completed, the Federal Energy Regulatory Commission to license the Project.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) APGI.—The term "APGI" means Alcoa Power Generating Inc. (including its successors and assigns).

[(2) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States.

[(3) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

[(4) PARK.—The term "Park" means the Great Smoky Mountains National Park.

[(5) PROJECT.—The term "Project" means FERC Project No. 2169 (the Tapoco Project or Project), including the Chilhowee Dam and reservoir in the State.

[(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[(7) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the agreement filed with the Commission among the settling parties reached in the licensing of the Project that describes the operational and protection, mitigation, and enhancement measures for operation of the Project.

[(8) STATE.—The term "State" means the State of Tennessee.

[SEC. 4. LAND EXCHANGE.

[(a) IN GENERAL.—The Secretary shall offer to acquire from APGI—

[(1) subject to any encumbrances existing before February 21, 2003, approximately 186 acres of land (within the authorized boundary of the Park) located northeast of United States Highway 129 and southwest of the Tennessee Valley Authority power line; in exchange for

[(2) approximately 100 acres of land within the Park that are—

[(A) adjacent to or flooded by the Chilhowee Reservoir;

[(B) within the boundary of the Tapoco Project as of February 21, 2003; and

[(C) shown on the map entitled "Tapoco Hydroelectric Project, P–2169, Settlement Agreement, Appendix C–5, Proposed Land Swap Areas, National Park Service and APGI", numbered TP514, Issue No. 8, and dated March 11, 2004.

[(b) CONSERVATION EASEMENT.—The Secretary shall reserve a conservation easement over any land transferred to APGI that shall—

[(1) specifically prohibit any development of the land by APGI, other than any development that is—

[(A) necessary for the continued operation and maintenance of the Chilhowee Reservoir; or

[(B) required by the Commission;

[(2) authorize public access to the easement area subject to Park regulations and the terms and restrictions imposed by the Commission in any license the Commission may issue for the project; and

[(3) authorize the National Park Service to enforce Park regulations on the land and in and on the waters of Chilhowee Reservoir lying on the land, to the extent not inconsistent with any license conditions considered necessary by the Commission.

[(c) REVERSION.—The deed from the Secretary to APGI shall contain a provision that requires the fee simple title for the Chilhowee Dam to revert to the United States if the Dam is breached or removed.

[(d) UNSUITABLE LAND.—

[(1) IN GENERAL.—If the Secretary determines that all or part of a tract of land acquired under subsection (a) is unsuitable for the Park, the Secretary shall provide APGI with an opportunity to make the tract suitable for inclusion in the Park.

[(2) LAND NOT SUITABLE.—If APGI is unable to make the tract suitable for inclusion in the Park (as determined by the Secretary) or elects not to make the tract suitable for inclusion—

[(A) the transfer of the land is voided, on written notice from the Secretary to APGI; and

[(B) the Secretary shall negotiate an acquisition for inclusion in the Park of suitable land that is—

[(i) of approximately equal value to the land acquired by APGI for inclusion in the Park; and

[(ii) within or adjacent to the boundary of the Park.

[(e) ACTION FOR FAIR MARKET VALUE OF LAND.—

[(1) IN GENERAL.—If the Secretary determines that negotiations for substitute land described in subsection (d)(2)(B) are at an impasse, the Secretary shall request the Attorney General to seek compensation for—

[(A) the fair market value of the land or interests in land that would have been transferred to the Park had the land not been affected by the encumbrances or defects that made the land unsuitable for inclusion in the Park; and

[(B) the costs and litigation expenses of the United States, including attorney fees.

[(2) FUNDS.—All funds recovered from any action under paragraph (1) shall—

[(A) be immediately available, without further appropriation from the Treasury, for use by the Secretary for acquisition of land within or adjacent to the boundaries of the Park from willing sellers; and

[(B) remain available until expended.

[(3) EFFECT ON CONVEYANCE.—Nothing in this subsection affects a conveyance by the United States to APGI under subsection (a).

[(f) BOUNDARY ADJUSTMENT.—

[(1) IN GENERAL.—On completion of an exchange authorized under this section, the Secretary shall—

[(A) adjust the boundary of the Park to reflect the exchange; and

[(B) administer any acquired land as part of the Park in accordance with applicable law (including regulations).

[(2) PUBLIC NOTICE.—The Secretary shall publish in the Federal Register notice of any boundary revised under this subsection.

[(g) COMPLIANCE WITH OTHER LAWS.—An exchange of land under this section is deemed to meet the requirements of—

[(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

[(2) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

[(3) the land exchange provisions of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.).

[SEC. 5. LICENSING.

[Notwithstanding any other provision of law, on completion of the land exchange or acquisition of equivalent land under section 4, the Commission shall have jurisdiction to license the Project .

[SEC. 6. LAND ACQUISITION.

[(a) SECRETARY OF THE INTERIOR.—

[(1) IN GENERAL.—The Secretary may acquire, for the United States, title to land in the State that may be transferred by APGI to any nongovernmental organization (as shown on the map entitled "Tapoco Hydroelectric Project, P–2169, Settlement Agreement, Appendix C–5, Proposed Land Conveyances in Tennessee", numbered TP616, Issue No. 15, and dated March 11, 2004) pursuant to the Settlement Agreement.

[(2) BOUNDARY ADJUSTMENT.—The Secretary shall—

[(A) adjust the boundary of the Park to include any land acquired under paragraph (1); and

[(B) publish notice of the adjustment in the Federal Register.

[(b) SECRETARY OF AGRICULTURE.—

[(1) IN GENERAL.—The Secretary of Agriculture may acquire, for the United States, title to land in the State that may be transferred to any nongovernmental organization pursuant to the Settlement Agreement described in subsection (a)(1).

[(2) BOUNDARY ADJUSTMENT.—The Secretary of Agriculture shall—

[(A) adjust the boundary of the Cherokee National Forest to include any land acquired under paragraph (1); and

[(B) publish notice of the adjustment in the Federal Register.

[(3) MANAGEMENT.—The Secretary of Agriculture shall evaluate whether it is feasible and practicable to manage any land acquired for the Cherokee National Forest under paragraph (1) in a manner that retains the primitive, back-country character of the land.

[SEC. 7. AUTHORIZATION FOR APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary for the United States to acquire interests in land and to otherwise effectuate the purposes and terms of the land transfer provisions of the Settlement Agreement.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tapoco Project Licensing Act of 2004"..

SEC. 2. DEFINITIONS.

In this Act:

(1) APGI.—The term "APGI" means Alcoa Power Generating Inc. (including its successors and assigns).

(2) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(3) MAP.—The term "map" means the map entitled "Tapoco Hydroelectric Project, P–2169, Settlement Agreement, Appendix B, Proposed Land Swap Areas, National Park Service and APGI", numbered TP514, Issue No. 9, and dated June 8, 2004.

(4) PARK.—The term "Park" means Great Smoky Mountains National Park.

(5) PROJECT.—The term "Project" means the Tapoco Hydroelectric Project, FERC Project No. 2169, including the Chilhowee Dam and Reservoir in the State of Tennessee.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. LAND EXCHANGE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Upon the conveyance by APGI of title acceptable to the Secretary of the land identified in paragraph (2), the Secretary shall simultaneously convey to APGI title to the land identified in paragraph (3).

(2) DESCRIPTION OF LAND TO BE CONVEYED BY APGI.—The land to be conveyed by APGI to the Secretary is the approximately 186 acres of land, subject to any encumbrances existing before February 21, 2003—

(A) within the authorized boundary of the Park, located northeast of United States Highway 129 and adjacent to the APGI power line; and

(B) as generally depicted on the map as "Proposed Property Transfer from APGI to National Park Service".

(3) DESCRIPTION OF LAND TO BE CONVEYED BY THE SECRETARY.—The land to be conveyed by the Secretary to APGI are the approximately 110 acres of land within the Park that are—

(A) adjacent to or flooded by the Chilhowee Reservoir;

(B) within the boundary of the Project as of February 21, 2003; and

(C) as generally depicted on the map as "Proposed Property Transfer from National Park Service to APGI".

(b) MINOR ADJUSTMENTS TO CONVEYED LAND.—The Secretary and APGI may mutually agree to make minor boundary or acreage adjustments to the land identified in paragraphs (2) and (3) of subsection (a).

(c) OPPORTUNITY TO MITIGATE.—If the Secretary determines that all or part of the land to be conveyed to the Park under subsection (a) is unsuitable for inclusion in the Park, APGI shall have the opportunity to make the land suitable for inclusion in the Park.

(d) CONSERVATION EASEMENT.—The Secretary shall reserve a conservation easement over any land transferred to APGI under subsection (a)(3) that, subject to any terms and conditions imposed by the Commission in any license that the Commission may issue for the Project, shall—

(1) specifically prohibit any development of the land by APGI, other than any development that is necessary for the continued operation and maintenance of the Chilhowee Reservoir;

(2) authorize public access to the easement area, subject to National Park Service regulations; and

(3) authorize the National Park Service to enforce Park regulations on the land and in and on the waters of Chilhowee Reservoir lying on the land, to the extent not inconsistent with any license condition considered necessary by the Commission.

(e) APPLICABILITY OF CERTAIN LAWS.—Section 5(b) of Public Law 90–401 (16 U.S.C. 460l–22(b)), shall not apply to the land exchange authorized under this section.

(f) REVERSION.—

(1) IN GENERAL.—The deed from the Secretary to APGI shall contain a provision that requires the land described in subsection (a)(3) to revert to the United States if—

(A) the Chilhowee Reservoir ceases to exist; or

(B) the Commission issues a final order decommissioning the Project from which no further appeal may be taken.

(2) APPLICABLE LAW.—A reversion under this subsection shall not eliminate APGI's responsibility to comply with all applicable provisions of the Federal Power Act (16 U.S.C. 791a et seq.), including regulations.

(g) BOUNDARY ADJUSTMENT.—

(1) IN GENERAL.—On completion of the land exchange authorized under this section, the Secretary shall—

(A) adjust the boundary of the Park to include the land described in subsection (a)(2); and

(B) administer any acquired land as part of the Park in accordance with applicable law (including regulations).

(2) NATIONAL PARK SERVICE LAND.—Notwithstanding the exchange of land under this section, the land described in subsection (a)(3) shall remain in the boundary of the Park.

(3) PUBLIC NOTICE.—The Secretary shall publish in the Federal Register notice of any boundary revised under paragraph (1).

SEC. 4. PROJECT LICENSING.

Notwithstanding the continued inclusion of the land described in section 3(a)(3) in the boundary of the Park (including any modification made pursuant to section 3(b)) on completion of the land exchange, the Commission shall have jurisdiction to license the Project.

SEC. 5. LAND ACQUISITION.

(a) IN GENERAL.—The Secretary or the Secretary of Agriculture may acquire, by purchase, donation, or exchange, any land or interest in land that—

(1) may be transferred by APGI to any nongovernmental organization; and

(2) is identified as "Permanent Easement" or "Term Easement" on the map entitled "Tapoco Hydroelectric Project, P–2169, Settlement Agreement, Appendix B, Proposed Land Conveyances in Tennessee", numbered TP616, Issue No. 15, and dated March 11, 2004.

(b) LAND ACQUIRED BY THE SECRETARY OF THE INTERIOR.—The Secretary shall—

(1) adjust the boundary of the Park to include any land or interest in land acquired by the Secretary under subsection (a);

(2) administer any acquired land or interest in land as part of the Park in accordance with applicable law (including regulations); and

(3) publish notice of the adjustment in the Federal Register.

(c) LAND ACQUIRED BY THE SECRETARY OF AGRICULTURE.—

(1) BOUNDARY ADJUSTMENT.—The Secretary of Agriculture shall—

(A) adjust the boundary of the Cherokee National Forest to include any land acquired under subsection (a);

(B) administer any acquired land or interest in land as part of the Cherokee National Forest in accordance with applicable law (including regulations); and

(C) publish notice of the adjustment in the Federal Register.

(2) MANAGEMENT.—The Secretary of Agriculture shall evaluate the feasibility of managing any land acquired by the Secretary of Agriculture under subsection (a) in a manner that retains the primitive, back-country character of the land.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2319), as amended, was read the third time and passed.

FRANNIE, WYOMING LAND CONVEYANCE

The Senate proceeded to consider the bill (S. 155) to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Insert the part shown in italic.]

S. 155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF LAND TO THE TOWN OF FRANNIE, WYOMING.

(a) CONVEYANCE.—Subject to valid existing rights, the Secretary of the Interior shall convey *by quitclaim deed*, without consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the town of Frannie, Wyoming.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of land withdrawn by the Commissioner of Reclamation—

(1) consisting of approximately 37,500 square feet;

(2) located in the town of Frannie, Wyoming; and

(3) more particularly described in the approved Plat of Survey of Frannie Townsite, Wyoming, as the North ½ of Block 26, T. 58 N, R. 97 W.

(c) RESERVATION OF MINERAL RIGHTS.—The conveyance under subsection (a) shall be subject to the reservation by the United States of any oil and gas rights.

(d) REVOCATIONS.—

(1) SPECIAL USE PERMIT.—The special use permit issued by the Commissioner of Reclamation, numbered O–LM–60–L1413, and dated April 20, 1990, is revoked with respect to the land described in subsection (b).

(2) SECRETARIAL ORDERS.—The following Secretarial Orders issued by the Commissioner of Reclamation are revoked with respect to the land described in subsection (b):

(A) The Secretarial Order for the withdrawal of land for the Shoshone Reclamation Project dated October 21, 1913, as amended.

(B) The Secretarial Order for the withdrawal of land for the Frannie Townsite Reservation dated April 19, 1920.

The committee amendment was agreed to.

The bill (S. 155), as amended, was read the third time and passed.

RIO GRANDE NATURAL AREA ACT

The Senate proceeded to consider the bill (S. 1467) to establish the Rio Grande Outstanding Natural Area in the State of Colorado, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1467

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Rio Grande Outstanding Natural Area Act".

[SEC. 2. FINDINGS AND PURPOSES.

[(a) FINDINGS.—Congress finds as follows:

[(1) Preservation and restoration of the land in the Area are required to preserve the Area's unique scientific, scenic beauty, educational, and environmental values, including unique land forms, scenic beauty, cultural sites, and habitats used by various species of raptors and other birds, mammals, reptiles, and amphibians.

[(2) There are archaeological and historic sites in the Area resulting from at least 10,000 years of use for subsistence and commerce.

[(3) The archaeological sites represent regional ancestry, including Paleo-Indian and nomadic bands of Ute and Apache.

[(4) The Area contains exceptional scenic values and opportunities for wildlife viewing.

[(5) Approximately 2,771 acres of land within the Area are owned by the United States and administered by the Secretary, acting through the Director of the Bureau of Land Management, and approximately 7,885 acres of land within the Area are owned by private landowners.

[(6) The Area is located downstream from areas in Colorado of significant and longstanding water development and use.

[(7) The availability of water for use in Colorado is governed, in significant part, by the Compact, which obligates the State of Colorado to deliver certain quantities of water to the Colorado-New Mexico State line for the benefit of the States of New Mexico and Texas in accordance with the terms of the Compact.

[(8) Because of the allocations of water made by the Compact to downstream States, the levels of use and development of water in Colorado, and the unpredictable and seasonal nature of the water supply, the Secretary shall manage the land within the Area to accomplish the purposes of this Act without asserting reserved water rights for instream flows or appropriating or acquiring water rights for that purpose.

[(b) PURPOSES.—The purposes of this Act are to conserve, restore, and protect for future generations the natural, ecological, historic, scenic, recreational, wildlife, and environmental resources of the Area.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) AREA.—The term "Area" means the Rio Grande Outstanding Natural Area established under section 4.

[(2) AREA MANAGEMENT PLAN.—The term "Area Management Plan" means the plan developed by the Commission in cooperation with Federal, State, and local agencies and approved by the Secretary.

[(3) COMMISSION.—The term "Commission" means the Ric Grande Outstanding Natural Area Commission as established in this Act.

[(4) COMPACT.—The term "Compact" means the Rio Grande Compact, consented to by Congress in the Act of May 31, 1939 (53 Stat. 785, chapter 155).

[(5) MAP.—The term "Map" means the map entitled "____", dated ____, and numbered ____.

[(6) PUBLIC LANDS.—The term "public lands" has the meaning given that term in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

[(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[(8) STATE.—The term "State" means the State of Colorado.

[SEC. 4. ESTABLISHMENT OF AREA.

[(a) IN GENERAL.—There is established the Rio Grande Outstanding Natural Area.

[(b) BOUNDARIES.—The Area shall consist of approximately 10,656 acres extending for a distance of 33.3 miles along the Rio Grande River in southern Colorado from the southern boundary of the Alamosa National Wildlife Refuge to the Colorado-New Mexico State line, encompassing the Rio Grande

River and its adjacent riparian areas extending not more than 1,320 feet on either side of the river.

[(c) MAP AND LEGAL DESCRIPTION.—

[(1) LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the Area in the office of the Director of the Bureau of Land Management, Department of the Interior, in Washington, District of Columbia, and the Office of the Colorado State Director of the Bureau of Land Management.

[(2) FORCE AND EFFECT.—The Map and legal description of the Area shall have the same force and effect as if they were included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description as they may appear from time to time.

[(3) PUBLIC AVAILABILITY.—The Map and legal description of the Area shall be available for public inspection in the office of the Colorado State Director of the Bureau of Land Management, Department of the Interior in Denver, Colorado.

[SEC. 5. COMMISSION.

[(a) ESTABLISHMENT.—There is hereby established the Rio Grande Outstanding Natural Area Commission.

[(b) PURPOSE.—The Commission shall assist appropriate Federal, State, and local authorities in the development and implementation of an integrated resource management plan for the Area called the Area Management Plan.

[(c) MEMBERSHIP.—The Commission shall be composed of 9 members, designated or appointed not later than 6 months after the date of the enactment of this Act as follows:

[(1) 2 officials of Department of the Interior designated by the Secretary, 1 of whom shall represent the Federal agency responsible for the management of the Area and 1 of whom shall be the manager of the Alamosa National Wildlife Refuge.

[(2) 2 individuals appointed by the Secretary, 1 of whom shall be based on the recommendation of the State Governor, representing the Colorado Division of Wildlife, and 1 representing the Colorado Division of Water Resources responsible for the Rio Grande drainage.

[(3) 1 representative of the Rio Grande Water Conservation District appointed by the Secretary based on the recommendation of the State Governor, representing the local region in which the Area is established.

[(4) 4 individuals appointed by the Secretary based on recommendations of the State Governor, representing the general public who are citizens of the State and of the local region in which the Area is established, who have knowledge and experience in the appropriate fields of interest relating to the preservation and restoration and use of the Area. 2 appointees from the local area shall represent nongovernmental agricultural interests and 2 appointees from the local area shall represent nonprofit nongovernmental environmental interests.

[(d) TERMS.—Members shall be appointed for terms of 5 years and may be reappointed.

[(e) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission.

[(f) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission.

[(g) MEETINGS.—The Commission shall hold its first meeting not later than 90 days after the date on which the last of its initial members is appointed, and shall meet at least quarterly at the call of the chairperson.

[SEC. 6. POWERS OF THE COMMISSION.

[(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

[(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this Act.

[(c) ACQUISITION OF REAL PROPERTY.—Except as provided in section 12, the Commission may not acquire any real property or interest in real property.

[(d) COOPERATIVE AGREEMENTS.—For purposes of carrying out the Area Management Plan, the Commission may enter into cooperative agreements with the State, with any political subdivision of the State, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State, a political subdivision, or a person which may affect the implementation of the Area Management Plan.

[SEC. 7. DUTIES OF THE COMMISSION.

[(a) PREPARATION OF PLAN.—Not later than 2 years after the Commission conducts its first meeting, it shall submit to the Secretary an Area Management Plan. The Area Management Plan shall be—

[(1) based on existing Federal, State, and local plans, but shall coordinate those plans and present a unified preservation, restoration, and conservation plan for the Area;

[(2) developed in accordance with the provisions of section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); and

[(3) consistent, to the extent possible, with the management plans adopted by the Director of the Bureau of Land Management for adjacent properties in Colorado and New Mexico.

[(b) CONTENTS.—The Area Management Plan shall include the following:

[(1) An inventory which includes any property in the Area which should be preserved, restored, managed, developed, maintained, or acquired because of its natural, scientific, scenic, or environmental significance.

[(2) Recommended policies for resource management which consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental cooperative agreements, that will protect the Area's natural, scenic, and wildlife resources and environment.

[(3) Recommended policies for resource management to provide for protection of the Area for solitude, quiet use, and pristine natural values.

[(c) IMPLEMENTATION OF THE PLAN.—Upon approval of the Area Management Plan by the Secretary, as provided in section 9, the Commission shall assist the Secretary in implementing the Area Management Plan by taking appropriate steps to preserve and interpret the natural resources of the Area and its surrounding area. These steps may include the following:

[(1) Assisting the State in preserving the Area.

[(2) Assisting the State and local governments, and political subdivisions of the State in increasing public awareness of and appreciation for the natural, historical, and wildlife resources in the Area.

[(3) Encouraging local governments and political subdivisions of the State to adopt land use policies consistent with the management of the Area and the goals of the Area Management Plan, and to take actions to implement those policies.

[(4) Encouraging and assisting private landowners within the Area in understanding and accepting the provisions of the Area Management Plan and cooperating in its implementation.

[SEC. 8. TERMINATION OF THE COMMISSION.

[(a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate 10 years and 6 months after the date of the enactment of this Act.

[(b) EXTENSIONS.—The Commission may be extended for a period of not more than 5 years beginning on the day of termination specified in subsection (a) if, not later than 180 days before that day, the Commission—

[(1) determines that such an extension is necessary in order to carry out the purpose of this Act; and

[(2) submits such proposed extension to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

[SEC. 9. ADMINISTRATION BY SECRETARY.

[(a) PLAN APPROVAL; PUBLICATION.—Not later than 60 days after the Secretary receives a proposed management plan from the Commission, the Secretary, with the assistance of the Commission, shall initiate the environmental compliance activities which the Secretary determines to be appropriate in order to allow the review of the proposed plan and any alternatives thereto and to allow public participation in the environmental compliance activities. Thereafter, the Secretary shall approve an Area Management Plan for the Area consistent with the Commission's proposed plan to the extent possible, that reflects the results of the environmental compliance activities undertaken. Not later than 18 months after the Secretary receives the proposed management plan, the Secretary shall publish the Area Management Plan in the Federal Register.

[(b) ADMINISTRATION.—The Secretary shall administer the lands owned by the United States within the Area in accordance with the laws and regulations applicable to public lands and the Area Management Plan in such a manner as shall provide for the following:

[(1) The conservation, restoration, and protection of the Area's unique scientific, scenic, educational, recreational, and wildlife values.

[(2) The continued use of the Area for purposes of education, scientific study, and limited public recreation in a manner that does not substantially impair the purposes for which the Area is established.

[(3) The protection of the wildlife habitat of the Area.

[(4) The elimination of opportunities to construct water storage facilities within the Area.

[(5) The reduction or elimination of roads and motorized vehicles from the public lands to the greatest extent possible within the Area.

[(6) The elimination of roads and motorized use on the public lands within the area on the western side of the river from Lobatos Bridge south to the State line.

[(c) NO RESERVATION OF WATER RIGHTS.—Public lands affected by this Act shall not be subject to reserved water rights for any Federal purpose.

[(d) CHANGES IN STREAMFLOW REGIME.—To the extent that changes to the streamflow regime beneficial to the Area can be accommodated through negotiation with the State of Colorado, the Rio Grande Water Conservation District, and water users within Colorado, such changes should be encouraged, but may not be imposed as a requirement.

[(e) PRIVATE LANDS.—Private lands within the Area will be affected by the designation and management of the Area only to the extent that the private landowner agrees in writing to be bound by the Area Management Plan.

[SEC. 10. MANAGEMENT.

[(a) AREA MANAGEMENT PLAN.—

[(1) IN GENERAL.—The Secretary shall implement the Area Management Plan for all of the land within the Area that accomplishes the purposes of and is consistent with the provisions of this Act.

[(2) NON-FEDERAL LAND.—The Area Management Plan shall apply to all land within the Area owned by the United States and may be made to apply to non-Federal land within the Area only when written acceptance of the Area Management Plan is given by the owners of such land.

[(b) COORDINATION WITH STATE AND LOCAL GOVERNMENTS.—The Area Management Plan shall be developed and adopted in coordination with the appropriate State agencies and local governments in Colorado.

[(c) COOPERATION BY PRIVATE LANDOWNERS.—In implementing the Area Management Plan, the Secretary shall encourage full public participation and seek the cooperation of all private landowners within the Area, regardless of whether the landowners are directly or indirectly affected by the Area Management Plan. If accepted by private landowners, in writing, the provisions of the Area Management Plan may be applied to the individual parcels of private land.

[(d) NEW IMPOUNDMENTS.—In managing the Area, neither the Secretary nor any other Federal agency or officer may approve or issue any permit for, or provide any assistance for, the construction of any new dam, reservoir, or impoundment on any segment of the Rio Grande River or its tributaries within the exterior boundaries of the Area.

[SEC. 11. RESTORATION TO PUBLIC LANDS STATUS.

[(a) EXISTING RESERVATIONS.—All reservations of public lands within the Area for Federal purposes that have been made by an Act of Congress or Executive order prior to the date of enactment of this Act are revoked.

[(b) PUBLIC LANDS.—Subject to subsection (c), public lands within the Area that were subject to a reservation described in subsection (a)—

[(1) are restored to the status of public lands; and

[(2) shall be administered in accordance with the Area Management Plan.

[(c) WITHDRAWAL.—All public lands within the Area are withdrawn from settlement, sale, location, entry, or disposal under the laws applicable to public lands, including the following:

[(1) Sections 910, 2318 through 2340, and 2343 through 2346 of the Revised Statutes (commonly known as the "General Mining Law, of 1872") (30 U.S.C. 21, 22, 23, 24, 26 through 30, 33 through 43, 46 through 48, 50 through 53).

[(2) The Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a).

[(3) The Act of April 26, 1882 (22 Stat. 49, chapter 106; 30 U.S.C. 25, 31).

[(4) Public Law 85–876 (30 U.S.C. 28–1, 28–2).

[(5) The Act of June 21, 1949 (63 Stat. 214, chapter 232; 30 U.S.C. 28b through 28e, 54).

[(6) The Act of March 3, 1991 (21 Stat. 505, chapter 140; 30 U.S.C. 32).

[(7) The Act of May 5, 1876 (19 Stat. 52, chapter 91; 30 U.S.C. 49).

[(8) Sections 15, 16, and 26 of the Act of June 6, 1990 (31 Stat. 327, 328, 329, chapter 786; 30 U.S.C. 49a, 49c, 49d).

[(9) Section 2 of the Act of May 4, 1934 (48 Stat. 1243, chapter 2559; 30 U.S.C. 49e, 49f).

[(10) The Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (commonly known as the "Mineral Lands Leasing Act of 1920"; 30 U.S.C. 181 et seq.).

[(11) The Act entitled "An Act to provide for the disposal of materials on public lands of the United States", approved July 31, 1947 (commonly known as the "Materials Act of 1947"; 30 U.S.C. 601 et seq.).

[(d) WILD AND SCENIC RIVERS.—No land or water within the Area shall be designated as a wild, scenic, or recreational river under section 2 of the Wild and Scenic Rivers Act (16 U.S.C. 1273).

[SEC. 12. ACQUISITION OF NON-FEDERAL LANDS.

[(a) ACQUISITION OF LANDS NOT CURRENTLY IN FEDERAL OWNERSHIP.—The Secretary, with the cooperation and assistance of the Commission, may acquire by purchase, exchange, or donation all or any part of the land and interests in land, including conservation easements, within the Area from willing sellers only.

[(b) ADMINISTRATION.—Any lands and interests in lands acquired under this section—

[(1) shall be administered in accordance with the Area Management Plan;

[(2) shall not be subject to reserved water rights for any Federal purpose, nor shall the acquisition of the land authorize the Secretary or any Federal agency to acquire instream flows in the Rio Grande River at any place within the Area;

[(3) shall become public lands; and

[(4) shall upon acquisition be immediately withdrawn as provided in section 11.

[SEC. 13. STATE INSTREAM FLOW PROTECTION AUTHORIZED.

[Nothing in this Act shall be construed to prevent the State from acquiring an instream flow through the Area pursuant to the terms, conditions, and limitations of Colorado law to assist in protecting the natural environment to the extent and for the purposes authorized by Colorado law.

[SEC. 14. RULE OF CONSTRUCTION.

[Nothing in this Act shall be construed to—

[(1) authorize, expressly or by implication, the appropriation or reservation of water by any Federal agency, or any other entity or individual other than the State of Colorado, for any instream flow purpose associated with the Area;

[(2) affect the rights or jurisdiction of the United States, a State, or any other entity over waters of any river or stream or over any ground water resource;

[(3) alter, amend, repeal, interpret, modify, or be in conflict with the Compact;

[(4) alter or establish the respective rights of any State, the United States, or any person with respect to any water or water-related right;

[(5) impede the maintenance of the free-flowing nature of the waters in the Area so as to protect—

[(A) the ability of the State of Colorado to fulfill its obligations under the Compact; or

[(B) the riparian habitat within the Area;

[(6) allow the conditioning of Federal permits, permissions, licenses, or approvals to require the bypass or release of waters appropriated pursuant to State law to protect, enhance, or alter the water flows through the Area;

[(7) affect the continuing use and operation, repair, rehabilitation, expansion, or new construction of water supply facilities, water and wastewater treatment facilities, stormwater facilities, public utilities, and common carriers along the Rio Grande River and its tributaries upstream of the Area;

[(8) impose any Federal or State water use designation or water quality standard upon uses of, or discharges to, waters of the State or waters of the United States, within or upstream of the Area, that is more restrictive than those that would be applicable had the Area not been established; or

[(9) modify, alter, or amend title I of the Reclamation Project Authorizing Act of 1972, as amended (Public Law 92–514, 86 Stat. 964; Public Law 96–375, 94 Stat. 1507; Public Law 98–570, 98 Stat. 2941; and Public Law 100–516, 100 Stat. 257), or to authorize the Secretary to acquire water from other sources for delivery to the Rio Grande River pursuant to section 102(c) of such title.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Grande Natural Area Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term "Commission" means the Rio Grande Natural Area Commission established by section 4(a).

(2) NATURAL AREA.—The term "Natural Area" means the Rio Grande Natural Area established by section 3(a).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. ESTABLISHMENT OF RIO GRANDE NATURAL AREA.

(a) IN GENERAL.—There is established the Rio Grande Natural Area in the State of Colorado to conserve, restore, and protect the natural, historic, cultural, scientific, scenic, wildlife, and recreational resources of the Natural Area.

(b) BOUNDARIES.—The Natural Area shall include the Rio Grande River from the southern boundary of the Alamosa National Wildlife Refuge to the New Mexico State border, extending ¼ mile on either side of the bank of the River.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a map and legal description of the Natural Area.

(2) EFFECT.—The map and legal description of the Natural Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description of the Natural Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. ESTABLISHMENT OF THE COMMISSION.

(a) ESTABLISHMENT.—There is established the Rio Grande Natural Area Commission.

(b) PURPOSE.—The Commission shall—

(1) advise the Secretary with respect to the Natural Area; and

(2) prepare a management plan relating to non-Federal land in the Natural Area under section 6(b)(2)(A).

(c) MEMBERSHIP.—The Commission shall be composed of 9 members appointed by the Secretary, of whom—

(1) 1 member shall represent the Colorado State Director of the Bureau of Land Management;

(2) 1 member shall be the manager of the Alamosa National Wildlife Refuge, ex officio;

(3) 3 members shall be appointed based on the recommendation of the Governor of Colorado, of whom—

(A) 1 member shall represent the Colorado Division of Wildlife;

(B) 1 member shall represent the Colorado Division of Water Resources; and

(C) 1 member shall represent the Rio Grande Water Conservation District; and

(4) 4 members shall—

(A) represent the general public;

(B) be citizens of the local region in which the Natural Area is established; and

(C) have knowledge and experience in the fields of interest relating to the preservation, restoration, and use of the Natural Area.

(d) TERMS OF OFFICE.—

(1) IN GENERAL.—Except for the manager of the Alamosa National Wildlife Refuge, the term of office of a member of the Commission shall be 5 years.

(2) REAPPOINTMENT.—A member may be reappointed to the Commission on completion of the term of office of the member.

(e) COMPENSATION.—A member of the Commission shall serve without compensation for service on the Commission.

(f) CHAIRPERSON.—The Commission shall elect a chairperson of the Commission.

(g) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at least quarterly at the call of the chairperson.

(2) PUBLIC MEETINGS.—A meeting of the Commission shall be open to the public.

(3) NOTICE.—Notice of any meeting of the Commission shall be published in advance of the meeting.

(h) TECHNICAL ASSISTANCE.—The Secretary and the heads of other Federal agencies shall, to the maximum extent practicable, provide any information and technical services requested by the Commission to assist in carrying out the duties of the Commission.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—For purposes of carrying out the management plan on non-Federal land in the Natural Area, the Commission may enter into a cooperative agreement with the State of Colorado, a political subdivision of the State, or any person.

(2) REQUIREMENTS.—A cooperative agreement entered into under paragraph (1) shall establish procedures for providing notice to the Commission of any action proposed by the State of Colorado, a political subdivision of the State, or any person that may affect the implementation of the management plan on non-Federal land in the Natural Area.

(3) EFFECT.—A cooperative agreement entered into under paragraph (1) shall not enlarge or diminish any right or duty of a Federal agency under Federal law.

(c) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—The Commission may not acquire any real property or interest in real property.

(d) IMPLEMENTATION OF MANAGEMENT PLAN.—

(1) IN GENERAL.—The Commission shall assist the Secretary in implementing the management plan by carrying out the activities described in paragraph (2) to preserve and interpret the natural, historic, cultural, scientific, scenic, wildlife, and recreational resources of the Natural Area.

(2) AUTHORIZED ACTIVITIES.—In assisting with the implementation of the management plan under paragraph (1), the Commission may—

(A) assist the State of Colorado in preserving State land and wildlife within the Natural Area;

(B) assist the State of Colorado and political subdivisions of the State in increasing public awareness of, and appreciation for, the natural, historic, scientific, scenic, wildlife, and recreational resources in the Natural Area;

(C) encourage political subdivisions of the State of Colorado to adopt and implement land use policies that are consistent with—

(i) the management of the Natural Area; and

(ii) the management plan; and

(D) encourage and assist private landowners in the Natural Area in the implementation of the management plan.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary and the Commission, in coordination with appropriate agencies in the State of Colorado, political subdivisions of the State, and private landowners in the Natural Area, shall prepare management plans for the Natural Area as provided in subsection (b).

(b) DUTIES OF SECRETARY AND COMMISSION.—

(1) SECRETARY.—The Secretary shall prepare a management plan relating to the management of Federal land in the Natural Area.

(2) COMMISSION.—

(A) IN GENERAL.—The Commission shall prepare a management plan relating to the management of the non-Federal land in the Natural Area.

(B) APPROVAL OR DISAPPROVAL.—

(i) IN GENERAL.—The Commission shall submit to the Secretary the management plan prepared under subparagraph (A) for approval or disapproval.

(ii) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan submitted under clause (i), the Secretary shall—

(I) notify the Commission of the reasons for the disapproval; and

(II) allow the Commission to submit to the Secretary revisions to the management plan submitted under clause (i).

(3) COOPERATION.—The Secretary and the Commission shall cooperate to ensure that the management plans relating to the management of Federal land and non-Federal land are consistent.

(c) REQUIREMENTS.—The management plans shall—

(1) take into consideration Federal, State, and local plans in existence on the date of enactment of this Act to present a unified preservation, restoration, and conservation plan for the Natural Area;

(2) with respect to Federal land in the Natural Area—

(A) be developed in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712);

(B) be consistent, to the maximum extent practicable, with the management plans adopted by the Director of the Bureau of Land Management for land adjacent to the Natural Area; and

(C) be considered to be an amendment to the San Luis Resource Management Plan of the Bureau of Land Management; and

(3) include—

(A) an inventory of the resources contained in the Natural Area (including a list of property in the Natural Area that should be preserved, restored, managed, developed, maintained, or acquired to further the purposes of the Natural Area); and

(B) a recommendation of policies for resource management, including the use of intergovernmental cooperative agreements, that—

(i) protect the resources of the Natural Area; and

(ii) provide for solitude, quiet use, and pristine natural values of the Natural Area.

(d) PUBLICATION.—The Secretary shall publish notice of the management plans in the Federal Register.

SEC. 7. ADMINISTRATION OF NATURAL AREA.

(a) IN GENERAL.—The Secretary shall administer the Federal land in the Natural Area—

(1) in accordance with—

(A) the laws (including regulations) applicable to public land; and

(B) the management plan; and

(2) in a manner that provides for—

(A) the conservation, restoration, and protection of the natural, historic, scientific, scenic, wildlife, and recreational resources of the Natural Area;

(B) the continued use of the Natural Area for purposes of education, scientific study, and limited public recreation in a manner that does not substantially impair the purposes for which the Natural Area is established;

(C) the protection of the wildlife habitat of the Natural Area;

(D) a prohibition on the construction of water storage facilities in the Natural Area; and

(E) the reduction in the use of or removal of roads in the Natural Area and, to the maximum extent practicable, the reduction in or prohibition against the use of motorized vehicles in the Natural Area (including the removal of roads and a prohibition against motorized use on Federal land in the area on the western side of the Rio Grande River from Lobatos Bridge south to the New Mexico State line).

(b) CHANGES IN STREAMFLOW.—The Secretary is encouraged to negotiate with the State of Colorado, the Rio Grande Water Conservation District, and affected water users in the State to determine if changes in the streamflow that are beneficial to the Natural Area may be accommodated.

(c) PRIVATE LAND.—The management plan prepared under section 6(b)(2)(A) shall apply to private land in the Natural Area only to the extent that the private landowner agrees in writing to be bound by the management plan.

(d) WITHDRAWAL.—Subject to valid existing rights, all Federal land in the Natural Area is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under the mineral leasing laws (including geothermal leasing laws).

(e) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary may acquire from willing sellers by purchase, exchange, or donation land or an interest in land in the Natural Area.

(2) ADMINISTRATION.—Any land or interest in land acquired under paragraph (1) shall be administered in accordance with the management plan and this Act.

(f) APPLICABLE LAW.—Section 5(d)(1) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(d)(1)) shall not apply to the Natural Area.

SEC. 8. EFFECT.

Nothing in this Act—

(1) amends, modifies, or is in conflict with the Rio Grande Compact, consented to by Congress in the Act of May 31, 1939 (53 Stat. 785, ch. 155);

(2) authorizes the regulation of private land in the Natural Area;

(3) authorizes the imposition of any mandatory streamflow requirements;

(4) creates an express or implied Federal reserved water right;

(5) imposes any Federal water quality standard within or upstream of the Natural Area that is more restrictive than would be applicable had the Natural Area not been established; or

(6) prevents the State of Colorado from acquiring an instream flow through the Natural Area under the terms, conditions, and limitations of State law to assist in protecting the natural environment to the extent and for the purposes authorized by State law.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SEC. 10. TERMINATION OF COMMISSION.

The Commission shall terminate on the date that is 10 years after the date of enactment of this Act.

The committee amendment in the nature of a substitute was greed to.

The bill (S. 1467), as amended was read the third time and passed.

The title was amended so as to read: "A bill to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes.".

EDWARD H. McDANIEL AMERICAN LEGION POST NO. 22 LAND CONVEYANCE ACT

The Senate proceeded to consider the bill (S. 1521) to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Edward H. McDaniel American Legion Post No. 22 Land Conveyance Act".

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) the membership of the American Legion and other nonprofit organizations that represent the veterans' community in Pahrump, Nevada, has grown immensely in the last 10 years;

[(2) the existing facility used by the veterans community in Pahrump, which was constructed in the 1960's, is too small and is inappropriate for the needs of the veterans community;

[(3) the nearest veterans facility that can accommodate the veterans community in Pahrump is located more than 60 miles away in the city of Las Vegas;

[(4) the tracts of land that are available for consideration as potential sites for the location of a new veterans facility are not suitable for the facility;

[(5) conveyance of a suitable parcel of land for the facility, which consists of an odd, triangular tract of land bounded on 2 sides by private land and cut off from other public land by a major highway, conforms with the objective of the Bureau of Land Management, Las Vegas District 1998 Resource Management Plan by simplifying the land management responsibilities of the Bureau of Land Management; and

[(6) because the intent of the American Legion is to make the facility available to other veterans organizations and the public for community activities and events at no cost, it would be in the best interests of the United States to convey the land to the Edward H. McDaniel American Legion Post No. 22.

[SEC. 3. DEFINITIONS.]

SEC. 2. DEFINITIONS.

In this Act:

(1) POST NO. 22.—The term "Post No. 22" means the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

[SEC. 4. CONVEYANCE OF LAND TO EDWARD H. MCDANIEL AMERICAN LEGION POST NO. 22.]

SEC. 3. CONVEYANCE OF LAND TO EDWARD H. MCDANIEL AMERICAN LEGION POST NO. 22.

(a) CONVEYANCE ON CONDITION SUBSEQUENT.—Not later than [120] *180* days after the date of enactment of this Act, subject to valid existing rights and the condition stated in subsection (c) and in accordance with the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.), the Secretary shall convey to Post No. 22, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (b) is the parcel of Bureau of Land Management land that—

(1) is bounded by Route 160, Bride Street, and Dandelion Road in Nye County, Nevada;

(2) consists of approximately 4.5 acres of land; and

(3) is more particularly described as a portion of the S ¼ of section 29, T. 20 S., R. 54 E., Mount Diablo and Base Meridian.

(c) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—Post No. 22 and any successors of Post No. 22 shall use the parcel of land described in section (b) for the construction and operation of a post building and memorial park for use by Post No. 22, other veterans groups, and the local community for events and activities.

(2) REVERSION.—Except as provided in paragraph (3), if the Secretary, after notice to Post No. 22 and an opportunity for a hearing, makes a finding that Post No. 22 has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1) and Post No. 22 fails to discontinue that use, title to the parcel shall revert to the United States, to be administered by the Secretary.

(3) WAIVER.—The Secretary may waive the requirements of paragraph (2) if the Secretary determines that a waiver would be in the best interests of the United States.

The committee amendments were agreed to.

The bill (S. 1521), as amended, was read the third time and passed, as follows:

S. 1521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Edward H. McDaniel American Legion Post No. 22 Land Conveyance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) POST NO. 22.—The term "Post No. 22" means the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. CONVEYANCE OF LAND TO EDWARD H. MCDANIEL AMERICAN LEGION POST NO. 22.

(a) CONVEYANCE ON CONDITION SUBSEQUENT.—Not later than 180 days after the date of enactment of this Act, subject to valid existing rights and the condition stated in subsection (c) and in accordance with the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.), the Secretary shall convey to Post No. 22, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (b) is the parcel of Bureau of Land Management land that—

(1) is bounded by Route 160, Bride Street, and Dandelion Road in Nye County, Nevada;

(2) consists of approximately 4.5 acres of land; and

(3) is more particularly described as a portion of the S ¼ of section 29, T. 20 S., R. 54 E., Mount Diablo and Base Meridian.

(c) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—Post No. 22 and any successors of Post No. 22 shall use the parcel of land described in section (b) for the construction and operation of a post building and memorial park for use by Post No. 22, other veterans groups, and the local community for events and activities.

(2) REVERSION.—Except as provided in paragraph (3), if the Secretary, after notice to Post No. 22 and an opportunity for a hearing, makes a finding that Post No. 22 has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1) and Post No. 22 fails to discontinue that use, title to the parcel shall revert to the United States, to be administered by the Secretary.

(3) WAIVER.—The Secretary may waive the requirements of paragraph (2) if the Secretary determines that a waiver would be in the best interests of the United States.

RAILROAD RIGHT-OF-WAY CONVEYANCE VALIDATION ACT OF 2003

The Senate proceeded to consider the bill (H.R. 1658) to amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the part shown in black brackets and insert the part shown in italic.]

H.R. 1658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Right-of-Way Conveyance Validation Act of 2003".

SEC. 2. VALIDATION OF ADDITIONAL RAILROAD CONVEYANCES, SAN JOAQUIN COUNTY, CALIFORNIA.

Section 4 of the Railroad Right-of-Way Conveyance Validation Act (Private Law 103–2; 108 Stat. 5061) is amended by adding at the end the following new paragraphs:

"(9) The conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Transportation Company and the Bank of America, as trustee of the last will and testament of Aaron Herschel, recorded September 27, 1945, in volume 942 at page [104] *401* of the official records of the county of San Joaquin.

"(10) The conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Transportation Company and the Tri-Valley Packing Association, recorded November 13, 1957, in volume 2016 at page 149 of the official records of the county of San Joaquin.".

The committee amendment was agreed to.

The bill (H.R. 1658), as amended, was read the third time and passed.

BIG HORN BENTONITE ACT

The Senate proceeded to consider the bill (S. 203) to open certain withdrawn land in Big Horn County, Wyoming, to locatable mineral development for bentonite mining, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. OPENING OF CERTAIN WITHDRAWN LAND IN WYOMING TO LOCATABLE MINERAL DEVELOPMENT FOR BENTONITE MINING.

[(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (c), the land described in subsection (b) shall be open to locatable mineral development for bentonite mining.

[(b) COVERED LAND.—The land referred to in subsection (a) is approximately 40 acres of previously withdrawn land located in Big Horn County, Wyoming, at the sixth principal meridian, T. 56 N., R. 95 W., Sec. 32. E½E½SE¼, adjacent to Pit No. 144L covered by State of Wyoming Mining Permit No. 321C.

[(c) CLOSURE.—The Secretary of the Army may close the land opened by subsection (a) at any time if the Secretary determines that the closure of the land is required by reason of a national emergency or for the purpose of national defense or security.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Big Horn Bentonite Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) COVERED LAND.—The term "covered land" means the approximately 20 acres of previously withdrawn land located in the E½ NE¼ SE¼ of sec. 32, T. 56N., R. 95W., sixth principal meridian, Big Horn County, Wyoming.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. AUTHORIZATION OF MINING AND REMOVAL OF BENTONITE.

(a) IN GENERAL.—Notwithstanding the withdrawal of the covered land for military purposes, the Secretary may, with the consent of the Secretary of the Army, permit the mining and removal of bentonite on the covered land.

(b) SOLE-SOURCE CONTRACT.—The Secretary shall enter into a sole-source contract for the mining and removal of the bentonite from the covered land that provides for the payment to the Secretary of $1.00 per ton of bentonite removed from the covered land.

(c) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Mining and removal of bentonite under this Act shall be subject to such terms and conditions as the Secretary may prescribe for—

(A) the prevention of unnecessary or undue degradation of the covered land; and

(B) the reclamation of the covered land after the bentonite is removed.

(2) REQUIREMENTS.—The terms and conditions prescribed under paragraph (1) shall be at least as protective of the covered land as the terms and conditions established for Pit No. 144L (BLM Case File WYW136110).

(3) LAND USE PLAN.—In carrying out the provisions of this Act, the Secretary is not required to amend any land use plan under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(4) TERMINATION OF INTEREST.—On completion of the mining and reclamation authorized under this Act, any party that has entered into the sole-source contract with the Secretary under subsection (b) shall have no remaining interest in the covered land.

SEC. 4. CLOSURE.

(a) IN GENERAL.—If the Secretary of the Army notifies the Secretary that closure of the covered land is required because of a national emergency or for the purpose of national defense or national security, the Secretary shall—

(1) order the suspension of any activity authorized by this Act on the covered land; and

(2) close the covered land until the Secretary of the Army notifies the Secretary that the closure is no longer necessary.

(b) LIABILITY.—Neither the Secretary nor the Secretary of the Army shall be liable for damages from a closure of the covered land under subsection (a).

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 203), as amended, was read the third time and passed.

(b) LIABILITY.—Neither the Secretary nor the Secretary of the Army shall be liable for damages from a closure of the covered land under subsection (a).

The title was amended so as to read: "A bill to provide for the sale of bentonite in Big Horn County, Wyoming.".

FEDERAL LAND RECREATIONAL VISITOR PROTECTION ACT OF 2004

The Senate proceeded to consider the bill (S. 931) to direct the Secretary of the Interior to undertake a program to reduce the risks from and mitigate the effects of avalanches on visitors to units of the National Park System and on other recreational users of public land, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 931

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Federal Land Recreational Visitor Protection Act of 2003".

[SEC. 2. DEFINITIONS.

[In this Act:

[(1) PROGRAM.—The term "program" means the avalanche protection program established under section 3(a).

[(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[SEC. 3. AVALANCHE PROTECTION PROGRAM.

[(a) ESTABLISHMENT.—The Secretary shall establish a coordinated avalanche protection program—

[(1) to provide early identification of the potential for avalanches that could endanger the safety of visitors to units of the National Park System and recreational users of public land, including skiers, backpackers, snowboarders, and campers; and

[(2) to reduce the risks and mitigate the effects of avalanches on visitors, recreational users, neighboring communities, and transportation corridors.

[(b) COORDINATION.—

[(1) IN GENERAL.—In developing and implementing the program, the Secretary shall consult with the Secretary of Agriculture, and coordinate the program, to ensure adequate levels of protection for recreational users of public land and forests under the jurisdiction of the Secretary of Agriculture, including National Recreation Areas, wilderness and backcountry areas, components of the National Wild and Scenic Rivers System, and other areas that are subject to the potential threat of avalanches.

[(2) RESOURCES.—In carrying out this section, the Secretary and the Secretary of Agriculture—

[(A) shall, to the maximum extent practicable, use the resources of the National Avalanche Center of the Forest Service; and

[(B) may use such other resources as the Secretary has available in the development and implementation of the program.

[(c) ADVISORY COMMITTEE.—

[(1) IN GENERAL.—The Secretary and the Secretary of Agriculture shall jointly establish an advisory committee to assist in the development and implementation of the program.

[(2) MEMBERSHIP.—

[(A) IN GENERAL.—The Advisory Committee shall consist of 11 members, appointed by the Secretaries, who represent authorized users of artillery, other military weapons, or weapons alternatives used for avalanche control.

[(B) REPRESENTATIVES.—The membership of the Advisory Committee shall include representatives of—

[(i) Federal land management agencies and concessionaires or permittees that are exposed to the threat of avalanches;

[(ii) State departments of transportation that have experience in dealing with the effects of avalanches; and

[(iii) Federal- or State-owned railroads that have experience in dealing with the effects of avalanches.

[(d) CENTRAL DEPOSITORY.—The Secretary, the Secretary of Agriculture, and the Secretary of the Army shall establish a central depository for weapons, ammunition, and parts for avalanche control purposes, including an inventory that can be made available to Federal and non-Federal entities for avalanche control purposes under the program.

[(e) GRANTS.—

[(1) IN GENERAL.—The Secretary and the Secretary of Agriculture may make grants to carry out projects and activities under the program—

[(A) to assist in the prevention, forecasting, detection, and mitigation of avalanches for the safety and protection of persons, property, and at-risk communities;

[(B) to maintain essential transportation and communications affected or potentially affected by avalanches;

[(C) to assist avalanche artillery users to ensure the availability of adequate supplies of artillery and other unique explosives required for avalanche control in or affecting—

[(i) units of the National Park System; and

[(ii) other Federal land used for recreation purposes; and

[(iii) adjacent communities, and essential transportation corridors, that are at risk of avalanches; and

[(D) to assist public or private persons and entities in conducting research and development activities for cost-effective and reliable alternatives to minimize reliance on military weapons for avalanche control.

[(2) APPORTIONMENT OF FUNDS.—

[(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year for which funds are made available under section 4, the Secretary shall apportion the amount of funds made available for the fiscal year among States with avalanche zones based on the ratio that the total area of avalanche zones located in each State bears to the total area of all avalanche zones in all States.

[(B) PRIORITY.—In providing grants under this subsection, the Secretary shall give priority to projects and activities carried out in avalanche zones—

[(i) with a high frequency or severity of avalanches; or

[(ii) in which deaths or serious injuries to individuals, or loss or damage to public facilities and communities, have occurred or are likely to occur.

[(f) SURPLUS ORDINANCE.—Section 549(c)(3) of title 40, United States Code, is amended—

[(1) in subparagraph (A), by striking "or" after the semicolon at the end;

[(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

[(3) by adding at the end the following:

["(C) in the case of surplus artillery ordinance that is suitable for avalanche control purposes, to a user of such ordinance.".

[SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Land Recreational Visitor Protection Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) PROGRAM.—The term "program" means the avalanche protection program established under section 3(a).

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 3. AVALANCHE PROTECTION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a coordinated avalanche protection program—

(1) to provide early identification of the potential for avalanches that could endanger the safety of recreational users of public land, including skiers, backpackers, snowboarders, and campers and visitors to units of the National Park System; and

(2) to reduce the risks and mitigate the effects of avalanches on visitors, recreational users, neighboring communities, and transportation corridors.

(b) COORDINATION.—

(1) IN GENERAL.—In developing and implementing the program, the Secretary shall consult with the Secretary of the Interior, and coordinate the program, to ensure adequate levels of protection for recreational users of public land under the jurisdiction of the Secretary of the Interior, including units of the National Park System, National Recreation Areas, wilderness and backcountry areas, components of the National Wild and Scenic Rivers System, and other areas that are subject to the potential threat of avalanches.

(2) RESOURCES.—In carrying out this section, the Secretary and the Secretary of the Interior—

(A) shall, to the maximum extent practicable, use the resources of the National Avalanche Center of the Forest Service; and

(B) may use such other resources as the Secretary has available in the development and implementation of the program.

(c) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Secretary and the Secretary of the Interior shall jointly establish an advisory committee to assist in the development and implementation of the program.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Advisory Committee shall consist of 11 members, appointed by the Secretaries, who represent authorized users of artillery, other military weapons, or weapons alternatives used for avalanche control.

(B) REPRESENTATIVES.—The membership of the Advisory Committee shall include representatives of—

(i) Federal land management agencies and concessionaires or permittees that are exposed to the threat of avalanches;

(ii) State departments of transportation that have experience in dealing with the effects of avalanches; and

(iii) Federal- or State-owned railroads that have experience in dealing with the effects of avalanches.

(d) CENTRAL DEPOSITORY.—The Secretary, the Secretary of the Interior, and the Secretary of the Army shall establish a central depository for weapons, ammunition, and parts for avalanche control purposes, including an inventory that can be made available to Federal and non-Federal entities for avalanche control purposes under the program.

(e) GRANTS.—

(1) IN GENERAL.—The Secretary and the Secretary of the Interior may make grants to carry out projects and activities under the program—

(A) to assist in the prevention, forecasting, detection, and mitigation of avalanches for the safety and protection of persons, property, and at-risk communities;

(B) to maintain essential transportation and communications affected or potentially affected by avalanches;

(C) to assist avalanche artillery users to ensure the availability of adequate supplies of artillery and other unique explosives required for avalanche control in or affecting—

(i) units of the National Park System; and

(ii) other Federal land used for recreation purposes; and

(iii) adjacent communities, and essential transportation corridors, that are at risk of avalanches; and

(D) to assist public or private persons and entities in conducting research and development activities for cost-effective and reliable alternatives to minimize reliance on military weapons for avalanche control.

(2) PRIORITY.—For each fiscal year for which funds are made available under section 4, the Secretary shall give priority to projects and activities carried out in avalanche zones—

(A) with a high frequency or severity of avalanches; or

(B) in which deaths or serious injuries to individuals, or loss or damage to public facilities and communities, have occurred or are likely to occur.

(f) SURPLUS ORDINANCE.—Section 549(c)(3) of title 40, United States Code, is amended—

(1) in subparagraph (A), by striking "or" after the semicolon at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) in the case of surplus artillery ordinance that is suitable for avalanche control purposes, to a user of such ordinance.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $15,000,000 for each of fiscal years 2005 through 2009.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 931), as amended, was read the third time and passed.

The title was amended so as read:

"A bill to direct the Secretary of Agriculture to undertake a program to reduce the risks from and mitigate the effects of avalanches on recreational users of public land.".

EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL ACT

The Senate proceeded to consider the bill (S. 2052) to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "El Camino Real de los Tejas National Historic Trail Act of 2004".

[SEC. 2. AUTHORIZATION AND ADMINISTRATION.

[Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

["(23) EL CAMINO REAL DE LOS TEJAS.—

["(A) IN GENERAL.—Subject to subparagraph (B), El Camino Real de los Tejas (The Royal Road of historic Tejas) National Historic Trail, a combination of historic routes totaling 2,580 miles in length from the Rio Grande near Eagle Pass and Laredo, Texas, to Natchitoches, Louisiana, and including the Old San Antonio Road, as generally depicted on the maps entitled 'El Camino Real de los Tejas', contained in the report prepared pursuant to subsection (b) entitled 'National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de los Tejas, Texas-Louisiana', dated July 1998. The National Park Service is authorized to administer designated portions of this trail system as a national historic trail as set forth in this paragraph.

["(B) ESTABLISHMENT.—

["(i) PUBLICLY OWNED LANDS.—Congress authorizes the establishment of El Camino Real de los Tejas national historic trail and the respective administration on those portions of the historic trail routes and related historic sites within publicly owned lands when such trail related resources meet the purposes of this Act or certification criteria set by the Secretary of the Interior per section 3(a)(3) of this Act.

["(ii) PRIVATELY OWNED LANDS.—Congress authorizes the establishment of El Camino

Real de los Tejas national historic trail and the respective administration on those portions of the historic trail routes and related historic sites within privately owned lands only through the voluntary and expressed consent of the owner and when such trails and sites qualify for certification as officially established components of the national historic trail. The owner's approval of a certification agreement satisfies the consent requirement. Certification agreements are not legally binding and may be terminated at any time. Should land ownership change at a certified site, the certification will cease to be valid unless the new owner consents to a new agreement.

["(C) PRIVATE PROPERTY RIGHTS PROTECTION.—Nothing in this Act or in the establishment of any portion of the national historic trail authorizes any person to enter private property without the consent of the owner. Nothing in this Act or in the establishment of any portion of the national historic trail will authorize the Federal Government to restrict private property owner's use or enjoyment of their property subject to other laws or regulations. Authorization of El Camino Real de los Tejas National Historic Trail under this Act does not itself confer any additional authority to apply other Federal laws and regulations on non-Federal lands along the trail. Laws or regulations requiring public entities and agencies to take into consideration a national historic trail shall continue to apply notwithstanding the foregoing. Notwithstanding section 7(g) of this Act, the United States is authorized to acquire privately owned real property or an interest in such property for purposes of the national historic trail only with the consent of the owner of such property and shall have no authority to condemn or otherwise appropriate privately owned real property or an interest in such property for the purposes of El Camino Real de los Tejas National Historic Trail.

["(D) COORDINATION OF ACTIVITIES.—The Secretary of the Interior may coordinate with United States and Mexican public and nongovernmental organizations, academic institutions, and, in consultation with the Secretary of State, the Government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

["(E) CONSULTATION.—The Secretary of the Interior shall consult with appropriate State agencies in the the planning, development, and maintenance of El Camino Real de los Tejas National Historic Trail.".]

SECTION 1. SHORT TITLE.

This Act may be cited as the "El Camino Real de los Tejas National Historic Trail Act".

SEC. 2. DESIGNATION OF EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

"(24) EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL.—

"(A) IN GENERAL.—El Camino Real de los Tejas (the Royal Road to the Tejas) National Historic Trail, a combination of historic routes (including the Old San Antonio Road) totaling approximately 2,580 miles, extending from the Rio Grande near Eagle Pass and Laredo, Texas, to Natchitoches, Louisiana, as generally depicted on the map entitled 'El Camino Real de los Tejas' contained in the report entitled 'National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de los Tejas, Texas-Louisiana', dated July 1998.

"(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the appropriate offices of the National Park Service.

"(C) ADMINISTRATION.—(i) The Secretary of the Interior (referred to in this paragraph as 'the Secretary') shall administer the trail.

"(ii) The Secretary shall administer those portions of the trail on non-Federal land only with the consent of the owner of such land and when such trail portion qualifies for certification as an officially established component of the trail, consistent with section 3(a)(3). An owner's approval of a certification agreement shall satisfy the consent requirement. A certification agreement may be terminated at any time.

"(iii) The designation of the trail does not authorize any person to enter private property without the consent of the owner.

"(D) CONSULTATION.—The Secretary shall consult with appropriate State and local agencies in the planning and development of the trail.

"(E) COORDINATION OF ACTIVITIES.—The Secretary may coordinate with United States and Mexican public and nongovernmental organizations, academic institutions, and, in consultation with the Secretary of State, the Government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

"(F) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-administered area without the consent of the owner of the land or interest in land.".

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2052), as amended, was read the third time and passed.

LEWIS AND CLARK NATIONAL HISTORICAL PARK ACT OF 2004

The Senate proceeded to consider the bill (S. 2167) to establish the Lewis and Clark National Historical Park in the States of Washington and Oregon, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lewis and Clark National Historical Park Act of 2004".

SEC. 2. PURPOSE.

The purpose of this Act is to establish the Lewis and Clark National Historical Park to—

(1) preserve for the benefit of the people of the United States the historic, cultural, scenic, and natural resources associated with the arrival of the Lewis and Clark Expedition in the lower Columbia River area; and

(2) commemorate the winter encampment of the Lewis and Clark Expedition in the winter of 1805–1806 following the successful crossing of the North American Continent.

SEC. 3. DEFINITIONS.

In this Act:

(1) MAP.—The term "map" means the map entitled "Lewis and Clark National Historical Park, Boundary Map", numbered 405/80027, and dated December, 2003.

(2) MEMORIAL.—The term "Memorial" means the Fort Clatsop National Memorial established under section 1 of Public Law 85–435 (16 U.S.C. 450mm).

(3) PARK.—The term "Park" means the Lewis and Clark National Historical Park established by section 4(a).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. LEWIS AND CLARK NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—There is established as a unit of the National Park System the Lewis and Clark National Historical Park in the States of Washington and Oregon, as depicted on the map.

(b) COMPONENTS.—The Park shall consist of—

(1) the Memorial, including—

(A) the site of the salt cairn (lot number 18, block 1, Cartwright Park Addition of Seaside, Oregon) used by the Lewis and Clark Expedition; and

(B) portions of the trail used by the Lewis and Clark Expedition that led overland from Fort Clatsop to the Pacific Ocean;

(2) the parcels of land identified on the map as "Fort Clatsop 2002 Addition Lands"; and

(3) the parcels of land located along the lower Columbia River in the State of Washington that are associated with the arrival of the Lewis and Clark Expedition at the Pacific Ocean in 1805 and that are identified on the map as—

(A) "Station Camp";

(B) "Clark's Dismal Nitch"; and

[(C) "Memorial to Thomas Jefferson".]

(C) "Cape Disappointment".

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary may acquire land, an interest in land, and any improvements to land located within the boundary of the Park.

(2) MEANS.—Subject to paragraph (3), an acquisition of land under paragraph (1) may be made by donation, purchase with donated or appropriated funds, exchange, transfer from any Federal agency, or by any other means that the Secretary determines to be in the public interest.

(3) CONSENT OF OWNER.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no land, interest in land, or improvement to land to may be acquired under paragraph (1) without the consent of the owner.

(B) EXCEPTION.—The corporately-owned timberland in the area described in subsection (b)(2) may be acquired without the consent of the owner.

(4) MEMORANDUM OF UNDERSTANDING.—If the owner of the timberland described in paragraph (2)(B) agrees to sell the timberland to the Secretary either as a result of a condemnation proceeding or without any condemnation proceeding, the Secretary shall enter into a memorandum of understanding with the owner with respect to the manner in which the timberland is to be managed after acquisition of the timberland by the Secretary.

[(5) ACQUISITION OF ADDITIONAL LAND.—

[(A) IN GENERAL.—In addition to the land authorized to be acquired under paragraph (1), the National Park Service is authorized to acquire by transfer Federal land at Cape Disappointment, Washington.

[(B) MANAGEMENT.—The National Park Service shall enter into a cooperative management agreement with the State of Washington under section 5(c) to provide for the management of the land acquired under subparagraph (A) as a State park.]

(5) CAPE DISAPPOINTMENT.—

(A) TRANSFER.—

(i) IN GENERAL.—Subject to valid rights (including withdrawals), the Secretary shall transfer to the Director of the National Park Service management of any Federal land at Cape Disappointment, Washington, that is within the boundary of the Park.

(ii) WITHDRAWN LAND.—

(I) NOTICE.—The head of any Federal agency that has administrative jurisdiction over withdrawn land at Cape Disappointment, Washington, within the boundary of the Park shall notify the Secretary in writing if the head of the Federal agency does not need the withdrawn land.

(II) TRANSFER.—On receipt of a notice under subclause (I), the withdrawn land shall be transferred to the administrative jurisdiction of the Secretary, to be administered as part of the Park.

(B) MEMORIAL TO THOMAS JEFFERSON.—

(i) IN GENERAL.—All withdrawals of the 20-acre parcel depicted on the map as "Memorial to Thomas Jefferson" are revoked.

(ii) ESTABLISHMENT.—The Secretary shall establish a memorial to Thomas Jefferson on the parcel referred to in clause (i).

(C) MANAGEMENT OF CAPE DISAPPOINTMENT STATE PARK LAND.—The Secretary may enter into an agreement with the State of Washington providing for the administration by the State of the land within the boundary of the Park known as "Cape Disappointment State Park".

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the Park in accordance with—

(1) this Act; and

(2) the laws generally applicable to units of the National Park System, including—

(A) the Act of August 25, 1916 (16 U.S.C. 1 et seq.); and

(B) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(b) MANAGEMENT PLAN.—Not later than 3 years after funds are made available to carry out this Act, the Secretary shall prepare an amendment to the general management plan for the Memorial to address the management of the Park.

(c) COOPERATIVE MANAGEMENT AGREEMENTS.—To facilitate the presentation of a comprehensive picture of the experiences of the Lewis and Clark Expedition in the lower Columbia River area and to promote more efficient administration of the sites associated with those experiences, the Secretary may, in accordance with section 3(l) of Public Law 91–383 (16 U.S.C. 1a–2(l)), enter into cooperative management agreements with appropriate officials in the States of Washington and Oregon.

SEC. 6. REPEALS; REFERENCES.

(a) IN GENERAL.—Public Law 85–435 (72 Stat. 153; 16 U.S.C. 450mm et seq.) is repealed.

(b) REFERENCES.—Any reference to Fort Clatsop National Memorial in a law (including regulations), map, document, paper, or other record shall be considered to be a reference to the Lewis and Clark National Historical Park.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The committee amendments were agreed to.

The bill (S. 2167), as amended, was read the third time and passed, as follows:

S. 2167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lewis and Clark National Historical Park Act of 2004".

SEC. 2. PURPOSE.

The purpose of this Act is to establish the Lewis and Clark National Historical Park to—

(1) preserve for the benefit of the people of the United States the historic, cultural, scenic, and natural resources associated with the arrival of the Lewis and Clark Expedition in the lower Columbia River area; and

(2) commemorate the winter encampment of the Lewis and Clark Expedition in the winter of 1805–1806 following the successful crossing of the North American Continent.

SEC. 3. DEFINITIONS.

In this Act:

(1) MAP.—The term "map" means the map entitled "Lewis and Clark National Historical Park, Boundary Map", numbered 405/80027, and dated December, 2003.

(2) MEMORIAL.—The term "Memorial" means the Fort Clatsop National Memorial established under section 1 of Public Law 85–435 (16 U.S.C. 450mm).

(3) PARK.—The term "Park" means the Lewis and Clark National Historical Park established by section 4(a).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. LEWIS AND CLARK NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—There is established as a unit of the National Park System the Lewis and Clark National Historical Park in the States of Washington and Oregon, as depicted on the map.

(b) COMPONENTS.—The Park shall consist of—

(1) the Memorial, including—

(A) the site of the salt cairn (lot number 18, block 1, Cartwright Park Addition of Seaside, Oregon) used by the Lewis and Clark Expedition; and

(B) portions of the trail used by the Lewis and Clark Expedition that led overland from Fort Clatsop to the Pacific Ocean;

(2) the parcels of land identified on the map as "Fort Clatsop 2002 Addition Lands"; and

(3) the parcels of land located along the lower Columbia River in the State of Washington that are associated with the arrival of the Lewis and Clark Expedition at the Pacific Ocean in 1805 and that are identified on the map as—

(A) "Station Camp";

(B) "Clark's Dismal Nitch"; and

(C) "Cape Disappointment".

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary may acquire land, an interest in land, and any improvements to land located within the boundary of the Park.

(2) MEANS.—Subject to paragraph (3), an acquisition of land under paragraph (1) may be made by donation, purchase with donated or appropriated funds, exchange, transfer from any Federal agency, or by any other means that the Secretary determines to be in the public interest.

(3) CONSENT OF OWNER.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no land, interest in land, or improvement to land to may be acquired under paragraph (1) without the consent of the owner.

(B) EXCEPTION.—The corporately-owned timberland in the area described in subsection (b)(2) may be acquired without the consent of the owner.

(4) MEMORANDUM OF UNDERSTANDING.—If the owner of the timberland described in paragraph (2)(B) agrees to sell the timberland to the Secretary either as a result of a condemnation proceeding or without any condemnation proceeding, the Secretary shall enter into a memorandum of understanding with the owner with respect to the manner in which the timberland is to be managed after acquisition of the timberland by the Secretary.

(5) CAPE DISAPPOINTMENT.—

(A) TRANSFER.—

(i) IN GENERAL.—Subject to valid rights (including withdrawals), the Secretary shall transfer to the Director of the National Park Service management of any Federal land at Cape Disappointment, Washington, that is within the boundary of the Park.

(ii) WITHDRAWN LAND.—

(I) NOTICE.—The head of any Federal agency that has administrative jurisdiction over withdrawn land at Cape Disappointment, Washington, within the boundary of the Park shall notify the Secretary in writing if the head of the Federal agency does not need the withdrawn land.

(II) TRANSFER.—On receipt of a notice under subclause (I), the withdrawn land shall be transferred to the administrative jurisdiction of the Secretary, to be administered as part of the Park.

(B) MEMORIAL TO THOMAS JEFFERSON.—

(i) IN GENERAL.—All withdrawals of the 20-acre parcel depicted on the map as "Memorial to Thomas Jefferson" are revoked.

(ii) ESTABLISHMENT.—The Secretary shall establish a memorial to Thomas Jefferson on the parcel referred to in clause (i).

(C) MANAGEMENT OF CAPE DISAPPOINTMENT STATE PARK LAND.—The Secretary may enter into an agreement with the State of Washington providing for the administration by the State of the land within the boundary of the Park known as "Cape Disappointment State Park".

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the Park in accordance with—

(1) this Act; and

(2) the laws generally applicable to units of the National Park System, including—

(A) the Act of August 25, 1916 (16 U.S.C. 1 et seq.); and

(B) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(b) MANAGEMENT PLAN.—Not later than 3 years after funds are made available to carry out this Act, the Secretary shall prepare an amendment to the general management plan for the Memorial to address the management of the Park.

(c) COOPERATIVE MANAGEMENT AGREEMENTS.—To facilitate the presentation of a comprehensive picture of the experiences of the Lewis and Clark Expedition in the lower Columbia River area and to promote more efficient administration of the sites associated with those experiences, the Secretary may, in accordance with section 3(l) of Public Law 91–383 (16 U.S.C. 1a–2(l)), enter into cooperative management agreements with appropriate officials in the States of Washington and Oregon.

SEC. 6. REPEALS; REFERENCES.

(a) In General.—Public Law 85–435 (72 Stat. 153; 16 U.S.C. 450mm et seq.) is repealed.

(b) References.—Any reference to Fort Clatsop National Memorial in a law (including regulations), map, document, paper, or other record shall be considered to be a reference to the Lewis and Clark National Historical Park.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SAND CREEK MASSACRE NATIONAL HISTORIC SITE TRUST ACT OF 2004

The Senate proceeded to consider the bill (S. 2173) to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Sand Creek Massacre National Historic Site Trust Act of 2004".

[SEC. 2. DECLARATION OF POLICY.

[To further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000 (16 U.S.C. 461 note; Public Law 106–465), this Act authorizes the United States to take certain land in Kiowa County, Colorado, owned by the Cheyenne and Arapaho Tribes of Oklahoma, into trust.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) Secretary.—The term "Secretary" means the Secretary of the Interior.

[(2) Tribe.—The term "Tribe" means the Cheyenne and Arapaho Tribes of Oklahoma, a federally recognized Indian tribe.

[(3) Trust property.—The term "trust property" means the property described in section 4(b).

[SEC. 4. TRANSFER OF LAND HELD IN TRUST FOR THE CHEYENNE AND ARAPAHO TRIBES OF OKLAHOMA.

[(a) Land Held in Trust for the Cheyenne and Arapaho Tribes of Oklahoma.—

[(1) Conveyance.—Not later than 180 days after the date of enactment of this Act, the Tribe shall convey title to the trust property to the United States.

[(2) Trust.—All right, title, and interest of the United States in and to the trust property, including all improvement on the trust property and appurtenances to the trust property and rights to all minerals, are declared to be held by the United States in trust for the Tribe.

[(b) Land Description.—The trust property is the property formerly known as the "Dawson Ranch", consisting of approximately 1,465 total acres presently under the jurisdiction of the Tribe, situated within Kiowa County, Colorado, and more particularly described as follows:

[(1) The portion of sec. 24, T. 17 S., R. 46 W., Colorado Principal Meridian, that is the Eastern half of the NW quarter, the SW quarter of the NE quarter, the NW quarter of the SE quarter, Colorado Principal Meridian.

[(2) All of sec. 25, T. 17 S., R. 46 W., Colorado Principal Meridian.

[(3) All of sec. 30, T. 17 S., R. 45 W., Colorado Principal Meridian.

[SEC. 5. SURVEY OF BOUNDARY LINE; PUBLICATION OF DESCRIPTION.

[(a) Survey of Boundary Line.—To accurately establish the boundary of the trust property, the Secretary shall, not later than 180 days after the date of enactment of this Act, cause a survey to be conducted by the Office of Cadastral Survey of the Bureau of Land Management of the boundary lines described in section 4(b).

[(b) Publication of Land Description.—

[(1) In general.—On completion of the survey under subsection (a), and acceptance of the survey by the representatives of the Tribe, the Secretary shall cause the full metes and bounds description of the lines, with a full and accurate description of the trust property, to be published in the Federal Register.

[(2) Effect.—The descriptions shall, on publication, constitute the official descriptions of the trust property.

[SEC. 6. ADMINISTRATION OF TRUST PROPERTY.

[(a) In General.—The trust property is declared to be part of the Indian reservation of the Tribe.

[(b) Administration.—The trust property shall be administered in perpetuity by the Secretary in accordance with the law generally applicable to property held in trust by the United States for the benefit of Indian tribes and in accordance with the Sand Creek Massacre National Historic Site Establishment Act of 2000 (16 U.S.C. 461 note; Public Law 106–465).

[SEC. 7. RELIGIOUS AND CULTURAL USES.

[(a) In General.—The trust property shall be used only for historic, religious, or cultural uses that are compatible with the use of the land as a national historic site.

[(b) Duty of the Secretary.—The Secretary shall take such action as is necessary to ensure that the trust property is used only in accordance with this section.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sand Creek Massacre National Historic Site Trust Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) Secretary.—The term "Secretary" means the Secretary of the Interior.

(2) Facility.—The term "facility" means any structure, utility, road, or sign constructed on the trust property on or after the date of enactment of this Act.

(3) Improvement.—The term "improvement" means—

(A) a 1,625 square foot 1-story ranch house, built in 1952, located in the SW quarter of sec. 30, T. 17 S., R. 45 W., sixth principal meridian;

(B) a 3,600 square foot metal-constructed shop building, built in 1975, located in the SW quarter of sec. 30, T. 17 S., R. 45 W., sixth principal meridian;

(C) a livestock corral and shelter; and

(D) a water system and wastewater system with all associated utility connections.

(4) Tribe.—The term "Tribe" means the Cheyenne and Arapaho Tribes of Oklahoma, a federally recognized Indian tribe.

(5) Trust property.—The term "trust property" means the real property, including rights to all minerals, and excluding the improvements, formerly known as the "Dawson Ranch", consisting of approximately 1,465 total acres presently under the jurisdiction of the Tribe, situated within Kiowa County, Colorado, and more particularly described as follows:

(A) The portion of sec. 24, T. 17 S., R. 46W., sixth principal meridian, that is the Eastern half of the NW quarter, the SW quarter of the NE quarter, the NW quarter of the SE quarter, sixth principal meridian.

(B) All of sec. 25, T. 17 S., R. 46 W., sixth principal meridian.

(C) All of sec. 30, T. 17 S., R. 45 W., sixth principal meridian.

SEC. 3. CONVEYANCE OF LAND TO BE HELD IN TRUST FOR THE CHEYENNE AND ARAPAHO TRIBES OF OKLAHOMA.

(a) Land Held in Trust for the Cheyenne and Arapaho Tribes of Oklahoma.—Immediately upon conveyance of title to the trust property by the Tribe to the United States, without any further action by the Secretary, the trust property shall be held in trust for the benefit of the Tribe.

(b) Trust.—All right, title, and interest of the United States in and to the trust property, except any facilities constructed under section 4(b), are declared to be held by the United States in trust for the Tribe.

SEC. 4. IMPROVEMENTS AND FACILITIES.

(a) Improvements.—The Secretary may acquire by donation the improvements in fee.

(b) Facilities.—

(1) In general.—The Secretary may construct a facility on the trust property only after consulting with, soliciting advice from, and obtaining the agreement of, the Tribe, the Northern Cheyenne Tribe, and the Northern Arapaho Tribe.

(2) Ownership.—Facilities constructed with Federal funds or funds donated to the United States shall be owned in fee by the United States.

(c) Federal Funds.—For the purposes of the construction, maintenance, or demolition of improvements or facilities, Federal funds shall be expended only on improvements or facilities that are owned in fee by the United States.

SEC. 5. SURVEY OF BOUNDARY LINE; PUBLICATION OF DESCRIPTION.

(a) Survey of Boundary Line.—To accurately establish the boundary of the trust property, not later than 180 days after the date of enactment of this Act, the Secretary shall cause a survey to be conducted by the Office of Cadastral Survey of the Bureau of Land Management of the boundary lines described in section 2(5).

(b) Publication of Land Description.—

(1) In general.—On completion of the survey under subsection (a), and acceptance of the survey by the representatives of the Tribe, the Secretary shall cause the full metes and bounds description of the lines, with a full and accurate description of the trust property, to be published in the Federal Register.

(2) Effect.—The description shall, on publication, constitute the official description of the trust property.

SEC. 6. ADMINISTRATION OF TRUST PROPERTY.

(a) In General.—The trust property shall be administered in perpetuity by the Secretary as part of the Sand Creek Massacre National Historic Site, only for historical, traditional, cultural, and other uses in accordance with the Sand Creek Massacre National Historic Site Establishment Act of 2000 (16 U.S.C. 461 note; Public Law 106–465).

(b) Access for Administration.—For purposes of administration, the Secretary shall

have access to the trust property, improvements, and facilities as necessary for management of the Sand Creek Massacre National Historic Site in accordance with the Sand Creek Massacre National Historic Site Establishment Act of 2000 (16 U.S.C. 461 note; Public Law 106–465).

(c) Duty of the Secretary.—The Secretary shall take such action as is necessary to ensure that the trust property is used only in accordance with this section.

(d) Savings Provision.—Nothing in this Act supersedes the laws and policies governing units of the National Park System.

SEC. 7. ACQUISITION OF PROPERTY.

Section 6(a)(2) of the Sand Creek Massacre National Historic Site Establishment Act of 2000 (16 U.S.C. 461 note; Public Law 106–465) is amended by inserting "or exchange" after "only by donation".

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2173), as amended, was read the third time and passed.

CONVEYANCE TO BEAVER COUNTY, UTAH

The Senate proceeded to consider the bill (S. 2285) to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. CONVEYANCE TO BEAVER COUNTY, UTAH.

[(a) In General.—As soon as practicable after the enactment of this Act, the Secretary of the Interior shall, without consideration and subject to valid existing rights, convey to Beaver County, Utah, all right, title, and interest of the United States in and to the approximately 200 acres depicted as "Parcel A" on the map entitled "Minersville Reservoir Conveyance" and dated February 15, 2003, for use for public recreation.

[(b) Reconveyance by Beaver County.—Notwithstanding subsections (a) and (c), Beaver County may sell, for not less than fair market value, a portion of the property conveyed to it under this section, if the proceeds of such sale are used by Beaver County solely for maintenance of public recreation facilities located on the remainder of the property conveyed to it under this section.

[(c) Reversion.—

[(1) In general.—All property conveyed under subsection (a), except any portion of the property that is sold by Beaver County under subsection (c), shall revert to the United States upon—

[(A) use of the property by Beaver County for any purpose other than public recreation or sale under subsection (b); or

[(B) use of any proceeds of a sale under subsection (b) other than for maintenance in accordance with subsection (b).

[(2) Repayment of proceeds.—Upon any reversion under this subsection, Beaver County shall pay to the United States the proceeds of any sale of property by Beaver County under subsection (b).]

SECTION 1. CONVEYANCE TO BEAVER COUNTY, UTAH.

(a) In General.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall, without consideration and subject to valid existing rights, convey to Beaver County, Utah (referred to in this Act as the "County"), all right, title, and interest of the United States in and to the approximately 200 acres depicted as "Minersville State Park" on the map entitled "S. 2285, Minersville State Park" and dated April 30, 2004, for use for public recreation.

(b) Reconveyance by Beaver County.—

(1) In general.—Notwithstanding subsection (a), Beaver County may sell, for not less than fair market value, a portion of the property conveyed to the County under this section, if the proceeds of such sale are used by the County solely for maintenance of public recreation facilities located on the remainder of the property conveyed to the County under this section.

(2) Limitation.—If the County does not comply with the requirements of paragraph (1) in the conveyance of the property under that paragraph—

(A) the County shall pay to the United States the proceeds of the conveyance; and

(B) the Secretary of the Interior may require that all property conveyed under subsection (a) (other than the property sold by the County under paragraph (1)) revert to the United States.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2285), as amended, was read the third time and passed.

JEAN LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE BOUNDARY ADJUSTMENT ACT OF 2004

The Senate proceeded to consider the bill (S. 2287) to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(Strike the part shown in black brackets and insert the part shown in the italic.)

S. 2287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jean Lafitte National Historical Park and Preserve Boundary Adjustment Act of 2004".

SEC. 2. JEAN LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE BOUNDARY ADJUSTMENT.

(a) In General.—Section 901 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230) is amended in the second sentence by striking "twenty thousand acres generally depicted on the map entitled 'Barataria Marsh Unit-Jean Lafitte National Historical Park and Preserve' numbered 90,000B and dated April 1978," and inserting "23,000 acres generally depicted on the map entitled 'Boundary Map, Barataria Preserve Unit, Jean Lafitte National Historical Park and Preserve', numbered 467/[81000] *80100*, and dated August 2002,".

(b) Acquisition of Land.—Section 902 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230a) is amended—

(1) in subsection (a)—

(A) by striking "(a) Within the" and all that follows through the first sentence and inserting the following:

"(a) In General.—

"(1) Barataria preserve unit.—

"(A) In general.—The Secretary may acquire any land, water, and interests in land and water within the boundary of the Barataria Preserve Unit, as depicted on the map described in section 901, by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange.

"[(B) Limitations.—With respect to the areas on the map identified as 'Bayou aux Carpes Addition' and 'CIT Tract Addition'—

"[(i) any Federal land acquired in the areas shall be transferred to the administrative jurisdiction of the National Park Service; and

"[(ii) any private land in the areas may be acquired by the Secretary only with the consent of the owner of the land.";]

"(B) Limitations.—

"(i) In general.—With respect to the areas on the map identified as 'Bayou aux Carpes Addition' and 'CIT Tract Addition'—

"(I) any Federal land acquired in the areas shall be transferred without consideration to the administrative jurisdiction of the National Park Service; and

"(II) any private land in the areas may be acquired by the Secretary only with the consent of the owner of the land.

"(ii) Easements.—Any Federal land in the area identified on the map as 'CIT Tract Addition' that is transferred under clause (i)(I) shall be subject to any easements that have been agreed to by the Secretary and the Secretary of the Army.";

(B) in the second sentence, by striking "The Secretary may also" and inserting the following:

"(2) French quarter.—The Secretary may";

(C) in the third sentence, by striking "Lands, waters, and interests therein" and inserting the following:

"(3) Acquisition of state land.—Land, water, and interests in land and water"; and

(D) in the fourth sentence, by striking "In acquiring" and inserting the following:

"(4) Acquisition of oil and gas rights.—In acquiring";

(2) by striking subsections (b) through (f) and inserting the following:

"(b) Resource Protection.—With respect to the land, water, and interests in land and water of the Barataria Preserve Unit, the Secretary shall preserve and protect—

"(1) fresh water drainage patterns;

"(2) vegetative cover;

"(3) the integrity of ecological and biological systems; and

"(4) water and air quality."; and

(3) by redesignating subsection (g) as subsection (c).

(c) Hunting, Fishing, and Trapping.—Section 905 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230d) is amended in the first sentence by striking "within the core area and on those lands acquired by the Secretary pursuant to section 902(c) of this title, he" and inserting "the Secretary".

(d) Administration.—Section 906 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230e) is amended—

(1) by striking the first sentence; and

(2) in the second sentence, by striking "Pending such establishment and thereafter the" and inserting "The".

SEC. 3. REFERENCES IN LAW.

(a) In General.—Any reference in a law (including regulations), map, document, paper, or other record of the United States—

(1) to the Barataria Marsh Unit shall be considered to be a reference to the Barataria Preserve Unit; or

(2) to the Jean Lafitte National Historical Park shall be considered to be a reference to the Jean Lafitte National Historical Park and Preserve.

(b) Conforming Amendments.—Title IX of the National Parks and Recreation Act of 1978 (16 U.S.C. 230 et seq.) is amended—

(1) by striking "Barataria Marsh Unit" each place it appears and inserting "Barataria Preserve Unit"; and

(2) by striking "Jean Lafitte National Historical Park" each place it appears and inserting "Jean Lafitte National Historical Park and Preserve".

The committee amendments were agreed to.

The bill (S. 2287), as amended, was read the third time and passed, as follows:

S. 2287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jean Lafitte National Historical Park and Preserve Boundary Adjustment Act of 2004".

SEC. 2. JEAN LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE BOUNDARY ADJUSTMENT.

(a) In General.—Section 901 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230) is amended in the second sentence by striking "twenty thousand acres generally depicted on the map entitled 'Barataria Marsh Unit-Jean Lafitte National Historical Park and Preserve' numbered 90,000B and dated April 1978," and inserting "23,000 acres generally depicted on the map entitled 'Boundary Map, Barataria Preserve Unit, Jean Lafitte National Historical Park and Preserve', numbered 467/80100, and dated August 2002,".

(b) Acquisition of Land.—Section 902 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230a) is amended—

(1) in subsection (a)—

(A) by striking "(a) Within the" and all that follows through the first sentence and inserting the following:

"(a) In General.—

"(1) Barataria preserve unit.—

"(A) In general.—The Secretary may acquire any land, water, and interests in land and water within the boundary of the Barataria Preserve Unit, as depicted on the map described in section 901, by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange.

"(B) Limitations.—

"(i) In general.—With respect to the areas on the map identified as 'Bayou aux Carpes Addition' and 'CIT Tract Addition'—

"(I) any Federal land acquired in the areas shall be transferred without consideration to the administrative jurisdiction of the National Park Service; and

"(II) any private land in the areas may be acquired by the Secretary only with the consent of the owner of the land.

"(ii) Easements.—Any Federal land in the area identified on the map as 'CIT Tract Addition' that is transferred under clause (i)(I) shall be subject to any easements that have been agreed to by the Secretary and the Secretary of the Army.";

(B) in the second sentence, by striking "The Secretary may also" and inserting the following:

"(2) French quarter.—The Secretary may";

(C) in the third sentence, by striking "Lands, waters, and interests therein" and inserting the following:

"(3) Acquisition of state land.—Land, water, and interests in land and water"; and

(D) in the fourth sentence, by striking "In acquiring" and inserting the following:

"(4) Acquisition of oil and gas rights.—In acquiring";

(2) by striking subsections (b) through (f) and inserting the following:

"(b) Resource Protection.—With respect to the land, water, and interests in land and water of the Barataria Preserve Unit, the Secretary shall preserve and protect—

"(1) fresh water drainage patterns;

"(2) vegetative cover;

"(3) the integrity of ecological and biological systems; and

"(4) water and air quality."; and

(3) by redesignating subsection (g) as subsection (c).

(c) Hunting, Fishing, and Trapping.—Section 905 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230d) is amended in the first sentence by striking "within the core area and on those lands acquired by the Secretary pursuant to section 902(c) of this title, he" and inserting "the Secretary".

(d) Administration.—Section 906 of the National Parks and Recreation Act of 1978 (16 U.S.C. 230e) is amended—

(1) by striking the first sentence; and

(2) in the second sentence, by striking "Pending such establishment and thereafter the" and inserting "The".

SEC. 3. REFERENCES IN LAW.

(a) In General.—Any reference in a law (including regulations), map, document, paper, or other record of the United States—

(1) to the Barataria Marsh Unit shall be considered to be a reference to the Barataria Preserve Unit; or

(2) to the Jean Lafitte National Historical Park shall be considered to be a reference to the Jean Lafitte National Historical Park and Preserve.

(b) Conforming Amendments.—Title IX of the National Parks and Recreation Act of 1978 (16 U.S.C. 230 et seq.) is amended—

(1) by striking "Barataria Marsh Unit" each place it appears and inserting "Barataria Preserve Unit"; and

(2) by striking "Jean Lafitte National Historical Park" each place it appears and inserting "Jean Lafitte National Historical Park and Preserve".

NEW MEXICO WATER PLANNING ASSISTANCE ACT

The Senate proceeded to consider the bill (S. 2460) to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "New Mexico Water Planning Assistance Act".

[SEC. 2. DEFINITIONS.

[In this Act:

[(1) Secretary.—The term "Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey.

[(2) State.—The term "State" means the State of New Mexico.

[SEC. 3. COMPREHENSIVE WATER PLAN ASSISTANCE.

[(a) In General.—On the request of the Governor of the State and subject to subsections (b) through (e), the Secretary shall—

[(1) provide to the State technical assistance and grants for the development of comprehensive State water plans;

[(2) conduct water resources mapping in the State; and

[(3) conduct a comprehensive study of groundwater resources (including potable, brackish, and saline water resources) in the State to assess the quantity, quality, and interaction of groundwater and surface water resources.

[(b) Technical Assistance.—Technical assistance provided under subsection (a) may include—

[(1) acquisition of hydrologic data, groundwater characterization, database development, and data distribution;

[(2) expansion of climate, surface water, and groundwater monitoring networks;

[(3) assessment of existing water resources, surface water storage, and groundwater storage potential;

[(4) numerical analysis and modeling necessary to provide an integrated understanding of water resources and water management options;

[(5) participation in State planning forums and planning groups;

[(6) coordination of Federal water management planning efforts;

[(7) technical review of data, models, planning scenarios, and water plans developed by the State; and

[(8) provision of scientific and technical specialists to support State and local activities.

[(c) Allocation.—In providing grants under subsection (a), the Secretary shall, subject to the availability of appropriations, allocate—

[(1) $5,000,000 to develop hydrologic models and acquire associated equipment for the New Mexico Rio Grande main stem sections and Rio Taos and Hondo, Rios Nambe, Pojoaque and Teseque, Rio Chama, and Lower Rio Grande tributaries;

[(2) $1,500,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for the San Juan River and tributaries;

[(3) $1,000,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for Southwest New Mexico, including the Animas Basin, the Gila River, and tributaries;

[(4) $4,500,000 for statewide digital orthophotography mapping; and

[(5) such sums as are necessary to carry out additional projects consistent with subsection (b).

[(d) Non-Reimbursable and No Cost-Sharing.—Any assistance or grants provided to the State under this Act shall be made on a non-reimbursable basis and without a cost-sharing requirement.

[(e) Authorized Transfers.—On request of the State, the Secretary shall directly transfer to 1 or more Federal agencies any amounts made available to the State to carry out this Act.

[SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

[There is authorized to be appropriated to carry out this Act $2,500,000 for each of fiscal years 2005 through 2009.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Mexico Water Planning Assistance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey.

(2) STATE.—The term "State" means the State of New Mexico.

SEC. 3. COMPREHENSIVE WATER PLAN ASSISTANCE.

(a) IN GENERAL.—Upon the request of the Governor of the State and subject to subsections (b) through (f), the Secretary shall—

(1) provide to the State technical assistance and grants for the development of comprehensive State water plans;

(2) conduct water resources mapping in the State; and

(3) conduct a comprehensive study of groundwater resources (including potable, brackish, and saline water resources) in the State to assess the quantity, quality, and interaction of groundwater and surface water resources.

(b) TECHNICAL ASSISTANCE.—Technical assistance provided under subsection (a) may include—

(1) acquisition of hydrologic data, groundwater characterization, database development, and data distribution;

(2) expansion of climate, surface water, and groundwater monitoring networks;

(3) assessment of existing water resources, surface water storage, and groundwater storage potential;

(4) numerical analysis and modeling necessary to provide an integrated understanding of water resources and water management options;

(5) participation in State planning forums and planning groups;

(6) coordination of Federal water management planning efforts;

(7) technical review of data, models, planning scenarios, and water plans developed by the State; and

(8) provision of scientific and technical specialists to support State and local activities.

(c) ALLOCATION.—In providing grants under subsection (a), the Secretary shall, subject to the availability of appropriations, allocate—

(1) $5,000,000 to develop hydrologic models and acquire associated equipment for the New Mexico Rio Grande main stem sections and Rios Pueblo de Taos and Hondo, Rios Nambe, Pojoaque and Teseque, Rio Chama, and Lower Rio Grande tributaries;

(2) $1,500,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for the San Juan River and tributaries;

(3) $1,000,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for Southwest New Mexico, including the Animas Basin, the Gila River, and tributaries;

(4) $4,500,000 for statewide digital orthophotography mapping; and

(5) such sums as are necessary to carry out additional projects consistent with subsection (b).

(d) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—The non-Federal share of the total cost of any activity carried out using a grant provided under subsection (a) shall be 50 percent.

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the activity assisted.

(e) NON-REIMBURSABLE BASIS.—Any assistance or grants provided to the State under this Act shall be made on a non-reimbursable basis.

(f) AUTHORIZED TRANSFERS.—On request of the State, the Secretary shall directly transfer to 1 or more Federal agencies any amounts made available to the State to carry out this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $3,000,000 for each of fiscal years 2005 through 2009.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2460), as amended, was read the third time and passed.

LAKE NIGHTHORSE

The Senate proceeded to consider the bill (S. 2508) to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

(Insert the part shown in italic.)

S. 2508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENAMING OF RESERVOIR.

The reservoir known as the "Ridges Basin Reservoir" located on *Basin Creek, a tributary of* the Animas River in Colorado, constructed under section 6(a) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (102 Stat. 2975; 114 Stat. 2763A–260), shall be known and designated as "Lake Nighthorse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the reservoir referred to in section 1 shall be deemed to be a reference to Lake Nighthorse.

The committee amendment was agreed to.

The bill (S. 2508), as amended, was read the third time and passed.

CHIMAYO WATER SUPPLY SYSTEM AND ESPANOLA FILTRATION FACILITY ACT OF 2004

The Senate proceeded to consider the bill (S. 2511) to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Chimayo Water Supply System and Espanola Filtration Facility Act of 2004".

[TITLE I—CHIMAYO WATER SUPPLY SYSTEM

[SEC. 101. DEFINITIONS.

[In this title:

[(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

[(2) STUDY AREA.—The term "study area" means the Santa Cruz River Valley in the eastern margin of the Espanola Basin.

[(3) SYSTEM.—The term "system" means a water supply system described in section 102(a).

[(4) TOWN.—The term "Town" means the town of Chimayo, New Mexico, located in Rio Arriba County and Santa Fe County, New Mexico.

[SEC. 102. CHIMAYO WATER SUPPLY SYSTEM FEASIBILITY STUDY.

[(a) IN GENERAL.—The Secretary, in cooperation with appropriate State and local authorities, shall conduct a study to determine the feasibility of constructing a water supply system for the Town in the study area that includes potable water transmission lines, pump stations, and storage reservoirs.

[(b) SCOPE OF STUDY.—In conducting the study under subsection (a), the Secretary shall—

[(1) consider operating the system in connection with the Espanola Water Filtration Facility;

[(2) consider various options for supplying water to the Town, including connection to a regional water source, local sources, sources distributed throughout the Town, and sources located on adjacent Bureau of Land Management land;

[(3) consider reusing or recycling water from local or regional sources;

[(4) consider using alternative water supplies such as surface water, brackish water, nonpotable water, or deep aquifer groundwater; and

[(5) determine the total lifecycle costs of the system, including—

[(A) long-term operation, maintenance, replacement, and treatment costs of the system; and

[(B) management costs (including personnel costs).

[(c) DEADLINE FOR STUDY.—As soon as practicable after the date of enactment of this Act, but not later than 3 years after the date of the enactment of this Act, the Secretary shall complete the study.

[(d) COST SHARING.—The Federal share of the cost of the study shall be 75 percent.

[(e) EASEMENTS; DRILLING.—

[(1) EASEMENTS.—The Secretary may reserve any easements on Bureau of Land Management land adjacent to the study area that are necessary to carry out this section.

[(2) DRILLING.—The Secretary, in cooperation with the Director of the United States Geological Survey, may drill any exploratory wells on Bureau of Land Management land adjacent to the study area that are necessary to determine water resources available for the Town.

[(f) REPORT.—The Secretary shall submit to Congress a report on the results of the feasibility study as soon as practicable after the date of enactment of this Act, but not later than the earlier of—

[(1) the date that is 1 year after the date of completion of the feasibility study; or

[(2) the date that is 4 years after the date of enactment of this Act.

[SEC. 103. EMERGENCY WATER SUPPLY DEVELOPMENT ASSISTANCE.

[(a) IN GENERAL.—The Secretary may enter into contracts with water authorities in the study area to provide emergency water supply development assistance to any eligible person or entity, as the Secretary determines to be appropriate.

[(b) ELIGIBLE ACTIVITIES.—The Secretary may provide assistance under subsection (a) for—

[(1) hauling water;

[(2) the installation of water purification technology at the community wells or individual point-of-use;

[(3) the drilling of wells;

[(4) the installation of pump stations and storage reservoirs;

[(5) the installation of transmission and distribution pipelines to bring water to individual residential service connections,

[(6) the engineering, design, and installation of an emergency water supply system; and

[(7) any other eligible activity, as the Secretary determines to be appropriate.

[(c) COST SHARING.—The Federal share of the cost of any activity assisted under this section shall be 75 percent.

[SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There is authorized to be appropriated—

[(1) to carry out section 102, $2,000,000 for the period of fiscal years 2005 through 2008; and

[(2) to carry out section 103, $3,000,000 for the period of fiscal years 2005 through 2010.

[(b) LIMITATION.—Amounts made available under subsection (a)(1) shall not be available for the construction of water infrastructure for the system.

[TITLE II—ESPANOLA WATER FILTRATION FACILITY

[SEC. 201. DEFINITIONS.

[In this title:

[(1) COMPONENT.—The term "component" means a water delivery resource or infrastructure development described in section 202(b).

[(2) FACILITY.—The term "facility" means the Espanola water filtration facility described in section 202(a).

[(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

[SEC. 202. ESPANOLA WATER FILTRATION FACILITY.

[(a) IN GENERAL.—The Secretary shall provide financial assistance to the city of Espanola, New Mexico, for the construction of an Espanola water filtration facility consisting of projects—

[(1) to divert and fully use imported water to meet future demands in the greater Espanola, New Mexico region, including construction of—

[(A) presedimentation basins for removal of sediments;

[(B) an influent pump station to supply water into treatment facilities;

[(C) a pretreatment facility;

[(D) filtration facilities;

[(E) finished water storage facilities;

[(F) a finished water booster pump station;

[(G) sludge dewatering facilities; and

[(H) potable water transmission lines to connect into the water distribution facilities of the city of Espanola, New Mexico; and

[(2) to use reclaimed water to enhance groundwater resources and surface water supplies.

[(b) PARTICIPATION.—The Secretary may provide financial assistance to the Santa Clara and San Juan Pueblos of New Mexico and the non-Federal sponsors of the facility for the study, planning, design, and construction of a water delivery resource and infrastructure development for the Santa Clara and San Juan Pueblos as a component of the facility.

[(c) COST SHARING.—The Federal share of the total cost of the facility and the component shall not exceed 25 percent.

[(d) LIMITATION ON USE OF FUNDS.—Funds provided by the Secretary may not be used for the operation or maintenance of the facility or the component.

[SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

[There is authorized to be appropriated for the construction of the facility $3,000,000 for the period of fiscal years 2005 through 2009.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chimayo Water Supply System and Espanola Filtration Facility Act of 2004".

TITLE I—CHIMAYO WATER SUPPLY SYSTEM

SEC. 101. DEFINITIONS.

In this title:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STUDY AREA.—The term "study area" means the Santa Cruz River Valley in the eastern margin of the Espanola Basin.

(3) SYSTEM.—The term "system" means a water supply system described in section 102(a).

(4) TOWN.—The term "Town" means the town of Chimayo, New Mexico, located in Rio Arriba County and Santa Fe County, New Mexico.

SEC. 102. CHIMAYO WATER SUPPLY SYSTEM FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary, in cooperation with appropriate State and local authorities, shall conduct a study to determine the feasibility of constructing a water supply system for the Town in the study area that includes potable water transmission lines, pump stations, and storage reservoirs.

(b) SCOPE OF STUDY.—In conducting the study under subsection (a), the Secretary shall—

(1) consider operating the system in connection with the Espanola Water Filtration Facility;

(2) consider various options for supplying water to the Town, including connection to a regional water source, local sources, sources distributed throughout the Town, and sources located on adjacent Bureau of Land Management land;

(3) consider reusing or recycling water from local or regional sources;

(4) consider using alternative water supplies such as surface water, brackish water, nonpotable water, or deep aquifer groundwater; and

(5) determine the total lifecycle costs of the system, including—

(A) long-term operation, maintenance, replacement, and treatment costs of the system; and

(B) management costs (including personnel costs).

(c) DEADLINE FOR STUDY.—As soon as practicable, but not later than 3 years after the date of enactment of this Act, the Secretary shall complete the study.

(d) COST SHARING.—The Federal share of the cost of the study shall be 75 percent.

(e) COORDINATION.—The Secretary shall coordinate activities of the Bureau of Reclamation, the Bureau of Land Management, and the United States Geological Survey in the furtherance of the study, including—

(1) accessing any Bureau of Land Management land adjacent to the study area that is necessary to carry out this section; and

(2) the drilling of any exploratory wells on Bureau of Land Management land adjacent to the study area that are necessary to determine water resources available for the Town.

(f) REPORT.—The Secretary shall submit to Congress a report on the results of the feasibility study not later than the earlier of—

(1) the date that is 1 year after the date of completion of the feasibility study; or

(2) the date that is 4 years after the date of enactment of this Act.

SEC. 103. EMERGENCY WATER SUPPLY DEVELOPMENT ASSISTANCE.

(a) IN GENERAL.—The Secretary may enter into contracts with water authorities in the study area to provide emergency water supply development assistance to any eligible person or entity, as the Secretary determines to be appropriate.

(b) ELIGIBLE ACTIVITIES.—The Secretary may provide assistance under subsection (a) for—

(1) hauling water;

(2) the installation of water purification technology at the community wells or individual point-of-use;

(3) the drilling of wells;

(4) the installation of pump stations and storage reservoirs;

(5) the installation of transmission and distribution pipelines to bring water to individual residential service connections;

(6) the engineering, design, and installation of an emergency water supply system; and

(7) any other eligible activity, as the Secretary determines to be appropriate.

(c) COST SHARING.—The Federal share of the cost of any activity under this section shall be 75 percent.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) to carry out section 102, $2,000,000 for the period of fiscal years 2005 through 2008; and

(2) to carry out section 103, $3,000,000 for the period of fiscal years 2005 through 2010.

(b) LIMITATION.—Amounts made available under subsection (a)(1) shall not be available for the construction of water infrastructure for the system.

TITLE II—ESPANOLA WATER FILTRATION FACILITY

SEC. 201. DEFINITIONS.

In this title:

(1) COMPONENT.—The term "component" means a water delivery infrastructure development described in section 202(b).

(2) FACILITY.—The term "facility" means the Espanola water filtration facility described in section 202(a).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

SEC. 202. ESPANOLA WATER FILTRATION FACILITY.

(a) IN GENERAL.—The Secretary shall provide financial assistance to the city of Espanola, New Mexico, for the construction of an Espanola water filtration facility consisting of projects—

(1) to divert and fully use imported water to meet future demands in the greater Espanola, New Mexico region, including construction of—

(A) presedimentation basins for removal of sediments;

(B) an influent pump station to supply water into treatment facilities;

(C) a pretreatment facility;

(D) filtration facilities;

(E) finished water storage facilities;

(F) a finished water booster pump station;

(G) sludge dewatering facilities; and

(H) potable water transmission lines to connect into the water distribution facilities of the city of Espanola, New Mexico; and

(2) to use reclaimed water to enhance groundwater resources and surface water supplies.

(b) PARTICIPATION.—The Secretary may provide financial assistance to the Santa Clara and San Juan Pueblos of New Mexico and the non-Federal sponsors of the facility for the study, planning, design, and construction of a water delivery infrastructure development for the Santa Clara and San Juan Pueblos as a component of the facility.

(c) COST SHARING.—The Federal share of the total cost of the facility and the component shall not exceed 25 percent.

(d) LIMITATION ON USE OF FUNDS.—Funds provided by the Secretary may not be used for the operation or maintenance of the facility or the component.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the construction of the facility $3,000,000 for the period of fiscal years 2005 through 2009.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2511), as amended, was read the third time and passed.

NATIONAL HERITAGE PARTNERSHIP ACT

The Senate proceeded to consider the bill (S. 2543) to establish a program and criteria for National Heritage Areas in the United States, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the "National Heritage Partnership Act".

[(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

[Sec. 1. Short title; table of contents.
[Sec. 2. Definitions.
[Sec. 3. National Heritage Areas program.
[Sec. 4. Suitability-feasibility studies.
[Sec. 5. Management plans.
[Sec. 6. Local coordinating entities.
[Sec. 7. Relationship to other Federal agencies.
[Sec. 8. Private property and regulatory protections.
[Sec. 9. Authorization of appropriations.

[SEC. 2. DEFINITIONS.

[In this Act:

[(1) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the entity designated by Congress—

[(A) to develop, in partnership with others, the management plan for a National Heritage Area; and

[(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

[(2) MANAGEMENT PLAN.—The term "management plan" means the plan prepared by the local coordinating entity for a National Heritage Area designated by Congress that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with section 5.

[(3) NATIONAL HERITAGE AREA.—The term "National Heritage Area" means an area designated by Congress that is nationally significant to the heritage of the United States and meets the criteria established under section 4(a).

[(4) NATIONAL SIGNIFICANCE.—The term "national significance" means possession of—

[(A) unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and

[(B) a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States.

[(5) PROGRAM.—The term "program" means the National Heritage Areas program established under section 3(a).

[(6) PROPOSED NATIONAL HERITAGE AREA.—The term "proposed National Heritage Area" means an area under study by the Secretary or other parties for potential designation by Congress as a National Heritage Area.

[(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[(8) SUITABILITY-FEASIBILITY STUDY.—The term "suitability-feasibility study" means a study conducted by the Secretary, or conducted by 1 or more other interested parties and reviewed by the Secretary, in accordance with the criteria and processes established under section 4, to determine whether an area meets the criteria to be designated as a National Heritage Area by Congress.

[SEC. 3. NATIONAL HERITAGE AREAS PROGRAM.

[(a) IN GENERAL.—Subject to the availability of funds, the Secretary shall establish a National Heritage Areas program under which the Secretary shall provide technical and financial assistance to local coordinating entities to support the establishment of National Heritage Areas.

[(b) DUTIES.—Under the program, the Secretary shall—

[(1)(A) conduct suitability-feasibility studies, as directed by Congress, to assess the suitability and feasibility of designating proposed National Heritage Areas; or

[(B) review and comment on suitability-feasibility studies undertaken by other parties to make such assessment;

[(2) provide technical assistance, on a reimbursable or non-reimbursable basis (as determined by the Secretary), for the development and implementation of management plans for designated National Heritage Areas;

[(3) enter into cooperative agreements with interested parties to carry out this Act;

[(4) provide information, promote understanding, and encourage research on National Heritage Areas in partnership with local coordinating entities;

[(5) provide national oversight, analysis, coordination, and technical assistance and support to ensure consistency and accountability under the program; and

[(6) submit annually to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the allocation and expenditure of funds for activities conducted with respect to National Heritage Areas under this Act.

[SEC. 4. SUITABILITY-FEASIBILITY STUDIES.

[(a) CRITERIA.—In conducting or reviewing a suitability-feasibility study, the Secretary shall apply the following criteria to determine the suitability and feasibility of designating a proposed National Heritage Area:

[(1) An area—

[(A) has an assemblage of natural, historic, cultural, educational, scenic, or recreational resources that together are nationally significant to the heritage of the United States;

[(B) represents distinctive aspects of the heritage of the United States worthy of recognition, conservation, interpretation, and continuing use;

[(C) is best managed as such an assemblage through partnerships among public and private entities at the local or regional level;

[(D) reflects traditions, customs, beliefs, and folklife that are a valuable part of the heritage of the United States;

[(E) provides outstanding opportunities to conserve natural, historical, cultural, or scenic features;

[(F) provides outstanding recreational or educational opportunities; and

[(G) has resources and traditional uses that have national significance.

[(2) Residents, business interests, nonprofit organizations, and governments (including relevant Federal land management agencies) within the proposed area are involved in the planning and have demonstrated significant support through letters and other means for National Heritage Area designation and management.

[(3) The local coordinating entity responsible for preparing and implementing the management plan is identified.

[(4) The proposed local coordinating entity and units of government supporting the designation are willing and have documented a significant commitment to work in partnership to protect, enhance, interpret, fund, manage, and develop resources within the National Heritage Area.

[(5) The proposed local coordinating entity has developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government) in the management of the National Heritage Area.

[(6) The proposal is consistent with continued economic activity within the area.

[(7) A conceptual boundary map has been developed and is supported by the public and participating Federal agencies.

[(b) CONSULTATION.—In conducting or reviewing a suitability-feasibility study, the Secretary shall consult with the managers of any Federal land within the proposed National Heritage Area and secure the concurrence of the managers with the findings of the suitability-feasibility study before making a determination for designation.

[(c) TRANSMITTAL.—On completion or receipt of a suitability-feasibility study for a National Heritage Area, the Secretary shall—

[(1) review, comment, and make findings (in accordance with the criteria specified in subsection (a)) on the feasibility of designating the National Heritage Area;

[(2) consult with the Governor of each State in which the proposed National Heritage Area is located; and

[(3) transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the suitability-feasibility study, including—

[(A) any comments received from the Governor of each State in which the proposed National Heritage Area is located; and

[(B) a finding as to whether the proposed National Heritage Area meets the criteria for designation.

[(d) DISAPPROVAL.—

[(1) IN GENERAL.—If the Secretary determines that any proposed National Heritage Area does not meet the criteria for designation, the Secretary shall include within the suitability-feasibility study submitted under subsection (c)(3) a description of the reasons for the determination.

[(2) OTHER FACTORS.—A finding by the Secretary that a proposed National Heritage

Area meets the criteria for designation shall not preclude the Secretary from recommending against designation of the proposed National Heritage Area based on the budgetary impact of the designation or any other factor unrelated to the criteria.

[(e) DESIGNATION.—The designation of a National Heritage Area shall be—

[(1) by Act of Congress; and

[(2) contingent on the prior completion of a suitability-feasibility study and an affirmative determination by the Secretary that the area meets the criteria established under subsection (a).

[SEC. 5. MANAGEMENT PLANS.

[(a) REQUIREMENTS.—The management plan for any National Heritage Area shall—

[(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

[(2) include a description of actions and commitments that governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

[(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

[(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national significance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

[(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

[(6) describe a program for implementation for the management plan, including—

[(A) performance goals;

[(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

[(C) specific commitments for implementation that have been made by the local coordinating entity or any government agency, organization, business, or individual;

[(7) include an analysis of, and recommendations for, means by which Federal, State, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this Act; and

[(8) include a business plan that—

[(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

[(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

[(b) DEADLINE.—

[(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

[(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this Act until such time as the management plan is submitted to and approved by the Secretary.

[(c) APPROVAL OF MANAGEMENT PLAN.—

[(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

[(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

[(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

[(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

[(B) the local coordinating entity—

[(i) has afforded adequate opportunity for public and governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

[(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

[(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

[(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

[(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

[(F) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local elements of the management plan; and

[(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

[(4) DISAPPROVAL.—

[(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

[(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

[(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

[(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

[(5) AMENDMENTS.—

[(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

[(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this Act to implement an amendment to the management plan until the Secretary approves the amendment.

[SEC. 6. LOCAL COORDINATING ENTITIES.

[(a) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity shall—

[(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with section 5;

[(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating committee receives Federal funds under this Act, specifying—

[(A) the specific performance goals and accomplishments of the local coordinating committee;

[(B) the expenses and income of the local coordinating committee;

[(C) the amounts and sources of matching funds;

[(D) the amounts leveraged with Federal funds and sources of the leveraging; and

[(E) grants made to any other entities during the fiscal year;

[(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this Act, all information pertaining to the expenditure of the funds and any matching funds; and

[(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

[(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this Act to—

[(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

[(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

[(3) hire and compensate staff, including individuals with expertise in—

[(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

[(B) economic and community development; and

[(C) heritage planning;

[(4) obtain funds or services from any source, including other Federal laws or programs;

[(5) contract for goods or services; and

[(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

[(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this Act to acquire any interest in real property.

[SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

[(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

[(b) Consultation and Coordination.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

[(c) Other Federal Agencies.—Nothing in this Act—

[(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

[(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

[(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

[SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

[Nothing in this Act—

[(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

[(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

[(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State or local agency, or conveys any land use or other regulatory authority to any local coordinating entity;

[(4) authorizes or implies the reservation or appropriation of water or water rights;

[(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

[(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

[SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

[(a) Suitability-Feasibility Studies.—There is authorized to be appropriated to conduct and review suitability-feasibility studies under section 4 $750,000 for each fiscal year, of which not more than $250,000 for any fiscal year may be used for any individual suitability-feasibility study for a proposed National Heritage Area.

[(b) Local Coordinating Entities.—

[(1) In general.—There is authorized to be appropriated to carry out section 6 $15,000,000 for each fiscal year, of which not more than—

[(A) $1,000,000 may be made available for any fiscal year for any individual National Heritage Area, to remain available until expended; and

[(B) a total of $10,000,000 may be made available for all such fiscal years for any individual National Heritage Area.

[(2) Termination date.—

[(A) In general.—The authority of the Secretary to provide financial assistance to an individual local coordinating entity under this Act (excluding technical assistance and administrative oversight) shall terminate on the date that is 15 years after the date of the initial receipt of the assistance by the local coordinating committee.

[(B) Designation.—A National Heritage Area shall retain the designation as a National Heritage Area after the termination date prescribed in subparagraph (A).

[(3) Administration.—Not more than 5 percent of the amount of funds made available under paragraph (1) for a fiscal year may be used by the Secretary for technical assistance, oversight, and administrative purposes.

[(c) Matching Funds.—

[(1) In general.—As a condition of receiving a grant under this Act, the recipient of the grant shall provide matching funds in an amount that is equal to the amount of the grant.

[(2) Administration.—The recipient matching funds—

[(A) shall be derived from non-Federal sources; and

[(B) may be made in the form of in-kind contributions of goods or services fairly valued.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "National Heritage Partnership Act".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. National Heritage Areas program.
Sec. 4. Studies.
Sec. 5. Management plans.
Sec. 6. Local coordinating entities.
Sec. 7. Relationship to other Federal agencies.
Sec. 8. Private property and regulatory protections.
Sec. 9. Authorization of appropriations.

SEC. 2. DEFINITIONS.

In this Act:

(1) Local coordinating entity.—The term "local coordinating entity" means the entity designated by Congress—

(A) to develop, in partnership with others, the management plan for a National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(2) Management plan.—The term "management plan" means the plan prepared by the local coordinating entity for a National Heritage Area designated by Congress that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with section 5.

(3) National heritage area.—The term "National Heritage Area" means an area designated by Congress that is nationally significant to the heritage of the United States and meets the criteria established under section 4(a).

(4) National importance.—The term "national importance" means possession of—

(A) unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and

(B) a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States.

(5) Program.—The term "program" means the National Heritage Areas program established under section 3(a).

(6) Proposed national heritage area.—The term "proposed National Heritage Area" means an area under study by the Secretary or other parties for potential designation by Congress as a National Heritage Area.

(7) Secretary.—The term "Secretary" means the Secretary of the Interior.

(8) Study.—The term "study" means a study conducted by the Secretary, or conducted by 1 or more other interested parties and reviewed by the Secretary, in accordance with the criteria and processes established under section 4, to determine whether an area meets the criteria to be designated as a National Heritage Area by Congress.

SEC. 3. NATIONAL HERITAGE AREAS PROGRAM.

(a) In General.—The Secretary shall establish a National Heritage Areas program under which the Secretary shall provide technical and financial assistance to local coordinating entities to support the establishment of National Heritage Areas.

(b) Duties.—Under the program, the Secretary shall—

(1)(A) conduct studies, as directed by Congress, to assess the suitability and feasibility of designating proposed National Heritage Areas; or

(B) review and comment on studies undertaken by other parties to make such assessment;

(2) provide technical assistance, on a reimbursable or non-reimbursable basis (as determined by the Secretary), for the development and implementation of management plans for designated National Heritage Areas;

(3) enter into cooperative agreements with interested parties to carry out this Act;

(4) provide information, promote understanding, and encourage research on National Heritage Areas in partnership with local coordinating entities;

(5) provide national oversight, analysis, coordination, and technical assistance and support to ensure consistency and accountability under the program; and

(6) submit annually to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the allocation and expenditure of funds for activities conducted with respect to National Heritage Areas under this Act.

SEC. 4. STUDIES.

(a) Criteria.—In conducting or reviewing a study, the Secretary shall apply the following criteria to determine the suitability and feasibility of designating a proposed National Heritage Area:

(1) An area—

(A) has an assemblage of natural, historic, cultural, educational, scenic, or recreational resources that together are nationally important to the heritage of the United States;

(B) represents distinctive aspects of the heritage of the United States worthy of recognition, conservation, interpretation, and continuing use;

(C) is best managed as such an assemblage through partnerships among public and private entities at the local or regional level;

(D) reflects traditions, customs, beliefs, and folklife that are a valuable part of the heritage of the United States;

(E) provides outstanding opportunities to conserve natural, historical, cultural, or scenic features;

(F) provides outstanding recreational or educational opportunities; and

(G) has resources and traditional uses that have national importance.

(2) Residents, business interests, nonprofit organizations, and governments (including relevant Federal land management agencies) within the proposed area are involved in the planning and have demonstrated significant support through letters and other means for National Heritage Area designation and management.

(3) The local coordinating entity responsible for preparing and implementing the management plan is identified.

(4) The proposed local coordinating entity and units of government supporting the designation are willing and have documented a significant commitment to work in partnership to protect, enhance, interpret, fund, manage, and develop resources within the National Heritage Area.

(5) The proposed local coordinating entity has developed a conceptual financial plan that outlines the roles of all participants (including the

Federal Government) in the management of the National Heritage Area.

(6) The proposal is consistent with continued economic activity within the area.

(7) A conceptual boundary map has been developed and is supported by the public and participating Federal agencies.

(b) CONSULTATION.—In conducting or reviewing a study, the Secretary shall consult with the managers of any Federal land within the proposed National Heritage Area and secure the concurrence of the managers with the findings of the study before making a determination for designation.

(c) TRANSMITTAL.—On completion or receipt of a study for a National Heritage Area, the Secretary shall—

(1) review, comment, and make findings (in accordance with the criteria specified in subsection (a)) on the feasibility of designating the National Heritage Area;

(2) consult with the Governor of each State in which the proposed National Heritage Area is located; and

(3) transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the study, including—

(A) any comments received from the Governor of each State in which the proposed National Heritage Area is located; and

(B) a finding as to whether the proposed National Heritage Area meets the criteria for designation.

(d) DISAPPROVAL.—If the Secretary determines that any proposed National Heritage Area does not meet the criteria for designation, the Secretary shall include within the study submitted under subsection (c)(3) a description of the reasons for the determination.

(e) DESIGNATION.—The designation of a National Heritage Area shall be—

(1) by Act of Congress; and

(2) contingent on the prior completion of a study and an affirmative determination by the Secretary that the area meets the criteria established under subsection (a).

SEC. 5. MANAGEMENT PLANS.

(a) REQUIREMENTS.—The management plan for any National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this Act; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this Act until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this Act to implement an amendment to the management plan until the Secretary approves the amendment.

SEC. 6. LOCAL COORDINATING ENTITIES.

(a) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with section 5;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating committee receives Federal funds under this Act, specifying—

(A) the specific performance goals and accomplishments of the local coordinating committee;

(B) the expenses and income of the local coordinating committee;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this Act, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this Act to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal laws or programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) Prohibition on Acquisition of Real Property.—The local coordinating entity may not use Federal funds authorized under this Act to acquire any interest in real property.

SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) In General.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) Consultation and Coordination.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) Other Federal Agencies.—Nothing in this Act—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State or local agency, or conveys any land use or other regulatory authority to any local coordinating entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) Studies.—There is authorized to be appropriated to conduct and review studies under section 4 $750,000 for each fiscal year, of which not more than $250,000 for any fiscal year may be used for any individual study for a proposed National Heritage Area.

(b) Local Coordinating Entities.—

(1) In general.—There is authorized to be appropriated to carry out section 6 $15,000,000 for each fiscal year, of which not more than—

(A) $1,000,000 may be made available for any fiscal year for any individual National Heritage Area, to remain available until expended; and

(B) a total of $10,000,000 may be made available for all such fiscal years for any individual National Heritage Area.

(2) Termination date.—

(A) In general.—The authority of the Secretary to provide financial assistance to an individual local coordinating entity under this Act (excluding technical assistance and administrative oversight) shall terminate on the date that is 15 years after the date of the initial receipt of the assistance by the local coordinating committee.

(B) Designation.—A National Heritage Area shall retain the designation as a National Heritage Area after the termination date prescribed in subparagraph (A).

(3) Administration.—Not more than 5 percent of the amount of funds made available under paragraph (1) for a fiscal year may be used by the Secretary for technical assistance, oversight, and administrative purposes.

(c) Matching Funds.—

(1) In general.—As a condition of receiving a grant under this Act, the recipient of the grant shall provide matching funds in an amount that is equal to the amount of the grant.

(2) Administration.—The recipient matching funds—

(A) shall be derived from non-Federal sources; and

(B) may be made in the form of in-kind contributions of goods or services fairly valued.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2543), as amended, was read the third time and passed.

MOUNT RAINIER NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 2004

The bill (H.R. 265) to provide for an adjustment of the boundaries of Mount Rainier National Park, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

AMENDMENTS TO THE RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

The Senate proceeded to consider the bill (H.R. 1284) to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the costs of the San Gabriel Basin demonstration project, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

(Strike the part shown in black brackets and insert the part shown in italic.)

H.R. 1284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN FEDERAL SHARE OF SAN GABRIEL BASIN DEMONSTRATION PROJECT.

Section 1631(d)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h–13) is amended—

(1) by striking "In the case" and inserting "(A) Subject to subparagraph (B), in the case"; and

(2) by adding at the end the following:

"(B) In the case of the San Gabriel Basin demonstration project authorized by section 1614, the Federal share of the cost of such project may not exceed the sum determined by adding—

"(i) the amount that applies to that project under subparagraph (A); and

"(ii) [$12,500,000] *$6,500,000.*".

The committee amendment was agreed to.

The bill (H.R. 1284), as amended, was read the third time and passed.

MARTIN LUTHER KING, JR., NATIONAL HISTORIC SITE LAND EXCHANGE ACT

The bill (H.R. 1616) to authorize the exchange of certain lands within the Martin Luther King, Jr., National Historic Site for lands owned by the City of Atlanta, Georgia, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

TIMUCUAN ECOLOGICAL AND HISTORIC PRESERVE BOUNDARY REVISION ACT OF 2004

The bill (H.R. 3768) to expand the Timucuan Ecological and Historic Preserve, Florida, was considered, ordered to a third reading, read the third time, and passed.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the energy committee, Senators Domenici and Bingaman, are to be congratulated. I say that because usually the committee waits until the very last minute, and then we have a load of bills that can't be lifted. There are scores of them. This was a large number of bills, and they did them now.

Being from a public lands State where 87 percent of the land is owned by the Federal Government, the committee did the right thing. When we get ready to recess, there will be another big batch we will have to take a look at. But it will lessen the burden that we have in the waning hours of getting out of here trying to work through all of these bills. I didn't add them up, but there are probably over 40 bills we needed to dispose of to send them to the House tonight. The number is 44, I am told.

This is good work. The committee should be congratulated, and that is what I am doing now.

Mr. FRIST. Mr. President, I hold my breath right before all these are going through. But it is 43, 44 bills just done. These bills reflect a huge amount of work. To see it come together is sort of the privilege that the Democratic leadership and the Republican leadership have, to see it come together at a late hour like this afternoon. It is gratifying. As I say, I hold my breath to make sure it finally gets done each time.

CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of Calendar No. 640, H.R. 2828.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2828) to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to; the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3663) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (H.R. 2828), as amended, was read the third time and passed.

ORDERS FOR THURSDAY, SEPTEMBER 16, 2004, AND MONDAY, SEPTEMBER 20, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Thursday, September 16, for a pro forma session only. I further ask that immediately after convening, the Senate then adjourn over until 2 p.m. on Monday, September 20; provided further that on Monday, following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period of morning business for debate only with Senators to speak for up to 10 minutes each; I further ask consent that the vote on passage of the Military Construction appropriations bill occur at 5:30 p.m. on Monday, with the 10 minutes prior to the vote equally divided for closing remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I personally appreciate the distinguished Republican leader having a pro forma session tomorrow and our being out on Friday. We don't recognize often enough publicly the great work that the staff does. These people around here work so hard, work such long hours. After we go, many of them are still around here making sure the journals are correct, and there are many other things they do. In addition, because of the terrorism threat, we have all these security people here. I personally appreciate the distinguished Republican leader not having a full-blown session tomorrow.

PROGRAM

Mr. FRIST. Mr. President, let me take a minute to review the schedule for the next couple of days and next week. In observance of the Rosh Hashanah holiday, we will not be voting tomorrow. In addition, we are in a pro forma session which will allow people to appropriately use that time for themselves to work, to catch up with families, to see constituents, to get back to their States.

We were able to reach agreement to complete two additional appropriations bills with short time limits which allows us to be in a pro forma session tomorrow. We will not be conducting business on the floor tomorrow.

Earlier today, we completed debate on the Military Construction appropriations bill with the vote on final passage which will occur, as just mentioned, at 5:30 on Monday. For the information of my colleagues, that will be the next rollcall vote. Today we also reached agreement on the Legislative Branch appropriations bill, and that will be scheduled for consideration early next week with the vote likely to be Tuesday morning.

Next week we may be able to reach additional agreements on appropriations bills, and we will continue to pursue those in the same spirit that the assistant Democratic leader just mentioned.

In addition, we have the Goss nomination that, in all likelihood, will become available for full Senate consideration. We will certainly schedule that nomination to come to the floor just as soon as we possibly can, as soon as it is ready. I expect that to be in the early to mid part of next week.

We also have discussions continuing on the expiring family tax provisions. If possible, we would like to be able to pull that package together and bring it to the floor just as soon as it is ready as well.

Next week, on Thursday, September 23, Prime Minister Allawi of Iraq, who is also a physician and doctor, will be addressing a joint meeting of Congress. That address will be on that Thursday at 10 a.m. in the Hall of the House of Representatives. Members will gather in the Senate Chamber and will proceed as a body to the House at approximately 9:30 that morning.

We will have a very full schedule next week. I know that quite often, as the galleries watch what is occurring in the Senate Chamber or view on C-SPAN II what happens in the Senate, when we have days like tomorrow or the rest of this afternoon, things seem to be slow. In truth, there is all sorts of work going on, especially now as we are working toward that October 8 adjournment date. People are busy in committee hearings and working on various issues that we must address and negotiate through this legislative process.

A perfect example is with the bills that the assistant Democratic leader just referred to—the 44 bills that he held up and that we were able to pass quickly. A huge amount of work goes into bringing those to the floor and having them prepared appropriately. These bills had to do with land, water conservation, park measures, and a whole range of energy issues. It took about a minute on the Senate floor to pass them, but literally hundreds of hours were involved in getting that legislation available and ready for consideration.

I only mention that as another example of what is going on and what the challenge is and the huge demands on all of us to accomplish what we must before October 8.

I opened this morning by thanking Senator THAD COCHRAN for his tremendous leadership over the course of the week on Homeland Security appropriations. We were here very late last night and we were able to complete that bill. Members showed a lot of patience during the day and into the evening as we pushed through to final passage. I thank everybody for their tremendous efforts.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 4:29 p.m., adjourned until Thursday, September 16, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 15, 2004:

DEPARTMENT OF AGRICULTURE

MICHAEL J. HARRISON, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE, VICE LOU GALLEGOS, RESIGNED.

DEPARTMENT OF DEFENSE

FRANCIS J. HARVEY, OF CALIFORNIA, TO BE SECRETARY OF THE ARMY, VICE THOMAS E. WHITE, RESIGNED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PAMELA HUGHES PATENAUDE, OF NEW HAMPSHIRE, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE ROMOLO A. BERNARDI.

NATIONAL SCIENCE FOUNDATION

ARDEN BEMENT, JR., OF INDIANA, TO BE DIRECTOR OF THE NATIONAL

SCIENCE FOUNDATION FOR A TERM OF SIX YEARS, VICE RITA R. COLWELL, RESIGNED.

THE JUDICIARY

J. MICHAEL SEABRIGHT, OF HAWAII, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF HAWAII, VICE ALAN C. KAY, RETIRED.

WITHDRAWAL

Executive message transmitted by the President to the Senate on September 15, 2004, withdrawing from further Senate consideration the following nomination:

FRANCIS J. HARVEY, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, WHICH WAS SENT TO THE SENATE ON NOVEMBER 6, 2003.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO MARIE MACHELL MILLIKEN

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. TANCREDO. Mr. Speaker, I come before you today with the greatest sadness. When unexpected tragedies occur to exemplary individuals, it is a blow to the community as a whole. One such tragedy cost the life of an individual from my home district, Marie Machell Milliken. She was killed on Highway 84 near Telluride in a car accident. Her husband of 52 years was with her at the time and survived the accident.

Mrs. Milliken was born November 21, 1926, in Barre, Vermont. She met her husband while attending college at Yale University. Mrs. Milliken was a professor of nursing, vice president of academic affairs at Loretto Heights College and the director of nursing at Regis University. She received the Distinguished Alumna Award for the class of 1951. She also attended and matriculated from Colby College and the University of Denver.

She is survived by her husband Gordon, their children Doug, Karen, David, Anne and one grandchild.

Mr. Speaker, my thoughts and prayers are with the Milliken family, Marie will be deeply missed.

IN RECOGNITION OF SAL ROSSELLI, LABOR LEADER OF THE YEAR

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. GEORGE MILLER of California. Mr. Speaker, I rise to congratulate Sal Roselli, a friend of mine and a good friend to working people throughout the Nation, who will receive the honored title of Labor Leader of the Year in Contra Costa County, California by the AFL–CIO, on September 17, 2004. Sal is receiving this honor in recognition of the contributions he has made to bring high quality health care to all Americans.

Sal is the President of the Service Employees International Union Local 250, AFL–CIO. Since he became President in 1988 that Union has become the fastest growing health care union in the Nation, having seen its membership rise from 25,000 to 100,000. During this time his union has established new standards on wages, benefits and quality of care issues through the collective bargaining process. SEIU Local 250 has played a leading role in advancing social justice issues such as immigrant rights, health care access, peace and affirmative action.

Sal's commitment to working people began in the late 1960's when he worked with Dorothy Day of the Catholic Worker's Movement, followed by a year of community organizing with VISTA. He moved to the Bay Area in the early 1970's, and by 1984 he was president of the Alice B Toklas Lesbian/Gay Democratic Club, which grew to be the largest in the country.

As a national vice-president of SEIU, Sal has helped bring a new sense of urgency within the labor movement to address one of our Nation's greatest shames—the lack of health insurance coverage for 45 million people. His union's 100,000 health care members are committed to bringing quality health care to every American.

I invite my colleagues to join me in saluting Sal Roselli in recognition of his service to America's health care needs.

IN RECOGNITION OF THE RETIREMENT OF WALTER JOHNSON

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Ms. PELOSI. Mr. Speaker, it is an honor to pay tribute to a distinguished labor leader, a great San Franciscan, and a dear friend, Walter Johnson, upon his retirement. I join with my constituents to express our appreciation to Walter Johnson for 50 years of extraordinary service to the labor community and to the people of San Francisco. We are all fortunate that Walter chose to live in San Francisco and bestow upon us his immeasurable talents and contributions. He has devoted his life to fighting for equal rights in the workplace and social justice for all San Franciscans. He believes deeply in the dignity of all people and the freedoms of our democracy.

Born on April 22, 1924, in Amenia, North Dakota, Walter arrived in San Francisco following three years of service in the United States Army during World War 11. He joined the Department Store Employees Union Local 1100, was elected President in 1958, and in 1964 was elected to his local's top position of Executive Officer. Under Walter's leadership, the rights of women, people of color, and lesbians and gays working in retail were protected and preserved. His expert guidance resulted in his subsequent reelection over the next eleven years.

Walter was elected Secretary-Treasurer of the San Francisco Labor Council in 1985, and since that time has fought to secure and protect individual workers' rights. As a frontline leader, Walter Johnson has led the fight for workers' benefits, healthcare reform, workplace equality, and union rights. Walter educated, enlightened and mobilized union members to correct the unjust and unfair practices that existed in the workplace. Walter developed and maintained strong personal ties with his numerous co-workers and union members, and has remained their loyal friend.

Walter's friendships extend far beyond the labor community to the homeless man on the street, the man in the corner store, and innumerable others throughout the Bay Area and beyond. His friends have been blessed with his generous nature, his wry sense of humor, and his penchant for story telling. He is rarely without a personal anecdote or a footnote from history, which he often recalls in perfect iambic pentameter and rhyme. His boundless energy and enthusiasm is contagious.

Walter has given so much of himself to the labor movement and to the people of San Francisco, that we must thank his wife Jane and his children Eric, Lawrence and Mary, for sharing him with us. We honor him today for his courage, his leadership, and his wonderful friendship.

TRIBUTE TO ISABEL SANFORD

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. MEEK of Florida. Mr. Speaker, I rise to celebrate the life and acknowledge the great accomplishments of a talented actress, Isabel Sanford, who passed away on July 9, 2004.

Ms. Sanford and Sherman Hemsley costarred as Louise and George Jefferson in the sitcom The Jeffersons. Isabel Sanford was also known affectionately to many as "Weezy" Jefferson. She was a native New Yorker and performed at the world famous Apollo Theater in her youth. Ms. Sanford made her film debut in the historic Guess Who's Coming to Dinner.

The Jeffersons was one of the first television sitcoms to showcase the black family on national television. The Jeffersons moved on up from being the neighbors across the street from Archie Bunker, and moved into a skyscraper in New York City. She, along with Sherman Hemsley, changed the way America looked at African Americans; breaking down barriers and eliminating stereotypes. Ms. Sanford was the first black woman to receive an Emmy for Best Actress in a comedy series for her work on The Jeffersons.

Ms. Sanford's legacy will live on through her movies and her television but most of all her family and her fans. She will be greatly missed.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

EARMARK REGIONAL ASSETS FOR MIDEAST PEACE

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. VAN HOLLEN. Mr. Speaker, I want to bring to the attention of the Members of the House a newspaper article written by my constituent, Steven R. Rivkin, which was originally published on the Financial Times website on June 4th 2004. This piece offers some interesting, pragmatic and innovative views on how the natural resources in the Middle East can be used to help advance President Bush's stalled Greater Middle East Initiative.

[From the Financial Times, June 4, 2004]

EARMARK REGIONAL ASSETS FOR MIDEAST PEACE

(By Steven R. Rivkin)

Palestinian and Israeli claims for lost properties unsettled for more than five decades can still be remedied through sufficient compensation.

That's what an American friend of mine received after the US Army pulled a truck up to his idyllic New Mexico home early in the second world war and removed his family so the property could be used as a weapons development laboratory. His parents got a monthly cheque, enabling him to become well educated, live a comfortable life, and make worthy contributions to the US.

And that's precisely the type of assurance for individual Palestinians that Jordan's King Abdullah II has now asked of the White House, once President George W. Bush acquiesced when Ariel Sharon ruled out a "Right of Return" to the Israeli heartland.

There's a simple, just, and pragmatic way to launch compensation that the Middle East "peace process" has yet to appreciate: Recognise that there are rich regional resources lying fallow since the break-up of mandatory Palestine that could be earmarked to settle outstanding claims.

Clearly delineated stakes in the region's strategic wealth could be pledged up front as collateral for individual recoveries. This would ease qualms over whether reparations would ever be paid and promote confidence that other impediments to peace can fairly be resolved too.

A lot of economic value resides in at least three regional advantages untapped since 1948:

Trans-Israel transport of goods and commodities to and from Jordan and beyond. Transit via Israel's ports and networks of roads and rail (themselves legacies from the Mandate) could expand mineral production (potash and phosphates) in the Arab hinterland and trigger significant economic growth in the desert kingdom. An Israeli "land bridge to Jordan" would set off significant efficiencies in world commerce, by passing the Suez Canal.

What is more, the British built a petroleum pipeline in the 1930s from Mosul, Iraq, to the Mediterranean at Haifa, which has not functioned since Israel's independence. If restored now, this pipeline could provide critically needed, added security for exporting Iraqi oil to western markets.

A large natural gas field recently discovered in the Mediterranean off Gaza, Egypt, and Israel could fuel electricity production, habitation, and manufacturing in all three areas and beyond.

In each case, idle resources could be made to earn substantial and growing revenue for owners, investors, and lenders. If claimants for reparations were firmly recognised as equity owners, dividends could be paid to them out of revenue. Were ownership rights "securitised", some owners could "cash out" whenever they decided to sell their equity to third-party investors.

Israel's current control over these assets is of minimal worth until regional co-operation is assured. Yet the real value of these dormant assets can be far greater if they bring a conclusive settlement within reach. So the loss would be merely conjectural, overwhelmingly offset by long-term gains through conciliation and many more economic opportunities that would surely unfold.

For Palestinians, recovery of a productive share in what they could see as their historic patrimony would be psychologically fitting and a spur to regional stability, offsetting longing for specific properties lost long ago. Israel, Palestine, and their Arab neighbours Egypt, Jordan, Lebanon, and Syria could all look forward to regional prosperity based on indigenous resources—positioned like my New Mexico friend when he lost his home in 1942, only to find the courage, supported by the means, to live a full and productive life. Israel could consider turning key selected assets over to a third-party trustee—say a corporation chartered and guaranteed by the US or European Union under protocols specifying that individual shares held in the names of eligible claimants will start paying dividends as soon as earnings flow (rather like preferred stock). Once currently unused assets have been earmarked, Israel's neighbours might be much less reluctant to initiate co-operative development projects.

Having moved this one critical grievance up and out of the queue, negotiators could turn to other key issues—borders, Jerusalem, water rights, even limited repatriation whether or not production gets going right away.

If the assets transferred wind up being lucrative, astute international mediation and private entrepreneurship will have removed a prominent barrier to reconciliation that is not only real but innately personal. Then, the natural workings of global capital and commodity markets could, over time, top up the monetary restitution.

This is an issue better taken up immediately rather than left any longer to fester just in time to give new impetus to Mr Bush's stalled "Greater Middle East Initiative."

This writer is a lawyer in Washington, DC. From 1961–65 he worked for the White House Staff & Office of Science & Technology.

LANCASTER AREA SENIOR SERVICES PUT QUALITY FIRST

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. PITTS. Mr. Speaker, I rise today to commemorate an important event in my district coming up on Wednesday, September 29, an event I would have been eager to attend but for my duties here in the Capitol on that important session day.

On that day, residents and staff of sixteen not-for-profit Continuing Care Retirement Communities in my district will gather together for a ceremonial joint signing of a pledge to participate in Quality First, a nationwide, profession-wide effort to "raise the bar" on quality and on achieving a process of continuous improvement.

These sixteen communities, large and small, constitute L.A.S.S., which stands for Lancaster Area Senior Services. Together, they serve more than 10,000 seniors and 7,000 employees and have made a commitment to work together to explore ways to address trends and services that will enhance the quality of life for their residents.

Part of that commitment was the decision to take part in Quality First. All 16 members of L.A.S.S. are also members of PANPHA, their 300+ member state association of nonprofit housing and service providers, and of AAHSA, their national Association of Homes and Services for the Aging. AAHSA launched Quality First in 2002, along with other provider associations, to make a commitment to earning public trust and to helping older adults and their families live to their fullest potential. Participation in Quality First is a way to prove to a doubting public, a critical media and a skeptical legislature that the profession is committed to quality and constant quality improvement.

The AAHSA/PANPHA version of Quality First to which the L.A.S.S. members have committed includes 10 Elements of Quality: commitment; governance accountability; leading-edge care and services; community involvement; continuous quality improvement; human resources development; consumer-friendly information; consumer participation; research findings and education; and public trust and consumer confidence.

They in turn are based on seven core principles: continuous quality assurance and quality improvement; public disclosure and accountability; patient/resident and family rights; workforce excellence; public input and community involvement; ethical practices; and financial stewardship.

Mr. Speaker, I would like to congratulate the boards, trustees, and executive staff of the L.A.S.S. communities on their decision to participate in Quality First. As I indicated earlier, it is unfortunate that I cannot attend the commemoration, but I am pleased to be able to mark the event to my colleagues by way of these remarks.

The continuing care retirement communities comprising Lancaster Area Senior Services are: Brethren Village, Calvary Fellowship Homes, Ephrata Manor, Fairmont Homes, Garden Spot Village, Homestead Village, Inc., Landis Homes, Luthercare, Masonic Village, Mennonite Home Communities, Moravian Manor, Quarryville Presbyterian Retirement Community, Saint Anne's Home, Tel Hai Retirement Community, United Zion Retirement Community, and Willow Valley Retirement Communities.

RECOGNIZING THE NATIONAL CAPTIONING INSTITUTE'S QUARTER CENTURY OF ACHIEVEMENT IN CLOSED CAPTIONING AND RELATED MEDIA ACCESS TECHNOLOGIES

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. BLUMENAUER. Mr. Speaker, as the cochair of the Congressional Public Broadcasting Caucus I am introducing a bipartisan Congressional Resolution to recognize the achievements of the National Captioning Institute (NCI) in providing closed-captioning services and other media access technologies to Americans who are disabled by hearing loss and/or vision loss, or who are limited by their inability to read or master English as a second language. Given that communication delivery systems such as television and, more recently, the Internet, play an absolutely essential role in American society, the proposed Congressional Resolution salutes NCI's quarter century of progressive development in bringing media access technologies to the American people. NCI's stated mission is improving access to communications for all, and this Resolution supports the organization's laudable efforts.

The National Captioning Institute was founded in 1979 as a nonprofit corporation with the mission of ensuring that deaf and hard-of-hearing people have access to television through the technology of closed captioning. Prior to this time, captioned television was offered on an extremely limited basis, and the captions were "open", resembling subtitles, an obtrusive system roundly rejected by broadcasters and audiences alike. NCI pioneered the closed-caption technology in which captions could be accessed through special decoder units. This revolutionary solution made it possible for both hearing and hearing impaired audiences to enjoy television programming at the same time, and made the goal of accessible television a reality. Since the first, nationally broadcast closed captioned television programs appeared in 1980—an event so momentous that it was announced by the White House and made international headlines—tens of millions of deaf and hard-of hearing Americans have been able to access television for entertainment and news content every day.

With the anniversary of September 11, 2001 this past week, we are reminded of the special importance of captioned television in the case of national emergencies. On that terrible day, NCI's dedicated captioners remained on the air for countless hours over a period of several days, captioning in real time the event and its harrowing aftermath for millions of Americans who, without NCI's work, would not have been able to fully comprehend the attacks and their profound impact.

It is estimated that more than 100 million Americans benefit from captioned programming. These audiences include 28 million people who are deaf or hard-of hearing; children and adults learning to read; and those learning English as a second language. Hearing and non-hearing audiences are most likely to use closed captioning in their homes, although the system is embedded throughout today's society in public spaces such as bars, gyms and airports. As part of NCI's commitment to providing media access to everyone, NCI is making great advances in the development and application of described video technology, a service that provides an audio description of the visual elements of video programming for people who are blind or have low-vision, which is an audience of more than 14 million people.

The span of NCI's perseverance and dedication extends far beyond technology for our televisions. NCI established the Nation's only free consumer help desk for communications access issues where citizens may pose questions on topics such as the availability of captioned programming, how to resolve problems with displaying captions, accessibility of closed captions with digital cable and high definition television, and the availability of closed captions in Spanish and on DVDs and home videos.

In addition to its technologic achievements, NCI recently took the lead on auditing how the entire captioning industry is performing. It commissioned the field's first study to evaluate the quality, availability and use of the Nation's captioning services in order to improve performance throughout the entire captioning industry.

In light of all of the above achievements, I look forward to working with my colleagues to pass this bill and demonstrate our support for the National Captioning Institute's dedication to improving media access to millions of our fellow Americans.

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CONDEMNING TERRORIST ATTACKS AGAINST RUSSIAN FEDERATION

SPEECH OF

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 2004

Mr. HOYER. Mr. Speaker, I thank the gentleman from California, Mr. ROYCE, as well as Chairman HYDE and Mr. LANTOS from the International Relations Committee, for bringing this resolution before us today.

In recent weeks the world watched in shock and horror as terrorists brought down two Russian aircraft and detonated a deadly bomb at a Moscow train station. Russia is no stranger to the global war on terror; still the devastation and timing of these attacks were notable and shook the confidence of the Russian people.

But nothing prepared the world for the unspeakable act that was perpetrated in Beslan beginning the morning of September 1. On their way to the celebrate the first day of school, more than 1,100 schoolchildren, parents and teachers were taken hostage by approximately 30 armed terrorists. These innocent men, women and children were inhumanely held with no food or water for more than 52 hours, and their treatment at the hands of these terrorists was savage and cruel.

Tragically, the siege ended in a hail of bullets and series of explosions. In the end more than 355 innocent hostages were killed, including 156 children. Nearly 200 persons still remain unaccounted for amid the rubble of the school.

Let there be no mistake. These were not the actions of rebels or freedom fighters; these were the despicable and abhorrent acts of terrorists. As the Russian people attempt to come to terms with their loss and cope with the anguish inflicted by these loathsome individuals, may they find comfort in knowing they are in the thoughts and prayers of the American people.

Mr. Speaker, the heart-wrenching scenes of parents frantically searching for missing children, or mourning the loss of their children have steeled the resolve of the United States to stand with the people of Russia, and rededicate ourselves to rooting out these cowardly terrorists from every corner of the world.

* * *

PAYING TRIBUTE TO BERNADETTE GRAY

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. TANCREDO. Mr. Speaker, I am pleased to announce that one of my constituents has been given the inaugural Outstanding Caseworker of the Year award. Bernadette Gray's service was crucial in creating collaboration between Court Appointed Special Advocates (CASA) and the Arapahoe County Human Services.

Through a unanimous decision by the staff members of both organizations, the Outstanding Caseworker of the Year award was created specifically for Ms. Gray. The award is the first of its kind in the 20–year history of CASA. Collaboration between the two organizations helps both to meet the needs of the families and children that they serve. Bernadette has worked tirelessly on child advocacy cases; building coalitions between volunteers, parents and children to ensure the children are best served and protected.

Mr. Speaker, I applaud Bernadette Gray for her valuable work. She has set a new standard in the field of casework and has proved her self to be a valued asset to the county government. I wish her all the best in her future endeavors.

* * *

IN RECOGNITION OF ALEX MEHRAN, CORPORATE LEADER OF THE YEAR

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. GEORGE MILLER of California. Mr. Speaker, I invite my colleagues to join me today in saluting Alex Mehran, who will be named Corporate Leader of the Year for Contra Costa County at the AFL–CIO's Labor-2-Labor dinner in my congressional district on September 17, 2004. Mr. Mehran earned this honor due to his continued leadership within our community on such issues as housing, transportation and the creation of quality jobs for America's working families.

As President and Chief Executive Officer of Sunset Development Company, Alex has built the largest, most diverse business center in the San Francisco Bay region. That development, Bishop Ranch, contains over 350 companies that employ over 30,000 people. In order to provide the housing and transportation choices these employees, and others throughout the region, need, Alex Mehran has provided dynamic leadership on a number of initiatives to address these issues.

As Chairman of the Contra Costa Economic Partnership he has helped to create a unique collaboration of public and private partnerships to promote economic development strategies that support a higher quality of life for the region's residents.

Alex has shown his commitment to making the "American Dream" available to all of our community's residents by creating learning opportunities for immigrant workers at his job sites so they can gain the English skills needed to fully participate in our society.

For our system to truly work, we must have corporate leaders like Alex Mehran who understand our great society's health depends on each of our hard-working residents having the opportunity to enjoy the quality of life we all work so hard to create.

EXPRESSING SUPPORT FOR FREEDOM IN HONG KONG

SPEECH OF

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 2004

Ms. PELOSI. Mr. Speaker, the results of the elections in Hong Kong on September 12 make two things clear: The people of Hong Kong overwhelmingly support the pro-democracy movement, and the Chinese government has created an electoral system intended to ensure that that support cannot be translated into political control.

In the months leading up to the election, the Chinese government engaged in a systematic crackdown to deny the people of Hong Kong the right to choose their own leaders and to suppress freedom of expression. In April, Beijing issued a new "interpretation" of Hong Kong's Basic Law, which serves as the territory's constitution, to prevent direct elections of Hong Kong's next leader in 2007 and for all lawmakers in 2008. As H. Res. 667 concludes, that result is inconsistent with international agreement, and the United States should take a strong position in favor of true democracy in Hong Kong.

The United States-Hong Kong Policy Act of 1992 codified the understanding of the United States that Hong Kong would have a degree of autonomy from the People's Republic of China. After reversion, it was expected that this autonomy would be a catalyst for the development in Hong Kong of political institutions and procedures that would reflect the will of the people of Hong Kong, regardless of whether they were consistent with the views of government leaders in Beijing. The PRC, however, has thwarted these efforts at every turn.

Beijing has created a climate of political fear in Hong Kong through well-documented intimidation of the media and efforts to challenge the patriotism of pro-democracy supporters. In March, three of Hong Kong's leading broadcasters had to resign their positions after receiving death threats and having their businesses vandalized because of their criticism of the Chinese government. Throughout the year, pro-democracy lawmakers and activists have also suffered threats and vandalism. Hong Kong's delegate to Beijing stepped down from his position saying he was powerless to effect change.

The Chinese government's campaign to crack down on freedom in Hong Kong will only succeed in shining a spotlight on the courage and leadership of Hong Kong's democratic movement. The United States must stand solidly with the people of Hong Kong and their desire for democracy.

Reminding Beijing of its obligations under previously-signed agreements must be our constant message. Tepid remarks by Bush Administration officials are not a sufficient response to protect the nascent democracy in Hong Kong. President Bush should not hesitate to define the U.S.-China relationship in terms of the willingness of the Chinese government to discharge the commitments contained in those agreements.

U.S. policy toward Hong Kong should be consistent with the provisions of the U.S.-Hong Kong Policy Act of 1992 that require autonomy and empower the President to halt existing agreements with Hong Kong or take other steps if he determines that Beijing is interfering unduly in Hong Kong's affairs.

H. Res. 667 conveys that message in a clear and forceful manner, and deserves the support of this House.

HONORING THE WORK OF DEBRA BARRON

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. MEEK of Florida. Mr. Speaker, I rise to honor the work of one of my constituents, Debra Barron, who suffers from a debilitating disease called scleroderma. Debra and her family have been tireless advocates in drawing public attention to this painful condition. Her work demonstrates her strength and resolve, and I ask that her remarks from the March 20, 2004 Scleroderma Foundation Wine Auction & Dinner in Broward County be entered into the CONGRESSIONAL RECORD.

Imagine for a moment you're a 26-year-old newlywed . . . young, healthy, athletic, and pursuing a serious career. That was me in September 1981, when, one afternoon as I'm washing my hands the color in them suddenly changed from pink to stark white. There was no warning, no pain or discomfort. Two weeks later, after a battery of tests requiring copious amounts of my blood, a doctor at the George Washington Hospital Center in D.C. informs me I have a "condition" known as Raynauds, which is basically a loss of circulation to the extremities. Raynauds is easily manageable with medication and isn't a problem except when the circulation returns; some will experience a minor sensation such as tingling while others endure severe pain as the blood vessels return to normal and the color returns. So there I am, I'm 26, having never been seriously sick a day in my life, and I think to myself . . . "This is nothing. Go home and don't worry."

My husband, Gary, and I moved to San Francisco in 1982. My doctor in DC suggested I seek out a physician to monitor my condition in the event. I needed follow-up care. Since I needed a physician anyway I'm not too concerned. From 1982 to 1983 the Raynauds become aggressive. The first to go was my left index fingertip which developed a gangrene-type sore, and had to be removed by a doctor, also losing my fingernail and some bone matter. No problem . . . I still had nine good fingers but, as time elapsed, more fingers became infected and each episode brought new horrors, as well as physical pain, as I watched my fingers literally die. Needless to say there went my regular manicure appointments.

By the spring of 1983, my condition had become more aggressive. Chewing and swallowing food was now something I actually had to think about because food would get stuck or caught in my esophagus. My doctors were supportive and encouraging, but they were running out of options and I wasn't responding to experimentation with medication. Basically, I was still taking medication for a "condition" that was supposed to be manageable.

The pain was also getting worse. Many scleroderma patients experience severe pain and it becomes a way of life, day in, day out, sometimes for months on end.

The sores don't heal quickly because the blood vessels clamp down, which suppresses the flow of oxygen to the blood and thereby causes poor circulation. Chronic pain gets old very quickly and it affects everything in your life: I no longer felt young, I certainly didn't feel healthy, I was suffering from fatigue, my career was suffering, and the biggest insult of all was the total loss of my sexuality and how I felt about myself as a woman. I was broken in all the ways that matter to any human being. It didn't help that my family was on the other side of the country, my husband was traveling, and the only thing my doctors could do was offer encouragement. It was at that point I made a conscious decision to do something and as I drove over the Golden Gate Bridge one afternoon, crying from pain, I intended to end my life.

San Francisco police don't like speeders on the Golden Gate Bridge and I got pulled over. I knew I was about to receive a whopper of a ticket when the officer realized how hard I had been crying. I explained about the pain and told him I was in a hurry to get home to take my pain medication. He offered to escort me home, which he did, took me upstairs to my apartment, waited while I took my medication and stayed with me. He never spoke of God or having faith, nor did he try to offer encouragement. He just sat there with me and let me do the thinking.

Realizing the consequences of what I tried to do to myself hit me hard. The state of my health was no longer something I could deny and from that point on I chose to become more aggressive regarding my condition. I was basically being monitored, not treated, for a disease no one understood and it still took another 12 years before a doctor finally recognized my symptoms as Scleroderma.

I still get sores and have to deal with pain but life is good again. I'm in remission now thanks to my scleroderma doctor, Frederick Wigley, at Johns Hopkins plus the myriad physicians that oversee my healthcare.

I'm very fortunate to have a loving and supportive family, both my immediate family and Gary's family. But, most importantly, the two people I live with have been tremendously supportive.

TRIBUTE TO LOUISE "BEBE" CANTER, CPCU, ARM, ON COMPLETION OF HER TERM AS PRESIDENT OF THE INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. VAN HOLLEN. Mr. Speaker, I rise today to commend Louise "BeBe" Canter, CPCU, ARM, who is completing her term as president of the Nation's largest insurance association—the Independent Insurance Agents & Brokers of America (IIABA)—this October in Orlando.

Louise was elected to IIABA's Executive Committee in October 1998 and was installed as this great organization's president last September. She is executive vice president of Patterson/Smith Associates of Falls Church, VA and resides in Bethesda, MD with her husband, Bob, and their two sons, Christopher and Matthew.

Louise has enjoyed a distinguished career as an independent insurance agent that has been highlighted by her tireless service and dedication to her clients, community, IIABA, the Metropolitan Washington Association of Independent Insurance Agents (MWAIIA) and her colleagues across the country.

Louise's service to her peers began with her involvement with the Metropolitan Washington Association. She served as MWAIIA's president and as the organization's representative to IIABA's National Board of Directors. In recognition of her outstanding service, MWAIIA named her its 1991 Agent of the Year.

Louise also served as chairman of the Southern Agents Conference, an annual conference of agents from several States, including Maryland.

In addition to her position on the IIABA Executive Committee, Louise also serves as a member of the Association's Large Agents & Brokers Roundtable.

Her other industry volunteer work includes service as a member of the D.C. Society of Chartered Property Casualty Underwriters' Board of Directors and the Standard & Poor's Agent Advisory Council, and chair of the CNA Branch PACER Agent Panel and the Southern Agents Conference.

A highlight in Louise's community involvement is her service as a member of Howard University's Scholarship Committee.

I applaud Louise for her tireless leadership of the Independent Insurance Agents & Brokers of America and for the numerous accomplishments achieved for all independent insurance agents and brokers during this past year.

INTERPARLIAMENTARY CONFERENCE ON HUMAN RIGHTS AND RELIGIOUS FREEDOM

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. PITTS. Mr. Speaker, I would like to enter into the CONGRESSIONAL RECORD the unanimously agreed upon Concluding Document of the Interparliamentary Conference on Human Rights and Religious Freedom, which occurred in Brussels, Belgium in early August of this year. Over 30 different countries from Asia, the Middle East, Europe, Africa and Latin America sent parliamentarians to participate in the conference to discuss issues of ethnicity, religion and citizenship, responses to anti-Semitism, terrorism and religious freedom, religious registration laws, trafficking in persons, and women's rights. In addition, a number of nongovernmental and religious organizations attended and participated. These kinds of gatherings are vital in building relationships and understanding, and ultimately cooperation and partnership, between peoples of all nations.

CONCLUDING STATEMENT OF THE SECOND SESSION OF THE INTERPARLIAMENTARY CONFERENCE ON HUMAN RIGHTS AND RELIGIOUS FREEDOM, AUGUST 7, 2004, BRUSSELS, BELGIUM

The Second Session of the Interparliamentary Conference on Human Rights and Religious Freedom encourages the genuine expression of opinions from representatives of the peoples of the world. There is no greater legitimacy than that expressed by peoples in their choice of representatives.

The great variety of cultures, the different paths to God, the diverse ethnic backgrounds, and the disparity of historic goals often lead to conflict and bloodshed between peoples, but should instead be sources of inspiration in our quest for valid solutions.

Religious freedom is the first human right and should not be confined to the private sphere only.

We live in an era characterized by aspirations towards diversity and tolerance but clouded by tragic failures of mutual respect. True religious freedom is more than mere tolerance. It constitutes an embracing of universal human dignity as a consequence of one's religious convictions. Every individual has inherent dignity and worth, and the state is constituted to serve society, not vice versa.

The forceful attempts to build homogenous societies in the last century led to horrendous human sufferings, to the carnage of world wars and to genocide.

The Universal Declaration of Human Rights has become the framework for a global compact with great moral authority and the promise of a more just international order.

Lifestyles and social structures rooted in different religions should be preserved in order to maintain peace and harmony on all levels, from the local community to the world order.

Prejudice and repression based on ethnic, religious and cultural background persist. In some cases these insults to human dignity enjoy the authority of law and the state.

Ethnic and religious intolerance are unacceptable and should not be used as a basis for restricting citizenship. A civic covenant and the rule of law constitute the only rational basis for creating a just society.

Any cultural and spiritual invocation of undetermined historic or divine authority as justification for hatred and rejection of others directly and actively violates universally proclaimed human rights.

The Interparliamentary Conference on Human Rights and Religious Freedom solemnly reaffirms the right to freedom of religion and belief for each person, and rejects any attempt to restrict fundamental rights on the basis of religious, ethnic or cultural identity including restrictions or forcing any religious dress.

Anti-Semitism is a global concern and never a function of Jewish conduct. Reducing the magnitude of Jewish suffering throughout history to politics alienates and distorts our own humanity.

The alarming signs of recurrence of Anti-Semitism, especially in some advanced societies of Western Europe, indicate a deep-rooted prejudice.

The Interparliamentary Conference on Human Rights and Religious Freedom condemns hatred on the basis of religious, ethnic or cultural identity, including restricting or forcing religious dress.

Security has become a global problem. No nation is able to protect its citizens and territorial integrity without international solidarity.

The very concept of great power changes its contour in an environment where fringe groups are able to disrupt and damage the very structure of a society.

Where freedom of religion and belief is protected by governments and valued by citizens, religion-based terrorism will not take root. It may take advantage of a free society, but sustained support will not emerge.

Freedom of religion is an antidote to terrorism—especially religion-based terrorism. It encourages a theological and political awareness of the need to accept pluralism.

Discriminating on the basis of religious beliefs or discrediting religious practices are contrary to respect for fundamental human dignity. They destabilize society by creating a climate of tension, intolerance, opposition and suspicion.

Respect for freedom of religion and belief is an effective means of promoting national and international security and stability.

The gravest danger in the world today comes from fanaticism and extremism that exploits ideals of spiritual and religious movements.

Manipulation of religion and spiritual beliefs for violent and terrorist purposes, including murder and destruction of properties, is unacceptable.

The global pandemic of HIV/AIDs constitutes a terrible assault on human rights and demands effective action and enforcement of international commitments for education, prevention, care and treatment.

Trafficking in persons, in particular women and children, is recognized as a form of enslavement which violates fundamental human rights.

Steps need to be taken to ensure that the offense of trafficking in persons is recognized globally as criminal, and to prevent further trafficking in persons.

It is imperative to strengthen international institutions and to create new instruments that will address and protect the rights of religious and ethnic minorities.

The Interparliamentary Conference on Human Rights and Religious Freedom appreciates the work of the Secretariat and recommends to it that it consult the maximum number of countries in the elaboration of its future programs.

The Interparliamentary Conference on Human Rights and Religious Freedom encourages parliaments and governments to nurture environments of free expression and respect for human dignity.

In this spirit the Interparliamentary Conference on Human Rights and Religious Freedom is grateful to His Majesty King Mohammed VI of Morocco for his generous appreciation of our work:

"It is therefore appropriate that this sort of initiative becomes the foundational undertaking of an international civilization, where complementarity between people is substituted for confrontation and where faith in the paramount necessity of cooperation overcomes the illusion of self-reliance and autarchy."

The Interparliamentary Conference on Human Rights and Religious Freedom accepts the proposal of the delegation of the Kingdom of Morocco to host the Third Session in 2005.

PERSONAL EXPLANATION

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. ROGERS of Kentucky. Mr. Speaker, on Monday, September 13, I was in Kentucky tending to official business and was not present for rollcall votes Nos. 441, 442 and 443. The votes were on House Concurrent Resolutions 363, and House Resolutions 667 and 760. Had I been present, I would have voted "yea" on all measures.

IN HONOR OF JAMES SPRIGGS'S RETIREMENT AS PRESIDENT OF THE GREATER IRVING-LAS COLINAS CHAMBER OF COMMERCE

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. SESSIONS. Mr. Speaker, I rise today to pay tribute to Mr. James A. Spriggs on the occasion of his retirement as President of the Greater Irving-Las Colinas Chamber of Commerce. Mr. Spriggs became President of the Greater Irving-Las Colinas Chamber of Commerce in April of 1995, and the organization has seen massive growth under his experienced leadership and dedication. The Greater Irving-Las Collins Chamber of Commerce now has a budget in excess of $1.2 million and plays a vital role in assisting the promotion of business in the 32nd Congressional District of Texas.

Mr. Spriggs's involvement in the community is not limited to his role with the Greater Irving-Las Colinas Chamber of Commerce; however, he is an active volunteer for a number of societal organizations. Among his commitments include: the United Cerebral Palsy of Arkansas, Irving Hospital Foundation, Dallas Easter Seal Society for Children, Former President of the Irving Symphony Orchestra, Member of the Board of Councilors for the University of Dallas in Irving along with many more contributions that are too many to mention. His active presence will be greatly missed, but he has the thanks of the greater Irving community for his many years of dedication and volunteer service.

Mr. Speaker, I wish Mr. Spriggs, his wife Carolyn, and the rest of the Spriggs family all the best on this occasion.

IN HONOR OF JOHN C. HEDLUND'S CONTRIBUTIONS AND DEDICATION TO THE GLENDALE COMMUNITY

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. SCHIFF. Mr. Speaker, I rise today to congratulate John Hedlund for his outstanding leadership and service to the Glendale community.

John Hedlund has been a major source of positive influence for the Greater Glendale area for many years. He has served as President of the Glendale News-Press and the Burbank Daily Review, as well as President and Chief Executive Officer of California Offset Printers. He is a past President of the Glendale Community College Board of Education, the Glendale Unified School District, and Chairman of the ABC Committee to prioritize the spending of $184 million for GUSD. Mr. Hedlund has served as a member and Elder of Glendale Presbyterian Church. He was also Chairman and Board Member of the Glendale Salvation Army Advisory Board, the President of the Glendale Rotary Club, and member of the Downtown Strategic Plan Committee since its inception. Mr. Hedlund was also Chairman of the Town Center Committee, President of the Glendale Development Council and of Glendale Partners, President and Board Member of the Alex Theater, President of the Glendale Symphony Orchestra Association, Board Member of the YMCA, and Board Member of both the Verdugo Club and Oakmont Country Club.

John is the recipient of countless honors. He was named "Man of the Year" by the Glendale Chamber of Commerce as well as the Glendale Board of Realtors. He also received the Glendale Bar Association Liberty Bell award and the Congressional Award for Community Service. John is a nationally recognized leader in the Graphic Arts Industry, serving in key leadership roles in several graphic arts organizations and receiving many of the top regional and national honors in the field.

I ask all Members of Congress to join me today in congratulating Mr. John Hedlund for his lifetime of exemplary public service, and for his immense commitment to the City of Glendale and its residents.

PAYING TRIBUTE TO SUSAN BARTHOLOMEW-WILLIAMS

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. TANCREDO. Mr. Speaker, the 2004 Summer Olympic Games in Athens, Greece have concluded but will not be forgotten. The Games have yielded some of the most incredible competition in the history of sports. The athletes have rigorously trained and endured formidable obstacles in their quest for the distinction of the world's elite.

Susan Bartholomew-Williams, one of my constituents, made us all proud. At the recent Olympics, she achieved legendary status by placing third in the Olympic Triathlon at Athens and bringing home a bronze medal.

Since beginning her career a decade ago Susan has had numerous top-ten finishes and has risen to the uppermost echelons of her sport. Susan did not compete in the 2000 Sydney Games due to the birth of her daughter and was out of competition in 1999 as a result of a deabilitating side effect of her treatment for a pulmonary embolism. But she came back stronger than ever and brought home the bronze medal for the United States in the triathlon.

Mr. Speaker, I am in awe of the rigor and perseverance displayed by Ms. Bartholomew-Williams in the 2004 Olympic Triathlon, and all of the athletes who represented the U.S. in Athens. I wish her further success in all her future endeavors.

IN RECOGNITION OF MARK GAGLIARDI, ACTIVIST OF THE YEAR

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. GEORGE MILLER of California. Mr. Speaker, I rise today to salute Mark Gagliardi, who on September 17, 2004 will be named the Activist of the Year for Contra Costa County, California at the AFL–CIO's Labor-2-Labor dinner in my congressional district. Mr. Gagliardi gained this honor after the delegates representing over 80,000 union men and women in Contra Costa County voted to recognize the work he does for his fellow union members.

Mark is a steward with OPEIU Local 277 at American Income Life. American Income Life is the only 100 percent union insurance company in California. Mark maintains a food bank for striking union members at American Income Life and has made food deliveries throughout Northern California. He has been on dozens of picket lines throughout the State and his unique style with a bullhorn is seldom forgotten.

Mark established with American Income Life the "Shoot for a Cure" Charity Sporting Clays Shoot to raise money for the Leukemia/Lymphoma Fund and has raised tens of thousands of dollars to fight that disease.

When union men and women speak about a revitalized union movement in our Nation, it is people like Mark Gagliardi that represent that new spirit. I encourage my colleagues to join me in saluting Mark for being named Activist of the Year.

30TH ANNIVERSARY OF UNITED AGAINST SEXUAL ASSAULT OF SONOMA COUNTY

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Ms. WOOLSEY. Mr. Speaker, I rise today to honor United Against Sexual Assault (UASA) of Sonoma County on the occasion of its 30th anniversary. Founded in 1974 as Women Against Rape, the agency consisted of a phone number to call for emotional support. Today that crisis line operates 24 hours a day, and the organization has 12 board members, 14 paid staff, and more than 40 volunteers who address the problems related to all forms of sexual assault.

Over the past 30 years, UASA as greatly expanded the services offered to the people of Sonoma County. It provides extensive training on helping victims, including not only women and girls, but also men, children, and the families of victims. Staff and volunteers also accompany victims and their families for police reporting, court appearances, medical exams, or other personal situations.

Prevention programs include outreach to elementary through high school youths, reaching approximately 6,000 young people every year, as well as parents and school personnel. Other efforts include bilingual outreach to Hispanic teens, teen peer education training, anti-racism curriculum which deals with violence against the Lesbian/Gay/Bisexual/Transgender community, and a unique men's program featuring men educating men. All services are offered at no cost.

UASA also plays a key role in the county's pioneering SART (sexual assault response team) which unites law enforcement, mental health, legal, and advocacy programs to support victims and families. This collaborative project makes services easily accessible and minimizes the stress felt by victims. The agency is also working with the District Attorney's office to establish a county-wide Family Justice Center by 2005.

In May 2004, Executive Director Gloria Young was named "Outstanding Director of the Year" by the California Coalition Against Sexual Assault for shepherding the agency through many of these transitions.

Mr. Speaker, UASA's long-term mission is to eliminate all forms of sexual assault. I know that with its inspired leadership, dedicated staff, and committed volunteers United Against Sexual Assault of Sonoma County has brought our community a long way toward achieving this goal and will not be satisfied until they have reached it. I salute UASA on their 30th anniversary and look forward to the day when their services are no longer needed.

ADDITIONAL FUNDS FOR ELECTORAL PROCESS

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. LARSON of Connecticut. Mr. Speaker, I would like to submit the following statement on the FY 2005 Funding of the Federal Election and Election Assistance Commission. As Ranking Minority Member of the Committee on House Administration, I am especially interested in the Appropriations Committee's funding recommendation for the Federal Election Commission, the Election Assistance Commission and programs implementing the Help America Vote Act (HAVA). While these commissions and the programs they administer comprise a very small portion of the federal budget, the process of electing federal officials is critical to the health of our democracy.

I am pleased that the committee provided full funding for the Federal Election Commission (FEC). The FEC administers campaign-finance and presidential election laws, and in recent years it has received additional responsibilities.

Although the process has been contentious at times, I am happy to see that both sides of the committee came together and not only met the authorized funding of $10 million for the EAC, but exceed it by $5 million.

I recognize that the President's delay in appointing members to the EAC gave the commission a late start, but I remain hopeful that the EAC can regain lost time during the coming fiscal year. Given the 2000 Florida election debacle and widespread public interest in election procedures, we need to assure voters nationwide of the sanctity of their votes in the electronic age. In the coming year, I expect that the EAC will use this additional money to devote appropriate attention to standards and technology issues with the assistance of the National Institute of Standards and Technology (NIST).

The EAC and its NIST partner must expedite the development of proper standards so the American people can realize the potential of HAVA, especially the election reform programs, which the Appropriations Committee also did not fund. The EAC must also establish the Help America Vote Foundation, as authorized by HAVA; so the foundation can help civic organizations encourage voter participation.

Implementing a new federal program like HAVA is often fraught with difficulty. In this case, however, there is not a moment to lose, for it is our democracy at risk. The Committee on House Administration looks forward to working with the FEC, the EAC, state election officials, and interest groups to ensure that federal election laws and programs achieve their important purpose.

Again, I would like to commend the Chairman and Ranking Minority Member of the Transportation-Treasury subcommittee for including this critical funding for the EAC.

SUPPORT OF THE GOOD SAMARITAN VOLUNTEER FIREFIGHTER ASSISTANCE ACT

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. HOLT. Mr. Speaker, I rise in support of the Good Samaritan Volunteer Firefighter Assistance Act (H.R. 1787).

First, this bill would prohibit civil lawsuits from being brought against a person who donates fire-control or fire-rescue equipment to a volunteer fire company, under state or federal law, for personal, property damages or loss, or death caused by the equipment subsequent to the donation. But this prohibition against lawsuits would not apply in cases where the donor's actions constitute gross negligence, intentional misconduct, or where the person is the manufacturer of the fire-control or fire-rescue equipment.

Second, the bill would preempt state laws to the extent that those laws are inconsistent with the bill. But it would not preempt state law that provides additional protection from liability for an individual who donates firefighting equipment.

Finally, the bill would also require the U.S. Justice Department to review and report to Congress on donations of equipment made to volunteer firefighter companies in each state during the previous five-year period. Such report would include an analysis of the most effective way to fund firefighter companies for each state, whether first-responder funding is sufficient, and the best method to make sure donated equipment to volunteer companies is in usable condition.

This bill protects people, who out of the goodness of their own hearts, donate much-needed equipment to our brave firefighters who selflessly volunteer to defend our communities. We all know that there are many pressing and unmet needs among volunteer fire departments across the country. Yes, I was pleased to vote for the FY 2005 Homeland Security Appropriations Bill when it passed the House last June and it provides $32 billion to improve our nation's homeland security, including several billion for our firefighters and other first responders. We would like to have done more, but the dire fiscal condition of the federal budget precludes us from doing so.

It makes common sense to me that we then make certain that these so-called good Samaritans can make supplementary donations of equipment to help meet the needs of volunteer firefighters. This bill does that, while also safeguarding against shoddy donations that might jeopardize the lives of our volunteer firefighters and in our communities.

IN HONOR AND REMEMBRANCE OF OFFICER TIMOTHY JACOB LAIRD

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Ms. CARSON of Indiana. Mr. Speaker, I rise today to honor the life and service of Officer

Timothy Jacob Laird of Indianapolis, Indiana, who was tragically shot and killed on August 18, 2004 during an act of bravery in the line of duty.

Known as Jake to his friends, Timothy Laird was born on September 17, 1972 in Logansport, Indiana. At the age of 4, Jake already knew he wanted to be a police officer. He graduated from Warren Central High School in 1991 and enlisted in the Marine Corps, where he spent 8 years in service to his country. In 2000, he joined the Indianapolis Police Department in the 93rd Recruit Class, fulfilling his lifelong dream.

Jake Laird was a member of Fraternal Order of Police Lodge #86. He took part in the investigation of more than 600 incidents during his 4 years of service with the Indianapolis Police Department, earning two commendations.

On August 18th, Officer Laird responded to reports of a man shooting a machine gun in a southside neighborhood of Indianapolis. The suspect's indiscriminate shooting injured four officers, who were treated in area hospitals. Officer Laird was fatally wounded, becoming the 56th officer to die in the line of duty in the 150-year history of the Indianapolis Police Department. He was 31.

Officer Laird's bravery and sacrifice for the people of Indianapolis has touched the lives of his community. On August 23rd, hundreds of citizens, many of whom had never met Timothy Laird, lined up along the 20-mile funeral route in silent tribute. Over 1,000 police cars from all over Indiana, as well as Kentucky, Ohio, and Illinois, took part in the procession honoring his service. Police Chief Jerry Barker awarded him the Indianapolis Police Department's Medal of Honor posthumously, only the fourth time it had been given in 150 years.

I ask my colleagues to join me in extending my deepest condolences to his wife Jennifer and their beloved 7-year-old daughter Kaylee; his parents Deborah and Michael Laird and Timothy and Barb Althouse; his brothers Gaben Laird, Christopher Laird, Timothy Althouse, and Dan and Matt Wilhelm; his sisters Sarah Althouse and Heather Laird; and his grandparents Mrs. Howard Dodson and Donald and Rosemary McEldowney.

A United States veteran, beloved father, husband and family member, Jake Laird will be deeply missed. His strength and service to his country and community will be remembered always by all whom he inspired and loved.

The citizens of Indianapolis extend our heartfelt gratitude for his sacrifice and dedication to public service.

PERSONAL EXPLANATION

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

Mr. EVANS. Mr. Speaker, I was not present for votes on Monday, September 13, 2004.

Had I been here I would have voted "aye" on H. Con. Res. 363 expressing the grave concern of Congress regarding the continuing gross violations of human rights and civil liberties of the Syrian people by the Government of the Syrian Arab Republic.

I would have voted "aye" on H. Res. 667 expressing support for freedom in Hong Kong.

I would have voted "aye" on H. Res. 760 condemning the series of terrorist attacks against the Russian Federation that occurred in late August and early September 2004.

CELEBRATING NATIONAL HISPANIC HERITAGE MONTH

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. LANTOS. Mr. Speaker, I rise today in celebration of this week's anniversary of independence of numerous Latin American countries, of our country's National Hispanic Heritage Month, and in special recognition of Latinos in my district and throughout our country.

Today, September 15, five Latin American countries commemorate their independence, including Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. In addition, Mexico and Chile celebrate their independence days on September 16 and September 18, respectively. I join these nations in mutual celebration of liberty, democracy and freedom, values which we hold so dear.

Today also marks the beginning of our country's National Hispanic Heritage Month. During this month, America celebrates the culture and traditions of our friends and neighbors who trace their roots to Mexico and the Spanish-speaking nations of Central America, South America, and the Caribbean.

I am proud that my district is the home of more than 100,000 residents of Hispanic or Latino descent. This community is comprised of individuals who cherish their various ethnicities, national origins, and opinions. And yet, the Hispanic-American community is united by the importance that they place on faith, family, hard work, and the hope of sharing in a better America. We in Congress must re-dedicate ourselves to ensuring that our friends and neighbors in the Hispanic community have the opportunity to build their businesses, take full advantage of our schools and universities, and unite their families across borders—a task upon which my colleagues in the Congressional Hispanic Caucus have endeavored for many years.

Mr. Speaker, the Hispanic community is a vital part of my district and our country. I ask all of my colleagues to join me in support and celebration of the many Latin American countries celebrating their independence this week, of the beginning of our great National Hispanic Heritage Month, and of all our Hispanic brethren.

HONORING 115 YEARS OF HISTORY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the West Morris Area YMCA, in Randolph Township, Morris County, New Jersey, a vibrant community I am proud to represent! On September 17, 2004, the good citizens of Randolph and neighboring municipalities are celebrating the West Morris Area YMCA's One-Hundred-Fifteenth Anniversary.

One hundred and fifteen years ago, the West Morris Area YMCA was founded in the town of Dover. The year 1889 was the beginning of a YMCA that established itself today as one of the area's distinguished community organizations.

The First Methodist Episcopal Church in Dover was home of the first YMCA. Known then as the YMCA of Dover, The "Y" soon attracted nearly 200 of the area's youth per day.

In 1908, the YMCA expanded beyond Dover to include Succasunna, Wharton, Whippany, Rockaway, Chester, and German Valley, now Long Valley. For the next four decades the Y maintained its popularity, occupying various locations on or near Blackwell Street in Dover.

As membership continued to grow, after World War II, there was a need for a more permanent facility. In 1951 the YMCA headquarters on Route 46 at the corner of North Bergen Street was dedicated.

By the late 1970's the need for a building, which offered a gymnasium and a pool, was becoming evident. Expansion of the Dover building was possible but parking was a problem as the Y began to attract more and more participants from the growing residential areas outside of Dover, including Randolph Township.

In 1976, the name West Morris Area YMCA was established to reflect this expanding service area and ground was broken for a new facility on Dover Chester Road in Randolph in 1977. The brand new YMCA, offering a pool, gymnasium, fitness equipment, racquetball courts and program space was officially opened in 1979.

The YMCA is dedicated to helping all people, regardless of age, race, religion, sex, or economic status to reach their fullest potential. It is with great pride we all look upon the volunteers and staff of the past and present that are the true strength of this remarkable organization.

Mr. Speaker, I urge you and my colleagues to join me in congratulating West Morris Area YMCA on the celebration of its one-hundred-fifteen years serving the western part of the Morris County!

TRIBUTE TO STAFF SERGEANT DAVID WEISENBERG AND SPECIALIST BENJAMIN ISENBERG

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Ms. HOOLEY of Oregon. Mr. Speaker, scripture tells us that for everything there is a season; there will be times of planting, times of harvest, times of peace, and even times of war. And yet, my heart is heavy when we bury our children. Staff Sergeant David Weisenberg and Specialist Benjamin Isenberg were killed in an ambush in Taji, Iraq yesterday. These two proud soldiers were patrolling the frontier of hope—ready, willing, and able to stand up for the freedoms of people they never really knew. These two men were Oregon's future. They were brave, idealistic, and passionate men—united in the belief that their individual sacrifice might hasten the day that all people could enjoy the sweet blessings of freedom and liberty.

In his Gettysburg Address, Lincoln explained that there was nothing he could say that would matter as much as what the fallen had done—that his words were spoken on hallowed ground, ground made sacred by the purity of self-sacrifice. Friends, colleagues, fellow Americans—his truth endures today. Both men were dedicated professionals that came from families accustomed to public service, individual sacrifice. I am blessed by their example; I am proud, touched—forever changed by their humble act of courage.

Taji is not Sheridan, it is not Portland—the Iraqi civilians they gave their lifeblood for were not their neighbors, friends, or family. That didn't matter to them. It never does for heroes. The citizens of Taji were people in need, and that was good enough for David and Benjamin. These men did their duty because they believed in the spirit of America; they wore the uniform and accepted the risks because they knew that long journeys result from small steps. David and Benjamin were more than Oregon Patriots—though patriots they were. David and Benjamin were the face of the very essence of what it means to be American.

So today, I ask that we recommit ourselves to the ideals of our democracy; that we renew our personal investment in the America that David and Benjamin were willing to fight and ultimately die for. It is to them and those that follow that we owe our time, talent, and treasure. It is to them that we owe a solution that brings honor to their sacrifice.

Let us do these things and bring about the kind of society that David and Benjamin wouldn't just be willing to die for, but a community of liberty they would celebrate.

SIKHS CELEBRATE 400TH ANNIVERSARY OF THEIR HOLY SCRIPTURES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. TOWNS. Mr. Speaker, earlier this month Sikhs around the world celebrated the 400th anniversary of the first installation of their holy scriptures, known as the Guru Granth Sahib. The Guru Granth Sahib, written in the lifetimes of the 10 Sikh Gurus, contains the writings of the Sikh Gurus as revealed to them and some writings by other saints who share their basic philosophy. When the Indian military attacked the Golden Temple in Amritsar, Sikhism's holiest shrine, in June 1984, they shot bullet holes through the Guru Granth Sahib.

There was a major celebration of the anniversary in Amritsar, which was attended by the Indian President, Abdul Kalam; by the Prime Minister, Manmohan Singh; and by the Dalai Lama, the spiritual leader of Buddhism, among many others. Apparently, India was trying to maintain its false front of secularism. But the people of South Asia know better.

The Guru Granth Sahib established Sikhism as a monotheistic religion that believes in the equality of all people. Guru Gobind Singh, the last of the Sikh Gurus, who consecrated the Guru Granth Sahib, made independence a basic principle of the religion.

As you know, India continues to oppress the Sikhs. Over 250,000 Sikhs have been murdered at the hands of the Hindu militant Indian government. In addition, the Indian regime has murdered over 89,000 Muslims in Kashmir, over 300,000 Christians in Nagaland, and tens of thousands of other minorities. They are holding over 52,000 Sikhs as political prisoners, according to the Movement Against State Repression (MASR) and tens of thousands of other minorities, according to Amnesty International.

The only way to preserve basic human rights for minorities in India is to stop all aid and trade until India observes these basic liberties. And we should also go on record in support of self-determination for the Sikhs of Punjab, Khalistan, the Muslims of Kashmir, the Christians of Nagaland, and the minority nations of South Asia. That will help bring freedom, prosperity, peace, and stability to this troubled region.

Mr. Speaker, I'd like to place the Council of Khalistan's press release on the celebration into the RECORD for the information of my colleagues.

400TH ANNIVERSARY OF GURU GRANTH SAHIB

WASHINGTON, DC, Sept. 10, 2004.—On September 1, Sikhs gathered in Anuitsar to observe the 400th anniversary of the first installation of the Granth Sahib, the Sikh holy scriptures, at Darbar Sahib, the holiest of Sikh shrines. Indian President Abdul Kalam, Prime Minister Manmohan Singh, and the Dalai Lama, the spiritual leader of Buddhism, attended the celebration. Sikhs remember that bullets pierced through the Guru Granth Sahib during Operation Bluestar, the Indian government's military attack on the Golden Temple in Amritsar, in 1984.

The Guru Granth Sahib was written by the Sikh Gurus as revealed to them by God. It was written at the time in which they lived. It also includes the writing of other saints of that time which fit the philosophy of the Sikh Gurus.

"This anniversary is a joyous occasion for the Sikh Nation as we celebrate the Sikh way of life as given to us by the Gurus," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan. The Council of Khalistan, the government pro tempore of the Sikh homeland, Khalistan, leads the struggle to liberate Khalistan, which declared its independence from India on October 7, 1987.

Sikhism is an independent, monotheistic religion that believes in the equality of the whole human race. The tenth and last Sikh Guru, Guru Gobind Singh, declared the blessing "In Grieb Sikhin Ko Deon Patshahi," conferring sovereignty on the Sikh Nation, which is culturally, linguistically, and religiously distinct from any other people in the world, including Hindu India. "We must honor the Guru by reclaiming our lost sovereignty," Dr. Aulakh said.

The Indian government has murdered over 250,000 Sikhs since 1984, more than 300,000 Christians in Nagaland since 1947, over 89,000 Muslims in Kashmir since 1988, and tens of thousands of Tamils, Assamese, Manipuris, Dalits, and others. Christians and Muslims have also been murdered in other parts of the country. The Indian Supreme Court called the Indian government's murders of Sikhs "worse than a genocide." According to a study by the Movement Against State Repression, 52,268 Sikhs are being held in illegal detention as political prisoners without charge or trial. Some of them have been held since 1984!

Christian missionary Joseph Cooper was expelled from India after a mob of militant Hindu nationalists allied with the Rashtriya Swayamsewak Sangh (RSS), a fundamentalist, pro-Fascist organization that is the parent organization of the BJP, beat him so severely he had to spend a week in the hospital. In 2002, 2,000 to 5,000 Muslims were murdered in Gujarat while police were ordered to stand aside, reminiscent of the 1984 Delhi massacres of Sikhs. Indian newspapers reported that the government planned the Gujarat massacre in advance.

India is not one country; it is a polyglot thrown together by the British for their administrative convenience. Sikhs ruled Punjab until 1849 when the British conquered the subcontinent. Sikhs were equal partners during the transfer of power from the British. The Muslim leader Jinnah got Pakistan, the Hindu leaders got India, but the Sikh leadership was fooled by the Hindu leadership promising that Sikhs would have "the glow of freedom" in Northwest India. The Sikhs took their share with India on that promise. For that mistake, Sikhs are suffering now. "As Professor Darshan Singh, a former Jathedar of the Akal Takht, said, 'If a Sikh is not for Khalistan, he is not a Sikh'," Dr. Aulakh noted.

"Democracies don't commit genocide," Dr. Aulakh said. "Only in a free and sovereign Khalistan will the Sikh Nation prosper. In a democracy, the right to self-determination is the sine qua non and India should allow a plebiscite for the freedom of the Sikh Nation," he said.

"The Guru Granth Sahib is the reigning Guru of the Sikh Nation and reminds us of our heritage of freedom," Dr. Aulakh said. "It is appropriate that it received a fitting celebration."

bd SYSTEMS—NATIONAL 8(a) GRADUATE OF THE YEAR

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise this evening to congratulate bd Systems and its President/Chief Executive Officer Clarisa F. Howard of Torrance, California on being named the United States Small Business Administration's National 8(a) Graduate of the Year.

I am very proud that this prestigious award, which is presented annually to companies who have demonstrated excellence in business since graduating from the SBA's 8(a) minority business development program, was awarded to a business located in the heart of the 37th District of California.

Clarisa Howard built bd Systems from a three-person operation in 1981, to a thriving company of more than 346 employees today. bd Systems has operations in twenty locations, including right here in the District of Columbia.

bd Systems has been recognized for over 20 years as a world-class provider of technology solutions, providing proven engineering and IT performance, design, analysis, and support. Under Clarisa's leadership, the firm has earned a positive reputation as a key subcontractor to several large defense contractors, including Boeing, which operates a facility in the Long Beach area of my District.

Mr. Speaker, this week is National Minority Enterprise Development Week, and minority business owners from all over the country are participating in a weeklong conference being held at the Omni Shoreham Hotel here in Washington, DC.

The theme for this year's conference, which is the largest federally sponsored activity held on behalf of minority business enterprises, is "Forward to the Future, Minority Business Enterprise: The National Priority".

The conference is an important conduit in providing critical information to both the minority business community, and to corporate America at large. As you know, Mr. Speaker, the number of minority owned small businesses are growing nationwide and are an emerging economic force.

In closing, I'd like to salute Clarisa Howard and all of the employees of bd Systems for their tremendous achievement, and I am sure that they will continue to be a success for years to come.

OPPOSITION TO COST OF LIVING INCREASE FOR MEMBERS OF CONGRESS

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. MORAN of Kansas. Mr. Speaker, I rise in opposition to a cost-of-living increase for Members of Congress. During the recent August district work period, I traveled across Kansas, meeting with farmers and ranchers, teachers, small business owners, and health care providers. Many of them shared with me the difficulties they face making ends meet in our recovering economy with the rising costs of transportation and health care services. These individuals are working hard to provide for their families, but while they are experiencing first-hand the effects of a cost-of-living increase, an automatic pay raise is not available to them. Families in Kansas and across the country are making tough decisions, controlling spending, balancing their budgets, and practicing fiscal discipline; Members of Congress should be no different.

I am opposed to an automatic congressional pay raise and believe the process should be reformed. If Congress desires a pay increase, we should debate the issue as we do with other funding legislation. There should be a yes-no vote on the record with full disclosure to the public. Congressional action should reflect the interests of our constituents and any vote to increase Member salaries should be done with an open, transparent process.

PERSONAL EXPLANATION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. OWENS. Mr. Speaker, because of an emergency in my district, I missed rollcall votes Nos. 441, 442 and 443. If present I would have voted "yea."

REMEMBERING TOM OSBURN

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. HALL. Mr. Speaker, I am honored today to pay tribute to the former mayor of Sherman, TX, Tom Osburn, who died on August 6, 2004.

Tom Osburn was a selfless and devoted servant to the community of Sherman. Community leaders remember him as a man who worked constantly for the good of Sherman. If there was a problem, Tom was ready and willing to fix it. Friends recall that he was instrumental in getting a new building for the Texoma Council of Governments when a mold-infestation was discovered in the old building. The Old Settler's Park in Sherman was getting run down, so Tom led an effort to renovate the facility. He also made citizens feel as if they were integral to the success of the community. Rev. Jim Pledger stressed that Tom was a good mentor who encouraged people, through events like Great Days of Service, to give back to Sherman.

Tom and his wife, Jo Ann, arrived in Sherman in 1990. Tom served as TXU's district manager for the Texoma District. The Osburns quickly became an integral part of the community. In addition to serving as Mayor from 1999–2003, he was a member of the city council from 1998–2003. Tom also served on the Board of Directors of the Sherman Chamber of Commerce, the Boy Scouts of America, the American Cancer Society, the United Way, the Texoma Area Paratransit System, the Grayson County Rehabilitation Center, the Sherman Minority Recruitment Scholarship Foundation, and the Grayson County Juvenile Alternatives. Tom further gave his time and energies to the community as chairman of the Administrative Board of the First United Methodist Church, chairman of the Wilson N. Jones Memorial Hospital Foundation, and president of the Sherman Rotary Club. He served as president of the Board of Directors of the Texoma Council of Governments, and it isn't surprising that he was chosen this year as the Texoma Council of Government's Person of the Year for Grayson County.

Tom was a devoted family man. He met his wife, Jo Ann, at New London High School. They both graduated from the University of Texas at Austin after Tom played college basketball at Tyler Junior College, where his team took second place in the nation. Besides Jo Ann, Tom is survived by three children, Chris, Tim, and Beth, five grandchildren, and a sister, Pat Sager of Tyler.

The community of Sherman feels a deep and abiding loss by the death of Tom Osburn. Rarely has an individual made such a lasting and permanent mark on a town and its citizens. On behalf of his many friends and fans, and the community of Sherman, I want to take this opportunity in the House of Representatives to pay our last respects to this honorable man—Tom Osburn.

HONORING J.D. ROGERS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to Mr. J.D. Rogers III, who on September 18, 2004, will be honored during the UAW Local 599 Walter Reuther award ceremony in Flint, MI, for his contributions as the longest serving production committeeman in the history of the local.

J.D. Rogers began his leadership career within UAW local 599 in 1976 when he was elected as alternative committeeman. One month after assuming his post he was elected to fulfill the position of the recently resigned committeeman. His superior leadership skills and support of the union membership granted him several unopposed elections to this post.

J.D. is committed to fulfilling Walter Reuther's mission of helping people, and ensuring human dignity and social justice for all. His hard work and dedication to the duties of his elected position is commendable. His deeds are self evident in the faith the members of 599 have bestowed upon him in allowing him to be re-elected. His service to the UAW extends many years and is highly regarded.

Mr. Speaker, many people have greatly benefited from the leadership and service of Mr. J.D. Rogers. His commitment to the UAW membership is unwavering. I ask my colleagues in the 108th Congress to please join me in congratulating him on obtaining his mark in history and in wishing him the very best in future endeavors.

HONORING HISPANIC HERITAGE MONTH

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Ms. ROS-LEHTINEN. Mr. Speaker, it is with great pleasure that I recognize Hispanic Heritage Month, which begins on September 15, the anniversary of independence for five Latin American countries—Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. Additionally, Mexico declared its independence on September 16, and Chile on September 18. These are some of the countries that comprise our diverse ethnic group, which have enriched our beautiful Nation.

The 2000 Census found that 35.3 million people identified themselves as Hispanic

Americans. This represents a 58-percent increase from the previous Census of 1990. Hispanic Americans continue to thrive and exemplify the American dream. A larger percentage of Hispanic Americans are becoming proud homeowners. Hispanic-owned companies made up 6 percent of the Nation's 20.8 million nonfarm businesses, and earned $186.3 billion in revenues. Since 1822, 73 Hispanic Americans have served in this very Chamber, in the U.S. House of Representatives.

In March of last year, the Congressional Hispanic Conference, of which I am proud to serve as chair, was inaugurated. We are comprised of a group of Representatives of Hispanic and Portuguese descent, as well as Members who are interested in promoting policies of importance to Americans of Latino descent. The Conference will inform Hispanic Americans that their issues and concerns are being listened to and acted upon in the U.S. Congress. Lower taxes, affordable health care, and the education of our youth are all issues that are imperative to our conservative values. We will be strong advocates to ensure that the largest minority group in the United States has a loud and powerful voice in the Halls of Congress.

Educational advancement and funding continues to be an important issue for all Americans, especially Hispanics. Congress has increased funding for Hispanic Serving Institutions by more than 750 percent—from $10.8 million in 1996 to $92.4 million in 2003. The Bush administration has also proposed an additional 5-percent increase in funding for minority serving institutions in FY05. This would increase funding for Hispanic Serving Institutions to $94 million. This vital funding works to advance the educational pursuits of Hispanic Americans across our country.

Congress continues to amend and improve tax policy to the benefit of all Americans. H.R. 839, The Renewing the Dream Tax Credit Act, modifies the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development. This bill would create tax incentives for the construction or rehabilitation of affordable housing for low-income families. The ability to afford and own your own home is a quintessential part of living and pursuing the American dream.

This Congress and our President are committed to ensuring that Hispanic Americans continue to seek economic opportunities and achieve prosperity. The huge increases in educational funding are unprecedented and will continue to serve the needs of the ever-growing Hispanic American community. A stronger, smarter, and fairer tax policy will continue to serve the needs of all Americans. A vibrant, stronger, and more educated Hispanic American population contributes to the greatness of this wonderful nation making us competitive for the new global economy in this technologically advanced society.

INTRODUCTION OF THE VETERANS' EMPLOYMENT ACT OF 2004

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. SAXTON. Mr. Speaker, I rise today to introduce the Veterans' Employment Act of 2004. Our veterans too often see limitations in the availability of civilian employment opportunities. While federal service positions offer preference to veterans, this provision is not universal in private industry. For many seeking a position in the private sector, the search for employment proves long and arduous.

During their time in the service, our veterans acquire several personal attributes that private employers find imperative in today's business world. While serving in the armed services, these men and women consistently demonstrate a high level of adaptability; the ability to work within a team; a strong work ethic; and, more often than not, exemplary leadership qualities. Alongside the extensive technical and strategic training sustained during their service, the character displayed by our veterans should be sufficient to secure them steady employment. Unfortunately, we have too often been shown that this is not the case.

During my tenure in Congress, many of my constituents have expressed to me their frustration with the availability of steady, well paid employment opportunities. Unlike their nonveteran contemporaries, they often find employers unfamiliar with the extensive training and exemplary personal attributes accumulated during their years of service. With their skill sets and experience, our veterans most certainly deserve broader employment opportunities.

In response to this need for increased employment opportunities, I am honored to introduce the Veterans' Employment Act of 2004. It is my strong belief that our veterans provide some of the most valuable service both within and outside of our armed services. With support of this bill, we may further expand the employment opportunities available to our veterans and ensure the strength and reputation of America's private industries.

RECOGNIZING DR. CHARLES R. DREW, PROFESSOR OF SURGERY AT HOWARD UNIVERSITY AND PIONEER IN THE FIELD OF MEDICINE: 1904–1950

HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. FORBES. Mr. Speaker, I rise today in recognition of Dr. Charles R. Drew, pioneer in the field of medicine, professor of surgery, and innovator of the modern blood bank.

Dr. Drew, born 1904 in Washington, D.C., excelled academically. He received a Bachelor of Arts from Amherst College, Medical Doctorate and Master of Surgery degrees from McGill University, and a Doctor of Science in Medicine degree from Columbia University.

Dr. Drew was an outstanding athlete, starring in football and track at Dunbar High School and Amherst College. He received the Thomas W. Ashley Memorial Trophy for being the football team's most valuable player and achieved honorable mention All-American honors in football. He became an all-time leading scorer in intercollegiate track while attending McGill Medical College.

As a surgeon and specialist in blood research, in 1940 Dr. Drew organized the massive Blood for Britain project, in which blood plasma was separated, collected, and stored to aid the wounded in World War II. The following year he became director for the national American Red Cross program for blood procurement.

Dr. Drew is credited with organizing the concept of the blood bank. Dr. Drew pioneered the use of blood plasma for transfusion due to the longer life of blood with the plasma removed. Prior to his studies, blood could only be stored for seven days. Dr. Drew developed "bloodmobile" trucks with refrigeration units to collect and carry plasma, increasing the shelf life of blood. His blood bank in the Presbyterian Hospital in New York served as one of the models for the widespread system of blood banks used by the American Red Cross today. Countless lives were saved thanks to Dr. Drew's efforts in blood research and plasma separation.

Dr. Drew served as Professor of Surgery at Howard University and Chief Surgeon of its teaching and clinical facility, Freedmen's Hospital. There he trained America's first generation of black surgeons.

Dr. Drew was inducted into the Alpha Psi Chapter of Omega Psi Phi Fraternity while attending Amherst College. While on the faculty of Howard University, he collaborated in the writing and composition of the fraternity's hymn, "Omega Dear."

Dr. Drew succeeded in each phase of his life being an outstanding example of African-American achievement. He left behind a legacy of life saving techniques.

Mr. Speaker, please join me in honoring Dr. Charles R. Drew for his pioneering achievements in blood research; his commitment to Howard University, Omega Psi Phi Fraternity, and his community; and for the many contributions he has made to our nation. It is truly an honor and a privilege to recognize Dr. Charles R. Drew in the United States House of Representatives on this day.

REMEMBERING THE "HELL ON WHEELS"

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. FRELINGHUYSEN. Mr. Speaker, three and a half months after the D-Day invasion of June 6, 1944 and nearly 1,000 miles away from the beaches of Normandy, France, the United States 2nd Armored Division—an outfit known as "Hell on Wheels" for its nucleus of tank units, the leadership of Major General George Patton, and its elite corps of servicemen—found its way to the Netherlands city of

Sittard on September 19, 1944. Here, in the southernmost province of The Netherlands, close to the Belgian and German border, the "Hell on Wheels" battalion waged war against the Nazis that for four years had forced their fascist values upon the people of that city.

When the battle was over, America lost at least sixty-two of the bravest men ever to wear our uniform. One account of the battle's outcome went like this: "Here they (the "Hell on Wheels") received an overwhelming welcome by crowds of Dutch, euphoric citizens liberated free again after four long years of German fascist occupation, saving them from the hardships like the citizens of Amsterdam had still to endure because of shortages of food and fuel during the entire coming, unusual severe winter."

Accounts of what exactly occurred and how many servicemen died in Sittard are not entirely known. The National Personnel Records Center, which houses personal files for veterans of World War II was unable to provide more information about soldiers potentially lost during the battle in Sittard due to a fire at their St. Louis Records Center in 1973.

Still, we know that the men who died that day did not yearn to be heroes or to have a memorial dedicated in their honor. They came from all walks of life and all regions of America, including from my home state of New Jersey, to serve in the Armed Forces and defend freedom. They yearned for reaching Berlin, winning the war and enjoying their homecomings. And they dreamed of seeing their parents, wives and newborn babies.

This weekend, American families, friends and descendants of the sixty-two "Hell on Wheels" servicemen who lost their lives, as well as residents of Sittard (now known as Sittard-Geleen), past and present, will come together in Sittard-Geleen to commemorate the 60th anniversary of the city's freedom due in large part to the bravery of these sixty-two American souls who will never be forgotten.

Together, they are unveiling a fitting memorial in this Dutch city to honor the service, bravery and sacrifice of these servicemen. One account about the new memorial said: "It will be made famous, hard stone excavated in the very heart of the Ardennes, a notorious battlefield, where such great courage and perseverance were shown that we shall never forget."

This memorial service has been a long time coming. In a joint effort, that spanned nearly a year, the U.S. Ambassador to the Netherlands, Clifford Sobel, Arno Bemelmans, a local Dutchman and the Foundation Chairman for the new memorial, two Army Genealogists—Charles Gailey and Arvan Staats—we discovered in a recent Washington Post article, and myself put forth an all out effort to track down and notify as many family members related to the "Hell on Wheels" soldiers as possible about the memorial dedication. Through our efforts, we successfully reached family members for 25 of the 62 deceased servicemen.

For all, including myself, dedicating this memorial means an opportunity to pay respects to those who gave everything to defend freedom. For some, it also means the chance to possibly recognize the name of another soldier's relative they once may have heard about in a letter or telegraph home or in a journal entry recovered years later, or to remember a face, voice or even a memory from a lifetime ago.

Today, let us honor each of sixty-two servicemen from the "Hell on Wheels" battalion who lost their lives in Sittard by pledging this: Only through preserving our past can we guarantee a future where the lessons and legacy of these servicemen will be rightfully remembered.

For this to be true, I'm reminded of what the patriot Thomas Paine observed more than 220 years ago as our forefathers fought to gain their own freedom for the first time.

Paine said: "Those who expect to reap the blessing of freedom must undergo the fatigue of supporting it."

As we honor our hero soldiers this weekend in the Netherlands, we must not forget that "freedom is not free." It is worth fighting for, and those who fought must be remembered and honored forever.

In the end, the remaining servicemen from "Hell on Wheels" battalion did cross the German border to meet the enemy on their own soil. They played a crucial role in the Battle of the Bulge and finally crossed the Rhine River in 1945 to free thousands of prisoners of war and slave laborers.

History books may never report what the "Hell on Wheels" battalion accomplished in Sittard. Future generations may never know what happened in this city or at dozens, maybe even hundreds, of other battlefields like it across Europe. But for this moment, this weekend, let us all remember with a heavy heart the "Hell on Wheels 62."

TRIBUTE TO PRIVATE FIRST CLASS KEN W. LEISTEN

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Ms. HOOLEY of Oregon. Mr. Speaker, I want to pay tribute to the life of an Oregon Soldier, beloved patriot, and proud son. Private First Class Ken W. Leisten was recently killed in Taji, Iraq—far away from friends, family, and the Willamette Valley that he loved so much.

Ken was the last of the Leisten men—the pride and joy of his grandma and a large extended family that lives from California to the Midwest. Private Leisten made his community stronger because of the choices he made, the way he lived his life.

Unlike many of his comrades, Private Leisten was a full-time guardsman. He was permanently assigned to the 1st Battalion, 162nd Infantry HQ, but he volunteered to serve in Iraq with the 2nd Battalion—so someone else wouldn't have to. Typical. This decision was the rule instead of the exception for this exceptional young man.

The lasting tragedy of his noble sacrifice is that Private Leisten was exactly the kind of American that we need more of, the type of soldier—the kind of citizen—that makes us all better people.

Sacrifice—the willful regard for others at his own expense—was Ken Leisten's life philosophy; it is his legacy. In actions large and small, Private Leisten took the time to care.

A soldier in a hostile land, Ken Leisten set about making a difference by reaching out. He shared his limited water with Iraqi children in the village where he served to establish and then keep peace.

Think about it; safe drinking water in a hot, unforgiving desert. Not many people would share their canteen, but Ken did. He consciously made the effort to share what little he had with those around him—because he knew their need was greater.

Part teacher, mentor, cheerleader, and coach—Ken spent his brief life assisting his fellow soldiers learn the art of war while helping them maintain balance: responsibilities as soldiers with their needs as parents, spouses, and workers.

One thousand Americans have perished since this administration committed our time, talent, and treasure to the liberation and reconstruction of Iraq. And unfortunately it is all too easy for the incredible life and terrible death of one citizen-soldier to get lost in the numbers.

I say this because despite the noise surrounding the war, a silent truth endures: there is no more sacred or loving gift than laying down your life for the protection of another. Private Ken Leisten gave us this gift.

Let us commit ourselves to ensuring Ken Leisten's example is our example; that his sacrifice—celebrated, applied—and never, ever forgotten.

Private Ken Leisten made a difference in the lives of Iraqi children he knew he would never see again—he laid down his life so that the People of Iraq might have a chance at self governance and peace.

We, in this Chamber and beyond these marble walls, are all accountable to the spirit of Ken Leisten. We must redouble our efforts, rekindle the flame of liberty, and renew our America to earn the freedom that Private Leisten gave his life for.

INDIA SHOULD OPEN BORDER AT WAGAH FOR TRADE, TRAVEL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. TOWNS. Mr. Speaker, the Chief Minister of Punjab, Captain Amarinder Singh has called for an opening of the border between India and Pakistan at Wagah, about halfway between Amritsar, Punjab, and Lahore, Pakistan. Such an opening would help the farmers of Punjab to get higher prices for their produce than the less-than-subsistence prices the Indian government pays them. It would also make it much easier for Sikhs to make religious pilgrimages to the birthplace of the first Sikh Guru, Guru Nanak, in Nankana Sahib, which is also in Pakistan.

Chief Minister Singh is right. The border should be opened. This would be a significant step towards peace in the region. It would greatly reduce the need for India and Pakistan to expend exorbitant resources on their military rivalry. Instead, the cross-border contacts would strengthen the emerging relationship between the two countries.

Mr. Speaker, let me take this opportunity to call on both the governments of India and Pakistan to open this border. Let the people, money, and ideas flow freely.

By opening the border at Wagah, India would be able to begin to end its repression that has claimed the lives of over 250,000 Sikhs since 1984, over 300,000 Christians since 1976, over 89,000 Kashmiri Muslims since 1988, and tens of thousands of other minority people.

This repression must end if India is to be taken seriously as a member of the international community. We should cut off India's aid and trade until such time as it respects human rights. Opening the border at Wagah would be a first step. We should also go on record in support of all people in South Asia enjoying the basic democratic right to self determination.

Mr. Speaker, I am inserting the press release from the Council of Khalistan into the RECORD at this time.

[From the Council of Khalistan]

OPEN WAGAH BORDER FOR TRADE

WASHINGTON, DC, September 10, 2004.—Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, today endorsed the demand of Captain Amarinder Singh, Chief Minister of Punjab, to open the border at Wagah, about halfway between Amritsar and Lahore. This would allow direct trade between Punjab and Pakistan.

"The distance between Amritsar and Lahore is only about 35 miles, less than the distance between Washington and Baltimore in the United States," Dr. Aulakh said. "Why not allow trade between these neighbors?," he asked. "Chief Minister Amarinder Singh is to be praised for asking to open this border," said Dr. Aulakh. "His stand will help keep the fires of freedom lit in the Sikh Nation," he added. "This is more than all his Akali and Congress predecessors have done for the people of Punjab," Dr. Aulakh noted.

"We fully support opening this border," he said. "This is the wise thing for Punjab and the Sikh Nation," he added. "It is another step forward for the freedom and self-determination of the Sikh Nation. It will help secure the prosperity of the Sikhs in Punjab, Khalistan."

"Opening trade through the border at Wagah will bring peace in the subcontinent," said Dr. Aulakh. "This will enable the farmers of Punjab to get higher prices for their products and help Pakistan to overcome its shortages," he said. "If India truly cares about the well-being of the people, it must open the border at Wagah immediately" Dr. Aulakh also called for bus service across the border so that visitors can more easily visit the birthplace of Guru Nanak, the first Sikh Guru, at Nankana Sahib. "We are the same people. The same language is spoken on both sides of the border. Opening this border benefits everybody and it is much better to open the border than to spend all this time and money constantly preparing for war," he said.

Khalistan is the independent Sikh homeland declared on October 7, 1987. It has been under Indian occupation since then. When India became independent, Sikhs were equal partners in the transfer of power and were to receive their own state, but the weak and ignorant Sikh leaders of the time were tricked into staying with India on the promise that they would have "the glow of freedom" and no law affecting the Sikhs would pass without their consent. Sikhs ruled an independent and sovereign Punjab from 1710 to 1716 and again from 1765 to 1849 and were recognized by most of the countries of the world at that time. No Sikh representative has ever signed the Indian constitution. The Council of Khalistan is the government pro tempore of Khalistan, the Sikh homeland.

"If India will not open this border, it is clear that there is no place for Sikhs in India," said Dr. Aulakh. "Sardar Atinder Pal Singh's question of 14 years ago is still the question facing the Sikh Nation: Why don't we liberate Khalistan? As Professor Darshan Singh, a former Jathedar, said, 'If a Sikh is not for Khalistan, he is not a Sikh'," Dr. Aulakh noted.

The Indian government has murdered over 250,000 Sikhs since 1984, more than 300,000 Christians since 1948, over 89,000 Muslims in Kashmir since 1988, and tens of thousands of Tamils, Assamese, Manipuris, Dalits (the aboriginal people of the subcontinent), and others. The Indian Supreme Court called the Indian government's murders of Sikhs "worse than a genocide." According to a report by the Movement Against State Repression (MASR), 52,268 Sikhs are being held as political prisoners in India without charge or trial. Some have been in illegal custody since 1984!

"We must move forward with the cause of Sikh freedom," Dr. Aulakh said. "Only in a free Khalistan will the Sikh Nation prosper and get justice," said Dr. Aulakh. "India should act like a democracy and allow a plebiscite on independence for Khalistan and all the nations of South Asia." Dr. Aulakh said. "We must free Khalistan now."

ASSAULT WEAPON BAN REAUTHORIZATION

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise to address the House for five minutes.

Mr. Speaker, we are in a crisis situation in America—and here in Congress. On Monday the assault weapon ban bill expired at midnight and to date there has been no indication from this Republican controlled Congress that this important legislation will be reauthorized, let alone addressed, during this session.

This is unacceptable. It is unfathomable to me that Congress and this administration would let this landmark legislation merely expire.

In 1994, Congress came together with the leadership of then President Clinton to pass the Assault Weapons Ban legislation that banned the possession, transfer, or further domestic manufacture of semiautomatic assault weapons for ten years.

The legislation has had documented success.

The U.S. Bureau of Justice Statistics reports that since 1994 the annual amount of gun related violence has declined by 70%. Unfortunately, tonight, we are on the cusp of taking a major step backwards with regard to protecting our citizens.

Prior to 1994, gun violence, especially among our children was off the charts. The number of homicides committed annually with a firearm by persons in the 14- to 24-year-old age group increased by 173% from 1985 to 1993.

Physicians, school teachers, police officers, mothers, fathers, Republicans and Democrats alike have all called my office this past week, and I'm sure many of my colleagues, and asked why the Republican controlled Congress has not done their job in protecting the American people, our children, our schools and our communities?

Nationally, 70% of the American people have spoken and their message is loud and clear—we need to extend the Assault Weapons Ban.

The National Association of Police Organizations, the National Coalition of Public Safety Officers both support reauthorizing this legislation. My chief of police in Los Angeles strongly supports reauthorizing this legislation.

Now is not the time to make it easier for criminals and terrorists to get their hands on assault weapons. We live in a different world, a more violent world. Much has changed since 1994.

We have been attacked as a country and as a people. Now more than ever we must make it more difficult for those who want to harm us to get their hands on weapons that have the potential for mass killing.

On Saturday, our country recognized the third anniversary of the horrific September 11th terrorist attacks.

Since that tragic day our Nation has waged an on-going war on terrorism, invaded Iraq with the intent of disarming Saddam Hussein, yet tonight we do not even blink in allowing weapons capable of mass killing back on our streets and in our communities.

We have created a Department of Homeland Security to protect the home front, our communities and our citizens.

At the same time, we are asking more from our community's police forces, while making huge cuts to the COPS program.

Our brave men and women who protect our communities are doing more with less. They are now our first responders, our last defense against a terrorist attack, all while they continue to do their job of protecting our communities. Our community's law enforcement have their hands full. We do not need to tie an arm behind their backs as they lead the fight on terror on the home front and continue to keep our communities safe.

This Administration, the Department of Homeland Security along with the Department of Justice has gone to great lengths to create avenues in which to alert the American people that they are in danger.

The Department of Homeland Security has created an elaborate color alert system . . . red, orange, yellow, blue and green . . . to alert our citizens that they are in danger.

There has been much debate on how the administration chooses to use this new alert system or what is the criteria that causes the threat level to rise to red—well, tonight we are witnessing an example of an elevated threat level and it is coming from within our communities.

Our local law enforcement officials will now be on constant high alert because of this administration's inability to reauthorize the assault weapon ban bill. We cannot have inaction from the Bush Administration—we must have action to protect our citizens and our families.

IN SUPPORT OF KANSAS-ARMENIA PARTNERSHIP DAY

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. MORAN of Kansas. Mr. Speaker, I rise today to honor an Armenian-American who has chosen Kansas as his home, and is tirelessly devoted to bringing Kansas and Armenia closer together. Alex Kotoyantz, now a resident of Junction City, Kansas, has worked with Kansas Governor Kathleen Sebelius to have June 18 designated as Kansas-Armenia Partnership Day.

The Kansas National Guard State Partnership Program has allowed Kansans to travel to Armenia twice for the purposes of assisting with peacekeeping operations as well as health and medical operations. As a former Soviet republic that has faced tragic ethnic conflict, Armenia is in need of assistance. Kansans can and are providing valuable aid.

I would like to include in the RECORD Governor Sebelius's proclamation that declares June 18 Kansas-Armenia Partnership Day. It reads as follows:

> "Whereas, The National Guard's State Partnership Program has achieved outstanding success in establishing a military-to-military association and in improving security cooperation between the United States and partner countries; and
>
> Whereas, Kansas is proud to partner with Armenia in military-to-military, military-to-civilian, and civilian-to-civilian contacts and development; and
>
> Whereas, The Kansas National Guard hopes that this endeavor will foster goodwill between Kansas and Armenia and achieve a secure, prosperous and dignified future for the citizens of Armenia; and
>
> Whereas, Armenia's Deputy Minister of Defense and the U.S. Deputy Assistant Secretary of Defense signed the Bi-Lateral Affairs Agreement at the close of the Bi-Lateral Defense Consultations, June 13–18, 2003; and
>
> Whereas, Kansas is grateful for the contributions of Armenian Americans who have chosen Kansas as their adopted homeland; they have employed wisdom, courage and centuries-old traditions to enrich the character of our state;
>
> Now, therefore, I, Kathleen Sebelius, Governor of the State of Kansas, salute the modern nation of Armenia and Armenians everywhere, and do hereby proclaim June 18, 2004, as Kansas-Armenia Partnership Day in Kansas and urge all citizens to join in this observance. Our state and the Armenian nation stand together, with our partnership of peace, prosperity and freedom."

I am proud that my state has taken this initiative, and I will continue to support the Kansas National Guard in its partnership with Armenia.

PERSONAL EXPLANATION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. OWENS. Mr. Speaker, because of an emergency in my district, I missed rollcall vote Nos. 444, 445, 446, 447, 448, 449, 450, 451, 452, 453 and 454. If present I would have voted "yea" on rollcall votes 446, 447, 448, 449, 452, 453 and 454 and "nay" on rollcall votes 444, 445, 450 and 451.

IN MEMORY OF FLORENCE FOGLE KEAHEY

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. HALL. Mr. Speaker, on July 2, 2004, an esteemed writer and community supporter, Florence Fogle Keahey, died in Bonham, TX.

Florence Fogle Keahey was a noted writer in Fannin County. Born and raised on a farm near Ivanhoe, Florence quickly developed a love of the written word. She won her first prize at the age of 10, and she had several of her poems published in high school. Florence enrolled in the Correspondence School of the Newspaper Institute of America and was a reporter for many years with the Sherman Democrat. She wrote several articles, poems and stories for newspapers in Bonham, Sherman, Denison, and Dallas.

While her writing skills were impressive, she also devoted herself to serving the community of Fannin County. She was an organizing regent for the George Blakey Daughters of the American Revolution, a charter member of the D. Rowlett Chapter of Daughters of the Republic of Texas, a member of the Bonham Womens' Club, Iris Society, Texas League of Women Voters, Poetry Society of Texas, and the Democratic Women's Club of Fannin County, and president of the Ivanhoe Community Center. Florence also served Fannin County as its treasurer for 28 years.

Florence is survived by her daughter, Dottie Keahey Davis, grandchildren, Leasa Liles, Mitch Scott Davis and his wife, Melissa Lance Davis. Florence was also the loving grandmother of 5 great-grandchildren, and friend to a number of nieces and nephews.

Florence will be long remembered as a consummate community supporter. While she has left her home, her writings will live on as a testament to her intelligence and love for the citizens of Fannin County and Texas. On behalf of her many friends and fans, I want to take this opportunity in the House of Representatives to pay our last respects to this beloved woman—Florence Fogle Keahey.

HONORING MO FELLING

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to Mr. Mo Felling for attaining the honor of being the longest serving skilled trades committeeman in the history of UAW Local 599 in Flint, MI. On September 18, 2004, the UAW local 599 members will honor Mr. Felling during their annual Walter Reuther award ceremony.

Mo Felling began his leadership career within UAW Local 599 in 1977 when he was elected to the post of alternative committeeman. In 1980 he was elected to the post of committeeman, a position he has held successfully to this date. His impeccable service and love for his fellow members is commendable. He is committed to upholding the mission sat forth by Mr. Walter Reuther; which is to help people, and ensuring human dignity and social justice for all who are employed within the manufacturing automobile industry. I salute Mr. Felling for his great attention to detail and on a job well done.

Mr. Speaker, many people have greatly benefited from the leadership and service of Mr. Mo Felling. I ask my colleagues in the 108th Congress to please join me in congratulating him on obtaining his mark in history and in wishing him the very best in future endeavors.

HONORING XAVIER CORTADA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Ms. ROS-LEHTINEN. Mr. Speaker, it is with great pleasure that I recognize the generous volunteer efforts and incredible artistic abilities of Mr. Xavier Cortada.

A Miami-based artist, attorney, and activist, Mr. Cortada has worked in collaboration with diverse groups across the United States, Latin America, Europe, and Africa to create pro-social community murals. I have been proud to observe his innovative works commissioned by such esteemed institutions as the White House, State Department, World Bank, Florida Capitol, and the International AIDS Conferences in Geneva and Durban.

Xavier's commitment to volunteer work around the world is not only commendable, but inspirational as well. He has been the rightful recipient of several prestigious awards, including the "Millenium International Volunteer Award" from the U.S. Department of State/USA Today and the "Florida International Volunteer Corps 1999 Outstanding Achievement Award".

It is my pleasure to recognize the contributions that Xavier continues to make to both our local communities and people worldwide.

I ask my colleagues to join me today in honoring the amazing dedication of Mr. Xavier Cortada.

INTRODUCTION OF THE RESERVISTS' EMPLOYMENT ACT OF 2004

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. SAXTON. Mr. Speaker, I rise today to introduce the Reservists' Employment Act of 2004. Due to the limited time commitment typical of an inactive reserve member, most of these men and women sustain full-time careers outside of their military service. Although many of them serve their country in federal service positions, most of our reservists are employed by private industry. While most employers should be familiar with the responsibilities of our reservists, the War on Terror has greatly altered the nature of activation, and, in most cases, increased the frequency of deployment.

Since the War on Terror began, the fundamental organization of our reserves has changed dramatically and will continue to do so as the war progresses. With increasing unpredictability in deployment, the stability of a reservist's participation in their civilian jobs has too been altered. As many employers rely heavily on their reservist employees, their temporary absence often proves detrimental to these businesses. Although current law prohibits employers from terminating these reservists during activation, this provision does not correct the potential uncertainties employers may harvest regarding the capabilities of a reservist employee.

During their tenure in the armed forces, our reservists acquire several personal attributes that private employers find imperative in today's business world. While serving in the armed services, these men and women consistently demonstrate a high level of adaptability; the ability to work within a team; a strong work ethic; and, more often than not, exemplary leadership qualities.

Alongside these attributes, these men and women further illustrate their dedication and hard work by sustaining both reservist and civilian employment simultaneously. Given their exemplary character and training, we cannot give private industry any justification for not hiring these men and women. As some of the most well trained and productive members of our workforce, our reservists' credentials should promote their employment, not inhibit it.

In response to the need to preserve private industry opportunities for our reservists, and, to further support their employers, I am honored to introduce the Reservists' Employment Act of 2004. It is my strong belief that our reservists provide some of the most valuable service both within and outside of our armed services. Now more than ever, we must show our support for their dedication, and, in turn, those private industries that support our troops.

IN MEMORY OF REVEREND DR. JOHN L. ASHBY

HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. FORBES. Mr. Speaker, I rise today to remember a true public servant, a man of God and a trusted and loved friend to many, the Reverend Dr. John L. Ashby.

Reverend Ashby dedicated his life to serving others. He first answered the call to service as a young man when he proudly entered the U.S. Army during the Korean war. He later attended and graduated from Norfolk State University, from the United Christian College as valedictorian with a bachelor of theology degree and from the Baltimore Bible College with a doctorate of divinity degree.

Reverend Ashby served on numerous state and local boards, commissions, and associations throughout his life, and continued to challenge the status quo and strived to improve the lives of his fellow man. To Reverend Ashby there was no mountain too high and no challenge too overwhelming; he knew no strangers and cared for everyone. In addition to caring for his church family, Reverend Ashby was also a loving father.

While Reverend Ashby's journey with us has ended, I know that his legacy of selfless service will continue to shine as an example to future generations of how one man can make a profound difference.

HONORING 100 YEARS OF HISTORY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Hungarian Presbyterian Church, in the Borough of Wharton, Morris County, NJ, a vibrant community I am proud to represent. On October 3, 2004, the good citizens of Wharton are celebrating the Hungarian Presbyterian Church's 100th anniversary.

The first idea of a Hungarian church in Wharton was initiated in 1904 by a small group of Hungarians who had recently come from Hungary and were anxious to hear the Word of God in their native language. Before they had their own sanctuary, two local churches allowed them to worship there.

The church was completed 2 years later, and a thanksgiving service was held on September 16, 1906.

For the next 20 years, the congregation was served mainly by theologians from Bloomfield Seminary, but on March 1, 1926, Reverend John Dezso accepted the call and served the church with dedication and distinction for almost 30 years. In addition to preaching, he was responsible for maintaining the Hungarian culture. Some of the present congregants still remember the little poems, songs, and verses they had learned as children from Reverend Dezso.

Until the 1950s services were only conducted in Hungarian, but the children of the immigrants as well as some of the spouses requested English services as well, and the church has been bi-lingual ever since.

Perhaps the most devastating time for the church community happened on January 2, 1982, when some young people broke into the church and set it on fire. Fortunately, the Wharton and Mine Hill Fire Departments responded quickly, and because the fire was contained, the building was saved. However, the interior of the church was destroyed. Thanks to a lot of hard work and the inspirational leadership of Reverend Ernest M. Kosa, the church was rebuilt in 10 months. The church community celebrated with a service of Thanksgiving.

The Church Community is very thankful for their present pastor, Charles Olah, CLP, Certified Lay Pastor, who conducts services every Sunday in both English and Hungarian. Without him and their wonderful congregation, they would not be able to do the great job that they do.

Mr. Speaker, I urge you and my colleagues to join me in congratulating the Hungarian Presbyterian Church on the celebration of its 100 years serving the western part of Morris County.

RECOGNIZING THE 150TH ANNIVERSARY OF THE MT. PLEASANT COMMUNITY CHURCH

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Ms. HOOLEY of Oregon. Mr. Speaker, it is my privilege today to recognize the Mt. Pleasant Community Church near Stayton, OR, a historic church that has served as a place of worship since its construction in 1854. As the oldest building west of the Rocky Mountains that has been continuously used as a church, Mt. Pleasant Community Church will celebrate its 150 years of history on Saturday.

The permanence of this church is remarkable considering the massive changes that have occurred in the surrounding world since it was built. When Mt. Pleasant Community Church was founded, Oregon was a sparsely populated territory that had not yet become a state; Abraham Lincoln was a former Member of Congress who had retired from politics to return to law; and the union had not yet been torn apart by the Civil War. Over the church's 150-year history, our country has seen amazing technological change, from the Industrial Revolution and the invention of the car and the airplane to the rise of information technology and the birth of the Internet. And the position the United States occupies in the world has changed as well: During this century and a half that Mt. Pleasant has stood in the Willamette Valley, empires have risen and fallen, and the United States has risen to a position of unparalleled power in the world.

Yet despite all these changes, Mt. Pleasant has remained, one small church serving the spiritual and social needs of the community. Even as members have come and gone, the church remains, both as a building and an institution, as a place of worship and fellowship, a vital part of the spiritual life of the community.

CONGRATULATING NEW PAKISTANI PRIME MINISTER SHAUKAT AZIZ

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. TOWNS. Mr. Speaker, Pakistan has installed a new Prime Minister, Shaukat Aziz. His installation was reported in the newspapers September 2. I would like to take this opportunity to congratulate Mr. Aziz on his new position.

Mr. Aziz takes the helm in Pakistan at a critical time for the people and nations of South Asia. I wish him well in his time as Prime Minister and I hope that he will dedicate himself to pursuing peace in the subcontinent.

The best way to achieve peace in South Asia, Mr. Speaker, is to work for self-determination for everyone in the region. Only by allowing everyone in the subcontinent to enjoy this cornerstone of democracy can all the peoples and nations live in peace, freedom, and prosperity.

I would also urge Mr. Aziz to work for a more open border so that Sikhs and Muslims, as well as members of other minorities, can trade and travel freely and raise their standard of living by doing so. This will be good for Pakistan and for India.

Mr. Speaker, the Council of Khalistan issued a press release congratulating Prime Minister Aziz, which I intend to insert into the RECORD.

CONGRATULATIONS TO PRIME MINISTER SHAUKAT AZIZ

WASHINGTON, D.C., September 10, 2004.—Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, today congratulated the new Prime Minister of Pakistan, Shaukat Aziz, on his ascension to the position.

"I would like to take this opportunity to congratulate Prime Minister Aziz and wish his government well," Dr. Aulakh said. "I hope that this will be a step forward for peace in South Asia," he said. "Prime Minister Aziz has done excellent work on Pakistan's finances," said Dr. Aulakh. "We are sure that he can bring that wisdom and expertise to all areas of life in his country," he added.

"Prime Minister Aziz must stand firm, as President Musharraf has done, in supporting the interests of freedom for the oppressed people in South Asia," said Dr. Aulakh. "We urge him to work to open the border, enhance trade in the border regions, establish peaceful relations, and assist the cause of freedom, not just in occupied Kashmir, but wherever people are struggling to be free," he added. "We look forward to easy passage to visit the birthplace of the first Sikh guru, Guru Nanak, in Nankana Sahib."

"Only when all people and nations in South Asia have freedom and self-determination can the subcontinent live in peace, prosperity, and dignity," said Dr. Aulakh. "Prime Minister Aziz has influence by virtue of his position," he said. "We urge him to use it for the benefit of the people of Pakistan and all the people of the subcontinent by supporting freedom and self-determination."

The Council of Khalistan was constituted to lead the struggle to liberate Khalistan, the Sikh homeland which declared its independence on October 7, 1987. It is the government pro tempore of Khalistan. Khalistan has been under Indian occupation since then. India has sent over 500,000 troops to Punjab, Khalistan, and over 700,000 to neighboring Kashmir to suppress the independence movements there. Yet India is on the verge of collapse. As former Home Minister L.K. Advani said that "if Kashmir goes, India goes."

At the time of India's independence, Sikhs were equal partners in the transfer of power and were supposed to receive their own sovereign state, but the weak and ignorant Sikh leaders of the time were tricked into staying with India on the promise that they would have "the glow of freedom" and no law affecting the Sikhs would pass without their consent. That promise was broken immediately after independence was achieved.

Sikhs ruled an independent and sovereign Punjab from 1710 to 1716 and again from 1765 to 1849 and were recognized by most of the countries of the world at that time. No Sikh representative has ever signed the Indian constitution.

"Sardar Atinder Pal Singh's question of 14 years ago is still the question facing the Sikh Nation: Why don't we liberate Khalistan?," Dr. Aulakh said. "As Professor Darshan Singh, a former Jathedar, said, 'If a Sikh is not for Khalistan, he is not a Sikh'," he noted.

The Indian government has murdered over 250,000 Sikhs since 1984, more than 300,000 Christians since 1948, over 89,000 Muslims in Kashmir since 1988, and tens of thousands of Tamils, Assamese, Manipuris, Dalits (the aboriginal people of the subcontinent), and others. The Indian Supreme Court called the Indian government's murders of Sikhs "worse than a genocide." A report by the Movement Against State Repression (MASR) shows that India is holding 52,268 Sikhs as political prisoners without charge or trial. Some have been in illegal custody since 1984!

"We must move forward with the cause of Sikh freedom," Dr. Aulakh said. "Only in a free Khalistan will the Sikh Nation prosper and get justice," said Dr. Aulakh. "India should act like a democracy and allow a plebiscite on independence for Khalistan and all the nations of South Asia," Dr. Aulakh said. "We must free Khalistan now."

EXPRESSING SENSE OF THE HOUSE ON ANNIVERSARY OF TERRORIST ATTACKS LAUNCHED AGAINST THE UNITED STATES ON SEPTEMBER 11, 2001

SPEECH OF

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 2004

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise this morning to join my colleagues in support of H. Res. 757, which condemns the horrific attacks on both the World Trade Center and the Pentagon September 11, 2001, and reaffirms our nation's commitment in protecting our land from terrorists.

The events of three years ago will be forever etched in the memories of the American people. The horrible images from downtown New York, the Pentagon and Pennsylvania, brought sorrow and sadness as a nation collectively mourned the lives lost.

On this day, we salute the Pentagon employees who perished, the inhabitants of the World Trade Center who had their lives snuffed out in a brutal act of terrorism, and the brave men of United flight 93, who sacrificed their lives to save the lives of people they had never even met.

Mr. Speaker, even as a nation mourned, the collective resolve and faith of Americans nationwide began the process of rebuilding, and we continue that process today.

America is strong and its people are committed to the values of liberty. Even today, Americans nationwide are helping the families and children of those killed three years ago.

Mr. Speaker, our nation is engaged in a war against terrorism that continues to this day, and the resolve and faith of the American people will ensure that our nation remains forever strong.

We in Congress continue to pray for all affected by the horrible events of three years ago and will continue to be vigilant on the war on terror. May God bless all the families and their loved ones, and may God bless America.

RECOGNIZING THE ACCOMPLISHMENTS AND SERVICE OF ANN JEMISON

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. SENSENBRENNER. Mr. Speaker, on behalf of Representative JOHN CONYERS and myself, I wish to extend our thanks and gratitude to Ann Jemison, who is retiring this week after almost 30 years of service to the House of Representatives. We also wish to extend our very best wishes to Ann, on her upcoming wedding on September 25, 2004.

Ann hails from the Land of Lincoln and began her career on the Hill as an Assistant Manager and then Manager in the House Restaurant System from 1975 through 1994. She moved into the position of Staff Assistant/Receptionist, first, for the Committee on Public Works and Transportation in 1994, and then with the Committee on the Judiciary Committee in 1995.

Ann is the first smiling face you see when you enter the Committee's front door and the friendly and knowledgeable voice you hear when you call our office.

Mr. Speaker, Ann has served the House Judiciary Committee, the Congress and the American people over all these years with commitment, dedication and integrity. We thank her and want her to know that she will be missed.

JOBS ACTION TEAM'S COMPETITIVENESS AGENDA

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. KNOLLENBERG. Mr. Speaker, the focus of the Jobs Action Team's "Competitiveness Agenda" this week is ending lawsuit abuse, and with good reason. The United States is the lawsuit capital of the world, and this puts American companies at a competitive disadvantage.

Frivolous lawsuits are costing American businesses $129 billion each year. The U.S. Chamber of Commerce found the greatest impact is on small businesses—which contribute three-fourths of all new jobs, which face additional costs of $17,000 each year. This is unacceptable.

The House of Representatives has responded by passing numerous legal reform bills. H.R. 4571, introduced by Representative LAMAR SMITH, passed the House yesterday. This bill provides for appropriate sanctions against those who file junk lawsuits. The Senate must act now.

Americans should not have to fear life-ruining lawsuits. This should not be a country where individuals can file cases to get money wherever they can—many with no intention of going to court. Let's end lawsuit abuse now.

LIABILITY COSTS FOR SMALL BUSINESS

FAST FACTS

"America's small businesses are the driving force behind our economic achievements, and the U.S. Chamber is proud to support and represent this country's small business owners."—Thomas J. Donohue, president and CEO, U.S. Chamber of Commerce

The total annual cost of the tort system to U.S. businesses (large and small) is $129 billion.

Small businesses with $10 million or less in annual revenue bear 68 percent of that cost, paying $88 billion a year.

Very small businesses ($1 million or less in annual revenue) bear 26 percent of the business cost, paying $33 billion a year.

A small business with $10 million annual revenue pays about $150,000 a year in tort liability costs—money that could be used to hire additional employees.

A small business with $1 million annual revenue pays about $17,000 a year in tort liability costs—money that could be used to expand or improve health benefits for employees.

Very small businesses ($1 million or less in annual revenue) pay 44 percent of their tort liability costs ($15 billion) out-of-pocket, as opposed to through insurance.

There are over 4.5 million U.S. small businesses with $10 million or less in annual revenue.

There are about 3.8 million U.S. small businesses with $1 million or less in annual revenue.

Small businesses contribute approximately three-quarters of all new jobs added to the economy.

The Liability Costs for Small Business study was conducted for the U.S. Chamber Institute for Legal Reform by NERA Economic Consulting.

HONORING THE NATIONAL GUARD'S SERVICE IN WINNING THE WAR ON TERROR

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. WILSON of South Carolina. Mr. Speaker, yesterday President George W. Bush praised the valor of guardsmen and reservists fighting to win the War on Terror. President Bush is the 19th former guardsman to be president and he rightly pointed out that the National Guard is America's oldest fighting force. The Guard has played a vital role in all of our major conflicts, and especially in recent decades fighting in Vietnam, the Gulf War, and the War on Terror.

The Guard is also called on in times of national emergency to provide invaluable support to local authorities. After the attacks of September 11th, thousands of Guardsmen across the country voluntarily stepped forward to help. When hurricanes strike our shores, it is the Guard that provides necessary communications and rescue services.

As a proud 31-year veteran of the South Carolina Army National Guard, with two sons in the Guard one of whom is serving in Iraq, I ask all of my colleagues to join me in thanking all of the men and women serving in the Guard and Reserves today for protecting American families in the War on Terror.

In conclusion, may God bless our troops and we will never forget September 11th.

IN HONOR OF MISS IDAHO 2004

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. OTTER. Mr. Speaker, I rise to honor the 2004 Miss Idaho, Elizabeth Margaret Barchas of Boise. Elizabeth will be proudly representing the Gem State in this weekend's Miss America pageant in Atlantic City, NJ.

Elizabeth received her bachelor's degree from Emory University in Atlanta, Georgia. She then studied abroad and received her master's degree from the University of St. Andrews in Scotland and was a Fulbright Scholar. She has been accepted to Harvard Law school; however, she has deferred her matriculation for one year to pursue her duties as Miss Idaho. Elizabeth's platform is understanding individuals with disabilities, and I am very proud of her continued commitment of community service for Idaho and across the globe.

I am confident that Elizabeth will do an outstanding job in representing Idaho, as I am pulling for her to be crowned the next Miss America. I wish Elizabeth, and the entire Barchas family all the best for this weekend's pageant.

INTRODUCTION OF H.J. RES. 104

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. ROHRABACHER. Mr. Speaker, I have just introduced the House counterpart to Senator HATCH's constitutional amendment (S.J. Res. 15) allowing those who have been citizens of the United States for at least 20 years to serve as President and Vice President.

We all agree that constitutional amendments should not be taken lightly and should only be considered when the betterment of this country is in question. It is my strong belief that "betterment" is what would be achieved if such an amendment is adopted.

The reasons the founding fathers added this clause to the constitution are archaic at best. The main rationale was to protect the U.S. from undue foreign influence from the election of a foreign leader in the executive office. This mindset prevailed not long after the founders freed the country from the control of a foreign body. Interestingly, however, in what is called "the Hamilton loophole," they exempted their own generation from the burdens of the "natural born" requirement. Seven of the 39 signers of the Constitution in Philadelphia in 1787 were foreign born, as well as 8 of America's original 81 Senators and Representatives, 3 of our first 10 Supreme Court justices, 4 of our first 6 secretaries of the treasury, and one of our first 3 secretaries of war. Most, if not all, of these immigrants were eligible to serve as president, since the constitution exempted all those who were citizens at the time the constitution was adopted from the "natural born" requirement.

Today, the offices of President and Vice President are the only offices where a person who is not U.S. born is disqualified from serving. Is this still appropriate when we have seen great leaders, after a lifetime of service to this country, be unable to represent the citizens of this country?

Today we have many significant political leaders who cannot be president simply because they were not born here. California Governor Arnold Schwarzenegger is the most famous example, but what about Michigan's Governor, Jennifer Granholm, who came to the United States from Canada at the age of four? Or Congressman Pete Hoekstra, who came to this country when he was a mere three years old and has been given the responsibility of being Chairman of the House Permanent Select Committee on Intelligence? Congressman Hoekstra oversees the intelligence community in a post–9/11 United States and yet regardless of his lifetime of service, he cannot be President.

I hope my colleagues will agree with me that it is long past time for the "natural born" requirement to change. Respect for the many legal immigrants who have made our country great should lead us to conclude that once they have been U.S. citizens for 20 years they should no longer be constitutionally disqualified from serving in our nation's highest offices.

H.J. RES. 104

Resolved by the Senate and House of Representatives of the United States of America in

Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"A person who is a citizen of the United States, who has been a citizen of the United States for at least 20 years, and who is otherwise eligible to hold the Office of the President, is not ineligible to hold that Office by reason of not being a native born citizen of the United States.".

RECOGNIZING PAST AND PRESENT MEMBERS OF FERNALD FIRE DEPARTMENT

HON. STEVE CHABOT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. CHABOT. Mr. Speaker, I rise today to recognize the current and former members of the Fernald Fire Department for their distinguished service in protecting the former nuclear site and the surrounding community for the past 50 years.

Fernald was a major hub in America's nuclear weapons complex during the Cold War. Located about 25 miles north of Cincinnati, in Crosby Township, the site's primary charge was to produce metal uranium—an important and potentially dangerous job demanding skill and courage. The firefighters serving at Fernald share these same admirable qualities.

For the last half-century, the department's men and women—professionals and volunteers—have provided outstanding emergency response service to the Fernald site and the residents of Crosby Township. The department responds to hundreds of medical emergencies and house-fires every year—they made about 300 runs last year alone.

Mr. Speaker, firefighters, like the men and women of the Fernald Fire Department, have always played an important role in keeping Americans safe. That role has never been more vital or deserving of our admiration and respect than in the post-September 11 world. Whether in New York City or a rural community in southwestern Ohio the sacrifice and bravery of America's firefighters is on display every day—running toward the smoke and flames. Saving lives.

Later this year, the Fernald Fire Department will close its doors one last time after a job well done. They will leave behind their equipment and their service to a grateful community.

I want to thank the past and present members of the Fernald Fire Department for their dedication and sacrifice in making Fernald and Crosby Township safer places to live and work.

90TH ANNIVERSARY OF AGUDAS ACHIM CONGREGATION

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. MORAN of Virginia. Mr. Speaker, I am pleased to take this opportunity to congratulate a congregation in my district celebrating its 90th anniversary this year. Agudas Achim Congregation in Alexandria, Virginia has been a fixture in Northern Virginia as a place of worship and a vibrant community. In conjunction with their 90th anniversary, the men and women of Agudas Achim are taking the opportunity to honor the military veterans who are part of their congregation and its extended family.

Since the Revolutionary War, Jewish servicemen and women have served our nation proudly. Whether they served as members of the infantry, pilots, doctors, nurses or chaplains, Jewish soldiers have proudly defended democracy throughout the world while protecting the freedoms of all Americans. Today they continue to serve in Iraq and Afghanistan to bring stability and hope to the people and region. Throughout the years, Jewish Americans have fought with great honor and distinction.

Responding to the call for service, Jewish Americans have served in the military in greater percentages than their percent of the population. They have shown great dedication and love for their nation and the rights that are within it. They recognize that freedoms, such as the freedom of religion, are not universal values granted to every person. Many of our ancestors, especially those of Jewish Americans, came to this country to escape religious tyranny. Today, this same drive that brought us together, helps us fight to gain these same freedoms for people throughout the world.

We remember those who fearlessly paid the ultimate price in defending the United States during times of war, and recall the sacrifice made by those who bravely fought and returned home. We also keep in our thoughts those who continue to serve our nation proudly in Iraq and Afghanistan. Together these men and women have helped preserve the freedoms that we cherish. While many have not made it home, I am certain there is comfort in knowing they perished fighting for their beliefs and for the protection of their families and friends back home.

I would like to thank all those Jewish men and women and their families who have served our nation. Their courage has helped preserve basic human rights for people throughout the world. I also thank Agudas Achim Congregation for paying tribute to these veterans, and bringing attention to their selflessness in defense of freedom. Agudas Achim has been at the forefront of defending these freedoms and, in doing so, has made Northern Virginia a better place to live.

TED VELEZ: REMEMBERING A HERO OF EL BARRIO

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. RANGEL. Mr. Speaker, I rise to pay homage to the late Ted Velez of East Harlem, one of New York's finest sons who passed away August 6th 2004. He was a community leader whose tremendous achievements will continue to better the lives of the residents of East Harlem long into the future. Mr. Velez had a vision of New York City that saw equality across the board and included fair and affordable housing for all New Yorkers, regardless of color or social standing.

Working in El Barrio as a young social worker, Mr. Velez helped found the East Harlem Tenants Council in 1962, which boasted a network of progressive building captains who monitored building safety and overall residential well being. Two years later he championed a series of rent strikes on East 123rd Street, effectively forcing landlords to make necessary repairs in East Harlem residential buildings.

In the summer of 1971, after trudging for more than six years through city, state and federal bureaucracy; Mr. Velez won federal—approval to transform the entire city block between 122nd and 123rd Streets. The project was funded with $42 million dollars allotted from the Department of Housing and Urban Development Department, the largest allocation up to that time for a single community project. Mr. Velez's efforts resulted in comfortable, affordable housing for 656 low to moderate-income families in what is now known as the Taino Towers, giving East Harlem residents opportunities that many had believed to be impossible.

Throughout his accomplished life Mr. Velez strived at the forefront of progressive social change as a political activist, yet was able to work productively within the political mainstream with leaders of both political parties. He marched in civil rights demonstrations with Dr. Martin Luther King Jr. in the South, where he helped to organize voter registration drives. In his twenties, he supported Senator Bobby Kennedy and also worked closely with Mayor John V. Lindsay's administration. He was a close associate of former Manhattan Borough President Percy Sutton and Basil Paterson, two of New York's most influential Democratic leaders.

Born in Puerto Rico on December 29th 1938, Mr. Velez moved to East Harlem at the age of six. Working on behalf of the most needy, he managed to achieve the status of a leader without forgetting his humble origins. He did not look at the world in terms of color or creed but appreciated and celebrated all cultures while speaking five languages with near fluency. His activism was motivated by his deep beliefs in the dignity of humanity and the tenets of the Civil Rights Movement.

Ted Velez will be remembered as a hero not only in El Barrio but also in the great City of New York. His presence and noble determination will be sorely missed. Mr. Velez is survived by his wife Linda, son Jon, daughter Judie, two brothers and two grandchildren.

CONGRATULATING FATHER JOHN TERRY ON 25 YEARS OF SERVICE AT THE CATHOLIC YOUTH CENTER

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. KANJORSKI. Mr. Speaker, today I call the attention of the House of Representatives to the Very Reverend John Terry, who will celebrate his 25th year as director of the Catholic Youth Center in Wilkes-Barre, Pennsylvania, tonight.

Father Terry is a Scranton native who attended St. Michael's elementary school in Jessup. He went on to Scranton Preparatory High School, where he was influenced by the Jesuit priests who taught him. It was at a school retreat in Easton, Pennsylvania, that he first expressed his interest in the priesthood. He credits Father Burner, SJ, Father John Dugan, SJ and Scholastic Jesuit Robert Waldman for helping him explore the priesthood as a vocation.

Father Terry studied different religious communities and their missions, but realized he felt the call to do parish work in the Scranton Diocese. Upon his high school graduation in 1967, Father Terry applied to the Diocese of Scranton. He met with Monsignor Thomas Horan, director of the Saint Pius X Seminary.

Father Terry was accepted as a pre-seminarian and began studies at the University of Scranton. After two years at the University, Father Terry continued on at Saint Pius X. Father Terry recalls that when he was assigned to his room, he knelt and prayed, saying "Oh God, if this is your will, help me."

Monsignor Andrew McGowan was in charge at the Seminary, assisted by Father Banish, Father Kelly, Father Bergamo, Father Louis and Father Walsh.

In the Spring of 1971, Father Terry was sent to Our Lady of Angels Theological Seminary in Albany, New York. Halfway during his second semester, the Seminary closed because of budgetary shortfalls. Father Terry then went on to St. Bonaventure University in Olean, New York.

In May 1974, Father Terry was ordained as a deacon and assigned to a small community in Ellicottville, New York—an assignment that helped him understand what parish life really meant. Father Terry was then assigned to the Diocese of Buffalo Seminary in East Aurora, New York. In that year, Father Terry spent a good deal of time in the Diocese of Scranton.

Bishop J. Carroll McCormack of Scranton assigned Father Terry as a deacon to St. Mary's Church of the Immaculate Conception in Wilkes-Barre. He served with Monsignor Joseph Madden as pastor and mentor.

Father Terry was ordained on May 2, 1975 by Bishop McCormack in the Diocese of Scranton. He was assigned to St. Mary's in Wilkes-Barre. During this time, Father Terry's mother was diagnosed with cancer. She died a few months after her son was ordained, and the parishioners at St. Mary's helped Father Terry during this tragic time. Father Terry also began working with children, which was a great boost for his morale.

In 1979, Monsignor John Dougherty, Chancellor of the Diocese, asked Father Terry to become director of the Catholic Youth Center in Wilkes-Barre and to serve as an assistant at St. Patrick's Parish in Wilkes-Barre. Working with young people and youth programs was a dream come true for Father Terry.

Father Terry also worked with GAR High School's football program, and was named "Our Angel in the Backfield" by the students he coached. After three years at St. Patrick's, he went to Holy Savior/St. Christopher Churches.

Father Terry enjoyed devoting his time and energy to working with troubled youth and helping to solve their problems. The assignment at the CYC also afforded Father Terry the opportunity to work with Tony English, Jr., executive director of the CYC. The success of the CYC is a result of the wonderful working relationship between the two.

In December 1990, Father Terry was assigned on a temporary basis to Sugar Notch to minister to the Churches of Saints Peter and Paul and St. Charles Boromeo until Father Tom Hudak returned from the Persian Gulf. In 1992, Father Terry was named Pastor of all the churches in Sugar Notch, including Holy Family.

Mr. Speaker, it is truly an honor to represent a man who has devoted his life to making the lives of others, especially young people, better. Please join me in congratulating Father Terry today on 25 years of service.

FREEDOM FOR JOSÉ GABRIEL RAMÓN CASTILLO

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about José Gabriel Ramón Castillo, a political prisoner in totalitarian Cuba.

Mr. Ramón Castillo is a teacher by training. As a teacher, he was interested in helping to instruct and inform his impressionable students. After learning about the propaganda mandated by the regime, he was unable to continue with the charade of manipulating young minds with lies instead of truth. Because of his strong belief in truth and democracy, Mr. Ramón Castillo eventually became the director of the Independent Culture and Democracy Institute. He also began to work as an independent journalist, chronicling the reality of deprivation and misery that truthfully characterizes the totalitarian regime.

According to Amnesty International, Mr. Ramón Castillo was repeatedly subjected to persecution and harassment by the regime from the beginning of his involvement in the movement to peacefully create a free and democratic Cuba. On March 19, 2003, Mr. Ramón Castillo was arrested as part of the dictatorship's heinous crackdown on peaceful pro-democracy activists. In a sham trial he was sentenced to 20 years in the tyrant's sub human gulag.

It is unconscionable that any man can be sentenced to 20 years in the grotesquely inhuman quarters of Castro's gulag for a belief in democracy. Mr. Ramón Castillo is one of the many heroes of the peaceful Cuban democratic movement who are locked in the dungeons of the dictatorship for their beliefs. They are symbols of freedom and democracy who will always be remembered when freedom reigns again in Cuba.

Mr. Speaker, it is unacceptable that Mr. Ramón Castillo is languishing in the totalitarian gulag 90 miles from our shore simply because he believes in freedom and democracy. My colleagues, we must demand the immediate release of José Gabriel Ramón Castillo, and every prisoner of conscience suffering under the nightmare called the Castro regime.

PERSONAL EXPLANATION

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. FRELINGHUYSEN. Mr. Speaker, on rollcall No. 450, I was present, but the voting machine did not record me. I should have been recorded as a "yes."

THANKS TO JOE ZAWADSKI

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. GEORGE MILLER of California. Mr. Speaker, every now and then nice things happen to those in need. This is just what happened to the students at Helms Middle School after Joe Zawadski visited the school and saw the terrible conditions that existed. Joe Zawadski made a command decision that the students deserved better and he and his company, Signature Properties, were going to do something about it.

With the support of Jim Ghielmetti, the owner of Signatures Properties, Helms was able to make major improvements to its safety, sanitation and playing field conditions. What a wonderful example for those who want to help improve the educational environment in our schools.

Thanks to Joe Zawadski and Signature Properties, the students at Helms Middles School will start the year in a safer and brighter learning environment. Thank you Joe Zawadski.

Mr. Speaker I would like to share with my colleagues a news story and editorial from the Contra Costa Times.

PICK UP A PAINT BRUSH

Signature Properties Vice President Joe Zwidski-usually is responsible for developing the foundation of neighborhoods, building things from the ground up. Recently, however, he stepped in to help in the maintenance of a school in San Pablo, one of the areas in which his Pleasanton company builds.

He donated supplies and his company's services to paint the exterior, repair the lawn; install sprinklers, and fix bathrooms and broken windows at Helms Middle School.

He looked at this dilapidated school—scheduled for overhauling from Measure D money and that he has tried to earmark his fees to West County School District for—and decided the school's needs shouldn't be put off. He said: "This is something we can do."

That's true. Good for you, Mr. Z. Now why didn't people right there in the community say that? Why didn't neighbors and parents do something? Do plumbers and painters and handypeople not have children going through the schools?

As schools throughout the area, throughout the state, wait for state funds or for local bond money, parents and businesses in the community could be giving money, supplies, time and skills to make sure their area schools aren't falling down, that their kids and their neighbors aren't going to schools that bring grown men to tears.

When the state or bond money comes, it will go further and more will get done in the long run. But in many cases, attention is needed now.

A decrepit school can have psychological connections and results. As Zawidski said, to kids in attendance at schools like that, "it's apparent no one cares about them."

That's how their young brains process it anyway. Then the kids in turn don't care about themselves and don't strive to get the benefits that a good education brings.

Parents and the community must be involved. They must be active in all aspects of youths' education. That means: making sure your kids do their homework, meeting their teachers, seeing that they are learning. It also means making sure money for schools is spent as it should be; it means volunteering so that teachers have help and extra curriculum programs remain available; and there is certainly no reason it shouldn't mean that every couple of years you pick up a paintbrush and a screwdriver, to keep the school up to par.

Our schools, all of them, can use the extra help.

San Pablo School Gets Unexpected Gift

(By Jackie Burrell)

Developers don't often get to play hero, but a crumbling San Pablo middle school started this school year with a free facelift thanks to a Pleasanton company's Good Samaritan gesture.

And the builder didn't even toot its own horn afterwards.

Like any developer, Signature Properties coughed up the requisite developer fees to the West Contra Costa school district as it planned a new neighborhood of 3-bedroom homes and townhouses. Then Signature's vice president of forward planning Joe Zawidski stopped by Helms Middle School for a tour.

"We were disappointed with the state of the school," Zawidski said.

Helms principal Harriet MacLean was less circumspect. Zawidski nearly cried, she said, and then he made some calls.

Helms is on deck for a near-rebuilding under West Contra Costa schools' Measure D, a $300 million bond measure voters passed in 2002 to renovate more than a dozen middle and high schools.

Signature, the same company currently embroiled in litigation with the Pleasanton School District over construction of Neal Elementary School, wanted its fees earmarked for improvements at Helms when the school was rebuilt, a two-year process expected to begin in 2005. The company also offered to install a new playing field when it did landscape work at the development across the street.

Six weeks ago Zawidski and company owner Jim Ghielmetti couldn't stand it anymore.

"You know these kids are coming in now, this is their school and it's not right," said Zawidski. "The weeds were three feet, ceilings were falling down, the restrooms were not functional. It's not going to enrich those kids. It makes it apparent that no one cares about them. It's a tragedy."

Zawidski called MacLean then showed up with a construction crew to paint the school's exterior, install new spinklers and lawns, replace restroom faucets and repair every broken window.

"You would think he'd only be interested in curb appeal, but he replaced all the broken windows, even the one in the back, faucets in all the restrooms, all because he cares," MacLean said.

"San Pablo is a good community. This is just a way to reinvest in the community," said Zawidski. "This was something we could do and something we wanted to do."

REGARDING THE REINSTITUTION OF THE ASSAULT WEAPONS ACT

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. HASTINGS of Florida. Mr. Speaker, the 1994 assault weapons ban has expired and our nation is again vulnerable to guns known to most in the law enforcement community as "the weapons of choice for criminals."

My bill would reinstate the repealed criminal provisions relating to assault weapons and large capacity ammunition feeding devices, and make America safer.

The House Republican leadership opposed reauthorizing the 1994 Assault Weapons Act and President Bush, though he had said he supported it, did nothing to help keep the law alive.

Indecisiveness. Flip-Flop. Isn't that what the other party calls "saying one thing and doing another"?

Because the President steadfastly refused to put his leadership—or lack thereof—where his mouth is and help renew the ban, it has expired without so much as even a vote in the House of Representatives.

From this Chamber, for the past 3 years, I have been highlighting the President's efforts on behalf of the rich and big corporations at the expense of working families and small businesses. Mr. Speaker, sadly, I once again must speak of the damage our President is inflicting on the average American.

There is no reason why we should let assault weapons back on the streets. Do people need an assault weapon to protect their home? No! Do people need an assault weapon to hunt? No! Do people need an assault weapon to target shoot? No! Semiautomatic weapons are killing machines with absolutely no positive value in any sensible community and lifting this ban has put these weapons of death back in the hands of criminals.

A Bureau of Justice Statistics survey published in November 2001 reported that almost 7 percent of State inmates and more than 9 percent of Federal inmates carried military-style semiautomatic weapons in carrying out the crime for which they were convicted. In 1997, roughly 43 percent of inmates who carried a military-style semiautomatic or fully automatic weapon fired it and more than 25 percent of them killed or injured their victim.

Mr. Speaker, the expiration of the Assault Weapons Act favored gangs, terrorists, drug dealers, and other criminals, and put in danger my children and yours, and our heroes and protectors, the police officers.

Our local police are not prepared for the reinstitution of assault weapons to our streets. The bulletproof vests that we give our police officers are no match for the guns that are going to be back out in our neighborhoods. And we are going to allow criminals to carry large-capacity clips with over 50 rounds, when our police officers can only respond with 10 to 15 rounds?

Every single law enforcement organization, including the Fraternal Order of Police and the National Sheriffs Association, supports our efforts to reinstitute the Assault Weapons Act. I would support my law enforcement officers, and the safety of our communities and of this Nation over any gun manufacturer any day.

President Bush sent America's youth unprotected—in unarmored HUMVEES and without bulletproof vests—to war in Iraq, and now has been instrumental in bringing back to America's neighborhoods weapons of war to threaten police officers and law abiding citizens.

Moreover, we know terrorists are now exploiting the weaknesses and loopholes in our gun laws. A terrorist training manual discovered by American soldiers in Afghanistan in 2001 advised al-Qaida members to buy assault weapons in the United States and use them against us.

The Assault Weapons Act has respected the rights of gun owners. Only criminals and terrorists have been kept from their guns of choice.

HONORING THE LIFE OF SIDNEY LANIER McFARLAND

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to recognize the distinguish life of Sidney Lanier McFarland. Mr. McFarland, who retired in 1975 after 36 years honorable public service, passed away on August 12, 2004, at the age of 89.

Mr. McFarland served for 20 years as Staff Director for the U.S. House of Representatives Interior Committee from the 83rd through the 93rd Congresses. During that time, he coordinated the efforts that authorized and enacted 79 major water projects into law. These laws authorized the U.S. Department of the Interior to build dams and canals that stored and diverted water for use by agriculture, municipalities and industry. The projects made possible the large and productive habitation of arid and semiarid lands, laying the groundwork for the enormous growth that subsequently transpired in the western United States. Among the committee's accomplishments under Mr. McFarland's direction were the Colorado River

Storage Project that included Glen Canyon Dam and Lake Powell; the Trinity River Project Unit, San Luis Project Unit and Auburn-Folsom South Unit of the Central Valley Project in California; the Fryington-Arkansas Project in Colorado; the Garrison Unit of the Missouri River Basin Project in North Dakota; and the Colorado River Basin Project, which includes the Central Arizona Project.

Mr. McFarland also worked on 169 other pieces of legislation enacted into law. These included amendments to federal reclamation laws, compacts on interstate streams, authorization of the Saline Water Research Program, the Small Reclamation Projects Act, the Water Resources Planning Act, the Water Resources Research Act, and legislation relating to irrigation districts.

Mr. McFarland was born on March 25, 1915, in Georgia and grew up working on his family's farm. After earning a civil engineering degree at Georgia Tech, he worked for the Georgia State Highway Department before being called to active duty with the U.S. Army in 1941. He proudly served his country during World War II and many years after in the Officer Reserve Corps.

Mr. McFarland's military service is one of great honor and distinction. He was a member of the 551st Engineer Heavy Pontoon Battalion, initially assigned to General George Patton's Third Army. Under fire during Patton's rapid push across France into Germany, Mr. McFarland and his fellow soldiers courageously built several heavy pontoon bridges. In December 1944, the battalion was caught in the Battle of the Bulge, at which time the German army, holding everything east of the Rhine River, made a rapid breakthrough in an attempt to capture Antwerp. During the night of March 25, 1945, and part of the following day, Mr. McFarland's battalion completed the construction of a 1900-foot pontoon bridge across the swift-moving Rhine River, making it possible for the Allied Armies to cross and initiate the big push to end the war. As noted by Major General Inglis, Chief Engineer of the 21st Army Group, the Rhine River crossing was ". . . one of the great military accomplishments of this war."

Mr. McFarland, who was buried with military honors at Arlington National Cemetery, is survived by his loving wife of 63 years, Barbara, of Sun City West, Arizona; daughter Margie and her husband Robert Collins of Albuquerque, New Mexico; daughter Carol and her husband Bob Leone of Edgecomb, Maine; son Sid, Jr., of Dayton, Ohio; and son Christopher and his wife Lauren of Austin, Texas. He also has five grandchildren: Jennifer Collins, Lindsay and Sara Leone, and Renan and Shea McFarland.

I ask my colleagues to join me in paying final tribute to a great American.

TRIBUTE TO PATRICK RYAN

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to Patrick Ryan, a stalwart in education for the folks of southwest Michigan. Over the last 62 years, Pat has dedicated his life to the educating, mentoring, and training of local youth. Whether, as a teacher, counselor, principal, or athletic coach, Pat touched the lives of every student who had the fortune of receiving his wisdom and tutelage.

Over his inspiring career the number of students, colleagues, and parents who benefited from Pat's devotion to education is immense and it would be an extremely difficult task to hear from all these folks. However, over the years a couple of themes have constantly been bountiful when speaking of Pat. For students, he was a leader who constantly taught that everyone has the chance and ability to make a difference—all one needs to do is always give 100 percent to any task, big or small. For his colleagues, he was the standard that all strived to reach. And for parents, he was the teacher who through example, demonstrated respect, kindness, and courtesy to their child.

Pat also shined and inspired in his life outside of the classroom. He and his wife have four children, but somehow over years found the time to take troubled children into their home and provide stability into their lives. He counseled women with troubled pregnancies, served on the Little League Board of Directors, and taught religious education. To list the accomplishments of a man like Pat is not an easy endeavor to undertake, and to be quite honest, not possible without feeling inadequate. He was a teacher who gave his all to the education and inspiration of his students, and was a man who dedicated his life to the betterment of his fellow citizen.

I can think of no better honor than to have a past student say that, "you were the reason why I chose to become an educator." Over the years Pat has received this testimonial time and time again, and I believe this is an exact statement of an amazing teacher and human being.

Mr. Speaker, Pat Ryan is simply "The Best."

150TH ANNIVERSARY OF WILLIAMS TOWNSHIP IN BAY COUNTY, MICHIGAN

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. STUPAK. Mr. Speaker, I rise today to honor a community in my district that is celebrating an important milestone. This weekend, Williams Township in Bay County, Michigan will celebrate its 150th anniversary. Williams Township is a small community, but a warm welcoming one, and should stand as an example to us all.

In the fall of 1854, Williams Township began its history in the same way as many communities in Michigan and throughout the country. A small party of six men visited the area, which was then uninhabited wilderness. Charles Bradford, John Gaffney, William Spafford, Charles Fitch, George W. Smock, and Lyman Brainard found the land inviting, and returned to Flint, Michigan to purchase the land they would shortly settle. On November 18th, 1854, John Gaffney felled the first tree in the area. It was his birthday, and Williams Township's.

In 1855, the Township was organized as a part of Midland County. Two years later, Williams, along with Hampton Township succeeded in persuading the Michigan State Legislature to combine them into the new Bay County. Though there was much dispute over whether Midland and Saginaw County residents could vote on approving the new county, the State Supreme Court allowed it to go forward in 1858, and on August 10th, the new Bay County held its first board meeting.

Those early settlers of Williams Township were primarily farmers, and their numbers gradually increased. By 1869, the population had grown significantly, and the Township was reduced to its present size of 36 square miles. Today, the population is about 4,500 strong, with another 2,000 or so in the City of Auburn, which split from the Township in 1948. And though the largest employer now is Dow Corning Corporation, which has its world headquarters and a specialty materials plant in the Township, farming and agriculture remain a vital foundation to the Township's economy.

Mr. Speaker, I said that Williams Township is a warm community, and I can personally attest to that. The Township was part of the area added to my district after the 2000 census, and I have visited several times in order to get to know my new constituents. I held a town hall meeting in Auburn in February of 2003. I was impressed by their thoughtful questions and touched by their welcome to me as their new Representative.

Later, in October, I went back to Bay City Western High School to speak to an American Government class and to have lunch at the Williams Township Senior Center. Again I was impressed by the residents of the Township, young and old. I was and continue to be very proud to represent this fine community in Congress.

Mr. Speaker, I ask the United States House of Representatives to join me in congratulating Williams Township and its residents on their first 150 years as a community and in wishing them well in their next 150 years.

HONORING THE CONGREGATION OF EASTERN AVENUE CHRISTIAN REFORMED CHURCH

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. EHLERS. Mr. Speaker, I rise today to honor the congregation of Eastern Avenue Christian Reformed Church in Grand Rapids, Michigan, which celebrates the 125th anniversary of its formation this week.

Eastern Avenue Christian Reformed Church began on September 15, 1879, with a membership of about 80 families. The church building was located on the corner of East Street and Logan Street, and it has remained there for 125 years. The original structure of the church is still a part of the present day church building. Over the years, the church has undergone renovations and additions on four separate occasions, the most recent addition coming in 2000 with a major expansion of meeting room space, a large fellowship hall, a computer lab, and an industrial kitchen and pantry for a food service program for the neighborhood. Every addition has been undertaken with a view towards continuing the church's commitment to serve the surrounding community.

It is this history and emphasis on community service and fellowship that make me proud to be a member of Eastern Avenue Christian Reformed Church. A number of programs contribute to the church's ministry in the neighborhood, including student tutoring, the formation of the multifaceted Baxter Community Center, and cooperation with Wedgwood Christian Youth and Family Services in teaching important life skills to young people. The Saturday Food Program is the hallmark of the church's service to the neighborhood, where every week hundreds of people can purchase fresh produce and groceries at substantially below-market prices.

Commitment to public service is also a defining characteristic of Eastern Avenue Christian Reformed Church: the church's membership has included a Member of Congress, a state senator, several state representatives and county commissioners, a state appellate court judge, and a federal district judge.

Through its 125 year history, the congregation of Eastern Avenue has been served by sixteen capable and distinctive pastors. It is currently in the midst of a search process to find a new pastor to lead this diverse and growing community of believers.

Mr. Speaker, I am sure that you and all of my colleagues will join me in congratulating the members of Eastern Avenue Christian Reformed Church for their 125 years of service and worship in Grand Rapids, Michigan. The congregation has been blessed in its ministry, and the community has been blessed by the church's presence.

HONORING ADA KATHERYN LEWIS ON HER 80TH BIRTHDAY SEPTEMBER 15, 2004

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Ada Katheryn Lewis on her 80th birthday as well as her many years of dedication to the surrounding community.

Ms. Lewis was born September 27, 1924, in Wayne County, North Carolina to Charles and Annie Coor. She then graduated from Atlantic Christian College, cum laude in 1945 and began teaching. Throughout her teaching career, she taught in Johnston, Franklin, Wilson and Pitt Counties.

In 1962, Ms. Lewis received her MA in Educational Administration with honors from East Carolina University. In 1978, she was appointed Assistant Superintendent of Pitt County Public Schools, becoming the first woman to hold such a position at that level in North Carolina.

In 1982, Ms. Lewis retired from the public school system and became the first Director of the Rural Education Institute at East Carolina University (ECU). She held this position until 1986 when she retired and became a consultant for the Institute. She holds the title of Professor Emeritus and was appointed "Visiting Lecturer" to the ECU School of Education as well as being named "Distinguished Educator."

Ms. Lewis has been recognized by virtually every appropriate institution for nearly 50 years of dedication to the education of those that were influenced by her teachings.

Mr. Speaker, in closing, I would like to extend my heartfelt thanks to Ms. Lewis for her years of service to the youth of America and her dedication to the human mind. Her contributions and efforts are much appreciated and will always be remembered. Her service is an exemplary example of an ideal citizen.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes:

Ms. WATERS. Mr. Chairman, I rise in strong support of the Oxley-Frank-Kolbe-Pastor-Hinojosa amendment to H.R. 5025, the FY2005 Treasury Transportation Appropriations bill. The amendment would strike bill language, section 216, that prohibits the Treasury Department from enforcing or even publishing its recent regulations implementing the USA PATRIOT Act provisions requiring financial institutions to take reasonable steps to identify their customers.

This bipartisan Amendment is supported by the White House, the Chair and Ranking Member of the Financial Services Committee and virtually every major association within the financial services industry including the American Bankers Association, Consumer Bankers Association, Bankers' Association for Finance and Trade, America's Community Bankers, Financial Services Roundtable, the Credit Union National Association and the Securities Industry Association.

The Amendment would strike language adopted in subcommittee that would prohibit the Treasury Department from spending funds to administer and enforce regulations implementing Section 326 of the USA PATRIOT Act. Specifically, this language would prohibit the Treasury Department from implementing regulations issued on May 9, 2003, that permit financial institutions to accept matricula consular identification cards as part of a valid customer identification program.

Mr. Chairman, while I have objections to many aspects of the USA PATRIOT Act, I support the Section 326 requirement that financial institutions must establish "reasonable procedures" for verifying the identity of customers seeking to open a new account. Section 326 enhances the ability of financial institutions to detect and prevent both money laundering and the financing of terrorism by requiring institutions to develop comprehensive procedures for verifying customer identity. Yet section 216 of H. R. 5025 would make it impossible to achieve this important objective, and, thus, it should be stricken from the bill.

If the Oxley-Frank-Kolbe amendment is not adopted, this appropriations bill could drive large sections of the U.S. population to underground financial services providers and thereby weaken the government's ability to monitor and enforce our money laundering and anti-terrorist financing laws. Adopting this amendment is critical to ensuring that our govemment has the ability to track terrorist finances.

Mr. Chairman, while those who are hostile to the Mexican matricula consular card want to transform this issue into a debate about immigration, this issue is not a debate about immigration. Rather, it is a debate about whether we will preserve the ability of our government to work with financial institutions to fight terrorism by tracking terrorist financing. The language in the bill doesn't simply prohibit the use of matricula consular cards—the bill prevents the Treasury Department from enforcing ANY type of identity verification under this important regulation.

The Oxley-Frank-Kolbe amendment enables banks and credit unions to recognize matricula consular cards as identification for financial transactions. The language in the bill does not merely discourage the acceptance of matricula consular cards. It, in effect, prevents their acceptance by financial institutions. The language in the bill effectively prohibits the Treasury Department from enforcing the USA PATRIOT Act's customer identification provisions that are designed to combat money laundering and terrorist finance.

If Section 216 remains in this bill, the Treasury Department would be prohibited from even telling financial institutions that they must verify the identity of their customers. Mr. Chairman, all of us know that it becomes more difficult to track tracking terrorist financing whenever more people turn to the underground financial system. Why would we want to adopt legislation that will make it easier and more common for people to opt out of the transparency of the mainstream financial system?

Mr. Chairman, denying foreign nationals access to the U.S. banking system will undermine the ability of U.S. law enforcement, regulatory, and economic agencies to do their jobs, since individuals will likely turn to other, less transparent, less regulated, and more expensive methods to transmit funds. We should be encouraging immigrants to use the mainstream financial system to hold and transmit funds. Allowing financial institutions to choose to recognize matricula consular cards as part of their customer identity verification program is sound public policy. I urge all my colleagues to support the Oxley-Frank-Kolbe Amendment.

CASTILLO DE SAN MARCOS NATIONAL MONUMENT PRESERVATION AND EDUCATION ACT

SPEECH OF

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 2004

Mr. MICA. Madam Speaker, I rise in support of H.R. 2457, the Castillo de San Marcos National Monument Preservation and Education Act; Castillo de San Marcos National Monument Boundary Adjustment Act of 2004.

The Castillo de San Marcos National Monument is the oldest existing permanent seacoast fortification in the continental United States. This is not only a unique National Park, but also a national treasure.

This 16th Century fortress is the most complete and unique historic fortification in the United States.

The star-shaped fort, surrounding moat, and earthworks were constructed between 1672–1756 to protect Spanish territory in Florida and the shipping routes along the Florida coast.

This National Monument was the focus of the struggle between Great Britain and Spain for regional supremacy during the 17th and 18th centuries.

It was also the site of a British garrison during the American Revolution, and was last employed for defensive purposes in 1898 during the Spanish-American War.

Madam Speaker, more than 1.5 million tourists visit this National Monument each year. This 16th Century fortress, that has never been conquered, is straining under modern day requirements to accommodate its growing visitors' population.

I have been working with the Colonial St. Augustine Preservation Foundation, the City of St. Augustine and the National Park Service to improve and expand educational resources and public accommodations at the Castillo de San Marcos National Monument.

As you can imagine, adapting a 4-century old structure with adequate public facilities, meeting handicap and disability standards, and visitor educational facility standards are not an easy task.

H.R. 2457 authorizes Federal funding for both museum, educational and visitor facilities to compliment and serve this 16th Century fortress without destroying a historic structure.

For the first time, this legislation appropriately authorizes federal funds to construct a visitor and educational resource center for the Castillo de San Marcos National Monument.

Not only will this new visitors center assist the fort in maintaining its historical integrity, but it will accommodate visitors' needs and provide a great educational experience.

In addition to this bill, the National Park Service is expected to complete a General Management Plan in the following months which will include design, planning and construction options at a required facility at the National Monument.

This legislation will properly authorize a long overdue major infrastructure improvement for the National Park Service.

Finally, this bill will preserve for future generations this historic fortress and will add to the enjoyment and education of both visitors and local citizens.

I would like to thank Chairman RADANOVICH for his support of this bill. I also would like to thank House Resources Committee Chairman RICHARD POMBO for his support of this much needed measure.

Madam Speaker, I urge the passage of H.R. 2457.

PERSONAL EXPLANATION

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. QUINN. Mr. Chairman, I rise today to inform the House of Representatives that last Thursday, September 9, 2004, I was unavoidably detained and missed the following roll call votes:

Rollcall No. 434 on Agreeing to the Obey Amendment. Had I been present I would have voted "aye."

Rollcall No. 435 on Agreeing to the Hayworth Amendment. Had I been present I would have voted "no."

Rollcall No. 436 on Agreeing to the Kildee Amendment. Had I been present I would have voted "aye."

Rollcall No. 437 on agreeing to the Stark Amendment. Had I been present I would have voted "no."

Rollcall No. 438 on agreeing to the Paul Amendment. Had I been present I would have voted "no."

Rollcall No. 439 on agreeing to the Hayworth Amendment number six. Had I been present I would have voted "no."

Rollcall No. 440 on the question of final passage of H.R. 5006. Had I been present I would have voted "aye."

PARADISE VALLEY HOSPITAL: A CENTENNIAL CELEBRATION

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. FILNER. Mr. Speaker and colleagues, today I rise to recognize Paradise Valley Hospital, a marvelous healthcare facility in my Congressional District that has served the community for 100 years.

In 1904, Ellen G. White, the co-founder and spiritual leader of the Seventh Day Adventist Church, helped purchase the 54 acres of land in National City where the Paradise Valley Hospital currently sits.

Paradise Valley Hospital is proud to be the first hospital in San Diego's South Bay, and is the second oldest hospital in the entire San Diego County. The hospital is a 301 bed, nonprofit acute care community hospital with emergency services that includes the Bayview Behavioral Health Campus, a 64-bed psychiatric facility. The hospital serves the Southeastern and South Bay regions of my Congressional District where the most economically challenged and culturally diverse communities in San Diego County live.

Paradise Valley Hospital is owned and operated by Adventist Health, headquartered in Roseville, California. The caring professionals of Adventist Health are committed to continuing the Seventh Day Adventist heritage of quality services by working to enhance its patients' total well-being and to improve the health of our diverse community.

It is a full service healthcare facility staffed by 173 physicians, 1,324 employees, and 148 volunteers who oversee 12,622 admissions, 1,750 deliveries, 36,256 emergency room visits, over 99,132 outpatient visits, and 26,169 home care visits per year.

Among its significant accomplishments, Paradise Valley Hospital has performed its 1,000th cardiac catheterization lab procedure; has began to offer therapeutic classes in Tai Chi, Yoga, Pilates and Kickboxing; has raised nearly $100,000 in its S.T.A.R. Benefit Golf Tournament, and has established the Paradise Valley Hospital Foundation. Most importantly, in 2003, Paradise Valley Hospital donated $13,260,000 in free and low-cost service to the people of South Bay.

Paradise Valley Hospital places a priority on its relationship with the community through a commitment to quality service, cultural competence, a concern for general welfare, and a willingness to provide spiritual leadership and guidance.

On this wonderful centennial, I am very happy to honor and recognize Paradise Valley Hospital as one of the foremost healthcare institutions in San Diego County.

HONORING OLYMPIAN CARLY PIPER

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Ms. KILPATRICK. Mr. Speaker, I would first like to congratulate all the American athletes who competed in the 2004 Olympic Games in Athens, Greece.

Being an Olympian is a tremendous honor, and I commend all the athletes who represented our Nation well. These athletes have dedicated long hours, sweat, and tears to accomplish the highest honor in sports.

I would like to recognize the Olympians from the State of Michigan, and particularly one of my constituents Carly Piper. Carly and her 800 meter freestyle relay team had a dominating performance at the Olympic pool and earned a gold medal while setting a world record 7 minutes, 53.42 seconds, easily beating the mark of 7:55.47 set exactly 17 years earlier by the controversial East Germany team.

Carly Piper, the daughter of Kenn and Carol Piper, graduated from Grosse Pointe North High School in 2001 and had visions of going to the Olympics. Even in high school, Carly was All-State and All-American earning respect at a young age.

Attending the University of Wisconsin, Carly continued to shine in her athletic endeavors. In 2002, Ms. Piper placed third in the 1500 meter freestyle at the P66 Summer Nationals and she took fourth in the 500 yard freestyle.

In 2003, she finished sixth in the 1650 yard freestyle in the NCAA Championship and won gold in the 800 meter freestyle relay at the Pan American Games in Santo Domingo, Dominican Republic.

Carly earned a spot on the U.S. Olympic team by finishing fifth in the 200 meter freestyle at the U.S. trials and is the first female swimmer from the University of Wisconsin to make a U.S. Olympic Team. Carly, who is a zoology major at the University of Wisconsin, plans on becoming a veterinarian after her swimming and college careers are over.

When Carly was seven years old, she told her parents that she would go to the Olympics, and little did she know, she would not only go to the Olympics but she would win the gold with a recordbreaking swim.

Again, I congratulate Carly Piper for all of her dedication and hard work and the achievements she has met both personally and with her team while representing the United States in the 2004 Olympic games in Athens. She has made all in the State of Michigan proud of her victories.

ROCK SPRINGS CHURCH DEDICATION

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. COLLINS. Mr. Speaker, today I pay tribute to Dr. Benny Tate and the Rock Springs Congregational Methodist Church in Milner, Georgia.

Rock Springs dedicated a new sanctuary on August 15, 2004 with a seating capacity of 1,100. What makes this dedication so special is that Rock Springs is a rural church in Middle Georgia which in 1989 had an average attendance of less than 100. But as Dr. Benny Tate explains in his dedication sermon, "The Favor of God" is on Rock Springs Church.

In a day and age when more and more people are moving away from the founding principles of our nation and turning to secularism, I commend Dr. Tate and the congregation of Rock Springs Congregational Methodist Church for continuing to seek the lost, and walking in the Favor of God.

Without objection, I would like to enter into the RECORD Dr. Tate's sermon, "Walking in the FOG (Favor of God)."

ROCK SPRINGS CHURCH—NEW BUILDING DEDICATION, AUGUST 15, 2004

DR. BENNY TATE—WALKING IN THE FOG (FAVOR OF GOD)

It is great to be in the Lord's house today and we appreciate you being here for our dedication service. It is an honor and privilege to have each and every one of you in attendance.

I invite you today to take your Bible if you would to the book of Acts chapter 2, verse 38 through 47. "Then Peter said unto them, Repent, and be baptized every one of you in the name of Jesus Christ for the remission of sins, and ye shall receive the gift of the Holy Ghost. For the promise is unto you, and to your children, and to all that are afar off, even as many as the Lord our God shall call. And with many other words did he testify and exhort, saying, Save yourselves from this untoward generation. Then they that gladly received his word were baptized: and the same day there were added unto them about three thousand souls. And they continued stedfastly in the apostles' doctrine and fellowship, and in breaking of bread, and in prayers. And fear came upon every soul: and many wonders and signs were done by the apostles. And all that believed were together, and had all things common; And sold their possessions and goods, and parted them to all men, as every man had need. And they, continuing daily with one accord in the temple, and breaking bread from house to house, did eat their meat with gladness and singleness of heart, Praising God, and having favour with all the people. And the Lord added to the church daily such as should be saved."

I want you to notice verse 47. The scripture says "and having favour with all the people." I have been preaching a series of messages entitled 'Walking in the Fog.' An acrostic for the word Fog is the Favor of God. Today I want to talk to you about the favor of God on a church. It is amazing what happens when God's favor rests on a place. It is amazing what happened when the favor of God was on the early church. I think it is amazing now what happens when God's favor is on a church.

We need to understand the favor of God. We need to understand the prerequisites to the favor of God. Many times we don't understand the favor of God. Why it is seemingly God's blessing is on one place and God's blessing is not on another place. Why does God choose to give favor as he did here in the second chapter of the book of Acts and maybe seemingly the favor of God is not on another place? I want to you give some pre requisites to the favor of God.

The first ingredient to the favor of God is to have a dream. We can have a lot of debates about God's spirit. Acts chapter 2, one of the indicators of being filled with God's spirit is young men shall see visions and old men shall dream dreams. It is so important that every church has a dream. It is so important that our church many years ago had a dream.

Philippians 2:13 says, "For it is God which worketh in you both to will and to do of his good pleasure." The Bible says in Proverbs 29:18, "Where there is no vision, the people perish." It is imperative; it is vital we have a dream.

I know scores of people in their personal lives, in their spiritual lives, in their occupational lives, that are stone blind. They don't have a dream! For the favor of God to rest on a place, we must have a dream. Not only getting a dream but also keeping a dream. Three Hundred Eighty years ago, a group of pilgrims had the courage, the tenacity, the adventurous spirit to cross land and sea to come to a land where they could have freedom, and worship God in spirit and in truth. The first year they were here these 102 pilgrims established a town. The second year they established a town council. The third year the town council proposed building a road out into the wilderness five miles. The fourth year, the people tried to impeach the town council because they said the road five miles out into the wilderness was a waste of funds. A few years before they could see across the ocean, but now they could not see five miles out into the wilderness!

It is so important that we get a dream. It is so important that we keep a dream. H. B. London of Focus on the Family, who is the Pastor to pastors, said, "Congregations, allow your pastors to dream." I am so grateful that I can say with affirmation, after being here working on my fifteenth year, the wonderful people at Rock Springs Church have always allowed me to dream. It may be insane to live life with a dream but it is madness to live life without one. What brought the favor of God on this place? It was because they had a dream.

They had dedication. Acts 2:42 says, "and they continued stedfastly;" dedication. Today is a culmination. We started in 1852 when a group of men, one of them being Absolum Ogletree, had the courage to leave an established denomination and walk out and tread new waters. They formed a denomination, the Congregational Methodist Church; Rock Springs Church being one of the charter churches. It took dedication for a handful of people on July 5, 1979 to watch their building burn to the ground. It took dedication for those people to say, "Our building may have burned, but the church is still here, and we'll build back." What brings the favor of God? Ladies and gentlemen, it is not only a dream, but also dedication to the dream.

The third ingredient to the favor of God is a "desire to reach others." It is woven in the scriptures in verse 38 and 39. "For the promise is unto you, and to your children, and to all that are afar off, even as many as the Lord our God shall call." See it would have been easy folks, to stay where we were. It would have been comfortable to stay where we were. I even said one time, "We don't have to do all this, we don't have to go through all this effort, we don't have to give all this money—all we have to do is put on the marquis out front, Go to hell, we're full!" But God did not call us to comfort, God called us to a cross. See ladies and gentlemen, Rock Springs Church realizes, it is not about us, it's about them What brings the favor of God is when we get our eyes off ourselves and realize it's not about what we want, it's about reaching men, women, boys and girls for Jesus Christ!

A young lady in our church gave me this: I remember the night during the sanctuary-building program when we made our pledges. I wondered how we would ever be able to give that much. Not equal gifts, but equal sacrifices, and we did. Then I remember the ground breaking when the preacher said, "We've never been this way before," and we all felt a sense of awe about what was becoming. I am overwhelmed by my feelings as I look throughout this sanctuary. Life has been breathed into this place by God Himself. For it is God who has ordained this place and God who built it. He could have used anyone, anywhere, but we were willing. Blessed are we His people who are chosen for such a time as this. Our blood, sweat, tears and prayers are in this building and oh, how small a cost. When I look at this sanctuary, I see the faces of my children growing up in the light of truth. The children I pray for daily. My youngest daughter will be saved and baptized in this building. I see the faces of my family members yet to be saved. My tears will stain the altar for them. I see the faces of those gone on. The sacrifices that brought us to this place. Truly their prayers built the foundation of this building. There once was a plum tree in the field next to the little church on Rock Springs Road. Now there is a new fruit tree growing of wood, brick, mortar and steel. Its branches shall never stop reaching forth, its fruit will always be in season, and it will last throughout all the generations.

For the favor of God, there has to be a desire to reach others.

The fourth and final ingredient is they demonstrated love toward each other. In verse 45 and verse 46 they literally sold their possessions because they cared about each other. A bell is not a bell till you ring it, a song is not a song till you sing it, love is not put in your heart to stay, and love is not love till you give it away. Our church loves one another. We love one another. When we weep, we weep together. When we rejoice, we rejoice together. People don't care how much you know until they know how much you care. When we genuinely love one another like we love one another, that brings the favor of God and people are drawn to that!

The last prerequisite for the favor of God is to depend on supernatural power. It is in verse 43, the Bible says, "And fear came upon every soul: and many wonders and signs were done by the apostles." President Lyndon Johnson used to tell the story about a preacher who got up one Sunday morning and said, "This morning as I was getting ready for church, my dog ate my sermon notes. Today, I'll have to rely on the Holy Spirit, but I promise next week, I'll do better." We ought to be relying on the Holy Spirit every week and on the supernatural power of God. Last night was my first prayer service in here. I've been praying in the old sanctuary. I was praying a while back, and I wouldn't offend the Lord for anything, but I was somewhat overwhelmed and I said, "Lord, this sanctuary is so small and in just a few weeks we are going to go over there in that big one. Lord, I don't know how I am going to fill it." God spoke to me. People say, "How do you know it is God?" Well, if He ever speaks to you, you won't have to ask me that again. God said, "You didn't fill the one you're in now." It is God's house. It is not my responsibility to fill it, it's God's responsibility to fill it and it looks like He is doing a pretty good job! See, the early church depended on the supernatural.

I close with this story. There was a little church up in Savannah, Tennessee getting ready for dedication day. The pastor looked over at his son about six weeks from dedication and said, "Son, I want you to write a song for dedication." The night before the dedication service, the father looked over at his nineteen year old son Jaron and said, "Jaron, have you written that song yet for dedication?" He said, "No, dad, but I am getting ready to sit down at the piano and I am going to write that song." Jaron said he sat down at the piano and said to himself, "What do I want to experience when I come into this place for the very first time?" He said, "God gave me these words. As I walked through the door I sensed His presence, and I knew this was the place where love abounds. For this is the temple, Jehovah God abides here, we are standing in His presence on holy ground." When I read Jaron Davis's answer, it so parallels how I feel today—"It blows me away that God will take a little country boy from the foothills of Tennessee and let him write a song as a teenager that would have the effect and impact that this one has had. It just kind of proves that little is much when God is in it."

There is no joy in easy sailing, when skies
 are clear and blue,
Nor is there joy in doing things, that anyone
 can do,
But there is some satisfaction, that's mighty
 sweet to take,
When you reach a destination, mama, I never
 thought I'd make.

CELEBRATING THE 300TH ANNIVERSARY OF SUTTON, MA

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. NEAL. Mr. Speaker, I would like to take this time to recognize the town of Sutton, MA on the occasion of its 300th anniversary. I am honored to represent Sutton and to have had the opportunity to help it celebrate this important milestone by participating in the Anniversary Parade on September 12, 2004.

Located in the beautiful Blackstone River Valley in central Massachusetts, it retains the rolling farmlands and wooded hills for which it has long been known, which it is committed to preserving as part of the Blackstone River Valley National Heritage Corridor. The Heritage Corridor and the Purgatory Chasm State Reservation, also located in Sutton, offer visitors a way to explore the natural beauty of Massachusetts.

Sutton's rich history began when the town was chartered in 1704. It was first settled in 1716 by the intrepid families of Benjamin Marsh, Elisha Johnson and Nathaniel Johnson, who braved the harsh winter of 1716–1717 in log cabins, which were sometimes entirely covered by the deep snows. These three families laid the groundwork for what is now a thriving community of more than eight thousand.

Today, tourists who come to the five villages of Sutton can visit the Eight Lots Schoolhouse, built in the 1780s, see blacksmithing demonstrations in the M.M. Sherman Blacksmith Shop, and enjoy local candies and produce. They can also explore the history of the region through a trip to the Sutton Museum.

The rich culture and history of Sutton make it a wonderful addition to any region, and I am proud to represent it in the United States Congress. Once again, I would like to congratulate the town on its 300th anniversary and to say job well done to all the organizers who made the commemoration of this momentous occasion such a great success.

SMART FROM THE START PRESCHOOL EDUCATION FOR AMERICA ACT

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Ms. SOLIS. Mr. Speaker, today I rise to introduce the Smart from the Start Preschool Education for America Act. This bill would help more American families have access to high-quality, voluntary preschool education for their children.

Research tells us that a child's first five years are critical to their future development. Think of the young children you know—they are curious and inquisitive and eager to learn. A high quality preschool education can capitalize on children's curiosity and promote learning, enhance brain development and lead to future gains in higher education and employment. Children who attend preschool education programs are more likely to graduate from high school and to be employed in adulthood.

Given all that we know about the benefits of a preschool education, it is long past time that we start investing in preschool education as a Nation. I am proud that my home State of California has been a pioneer in the efforts to provide high-quality preschool education. I expect that in the years to come we will see that California's investment in early childhood education will pay off with stronger classrooms and schools and a well-prepared and educated workforce.

I think that California's investment should be a nationwide investment. That's why I am introducing the Smart from the Start Preschool Education for America Act. It is time for our Nation to have a serious investment in our most precious assets—our children. I urge my colleagues to support high-quality, voluntary preschool education—our Nation's future depends on it.

TRIBUTE TO PHILIP ROSEMAN

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. TANNER. Mr. Speaker, I rise today to pay special tribute to a long time friend of mine, a great Tennessean, and an outstanding American, Philip Roseman. Phil recently celebrated his 86th Birthday on August 30th, in Nashville.

Philip Roseman was born in Cambridge, Massachusetts, to parents who had immigrated from the Ukraine and Romania. On that day, August 30, 1918, the doctor that came to his parents' house to deliver the baby, forgot to register the birth for a month. The family has always celebrated his birthday on August 30th but official records indicate he was born on September 30th. It was only when he signed up to go into the military in 1942 that he discovered his "official" birthday.

As a youth, Phil attended local Cambridge schools and graduated from Cambridge High and Latin. For a while he played for the Boston Braves on their farm team but eventually went into the newspaper business. He became a sports reporter and advertising editor for a local Cambridge newspaper.

When the attack on Pearl Harbor occurred, he immediately volunteered for service and was sent to England as part of the Army Air Force, 834th Engineer Battalion. There he helped build a secret air base in a small hamlet called Matching Green. He also served as an aide to the colonel. Just before the invasion of Normandy, he was sent back to the United States. He stayed in Brooklyn and trained in intelligence surveillance. After mustering out of the service, Phil married Nettie Weiss of Brooklyn.

About this time, articles about the "sunbelt" captured the young man's imagination. Thinking of the prospects of plentiful energy and labor resources and the chance to start his own business, Phil climbed into his eleven-year-old Packard in 1948 and set a course south. He literally ran out of gas in Union City, Tennessee where he found genuinely friendly and helpful people. He knew right away the South was where he wanted to stay.

His plan was to start a garment factory making jackets. After asking around, he decided to approach the townfathers of tiny Trimble, Tennessee, population approximately 400. They listened to this young man from the North and showed their confidence in the spunky and likeable "New England Yankee" by pledging $100,000 to finance a factory that would bring employment opportunities to this farming community.

Hard work and dedication soon led to success. By 1955, Phil had outgrown the original plant at Trimble and needed to relocate and expand. He again approached the townfathers but this time in Hickman, Kentucky and convinced them he had a viable industry that would offer townspeople employment. That plant, too, became very successful. Eventually he started a third plant in Ridgely, Tennessee. He also ran outlet stores in the region. During the Viet Nam War, his plants supplied military outerwear. In all, he employed over 700 people in the West Tennessee region.

Phil Roseman was successful not just in his business. He and his wife, Nettie, had three children who grew up to become successful professionals, one of whom is a nationally known doctor. His wife worked alongside him for fifty years building their business. She died shortly after their retirement and move to Nashville. He has recently remarried and lives in Nashville.

The greatest tributes to this man are the loving memories that family, friends and former employees are quick to share about his unlimited kindness, his gentle nature and his unfailing cheerful disposition. This is how I remember Phil Roseman and I know many others do also.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes.

Mrs. MALONEY. Mr. Chairman, I rise in support of the Oxley-Frank-Kolbe amendment.

This bipartisan amendment from the leadership of the Financial Services Committee corrects the Culbertson provision, a major defect in this appropriations bill that would severely damage the ability of law enforcement to track and target terrorist money.

The White House, the Treasury Department, the banking community—both banks and credit unions, the immigration community, and more than 1,000 police departments across the country, are united in their support for this amendment, and in opposition to the Culbertson provision.

The Culbertson provision guts the key financial anti-terrorism law under which the Treasury Department and financial institutions across the Nation work together to combat terrorist funding.

Under the Culbertson amendment, Treasury could not enforce or even publish its regulations telling financial institutions that they must verify the identity of their customers.

This requirement to verify customer's identity was a key piece of the money laundering provisions of the Patriot Act, which were specifically noted by the 9/11 Commission as an important step towards combating terrorism.

The 9/11 Commission was clear on how we need to combat terrorist funding: "Follow the money," the Commission said.

But the Culbertson provision would drive a significant sector of the economy out of banks and into illicit financial systems, where money is far harder to trace and far more subject to criminal activity.

Secretary Snow—the administration's key Cabinet officer in the effort to track terrorist funding—described the Culbertson provision as follows: "Because this provision could drive large sections of the U.S. population into underground financial services, it would weaken the Government ability to enforce our money laundering and terrorist financing laws." This is the position of the administration—including the Department of Justice and the FBI.

The Culbertson provision targets a form of identification known as matricula, which are issued to Mexican citizens who register with their consul in the United States.

Supporters of the provision argue that matricula are unreliable. But this view is uninformed. The matricula system is internationally recognized and well established.

In the aftermath of 9/11, Mexico increased the security features on this card, so that it is now harder to forge or fraudulently obtain than many state drivers' license.

Mexico maintains a national database to prevent the issuance of duplicate matricula or the issuance of matricula to criminals on a "stop list".

The cards are accepted by many U.S. banks as a proper and reliable form of identification for Mexican citizens in the U.S.

As many financial associations and institutions have written, eliminating the sue of these cards would undermine the abilities of financial institutions to assist law enforcement in "following the money" by verifying customers' identity.

Additionally, the Culbertson provision would deprive many workers in this country of access to legitimate financial services—banks or credit unions—and drive them into underground systems where money is much harder to trace.

We are far safer if these segments of the population transact their financial affairs in the regulated context of banks and credit unions so that law enforcement can track them and ensure they comply with the law.

Moreover, these workers would be deprived of the benefits and consumer protections of our regulated financial system.

Lastly, as the banks note, depriving this segment of the population of access to credit and forcing them to a cash-based system will hurt the local economy.

The Culbertson provision is dangerous and fundamentally misguided.

We must remove it from this bill. I urge your support of this amendment.

SALUTING "SPIRIT OF GALION" AND 179TH AIRLIFT WING OF OHIO NATIONAL GUARD

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. OXLEY. Mr. Speaker, it is my honor to salute the determined efforts of the crew of the *Spirit of Galion* and the 179th Airlift Wing of the Ohio National Guard in preventing a major disaster over the skies of Iraq earlier this year.

On June 29, the six-man crew of the C–130 transport plane *Spirit of Galion* took off from Balad Airbase in Iraq with 59 Army soldiers on board. The soldiers were en route to the United States for a two-week break. However, the upbeat mood on board did not last for long. Major Bruce Fogle and Major Jeff Charette, the pilot and co-pilot, respectively, and both constituents of mine from Mansfield, quickly noticed that the right main landing gear would not retract after takeoff.

The crew's two loadmasters, Senior Master Sergeant Mike Cyphert (also a constituent of mine from Shelby) and Staff Sergeant Mike Keller from Sycamore, examined the landing gear to discover what was wrong. They found that the gear was wedged at an angle, with one wheel fully retracted and the other almost all the way down. In that position, there was no way the plane could possibly land safely.

Majors Fogle and Charette, though, with 28 years of C–130 flight experience between them, did not panic, even though the plane's fuel level afforded them very limited time to fix this major problem. Working with Captain Matt Muha of Dayton, their navigator, they decided to make their way toward the Persian Gulf, circling overhead until either the gear problem was fixed or their fuel level reached a critical level.

Meanwhile, Technical Sergeant Shane Adams, the flight's engineer and a constituent of mine from Lima, worked with Sergeants Cyphert and Keller to free the jammed gear. The flight crew alerted experts on the ground as to their situation, working with ground crews in the region, at the 179th Airlift Wing base in Mansfield, and even with private sector aerospace engineers. Even with the combined efforts and suggestions of the dozens of people now troubleshooting the problem, none of the solutions proposed was successful in lowering the gear.

With these options exhausted, Sergeants Adams, Cyphert, and Keller continued to rock the stuck wheels from side to side in an attempt to dislodge them. However, the Spirit of Galion was quickly running out of fuel. The pilots radioed Kuwait International Airport and requested clearance for an emergency landing. Just in time, however, the crew freed the gear, allowing it to drop freely.

Even with the gear freed, though, there was no guarantee of a safe landing. The crew had no way of knowing if the gear would stay in place and support the weight of the plane on touchdown. The crew immediately went to work bracing the gear with heavy cargo chains strapped across the width of the cramped plane. The crew also had to rearrange the seating for their Army passengers to minimize the risk to them should the gear give way. The loadmasters helped to secure several of the soldiers to the floor of the airplane with cargo straps.

With the gear secured and emergency crews in place near the runway prepared for the worst, Major Fogle brought the plane in. Despite the continuing tension and the knowledge that so many lives were potentially in the balance, it was a textbook landing, with Major Charette calling it the smoothest he had ever seen. Thanks to the dedicated efforts of the entire crew, the gear stayed in place.

The six-man crew was greeted with cheers from their Army passengers and their crewmates on the ground around the world. Befitting their professionalism and dedication, though, they deflected these accolades, instead expressing their own thanks to the soldiers on board, the ground crews in Kuwait, their teammates at the 179th in Mansfield, and everyone else involved in the effort to bring the Spirit of Galion back safely.

I am proud to add my commendations to the entire team that prevented disaster on that day—but especially to the flight crew on board. Using their years of experience and through their calm actions, they saved many lives in the air and on the ground that day. The Spirit of Galion and the soldiers on board could not have been in more capable hands than this crew, which knew that failure was not an option with so much at stake. Their devotion to their duty and their country is a credit to everyone at the 179th Airlift Wing and an ideal reflection of the bravery and skills of our reservists and guardsmen now serving the United States throughout the world.

IN HONOR OF THE DEPARTURE OF DR. MIKE MOSES FROM THE SUPERINTENDENT POST AT THE DALLAS INDEPENDENT SCHOOL DISTRICT

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. SESSIONS. Mr. Speaker, I rise to pay a special tribute to an admired colleague and dear friend of mine, Dr. Mike Moses, as he departs from the Superintendent post of the Dallas Independent School District. Mike is not only admired by those in Dallas, but commands the respect of his peers throughout the state.

Dr. Moses' dedication to educating our youth is evidenced by his service to the Dallas Independent School District and as the Texas Commissioner of Education under then Governor George W. Bush. Mike has presided over years of improvement and progress for the district. During his tenure, the Dallas Independent School District passed the largest school bond issue in Texas, providing $1.37 billion for 20 schools, 40 additions and renovations to 218 existing campuses in the district. Mike is rightly credited with improving the district's accountability ratings, reducing the number of low-performing schools by half. Mike Moses' service has been truly outstanding and for that I wish to thank him here on the floor of the U.S. House of Representatives.

It has been my honor and pleasure to work with him over the last several years, and I know I speak for the entire Dallas ISD staff, faculty, and administration when I say he will be greatly missed. I wish Mike, and his family, all the very best as they move into the next stage of their life.

TITLE I FUNDING FLEXIBILITY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. WOLF. Mr. Speaker, I rise today as a cosponsor of legislation introduced by my friend and Virginia colleague Congressman TOM DAVIS to address needed flexibility in the Title I education program. Title I provides the majority of federal education money; however, these education dollars are tied to arbitrary thresholds of needy students.

A school district can go from just above the threshold to just below with the change of only a couple of percentage points. This means that the increase or loss of only a few needy students can bring a significant windfall of new federal money to a district or can devastate a school district that has received federal funds for years.

In northern Virginia there is one such district. Fairfax County, one of the largest school districts in the country, will likely lose nearly $3 million because of a loss of only a handful of qualifying students. The most recent census-defined poverty rates have dropped the county's population from just above 5 percent to just below 5 percent leaving the school district ineligible for most Title I federal funding. For years, Fairfax County School District has received Title I federal funds because more than 5 percent of the students were below the census-defined poverty rate.

While there are other school districts throughout the country facing similar difficulties, Fairfax County, which serves over 150,000 students, is the largest school division to be dropped out of eligibility for Title I grant programs and stands to lose the most money.

This legislation introduced today would provide school districts like Fairfax County with a multi-year phase down of these funds. This multi-year phase down will allow school districts time to plan for students' educational future. This flexibility would be particularly helpful for Fairfax County School District where the number of students below the poverty rate dropped by a such a small number.

Despite this current situation, Fairfax will maintain its commitment to education success and will have the same number of schoolwide Title I programs in the coming school year as it did before.

CELEBRATING THE LIFE OF SENATOR EDWARD M. "EDDIE" CALVO

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Ms. BORDALLO. Mr. Speaker, I rise today to honor the memory of one of the pillars of our community, businessman and former Guam Senator Edward M. "Eddie" Calvo, who passed away yesterday on September 14, 2004.

Eddie Calvo was born on March 8, 1936. He was husband to Frances Calvo and father to Eduardo, John, Joseph, Leonard, and Carmen Calvo. He was also a grandfather, great-grandfather, brother, uncle, godfather, and friend.

In his capacity as a businessman, Eddie Calvo was Vice-President of Calvo Enterprises, Chairman of the Board of Calvo's Insurance and President of EC Development. He was in charge of both Pay-Less Markets, Guam's largest retail grocery chain, and Calvo's Insurance, Guam's oldest and largest insurance agency. In 1996, he was honored as the Guam Business News Executive of the Year, recognizing his very important role in the success of Calvo Enterprises.

However, his impact on the community has extended well beyond his role as a businessman. He followed in the footsteps of his father Edwardo T. Calvo, who served in the 1st, 2nd, and 3rd Guam Legislature, to win a seat in the 14th Guam Legislature. After leaving elected office, Eddie Calvo continued public service in his capacity on the Guam Telephone Authority board and Guam Election Commission board, among other endeavors. Other notable family members who have been public servants include his brother Paul Calvo, who was Governor of Guam from 1979–1982, and his nephew Eddie Baza Calvo, who has served in the Guam Legislature.

I have known Eddie Calvo to always be a kind, outgoing, and friendly person. Our families have been very close over the years, and I have known him since I was a young girl growing up in Guam. His service in the public and private sector has been steadfast through good times and bad, and his intelligence and vision have served him well in both capacities.

Though we mourn his death, we honor his life by living by his example. On behalf of the people of Guam, I extend our deepest sympathies and prayers to the family and friends of this prominent island leader, Eddie Calvo.

HONORING NORTH CAROLINA SUPERINTENDENT MIKE WARD

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. PRICE of North Carolina. Mr. Speaker, I rise to recognize the contributions of North Carolina's outgoing Superintendent of Public Instruction, Dr. Mike Ward.

Dr. Ward was elected State Superintendent in 1996, the first year that schools were scrutinized under North Carolina's ABCs accountability program. The Federal No Child Left Behind law was enacted a year after Dr. Ward began his second term, adding another layer of scrutiny and accountability. Dr. Ward used these challenges as opportunities to raise student achievement, while advocating for improvements in the Federal law—including more adequate funding—so that its purposes might be more fully achieved. It is fitting that on his last day in office he was able to announce that North Carolina's average on the SAT had reached a new high and had closed within 20 points of the national score.

During his eight years as the State's chief elected education leader, Dr. Ward relied heavily on his experience as a local superintendent—which earned him North Carolina's Superintendent of the Year Award—and as a teacher and high school principal. He was a tireless advocate for teachers and other school employees, promoting high standards, better compensation, and opportunities for professional development. Dr. Ward believed strongly in the power of teaching and learning, and he regularly set aside time to be in the classroom working with students.

Dr. Ward was respected by his peers and was selected President of the Council of Chief State School Officers (CCSSO), whose members include State superintendents and education commissioners from across the country. He used this opportunity to raise North Carolina's profile as a leader in improving student performance and school accountability.

I am pleased to join my fellow North Carolinians in thanking Mike Ward for his conscientious and effective service: He leaves our schools stronger, our teachers better equipped, and our students better trained than they were when he started. I wish Dr. Ward and his wife, the Reverend Hope Morgan Ward, all the best as they make the transition from North Carolina to Mississippi, where she will become a Methodist bishop. I know that it won't be long until my colleagues from Mississippi realize how fortunate they are to have this family as part of their community.

CENTRO CHA RECOGNITION FOR COMMUNITY LEADERSHIP

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise proudly today to congratulate the Long Beach Community Hispanic Association, a Long Beach community non-profit better known as Centro CHA, for their valuable service to the community.

Formed in 1992, Centro CHA's mission is to provide enhanced quality of life to Hispanic/Latino youth, families, and neighborhoods in the City of Long Beach through health and educational programs, social and economic enrichment, cultural arts, and after school programs.

Centro CHA is recognized in the City of Long Beach as a leading Hispanic/Latino grassroots community-based organization. Centro CHA serves as an advocate in efforts to reduce the gaps in services to low-income, underserved Hispanic/Latino youth, families, and neighborhoods.

The City of Long Beach is now the second largest city in California, with a population of nearly 458,000 new immigrants creating significant changes in ethnic distribution and a considerable increase in diversity. According to the 2000 United States Census, the Hispanic/Latino population represents almost 40 percent of the city's total population.

Centro CHA connects the public with vital linkages and resources to access healthcare, civic leadership, and educational institutions. Through cultural community forums, collaboration, and civic leadership, Centro CHA helps local service providers to connect these services to the Hispanic/Latino community. To make the public more aware of the community's activism, Centro CHA created an annual award.

The Nuestra Imagen Award recognizes local individuals and companies for their contributions to local Hispanic/Latino communities. The award is in its eighth year, and it has grown to be one of the most widely attended non-profit awards dinners in Los Angeles County. The awards ceremony coincides with Hispanic Heritage Month, as well as Mexican Independence Day, and celebrates "the exceptional achievements of outstanding individuals and corporations, all of whom foster the development of children, families and communities in the Greater Long Beach area."

I look forward to working with Centro CHA in the future for the betterment of our community.

EXPRESSING SUPPORT FOR FREEDOM IN HONG KONG

SPEECH OF

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 2004

Mr. LEACH. Mr. Speaker, I rise in support of H. Res. 667, expressing support for democracy in Hong Kong. I would like thank the distinguished gentleman from California (Mr. COX), as well as the distinguished Ranking Member of the Committee on International Relations (Mr. LANTOS), for sponsoring this timely and important resolution.

As my colleagues are aware, this is the seventh year after Hong Kong's reversion to China. As the Department of State noted in an April 2004 report to Congress (as mandated by the U.S.-Hong Kong Policy Act of 1992), the Hong Kong Special Administrative Region (SAR) remains an international city whose residents continue to enjoy protections of the rule of law and broad civil liberties.

As is also well-understood, the U.S. maintains substantial economic and political interests in Hong Kong and promotes Hong Kong's high degree of autonomy under Chinese sovereignty. Washington works closely with the authorities in Hong Kong on a wide range of international issues, not the least of which is cooperation in the global campaign against terrorism.

Having said that, developments over the last year have raised serious concerns, in the former British colony as well as around the world, regarding Beijing's commitment to respect the "high degree of autonomy" it has promised Hong Kong.

From a Congressional perspective, it appears self-evident that advancing democratization and constitutional reform—including universal suffrage—would contribute to the city's political stability and economic prosperity. The authorities in Beijing should realize that a vibrant, democratic and prosperous Hong Kong would be a tremendous asset to China. Hong Kong will only become a threat if China makes it so.

Even though the Basic Law may not technically require fuller democracy by 2007–2008, wisdom as well as respect for autonomy dictates the embrace of democracy for Hong Kong. Having traveled to Indonesia, Malaysia, and the Philippines earlier this year, all of which have held successful local and national elections, I see no reason why Hong Kong—with all its wealth and sophistication—cannot do so also.

The people of Hong Kong made plain their aspirations for greater democratic autonomy, aspirations fully within the framework of the "one country, two systems" formula, when they so impressively demonstrated on July 1 last year. In the aftermath of those peaceful demonstrations, the Hong Kong government appeared to listen to the people and withdrew controversial national security legislation pending additional consultations with the populace of the city. The people of Hong Kong again showed their keen interest in participatory democracy when they turned out in record numbers for District Council elections last November, and in another large and peaceful pro-democracy demonstration on July 1st of this year.

In addition, in elections held on September 12, turnout was a record 1.784 million voters (55.63 percent of registered voters). However, pro-democracy candidates, perhaps stung by scandal, managed to gain only three seats for a total of 25, a disappointing outcome since opinion polls indicated stronger results under Hong Kong's complex electoral system.

The election results notwithstanding, one has the sense that the pace of democratization in Hong Kong appears inconsistent with the desires of a majority of the Hong Kong people. Indeed, recent decisions by Beijing setting limits on constitutional development in Hong Kong appear to be inconsistent with the "high degree of autonomy" promised by the central authorities in the 1982 Joint Declaration and the Basic Law.

Equally dismaying has been a series of incidents in Hong Kong—from several political talk show hosts complaining of apparent threats against them, the appearance of a Chinese flotilla sailing through Victoria Harbor, an attack on the office of legislator Emily Lau, and recent allegations of harassment against the print media—that many perceive to be part of a campaign of intimidation against pro-democracy advocates in Hong Kong. Likewise, a new element in the September elections has been the concern of pro-democracy groups that mainland authorities were attempting to influence the outcome of the vote.

Although mainland officials insist that they continue to support the Basic Law's commitment to universal suffrage in Hong Kong, Beijing's actions indicate that the central authorities are profoundly concerned about the extension of democratic rights in the HKSAR. It is hard to know precisely why China has resisted Hong Kong's democratic aspirations, but what might be termed Beijing's "three confusions"—that reform might spin out of control, that democracy in Hong Kong would create a potentially destabilizing precedent for China, and a mistaken conflation of the situation in Hong Kong with the situation in Taiwan—are all possible explanations.

Whatever the reasons, they are uncompelling. One has the sense that China is moving into the world with increasing sophistication, yet maintains major misconceptions about Hong Kong.

There is also a "fourth confusion" which the United States itself should seek to avoid in its policy toward Hong Kong. By that, I mean America needs to find ways to strongly support the Hong Kong people's desire for democracy, electoral reform and universal suffrage without precipitating unnecessary Sino-American confrontation, damaging the interests of the people of Hong Kong or inadvertently undercutting the cause of Hong Kong's democrats.

Like Beijing, the U.S. has an enormous vested interest in the success of the "one country, two systems" model in Hong Kong. In this context, I believe it would be unwise and counterproductive at this time for the U.S. to review Hong Kong's treatment under the U.S.-Hong Kong Policy Act, as has been suggested in some quarters.

America needs to keep perspective. While the speed and scope of political change may be frustrating, Hong Kong still stands out on the Asian landscape as an enduring beacon for the rule of law and civil liberties.

I stress this because often in relations between states well-intentioned positions can be considered counterproductive. The U.S. Congress is obligated to comment on the importance of the people of Hong Kong being permitted to determine the pace and scope of constitutional developments and to move forward with democracy and electoral reform. However, we have no desire to be confrontational.

What is critical at this juncture is that all parties take credible steps to restore dialogue, build confidence, and seek compromise.

Whether the 21st Century is peaceful and whether it is prosperous will depend on whether the world's most populous country can live with itself and become open to the world in a fair and respectful manner. Hong Kong is central to that possibility. As such, it deserves our greatest attention, respect, and good will.

Hong Kong is important unto itself; it is also a model for others. In particular, what happens there is watched with great interest by the people of Taiwan. In a globalist world where peoples everywhere are seeking a sense of community to serve as a buttress against political and economic forces beyond the control of individuals and their families, it is next to impossible to reconcile political systems based on unlike institutions and attitudes. Mutual respect for differences is the key to peace and prosperity in a world in which history suggests conflict has been a generational norm.

IN RECOGNITION OF ROBERT C. THORNTON, JR.

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. ROGERS of Alabama. Mr. Speaker, Staff Sgt. Robert C. "Robbie" Thornton, Jr., 35, of Fort Hood, TX, died on August 23, 2004 in Iraq. Staff Sgt. Thornton was a tank commander in the 1st Squadron, 7th Cavalry Regiment, 1st Cavalry Division at Fort Hood, TX, and was killed when his patrol came under rocket-propelled grenade attack. He is survived by his wife Ellen, and children, Bradley, 6, and Breanna, 3. He is the son of Dominique Thornton, of Belen, NM, and retired Lt. Col. Robert Thornton, Sr.

Robbie Thornton was eager to serve his country, Mr. Speaker, and loved classical music. He was a graduate of Jacksonville High School in Jacksonville, Alabama, where he was known for his athletic ability, and attended Jacksonville State University. Like every other soldier, he dutifully left behind his family and loved ones to serve our country overseas.

Words cannot express the sense of sadness we have for his family, and for the gratitude our country feels for his service. Staff Sgt. Thornton died serving not just the United States, but the entire cause of liberty, on a noble mission to help spread the cause of freedom in Iraq and liberate an oppressed people from tyrannical rule.

We will forever hold him closely in our hearts, and remember his sacrifice and that of his family as a remembrance of his bravery and willingness to serve.

Thank you, Mr. Speaker, for the House's remembrance on this mournful day.

IN APPRECIATION OF AIPAC

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. SCHIFF. Mr. Speaker, for more than half a century, the relationship between the United States and Israel has been a cornerstone of American national security and our commitment to freedom and democracy. During the cold war, Israel provided intelligence and support to our efforts to confront the tyranny of Soviet communism. The experience gained by Israeli soldiers, who fought three major wars against armies equipped with the latest Soviet military equipment, was invaluable to our efforts to devise equipment and tactics to maintain military superiority over the Soviet Union.

Since the fall of the Berlin Wall, Israel has continued to act as a valuable partner in our efforts to bring stability and freedom to an increasingly volatile and unstable part of the world. In 1991, Israel absorbed numerous Iraqi SCUD missile attacks without retaliating, so as not to fracture the global coalition that was working to oust Saddam Hussein's troops from Kuwait. Throughout its history, but especially in the 1990s and into this decade, Israeli civilians have been killed in enormous numbers in an ongoing campaign of suicide bombings and other acts of terrorism by those who will never countenance the existence of the Jewish State. Even as they mourned their dead, Israelis worked for peace with their Arab neighbors and the Palestinian people.

Most remarkably, despite these existential challenges, Israel has remained a democracy. Surrounded by autocracies, dictatorships and monarchies who have made its destruction a centerpiece of their national identity, Israel has continued to hold regular elections and its politics are some of the most spirited and freewheeling in the world. Truly, Israel has remained "a light unto the nations." Time and again, Israel has sacrificed its security for its values—most recently this summer when the Israeli Supreme Court ordered the government to reroute part of the security fence.

For many in Congress, AIPAC has been an invaluable asset in helping us to understand the many dimensions of the American-Israeli partnership. AIPAC is effective because it has a long track record of providing policymakers and Members with accurate, comprehensive information about the Middle East. It is not surprising that AIPAC's annual meeting and dinner is an important event for Democrats and Republicans, Members of Congress and administration officials, presidents, governors and mayors. Our attendance is a testament to the esteem in which we hold AIPAC and the partnership between Israel and the United States that it seeks to advance.

I have worked with AIPAC throughout my tenure in Congress and I have found AIPAC members to be dedicated, patriotic Americans who deeply believe that the security of the United States and the security of Israel are mutually dependent. And I look forward to many more years of working with AIPAC and its members to address common threats to our security and to freedom-loving nations around the globe.

THE ROAD TO RUSSIAN TERROR GOES THROUGH SAUDI ARABIA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 2004

Mr. BURTON of Indiana. Mr. Speaker, the U.S. State Department announced today that for the first time Saudi Arabia has been placed on a list of countries who have engaged in "particularly severe violations" of religious freedom, and faces possible sanctions by the United States as a result. Today's action simply underscores a point that I have made time and time again, namely, that the Saudis have been funding for many, many years madrassas where Wahhabism is taught, and Wahhabism is a radical fundamentalist Muslim religion that teaches children to hate Christians and Jews, and to perpetrate violent acts against them.

Wahhabism is also the philosophical and religious underpinning of Saudi-born Osama bin Laden's al-Qaida terrorist network. The simple fact is, wherever you find Wahhabis you will find fertile ground for al-Qaida and its supporters.

The Russian people learned this painful lesson when 30 Chechen rebels took control of a schoolhouse on the first day of school, and killed at least 338 people, half of them children who were going to school for their first day. According to the reports, 10 of those people who were terrorists were Arabs, and we believe that they were probably from Saudi Arabia. In addition, the attacks were reportly planned by Shamil Basayev, a Chechen rebel commander, and financed by Abu Omar as-Seyf, a radical Islamic Wahhabite, who is not surprisingly believed to be associated with al-Qaida.

Mr. Speaker, I commend to my colleagues an article published in the September 20, 2004, edition of the Weekly Standard and written by Stephen Schwartz, entitled "The Road from Riyadh to Beslan." The article lays out quite clearly how the Chechen separatist movement has been hijacked by the Islamist radical Jihadist movement, and makes a compelling case that we must compel Saudi Arabia to cut off funding for global Wahhabism if we are to avoid more 9/11s and Beslans. I urge my colleagues to read this article and I would like to have the text of this article placed into the CONGRESSIONAL RECORD following my statement.

[From the Weekly Standard, Sept. 20, 2004]

THE ROAD FROM RIYADH TO BESLAN

(By Stephen Schwartz)

Three roads led to the horror at Beslan in the Russian republic of North Ossetia in which at least 330 people, most of them children, died: one road beginning in Grozny, the capital of neighboring Chechnya; one road beginning in Moscow, to the north; and one road beginning in Riyadh, the capital of Saudi Arabia, far to the south. Americans need to know how such frightful events are connected to the global war on terror, and the degree to which they must threaten our own peace of mind.

The main culprits in Beslan were Islamic extremists. Since at least 1999, these violent fanatics, with backing from the Wahhabi sect of Saudi Arabia and financial support from radicals throughout the global Muslim community, have assiduously agitated to take over the Chechen national movement (about which more in a moment).

The participation of "Arabs"—meaning Saudis and other Wahhabi influenced Muslim foreigners—is a constant in reportage and comment on Beslan and earlier terrorist incidents in Chechnya, as well as in neighboring Ingushetia, in Georgia, and in Russia itself. The majority of Chechens, most of whom want only to be left alone, are not avid for the Wahhabi offensive, which is one reason most attacks now take place outside Chechnya.

Meanwhile, the Islamists hope to exploit old rivalries between the Chechens, Ingushes, and other Muslim peoples of the Caucasus mountains and their Christian neighbors, including the majority of Ossetians. In Russian and Soviet history, Chechens were always the arch opponents of Russian penetration into the mountains, and the Ossetians the most enthusiastic Russian supporters.

Al Qaeda-promoting websites accessible almost anywhere are replete with propaganda extolling terrorism against innocents in Russia, exalting suicide bombers, and seeking to intoxicate Muslim youth with the glamour of dying in the Chechen campaign (see, for example, www.islamicawakening.com/viewarticle.php? articleID=1059&). In mosques across the globe, from New York to Nairobi, Wahhabi extremists collect money and recruits for combat in Chechnya, which at times overshadows Iraq as a symbol of so-called martyrdom.

To cite an example on American soil, the 25th National Convention of the Islamic Circle of North America (ICNA), a front for the radical Jamaat-i-Islami in Pakistan, was held in 2000 in Baltimore. There, Tayyib Yunus, head of the group's youth section, complained, "We all want to see our youth to succeed to become doctors, to become engineers; but how many of you can actually say that you want to send your sons to jihad, to Chechnya? How many of you can actually say that you want to send your youth to fight in jihad?" Chechen advocates claim that money collected in mosques in America and other Western countries never reaches the Caucasus.

Wherever al Qaeda and its supporters operate—which means wherever Wahhabis are to be found, including in the United States—atrocities like those in Beslan may occur. Why should a conspiracy capable of the attacks of September 11, 2001, known to have been plotting the use of nuclear dirty bombs, and guilty of bloodshed from the nightclub bombing in Bali to the Madrid metro massacre shrink from taking children hostage anywhere? To defeat the perpetrators of Beslan and its like must be the goal of all who would protect civilization. Yet two questions must be posed: How can we defeat the terrorists? And, is Russia under Putin truly an ally in the struggle?

The Wahhabi conspiracy that has taken over a section of the Chechen movement is controlled from Riyadh. To stop another Beslan from occurring, the United States and other leaders in the global war should do everything necessary to terminate al Qaeda, capture bin Laden and his command staff, and quiet the storm in Falluja. That is, they must force the rich Saudis and Saudi state institutions to halt their international promotion of Wahhabism. Notably, the terror financing charities operating in the Chechen refugee camps in Ingushetia must be dismantled.

Action by President Bush calling the Saudis to order on this matter would be more effective than waiting while Vladimir Putin further mishandles a problem that the Russians have never been able to deal with. The Russians respond to such challenges by attempting to manipulate them for political purposes, rather than by trying to save lives and catch terrorists. In dealing with al Qaeda and its allies, Russia can be as slippery an ally as the Saudi kingdom.

Historically, the conflict between Russian power and the Caucasian Muslims, of whom the Chechens are the largest group, dates back more than a century and a half. For a useful glimpse of how the original Russo-Chechen war played out, one may consult the novella of Tolstoy, Hadji Murad, his last major work of fiction. Tolstoy was a young officer in the tsar's 1851 campaign to suppress a Caucasian insurgency. His book evokes the wild landscape and the experiences that drove him to an open and emotional identification with the Muslim fighters.

Back then, the Chechens were idolized by many in Europe as a freedom-loving, indigenous people who had done to the tsarist regime what the oppressed Poles and, later, the persecuted Jews could not do: inflict serious military losses. Among Russian Jews, respect for the Caucasian Muslims was so great that the Lubavitcher rebbe Menachem M. Schneerson praised the Islamic leader Imam Shamyl as a hero of resistance to injustice.

The Chechens were not to be spared from vengeance for their success at undermining Russian authority. The most brutal of Russia's rulers in the past 150 years, Joseph Stalin, whose family tree included some Ossetians, ordered a whole range of Caucasian Muslim nations—Chechens, Ingushes, Karachais, Balkars, and Meskhetian Turks—deported to Kazakhstan, Uzbekistan, and other Central Asian republics during and after the Second World War. In most cases, the pretext was alleged collaboration with the Nazis, who seldom even reached the territories these despised peoples inhabited.

In the 1950s, Stalin's successors allowed the Caucasian Muslims to return to their homes and absolved them of the charge of assisting the Nazis. But many of them settled in Central Asia, where they followed a moderate form of Islam. In a long interview with me in Almaty in June, the deputy mufti of Kazakhstan, Muhammad-Husein Hadzhi Alsabekov, one of that country's top Muslim clerics and an ethnic Caucasian, expressed his sorrow and outrage at the September 11 attacks on the United States.

Nevertheless, the Chechen problem resurfaced in the Caucasus after the Soviet Union fell apart. At first, Chechen leader Dzhokhar Dudayev, who as an infant had been deported from his native land in a railroad cattle car, served, with his supporters, as a protector of nascent democracy. A Soviet Air Force commander in Estonia, Dudayev turned over a nuclear air base to the newly freed Estonians in 1990, making him a hero in the Baltic states. Inside Chechnya, however, order soon disintegrated. For years, many Chechens demanded independence from Russia of the kind their leader had helped the Baltic peoples gain. But unlike Estonia, Chechnya has oil, and Russia was not about to let it go. The result was a series of low-intensity, high-atrocity conflicts, with Chechen militants striking at Russian forces guerrilla-style, and the Russian military responding with mass killings and disappearances of Chechen civilians.

Dudayev, a force for moderation and stability, was slain by the Russians in 1996. Russian president Boris Yeltsin then made peace in Chechnya, in cooperation with the moderate Chechen leader Aslan Maskhadov, and withdrew the Russian army. But in 1999 the Wahhabis showed up in Chechnya and neighboring Dagestan in force. Among Muslims, it was said that they were Arabs who had been excluded from participating in the Kosovo war by the Albanian leaders of the Kosovo Liberation Army, who considered the Kosovar struggle nonreligious, and who did not want to alienate their U.S. allies.

For whatever reason, the arrival of the Wahhabis, led by a Saudi—Samir Saleh Abdullah Al-Suwailem, who called himself Khattab, and who would be killed in mysterious circumstances in 2002—plunged Chechnya back into a nightmare of kidnappings, murders, suicide terrorism, and similar incidents, which has yet to end.

But if the Chechen problem persists, so do its Russian and Saudi counterparts. Many in Russia and elsewhere believe that the Putin regime has a stake in maintaining the Chechen conflict as a means to unite his people behind the president, regardless of the criminal ineptitude displayed by Russian authorities at places like Beslan. According to authoritative Western experts, official Russian complicity in Wahhabi terror in the Caucasus cannot be doubted. The worst of the Wahhabi kidnappers, Arbi Baraev, and his nephew Rovshan, who carried out the hostage-taking in a Moscow theater in 2002, were connected with the Russian security services. The Russian authorities partly face a problem they themselves fostered.

Be that as it may, the decisive struggle to prevent atrocities like Beslan from being repeated will happen at the source, which is Saudi. We cannot, at this late date, expect Putin to suddenly come to his senses and find new Chechen allies capable of isolating the terrorists. Rather, we should recall the end of the Cold War. Once the Kremlin stopped financing world communism, the phenomenon nearly disappeared from the planet. If America can compel Saudi Arabia to cut off funding for global Wahhabism, the ghastly spectacle of Beslan will not be repeated again and again.

SENATE—*Thursday, September 16, 2004*

The Senate met at 9:59 and 40 seconds a.m., and was called to order by the President pro tempore (Mr. STEVENS).

ADJOURNMENT UNTIL 2 P.M., MONDAY, SEPTEMBER 20, 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will stand adjourned until 2 p.m., Monday, September 20, 2004.

Thereupon, the Senate, at 9:59 and 50 seconds a.m., adjourned until Monday, September 20, 2004, at 2 p.m.

REPORTS OF COMMITTEES

Under the authority of the order of the Senate of January 7, 2003, the following reports of committees were submitted on September 16, 2004:

By Mr. McCONNELL, from the Committee on Appropriations, without amendment:

S. 2812. An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes (Rept. No. 108–346).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. McCONNELL:

S. 2812. An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; from the Committee on Appropriations; placed on the calendar.

HOUSE OF REPRESENTATIVES—*Friday, September 17, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. TOM DAVIS of Virginia).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 17, 2004.

I hereby appoint the Honorable TOM DAVIS to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God of heaven and earth, as we begin this weekend, help the Members of the House of Representatives and all of us to enter into the wonder and leisure of the ancient Sabbath.

Freed from the routine of a workaday world, enlighten us to seek the most important aspects of human life. May we give profound expression to our faith with praise and thanks to You, the Almighty. May we spend time with family and friends and those people in most need of our heartfelt attention.

Renew us with beauty and goodness, that we may serve You and our country with greater patience and perseverance now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from California (Ms. PELOSI) come forward and lead the House in the Pledge of Allegiance.

Ms. PELOSI led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1284. An act to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the costs of the San Gabriel Basin demonstration project.

H.R. 1658. An act to amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes.

H.R. 2828. An act to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

H.R. 4567. An act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4567) entitled "An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. COCHRAN, Mr. STEVENS, Mr. SPECTER, Mr. DOMENICI, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mr. CAMPBELL, Mr. CRAIG, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. KOHL, and Mrs. MURRAY, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed bills and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 155. An act to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation.

S. 180. An act to establish the National Aviation Heritage Area, and for other purposes.

S. 203. An act to provide for the sale of bentonite in Big Horn County, Wyoming.

S. 211. An act to establish the Northern Rio Grande National Heritage Area in the State of New Mexico, and for other purposes.

S. 323. An act to establish the Atchafalaya National Heritage Area, Louisiana.

S. 931. An act to direct the Secretary of Agriculture to undertake a program to reduce the risks from and mitigate the effects of avalanches on recreational users of public land.

S. 1071. An act to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on a water conservation project within the Arch Hurley Conservancy District in the State of New Mexico, and for other purposes.

S. 1234. An act to reauthorize the Federal Trade Commission, and for other purposes.

S. 1241. An act to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes.

S. 1307. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes.

S. 1355. An act to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes.

S. 1421. An act to authorize the subdivision and dedication of restricted land owned by Alaska Natives.

S. 1467. An act to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes.

S. 1521. An act to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community.

S. 1582. An act to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes.

S. 1687. An act to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

S. 1727. An act to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978.

S. 1778. An act to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes.

S. 1791. An act to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes.

S. 1957. An act to authorize the Secretary of the Interior to co-operate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes.

S. 2046. An act to authorize the exchange of certain land in Everglades National Park.

S. 2052. An act to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail.

S. 2167. An act to establish the Lewis and Clark National Historical Park in the States of Washington and Oregon, and for other purposes.

S. 2173. An act to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000.

S. 2180. An act to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

S. 2243. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

S. 2285. An act to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah.

S. 2287. An act to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes.

S. 2319. An act to authorize and facilitate hydroelectric power licensing of the Tapoco Project.

S. 2460. An act to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes.

S. 2508. An act to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse.

S. 2511. An act to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico, and for other purposes.

S. 2543. An act to establish a program and criteria for National Heritage Areas in the United States, and for other purposes.

S. Con. Res. 137. Concurrent resolution calling for the suspension of Sudan's membership on the United Nations Commission on Human Rights.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington DC, September 16, 2004.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on September 16, 2004 at 12:16 p.m.:

That the Senate passed without amendment H.R. 265.

That the Senate passed without amendment H.R. 1521.

That the Senate passed without amendment H.R. 1616.

That the Senate passed without amendment H.R. 1648.

That the Senate passed without amendment H.R. 1732.

That the Senate passed without amendment H.R. 2696.

That the Senate passed without amendment H.R. 3209.

That the Senate passed without amendment H.R. 3249.

That the Senate passed without amendment H.R. 3768.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

THE SITUATION IN IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. PELOSI) is recognized for 60 minutes as the designee of the minority leader.

Ms. PELOSI. Mr. Speaker, I rise today to first of all express concern and sympathy for the people of the southeastern United States for all the suffering that they have endured because of the hurricanes over the past few weeks and what may come yet, our hearts, more than that, though, our intention to help in any way possible. I know that this Congress will do that. At a time like this the American people look to the Federal Government. They believe we have a compact with them to come to their assistance at this time of need, at a time of natural disaster.

I know this as a San Franciscan being subjected in California to earthquakes as we are, there is never a time when the public needs us more in terms of their personal well-being than when they are driven out of their homes, probably never to return to a situation similar to what they had before. It is very difficult to be made whole.

So I want to extend on behalf of my constituents and my colleagues in the Congress an expression of concern and interest in supporting anything that needs to be done to try to make them as whole as possible. I extend that to our colleagues who so ably represent their constituents in the southeastern United States.

Mr. Speaker, I come to the floor today gravely concerned about the situation in Iraq. As one who served on the Intelligence Committee for 10 years and now ex-officio in my role as leader and as briefed on a regular basis, as is Speaker HASTERT, I have grave concerns not only about what is happening in Iraq but the denial that the administration has about what is happening there.

The President took us into this war in Iraq on the basis of unproven assertions and without evidence; he embraced a radical doctrine of preemptive war unprecedented in our history; and he failed to build a true international coalition. Therefore, American taxpayers are paying most all the cost, over $200 billion by now. More importantly, our national treasure, our men and women in uniform, are paying the biggest price of all. Over 1,000 now, 1,027 dead, this being a very bloody month, and it is not over yet. The cost in lives, and may I also add over 7,000 injured. Many of those who were injured have injuries for life. These are not patch-them-up injuries. Injuries for life. One thousand twenty-seven dead, over 7,000 injuries. The cost in lives and limb is huge. The cost to the taxpayers is huge, again, approaching a quarter of a trillion dollars, and the cost of our reputation throughout the world is immeasurable.

I say right up front that as a 10-year veteran of the Intelligence Committee, I said at the time of the vote that the intelligence did not support the threat that the administration was claiming existed in Iraq. It simply did not. I on the basis of that did not support the war.

It is interesting to see today yet another confirmation of that. The Iraq study finds a desire for arms on the part of Saddam Hussein but not the capacity. He wanted to start a program when the U.N. restrictions were lifted, but that is a far cry from an imminent threat to the American people. We went in under false pretenses. We misled the American people as to the caliber of the threat and to the association with 9/11.

But let us say that was then and this is now. What is so sad about it all, as with a preemptive strike, when you choose the timing and the nature of the war you are going to engage in, you have an additional responsibility as a country and as a President to be prepared. We sent our troops into harm's way without the proper equipment, without the proper intelligence to know the nature of the enemy, and without the proper training to deal with the aftermath of the fall of Baghdad.

Do not take it from me. The Department of Defense report has said that 25 percent of those who lost their lives or who were injured would have been saved if they had the Kevlar lining in their vests, if they had the armor on their cars and if they had other equipment that could have protected them. When we asked the administration about this, they said, "Well, we just have that for people who are on the front line." The front line in a guerilla war, when mortar shells are coming into the barracks causing some of these fatalities and casualties, that was a disservice to those troops. We should never ever have allowed that to happen.

I want to just quote General Zinni on that point. General Zinni was the former commander-in-chief of the U.S. Central Command, the area that contains Iraq. He said that in the lead-up to the Iraq war and its later conduct, he saw, at a minimum, true dereliction, negligence and irresponsibility. That is at a minimum.

At worst, he saw lying, incompetence and corruption; that is, in the lead-up to the war.

It did not have to be that way. In fact, regardless of how you voted on the war or what you thought about the threat, the State Department very clearly put out an eerily prescient report, Iraq project report, on what to expect after the fall of Baghdad. The administration chose to ignore that and did not prepare for what would happen after the fall of Baghdad.

They told us that our troops would be met by rose petals. Instead, they are being met by rocket-propelled grenades. They told us, and I have the dates and the names of those who made these statements, that this is a country that could well finance its own reconstruction, and soon. And soon. And we here have given a price tag to the American taxpayers of over a quarter of a trillion dollars and growing. They could readily fund their own reconstruction, and soon.

Not only can they not fund it, the security situation in Iraq is so desperate that they cannot even begin construction. The $18 billion that Congress appropriated for reconstruction in Iraq as the initial stage of it, they have only been able to spend just under $1 billion because the security situation is so bleak. And why is it so bleak? Because they ignored the advice of those who knew better.

When General Shinseki said that several hundred thousand troops would be required for the occupation, Secretary Wolfowitz said, "Wildly off the mark." And what General McCaffrey has said, "I think we got in there with a grossly anemic military force. We never defeated the elite elements of the Saddam regime. They walked away with their guns, their money and their leadership intact."

This is such a tragedy, because there was a representation made to the American people that was not true about the imminence of the threat and about its association to 9/11. Then we send our troops in without the proper preparation and risk and have all of these deaths and casualties. General Zinni further said, "Where are we, the American people, . . . if we accept this level of sacrifice without that level of planning" that is necessary? How can we ask our young men and women who are so brave?

The fact that the administration is in denial about the cause, the reason to go to war, that they are in denial about what is happening in Iraq does not for one minute diminish the valor of our men and women in uniform who are in Iraq and Afghanistan, but focusing on Iraq now. We all agree that we should have gone into Afghanistan. The tragedy of that is that if our country had stayed focused on the clear and present danger of terrorism and kept its focus on Afghanistan, here we would be 3 years later. Perhaps we would have caught Osama bin Laden. Whether we catch him tomorrow or the next day, it is still 3 years too late that this menace to the world roams, spreading his poison, continuing his threat to the world.

□ 1015

So if we had stayed focused, instead of overthrowing Saddam Hussein, we could have rooted out the Taliban; and instead of shooing away some of the al Qaeda and the rest, they ran for the hills. We could have been in pursuit. Instead, we turned our attention to Iraq.

So let us go back to Iraq. Now we have a national intelligence estimate that was given to the President months ago, and it spells out what the possibilities are in Iraq, and there are no good scenarios. It is very hard to find any good options on how to proceed in Iraq because there are no good options. We have a worst-case scenario that they could end up in civil war by 2005. Everything from there on down is very bleak for the Iraqi people and very sad as far as our country is concerned and the sacrifices that our young men and women are going to have to make there.

So I call on the President of the United States to hold someone accountable for this policy. Harry Truman said, "The buck stops here," but I do not see the President taking any responsibility. In fact, he thinks that the bleak report that the national intelligence estimate presented was progress, was progress. Let us just say that we have to have the ground truth about Iraq. What is happening there is not what the administration is telling us.

Almost 1½ years ago, the President said that the mission was accomplished, that the end of major combat had come. What was he talking about? Is this the same judgment that got us into war on unproven assertions? Is this the same judgment that sent our troops into war without the proper equipment, training, or intelligence to know who the enemy was?

The Department of Defense has commissioned a report that says who is the adversary? Who is the adversary? The American people have to call a halt to this going along with the rosy scenario because that is a more pleasant message for them to receive. The President has to speak truth to the American people as to what is happening in Iraq and what the risks are to our men and women in uniform whom we respect for their valor, their sacrifice, and the sacrifices of their families.

This national intelligence estimate has been in the media. That is the report that I am referring to, the national intelligence estimate that was in the media yesterday. And what is interesting about it is that the President had this estimate for months and continued to misrepresent to the American people, continued to misrepresent to the American people, what the situation was in Iraq and what we are facing there. The Bush administration failed to plan for the war and its aftermath. It failed to send an adequate number of troops to get the job done. The administration did not properly, adequately protect and train our troops.

The Department of Defense commission report said: "A breakdown of the casualty figures suggests that many U.S. deaths and wounds in Iraq simply did not need to occur . . . perhaps one in four of those killed in combat in Iraq might be alive if they had had stronger armor around them," the DOD study suggests.

In relationship to that, another quote about it from the Army Times, from the Army Times, which stated: "This was not just a failure of leadership at the local command level. This was a failure that ran straight to the top. Accountability here is essential, even if that means relieving top leaders from duty in a time of war."

It was interesting to hear Vice President CHENEY's comments last night. As he was speaking, I was thinking of his statement in March of 2003 when he said, "We will, in fact, be greeted as liberators . . . I think it will go relatively quickly. . . . weeks rather than months."

Weeks rather than months? We are into years, and all the projections are that we will be there for many more years.

And Secretary Wolfowitz said, "We had a plan that anticipated, I think, that we could proceed with an occupation regime for much longer than it turned out the Iraqis would have patience for. We had a plan that assumed we'd have basically more stable security conditions than we've encountered." Another example of their poor judgment.

Again, Mr. Wolfowitz, and I will repeat this again because I think the American people should know, said on March 27, 2003, "There's a lot of money to pay for this. It doesn't have to be U.S. taxpayer money. We are dealing with a country that can really finance its own reconstruction, and relatively soon."

How do they face the American people after their misjudgments over and over and over again?

So I have mentioned that the Pentagon completed March 26 an intelligence report that was commissioned to answer a simple and provocative question in Iraq: Who is the adversary? This was in April of 2004, reporting on a March 2004 report a year after we went in. Who is the adversary?

So how did this happen? Some people think, and as has been reported in the paper, that "no Iraqi leader has had more to do with U.S. intervention in Iraq than Chalabi, from charming Congress into authorizing almost $100 billion to back his fledgling Iraqi National Congress in the late 1990s and convincing Washington about Hussein's weapons of mass destruction in 2002 to pressing for war last year," has said both his supporters and critics. That was in May of 2004. At that same time, his office was being raided. At that same time, he was being charged with spying for the Iranians, giving information to the Iranians. Whom do we trust? Where, again, is the judgment?

"U.S. Intelligence agencies," and I will submit all this for the RECORD, "believe that Chalabi, the former Iraqi exile once strongly backed by some

Bush administration officials, may have passed classified information on the American occupation of Iraq to the government of Iran, officials said."

How many more people have to die for us to subject the judgment that put them in the situation they are in in harm's way? Who is accountable for this policy? We have a situation where, again, the American people heard representations that were not accurate about the nature of the threat. Of course the American people want to support the President of the United States if they think that our country is in danger. Make no mistake. If there is a threat to the United States that we can anticipate, we will make sure that the American people will be protected.

President Kennedy said it best in his speech, We pay any price, bear any burden, fight any foe. That is our first responsibility as elected officials, to protect the American people. So it is not about not wanting to use force.

The military prepares for war as a last resort. The President chose to go to war as a first choice, a preemptive strike that was not prepared for. If we are going to preempt, we have the higher responsibility to be prepared; and this administration was not.

So it is with great sadness and great concern that I come to the floor today to express these concerns and to say it would be political to withhold criticism of the administration for what it is doing for fear that the American people might think that that is not patriotic. That is not patriotic? Senator Taft, who would be the majority leader of the Senate, the Republican majority leader, said that disagreement in time of war is essential to a governing democracy.

So now we have to see where we go from here. Well, General Hoar, and let me get this straight and, again, I will submit this for the RECORD, General Joseph Hoar too was a former commander in chief of U.S. Central Command testifying before the Senate Foreign Relations Committee on May 20, 2004, said, "I believe we are absolutely on the brink of failure. We are looking into an abyss." General Zinni said we are heading over Niagara Falls. The President says stay the course. Stay the course into an abyss, into Niagara Falls?

Mr. President, face the facts. The Bush administration must stop being in denial about what they got us into. They did not know what they were getting us into, even though their own State Department had given them the report on what to expect, even though their own generals told them the level of military capacity that we would need to go there, even though the intelligence did not support the threat that they were claiming. So now those who criticize or throw a spotlight on the facts are considered unpatriotic. No, very patriotic and in support of those troops.

On a regular basis I tried to visit them. I visited with them in Iraq and in Germany and just earlier this week met with some of the Marines who had come from Fallujah and other places in Iraq. One of the young men was blind. Others had amputations. Others had serious injuries, and hopefully some of them had not so serious injuries. It remains to be seen.

And every time I see them, I am in awe of the tremendous patriotism and sacrifice and valor that they have. God has blessed America with our young people who will go into battle to protect our country. And as I said, none of the poor judgment and mistakes, grotesque mistakes, of the administration can diminish the valor and the debt that we owe these young men and women. I will not even go into the whole subject of what we are doing to veterans when these folks come back because I want my focus to be on the war today, but we will be talking about that.

So as we look at them, we think their lives are changed. And these are the lucky ones who have survived. But these injuries, as I said, are for life. We owe them more than the President has given them. Some of the troops still do not have the equipment that would adequately protect them. They still do not 1½ years into this war.

I just want to make one more point. And that is the administration is going around saying, and we heard it at the convention, we succeeded too soon; so we were not ready for the aftermath of the war, assuming, as the President declared the war over May 1, 2003, and that they have had a "catastrophic success." That is the oxymoron of the century, and it is not even true. They had a catastrophic failure. A catastrophic failure. They succeeded too soon? They thought, and they told us, that they were going to take out Saddam Hussein that first night. They thought they had him holed up someplace in Iraq, and that is why they had to go in that night to decapitate Iraq, to cut off its head.

□ 1030

That is when they thought they were going to win. So they actually did not succeed sooner than they thought. In fact, they have not succeeded at all.

So let us, at least from this day forward, speak truth to the American people. When people say, how would so and so do differently, how would JOHN KERRY do differently, one thing we have to do is stipulate to a set of facts and not have the misrepresentations that are coming forth from this administration about what the ground truth is in Iraq. Let us come together, in as bipartisan, nonpartisan of a way as we possibly can to say we are in a mess. We are in a mess. I do not know who the President takes his advice from, or gets his advice from, or if these are his personal decisions, but somebody has got to go. For the American people to accept this course of action that is a catastrophic failure, that is costing us the lives of our young people and their health and well-being and the well-being of their families, that is costing us a quarter of a trillion dollars, think of what we could do with that in America to make us stronger, and it is costing us enormously in our reputation around the world.

When I was a student, I heard John Kennedy give his inaugural address here in the freezing cold on the steps of the Capitol, and everybody knows when he talked about "ask not what your country can do," but the very next line in that speech was to the citizens of the world, ask not what America can do for you, but what we can do, working together, for the freedom of mankind.

There has to be a change in attitude toward the rest of the world, not the condescension, go it alone, our way or the highway kind of approach, but an attitude of respect and collaboration and cooperation among countries for the freedom of mankind. Stay the course? I do not think so. But we, each of us, have a responsibility to protect and defend the American people, to protect and defend our Constitution. That is the oath we take, and to provide for the common defense is the first responsibility. We take that very seriously, every single one of us does.

Providing for the common defense means that we use war as a last resort, as the military prepares for it that we respect what they say about the capacity that is needed to succeed, that we respect our State Department when they tell us what to expect on the ground after the hostilities cease; of course they have not, but if they had paid attention to the State Department, they might have by now.

Klausewitz said, do not take the first step into war unless you are prepared to take the last step, and it is clear that this administration did not know what it was getting into, or else they grossly misrepresented the facts to the American people. In either case, staying the course is not an option. We will not leave Iraq until there is stability, until there is security there. But under the present plan, there is no end in sight to the chaos, to the quagmire, to the tragedy that this administration has taken us into.

So again, just today the announcements of more deaths in Iraq, that it is with great sadness and sympathy for the families of those affected, just another long list of young people. The other day when I was there, I was asking them how old they were: 19, 19, 20, 23, the national treasury of our country, our young people, squandered because of the poor judgment of this Bush administration.

The Bush Administration's Iraq Policy
Poor Judgment, Poor Preparation

BUSH ADMINISTRATION: FAILED TO PLAN FOR THE WAR AND AFTERMATH

"In the lead up to the Iraq war and its later conduct, I saw at a minimum, true dereliction, negligence and irresponsibility, at worse, lying, incompetence and corruption."—Marine General (Retired) Anthony Zinni, former commander in chief of U.S. Central Command; in the book about his career, "Battle Ready," published May 2004.

"I believe we are absolutely on the brink of failure. We are looking into the abyss."—General Joseph Hoar, a former commander in chief of U.S. Central Command; testimony to the Senate Foreign Relations Committee, May 20, 2004.

BUSH ADMINISTRATION: SENT INADEQUATE NUMBERS OF TROOPS

"Wildly off the mark"—Deputy Defense Secretary Paul Wolfowitz responding to the estimate by the Army's chief of staff, General Eric Shinski, that the occupation could require "several hundred thousand troops; testimony to the House Budget Committee, February 27, 2003

"I think we got in there with a grossly anemic military force. We never defeated the elite elements of the Saddam regime. They walked away with their guns, their money, their leadership intact."—Retired General Barry McCaffrey; NPR "Morning Edition," April 15, 2004

BUSH ADMINISTRATION: DID NOT ADEQUATELY PROTECT OR TRAIN OUR TROOPS

"A breakdown of the casualty figures suggest that many U.S. deaths and wounds in Iraq simply did not need to occur . . . perhaps one in four of those killed in combat in Iraq might be alive if they had had stronger armor around them, the study suggested,"—Newsweek on a Department of Defense commissioned report; May 3, 2004

"Where are we, the American people, . . . if we accept this level of sacrifice without that level of planning?"—Marine General (Retired) Anthony Zinni, former commander in chief of U.S. Central Command, September 4, 2003

"This was not just a failure of leadership at the local command level. This was a failure that ran straight to the top. Accountability here is essential—even if that means relieving top leaders from duty in a time of war."—Army Times, May 10, 2004

BUSH ADMINISTRATION: SEVERELY MISJUDGED HOW A U.S. OCCUPATION WOULD BE RECEIVED

"We will, in fact, be greeted as liberators. . . . I think it will go relatively quickly . . . (in) weeks rather than months."—Vice President Dick Cheney; Meet the Press, March 16, 2003

"We had a plan that anticipated, I think, that we could proceed with an occupation regime for much longer than it turned out the Iraqis would have patience for. We had a plan that assumed we'd have basically more stable security conditions than we've encountered."—Deputy Secretary of Defense Paul Wolfowitz; Testimony at Senate Foreign Relations Committee, May 18, 2004

BUSH ADMINISTRATION: SEVERELY MISJUDGED THE COST

"There's a lot of money to pay for this. It doesn't have to be U.S. taxpayer money. We are dealing with a country that can really finance its own reconstruction, and relatively soon"—Deputy Defense Secretary Paul Wolfowitz; Atlantic Monthly, March 27, 2003

BUSH ADMINISTRATION: DOESN'T KNOW WHO THE ENEMY IS, MISJUDGED ITS "FRIENDS"

"The [Pentagon intelligence] report, completed March 26, was commissioned to answer a simple but provocative question: in Iraq, who is the adversary?"—New York Times, April 29, 2004

"No Iraqi leader has had more to do with the U.S. intervention in Iraq than Chalabi, from charming Congress into authorizing almost $100 million to back his fledgling Iraqi National Congress in the late 1990s and convincing Washington about Hussein's weapons of mass destruction in 2002 to pressing for war last year, say both his supporters and critics."—Washington Post, May 21, 2004

"U.S. intelligence agencies believe Ahmad Chalabi, the former Iraqi exile once strongly backed by some Bush administration officials, may have passed classified information on the American occupation of Iraq to the government of Iran, officials said."—Wall Street Journal, May 21, 2004

HOUSE BILLS AND JOINT RESOLUTIONS APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates, he had approved and signed bills and joint resolutions of the following titles:

January 23, 2004:

H.R. 2673. An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

February 13, 2004:

H.R. 2264. An Act to authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes.

February 29, 2004:

H.R. 3850. An Act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

March 2, 2004:

H.R. 743. An Act to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

March 15, 2004:

H.R. 3915. An Act to provide an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through April 2, 2004.

March 19, 2004:

H.R. 506. An Act to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes.

H.R. 2059. An Act to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, and for other purposes.

April 1, 2004:

H.R. 1997. An Act to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

H.R. 3724. An Act to amend section 220 of the National Housing Act to make a technical correction to restore allowable increases in the maximum mortgage limits for FHA-insured mortgages for multifamily housing projects to cover increased costs of installing a solar energy system or residential energy conservation measures.

April 5, 2004:

H.R. 254. An Act to authorize the President of the United States to agree to certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank, and for other purposes.

H.R. 3926. An Act to amend the Public Health Service Act to promote organ donation, and for other purposes.

H.R. 4062. An Act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004, and for other purposes.

April 10, 2004:

H.R. 3108. An Act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

April 13, 2004:

H.R. 2584. An Act to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes.

April 30, 2004:

H.R. 1274. An Act to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouse in that county.

H.R. 2489. An Act to provide for the distribution of judgment funds to the Cowlitz Indian Tribe.

H.R. 3118. An Act to designate the Orville Wright Federal Building and the Wilbur Wright Federal Building in Washington, District of Columbia.

H.R. 4219. An Act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

May 28, 2004:

H.R. 408. An Act to provide for expansion of Sleeping Bear Dunes National Lakeshore.

H.R. 708. An Act to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes.

H.R. 856. An Act to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes.

H.R. 923. An Act to amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve.

H.R. 1598. An Act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes.

H.R. 3104. An Act to provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom.

June 22, 2004:

H.R. 1086. An Act to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

June 25, 2004:

H.R. 1822. An Act to designate the facility of the United States Postal Service located at 3751 West 6th Street in Los Angeles, California, as the "Dosan Ahn Chang Ho Post Office".

H.R. 2130. An Act to redesignate the facility of the United States Postal Service located at 121 Kinderkamack Road in River Edge, New Jersey, as the "New Bridge Landing Post Office".

H.R. 2438. An Act to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the "Major Henry A. Commiskey, Sr. Post Office Building".

H.R. 3029. An Act to designate the facility of the United States Postal Service located at 225 North Main Street in Jonesboro, Georgia, as the "S. Truett Cathy Post Office Building".

H.R. 3059. An Act to designate the facility of the United States Postal Service located at 304 West Michigan Street in Stuttgart, Arkansas, as the "Lloyd L. Burke Post Office".

H.R. 3068. An Act to designate the facility of the United States Postal Service located at 2055 Siesta Drive in Sarasota, Florida, as the "Brigadier General (AUS-Ret.) John H. McLain Post Office".

H.R. 3234. An Act to designate the facility of the United States Postal Service located at 14 Chestnut Street in Liberty, New York, as the "Ben R. Gerow Post Office Building".

H.R. 3300. An Act to designate the facility of the United States Postal Service located at 15500 Pearl Road in Strongsville, Ohio, as the "Walter F. Ehrnfelt, Jr. Post Office Building".

H.R. 3353. An Act to designate the facility of the United States Postal Service located at 525 Main Street in Tarboro, North Carolina, as the "George Henry White Post Office Building".

H.R. 3536. An Act to designate the facility of the United States Postal Service located at 210 Main Street in Malden, Illinois, as the "Army Staff Sgt. Lincoln Hollinsaid Malden Post Office".

H.R. 3537. An Act to designate the facility of the United States Postal Service located at 185 State Street in Manhattan, Illinois, as the "Army Pvt. Shawn Pahnke Manhattan Post Office".

H.R. 3538. An Act to designate the facility of the United States Postal Service located at 201 South Chicago Avenue in Saint Anne, Illinois, as the "Marine Capt. Ryan Beaupre Saint Anne Post Office".

H.R. 3690. An Act to designate the facility of the United States Postal Service located at 2 West Main Street in Batavia, New York, as the "Barber Conable Post Office Building".

H.R. 3733. An Act to designate the facility of the United States Postal Service located at 410 Huston Street in Altamont, Kansas, as the "Myron V. George Post Office".

H.R. 3740. An Act to designate the facility of the United States Postal Service located at 223 South Main Street in Roxboro, North Carolina, as the "Oscar Scott Woody Post Office Building".

H.R. 3769. An Act to designate the facility of the United States Postal Service located at 137 East Young High Pike in Knoxville, Tennessee, as the "Ben Atchley Post Office Building".

H.R. 3855. An Act to designate the facility of the United States Postal Service located at 607 Pershing Drive in Laclede, Missouri, as the "General John J. Pershing Post Office".

H.R. 3917. An Act to designate the facility of the United States Postal Service located at 695 Marconi Boulevard in Copiague, New York, as the "Maxine S. Postal United States Post Office".

H.R. 3939. An Act to redesignate the facility of the United States Postal Service located at 14-24 Abbott Road in Fair Lawn, New Jersey, as the "Mary Ann Collura Post Office Building".

H.R. 3942. An Act to redesignate the facility of the United States Postal Service located at 7 Commercial Boulevard in Middletown, Rhode Island, as the "Rhode Island Veterans Post Office Building".

H.R. 4037. An Act to designate the facility of the United States Postal Service located at 475 Kell Farm Drive in Cape Girardeau, Missouri, as the "Richard G. Wilson Processing and Distribution Facility".

H.R. 4176. An Act to designate the facility of the United States Postal service located at 122 West Elwood Avenue in Raeford, North Carolina, as the "Bobby Marshall Gentry Post Office Building".

H.R. 4299. An Act to designate the facility of the United States Postal Service located at 410 South Jackson Road in Edinburg, Texas, as the "Dr. Miguel A. Nevarez Post Office Building".

June 30, 2004:

H.R. 4589. An Act to reauthorize the Temporary Assistance for Needy Families block grant program through September 30, 2004, and for other purposes.

H.R. 4635. An Act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

July 2, 2004:

H.R. 3378. An Act to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries.

H.R. 3504. An Act to amend the Indian Self-Determination and Education Assistance Act to redesignate the American Indian Education Foundation as the National Fund for Excellence in American Indian Education.

H.R. 4322. An Act to provide for the transfer of the Nebraska Avenue Naval Complex in the District of Columbia to facilitate the establishment of the headquarters for the Department of Homeland Security, to provide for the acquisition by the Department of the Navy of suitable replacement facilities.

July 7, 2004:

H.J. Res. 97. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

H.R. 884. An Act to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326-A-1, 326-A-3, and 326-K, and for other purposes.

H.R. 2751. An Act to provide new human capital flexibilities with respect to the GAO, and for other purposes.

July 13, 2004:

H.R. 4103. An Act to extend and modify the trade benefits under the African Growth and Opportunity Act.

July 15, 2004:

H.R. 1731. An Act to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes.

July 22, 2004:

H.R. 218. An Act to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

H.R. 3846. An Act to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land.

July 30, 2004:

H.R. 4916. An Act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

August 2, 2004:

H.R. 1303. An Act to amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference.

H.R. 4363. An Act to facilitate self-help housing homeownership opportunities.

August 3, 2004:

H.R. 4759. An Act to implement the United States-Australia Free Trade Agreement.

August 5, 2004:

H.R. 4613. An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

August 6, 2004:

H.R. 1572. An Act to designate the United States courthouse located at 100 North Palafox Street in Pensacola, Florida, as the "Winston E. Arnow United States Courthouse".

H.R. 1914. An Act to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

H.R. 2768. An Act to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall.

H.R. 3277. An Act to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

H.R. 4380. An Act to designate the facility of the United States Postal Service located at 4737 Mile Stretch Drive in Holiday, Florida, as the "Sergeant First Class Paul Ray Smith Post Office Building".

August 9, 2004:

H.R. 2443. An Act to authorize appropriations for fiscal years 2004 and 2005 for the United States Coast Guard, and for other purposes.

H.R. 3340. An Act to redesignate the facilities of the United States Postal Service located at 7715 and 7748 S. Cottage Grove Avenue in Chicago, Illinois, as the "James E. Worsham Post Office" and the "James E. Worsham Carrier Annex Building", respectively, and for other purposes.

H.R. 3463. An Act to amend titles III and IV of the Social Security Act to improve the administration of unemployment taxes and benefits.

H.R. 4222. An Act to designate the facility of the United States Postal Service located at 550 Nebraska Avenue in Kansas City, Kansas, as the "Newell George Post Office Building".

H.R. 4226. An Act to amend title 49, United States Code, to make certain conforming changes to provisions governing the registration of aircraft and the recordation of instruments in order to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on

International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, known as the "Cape Town Treaty".

H.R. 4327. An Act to designate the facility of the United States Postal Service located at 7450 Natural Bridge Road in St. Louis, Missouri, as the "Vitilas 'Veto' Reid Post Office Building".

H.R. 4417. An Act to modify certain deadlines pertaining to machine-readable, tamper-resistant entry and exit documents.

H.R. 4427. An Act to designate the facility of the United States Postal Service located at 73 South Euclid Avenue in Montauk, New York, as the "Perry B. Duryea, Jr. Post Office".

August 17, 2004:

H.R. 4842. An Act to implement the United States-Morocco Free Trade Agreement.

September 8, 2004:

H.R. 5005. An Act making emergency supplemental appropriations for the fiscal year ending September 30, 2004, for additional disaster assistance.

SENATE BILLS AND JOINT RESOLUTION APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates he has approved and signed bills and a joint resolution of the Senate of the following titles:

February 24, 2004:

S. 610. An Act to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

March 15, 2004:

S. 714. An Act to provide for the conveyance of a small parcel of Bureau of Land Management land in Douglas County, Oregon, to the county to improve management of and recreational access to the Oregon Dunes National Recreation Area, and for other purposes.

March 16, 2004:

S. 2136. An Act to extend the final report date and termination date of the National Commission on Terrorist Attacks Upon the United States, to provide additional funding for the Commission, and for other purposes.

March 31, 2004:

S. 2231. An Act to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2004, and for other purposes.

S. 2241. An Act to reauthorize certain school lunch and child nutrition programs through June 30, 2004.

April 1, 2004:

S. 1881. An Act to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments by the Medical Device User Fee and Modernization Act of 2002, and for other purposes.

April 22, 2004:

S. 2057. An Act to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the General Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel.

May 7, 2004:

S. 1904. An Act to designate the United States courthouse located at 400 North Miami Avenue in Miami, Florida, as the "Wilkie D. Ferguson, Jr. United States Courthouse".

S. 2022 An Act to designate the Federal building located at 250 West Cherry Street in Carbondale, Illinois the "Senator Paul Simon Federal Building".

S. 2043. An Act to designate a Federal building in Harrisburg, Pennsylvania, as the "Ronald Reagan Federal Building".

May 18, 2004:

S. 2315. An Act to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering.

June 14, 2004:

S. 2092. An Act to address the participation of Taiwan in the World Health Organization.

June 15, 2004:

S. J. Res. 28. A Joint Resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

June 22, 2004:

S. 1233. An Act to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center.

June 30, 2004:

S. 2238. An Act to amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made.

S. 2507. An Act to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to reauthorize child nutrition programs, and for other purposes.

July 2, 2004:

S. 1848. An Act to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon.

July 7, 2004:

S. 2017. An Act to designate the United States courthouse and post office building located at 93 Atocha Street in Ponce, Puerto Rico, as the "Luis A. Ferre United States Courthouse and Post Office Building".

July 21, 2004:

S. 15. An Act to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.

July 22, 2004:

S. 103. An Act for the relief of Lindita Idrizi Health.

S. 1167. An Act to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri.

August 2, 2004:

S. 741. An Act to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 2264. An Act to require a report on the conflict in Uganda, and for other purposes.

August 9, 2004:

S. 2712. An Act to preserve the ability of the Federal Housing Administration to insure mortgages under sections 238 and 519 of the National Housing Act.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 155. An act to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation, to the Committee on Resources.

S. 203. An act to provide for the sale of bentonite in Big Horn County, Wyoming; to the Committee on Resources.

S. 211. An act to establish the Northern Rio Grande National Heritage Area in the State of New Mexico, and for other purposes; to the Committee on Resources.

S. 323. An act to establish the Atchafalaya National Heritage Area, Louisiana; to the Committee on Resources.

S. 931. An act to direct the Secretary of Agriculture to undertake a program to reduce the risks from and mitigate the effects of avalanches on recreational users of public land, to the Committee on Resources, in addition to the Committee on Agriculture and the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 1071. An act to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on a water conservation project within the Arch Hurley Conservancy District in the State of New Mexico, and for other purposes; to the Committee on Resources.

S. 1241. An act to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes; to the Committee on Resources.

S. 1307. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purpose; to the Committee on Resources.

S. 1355. An act to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes; to the Committee on Resources.

S. 1421. An act to authorize the subdivision and dedication of restricted land owned by Alaska Natives; to the Committee on Resources.

S. 1467. An act to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes; to the Committee on Resources.

S. 1521. An act to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community; to the Committee on Resources.

S. 1582. An act to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes; to the Committee on Resources.

S. 1791. An act to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes; to the Committee on Resources.

S. 1957. An act to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes; to the Committee on Resources.

S. 2052. An act to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail; to the Committee on Resources.

S. 2173. An act to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000; to the Committee on Resources.

S. 2243. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska; to the Committee on Energy and Commerce.

S. 2285. An act to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah; to the Committee on Resources.

S. 2287. An act to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes; to the Committee on Resources.

S. 2460. An act to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes; to the Committee on Resources.

S. 2508. An act to redesignate the Ridges Basin Reservoir Colorado, as Lake Nighthorse; to the Committee on Resources.

S. 2511. An act to direct the Secretary of the Interior to conduct a feasibility study of a Chinayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico, and for other purposes; to the Committee on Resources.

S. 2543. An act to establish a program and criteria for National Heritage Areas in the United States, and for other purposes; to the Committee on Resources.

S. Con. Res. 137. Concurrent resolution calling for the suspension of Sudan's membership on the United Nations Commission on Human Rights; to the Committee on International Relations.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2634. An act to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, to authorize grants to institutions of higher education to reduce student mental and behavioral health problems, and for other purposes.

ADJOURNMENT

Ms. PELOSI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 34 minutes a.m.), under its previous order, the House adjourned until Tuesday, September 21, 2004, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9579. A letter from the Director, Pentagon Renovation & Construction Program Office, Department of Defense, transmitting the fourteenth annual report on the Pentagon Renovation Program, pursuant to 10 U.S.C. 2674; to the Committee on Armed Services.

9580. A letter from the Assistant Secretary for Houing--Federal Housing Commissioner, Department of Housing and Urban Development, transmitting a study on the barriers to the receipt of mortgage insurance by federally qualified health centers, as directed by the Hospital Mortgage Insurance Act of 2003; to the Committee on Financial Services.

9581. A letter from the Assistant General Counsel for Legislative and Regulatory Law, Department of Energy, transmitting the Department's final rule — Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pumps Energy COnservation Standards [Docket No. EE-RM-98-440] (RIN: 1904-AB46) received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9582. A letter from the Regulations Coordinator, Centers for Medicare & Medicaid Services, Department of Health and Human Services, transmitting the Department's final rule — Amendment to the Interim Final Regulation for Mental Health Parity [CMS-2152-F2] (RIN: 0938-AL42) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9583. A letter from the Regulations Coordinator, Centers for Medicare & Medicaid Services, Department of Health and Human Services, transmitting the Department's final rule — Requirements for the Group Health Insurance Market; Non-Federal Governmental Plans Exempt From HIPAA Title I Requirements [CMS-2033-F] (RIN: 0938-AK00) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9584. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Participation in Department of Health and Human Services Programs by Religious Organizations; Providing for Equal Treatment of All Department of Health and Human Services Program Participants (RIN: 0991-AB34) received July 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9585. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Dental Devices; Dental Noble Metal Alloys and Dental Base Metal Alloys; Designation of Special Controls [Docket No. 2003N-0390] received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9586. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Presubmission Conferences [Docket No. 2000N-1399] received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9587. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — General and Plastic Surgery Devices; Classification of Silicone Sheeting [Docket No. 2002N-0500] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9588. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Food Additives Permitted for Direct Addition to Food for Human Consumption; Olestra; Correction [Docket No. 1999F-0719] received September 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9589. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Labeling for Menstrual Tampons; Ranges of Absorbency, Change From "Junior" to "Light" [Docket No. 2000N-1520] receivedSeptember 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9590. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Listing of Color Additives Subject to Certification; D&C Black No. 2; Correction [Docket No. 1987C-0023] received September 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9591. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services under contract with Japan (Transmittal No. DDTC 065-04), pursuant to 22 U.S.C. 2776(c—d); to the Committee on International Relations.

9592. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to the United States [Transmittal No. DDTC 052-04], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9593. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting a report prepared by the Department of State concerning international agreements other than treaties entered into by the United States to be transmitted to the Congress within the sixty-day period specified in the Case-Zablocki Act, pursuant to 1 U.S.C. 112(b); to the Committee on International Relations.

9594. A letter from the Deputy Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a final report on the national emergency with respect to Iraq that was declared in Executive Order 12722 of August 2, 1990, and terminated in Executive Order 13350 of July 29, 2004; to the Committee on International Relations.

9595. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of export of items to Iraq in the national interest of the United States pursuant to section 1504 of the Emergency Wartime Supplemental Appropriation Act, 2003 (Transmittal No. DTC 06IZ-04); to the Committee on International Relations.

9596. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting a copy of the Board's Annual Report on Commercial Activities, pursuant to Public Law 105—270; to the Committee on Government Reform.

9597. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9598. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9599. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9600. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9601. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9602. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9603. A letter from the Secretary, Department of Energy, transmitting in accordance with Section 645 of the Consolidated Appropriations Act of 2004, a report on the amount of acquisitions made by the Department from entities that manufacture the articles, materials, or supplies outside of the United States for FY 2003; to the Committee on Government Reform.

9604. A letter from the Secretary, Department of Energy, transmitting a notice of intention to enter into a five-year contract using other than competitive procedures, pursuant to 41 U.S.C. 253(c)(7); to the Committee on Government Reform.

9605. A letter from the Chairman, Federal Maritime Commission, transmitting a report on the Annual Inventory of Commercial and Inherently Governmental Activities for 2004, in accordance with Section 2 of the Federal Activities Inventory Reform Act of 1998; to the Committee on Government Reform.

9606. A letter from the Chairman, Federal Trade Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period ending March 31, 2004, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

9607. A letter from the Director, Institute of Museum and Library Services, transmitting the 2004 Annual Report to Congress, pursuant to Public Law 106—107; to the Committee on Government Reform.

9608. A letter from the Chairman, National Labor Relations Board, transmitting the Inherently Governmental and Commercial Activities Inventory as required by the Federal Activities Inventory Reform Act of 1998 (the FAIR ACT); to the Committee on Government Reform.

9609. A letter from the Assistant Chief, RPD, TTB, Department of the Treasury, transmitting the Department's final rule — Importation of Tobacco Products and Cigarette Papers and Tubes; Recodification of Regulations; Administrative Changes Due to the Homeland Security Act of 2002 (2000R-546P) [T.D. TTB-16] (RIN: 1513-AA20) received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9610. A letter from the Regulations Coordinator, Centers for Medicare & Medicaid Services, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 2005 [CMS-8021-N] (RIN: 0938-AN16) received September 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9611. A letter from the Regulations Coordinator, Centers for Medicare & Medicaid Services, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicare Program; Part A for 2005 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement [CMS-8022-N] (RIN: 0938-AN15) received September 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9612. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Collected Excise Taxes; Duties of Collector [TD 9149] (RIN: 1545-BB76) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9613. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Transfers of Compensatory Options [TD 9148] (RIN: 1545-BC06) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9614. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rates Update [Notice 2004-60] received September 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9615. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Changes in accounting periods and in methods of accounting. (Rev. Proc. 2004-57) received September 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9616. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Income From Sources Within the United States (Rev. Rul. 2004-97) received September 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9617. A letter from the SSA Regulations Officer, Social Security Administration, transmitting the Administration's final rule — Evidence Requirements for Assignment of Social Security Numbers (SSNs); Assignment of SSNs to Foreign Academic Students in F-1 Status [Regulations No. 22] (RIN: 0960-AF87) received September 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9618. A letter from the Regulations Coordinator, Centers for Medicare & Medicaid Services, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicare Program; Medicare Part B Monthly Actuarial Rates, Premium Rate, and Annual Deductible Beginning January 1, 2005 [CMS-8020-N] (RIN: 0938-AN18) received September 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1775. A bill to amend title 36, United States Code, to designate the oak tree as the national tree of the United States (Rept. 108–689). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4319. A bill to complete the codification of title 46, United States Code, "Shipping", as positive law; with an amendment (Rept. 108–690). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. GILCHREST:

H.R. 5104. A bill to amend the Marine Mammal Protection Act of 1972 to authorize appropriations for the John H. Prescott Marine Mammal Rescue Assistance Grant Program, and for other purposes; to the Committee on Resources.

By Mr. NEY:

H.R. 5105. A bill to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona; to the Committee on Transportation and Infrastructure.

By Mr. MEEHAN (for himself, Mr. Sanders, Mr. McGovern, Mr. English, Mr. McNulty, Mr. Allen, Mr. Dingell, and Mr. Grijalva):

H. Res. 777. A resolution expressing the sense of the House of Representatives that there should be established a National Weatherization Day to recognize the need for reducing home energy costs, particularly for low-income families, through the use of conservation technologies, and for other purposes; to the Committee on Government Reform.

By Mr. PALLONE (for himself, Ms. McCarthy of Missouri, and Mr. Rangel):

H. Res. 778. A resolution commemorating the 100th anniversary of the birth of William "Count" Basie and acknowledging his important contributions to jazz and swing music; to the Committee on Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 284: Mr. Nunes.

H.R. 1118: Mr. Bartlett of Maryland.

H.R. 1160: Mr. Carson of Oklahoma and Ms. Lofgren.

H.R. 1400: Mr. Cummings.

H.R. 2187: Mr. Thompson of California.

H.R. 2883: Mr. Price of North Carolina.

H.R. 3484: Mr. Wu.

H.R. 4026: Ms. Berkley, Mr. Lucas of Oklahoma, and Mr. Gilchrest.

H.R. 4169: Mr. Latham and Mr. Ryan of Ohio.

H.R. 4662: Mr. Duncan.

H.R. 4853: Mr. Andrews.

H.R. 4902: Mr. McNulty and Mr. Hall.

H.R. 4956: Mr. Leach and Mrs. Christensen.

H.R. 5061: Mr. MEEKS of New York and Ms. MILLENDER-MCDONALD.

H.R. 5079: Mr. VITTER.

H. Res. 556: Mr. BERMAN and Mr. CULBERSON.

H. Res. 579: Mr. SHAYS

EXTENSIONS OF REMARKS

HONORING NATIONAL KIDS DAY

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 2004

Mrs. CAPPS. Mr. Speaker, today I rise to recognize the achievements of the Boys and Girls Clubs of Greater Oxnard and Port Hueneme as they celebrate National Kids Day.

Boys and Girls Clubs of America and KidsPeace created National Kids Day in 2001 to foster stronger relationships between adults and children by educating them on the importance and value of spending meaningful time together. National Kids Day provides the opportunity for every adult to take a break, celebrate and renew their commitment to our Nation's children.

National Kids Day is so important because it emphasizes the importance of meaningful time spent with kids, not only on this special day, but each day of the year. Kids Day serves as a reminder that children need positive adult role models in their lives. As a nurse, I understand firsthand the importance of education and the effect that having adult involvement in each child's life has on grades, self-esteem, and overall success.

While most adults recognize the importance of success in school, many feel that they do not have enough time to spend in their children's educational enrichment, reading to them, helping with homework, etc. Parents, in today's busy world, are also often too busy to spend time exercising with their children. Kids Day reminds all of us about the importance of helping our kids with their schoolwork in improving grades and performance, and the importance of physical activity in reducing the risk of obesity and diabetes.

I am proud to support the Boys and Girls Club and Kids Day to help raise awareness about issues that affect all of our Nation's families and children.

ON THE 50TH ANNIVERSARY OF THE DEPARTMENT OF COMMERCE'S LABORATORIES IN BOULDER, CO

HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 2004

Mr. BOEHLERT. Mr. Speaker, I rise today to recognize the 50th anniversary and rededication of the Department of Commerce laboratories located in Boulder, CO. As chairman of the House Science Committee, I have the privilege of chairing the authorizing Committee for two of the three Department of Commerce agencies that have laboratories in Boulder: the National Institute of Standards and Technology (NIST) and the National Oceanic and Atmospheric Administration (NOAA).

The NIST laboratories in Boulder have developed a close relationship with the University of Colorado at Boulder, a collaboration that recently yielded a Nobel Prize and a MacArthur "Genius grant" fellowship for two of its researchers. The NIST laboratory in Boulder is home of the Atomic Clock, which serves as the primary time standard for the United States. NIST researchers work to provide measurement and standards services to critical industries such as fiberoptics and electronics, and emerging industries such as biomaterials and nanotechnology. NIST has helped to establish the scientific conditions that enable technology-based industries to develop and grow, and it deserves our deepest thanks for its work so far.

NIST researchers in Boulder also work with the Department of Commerce's National Telecommunications and Information Agency's (NTIA) National Institute for Telecommunications Sciences, which is also located in Boulder. NTIA's engineers search for ways to improve broadband wireless communications, reduce radio frequency interference, and solve other problems with direct impact on the quality of cellular communications, the development of wireless computing, and the management of the radio frequency spectrum, all critical to the nation's telecommunications infrastructure.

The NOAA laboratories in Boulder also enjoy a close relationship with the University of Colorado, conducting research in oceanic, atmospheric, and climate sciences. This research has vastly increased our understanding of global weather and climate systems, including severe weather, air pollution, global climate change, and ozone depletion. Boulder also hosts the NOAA Space Environment Center, which provides the nation with alerts on the magnitude and impacts of solar weather on communications, transportation, and energy systems. We are fortunate in the United States to have the scientific know-how to predict, and thus reduce, the impacts of severe weather, be it tornadoes, hurricanes, or solar storms.

The Boulder Laboratories were first dedicated by President Dwight D. Eisenhower on September 14, 1954. I congratulate them on their first 50 years. The scientists in Boulder have accomplished much that they can be proud of, and I wish them 50 more years of ground-breaking and exciting research.

COMMEMORATING EVA SCHICKE

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 2004

Mr. RADANOVICH. Mr. Speaker, I rise today to remember Eva Schicke for the sacrifice she made for her fellow Californians. Ms. Schicke passed away on Sunday, September 12, 2004, while fighting a Stanislaus Forest fire in southern Tuolumne County. She was the first female firefighter for the California Department of Forestry and Fire Protection to die in the line of duty.

Ms. Schicke was born in Turlock, CA, and later returned to attend college at California State University, Stanislaus where she studied criminal justice. While there she played basketball and impressed all who watched her play with her tenacity and dedication. It was at CSU, Stanislaus that she was first recruited to work in the California Department of Forestry and Fire Protection.

Beginning in 2000, Ms. Schicke worked as a seasonal firefighter. After 4 years she was chosen to be a member of the prestigious helitack crew. She was the only woman on her 12-member firefighting crew. Those who worked with her admired her hard work, cheerful spirit, and sharp wit. The helitack crew demanded long hours fighting the toughest fires, and Ms. Schicke never shrank from her duties.

Ms. Schicke had many dreams for her future. She hoped to become a nurse or work in probation helping troubled teenagers. Working in a less dangerous profession was something she was looking forward to doing as she hoped to start a family and work with young people. Her untimely death cut short these dreams. However, in her 24 years of life she left a legacy that many will remember.

Mr. Speaker, I rise today to celebrate the life of Eva Schicke. I urge my colleagues to join me in remembering this remarkable woman and the sacrifice she made while serving as a firefighter for the people of California.

TAIWAN'S RETURN TO THE UNITED NATIONS

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 2004

Mr. TANCREDO. Mr. Speaker, I rise today in support of the Republic of China on Taiwan's return to the United Nations. The island nation has been barred from participation in U.N. activities since 1971, when the U.N. adopted resolution 2758, which gave Taiwan's seat at the U.N. to the authorities in Communist China.

Thirty-three years later, many people now realize that this decision was a mistake, and an injustice to the 23 million people who live in Taiwan. Taiwan is an independent, peace loving, and democratic nation that elects its own leaders, manages its own economy, and conducts its own foreign affairs. Clearly, the communist government in Mainland China does not—as it asserts—represent democratic Taiwan.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

It is time that the U.N. to start treating those 23 million people with the same dignity and respect accorded to other nations. The Republic of China deserves a place in the United Nations. By excluding the Republic of China on Taiwan from the United Nations to placate the communist authorities in Beijing, the U.N. is violating its own principles and charter. Its failure to treat Taiwan evenhandedly does a disservice to the people of Taiwan, and to the rest of the world.

Beyond political and philosophical notions, the decision to exclude Taiwan from international organizations has very real consequences. In the spring of 2003, for example, Taiwan was affected by the SARS epidemic. Because Taiwan is barred from membership in the United Nations, the World Health Organization's response to Taiwan's SARS outbreak was substandard and late. As a result, 37 people lost their lives. In 1998 an enterovirus epidemic struck Taiwan, infecting more than a million people, hospitalizing hundreds, causing 80 deaths and resulting in over $1 billion in economic losses. In all of these cases, because the WHO was forced to spend its time and resources finding "indirect ways" to provide assistance to Taiwan, the response suffered. And these shortcomings cut both ways. Because of the ROC's exclusion from the international community, Taiwan cannot share its health-related experiences, manpower and other resources with the rest of the world.

Support for Taiwan's membership in the U.N. ought to be a no brainer. As a friend and ally, the United States should stand up for Taiwan. We must make it clear to others that we believe it is unfair to exclude Taiwan from the world community, and we must also tell the authorities in Beijing that Taiwan's membership in the United Nations poses no threat to them, or the achievement of a peaceful and equitable solution to the cross-straits situation.

Mr. Speaker, the ROC's membership in the U.N. will be beneficial to the people of Taiwan, to the United States, and to the world. I urge support for Taiwan's campaign to rejoin the United Nations.

HONORING JOAN LYNCH ON HER 80TH BIRTHDAY

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 2004

Mrs. MUSGRAVE. Mr. Speaker, when I was in fourth grade, my family moved back to Galeton, CO. Soon after starting school, I met a little girl named Cynthia Lynch. We quickly became best friends, and I grew to love her family as my own. I have always had a special place in my heart for her dear mother, Joan. Today, with love and gratitude, I honor Joan on the occasion of her 80th birthday.

Joan Lynch was born on October 12, 1924, in Greeley, CO, and is the third of five children. There was some confusion about her name. She was raised on the Colorado prairie by William and Kathryn Nelson who farmed northeast of Ault. In the depression and dustbowl days of the 1930s, her family temporarily left the prairie to find work but did eventually return to the homestead her father had settled in 1915. She has always considered the prairie her home.

She has always had a passion for books and learning, especially history. She speaks of her education in the one-room school at "North Victor" as her favorite school experience. Her sisters and she walked a mile and a half to and from school each day, across an open prairie. She later graduated from Central City Colorado High School in 1942, and attended the Teacher's College in Greeley.

Joan and "Corky" Lynch, were married in 1946 and lived on the east coast while he was stationed there in the Navy. I've seen pictures of them in those early days. What a good looking couple. They returned to Colorado in 1947 and farmed in the Milliken area before moving in 1956 to the ranch where Joan continues to live today, northeast of Ault, and only a few miles from the homestead where she grew up. As teenagers, Cindy and I would always giggle and be slightly embarrassed when Corky would leave for work and give Joan a big kiss on his way out of the house. Really, though, we loved it.

Corky passed away in 1999 from cancer. He and Joan celebrated 53 years together. I am so thankful I was able to go and see him before he passed away. I told him how much I appreciated all he and Joan had done for me growing up. We both cried. The older he got, the more tender-hearted he became. He was 75 years old when he passed away.

I love Joan and I will never forget what she has done for me. As a young girl, she gave me lunch money when I needed it, and she put up with my frequent visits to spend the night. That love and support helped me get through the tough times and I will always hold that love in my heart. The way she has lived life has been a constant inspiration to me and her Christian example has always been present for all of us to see. May God bless her today as her family and friends celebrate her birthday. I love her dearly and cherish her as a second mother to me. I am pleased to honor a precious lady on this occasion of her 80th birthday.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes:

Mr. MENENDEZ. Mr. Chairman, I rise in strong support of the Oxley-Frank amendment that would strike section 216 from the Transportation Appropriations bill.

Last July, I stood on this floor and said that the Hostettler amendment to the Foreign Relation Authorization Act was "a thinly veiled attempt to end something called the matricula consular." Well, here we are a year later and there is no longer a pretense as to what my colleagues on the other side of the aisle are trying to accomplish.

During consideration at the Appropriations Subcommittee level, Representative CULBERSON offered an amendment that prohibits the Department of the Treasury from implementing regulations which allow Mexico's matricula consular card to be used as a form of identification when opening a bank account. This amendment was retained at the full committee even though Treasury Secretary Snow wrote in July to the chairman requesting that this specific provision be removed.

Over and over again, select Members on the other side of the aisle have shown their true feelings about issues of the immigrant communities, and often, specifically the Hispanic community. Section 216 is no exception since it targets Mexican nationals. Why do I say this? Because only the matricula consular, out of all the identity documents in the United States, would be explicitly banned by this section of the bill.

Contrary to what the supporters of section 216 contend, Mexico and other foreign governments have been issuing consular identification cards to foreign nationals in the United States precisely following the guidelines established by the Vienna Convention on Consular Relations.

Representative CULBERSON implies that it is impossible to verify the true identity of a person who holds a matricula consular card because they can be obtained fraudulently. This is equally as true of other ID cards as with U.S. driver's licenses. In fact, 7 of the 19 terrorist hijackers of September 11 were known to have illegally obtained Virginia's drivers licenses. Yet this provision would ban only the matricula consular, which has been issued by the Embassy of Mexico for over 132 years.

Let's talk about what this whole debate is really about. It is about our country's public safety and national security, our homeland security, and our financial security.

Use of the Mexican consular identification card improves our Nation's public safety and national security because it provides a reliable and accurate method to identify Mexican nationals. Today, approximately 1,100 police departments accept the matricula consular to identify suspects, witnesses, and people who report crimes and suspicious activity.

Use of the Mexican consular identification card improves our Nation's homeland security. It combats the financing of international terrorism and money laundering by ensuring that U.S. financial institutions have accurate and reliable information on their clients.

And use of the matricula consular improves our nation's financial security and economy and prevents people from sending money illegally across the border. With this card, Mexican workers in the United States can send money legally using the banking system, which functions within federal law. Today, approximately 350 financial institutions accept the card as a valid form of identification.

Mr. Chairman, this amendment is supported by:

The Bush White House in a Statement of Administration Policy dated today;

The Department of Treasury in a letter from Secretary Snow dated yesterday;

The Department of Justice, including the FBI;

A large part of the financial services sector: The American Bankers Association; America's Community Bankers; the Bankers' Association for Finance and Trade; the National Association of Federal Credit Unions; the Credit Union National Association; the Financial Services Roundtable; the Independent Community Bankers of America; the Securities Industry Association;

The National Council of La Raza;

The Mexican American Legal Defense Educational Fund; and

The National Immigration Law Center.

Finally, over 80 percent of the 34,000 comments received on the actual Treasury Department rulemaking under Section 326 of the USA PATRIOT Act agreed with the original regulations.

So, this amendment is broadly supported because it is the right thing to do for our country's national security, homeland security, and financial security. I strongly urge my colleagues to vote for the Oxley-Frank amendment and against this outrageous and dangerous provision.

RECOGNIZING MARK KOHL

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 17, 2004

Ms. BALDWIN. Mr. Speaker, I rise today to recognize Mark Kohl, a teacher at Lodi High School, who was recently named Wisconsin Teacher of the Year. Kohl is one of only four teachers to receive this honor. His success as a teacher comes from the trust and encouragement he gives his students. He allows his students to establish the standards and expectations that govern the classroom, and encourages them to take ownership of their learning. Education is put into action in Kohl's classroom where both teacher and students voice the characteristics of the kind of teacher and student they want to be, and together they pledge to be the very best. Activities such as these make Kohl and his students partners in the learning process.

Beyond the classroom, Kohl is the school district's forensics coach. For more than 20 years he has taken the time to teach and motivate students in the art of public speaking. In addition, he is an active participant in the community. He helped found the Lodi Stepping Stones Theater and volunteers with the Friends of the Arts group as well as the Lodi Challenger 4-H. Every year he assists in a weekend community reading of the local classic, "The Sand County Almanac."

Students, colleagues, and parents are fond of Kohl and his work both at school and in the community. His students attest to his caring nature and his ability to understand them and encourage them to reach their potential. Fellow Lodi High School colleagues admire his teaching style that allows him to connect with students and engage them both in the classroom and the world around them. Parents of Kohl's students are appreciative of his work to prepare their students for life beyond school and their place in the community.

Mark Kohl's success and impact as a teacher is reflected in each of the students he has inspired over his many years of teaching at Lodi High School. I join Kohl's family and friends, the Lodi community, and the Wisconsin Department of Education in congratulating him as Wisconsin Teacher of the Year.

SENATE—*Monday, September 20, 2004*

The Senate met at 2 p.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord our God, restorer of the joy of those who find You, we praise Your holy name. Thank You for giving us lifetime favor and for Your unchanging faithfulness. You turn our mourning into dancing and clothe us with gladness.

Today we pray for our Senators. Shine Your light of wisdom on them and be gracious to them. Remove from them contention and strife as You infuse them with humility. Keep Your arms of protection around them and their loved ones in these challenging times.

Lift Your mighty scepter over our military and bless it with success. Lord, rule in the midst of Your world until the kingdom of Earth will acknowledge Your sovereignty. Let Your mighty name protect us as You give us our heart's desires.

We place our trust in You, the Lord our God. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Kentucky is recognized.

SCHEDULE

Mr. McCONNELL. Mr. President, today we will have a period for morning business throughout the afternoon. Under a previous unanimous-consent agreement, we will vote on passage of the Military Construction appropriations bill at 5:30 p.m. today. The final 10 minutes prior to the vote is scheduled for closing remarks on the MILCON legislation. As a reminder, we have also reached an agreement for consideration of the Legislative Branch appropriations bill and will be scheduling that matter for tomorrow's session. As always, Members will be notified as additional votes are scheduled.

We have a number of other legislative and executive matters that are possible this week, including additional appropriations bills, the nomination of PORTER GOSS to be Director of the CIA, and an extension of various expiring family tax provisions.

Mr. President, I thank the Senate for its attention. I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, there will now be a period for the transaction of morning business for debate only with Senators permitted to speak therein for up to 10 minutes each.

The Chair inquires, does the Senator from Nevada wish to suggest the absence of a quorum?

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the submission of the resolution are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER. The Senator from Nevada.

THE FEDERAL JUDICIARY

Mr. REID. Mr. President, before I came to the Senate, I practiced law for many years in my home state of Nevada. I was an attorney who went to court all the time, and I often went to Federal court. There is a tremendous difference between State courts and Federal courts. There is more solemnity in the Federal courts. There are more procedures that are important to the establishment of justice and maintaining justice in our Federal court system. The main reason for this is that our Federal judges are appointed for life. They are not subject to the whims of a political issue at any given time. They know that if they rule a certain way, they are not going to be thrown off the bench in the next election.

I am still a very proud member of the Nevada bar, and I have great respect for the law. I appreciate everyone who is involved in the practice of the law and the judicial process.

In fact, the reason there has been so much debate about Federal judicial nominations is because we care deeply about these lifetime positions. They are vital to our system of Government.

The U.S. Constitution is such an important document. When we come to this body, we swear we will uphold the U.S. Constitution. Framers of this great document were visionary, in my opinion. They understood the importance of the legal process. That is why they made the judiciary one of the three equal branches of Government, separate but equal.

Our judiciary and our legal system are vital to this democracy. Unfortunately, some people only seem to recognize that fact when it is convenient.

I am sad to announce that this administration wants the public to believe nothing is more important than filling vacancies on the Federal bench. Yet, this same administration refuses to fund the judicial branch so it can function properly. This body, because of the numbers we have gotten from the White House, is contemplating a budget resolution that would freeze the judiciary appropriations at last year's levels. The funding for staffing and other expenses was below the level of fiscal year 2001. That is, 2004 was below the level of 2001.

While funding went down over that time, the workload of our Federal judiciary has increased by more than 10 percent. The budget crunch has already forced the judiciary to fire 145 employees. Now if we freeze judiciary funding at these levels, again we will cripple the operations of our Federal courts. It will force early buyouts. They will come up with gimmicks such as these early buyouts. They will have to do some layoffs. They will have to do furlough days. They will limit the number of hours people can work, and there will be a loss of between 2,000 to 5,000 probation officers and court staff alone.

What does this mean? Fewer probation officers means less supervision of Federal offenders and more danger on our streets. Do we want to do that? By withholding the resources of our judiciary, which is so desperately needed, we would threaten the ability of our legal system to function properly.

By next June, payments to court-appointed private attorneys in criminal cases would be halted. Why is this significant? Because our Federal public defender system cannot represent defendants in cases where there are conflicts with other defendants these defendants have to be represented by court-appointed private attorneys. Without adequate funding, they are not going to be able to do that anymore. In

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addition, civil jury trials would come to a halt in June because there would be no funds to pay the jurors.

The Constitution is the world's greatest blueprint for democracy, and our justice system is the fairest and the best in all the world. We should not be running a second-class judicial system. The Senate needs to provide our judiciary the resources it needs to fund these functions properly.

While the Senate committee-passed bill does appropriate funding for the judiciary, it is not enough. At the very least, we must appropriate the amount contained in H.R. 4754. Anything less than that will jeopardize the judiciary's fundamental mission of providing justice.

I have spoken at great length with members of the Federal bench about salaries for Federal judges, including U.S. Supreme Court Justices. We have to pay our Federal judges better to continue to attract and retain the "best of the best" in our Federal judiciary, but today we are not even asking for that. We simply want funding that will be better than the 2001 level.

As in so many cases, this administration's rhetoric on judicial nominees is a flip side of reality. The President bemoans the supposed slow pace of the Senate's confirmation of his judicial nominees. Here is reality: The Senate has confirmed more than 95 percent of the President's nominees for the Federal court. I think the number is 203 approved and 9 or 10 turned down.

The pace of our consideration of nominees is faster than that afforded any President in modern times. The vacancy rate on the Federal bench is the lowest in many years. Yet the President argues that the Senate's objection to a small number of his nominees will slow the administration of justice. Again, that is not reality. Here is reality: The President proposes a budget that shortchanges the judiciary, ensuring that the judges who serve today on the Federal bench do not have the resources they need to do the job they were appointed to do. That is the reality.

I ask unanimous consent that the full text of a letter I received from Lloyd D. George, formerly the Chief Judge in Nevada, now on senior status, a man who has the support and approval of all Federal judges, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DISTRICT COURT,
DISTRICT OF NEVADA,
Las Vegas, NV, August 24, 2004.

Hon. HARRY REID,
U.S. Senator, Senate Hart Building,
Washington, DC.

DEAR SENATOR REID: This is a brief summary outline of critical points contained in Mr. Mecham's report on the urgent judiciary funding needs. I've also attached his full report. We would be most grateful, Senator, if you could help bring Congress to an understanding of how the judiciary's role in sustaining the rule of law will be severely damaged if the current budget impasse on judiciary funding is not resolved, and the judiciary's funding is included in a long-term continuing resolution that would freeze overall appropriations at FY 2004 levels. It is the operation of and respect for the rule of law which sets our country apart from most others.

A minimum current services funding level (sustained by a 6.1 percent increase over FY 2004 appropriations) would maintain the current staffing and operating expenses.

A freeze of the juror appropriation would require the halting of civil jury trials in July 2005.

The modest increase in the FY 2004 budget still required the courts to terminate, buyout or furlough employees despite the 10% workload growth from the previous year. Courts have also scaled back on technology, reduced improvements and public hours access, and cut back on probation officers' testing and aftercare of offenders.

The judiciary could be forced to fire or furlough the equivalent of 2,000 to 5,000 probation, pretrial services, and clerks' office employees—almost one-fourth of the current staff. It is worth noting that once a skilled employee is released, even if funding is eventually restored, the employee usually does not return, resulting in the loss of a significant investment in human resources.

A freeze of the defender services appropriations would require halting panel attorney payments in June 2005.

Should the appropriations process become stalled, an effort to exempt the judiciary from a long-term continuing resolution at FY 2004 levels should be considered, and an annual appropriation at least to the levels contained in H.R. 4754 should be provided. Such a course is not without precedence, and was taken in 1996 when, at the request of the Chief Justice, the judiciary was exempted, along with other law enforcement agencies from a full year continuing resolution, and an appropriations bill for the judiciary was resolved within months. Although the Chief Justice rarely calls upon the Judicial Conference to pass a resolution, this year he made such a request in view of the critical budgetary situation. The Judicial Conference unanimously passed the resolution which I attach for your review.

As always, I respect your judgment and remain confident in your commitment to the Third Branch and the constitutional rights and privileges that it protects.

Sincerely,

LLOYD D. GEORGE,
District Judge.

Mr. REID. Judge George has served on many committees of the Supreme Court. He is a great judge. I do not know if "revered" is the right word, but people like this man and look up to him. Lloyd George was appointed by a Republican President. He is a Republican, and he is not trying to embarrass the President. He is a person who believes in the three separate but equal branches of Government and he thinks what is happening to the Federal judiciary is causing inequality in the separation of powers doctrine.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed for up to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

SERGEANT STEVEN D. CONOVER

Mr. DEWINE. Mr. President, I rise this afternoon to honor and remember a young man from Wilmington, OH, a man who was taken from us far too soon, a young man who lost his life in service to our country in Iraq, a young man who stands as a shining example of bravery, courage, and who had a profound sense of faith.

Army SGT Steven Conover, a member of the 82nd Airborne Field Artillery, Charlie Battery, was killed on November 2, 2003, along with 16 other brave Americans. When the helicopter they were riding in was shot down near Fallujah, he was on his way home to Ohio, on his way home for a 2-week leave where he was going to surprise his childhood sweetheart, his wife Brooke, for their second wedding anniversary.

Steven was only 21 years of age. While the tragedy of his loss is undeniable, Steven's family and friends take comfort in remembering him as he was, as he always will be, frozen in time as an exuberant young man who tried very hard and succeeded in doing much good in the world.

Steven grew up in Wilmington, OH, and attended Wilmington High School, graduating in the year 2000. His friends remember him as laid back, shy, kind, and caring. He also attended the Laurel Observation Vocational School where he was a member of the Air Force Junior ROTC. One of his ROTC instructors, Howard Vosburgh, described Steven this way:

> [Steven was a] very mature, genuinely nice guy [who] automatically, when he spoke, other people listened. His fellow students looked up to him. I admired him. He was just a cut above his peers. He was that kind of person.

Throughout his short life, Steven would gain the admiration of so many people. His hometown of Wilmington honored him with a story in the local paper about his service and the service of three of his relatives who were also serving in Iraq. Not only did several of Steven's relatives dedicate their lives and service to our country, but so did his wife Brooke. While Steven trained at Fort Sill, OK, Brooke enlisted in the Army because she knew how Steven loved his career and figured that they would both end up, as she said, "lifers."

Brooke remembered fondly how Steven would help ease her fears before she started basic training. The two would spend as much time together as they could, fishing and walking the trails at the base. However, Brooke suffered a leg muscle injury during basic training that resulted in her honorable discharge.

Steven was forced to leave his soulmate when his unit was sent to Iraq in April 2003. He always made an effort to write to his wife, as well as his mother and stepfather in Wilmington. Additionally, Steven remained in contact with students from his alma mater. Wilmington High School created a trophy case that displayed the photos of 22 former students serving overseas in the military and students wrote letters to the soldiers, including Steven. This contact brought Steven great comfort as he dealt with the death of his best friend in combat, as well as the suffering he saw in Iraq.

Steven was a devout Christian. He used his faith as a guide during many difficult times while serving in Operation Iraqi Freedom. As Steven's stepfather, Michael, recalled:

> They were ambushed quite often, and Steven just said he knew the hand of God was on him. He saw the hand of God in Iraq.

According to Pastor Elizabeth Looney, who knew Steven since his birth, his time in Iraq changed his beliefs and bolstered his faith. She said of Steven:

> The pain and suffering he saw increased his resolve to do good and made him proud to serve his country.

Steven told her of his desire to return home and sit in the church with her. His faith was strong, and he had a profound sense that he was doing what was right—that it was, in fact, necessary.

Upon his death, at a memorial service at Fort Sill in Oklahoma, Steven and five of his fallen comrades were eulogized. The most poignant moment of the service was the final roll call. For those not familiar with the tradition, the Sergeant rises and calls the names of the soldiers present in the audience. Each responds with "here." A deafening silence is the only response to the call for the fallen soldier—the silence that reminds us all of the ultimate sacrifice they each have made.

I had the privilege of meeting Steven's family and friends at his funeral service in Wilmington. During the eulogy, Pastor Looney described him as "a hero . . . mischievous . . . everything he did was funny." Most profoundly, though, she described Steven as a watchman—a watchman who protects all of us—who watches over us. She concluded with these words:

> We're going to miss his smile and his face and all the love he gave. I know where Steven is.

We all know where Steven is. His faith guided him through life and into his eternal resting place.

Left to cherish his memory are his wife Brooke; his mother Lorraine; stepfather Michael; brother Aaron; sisters Kaliegh and Corrie, as well as grandparents, nephews, nieces, aunts, and uncles.

I know they miss Steven deeply.

Steven Conover was an exceptional young man, who will never be forgotten.

ARMY SPECIALIST JAMES POWELL II

Mr. President, last October, at one of Saddam Hussein's palaces in Tikrit, Iraq, two fallen United States soldiers were honored by several hundred of their comrades. The mood was somber as troops, in full battle gear, stood in formation for the final roll call. When the call came, Army SP James Powell II and SP Donald Wheeler did not respond.

With tears streaming down their faces, the troops paid their final respects to these two brave men. As Battalion Commander, LTC Steve Russell told the soldiers:

> We will finish their mission. As long as Regulars draw breath, we shall not forget them.

We will not forget them either.

I come to the Senate Floor today to pay tribute to one of these men—fellow Ohioan, SP James Powell. James lost his life on October 12, 2003, when his Bradley Fighting Vehicle struck an anti-tank mine in Baji, Iraq. James was serving as a member of B Company, 1st Battalion, 22nd Infantry Regiment, 4th Infantry Division based out of Fort Hood, TX.

James grew up in Columbus. He graduated from Linden McKinley High School in 1996. Lifelong friend Adam Warrix remembers James as "outgoing and always looking to help someone out."

After graduation, James enlisted in the Navy and served from 1997 to 2000, as a seaman apprentice on the USS *Arctic*. Though he was proud of being in the Navy, James's enlistment provided him with much more than service to his country—it introduced him to his best friend and love of his life, Ruby Mann.

James became friends with Ruby's brother while the two men were serving in the Navy together. They went to Kentucky for a hunting trip in September 1998, and while there, James met Ruby for the first time. Ruby says it was love at first sight. She was so taken by James that she asked him out on a date the first night he was there. James joked that he would have asked her, but he was afraid she would say no because of the four inches she had on him.

The two went out and fell head over heels for each other. Six months later, James proposed. They married in October 2000. Ruby fondly remembers how much they loved doing the little things at their home in Radcliff, KY—sleeping in on the weekends, lying together on the couch, and drinking coffee in the morning.

James and Ruby considered the birth of their daughter, Lauren, as the greatest moment in their lives. James loved his daughter as much as any parent could. Ruby remembers how her husband used to sneak Lauren ice cream and their peek-a-boo matches on the couch.

James cried when Lauren told him "I love you" for the first time.

Determined to make a better life for his wife and daughter, James enlisted in the Army in January 2001. He loved nothing more than being with his family, but his enlistment took him away from them for extended periods of time. James dealt with the separation by throwing himself into his work.

He was sent with his unit to Iraq as part of the 4th Infantry Division; its base of operations was in Tikrit. James knew the danger—especially of working in Saddam Hussein's hometown. But to James, it didn't matter; he had a job to do. He wanted to make the world a safer place for his wife and his daughter, and for all of us.

SP Tim Moore, who served with James in Iraq, remembered James telling him how much he missed his wife and daughter and how he also missed hunting and fishing. He remembers that James never complained. He did what he had to do.

Another comrade, Captain Matt Weber, recalled that James didn't just put on the uniform and go to work—he knew what it truly meant to be a soldier.

James was killed just 8 days after he received notice that he would be going home. He had called Ruby to tell her the news and how excited he was. James was looking forward to seeing his family and joining the Kentucky State Police.

Despite the news that he would be going home, Army superiors recalled that James still volunteered for a dangerous combat—the very mission that would ultimately take his life. Ruby said that even if James could have known what would happen, he still would have gone on that mission. That is the type of person he was. That is the kind of soldier he was. For his service and bravery, James was awarded the Purple Heart, the Bronze Star, and the Combat Infantry Badge.

James Powell defined bravery, honor, and love of country. Indeed, he was a fine soldier. But more than that, he was a strong, loving, supportive father, husband, and son. I had the privilege of meeting James Powell's family at the memorial service held in his honor. I spoke to Debra Powell, James's mother, who told me how proud she was of her son—how much she loved him.

Our Nation lost a great soldier in SP James Powell. He is an American hero whose memory will forever be cherished in the hearts and minds of all those who were privileged to know him.

CORPORAL ANDREW D. SIMMONS

Mr. President, an ordnance facility at Al Asad Air Base in Iraq is now called Brownfield Station. The significance of this cannot be overstated nor should the meaning behind it be forgotten.

Members of the Marine Wing Support Group 374 renamed the building after one of their fallen comrades—fellow Ohioan Marine Corporal Andrew Simmons, who also went by the name of Andrew Brownfield. Andrew lost his life on March 18, 2004, while serving our Nation in Iraq. He was 24 years old.

Andrew was an ordnance man with the task of hanging bombs on planes and helicopters. Major Steve White, Marine casualty affairs officer in Akron, OH made a poignant statement regarding the new name for the ordnance facility. This is what he said:

> [This] is a reminder to the Marines in Iraq and those preparing to go there that freedom is not free. Marines never forget the sacrifices that were made by those who have gone before us.

I rise today to pay tribute to Andrew, whose life and sacrifice should remind all of us that freedom isn't free.

Andrew Simmons was born on October 13, 1979. Known for his quick wit and sense of humor, family members and friends fondly recall his proficiency at imitating famous movie characters. Among his favorites were Billy Bob Thornton's character in the movie Slingblade, Dustin Hoffman's character in Rainman, and Tom Hanks character in Forrest Gump. Andrew was always the one making everyone around him laugh.

Andrew also had a driving desire to succeed. He grew up in Akron, OH and attended North High School, where he was one of the first students to join a training program that allowed students to divide their time between school and studying a vocation. After graduating from high school in 1999, Andrew held a number of jobs but decided that what he really wanted was to join the military. He wanted to be Marine and was so proud to be one that after boot camp he persuaded three of his friends to join as well.

Andrew's mother Melody remembers how Andrew's attitude changed after he graduated from boot camp. She said that "he walked proud. He had the Marine look, even in civilian clothes."

Following the tragedy of the September 11 attacks, Andrew knew that he wanted to fight against terrorism. He volunteered to go to Iraq. His fiance, Michell Hackworth, remembered him saying that he wanted a piece of the action—that he wanted to prevent any more terrorist attacks in the United States, and this was his way of doing the most he could.

On the day he left for Iraq, Andrew called his mother from California, where he was stationed. He left a message on her machine. In it, he perfectly imitated Tom Hanks in Forrest Gump saying, "I love you Jenny." Andrew also told his mother and fiance; that going to Iraq was something he had to do. He felt it was his duty.

Without question, Andrew was an exemplary Marine. His comrades knew they could trust him—they knew they could depend on him. Navy Lieutenant James A. Bradshaw, chaplain for the Marine Wing Support Squadron, had this to say:

> [Andrew] took a personal interest in every Marine who worked with him and spent extra hours mentoring them and helping them earn their rank, as well as just helping them be more motivated.

Andrew and Michell had big plans for the future. Andrew used to say he wanted nine sons. He wanted to relocate to Northeast Ohio. He wanted to become an electrician, or a law enforcement officer. Tragically, those dreams will not be realized.

Since the beginning of the war in Iraq, Ohioans have given their support to families and friends of fallen soldiers. They have continually come together to make sure that families know they are not alone in their grief.

More than 2,000 people lined the funeral route in Akron to show their support for Andrew's family. In a moving display, people dressed in red, white, and blue. Some carried flags. Others held signs reading, "Thank you for our freedom." Many could not stop the tears and still others waited for over an hour to pay their respects.

With their hands over their hearts, mourners silently followed the procession to Andrew's final resting place.

Veterans could be seen wearing their uniforms and medals. Tom Bulanda, a Vietnam veteran, stood at the gate of the cemetery with his chest covered in the medals he had earned. He came to honor a fellow Marine—a Marine he considers to be one of his own.

We owe a debt of gratitude to Andrew—a debt we can never fully repay. Today, we honor his memory and remember his life.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

HURRICANE IVAN

Mr. SESSIONS. Mr. President, I want to share a few thoughts at this time with the Senate concerning the damages we received from the hurricane, "Ivan the Terrible."

It was a major hurricane. It did tremendous damage to properties and houses, timber, and agricultural crops throughout the State of Alabama and even into our region of the United States.

I had the pleasure yesterday to travel with President Bush as he went down to Orange Beach, AL, and the Gulf Shores areas, and we examined the losses that occurred there. They are quite significant. I had flown over the area earlier, and it already looked a little better to me yesterday than it did before. The tides are still high. The water level in the Gulf of Mexico remained higher than for the highest tide for maybe 24 hours after this storm hit because the hurricane had pushed so much water in. The water went over the beachfront areas into the lagoons and flooded houses on the lagoons. It blew homes down. Some well-constructed homes stood up well. Most of the condominiums that are multistory condominiums seemed to hold up well, but the net effect was a major loss for many people. The homes and buildings will have to be structurally examined—all of them—to make sure there is not some structural damage that is not anticipated today. I am proud of the people there.

The numbers I have received indicate there were 70 deaths in the Caribbean as a result of Hurricane Ivan and that, according to the Associated Press, there were 52 deaths in the United States. We had four deaths in Alabama. That is a very large loss of life. It is something we need to think about, to see if we can anticipate in the future these kinds of problems and minimize the loss of life.

I want to say how proud I am of the people in Alabama, from the sheriffs, the fire chiefs, the emergency management people, FEMA, and every agency of Government that participated in the preparations leading up to the hurricane for the success we have had to date in Alabama where the storm hit.

Governor Riley, early on, recognized the danger of this storm. He insisted that we have evacuations from the dangerous areas. People do not like to leave their homes. They think they can ride these things out. They may remember one several years ago that was not so bad. But when a major category 3 or category 4 hurricane hits, like Ivan was, nobody is safe on the beaches and the low-lying areas of our State. The Governor pushed hard, and people listened and moved out. For that, we are most grateful and thankful. It could have been so much worse.

First of all, I want to say, President Bush made absolutely clear that the Federal Emergency Management Agency will do whatever it takes, complying with the law, to help our people in the State of Alabama.

Mike Brown, the Administrator at FEMA, was down. He traveled with us. He has been down several days. He is going back today, I believe, to visit some of the smaller towns off the beach that suffered badly also. We have had a good response from the Federal Government. We find there are some problems. Somehow we can't get things done quite as well as we would like. Of course, FEMA is dealing now with its third major hurricane in just a matter of weeks, so they are stretched to the limits, but they are responding well. Most people are pleased with that.

We have to have ice. We need to have the electricity on wherever possible. Some areas need water, and making that available is critical to the health and welfare of these communities.

I want to mention a couple things I believe are worth noting.

Mr. President, our colleague, TRENT LOTT, called me Saturday and told me that he had an individual from Pascagoula, MS, who had two truckloads of ice he was sending over. I tried to figure out how we were going to pay for it, and he said he is not asking to be paid. He said: This is from Mississippi with love. We love you. We are sending this ice to you because we care about you. We know you are hurting. It could have been us. We are thankful for that. We want to give this to you. So I salute Mark Mavar, an individual who cared enough to send a large and valuable amount of ice to the people of Alabama.

Groups have come from around the country to help. I was with the mayor of Atmore on Friday, and he talked about people coming there from around the country. Today, the mayor told me that Volunteers of America had served 6,000 people in his small town, and I think then 10,000 people yesterday, and that maybe they would feed as many as 15,000 today. As is the case with other towns, the whole town of Atmore for days has had no electricity, zero, anywhere in town.

One farmer told me he had gotten his diesel fuel tank and filled it up with gasoline to go around town to provide gasoline for the power saws. People could not get gasoline for their power saws. The gas stations that were opened had lines sometimes with 100, 200 cars. In Monroeville, where I went through Saturday, people were lined up with probably 100, 200 cars at one of the gas stations there. They are just beginning to get electricity in Monroeville. Just maybe a quarter of the town had it, or less. One of the fast food restaurants had it, and there were probably 100 cars out there.

Electricity is so important to these individuals and communities. All of the food in their refrigerators and freezers is spoiling. It will have to be thrown out. In normal conditions, you would just go down to the grocery store and buy more food or you would go down to the fast food restaurant and get a hamburger. But when the whole town is out, and it may be 30, 40, 50 miles before you can find gasoline or fast food—and the lines are so long you cannot afford to spend the time there—it becomes a pretty serious crisis for the people.

I was able to go with my friend, Bob Sharp, who is a former president of the Alabama Forestry Association, and he showed me and explained to me how our timber stands have been damaged. That is a big deal. We had agricultural loss—cotton, peanuts, pecans—but I do not think anything is going to show the damage and losses as much as in the timber industry. He had a stand of pines. He said he bought the property from a paper company. The trees had been planted, and he had thinned them not long before the hurricane hit. There were substantial losses. Trees were down throughout that area. He was going to manage that timber, as he knew how to do, and hopefully he was going to be able to, over time, make payments on that, and it was going to be his retirement.

He talked about a friend of his, who is the same age, who had driven out and looked at his timber losses and just had to sit there and cry when he saw those trees, so many of them, down. It is a real economic hardship for a lot of good people, but they are responding well.

Mayor Shell, at Atmore, is such a fine leader. He was an engineer at one of the companies there. He is now retired. He gives his time so well to lead that community.

I met Mayor Anne Farrish in Monroeville. She is such a wonderful mayor. Eddie Everett is the fire chief, and Tommy Tate is the sheriff. We sat down and talked about all the trees they had lost. It is not just power lines being down, but a tree on top of a tree on top of a tree, all on top of a power line. Power poles are broken. It is going to take some time for them to recover.

I have to say another bit of good news. Alabama Power Company today announced they expected to have 99 percent of the power restored in the State of Alabama by Friday. That is better than I would have expected. That is something to be proud of.

As I went through Monroeville, on up the road to where I grew up, to the little family house I grew up in, trees were all across that road. They had been cut and moved off the road to a degree. Sometimes you had to curve around them. This is a State highway, and the sheriff, Tommy Tate, told me one of the people in the timber business there took his own equipment and spent the day going up and down that road clearing that road so traffic could go through there.

It took a day or two to get that done. That is the kind of spirit of which I am proud. As I went through my community, I passed a company working on the power line. I stopped to thank them and asked them where they were from. They were from Indiana. They were a cable TV company. They had a crew that could handle clearing and improving lines. They were down in rural Alabama helping. From all over, Oklahoma, other places, these companies are there.

Nothing is more important to the recovery of a community than getting electricity on. We should salute and thank the people who have come from around the country, as well as the Alabama Power Company employees who are working their hearts out to get that power back on. We have electric cooperatives that are also doing the same thing.

It is not just the Alabama Power Company. So many companies are helping. I salute them. I thank them.

When I was talking to that company from Indiana, way out there in the rural areas of Alabama, I asked them: How long are you going to be working today? They said: There is a substation down the road, and we are going to try to get there by midnight tonight. They are working until midnight.

That is the kind of hours people are putting in. There is no place with electricity for them to spend the night or to get a hot meal, unless somebody in the community provides it. They are performing at an extremely high level which makes us all proud.

We are going to come out of this. We have a long way to go. People's homes are damaged all over. At the home I grew up in, a big oak tree crashed down on the little garage there and smashed it flat and knocked a couple of holes in our house. That was small. If you go out further, you see a huge pine tree cutting off a part of a house, and people are thanking the good Lord they were not injured. You see people there who had 6 inches to 8 inches of water in their house and flooding during the rain that came with this hurricane. You begin to count your blessings. They were counting theirs. They weren't complaining.

People whose home flooded had a young child there. The tree hit their roof. They were thankful. I saw a person who was working in the yard, and I went up to him to speak and said: Do you live here?

He said: No, this is my friend, and we didn't have any real damage at my house, just lost some shingles, so I am here helping him.

I saw people with power saws cutting trees. A timber company had cherry picker equipment that was lifting one of the logs off a house for no charge, just to help a neighbor be able to seal up the house so the rain won't do damage to it.

Those are the kinds of things that make this a great country. It does not require the direction of somebody from Washington, DC. It does not require direction from Montgomery, AL, or even the counties. But in the very communities and neighborhoods of our country live some of the finest people the world has ever known. They know how to stand up and make decisions, utilize equipment, take care of their neighbors, and help one another who are in need. They do that on a daily basis in this crisis.

I am proud beyond words to represent them. Yes, the Federal Government has a role. We expect them to fulfill that. The State of Alabama has a role, and the county and city governments have a role. They are working hard. I have talked to those mayors. I have talked to the leaders in the communities, and they are working hard.

They are intense. They are alert. They are insisting that things be done. They are insisting that if they need some equipment and it is available, they get it. I am proud of that kind of leadership. That is perfectly legitimate.

Fundamentally, the people are responding well. The power will be turned back on. FEMA will come around, under the supervision of the Corps of Engineers, and pick up all the limbs and trees that are there. These are not just small trees. Some of them are huge, representing many loads just to haul off the wood product of one major oak tree or one big pine tree. It is going to take months to get all that done. But the system has been proven. We need to refine it and make it better. But it will work. This relief will apply not just to the people who have houses on the beach but to every town and community in the State.

I was pleased to see Mr. Brown make that comment just today on the national news media. I talked to him about it. It is not just the people on the beaches who were hurt but in Atmore and Brewton and Monroeville, Frisco City, Evergreen, Greenville, and Camden, my hometown where I went to school.

I talked to Mayor Henrietta Blackmon there today. She is struggling to get some electricity. They just got a little bit in town, and they are excited about that. They will be able to have gasoline provided. Some of the restaurants have electricity so people can get a hot meal. That was good news. That is the kind of thing they are doing.

They are worried about the nursing home. Generators are keeping that going right now so far. Her husband is a doctor there, and the hospital is getting by on a generator. Linden, Thomasville, Jackson, all these communities were hard hit. Birmingham, much further up the State, had substantial power outages, and the storm continued on north. We have had flooding in West Virginia and many deaths.

Whatever else a storm such as Ivan teaches us, it teaches us that we don't control our fate. We are just here a short period of time in this life; our lives are but a vapor, the Scriptures say. We can't control the winds and waves, as my daughter e-mailed me. That is controlled by a higher power. We are called upon to love our neighbors, take care of our communities, and help one another. I believe that is happening in my State to a degree that makes me very proud.

We are going to get through it. We are going to stay together. We are going to be a better State when it is over.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Wyoming.

ONE SHOT ANTELOPE HUNT

Mr. ENZI. Madam President, I wish to take a few minutes and talk about a historic event that just reoccurred in Wyoming this last weekend. We just completed another weekend of the One Shot Antelope Hunt. This is one of the earliest competitions in America. It is a continuing one. It has been done annually since 1939. I know about it because my grandfather told me about it. He considered it to be one of the great competitions. They allow 24 hunters to be a part of it each year. It is tied in with some conservation efforts.

I would like to thank a few people for putting this on each year in Lander, WY. The president this year was Scott Harnsberger. They are helped by the Shoshone Tribe. Chief Norm St. Clair did the blessing of the bullets. Medicine man Willie LeClair provided the medicine bags. My greeter was Rick Fogmont.

He is a CPA, and I appreciated that since I am the only accountant in the Senate. The sheriff, Skip Horneker, was my guide for the hunt.

As I mentioned, my grandfather had told me about this hunt, and I started hunting with him when I was about 6 years old. We would go out and take this rifle he had and sight it in. At that time, it was his intention for me to some day have that rifle. As we would sight it in, he would take three shots and we would check the target, and then he would say this is shooting 4 inches high and 4 inches to the right. As long as that is happening, don't change anything. If you change it, it will never be the same again. I am pleased to tell you that 54 years later it has never been changed. It still shoots 4 inches high and 4 inches to the right. That is the rifle I took on this hunt.

When I sighted it in—and they have professionals there to make sure you have it right—I told them it is 4 inches high and 4 inches to the right and that I would not change it. My first shot was 4 inches high and 4 inches to the right. After I compensated for that, the second shot was right in the bullseye.

Part of this organization provides water for wildlife. Many people would not know that Wyoming is high desert. Most of it gets less than 16 inches of rainfall a year. Yet we have a lot of wildlife. We have an increase in the amount of wildlife because the hunters of the State have been concerned about it, are working on it, and have provided different methods that improve habitat for wildlife, none of which helps it more than water. There are people who would claim that in some places in Wyoming, if you saw an antelope, it would be carrying a water bottle because it would be so far from water.

They worked very hard during the year to get contributions and planned water projects in places to be particularly helpful to the wildlife. I would be remiss if I didn't mention the Sportsmans Caucus, which is a group of sportsmen in the Senate and in the House that works all year long to watch out for legislation that helps conservation and that provides greater access for hunters and sportsmen. It involves Members of the Senate and House in the outdoor sports. So those who have not had an opportunity to see them will have an opportunity to see what they can do.

A favorite quote of mine is that "it is better to take your child hunting than to be hunting for your child." Fortunately, there are not only parents involved in this activity, but there are a lot of people who adopt kids for this kind of activity. It makes a great difference in Wyoming, and I expect it makes a great difference throughout the country.

It was a great pleasure to take part in this annual event and to see the people who have participated for years. It was a great time for me to remember my grandfather and all of the lessons he gave me as I grew up, not only in the area of hunting or fishing, but the respect that grew out of those activities that made it possible for him to talk to me about absolutely anything. So while my grandfather passed away a number of years ago, in a sense I just finished having a great weekend with my grandfather.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is on ordered.

DEDICATION OF THE SOUTH DAKOTA KOREAN WAR MEMORIAL

Mr. DASCHLE. Madam President, over the weekend, South Dakota honored a debt long overdue.

With the dedication of the South Dakota Korean War Memorial on the capitol grounds in Pierre, our State paid tribute to the extraordinary heroism of those men and women who defended freedom and democracy on the Korean peninsula.

More than 1.8 million Americans fought in the Korean war, facing some of the fiercest fighting the world has ever seen.

More than 36,500 soldiers made the ultimate sacrifice in this effort, including nearly 200 South Dakotans. Another 103,000 Americans were wounded.

The cause for which they fought, and the freedom they won, is clear today for all to see.

On the south side of the 38th parallel lives a prosperous, free nation, fully welcomed into the family of nations.

On the north side, 22 million Koreans live under tyranny and in hunger.

The regime is rightly condemned for its abuse of its own citizens and their fundamental rights, and is an international outcast due to its spreading of missile technology and weapons-of-mass-destruction technology throughout the world.

The map shows nothing more than a line separating the two. But in a real sense, what separates North from South Korea is the heroism of the American soldiers who fought there.

Several years ago, under the direction of Sheila Hansen, a teacher in the Spearfish Middle school, the children of South Dakota set out to tell the stories of each of the 2,200 South Dakotans who gave their lives in World War II.

The project is called Fallen Heroes, and the stories of heroism these children uncovered taught all South Dakotans a lesson about the true meaning of patriotism and service.

Recently, Sheila Hansen asked her class to do the same for those South Dakotans who gave their lives in the Korean war.

I commend and thank Sheila and her eighth grade class at Spearfish Middle School, as well as Stanley County Middle School teacher Shirley Swanson, whose seventh grade class joined in the effort.

Together, the students prepared biographical profiles for those South Dakotans who lost their lives in service to their country during the Korean war.

One of the young men and women profiled was Walter Baptist LaPointe, from Mosher, SD.

Walter was the youngest of eight children born to Albert and Elizabeth Ringing Shield LaPointe.

Like so many Native Americans in South Dakota and across our country, Walter felt an obligation to serve his country.

Walter enlisted at the age of 19 and was sent overseas in 1951. Just 4 months after arriving in Korea, Walter was killed in an intense firefight near Homang-ni. He was awarded a posthumous Silver Star for "gallantry in action" and I would like to read from his citation.

It says:

> As Company F attacked Hill 347, Private LaPointe moved ahead of the company line, seeking out and firing on enemy emplacements.
>
> Ignoring the intense fire the foe was directing on the area, Private LaPointe displayed superb courage and determination by advancing whenever possible and setting up his weapon in unprotected but commanding positions.
>
> He bravely continued in this manner, providing much needed automatic weapons fire for his comrades, until mortally wounded. Private LaPointe's gallantry reflects the highest credit on himself and the military service.

Walter was buried at the Advent Cemetery near his home in Mosher. His mother Elizabeth was touched by the warmth local veterans displayed at her son's passing.

The following Spring, Elizabeth decided to serve lunch to the local American Legion Post. She decided to make it a tradition, and each year since the Legion Post in Mosher has enjoyed a luncheon served by the LaPointe family.

Even after Elizabeth's passing, the tradition continues, and still today the members of the local Legion Post know the enduring gratitude of the LaPointe family.

Many friendships have been built over the years and a special connection between the family and Mosher's veteran community has grown. Speaking of the tradition, a family member recently said:

> In this manner, we will forever preserve [Walter's] memory.

Indeed, they have done much more than that. With their generosity, they have strengthened the ties of friendship between the citizens of South Dakota and the men and women who fight to protect them. They have shown our veterans that their service will never be forgotten.

This, too, is the ultimate contribution of the Fallen Heroes project and the South Dakota Korean War Memorial dedicated this past Saturday.

Because our country was still war-weary from the end of World War II, few returning Korean war veterans were greeted with the ticker-tape parades and community celebrations that were common after World War II. The Korean war became known as the Forgotten War.

For the 12,000 Korean war veterans still living in South Dakota, and all those with whom they served, we have a simple message—you will never be forgotten.

The statue that stands on the capitol grounds in Pierre will be an enduring reminder of your contribution. But even this memorial is just a token of the gratitude and reverence South Dakota feels for you. The true memorial to your heroism is cast not in bronze, but in the hearts of millions of Koreans whose freedom you won, and in the memories of the Americans inspired by your courage.

We thank you for your service, and we salute your valor. And we will always remember.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

CELEBRATING THE CONSTITUTION

Mr. BYRD. Mr. President, every event memorable enough to be recorded becomes a part of history. But some events define and shape history with the force of plate tectonics, moving the world onto a new path. On September 17, 1787, just such an event occurred when the Constitution of the United States was signed.

I hold this Constitution in my hand.

With the adoption of this document, a new and powerful nation was created. That Nation, our Nation, still guided by the powerful hand of God in many ways and certainly still guided by the governmental structure laid out in this Constitution, is the heavyweight champion of world politics and the global economy. Actions of our Government influence world events with a speed and force of a category 5 hurricane.

The Declaration of Independence was historic. And I have it, too, here in my little book which I carry in my shirt pocket—the Declaration of Independence. The signers of that Declaration of Independence committed treason against the king. And those brave men—and they were men—who signed the Declaration of Independence, any one of them, each of them, could have been arrested, thrown into prison, sent to England in chains, and executed.

So we ought to ponder those men, their lives and those documents that they signed. We don't often enough think about the sacrifices they made, the risks they were willing to take as they pledged their lives and their fortunes and their sacred honor.

The Declaration of Independence was historic, for without it and the events that it set in motion there would be no fledgling United States of America.

The surrender at Yorktown on October 19, 1781, was also historic, marking the successful conclusion of the War for Independence. Without that surrender, there would be no United States. But the early days of our new Republic were difficult ones, burdened with war debts and hampered by the weak and ineffective structure that was the Confederation Government. The Nation was independent but not truly united. The central Government was weak, relative to the State governments, dependent on whatever contribution the States chose to make. The national Government could not speak convincingly as the official voice of the whole Nation. It was not until the Constitutional Convention in Philadelphia completed its work and constructed in less than 100 days a strong yet flexible governmental structure that our young Nation was ready to make a name for itself on the world stage.

Our Constitution is a remarkable document—truly remarkable, this Constitution which I hold in my hand. It is remarkable for its simplicity, and it is remarkable for its astute understanding of human nature. The governmental structure that was devised in Philadelphia did not depend on extraordinary men in order to work but, rather, the system relied upon the ambitions of many ordinary men to check and balance each other, keeping any one man or any one branch of Government from becoming another tyrant like King George.

The Framers of the Constitution put the greatest power where? In the people and in their elected representatives—like you and you and you and me—and made those representatives responsible and responsive to the people. That is why, every 2 years, the entire membership of the House of Representatives and one-third of the membership of the Senate face the people—face the people—in an election. The President, as will happen later this year, faces the people every 4 years. Only judges, who must remain independent and free from such public pressures, are appointed for life.

The Framers also put a premium on civilian control of the military. Now, we ought to remember that. We hear all these sayings about the Commander in Chief—the Commander in Chief. And some speak with awe of the Commander in Chief. But the Commander in Chief is only the Commander in Chief of the Army, the Navy, and the militia, when it is called into service. But who creates an army? The Commander in Chief would not have any army over which to be commander if the Congress—this House and the other body—did not create an army and provide for a navy and provide for the calling up of the militia. It is the Congress, you see.

So the Framers put a premium on civilian control of the military. Again, this reflected their desire to prevent a military dictatorship from arising. They did not want a President to act as a king, ordering armies to war in remote lands on his say-so alone. Nor did they want a powerful general to seize political power. In their day, and for the first century of our history, the United States did not have a large standing army, only a small navy and marine corps. In the event of an invasion, citizens were expected to grab their guns and form a militia, as was done in the Revolution.

The Congress would call up the militia, which only then would be led by the President in his role as Commander in Chief. The President is not the Commander in Chief of industry. He is not the Commander in Chief of the Senate. He is not the Commander in Chief of Congress. The Congress, under the Constitution, provides for the military. Congress is the paymaster, just as the Roman Senate was the paymaster in the days of ancient Rome. No consul could pay his legions of Roman soldiers unless the Roman Senate provided therefore.

So Congress is the paymaster, the armorer, and the rulemaking body for the military—not the President, not the Commander in Chief, nor his generals. The President commands the militia only when the militia is called into action by Congress or when necessary to repel an invasion. The Framers ensured that the people—the first three words in the preamble of this Constitution, which I hold in my hand, are: "We The People." That is you; that is you; that is you; that is you; that is you, that is you. "We The People." That is you, the people out there over the broad hills and valleys and mountains of this great Nation who are watching through these electronic eyes and hearing the words that are being spoken on the floor of the Senate—the people. The Framers ensured that the people, through their elected Representatives in Congress would control the military so that it could not become a tool of Government repression against their own people or a way for Presidents to lead the Nation into foreign misadventures.

The Framers created a barebones governmental structure—a barebones governmental structure. All rights not expressly given to the Federal Government were to be left to the States and to the people. In the course of ratifying the Constitution, however, it became clear that many people wanted to have these rights codified. And so from this sentiment came the first 10 amendments to the Constitution. How many words are there in the preamble and the original Constitution? How many words? There are 4,379 words in the preamble and the Constitution, as it was signed by the Framers. And then later came the first 10 amendments, and they are known to us as the Bill of Rights. How many words, then, are there in the preamble and the Constitution and the Bill of Rights? There are 4,861 words. How few are those words, how few.

And so the first 10 amendments, commonly known as the Bill of Rights, include the familiar freedom of speech, freedom of assembly, freedom of worship, the right to a speedy trial, the right to bear arms, and others. These rights and freedoms, too, had their immediate roots in the prerevolutionary treatment of the colonists by the tyrant king. If the Constitution is the bones of our national body, then the Bill of Rights must be its heart and soul. These rights are what the colonists fought for, the things for which they were willing to risk losing their lives and their property and their fortunes.

These rights are what set the United States above other nations, what make the United States such a shining beacon—such a shining beacon—for the peoples of other nations to aspire to and to establish for themselves. Our ideals of freedom, set forth and realized in our Constitution, are our greatest export to the world. How about that. Those of you who are sharpest on foreign trade, those of you who pride yourselves on being trade experts, what is the greatest export? What is the greatest export of the United States? Well, our ideals of freedom, realized in the Constitution, are our greatest export to the world.

For more than 200 years, our Constitution has demonstrated its unique adaptability. The Nation has grown and changed in ways that the Framers would not have imagined, whatever their greatest hopes and ambitions for the Nation might have been. Our national interests and responsibilities engage us in activities and places that span the globe. We possess a military that is unmatched in size and capability. Our military spending outstrips most of the rest of the world combined. Why? We wonder why. That is food for thought on another day.

Our technology, our culture, our humanitarian goodwill reach out into the most remote areas of the world. But our Constitution, despite all these societal changes, continues to provide a government structure that allows us to manage these great enterprises while protecting the individual rights that each of us is guaranteed in the Constitution and its Bill of Rights. Only we—not somebody out there from Mars, some distant planet, only we can erode those rights or change that structure. Our greatest enemy is not armed with guns, you see; our greatest enemy is our own ignorance and our own inattention to the Constitution, this great legacy.

Last Friday marked the 217th anniversary of the Constitution's signing. I doubt that many Americans celebrated or even took heed to that occasion, and that is a mistake. For September 17 is more important to our everyday lives than Columbus Day, more important to our everyday lives than Thanksgiving, more important to our everyday lives than the Fourth of July. Our flag is precious to us. There it stands, majestic. How inspiring, that flag. Our flag is precious to us—and never more so than in the days after September 11, 2001. Our flag is celebrated every June 14, but our Constitution is more important than that flag by far.

The flag is a potent symbol of our Nation, but this Constitution which I hold in my hand is the soul of the Nation. The Constitution is the foundation upon which each stone of our governmental structure is laid. It is our bedrock. It touches every day of your lives, I say to the pages on both sides of the Chair. This Constitution touches every day, every hour, every minute of your lives. Practically everything you do is made possible by or is guaranteed or is protected by this Constitution. It is the prism through which each act of our Government should be examined and judged. If such an understanding were in place, we would not have to question aspects of the PATRIOT Act that might threaten privacy and due process rights of Americans because those elements would not have been included. But in our fear of terrorism and due to our inattention to the Constitution, we were stampeded into legislation that erodes some of your rights, some of every citizen's rights. Every time the executive assumes powers that are not challenged by the Congress, and every time Congress gives up its powers to the executive, our Constitution is eroded, and we come one step closer to tyranny when that happens, one step closer to the dictatorship of the executive.

I believe the Constitution deserves greater prominence in our national life. A survey conducted by Portrait of America in 2000 found—now think of this; I just couldn't believe it until I read it myself—that only half of Americans, just 51 percent, would vote for the passage of the U.S. Constitution if it were presented in ballot form today. That is incredible. Some 22 percent of respondents would vote against the Constitution. I will tell you, that is about enough to make your hair stand on end. And 27 percent were not sure if they would support it. Those are eye-opening findings. I say they are hair-raising, hair-curling findings. That ought to curl your hair. If you don't have any, it ought to make your hair grow where there is none. Twenty-seven percent were not sure if they would support it. Those are eye-opening findings, to be sure.

While some attribute this outcome to a general disaffection with Government, I believe that the survey findings are the result of ignorance. Too many citizens do not know what the Constitution does. Many citizens revere the Constitution, but they don't know what is in it. Many Members of this body really don't know what is in the Constitution. They have read some portion. If they are lawyers, they might be very familiar with this portion or that portion, this amendment or that one, but to know about the Constitution, what is in it, what it does, many of us are ignorant. Even fewer know why the Constitution was designed the way it was.

Most people do not appreciate all of the safeguards created by the Framers to prevent our new government from becoming like a colonial government, subject to the whims of a tyrant. They do not understand what the checks and balances in our governmental structure are meant to do, nor the importance of maintaining those checks and balances.

Frankly, there are too many Members of Congress who do not appear to understand or appreciate those checks and balances. When it comes to the Executive, too many Members of this body want to side with the Executive. They are monarchists, I would say. They almost look upon the President as a king. As a result, over the years, the power of the legislative branch has eroded, while the power of the executive branch has grown. Congress has ceded much of its power, and it does so willingly. It has ceded much of its power willingly to the Executive, to the point that we have few tools remaining with which to rein in an autocratic Executive.

When the Constitution was circulated for ratification in 1787, there was active political debate. Pamphlets were written and essays were written. The Constitution was a topic of conversation around dinner tables and at public meeting places. The Federalist Papers were widely printed, widely read, widely discussed. They were the centerpiece of the debate over the form of this new government. I doubt that one could today find many people outside of collegiate American history and politics majors who have read the Federalist Papers. In these days of television, radio, and movies, we no longer have the quiet evenings of discussion that the Founders knew. We are too busy with pseudo "reality" shows to spend time worrying about our own reality, our own government.

Without such a national debate, the results of a similar survey in 1787 might have been the same as in 2000. As a nation, we are fortunate such a debate took place. The 2000 survey shows unequivocally that greater knowledge about our Constitution is needed.

I believe a necessary step in raising the profile of the Constitution involves giving it equal billing with Christopher Columbus, with Flag Day, and with the Fourth of July. September 17, the anniversary of the signing of the Constitution, should be declared a national holiday. And so, Mr. President, on Wednesday of last week I submitted to the desk legislation to do just that. That legislation would declare September 17 "Constitution Day" and would encourage citizens to observe the day with appropriate ceremonies, including a reading of the Constitution. Currently, September 17 is designated "Citizenship Day," recognizing all who, by birth or by naturalization, are citizens of the United States. Citizenship in our great Nation is certainly a worthy topic, and it merits recognition. But more importantly, I believe, this is the document that establishes the duties and rights of citizenship, the document that establishes this Nation as one in which all people may aspire to become citizens—the Constitution of the United States.

My hope is that observances of Constitution Day would encourage all citizens to learn more about the Constitution and their government. An informed public is our best defense against tyranny.

I know that it is late in the legislative session to introduce legislation, but I hope the calendar will not deter the Congress from taking up and adopting this legislation. It is not a partisan matter. The Constitution is there for all Americans, regardless of their political party, irrespective of whatever political events might be on the calendar. In fact, it might be more important because of the upcoming election.

During election years, it becomes even more vital that all Americans look at the candidates and ask themselves which one will best support and defend the Constitution from all enemies, foreign and domestic. As Americans exercise the fundamental right to choose their representatives, they participate in the enduring system of government set forth in the Constitution. It is fitting and appropriate that we honor the document that established this government, and that we as a nation take steps to ensure that our Constitution and our system of government are known, understood, and cherished by the people they were established to serve.

I yield the floor.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the hour of 5:20 p.m. having arrived, the Senate will resume consideration of H.R. 4837, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

The PRESIDING OFFICER. There will now be 10 minutes of debate, equally divided, prior to the vote on passage of the bill. The 5 minutes on the Democratic side has already been consumed.

The Senator from Texas is recognized.

Mrs. HUTCHISON. How much time is remaining on either side?

The PRESIDING OFFICER. The majority side has 5 minutes. The minority side has exhausted its time.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senator from California get 2½ minutes of the majority time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, this is a bill that is cut and dried. My distinguished colleague, Senator FEINSTEIN, and I have worked very closely on this bill. We are in agreement on its priorities. I think it is a good bill for the military construction of our country.

I don't need to go over the details of the bill. Here is the bottom line: We are trying to fund the necessary military construction that will give a better quality of life and better facilities to those who are doing the job we are asking them to do. It is a pretty important job. They are protecting the freedom we enjoy today. It is that simple.

Our bill has prioritized housing, facilities where people will be trained, and especially Guard and Reserve units. In the past, I think we have shortchanged our Guard and Reserve. But we now see how important our Guard and Reserve are, how much they are doing for our country. They are being called in record numbers, and they are stepping to the plate and doing their job. So we have focused on a bill that would give more of our Guard and Reserve better facilities, which they so richly deserve.

We have more child development centers because we have more families in the military than before. We have more hospitals and medical facilities because, of course, we want to make sure we have proper medical treatment for our young men and women who are in our Armed Forces and for their families. So I think we have taken our allocation, which is $10 billion, and we have prioritized it to make a better quality of life for those who are giving their lives for our freedom. I think it is a good bill, and I am proud to ask my colleagues to support it.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished chairman. It is always a great privilege for me to work with her. Her leadership has been superb, and I can easily say I agree with everything she has just so well stated.

The chairman mentioned that this is a $10 billion bill. It is up 2.5 percent over last year. It funds environmental remediation. There is $4.5 billion for Active-Duty military construction, $1 billion for new barracks, and $814 million for Reserve component facilities. That is 31 percent greater than the President's budget request. It includes $361 million for BRAC environmental cleanup, including revenue from Navy land sales, and $188 million for medical and dental clinics and hospitals. The bill also includes $4.2 billion—more than 40 percent of the total funding—for improved family housing for service members and their families.

Mr. President, this is a good bill. I would be very hopeful that the Senate would accept it unanimously. Again, I thank the chair for her leadership. I thank the majority staff and the minority staff as well.

I yield the floor.

Mr. NICKLES. Mr. President, the pending Military Construction appropriations bill for FY 2005—S. 2674—as reported by the Senate Committee on Appropriations, provides $10.003 billion in budget authority and $9.995 billion outlays in FY 2005. This amount is $449 million above the President's request. It matches the 302(b) allocations adopted by the Senate Appropriations Committee and is $159 million more than FY 2004 enacted level. There are no mandatory programs in the bill.

I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2674, 2005 MILITARY CONSTRUCTION APPROPRIATIONS

Spending comparisons—Senate-reported bill (fiscal year 2005, $ millions)

Category	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority	10,003		10,003
Outlays	9,995		9,995
Senate 302(b) allocation:			
Budget authority	10,003		10,003
Outlays	10,010		10,010
2004 Enacted:			
Budget authority	9,844		9,844
Outlays	10,353		10,353
President's request:			
Budget authority	9,554		9,554
Outlays	9,985		9,985
House-passed bill:			
Budget authority	10,003		10,003
Outlays	10,009		10,009
Senate-reported bill compared to:			
Senate 302(b) allocation:			
Budget authority			
Outlays	−15		−15
2004 Enacted:			
Budget authority	159		159
Outlays	−358		−358
President's request:			
Budget authority	449		449
Outlays	10		10
House-passed bill:			
Budget authority			
Outlays	−14		−14

NOTE: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Mr. MCCAIN. Mr. President, I support passage of the fiscal year 2005 Military Construction Appropriations Act. This bill provides $10 billion in funding for important military construction activities including base housing and the construction and maintenance of base infrastructure. Amazingly, this report contains only 35 earmarks totaling $44.7 million, which is significantly less than the approximately $80 million in unauthorized earmarks contained in last year's appropriations bill.

Although 70 percent of these earmarks are directed to the States of appropriators, I applaud the Military Construction Subcommittee for their generally clean bill. I am particularly pleased by the language in the report that specifically states that the committee has provided construction funds only for projects that were included in the Senate-passed version of the fiscal year 2005 Defense Authorization Act, currently pending in conference. This appropriations bill is a good example of how the legislative process is expected to work, wherein the work of the authorizers is fully taken into account by the appropriators. I hope this can be emulated by all appropriations subcommittees and authorizing committees.

As we progress towards the scheduled base closure and realignment round in 2005, I am encouraged to see that my colleagues have resisted the temptation to add pork to bases in their States in what would be a misguided effort to save their bases base closure. Such efforts would be a waste of taxpayer money and would not prevent their base from being closed.

In an effort to contain the wasteful spending inherent in Member-requested construction projects. I sponsored, and the Senate adopted, merit-based criteria for evaluating member add-ons as a part of the fiscal year 1995 Defense Authorization Act. The criteria are: No. 1, the project is in the service's future years defense plan; No. 2, the project is mission essential; No. 3, the project does not conflict with base realignment proposals; No. 5, the service can offset the proposed expenditure within that year's budget request.

These criteria have been useful in ferreting out programs or projects of questionable merit, and in determining the relative priority of projects that have been requested by Members for strictly parochial reasons, often at the expense of the readiness of our Armed Forces. Unfortunately, in the years that these criteria have been in place, no offsets have been provided for any project.

All of the 35 earmarks, totaling $44.7 million, are under the minor construction account. Normally, this account is intended to be used for urgent and unforeseen requirements and, therefore, neither the President's budget nor the authorizing committees identify specific projects to be funded. Once the services decide to spend the money, the authorizing and appropriations committees must approve or disapprove of the minor construction project to which the services plan to fund. By earmarking the funds in the minor construction account, the appropriators have usurped the authority of the authorizing committee to approve or reject these projects.

I commend the chairman of the Military Construction Subcommittee, Senator HUTCHISON, and the ranking member, Senator FEINSTEIN, for their work on this bill and their continued support for our military. Their attention and commitment to only supporting high-priority projects for the Navy, Marine Corps, Army and Air Force is once again exemplary and provide for a sound measure to fund military construction in the coming fiscal year.

Mrs. HUTCHISON. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mrs. HUTCHISON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mrs. HUTCHISON. I yield back the remainder of our time.

The PRESIDING OFFICER. All time having expired, the question is, Shall the bill, as amended, pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from Tennessee (Mr. ALEXANDER), the Senator from Kentucky (Mr. McCONNELL), the Senator from Minnesota (Mr. COLEMAN), and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

I further announce that if present and voting the Senator from Tennessee (Mr. ALEXANDER), the Senator from Kentucky (Mr. McCONNELL), and the Senator from Minnesota (Mr. COLEMAN) would each vote "yea."

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUYE), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—91

Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—9

Akaka
Alexander
Coleman
Edwards
Graham (FL)
Inhofe
Inouye
Kerry
McConnell

The bill (H.R. 4837), as amended, was passed as follows:

H.R. 4837

Resolved, That the bill from the House of Representatives (H.R. 4837) entitled "An Act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense, for the fiscal year ending September 30, 2005.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, for the fiscal year ending September 30, 2005, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $1,977,166,000, to remain available until September 30, 2009: Provided, That of this amount, not to exceed $187,216,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,016,315,000, to remain available until September 30, 2009: Provided, That of this amount, not to exceed $110,277,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $841,131,000, to remain available until September 30, 2009: Provided, That of this amount, not to exceed $180,507,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $696,491,000, to remain available until September 30, 2009: Provided, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided further, That of the amount appropriated, not to exceed $66,336,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $381,765,000, to remain available until September 30, 2009.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $231,083,000, to remain available until September 30, 2009.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $66,325,000, to remain available until September 30, 2009.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $33,735,000, to remain available until September 30, 2009.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $101,373,000, to remain available until September 30, 2009.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in Military Construction Authorization Acts and section 2806 of title 10, United States Code, $165,800,000, to remain available until expended.

FAMILY HOUSING CONSTRUCTION, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, $636,099,000, to remain available until September 30, 2009.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $928,907,000.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, $139,107,000, to remain available until September 30, 2009.

Family Housing Operation and Maintenance, Navy and Marine Corps

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $704,504,000.

Family Housing Construction, Air Force

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, $846,959,000, to remain available until September 30, 2009.

Family Housing Operation and Maintenance, Air Force

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $856,114,000.

Family Housing Construction, Defense-Wide

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, $49,000, to remain available until September 30, 2009.

Family Housing Operation and Maintenance, Defense-Wide

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, $49,575,000.

Department of Defense Family Housing Improvement Fund

For the Department of Defense Family Housing Improvement Fund, $2,500,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities.

Chemical Demilitarization Construction, Defense

For expenses of construction, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, as currently authorized by law, $81,886,000, to remain available until September 30, 2009: Provided, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred.

Base Realignment and Closure Account

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $246,116,000, to remain available until expended.

GENERAL PROVISIONS

Sec. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

Sec. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

Sec. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

Sec. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

Sec. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or his designee; (3) where the estimated value is less than $25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

Sec. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

Sec. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

Sec. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

Sec. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

Sec. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

Sec. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

Sec. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: Provided, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: Provided further, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

Sec. 113. The Secretary of Defense is to inform the appropriate committees of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

Sec. 114. Not more than 20 percent of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year.

Sec. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

Sec. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

Sec. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

Sec. 118. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Sea to assume a greater share of the common defense burden of such nations and the United States.

Sec. 119. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

Sec. 120. Subject to 30 days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund, or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in "Military Construction" accounts, to be merged with and to be available for the same purposes and for the *same period of time as amounts appropriated directly to the Fund: Provided, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.*

SEC. 121. None of the funds appropriated or made available by this Act may be obligated for Partnership for Peace Programs in the New Independent States of the former Soviet Union.

SEC. 122. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the congressional defense committees the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(c) In this section, the term, "congressional defense committees" means the following:

(1) The Committee on Armed Services and the Military Construction Subcommittee, Committee on Appropriations of the Senate.

(2) The Committee on Armed Services and the Military Construction Subcommittee, Committee on Appropriations of the House of Representatives.

SEC. 123. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

SEC. 124. Notwithstanding this or any other provision of law, funds appropriated in Military Construction Appropriations Acts for operations and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: Provided, That not more than $35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days advance prior notification to the appropriate committees of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: Provided further, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations all operations and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

SEC. 125. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 126. No funds appropriated in this Act under the heading "North Atlantic Treaty Organization Security Investment Program", and no funds appropriated for any fiscal year before fiscal year 2005 for that program that remain available for obligation, may be obligated or expended for the conduct of studies of missile defense.

SEC. 127. Section 128(b)3(A) of Public Law 108–132 is amended by striking the words "December 31, 2004" and replacing with "August 15, 2005".

SEC. 128. During the current fiscal year, amounts contained in the Ford Island Improvement Account established under 10 U.S.C. 2814(h) are appropriated and shall be available until expended for the purposes specified in 10 U.S.C. 2814(i)(1) or until transferred pursuant to the provisions of 10 U.S.C. 2814(i)(3).

SEC. 129. (a) TRANSFER OF CERTAIN EXCESS PROPERTY AT FORT HUNTER LIGGETT, CALIFORNIA.—

(1) Notwithstanding any other provision of law, whenever the Secretary of the Army determines that any portion of real property consisting of approximately 165,000 acres at Fort Hunter Liggett, California, is excess to the military needs of the Army, the Secretary of the Army shall first offer the property to the Secretary of Agriculture.

(2) If the Secretary of Agriculture determines, pursuant to negotiations with the Secretary of the Army, to accept any property offered under paragraph (1), the Secretary of the Army shall transfer administrative jurisdiction of such property to the Secretary of Agriculture.

(b) MANAGEMENT OF TRANSFERRED PROPERTY.—

(1) The Secretary of Agriculture shall manage any property transferred under subsection (a) as part of the National Forest System under the Act of March 1, 1911 (commonly known as "Weeks Law") (16 U.S.C. 480 et seq.), and other laws relating to the National Forest System.

(2) Any property managed under paragraph (1) shall be subject to the concurrent jurisdiction of the State of California.

(c) ADJUSTMENT OF BOUNDARIES.—

(1) Effective upon the transfer of property under subsection (a), the boundaries of Los Padres National Forest shall be modified to incorporate such property. The Chief of the United States Forest Service shall file and make available for public inspection in the Office of the Chief of the United States Forest Service in Washington, District of Columbia, a map reflecting any modification of the boundaries of Los Padres National Forest pursuant to the preceding sentence.

(2) Any property incorporated within the boundaries of Los Padres National Forest under this section shall be deemed to have been within the boundaries of Los Padres National Forest as of January 1, 1965, for purposes of section 7(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9(a)).

(d) ENVIRONMENTAL MATTERS.—

(1) As part of the transfer of property under subsection (a), the Secretary of the Army shall—

(A) provide the Secretary of Agriculture all documentation and information in the possession of the Secretary of the Army on the environmental condition of such property, including an environmental baseline survey or its equivalent; and

(B) perform all environmental remediation and response necessary to protect human health and the environment on such property to the extent consistent with the use of such property as part of the National Forest System.

(2)(A) The transfer of property under subsection (a) shall not affect the responsibilities of the Secretary of the Army with respect to such property under any applicable environmental law, including Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(B) Pursuant to the transfer of property, the Secretary of the Army shall perform all environmental remediation and response with respect to environmental contamination or injury to natural resources on such property that are attributable to former military activities on such property to the extent consistent with the use of such property as part of the National Forest System.

(C) The Secretary of Agriculture shall have no liability for any environmental remediation and response described in subparagraph (B).

SEC. 130. (a) ASSESSMENT OF BUDGET AUTHORITY LIMITATION ON MILITARY HOUSING PRIVATIZATION INITIATIVE.—(1) The Secretary of Defense shall assess the impacts on the military family housing program of having the total value of contracts and investments undertaken under the Military Housing Privatization Initiative reach the limitation on budget authority for the initiative specified in section 2883(g) of title 10, United States Code.

(2) The assessment shall include: an estimate of the appropriations and period of time necessary to provide the level and quality of housing contemplated under the Military Housing Privatization Initiative in the event that limitation in 10 U.S.C. 2883(g) is not eliminated and the potential impact on military families if the limitation is not eliminated.

(b) The Secretary of Defense shall, no later than December 31, 2004, provide to the congressional defense committees a report of the assessment required by subparagraph (a).

(c) MILITARY HOUSING PRIVATIZATION INITIATIVE DEFINED.—In this section, the term "military housing privatization initiative" means the programs and activities undertaken under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code.

SEC. 131. Of the amount appropriated by this Act, $1,500,000 shall be available to the Commission on Review of Overseas Military Facility Structure of the United States.

This Act may be cited as the "Military Construction Appropriations Act, 2005".

The PRESIDING OFFICER (Mr. FITZGERALD). Under the previous order, the Senate insists on its amendment to H.R. 4837 and requests a conference with the House, and the Chair is authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER (Mr. FITZGERALD) appointed Mrs. HUTCHISON, Mr. BURNS, Mr. CRAIG, Mr. DEWINE, Mr. BROWNBACK, Mr. STEVENS, Mrs. FEINSTEIN, Mr. INOUYE, Mr. JOHNSON, Ms. LANDRIEU, and Mr. BYRD conferees on the part of the Senate.

Mr. CAMPBELL. Mr. President, is it the appropriate time to propound a unanimous consent request?

The PRESIDING OFFICER. The Senator may do so.

UNANIMOUS-CONSENT AGREEMENT

Mr. CAMPBELL. Mr. President, as most of my colleagues know, tomorrow is a very special day because we will be opening the first new museum in 17 years on the Mall, the National Museum of the American Indian. Many of us will be down there, and I will be down there most of the day, literally up to my neck in different commitments.

Also, tomorrow will be the last day before I leave the Senate to manage the legislative branch appropriations which will be sometime in the afternoon. I am concerned, since I will be down on the Mall in traditional tribal dress, that I will not be able to get back here in time to get changed and do all of that. My unanimous-consent request is that if it becomes necessary, I be allowed to appear on the floor to present my bill in traditional tribal dress.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MORNING BUSINESS

Mr. CAMPBELL. Mr. President, I ask unanimous consent that there now be a period of morning business for debate only, with Senators speaking up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I yield the floor.

TRIBUTE TO CONGRESSMAN DONALD G. BROTZMAN

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of a dear friend, Donald G. Brotzman, distinguished former Colorado Congressman who represented Boulder in the U.S. House of Representatives. Congressman Brotzman passed away on September 15 at the age of 82 in Alexandria, VA.

Don Brotzman was a friend to all who knew him. Highly respected and a man of immense character, he always had time for everyone. His wise counsel was constantly sought by leaders and friends.

Don served in the Colorado State House of Representatives from 1952 to 1954 and in the State Senate from 1954 to 1956. In 1959, President Dwight D. Eisenhower appointed Don as U.S. attorney for Colorado. Congressman Brotzman served in the U.S. House of Representatives from 1963 to 1965 and again from 1967 to 1975. In 1975, President Gerald R. Ford appointed him Assistant Secretary of the Army for Manpower and Reserve Affairs. He served 2 years in that position and was credited with helping lead the way for the implementation of the "all-volunteer army."

Don was born on a farm near Sterling, CO. He served in the U.S. Army in the Pacific theater during World War II. He graduated from the University of Colorado Schools of Business and Law where he had begun his undergraduate work before the war on a football scholarship. He was an All Big Eight middle linebacker for the Colorado Buffaloes.

Don Brotzman was preceded in death by his wife of 51 years, Louise Reed Brotzman, who died in 1995. He leaves behind his wife, Gwendolyn Davis Brotzman of Alexandria, whom he married in 1996; two children from his first marriage, Kathy Caldwell of Longmont, CO, and Donald G. "Chip" Brotzman Jr. of Carbondale, CO; a stepson, Robert Higgins of Philippi, WV; a brother; and six grandchildren.

We will miss this good man, Don Brotzman. I ask my colleagues to join me and all Americans in honoring World War II veteran and Congressman Donald G. Brotzman.

IMPLEMENTATION OF ACCOUNTABILITY PROVISIONS FOR STUDENTS WITH SPECIAL NEEDS

Mrs. CLINTON. Mr. President, I rise to bring an important matter to the attention of my colleagues. As we all know, the No Child Left Behind Act, NCLB, requires an important shift in accountability for our Nation's public schools. It requires our schools to look at the achievement of all students, including students in several traditionally under-performing subgroups such as students with special needs.

Our goal in passing this law was to make sure that no child was left behind to send a clear message that all American children deserve a world-class education. To do that, we required accountability for results, expanded local control and flexibility, emphasized the importance of valid and reliable educational tools, and expanded parental involvement. We also required schools to show, through transparent processes, sufficient progress for all students, including minorities, low-income students and students with disabilities.

Today I am submitting for the record an August 30, 2004, New York Times article that contains troubling information about how NCLB is being implemented for students with special needs. This article, "School Achievement Reports Often Exclude the Disabled," by Diana Jean Schemo, illustrates that some States are skirting the law in ways that are leaving students with disabilities behind.

According to Schemo and the education officials who corroborated her observations, some States have raised the minimum number of disabled students that must be enrolled before the school has to report on their progress as a separate group. And some States do not break down the test scores for disabled students on school report cards. A number of States even classify special education schools as programs, not schools, therefore exempting them from accountability.

This report is deeply troubling because it makes it impossible for parents to evaluate the effectiveness of their children's schools, and ultimately, could lead to children with special needs being ignored as they too often were in the past.

Over 25 years ago, Congress enacted the Individuals with Disabilities Education Act, a landmark education and civil rights law that ensured that all students—including the 6 million with disabilities—receive quality services in our Nation's public schools. This body has worked hard to reauthorize the IDEA because we continue to believe strongly in the notion that every child with special needs has the right to a free, appropriate, public education. The spirit and the letter of the No Child Left Behind Act builds on that promise, and it is my hope that with better implementation, it will be realized.

I ask unanimous consent that the New York Times article be printed in the RECORD.

There being no objection, the following material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 30, 2004]

SCHOOL ACHIEVEMENT REPORTS OFTEN EXCLUDE THE DISABLED

(By Diana Jean Schemo)

The first time Tyler Brenneise, a 10-year-old who is autistic and mildly retarded, took the same state achievement tests as California's nondisabled children, his mother, Allison, anxiously awaited the results, along with the state report card on his special education school, the Del Sol Academy, in San Diego. But when the California Department of Education issued its annual report on school performance several months later, Del Sol Academy was nowhere to be found. Ms. Brenneise wrote state officials asking why. "They wrote back," she said, "that the school doesn't exist."

That is because San Diego labels Del Sol a program, not a school, said Karen Bachoffer, spokeswoman for the San Diego schools. And like most other states, California does not provide report cards for programs that educate disabled children.

"He doesn't count," Ms. Brenneise said. "He's left behind."

The problem is not confined to California. Around the country, states and school districts are sidestepping the spirit, and sometimes the letter, of the federal No Child Left Behind Education Act when it comes to recording their successes and failures in teaching disabled youngsters.

Federal officials have acknowledged permitting a growing number of states to exclude many special education students from reports on school progress, on the grounds that they account for only a small portion of enrollment.

But a review of state education records shows that some states and districts are going far beyond this measure to avoid disclosing the quality of the education they provide to such students.

Some exempt schools for disabled students. Still others simply do not disclose basic information required by the federal law, for example the percentage of disabled education students who graduate from high school, and about 10 states have not been fully reporting how students do on achievement tests tailored to disabled students, federal officials say. New York City's all-special-education district of 20,000 mentally or physically disabled students, District 75, gives only fragments of the information the federal law requires for accountability, reporting schools "in good standing" despite dismal results.

The trend toward avoiding accountability is alarming advocates for the nation's six million disabled students, who see it as an erosion of the education act's disclosure requirements. In them, parents and advocates say, they saw a crucial lever for helping their children meet higher academic standards, and a way of finding out which schools were meeting the challenge.

"The reporting system is a shambles," said James Wendorf, executive director of the National Center for Learning Disabilities. Without full disclosure, Mr. Wendorf said, parents have no handy way of knowing what kinds of services schools are providing each day and how the schools, as a whole, measure up. "It's like flying a plane without instruments," he said. "How does a parent know where the plane is expected to land if they don't have that kind of information?"

Federal officials say that aside from the 10 or so states not fully reporting scores on achievement tests tailored to disabled students, most have made great strides to satisfy the complex new law, but they say they are monitoring to see that states follow through. Under the law, schools must report on the test scores of disabled children to show they are making adequate progress toward proficiency in reading and math by 2014. The states are left to determine what is proficient. Eugene W. Hickok, the under secretary of education, acknowledged that many schools that exclusively serve disabled children were not issuing report cards. But he said that in such cases, the test scores of children in those schools were instead reported at the school district level and, if not there, at the state level.

"Every child is part of an accountability system," Mr. Hickok said. "That doesn't mean there aren't people who are trying to find ways to get around the law." State officials deny any effort to shortchange disabled students. Rather, many say they were overwhelmed by the new law and could not initially meet some of its more cumbersome reporting provisions.

In some states, like New York, officials said that local and statewide systems did not meet the federal law's demands and that they had not entirely worked out the conflicts. New York officials pledged to correct the problems but also expressed misgivings about the value of report cards for some schools.

Particularly in the city's special education district, said Lori Mei, executive director of the division of accountability for the city's public schools, "you really can't have a cookie-cutter approach." Ms. Mei added, "it may be that we have to have different kinds of outcome measures that are not really tests."

To close the achievement gap, the federal law requires schools to report test scores separately for various groups of students, including African-Americans, Latinos, immigrants and low-income and disabled children.

Schools must show sufficient progress by each of these groups or face steadily tougher consequences that can ultimately include closing.

But states are skirting the law in a range of ways. About a dozen have raised the minimum number of disabled students that must be enrolled before the school has to report on their progress as a separate group. In Maine, school report cards, available on the state's Web site, do not break down test scores for groups like disabled students or report the percentage that took the exams. Nor do they in New Mexico, Colorado or Arkansas, while in Michigan, report cards say only whether particular groups, like disabled students, met targets for proficiency and 95 percent participation in exams.

About 10 states, including Missouri, Utah, Delaware, Colorado and Hawaii, have failed to properly report the scores of disabled children on the special achievement tests and are receiving federal money under "special conditions" obligating them to do so in the future, federal officials say.

Most states are not issuing public report cards on special education schools. Like California, states generally contend that these are not schools, but programs, and thus are exempt from the federal law, an argument largely accepted by officials in Washington. In California, the determination of what is a program and not a school can be made at the local level, but it is often made by states or a consortium of school districts.

As a result, the scores for students attending special education schools are frequently mixed in with the larger pool of scores of disabled students from throughout the districts, making it impossible for parents to get a snapshot of achievement at the institution their children actually attend each day, and for taxpayers to judge their effectiveness.

Dee Alpert, a lawyer who has researched the issue extensively for her newsletter, The Special Education Muckraker, said that parents of children who must attend special education schools, usually those with severe disabilities, must "go through 97 different steps" to get information that is readily available to parents of normal children.

"Being the parent of a kid with a disability is tough enough," said Ms. Alpert, whose son was in special education. "Trying to be an informed involved parent of a kid with a disability is tougher, by far."

But Mitchell Chester, the assistant superintendent for policy and accountability in Ohio, said there were sound reasons for attributing disabled children's performance to their home districts, as Ohio does.

"We think districts have to remain accountable for whether or not those children are served," Dr. Chester said. "So districts can't just make the decisions to farm kids out and wash their hands of their progress."

Officials in Colorado, Maine and New Mexico said they would release the breakdown of scores of disabled students on standardized tests in the coming months. In Colorado, officials said they had just begun reporting scores on the special tests tailored to the disabled, while Delaware said it had been reporting such scores, but not in the way the federal law requires. Both said they were now complying with the requirement.

In Michigan, Ed Roeber, the director for assessment and accountability, said school report cards did not detail performance by particular groups like disabled students because it "would be confusing to people." Michigan grades schools based on 11 indicators, only one of which is test scores for the school as a whole. But reporting on separate groups of students would be "misleading," he said, because test scores were unreliable indicators at that level. "To me, that's a major fault with the No Child Left Behind Act," Mr. Roeber added.

Ms. Brenneise, who is the chairwoman of a special education advisory committee to the San Diego Board of Education, said many schools were reluctant to honestly disclose their record in educating disabled students, believing that these students by definition cannot reach the same academic heights as other students, and thus will always drag down the school as a whole. Aside from discovering that no report card existed for her son's school, she said that she never officially received his test results. Eventually, Ms. Brenneise said, she filed a formal records request and a district employee gave her a slip of paper on which she had written what she said were the son's test scores. Ms. Brenneise is now home schooling her son.

But much sidestepping of the law appears independent of the intellectual disability involved. In Ohio, as in New York, Oregon and many other states, public schools for the deaf and the blind issue no reports on how well their students are performing. Ohio officials acknowledge that deafness and blindness do not typically imply lower intelligence, and said they would release report cards for these schools next year.

In New York, state education officials acknowledged that the city's special education district was not fully reporting on student achievement. Many of the district's schools exclude more than half their students from the state's standardized tests and do not report how they do on the special achievement tests. Nor do they report how many graduate or drop out.

Though Albany issues report cards for many schools, state officials said District 75 preferred to report its performance to the public in a report card of its own design.

"Clearly, it was less than perfect, but I don't think it was intentional," said Martha P. Musser, director of information reporting services for the State Education Department. "New York City never had to deal with these accountability issues for District 75 before." Ms. Musser added that the state had ordered District 75 to improve its public disclosure.

The failure to report leaves parents like Martin Schwartzman of Queens to make decisions in a vacuum. The state recently ordered Mr. Schwartzman's 11–year old son, Robby, who is autistic, to leave the private school he had attended at taxpayer expense since first grade and return to public school, along with 75 classmates.

"How can I get a measure of what's out there when there's so little data available for District 75?" Mr. Schwartzman asked.

Ms. Alpert, the lawyer, contends that the reticence to report school results is too pervasive to be accidental, and said the information being withheld was crucial for parents and advocates.

Several years ago, she represented a boy with attention deficit disorder and learning disabilities whom the city wanted to place in one of the special education district schools. The boy was talented in math, and his parents believed that with extra support, he could earn a Regents diploma at a regular high school, she said.

Using online school report cards that showed its reading scores had fallen 20 percentile points in three years, while math scores stagnated, Ms. Alpert refuted claims that the school offered any "foreseeable benefit" for her client.

"We won the hearing," Ms. Alpert said. Within a year, she added, the cumulative scores disappeared from the city's school report cards.

"That's what score and graduation-dropout information does for parents of kids with disabilities," she said, "and that's why school, district," regional programs and state education officials "don't want to publish it."

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On July 16, a 32-year-old man in Austin, TX, went to Oilcan Harry's, a popular gay bar. Four men accompanied the man home when the bar closed, and once there, broke a glass over the victim's head. The four men then ripped off his clothes, beating and kicking him. They also tried choking him with a cord cut from his vacuum cleaner. The assailants allegedly forced the victim to sodomize himself with an object at knifepoint while they used homosexual slurs. After the attackers left, the police were called and the victim taken to a local hospital.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

Mr. DOMENICI. Mr. President, I want to bring due attention to the Smithsonian Institution's newest museum on the National Mall in Washington. The National Museum of the American Indian celebrates its grand opening tomorrow.

This new museum is a wonderful place, and its collection has been a long time coming. It is a beautiful and suitable home for honoring centuries of American Indian history and their contributions to our Nation today. Never before has such an American Indian exhibit been done on this scale.

Congress passed the Smithsonian National Museum of the American Indian charter in 1989, but for such a grand endeavor, much planning, coordination, and attention to detail is most appropriate.

All who have collaborated on this project have done so in an effort to promote and celebrate a deeper understanding of the diversity of the American Indian people and to celebrate their rich culture and storied history. The exhibits will include ancient artifacts and will eloquently display the talented work of modern Indian artists in a skillfully assembled setting.

There are numerous tribes in my home State of New Mexico. Those of us who reside in the Southwest are familiar with the tribes and their people, but many are not. While each share many common traditions and customs, it is important to note that each is a distinct entity of individuals who maintain unique identities.

Indian lands in New Mexico are full of fascinating cultures, extraordinary landscapes, captivating ruins, and a broad array of handmade arts and crafts by the Pueblo, Navajo and Apache people who are rightfully proud of their legacies and strong traditions.

Several New Mexicans have been working closely in the project's planning and design. I would like to especially note Santa Fe weaver Ramona Sakiestewa, Donna House of Acalde, and Duane Blue Spruce of Laguna and San Juan pueblos.

Ramona Sakiestewa has been involved with the project development since 1994, collaborating with a team of architects and designers as the lead interior designer for museum. Donna House coordinated much of the landscape, and Duane Blue Spruce served as facilities manager for the entire endeavor. There are others from my home State who had a hand in the museum, but these three deserve special recognition. And as the years go on, New Mexico tribes and pueblos will add to the ongoing exhibits and programs to be offered at the National Museum of the American Indian.

Museum officials spent years consulting with representatives of Indian tribes from throughout the Western hemisphere. Because of their vision and creativity, the museum will forever tell the story of American Indians—their trials, tribulations, triumphs and successes. I laud their countless hours of work and tireless efforts.

I look forward to sharing the pride of the American Indian people as they begin their opening ceremonies with a procession of the Nation's native peoples. I hope all will take time to visit the museum, walk its corridors, and view the priceless treasures that reveal stories filled with the rich history of this diverse group. The museum is a culmination of years of planning and dedication. To those who have worked so hard to make it possible, I give my highest praise for a "job well done."

SUBMITTING CHANGES TO 302(a) ALLOCATIONS

Mr. NICKLES. Mr. President, section 312 of S. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2005, as given effect by section 14007(b)(2) of Public Law 108–287, permits the Chairman of the Senate Budget Committee to make adjustments to the appropriate allocations and other budgetary levels when certain conditions relating to wildland fire suppression are met.

These conditions having been met, I ask unanimous consent to have a table printed in the RECORD which reflects the revised 302(a) allocations to the Senate Appropriations Committee. The revised allocations for discretionary budget authority and outlays are the appropriate levels to be used for enforcement during consideration of the fiscal year 2005 appropriations bills.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADJUSTMENTS TO FY 2005 302(a) ALLOCATIONS TO THE SENATE APPROPRIATIONS COMMITTEE FOR WILDLAND FIRE SUPPRESSION

[$ in millions]

Category		Initial allocation	Adjustment	New allocation
Discretionary	BA	821.419	500	821,919
	OT	905,328	250	905,578
Mandatory	BA	460,008		460,008
	OT	445,525		445,525

APOLOGY TO THE BOSTON GLOBE

Mr. BENNETT. Mr., President, last week, on the floor of the U.S. Senate, I spoke about the forged documents that have recently surfaced regarding the National Guard service of President George W. Bush. In that speech, I linked the Boston Globe with CBS News and described both organizations as having been duped by the forgery.

I was in error as far as the Boston Globe is concerned. Not only were they not duped by the forgery, they have been diligent in reporting the discrepancies in the documents. Accordingly, I apologize to the staff at the Globe for my misstatement.

The responsibility for the error is entirely my own. I relied on stories I heard or read which linked the Globe to CBS on this topic. I did not have my staff check the details before I made my speech. I should have known better, and will do all I can to make sure I do not repeat such an error in the future.

ALZHEIMER'S DISEASE

Mr. FEINGOLD. Mr. President, I would like to call attention to a disease that currently affects the memories and functioning capacity of almost five million Americans, and that is Alzheimer's disease.

In the next 50 years, it is estimated that over 16 million Americans will be diagnosed with Alzheimer's. I believe that we need to do more to understand this disease so that we can bring about effective treatments and preventive measures, and so that we can provide relief to those who care for individuals with Alzheimer's.

Alzheimer's not only affects our Nation's physical health, it also negatively impacts family resources and our country's overall economic health. According to the Alzheimer's Association, our country spends over $100 billion annually in direct and indirect costs on caring for those with Alzheimer's.

As our population ages, more and more Americans will suffer from this terrible disease. It is urgent that we bring more resources to bear to find effective treatments and, most of all, to find a cure. In recent years, medical researchers have made critical strides in Alzheimer's research. I believe that we need to continue to make biomedical research into Alzheimer's a national priority, and because of this I support the efforts of Senators MIKULSKI and BOND to provide $1.4 billion in Federal funding for Alzheimer's research. I have long advocated for more resources both for research into Alzheimer's and to help those who care for loved ones afflicted with the disease. I support S. 2533, the Ronald Reagan Alzheimer's Breakthrough Act, not only because it provides those resources, but because it provides hope to families that someday we will bring an end to this debilitating disease.

The research currently being conducted at the National Institutes of Health holds much promise for identifying potential treatments and eventually, I hope, a cure for Alzheimer's. However we will not make the progress necessary to truly make breakthroughs with Alzheimer's unless we provide sufficient Federal funding for the research underway at NIH.

As a strong proponent of fiscal discipline, I understand the current constraints on the Federal budget. However, I believe that providing resources to increase our Federal investment in Alzheimer's research and to offer caregiver support are critical budget priorities. It is my sincere hope that Congress passes the Ronald Reagan Alzheimer's Breakthrough Act before this session of Congress is over.

ADDITIONAL STATEMENTS

NORTH DAKOTA STOCKMEN'S ASSOCIATION

• Mr. DORGAN. Mr. President, later this month, the North Dakota Stockmen's Association will hold its Diamond Anniversary Convention in Medora, ND. I would like to recognize this organization, which has served our State's ranchers and cattle producers for the past 75 years.

On June 6, 1929, a group of cattle producers gathered in Watford City, ND. The men all grazed cattle on the Fort Berthold Indian Reservation and they all had a problem with cattle rustling. Andrew Johnson, a Watford area cattleman, was determined to do something about it. He established a reward of $1,000 for information leading to the arrest and conviction of cattle rustlers. The men at the meeting contributed $5 each to start that fund.

This group called themselves the Western North Dakota Stock Association. They would later change their name to the Western North Dakota Stockmen's Association, and finally they took the name they hold today; the North Dakota Stockmen's Association.

This year the North Dakota Stockmen's Association is celebrating its 75th year of operation, and that $1,000 reward still stands.

Today the North Dakota Stockmen's Association has more than 2,700 members from across the State. From education efforts that help new ranchers get a start in the cattle industry to brand registration and enforcement of the State's livestock laws, the Stockmen's Association plays an important role in all aspects of the ranching industry. And, as those of us in elected office know, the North Dakota Stockmen's Association is a strong, effective voice on behalf of its members.

In addition to serving its members, the North Dakota Stockmen's Association plays an important role in the communities in which its members live. The association worked with other members of the beef industry in North Dakota to host a Beef Industry Appreciation Day during the 2004 North Dakota State Fair. The association served free beef dinners to active duty military, Reserve, and National Guard members, and their families. The association offers college scholarships to young people who are interested in studying animal or range science, preveterinary medicine, farm and ranch management, and other subjects that help maintain a healthy farm economy.

I thank the North Dakota Stockmen's Association for their hard work. I wish them continued success and congratulate them on their 75th anniversary.•

HONORING WILMER AMINA CARTER

• Mrs. BOXER. Mr. President, I rise today to recognize the tremendous public service of Wilmer Amina Carter. Mrs. Carter has long served as a leader, mentor and an advocate for children in San Bernardino County. For her longstanding personal commitment to her community and to the academic achievement of young people, the city of Rialto's third high school will be named Wilmer Amina Carter High School in her honor.

The Wilmer Amina Carter High School is the first high school in the Inland Empire to be named after a living African-American woman. Mrs. Carter earned this honor through the many pioneering and leadership roles she has assumed in her community.

Born in an era when adequate public education for African-American children was not provided, Mrs. Carter was fortunate to receive an education from her grandfather. In her professional and personal pursuits, Mrs. Carter has always worked to provide others with the immensely important and empowering opportunities afforded her through education. She capped this service with 16 years as a member of the Rialto Board of Education.

Mrs. Carter also served for 23 years as district director for the late, much revered United States Congressman George Brown, Jr. There, she carried out Congressman BROWN's directive that everyone receive careful attention and compassionate service.

Mrs. Carter used her scholarship and expertise to guide educational policy and curriculum in her community and beyond. Under her leadership, a school career education venture of the National Council of Negro Women, Inc. and the United States Department of Labor became a nationwide model for high school career development programs.

In her service to the Rialto Unified School District, Mrs. Carter became the first African-American member of the Rialto Board of Education in 1983 and served until 1999. Throughout her tenure on the board of education, Mrs. Carter sought to make education a valued community endeavor, helping both young people and parents navigate the school system to optimize positive outcomes. She has been an inspiring force in ensuring that our Nation's future leaders have the tools they need to achieve their dreams.

The dedication of this school reflects the impact of a woman who has provided an outstanding model of determination and service. I am confident that, true to Mrs. Carter's life work, this school's name will serve as a constant reminder to the students who pass through its doors of their immense potential to achieve and effect positive change in their local and national communities. And knowing Mrs. Carter's penchant for hands on involvement, it would not surprise me to see her at the school, working to instill those values in its students. It is with great pleasure that I congratulate Mrs. Wilmer Amina Carter on this much-deserved recognition.•

OREGON HEALTH CARE HERO

• Mr. SMITH. Mr. President, I wish to rise today to recognize a group of dedicated public servants who are increasing access to mental health care for people in Multnomah County, OR. Because of their willingness to creatively address barriers to care, Cascadia Behavioral HealthCare and its county partners are helping Oregonians lead healthier lives.

Three years ago, Multnomah County's mental health services were in disarray. Budget shortfalls and the closure of three major service providers were preventing county residents from accessing care, often with tragic consequences. Because the system's clients are primarily low income, this public crisis became a personal crisis for individuals with no other options.

In response, Cascadia and its partners reorganized the county's mental health care system, bringing quality, efficient services to many citizens in need. Employing new tools such as a mobile response unit, 24-hour walk-in clinic, their creative response dramatically increased options for those in need. As a result, there has been a reduction in the hospitalization rate of adult mentally ill patients in the past year, easing the strain on county and State funds. Further, the new organization has saved more than $5 million in the last 3 years, while helping some of the neediest residents access care.

Now, the system works. For people like Ann, an Asian-American teenager who began hearing voices in high school, access to services literally saved her life. The daughter of immigrants, Ann's family did not understand her mental illness, which was later diagnosed as schizophrenia. As her condition worsened, Ann's anxiety and suicidal thoughts increased. Eventually, she wound up in the State hospital.

Ann was referred to Cascadia Behavioral Health center where she was treated by a psychiatrist for medication management and a trainer to help her understand her diagnosis and develop coping skills. A Cascadia family therapist, working with a cultural specialist, is helping Ann and her family adjust to her diagnosed paranoid schizophrenia. She will receive additional case management and help so she can graduate high school.

For people like Ann, the availability of mental health care is absolutely crucial. But for the courage of Cascadia and its county partners, Ann and others like her may not have found the care they need to live stable, productive and rewarding lives. Because of the valuable services they provide, I recognize Cascadia Behavioral HealthCare and its partners as true health care heroes. I look forward to following their continued success.●

MARINE CORPS AIR STATION MIRAMAR: TOP MARINE CORPS INSTALLATION

● Mrs. BOXER. Mr. President, I rise today to honor the men and women of the Marine Corps Air Station Miramar which was recently recognized as the 2004 Commander-in-Chief's Top Marine Corps Installation.

Annually, one military installation from each service receives the award for outstanding achievement in areas including mission support, family services, environmental stewardship, and quality-of-life programs.

Marine Corps Air Station Miramar in San Diego consistently excels as a supportive, productive, and contributing member of the community. Miramar hosts and supports many events that integrate the San Diego community into the work of the base. It stages the largest military air show in the United States, has Cockpit Days at the Flying Leatherneck Museum which hosts 16,000 visitors annually, bimonthly tours which give community members a chance to become familiar with the Marine Corps, as well as Educators' Workshops, Community Leaders' Forums, and it provides color guards at local events.

Integral to the most powerful concentration of Navy bases in the Nation, Miramar is responsible for supporting combat-ready expeditionary aviation forces capable of worldwide, short-notice deployment as part of a Marine Corps Air-Ground Task Force. Miramar is the home of Third Marine Aircraft Wing Headquarters, Marine Corps Air Bases Western Area and Reserve Support Unit and more than 10,000 Marines, Sailors, and civilian Marines.

Miramar's Marines continue to significantly contribute to Operations Enduring Freedom and Iraqi Freedom. While friends and family members are serving abroad, Operation Enduring Families, a support network for families of deployed service members, operates on the base. Miramar's dedication to defending our country while enhancing quality of life for its service members and broader community is evident as the Marines contribute to the San Diego community as speakers, teachers, mentors, and sport coaches.

Miramar achieves excellence in environmental standards, innovation, safety, efficiency, and a dedication to teamwork, honesty, and integrity. Their exemplary service continues to lead the Nation and to innovate for the next generation. It is with great pleasure that I congratulate Miramar and the women and men who support it for their receipt of the 2004 Commander-in-Chief's Installation Excellence Award.●

AMERICAN ASSOCIATION ON MENTAL RETARDATION AWARD WINNERS

● Mr. DURBIN. Mr. President, I am pleased today to join the Illinois chapter of the American Association on Mental Retardation, AAMR, in recognizing the recipients of the 2004 Direct Service Professional Award. These individuals are being honored for their outstanding efforts to enrich the lives of people with developmental disabilities in Illinois.

These recipients have displayed a strong sense of humanity and professionalism in their work with persons with disabilities. Their efforts have inspired the lives of those for whom they care, and they are an inspiration to me as well. They have set a fine example of community service for all Americans to follow.

These honorees spend more than 50 percent of their time at work in direct, personal involvement with their clients. They are not primarily managers or supervisors. They are direct service workers at the forefront of America's effort to care for people with special needs. They go to work every day with little recognition, providing much needed and greatly valued care and assistance.

It is my honor and privilege to recognize the Illinois recipients of AAMR's 2004 Direct Service Professional Award: Mary Alimi-Seiwart, Patricia Baldridge, Linda Christianson, Willie Mae Clinton, Avis Ganter, Ruth Just, Linda Koch, Patricia Matuske, Harshida Mody, Barbara Purches, Mark Rodgers, Dwight Sanders, Chris Shell, Marie Sonnan, Linda Sweeney, Marla Tegtmeyer, Clarence Woods, and Kim Wren.

I know my fellow Senators will join me in congratulating the winners of the 2004 Direct Service Professional Award. I applaud their dedication and thank them for their service.●

WILLIAMS CHARTER TOWNSHIP

● Mr. LEVIN. Mr. President, I would like to take this opportunity to join in celebrating the 150th anniversary of Williams Charter Township. Located in the heart of Michigan, this rural township is a close-knit community that reflects much of the best America has to offer.

John Gaffney, Charles Bradford, William Spafford, Charles Fitch, George W. Smock, and Lyman Brianard were the first to arrive in 1854 on the land that officially became Williams Charter Township. The area's waterways and roads soon became an essential route of transportation for travelers in the region. The fertile soil led to the establishment of many farms, which are providing harvests over a century later. The earliest settlers saw this land as an ideal place to begin their new lives, and by doing so, built a strong foundation for the generations that have followed.

The sesquicentennial festivities of Williams Charter Township took place this past weekend, and its residents and their families and friends came together to commemorate the land's rich history and to celebrate the continued growth of this wonderful community. The occasion was marked with many memorable activities, including living historical re-enactments and an awards ceremony to honor some of the township's most outstanding citizens.

I know my Senate colleagues will join me in congratulating the residents of Williams Charter Township on this important milestone. I am proud to represent this township and wish them many more years of success and happiness.●

HONORING COLONEL ART WHITE, USMC

• Mr. MILLER. Mr. President, as a veteran Marine and friend, I rise today to pay tribute to COL Art White, who will complete his 3-year tour of duty with the United States Marine Corps' Office of Legislative Affairs on December 1, 2004. I have had the pleasure to work with Colonel White on many occasions. In his role as the director of the Marine Corps' Senate Liaison Office, he has provided tremendous support while acting as the principal conduit for information between the Marine Corps and many Members of this eminent body. His affable personality and attention to duty contributed to a highly successful relationship between the U.S. Senate and the U.S. Marine Corps. His dedication to the Members of the United States Senate will be sorely missed.

Art White was born and raised in Westchester, NY. After high school in New York, he attended Georgetown University, where he also played basketball for the Hoyas, graduating in 1976. In 1977, Colonel White received a commission as a second lieutenant in the U.S. Marine Corps and subsequently reported to Quantico, VA, to take on the challenge of becoming a marine officer. During his subsequent 27-year career in the Marine Corps that included both active and reserve duty, Art served as an infantry officer, aide de camp to the assistant division commander of the 1st Marine Division, a communications officer, a civil affairs officer, a counterintelligence officer, and a reserve mobilization officer.

In 1980, Colonel White left active duty and transitioned to the Marine Corps Reserve. He then attended the Seattle University School of Law, graduating in 1983, and began a long, distinguished career in public service. He served as a professional staff member for the Republican Policy Committee chaired by our former colleague from the great State of Texas, Senator John Tower; as a staff member in the U.S. House of Representatives; as the director of legislative affairs for the U.S. Patent and Trademark Office in the Commerce Department; and as the deputy assistant director for legislative affairs for the Administrative Office of the U.S. Courts.

In December, 2001, Colonel White was ordered to active duty to serve as the director of the Marine Corps' Liaison office in the Senate. Since that time, he has been a key player in maintaining effective relationships between the Marine Corps, my colleagues in the Senate, professional committee staff, and personal staff members. In particular, he responded to thousands of congressional inquiries, ranging from such sensitive issues as notification of combat casualties during Operations Enduring Freedom and Iraqi Freedom, to providing timely information on the operation, organization and budget of the Marine Corps. He also planned and executed approximately 33 international congressional delegations. I had the pleasure of traveling on several of these congressional delegations with Colonel White and was greatly impressed with his service to the Members of the Senate. His strong acumen for social interaction carried over into Colonel White's ability to represent his service at numerous Marine Corps and Joint Service social events on Capitol Hill. Among others, these events included the Marine Corps Birthday Commemoration, the Joint Services Reception, and several Marine Corps fall and spring receptions—all important events that enabled me and my Senate colleagues to maintain relationships with the Marine Corps' senior leadership. His efforts throughout this period not only communicated the commandant's message to the U.S. Senate, but also upheld the Marine Corps' positive image and professional reputation on Capitol Hill.

On behalf of the Senate, I thank Colonel White for his service to the Nation and the U.S. Marine Corps, and I thank his wife, Katherine Ann, and his daughter, Mary Rose, for their steadfast support while he fulfilled this essential duty. We in the U.S. Senate, and I personally, wish them all the best as Colonel White returns to his civilian career and tackles new challenges.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE ORDER THAT TERMINATES THE EMERGENCY DECLARED IN EXECUTIVE ORDER 12543 WITH RESPECT TO THE POLICIES AND ACTIONS OF THE GOVERNMENT OF LIBYA AND REVOKES RELATED EXECUTIVE ORDERS—PM 94

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Consistent with subsection 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA), I hereby report that I have issued an Executive Order (the "order") that terminates the national emergency declared in Executive Order 12543 of January 7, 1986, and revokes that Executive Order, Executive Order 12544 of January 8, 1986, Executive Order 12801 of April 15, 1992, and Executive Order 12538 of November 15, 1985. I have determined that the situation that gave rise to this national emergency has been significantly altered by Libya's commitments and actions to eliminate its weapons of mass destruction programs and its Missile Technology Control Regime (MTCR) -class missiles, and by other developments.

Executive Order 12543 of January 7, 1986, imposed sanctions on Libya in response to policies and actions of the Government of Libya that constituted an unusual and extraordinary threat to the national security and foreign policy of the United States. Those sanctions were modified in Executive Order 12544 of January 8, 1986, Executive Order 12801 of April 15, 1992, and supplemented Executive Order 12548 of November 15, 1985.

Based on Libya's recent commitments and actions to implement its December 19, 2003, commitment to eliminate its weapons of mass destruction programs and its MTCR-class missiles, and other developments, I have determined that the situation that gave rise to the national emergency declared in Executive Order 12543 has been significantly altered. My order, therefore, terminates that national emergency with respect to Libya and revokes Executive Orders 12543, 12544, and 12801, and lifts the trade, commercial, and travel sanctions imposed against Libya based on that national emergency. The order also revokes Executive Order 12538, which blocked the import of petroleum products refined in Libya into the United States.

While the order formally lifts sanctions under the national emergency with respect to Libya, it will not lift a wide variety of other sanctions imposed on Libya due to its designation as a state sponsor of terrorism under section 620A of the Foreign Assistance Act (restriction on arms exports), and section 6(j) of the Export Administration Act of 1979 (restriction on exports of certain items on the Commodity Control List), as well as other statutory restrictions applicable to Libya.

I have enclosed a copy of the order, which is effective at 12:01 a.m. eastern daylight time on September 21, 2004.

GEORGE W. BUSH.
THE WHITE HOUSE, *September 20, 2004.*

MESSAGE FROM THE HOUSE DURING ADJOURNMENT

Under authority of the order of the Senate of January 7, 2003, the Secretary of the Senate, on September 17, 2004, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

S. 2634. An act to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, to authorize grants to institutions of higher education to reduce student mental and behavioral health problems, and for other purposes.

ENROLLED BILLS SIGNED DURING ADJOURNMENT

The following enrolled bills, previously signed by the Speaker of the House, were signed on September 16, 2004, by the President pro tempore (Mr. STEVENS).

S. 1576. An act to revise the boundary of Harpers Ferry National Historical Park, and for other purposes.

H.R. 361. An act to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

H.R. 3908. An act to provide for the conveyance of the real property located at 1081 West Main Street in Ravenna, Ohio.

H.R. 5008. An act to provide an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through September 30, 2004, and for other purposes.

ENROLLED BILL PRESENTED DURING ADJOURNMENT

The Secretary of the Senate reported that on September 16, 2004, she had presented to the President of the United States the following enrolled bill:

S. 1576. An Act to revise the boundary of Harpers Ferry National Historical Park, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-9282. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pine Shoot Beetle; Additions to Quarantined Areas" (Doc. No. 04-036-2) received on September 14, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9283. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Nectarines and Peaches Grown in California; Revision of Reporting Requirements for Fresh Nectarines and Peaches" (Doc. No. FV04-916/917-03) received on September 14, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9284. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Livestock Mandatory Reporting: Amendment to Revise Lamb Reporting Definitions" (RIN0581-AB98) received on September 14, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9285. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Karnal Bunt; Regulated Areas" (Doc. No. 03-047-2) received on September 14, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9286. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oriental Fruit Fly; Removal of Quarantined Areas" (Doc. No. 02-120-3) received on September 14, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9287. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "DCPA; Pesticide Tolerance" (FRL#7673-6) received on September 6, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9288. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Flumioxazin; Pesticide Tolerances" (FRL#7369-9) received on September 6, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9289. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Folpet, Pesticide Tolerance" (FRL#7369-1) received on September 6, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9290. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Dinotefuran; Pesticide Tolerance" (FRL#7368-1) received on September 6, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9291. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Thiamethoxam; Pesticide Tolerances for Emergency Exemptions" (FRL#7675-1) received on September 6, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9292. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Thifensulfuron Methyl; Pesticide Tolerance" (FRL#7679-4) received on September 6, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9293. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tribenuron Methyl; Pesticide Tolerance" (FRL#7679-5) received on September 6, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9294. A communication from the Architect of the Capitol, transmitting, pursuant to law, a report of all expenditures during the period of October 1, 2003 through March 31, 2004 from moneys appropriated to the Architect; to the Committee on Appropriations.

EC-9295. A communication from the Director of Defense Research and Engineering, Department of Defense, transmitting, pursuant to law, a report on the utilization of the Laboratory Revitalization Demonstration Program; to the Committee on Armed Services.

EC-9296. A communication from the Principal Deputy Under Secretary of Defense for Policy, Department of Defense, transmitting, pursuant to law, a report relative to Progress in Kosovo toward achieving militarily significant benchmarks during the period January 1 to June 30, 2004; to the Committee on Armed Services.

EC-9297. A communication from the Deputy Secretary of the Treasury, Department of the Treasury, transmitting, pursuant to law, a semiannual report detailing payments made to Cuba as a result of the provision of telecommunications services pursuant to Department specific licenses; to the Committee on Banking, Housing, and Urban Affairs.

EC-9298. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Regulation Z (Truth in Lending)" (Doc. No. 1208) received on August 26, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-9299. A communication from the Director, Legislative and Regulatory Activities Division, transmitting, pursuant to law, the report of a rule entitled "Lending Limits Pilot Program" (RIN1557-AC83) received on August 26, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-9300. A communication from the Chief Counsel, Bureau of the Public Debt, Office of the Under Secretary for Domestic Finance, transmitting, pursuant to law, the report of a rule entitled "Call for Large Position Reports" received on August 26, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-9301. A communication from the Assistant Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Disclosure Regarding Portfolio Managers of Registered Management Investment Companies" (RIN3235-AJ16) received on August 26, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-9302. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Final Rule: Fuel Tank Safety Compliance Extension and Aging Airplane Program Update (Request for Comments) FAA Doc. No. 2004-17681" (RIN2120-AI20) received on August 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9303. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Work Zone Safety and Mobility" (RIN2125-AE29) received on September 14, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9304. A communication from the Senior Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials

Regulations; Comparability with the Regulations of the International Atomic Energy Agency; Correction; Final Rule" (RIN2137–AD40) received on September 14, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9305. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Clarification of Export Controls on Military Vehicles and Parts" (RIN0694–AC91) received on September 14, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9306. A communication from the Executive Director, Consumer Product Safety Commission, transmitting, pursuant to law, a report relative to the Commission's commercial and inherently governmental activities; to the Committee on Commerce, Science, and Transportation.

EC–9307. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Amendment of the Commission's Space Station Licensing Rules and Policies" (FCC04–147) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9308. A communication from the Attorney, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Section 51.319(a)(3) Fiber-to-the-home Loops" (FCC04–191) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9309. A communication from the Acting Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Schools and Libraries Universal Service Support Mechanism" (FCC04–190) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9310. A communication from the Attorney, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Payphone Compensation Obligation" (FCC04–182) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9311. A communication from the Legal Advisor to the Bureau Chief, Broadband Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Parts 1, 21, 73, 74, and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 KHz" (FCC04–135) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9312. A communication from the Regulatory Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "FMCSA Regulations; Waivers, Exemptions, and Pilot Programs" (RIN2126–AA41) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9313. A communication from the Regulatory Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Limitations on the Issuance of Commercial Driver's Licenses with a Hazardous Materials Endorsement; Interim Final Rule; Delay of Compliance Date" (RIN2126–AA70) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9314. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (79) Amendment No. 3102" (RIN2120–AA65) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9315. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications" (RIN2137–AD99) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9316. A communication from the Attorney-Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Trading Restrictions on Vessels Transferred to a Foreign Registry: Amendment of List of Prohibited Countries" (RIN2133–AB55) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9317. A communication from the Attorney-Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Electronic Options for Transmitting Certain Information Collection Responses to MARAD" (RIN2133–AB64) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9318. A communication from the Senior Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials: Availability of Information for Hazardous Materials Transported by Aircraft" (RIN2137–AD29) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9319. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622, Table of Allotments, DTV Broadcast Stations; Anchorage, AK" (MB Doc. No. 04–189) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9320. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622, Table of Allotments, DTV Broadcast Stations; Rutland, VT" (MB Doc. No. 02–66) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9321. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202, Table of Allotments, FM Broadcast Stations; Crisfield, MD; Belle Haven, Exmore, Nassawadox, and Poquoson, Virginia" (MM Doc. No. 02–76) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9322. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202, Table of Allotments, FM Broadcast Stations; Augusta, WI; Barnwell, SC; Burnet, TX; Denver City, TX; Fountain Green, UT; Hayward, WI; Liberty, PA; Shenandoah, VA; St. Mary's, WV; Susquehanna, PA; and Van Alstyne, TX" (MB Doc. Nos. 04–127 through 138) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9323. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202, Table of Allotments, FM Broadcast Stations; Goldsboro, Smithfield, Louisburg, and Rolesville, NC" (MM Doc. No. 02–40) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9324. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202, Table of Allotments, FM Broadcast Stations; Seymour and Sellersburg, IN" (MB Doc. No. 03–98) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9325. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202, Table of Allotments, FM Broadcast Stations; Amherst, NY; Berthold, ND; Cordell, OK; Dillsboro, NC; Hubbardston, MI; Laurie, MO; Madras, OR; Weatherford, OK; West Tisbury, MA; and Wynnewood, OK" (MB Doc. Nos. 04–113, 114, 116, 118, 119, 120, 121, 122, 123, 125) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9326. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202, Table of Allotments, FM Broadcast Stations; Jasper, Florida, and Tigerton, Wisconsin" (MB Doc. Nos. 02–274 and 02–275) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9327. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202, Table of Allotments, FM Broadcast Stations; Crawfordville, GA" (MB Doc. No. 02–225) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9328. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202, Table of Allotments, FM Broadcast Stations; Keesville, NY; Hartford and White River Junction, VT" (MM Doc. No . 02–23) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9329. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202, Table of Allotments, FM Broadcast Stations; Hilton Head Island, Hollywood, and Port Royal, SC" (MB Doc. No. 02–198) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9330. A communication from the Legal Advisor, Media Bureau , Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992: Direct Broadcast Satellite Public Interest Obligations; Sua Sponte Reconsideration" (FCC04–44) received on September 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9331. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Air Quality Designations and Classifications for the 8-Hour Ozone National Ambient Air Quality Standards; Las Vegas, Nevada Nonattainment Area" (FRL#7815–3) received on September 14, 2004; to the Committee on Environment and Public Works.

EC–9332. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revised Major Stationary Source Applicability for Reasonably Available Control Technology and Permitting and Revised Offset Ratios for the Washington Area" (FRL#7813–1) received on September 14, 2004; to the Committee on Environment and Public Works.

EC–9333. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver Revised Carbon Monoxide Maintenance Plan" (FRL#7813–3) received on September 14, 2004; to the Committee on Environment and Public Works.

EC–9334. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Kentucky; 1-Hour Ozone Maintenance Plan Update for Lexington Area" (FRL#7813–9) received on September 14, 2004; to the Committee on Environment and Public Works.

EC–9335. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Section 112(1) Authority for Hazardous Air Pollutants; Maryland Equivalency by Permit Provisions; NESHAP for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills" (FRL#7813–6) received on September 14, 2004; to the Committee on Environment and Public Works.

EC–9336. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to enhancing the security of Commission-regulated nuclear facilities and radioactive materials; to the Committee on Environment and Public Works.

EC–9337. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Policy Statement on the Treatment of Environmental Justice Matters in the NRC Regulatory and Licensing Actions" received on August 25, 2004; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1211. A bill to further the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, the "Reclamation Wastewater and Groundwater Study and Facilities Act", by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico, and for other purposes (Rept. No. 108–347).

By Ms. COLLINS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1230. A bill to provide for additional responsibilities for the Chief Information Officer of the Department of Homeland Security relating to geospatial information (Rept. No. 108–348).

By Ms. COLLINS, from the Committee on Governmental Affairs, with an amendment:

S. 2347. A bill to amend the District of Columbia College Access Act of 1999 to permanently authorize the public school and private school tuition assistance programs established under the Act (Rept. No. 108–349).

S. 2536. A bill to enumerate the responsibilities of the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security, to require the Inspector General of the Department of Homeland Security to designate a senior official to investigate civil rights complaints, and for other purposes (Rept. No. 108–350).

By Mr. SPECTER, from the Committee on Veterans' Affairs, without amendment:

S. 2483. A bill to increase, effective as of December 1, 2004, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans (Rept. No. 108–351).

By Mr. SPECTER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2486. A bill to amend title 38, United States Code, to improve and enhance education, housing, employment, medical, and other benefits for veterans and to improve and extend certain authorities relating to the administration or benefits for veterans, and for other purposes (Rept. No. 108–352).

DISCHARGED NOMINATIONS

The Senate Committee on Governmental Affairs was discharged from further consideration of the following nomination and the nomination was placed on the Executive Calendar pursuant to an order of the Senate:

Patrick P. O'Carroll, Jr., of Maryland, to be Inspector General, Social Security Administration.

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

Stuart W. Holliday, of Texas, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Alternate Representative of the United States of America for Special Political Affairs in the United Nations.

Patrick J. Leahy, of Vermont, to be a Representative of the United States of America to the Fifty-ninth Session of the General Assembly of the United Nations.

John E. Sununu, of New Hampshire, to be a Representative of the United States of America to the Fifty-ninth Session of the General Assembly of the United Nations.

Foreign Service nomination beginning with Jacqueline Bell and ending with Jim Zix.

The Senate Committee on Governmental Affairs was discharged from further consideration of the following nomination and the nomination was placed on the Executive Calendar pursuant to an order of the Senate:

Neil McPhie, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2009.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER:

S. 2813. A bill to designate the facility of the United States Postal Service located at 19504 Linden Boulevard in St. Albans, New York, as the "Archie Spigner Post Office Building"; to the Committee on Governmental Affairs.

By Mr. LEVIN (for himself and Mr. COLEMAN):

S. 2814. A bill to impose a 1-year cooling off period before a senior Federal financial institutions examiner may be employed by the financial institution examined by that person; to the Committee on the Judiciary.

By Mr. DEWINE (for himself and Mr. KENNEDY):

S. 2815. A bill to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER:

S. 2816. A bill to provide for adjustment of immigration status for certain aliens granted temporary protected status in the United States because of conditions in Montserrat; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. STEVENS (for himself, Mr. LOTT, and Mr. REID):

S. Con. Res. 138. A concurrent resolution commending John W. Kluge for his dedication and commitment to the United States on the occasion of his 90th birthday; considered and agreed to.

ADDITIONAL COSPONSORS

S. 157

At the request of Mr. CORZINE, the name of the Senator from Delaware

(Mr. BIDEN) was added as a cosponsor of S. 157, a bill to help protect the public against the threat of chemical attacks.

S. 333

At the request of Mr. BREAUX, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

S. 493

At the request of Mrs. LINCOLN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 493, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 540

At the request of Mr. INHOFE, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 540, a bill to authorize the presentation of gold medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th Century in recognition of the service of those Native Americans to the United States.

S. 874

At the request of Mr. TALENT, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 875

At the request of Mr. SANTORUM, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 1200

At the request of Ms. CANTWELL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1200, a bill to provide lasting protection for inventoried roadless areas within the National Forest System.

S. 1379

At the request of Mr. JOHNSON, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from California (Mrs. BOXER), the Senator from Maine (Ms. SNOWE) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1381

At the request of Ms. SNOWE, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1381, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 1549

At the request of Mrs. DOLE, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1549, a bill to amend the Richard B. Russell National School Lunch Act to phase out reduced price lunches and breakfasts by phasing in an increase in the income eligibility guidelines for free lunches and breakfasts.

S. 1963

At the request of Mr. SPECTER, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1963 , a bill to amend the Communications Act of 1934 to protect the privacy right of subscribers to wireless communication services.

S. 2275

At the request of Ms. MIKULSKI, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2275, a bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes.

S. 2283

At the request of Mr. GREGG, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2283, a bill to extend Federal funding for operation of State high risk health insurance pools.

S. 2425

At the request of Mr. COCHRAN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2602

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2602, a bill to provide for a circulating quarter dollar coin program to honor the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, and for other purposes.

S. 2603

At the request of Mr. SMITH, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2603, a bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

S. 2609

At the request of Mr. COLEMAN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2609, a bill to amend the Farm Security and Rural Investment Act of 2002 to extend and improve national dairy market loss payments.

S. 2623

At the request of Mr. SMITH, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2623, a bill to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide a 2-year extension of supplemental security income in fiscal years 2005 through 2007 for refugees, asylees, and certain other humanitarian immigrants.

S. 2647

At the request of Mr. HOLLINGS, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2647, a bill to establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, to ensure effective interagency coordination, and for other purposes.

S. 2706

At the request of Mrs. CLINTON, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2706, a bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes.

S. 2718

At the request of Mr. DEWINE, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 2718, a bill to provide for programs and activities with respect to the prevention of underage drinking. .

S. 2759

At the request of Mr. ROCKEFELLER, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from Ohio (Mr. DEWINE), the Senator from Kansas (Mr. ROBERTS), the Senator from Maryland (Mr. SARBANES) and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of S. 2759, a bill to amend title XXI of the Social Security Act to modify the rules relating to the availability and method of redistribution of unexpended SCHIP allotments, and for other purposes.

S. 2764

At the request of Mr. DODD, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 2764, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 2781

At the request of Mr. LUGAR, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Oregon (Mr. SMITH), the Senator from Pennsylvania (Mr. SPECTER) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 2781, a bill to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes.

S. 2807

At the request of Mr. CRAPO, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2807, a bill to amend the Internal Revenue Code of 1986 to exempt containers used primarily in potato farming from the excise tax on heavy trucks and trailers.

S. CON. RES. 134

At the request of Mr. FITZGERALD, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. Con. Res. 134, a concurrent resolution expressing the sense of the Congress that the Parthenon Marbles should be returned to Greece.

S. CON. RES. 136

At the request of Mr. CONRAD, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 345

At the request of Mrs. CLINTON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Res. 345, a resolution expressing the Sense of the Senate that Congress should expand the supports and services available to grandparents and other relatives who are raising children when their biological parents have died or can no longer take care of them.

S. RES. 387

At the request of Mr. FEINGOLD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. Res. 387, a resolution commemorating the 40th Anniversary of the Wilderness Act.

S. RES. 420

At the request of Mr. PRYOR, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Louisiana (Mr. BREAUX), the Senator from Ohio (Mr. DEWINE), the Senator from Illinois (Mr. FITZGERALD) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. Res. 420, a resolution recommending expenditures for an appropriate visitors center at Little Rock Central High School National Historic Site to commemorate the desegregation of Little Rock Central High School.

S. RES. 424

At the request of Mr. CRAIG, the names of the Senator from Louisiana (Mr. BREAUX), the Senator from Illinois (Mr. FITZGERALD), the Senator from Michigan (Mr. LEVIN), the Senator from Oregon (Mr. WYDEN), the Senator from Ohio (Mr. DEWINE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. Res. 424, a resolution designating October 2004 as "Protecting Older Americans From Fraud Month".

S. RES. 427

At the request of Mr. SARBANES, the names of the Senator from Utah (Mr. BENNETT), the Senator from Connecticut (Mr. DODD), the Senator from California (Mrs. FEINSTEIN), the Senator from Michigan (Ms. STABENOW), the Senator from Ohio (Mr. DEWINE), the Senator from Illinois (Mr. DURBIN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. Res. 427, a resolution congratulating the citizens of Greece, the members of the Athens 2004 Organizing Committee for the Olympic and Paralympic Games, the International Olympic Committee, the United States Olympic Committee, the 2004 United States Olympic Team, athletes from around the world, and all the personnel who participated in the 2004 Olympic Summer Games in Athens, Greece.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DEWINE (for himself and Mr. KENNEDY):

S. 2815. A bill to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, I come to the floor today to introduce the Asthmatic Schoolchildren's Treatment and Health Management Act of 2004. I would like to thank my colleague, Senator KENNEDY, for cosponsoring this important piece of legislation.

I have come to the floor now many times to talk about asthma, a condition that affects more than 20 million people, including 6.3 million children. As a parent of eight and a grandparent of eight, I am particularly concerned with the disproportionately high number of children who suffer from pediatric asthma—the worst chronic health problem among our Nation's youth.

I suffer from asthma, as have some of my children, so I know how frightening and dangerous this disease can be. The statistics on pediatric asthma, especially, highlight the need to do more to combat this disease. An average of one out of every 13 school-age children has asthma and the disease is the leading cause of missed school days due to chronic illness. In 2002, the Centers for Disease Control reported that 14 million school days were missed annually because of asthma.

More than missed school days, however, are the tragic consequences of the condition. The number of deaths related to pediatric asthma nearly tripled between 1979 and 1996. In 2000, asthma attacks were the cause of 728,000 visits to the emergency room, 214,000 hospitalizations, and 223 deaths.

We know that the severity of asthma attacks can be decreased primarily through the control of the disease. Physicians instruct patients to carry their inhalers with them at all times, as they know asthma can strike a child anytime, anywhere—in the classroom, on the playground, or in the lunchroom. Therefore, it is imperative that students have immediate access to their inhalers. However, many schools do not allow students to carry their prescribed lifesaving asthma medication. To date, only 30 States, including my home State of Ohio, have laws or developed policies protecting children's right to carry an inhaler at school.

The bill I am introducing today would encourage more States to allow their children to carry their needed asthma medication while they are at school, on the school bus, on the playground, at school sporting events, or on school field trips. It would do so by giving States preference when applying for asthma-related grants.

This bill would help protect our Nation's children from the dangers of a sudden asthma attack—an attack that could result in hospitalization or even death. It also would help prevent the consequences of more severe allergic reactions. Many children suffer from asthma attacks and allergy reactions so severe that they need to carry an epinephrine injector with them at all times in the event of sudden, life-threatening attacks. Severe attacks can cause anaphylactic shock which can kill within minutes. This bill would encourage States to adopt laws and policies allowing children to carry their anaphylaxis medication, including epinephrine injectors, while they are at school.

Currently, 18 States have developed legislation protecting the rights of children to carry and self-administer epinephrine-injectors. We applaud these States and hope that this bill will encourage more States to follow suit.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asthmatic Schoolchildren's Treatment and Health Management Act of 2004".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Asthma is a chronic condition requiring lifetime, ongoing medical intervention.

(2) In 1980, 6,700,000 Americans had asthma.

(3) In 2001, 20,300,000 Americans had asthma and 6,300,000 children under age 18 had asthma.

(4) The prevalence of asthma among African-American children was 40 percent greater than among Caucasian children, and more than 26 percent of all asthma deaths are in the African-American population.

(5) In 2000, there were 1,800,000 asthma-related visits to emergency departments (more than 728,000 of these involved children under 18 years of age).

(6) In 2000, there were 465,000 asthma-related hospitalizations (214,000 of these involved children under 18 years of age).

(7) In 2000, 4,487 people died from asthma, and of these 223 were children.

(8) According to the Centers for Disease Control and Prevention, asthma is a common cause of missed school days, accounting for approximately 14,000,000 missed school days annually.

(9) According to the New England Journal of Medicine, working parents of children with asthma lose an estimated $ 1,000,000,000 a year in productivity.

(10) At least 30 States have legislation protecting the rights of children to carry and self-administer asthma metered-dose inhalers, and at least 18 States expand this protection to epinephrine auto-injectors.

(11) Tragic refusals of schools to permit students to carry their inhalers and auto-injectable epinephrine have occurred, some resulting in death and spawning litigation.

(12) School district medication policies must be developed with the safety of all students in mind. The immediate and correct use of asthma inhalers and auto-injectable epinephrine are necessary to avoid serious respiratory complications and improve health care outcomes.

(13) No school should interfere with the patient-physician relationship.

(14) Anaphylaxis, or anaphylactic shock, is a systemic allergic reaction that can kill within minutes. Anaphylaxis occurs in some asthma patients.According to the American Academy of Allergy, Asthma, and Immunology, people who have experienced symptoms of anaphylaxis previously are at risk for subsequent reactions and should carry an epinephrine auto-injector with them at all times, if prescribed.

(15) An increasing number of students and school staff have life-threatening allergies. Exposure to the affecting allergen can trigger anaphylaxis. Anaphylaxis requires prompt medical intervention with an injection of epinephrine.

SEC. 3. PREFERENCE FOR STATES THAT ALLOW STUDENTS TO SELF-ADMINISTER MEDICATION TO TREAT ASTHMA AND ANAPHYLAXIS.

(a) AMENDMENTS.—Section 399L of the Public Health Service Act (42 U.S.C. 280g) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) PREFERENCE FOR STATES THAT ALLOW STUDENTS TO SELF-ADMINISTER MEDICATION TO TREAT ASTHMA AND ANAPHYLAXIS.—

"(1) PREFERENCE.—The Secretary, in awarding any grant under this section or any other grant that is asthma-related (as determined by the Secretary) to a State, shall give preference to any State that satisfies the following:

"(A) IN GENERAL.—The State must require that each public elementary school and secondary school in that State will grant to any student in the school an authorization for the self-administration of medication to treat that student's asthma or anaphylaxis, if—

"(i) a health care practitioner prescribed the medication for use by the student during school hours and instructed the student in the correct and responsible use of the medication;

"(ii) the student has demonstrated to the health care practitioner (or such practitioner's designee) and the school nurse (if available) the skill level necessary to use the medication and any device that is necessary to administer such medication as prescribed;

"(iii) the health care practitioner formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours; and

"(iv) the student's parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan formulated under clause (iii) and other documents related to liability.

"(B) SCOPE.—An authorization granted under subparagraph (A) must allow the student involved to possess and use his or her medication—

"(i) while in school;

"(ii) while at a school-sponsored activity, such as a sporting event; and

"(iii) in transit to or from school or school-sponsored activities.

"(C) DURATION OF AUTHORIZATION.—An authorization granted under subparagraph (A)—

"(i) must be effective only for the same school and school year for whicn it is granted; and

"(ii) must be renewed by the parent or guardian each subsequent school year in accordance with this subsection.

"(D) BACKUP MEDICATION.—The State must require that backup medication, if provided by a student's parent or guardian, be kept at a student's school in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

"(E) MAINTENANCE OF INFORMATION.—The State must require that information described in clauses (iii) and (iv) of subparagraph (A) be kept on file at the student's school in a location easily accessible in the event of an asthma or anaphylaxis emergency.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) ELEMENTARY SCHOOL AND SECONDARY SCHOOL.—The terms 'elementary school' and 'secondary school' have the meanings given to those terms in section 9101 of the Elementary and Secondary Education Act of 1965.

"(B) HEALTH CARE PRACTITIONER.—The term 'health care practitioner' means a person authorized under law to prescribe drugs subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act.

"(C) MEDICATION.—The term 'medication' means a drug as that term is defined in section 201 of the Federal Food, Drug, and Cosmetic Act and includes inhaled bronchodilators and auto-injectable epinephrine.

"(D) SELF-ADMINISTRATION.—The term 'self-administration' means a student's discretionary use of his or her prescribed asthma or anaphylaxis medication, pursuant to a prescription or written direction from a health care practitioner.".

(b) APPLICABILITY.—The amendments made by this section shall apply only with respect to grants made on or after the date that is 9 months after the date of the enactment of this Act.

SEC. 4. SENSE OF CONGRESS COMMENDING CDC FOR ITS STRATEGIES FOR ADDRESSING ASTHMA WITHIN A COORDINATED SCHOOL HEALTH PROGRAM.

It is the sense of Congress—

(1) to commend the Centers for Disease Control and Prevention for identifying and creating "Strategies for Addressing Asthma Within a Coordinated School Program" for schools to address asthma; and

(2) to encourage all schools to review these strategies and adopt policies that will best meet the needs of their student population.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator DEWINE in introducing the Asthmatic School-Children's Treatment and Health Management Act. This legislation will save lives by enabling children to carry their medications with them and quickly treat their asthma attacks or allergic reactions.

Asthma continues to be a major, and often preventable cause of needless suffering and death among children in the United States. Over 6 million children under 18 have asthma, and it is significantly more prevalent in minority groups. Tragically, over 200 children die from this disease every year. Asthma affects more than health. It accounts for 14 million missed school days annually, and affects grades and personality. The estimated cost of asthma-related health care in our society is over $14 billion a year.

The key to preventing deaths and severe health effects caused by asthma and allergic reactions is prompt treatment. Inhalers work within minutes to end acute asthma attacks in children. Children experiencing severe allergic reactions must receive life-saving injections of epinephrine immediately, in order to avoid serious complications or even death.

Children need quick access to these medications when they are at school. Yet, in many States, these medications are locked up. Twenty States do not have legislation allowing students to carry and use their asthma inhalers, and 32 states have not yet passed legislation permitting students to carry and use epinephrine.

Some say that school nurses should control access to these lifesaving medications. But in America today, we have only 56,000 school nurses serving 47 million students in public schools. The ratio is only one school nurse for every 840 students. If access to these needed medications is controlled by nurses, the safety of asthma and allergy sufferers may often be compromised, and needless deaths may occur. Students without immediate access to needed medications could be at increased risk of harm while in a classroom far away from a nurse's office or other school facility. Allowing children to take their own medicine during asthma attacks and severe allergic reactions can prevent many life-threatening situations.

Our bill will help to see that children with asthma or allergic reactions will get their medications when they need it. Under this Act, States that allow students to carry and self-administer asthma or allergy medications will receive preferences for asthma-related grants. It requires that a health care practitioner must prescribe the medication and instruct students on its proper use. The student must demonstrate to the practitioner that they have the skills to administer the medication correctly. This bill also requires the student's parent or guardian to provide written consent for the student to take their medication according to the treatment plan.

When they face a life-threatening asthma attack or allergic reaction, children deserve an effective way to avoid severe health consequences. Schools should give our children the right to carry their medications with them in order to minimize the time lost between the onset of symptoms and the needed treatment. The "Asthmatic School-Children's Treatment and Health Management Act" will save children's lives and minimize suffering during these attacks. I commend Senator DEWINE for his leadership on this important health issue, and I encourage Congress to act quickly to improve every child's access in school of lifesaving medications.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 138—COMMENDING JOHN W. KLUGE FOR HIS DEDICATION AND COMMITMENT TO THE UNITED STATES ON THE OCCASION OF HIS 90TH BIRTHDAY

Mr. STEVENS (for himself, Mr. LOTT and Mr. REID) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES 138

Whereas John W. Kluge has combined a unique history of American entrepreneurship with pioneering contributions to philanthropy, electronic education, and television and radio broadcasting;

Whereas John W. Kluge is a dedicated patriot who served his country well as an Army intelligence officer during World War II;

Whereas John W. Kluge's commitment to public service has made him one of the most esteemed and generous benefactors of education, and has brought him the admiration and gratitude of the people of the United States;

Whereas John W. Kluge's deep belief in human potential and creativity has quietly helped extend educational opportunity through scholarships and other support of important civic causes;

Whereas John W. Kluge's wise counsel and leadership as the founding chairman of the Library of Congress's first private sector philanthropic organization, the James Madison Council, have inspired many others to join in support of the Library of Congress's programs and initiatives;

Whereas John W. Kluge has established an endowed program at the Library of Congress to bring leading senior scholars and junior fellows from around the world to the Library to use its great collections and to interact with the members and staff of Congress;

Whereas John W. Kluge has generously supported the first Nobel-level award for lifetime scholarly achievement in the study of the human sciences;

Whereas John W. Kluge has generously supported the creation of advanced training for library leaders of the 21st century through a Leadership Development Program at the Library of Congress; and

Whereas John W. Kluge has inspired the people of the United States by his example of support for programs that educate and equip individuals for responsible and productive citizenship: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commends John W. Kluge for his dedication and commitment to the United States;

(2) expresses, on the occasion of John W. Kluge's 90th birthday, its sincere appreciation and admiration for his example of philanthropy and public service to the people of the United States; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to John W. Kluge.

Mr. STEVENS. Mr. President, I have come to the Senate to submit a resolution honoring the great philanthropist John Kluge whose 90th birthday is tomorrow. He is a personal friend.

John Kluge is a self-made man. He came to this country as a young boy from Germany with virtually nothing but a china Dresden horse—which he still has. From these humble origins and through hard work he received a scholarship to Columbia University.

After distinguished service as an army intelligence officer during WW II—and I say parenthetically he served in Alaska during that period—he went on in the business world to create a vast media empire which he converted into a great engine of philanthropy, supporting many educational programs, aimed in particular toward helping minorities.

John Kluge's quiet commitment to public service and generosity of spirit will live on for generations. For years to come, individuals will be able to attend college on a Kluge scholarship who might otherwise be unable to afford it. Countless future national leaders will benefit from the intellectual stimulation he has made possible through his work at the Library of Congress.

Mr. Kluge is the founding chairman of the James Madison Council, the Library of Congress's private sector philanthropic organization, where he has inspired many others to join in support of the library and its programs.

Through his generosity, John Kluge helped the Library of Congress bridge the gap into the digital world by enabling it to invest heavily in technologies that bring the vast collections of the Library of Congress to people all over the world.

As chairman of the Joint Committee on the Library, I was pleased to announce at a ceremony in the Capitol in 2000 with the Librarian of Congress, Jim Billington, Mr. Kluge's generous gift of $60 million to establish the John W. Kluge center in the Library of Congress. Thanks to this endowment, the Kluge Center brings some of the world's best minds—the Kluge Scholars—into residence to use the rich resources of the library and interact with national policy makers.

John Kluge has also generously supported the creation of advanced training for a new generation of library leaders through the leadership development program at the Library of Congress.

John Kluge is a man who has made a difference. He has touched countless lives and truly deserves the recognition of this body.

I ask unanimous consent to submit this resolution and ask that it be held at the desk so others might join in cosponsoring this resolution. It is my intention to ask the leadership to try to clear it for adoption this afternoon.

The PRESIDING OFFICER. Is there objection to the measure being submitted and held at the desk? Without objection, it is so ordered.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the oversight hearing regarding the current status of the Hard Rock Mining Industry in America previously scheduled for Thursday, September 23, at 10 a.m. in room SD–366 of the Dirksen Senate Office Building has been cancelled.

For further information, please contact Dick Bouts at 202–224–7545 or Amy Millet at 202–224–8276.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on September 20, 2004, at 5:30 p.m., to consider favorably reporting S. 333, the John Breaux Elder Justice Act of 2004, and the nomination of Joey Russell George, to be Treasury Inspector General for Tax Administration, U.S. Department of Treasury.

SELECT SUBCOMMITTEE ON INTELLIGENCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 20, 2004 at 9:30 a.m. to hold a hearing on the nomination of PORTER J. GOSS to be Director of Central Intelligence.

SPECIAL COMMITTEE ON AGING

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Monday, September 20, 2004 from 2 p.m.–5 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. The Senator from Alaska.

ORDER TO REQUEST RETURN OF PAPERS—H.R. 4567

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate request the House to return the papers with respect to H.R. 4567.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING JOHN W. KLUGE

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 138 which was submitted earlier today by Senator STEVENS.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 138) commending John W. Kluge for his dedication and commitment to the United States on the occasion of his 90th birthday.

Mr. REID. Reserving the right to object—and I will not object—I ask unanimous consent to be added as a cosponsor of the concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I served for some time as chairman of the Appropriations Subcommittee on the Legislative branch. During those years, there was an effort made to cut funding for the Library of Congress. I became an expert on funding for the Library of Congress. We were able to overcome the objections of those who thought the Library of Congress should be made different than it now is. But during that period of time, I met John Kluge. John Kluge is a man who has made lots of money in the free enterprise system of our country. But he has dedicated large amounts of his fortune to the Library of Congress.

I am so glad Senator STEVENS submitted a resolution commemorating the birthday of this great American. Because of his being such a fine man and recognizing the importance of the Library of Congress, the greatest library in the history of the world, many people will benefit from his efforts.

I withdraw my reservation of objection.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 138) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 138

Whereas John W. Kluge has combined a unique history of American entrepreneurship with pioneering contributions to philanthropy, electronic education, and television and radio broadcasting;

Whereas John W. Kluge is a dedicated patriot who served his country well as an Army intelligence officer during World War II;

Whereas John W. Kluge's commitment to public service has made him one of the most esteemed and generous benefactors of education, and has brought him the admiration and gratitude of the people of the United States;

Whereas John W. Kluge's deep belief in human potential and creativity has quietly helped extend educational opportunity through scholarships and other support of important civic causes;

Whereas John W. Kluge's wise counsel and leadership as the founding chairman of the Library of Congress's first private sector philanthropic organization, the James Madison Council, have inspired many others to join in support of the Library of Congress's programs and initiatives;

Whereas John W. Kluge has established an endowed program at the Library of Congress to bring leading senior scholars and junior fellows from around the world to the Library to use its great collections and to interact with the members and staff of Congress;

Whereas John W. Kluge has generously supported the first Nobel-level award for lifetime scholarly achievement in the study of the human sciences;

Whereas John W. Kluge has generously supported the creation of advanced training for library leaders of the 21st century through a Leadership Development Program at the Library of Congress; and

Whereas John W. Kluge has inspired the people of the United States by his example of support for programs that educate and equip individuals for responsible and productive citizenship: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commends John W. Kluge for his dedication and commitment to the United States;

(2) expresses, on the occasion of John W. Kluge's 90th birthday, its sincere appreciation and admiration for his example of philanthropy and public service to the people of the United States; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to John W. Kluge.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, pursuant to Public Law 108–132, Section 128, appoints the following individual to the Commission on Review of Overseas Military Facility Structure of the United States: Admiral Anthony A. Less of Virginia.

The Chair, on behalf of the Democratic Leader, after consultation with the Ranking Member of the Senate Committee on Finance, pursuant to Public Law 106–170, appoints the following individual, Andrew J. Imparato, of Maryland, to serve as a member of the Ticket to Work and Work Incentive Advisory Panel.

EXECUTIVE SESSION

NOMINATIONS DISCHARGED

Ms. MURKOWSKI. Mr. President, in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations: JOHN SUNUNU, PN 1951; PATRICK LEAHY, PN 1950; Stuart Holliday, PN 1131; and the foreign service nominations list, PN 1828, which is at the desk. I further ask unanimous consent that the Senate proceed to their consideration, the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I guard the nomination process as well as anybody. I have had difficulty with someone who we have tried to put on the Nuclear Regulatory Commission for a year and a half. I have recognized that by making sure that certain people the administration wants do not go through. But I have not held up what I think are nominations important to the national defense and welfare of our country, generally speaking.

We have a number of people, as indicated by the acting leader at this time, Senator MURKOWSKI, being discharged from the Foreign Relations Committee. There is one person, though, on the list by the name of James B. Cunningham, a career member of the senior foreign service, to be appointed to the Atomic Energy Agency with the rank of Ambassador. There is a hold on this. This man would represent the United States on this most important entity.

The news in the last months has been dealing with Iran and what they are doing and not doing with their nuclear program. We need this man on a daily basis doing what he needs to do to protect the interests of not only the United States but the world with this burgeoning problem we have with nuclear materials.

There is a hold by the majority on this nomination. I think it is wrong. I will not mention the name of the Senator who has a hold, but it should be taken off. It is not good for the country or for the world.

Having said that, I have no objection to the request of the Senator from Alaska.

The PRESIDING OFFICER. Without objection, the request is agreed to.

The nominations, considered and confirmed, are as follows:

DEPARTMENT OF STATE

Stuart W. Holliday, of Texas, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Alternate Representative of the United States of America for Special Political Affairs in the United Nations.

Patrick J. Leahy, of Vermont, to be a Representative of the United States of America to the Fifty-ninth Session of the General Assembly of the United Nations.

John E. Sununu, New Hampshire, to be a Representative of the United States of America to the Fifty-ninth Session of the General Assembly of the United Nations.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Jacqueline Bell, of Maryland

For appointment as Foreign Service Officers of Class Three, Consular Officer and Secretary in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Zac T. Bao, of Florida
George H. Buzby, of Florida
Thomas L. McClanahan, of Colorado
John P. Nicholson, of Florida
John D. Vernon, of Virginia
Terry G. Youngblood, of Texas

DEPARTMENT OF COMMERCE

Christopher R. Quinlivan, of Washington

DEPARTMENT OF STATE

Katelyn Choe, of Florida
Lynn M. Ferenc, of Florida

For appointment as Foreign Service Officers of Class Four, Consular Officer and Secretary in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Alicia P. Allison, of the District of Columbia
Joseph Ray Babb, of California
Juliana Kinal Ballard, of the District of Columbia
Dana Lynn Banks, of Pennsylvania
Alexander Lucian Barrasso, of the District of Columbia
Rois Meghan Beal, of Georgia
Scott A. Blomquist, of Florida
Tomekah L. Burl, of Arkansas
Yan Chang, of Georgia
John Reid Crosby, of Texas
Mary Eileen Daschback, of New Hampshire
Gene J. Del Bianco, of Massachusetts
Bradley Richard Evans, of Texas
Fiona Scholand Evans, of Texas
Dan O. Fulwiler, of Washington
Ann Elise Gabrielson, of Minnesota
Michelle Marie Gidaspova, of New York
David Lindgren Gehrenbeck, of Rhode Island
Stephen P. Goldrup, of California
John Gorkowski, of Virginia
Christopher Lee Green, of Texas
Daniel O'Connell Hamilton, of Missouri
Patrick N. Hanish, of Washington
Margaret Reiko Hartley, of California
Ida Eve Heckenbach, of Louisiana
Janelle S. Hironimus, of California
Joey Robert Hood, of New Hampshire
Patrick Wynters Hornbuckle, of New York
Darragh Jones, of Oregon
Dennis T.P. Keene, of Florida
Robert L. Kingman, of Washington
Laura Hope Kirkpatrick, of Virginia
James Gordon Land, of Florida
Kamal Imhotep Latham, of New York
Claire Le Claire, of Minnesota
Jason Ross Mack, of New York
Bettina Anne Malone, of Virginia
Tyler L. Mason, of New York
Gregory Charles May, of Texas
Kara Cherise McDonald, of Virginia
John W. McIntyre, of Missouri
Emily Ann Mestetsky, of New Jersey
Shante J. Moore, of Michigan
Carla J. Mudgett, of Vermont
Adrienne B. Nutzman, of Texas
Nicholas Papp III, of Florida
Susan Parker-Burns, of Massachusetts
Jonathan P. Post, of California
Gabrielle M. Price, of Pennsylvania
Marco Glen Prouty, of Washington
Daniel J. Ricci, of California
John G. Robinson, of Mississippi
Peter A. Schroeder, of Washington
Marc London Shaw, of Missouri
Andrew Kenneth Sherr, of Colorado
Jefferson David Smith, of Texas
Timothy Lyle Smith, of Michigan
Timothy M. Standaert, of Florida
Daniel Alexander Stewart, of Virginia
Tom S. Targos, of Wisconsin
Timothy P. Trenkle, of Kansas
Joseph Finch Trimble Jr., of Texas
David Nathaniel Gartland Whiting, of South Dakota
Dana Renee Williams, of Texas
Michelle Elizabeth Wollam, of California
Eboni York, of Michigan

The following-named Members of the Foreign Service to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated: Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF COMMERCE

Geoffrey S. Bogart, of California
Val E. Huston, of Indiana
Justin D. Mylroie, of Washington
Christopher D. Woosley, of Virginia

DEPARTMENT OF STATE

Jason Andrew Abell, of Illinois
Angela C. Alexander, of Virginia
Anthony Alexander, of California
Christopher C. Allison, of Missouri
Faris Y. Asad, of Ohio
Benjamin S. Bailey, of Washington
Anne Elizabeth Baker, of Pennsylvania
Erin C. Barcus, of Maryland
Alistair C. Baskey, of the District of Columbia
Matthew Harold Blong, of Maryland
Scott Charles Bolz, of Washington
Pauline N. Borderies, of Virginia
Jennifer F. Bosworth, of the District of Columbia
Ryan E. Bowles, of Minnesota
Tobias Alyn Bradford, of Texas
Robin S. Brooks, of Colorado
Justin Patrick Brown, of California
Timothy Patrick Buckley, of New York
Todd A. Campbell, of Illinois
Cheryl Barnes Carson, of Virginia
Christopher James Chaisson, of Virginia
Min Chang, of California
Alice Ruth Chu, of Virginia
Theodore H. Clark, of Virginia
Elise C. Cocke, of the District of Columbia
John D. Culp, of Virginia
Kim D'Auria-Vazira, of California
Mark G. Davenport, of Virginia
Erfana S. Dar, of Washington
Timmy T. Davis, of Mississippi
Gregory W. Deputy, of Virginia
David Dolaher, of Virginia
Andrea Susana Martinez Donnally, of Texas
Jed Taro Dornburg, of the District of Columbia
Julie A. Eadeh, of Michigan
Michael G. Edwards, of Washington
Richard J. Faillace, of New Jersey
Maha Gamal Farid, of the District of Columbia
Sita M. Farrell, of Virginia
Yuriy R. Fedkiw, of Ohio
Julia C. Fendrick, of Maryland
Mary Ann Freeman, of California
Enrique Rodrigo Gallego, of Illinois
Julie C. Gibson, of Virginia
Alexander Paul Gogulski, of Virginia
Matthew B. Golden, of California
Lynnette Lynn Gordon, of Texas
John Harrison Gregg, of Alabama
Linda A. Gregus, of Virginia
John Arthur Haid, of Virginia
Matthew S. Hand, of Virginia
Alexander Keith Hardin, of Ohio
Gayle R. Harnest, of Virginia
Anbereen Hasan, of Virginia
Priscilla Ann Hernandez, of Texas
Tracy E. Hill, of the District of Columbia
Julius E. Hoffman Jr., of the District of Columbia
Michael John Hougaard, of Virginia
Kevin E. Hulbert, of the District of Columbia
Aaron L. Hummeldorf, of Virginia
Jerry Ismail, of New York
Robert A. Ivey, of Virginia
Joseph Samuel Jacanin, of Virginia
Dayle Rebecca Johns, of Texas
Matthew P. Johnson, of Virginia
Todd M. Katschke, of the District of Columbia
Pamela R. Kazi, of Minnesota
Charles J. Kelly, of Virginia
Stephen Gyula Kovacsics, of Florida
Eric J. Kramp, of Florida
Coby Dawne Lastuka, of Washington
Thaddeus C. Law, of Virginia
Jeffrey Michael Loree, of the District of Columbia
Adham Zibas Loutfi, of California
Katherine M.F. Lowndes, of Virginia
Rose A. Manor, of Virginia
John A. Marcinek, of Virginia
Michael H. Margolies, of Louisiana
Ann L. Mason, of Michigan
Josiah D. Mayne, of Virginia
John William McClure, of Virginia
James P. McDonald, of Massachusetts
Bernadette M. Meehan, of New York
Laura P. Merkle, of Virginia
Gregory C. Morris, of Virginia
James M. Morris, of Massachusetts
Heather Mulvenna, of Virginia
Junaid Munir, of Michigan

Fahez A. Nadi, of New York
David C. Ng, of Arizona
Sadia Niazi, of Virginia
Marlene E. Olsen, of Florida
Trevor R. Olson, of Idaho
Adam Packer, of the District of Columbia
Christine D. Parker, of Illinois
Vanessa M. Paulos, of Texas
Dexter C. Payne, of Virginia
Elizabeth Lynne Perry, of Massachusetts
Michael E. Pignatello, of Nevada
Matthew P. Politte, of Virginia
Mauricio H. Puerto, of Virginia
Helaena W. Rathore, of Tennessee
Nazima H. Razick, of Virginia
Kelsey Thomas Rideout, of Virginia
Ryan J. Roberts, of Texas
Jeff Rotering, of Kansas
Lenore Marie Santone, of Virginia
Julie Michelle Schohn, of North Carolina
Mahvash Siddiqui, of California
Daniel E. Slaven, of Texas
Patrick T. Slowinski, of Utah
Alyssa Smith, of the District of Columbia
William H. Steele Jr., of Florida
William B. Stevens, of Virginia
Brian K. Stimmler, of New Jersey
Amy L. Storrow, of Texas
Rachel Elizabeth Subler, of Virginia
Karan Elizabeth Swaner, of Virginia
B. Richard Switzer, of Virginia
Dmitri Tarakhovsky, of Michigan
Shawn Harris Tribe, of California
Karen K. Tsai, of New York
Frank F. Tu, of California
Dillon R. Twombly, of Virginia
Kevin D. Vail, of Virginia
Kevin A. Vaillancourt, of Virginia
Perry M. Venturini, of Virginia
Scott Lee Whitmore, of Massachusetts
Brendan R. Whitworth, of Virginia
Patrick C. Williams III, of West Virginia
Mamie Willis, of Virginia
Woods, Jody L., of Virginia
Elizabeth L. Woudenberg, of Maryland
Carson H. Wu, of Michigan
Baimba M. Yilla, of Virginia
Michael H. Young, of California
Alexander Yuan, of New York
Jim Zix, of Oregon

The PRESIDING OFFICER. The President will be notified of the Senate's action.

NOMINATION PLACED ON CALENDAR—PN-1267

Ms. MURKOWSKI. Mr. President, in executive session, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of the nomination of Neil McPhie, PN-1267, and further that the nomination be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR TUESDAY, SEPTEMBER 21, 2004

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on Tuesday, September 21. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate begin a period of morning business, for statements only, for up to 60 minutes, with the first half hour of time under the control of the Democratic leader or his designee, and the remaining time under the control of the majority leader or his designee.

I further ask unanimous consent that following the aforementioned 60 minutes, the period of morning business for debate only then be extended for an additional 120 minutes, with the next 60 minutes under the control of the Democratic leader or his designee, and the final 60 minutes under the control of the majority leader or his designee.

I further ask that following the time assigned for morning business, the Senate recess until 2:15 p.m. for the weekly party lunches.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Ms. MURKOWSKI. Mr. President, for the information of all Senators, the Senate will be in morning business until the weekly party lunches.

Tomorrow afternoon, the Senate will take up the Legislative Branch appropriations bill. Under the previous agreement, there will be 1 hour of debate on the bill, followed by a vote on passage. Therefore, Senators should expect the first vote of tomorrow's session to occur sometime tomorrow afternoon.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Ms. MURKOWSKI. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:32 p.m., adjourned until Tuesday, September 21, 2004, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate September 20, 2004:

DEPARTMENT OF THE TREASURY

JESUS H. DELGADO-JENKINS, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE TERESA M. RESSEL, RESIGNED.

DEPARTMENT OF STATE

SUSAN L. MOORE, OF TEXAS, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

BERYL A. HOWELL, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 31, 2005, VICE DIANA E. MURPHY, RESIGNED.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

To be captain

JONATHAN W BAILEY
TIMOTHY B WRIGHT
GARNER R YATES JR
STEVEN R BARNUM
RICHARD S BROWN
CRAIG N MCLEAN
PHILIP M KENUL
JON E RIX
STEPHEN A KOZAK
SEAN R WHITE
STEVEN A THOMPSON
KENNETH W BARTON
JOHN E LOWELL JR.
EMILY B CHRISTMAN

To be commander

ANDREW L BEAVER
RAYMOND C SLAGLE
JOHN E HERRING
CHRISTOPHER S MOORE
WILLIAM B KEARSE
THOMAS G CALLAHAN
STACY L BIRK-RISHEIM
PHILIP S HILL
MATTHEW H PICKETT
GUY T NOLL
JAMES S VERLAQUE
JAMES R MEIGS
THOMAS E STRONG
CHRISTOPHER A BEAVERSON
CARL R GROENEVELD
DAVID O NEANDER
MICHAEL S DEVANY
ANDREA M HRUSOVSKY
JULIA N NEANDER
DONALD W HAINES
MICHELE A FINN

To be lieutenant commander

JAMES A BUNN II
ANNE K LYNCH
KARL F MANGELS
STEPHEN J THUMM
ANITA L LOPEZ
MARK J BOLAND
JEFFREY C HAGAN
JOHN K LONGENECKER
DEBORA R BARR
MICHAEL L HOPKINS
ERIC W BERKOWITZ
JON D SWALLOW
JOSEPH A PICA
MICHAEL J HOSHLYK
RICARDO RAMOS
GREGORY G GLOVER
KEITH W ROBERTS
PHILIP G HALL
WILLIAM R ODELL
BRIAN W PARKER
JOHN T CASKEY
TODD A HAUPT
CECILE R DANIELS
LAWRENCE T KREPP
JAMES M CROCKER
CARL E NEWMAN
SHEPARD M SMITH
TODD A BRIDGEMAN
EDWARD J VAN DEN AMEELE

To be lieutenant

THOMAS J PELTZER
MARK S MOSER
JASON M SEIFERT
KEVIN J SLOVER
HOLLY A DEHART
JASON A APPLER
KRISTIE J TWINING
FRANK K DREFLAK
BENJAMIN K EVANS
JEREMY B WEIRICH
WILLIAM P MOWITT
DOUGLAS J KRAUSE
NICOLE M CABANA
RUSSELL G HANER
JONATHAN B NEUHAUS
NICHOLAS J TOTH
ANDREW A HALL
CATHERINE A MARTIN
JEFFREY R JUDAS
STEPHANIE A KOES
DANIEL M SIMON
JOHN A CROFTS
MARK VAN WAES
WILLIAM W PIERCE III
RICHARD E HESTER JR.
JEFFREY C TAYLOR
NOAH LAWRENCE-SLAVAS
NICHOLAS J CHROBAK
ERIK M EILERS

To be lieutenant (junior grade)

WILLIAM D WHITMORE
DOUGLAS E MACINTYRE
SARAH L DUNSFORD
SARAH K MROZEK
JOSHUA D BAUMAN
KATHREINE R PEET

MICHAEL G LEVINE
BRYAN R WAGONSELLER
NICOLE M MANNING
ALLISON B MELICHAREK
JESSICA M FUTCH
EARL M SPENCER
JEFFREY D SHOUP
HECTOR L CASANOVA
AMANDA M BITTINGER
ERIC T JOHNSON
JASPER D SCHAER
JESSICA E DAUM
AMANDA M MIDDLEMISS
NATASHA R DAVIS
LUKE J SPENCE
JOHN J LOMNICKY
LUNDY E PIXTON
MATTHEW R RINGEL
ERICH J BOHABOY
LINDSAY R KURELJA
PATRICK D DIDIER
AMY M DANIEL
MISTY M WATSON
KELLY E STROUD
RICHARD A EDMUNDSON

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

To be lieutenant

TIMOTHY J GALLAGHER
MATTHEW J WINGATE

To be ensign

LEAH A HARMAN
MICHAEL C DAVIDSON
JASON R MANSOUR
DAVID E FISCHMAN
MICHAEL J STEVENSON
BRIANA J WELTON
ABIGAIL S HIGGINS
SILAS M AYERS
PAUL A HOUSEHOLDER
BRENT J POUNDS
AMANDA L GOELLER
SARAH E JACKSON
TRI M NGUYEN
TIMOTHY D SALISBURY
NICOLA SAMUELSON
BENJAMIN S SNIFFEN
MARK A BLANKENSHIP
FIONNA J MATHESON
JONATHAN E TAYLOR
ANDREW P HALBACH
NATHAN S PRIESTER
WILLIAM I WELLS
SARAH K JONES
PATRICK L MURPHY
STEPHEN P BARRY
COLIN D LITTLE
BERNERD R ARCHER

CONFIRMATIONS

Executive nominations confirmed by the Senate September 20, 2004:

DEPARTMENT OF STATE

STUART W. HOLLIDAY, OF TEXAS, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS.

PATRICK J. LEAHY, OF VERMONT, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

JOHN E. SUNUNU, OF NEW HAMPSHIRE, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

FOREIGN SERVICE NOMINATIONS BEGINNING JACQUELINE BELL AND ENDING JIM ZIX, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 19, 2004.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, September 21, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 22

9:30 a.m.

Commerce, Science, and Transportation

Business meeting to consider pending calendar business.

SR–253

Indian Affairs

Business meeting to consider pending calendar business; to be followed by an oversight hearing on the contributions of Native American code talkers in American military history.

SD–562

Judiciary

To hold hearings to examine counterterrorism legislation and proposals, including the USA PATRIOT ACT (P.L. 107-56), and the SAFE Act.

SD–226

10 a.m.

Appropriations

To hold hearings to examine the 9/11 Commission intelligence recommendations.

SH–216

Governmental Affairs

Business meeting to continue markup of the proposed National Intelligence Reform Act.

SD–342

Health, Education, Labor, and Pensions

Business meeting to consider S. 2686, to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act, S. 518, to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy, S. 2283, to extend Federal funding for operation of State high risk health insurance pools, S. 1217, to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls, S. 2526, to reauthorize the Children's Hospitals Graduate Medical Education Program, S. Res. 389, expressing the sense of the Senate with respect to prostate cancer information, and other pending legislation and pending nominations.

SD–430

Joint Economic Committee

To hold hearings to examine consumer choice and addressing "adverse selection" concerns with regard to health insurance.

SD–628

2 p.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the condition and regulation of the insurance industry.

SD–538

2:30 p.m.

Foreign Relations

To hold hearings to examine the nominations of Lloyd O. Pierson, of Virginia, to be an Assistant Administrator of the United States Agency for International Development, and a Member of the Board of Directors of the African Development Foundation.

SD–419

3:30 p.m.

Judiciary

To hold hearings to examine pending judicial nominations.

SD–226

SEPTEMBER 23

9 a.m.

Judiciary

Business meeting to consider pending calendar business.

SD–226

9:30 a.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine National Labor Relations Board issues.

SD–192

2 p.m.

Health, Education, Labor, and Pensions

To hold hearings to examine the role of prescription drug monitoring programs.

SD–430

2:30 p.m.

Armed Services

To hold hearings to examine the Global Posture Review of United States military forces stationed overseas.

SH–216

SEPTEMBER 24

9 a.m.

Environment and Public Works

Fisheries, Wildlife, and Water Subcommittee

To hold oversight hearings to examine State and private programs for sage grouse conservation.

SD–406

9:30 a.m.

Foreign Relations

To hold hearings to examine the Protocol Amending the Convention Between the United States of America and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (including exchange of notes with attached Understanding), signed at Washington on March 8, 2004 (the "Protocol") (Treaty Doc. 108-25), and the Second Protocol Amending the Convention Between the United States of America and Barbados for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income Signed on December 31, 1984, signed at Washington on July 14, 2004; including an exchange of notes with attached Understandings (Treaty Doc. 108-26).

SD–419

SEPTEMBER 28

2:30 p.m.

Foreign Relations

To hold hearings to examine how to combat corruption in the multilateral development banks.

SD–419

SEPTEMBER 29

9:30 a.m.

Indian Affairs

Business meeting to consider pending calendar business; to be followed by an oversight hearing on lobbying practices involving Indian tribes.

SH–216

OCTOBER 5

9:30 a.m.

Foreign Relations

To hold hearings to examine the progress of the Millennium Challenge Corporation.

SD–419

CANCELLATIONS

SEPTEMBER 23

10 a.m.

Energy and Natural Resources

To hold hearings to examine the current status of the Hard Rock Mining Industry in America, focusing on a status and trend analysis, a review of domestic mineral reserves, a summary on exploration investments and current production as well as permitting and reclamation issues.

SD–366

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Tuesday, September 21, 2004*

The Senate met at 9:45 a.m. and was called to order by the Honorable MICHAEL B. ENZI, a Senator from the State of Wyoming.

The PRESIDING OFFICER. Today's prayer will be offered by Dr. Alan Keiran, Chief of Staff, Office of the Senate Chaplain.

PRAYER

The guest chaplain offered the following prayer:

Let us pray.

O God our rock and our fortress, thank You for guarding our lives. Without the unfolding of Your loving providence, we would miss life's music. You set our feet on solid ground and deliver us from our enemies. You have kept us from sorrow and sighing, for we trust You in life's storms.

Today, empower our lawmakers to be instruments of Your will. Remind them that their times are in Your hands as You shield them in Your steadfast love. Give them serenity to accept what they cannot change and courage to change what they can.

Bless the people who labor with them to keep our Nation strong. Sustain them in their work and give them Your wisdom. And bless our Nation. Strengthen her walls with righteousness and surround her with Your peace. Protect our military with Your powerful hand.

We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MICHAEL B. ENZI led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, September 21, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MICHAEL B. ENZI, a Senator from the State of Wyoming, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. ENZI thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning there will be a period for the transaction of morning business for 3 hours. The first hour will be equally divided between the majority and minority. The second 60 minutes will be under the control of the Democratic side of the aisle, and the majority will use the final 60 minutes.

Following this morning business period, the Senate will recess until 2:15 p.m. for the weekly policy luncheons.

This afternoon, the Senate will consider the legislative branch appropriations bill. The order provides for 1 hour of debate and a vote on passage of that legislation. Senators should, therefore, anticipate a rollcall vote later today.

This week the Senate can also expect to consider the Goss nomination, once that nomination is available for full Senate consideration. We would like to do that as soon as it becomes available. It should be available shortly. So hopefully we can address that nomination tomorrow.

As mentioned yesterday, the Senate may also consider legislation which extends some of the expiring family tax provisions.

Finally, we will continue to work on agreements for some of the remaining appropriations measures. The Senate will consider those bills under short time limitations, if agreements can be reached.

GRAND OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

Mr. FRIST. Mr. President, I want to comment very briefly on something I mentioned in the last week, and that is the grand opening of the National Museum of the American Indian. The grand opening officially is occurring today, actually in a couple of hours. This marks a milestone in American and American Indian history.

Established by an act of Congress in 1989, the museum, which we can all see from the front of the Capitol, is a tribute to the extraordinary achievements and the contributions made by American Indian culture. I had the opportunity 2 nights ago to tour that museum. It is truly remarkable, unique, and unlike any other museum in the Smithsonian group in that the stories are told by participants of the culture.

There are great collections, as so many of the institutions have. It is a cultural experience that comes alive as one goes through this museum, starting on the fourth floor, and continuing to the third, second, and first floor. It is truly remarkable.

It is right here on the National Mall, as everyone in this body knows. It is a prominent symbol of the progress we have made in recognizing and, in many ways, reconciling our shared history.

The celebration began informally yesterday but will continue over the course of the week. There are going to be about 600,000 people participating in the celebration from around the world.

As one looks out from the front of the Capitol steps, they see the platforms for singers, dancers, and storytellers, representing nearly 40 American Indian communities, performing over the course of the week.

The museum is fascinating, and I wanted to bring that to everybody's attention. Again, I know the Democratic leader and myself will be participating in the opening of those ceremonies today.

INTELLIGENCE REFORM

Mr. FRIST. Another quick update on our progress along reform in terms of our intelligence operations, both within the Senate and outside the Senate with regard to the executive branch. The markup in the Governmental Affairs Committee has begun, with the leadership of Senator COLLINS and Senator LIEBERMAN. Senator DASCHLE and I had directed that committee in late July to appropriately respond with legislation to the 9/11 Commission recommendations. The committee's legislation, as has been presented and is being marked up, does just that. I assume that process will go on over the course of the next several days. There will be amendments and modifications on issues such as the national intelligence director and how much authority will be given the national counterterrorism center. The bill tracks very closely with the plans and decisions that have been put forward by the 9/11 Commission, although we have learned a lot since even that Commission report has been written, and also with plans put forth by the White

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House. All of that is being considered by that committee.

Next week we will be bringing this to the Senate floor for a full debate. It has been a very thoughtful process. The 9/11 Commission report came out in late July. We in this body have gone nonstop through late July, August, and now September, building on the foundation of really 2 or 3 years of work where we have looked at reform and appropriate organizational reorganization.

As the Democratic leader and I mentioned, October 8 is when we will be leaving, and it would be our objective, with the will of the Senate, to be able to complete the legislation before that time.

The other arm that Senator DASCHLE and I addressed by establishing a vehicle through which it could be addressed is the whole issue of what we do inside this body in terms of organizational reorganization to oversee the intelligence operations by the executive branch and the 15 intelligence agencies. That task force has met several times, both at the staff level and at the Member level. I know they have more meetings planned for this week.

The goal would be for them to come up with specific recommendations for leadership to improve our oversight functions.

So a lot is going on. As we set out, the real focus of this month or this period of time since the recess and until October 8 is the safety and security of the American people. We are working in a bipartisan way to do just that.

One last thing, the Senate Intelligence Committee will favorably report out PORTER GOSS shortly and the entire Senate will be able to confirm him this week. As I mentioned in my opening remarks, it is important to do so. It only makes sense that we have the post of Director of Central Intelligence be filled at this important time. PORTER GOSS is a highly capable man and leader, with a strong background and a lot of experience in intelligence matters. He will be able to lead the intelligence community through this period of reform.

There is a lot going on today in Washington and on the Senate floor, with the appropriations process, with intelligence organization and reorganization. We have now a little over 2 weeks to complete a very full agenda but one that the American people deserve and on which we will deliver.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

INTELLIGENCE REFORM

Mr. DASCHLE. Mr. President, I will comment on the progress that the majority leader referenced with regard to both the Governmental Affairs Committee work as well as the task force. This is one of those, unfortunately, all too rare occurrences where there is real bipartisan partnership and participation. Both Senator COLLINS and Senator LIEBERMAN deserve great credit for bringing the committee to a point where they can begin the markup this morning. It is our expectation that we will address that important legislation next week. In fact, we have made a decision that on Thursday we will have a special caucus just to talk about the legislation. I hope we can work through that bill and complete it, as the majority leader has proposed.

Also, Senator REID and Senator MCCONNELL have done an outstanding job in narrowing the focus, as we look at ways with which to improve oversight. That, too, is on track. It would be my hope that we would complete our work on congressional reorganization as well before the end of this session. Given the progress they have made, I am optimistic about our prospects for doing exactly that.

ORDER OF PROCEDURE

Before I get into my leader time, I ask unanimous consent that during the first hour of time allocated to the Democratic caucus that Senator KENNEDY be given the first 20 minutes, Senator HARKIN be given 10 minutes, and then Senator LINCOLN 15 minutes, Senator CONRAD 20 minutes, and Senator DAYTON 10 minutes in the second hour.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

OPENING OF THE SMITHSONIAN INSTITUTION'S NATIONAL MUSEUM OF THE AMERICAN INDIAN

Mr. DASCHLE. Mr. President, this is a happy and historic day for all Americans, and especially for the First Americans. Right now, about a dozen blocks from this Capitol, an estimated 15- to 20,000 Native Americans representing tribes from South Dakota to South America are beginning a grand procession down Pennsylvania Avenue. The procession is the largest gathering ever of American Indians in our Nation's Capital. As someone from South Dakota, proud homeland of the Great Sioux Nation, I can tell you, it is an incredibly beautiful sight.

The procession marks the beginning of a week-long festival in Washington celebrating the opening of the spectacular new National Museum of the American Indian. The new museum—part of the Smithsonian Institution—is America's only national museum dedicated to Native Americans. And it is the largest museum in the world dedicated to telling the story of indigenous people in their own authentic voices. Every detail reflects the views of Native people, from the text of the exhibits to the menu in the museum restaurant. The building itself was designed by the famed Native architect, Douglas Cardinal. Its curved exterior walls, made of rough-hewn limestone, suggest the ancient cliff dwellings of the American Southwest.

Inside those walls are 8,000 extraordinary artifacts representing more than 10,000 years of history from more than 1,000 indigenous communities fromas far north as Alaska and as far south as Chile. The museum includes three permanent exhibits. "Our Universes" features the spiritual beliefs of native communities, including the Oglala Sioux Tribe. "Our Peoples" looks at historical events through native eyes. "Our Lives" focuses on native people today. There is also space for changing exhibits of artwork by contemporary Native artists, and large spaces for Native American ceremonies and performances. In this museum, Native people and communities are not anthropological oddities or historical footnotes. They are not stereotypes. They are vibrant, living cultures.

I want to commend the museum's director, Dr. Richard West, a member of the Southern Cheyenne nation; and all of museum's dedicated staff and volunteers, who have worked so hard to make the dream a reality, including assistant curator Emil Her Many Horses, a native of Pine Ridge, who was raised on Rosebud.

I also want to thank our colleague, Senator BEN NIGHTHORSE CAMPBELL, a long-time champion of the museum. I especially want to thank my dear friend, Senator DAN INOUYE, co-chairman, with Senator CAMPBELL, of the Senate Committee on Indian Affairs, and the original sponsor in 1987 of the bill creating the National Museum of the American Indian. No Senator has ever worked longer or harder to get our government to honor its trust and treaty obligations to Native American tribes, to Native Hawaiians and Alaska Natives than DANNY INOUYE, and I am proud to be able to work with him to keep those sacred commitments.

As many as 6 million visitors are expected to visit the National Museum of the American Indian every year. They will come away with a deeper understanding of America's rich Native cultures. It will lead, it is hoped, to a healing and reconciliation between Native Americans and those of us whose families came here from other nations.

It is moving to see this living monument to the First Americans take its rightful place on our National Mall, along side our Nation's other great monuments. At the same time, we know that there are priceless cultural and historical artifacts all across Indian Country that also must be preserved.

I would like to tell you about one such treasure: an extraordinary collection of letters known as "The Dakota

Letters." They were written 140 years ago by members of the Dakota Nation, the original inhabitants of what is now Minnesota. Four years ago, copies of 150 of the Dakota Letters found their way to the home of some of the descendants of the original letter writers: the Sisseton Wahpeton reservation in eastern South Dakota. What makes these letters rare—and possibly unique—is that they provide first-person, written accounts of a tragic and little-known chapter in our Nation's history—as seen through Native eyes.

That chapter has been called many things. The first accounts, written by white historians in the 1880s and 1890s, referred to it as "the Great Sioux Massacre." Later, it was called "the Sioux Uprising." Today, it is known as "the U.S.-Dakota Conflict—some say the U.S. -Dakota War—of 1862. It was the opening of the Great Plains Indian Wars, three decades of armed resistance by Plains Indians against white settlers and government soldiers.

The roots of the Dakota Conflict stretch back to 1851, when the Dakota were coerced into signing treaties giving 90 percent of their land, including their hunting grounds, to the U.S. government. The government promised the Dakota annual payments of gold and goods for the land, as well as help building schools and farms. The promises were never kept.

A decade later, in August of 1862, the Dakota were starving. The annuity payments were late and the government agent refused to sell on credit food that was being stored in warehouses for sale to the Dakota. When Dakotas complained, he stunned them by telling them to "eat grass." Four days later, a hunting party of hungry Dakota youth killed five white settlers in a dispute over some stolen eggs. It was the spark that ignited the war.

Reluctantly, some of the Dakota chiefs chose to go to war rather than surrender the young men for hanging. Some hoped that the Army might be so distracted by the Civil War that the Dakota could drive them from the Plains. That was a tragic miscalculation.

The fighting lasted 38 days, raging across the Minnesota River Valley, south to Iowa and west to the Dakotas. Most Dakota people opposed the war and did not fight. Many risked their lives to save white settlers. When the war ended, nearly 100 American soldiers, approximately 359 settlers and an estimated 29 Dakota soldiers were dead.

Most of the Dakota warriors who led the fighting escaped north. Nearly 400 men who remained were captured and taken to a prison in Mankato, MN, where they were tried by a military commission. As many as 40 trials were conducted in a single day—a single day. The prisoners were all denied counsel. Many spoke no English and most likely did not understand the charges against them.

Of the 393 men tried, 323 were convicted, and 303 were sentenced to die. President Lincoln commuted all but 38 of the death sentences. The 38 condemned men were hanged in the Mankato prison the morning after Christmas of 1862 in what remains the largest public execution in our Nation's history. Among the 38 were men who almost certainly had not taken part in the fighting and two men whose names were not even on the list of the condemned.

For the rest of the Dakota people, the worst was still to come. After losing the war, they lost their nation. In March of 1863, the Dakota prisoners at Mankato were sent to Camp McClellan in Davenport, IA. More than 1,600 other Dakota people who had nothing to do with the war were also taken captive after the war and held at Fort Snelling, MN. In April of 1863, they were forcibly removed to Crow Creek, SD. That same month, Congress cancelled all treaties with the Dakota and used the money that had been promised to the Dakota to pay claims by settlers. Hundreds of Dakota family members died at Fort Snelling. Hundreds more died on the way to Crow Creek, and many more died on the Crow Creek reservation. Eventually, some of the families moved from Crow Creek to Sisseton Wahpeton. It is there, 140 years later, that the letters of the Dakota prisoners have been translated into modern English by their descendants.

Like the exhibits in the new museum, the Dakota Letters speak in the authentic voices of the First Americans. The writers speak of their love and concern for their families. They also speak of their uncertainty and their fears. One of the most extraordinary of the letters was written 3 days after the assassination of President Lincoln, whom the Dakota call respectfully "Grandfather." The letter was written by a man named Moses Many Lightning Face to a missionary the Dakota prisoners trusted and referred to as a relative. The writer expresses fear about what might happen to the Dakota prisoners now that the man who had spared their life once was dead. These are his words:

> Well, my relative, I wish to write you a letter. We have heard the news. They say that Grandfather was killed. But someone of authority should tell us if this is not true. Thus, I write to you this letter. Also, I have heard some rumors. Grandfather has compassion for us and, so far, we are still alive. But they told us he was killed, and we are saddened. Those of us here think if this is so, we are heartbroken. Perhaps the attitude of the cavalry soldiers may change toward us. Tell me what your thoughts are; I want to know; that's why I write to you. Then I wish to hear exactly how they killed Grandfather. . . . This is all I am going to say. I shake all your hands. Moses Many Lightning Face. This is me.

What makes the Dakota Letters so rare is that, like most Native American languages, Dakota in the mid-1800s was not a written language. Missionaries developed a written form of the language to teach the Bible to the Dakota. The missionaries who visited the Dakota prisoners taught it to them.

In Sisseton Wahpeton, the letters were translated by five tribal elders, working with Dakota language and history experts from Sisseton Wahpeton College. It was a complicated process more like code-breaking than simple translation. The words are first translated from Dakota, then into literal English, then into modern English. The translation of the letter to President Lincoln shows this process. I ask consent that it be printed in the RECORD immediately following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DASCHLE. Mr. President, like the exhibits in the new museum, the Dakota Letters illustrate in a powerful way that we do not have separate histories, but we see the same history through different eyes. This gift of being able to see our history from others' perspectives can only help heal our Nation and make us stronger.

I believe strongly that the Federal Government, which had such a direct hand, for so long, in efforts to destroy Native cultures, has a responsibility to help preserve these cultures not just on the National Mall in Washington, but in tribal communities throughout America. And we are making a start.

Next month, the first applications will go out for a new grant programs for tribal museums. Under the Native American/Native Hawaiian Museum Services Program, tribes can receive grants of up to $20,000 a year. The museum program, and a similar program to support tribal libraries, are both administered by the Institute of Museum and Library Sciences.

The Tribal Historic Preservation Program in the National Park Service gives tribes control of decisions about cultural preservation on tribal lands by establishing tribal historic preservation offices, just like State historic preservation offices.

The Native American Graves Protection and Repatriation Act, passed in 1990, lays out a process to identify Native American sacred and funerary objects and return them to their people.

In Sisseton Wahpeton, tribal elders and educators hope to use technology to record translation sessions of the Dakota Letters and use the recordings to teach the Dakota language. They also want to use distance learning to teach Dakota history and culture lessons based on the letters. They can't do that now because they have run out of money for the Dakota Letters project. An amendment Senator INOUYE is sponsoring to the Native American Languages Act might help the tribe finish the Dakota Letters project. It would provide additional resources for immersion schools and other intensive efforts to save Native American languages—which we are now losing at the alarming rate of one each month.

All of these efforts, and more, need and deserve the support of Congress.

Newspaper accounts of the executions of the Dakota prisoners at Mankato note that the men met their deaths with courage and dignity, chanting a Dakota death song. One reporter recorded that their final words were a simple plea for recognition: "I am here."

Those same words echo from every ancient corner of this Nation. Long before Europeans and others arrived, Native Americans were here. And they are still here today, greatly enriching our national identity and culture. On this happy and historic day, as we celebrate the opening of America's spectacular new National Museum of the American Indian, let us also celebrate the Native American history and culture that exists all across America. And let us vow to work together to preserve that history and culture everywhere it exists.

EXHIBIT 1

1. mitakuye ito wowapi cicage kta wacin nakaha wotanin naonhonpi
2. Well, my relative, I want to give you this paper now we have heard news
3. Well, my relative I wish to write you a letter, we have heard news.

1. tonkansidon ktepi keyapi
2. They said they killed Grandfather.
3. They have said that Grandfather (Abraham Lincoln) was killed.

1. tuka hecen tuwe taku tanyan onkokiyakapi kta iyecece sni
2. But then someone should tell us if this is not true.
3. But someone of authority should tell us if this is not true.

1. hecen mitakuye wowapi cicu
2. Thus, my relative, I give you this paper
3. Thus, I write to you this letter.

1. eya taku wanjikj nawahon
2. To say, I have heard several rumors
3. Also I have heard some rumors

1. tonkansidan he onsiondapi qa dehanyan nionyakonpi
2. Grandfather had compassion for us, and so far we are still alive
3. Grandfather has compassion for us, and so far we are still alive.

1. tuka hecen nakaha ktepi keyapi heon cante onsicapi
2. but then now they killed him they said therefore our hearts are sad.
3. but they told us he was killed, and we are saddened.

1. tona onkiyukcanpi hecinhan ehna cante onsicapi
2. Some we think if this is so, we are heartbroken.
3. Those of us here think if this is so, we are heartbroken.

1. hehan hecan isantanka kin hecen tokan kante onkiyuzapi kta naceca
2. Then this Big Knives the thus how heart hold us will maybe
3. Perhaps the attitude of the calvary soldiers may change toward us.

1. idukcan hecinhan omayakidaka wacin qa heon wowapi cicage ye do
2. what you think, if you tell me, I want, therefore paper I make for you.
3. Tell me what your thoughts are, I want to know, that's why I write to you.

1. hehan tonkansidan token ktepi hecinhan he tanyan nawahon kta wacin
2. then Grandfather how they killed him if this is good I hear will I want.
3. Then I wish to hear exactly how they killed Grandfather.

1. hehan eya anpetu waken eca token owakihi waokun wicawakiye
2. Then to say day holy when how I am able to preach to them
3. Then, also on Sundays when I am able I do the preach to them.

1. henana epe kte owasin nape ciyuzapi
2. That's all, I say will all hand they shake,
3. This is all I'm going to say, I shake all your hands.

Mowis Itewakanhdiota—he miye

Moses Many Lightning Face—This is me.

Translation key:
1. original Dakota
2. Dakota to English
3. English translation

Mr. DASCHLE. Mr. President, I ask unanimous consent that my leader comments not be taken from the first hour of the Democratic allocation of time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CARPER. Mr. President, will the minority leader yield?

Mr. DASCHLE. I am happy to yield to the Senator from Delaware.

ASBESTOS EXPOSURE

Mr. CARPER. I thank the Senator.

The minority leader has spoken about the injustice done to the Dakota over a century ago, and we are endeavoring this year in this Congress to address another injustice; that is, the injustice where people are sick and dying from asbestos exposure and are not getting the money they and their families need. People who are not sick are drawing off money that should be going to those who desperately need it. We have companies going bankrupt, with people being displaced and losing their jobs. It is a bad situation, a terrible situation. We can fix it.

I thank my leader for his extraordinary courage in pushing forward a proposal to further narrow our differences with our Republican colleagues. If you think about all of the areas of progress, we have agreed there should be a trust fund, we have agreed there should be a trust fund, and on how it should be administered; we have agreed on how much money should go into the trust fund; we have agreed the money should be fully allocated to meet the claims out there; we have agreed on medical criteria; we have agreed on 10 different levels of impairment. We have basically agreed on the claims. While there are several areas in which we still have some differences to agree on, we have made extraordinary progress.

I commend Senator DASCHLE for his leadership in getting us close to this point. I have urged Senator FRIST, who has left the floor, to invite Senator DASCHLE to sit down and resolve the remaining differences between the two leaders.

This can be done, and it should be done this year, and we should not leave here without completing this job.

Mr. DASCHLE. Mr. President, if I may respond to the distinguished Senator, I compliment him on his insistence and extraordinary determination. One of the reasons we have made progress is because of his great persistence and his ability to bring together the consensus that is so necessary if we are going to achieve final success. As he has noted, we have come a long way. It has been my pleasure to work with him as we have traveled the road together to reach this point where we find, as he has noted, just a few differences. It is my hope we can still work it out prior to the end of this session of Congress. I thank him for his kind words and for his leadership.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

NATIVE AMERICAN MUSEUM

Mr. KENNEDY. Mr. President, I congratulate the leader for his statement about the opening of the Native American Museum today, and also for his recitation of the historic and incredible times in terms of the history of the United States and the Dakota tribes. It was enormously interesting.

As we all know, this issue in terms of Native American land and rights is something that is incredibly close to the heart of my friend, the Senator from South Dakota. I thank him for this statement this morning, particularly on this day of celebration for so many Native Americans. It was an extraordinary statement and comment about our history. All of us would be better citizens if we took to heart the history of our country and its history in regard to Native Americans. I thank him for his comments.

Mr. President, I ask unanimous consent to be reminded when I have only 1 minute left out of the time left to me.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR KERRY'S IRAQ PLAN

Mr. KENNEDY. Mr. President, yesterday, Senator KERRY laid out his plan for Iraq and for enlisting international support to ease the burden on our troops, restoring stability to Iraq, and bringing our troops home in honor. It is a clear warning that conditions are worsening in Iraq and changes are urgently needed. His speeches have been praised for his thoughtfulness and realistic vision for advancing America's interests in that troubled region.

I ask unanimous consent to have Senator KERRY's speech printed in the RECORD.

There being no objection, the materials was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 20, 2004]

KERRY LAYS OUT IRAQ PLAN

Following is the text of Democratic presidential candidate John Kerry's speech delivered in New York.

(Joined in progress) KERRY: I am really honored to be here at New York University, at NYU Wagner, one of the great urban universities in America. Not just in New York, but in the world. You've set a high standard, you always set a high standard for global dialogue, as Ellen (ph) mentioned a moment ago. And I intend to live up to that tradition here today. This election is about choices. The most important choices a president makes are about protecting America, at home and around the world. A president's first obligation is to make America safer, stronger and truer to our ideals.

Only a few blocks from here, three years ago, the events of September 11th remind every American of that obligation. That day brought to our shores the defining struggle of our times: the struggle between freedom and radical fundamentalism. And it made clear that our most important task is to fight and to win the war on terrorism.

With us today is a remarkable group of women who lost loved ones on September 11th; and whose support I am honored to have. Not only did they suffer unbearable loss, but they helped us as a nation to learn the lessons of that terrible time by insisting on the creation of the 9/11 Commission.

I ask them to stand, and I thank them on behalf of our country, and I pledge to them, and to you, that I will implement the 9/11 recommendations. Thank you.

In fighting the war on terrorism my principles are straightforward. The terrorists are beyond reason. We must destroy them. As president I will do whatever it takes, as long as it takes, to defeat our enemies.

But billions of people around the world, yearning for a better life, are open to America's ideals. We must reach them.

To win, America must be strong and America must be smart.

The greatest threat that we face is the possibility of Al Qaida or other terrorists getting their hands on nuclear weapons. To prevent that from happening we have to call on the totality of America's strength: strong alliances to help us stop the world's most lethal weapons from falling into the most dangerous hands; a powerful military, transformed to meet the threats of terrorism and the spread of weapons of mass destruction; and all of America's power—our diplomacy, our intelligence system, our economic power, our appeal to the values, the values of Americans, and to connect them to the values of other people around the world—each of which is critical to making America more secure and to preventing a new generation of terrorists from emerging.

We owe it to the American people to have a real debate about the choices President Bush has made, and the choices I would make and have made, to fight and win the war on terror.

That means that we must have a great and honest debate on Iraq.

The president claims it is the centerpiece of his war on terror. In fact, Iraq was a profound diversion from that war and the battle against our greatest enemy.

Iraq was a profound diversion from that war and from our greatest enemy, Osama bin Laden and the terrorists.

Invading Iraq has created a crisis of historic proportions and if we do not change course, there is the prospect of a war with no end in sight.

This month, we passed a cruel milestone: more than 1,000 Americans lost in Iraq. Their sacrifice reminds us that Iraq remains overwhelmingly an American burden. Nearly 90 percent of the troops and nearly 90 percent of the casualties are American.

Despite the president's claims, this is not a grand coalition.

Our troops have served with extraordinary bravery and skill and resolve. Their service humbles all of us. I visited with some of them in the hospitals and I am stunned by their commitment, by their sense of duty, their patriotism. When I speak to them, when I look into the eyes of their families, I know this: We owe them the truth about what we have asked them to do and what is still to be done.

Would you all join me? My wife Teresa has made it through the traffic, and I'm delighted that she is here. Thank you.

In June, the president declared, The Iraqi people have their country back. And just last week he told us, This country is headed toward democracy; freedom is on the march. But the administration's own official intelligence estimate, given to the president last July, tells a very different story.

According to press reports, the intelligence estimate totally contradicts what the president is saying to the American people and so do the facts on the ground.

Security is deteriorating for us and for the Iraqis. Forty-two Americans died in Iraq in June, the month before the handover. But 54 died in July, 66 in August and already 54 halfway through September. And more than 1,100 Americans were wounded in August; more than in any other month since the invasion.

We are fighting a growing insurgency in an ever-widening war zone. In March, insurgents attacked our forces 700 times. In August, they attacked 2,700 times; a 400 percent increase.

Fallujah, Ramadi, Samarra and parts of Iraq are now no-go zones, breeding grounds for terrorists, who are free to plot and to launch attacks against our soldiers.

The radical Shia cleric Muqtada al-Sadr, who is accused of complicity in the murder of Americans, holds more sway in suburbs of Baghdad than the prime minister.

Violence against Iraqis, from bombings to kidnappings to intimidation, is on the rise.

Basic living conditions are also deteriorating.

Yes, there has been some progress. Thanks to the extraordinary efforts of our soldiers and civilians in Iraq, schools, shops and hospitals have been opened in certain places. In parts of Iraq, normalcy actually prevails.

But most Iraqis have lost faith in our ability to be able to deliver meaningful improvements to their lives. So they're sitting on the fence, instead of siding with us against the insurgents.

That is the truth, the truth that the commander in chief owes to our troops and to the American people.

Now, I will say to you, it is never easy to discuss what has gone wrong while our troops are in constant danger. But it is essential if you want to correct the course and do what's right for those troops, instead of repeating the same old mistakes over and over again.

I know this dilemma firsthand. I saw firsthand what happens when pride or arrogance take over from rational decision-making. And after serving in a war, I returned home to offer my own personal views of dissent. I did so because I believed strongly that we owed it to those risking their lives to speak truth to power. And we still do.

Saddam Hussein was a brutal dictator who deserves his own special place in Hell. But that was not—that was not, in and of itself, a reason to go to war.

The satisfaction that we take in his downfall does not hide this fact: We have traded a dictator for a chaos that has left America less secure.

Now, the president has said that he miscalculated in Iraq, and that it was a catastrophic success.

The first and most fundamental mistake was the president's failure to tell the truth to the American people.

He failed to tell the truth about the rationale for going to war, and he failed to tell the truth about the burden this war would impose on our soldiers and our citizens.

By one count, the president offered 23 different rationales for this war. If his purpose was to confuse and mislead the American people, he succeeded.

His two main rationales, weapons of mass destruction and the Al Qaida-September 11th connection, have both been proved false by the president's own weapons inspectors and by the 9/11 Commission.

And just last week, Secretary of State Powell acknowledged those facts. Only Vice President Cheney still insists that the Earth is flat.

The president also failed to level with the American people about what it would take to prevail in Iraq. He didn't tell us that well over 100,000 troops would be needed for years, not months. He didn't tell us that he wouldn't take the time to assemble a genuine, broad, strong coalition of allies. He didn't tell us that the cost would exceed $200 billion. He didn't tell us that even after paying such a heavy price, success was far from assured.

And America will pay an even heavier price for the president's lack of candor.

At home, the American people are less likely to trust this administration if it needs to summon their support to meet real and pressing threats to our security.

In the dark days of the Cuban missile crisis, President Kennedy sent former Secretary of State Dean Acheson to Europe to build support. Acheson explained the situation to French President de Gaulle. Then he offered to show him highly classified satellite photos as proof. De Gaulle waved him away, saying, The word of the president of the United States is good enough for me.

How many world leaders have that same trust in America's president today? This president's failure to tell the truth to us and to the world before the war has been exceeded by fundamental errors of judgment during and after the war.

The president now admits to miscalculations in Iraq. Miscalculations: This is one of the greatest underestimates in recent American history.

His miscalculations were not the equivalent of accounting errors. They were colossal failures of judgment, and judgment is what we look for in a president.

And this is all the more stunning, because we're not talking about 20/20 hindsight, we're not talking about Monday morning quarterbacking. Before the war, before he chose to go to war, bipartisan congressional hearings, major outside studies and even some in his own administration, predicted virtually every problem that we face in Iraq today.

The result is a long litany of misjudgments with terrible and real consequences.

The administration told us we would be greeted as liberators; they were wrong. They told us not to worry about the looting or the sorry state of Iraq's infrastructure; they were wrong. They told us we had enough troops to provide security and stability, defeat the insurgents, guard the borders and secure the arms depots; they were tragically wrong.

They told us we could rely on exiles like Ahmed Chalabi to build political legitimacy; they were wrong. They told us we would quickly restore an Iraqi civil service to run the country, and a police force and an army to secure it; they were wrong.

In Iraq, this administration has consistently overpromised and underperformed. And this policy has been plagued by a lack of planning, by an absence of candor, arrogance and outright incompetence.

And the president has held no one accountable, including himself.

In fact, the only officials—the only officials who've lost their jobs over Iraq were the ones who told the truth.

Economic adviser Larry Lindsey said it would cost as much as $200 billion. Pretty good calculation. He was fired.

After the successful entry into Baghdad, George Bush was offered help from the U.N., and he rejected it, stiff-armed them, decided to go it alone. He even prohibited nations from participating in reconstruction efforts because they weren't part of the original coalition, pushing reluctant countries even further away. And as we continue to fight this war almost alone, it is hard to estimate how costly that arrogant decision really was.

Can anyone seriously say this president has handled Iraq in a way that makes America stronger in the war on terrorism?

AUDIENCE: No!

KERRY: By any measure, by any measure, the answer is no.

Nuclear dangers have mounted across the globe. The international terrorist club has expanded. Radicalism in the Middle East is on the rise. We have divided our friends and united our enemies. And our standing in the world is at an all-time low.

Think about it for a minute. Consider where we were and where we are.

After the events of September 11th, we had an opportunity to bring our country and the world together in a legitimate struggle against terrorists. On September 12th, headlines and newspapers abroad declared that, We are all Americans now.

But through his policy in Iraq, the president squandered that moment and, rather than isolating the terrorists, left America isolated from the world.

We now know that Iraq had no weapons of mass destruction, and posed no imminent threat to our security.

The president's policy in Iraq took our attention and our resources away from other more serious threats to America, threats like North Korea, which actually has weapons of mass destruction, including a nuclear arsenal, and is building more right now under this president's watch; the emerging nuclear danger of Iran; the tons and kilotons of unsecured chemical and nuclear weapons in Russia; and the increasing instability in Afghanistan.

Today, warlords again control much of that country, the Taliban is regrouping, opium production is at an all-time high and the Al Qaida leadership still plots and plans, not only there, but in 60 other nations.

Instead of using U.S. forces, we relied on warlords, who one week earlier had been fighting on the other side, to go up in the mountains to capture Osama bin Laden when he was cornered. He slipped away.

We then diverted our focus and our forces from the hunt for those who were responsible for September 11th in order to invade Iraq.

We know now that Iraq played no part. We knew then on September 11th. And it had no operational ties to Al Qaida.

The president's policy in Iraq precipitated the very problem that he said he was trying to prevent.

Secretary of State Powell admits that Iraq was not a magnet for international terrorists before their war; now it is, and they are operating against our troops.

Iraq is becoming a sanctuary for a new generation of terrorists who could someday hit the United States of America.

And we know that while Iraq was a source of friction, it was not previously a source of serious disagreement with our allies in Europe and countries in the Muslim world.

The president's policy in Iraq divided our oldest alliance and sent our standing in the Muslim world into freefall.

Three years after 9/11, even in many moderate Muslim countries, like Jordan, Morocco and Turkey, Osama bin Laden is more popular than the United States of America.

Two years ago, Congress was right to give the president the authority to use force to hold Saddam Hussein accountable. This president, any president, would have needed that threat of force to act effectively. This president misused that authority.

The power entrusted to the president purposefully gave him a strong hand to play in the international community. The idea was simple: We would get the weapons inspectors back in to verify whether or not Iraq had weapons of mass destruction and we would convince the world to speak with one voice to Saddam, disarm or be disarmed.

A month before the war, President Bush told the nation, If we have to act, we will take every precaution that is possible. We will plan carefully. We will act with the full power of the United States military. We will act with allies at our side and we will prevail.

Instead, the president rushed to war, without letting the weapons inspectors finish their work. He went purposefully, by choice, without a broad and deep coalition of allies. He acted by choice, without making sure that our troops even had enough body armor. And he plunged ahead by choice, without understanding or preparing for the consequences of postwar. None of which I would have done.

Yet today, President Bush tells us that he would do everything all over again the same way.

How can he possibly be serious? Is he really saying to America that if we know there was no imminent threat, no weapons of mass destruction, no ties to Al Qaida, the United States should have invaded Iraq?

My answer: resoundingly, no, because a commander in chief's first responsibility is to make a wise and responsible decision to keep America safe.

Now the president is looking for a reason, a new reason to hang his hat on—it's the capability to acquire weapons.

Well, ladies and gentlemen, my fellow Americans, that was not the reason given to the nation, that was not the reason the Congress voted on. That is not a reason today; it is an excuse.

Thirty-five to 40 countries have greater capability to build a nuclear bomb than Iraq did in 2003. Is President Bush saying we should invade all of them?

I would have personally concentrated our power and resources on defeating global terrorism and capturing Osama bin Laden.

I would have tightened the noose and continued to pressure and isolate Saddam Hussein—who was weak and getting weaker—so that he would pose no threat to the region or to America.

The president's insistence that he would do the same thing all over again in Iraq is a clear warning for the future. And it makes the choice in this election clear: more of the same with President Bush or a new, smarter direction with John Kerry that makes our troops and America safer. That's the choice.

It is time, at long last, to ask the questions and insist on the answers from the commander in chief about his serious misjudgments and what they tell us about his administration and the president himself.

In Iraq, we have a mess on our hands. But we cannot just throw up our hands, we cannot afford to see Iraq become a permanent source of terror that will endanger America's security for years to come.

All across this country, people ask me and others, what we should do now every stop of the way. From the first time I spoke about this in the Senate, I have set out a specific set of recommendations from day one, from the first debate until this moment. I have set out specific steps of how we should not and how we should proceed.

But over and over, when this administration has been presented with a reasonable alternative, they have rejected it and gone their own way. This is stubborn incompetence.

Five months ago in Fulton, Missouri, I said that the president was close to his last chance to get it right. Every day this president makes it more difficult to deal with Iraq, harder than it was five months ago, harder than it was a year ago, a year and a half ago.

It's time to recognize what is and what is not happening in Iraq today and we must act with urgency.

Just this weekend, a leading Republican, Chuck Hagel, said that, we're in deep trouble in Iraq. It doesn't add up to a pretty picture, he said, and we're going to have to look at a recalibration of our policy.

Republican leaders like Dick Lugar and John McCain have offered similar assessments.

We need to turn the page and make a fresh start in Iraq.

First, the president has to get the promised international support so our men and women in uniform don't have to go it alone.

Last spring, after too many months of delay, after reluctance to take the advice of so many of us, the president finally went back to the U.N., and it passed Resolution 1546. It was the right thing to do, but it was late.

That resolution calls on U.N. members to help in Iraq by providing troops, trainers for Iraq's security forces and a special brigade to protect the U.N. mission, and more financial assistance and real debt relief.

But guess what? Three months later, not a single country has answered that call, and the president acts as if it doesn't matter.

And of the 13 billion that was previously pledged to Iraq by other countries, only $1.2 billion has been delivered.

The president should convene a summit meeting of the world's major powers and of Iraq's neighbors, this week, in New York, where many leaders will attend the U.N. General Assembly, and he should insist that they make good on the U.N. resolution. He should offer potential troop contributors specific but critical roles in training Iraqi security personnel and in securing Iraqi borders. He should give other countries a stake in Iraq's future by encouraging them to help develop Iraq's oil resources and by letting them bid on contracts instead of locking them out of the reconstruction process.

Now, is this more difficult today? You bet it is. It's more difficult today because the president hasn't been doing it from the beginning. And I and others have repeatedly recommended this from the very beginning.

Delay has only made it harder. After insulting allies and shredding alliances, this president may not have the trust and the confidence to bring others to our side in Iraq.

But I'll tell you, we cannot hope to succeed unless we rebuild and lead strong alliances so that other nations share the burden with us. That is the only way to be successful in the end.

Second, the president must get serious about training Iraqi security forces.

Last February, Secretary Rumsfeld claimed that—claimed that more than 210,000 Iraqis were in uniform. This is the public statement to America.

Well, guess what, America? Neither number bears any relationship to the truth.

For example, just 5,000 Iraqi soldiers have been fully trained by the administration's own minimal standards. And of the 35,000 police now in uniform, not one—not one has completed a 24-week field training program.

Is it any wonder that Iraqi security forces can't stop the insurgency or provide basic law and order?

The president should urgently expand the security forces' training program inside and outside of Iraq. He should strengthen the vetting of recruits, double the classroom training time, require the follow-on field training. He should recruit thousands of qualified trainers from our allies, especially those who have no troops in Iraq. He should press our NATO allies to open training centers in their countries.

And he should stop misleading the American people with phony, inflated numbers and start behaving like we really are at war.

Third, the president must carry out a reconstruction plan that finally brings tangible benefits to the Iraqi people, all of which, may I say, should have been in the plan and immediately launched with such a ferocity that there was no doubt about America's commitment or capacity in the very first moments afterwards. But they didn't plan.

He ignored his own State Department's plan, he discarded it.

Last week, the administration admitted that its plan was a failure when it asked Congress for permission to radically revise the spending priorities in Iraq. It took them 17 months for them to understand that security is a priority, 17 months to figure out that boosting oil production is critical, 17 months to conclude that an Iraqi with a job is less likely to shoot at our soldiers.

One year ago, this administration asked for and received $18 billion to help the Iraqis and relieve the conditions that contribute to the insurgency. Today, less than $1 billion of those funds have actually been spent. I said at the time that we have to rethink our policies and set standards of accountability, and now we're paying the price for not doing that.

He should use more Iraqi contractors and workers instead of big corporations like Halliburton.

In fact, he should stop paying companies under fraud investigation or corruption investigation. And he should fire the civilians in the Pentagon who are responsible for mismanaging the reconstruction effort.

Fourth, the president must take immediate, urgent, essential steps to guarantee that the promised election can be held next year. Credible elections are key to producing an Iraqi government that enjoys the support of the Iraqi people and an assembly that could write a constitution and yields a viable power-sharing agreement.

Because Iraqis have no experience in holding free and fair elections, the president agreed six months ago that the U.N. must play a central role, yet today, just four months before Iraqis are supposed to go to the polls, the U.N. Secretary General and administration officials say elections are in grave doubt, because the security situation is so bad, and because not a single country has yet offered troops to protect the U.N. elections mission.

The president needs to tell the truth. The president needs to deal with reality, and he should recruit troops from our friends and allies for a U.N. protection force.

Now, this is not going to be easy. I understand that.

Again, I repeat, every month that's gone by, every offer of help spurned, every alternative not taken for these past months has made this more difficult and those were this president's choices. But even countries that refused to put boots on the ground in Iraq ought to still be prepared to help the United Nations hold an election.

We should also intensify the training of Iraqis to manage and guard the polling places that need to be opened. Otherwise, U.S. forces will end up bearing that burden alone.

If the president would move in this direction, if he would bring in more help from other countries to provide resources and to train the Iraqis to provide their own security and to develop a reconstruction plan that brings real benefits to the Iraqi people, and take the steps necessary to hold elections next year, if all of that happened, we could begin to withdraw U.S. forces starting next summer and realistically aim to bring our troops home within the next four years.

That can achieved.

This is what has to be done. This is what I would do if I were president today. But we can't afford to wait until January and I can't tell you what I will find in Iraq on January 20th.

President Bush owes it to the American people to tell the truth and put Iraq on the right track. Even more, he owes it to our troops and their families whose sacrifice is a testament to the best of America.

The principles that should guide American policy in Iraq now and in the future are clear. We must make Iraq the world's responsibility, because the world has a stake in the outcome and others should have always been bearing the burden.

That's the right way to get the job done. It always was the right way to get the job done to minimize the risk to American troops and the cost to American taxpayers. And it is the right way to get our troops home.

On May 1st of last year, President Bush stood in front of a now-infamous banner that read Mission accomplished. He declared to the American people that, In the battle of Iraq, the United States and our allies have prevailed.

In fact, the worst part of the war was just beginning, with the greatest number of American casualties still to come.

The president misled, miscalculated and mismanaged every aspect of this undertaking and he has made the achievement of our objective—a stable Iraq, secure within its borders, with a representative government—far harder to achieve than it ever should have been.

In Iraq, this administration's record is filled with bad predictions, inaccurate cost estimates, deceptive statements and errors of judgment, presidential judgment, of historic proportions.

At every critical juncture in Iraq and in the war on terrorism, the president has made the wrong choice.

I have a plan to make America stronger.

The president often says that in a post-9/11 world we can't hesitate to act. I agree. But we should not act just for the sake of acting.

George Bush has no strategy for Iraq. I do and I have all along.

George Bush has not told the truth to the American people about why we went to war and how the war is going. I have and I will continue to do so.

I believe the invasion of Iraq has made us less secure and weaker in the war on terrorism. I have a plan to fight a smarter, more effective war on terror that actually makes America safer.

Today, because of George Bush's policy in Iraq, the world is a more dangerous place for America and Americans; just ask anyone who travels.

If you share my conviction that we cannot go on as we are, that we can make America stronger and safer than it is, then November 2nd is your chance to speak and to be heard.

It is not a question of staying the course, but of changing the course.

I am convinced that with the right leadership, we can create a fresh start, move more effectively to accomplish our goals.

Our troops have served with extraordinary courage and commitment. For their sake, for America's sake, we have to get this right. We have to do everything in our power to complete the mission and make America stronger at home and respected again in the world.

Thank you, God bless you and God bless the United States of America.

Thank you.

WIDENING OF THE INCOME GAP

Mr. KENNEDY. Mr. President, I draw to the attention of the Senate an issue which many of us have been concerned about for some period of time. Now it has reached the front page of some of the leading newspapers of this country, and it is something that is of central concern to families all over this Nation. I refer to the excellent opening yesterday of a series by the Washington Post, yesterday's called "As Income Gap Widens, Uncertainty Spreads." This is an enormously interesting column.

I ask unanimous consent that excerpts from this column be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> Figuring out what the future holds for workers is key to understanding a historic shift in the U.S. workforce, a shift that has been changing the rules for a crucial part of the middle class.
>
> This transformation is no longer just about factory workers, whose ranks have declined by 5 million in the past 25 years as manufacturing moved to countries with cheaper labor. All kinds of jobs that pay in the middle range—are vanishing, including computer-code crunchers, produce managers, call-center operators, travel agents and office clerks.
>
> The jobs have had one thing in common: For people with a high school diploma and perhaps a bit of college, they can be a ticket to a modest home, health insurance, decent retirement and maybe some savings for the kids' tuition. Such jobs were a big reason America's middle class flourished in the second half of the 20th century.
>
> Now what those jobs share is vulnerability. The people who fill them have become replaceable by machines, workers overseas or temporary employees at home who lack benefits. And when they are replaced, many don't know where to turn.
>
> Robert Boyer retrained in computers after the plant closed. But tech companies told him they wanted five years' experience, not a certificate from a six-month course. So he works for $11.50 an hour at Home Depot, using the wisdom of four decades as plant electrician to help customers pick light bulbs for their remodeled kitchens.
>
> Boyer turns angry at any suggestion that the jobs picture is not that bad. "When these guys get on the boob tube and say there's jobs out there, you just gotta go out there and get them, it makes me want to go out there and grab them by the throat and say, 'Where? Where are the jobs at?'"

Mr. KENNEDY. Mr. President, I highlight what this story is really about. I think we will find—I certainly do in my home State of Massachusetts and my travels around the country—that this is a reality check. This story is a reality check of what is happening in cities, towns, urban areas, and rural areas across the country.

It says:

> As Income Gap Widens, Uncertainty Spreads.

I quote the Washington Post:

> The vanishing middle class.
>
> Now what middle class jobs share is vulnerability . . . The people who fill them have been replaceable by machines, workers overseas or temporary employees at home who lack benefits, and when they are replaced they don't know where to turn.

The article continues:

> All kinds of jobs that pay in the middle range are vanishing, including computer code crunchers, produce managers, call center operators, travel agents and office clerks.

And the list goes on, and the article goes on and on about what is happening to middle-income workers in the United States of America at this time.

I find that this article is a restatement about what many of us believe has been happening for some time and trying to make it a point to try to do something about it. But we have been rebuffed and the ideas have been rejected in the Senate, and certainly by the administration.

When we are talking about dealing with some of the issues, which I will comment on, we find an administration that says no to an increase in the minimum wage, no to extending unemployment compensation, no in terms of overtime, all which would have a great impact on the middle class.

Now, what do we hear on the other side? First of all, we heard from the President of the United States in New York yesterday: "The economy is strong and is getting stronger." This is from a speech the President made in New York yesterday, even though New York has lost 240,000 jobs since the President took office.

Also yesterday, in New Hampshire, the President said: "The economy of ours is growing." New Hampshire's unemployment rate is 32 percent higher than when the President took office. The New Hampshire economy has lost more than 7,000 jobs. But according to the President: "The economy of ours is growing." And according to the President yesterday: "The economy is strong and is getting stronger."

And then we see, of course, what the President said at the time of the Republican Convention: "We have seen a shaken economy rise to its feet." Well, how can it be this way? How can the President of the United States be saying "the economy is strong and is getting stronger" and then we have these reports here?

Well, let's look at the facts. Let's look at what has been happening over the period of the recent years. If we look at the recovery the President talks about, as shown on this chart, the current recovery is depicted by this red line right here in terms of job growth. If you are looking at the recoveries before 1991, you see the job growth that went up, as shown here. And if you look from 1991 to 1993, this is the job growth here. It is basically the Clinton job growth.

We see the difference between the Clinton job growth and the Bush job growth. Make no mistake about it, Presidential leadership makes a difference. Look at the record. During President Clinton's administration, 22 million jobs were added. During President Kennedy's administration, we had one of the longest periods of economic growth and price stability that we had in that century up until the time of President Clinton. So Presidential leadership does matter.

We have the President saying: Everything is fine. We are growing stronger and stronger. It is not the Democrats who are saying we have a real crisis in the middle class. Here we have one of our national newspapers that is saying exactly what many of us have been saying for some period of time.

Now, what are the facts? We can see the economic record. We have lost 1.7 million private-sector jobs from January of 2001 to August 2004—1.7 million jobs lost, not gained but lost, here in the United States. We have gone from 111,600,000 to 109,800,000 jobs.

Let's look at what is happening across the country. Here is a chart that shows, under President Bush, unemployment is higher in 45 of the 50 States. The States that are marked in red on this chart are States with higher unemployment than when Bush took office. The States with the same unemployment as when the President took office are marked in yellow. The States marked in green have lower unemployment than when the President took office, which are Louisiana, Nevada, Hawaii, and Delaware—four States. For all of the other States, you see the loss of over 1 million jobs. We have higher unemployment not only in some regions of the country but generally throughout the country.

What is happening in terms of the new jobs? As shown on this chart, most new jobs in the Bush economy pay low wages. This is not something we are saying over on this side, the Democratic side. This is the chief economist for Morgan Stanley, who says 81 percent of the growth in jobs is in the low-wage industries: janitors, salespeople, movers, repairmen, and drivers. It is interesting, those jobs do not have the benefits. Those jobs do not have the health insurance. Those jobs do not have any kind of sick leave. Those jobs do not have any kind of protection in terms of pensions or anything else. And it is 81 percent of the growth in jobs, according to Morgan Stanley. Jobs in the high-wage industries—construction jobs, white-collar jobs—are the remaining 19 percent. So we have seen that whatever jobs have been created have largely been at the lower level.

This chart is from the Economic Policy Institute. It shows the disparity in pay between growing and shrinking industries—$51,270 for the expanding industries, $30,368 for the contracting industries—41 percent less. So this is saying essentially what the previous chart showed; and that is, the jobs that are being created even now are still not paying well.

Let's see what is happening to the families across the country. These are median household incomes. This is what is happening in working families over the period from 2000 to 2003. The real purchasing power has gone down some $1,500.

So we say, all right, this is the dilemma. You are sure it is a slow economy, but what in the world should we expect? We all have to share this burden, and it is too bad that workers have to share it. What is so bad about that? Well, I will show you what is bad about that, and that is, we have seen that productivity is growing 15 times faster than wages—workers are working longer, they are working harder, and they are producing more, but they are not seeing the benefit in terms of wages. They are not seeing it. This is the largest disparity in terms of productivity versus wages in the recent history of this country. So the workers are working longer. They are working harder. They are producing more. But do you think that would reflect itself in increased wages?

And let me show you this chart here. In the Bush economy, we find that corporations are getting a bigger and bigger share of the pie. Here is the share of corporate profits having increased by 65 percent over workers' wages. This gap here is the largest gap we have had in the postwar period: larger corporate profits, workers with increased productivity, working longer and harder and yet they are still not able to make ends meet. These charts are going back to what the Washington Post pointed out here: "As Income Gap Widens, Uncertainty Spreads." That is what is happening in the economy.

And we can see the difference between this and other recoveries. The average in the last eight recoveries is corporate profits going up 14 percent and the workers' wages going up 8.6 percent. But here in the Bush recovery you have corporate profits going up 39 percent and wages—adjusted for inflation—going down by half of 1 percent. There it is.

We ask: Is this President doing anything about it? What is he doing? Opposing an increase in the minimum wage, saying no more overtime for middle-income families, and no, you are not going to get the unemployment compensation you paid into, that you are entitled to as a matter of right.

This is an extraordinary chart, where you get, on average, CEOs making $8.1 million versus the average worker's $26,000. This is startling. It is the average, not the median. It is the average because so many of the CEOs make so much more. The point is, the disparity between the CEOs and the workers is 300 times.

Now, it is against that background that we have many being laid off and new jobs not paying well, that we have the administration putting a lid on any of the efforts we can provide in the Senate in terms of unemployment compensation and protecting overtime. And what has been happening out there? What has been happening in the meantime? We know the wages these workers are receiving, if they have been laid off and they get a new job, are not keeping up with the cost of things.

Here it is over the period of the last 4 years: Health insurance has increased 59 percent. If the middle income is interested in their children being able to go to schools and colleges, tuition has gone up 28 percent. Interestingly, there is no increase in Pell grants, absolutely none, although in January of 2000, when the President was running for office, he said he would ask for an increase in the Pell grants. We never received that. And in the appropriations this year they will see no increase whatsoever. Housing costs are up 27 percent. Gas is up 22 percent. Milk is up 13 percent.

In my part of the country, in Cape Cod last week, for a gallon of gas it cost $4.05. I know it is about $3.23 a gallon in other parts of the country.

You are asking a person to work for a minimum wage of $5.15 and to buy a gallon of milk at $4.05. The administration says they are opposed to any real increase. These are hard-working men and women, more than 7 million of them, many women with children. It is an issue which affects many of those hard-working men and women of dignity.

If you look at what has happened in terms of health care costs, the consumer price index has gone up 1.6, 2.4, 1.8, 5.9, and total health care costs cumulatively, 59 percent. One might ask, what in the world can we do about it? One of the things we might be able to do about it in terms of drug costs is reimportation. We could do something about that. We have a bipartisan bill. Yet we can't get it on the floor. We can't get an up-or-down vote. Those of us who would support it would go for an hour evenly divided. Let's get accountability. Let's do something about the cost.

When you ask, so you are complaining about the increase in cost, what is your idea? One of the ideas is the reimportation of drugs. But no, we can't do that. We have dealt with all the issues of safety. I yield to no one in this body in terms of the safety of health care. We are unable to permit the Medicare to negotiate lower drug prices for seniors. We could do something about that. But no, we are denied the opportunity. As a result, we have exploding costs that are going out of control in terms of health care generally and in terms of prescription drugs—all impacting middle-class families. More and more of them are losing their health care coverage, their security. They haven't got wage security. They don't have job security. They don't have education security. They don't have health security. This chart illustrates that, every single year, more than a million, from 2000 to 2003. The economy is strong? The economy is getting stronger? Everything is OK? Hello.

It isn't just those on this side of the aisle who say that this is what is happening; we have seen this in newspapers all across the country. All you have to do is visit any town in America. We know what the results are: We have 13 million children hungry or on the verge of hunger here in the United States. And the economy is getting stronger? Eight million Americans are unemployed, and nearly 3 million have lost unemployment benefits since Republicans ended the program. Seven million low wage workers wait 7 years for a minimum wage increase. That used to be a bipartisan effort, to have an increase in the minimum wage. President Bush 1 signed an increase. President Nixon signed an increase. It was bipartisan for years. But no, we can't even get a vote on it.

When we offer an amendment on one of the bills, what do our Republican friends do? They pull the bill. State Department reauthorization, pull the bill; add it onto the reform of welfare, pull the bill down; class action, pull the bill. We don't want to even vote on it. Imagine that. Imagine not even wanting to vote on it.

Six million have lost overtime protection under the new Bush rule. Let me give a quick review of who is impacted. These are the individuals who would be impacted: police, nurses. They are our homeland defenders, the first responders. They are the ones whose overtime is threatened.

In the last several days, my colleague and friend Senator KERRY has offered a real alternative to the current economic challenges we are facing, that middle-income Americans are facing every single day in terms of lost wages, lost jobs, lost health insurance, lost opportunities for education. It talks about creating good-paying jobs, strengthening the middle class, and restoring America's competitive edge and cutting the deficit.

I ask unanimous consent that an excerpt of this plan be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE KERRY-EDWARDS ECONOMIC PLAN

Under George Bush, America has lost 1.6 million private-sector jobs. The typical family has seen its income fall by more than $1,500. Real business investment and exports are both down under George Bush, the first time we have a decline during a Presidential term in over 70 years. And all George Bush has had to offer are excuses and bad plans that put job creation and the middle class last while favoring special interests.

John Kerry and John Edwards believe that America can do better. They have an economic plan that will unleash the productive powers of America's workers and companies, creating millions of good-paying jobs and strengthening the middle class. Their economic plan is built around four basic principles:

(1) Create Good-paying Jobs in America

End tax breaks for companies creating jobs overseas and cut taxes for 99 percent of taxpaying corporations.

A New Jobs Tax Credit to encourage hiring by manufacturers, other businesses affected by outsourcing and small businesses in 2005 and 2006.

Level the playing field by enforcing out trade agreements and trade laws.

(2) Strengthen Middle-class Families by Cutting Taxes and Lowering Health and Energy Costs

Cut taxes for 98 percent of families, including new tax breaks for education, child care, and health care.

Cut health premiums by up to $1,000 for families.

Provide $25 billion in a State and Local Tuition and Tax Relief Fund.

(3) Restore America's Competitive Edge

Make America energy independent of Middle East oil.

Invest more in research and development, including lifting the ban on stem cell research and making broadband universal.

Double the Manufacturing Extension Partnership (MEP).

Provide a tax cut on up to $4,000 of college tuition and investment in training.

(4) Cut the Deficit and Restore Economic Confidence

Cut the deficit in half in four years by restraining spending growth, paying for all proposals, and eliminating corporate welfare.

Mr. KENNEDY. I thank the Chair.

The ACTING PRESIDENT pro tempore. The 10 minutes we are currently in are reserved for the Senator from Iowa.

The Senator from Iowa.

INSTABILITY IN IRAQ

Mr. HARKIN. Mr. President, the chaos in Iraq gets worse with every week that goes by. Many key cities are now under the control of the insurgents. Virtually every day we see car bombings, kidnappings, assassinations, beheadings. American soldiers and Iraqi civilians are being attacked and killed at an alarming and escalating rate. But if we listen to the President, what we hear is sugar-coated happy talk.

The President says:

> We're making progress. We're making progress.

He says we have a strong government in Iraq headed by Mr. Allawi. He says that because of the U.S. invasion of Iraq, democracy is spreading "like a sunrise."

Well, the President may have been a cheerleader in college, but we need more than cheerleading now.

Let's be clear: President Bush misled us into this war, and he is misleading us today about where we stand in Iraq. His misguided, mismanaged war has become a quagmire with ever-rising body counts and no end in sight.

Over the weekend, a host of Republican Senators stepped forward to urge the President to face the facts and at long last to be open and honest with the American people. On Sunday, Senator HAGEL of Nebraska said:

> The fact is, we're in trouble. We're in deep trouble in Iraq.

Senator RICHARD LUGAR, distinguished chairman of the Foreign Relations Committee, criticized what he called "incompetence in the administration" that has resulted in a failed Iraq reconstruction effort.

Senator JOHN MCCAIN said:

> We're not winning.

Senator LINDSEY GRAHAM said that we need to be "more honest about how difficult it will be" in Iraq.

Ironically, the President's father, George Herbert Walker Bush, warned against the folly of invading and occupying Iraq. On February 28, 1999, speaking to a group of Desert Storm veterans at Fort Myer, VA, the former President told them:

> Had we gone into Baghdad—we could have done it, you guys could have done it, could you have been there in 48 hours—and then what?

Then the first President Bush continued:

> Whose life would be on my hands as commander-in-chief because I unilaterally went beyond international law, went beyond the stated mission, and said we're going to show our macho? We're going into Baghdad. We're going to be an occupying power—America in an Arab land—with no allies at our side. It would have been disastrous.

That was former President Bush in 1999.

Of course, we heard the same prophetic warnings from Brent Scowcroft, James Baker, and other foreign policy experts. But this President Bush and his partner DICK CHENEY thought they knew better. So now the disaster that Bush 41 warned against has become a reality under Bush 43. It is painfully clear that President George W. Bush's wrong choices—in particular, the botched hunt for Osama bin Laden, the invasion of Iraq based on false justifications, the Abu Ghraib torture scandal, the alienation of our friends and the world—have been profoundly destructive to America's national interest. They have damaged our traditional alliances. They have undermined our moral authority, and they have all but destroyed our credibility.

Worst of all, the actions of this administration have had the perverse effect of encouraging, inciting, multiplying the terrorist threat. Exhibit A is Osama bin Laden himself. It has been more than 3 years since the President pledged to "smoke him out" of his cave. But Mr. Bush did not smoke out Osama bin Laden. Instead, the Bush administration got massively distracted by its obsession with Saddam Hussein. These days, the days responsible for the murder of some 3,000 Americans on 9/11 is "Osama bin forgotten."

In a press conference Secretary Rumsfeld had on September 10 of this year, he mixed up Saddam Hussein and Osama bin Laden twice. Here is a quote from our Secretary of Defense:

> Saddam Hussein, if he is alive, is spending a whale of a lot of time trying to not get caught and we have not seen him on video since 2001.

Well, Saddam Hussein, as John Stewart pointed out on "The Daily Show" last night, is in prison. But he said that twice about Saddam Hussein. You see, in their minds—in Rumsfeld's mind, Osama bin Laden and Saddam Hussein are the same person. He cannot quite distinguish them.

The problem is Osama bin Laden has not forgotten us. He and his followers remain as dangerous today as on September 11, 2001. In July, the administration issued a dire warning that bin Laden and his chief lieutenants were directing an al-Qaida effort to launch a catastrophic attack in the U.S. before the election.

There is broader evidence that the U.S. invasion of Iraq has incited, encouraged, and stepped up the recruitment of terrorists around the world. In April, the State Department issued its annual report on terrorism, claiming a big drop in terrorist incidents—and success in the war on terrorism. But, in June, the State Department acknowledged this report was grossly incorrect. The State Department acknowledged that, in fact, twice as many people died in terrorist attacks in 2003, and terrorism around the world has increased significantly.

The objective statistical record is clear: As a consequence of choices made by George W. Bush, America is weaker, America is less secure, Americans traveling abroad are less secure, America is more vulnerable. And the professionals—the men and women on the front lines—know this is true.

Earlier this year, the Army War College published a report that concluded, in so many words, that the administration has bungled the war on terrorism. The report called the war in Iraq "unnecessary." It said Iraq "was a war-of-choice distraction from the war of necessity against al-Qaida." As a result of this detour, says the report, the U.S. Army is "near the breaking point."

Who can disagree with these findings? With our military tied down in Iraq indefinitely, unable to respond to real threats, America is weaker, not stronger. We are less secure, not more secure. We are more vulnerable, not less vulnerable.

I was struck, several weeks ago, by a statement from one of our colleagues, Congressman Doug Bereuter of Nebraska. Mr. Bereuter is vice chairman of the House Intelligence Committee and a senior Republican member of the House International Relations Committee. Congressman Bereuter was a strong supporter of the House resolution authorizing the President to go to war. But in a letter to constituents, he now says the invasion of Iraq was unjustified and "it was a mistake to launch that military action." He said, "We are immersed in a dangerous, costly mess, and there is no easy and quick way to end our responsibilities in Iraq without creating bigger future problems in the region and, in general, in the Muslim world."

Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. HARKIN. Mr. President, I will close by saying America is more vulnerable, not less; and we need straight answers from this administration.

The ACTING PRESIDENT pro tempore. The majority controls the next 30 minutes. Who yields time?

The Senator from Colorado is recognized.

PRESIDENT BUSH'S ACCOMPLISHMENTS

Mr. ALLARD. Mr. President, I request 14 minutes and I ask the Chair to notify me when I have reached the 12-minute mark.

Lately, we have heard a lot of politically motivated doom-and-gloom speeches, and we have heard a number of them this morning. I want to talk about a couple of issues discussed on the floor. I want to comment on our economy and I want to comment about our foreign policy.

I think the economy is doing well. We would like to see it do better in some cases, but I think it is very positive news and we should not forget about that. The economy, at the first part of this month, posted job gains for each of the last 12 months, creating nearly 1.7 million jobs since August of 2003. These are the facts. The national unemployment rate fell to 5.4 percent in August, down .9 percentage from a peak of 6.3 point in June of 2003, and its lowest rate since October 2001. At 5.4 percent, the unemployment rate is below the average of the 1970s, 1980s, and the 1990s. In August, 144,000 new jobs were added. Nearly 1.7 million new jobs were added since August 2003. The unemployment rate over the last year was down in all regions and in 49 of the 50 States. The manufacturing sector, which was the hardest hit by the economic downturn, has added 107,000 jobs since January.

View that in the perspective of what we were facing when this President was first elected to office. We have turned this economy around. This President has taken strong action that made a difference in moving our economy forward. Now is not the time to turn back. The labor market has improved considerably since shortly after the President's jobs and growth bill took effect last May. America's standard of living is on the rise. Real aftertax incomes are up by nearly 10 percent since December of 2000. Consumer confidence continues to be substantially higher than last year.

In the second quarter of 2004, the national home ownership rate was at an all-time high of 69.2 percent. Minority home ownership set a new record of 51 percent in the second quarter and is up 2.1 percentage points from a year ago. I am proud to say that I was a Senator who sponsored that legislation to encourage home ownership among minorities. Core inflation remains low, and mortgage rates remain near historic lows, making home buying easier and more affordable.

We still have a challenge ahead of us and this President is not backing away from it. I don't think we Republicans in the Senate are backing away. We continue to push to make tax relief permanent. The temporary tax relief contributed to the figures I just read off. We need to do more. I think one of the most important things we can do to continue to see the economy grow is to make tax relief permanent. We obviously need to provide training for worker skills and control health costs, and we need to reduce regulations. We have not talked enough about the burden of Government and the downward pressure it has on the economy. We need to reduce regulations. As a small businessman I had to live with regulations. I understand how high taxes and a high rate of regulation can impact your ability to do business and create new jobs. Frivolous lawsuits are a problem and this Congress needs to address it. We need to adopt a national energy policy and open more jobs overseas.

The President has acted decisively to bring us back from recession to recovery. I don't think I need to go over those issues. The basic part of it was that he has cut taxes. By cutting taxes, he stimulated the economy, which increased revenue to Colorado, and we are going to have increased revenue to the Federal Government.

Let me talk a little bit about foreign policy. A year ago last February, President Bush made the courageous decision to overthrow Saddam Hussein's brutal dictatorship and bring democracy to Iraq. He did so because Saddam Hussein had refused, over the last 12 years, to fully cooperate with U.N. weapons inspectors. He did so because Saddam Hussein had brutalized his people for over 25 years. He did so because it was the right thing to do and because it had to be done.

Some of our friends in the United Nations did not approve of his decision. They thought he should have waited; that perhaps Saddam would give in and eventually cooperate, despite his long history of lies and deception.

A few friends, such as U.S. Secretary General Kofi Annan, believed the United States should have sought another Security Council resolution. It appears Mr. Annan continues to believe this, given his remarks last week in which he described the liberation of Iraq as "illegal" and that violated the charter of the United Nations.

Even with the benefit of hindsight, it does not make any more sense now than it did then for the United States to have sought a second resolution. Resolution 1441 was the 17th—17th—Security Council resolution demanding that Saddam Hussein verifiably disarm, respect his neighbors, and otherwise comply with the cease-fire from the first Gulf War. It was clear that he violated Resolution 1441 and that he continued to try to shoot down U.S. warplanes in the United Nations-sanctioned northern fly zone and that he was making little or no effort to comply with the terms of the 1991 cease-fire. How many more security resolutions do we need before it becomes legal?

As the Wall Street Journal has eloquently pointed out, if liberating Iraq was wrong, then Mr. Annan must also believe a number of other operations are illegal. Does the Secretary believe NATO's intervention in Kosovo, where hundreds of thousands of Yugoslavian Albanians were saved from the genocidal attacks of Milosevic's cronies, was illegal? Does he believe France's recent intervention in the Ivory Coast was illegal?

It is my hope that when the President speaks today to the United Nations, he reminds the United Nations that the United States has the inherent right of self-defense guaranteed by that body's own charter. It is my hope that with unequivocal certainty, the President reminds the United Nations that his first obligation as President of the United States under our Constitution is to protect our Nation from all threats, foreign and domestic.

It is my hope that the President reminds the world's greatest debating body that if the United States had not acted, Saddam Hussein would still be defying the United Nations, would still be seeking to develop weapons of mass destruction, and would still be brutally murdering and torturing his own people.

From my perspective, the United Nations should be grateful for the decisive leadership and courage President Bush demonstrated by liberating Iraq. It seems to me that the United Nations should be grateful that it now has a real opportunity to help bring democracy and freedom to 50 million people in Iraq and Afghanistan.

I believe the President made the right decision. He took a stand and did not back down. He held up the value of the Security Council resolutions at a time when most were content to see these resolutions ignored.

The President emphasized the value of the lives of the innocent Iraqis who were repeatedly tortured and routinely murdered when most chose to look the other way. He sought to protect our country and safeguard international peace when most refused to act.

The President today will ask our friends in the United Nations to help us in Iraq. That body has a unique opportunity to do something extraordinary. They have a limited opportunity to help a nation that has experienced nothing but dictatorship and brutality transition to a freedom-inspired country centered on the rule of law and the democratic process.

This coming January, Iraq will hold its first ever national elections. I recognize the practical difficulties of such an effort. We are constantly reminded by the media that Iraqi insurgents continue to launch suicide attacks and kill innocent hostages in new and grotesque ways.

It is certainly possible that things will get worse in Iraq before they get better. That does not mean we give up. It does not mean that the majority of Iraqis do not desire freedom.

This Thursday, the Iraqi Prime Minister will address a joint meeting of Congress. This speech is more than a reminder that Iraq has a functioning government. It is a statement to Iraqi insurgents that the business of promoting freedom will go on. It is a statement to the world that the Iraqi Government is the representative of the Iraqi people.

I look forward to Prime Minister Allawi's speech. I believe he will bring us new insight into the problems facing Iraq and encourage the American people in the ongoing struggle.

The United States is making a difference. Iraq is rebuilding. Insurgents are being fought with steadfastness and courage. And Iraq remains on the path toward freedom. We ask for nothing more.

I thank the Chair. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

THE ECONOMY

Mr. COLEMAN. Mr. President, my colleague from Colorado talked about the economy. Although I want to talk about Iraq, I want to follow up the comments made by the very distinguished Senator from Massachusetts who talked about all the negative things that are happening to this economy.

I find it so stunning that folks can continue to be so negative. America has come such a long way from the attacks of 9/11 that took a trillion dollars out of this economy, and the corporate fraud generated from Enron and WorldCom, and from the recession President Bush inherited from the last administration. We cut taxes and we grew jobs, over 1.7 million in the last year.

We are not where we have to be. The President has said on many occasions that as long as one person is out of work, we have work to do, and we do that work and do it here, passing legislation such as class action reform, medical malpractice reform, the JOBS bill and the Energy bill, many of the legislation being filibustered, being blocked by my friends on the other side of the aisle.

One point that comes up again and again is that in spite of the steady stream of job numbers, now there is an argument made they are not quality jobs. I note that the facts belie that assertion. Three-quarters of the new jobs created, for instance, in May were in the industry categories that pay an hourly rate in excess of the overall average hourly rate in the private sector.

Inflation-adjusted hourly earnings increased 2.37 percent during the first 3½ years of the Bush administration, compared with only a 0.13-percent increase during the same period of time in the first Clinton administration. Per capita aftertax disposable income adjusted for inflation has increased 7.1 percent since President Bush took office, well above the 5.2-percent increase during the same period of the first Clinton administration.

I could go on and on. The fact is, this economy is moving forward. The fact is, housing home ownership is at an all-time high. The fact is, the tax cuts have made a difference, and yesterday there are still those who would like to somehow have the American public believe that all news is bad news.

I think the biggest challenge this economy faces is from the naysayers who keep saying again and again how bleak things are and you then undermine confidence and that, Mr. President, hurts the economy.

"60 MINUTES" DOCUMENTS

One other note. My friend, the Senator from Iowa, was on the floor, and I note that he and a number of others had some very harsh words about the President based on something that was in a "60 Minutes" report which we now know was not true. Dan Rather came on last night and noted that he no longer has confidence in the documents that would allow us to continue vouching for them. These are documents related to the service of the President in the National Guard. He noted that "we did use the documents." He said, "We made a mistake in judgment, and for that I am sorry."

I hope my colleagues, who had such harsh words for the President based on those documents, will come forward and express the same sentiment that Mr. Rather expressed.

IRAQ

My colleagues also somehow would have us believe the world would be better today, would be a safer place if Saddam Hussein were still in power. I find that stunning. I find that striking.

My colleague from Colorado expressed a hope that I share: That the President go before the U.N. today and reiterate the inherent right of the United States of self-defense.

My colleague from Colorado challenged some of the statements of Secretary General Kofi Annan about the U.S. effort in Iraq. He noted and I note that the Secretary's comments were both factually wrong and ill advised. The fact is, Saddam Hussein violated 16 U.N. Security Council resolutions. Saddam Hussein is the one whose actions were illegal, reiterated again and again by the United Nations. The fact is, the United States took our case to the United Nations on more than one occasion, and the final example on November 8, 2002, the U.N. Security Council unanimously adopted Security Council Resolution 1441.

This resolution declared that Iraq was in material breach of its obligations to cooperate with inspectors who were looking into Saddam's efforts to develop chemical, biological, and nuclear weapons.

The resolution warned of serious consequences if Iraq ignored its last chance to comply, but Saddam did not comply. I repeat, Saddam Hussein is the one whose actions were illegal. The fact is, Saddam Hussein's list of other offenses is a long one and does not compare favorably with documents such as the U.N. charter and the Universal Declaration of Human Rights. This is a man who twice invaded his neighbors, used weapons of mass destruction against his own people and the people of Iran, who killed tens of thousands of political opponents, tortured thousands of political opponents and ordinary citizens. These were the illegal actions, and we should be glad they are all over once and for all.

The fact is, the U.N. did not have credibility with Saddam Hussein's regime. It never succeeded in enforcing its own resolutions or gaining unfettered access for weapons inspectors. Worse yet, it allowed a well-meaning humanitarian program to devolve into a money-making operation for Saddam and his cronies throughout the world. The U.N. Oil for Food Program became a personal bank account for Saddam Hussein in which, by a GAO report estimate, he got at least $10 billion—that is with a "B"—for his own personal use.

Right now, the Permanent Subcommittee on Investigations, which I chair, is looking into that $10 billion theft, that $10 billion fraud, that $10 billion corruption, and checking to see where that money went, has it been used to fuel an insurgency, has it been used to impact the policies of some nation states that did not allow the Security Council to vigorously oversee and enforce that program the way it should have been done.

No, there is nothing wrong or illegal about liberating 25 million people from tyranny, and there is certainly nothing illegal about fighting for their freedom and liberty today.

Regardless of the U.N. Secretary General's comments, America will remain a supporter of the U.N. and many multilateral organizations. It is in our interest. More often than not, we can accomplish greatness when we work together. The U.N. can offer great promise or cooperation in peacekeeping and humanitarian work and shining a light in dark places, efforts that are often more effective when many are united rather than when countries go it alone. But we are not going it alone in Iraq. We have over 30 nations that are sacrificing with us. The failure of the United Nations to enforce its resolutions against Saddam, the failure of the United Nations to act vigorously to genocide that is going on in Darfur and the far region of Sudan, the failure of the United Nations to do nothing more than talk when brutality and oppression shows its ugly face around the world undermines confidence in the United Nations. That puts the United Nations in a position where many are comparing it now to the League of Nations, a place where people just talked but never acted. Sometimes real leadership means having the courage to do what is necessary and not just what is popular.

In his State of the Union Address, the President said there is a difference between leading a coalition of many nations and submitting to the objections of a few. America will never seek a permission slip to defend the security of our country. While the United States and its allies have carried the burden of freedom's work, we cannot ignore the fact that soldiers and might cannot do the job alone. I understand that diplomacy is crucial to world order. It should not descend into finger-pointing and gainsaying, especially at a time when so much is at stake and we ought to be joining together, not pointing fingers. It is the terrorists in Iraq who want to deprive the citizens of that country their basic human rights.

What Saddam Hussein could not take from them the terrorists are hoping to steal. What Saddam Hussein did not do to terrorize the people of that country, what he did not finish, the terrorists will do and are doing. They are continuing that. Saddam killed, murdered, and tortured as many Iraqis he could who did not agree with him, and probably a few who did, and the terrorists hope to finish off the Iraqis he did not get to.

In spite of that, in spite of the insipid rhetoric of those who wish to be President who feel a gust of wind gives them the moral authority to change their stand on a war time and time again, America must hold its ground because on that ground stands the promise of a free and liberated Iraq.

Iraq is preparing to hold its first truly democratic election. Prime Minister Allawi, who will have a chance to address us in the coming days, is working to get control throughout the country. He is trying to counter a clear effort by terrorists to turn Iraq back into a nation of fear.

The Prime Minister is also trying to get out from under Iraq's heavy foreign debt and create an environment for jobs and for hope. Coalition members, together with Iraqi forces, are working daily to create a better future for the people of Iraq, and at the same time protect the safety of our soldiers and civilians serving in that country.

The world is a better place without Saddam in power. That is a reality. If one cannot grasp that concept, then they cannot grasp any concept. If anyone in this body, or anyone of this body, believes Saddam Hussein, dictator of Iraq, murderer of women and children, tormentor of his neighbors, plotter of destruction, mercenary of the world, is better for the world in office than out of office, they should heed the words of the junior Senator from Massachusetts, Mr. KERRY, who had this to say during the Democratic primaries:

> Those who doubted whether Iraq or the world would be better off without Saddam Hussein, and those who believe we are not safer with his capture, don't have the judgment to be the President or the credibility to be elected president.

The Senator from Massachusetts was right then. In spite of his changing positions, those words last year still ring true today.

Today, there are those who embolden terrorists in Iraq. They have pointed their fingers at us and said: You are to blame for the terrorism insurgency in Iraq.

The day after 9/11, there were those across the world who pointed their fingers at us and said: You are to blame for the destruction of your homeland.

These statements are absurd. Somebody tell me how the hundreds of horrified boys, girls, babies, mothers, and fathers in that Russian school were responsible for the terrorists who tormented and killed them. Somebody tell me how the Nepalese contractors, 12 of them, who were slaughtered as though they were nothing more than cattle were responsible for their deaths. Somebody tell me how the American citizens who had their heads sawed off on a videotape while sick, evil men listened to their screams of horror were somehow responsible for their death.

There are those who say things are not going as well as they could be in Iraq. We know they are right, but let the first person come forward who will say that it will be going better in Iraq if we let Mohamed al Sadr or Abu Musab al-Zarqawi be in charge.

Now is not the time for those with the courage of the meek to come to the rescue of the strong. Now is the time for strong, determined leadership to work with our allies, those who agreed with our efforts, and those who did not, to bring this world together.

Our President, the leader who has liberated 50 million human beings and has stood resolute when even the strongest among us would look for a way out, goes to the U.N. today. He goes there not as an adversary of that august body but as an ally of the civilized world. He goes to stand with the world, those who have suffered from the terrorists, those who have fought them, and those who fear them.

He goes to the U.N. not preaching the gospel of global despair but of the obligation of a mighty nation to not only fight those with guns with guns, but to bring peace to so many others who simply hope and pray that their children will live to see a better day.

He will stand with those who stood with us in the liberation of Iraq, and with those who stood against us, because this President knows that as important as it is to sometimes lead even when others are not prepared to follow, it is important to walk together when many will agree to do so.

It is important for us to mind the words of China's U.N. Ambassador, who opposed the war, who said:

> I think all of us have views on the Iraqi war. I think definitely the views are different among council members. What is important now is to help achieve peace and stability in that country.

There will be better days in Iraq, and there will be worse days. There will be better days in the war on terror and, God willing, there will be far fewer worse days. But whatever the future brings, we must stand with this President and with this nation and its soldiers and diplomats, and we must on bended knee pray that our efforts bear the fruit of a more prosperous and more peaceful world.

Let me finish with this. Yesterday, I missed my first major vote as a Member of this body. At home, before I left Minnesota for Washington, I attended the wake of the son of one of the folks who works in my office, one of my staff, Bart Cedergren. His son David died in Iraq.

While the cause of death remains unclear, let there be no doubt that he died in the cause of freedom and liberty for the people of Iraq and the people of America.

As I stood there contemplating the loss of the life of this young man and the loss of his life from those who loved him, as I stood there trying to comfort a father who did more to comfort me and those around him, I was once again reminded of the fact that freedom is never free.

Petty Officer 3rd class David A. Cedergren, 25, who was assigned to the Second Marine Division Marine Forces Atlantic, did not join the military to fight war or kill people. He joined it to bring peace and comfort to those afflicted and tormented. David was a medic. He was trained to be a licensed nurse, his heart was filled with compassion. Yesterday, as I watched those whom he loved and those who loved him and his Navy comrades who stood there side by side, all grieved in his passing, I saw in their grief great pride in this young man. He liked this Nation. He did not join this war on terror to fight a war of killer people. He didn't ask for this war to be fought. We joined it and we lead it to bring peace and comfort to the afflicted and the tormented. May God bless America and David Cedergren and that we prevail.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COLEMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COLEMAN. Mr. President, I yield back the remainder of the Republican time in this morning session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the next 60 minutes of morning business for debate only is under the control of the Democratic leader or his designee and the final 60 minutes under the control of the majority leader or his designee.

The Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair.

Mr. President, how much time have I been allotted under the agreement?

The ACTING PRESIDENT pro tempore. Twenty minutes.

Mr. CONRAD. I ask for an additional 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I saw this morning in the Hill newspaper an attack by the Speaker in which he said, in response to a reporter's question, that "al-Qaida would operate better if KERRY were elected President."

Two weeks ago today, the Vice President said, "It is absolutely essential that eight weeks from today on November 2 we make the right choice because if we make the wrong choice then the danger is that we will get hit again and we will be hit in a way that will be devastating from the standpoint of the United States."

Mr. President, this is dangerous talk. It is dangerous talk for either side to suggest we will be attacked if the other is elected. I remind my Republican friends that when we were attacked on September 11, we on the Democratic side did not say it was because Republicans were in control. That would have been wrong. We did not do that. Instead, we stood shoulder to shoulder, we stood united, we all agreed on an attack on Afghanistan, and we all supported an all-out attack on al-Qaida because it was al-Qaida that attacked the United States.

The President of the United States, when he was running for office, said he would be a uniter and not a divider. But now this President and this administration are dividing us in the most fundamental way. I believe that is a dangerous tact. It is a mistake.

Only the President of the United States can stop this kind of talk. I urge him to do so, to rein in the Vice President, to rein in the Speaker, because when this election is over, we need to stand united.

The debate we need to have is how best to defend our Nation from terrorist attack. It is important for us to recall what happened on September 11. When we saw these images of the attack on the World Trade Center, when we saw the smoke rising from the Pentagon, we were under attack. But it is important for us to remember who attacked us. It was not Iraq. The attackers were al-Qaida led by Osama bin Laden, not Iraq led by Saddam Hussein. As evil as Saddam Hussein was and is, he was not part of the September 11 attack. Here is the man who should be the target, the primary target of the United States. This is Osama bin Laden, the leader of al-Qaida. Al-Qaida are the ones who attacked the United States. Al-Qaida are the ones we have a responsibility to bring to account.

President Bush said in convening his Cabinet at Camp David just a few days after the 9/11 attacks, "There is no question about it, this act will not stand. We will find those who did it. We will smoke them out of their holes. We will get them running and we will bring them to justice." That is what President Bush said just days after the 9/11 attack. It is now 1106 days after that attack—1106 days after the attack on the country, and we have still not gotten Osama bin Laden. We still have not kept the primary focus on al-Qaida. Instead, the President diverted our attention and launched an attack on Iraq.

This is from the March 29 edition of USA Today. It says this:

> In 2002 troops from the 5th Special Forces group who specialized in the Middle East were pulled out of the hunt for Osama bin Laden in Afghanistan to prepare for their next assignment: Iraq. Their replacements were troops with expertise in Spanish cultures.

Mr. President, let's get this straight. It was not Iraq that attacked us. It was al-Qaida. Al-Qaida is led by Osama bin Laden, not Saddam Hussein. And yet this administration shifted the focus from going after Osama bin Laden and al-Qaida and instead shifted special forces to the hunt for Saddam Hussein. He replaced those special forces in Afghanistan with units that were experts in Spanish culture.

The article goes on to say:

> The CIA meanwhile was stretched badly in its capacity to collect, translate and analyze information coming from Afghanistan. When the White House raised a new priority, it took specialists away from Afghanistan to ensure Iraq was covered.

The former Secretary of Navy in the Reagan administration says this was one of the biggest blunders, strategic blunders in modern memory. We attacked the wrong target. That is his conclusion. That is the Secretary of Navy in the Reagan administration saying we attacked the wrong target. We have to have a debate in this country about how best to defend America. The first thing we have to get straight is who attacked us and who is preparing to attack us again. It was al-Qaida, not Iraq.

There were no Iraqis on board the planes that attacked on September 11—not one. There is no evidence that Iraq was behind the attack on September 11. It was al-Qaida led by Osama bin Laden.

This administration has diverted its attention from finishing business with Osama bin Laden and al-Qaida and diverted our resources, diverted our attention to Iraq and Saddam Hussein. I believe that was a mistake.

I voted against authorizing this administration to launch this attack because, as I said on the night of our vote, I did not believe it was in the national security interest of the United States to attack Iraq and open up a second front before we finished with the first. The first had to be with the people who attacked us; that was al-Qaida led by Osama bin Laden, not Iraq led by Saddam Hussein.

This is an article that appeared in the Philadelphia Inquirer last year. It says:

> Some senior officials concede that the Iraq war also diverted resources from two problems that could prove to be even more pressing than Iraq was: Rooting out the remnants of Osama bin Laden's al-Qaida terrorism network and confronting Iran. A senior intelligence official who spoke on condition of anonymity said that the CIA reassigned to Iraq more than half of the operatives tracking al-Qaida in Afghanistan and Pakistan. As a result, U.S. forces were not able to pursue bin Laden and other al-Qaida leaders as aggressively.

I believe this is a strategic mistake of significant proportion. Again, our primary target has to be al-Qaida led by Osama bin Laden. Instead, the President shifted resources from the hunt for Osama bin Laden and al-Qaida to a hunt for Saddam Hussein in Iraq.

Again, as bad and as evil as Saddam Hussein was and is, he should not have been the primary target of the American military. Instead, we should have focused, I believe, like a laser on the people who attacked us and who are planning to attack us again; that is, al-Qaida led by Osama bin Laden.

This article concludes saying:

> Al-Qaida's continuing threat has shown that the Department of Homeland Security

> raised its terrorism alert level Tuesday after bombings in Saudi Arabia and Morocco.

It is not just these articles. It is not just intelligence officials. We look to the Bush administration's own Web site, the State Department Web site. This is very interesting. Thirty days after the September 11 attack, the State Department had this on their Web site:

> Countries where al-Qaida has operated—
>
> This is 30 days after the attack on the United States. This is on the State Department's Web site. Here are the countries they list where al-Qaida was active. They list Albania, Algeria, Bahrain, Belgium, Bosnia, India, and Iran. There is no Iraq. There is no Iraq. There is no Iraq. This is a report signed by the President. This is after the attack. There is no mention of Iraq being a locale for al-Qaida.

But it is not just the State Department. The President himself tried to correct the record last year after the Vice President was asserting and I think fundamentally confusing people suggesting that Iraq and al-Qaida were involved in the September 11 attacks.

The President seeking to correct "reports no evidence of Hussein tie to 9/11."

In the article, it says:

> President Bush said today that he had seen no evidence that Saddam Hussein was involved in the September 11 terrorist attacks, as the White House tried to correct an assertion that Vice President Cheney left extremely murky on Sunday. Mr. Cheney on Meet the Press was asked about polls that showed a majority of Americans believe that Mr. Hussein had been involved in the attack.

This is what Mr. CHENEY said: "I think it is not surprising that people make that connection."

Asked whether the connection existed, Mr. CHENEY said: "We don't know. He described Mr. Hussein's reported connections to al-Qaida, connections that American intelligence analysts say were not very deep. Mr. Bush, asked by a reporter today about that statement, said: "No. We have had no evidence that Saddam Hussein was involved in September 11, a far more definitive statement than the Vice President's."

That doesn't end the evidence. The evidence is powerful with respect to the question of who is behind September 11. It was al-Qaida led by Osama bin Laden, not Iraq led by Saddam Hussein. The 9/11 bipartisan commission said this:

> The intelligence reports describe friendly contact and indicate some common themes on both sides, "hatred of the United States." But to date we have seen no evidence that these or the earlier contacts ever developed into a collaborative operational relationship, nor have we seen evidence indicating that Iraq cooperated with al-Qaida in developing or carrying out attacks against the United States.

That is the report of the 9/11 Commission.

It doesn't end there. The Secretary of State was just recently on "Meet the Press." This was in the early days of this month. He said he "had seen nothing that makes a direct connection between Saddam Hussein and that awful regime and what happened on 9/11."

We have all kinds of evidence that al-Qaida was not linked to Iraq in the September 11 attacks or that Iraq was not a link to al-Qaida in the September 11 attacks. The evidence is overwhelming that al-Qaida, led by Osama bin Laden, led those attacks.

I believe deeply that our strategy must be to focus like a laser on those who attacked us. We ought not to allow ourselves to get diverted into this attack on Iraq. We have 10 times America's resources in Iraq as we have in Afghanistan.

We are 1106 days after the attacks on this country and the President has failed to do what he said he would do in holding al-Qaida and Osama bin Laden to account. Osama bin Laden is still at large. His top adviser, al-Zawahiri, is at large. This murderous ally of theirs beheaded an American yesterday, and we have diverted resources from the hunt from those monsters to go after Saddam Hussein in Iraq when the evidence is overwhelming that Iraq was not involved in the September 11 attack.

What doesn't add up here? What doesn't make sense? The Secretary of the Navy in the Reagan administration says we attacked the wrong target. I believe that is correct. We should have kept our focus on Osama bin Laden and al-Qaida and not have been diverted to Saddam Hussein and Iraq.

Let me say to my colleagues that there is additional evidence as well. Our own Intelligence Committee has made findings. For example, Conclusion 96 of the Senate Intelligence Committee says:

> The Central Intelligence Agency's assessment that to date there was no evidence proving Iraqi complicity or assistance in an al-Qaida attack was reasonable and objective.

That is our Intelligence Committee led by Republicans on a bipartisan basis concluding there wasn't complicity by al-Qaida and Iraq, that there was not Iraqi complicity or assistance in an al-Qaida attack. Our Intelligence Committee concluded that was reasonable and objective.

Similarly, conclusion 93 says:

> The Central Intelligence Agency reasonably assessed that there were likely several instances of contacts between Iraq and al-Qaida throughout the 1990s, but that these contacts did not add up to an established, formal relationship.

If we are going to be effective in this war on terror, we have to get the facts right. The facts are, al-Qaida attacked America, not Iraq. The facts are, we are 1106 days after that attack, and Osama bin Laden and his chief lieutenants are still out there threatening America and Americans. This President diverted our attention and our resources from running down al-Qaida and Osama bin Laden to an attack on Iraq and Saddam Hussein. That was a mistake, and the sooner we admit to it and the sooner we get about the business of tracking down those who attacked us, the better off our country will be and the safer we will be. That is my strong, deep belief. Whoever wins this election, I believe we have to reorient the resources of America into going after those who attacked us. It was al-Qaida, not Iraq. It was al-Qaida, led by Osama bin Laden, not Iraq, led by Saddam Hussein. That is what our 9/11 Commission tells us. That is what the Secretary of State is saying. That is what the intelligence agencies are telling us. Yet this administration—this administration—made a series of decisions, profound decisions, decisions of enormous consequence, and diverted resources and attention from going after Osama bin Laden and al-Qaida to going after Saddam Hussein and Iraq.

I know many people believe, despite all the evidence to the contrary, that somehow Iraq was deeply involved in the September 11 attack. There is just no evidence to support that. My own conclusion was, and is, this was the wrong war at the wrong time. And the overriding obligation of those of us who are in a position to affect U.S. decisionmaking—the overriding obligation and responsibility that we have—is to defend this country and to do so effectively.

We know al-Qaida is plotting, right now, to again attack our country. We ought to focus like a laser on stopping them. We ought to focus like a laser on holding al-Qaida and Osama bin Laden to account. We should never have shifted our resources from the hunt for Osama bin Laden and al-Qaida leaders to the hunt for Saddam Hussein in Iraq. It was a mistake, and we have to be big enough to say it was a mistake and move on and remember who it was that attacked us and use the awesome resources of this country to go after those who are plotting to attack us again.

We have to get these facts right. We have to reduce the confusion out here, when a majority of the American people thinks Iraq was behind the attacks of September 11 and we know full well that is not the case.

The President and Vice President of the United States have a heavy responsibility. They are the leaders of this country. They are the leaders of the free world. They have an obligation, a solemn obligation, to make certain that the United States focuses on those who attacked us—not to confuse the issue, not to distract us from those who are responsible for the loss of nearly 3,000 American lives.

Mr. President, it is hard to talk about these things when you are just weeks before an election and not have a political component to the debate and the discussion. But we, I believe, as a nation, need to have a full and vigorous debate on how we best defend this Nation. My strong belief is that we need to keep the focus on the people who attacked America on September 11, and it was al-Qaida, led by Osama bin Laden, not Iraq, led by Saddam Hussein. The evidence is overwhelming.

We need to refocus the efforts of the awesome American military on hunting down Osama bin Laden, on hunting down his chief allies and holding them to account. That is the best way to send a signal of American resolve and determination and American unwillingness to accept the vicious attack on our country.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

There are time allocations that have been assigned for the remaining 27 minutes.

Ms. STABENOW. I ask unanimous consent for 15 minutes if there is time available. If not, I would appreciate it if the Chair could indicate who has been designated the time.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota has 10 minutes, and the Senator from Arkansas has 15 minutes of the time. There is 26 minutes remaining, but of those, 25 has been allocated.

Ms. STABENOW. It is my understanding, through staff, that Senator LINCOLN will not be coming to the floor at this time. So if there is no objection, I ask unanimous consent to use the time of the Senator from Arkansas. And if she comes to the floor, I will certainly yield to her.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MEDICARE PREMIUM INCREASE

Ms. STABENOW. Mr. President, I rise to speak on the announcement of a dramatic increase in the Medicare Part B premium for seniors and the concern the people of Michigan have about trying to pay a 17.5-percent premium increase for next year. Just a day after President Bush touted his efforts to help our seniors and the disabled cope with increased medical expenses, his administration announced the largest premium increase in Medicare's history, dating back to 1965.

Unfortunately, nothing has been done about record increases in the cost of health care over the last 4 years. Now we see the largest premium increase, a 17.5-percent increase. We have seen it consistently going up since 2001. It is time to say enough is enough.

Seniors are only going to see about a 3-percent increase in their Social Security cost of living. Yet the Part B premium comes directly out of that track. So instead of getting at least a 3-percent increase to help pay for food and the mortgage and utility bills, prescription drugs and so on, they will actually see a reduction of 14.5 percent in what they receive through Social Security.

This is absolutely unacceptable. Unfortunately, instead of helping, Congress and this administration have pushed through a Medicare plan about which CMS Administrator McClellan has acknowledged that about a sixth of this year's premium increase results from the billions that Medicare is paying private health plans to encourage them to offer private health insurance. So what we see are conscious decisions that we made that have caused this increase to be as high as it is. I believe they were the wrong decisions, the wrong choices.

It doesn't make sense and it is not fair that the millions of seniors who enjoy and want to stay in traditional Medicare—about 89 percent of seniors right now have chosen traditional Medicare over Medicare+Choice or being in an HMO—have to subsidize the big private health insurance companies and HMOs and the 11 percent of the seniors and disabled who have the ability or have the choice, even, to be in an HMO.

Moreover, we have heard time and time again that the private plans are less efficient than traditional Medicare. I have shown charts on the floor as we have debated the Medicare prescription drug bill. We have seen the Congressional Budget Office analysis. In fact, we heard it again last week when the Medicare Payment Advisory Commission reported that CMS pays Medicare private health plans an average of 107 percent of what it costs to care for the same beneficiaries under traditional fee-for-service programs.

At a time when we are looking at great concerns about the long-term solvency of Medicare, looking at these huge increases that have occurred for seniors related to the premiums for Medicare, we are hearing from the Medicare Payment Advisory Commission that CMS is paying private plans an average of 107 percent of what it costs to care for beneficiaries under traditional Medicare.

This makes absolutely no sense, no matter how you look at it. According to the report, Medicare payments to private plans cost 16 percent to 23 percent more than traditional plans. So, basically, we can be spending up to 23 percent more on the approach of privatizing Medicare. That is what it is; this is a strategy to privatize Medicare, which the majority of seniors have not asked for, they have not chosen, and they don't want; and the icing on the cake is it costs up to 23 percent more.

I ask, if HMOs are so much better and more efficient, why do they need the extra dollars? I am certainly not opposed to HMOs. I have participated in the past, as my mother has, when she was on Medicare and when Medicare HMO was available in our community. She got dropped, unfortunately, when they chose to leave. Certainly, this is not a discussion about whether HMOs provide an important service or quality service.

My concern is, within the context of Medicare, why, if they are so much better and more efficient, are we providing them more money? The debate on privatization was that somehow Medicare is going broke, the trust fund is going to run out of money; therefore, we have to privatize Medicare. And exactly the opposite result has occurred as we have begun to privatize Medicare. Premiums for seniors are going up faster than at any other time in our history. We hear from independent reports that it costs anywhere from 16 percent to 23 percent more to privatize Medicare than to keep it the way it is. With higher administrative costs, in fact, private plans are more costly than regular Medicare. So we are told they need subsidies because it costs more to administer them.

Again, the whole point is to be more efficient, stretch the dollars farther, lower costs, so we can provide better prescription drug coverage for seniors and other kinds of preventive care they need, and that Medicare remains solvent and healthy for the future. Older Americans are staggering under the relentless increases in the cost of their health care and prescription drugs. We have all heard the stories. More older Americans will face harsh choices in meeting basic needs of health, food, housing, and paying utility bills. Meeting those challenges will be even more difficult as percentage increases in Medicare premiums greatly outpace the increases for Social Security. The increase will be especially painful because Social Security payments again are expected to rise less than 3 percent. I say "expected" because we don't know how much or how little Social Security payments will be yet.

Yet, this year, this administration decided to release the Medicare numbers the Friday right before Labor Day, right before the weekend when the news was focused on a hurricane. That is some holiday for millions of seniors who have labored their whole lives. We learned the OMB moved up the release of this huge increase by 6 weeks. In fact, we hear today in an article that the internal administration memo reveals that the unprecedented 17-percent increase in Medicare premiums seniors will pay in 2005 was scheduled for release October 22. It was scheduled for release on October 22, along with Social Security COLA payments.

Obviously, somebody looked at this and said: This is the largest increase in the history of the program. We want to make sure it is done as quietly as possible. So they chose the Friday before the Labor Day weekend, late in the afternoon, in the middle of a hurricane, to release the numbers.

OMB received the premium notice from HHS on September 1 and cleared it for release only 2 days later. As I said, for the last at least 10 years, they have done it in October along with Social Security.

We are not going to only talk about premium increases here today. We have the ability to do something about it. I am proud to be doing something about this, saying enough is enough; the portion of this that comes from privatizing Medicare needs to be removed and we need to put these premiums back in line with Social Security.

We know health care costs are going up for everyone—every family and every business. In a larger sense, we need to be addressing that as well, which we can do with the cost of prescription drugs. We can bring it to the floor and pass an effort to open the border and lower the costs in half by allowing pharmacists to do business safely with pharmacists in Canada and other places. There are other strategies. There are things we can do to address the broader issue of health care and we need to be doing them.

But while this is happening, we should not be saying to our seniors, saying to someone on Medicare, that instead of addressing these issues, we are going to require you to pay an extra-large increase because of a policy made here to privatize Medicare that, in the face of all evidence, shows the administrative costs are higher and the costs of providing the kinds of care are higher. We now have one more report saying that. In the face of all objective evidence, the Congress and the President have moved forward to want to privatize Medicare, anyway, saying it will lower prices, when in fact it has resulted in the largest premium increase for seniors and the disabled in the history of the Medicare Program.

I believe this is wrong. So I have introduced S. 2780, Keeping the Promise of Medicare Act, with 11 of my colleagues. My bill would cap the Part B premium at the same level as the cost-of-living adjustment so that seniors do not see real cuts in their Social Security benefits. In other words, we would at least keep seniors whole, moving in the right direction while we deal with these other issues, in terms of rising health care costs that need to be and must be addressed.

We need a sense of urgency about this issue. Health care is not optional. This is one of the most urgent issues a family addresses. It is the most urgent cost right now that businesses across the country are facing. Yet we do not see that sense of urgency, even though I know colleagues on both sides of the aisle have concerns, have knowledge about this, and want to see something happen. We can do better than that. We can do better for our seniors through Medicare. We can do better for businesses that are desperately asking us for help. We can do better for our families, for every worker being asked to pay more for health care, or losing their job because the company cannot keep their health care plan and their jobs. There is more we can do, much more. I urge my colleagues to join with me in one step, S. 2780, Keeping the Promise of Medicare Act. We can, at minimum, start by saying to our seniors we are going to make sure you are not burdened with the costs of paying for these policies to privatize. We will keep you whole by capping this increase at the same level as the cost of living for Social Security. I hope we will vote on this bill before we leave and have the same sense of urgency about it that those paying their bills have every day.

I yield the floor.

Mr. DAYTON. Mr. President, I commend my colleague from Michigan. I am a proud cosponsor of her legislation. She has been a true champion for seniors and affordable prescription drugs, and she continues that leadership today.

IRAQ

Mr. DAYTON. Mr. President, yesterday Senator JOHN KERRY told the American people the truth about Iraq, the truth about the past, the truth about the present, and the truth about the future. President Bush, Vice President CHENEY, and other administration apologists complain he did not show enough optimism. Senator KERRY decided that honesty was more important than false optimism.

President Bush and Vice President CHENEY have not been honest about Iraq from the beginning. They have not been honest about Iraq with this Senate, not with the House, nor with the American people. JOHN KERRY gave us yesterday what we need: honesty about Iraq.

He was not alone in the last few days. I salute my Republican colleagues—five of them—for their honesty about the situation in Iraq. It cannot be easy to tell the American people the truth and to stand up to an administration of their own party which is not telling the truth. They are remarkable American patriots who recognize, as Senator ROBERT C. BYRD, the great senior Senator from West Virginia, has reminded us, that we serve with Presidents of the United States, not under them.

We are elected separately to serve independently and to exercise our own best judgments about what is best for our respective States and for our United States.

Listen to what five of our Republican Senators have said recently. One said that President Bush's rosy pronouncements about the situation in Iraq "are not as straight as we would want them to be."

Another stated:

> A crisp, sharp analysis of our policies is required.

A third, upon noting that of the $18.5 billion Congress appropriated for Iraq's reconstruction a year ago, only $1 billion has been expended, called this "the incompetence in the administration."

A fourth Republican Senator stated the other day that he may not vote for President Bush in November, to which another Republican Senator replied:

> What I like about him is that he can be a Republican Senator and, at the same time, he is unsure about our Republican President. He is a breath of fresh air in politics.

As he is. And we need also a breath of fresh air in the White House, along with fresh words of truth which we received yesterday from Senator KERRY.

The response of the Bush White House to these honest assessments by Senator KERRY and by our Republican Senate colleagues has been to attack them and blame everyone else. President Truman said when he was President, "The buck stops here." With this President, it is "the blame starts here"—blame those who opposed this war from the beginning, as I did; blame those who question his bungling of the running of Iraq after our courageous Armed Forces won the country in 3 weeks and still die daily because Iraqis will not take responsibility for their own country. And now he blames his political opponent for telling the American people the truth about Iraq, the truth that he has consistently withheld.

I am not clear exactly about what we are supposed to be optimistic. Certainly not the report of the President's own National Intelligence Council which, according to an Associated Press story last week, "presented President Bush this summer with three pessimistic scenarios regarding the security situation in Iraq, including the possibility of a civil war there before the end of 2005.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DAYTON. Mr. President, how are we to view the continuing violence in Iraq, the murders of American soldiers as they stand guard in a country that its own citizens are unwilling or unable to guard for themselves, or the American citizens hired to work there who are being kidnapped and beheaded? Tell the 138,000 American soldiers who are courageously serving their country, risking and some losing their lives, and wondering when are they coming home. I say to those who tell patriotic dissenters that they are not supporting our troops—the printable part is, if you want to support our troops, bring them home alive soon, not in 10 or 20 years, as Senator MCCAIN has recently predicted.

Make Iraqis protect and defend their own country. That is what people do in a democracy. That is what people do in any form of stable national government: They impose law and order in their own cities. They provide public safety on their own highways. They defend their own national borders.

Over a year ago, in August of 2003, the Bush administration claimed that 95 percent of Iraq was peacefully occupied and operating normally. Now we see daily reports that violence is spreading and becoming more murderous. The Iraqi Prime Minister claims that "foreign terrorists are still pouring in," a common cry to rally Americans behind the fallacy that their sons and daughters must die in Najev and Baghdad so we will not die in New York and Boston. He says more troops are needed to win. Following the party line, he says: We need more participation from other countries.

We needed more participation from other countries 2 years ago when Congress was stampeded as part of the 2002 midterm election strategy to vote a blank check for warmaking based on completely false information from the Bush administration, including the President and the Vice President themselves.

We needed more participation from other countries when the United States and Great Britain bilaterally invaded Iraq in 2003. Or when the operation of that country failed to begin 3 weeks later. We need it now. Now that President Bush has made a mess of the situation in Iraq, are there any international volunteers?

How about participation from the people of Iraq against the supposedly "5,000 to 10,000" insurgents, 95 percent of whom we are told are Iraqis who do not like the presence of the United States there. On paper, we were told over almost a year ago by the Secretary of Defense that there were 206,000 Iraqi militia and army military personnel who were being trained or had been trained—206,000 we were told. Last week, the Secretary of Defense admits that only half of that number have actually been trained.

We are told that less than $1 billion of the $5 billion that Congress appropriated 1 year ago for security training has been expended. And that is why the Republican chairman of the Senate Foreign Relations Committee said over the weekend that this is the incompetence of this administration. The buck stops there.

Mr. President, I ask unanimous consent that I may have 2 minutes to complete my remarks.

The ACTING PRESIDENT pro tempore. Democratic time remains—3 minutes 43 seconds.

Mr. DAYTON. I ask that I may have 2 minutes of that time to complete my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DAYTON. Mr. President, the buck stops in the White House. The blame starts there and it ends there. Senator JOHN KERRY is not responsible for this war. Congress is culpable to some extent, but is not responsible for it. President Bush is responsible. Now that things are going badly and getting worse—and I say that not because it is pessimism, I say that because it is the truth. JOHN KERRY told the American people the truth. President Bush should start doing the same.

I thank the Chair. I yield the floor.

EXHIBIT 1

[From AOL News]

INTELLIGENCE REPORT OFFERED BLEAK VIEW OF IRAQ

(By Katherine Pfleger Shrader)

WASHINGTON (Sept. 16).—The National Intelligence Council presented President Bush this summer with three pessimistic scenarios regarding the security situation in Iraq, including the possibility of a civil war there before the end of 2005.

In a highly classified National Intelligence Estimate, the council looked at the political, economic and security situation in the wartorn country and determined that—at best—a tenuous stability was possible, a U.S. official said late Wednesday, speaking on the condition of anonymity. The document lays out a second scenario in which increased extremism and fragmentation in Iraqi society impede efforts to build a central government and adversely affect efforts to democratize the country.

In a third, worst-case scenario, the intelligence council contemplated "trend lines that would point to a civil war," the official said. The potential conflict could be among the country's three main populations—the Sunnis, Shiites and Kurds.

It "would be fair" to call the document "pessimistic," the official added. But "the contents shouldn't come as a particular surprise to anyone who is following developments in Iraq. It encapsulates trends that are clearly apparent."

The ACTING PRESIDENT pro tempore. There is 2½ minutes still under the control of the Democrats.

Mr. DAYTON. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DAYTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DAYTON. I yield back the remainder of our time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania.

CHARITABLE GIVING ACT

Mr. SANTORUM. Mr. President, I thank the Senator from Minnesota for yielding back his time.

Shortly, I will be making a unanimous consent request to move certain legislation to conference, the Charitable Giving Act that passed the House, or the CARE Act that passed in the Senate. These two bills, very similar in nature, were passed earlier in this session, actually last year—both were passed last year—to try to help those organizations that are out on the front lines meeting the needs of our society. These are nonprofit organizations across America. The President refers to them as "arms of compassion," those who meet human service needs, those who meet educational needs, our not-for-profit sector, which are a vitally important part of what makes America tick and what makes our country the great envy of the world in the sense that we have such strong communities, we have such strong voluntarism, we have such strong commitment to our neighbor.

These community organizations have seen, particularly in light of the decline in the stock market in the early part of this decade, with some of the problems we have had with our economy early in the decade, the amount of charitable giving decline. So as a result, to respond to these pressing needs, and actually to make the Tax Code, I would say, more equitable, we put forward a bipartisan bill offered by Senator JOE LIEBERMAN and me that passed 95 to 5. Support for this bill is pretty overwhelming. In the House, it passed 408 to 13, and in the Senate it passed 95 to 5. So there is strong support to try to help these charitable organizations meet the needs of those in our society.

Unfortunately, we have run into a roadblock. The roadblock is there are differences between the House and Senate bills. We would like to sit down and work out those differences in conference and move to a final solution to help these nonprofit organizations. We have been blocked repeatedly on the Senate floor from appointing conferees on a bill that is virtually noncontroversial, that has almost passed unanimously in both Houses, different versions, but we have not been able to do so.

On eight occasions I have come to the Senate floor and asked for consent to do what we do as a normal course of record, which is to sit down with the House in a conference and come up with a bill to be voted up or down by both the House and Senate. We have had objections to it. In fact, we have had eight objections by the Democratic leadership; 7 times Senator REID objected, and the most recent one Senator DASCHLE objected. I am going to offer another one today.

We are approaching the end of the session. We are approaching a point where all the work that has been done on this legislation is going to come to an end. There are 1,600 groups supporting this legislation. There are 1,600 national nonprofit organizations that have come forward and said: We want this to be passed.

Not only that, Senator DASCHLE himself said in an op-ed—which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rapid City Journal, Feb. 15, 2002]

COMPROMISE GOOD FOR SD., AMERICA

(By Senator Tom Daschle)

WASHINGTON—Sept. 11 filled all of us with an overwhelming sense of grief. But like other human tragedies, Sept. 11 also taught us something important about ourselves. It reawakened in Americans a sense of generosity and civic duty. There was a heartfelt outpouring of altruism across the country as Americans united to provide assistance to the victims of Sept. 11.

It is important to continue building on this generous spirit by creating living memorials to the victims of September 11—not just in New York and Washington, but in Sioux Falls and Rapid City, in Newell, Faith, Elk Point and every community across South Dakota and America. We can do this by embracing President Bush's call to build on the important partnership between the federal government and community-based and faith-based organizations.

President Bush has been working with Democrats and Republicans in Congress to promote charitable giving and encourage community and faith-based groups. On Feb. 8, the president and a bipartisan group of Senators unveiled the Charity Aid, Recovery and Empowerment Act—or CARE Act—that will harness the goodwill of Americans and turn this goodwill into good works.

I strongly support this faith-based initiative, and commend President Bush and Sen. Joseph Lieberman for their joint leadership on an issue that is so close to their hearts and so important to our nation.

Community and faith-based organizations do not seek to replace government. There will always be a need for programs like Social Security, Medicare or Head Start. What this proposal seeks to do is strengthen the partnership whereby charities and government can work side-by-side to meet some of the great unmet needs of our nation.

South Dakotans know the good works charities perform. They have seen success stories. Sioux Falls Promise works with community and religious leaders and educators to meet the needs of children and young people. In Rapid City, Catholic Social Services provides adoption services and family counseling, while in Sioux Falls Lutheran Social Services runs one of the best immigrant assistance programs in the country. In other communities in our state and across the country, religious-based charities tutor and mentor children, give shelter to battered women and children, help young people find jobs, and feed the hungry by running soup kitchens and food pantries.

The bipartisan faith-based initiative announced by President Bush will help meet unmet needs in our communities by providing tax incentives to businesses and individuals to give money to charities, by simplifying the process by which charities can qualify for tax exempt status, and by providing technical assistance for community and faith-based groups.

In the wake of Sept. 11, it will provide a framework and incentives for Americans to take up arms against enemies here at home, including poverty, illiteracy, hunger and homelessness.

The CARE Act isn't a Republican or a Democratic plan. It is a bipartisan proposal that strikes the right balance between harnessing the best forces of faith in our public life without infringing on the First Amendment. It reflects a broad concept of public service and builds on programs sponsored by presidents from John F. Kennedy to President Bush's own father. Most importantly, it is representative of what we can accomplish in Washington when we put partisanship and politics aside and focus on what matters. I look forward to working with President Bush to get this proposal signed into law.

Mr. SANTORUM. He said himself to the Rapid City Journal in an op-ed in South Dakota, talking about how good legislation this was:

> The CARE Act isn't a Republican or Democratic plan. It is a bipartisan proposal that strikes the right balance between harnessing the best forces of faith in our public life without infringing on the First Amendment . . . I look forward to working with President Bush to get this proposal signed into law.

It is nice that the Democratic leader said that he is looking forward to it being signed into law, but he has done everything to stop it from actually becoming law by standing up and objecting to this legislation going to the conference committee so we can work out differences.

Many of those differences are going to be tough to work out. I will admit, some of the funding issues for social service block grant funds, some of the issues with respect to how much tax relief we are going to give to those who contribute to nonprofits, are going to be difficult issues to deal with, and there are going to be compromises that are going to be needed. There are going to be some things that Republicans are not going to be happy with in this compromise. There are going to be some things that Democrats are not going to be happy with in the compromise. But we need a vehicle to be able to sit down and work out these differences because people are not going to be able to get the benefits of this legislation, and they are profound benefits, unless we act.

Just to go through very quickly what the benefits are, there is a provision to encourage food donations. This is a very important part of meeting the needs of the hungry in America. Yes, we have Federal dollars that go for that purpose, but as my colleagues know, the vast majority of the food that is distributed through food pantries, soup kitchens, or missions comes from private donations. That is where the vast majority of the food comes from.

Yes, we do provide some Federal assistance to America's Second Harvest, to other organizations, but the vast majority comes from donations. There is an area of the law that candidly does not encourage, because of the Tax Code, some purveyors of food to give their surplus food for the hungry in America. So we changed that provision of the law. We believe—not we—America's Second Harvest believes that 878 million meals will be provided, as a result of this provision, for hungry Americans over the next 10 years. This is not a small amount. This is not a minor, trivial matter.

For those who care about hunger in America, and as someone who was a sponsor of the bill in the Senate that passed, the Good Samaritan Food Donation Act, I care a lot about America's Second Harvest and others who have the food necessary to be able to meet the needs of the hungry in America.

Individual development accounts—Senator LIEBERMAN, Senator FEINSTEIN, myself, and others have been working on this for years to try to help low-income Americans have the opportunity to accumulate wealth, to have savings and investment, to help them to get a college education, to get a GED, or to have the opportunity to own a home or to start a business, 300,000 matched savings accounts, matched with Government and private dollars to help low-income individuals save, to build wealth.

We have heard the President talk about an ownership society. This is a very important part of that ownership society in this bill. There is $2 billion of educational resources through what is called an IRA charitable rollover. People have IRAs, and some people who have IRAs candidly have a lot of money, and they do not need that money for retirement. If they want to give it to a charity, they are heavily penalized if they do. This will allow them to roll over their IRA. The biggest beneficiaries of this approximately $3 billion that we believe will be contributed will be educational institutions. Colleges, universities, private schools, maybe charter schools, and other educational institutions will benefit from this provision, and that is why all of the public universities and private universities in the country are for this provision and believe it can be a great help to educating our children and keeping the cost of education down.

Eighty-six million lower and middle-income Americans will benefit from the nonitemized deduction. What does that mean? Two-thirds of Americans do not itemize, period. They fill out the short form, the 1040EZ. We have a certified public accountant in the Chair, and he can explain this better than I can, but I will do my best.

Right now, if someone is one of these two-thirds of Americans who contribute to their church, the Red Cross, the Salvation Army, they cannot deduct the contribution that they made; whereas, if one itemizes, they can. So what we are trying to do is to provide some encouragement for people who do not have complex tax forms to give money to these organizations. That is what this nonitemized deduction for charitable giving is about. Eighty-six million lower- and middle-income Americans will do that, and it will be billions of dollars in increased donations as a result of it.

As JOE LIEBERMAN said—we had a press conference recently—what is left in this bill is all good. There is nothing bad. There is nothing controversial or that would be disagreed upon. There is disagreement on how to pay for this. There is disagreement on how much of this we want to do. There is disagreement as to how much we are going to have in direct Government assistance to nonprofit organizations, social service block grant funds. All of that is a controversy, but all of it is an argument on how much good we want to do, or how the focus should be.

The idea that we cannot get a discussion on how we can help those in need in our society, how we can help those organizations that want to help those in need, and get that into a form in which we can resolve these differences and come to a solution, to me, is very discouraging.

I have met with Senator DASCHLE from South Dakota. I have asked him to allow us to go to conference, and the Senator from South Dakota basically said: You have to agree before we go to conference to everything I want in this bill. If you don't agree with everything I want in this bill, then you can't go to conference.

What is the point of conference? If we have to do exactly what the Senator from South Dakota wants, to write this bill exactly how he wants it or we can't get a bill, that is hardly the kind of bipartisan cooperation that we have seen in getting this bill to the point it is right now. This is not the way legislating works. It is not my way or the highway from the minority. It is not my way or the highway to the American people, who would like to see some help for those in need in our society. You either do it the way I want to as the Democratic leader of the minority in the Senate, not the way the President would like to do it, nor the way the House would like to do it, nor how the Senate majority would like to do it, but how the Senator from South Dakota would like to do it himself. That, to me, is not bipartisanship. That is not reaching across the aisle to make things happen in a positive direction for an area in the country that is in need.

I am willing to compromise. I have said to the Senator—in fact, I said to the Senator from South Dakota that I am willing to make reductions in areas of this bill that I care most about, and I am willing to give in areas that I care probably less about. I am willing to make that compromise, but it is not all or nothing. It can't be all or nothing. That is what we are being told. To me, that is an insult to the very people we are attempting to help and certainly not in keeping with the comments of the Senator from South Dakota that he made in Rapid City. I understand how he would say those things in South Dakota. But here in Washington, DC, it is a very different story. It is not a story that says to those who are not-for-profit organizations that want to help, that need these resources and are in need, to not come and apply because we are going to deal with you exactly how this bill is going to be written.

This bill has been written in more of a bipartisan fashion than any bill I have ever been involved with in the Senate or in the House where I served. This is all good, the Senator from Connecticut said.

I am hopeful we will have an opportunity to place this good legislation in a situation where we can forge a compromise that will give us not everything I want, not everything the Senator from Connecticut wants, not everything the Representative in the House who is leading the effort on the House side wants, not what others want, but that we can arrive at a compromise in a bipartisan way to allow this bill to provide remedies for the needs of our society by getting this bill passed and signed into law.

UNANIMOUS-CONSENT REQUEST—H.R. 7

I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 7, the charitable giving bill, and the Senate proceed to its immediate consideration.

I further ask unanimous consent that all after the enacting clause be stricken, that the substitute amendment, which is the text of S. 476, the Senate-passed version of the charitable giving bill, be agreed to; that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table; further, that the Senate insist on its amendment and request a conference with the House; that the Chair be authorized to appoint conferees with a ratio of 3 to 2; and that any statements to the bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. SANTORUM. Mr. President, if I can conclude and then I would be happy to let the Senator speak, I will submit for the RECORD a letter from Senator LIEBERMAN and I to the conferees on the FSC/ETI bill. We believe this is an important enough measure that we should pass it this year. If we are not able to go to conference and work out differences, Senator LIEBERMAN and I may ask the conferees on this tax bill to please consider the Charitable Giving Act as part of the FSC/ETI conference. I hope if this is not the vehicle, we can get it to conference another way.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 22, 2004.

DEAR CONFEREES: We are writing on behalf of the charitable community, large and small, across this country seeking to aid families and better their neighborhoods and communities by helping those in need. As you know, both the Senate and the House of Representatives have passed legislation in this Congress with overwhelming bipartisan support that provides significant additional incentives for charitable giving around the country and additional resources for efforts to help those in need including innovative Individual Development Accounts (IDAs), increased Social Services Block Grant (SSBG) funding, and the Compassion Capital Fund. The Charity Aid, Recovery, and Empowerment Act (CARE) passed the Senate on April 9, 2003, by a vote of 95–5. The House of Representatives passed companion legislation, the Charitable Giving Act, on September 17, 2003, by a vote of 408–13.

Since both the Senate and the House have strongly supported charitable incentives, and since both the Senate and House FSC-ETI (JOBS) bills include charitable reforms which limit existing practices, inclusion of a package of charitable incentives in the FSC-ETI conference is appropriate and within the scope of the conference for this Congress. Furthermore, we believe that any revenue raised through constructive reforms impacting charities should be dedicated to expanding charitable giving incentives in order to help those in need.

We strongly urge the conferees to work with the many sponsors and supporters of the CARE Act in the Senate and the Charitable Giving Act in the House to include the significant provisions shared by both bills and full and fair consideration of those that differ—for the benefit of all Americans. The time has come to expand the tools of generosity and increase resources for those in need in a bipartisan fashion.

Thank you for your consideration of this request. We look forward to working with you in this important effort.

Sincerely,

RICK SANTORUM,
JOSEPH LIEBERMAN,
U.S. Senators.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, I just came to the floor after having presented an award to Senator GORDON SMITH. The Suicide Prevention National Organization gave him an award, which is the

No. 1 award that this organization can present. GORDON SMITH'S son took his own life at age 22. We passed in the Senate in recent days—in fact, on Garrett Smith's birthday—the Garrett Smith Suicide Prevention Act.

The reason I mention that is that matter was passed and is going to become law. The President will sign it any day.

As a result of what I suggest to my friend from Pennsylvania happened in this instance, we are not objecting to the passage of this bill. We have never objected to the passage of this bill. We are simply saying that it be handled in the way the Garrett Smith legislation passed, and let the House take whatever action on it and we bring it back. If we like what they have done, we will take it; if not, we will amend it and send it back to them.

We have had numerous bills enacted into law without using a conference to negotiate differences between the House and the Senate. I say numerous; I don't say several. I say numerous. I have not counted these, but I assume there are about 100 pieces of legislation.

The PRESIDING OFFICER (Mr. SANTORUM). The time is under the control of the Senator from Wyoming.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to speak in response to the Senator from Pennsylvania for up to 10 minutes. I will be happy if the Senator wants me to speak afterwards, whatever he wants me to do. I know we have a recess to take place at 12:30. I want to give fairness, and I should have the opportunity to respond.

Mr. ENZI. Mr. President, the Senator from Nevada may wish to speak after I speak. I will be covering some of the same ground. I will be making a unanimous consent request.

Mr. REID. Would the Senator allow me to respond to him and Senator SANTORUM's unanimous consent request following his statement?

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object, if there is to be an agreement soon, I would like to be a part of that agreement. I would like to offer a unanimous consent request to set a date for a vote on the reimportation of prescription drugs. If we reach an agreement, I would like to be a part of that so I can offer a unanimous consent request that the Senate be able to consider that issue.

Mr. ENZI. I am going to object to giving some leeway to the Senator from Nevada to give some kind of response because we are going to be asking unanimous consent. But I have listened for the last 2½ hours to comments from the other side that I have not been able to respond to. To give unlimited additional time to the other side to again make comments that we obviously would like to comment on, too, isn't reasonable at this point in time. We are already into the time of the policy meetings, so we are extending beyond that time. We are having to take that time in order to use our allotted time.

The PRESIDING OFFICER. Objection is heard.

The Senator from Wyoming.

UNANIMOUS CONSENT REQUEST—H.R. 1261

Mr. ENZI. Mr. President, I have heard a lot of talk by my colleagues on the other side of the aisle about jobs and workers. But I have to tell you that their actions don't match their words. It is a little disingenuous to come talk about jobs and then block a job training bill.

I point out one very important program we have that helps American workers improve their skills and get a new or better job so they can make a better life for themselves and their families. It is the nation's job training program created under the Workforce Investment Act. This job training legislation would help over 900,000 unemployed workers each year get back to work.

We keep talking about jobs and work, but we haven't been able to get this important bill into conference.

If the other party really wanted to provide working families with the help they need, they would be a lot less talkative, and they would be a lot more active when it comes to moving this bill on job training to conference and enacting it into law.

This obstruction by my colleagues on the other side of the aisle hurts our workers, it hurts our businesses, and it hurts our ability to compete in the global marketplace.

Let us look at the facts. The economy has shown 12 straight months of job gains. Last month, payroll employment increased by 144,000 jobs. Nearly 1.7 million new jobs have been created over the past year. The unemployment rate fell to 5.4 percent.

Mr. REID. Mr. President, I ask for regular order.

Mr. ENZI. I believe under regular order that for our time we have up to 60 minutes, that there was no set time for adjourning for the policy committees.

The PRESIDING OFFICER. I say to the Democratic whip that the time is now controlled by the Republicans. We are under a unanimous consent agreement that time was divided between the two sides. There is 41 minutes 19 seconds on the Republican side.

Mr. REID. I apologize to the Chair. I thought we were going out for our recess. So how much time is left for the Republicans?

The PRESIDING OFFICER. There is now 41 minutes 8 seconds on the majority side. There is no time left on the minority side.

Mr. REID. Mr. President, I apologize for interrupting my friend.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, we have laid the groundwork for the economic recovery we are experiencing today. President Bush's economic policies continue to create new jobs and move the economy forward. This all adds up to good news for the American people; not good news if you do not have a job. But this is a job-training program I am talking about so you can get a job, or if you have a job and want a better job, you can get skills improvement. We have weathered the storm and we are poised to enter a new period of prosperity.

However, I have to caution you about some serious roadblocks that stand in the way of prosperity for our workers and businesses alike. The first roadblock is a gap between the skills our workforce has and the skills our employers need. The second roadblock is the Democrats' obstruction of the job-training legislation that will help close this skills gap.

First I will talk about the skills gap so you can understand just how damaging the Democrats' obstruction is to our workers and our economy.

It may surprise you to learn that many good jobs in this country will remain unfilled because employers cannot find workers with the skills they need. This skills gap is not about politics; it is about education and training; it is about demographics; it is about America's competitiveness in the global marketplace.

This chart shows the expected labor force and labor force demand from 2002 to 2031. You can see the line with the boxes on it which shows the labor that is going to be needed. You can see the other less-increasing line that shows the labor that will be available. You can see the gap we will have between the number needed and the number available. We will not have enough workers to fill our jobs and we will not have enough workers with the right skills for those jobs. And we do not right now.

According to a 2003 survey by the Center for Workforce Preparation, an affiliate of the U.S. Chamber of Commerce, half of the employers reported difficulty in finding qualified workers. The problem is greatest for small employers. Small business—our greatest source of economic growth—cannot create jobs if they do not have skilled workers to fill them.

The gap between the demand for high-skilled workers and the supply will only widen in the future. Looking ahead 2 years, only 30 percent of the employers surveyed by the Center for Workforce Preparation believe the skills of their workers will keep pace.

As policymakers, we too must look ahead to the growing skills gap that demands our attention and our action now.

Another chart shows the projected skilled- and unskilled-worker gap in 2010 and 2020. In 2010, the skilled-worker gap will be 5.3 million; by 2020, it will be 14 million. The unskilled-worker gap will move from 1.7 million in 2010 to 7 million in 2020. That is 7 million total by 2010, and 21 million total by 2020.

This skills gap blocks the way to better jobs and better lives for American workers and their families. This skills gap also threatens the ability of American businesses to compete in a more complex, global economy. In the book called "The Jobs Revolution," by Steve Gunderson, Robert Jones, and Kathryn Scanland, they describe the impact of this skills gap:

> Every unfilled job translates to products and services we cannot deliver to the global market and, therefore, dollars we cannot return to the U.S. economy. Almost certainly, jobs unfilled in the U.S. will go elsewhere and not return.

Now, we can change this outcome. We can keep jobs and prosperity in America. But we must act now to close the skills gap by improving our education and our job training system.

When Federal Reserve Chairman Alan Greenspan testified before the Senate Banking Committee, he said:

> [W]hat will ultimately determine the standard of living in this country is the skill of the people.

Why is effective workforce training so important? Because in an increasingly knowledge-based economy, people—their talent and their ideas—make the difference. People are a company's most important resource. The skills and ingenuity of the American workforce will drive our economy in the 21st century and beyond. If we want to keep high-paying jobs in America, our challenge is to equip our workers with skills the global economy demands.

We used to manufacture buggy whips. We do not make them anymore, or hardly any of them. The workers who made buggy whips had to learn new skills. The new economy creates new jobs and those new jobs demand new skills.

We cannot turn back the clock. To quote again from "The Jobs Revolution":

> We'll never return to the days before satellites hovered over the globe and the Internet wove us together. We need to go forward, guided by a plan that reflects a new set of American priorities. The plan will marry education and employment. In the old, prerevolutionary model, we went to school for a dozen or more years and then we went to work. After this revolution we'll need to keep learning to keep working. Education and re-education will be the dominant strategy by which we land and hold our jobs.

Unfortunately, the current workforce development system is not up to the task. It is not effectively equipping our workers with the relevant skills. Without any action, technology and other advances will outpace the ability of American workers and businesses to update skills needed to compete.

We must improve the Nation's job-training system under the Workforce Investment Act to better prepare American workers for the good jobs of today and tomorrow. Only a systematic reform of our Nation's job-training system will enable American workers and businesses to compete and succeed in the global economy.

There is good news. We have a bill that does this. It is a bipartisan bill that reauthorizes and improves the Nation's job-training system. It will help retrain workers to fill the jobs needed in this country now and in the future. It will link workforce development with economic development, recognizing that job training and job creation go hand in hand. It will partner the public workforce system with private sector employers—including small businesses—and with training providers to better prepare workers for high-wage, high-growth jobs.

The good news is that we have bipartisan legislation that does all of this—legislation that passed out of the Health, Education, Labor, and Pensions Committee unanimously, legislation that passed on the floor of this Senate last November unanimously. That does not happen with controversial bills. Where is the bill now?

Here is the bad news. Here is the roadblock. The Democrats will not let us send this important job-training bill to conference. They are stopping progress by refusing to appoint a conference committee, which is a committee made up of both Republicans and Democrats who would meet with Republicans and Democrats from the House to work out the differences between the House and the Senate versions of the bill—a very common procedure in past years, obviously not in this year.

This is an important jobs bill, a bill that will help American workers and businesses, and it is being held hostage to election year politics. If we really care about keeping good jobs in this country, we need to send that job-training legislation to conference and then to the President to become law.

I owe my constituents more. I think we all do. We owe the American people an open legislative process, a process they expect and deserve from us. This is not just an academic question of Senate rules and procedures. A bill that would help put Americans back to work or find better jobs now lies in legislative limbo. Whether a company decides to open a plant in Cheyenne or China depends upon a qualified local workforce. A skilled workforce can make the difference between success and failure in the new, global economy. It will make the difference for our workers, for our companies, and for our future.

There is an American dream. It is to have a family, a nice home, and a good job to support that home and family.

Prior to my coming to the Senate, my wife and I owned some shoe stores. As a small-business owner, I saw firsthand the impact of job training in achieving that dream. We had an employee, a Vietnam veteran, who went to work through a workforce training course and ended up managing and then buying two stores from us. He is an example of what you can do with effective job training if you teach workers to dream at the same time.

We have to give workers and businesses the tools to turn those dreams into reality. Job training under the Workforce Investment Act can turn the dream into reality for millions of American workers. By blocking legislation that improves job training, my colleagues on the other side of the aisle are blocking the way to new and better jobs for American workers. They are blocking the pathway to prosperity for American families and American companies.

The job training bill known as the Workforce Investment Act is a central part of a combination of Federal education and training programs that provides lifelong learning for the workforce of today and tomorrow. In this technology-driven global economy, everyone is a student who must adapt to changing workforce needs by continuing to pursue their education. In turn, Congress must ensure that education and job training are connected to the needs of business, including small business, now and in the future.

I urge my colleagues on the other side of the aisle to allow the appointment of conferees to the job training legislation known as the Workforce Investment Act. The cost of this obstruction is the loss of important legislative efforts that will benefit the American people as it harms the integrity of the legislative process itself. I hope our bipartisan efforts on this bill can continue. I hope regular order is restored to the appointment of conferees so we can craft the final version of legislation. If we wanted to keep good jobs in this country, the Democrats would agree to send this important bill to conference.

And a conference isn't the last opportunity to obstruct or to filibuster. After the conference, if the Democrats don't like the results they participated in—and that is a key part to this, in conference both sides participate, as I mentioned before—then they can filibuster. This is embarrassing because we passed it unanimously last November. We asked for more job training last November. It is almost November again. And in fact, if a conference committee were appointed, there isn't time for that, it would be a bipartisan effort. It would be continuing work on the job force because there isn't anything a conference committee now could do that could affect this election. They have already held out long enough to affect this election and to restrict jobs in the economy.

I am pushing for a conference committee that could meet, that could resolve the small differences there are between the House and Senate bills. We have already talked about what those are and what the changes would probably be. I resolved about six of the issues that were brought up before, and we are down to some very minor ones. They need to be fixed by a conference committee.

There is no reason a conference committee should not have been appointed last year—not this year, but last year. This should have been worked out and people should already be in training for these jobs—900,000 of them a year.

I ask unanimous consent that the Senate now proceed to the House message to accompany H.R. 1261, the job training bill, also known as the workforce investment legislation, which is at the desk; provided that the Senate insist upon its amendment, agree to the request for conference on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate with a ratio of 5 to 4.

Mr. REID. Reserving the right to object, this bill has already passed. We are waiting for the House to get together on an amendment to send back to us. As I indicated, we have passed numerous bills by using this procedure. My dear friend, the Senator from Wyoming, for whom I have the greatest respect, is crying these big crocodile tears. We have passed numerous bills by doing the very same thing, sending a bill over to the House. This can be done without a conference.

I repeat for the third time, I have the greatest respect for the integrity of the Senator from Wyoming. I am sure if we shook hands on a deal he would go to whatever bounds necessary to fulfill that agreement. But I have to say that on the most important bill, the highway bill, another Senator and I shook hands, a Republican with me, indicating that if this bill is going to go to conference, if there was something in it he didn't like, then I wouldn't sign my name to the conference and vice versa. That was done in a personal meeting between myself and the other Senator. Then it was put in writing by the two leaders confirming the agreement we had reached.

Suddenly, we are told all bets are off. That deal is no good. So the conference is going on with none us of attending. There are meetings going on, but we are not part of the conference.

This is what has happened around here. That is the embarrassment. The conference process I have been involved in for 22 years has been turned on its head. Conferences are called in name only. You don't know what conference is being held, where it is being held, because you are not told. And not only that, what happens to many of these bills is other items are inserted that have nothing to do with the issue about which the conference is taking place.

I know the sincerity of the Senator from Wyoming. We know the importance of this legislation. We want it to pass also. But it has passed. We want it to be signed into law. The best way to accomplish that is to do what we have done on so many different bills that have been enacted into law without using the conference to negotiate the differences between the House and the Senate; that is, to work it out between the two bodies. We have done it many times. We can do it on this.

I object.

The PRESIDING OFFICER (Mr. TALENT). Objection is heard.

The Senator from Wyoming.

Mr. ENZI. I am deeply disappointed. I am not surprised that the other side objects to sending this important jobs training bill to conference. I am a little disappointed in the comments I just heard which try to give some credibility to my not being trusted. I don't remember any handshake I have made on any bill that hasn't turned out to be that way. I was not a part of that transaction.

I am on the Health, Education, Labor, and Pensions Committee.

Mr. REID. Will my friend yield for a comment?

Mr. ENZI. Yes.

Mr. REID. I want the record to be spread: I accomplished directly the opposite of what I wanted. I would never, ever question at any time the veracity, the honesty, the handshake of the Senator from Wyoming. Out of courtesy, because the other Senator was not on the floor, I did not want to mention his name. But it had no reference to you. We had a situation where Senator DASCHLE and I agreed to a conference on a handshake and, in my opinion, the handshake meant nothing.

It had no bearing whatsoever on the Senator from Wyoming. I want the Senator from Wyoming to know—everybody in Wyoming—I have never known a more ethical person in Government than the Senator from Wyoming.

Mr. ENZI. I thank the Senator from Nevada for his comments. I assure people that the Health, Education, Labor, and Pensions Committee is one of the more controversial committees of the Senate. If I didn't have some credibility of following through on the things I have talked about in the process, that would not have gotten out of committee unanimously, had that not had the same kind of confidence on what I would do if a conference committee were appointed. And we talked about what kind of differences there are. The House had already passed their bill. If they didn't have some confidence in me that what I had said would happen would happen, it would not have gotten through the Senate floor unanimously. That doesn't happen often with Health, Education, Labor, and Pension bills.

This has been a very important bill for the workforce of America, and we had great agreement and cooperative work on it, recognizing what would probably be done in conference committee. Now, we could probably send this over four or five times to the House—which there is not time to do—and resolve some of the differences in each of those. Had I known this was going to happen, I would have started that process much earlier so we would have had time to send an important bill like this back and forth.

The way this has always been done with the Health, Education, Labor, and Pensions Committee bill—that is the committee I have been on ever since I got here—is that we held conferences. Yes, some of them had a lot of animosity, but we worked them out and got bills finished. When you have difficult issues, the best thing is for people to sit down with each other. I have always invited the other side to any conference committee I have been on, and we have listened to both sides. What we have usually come up with, instead of one side or the other, was a third way. That is what ought to be done on this bill.

We ought to be reaching an agreement so we can get 900,000 people a year trained to fill the skills gap we were talking about before. We are not just going to have a lack of jobs, we are going to have more jobs than we can fill—provided we have people trained to fill them. If we don't train the people, those jobs are going overseas and we will never see them again. It has been critical for this year, the year that is just about over. We cannot afford to do this again next year and wait a year or 2 years to reach an agreement to get people trained for jobs. That is what is happening.

If we have to go until the first of the year, all these bills start all over again. Everybody's ideas come back in again, we redraft and start again, and we get to conference—maybe. But there is no assurance of that. We are at the point where we can have a conference committee. If we have a conference committee, then there can be agreement or disagreement. If there is disagreement, there is an opportunity to filibuster at that point. Senators who cannot filibuster a bill through the rest of the session, as short as it is going to be now, probably ought to be worried about their senatorial capability.

Our workers and our companies deserve more than election year political obstruction. They deserve the tools needed to keep American workers and businesses the best in the world. They deserve to see us act in a bipartisan manner and send this bill to conference.

I yield the floor.

The PRESIDING OFFICER. Does the Senator yield the remaining time on the Republican side?

Mr. ENZI. Yes.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is now closed.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:53 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I ask unanimous consent that we proceed as in morning business for the following two items: That Senator DORGAN be permitted to proceed after the Senator from New Mexico for 5 minutes to speak as in morning business, and the Senator from New Mexico be recognized for 7 minutes to speak as in morning business, and that those are the only two speakers to be permitted as in morning business at this point, and that is for debate only.

Mr. DORGAN. Mr. President, I also seek the same 7 minutes.

Mr. DOMENICI. With the same conditions.

Mr. DORGAN. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. So we have 7 minutes each, speeches only as in morning business, and that is all we have agreed to at this point.

The PRESIDING OFFICER. The Senator is correct.

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2818 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, beyond the statement of my friend from New Mexico and Senator DORGAN, is there any other time that has been allocated?

The PRESIDING OFFICER. No, there is not.

Mr. REID. I ask unanimous consent that I be allowed to speak for 3 minutes to respond to my friend from New Mexico. Also, Senator NELSON is in the Chamber, and if there is a Republican who wants to speak—we are as in morning business, are we not?

Mr. DOMENICI. We are, but I cannot do that because we carved this out without our leadership. The Senator on his side is indicating he did not want us to do that, but he agreed to our two. We will soon agree with him, but at this point I cannot. Senator DORGAN is entitled to speak next, and I will inquire about Senator REID's and Senator NELSON's requests very shortly.

The PRESIDING OFFICER. The Senator from North Dakota.

UGLINESS OF AMERICAN POLITICS

Mr. DORGAN. Mr. President, first, I am proud to be in the Senate. I have always been proud to be a part of our political system. It is a remarkable privilege to participate in this system of ours. I have run for Statewide election 11 times, since I was in my midtwenties. I must say there are times when I see and hear things in American politics that fill me with disgust.

Two years ago, we had a colleague, Max Cleland, who sat in that desk near the door. Max Cleland was charged in his campaign with lack of commitment to our country's national security. They ran an ad against Max Cleland that had an image of Osama bin Laden and Saddam Hussein. This is a man who left three limbs on the battlefield. He sat in this Chamber missing two legs and an arm. Back home on television, he was accused of not standing up for this country's national security. It stretches my threshold of forgiveness to excuse those who do that to someone like Max Cleland, who went to Vietnam, came back, and wrote a book entitled "Strong at the Broken Places." He ran for the Senate to become a U.S. Senator, only to be attacked that he was not somehow standing up for the national security interests of this country. Shame on them.

This Sunday, I saw that ugliness again raise its head. It is the worst of American politics, in my judgment. This is a newspaper called the Rapid City Journal. I have it because this comes from a neighboring State of mine. On Sunday, Republican challenger John Thune accused Democratic Senator TOM DASCHLE of encouraging America's enemies and damaging U.S. troop morale with a headline, "Emboldening the Enemy?"

For those who engage in this kind of politics, attacking the Democratic leader in the Senate as emboldening the enemy, encouraging America's enemies, and damaging U.S. troop morale, the Rapid City Journal says, all I can say is, shame, shame. Is there decency left in American politics? There was not in the attack on Max Cleland, a man who nearly died on the battlefield, and there is not in this unforgivable attack on the Democratic leader in the Senate.

Does anyone really believe that which occurs here, that the actions of the Democratic leader embolden the enemy, encourage America's enemies, and damage U.S. troop morale? It is so disgusting to see the tactic of questioning someone's commitment to their country, questioning someone's patriotism, or when someone says a critical word, suggesting somehow that they are giving aid and comfort to America's enemies. That is not what ought to be the best in this democracy. It is the worst in American politics. The shrill, ugly, corrosive, relentless attacks in this political system ought to stop. There is so much to be done. Obviously, I support my colleague, Senator DASCHLE.

There is reason to have an aggressive debate in our State to the south about a range of issues. But there is no reason, no excuse for the challenger in that race to be suggesting the Democratic leader here in the Senate, my colleague and friend Senator DASCHLE, somehow is encouraging America's enemies and damaging U.S. troop morale. That is not below the belt, that is below the radar screen of American politics. My hope is that the American people, my hope would have been that the citizens of Georgia, and my hope certainly is that the citizens of the United States see it for what it is. It is an outrage, and this country should not stand for it. This country is about, in my judgment, aggressive, open debate. There is an old saying: When everyone is thinking the same thing, no one is thinking very much.

But we have people around today who believe if you raise any questions at all, you are somehow unpatriotic. What a load of nonsense.

I came into American politics and into this political system proud of politics and the way we make decisions. John F. Kennedy used to say that every mother kind of hopes her child might grow up to become President as long as they are not active in politics.

He was kidding, of course. Politics is an honorable venture in this country. It is the way we have made decisions for over 200 years. There is nowhere else like this place on this globe. We spin around the Sun with 6 billion of us and somehow through divine providence we landed right here right now. What a wonderful event for us. It is our job to be caretakers of a political system, a democracy that is the most successful in the world. There is plenty of reason for us to have aggressive debates. Aggressive debate is wonderful. It is invigorating and refreshing to our democracy. But this is not aggressive debate. This is the worst of American politics. I hope it stops.

Mr. JOHNSON. Mr. President, may I direct a question to my colleague?

Mr. DORGAN. I would be happy to respond or yield the floor.

Mr. JOHNSON. I want to express my agreement with the observations expressed by my friend and colleague from North Dakota about the tenor of some of the recent attacks directed toward my colleague from South Dakota, Senator DASCHLE. This is beyond anything we have witnessed in America politics in more than a generation, and perhaps ever, to have an attack in a political campaign essentially accusing a leader of the Senate of conduct bordering on treason.

I think Senator DASCHLE put it well, that based on good values in the way we tend to see things, the observations of this gentleman ought to lead to a trip to the woodshed for the despicable nature of the observations. I believe it would be hard to find anyone in the Senate—I am sure my colleague from North Dakota would agree with me, Senator DASCHLE being the only veteran in that particular race, someone who served in the Vietnam era—would Senator DORGAN agree with me that there is virtually no one in the Senate of either party who has been more committed to living up to our obligations to our veterans, to the safety, equipment, and resources of our men and women in uniform? I ask this question of my colleague from North Dakota, as the father of a young man, my oldest son who served in combat in both Afghanistan and most recently in Iraq, a member of the 101st Airborne, my son, who is a very big supporter, a very vocal supporter of Senator DASCHLE and the importance for the sake of our military and our national security of our State of reelecting him to this important position. But can you think of anyone who has done more, who has provided more leadership, has been more vocal in support of our troops and our military and our Nation's defense than Senator DASCHLE?

Mr. DORGAN. Senator DASCHLE is an Air Force veteran. He is a patriot. He is someone who has a strong record on national defense and national security issues. He doesn't need me to come to the floor to defend him. I come to the floor only because I am disgusted at this sort of nonsense. This represents the worst of American politics. If you want to have a debate about energy, taxes, foreign policy, name it, have that debate. But don't accuse your opponent of somehow not standing up for the interests of this country. Don't accuse your opponent of giving aid and comfort to the enemy. That is beneath, in my judgment, thoughtful politics. That is the kind of thoughtless and low blow in politics that is uncalled for. The only reason I came to the floor is I am disgusted by this.

I am part of this political system and I have always in my campaign tried to wage a positive campaign. When challenged, I am aggressive, no question about that. But I hope no one is accusing me of the low road because I never take the low road. I believe this is about a positive future of jobs and hope and opportunity for the American people. There is so much to talk about and so much to do. In my judgment, it betrays rather than serves the public interest in this country to be somehow questioning the patriotism or questioning the commitment of a Member of this body, especially the leader of our caucus, questioning the commitment of the leader to the ideals and goals of this country and saying instead that somehow what the leader of our caucus has done is to give aid and comfort to the enemy or to embolden the enemy, as the headline states. That is not what we should expect from our political system or the candidates who are in that political system.

Mr. NELSON of Florida. Mr. President, will the Senator yield for a question?

Mr. DORGAN. I would be happy to yield.

Mr. NELSON of Florida. I thank the Senator for yielding.

The Senator has accurately described a political season where meanness is the order of the day. He has pointed out this element in the race in South Dakota. I have seen it in my State of Florida recently, interestingly, in the Republican primary, meanness where the truth doesn't matter, where you can be opponents, but you don't have to be enemies, and it is there nevertheless. It is time for the people of this country to say that is enough. We are killing our own democratic institutions with the smut and dirt and untruths, and it is time to stop.

Mr. REID. Will the Senator yield?

I know the Senator from North Dakota has the floor. I would like to ask a question of the Senator from Florida. To make the Senator's point clear, however, I ask, is it not true that the Senate race to which the Senator is referring was a race between two Republicans, one backed by the President and the other running on his own, former Congressman McCollum? And the viciousness—I have read editorials from the State of Florida which dealt with Martinez's campaign against this good man, Congressman McCollum, and the same applies to South Dakota. The same crew that is trying to demean Senator DASCHLE demeaned Congressman McCollum. Is that a fair statement?

Mr. NELSON of Florida. I say to the Senator that sadly Mr. McCollum, former Congressman, who ended up second in the Republican primary, a fellow I have known since high school and who has some very high principles, because he announced that he was in favor of the hate crimes bill, was labeled, as reported in the St. Petersburg Times, as "the new darling of the homosexual extremists" as a means of trying to cut him down in a Republican primary.

This has absolutely gotten out of control and I am afraid we are going to see more of the same as we come into the general election. It is exasperating. It is not the American way. We have seen this time after time. My goodness, what do we have to expect in the Presidential race in the next 6 weeks?

That is my response to the Senator.

Mr. REID. Mr. President, will the Chair state what the matter before the Senate is at this stage?

The PRESIDING OFFICER. The Senate is in morning business for debate only.

Mr. REID. And the time is not divided between now and 3 o'clock?

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired.

Mr. REID. Following that expiration of time, how is the time allocated?

The PRESIDING OFFICER. There is no order in place.

The Senator from Nevada.

VOTING IN AMERICA

Mr. REID. Mr. President, I want to comment briefly on the statement of my dear friend from New Mexico about voting and all that he thinks is wrong with our system. I would be happy to look at his legislation. But it seems to me around here what we should be dealing with is giving people the opportunity to vote more easily rather than making it more difficult.

I think it speaks volumes that when you look at the States that have same-day registration, the turnout is much bigger. We have one State where there is no registration, and the vote there, of course, is even higher. In those instances where you have same-day registration and you have no registration, with all the modern computerization, all the ways of checking, there has not been a single case of fraud reported, to my knowledge. So I think what we should try to do is make it easier for people to vote, not harder. I heard my friend, if I understood his statement, say that there are some people out registering lots and lots of people. Well, good. Good. We need more people like that.

I am very disappointed in the State of Nevada. I have tried for years to get the system changed. But, in Nevada, we cut off registration a month before the primary election, and then we cut it off a month before the general election. Just when people are interested in voting, we cut them off. And the county clerk says: Oh, it's so hard for us to get all the records in order. That is silliness. With all the modern technology we have, it is easy.

The reason it is hard is people like to know who they have who voted for them last time or voted against them. They do not want to make a big impression on getting new people into the system. It is easier to deal with what you have, and it is wrong.

We started off after the Civil War with rules to keep people from voting. We need to get out of that mindset.

We need to make it easier for people to vote, and one way to do that is to have either same-day registration or even no registration. There are plenty of ways of checking to see if people are trying to vote fraudulently.

In the State of Oregon, people vote by mail. They do not have polling places in Oregon, and it works out just fine. The State of Washington also does a lot of their balloting by mail. It works out fine. Those two States decided they wanted to do what they could to increase voter participation, not cut back on it. We need to do more of that rather than all these laws that are going to throw people in jail if they register wrong people. I think there are so many different ways of checking to make sure you have an honest election that you do not need to have all these punitive measures that are proposed.

APOLOGY TO THE PEOPLE OF SOUTH DAKOTA

Mr. REID. Mr. President, I know my friend from Florida wants to speak. I certainly want to give him that ability. But I just want to say this: The Senator from North Dakota is absolutely right. Senator DASCHLE is a veteran who has served in the U.S. military. He is a person who has dedicated much of his legislative life to helping people who have served in the military.

There are a lot of people who can take responsibility for dealing with Agent Orange, but Senator DASCHLE, who is a Vietnam-era veteran, knows about Agent Orange, and he has worked tirelessly to get things done in that regard.

I have worked with him on concurrent receipts. He has been a big advocate of concurrent receipts. He is a person who has almost single-handedly taken care of TRICARE, to make sure that National Guardsmen and reservists are treated more fairly with medical care.

To think that in any way this good man has somehow emboldened the enemy—and that is in the way of a fundraising letter—is not very good. I know the man running against Senator DASCHLE. I like him. I am just terribly disappointed that he would allow people to use him the way they have. That Senator DASCHLE has emboldened the enemy is unfair. It is outrageous. And I think that Congressman John Thune should apologize to the people of South Dakota for suggesting that TOM DASCHLE has emboldened the enemy. I assume he is referring to these nameless, faceless, evil people who are committing this war on terror, who are executing this war on terror.

Senator DASCHLE has somehow emboldened the enemy, these nameless, faceless people who are killing innocent women and children, and others? I think not. And I say John Thune, whom I have the highest respect for, should return the dignity to his person and disavow this statement.

The PRESIDING OFFICER. The Senator from Florida.

Mr. REID. Mr. President, will the Senator withhold?

Mr. NELSON of Florida. Mr. President, I will yield to the Senator from Nevada.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period for morning business for the purpose of statements only until 3:45 p.m.—that is the next hour—with the time equally divided between the two leaders or their designees?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I also say, Mr. President, if there is some concern because we used the last 15 minutes, if the Republicans want to come and get a little extra time because of that, we would be happy to take care of that.

The PRESIDING OFFICER. The Senator from Florida.

THREE MAJOR HURRICANES IN FLORIDA

Mr. NELSON of Florida. Mr. President, my family has been in Florida for 175 years, and I do not remember in all of the history books where major hurricanes have happened back to back. It has happened with lesser hurricanes, but I think the record book was shattered when three large, major hurricanes in a row have battered our State over the course of a 6-week period: first Charley, then Frances, and now Ivan.

As I flew in a National Guard helicopter last Friday with the Governor over the Barrier Islands, I saw there were no sand dunes anymore in the Barrier Islands of Pensacola Beach. The sugary white sand of the beaches and those sand dunes had been washed across the entire Barrier Island from the Gulf of Mexico to Pensacola Bay. And from the air, it appeared as if the entire Barrier Island was washed in white. There were structures standing, but the structures were usually the newer ones built according to the new building codes. And as we are hearing in the reports out of Alabama, those structures were even uprooted on their foundations and have to be destroyed. If it was an old structure, that old structure is history.

For not only the howling winds of 138 miles an hour, but the tidal surge of the water that came with the hurricane winds—water that then washed up into the very large Pensacola Bay, even taking out major sections of the Interstate 10 bridge—we did some quick mathematical calculations and figured that a wall of water at least 40 feet high would have had to hit that bridge, positioned some 12 miles from the gulf up Pensacola Bay. It would take 40 feet of water to have enough pressure to raise the sections of Interstate 10's bridge off of the pilings and deposit them in the bottom of Pensacola Bay. And in many other sections of the bridge, the same effort moved it 3 and 4 feet on top of the pilings.

Even at the end of Pensacola Bay, some 20 to 25 miles from the Gulf of Mexico, the wave of water was so fast and so furious that as to the four-lane highway, US 90, that rings the shore of Pensacola Bay on that far northern end, two lanes of those four lanes were washed out at the bridgeheads and thus, is complicating the rescue efforts, the rebuilding efforts because of traffic not being able to get to Pensacola, with only two-way traffic open on one of those lanes that had been spared.

We are finding out once again, because we keep coming with emergency appropriations for Federal disaster relief, that hurricanes can be quite costly, as we have known over the years. It was my freshman year in the Congress in 1979 that I voted for my first disaster relief, which was in response to the eruption of Mount St. Helens in the State of Washington covering so much of that State with soot and ash. But that is in part what a Federal Government is for—to respond in times of emergency and disaster.

So, too, we have seen the President request $2 billion for the first hurricane and disaster relief—that won't take care of all of the relief for Charley—and another $3.1 billion was requested for Charley and Frances. That certainly won't take care of those two storms because there is another billion dollars of agricultural relief that is going to be needed that the President did not request. But we haven't even gotten to the third hurricane, Hurricane Ivan. As we speak, those calculations are being made. This Congress is going to have to respond.

Last week I had a colloquy with the chairman of the Appropriations Committee, the distinguished Senator from Alaska. He assured me and gave me his commitment that he would proceed on the agricultural relief with regard to Hurricane Frances and Hurricane Charley in the conference on the Homeland Security Appropriations bill. Huge parts of the $65 billion-a-year agricultural industry in Florida have been destroyed—citrus, both orange and grapefruit; the nursery industry, including the fern industry, of which Florida is one of the major growers of ferns; vegetables; fruits; cattle; dairy cows that dried up because they could not be milked since there was no electricity to operate the automatic milking machines. You can go on down the list of all the agricultural commodities that were hit as well as the equipment those farmers owned.

But now with Ivan in the panhandle, we are going to have additional agricultural losses, particularly from cotton and peanuts. I dare say that will be shared with the State of Alabama, perhaps with Georgia, as Ivan raced across the southern United States after it had made landfall at the Florida-Alabama border.

It is interesting that in our State, having been put in hurricane mode for 6 weeks, people began to recover from one blow and then here comes another blow. In fact, the people in the center part of the State on the first two storms were hit twice where the two storms passed and happened to cross—Charley from southwest to northeast, Frances from southeast to northwest. And they crossed their paths in the center of the State.

Then along comes Ivan. At one point we even thought the State of Florida might be spared. It looked as if it was going to be bearing down on, Lord forbid, New Orleans, which is lower than sea level, or Mississippi where so many of the establishments there, including the gaming industry, are on floating boats. You can imagine the wreckage that would have caused.

But it shifted to the east, bearing down on the Florida-Alabama line, with the winds coming off in a counterclockwise rotation off of the Gulf of Mexico, in its most fierce fury, on to the shores of that southern Alabama coastline and northwestern Florida coastline.

That is a part of our State that has a great deal of the national assets of our U.S. military. Ninety percent of the buildings at the Pensacola Naval Air Station had severe damage. At Whiting Field, where Navy pilots and Marine pilots and Coast Guard pilots and Air Force pilots, both fixed wing and helicopter, are trained, all of the hangars sustained major roof damage with the roofs being ripped off of those large structures. So, as we have responded after the other two hurricanes with special appropriations to fix up those military facilities so they can get back in the business of training our young men and women so they can defend this country, so, too, we are now going to have to address those particular needs even as far east on that Florida panhandle as Eglin Air Force Base which had its major tower completely taken out of commission.

The Senate will hear me, over and over, advocating and trying to articulate the needs for a State that is in crisis, a State that has been hit not once but three times by the hard and savage blows of Mother Nature.

Floridians are a hardy lot. Floridians have endured hurricanes before. Floridians will do it this time. In the meantime, let's have the Government do one of the things that it does best—respond to the needs of its people when the needs of the people are so desperate.

I suggest the absence of a quorum and ask unanimous consent that time charged under the quorum call be divided equally.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate for not more than 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arizona is recognized.

THE SITUATION IN RUSSIA: BACK IN THE USSR

Mr. McCAIN. Mr. President, I have spoken often about Vladimir Putin's "creeping coup" against the forces of democracy and market capitalism in Russia. It is with regret that I note today that the coup is no longer creeping—it is running full steam ahead. President Putin is crassly using the horrific Beslan attack to consolidate autocratic rule. The people of Russia, no safer because of the Kremlin's power grab, will ultimately pay the price. Their freedom and the future of Russia as a democratic state are at stake.

The terrorist attack on a school in Beslan illustrated once again the ugly face of extremism that will stop at nothing—not even the deliberate killing of schoolchildren—in pursuit of its political aims. Like millions of others around the world, this terrible event moved my heart, and I offer my sympathy to the families who have suffered so grievously throughout the ordeal. As with all deaths in terrorist attacks, nothing anyone does can bring back the lost. It is the duty of political leaders to remember the fallen by taking steps to ensure that such attacks do not again occur.

And yet Mr. Putin chose the immediate aftermath of this attack not to address the root causes of Chechen terrorism, nor to take meaningful steps that would enhance the safety and security of the Russian people. Instead, he used the attack as an excuse—an excuse to consolidate power and further remove the Russian people from democracy.

President Putin has announced that, because Russia faces terrorist threats, significant changes within the government are required. In the broadest sense, he is right. In the midst of the Beslan hostage standoff, government officials repeatedly lied about what was happening inside the school. The military was unable to rescue people and could not coordinate a response. Furthermore, recent accounts indicate that during the near-simultaneous bombing of two Russian passenger aircraft, the suicide bombers bribed their way through checkpoints and onto the planes. These problems stem from the Kremlin's lack of transparency, the government's lack of accountability, and from widespread corruption and ineptitude. And so a reasonable observer might guess that the Kremlin seeks governmental change that addresses these problems. But a reasonable observer would be wrong.

Instead, Mr. Putin has proposed changes that would concentrate his personal power and nearly extinguish the embers of democracy in his country. His allies have told journalists that the president planned for months to centralize political authority, and merely took advantage of the Beslan seizure to unveil the decision. And, as the Washington Post has pointed out, he has not removed security officials who have failed to prevent repeated terrorist strikes over several years.

The total effect of President Putin's new proposals would be to move Russia a long way down the road to autocratic rule. He would eliminate the popular election of Russia's 89 regional governors, and instead appoint them himself. He would eliminate independent members of parliament, so that Russians could vote only for political parties rather than specific candidates. Political parties—such as like the powerful one headed by Mr. Putin—would determine the slates. In last December's elections, district races accounted for every independent and liberal now serving in the Duma. Under Mr. Putin's plan, these races would be abolished. I speak of all of these ideas as "proposals" because the electoral changes require parliamentary approval. But that should not be difficult—Mr. Putin's party controls more than two-thirds of the seats.

As shocking as these recent moves are, they are simply the latest and most egregious in a long string of anti-democratic actions. In his time in power, Mr. Putin has tried to eliminate independent media by imposing restrictive laws. These have led to the takeover or arbitrary closing of all independent national television channels. The international media watchdog group Reporters Without Borders ranked 166 countries in its annual World Press Freedom report. Russia came in 148th. Last year, five reporters were killed under suspicious circumstances, and many reporters were harassed, imprisoned, or physically beaten.

But the media is not the only sector to fear the wrath of an increasingly authoritarian Kremlin. Mr. Putin has asserted control over Russia's energy industry and used government power—including imprisonment—against executives who oppose him. The world has watched with concern over his single-handed attempt to put Russia's largest privately held oil company out of business. And, having lost their rights to free speech and press and to engage freely in an open market, the people of Russia are now on their way to losing the right to vote.

The Kremlin's imposition of old-style central control will not make the people of Russia safer, it will merely curtail their freedoms. But terrorism in Russia does not result from too much freedom. If anything, it stems in part from the Kremlin's reluctance to address the legitimate aspirations of the Chechen people for autonomy or independence. Moving in the opposite direction, increasing central control and decreasing the say of citizens in how their nation is governed, will do nothing but aggravate the problems for which Mr. Putin proposes solutions.

Sadly, many Russians have responded to the Kremlin's new proposals not with outrage but with fearful plaudits. Regional leaders—many of whom may lose their jobs when they are replace by Kremlin appointees—have nevertheless praised Mr. Putin's power grab. The Tass news agency ran a headline last week entitled "Regional leaders hail Putin's latest moves as a panacea for all Russia's ills." This kind of response is eerily familiar, a reminder of the ridiculous propaganda fed to the Russian people and the world by the Soviet police state. I though that the Russian people have moved beyond this sordid past, throwing off the shackles of oppression and ushering in a new day of freedom. I will bet that the people of Russia though the same. But obviously Mr. Putin and the Kremlin have other ideas.

As the world's beacon of freedom and democracy, the United States must make clear our fierce opposition to the path that Russia's leadership is currently on. As much as we value Russia's cooperation in other areas of our bilateral relationship, they will have little meaning if Moscow reverts to it old ways. Mr. Putin, the world is watching your next move.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO PLAN FOR IRAQ

Mr. BYRD. Mr. President, earlier today at the United Nations the President of the United States painted a pretty picture of the occupation of Iraq. But the President's picture was far from reality. The reality is the situation facing our soldiers, the very limited Iraqi security forces, and, importantly, the Iraqi people.

The reality is that today Iraq is in flames. A horrifying wave of violence has struck yet again, targeting the Iraqi police, Government leaders, innocent civilians, and our very own troops. The death toll in Iraq continues to mount. As of today, more than 1,030 American troops have died in this war, a war that should not have been fought, a war which was wrong in the beginning, wrong today.

More than 700 Iraqi police have perished in the short time since the force has existed. The numbers of civilians killed in President Bush's preemptive war is unknown. They may never be known. But it numbers in the thousands—the widows and the orphans who have been left alone, the tears that have been shed.

Who is responsible for this bloodshed in Iraq? Is it a small group of religious radicals, or the secret agents of Osama bin Laden, or terrorists who might otherwise sneak out onto the streets of New York City? No, no, and no. An ever growing pile of press reports indicates that the insurgency is larger and more broad than the White House will admit.

On Wednesday, September 15, the Wall Street Journal reported that "Iraq's once highly fragmented insurgent groups are increasingly cooperating to attack U.S. and Iraqi government targets, and steadily gaining control of more areas of the country."

That was the Wall Street Journal of Wednesday, September 15.

Meanwhile, the Commander in Chief, President Bush, seems to be in the dark about the worsening situation in Iraq. Faced with the spread of violence in Iraq, the President continues to speak of Iraq as a country of free people. But what liberty, what liberty, is there to be enjoyed when the police are being killed by the scores, the chances of a peaceful election have been thrown out the window, and many Iraqis are too afraid to send their children to school?

One must begin to question whether the President is getting the bad news about what is happening on the streets of Baghdad and Fallujah or if he is simply ignoring it. Surely the Commander in Chief has a responsibility, has the obligation, to change his strategy when it has been proven a failure. Instead, the White House blindly insists that the problems of Iraq will sort themselves out if we simply maintain a resolve to stay the course. Did the American people really want to stay the course that has resulted in the deaths and the injuries of thousands of our troops?

Now the President wants to spend another $3.4 billion in reconstruction funds to again try to bolster the same Iraqi security forces that have been outgunned and inadequately trained to take on the insurgents in Iraq. This is even more evidence, is it not, even more evidence that the administration had no plan, that the administration has no plan for postwar Iraq, other than to throw more money at the problem and hope for the best.

As the cost of the war continues to spin out of control, we must remember that last fall the Bush administration promised that its request for the biggest foreign aid package in half a century would bring security and stability to Iraq. The White House got enough Members of Congress to vote for $18.4 billion to buy that pig in a poke, and the President got unprecedented flexibility to spend that reconstruction money almost as he sees fit. Has that reconstruction money helped to get our troops out of harm's way? Has it helped to bring our men and our women home? No. In fact, our troops are under a greater number of daily attacks now than they were when the President asked for his massive foreign aid program.

As the President wants to spend more and more money in Iraq, our troops are getting sucked ever deeper into the bloody quicksand of the Middle East. Most astonishing yet, the White House has not held anyone in the administration accountable for the mess that has become Iraq. It is business as usual in the White House bubble.

The Pentagon botched plans for postwar Iraq as if there ever were any, and the shame of Abu Ghraib has further turned world opinion against the United States. But instead of holding someone at the Department of Defense accountable for those mistakes, the Vice President said that we have the "best Secretary of Defense the United States has ever had."

The CIA failed to detect Osama bin Laden's plot to attack New York City and Washington, DC, and then it produced faulty intelligence that the White House used to take our Nation to war against Iraq.

The White House misled the American people. It is a war we should never have fought. It was wrong from the beginning; it is wrong today.

Instead of holding someone at the CIA accountable for those mistakes, the President praised the former CIA Director as "a strong leader on the war on terrorism."

The U.S.-run occupation government in Iraq mistakenly disbanded the Iraqi Army, bungled the management of $18.4 billion in reconstruction funds, and turned a blind eye to the rising flames of anti-Americanism in Iraq.

Instead of demanding accountability for mistakes made by the Coalition Provisional Authority, rumors abound that its former head, Ambassador Paul Bremer, could be up for a promotion to Secretary of State.

How about that? He didn't have time, he said, to come back before the Appropriations Committee of the Senate—I was there and asked him. No. He said he didn't have time. I will not have time when the time comes to vote for him as Secretary of State if such nomination is ever presented to this body.

For all the mistakes that have been made in President Bush's unprovoked war on Iraq under the doctrine of preemption, which is unconstitutional on its face, and therefore it is fundamentally flawed, not a single administration official has been held accountable for the mess that Iraq has become. Not a single administration official has been called to step aside for the mistakes they have made. In fact, the only senior administration official the White House has seen fit to fire is the former Secretary of the Treasury, who dared to question the fiscal responsibility of more massive tax cuts. If this President cannot hold his advisers accountable for their mistakes, then the people should hold this President accountable for his poor judgment.

The situation in Iraq has been elevated beyond a crisis. The White House plan for holding Iraqi elections in January 2005 is shaky and becoming more so with each new attack on our troops. Instead of demonstrating the leadership to bring more countries in to assist in rebuilding Iraq, the President pays lipservice to international help.

The President has only proposed to sink more taxpayer money into the same failed policies that brought us to this point. We are falling deeper and deeper and deeper and deeper into debt. The President has failed to act to counter the surge in violence that is costing the lives of our men and women in uniform.

How long can this bumbling by the White House go on? How long must our troops be tied down in Iraq? How long will we struggle without a plan to end the spreading violence? How long will it take for our country to turn away from this dead-end policy created by the dead-brained thinking in this White House?

How long, Mr. President? How long?

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with..

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL MUSEUM OF THE AMERICAN INDIAN

Mr. CAMPBELL. Mr. President, before I present the Legislative Branch appropriations bill, let me take a moment of personal privilege to thank my colleagues for allowing me last night's unanimous consent agreement to appear on the floor of the Senate in traditional clothing of a Cheyenne chief.

This is a very special day in the lives of all Native Americans, and a very special day in my life, too. I would hope my fellow Senators would have time to visit our Nation's newest Smithsonian jewel—the National Museum of the American Indian.

I have just come from speaking at the opening and ask unanimous consent that my remarks at that opening be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL MUSEUM OF THE AMERICAN INDIAN SENATOR BEN NIGHTHORSE CAMPBELL SEPTEMBER 21, 2004

Senator Dan Inouye, my friend and colleague, to whom we owe so much, often says that Washington is a city of monuments and yet, there is not one monument to the Native people of this land. This magnificent structure is that monument and in it we will tell our story.

Indeed it is a monument to the Mimbres, the Anasazi, the Toltecs and Hopewell, the Chacoans, the Mayans and hundreds of other cultures now long gone, who lived in communities called Tikal, Tenochtitlan, Cahokia and a multitude of other enlightened communities while European cities were in their infancy.

They were communities inhabited by farmers and doctors, teachers and craftsmen, housewives and soldiers, priests and astronomers, who with all their collective wisdom could not have known that earth mother would someday be called real estate. They knew not alcohol or drug abuse, Tuberculosis or Cholera, Smallpox or Aids or even the common cold. How much we can learn from them.

It is a monument to the millions of Native people who died of sickness, slavery, starvation and war until they were reduced from an estimated 50 million people in North and Central America to just over 200,000 souls in the United States by 1900. Only 400 years after the old world collided with their world, the Native people of this land became America's first endangered species.

In spite of this sad truth, this beautiful structure is also a monument to the 190 thousand American Indian Veterans who served with honor and courage in our armed forces, defending a nation that was founded on religious freedom, yet practicing their own was often against the law. They faithfully carried out the orders of the Commander in Chief, even though before 1924, they could not legally vote for him because they were not considered citizens.

It is a monument to our elders, who as children, were taken from their loved ones and placed in boarding schools that often had the adage: "kill the Indian to save the child."

All too often they were beaten for speaking their Native language or praying to their Creator. All too many chose suicide as their only alternative, but those who endured though shorn of their hair and stripped of their dignity were never shorn of their spiritualism or stripped of their pride. They are our mothers and fathers.

It is a monument to a people who were here before the birth of a boy king in Egypt called Tutankhamen and before the Greek poet Homer wrote the Iliad and before Caesar watched Roman chariots race in the Circus Maximus and before Christ walked the hills near the Sea of Galilee.

It is a monument to their gifts to humanity. Native Americans are much more than a sum of gifts. They are more than squash and tomatoes, corn and beans and potatoes, pumpkins and peanuts, and all the medicines derived from plants that began as Indian lore and are now used to save lives around the world.

Their supreme gift to the world, in my view, even surpasses the treasures you will see in this beautiful building. It was a unique system of self-governance never before tried in the monarchies of Europe or Asia. It is called Democracy. It was a system copied from the Council Fires of the Iroquois Confederacy by Benjamin Franklin and penned for a new fledgling United States of America. It is still used by this Nation and is copied, in part, by almost every emerging Democracy in the world.

This system was best described by President Abraham Lincoln as a government of the people, by the people and for the people.

And last, we open this monument to all the dreamers who helped make today come true.

As I leave public office in a few short months, I am reminded of a stanza from the Navaho chant of The Beauty Way. The Navaho people sing:

In the House of Long Life,
There I wander,
In the House of Happiness,
There I Wander,
Beauty is before me and behind me,
Beauty is above me and below me,
Beauty is all around me,
With it I wander,
In old age traveling,
With it I wander,
On the beautiful trail Am I,
With it I wander

Thanks to the efforts of all those assembled today and so many more, we celebrate the opening of this house of happiness, this house of long life and walk the trail of beauty.

To all our Native American friends here today I say: the sacred hoop has been restored. The circle is complete. And the Hopi prophecy of the reemergence of the Native People has come true.

It is now my great honor to introduce the man who, in my view, is singularly the most responsible for this magnificent structure.

He is my friend, my colleague, and my mentor.

Among Native Americans—whether they be from Hawaii, the lower 48 or Alaska he is without peer.

His quiet demeanour and gentle way, his leadership and perseverance, his record as a military hero, and his years of service as a United States Senator are well known to all.

Among our Native People he is known as a warrior chief among warriors.

Please help me welcome this great American—Senator Dan Inouye of Hawaii.

FAREWELL TO MY SENATE COLLEAGUES

Mr. CAMPBELL. In addition, Mr. President, since I am retiring at the end of this term, after 22 years in public office, let me say in all honesty that, regardless of party, I have never in my life met a more dedicated, caring group of men and women, who are not only my colleagues but also my friends. We may have our disagreements, but in each our own way, we know in our hearts that we are trying our best to do the right thing for our Nation. And I think we probably all agree that the more we adhere to the teachings of the Good Book, as we have been admonished many times, the less we would need a law book.

The people of Colorado have honored me for allowing me to represent them in our Nation's Capital—not long by some standards, of course. But I have to tell you, on each sunlit morning as I drive to work, or each moonlit night, particularly in the wintertime after a fresh snow, and I view the dome of this great building as the first or last thing I do in my workday, I am just thrilled that I was here for a while and it was a part of my life.

And now I have to tell you how much I admire and respect my colleagues. Their friendship and guidance is more than I can ever repay. Each is very special to me, and I certainly will not forget them. Surely, when newly elected freshmen are sworn in 100 years from now, and they come on this floor and open the desks and read the bottoms of drawers and the names of all the Senators who have historically been sworn in before them, they will see the names of Senator ROBERT BYRD, Senator TED STEVENS, Senator DAN INOUYE, Senator TED KENNEDY, and Senator DOMENICI of New Mexico, and they will already know when they read those names they are reading the names of Members who have served in this body for most of their adult lives and both molded the history of this Nation and set a standard of commitment to excellence for all to follow.

Mr. President, I would be remiss if I did not thank the unsung heroes of this body, and those are the hard-working staff people without whose dedication many of us simply would not get much done. I salute them because they are not only our employees, but they are our partners in finding solutions in a world that becomes more complicated with each passing decade.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2005

Mr. CAMPBELL. Mr. President, having bid my colleagues farewell and good fortune, I now will turn to the appropriations bill. I ask unanimous consent that the Senate now proceed to the consideration of S. 2666, the Legislative Branch appropriations bill, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2666) making appropriations for the legislative branch for the fiscal year ending September 30, 2005, and for other purposes.

AMENDMENT NOS. 3664, 3665, 3666, AND 3667

The PRESIDING OFFICER. Under the previous order, the four managers' amendments at the desk are agreed to, and no other amendments are in order.

The amendments were agreed to, as follows:

AMENDMENT NO. 3664

(Purpose: To modify the approval requirement relating to the promulgation of certain regulations by the Capitol Police Board)

On page 21, strike lines 13 and 14 and insert "approval of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.".

AMENDMENT NO. 3665

(Purpose: To provide that certain claims of Senators and Senate officers and employees are received and approved by the Committee on Rules and Administration)

On page 22, lines 23 and 24, strike "With respect to claims within the jurisdiction of the Senate" and insert "With respect to any claim of a Senator or an employee whose pay is disbursed by the Secretary of the Senate".

AMENDMENT NO. 3666

(Purpose: To provide for the expansion of participating eligible foreign states under the Open World Leadership program)

On page 42, between lines 14 and 15, insert the following:

ADMINISTRATIVE PROVISION

SEC. 1501. EXPANSION OF OPEN WORLD LEADERSHIP COUNTRIES.

Section 313(j) of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1151(j)) is amended—

(1) in paragraph (1), by striking "and" after the semicolon;

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) any other country that is designated by the Board, except that the Board shall notify the Committees on Appropriations of the Senate and the House of Representatives of the designation at least 90 days before the designation is to take effect.".

AMENDMENT NO. 3667

(Purpose: To provide funding for, and extend the termination date of, the Commission on the Abraham Lincoln Study Abroad Fellowship Program, and for other purposes)

On page 26, line 18, strike "$74,558,000" and insert "$74,063,000".

On page 48, between lines 10 and 11, insert the following:

SEC. 211. COMMISSION ON THE ABRAHAM LINCOLN STUDY ABROAD FELLOWSHIP PROGRAM.

(a) APPROPRIATION.—There are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, $495,000, for the Commission on the Abraham Lincoln Study Abroad Fellowship Program established under section 104 of division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 435).

(b) EXTENSION OF REPORT AND TERMINATION DATES.—Section 104 of division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 435) is amended—

(1) in subsection (f), by striking "December 1, 2004" and inserting "December 1, 2005"; and

(2) in subsection (g), by striking "December 31, 2004" and inserting "December 31, 2005".

The PRESIDING OFFICER. There will now be 1 hour of debate equally divided.

The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I am pleased to present to the Senate the fiscal year 2005 Legislative Branch appropriations bill. I am grateful for the support of my chairman, Senator STEVENS, and the ranking member of the full committee, Senator BYRD. Thanks, also, to the ranking member of this subcommittee, Senator DICK DURBIN, who has been very supportive of the process in crafting the bill and has been a longtime friend since our House days together in the other body.

Their support of this bill has helped us put together legislation that I am very proud of, that provides adequate funding for the Senate and its critical support agencies, such as the Capitol Police and the Library of Congress.

This is my last year as chairman of the subcommittee, and I am pleased this bill is moving forward.

Mr. President, this bill totals $2.46 billion in budget authority, just $8 million—less than one-half of 1 percent—over the current year budget. Together with the House items that are included in the House-passed legislative branch bill, H.R. 4755, the bill will meet its allocation of $3.575 billion in budget authority.

Reductions totaling $332 million have been made to legislative branch agencies in order to meet the allocation. While this is a very tight allocation, all legislative branch agencies would be able to maintain current or near current staffing levels and cost-of-living adjustments, and uncontrollable price-level increases would be accommodated.

The major change from last year's bill is the reduction in funding for some major construction projects, such as the Capitol Visitor Center and the Capitol Powerplant.

For the Senate, funding would total $725 million, $12.6 million over the current budget, which is about 2 percent. Reductions to the request level have been made to reflect more accurate estimates of spending, as well as funding certain fiscal year 2005 request items through reprogramming of fiscal year 2004 reprogrammings.

Funding for the Capitol Police would total $227 million, $7 million above the current budget. In addition to these funds, the committee directed a reprogramming of prior year funds for a total of $240 million for the Capitol Police in fiscal year 2005. This budget would enable the Capitol Police to maintain the current level of sworn staffing and hire 50 additional civilian staff for critical administrative functions.

The additional use of Capitol Police overtime since August has been a significant drain on their resources and may require us to find additional funds for the Capitol Police when we meet with the House with conference.

For the Architect of the Capitol, $308 million is recommended, a reduction of $32 million below the current budget and $171 million below the request. The recommendation reflects the need to eliminate lower-priority projects or items which can be deferred. It also enables the Architect to focus efforts on the completion of the Capitol Visitor Center.

The bill does accommodate the $39 million Library of Congress' storage module project at Ft. Meade, which is desperately needed to meet burgeoning storage needs and is a top priority for the Librarian.

For the Capitol Visitor Center, $7.6 million is included for start-up/transition to operations costs.

Moving to the Library of Congress, the bill includes a total of $544 million, $21 million above the current level and $17 million below the request. Current staffing levels are provided for, as well as increases for the Veterans History Project, the Culpeper Audio-Visual Conservation Center, which will begin to come on line in 2005, and security equipment and IT system maintenance.

For the Government Printing Office, the subcommittee recommendation is $120.7 million, $30 million below the request. The reduction is attributable primarily to eliminating the $25 million request for GPO's "transformation efforts." While we support GPO's efforts to restructure itself into a 21st century government information office, GPO has yet to submit a comprehensive plan for these funds.

The recommendation for the Government Accountability Office totals $470 million, $12 million above the current level but $10.5 million below the requested level.

Finally, the Open World Leadership Program would be funded at the current level of $13.5 million.

Before I yield the floor to my colleague from Illinois, Senator DURBIN, who I have enjoyed the company of for so many years in both the House and the Senate, let me tell you in his presence, he has been an absolute delight to work with. I look forward to coming back as a private citizen many years in the future to renew our friendship.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I begin by not only thanking Senator CAMPBELL for his leadership on the Appropriations Subcommittee on the Legislative Branch over the last 2 years but by congratulating him on today's events commemorating the opening of the National Museum of the American Indian. This is an opening that was long overdue. I know he has played a personal role, with Senator INOUYE and many others, in the realization of this dream.

It is my understanding—and he has probably made reference to it—that there is the largest gathering of Native Americans and Indians in the history of Washington, DC, taking place on the Mall at this moment. Many of them were on the planes as we came to Washington. You could tell they were brimming with pride over the recognition they have received, a recognition which is long overdue.

Senator CAMPBELL has been a great leader in so many respects for his State of Colorado and for the Nation. But he has really played an important role in the conversation and dialog of the Senate. He has been a steady and reliable voice speaking for Native Americans. He comes today to the floor of the Senate in tribal dress; I am sure proud of his heritage. When I got up this morning, I thought I would pick a tie that might be noticed. My guess is, in comparison to the chairman of the subcommittee, they won't even know I was here today.

I will say this: We are proud that he has made such a great contribution. I know this museum means so much to him personally.

He is going to be greatly missed as he enters his retirement. I wish him the best of luck. I only hope he will take an occasional break from visiting with his grandchildren and ride his Harley Davidson back to Washington to visit with us from time to time. He will certainly be a welcome guest when he does.

The fiscal year 2005 Legislative Branch appropriations bill which we are considering today is comprehensive, thorough, and fair, especially in light of the tight funding constraints we are operating under. Our allocation does not allow us to begin a variety of construction projects throughout the complex, but all safety-related projects are fully funded, as they should be.

I thank Chairman CAMPBELL for including me as a partner in each step of the process. The highlights of the bill have already been alluded to by the chairman. There is no point in revisiting them. I thank him especially for two or three. One particular project, the Library of Congress Adventures of the American Mind, means a great deal to my State of Illinois and many other States and to many teachers. What we are doing is opening up the vast resources of the Library of Congress to be used as teaching tools across America in classrooms far and wide, in small towns as well as big cities. Without exception, every teacher I have spoken to is literally amazed at what is there in terms of primary documents easily accessible to teach children about the greatness of this country and to educate them to be better informed and more competitive in the 21st century.

Before I wrap up today, I thank Carrie Apostolou of the majority staff as well as Terry Sauvain, Drew Willison, and Nancy Olkewicz of the minority staff, and Pat Souders from my personal staff for all their hard work on this bill.

I yield the floor.

OPEN WORLD LEADERSHIP CENTER

Mr. STEVENS. Mr. President, the Open World Program has grown from a pilot program in 1999 to a robust program, not only in Russia but in countries in both the former Soviet Union and the Baltics. I am grateful to Dr. James Billington's continued leadership of Open World, as well as to my Senate colleagues who serve with me on the board of the center and who take the time to meet with Open World delegations in the United States.

Open World has brought over 8,000 participants to 1,254 communities in all 50 States. I am pleased that my home State of Alaska has welcomed many delegations and strengthened ties between Alaskans and Russian in the Far East. I want to note that the GAO reviewed Open World from top to bottom this year and noted both the broad participation it has achieved in Russia. The GAO team traveled to Russia and interviewed a number of participants to determine its impact. GAO reported that "Most delegates viewed their program experience very favorably and . . . have taken concrete steps to adapt what they learned from their U.S. visits to the Russian environment."

Last year we asked Open World to expand its operations to new counties, including strategic allies for the U.S. defense interests, such as Uzbekistan. I would like to ask my colleagues, Senator CAMPBELL and Senator DURBIN, if they would like to comment on Open World's expansion.

Mr. CAMPBELL. As co-chairman of the Helsinki Commission, I have had a long-standing interest in the progress of the countries of the former Soviet Union toward democracy and rule of law. Open World's staff worked very closely with the Helsinki Commission staff to bring Belarusian leaders from the parliament and judiciary to the United States last February. It would be helpful for the Open World staff to continue to work closely with the Helsinki Commission staff given their unique expertise in the countries of the former Soviet Union. The delegates had very useful programs both in Washington, DC and in Florida, meeting with our congressional colleagues, State Department officials, Federal judges and prosecutors. As a group the delegation left with a new-found focus on building relations with the United States and a genuine understanding of both transparency in our government and separation of powers. Open World demonstrated that it successful model could be applied outside Russia. I am also grateful for the genuine involvement of American communities and families in building the ties that are at the heart of the Open World Program. I would like to see Open World continue its important work in Russia but enable us to utilize this flexible and cost-effective program as a valuable tool for American diplomacy.

Mr. DURBIN. I would like to join my colleagues, Senator STEVENS and Senator CAMBELL, in recognizing the important contribution that Open World has made on many fronts. Open World is unique in its place within the legislative branch. When I supported the expansion to the Baltics, on the eve of new nations such as Lithuania joining NATO and the European Union, I hoped that the program would strengthen ties between countries such as Lithuania and Ukraine that enjoy enormous diaspora populations in America and remain the focus of efforts by U.S. citizens to build democratic institutions in these countries. Open World has brought three groups from Lithuania—mayors, representatives of the media, NGO leaders—each of whom has traveled to 10 States including Illinois. I know firsthand from the United States Ambassador to Lithuania, Steve Mull, invaluable it has been to have the opportunity to nominate young Lithuanian leaders for Open World and to see them return home with concrete ideas to develop Lithuania's local governmental structures, particularly in its rural areas. I thank Senator STEVENS and Senator CAMPBELL for their leadership in expanding Open World. I have been pleased to support it and commend it to my colleagues as an invaluable partner to those of us in the Congress interested in foreign policy issues across the board.

Mr. STEVENS. I thank my colleagues for their interest and support. In addition to the groundbreaking work that you have described in Belarus and the Baltics, I would like to point out that the Russian Federation has many areas with predominantly Muslim populations—Chechnya, Tatarstan, Baskortostan, Ingushetia—areas where Stalin deported more than a million people from the North Caucasus to Siberia and Central Asia. I suggested to my fellow board members on Open World that we focus, in particular, on these regions for 2004. We also launched a pilot in Uzbekistan at the same time. In a matter of months, Open World had found U.S. hosts and selected young leaders from these key regions; 500 leaders traveled from the Russian Muslim republics and 100 from Uzbekistan. The strength of Open world and its future lies with its ability to take a simple, cost-effective model rooted in our American communities, values, and hospitality and adapt to new countries of the greatest strategic interest to the United States.

In 2003 Congress authorized expansion of Open World to 14 new countries. a number of these—Armenia, Georgia, Belarus, Moldova, Kazakhstan—warrant their own program. I hope that we can work with our House colleagues to maintain sufficient funding for Open World to continue its success, while not diminishing terribly the important work it must continue to do in Russia—as important now as when I first helped establish the program in 1999.

With my colleagues support, I would like to ask Dr. Billington and the staff of Open World to explore the possibility of expansion of the program to Afghanistan and Pakistan. These countries are crucial to U.S. interests. Recognizing that these nations lay outside the present scope of Open World, I am offering legislative language that would allow the Board of Trustees and staff to explore the feasibility of expanding the program and reporting back to the Senate and House appropriations Committees within 90 days. Dr. Billington is the Librarian of Congress, in addition to his role as chairman of the Open World board. The Library's expertise in CRS and through its overseas offices will be of great assistance to Open World in responding to this request.

I want to thank Dr. Billington for his continued leadership. I also thank my colleagues, Senator CAMPBELL and Senator DURBIN, for their interest in Open world and appreciation for the important work it has accomplished.

Mr. NICKLES. Mr. President, the pending Legislative Branch appropriations bill for fiscal year 2005, S. 2666, as reported by the Senate Committee on Appropriations provides $3.688 billion in budget authority and $3.808 billion in outlays in fiscal year 2005. Of these totals, $113 million is for mandatory programs in fiscal year 2005.

The bill provides total discretionary budget authority in fiscal year 2005 of $3.575 billion. This amount is $403 million below the President's request, it matches the 302(b) allocations adopted by the Senate Appropriations Committee, and is $50 million more than fiscal year 2004-enacted levels excluding fiscal year 2004 supplemental appropriations.

I commend the distinguished chairman of the Appropriations Committee for bringing this legislation before the Senate, and I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2666, 2005 LEGISLATIVE BRANCH APPROPRIATIONS—SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal Year 2005, $ millions]

	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority	3,575	113	3,688
Outlays	3,696	112	3,808
Senate Committee allocation:			
Budget authority	3,575	113	3,688
Outlays	3,696	112	3,808
2004 Enacted:			
Budget authority	3,525	108	3,633
Outlays	3,520	107	3,627
President's request:			
Budget authority	3,978	113	4,091
Outlays	3,887	112	3,999
House-passed bill:			
Budget authority	3,537	113	3,650
Outlays	3,690	112	3,802
SENATE-REPORTED BILL COMPARED TO			
Senate 302(b) allocation:			
Budget authority	0	0	0
Outlays	0	0	0
2004 Enacted:			
Budget authority	50	5	55
Outlays	176	5	181
President's request:			
Budget authority	−403	0	−403
Outlays	−191	0	−191
House-passed bill:			
Budget authority	38	0	38
Outlays	6	0	6

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Mr. CAMPBELL. Mr. President, I thank my friend from Illinois.

It is my understanding that the managers' amendments were accepted on a voice vote.

The PRESIDING OFFICER. The Senator is correct.

Mr. CAMPBELL. It will probably be a little later in the day when we ask for a vote.

In lieu of that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. REID. Mr. President, it is my understanding the majority leader is going to come shortly and ask unanimous consent that we have a vote at 4:30 p.m. Members should be alerted that if they are doing something now, they have to come back and vote at 4:30.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that the vote on passage of H.R. 4755, the legislative branch appropriations bill, occur at 4:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill is returned to the Senate calendar. Under the previous order, the Appropriations Committee is discharged from further consideration of H.R. 4755, the House-passed legislative branch appropriations bill, and the Senate will proceed to its immediate consideration.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 4755) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2005, and for other purposes.

The PRESIDING OFFICER. The text of the bill relating solely to the House shall remain. All other text is stricken and the text of the Senate bill, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Under the previous order, the question is, Shall the bill, H.R. 4755, as amended, pass?

Mr. DURBIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Hampshire (Mr. SUNUNU) is necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—94

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—2

Conrad
Ensign

NOT VOTING—4

Akaka
Edwards
Kerry
Sununu

The bill (H.R. 4755), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. HARKIN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

MORNING BUSINESS

Mr. BROWNBACK. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, a number of people wish to speak, Republicans and Democrats. I wonder if we can have a little order around here. I know Senator DURBIN wants to speak for up to half an hour, and Senator HARKIN wishes to speak. On our side, I wonder if we can get people queued in, and if Republicans want to come after we speak, that is fine.

How long does the Senator from Iowa need?

Mr. HARKIN. I need 5 minutes.

Mr. REID. On our side, I ask unanimous consent that Senator HARKIN be recognized for 5 minutes, that Senator DURBIN be recognized for 30 minutes, and that the majority may have someone between Senators HARKIN and DURBIN, and we will balance out the time thereafter.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 5 minutes.

NOMINATION OF BISHOP GREGORY PALMER

Mr. HARKIN. Mr. President, I strongly support the nomination of Bishop Gregory Palmer to the Board of Directors of the United States Institute of Peace. It has now been over a year since Bishop Palmer was officially nominated on September 16, 2003. On that date, the Senate officially transmitted our paperwork to the White House.

The reason I recommended this distinguished spiritual leader for this important position at the U.S. Institute of Peace is that I strongly believe that Bishop Palmer would work to promote a just peace in the world. I don't think that there is anyone in this Chamber who would disagree that we need more advocates for peace in this time of international crisis.

I know Bishop Palmer well. He is a native of Philadelphia, PA. He graduated from The George Washington University and received a master's in divinity from Duke University. His father is a minister in Philadelphia.

Bishop Palmer came to Des Moines, IA, on September 1, 2000, and he has had a profound influence in our State ever since.

Bishop Palmer has had a distinguished career of service. He has taught at the pastor's school in Burundi, and serves on the Senegalese Task Force of the Global Ministries. He also served as President of the Interdenominational Ministerial Alliance.

In March of this year, Bishop Palmer received the 10th Annual Bishop Maurice J. Dingman Peace Award. This award recognized Bishop Palmer's commitment to peace and social justice. The award was presented by the Iowa Catholic Peace Ministry.

One of the ways Bishop Palmer has turned Scripture into deeds is by starting the Matthew 25 Ministry throughout Iowa. This ministry heeds the call of Matthew 25:31–46 to feed the hungry, clothe the naked, and care for the sick. Bishop Palmer has provided services to our Iowa communities most in need—from English classes for immigrants to soup kitchens for the hungry. These laudable acts, in my view, are the works of a man truly committed to fostering peace and social justice.

I could go on and on at great length about Bishop Palmer's good works, but I know that my floor time is limited. It is, however, very clear that Bishop Palmer would make an outstanding addition to the board of directors of the

U.S. Institute of Peace; therefore, I was deeply disappointed and surprised that Bishop Palmer's nomination to the U.S. Institute of Peace has been stalled at the White House for over a year now, and his name was not included in the nominations to be considered by the Committee on Health, Education, Labor, and Pensions.

I am hopeful that the White House will reconsider and send his nomination to the HELP Committee before Wednesday, tomorrow, when we are due to act upon other nominations. We have one nomination that has come down to be renominated to the U.S. Institute of Peace. I am certain this person will have no problem being renominated. But I was very surprised, as I said, and disappointed that Bishop Palmer's name, which has been at the White House for 1 year now—1 year his nomination has been sitting there, and I know of no opposition to Bishop Palmer. As I said, he is head of the Methodist Church for the entire State of Iowa. He is known nationally and internationally. I cannot think of a more qualified person to be on the board of the U.S. Institute of Peace.

I am quite upset with this, and I hope that the White House will reconsider this nomination. It would not take but just about half an hour to transmit his name here, and I wish they would do that before we meet tomorrow so we can report his name out and get Bishop Palmer on the board of directors as soon as possible.

Mr. President, I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELECTION CONTEST

Mr. DURBIN. Mr. President, in the world of politics, every election seems to test the bottom when it comes to mudslinging. I am afraid this year's election contest is no exception, and it is plummeting hitherto uncharted depths.

Some of the things that have been said on both sides I am sure on reflection are going to be the source of some embarrassment, and some of the actions taken by both campaigns will be regretted in the future. But there is one particular element in this debate in the Presidential campaign that I find particularly bothersome. It relates to statements that have been made by Vice President CHENEY, by the Speaker of the House, DENNIS HASTERT, and by Members of the Senate, and others, relative to the patriotism of candidates for office and relative to questions as to whether the American people, by casting their vote one way or the other on November 2, are somehow inviting terrorism to strike America.

Vice President CHENEY, at a political rally in Des Moines, IA, Tuesday, September 7, said:

> It's absolutely essential that 8 weeks from today, on November 2, we make the right choice, because if we make the wrong choice, then the danger is that we'll get hit again and we'll be hit in a way that will be devastating from the standpoint of the United States. And we'll fall back into the pre-9/11 mindset, if you will, that in fact these terrorist attacks are just criminal acts and that we're not really at war.

This quote by the Vice President received a lot of attention. The clear suggestion by the Vice President is that if the American people should not vote for President Bush, they are inviting a terrorist attack. That is an outrageous statement. I think it is one that, frankly, Vice President CHENEY on reflection might not have made. Would it be appropriate to argue that since the terrorists attacked the United States while he was serving as Vice President, they saw weakness in the Bush-Cheney administration? I would not make that preposterous charge. I do not believe anyone can. And yet here we have the Vice President suggesting that if you do not vote to reelect President Bush, you are inviting a terrorist attack on the United States.

Just last Saturday in DeKalb, IL, the Speaker of the House, DENNIS HASTERT, was quoted as saying:

> I don't have data or intelligence to tell me one thing or another, (but) I would think they would be more apt to go (for) somebody who would file a lawsuit with the World Court or something rather than respond with troops.

Speaker HASTERT said that of JOHN KERRY.

Asked by reporters whether he believed al-Qaida could operate better with KERRY in the White House, HASTERT replied:

> That's my opinion, yes.

I think this is a new low in American politics. For us to suggest that either major political party would field a candidate who would in any way knowingly or unknowingly compromise the security and safety of the United States I believe is a charge that must be backed up with solid evidence if it is ever going to be leveled. In this case, Speaker HASTERT said, "I don't have data or intelligence to tell me one thing or another. . . ."

The reason I believe this is important is that when we reach the point in a campaign when the Vice President suggests that a vote for JOHN KERRY invites a terrorist attack on our country, and the Speaker of the House, after acknowledging he has no information to support his statement, joins Mr. CHENEY with the chorus of "vote for Bush or die," not to be outdone—and let me make it clear, I put "vote for Bush or die" in quotes. That is my statement. I am not attributing that to either of those individuals. So we have a situation where this has become a standard charge in the campaign at the highest levels.

There was a time in American politics when people were circumspect about even raising the issue of the fact that the former Governor of Illinois, Adlai Stevenson, had been divorced. In the 1950s, it was not really considered to be appropriate to raise that in the national debate, although there were certainly a lot of rumors and murmuring in the background.

Now we see the debate on the Presidential level reaching what I think are new depths, where at the highest levels questions are being raised as to whether JOHN KERRY would, in fact, defend the United States against a terrorist attack. I think that is a troubling development.

These are not the only statements that have been made. This morning on the Fox News Channel one of my colleagues, whom I work with on a regular basis, Senator HATCH of Utah, raised the same issue. Others have as well.

We saw in the debate last Saturday where John Thune, a former Congressman of South Dakota, was debating Senator TOM DASCHLE, the Democratic minority leader. In the course of their debate, he argued that the fact TOM DASCHLE had been critical of the Bush administration's policies in Iraq "emboldened the enemy." John Thune said that TOM DASCHLE'S words emboldened the enemy.

What we have reached is the point where any criticism of our foreign policy leads to the charge that we are not being patriotic, leads to the charge that we would not stand up to defend America, and leads to the charge that in some respects the terrorists would be emboldened by those comments and our troops would be demoralized.

So what does that tell us? If Members of the Senate on either side of the aisle stand up and are critical of our policy in Iraq, are they to be targeted then as somehow selling out America, somehow guilty of traitorous comments? That is what we can draw from these comments made by Republican leaders as well as Republican candidates.

Yet Senator HARKIN made a statement earlier in the day which noted the obvious. Even Republican Senators are being critical today of our policy in Iraq. This last Sunday, Senator CHUCK HAGEL, a Republican of Nebraska, said, in reference to Iraq: The fact is, we are in trouble. We are in deep trouble in Iraq.

Do we embolden the enemy by being critical of our policy in Iraq? I do not think so. I think it is part of the normal political discourse which one expects in a democracy.

Similarly, Senator RICHARD LUGAR, the distinguished chairman of the Foreign Relations Committee, a friend of mine and colleague from the State of Indiana, criticized what he called the incompetence in the administration that has resulted in the failed Iraq reconstruction effort.

Does he embolden the enemy, demoralize the troops, by pointing out these shortcomings in American foreign policy? He is a Republican Senator. I have not heard Vice President CHENEY or any others criticize Senators such as LUGAR or HAGEL for making these comments.

Senator John McCain said recently: We are not winning. Senator LINDSEY GRAHAM said that we need to be "more honest about how difficult it will be" in Iraq.

The list goes on, and the list tells me that Senators of good conscience on both sides of the aisle feel an obligation to disagree with the President on foreign policy when they have an honest disagreement and to suggest that changes in foreign policy or changes in military policy are important for the security of America.

I do not know if Vice President CHENEY or the Speaker of the House would criticize the fact I have been openly critical of some of the military decisions that have been made since the invasion of Iraq. When a man comes into my office and tells me his son is a military policeman in Iraq and because he cannot be issued body armor he and his wife were raising money at home to buy the body armor and send it to their son, I came to the floor to criticize that. Of the billions of dollars we have sent in preparation for this war, one would think it obvious that body armor would be one of the first things issued to our soldiers. In this case, it was not.

I was critical of the administration, critical of our policies, critical of foreign policy and military policy. Would Vice President CHENEY argue that I am giving comfort to the enemy by suggesting that? I certainly hope not.

When we found that our Humvees were sitting targets for homemade bombs and rocket-propelled grenades, that we had been remiss in failing to equip our Humvees in Iraq with armor plating on the sides to protect our soldiers, many of us came to the floor and made that point, wrote letters to the administration, forced a change in policy, which resulted in more and more of these Humvees being reconstructed, refit with armor to protect the troops.

Does the fact we were critical of the administration raise some question as to whether we are demoralizing the troops? Exactly the opposite occurred. When the Humvees arrived with the armor, our troops' morale went up. They had a chance to survive the attack. They did not have it before.

So Members of Congress—from Senator KERRY, through Republican and Democratic Senators alike—have a moral obligation to raise those issues where they disagree with this administration on foreign policy or military policy, whether they are on the Republican side of the aisle or the Democratic side of the aisle. This debate which we have seen disintegrate and descend to the levels that I have referred to needs to come to an end.

This is not the first time those in the highest levels of political office in Washington have questioned the patriotism of others in political office, have questioned whether they have the national security of America paramount in their mind. The same thing occurred in the 1950s. A Republican Senator from Wisconsin named Joe McCarthy went about throwing charges at people right and left that they were not loyal to America; that they were, in fact, communist. He destroyed a lot of people. He destroyed a lot of careers in the process.

There came a time in the course of the Army hearings with Senator McCarthy where finally one voice spoke out. That voice turned to Senator McCarthy and said: Have you no shame?

The same question needs to be asked of those who are throwing around so loosely these charges that either JOHN KERRY, JOHN EDWARDS, or TOM DASCHLE do not have the best interests of the United States at heart in everything that they do.

I disagree many times with my colleagues on the floor when it comes to foreign policy, military policy, and many other issues. Yet I have never and will never ever question their patriotism. I believe that is beyond the pale of ordinary political discourse. It has now become common conversation in this Presidential campaign.

On November 2, the voters will have the opportunity to ask the candidates who use these low tactics, Have you no shame?

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

GUIDING PRINCIPLES FOR INTELLIGENCE REFORM

Mr. STEVENS. Mr. President, today our Appropriations Committee held a hearing and listened to distinguished individuals as to their views on the recommendations for intelligence reform. At that time, we were provided a statement which is entitled "Guiding Principles for Intelligence Reform" dated September 21, 2004. It is signed by the following persons: former Senator David Boren, former Senator Bill Bradley, former Secretary of Defense Frank Carlucci, former Secretary of Defense William Cohen, former CIA Director Robert Gates, former Deputy Secretary of Defense John Hamre, former Senator and Presidential candidate Gary Hart, former Secretary of State Henry Kissinger, former Senator Sam Nunn, former Senator Warren Rudman, and former Secretary of State George Shultz.

I do call it to the attention of all Senators in connection with this current review of the 9/11 Commission recommendations on intelligence reform.

I ask unanimous consent that the "Guiding Principles for Intelligence Reform" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GUIDING PRINCIPLES FOR INTELLIGENCE REFORM

America's security depends on strengthening our intelligence collection and analysis. Debate is under way on intelligence reform, and harnessing the energy of an election season is a healthy way to assure the issue receives the attention it deserves. Racing to implement reforms on an election timetable is precisely the wrong thing to do. Intelligence reform is too complex and too important to undertake at a campaign's breakneck speed. Based on our experience in both the executive and legislative branches of the U.S. government and on both sides of the political aisle, these are the basic principles we believe should guide any reform effort:

IDENTIFY THE PROBLEMS

Rushing in with solutions before we understand all the problems is a recipe for failure. Only after a full appreciation of the Intelligence Community's problems—and its strengths—can sensible decisions be made about reform, including whether to restructure. Moreover, reform will have to be comprehensive to succeed. Addressing this or that shortcoming—however grave—in isolation will fail to produce the improvement in intelligence capabilities our nation's security demands.

STRENGTHEN THE INTELLIGENCE COMMUNITY'S LEADER

The individual responsible for leading the Intelligence Community must be empowered with authority commensurate with his or her responsibility. Specifically and crucially, future leaders must have the ability to align personnel and resources with national intelligence priorities. Whether we maintain the Intelligence Community's current structure or create a new one, we must ensure that the Intelligence Community's leader has the tools to do his or her job.

SEPARATE INTELLIGENCE FROM POLICY

A fundamental principle for Intelligence Community reform must be that the intelligence community remains independent from policymakers. Nothing could be more important to a healthy national security structure. When intelligence and policy are too closely tied, the demands of policymakers can distort intelligence and intelligence analysts can hijack the policy development process. It is crucial to ensuring this separation that the Intelligence Community leader have no policy role. Otherwise, an Intelligence Community leader's voice could overwhelm those of Cabinet secretaries and the National Security Advisor and deprive the President of the benefit of robust, informed policy debate. A single individual with the last word on intelligence and a say in policy as well could be a dangerously powerful actor in the national security arena—using intelligence to advocate for particular policy positions, budget requests, or weapons systems that others lacked the knowledge to challenge.

For this reason, the leader of the Intelligence Community should not work inside the White House; he or she should be at arm's length from the policy process, not at the President's right hand. Nor should the leader become an instrument of diplomacy or policy formulation; his or her role should be to support others in these functions. Similarly, Intelligence Community reform must not rob Cabinet secretaries of their own ability to assess intelligence by centralizing the bulk of assessment resources; the secretaries must be able to turn to their own analysts for independent perspective and be able to task the Intelligence Community leader for input to the policymaking process. Finally, to protect against an unhealthy mixing of functions, we believe the person who is chosen to lead the Intelligence Community should be broadly acceptable to both parties and chosen for his or her substantive or management expertise.

IMPROVE THE QUALITY OF ANALYSIS

Intellectual conformity and failure of analytical imagination have been the major culprits in most intelligence breakdowns, from our failure to predict accurately India and Pakistan's nuclear tests, to our misjudgment of Saddam Hussein's weapons of mass destruction programs. Improving the quality of the analysis on which policy makers rely must therefore be a top reform priority. The best analysis emerges from a competitive environment where different perspectives are welcomed and alternative hypotheses are encouraged. Intelligence reform must institutionalize these traits in the analytical process. To preserve their independence, analysts must be insulated from policy and political pressure. Finally, we must not only concern ourselves with the appropriate structure of intelligence analysis, we must also address the critical shortage of human expertise in critical fields. Funding for programs to address this deficiency is dangerously low and the trust funds for the National Security Education Program will be fully depleted within the next two years unless Congress acts.

ENSURE MORE EFFECTIVE INFORMATION-SHARING

Intelligence Community players have overwhelming cultural and bureaucratic incentives not to share their information with each other or with those outside the community. These include a natural impulse to hoard information to protect turf, and a deeply ingrained passion for secrecy. Domestic agencies and foreign agencies, in particular, traditionally have resisted sharing information with each other. Yet our nation has learned with painful clarity that failure to share, coordinate, and connect available intelligence can have devastating consequences. The next time an FBI special agent suspects an Arizona flight trainee is an al Qaeda terrorist, the Intelligence Community needs to know. Reform must fundamentally alter agency incentives and culture to require sharing. This must include addressing the excessive emphasis on secrecy and classification that inhibits constructive, timely information flows, while continuing to respect the need to protect genuine sources and methods.

PROTECT CIVIL LIBERTIES

Collection of intelligence is inherently intrusive; spying on fellow citizens carries with it great potential for abuse. Even as we merge the domestic and foreign intelligence we collect, we should not merge responsibility for collecting it. Intelligence reform might well create a single strategic coordinator of domestic and overseas collection on cross border threats like terrorism, but exclusive responsibility for authorizing and overseeing the act of domestic intelligence collection should remain with the Attorney General. This is the only way to protect the rights of the American people upon whose support a strong intelligence community depends.

PRESERVE SITUATIONAL AWARENESS FOR TACTICAL MILITARY OPERATIONS

As we have seen from the skies over Bosnia to the sands and cities of Afghanistan and Iraq, tactical intelligence and situational awareness are indispensable to our military's unparalleled operational success. Any successful intelligence reform must respect the military's need to maintain a robust, organic tactical intelligence capability and to have rapid access to national intelligence assets and information.

ASSURE CLARITY OF AUTHORITY FOR CLANDESTINE OPERATIONS

The war on terrorism has blurred agency roles for some critical national security activities. The Department of Defense now performs more clandestine and intelligence operations than in the past; meanwhile, the CIA's Directorate of Operations engages more in traditional military functions, such as the successful campaign in Afghanistan. Authority for these newer roles is murky, and there are sometimes disparities in the type or level of approval needed for an operation, depending on who performs it. The new challenges we face mandate a wide range of tools and creative approaches to intelligence. But establishing absolute clarity of chain of command, oversight, and accountability for clandestine operations is essential.

REFORM CONGRESSIONAL OVERSIGHT TOO

Intelligence reform will not succeed unless Congressional oversight of the Intelligence Community becomes more effective as well. Rather than relying on review of agency submissions and after-the-fact investigation of failures or abuses, Congress should reach out periodically to test and assure the Community's health. Whether meaningful legislative oversight demands a major overhaul of committee structure or merely a change of philosophy, Congressional reform is as vital as changes affecting the Executive Branch.

Elections are a perfect time for debate, but a terrible time for decision-making. When it comes to intelligence reform, Americans should not settle for adjustments that are driven by the calendar instead of common sense; they deserve a thoughtful, comprehensive approach to these critical issues. If, as seems likely, Congress considers it essential to act now on certain structural reforms, we believe it has an obligation to return to this issue early next year in the 109th Congress to address these issues more comprehensively. We hope the principles we've suggested will help shape serious discussion of reform.

The PRESIDING OFFICER. The Senator from Idaho.

CAUTION IN POST-9/11 COMMISSION ERA

Mr. CRAIG. Mr. President, I was at that hearing this morning when Henry Kissinger made his presentation, and I was extremely pleased that it was a bipartisan and balanced presentation. Instead of fingers being pointed or accusations being made about what we ought or ought not do in a post-9/11 Commission era, what Henry Kissinger said was, caution. In a political year that is ripe with political innuendo, be careful what you create because you might not like it after the fact, that recreating the intelligence community of this country and of this government is tremendously important, but it needs to be done well so we don't get the wrong results.

I think all of us recognize the dysfunctional character of our intelligence community and the results that it yielded, and why there was a 9/11, and why a 9/11 Commission was developed, and why we are working now in the Governmental Affairs Committee to try to craft and change the character of that intelligence community.

It was a very positive hearing this morning. I was pleased by the bipartisan approach, which will disallow any candidate out there from opportunistically pointing a finger and saying you are or you are not doing something in the right manner. It was well presented this morning.

MEASURE READ THE FIRST TIME—S. 2823

Mr. CRAIG. Mr. President, I understand that S. 2823 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2823) to provide for adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

Mr. CRAIG. Mr. President, I ask for its second reading, and in order to place the bill on the calendar under provisions of rule XIV, I object to further proceedings on this matter.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

Mr. CRAIG. Mr. President, I thank you for that process.

What I have just done will result in placing the Agricultural Job Opportunity, Benefits, and Security Act—the AgJOBS bill, or S. 2823—on the calendar for future consideration by this Senate. There is a great deal of work that has not been done by the Senate this year. The issue of immigration reform, especially that affecting well over 1.5 million undocumented agricultural workers of our Nation, is, in my opinion, a critical issue.

In a post-9/11 era, what we have said about our country, and what our citizens are saying, is pretty straightforward. They are saying control the borders, identify those who are within, and arrest those who are undocumented or illegal or who might perpetrate harm to this Nation.

I agree with those very fundamental principles that retain the character and the integrity of our country. But what we are also finding in a post-9/11 era is that our negligence as a country, our responsibility as legislators in failing to produce a workable immigration policy, has resulted in between 8 million and 12 million undocumented foreign nationals in our country. Many of them—frankly, most of them—are hard-working human beings who have contributed a great deal to our country and to our country's economy.

In the area of the agricultural economy, that is especially true. In the agriculture of Idaho and most of our States in the Nation, undocumented workers play a very significant role in the normal processing and functioning of agriculture itself, the production of the food and fiber that make it to the shelves of the supermarkets and the tables of the families across our country. We now attempt policy that tightens our borders, but we also need to recognize our immigration problems will not be solved by simply wanting to penalize. Instead, we need to manage; controlling and shaping a better system; understanding the importance of that workforce to the Nation on the one side, and on the other side, recognizing the sheer humanitarian character and responsibility we have as Senators and as those who form public policy.

Last year, on the United States-Mexican border, over 300 people died trying to make it across the border to identify with a job in this country. Many of them died of heat or lack of water in the deserts of Arizona and New Mexico near Mexico. That is a tragedy in its own right and a crisis in the making. But it is a tragedy that is a result of bad law that doesn't function well, and a law that will not function well until we adjust it and change it. That is why in working with all the interested groups over the last 5 years, TED KENNEDY, CHRIS CANNON and HOWARD BERMAN in the House, and I have produced the legislation that is at the desk. It has been vetted well. It has the support of a tremendous community of interest, from growers and employers on one side to agricultural workers on the other side. It has the support of a historic, bipartisan, and diverse national coalition. It is a bill that should be considered by this Congress. It is a bill that will pass the Senate because we now have over 60 cosponsors. It is a bill whose time has come, but is it is a bill that possibly will not find time this year simply because of the shortness left in this session and the work that is necessary to be done?

I have worked with the leader and will continue to work with the leader to see if we can't find that window of opportunity to vote our expression on this most important issue, this year, sooner rather than later.

I have chosen this rule XIV process to make the legislation current at the desk to start the process to see if we might find that window of time in which to debate and vote on what I think is one of America's most important issues: immigration reform, controlling our borders, identifying undocumented people in this country, doing background checks, and the vetting of their character which is necessary to determine whether they are here and constructive, or whether they are here with a destructive thought in mind, a destructive thought against U.S. citizens, as we found on 9/11 a few years ago. Bringing the undocumented out of the shadows not only helps these workers who add to the economy and pay taxes, but it also would help our homeland security.

Many of us are determined to deal with this issue now. If we don't deal with this now, there is no question in my mind that I and others will make it a No. 1 issues in the next session of Congress. This is an issue that legislators cannot turn their backs on. It is an issue that cries out for resolution.

I believe S. 2823 is a proper solution to a major segment of that very large problem in this country.

I thank you and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

INTELLIGENCE SYSTEM

Mr. LAUTENBERG. Mr. President, I found today to be a rather startling day by virtue of the news we have heard about what is happening with our troops in Iraq, what is happening to those who are in battle, those we are asking to carry on the battle for, let me call it, the liberation of Iraq, the opportunity to turn that society into a democratic society. This was brought to me by virtue of a couple of things that happened.

First, I participated with colleagues in the Governmental Affairs Committee markup of intelligence reform. It is a task that I and so many others on the committee, and throughout this body, take very seriously. We are upset about what happened on 9/11. We just commemorated the third anniversary of that horrific day. I went to a community in New Jersey, Middletown, NJ, and spoke to a group that included survivor families of 9/11. Thirty-seven of their residents lost their lives on that terrible day.

I walked around the memorial walk they established and saw pictures placed on granite stones of those who perished, with messages of love and longing for fathers who died, for brothers, for sisters, and for mothers who were killed that day, murdered. It digs further into the searing memory of that fateful day.

It reminds all of us about what our responsibilities are to try and get this country back on an even keel and to stop mourning the loss of young people because though we struggled hard to turn out our bill on intelligence reform this day, we did not complete it. But there is a fair degree of optimism that we will come to at least an initial description of what the intelligence-gathering mechanism might be.

Then this afternoon I heard President Bush say something that I found almost incomprehensible, extremely disturbing about our Nation's intelligence-gathering system. A few hours after the President spoke at the United Nations about why we went it alone in Iraq, President Bush was asked by a reporter about a CIA report that he received last month on the deteriorating situation—as a matter of fact, I believe it was in July—the deteriorating situation in Iraq which could even lead to a full-blown civil war.

The President dismissed the CIA report and said it was "just guessing." Just guessing. Imagine, we are over 1,000 deaths, thousands of injuries, many of them very serious—if one wants to see how serious, go down to Walter Reed Hospital and interview some of those who survived these attacks and see how they feel about what is taking place.

We are just guessing? The CIA is just guessing? If the President thinks our Nation's intelligence system is just guessing, then we are in trouble. The President's comments are a frightening sign that he is not living in reality and that he continues to ignore the truth about what is happening on the ground in Iraq.

I am going to quote what the President said this day, September 21:

> The CIA laid out a—several scenarios that said, life could be lousy, life could be OK, life could be better, and they were just guessing as to what the conditions might be like.

Talk about casual dismissal of the trauma that family after family across this country faces. Over 33 former residents of New Jersey paid with their lives, all young. When I talk to those families or go to a funeral, there is such distress and grief.

I talked briefly before about these granite markers in a memorial built in Middletown, NJ. All of these granite memorials had legends or quotes from the family like "Daddy, I miss you"—quotes that were so tender. One said, "If love could have kept you alive, we would be having a good time right now." They are the saddest things.

The reality is that these are not gravestones. These are granite markers done very gracefully throughout a walkway in this park with, again, a marble plate on top, an inscription from a family member, and a picture of the individual. Several men were pictured in tuxedoes. I think the idea was to say that life was so full and so happy for these families.

When we look now at where we are, we see the President suggesting that maybe the CIA is just guessing as to what conditions might be like. President Bush ignored some intelligence reports he did not like before he went to war. Now when intelligence contradicts him, he dismisses the content of the report as mere guessing.

When the Central Intelligence Agency sends the President a report that lays out three scenarios for Iraq with the most rosy, the status quo, an average of 87 attacks a day against our troops, 1,035 dead to date, the President dismisses it as guesses? What an insult to the people in our country and to those families. I would like the President to stand in front of some of those survivors and say: Your son died. It is terrible. We made mistakes. The CIA was just guessing about what might be.

Look at where we are. Look at what is taking place. Today's Washington Post has a story about the comments of a general who defends the pace of the Iraqi training. Army LTG Walter Sharp, speaking to reporters at the Pentagon, also disputed the accuracy of some of the Democratic Presidential nominee's new criticism of the pace of training for Iraqi police.

I had the opportunity to visit in March with several other Senators—Senator LEVIN of Michigan; Senator ROCKEFELLER of West Virginia; Senator REED, who trained very thoroughly in the military at West Point; and Senator BINGAMAN—and the situation looked grim at that time. It was said that we are going to turn over governing to an interim council of Iraqis, and then we are going to have a vote in January of next year that would determine the more or less permanent structure at least for the next term of leadership in the country. Here we have these boldfaced statements that say he believes that based on what we will be able to do, there will be local control for the majority of the country by the end of December. Control is not just a matter of having Iraqi security forces in place, but also an assessment of the ability of local political leaders to govern and to oversee economic reconstruction efforts.

When I was in Iraq with four of my colleagues and we went to a police academy where they were training those who would soon be police officers, if memory serves me correctly, the pace was that they would train about 80 in 6 weeks. Since they needed over 50,000 more, I did a quick calculation and came up with the conclusion that it would be many years before they filled the full complement of those necessary. Then we find out that a lot of these people are entirely unqualified to take these tests: no driver's license, no capacity to read or write, no understanding of what the assignment is, a lot of washouts. Then they say by January the Iraqis are going to be able to take over? It is not fair. It is not fair to say these things because everybody knows it is not the truth by any stretch of the imagination.

The President has to stop ignoring the crisis our troops face in Iraq. He has to begin to speak in the real world, with real words, where things are not always good, where serious problems need to be addressed.

I find it so offensive that someone who served his country, received three Purple Hearts, a Silver Star, and a Bronze Star—now, I wore a uniform and I know what those medals mean. They mean a lot. I did not earn any, but I tried to do the job I knew best. I served in World War II. I was 18 when I enlisted. I know those medals are only given when the qualifications are attested to by medical officers who look at a wound and say, yes, this wound deserved the recognition of a Purple Heart, three of them. And now we want to talk about, well, how deep was the wound, was there any blood. When someone loses their hearing in battle, maybe there is no blood, but there is no hearing. It is still a wound, and a very serious one.

After going to a funeral of a young man from New Jersey at Arlington Cemetery, I went to Walter Reed afterward to meet with some of those who had survived battle. There was one young man there who was sightless. He was there with his wife, and he said to me: Senator, I will not be able to see my 28 month old daughter again, but I just want to hold her. He said: I am going to try my best to get along in life. It was painful to witness, but imagine how painful it is to be the victim.

It is hypocritical when we compare the service of JOHN KERRY, though he was critical after the war, but he had the decency and the courage and the honor to serve his country when he was called on to do it. He did not question why, he did not question live or die, he said: I will do my duty to the best of my ability. The President's record does not indicate the same interest in serving. As a matter of fact, I saw a reproduction of an application for service in the military that said: I do not choose to serve in combat. He checked it off. That is all right. Everybody has a right to make those choices. But then to blacken someone else's character who did it and try to humiliate that individual so that he looks like he is unpatriotic, that he wants Saddam Hussein in there? It is atrocious. It is not honest. It is scandalous, and that is what is happening.

I offer a plea. Let President Bush and Vice President CHENEY talk about what they want to do for the country, talk about when we can see an end. They talk about JOHN KERRY not having a plan for getting us out of Iraq. Has anybody heard President Bush's plan for getting out of Iraq? No one. Smoke and mirrors, the ugliest type. One need only turn on the television, pick up the newspaper, listen to the radio and know things are falling apart in Iraq. We have heard it confirmed by distinguished colleagues from that side of the aisle, people who fought bravely, were in battle, know what it is like to see comrades die or escape with their lives, wounded in the process. They don't think things are going well. Look at the statement of Senator HAGEL of a couple of days ago, or Senator McCAIN's statement. We see they see a gloomy picture ahead.

Today saw the second day of beheading of two Americans, savagery the likes of which we should never witness—cutting off a man's head.

I know one thing. This vulgar language has to stop. Shame on the President of the United States for belittling the record of someone who served so well and who did what he had to do, as his country requested it. If he had objections, he had objections, but it was after he served. It was after he was wounded three times and after he got the Silver Star for valor and after he got the Bronze Star for valor. It was afterward, but he served. First he did the thing he had to do. That brings a different level of experience than someone who only talks about how soft he is on defense. Patriotism? To suggest he is not a patriot? To suggest he would rather see Saddam Hussein in place? It is outrageous and the American public should not believe it.

I call on veterans, who belong to whatever association, who served in whatever war, whether it was those who are still alive from World War I, World War II, Vietnam, Korea: Veterans, stand up and object. Don't let them say that about our comrade in arms. Don't let them question whether the wound was deep enough. You want to offend 270,000 people who got Purple Hearts in Vietnam? Should we go back and remeasure the depth of those wounds, see how much blood was let because they were hit by enemy fire?

It is not fair. I hope veterans across this country will disavow that kind of talk, that kind of suggestion, that kind of innuendo about someone who fought and disagreed with the policy—who first fought and then disagreed—in this sinister game being played by those who would challenge the heroism in the award of those medals which were certified by John Lehman, Secretary of the Navy, and another by the senior admiral in charge of the fleet in Vietnam.

To challenge whether those medals were properly awarded is an outrage.

I think it is time to face up, tell the truth, discuss the issues and stop the name calling. Especially stop the accusation that someone who lost three limbs—as in the case of Max Cleland, who was defeated in his reelection attempt because it was said that he was soft on defense—wasn't patriotic enough. Maybe they were suggesting it is too bad he didn't lose the fourth limb. These are outrageous statements.

No, we cannot conduct ourselves like this. The American people see the hypocrisy. What it says is, if you can dismiss the truth and replace it with lies, replace it with distortion, replace it with insult, that is a way to build character for our young people. I defy that kind of performance, that kind of suggestion. It should not happen.

I am disturbed by the fact that two Americans had their heads cut off, punishment for something we don't understand. They were trying to bring democracy to a country that right now is not prepared for democracy. But we insist that that is what they want. Their country is being destroyed by insurgents. Their lives are being destroyed. However many we have lost, the Iraqis have lost far more.

The insurgents are intimidating those who would serve in the military and the Iraqi force. They are removing the incentive for those who want to be in law enforcement. They are totally intimidating those forces who would stand up and fight. Yet we continue to paint the rosy picture, like the President did a year ago May when he said "bring them on." They brought them on, all right. They brought them on as we never wanted to see them.

We have to stop this character assassination and these attacks. I hope we can muster the courage to do it in this place.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

HONORING OUR ARMED FORCES

STAFF SERGEANT RICHARD P. RAMEY

Mr. DEWINE. Mr. President, I rise today to pay tribute to Army SSG Richard Ramey, from Perry Township, in Stark County, OH. He died on February 8, 2004, when his convoy was attacked in Mahmudiyah, Iraq—a village 20 miles south of Baghdad.

Richard lived life well. He made good choices. He never took the easy path. He never shied away from a challenge.

That is what drew him to the military. He pursued a career as a soldier knowing the possible dangers. Richard took on one of the most risky jobs in the Army. He took on the responsibility of explosive ordnance disposal. This meant, simply, that if someone found a bomb on the side of the road, or in a building, or anywhere, Richard's task was to disarm it.

Many of us would wonder why he volunteered for such a dangerous position. But Richard would have a simple answer. He did it to protect and ensure the safety of his comrades and the Iraqi people. He did it because he was never afraid to do what needed to be done.

Richard was born on November 6, 1976, to loving parents, Jerry and Julie Ramey. Jerry can still remember looking at Richard when he was in the hospital baby room. He could not help but laugh at Richard's curly brown hair with its frosted tips.

As a boy, Richard was known for hanging around the Perry Township fire station where Jerry was a volunteer fire investigator. Richard loved the excitement of the fire station and being there spending time with his dad.

At Perry High School in Massillon, OH, Richard made a lasting impression on all who met him. English teacher and assistant football coach Bob Kilpatrick remembered Richard as:

> A good guy—a solid citizen. He came to class with his work done, came to practice ready to practice, and came to the game ready to play.

Richard was a great football player with an even greater work ethic. As an offensive guard and tackle, he was known for his hard hitting and determination to play despite an injury to his shoulder. Richard's coaches remember that even at practices in the summer heat, he would always be smiling.

Speaking of smiling, Richard was known for his sense of humor. One time, he described eggs as "liquid chickens" to his teacher—a proclaimed vegetarian. The teacher swore off eggs shortly thereafter.

Richard loved the outdoors. He loved to camp, hike, explore caves, and climb. He especially loved to fish. Richard's friends fondly recall how he always caught bigger fish than they did no matter what kind of bait they used or what kind of fishing pole they had.

Richard had the same passion for the military that he did for the outdoors. Even as a youngster, Richard's parents knew he would join the military. On Halloween, he would dress up as Rambo or G.I. Joe. Friends remember that at sleepovers, Richard would make them watch his favorite movie, "Red Dawn"—a film about foreign armies taking over the United States.

In third grade, Richard's teacher asked the students to write a sentence about what they wanted to do when they grew up. Richard responded, "I will go to war and fight if I have to"—a motto he carried with him throughout his all too short life.

After high school, Richard joined the Army and entered the service on his mother's birthday. He carried on the military tradition of his family. His dad served 4 years in the Navy, and grandfather Bernard Richard, Sr. fought in World War II, notably at the Battle of the Bulge.

While Richard's mother knew that her son would follow his beliefs and do what he felt he needed to do, all she asked was that he call her every week—and he did. She said that "Richard loved to do his job. No matter where it would take him. He really felt deeply that he wanted to protect people who couldn't protect themselves." She understood that it took a special person to do what Richard did.

Richard's comrades loved him. They trusted him with their lives. And they had fun together. SSG Max Voelz, a member of Richard's unit, remembers the stories Richard would tell and the pranks he loved to play on people. In one instance, Richard filled an officer's room with balloons from the floor to the ceiling.

Richard served at the White House, in Kosovo, and in Egypt before his unit was transferred to Iraq. While in Iraq, he witnessed several tragic events. In December, Richard watched helplessly as one of his comrades and closest friends was killed while trying to defuse a bomb. Clearly shaken and understandably "numb," Richard called home for support from his parents. Shortly thereafter, Richard found himself in close proximity to another exploding bomb. Shrapnel hit his face and ruptured his eardrum. Through it all, Richard's unit became very close. They were family, both at home and in Iraq.

Despite these difficult times, Richard did not lose sight of his ultimate goal—to help those who could not help themselves. And that is why he was determined to continue his career in the military. While overseas, he enlisted for 6 more years and was looking forward to his next assignment in Alaska. His mom and dad were planning on driving him there.

Richard Ramey always will be remembered for his bravery and dedication to helping make the world a safer place. In the words of his father, Richard lived 80 years in 27—and in those 27, he made a difference.

In Massillon, OH, this past February, hundreds of soldiers, firefighters, police, Boy Scouts, sailors, and family and friends paid their final respects to this American hero. Outside the church and along the funeral possession, many more braved the cold to show their support to the Ramey family by waving flags and holding signs. At Perry High School, a memorial plaque and photograph hangs in the hall as tribute to the school's brave alumnus.

Richard will forever live on in the hearts and minds of all those who had the privilege of knowing him, including his parents Jerry and Julie, sister Sarah, and brother-in-law, Nicholas. The Reverend Thomas Dyer, who spoke at Richard's funeral service, said it best:

> [Richard] goes on in our memory with the powerful lesson to each one of us—to make of ourselves the best we can—to make a difference in our home and community.

Indeed, Richard made the best of himself and, in doing so, made a very real, very lasting difference in this world.

STAFF SERGEANT LESTER "BUDDY" KINNEY, II

Mr. President, I rise today to pay tribute to a young Ohioan who lost his life in the service of our country—a young Ohioan who dedicated himself to preserving the safety of his family, his friends, the Iraqi people, and his fellow Americans.

Army SSG Lester Kinney II was known to his family and friends by a nickname that exemplified his outlook on life, as well as the way he treated all who had the privilege of knowing him—and that nickname was "Buddy."

Buddy was born on February 28, 1976, and grew up in Muskingum County, OH. His mother, Barbara, fondly remembers his love for animals, classic cars, Johnny Cash, and blue-grass music. As a young boy, Buddy loved to play pranks on people, especially on Halloween, greatly increasing the popularity of his family's Zanesville home on the holiday.

Buddy attended John Glenn High School, where he played baseball and basketball. Described as "everybody's kid," Buddy was the kind of guy you wanted on your team. He was always a team player. And he was always in a good mood and could get along with anyone—and everyone. People liked Buddy Lester. As his former high school principal, Gary Lucas, said:

> Everybody would be glad to have him as their son. He's the kind of kid you'd be glad to take home to meet your parents.

After graduating from high school in 1994, Buddy enlisted in the Army. His mother recalled that Buddy had always liked the "Be All You Can Be" commercials and was determined to join the Army from the time he was just 8 years old.

Buddy Kinney served in Afghanistan for most of 2003, where he earned a number of awards and decorations for his service and leadership. These include the Bronze Star, Expert Infantry Badge, Combat Infantry Badge, Army Service Ribbon, Army Commendation Medal, Good Conduct Medal, Parachutist Badge, Jumpmaster, and Air Assault Badge.

As a section leader in Afghanistan, Buddy was proud that after more than 150 movements in that dangerous country, none of the soldiers under his direction were ever injured.

Clearly, Buddy was one of this country's finest soldiers. However, he was more than just a great soldier—he was a family man and a model big brother.

Kurtis Bennett loved his big brother. He looked up to him. He respected him. He wanted to be like him. When Kurtis' father passed away, Buddy became the male figure in his life. Kurtis quickly learned that he could count on his brother Buddy for anything.

Kurtis fondly remembers how supportive Buddy was of his decisions. When Kurtis graduated from high school, he told his big brother that he was thinking of taking a year off before going to college. Buddy thought that was a good idea. However, the military recruiters came calling and Kurtis decided to sign up. Buddy was proud of his younger brother and helped him decide on joining the Army because of the opportunities it would provide. Buddy was only a phone call away when Kurtis went through basic training. When the two were serving overseas, Kurtis would make sure to call his brother whenever he could.

Buddy Kinney had big plans for his life. He married the love of his life, Marisa, on November 24, 2001. Though their married life together was short, it was rich and meaningful. He loved Marisa dearly.

Buddy's military career also brought him great fulfillment and meaning. He made 58 jumps as paratrooper, only 2 jumps away from earning a gold star above his parachute wings. He was known for making the best of his opportunities. While stationed in Alaska, Buddy learned to ski, and while in Hawaii he learned to surf. Buddy was proud of his service and believed in what he was doing.

After his service in Iraq, Buddy was hoping to become a warrant officer and a helicopter pilot. But, tragically, Lester "Buddy" Kinney's dreams were cut short. This country lost one of its finest on January 27, 2004, when a roadside bomb exploded while Buddy was conducting a dismounted patrol near Iskandariyah, Iraq. He had been assigned as the section leader to Bravo Company, 2nd Battalion, 505th Parachute Infantry Regiment, based out of Fort Bragg, NC.

I had the privilege of meeting Buddy's family and some of his friends at a service held in his honor. Each remembers Buddy's smiling face and positive attitude. I was particularly moved by a letter that his comrades from their service in Afghanistan wrote. It read in part:

> We could not ask for a better friend or leader. From the dusty mountains of Afghanistan to the hot, flat desert of Iraq, we will always have a seat open for you.

We will always have a place for Buddy in our hearts. He will be cherished forever in the memories of his beloved wife Marisa, mother Barbara, stepfather Jack, brother Kurtis, sister Jodi, grandmother Nita, and many aunts, uncles, cousins, comrades, and friends.

Lester "Buddy" Kinney is an American hero, and may we always remember the sacrifice he made for us and for our country.

Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. TALENT). The Senator from Ohio yields the floor.

Who seeks recognition?

The Senator from Nevada is recognized.

(The remarks of Mr. REID pertaining to the introduction of S. 2822 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROADBLOCK TO PROGRESS

Mr. MCCONNELL. Mr. President, it is after Labor Day so the campaign rhetoric is in full bloom. One thing we have already heard and continue to hear is this charge of a "do-nothing" Congress. And in yet another great paradox unique to this town, we find those who complain that the Senate is not driving ahead and are themselves the roadblock to progress.

For a year and a half we have seen a stall ballgame for the ages, an effort to run out the clock on this session practically before it began. We have seen unprecedented obstruction by a determined minority. Sadly, tactics not employed since the founding of the Republic have become commonplace in this body. We have seen tactics employed not only against highly controversial items but against noncontroversial, broadly supported items, too.

The CARE Act, which provides numerous tax improvements to assist and empower those who run, contribute, and benefit from our charitable organizations passed the Senate 95 to 5. No Democratic Senator voted no. Yet our colleagues on the other side of the aisle refuse to let this bill go to conference and, therefore, it lies near death.

Fortunately, I understand that the IDEA bill, which reforms and enhances the funding of education for disabled children—which passed the Senate 95 to 3—may well be going to conference tonight. If so, that is excellent movement in the right direction.

The Workforce Investment Act, which authorizes the worker training programs for young people, dislocated adults, veterans, Native Americans, seasonal workers, and migrant workers, passed the Senate last year by unanimous consent. No one objected. Yet this bill also has not been able to go forward. Think about it. Bills virtually with no voiced opposition are being stopped by a silent and shadowy force, and the American people are being denied better jobs, better education, and a more compassionate society all because of a pattern of obstruction.

I think the practitioners of this obstruction owe an explanation to the American people as to why they are blocking these widely supported bills that they previously voted for on the Senate floor.

Fortunately, the majority leader's extraordinary effort and patience has enabled much to be done in spite of the obstruction. We have passed tax cuts to get the economy going again, and it sure is going again. We have passed a Medicare prescription drug benefit that is giving seniors an immediate helping hand with a full comprehensive benefit to start in about 15 months. We have passed a Do-Not-Call Registry and the Healthy Forest Act, the partial-birth abortion bill, and the NATO enlargement treaty. But that was last year. What about this year?

We passed into law a pension relief and stabilization plan for private sector businesses, workers, and their retirees. We passed into law a BioShield Act to improve countermeasures from biological, chemical, and other terrorist attacks. We passed into law the Unborn Victims of Violence Act and also a Defense appropriations bill, as well as a supplemental for operations in Iraq.

So much has been accomplished, but much more can and should be done. I call on our colleagues to allow us to move forward on the Workforce Investment Act and CARE right now so we can have an America with workers trained for the modern workplace, a better educational environment for our children, and a more compassionate safety net for our citizens.

I yield the floor.

Mr. REID. Mr. President, I want to make a brief statement. I have already spoken today on the issue Senator MCCONNELL has presented to the body. It was done earlier today by the distinguished junior Senator from Pennsylvania on the CARE Act, a bill that the minority wants to become law. But as I said to the Senator from Pennsylvania through the Chair, there are other ways of doing this than to conference. I have a list of a series of bills that have passed in this body, have been negotiated between the House and the Senate, and that did not go to conference. I don't know the exact number, but scores of bills passed. The same thing could be done with the CARE Act. The same could be done with the Workforce Investment Act.

I say to my distinguished counterpart, the senior Senator from Kentucky, that the risk for Republicans is that their strategy may just be too obvious. The majority has become so unyielding at times that it seems more devoted to tagging Democrats with the obstructionist label than getting legislation passed. Bills have been abandoned rather than let Democrats have the votes on amendments they demand, such as a minimum wage increase or rules protecting workers' rights to overtime. The complaints about Democrats ignore the fact that internal Republican differences also cause delays.

I have on a pair of Allen Edmonds shoes today. They are shoes that are made in the United States. President Bush wears these shoes. So does Senator KERRY. They are one of the few shoe manufacturers left in America. The reason I mention that is that the chief executive of the company, John Stollenwerk, is upset because, as a result of our doing nothing on the FSC bill, he is now paying 19-percent penalties. And to this day, even though we agreed to go to conference, the House has not appointed conferees.

I say to my friend with all sincerity, we need not find fault. Let's find a way to work together. Let's impose our goodwill upon the Speaker of the House and have him appoint conferees to the FSC bill so that we can still have shoes made in America.

I ask unanimous consent that the list of bills to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Bills Enacted Into Law Without Using a Conference To Negotiate Differences in Language Between the House and Senate

108TH CONGRESS (AS OF MAY 6, 2004—24 BILLS)

H.R. 1584, Clean Diamond Trade Act; H.R. 1298, AIDS Assistance; H.R. 733, McLoughlin House National Historic Site Act; H.R. 13, Museum and Library Services Act; H.R. 3146, TANF Extension; H.R. 659, Hospital Mortgage Insurance Act; H.R. 1516, National Cemetery Expansion Act; H.R. 3365, Military Family Tax Relief Act; S. 313, Animal Drug User Fee Act; S. 1768, National Flood Insurance Program Reauthorization Act; H.R. 1828, Syria Accountability and Lebanese Sovereignty Restoration Act; S. 459, Hometown Heroes Survivors Benefits Act.

H.R. 2297, Veterans Benefits Act; S. 877, CAN-SPAM Act; H.R. 100, Servicemembers Civil Relief Act; H.R. 1006, Captive Wildlife Safety Act; H.R. 1012, Carter G. Woodson Home National Historic Site Act; S. 686, Poison Control Center Enhancement and Awareness Act Amendments; S. 1680, Defense Production Act Reauthorization; H.R. 2264, Congo Basin Forest Partnership Act; H.R. 743, Social Security Protection Act; S. 1881, Medical Devices Technical Corrections Act; H.R. 254, Border Environment Cooperation Commission and a North American Development Bank; H.R. 2584, International Fisheries Reauthorization Act.

107TH CONGRESS (51 BILLS)

H.R. 428, Taiwan—World Health Organization; H.R. 1696, World War II Memorial; H.R. 801, Veterans' Opportunities Act (insurance coverage); H.R. 2133, 50th Anniversary Commemoration—Brown v. Board of Education; H.R. 2510, Defense Production Act Extension; H.R. 768, Need-Based Educational Aid Act; H.R. 10, Railroad Retirement and Survivor's Improvement Act; H.R. 2540, Veterans Benefits Act; H.R. 2716, Homeless Veterans Assistance Act; S. 494, Zimbabwe Democracy and Economic Recovery Act; S. 1196, Small Business Investment Company Amendments Act; H.R. 1291, Veterans Education and Benefits Expansion Act.

H.R. 2199, D.C. Police Coordination Amendment Act; H.R. 2657, D.C. Family Court Act; H.R. 2336, Redact Financial Disclosure—Judicial Employees and Officers; H.R. 2884, Victims of Terrorism Relief Act; H.R. 700, Asian Elephant Conservation Reauthorization Act; H.R. 3090, Temporary Extended Unemployment Compensation Act; H.R. 2998, Radio Free Afghanistan Act; H.R. 1892, Family Sponsor Immigration Act; H.R. 1499, D.C. College Access Improvement Act; H.R. 3525, Enhanced Border Security and Visa Entry Reform Act; H.R. 169, Notification and Federal Employee Antidiscrimination and Retaliation Act; H.R. 4560, Auction Reform Act.

H.R. 3275, Suppression of the Financing of Terrorism Convention Implementation; H.R. 327, Small Business Paperwork Relief Act; H.R. 3487, Nurse Reinvestment Act; H.R. 1209, Child Status Protection Act (immigration); H.R. 4687, National Construction Safety Team Act; H.R. 2121, Russian Democracy Act; H.R. 4085, Veterans' Compensation Cost-of-Living Adjustment Act; S. 1533, Health Care Safety Net Amendments; H.R. 3801, Education Sciences Reform Act; H.R. 3253, Department of Veterans Affairs Emergency Preparedness Act; H.R. 4015, Jobs for Veterans Act; S. 1210, Native American Housing Assistance and Self-Determination Reauthorization Act.

S. 2690, Pledge of Allegiance; H.R. 5005, Homeland Security Act; H.R. 2546, Real Interstate Driver Equity Act; H.R. 3389, National Sea Grant College Program Act Amendments; H.R. 4878, Improper Payments Reduction Act; H.R. 1070, Great Lakes and Lake Champlain Act; H.R. 3394, Cyber Security Research and Development Act; H.R. 2621, Product Packaging Protection Act; H.R. 3908, North American Wetlands Conservation Reauthorization Act; H.R. 3833, Dot Kids Implementation and Efficiency Act; H.R. 5469, Small Webcaster Settlement Act; H.R. 2237, Veterans Benefits; S. 2017, Native American Settlements and Indian Financing Act Amendments; H.R. 3609, Pipeline Safety Improvement Act; H.R. 4664, National Science Foundation Authorization Act.

Mr. MCCONNELL. Mr. President, let me say briefly to my good friend from Nevada, I remain hopeful, as I know he does, that we will indeed be able to pass the FSC bill before we leave this year. I am optimistic that will be the case.

NATIONAL MUSEUM OF THE AMERICAN INDIAN

Ms. CANTWELL. Mr. President, I rise today to celebrate the opening of the National Museum of the American Indian, the first national museum dedicated to the preservation, study, and exhibition of the life, languages, literature, history, and arts of the first residents of the Americas. This museum works in collaboration with the native peoples of the western hemisphere to protect and foster their cultures by reaffirming traditions and beliefs, encouraging contemporary artistic expression, and empowering the Indian voice. And since it was designed primarily by Native Americans, it is truly a first-hand look at both the history and future of indigenous American culture.

Fittingly, it is not a traditional museum, but rather a unique, living space, located in close proximity to nature. The building's design reflects the solar calendar and equinoxes, with an eastern orientation and entrance. Historical native stories are shared through the representation and interpretation of Indian cultures as living phenomena throughout the hemisphere. The NMAI is rich with imagery, connections to the earth, and historical meaning.

Washington state can be particularly proud of its tribes, which are well-represented. For example, an exhibit about original Native Treaties includes the 1855 Treaty of Neah Bay, which allowed the Makah Tribe to take whales from "accustomed grounds and stations." An exhibit about the contemporary lives of American Indians contains items from our very own Yakama Nation including a carton of Chief Yakama apples, a jar of Broken Spears pickled asparagus and a poster for the Yakama Nation Beauty Pageant.

Native Americans from other parts of the country who now call Washington State home also played important roles in designing this stunning new space. Johnpaul Jones, an architect of Choctaw and Cherokee heritage who lives in Seattle, was one of four project designers, and helped design and shape this museum to make it a dynamic place for all Americans to explore the contributions of American Indians to our culture.

Preston Singletary, a Tlingit artist who also lives in Seattle, contributed a piece to the exhibit "Our Universe," which focuses on American Indian cosmology and the spiritual relationship between the tribes and nature. His piece, a sand-carved glass, depicts the northwestern coastal legend of the "Raven Steals the Sun."

Today, as we welcome this wonderful new museum, let us also remember that as a nation, we must do more to fulfill the promises our country made to our native peoples. As a Senator who represents 29 tribes and a member of the Indian Affairs Committee, I will continue to work to see our nation meet these obligations, and to celebrate the contributions of Native Americans to our great Nation.

Mr. FEINGOLD. Mr. President, today our Nation marks the grand opening of the Smithsonian Museum of the American Indian. This new museum, the first museum opening on the National Mall since 1987, is truly spectacular, with awe-inspiring architecture, striking landscaping, and remarkable holdings that richly reflect the range of Native American culture and traditions. By opening this museum, we have finally recognized the contribution of Native people to our Nation. This recognition is long overdue.

The museum is not simply about the history of the American Indian, it is also a forward-looking museum, which recognizes the vitality of tribal life throughout the world. This vitality is clearly evident in my State of Wisconsin, which is home to eleven federally recognized tribal governments: the Brad River Band of Lake Superior Chippewa Indians, the Forest County Potawatomi Indian Community, the Ho-Chunk Nation of Wisconsin, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, the Menominee Indian Tribe of Wisconsin, the Oneida Tribe of Indians of Wisconsin, the Red Cliff Band of Lake Superior Chippewa Indians, the Sokaogan Chippewa (Mole Lake) Community of Wisconsin, the St. Croix Chippewa Indians of Wisconsin, and the Stockbridge Munsee Community of Wisconsin.

I am proud to represent the members of Wisconsin's tribes, many of whom are gathering here to support and participate in this important occasion. The influence of the Native Americans who have lived in Wisconsin for so many years is evident in the names of our cities and towns, lakes and rivers, and counties and parks. Wisconsin's native peoples' traditions are part of who we are and these vibrant communities make vast contributions to Wisconsin's culture.

Congress authorized the Smithsonian's National Museum of the American Indian on November 28, 1989 with passage of the National Museum of the American Indian Act. I congratulate my colleagues, the senior Senator from Colorado, Mr. CAMPBELL, who championed the creation of this museum as a member of the other body, and the senior Senator from Hawaii, Mr. INOUYE, for their vision in writing the legislation that made this museum a reality.

The Museum opens today with a celebration that is expected to draw as many as 20,000 Native Americans to Washington. Many are calling the grand opening today the largest tribal gathering in history.

I commend the Congress and the Nation for finally recognizing our Native people and their past, present, and future contributions to America's culture, history, and tradition.

PEACE IN SUDAN

Mr. LUGAR. Mr. President, today I submit an amendment in the form of a substitute to S. 2781. I want to thank the majority leader for his support of our efforts to authorize assistance for the Darfur crisis and a final peace in Sudan. I also want to take this opportunity to express my appreciation to Senator BIDEN for his cooperation in introducing the bill, as well as in refining its language.

Our Committee recently held a historic hearing on Sudan. In that hearing Secretary Powell declared Sudan and the Janjaweed responsible for genocide. This important event reinforced congressional concern for African affairs and pursuing peace in Sudan.

Senator BIDEN and I have improved S. 2781 in the pending amendment by clarifying several elements. These improvements include an update to language that directly reflects the comments of Secretary Powell in his declaration of genocide in the Sudan. Further, the amendment clarifies that neither of the regions administered by the Government of Sudan nor the SPLM will be authorized to receive assistance unless the President certifies that they are complying with specific requirements.

Finally, upon receipt of the testimony and reports from Secretary Powell and the State Department, as well as the recent eyewitness account of the USAID Administrator Natsios, we want to redouble our commitment to support the African Union Mission in Sudan. The value of the reports from the small African Union Observer Force now in Darfur is evident and the international community must recognize its own responsibility in enabling the African Union to continue in this assertive and positive role. In my view the bill states that the United States should provide, to the extent practicable, all assistance necessary to ensure the African Union Mission in Sudan is capable of carrying out its mandate.

I urge my colleagues to support this important legislative initiative.

REMARKS TO THE COUNCIL ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, last week, at the invitation of the Council on Foreign Relations and the family of the late Paul Warnke, I gave the second annual Paul Warnke Lecture on International Security here in Washington. I spoke to the council about the ongoing efforts here in the Congress to address the issue of the reform of the intelligence community as recommended by the 9/11 Commission and others.

I told the council that to my mind, at least as important as the structural reforms of our intelligence community, and arguably even more so, is the need to protect the independence, objectivity and integrity of intelligence analyses. Too many times in our past, including most recently in the Iraq war, intelligence has been manipulated and politicized to support a specific policy.

I am willing to support the creation of a more powerful National Intelligence Director with greater authority over intelligence budgets and personnel, but only if this increased power is used to help ensure the accuracy, independence, objectivity and integrity of intelligence analyses, and not used to promote policy. I don't want a National Intelligence Director to be a more powerful "yes man" for the administration in power.

Mr. President, I ask unanimous consent that the full text of my speech to the Council on Foreign Relations on September 13, 2004, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR CARL LEVIN AT THE PAUL WARNKE LECTURE ON INTERNATIONAL SECURITY AT THE COUNCIL ON FOREIGN RELATIONS

Thank you, Alton [Frye, Presidential Senior Fellow Emeritus at the Council on Foreign Relations]. Your connection with the Council since 1972 makes you a more enduring figure in Washington than just about anybody besides Senator BYRD.

It is a pleasure to be back at the Council, and an honor to be giving the second annual Paul Warnke Lecture on International Security. Paul was a great public servant and a tireless advocate for a wise and balanced approach to international security. I know there are some members of the Warnke family here, and I want to start by acknowledging their presence and thanking them for joining in the invitation to me.

Tonight I want to share some thoughts with you on the reform of our Intelligence Community, which is topic number one in the Senate right now. My remarks are subtitled "No more slam-dunks please, where nuance is needed."

With the end of the Cold War the greatest threats we face are from terrorists. We are less likely to be attacked by nations and armies with tanks and missiles, and more likely to be attacked by terrorists with bombs in trucks or strapped to their bodies.

Since terrorists are not deterred by the threat of their own destruction, and because terrorist networks are so diffuse, accurate intelligence is absolutely essential to preventing terrorist attacks.

The release of the 9/11 Commission's Report fueled a debate about how our intelligence community should be reformed to better respond to the terrorist threat. This is a debate we need to have. But in taking on structural reform involving stove-pipes and budget authority, we should not lose sight of the fundamental problem that was dramatically demonstrated not by the pre–9/11 intelligence failures but by the pre-Iraq War intelligence failures.

The intelligence failures before 9/11 related to intelligence agencies not using information they had and not sharing that information with others. The Report of the 9/11 Commission retold the story of people in the CIA and FBI, for instance, who failed to do their jobs in sharing information. And that Report noted the failure to hold anyone accountable. But there is no evidence in the more than 500–page 9/11 Commission Report that those failures were caused by inadequate budget power in the Director of Central Intelligence or his lack of authority to hire and fire intelligence personnel in other agencies than the CIA.

The failures to use and share intelligence have begun to be corrected with the formation of the Terrorist Threat Integration Center (TTIC). Coordination and sharing might be further enhanced by creation of a National Intelligence Director.

The massive intelligence failures before the Iraq War were of a totally different kind. To a significant degree, they were the result of the CIA shaping and manipulating intelligence to support Administration policy. The CIA's errors were all in one direction, invariably making the Iraqi threat clearer and sharper and more imminent, thereby promoting the Administration's determination to remove Saddam Hussein from power. Nuances were dropped; a slam-dunk was the assessment.

The CIA was saying to the Administration and to the American people what it thought the Administration wanted to hear.

The problem of intelligence being manipulated and politicized is not new. Forty years ago, Secretary of Defense McNamara claimed classified communications intercepts supported passage of the Gulf of Tonkin Resolution, which was used by President Johnson as the legislative foundation for expanding the war in Vietnam.

Those intercepts proved later to be very dubious. Regardless, the presidential decision had been made, and so intelligence was used to support that decision.

Intelligence was heavily manipulated by CIA Director William Casey during the Iran-Contra period. The Iran Contra Report cited evidence that Director Casey "misrepresented or selectively used available intelligence to support the policy he was promoting."

The Iran Contra Report urged strongly that "The gathering, analysis, and reporting of intelligence should be done in such a way that there can be no question that the conclusions are driven by the actual facts, rather than by what a policy advocate hopes these facts will be."

Former Secretary of State George Shultz, in his memoir Turmoil and Triumph, recalled Director Casey's actions and concluded that "The CIA should have nothing to do with policy. You have to keep objectivity in analyses."

History repeated itself with the pre-war Iraq intelligence. Before the war, top administration officials asserted that Saddam Hussein definitely had weapons of mass destruction and had close links to the al Qaeda terrorists who had attacked us on 9/11.

The President said in March of 2002 that "[Saddam Hussein] possesses the world's most dangerous weapons."

The Vice President in August of 2002 said ". . . we know that Saddam has resumed his efforts to acquire nuclear weapons. Many of us are convinced that Saddam will acquire nuclear weapons fairly soon."

National Security Advisor Rice said on September 8, 2002 that "We do know that there have been shipments going . . . into Iraq, for instance, of aluminum tubes that really are only suited . . . for nuclear weapons programs, centrifuge programs."

A few weeks later, Secretary of Defense Rumsfeld said that "Very likely all they need to complete a weapon is fissile materials—and they are, at this moment, seeking that material—both from foreign sources and the capability to produce it indigenously."

On September 19th, 2002, Secretary Rumsfeld said that Saddam Hussein "has, at this moment, stockpiles of chemical and biological weapons, and is pursuing nuclear weapons."

Regarding al Qaeda links to Saddam Hussein, President Bush made the unqualified link between al-Qaeda and Saddam Hussein on September 25th, 2002, when he said "you can't distinguish between al-Qaeda and Saddam when you talk about the war on terror."

Following those kind of strong public statements of senior administration leaders, qualifications and cautious words in previous Intelligence Community reports were dropped, and intelligence was shaped more and more to reflect and support the certainty of the administration's policy statements.

For instance, on February 11, 2003, DCI Tenet publicly stated, as though it were fact, that Iraq "has provided training in poisons and gases to two al-Qaida associates." However, in his then-classified testimony on September 17, 2002, which reflected the underlying intelligence analysis, Director Tenet acknowledged that the information on training was "from sources of varying reliability." The underlying intelligence also acknowledged that the information was "at times contradictory." As the Senate Intelligence Committee report makes clear, DCI Tenet's public testimony could lead people to believe incorrectly "that the CIA believed the training had definitely occurred."

That Senate Intelligence Committee 500–page unanimous report set out dozens of instances like that where the CIA or its leaders made statements about Iraq's WMD which were significantly more certain than the underlying classified intelligence reporting or than their previous classified statements.

The first overall conclusion of that Senate Intelligence Committee report is that "Most of the major key judgments in the Intelligence Community's October 2002 National Intelligence Estimate (NIE), Iraq's Continuing Programs for Weapons of Mass Destruction, either overstated or were not supported by, the underlying intelligence reporting."

The CIA's efforts to support Administration policy instead of doing what they are supposed to do—which is to inform Administration policy makers—wasn't limited to WMD issues. DCI Tenet also helped support the Administration's contention that Saddam Hussein and al Qaeda were closely linked, or as President Bush had said on September 28, 2002, "each passing day could be the one on which the Iraqi regime gives anthrax or VX nerve gas or someday a nuclear weapon to a terrorist group." This took a special contortion on DCI Tenet's part because the CIA's then-classified analysis was that there were no significant links between Saddam Hussein and al Qaeda.

Here is some background on that: on October 7, 2002, at our request, the CIA in a letter to the Senate Intelligence Committee declassified its assessment and indicated Iraq was unlikely to provide WMD to terrorists, and that providing WMD to terrorists would be an "extreme step" for Saddam Hussein, likely to be taken by him only in response to an attack against him by us. However, DCI Tenet told the New York Times that there was "no inconsistency" between the views in that CIA letter and the President's views on the subject. His statement was clearly incorrect, but it supported the Administration by trying to blur the inconsistency. The Senate voted on the authorization to use force a few days later on October 11.

And the CIA went along with the Administration's repeated references to a reported meeting in Prague between an Iraqi intelligence officer and the lead hijacker in April of 2001. At a hearing in February of this year, I asked Director Tenet about that alleged meeting. He told me that the CIA had "not gathered enough evidence to conclude that it happened," and that "I don't know that it took place. I can't say that it did." What he neglected to say, again bending over backwards to protect Administration policy, was that the CIA did not believe the meeting had happened. He finally acknowledged that publicly a few weeks ago when the CIA said that there was an "absence of any credible information that the April 2001 meeting occurred."

Again, in all of these cases, and many others, where public statements of the CIA varied from the underlying classified intelligence before the war, the Iraqi threat became clearer and more dire and the presence of WMD more certain. In public statements and reports, the CIA leadership had effectively become a political arm of the White House. There is no other explanation which has any ring of truth.

That is not the only rational inference. It also has some explicit evidentiary support. You remember the scene in Bob Woodward's book, Plan of Attack, after the Intelligence Community's case regarding Iraqi WMD was presented to the President in the Oval Office on December 21st, 2002:

"Bush turned to Tenet. 'I've been told all this intelligence about having WMD and this is the best we've got?'

"From the end of one of the couches in the Oval Office, Tenet rose up, threw his arms in the air. 'It's a slam-dunk case!' the director of central intelligence said.

"Bush pressed. 'George, how confident are you?'

"Tenet, a basketball fan who attended as many home games of his alma mater Georgetown University as possible, leaned forward and threw his arms up again. 'Don't worry, it's slam-dunk!'"

George Shultz's admonition about the fundamental need to separate intelligence from policy as the only way to obtain objective and independent intelligence, had been dramatically proven again. Other experts have reminded us of this point.

Former DCI Judge William Webster told the Senate Governmental Affairs Committee a few weeks ago that:

"With respect to relations with the president, while the leader of the intelligence community must be the principal advisor on intelligence to the president, he must work hard—very hard—to avoid either the reality or the perception that intelligence is being framed—read "spun"—to support a foreign policy of the administration."

Former chief weapons inspector David Kay put it this way before the Senate Intelligence Committee:

"Intelligence must serve the nation and speak truth to power even if in some cases elected leaders chose, as is their right, to disagree with the intelligence with which they are presented. This means that intelligence should not be part of the political apparatus or process."

How does all of this affect the pending consideration of intelligence reform? I have the good fortune (I guess) to be the only Senator to serve on all three Senate Committees which are considering intelligence reform legislation issues. We have held about 10 hearings since the 9/11 Commission report was presented, and are expected to have legislation prepared for the Senate by October. Most of the focus so far has been on fixing the pre-9/11 type failures; that is, the failures of information sharing and coordination.

To my mind, at least as important as the structural reforms, and arguably even more so, is the need to protect the independence, objectivity and integrity of intelligence analyses.

I am willing to support the creation of a more powerful National Intelligence Director, with greater authority over intelligence budgets and personnel, but only if this increased power is used to help ensure the accuracy, independence, objectivity and integrity of intelligence analyses, and not used to promote policy. I don't want a National Intelligence Director to be a more powerful "yes man" for the Administration in power.

One way to promote more objective and independent intelligence is to put Congress on a roughly equal basis with the executive branch as a primary consumer of intelligence. The National Intelligence Director and the entire Intelligence Community must understand that their analyses are just as much for Congress as for the President. It also means that senior intelligence leaders should be subject to Senate confirmation. And it surely means that the National Intelligence Director should not be established in the Cabinet or in the Executive Office of the President.

And giving both the Chairman and Vice Chairman of the House and Senate Intelligence Committees the power to obtain documents and initiate investigations—much like the current Permanent Subcommittee on Investigations of the Governmental Affairs Committee—would also strengthen congressional oversight.

The bottom line is that terrorism is currently our number one threat, and intelligence is our most essential tool to deal with that threat. Before we create a stronger National Intelligence Director, in a position which has too often produced intelligence shaped to promote policy, we must take steps to ensure that a strengthened National Intelligence Director—and indeed our entire Intelligence Community—is free to provide objective, independent intelligence analyses. Our future security depends on it.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In September 2004, Michael Hughes, a 58-year old man, was arrested after he verbally assaulted a man he believed was gay, then slashed him repeatedly with a small knife. Upon checking his rap sheet, police discovered that Hughes was wanted in Baltimore for the 1974 Christmas Eve killing of another man.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

WEST VIRGINIA'S 2004 ANGELS IN ADOPTION

Mr. ROCKEFELLER. Mr. President, today I wish to recognize a very special family from my home state of West Virginia. I am delighted that Pam and Morgan Lacefield of Moundsville, WV, will be recognized later this month as "Angels in Adoption," a special award created by the Congressional Adoption Caucus.

I would like to take a moment to tell you more about Pam, Morgan, and the entire Lacefield family. Pam and Morgan Lacefield are the proud parents of nine wonderful children. This large, loving bunch is typical of many: they are involved in a host of sports and activities. They do homework. They enjoy family meals together. There is one quality, however, that makes the Lakefield family special: Pam and Morgan have adopted every one of their nine children. It is not surprising that such a loving couple would also run a shelter for homeless animals with no where else to turn.

In 1991, Pam and Morgan were managing a successful group of restaurants that they owned while also raising two children, whom they had previously adopted. They soon became aware of four siblings who were in need of a loving permanent home and who did not want to face separation. Pam and Morgan adopted them, too, bringing to six the total number of children in their home under the age of five. Later, they adopted another "sibling group" of three children, and they have been on the go ever since!

True leaders in their community, Pam and Morgan have been involved in a number of charitable organizations within West Virginia, and were named West Virginia Parent Teachers' Association's Partners in Education for 1999–2000. And, eleven years after adopting their first sibling group, Pam and Morgan opened a "no-kill" animal shelter, which they named Webark Estates. Their examples of selflessness and commitment have not been lost on the youngest members of their family—each of their children now helps at the shelter in some capacity, and it has become a labor of love for all of the Lacefields. It is a lucky child who can claim over 20 dogs and 80 cats as his pets, and it is a luckier child still who can claim Pam and Morgan Lacefield as parents. As you can see, they are clearly "angels."

The Angels in Adoption Award recognizes individuals like the Lacefields who open their hearts and homes to children in foster care. On September 23, the Lacefields and other Angels will come to Washington in order to be recognized for their good works. The Lacefield family and the other Angel in Adoption nominees from around the country can help inspire everyone to continue efforts to ensure that every child has a safe, healthy, and permanent home and that, for some children, this is only possible through adoption.

I have worked for many years in bipartisan coalitions to promote adoption and improved services for abused and neglected children. While these issues rarely command headlines, they change the lives of children and families across our country. People like the

Lacefields and programs like Angels in Adoption remind us of the importance of our adoption and child welfare programs. In 1997, Congress passed the Adoption and Safe Families Act to ensure that a child's health and safety are paramount, and to express the belief that every child deserves a permanent home. Since then, adoptions from foster care have nearly doubled. While this is wonderful news, more than 100,000 children remain in foster care. As the Lacefields and other adoptive parents would tell us, we clearly have more work to do.

Mr. President, I am delighted to have had this opportunity to tell you more about the Lacefield family. I have long believed that the people of West Virginia are its greatest resource; individuals such as the Lacefields prove this point again and again.

SUPPORTING CHILDREN IN CRISIS

Mr. GRASSLEY. Mr. President, I rise today to give praise to a great nonprofit organization, Santa's Children Christmas Village, run by Orien Hodges in Walnut, IA. This organization has been supporting children in crisis for years both by raising money for other nonprofit organizations dedicated to children in crisis and by organizing Santa visits to bring joy to children, helping them escape briefly from the reality of serious illness. Santa's Children Christmas Village has been able to visit over 7,500 children in Iowa as well as neighboring states since the program started in 1998.

Santa's Children Christmas Village is currently expanding its efforts to help underprivileged children by working with a fellow organization, Kids In Distressed Situations, Inc. KIDS's main goal is to prevent the cycle of poverty that is started in childhood from continuing into adulthood. KIDS has been successful in its efforts because of the help it receives from leading retailers, manufacturers, licensors and other charity organizations such as Santa's Children Christmas Village. I am proud of the efforts of my fellow Iowans and the organizations that they are working with in order to better the lives of children in America.

ENDORSEMENT OF THE PUBLIC SAFETY OFFICERS' DEFENSE ACT

Mr. KYL. Mr. President, I ask unanimous consent that the following letter be printed in the RECORD. The letter expresses the strong support of the Fraternal Order of Police for S. 2760, the Public Safety Officers' Defense Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Washington, DC, September 17, 2004.

Hon. JON KYL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KYL: I am writing on behalf of the membership of the Fraternal Order of Police to advise you of our strong support for S. 2760, the "Public Safety Officers' Defense Act," which will restore balance to the criminal justice system by ensuring a reasonable and timely Federal review of State convictions for the murder of a law enforcement officer.

This issue is of particular importance to the F.O.P. because we have, tragically, first-hand knowledge of how such delays affect the families of slain officers. One case in particular always comes to mind—the slaying of Philadelphia Police Officer Daniel Faulkner on 9 December 1981. He was murdered in cold-blood by Wesley Cook, who is better known by his alias, Mumia Abu-Jamal. This killer was convicted of murder and sentenced to death by a jury in July 1982. After exhausting nearly all State appeals, and having had two appeals to the U.S. Supreme Court rejected, Faulkner's murderer filed a petition for habeas corpus in October 1999. Just days after marking the twentieth anniversary of Danny Faulkner's death, Judge William Yohn of the United States District Court for the Eastern District of Pennsylvania issued a ruling upholding the conviction, but threw out the death sentence on a technicality. The case was appealed to the U.S. Third Circuit Court of Appeals on 28 December 2001. While the case remains on the docket, Danny's killer is alive and on death row. As his widow Maureen will tell you, this is not justice.

Your legislation would require that, following State court and U.S. Supreme Court certiorari reviews are completed, district courts review cases within fifteen months and circuit courts rule within 120 days. This means that, absent the granting of a full review of the case by the U.S. Supreme Court, that Federal review of cop-killers' appeals would be completed, in most cases, within a two year period.

The bill also incorporates an existing provision of the Federal habeas statute that is used to determine whether a defendant may file a successive petition or seek a new evidentiary hearing in Federal court. Thus, once a convicted cop-killer's case arrives in the Federal courts, they would only be able either to offer new evidence of innocence or to give a good reason why he failed to present such evidence earlier, thus barring defendants from simply relitigating evidence that already was presented or should have been presented at trial.

Assaults on law enforcement officers, including those which result in the death of the officer, are on the rise, and so is the length of time a convicted cop-killer will remain on death row while his appeals are processed. The murder of a law enforcement officer is a heinous crime—every State that has the death penalty allows juries to impose on those convicted of killing an officer. And yet, if the death penalty is not imposed in a reasonable amount of time, after all the requirements of due process are met and guilt is certain, then it does not have any meaning, either as a deterrent or a punishment. Your legislation correctly addresses this problem for what most recognize to be one of the most serious crimes—killing a cop.

On behalf of the more than 318,000 members of the Fraternal Order of Police, I applaud you for your leadership on this issue and look forward to working with you and your staff to see it signed into law. If I can be of any further assistance, please do not hesitate to contact me or Executive Director Jim Pasco at my Washington Office.

Sincerely,

CHUCK CANTERBURY,
National President.

THE AIR FORCE ACADEMY DRUM AND BUGLE CORPS

Mr. ALLARD. Mr. President, I rise today to recognize the commendable record of the Air Force Academy Drum and Bugle Corps. The Air Force Academy Drum and Bugle Corps was established in 1959, as a unit of the Air Force Academy Band. The Corps was made up of enlisted musicians and included six drummers, nine buglers, a drum major and a noncommissioned officer in charge. The mission of the Corps was to act as a relief group for the Air Force Academy Band. Activities of the band included playing for the cadet morning and evening chow formations and to practice marching. This addition to the Air Force Academy Band helped to complete musical requirements for the cadet wing military formations.

Within 2 years of its formation the Air Force Academy Drum and Bugle Corps was increased to 38 members, and its mission was extended nationwide to include concerts, field exhibitions, music festivals, and various military ceremonies. The Corps entertained audiences from coast to coast with a blend of precision drill and musical pageantry. In 1972, the Enlisted Corps was disbanded and students from the Air Force Academy formed the Cadet Drum and Bugle Corps, which continues the tradition of providing musical support of cadet wing activities, as well as participation in community activities nationwide.

I take this opportunity to thank the distinguished members of the Air Force Drum and Bugle Corps for their dedication and commitment to the Academy and to our country.

ADDITIONAL STATEMENTS

VA AND UF JOIN FORCES TO HELP STROKE VICTIMS

● Mr. GRAHAM of Florida. Mr. President, the Department of Veterans' Affairs, VA, has a long and distinguished history of collaboration with various universities across the country. No such partnership has yielded more successful results than that between the Malcom Randall VA Medical Center, VAMC, in Gainesville, FL, and the University of Florida, UF. In keeping with their long history together, these two notable institutions announced on July 6, 2004, that they will be working together to help stroke victims.

The Translational Research in Rehabilitation Initiative, as it has been named, is a $2.7 million effort to improve the lives of those who have suffered from strokes and other brain injuries. Its goal is to drastically shorten the time between scientific discovery and the development of therapies used for the treatment of these patients. Currently, an average of 17 years go by before discoveries in clinical trials are routinely incorporated into medical treatment.

Previous thinking was that the mature nervous system could not be repaired after injury. Since 1990, however, scientists have known this is not true. As such, the joint initiative will utilize the advanced skills of UF scientists and physicians to translate discoveries from animal research into quicker ways of reconstructing the damaged human nervous system. With VA's assistance, UF also will recruit three new faculty members, whose goal will be to accelerate brain-injury research to find combinations of drugs and rehabilitation therapies that will help stroke victims.

The project is an extension of research that began 1999 with Leslie Gonzalez-Rothi, Ph.D., a neurology professor associated with UF's Evelyn F. and William L. McKnight Brain Institute and program director of the Brain Rehabilitation Research Center at the Gainesville VAMC. That year, Dr. Gonzalez-Rothi obtained the first rehabilitation research and development grant from VA to start the Brain Rehabilitation Research Center. At the center, UF scientists study combinations of drugs and rehabilitation techniques in people who have suffered strokes, focusing their efforts on rehabilitating patients and teaching them to relearn lost abilities. This new mission will explore the ways doctors can actually help heal the injury and is part of the July renewal of a 5-year, $4.25 million rehabilitation research and development grant to the center. In addition to the grant, the Gainesville VAMC will provide nearly 4,000 square feet of laboratory space in its medical center to support the effort.

This new partnership between VA and UF is a shining example of what VA can and will accomplish through its impressive research capabilities, especially with the help of its university affiliates. The strides that result from the Translational Research in Rehabilitation Initiative will significantly improve patient care for the entire Nation, making a difference in the lives of veterans, as well as the general public. I am very proud that this project is being conducted in my home State of Florida.•

IN HONOR OF MASTERFOODS USA CHICAGO PLANT 75TH BIRTHDAY

• Mr. DURBIN. Mr. President, today I offer congratulations to Masterfoods USA on the 75th birthday of their candy plant in Chicago, IL. Masterfoods is the U.S. division of Mars, Incorporated.

Chicago is America's candy capital. Since 1929, the hard-working folks at the Masterfoods plant in Chicago have been making our world sweeter.

The plant is the birthplace of the world's best-selling candy bar—the Snickers bar as well as home to other favorites, including the Milky Way and 3 Musketeers bars. Today, the Masterfoods USA Chicago plant produces 20 percent of all Masterfoods USA candy bars about 30 million bars a day.

Much like Chicago, the Masterfoods plant has been in a constant state of renewal and investment, and is as contemporary today as it was when it opened in 1929. Built on a site that was previously a golf course, the plant is unlike other factories, with a picturesque, high-windowed Spanish-style structure featuring a rich red tile roof and tinted walls.

When it opened in 1929, the plant employed about 200 workers. Today, the plant employs about 500 associates, 10 percent of whom have a relative who formerly worked there. There are even three people working at the plant today who are third-generation plant associates.

Beyond creating and retaining jobs, Masterfoods USA is committed to community involvement. Each year at Halloween, more than 500 costumed children from the surrounding neighborhood converge on the plant to trick-or-treat. The company also donates equipment to Chicago Shriners Hospital for Children and provides 25 district police stations with candy for community outreach. In all, the Masterfoods USA Chicago plant assists more than 100 community programs each year. This is a company that has not just been an employer, it has also been a good neighbor.

Today I wish to honor the 75th birthday of the Masterfoods USA Chicago Plant. Their success is a point of pride for Chicago and the State of Illinois. May their future be as sweet as their past.•

BEALE AIR FORCE BASE: AIR FORCE EXCELLENCE

• Mrs. BOXER. Mr. President, I rise today to recognize Beale Air Force Base as the United States Air Force winner of the 2004 Commander in Chief's Installation Excellence Award. This award recognizes the outstanding efforts of the people who operate and maintain Department of Defense installations and who best utilize their resources to support the mission. In recognition of this prestigious accomplishment, Team Beale has been awarded $1 million for quality of life improvements.

The Commander in Chief's Installation Excellence Award recognizes the best United States Military installations worldwide, demonstrating innovative programs that help sustain excellent base operations. Each base was evaluated in the following categories: improving work environment or physical plant; improving quality of life; enhancing productivity of the work force; increasing customer satisfaction or improving customer service; encouraging bottom-to-top communication and team problem solving; promoting unit cohesiveness and recognizing outstanding individual efforts; and, promoting environmental safety, compliance, remediation, and stewardship.

In fiscal year 2003, Team Beale established itself as the benchmark for the United States Air Force. Teamwork was Beale's cornerstone among the core units, associate units, and the civilian community as they embraced the Installation Commander's motto, "One Team, One Fight." Beale Air Force Base put intelligence, surveillance, and reconnaissance on the offensive with an unprecedented 3,450 sorties, 1,175 combat missions, and 13,300 combat hours during Operations Enduring and Iraqi Freedom. Team Beale led coalition forces in battle space preparation and time-critical targeting by producing more than 89,000 imagery products and 25,000 special intelligence products for two combatant commanders.

In addition to Beale's history-making, record-breaking contributions to the United States' combat efforts, it also worked to improve in other areas. Beale Air Force Base took a lead role in its $180 million housing privatization efforts for 1,344 homes in conjunction with $114 million in base-wide improvements and $56 million in RQ-4A Global Hawk bed down initiatives. In recognition of their outstanding performance, individual and team awards included: United States Air Force Air Force Outstanding Unit Award; United States Air Force Maintenance Effectiveness Award; United States Air Force Twelve Outstanding Airmen of the Year Award; United States Air Force Explosives Safety Plaque; 33 Air Combat Command award; United States Strategic Command's Omaha Trophy; and, Eight Numbered Air Force awards.

The men and women of Beale Air Force Base have set the Air Force standard for installation excellence. By embracing the Air Force core values of "Integrity First, Service Before Self, and Excellence in All We Do," Team Beale used creative innovations to establish themselves as the best of the best. It is with great pleasure that I congratulate Beale Air Force Base on the receipt of the prestigious Commander in Chief's Installation Excellence Award.•

ALBERT M. DESHUR'S 90TH BIRTHDAY

• Mr. KOHL. Mr. President, I rise today to honor Albert M. Deshur on his 90th birthday. I commemorate Mr. Deshur as a prominent leader, businessman, and philanthropist, who has long served the community of Milwaukee.

Mr. Deshur, as a lifelong community leader and self-made man, has set the standard for integrity, pride, conscientiousness, reliability, honesty and character, while at the same time always maintaining a sense of balance through his earnestness and sense of responsibility to provide for the community around him.

In honor of Mr. Deshur's 90th birthday, I acknowledge his many contributions to the City of Milwaukee. In 1948, Mr. Deshur founded the Deshur Homes company in Milwaukee, WI, where he currently serves as chairman of the board. Through his hard work and dedication, he has been responsible for master planning and developing over 2,000 acres of land, building more than 7,000 single-family homes, and developing many multi-family and commercial projects. Twelve years later, Mr. Deshur founded the Hampton State Bank, located in Milwaukee, where he served as president and chief executive officer providing thousands of customers a bank they could trust. His commitment to the city has provided the people of Milwaukee great opportunities that would not have been possible without his vision.

Mr. Deshur has also been an active philanthropist for children's causes, including the Albert and Ann Deshur Rainbow Day Camp at the Jewish Community Center of Milwaukee. He is a prominent member of the Jewish community of Milwaukee, founding member and major benefactor of Temple Shalom and a generous and consistent supporter of the Milwaukee Jewish Federation for many years.

I thank Mr. Deshur for his many contributions to the city of Milwaukee and I join his many friends and family in celebration as we honor Mr. Deshur on his 90th birthday. He is the very best Milwaukee and Wisconsin has to offer, and I wish him good health and continued happiness.•

CORDELL BANK NATIONAL MARINE SANCTUARY: IN HONOR OF ITS 15TH ANNIVERSARY

• Mrs. BOXER. Mr. President, I wish to recognize and share with my colleagues an important milestone for Cordell Bank National Marine Sanctuary. The sanctuary will observe its 15th anniversary on October 2.

Cordell Bank National Marine Sanctuary was established in 1989 when a House joint resolution was signed by the President. I was pleased to be an original cosponsor of the resolution which was sponsored by Congressman Doug Bosco.

The sanctuary encompasses 530 square miles of marine waters, off the coast of Point Reyes National Seashore, about 45 miles north of San Francisco. The boundary includes a unique granite bank, the Cordell Bank, and is located along the continental shelf.

The sanctuary encompasses exceptional and diverse marine life, both above and below the surface, providing a home for resident marine species and a destination feeding ground for many migratory marine mammals, fish and seabirds.

Twenty-six marine mammal species live in the waters of Cordell Bank National Marine Sanctuary as do over 250 fish species. It is among the most important feeding grounds in the world for the endangered Humpback and Blue whales. It also serves as a crucial foraging area for resident, migratory and seabound birds. In fact, Cordell Bank National Marine Sanctuary is otherwise known as the "Albatross capital of the Northern Hemisphere."

In the 15 years since the sanctuary was established, threats to the Cordell Bank and other points along our coast have grown. California's population has continued to increase near the coast, and oil and gas exploration proposals continue to threaten our marine ecosystems.

Because of these threats, I believe preserving and celebrating our protected areas off the California coast is particularly important. Since the Cordell Bank National Marine Sanctuary was established, the sanctuary's resources have grown with it, providing better protection for the sanctuary's future. Staff has increased from one to five and a half full time employees. The staff now has an office, a seabound vessel, monitoring programs, an advisory council and a new management plan to serve the sanctuary and its mission into the future.

I applaud everyone who has worked to protect the marine ecosystems of the Cordell Bank National Marine Sanctuary, and I wish the sanctuary staff and volunteers many years of ongoing success in protecting the California coastal environment. Please join me in celebrating the 15th Anniversary of Cordell Bank National Marine Sanctuary.•

DOROTHY HUGHES: IN MEMORIAM

• Mrs. BOXER. Mr. President, I honor and share with my colleagues today the memory of a very special woman, Dorothy Hughes of Marin County, who died July 25, 2004. She was 80 years old.

Dorothy Hughes was born on her parents' sheep ranch in Woodland, CA in 1923. As a young girl, she attended the Hamlin School in San Francisco and in 1943 she graduated from Stanford University. She went on to earn her master's degree in European history at California State University at Sacramento.

Dorothy Hughes was a lifelong champion of humanitarian causes. Envisioning a "world that works for all of us," she campaigned tirelessly for peace and social justice. Dorothy also deeply felt the need to ensure decent health and social services for her community, and her unwavering dedication left a legacy of community-based health organizations in Marin County. In addition to founding the Campaign for a Healthier Community for Children, Marin Suicide Prevention Center and Marin Family Action, she also served as executive director of the Marin Association of Mental Health for more than two decades. Throughout her life, Dorothy remained committed to her convictions, often in the face of powerful opposition.

Dorothy Hughes was recognized numerous times for her invaluable contributions to the community. The Human Rights Commission's Martin Luther King, Jr. Humanitarian Award, and induction into the Marin Women's Hall of Fame are among the many honors she received.

A dynamic figure in Marin County, Dorothy touched countless lives during the 35 years she resided there. She was a deeply-loved member of the community whose courage and conviction inspired others, and she will be greatly missed. We take comfort in the knowledge that future generations will benefit from Dorothy's dedication, vision and leadership.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT DECLARING THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO PERSONS TO COMMIT, THREATEN TO COMMIT, OR SUPPORT TERRORISM—PM 95

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To The Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the national emergency with respect to persons who commit, threaten to commit, or support terrorism is to continue in effect beyond September 23, 2004, to the Federal Register for publication. The most recent notice continuing this emergency was published in the Federal Register on September 22, 2003 (68 FR 55189).

The crisis constituted by the grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks in New York, in Pennsylvania, and against the Pentagon committed on September 11, 2001, and the continuing and immediate threat of further attacks on United States nationals or the United States that led to the declaration of a national emergency on September 23, 2001, has not been resolved. These actions pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to persons who commit, threaten to commit, or support terrorism, and maintain in force the comprehensive sanctions to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 21, 2004.*

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2823. A bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–9338. A communication from the Chairman, Farm Credit System Insurance Corporation, transmitting, pursuant to law, the Corporation's annual report for calendar year 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9339. A communication from the Assistant General Counsel for Legislative and Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Energy Conservation Program for Consumer Products: Central Air Conditioners and Heat Pumps Energy Conservation Standards" (RIN1904–AB46) received on September 14, 2004; to the Committee on Energy and Natural Resources.

EC–9340. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Emergency Rule: Endangered and Threatened Wildlife and Plants; Establishment of an Additional Manatee Protection Area in Lee County, Florida" (RIN1018–AT65) received on August 11, 2004; to the Committee on Environment and Public Works.

EC–9341. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Topeka Shiner" received on August 11, 2004; to the Committee on Environment and Public Works.

EC–9342. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Astragalus Magdalene var. peirsonii (Peirson's milk-vetch)" received on August 11, 2004; to the Committee on Environment and Public Works.

EC–9343. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, Agency-issued documents related to its regulatory programs; to the Committee on Environment and Public Works.

EC–9344. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department for Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Medicare Part B Monthly Actuarial Rates. Premium Ratio, and Annual Deductible Beginning January 1, 2005" (RIN0938–AN18) received on September 9, 2004; to the Committee on Finance.

EC–9345. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Operating Permits Program; State of Kansas" (FRL#7793–6) received on August 6, 2004; to the Committee on Environment and Public Works.

EC–9346. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Operating Permits Program; State of Nevada, Clark County Department of Air Quality Management" (FRL#7795–7) received on August 6, 2004; to the Committee on Environment and Public Works.

EC–9347. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Operating Permits Program; State of Iowa" (FRL#7793–8) received on August 6, 2004; to the Committee on Environment and Public Works.

EC–9348. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Ambient Air Quality Standards for Particulate Matter" (FRL#7794–1) received on August 6, 2004; to the Committee on Environment and Public Works.

EC–9349. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Schedule of Fees for Consular Services; Exemption from the Nonimmigrant Visa Application Processing Fee for Family Members of Individuals Killed or Critically Injured While Serving in the United States" (RIN1400–AB95) received on September 14, 2004; to the Committee on Foreign Relations.

EC–9350. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–9351. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2001–24" (FAC2001–24) received on August 6, 2004; to the Committee on Governmental Affairs.

EC–9352. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Implementation of a Performance-Based Incentive System; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BOND, from the Committee on Appropriations, without amendment:

S. 2825. An original bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2005, and for other purposes (Rept. No. 108-353).

By Mr. DEWINE, from the Committee on Appropriations, without amendment:

S. 2826. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes (Rept. No. 108-354).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with amendments:

S. 1530. A bill to provide compensation to the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River (Rept. No. 108-355).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2742. A bill to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. ROBERTS for the Selected Committee on Intelligence.

*Porter J. Goss, of Florida, to be Director of Central Intelligence.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DURBIN (for himself, Mr. BUNNING, Mr. BAYH, and Mr. FITZGERALD):

S. 2817. A bill to provide for the redesign of the reverse of the Lincoln 1-cent coin in 2009 in commemoration of the 200th anniversary of the birth of President Abraham Lincoln; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI:

S. 2818. A bill to amend the Help America Vote Act of 2002 to ensure the same requirements that apply to voters who register by mail also apply to voters who do not register in person with an officer or employee of a State or local government entity, and to provide for increased penalties for fraudulent registration in cases involving 10 or more violations; to the Committee on Rules and Administration.

By Mr. SPECTER:

S. 2819. A bill to provide education to students in grades 8, 9, and 10 about the importance of higher education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCAIN:

S. 2820. A bill to ensure the availability of certain spectrum for public safety entities by amending the Communications Act of 1934 to establish January 1, 2009, as the date by which the transition to digital television shall be completed, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE (for herself and Mr. BOND):

S. 2821. A bill to reauthorize certain programs of the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. REID (for himself, Mr. BOND, and Mr. JEFFORDS):

S. 2822. A bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st century; to the Committee on Environment and Public Works.

By Mr. CRAIG (for himself and Mr. KENNEDY):

S. 2823. A bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes; read the first time.

By Mr. SCHUMER:

S. 2824. A bill to exclude from income certain wages of spouses of members of the Armed Forces serving in combat zones; to the Committee on Finance.

By Mr. BOND:

S. 2825. An original bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2005, and for other purposes; from the Committee on Appropriations ; placed on the calendar.

By Mr. DEWINE:

S. 2826. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes; from the Committee on Appropriations; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATCH (for himself and Mr. LEAHY):

S. Res. 430. A resolution designating November 2004 as "National Runaway Prevention Month"; to the Committee on the Judiciary.

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. FEINGOLD, Mrs. DOLE, Ms. MIKULSKI, Mr. BROWNBACK, Mr. LEAHY, Mr. LUGAR, and Mr. CORZINE):

S. Res. 431. A resolution expressing the sense of the Senate that the United Nations Security Council should immediately consider and take appropriate actions to respond to the growing threats posed by conditions in Burma under the illegitimate rule of the State Peace and Development Council; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 91

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 91, a bill to amend title 9, United States Code, to provide for greater fairness in the arbitration process relating to livestock and poultry contracts.

S. 491

At the request of Mr. REID, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 1379

At the request of Mr. JOHNSON, the names of the Senator from Colorado (Mr. CAMPBELL) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1397

At the request of Mr. GREGG, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1397, a bill to prohibit certain abortion-related discrimination in governmental activities.

S. 1428

At the request of Mr. MCCONNELL, the names of the Senator from Texas (Mr. CORNYN) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 1428, a bill to prohibit civil liability actions from being brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for damages or injunctive relief for claims of injury resulting from a person's weight gain, obesity, or any health condition related to weight gain or obesity.

S. 1925

At the request of Mr. KENNEDY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1925, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

S. 2018

At the request of Mr. BUNNING, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2018, a bill to amend the National Trails System Act to extend the Lewis and Clark National Historic Trail to include additional sites associated with the preparation or return phase of the expedition, and for other purposes.

S. 2158

At the request of Ms. COLLINS, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2253

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2253, a bill to permit young adults to perform projects to prevent fire and suppress fires, and provide disaster relief, on public land through a Healthy Forest Youth Conservation Corps.

S. 2279

At the request of Mr. HOLLINGS, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2279, a bill to amend title 46, United States Code, with respect to maritime transportation security, and for other purposes.

S. 2336

At the request of Mr. REID, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2336, a bill to expand access to preventive health care services and education programs that help reduce unintended pregnancy, reduce infection with sexually transmitted disease, and reduce the number of abortions.

S. 2425

At the request of Mr. BYRD, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2466

At the request of Mr. BROWNBACK, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 2466, a bill to ensure that women seeking an abortion are fully informed regarding the pain experienced by their unborn child.

S. 2468

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2468, a bill to reform the postal laws of the United States.

S. 2489

At the request of Mr. INOUYE, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 2489, a bill to establish a program within the National Oceanic and Atmospheric Administration to integrate Federal coastal and ocean mapping activities.

S. 2553

At the request of Mr. DODD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2553, a bill to amend title XVIII of the Social Security Act to provide for coverage of screening ultrasound for abdominal aortic aneurysms under part B of the medicare program.

S. 2568

At the request of Mr. BIDEN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2671

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2671, a bill to extend temporary State fiscal relief, and for other purposes.

S. 2686

At the request of Mr. ENZI, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 2686, a bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act.

S. 2740

At the request of Mr. DASCHLE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2740, a bill to improve dental services in underserved areas by amending the Public Health Service Act, and for other purposes.

S. 2744

At the request of Mr. SUNUNU, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Louisiana (Mr. BREAUX), the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Ms. COLLINS), the Senator from Hawaii (Mr. INOUYE), the Senator from Indiana (Mr. LUGAR), the Senator from Illinois (Mr. FITZGERALD) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 2744, a bill to authorize the minting and issuance of a Presidential $1 coin series.

S. 2781

At the request of Mr. LUGAR, the names of the Senator from Arizona (Mr. MCCAIN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 2781, a bill to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes.

S. 2795

At the request of Mr. ENZI, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2795, a bill to provide for higher education affordability, access, and opportunity.

S. 2813

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2813, a bill to designate the facility of the United States Postal Service located at 19504 Linden Boulevard in St. Albans, New York, as the "Archie Spigner Post Office Building".

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. CON. RES. 136

At the request of Mr. CONRAD, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 365

At the request of Mr. BROWNBACK, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. Res. 365, a resolution expressing the sense of the Senate regarding the detention of Tibetan political prisoners by the Government of the People's Republic of China.

S. RES. 420

At the request of Mr. PRYOR, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Jersey (Mr. CORZINE), the Senator from New York (Mrs. CLINTON), the Senator from Minnesota (Mr. DAYTON) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. Res. 420, a resolution recommending expenditures for an appropriate visitors center at Little Rock Central High School National Historic Site to commemorate the desegregation of Little Rock Central High School.

S. RES. 424

At the request of Mr. CRAIG, the names of the Senator from Nebraska (Mr. HAGEL), the Senator from Maryland (Ms. MIKULSKI), the Senator from Mississippi (Mr. COCHRAN), the Senator from Oregon (Mr. SMITH), the Senator from Washington (Mrs. MURRAY), the Senator from Indiana (Mr. BAYH) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. Res. 424, a resolution designating October 2004 as "Protecting Older Americans From Fraud Month".

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Mr. BUNNING, Mr. BAYH, and Mr. FITZGERALD):

S. 2817. A bill to provide for the redesign of the reverse of the Lincoln 1-cent coin in 2009 in commemoration of the 200th anniversary of the birth of President Abraham Lincoln; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DURBIN. Mr. President, today I am introducing a bill to honor Abraham Lincoln in 2009, the bicentennial of his birth, by issuing a series of 1-cent coins with designs on the reverse that are emblematic of the 4 major periods of his life, in Kentucky, Indiana, Illinois, and Washington, D.C. The bill would also provide for a longer-term redesign of the reverse of 1-cent coins so that after 2009 they will bear an image emblematic of Lincoln's preservation of the United States as a single and united country.

Abraham Lincoln was one of our greatest leaders, demonstrating enormous courage and strength of character during the Civil War, perhaps the greatest crisis in our Nation's history. Lincoln was born in Kentucky, grew to adulthood in Indiana, achieved fame in Illinois, and led the Nation in Washington, D.C. He rose to the Presidency through a combination of honesty, integrity, intelligence, and commitment to the United States.

Adhering to the belief that all men are created equal, Lincoln led the effort to free all slaves in the United States. Despite the great passions aroused by the Civil War, Lincoln had a generous heart and acted with malice toward none and with charity for all. Lincoln made the ultimate sacrifice for the country he loved, dying from an assassin's bullet on April 15, 1865. All

Americans could benefit from studying the life of Abraham Lincoln.

The "Lincoln cent" was introduced in 1909 on the 100th anniversary of Lincoln's birth, making the front design by sculptor Victor David Brenner the most enduring image on the nation's coinage. President Theodore Roosevelt was so impressed by Brenner's talent that he was chosen to design the likeness of Lincoln for the coin, adapting a design from a plaque Brenner had prepared earlier. In the nearly 100 years of production of the "Lincoln cent," there have been only two designs on the reverse: the original, featuring two wheat-heads, and the current representation of the Lincoln Memorial in Washington, D.C.

On the occasion of the bicentennial of Lincoln's birth and the 100th anniversary of the production of the Lincoln cent, we should recognize his great achievement in ensuring that the United States remained on Nation, united and inseparable.

By Mr. DOMENICI:

S. 2818. A bill to amend the Help America Vote Act of 2002 to ensure the same requirements that apply to voters who register by mail also apply to voters who do not register in person with an officer or employee of a State or local government entity, and to provide for increased penalties for fraudulent registration in cases involving 10 or more violations; to the Committee on Rules and Administration.

Mr. DOMENICI. Mr. President, the 2004 election is quickly approaching, and all Americans must be assured that when they cast their ballots, they will do so with the knowledge that the United States has done everything possible to ensure the election will be fair. Therefore, I rise today to introduce a commonsense election reform bill that will amend the law to add additional simple steps that will help ensure the integrity of the voting process and increase criminal penalties for those who knowingly and willfully commit fraud in voter registration.

There is a recent court decision in New Mexico that has taken the plain reading of a very clearly written statute and has turned it on its head. The statute says:

> (4) a statement informing the applicant, that: (a) if the form is not submitted in person by the applicant and the applicant is registering for the first time in New Mexico, the applicant must submit with the form a copy of a current and valid photo identification, utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the applicant—

I stress again, "in person."

> (b) if the applicant does not submit the required identification, he will be required to do so when he votes in person or absentee.

I submit the statute could not be clearer. However, in a bizarre contortion of logic, the New Mexico Secretary of State has determined that a third party can register 10, 100 or 1,000 voters. As long as that third party shows up in person at the county clerk's office, the actual voter does not have to show identification. Have we ever heard of anything more ridiculous?

I believe the root cause of this problem is the recent proliferation of 527s that have begun to pop up throughout the country, largely uncontrolled and unregulated. These 527s have taken unlimited financial contributions from individual and other private sources to conduct voter mobilization drives and other activities. I am not against registering as many as we can, but this and the ruling seem to me to leave many voters to be unfairly treated because their vote may be wiped out by those who have not followed the State statute.

While no one will argue against a laudable goal, as I indicated, of increasing voter registration and voter turnout, the unintended consequence of these activities I have described can be immense. The paid volunteers of these 527s are largely untrained, not familiar with communities in which they are working, nor are they familiar with the realities of election laws. In many cases, the volunteers are being paid by the number of people they are able to register. This has resulted in certain voters being registered two or more times at multiple addresses under multiple names.

My hometown paper, the Albuquerque Journal, has published stories about minors receiving voter registration cards in the mail as well as stories about paid volunteers telling convicted felons they have unlimited ability to register and vote. County clerks have also said they have been inundated with thousands of incomplete or illegible forms.

While no one can be sure of the exact effect of these 527s and what their effect will be on voter fraud in registration and in casting votes, the bill I am introducing today will amend the Help America Vote Act, called HAVA, by extending the identification requirements to individuals who have not themselves registered in person with their county clerk. In addition, it will enhance the penalties for individuals who knowingly and fraudulently register 10 or more people to vote.

I know many people will believe my intentions in introducing this legislation are partisan. Skeptics will say my motive is political. But voter fraud is not about partisanship or politics; it is about fairness. Voter fraud is not a political act; it is a criminal act.

Voting is the most important duty and responsibility of our citizens. Other reform issues have received a lot of attention, but I believe it is imperative to focus our attention on the fundamental issue of casting votes honestly and fairly. The Help America Vote Act, which we passed in 2002, and the hundreds of new State laws that implement it fail to provide adequate uniform systems that verify voter identity, as I have indicated, or by court interpretation wipe out the protections that might be contemplated by clear and unambiguous statutes.

Requiring a voter to provide identification prior to voting is not an unreasonable imposition, given the responsibility and possibilities that are attendant to not doing that are truly monumental. Simple and straightforward reforms, such as the one I am proposing, will make it easier to vote but harder to cheat. Showing the American public that we are serious about elections and those who might seek to do it improperly will go a long way toward restoring confidence in the registration and balloting process.

I have already indicated that I sent the bill to the desk for appropriate referral.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The right to vote is a fundamental and incontrovertible right under the Constitution.

(2) There is a need for Congress to encourage and enable every eligible American to vote by reaffirming that the right to vote is a fundamental right under the Constitution.

(3) There is a need for Congress to encourage and enable every eligible American to vote by reaffirming that the United States is a democratic government "of the people, by the people, and for the people" in which every vote counts.

(4) There is a need for Congress to encourage and enable every eligible American to vote by eliminating procedural obstacles to voting.

(5) There is a need to counter discrimination in voting by removing barriers to the exercise of the constitutionally protected right to vote.

(6) There is a need to ensure that voter registration processes fairly incorporate every eligible American seeking to exercise the right to vote.

(7) Participation in the electoral process is a fundamental civic responsibility in which all eligible Americans should be encouraged to actively participate.

(8) There is a need to ensure that every eligible American seeking to exercise the right to vote has access to the electoral process through a uniform system of voter registration that includes each voter's personal registration with an appropriate State or local government election entity.

(9) Congress has authority under section 4 of Article I of the Constitution of the United States, section 5 of the Fourteenth Amendment to the Constitution of the United States, and section 2 of the Fifteenth Amendment to the Constitution of the

United States to enact legislation to address the equal protection violations that may be caused by unfair voting systems.

(10) Congress has an obligation to ensure that the States and localities improve election administration and to ensure the integrity of full participation of all Americans in the democratic election process.

SEC. 2. REQUIREMENTS FOR VOTERS WHO DO NOT REGISTER IN PERSON WITH AN OFFICER OR EMPLOYEE OF A STATE OR LOCAL GOVERNMENT ENTITY.

(a) IN GENERAL.—

(1) APPLICATION OF REQUIREMENTS TO VOTERS NOT REGISTERING IN PERSON.—Section 303(b)(1)(A) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(1)(A)) is amended to read as follows:

"(A) the individual—

"(i) registered to vote in a jurisdiction by mail; or

"(ii) did not register to vote in a jurisdiction in person with an officer or employee of a State or local government entity; and".

(2) MEANING OF IN PERSON.—Paragraph (1) of section 303(b) of such Act is amended by inserting at the end the following:

"For purposes of subparagraph (A)(ii), an individual shall not be considered to have registered in person if the registration is made by a person other than the person whose name appears on the voter registration form.".

(b) CONFORMING AMENDMENT.—The heading for subsection (b) of section 303 of such Act is amended by inserting "AND WHO DO NOT REGISTER IN PERSON" after "MAIL".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 303 of the Help America Vote Act of 2002.

SEC. 3. INCREASED PENALTIES RELATING TO FRAUDULENT VOTER REGISTRATION IN CASES INVOLVING 10 OR MORE VIOLATIONS.

(a) FALSE INFORMATION IN REGISTERING OR VOTING.—Subsection (c) of section 11 of the Voting Rights Act of 1965 (42 U.S.C. 1973i(c)) is amended by inserting at the end the following: "In the case of any person who is found to have been in violation of this section with respect to 10 or more voter registrations, this section shall be applied by substituting '$20,000' for '$10,000' and by substituting 'ten years' for 'five years' with respect to each such violation.".

(b) PENALTY UNDER NATIONAL VOTER REGISTRATION ACT OF 1993.—Section 12 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-10) is amended by inserting at the end the following: "In the case of any person who is found to have been in violation of paragraph (2)(A) with respect to 10 or more registration applications, such person shall be fined not less $500,000 ($1,000,000 in the case of an organization) or shall be imprisoned not more than 10 years, or both, and any such fine shall be paid into the general fund of the Treasury as provided in the preceding sentence.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring after the date of the enactment of this Act.

By Mr. SPECTER:

S. 2819. A bill to provide education to students in grades 8, 9, and 10 about the importance of higher education; to the Committee on Health, Education, Labor, and Pensions.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce the Higher Education Preparation Program Act of 2004, which is legislation designed to expand higher educational opportunities for American students. There is no doubt as to the benefit of receiving a post-secondary education. The level of education that individuals accumulate has an important influence on their experience in the labor market. According to 2002 U.S. Census Bureau statistics on educational attainment and earnings, the mean earnings of men with a bachelor's degree is $63,354, while the mean earnings of men with a high school degree is $32,363. This is a difference of more than $30,000 or 97 percent.

In recent years, there have been clear signs that more Americans are pursuing higher education opportunities. In June 2002, USA Today reported that 63 percent of high school graduates go to college immediately after graduation, the highest percentage in U.S. history. Yet not all of the news on college graduation rates has been good. Only 18 percent of African Americans and 11 percent of Hispanic high school graduates earn a bachelor's degree by their late twenties, compared to 33 percent of whites according to the National Center for Education Statistics (NCES) in 2001. Further, in 2000, NCES reported that 22 percent of low-income, college qualified high school graduates do not pursue post-secondary education, compared to 4 percent of high-income graduates.

As I travel through Pennsylvania, I still hear from too many middle school and high school students that they do not have the preparation necessary to enroll in higher education institutions. On a recent trip to the Commonwealth, I joined Andrew McKelvey—the founder of the McKelvey Foundation—to announce federal funding for entrepreneurial scholarships to rural, low-income Pennsylvania high school graduates. During that trip, I talked to Mr. McKelvey regarding the need to not only ensure access to funding for students to pursue higher education, but the need to both inform students about the importance of higher education, as well as prepare students for the application process.

The bill I am introducing today, the Higher Education Preparation Program Act of 2004, will help to educate middle school and high school students in grades 8, 9, and 10, about higher education opportunities. This bill will create a program which will both provide students with information on higher education opportunities and prepare students for the process of applying to institutions of higher education by providing access to higher education preparation instruction. The availability of information on higher education opportunities makes an enormous difference to students contemplating continuing their education at the undergraduate level.

My legislation will provide a grant to a nonprofit organization to develop a core curriculum to be taught in the classroom to equip middle and high school students with the appropriate skills and knowledge to pursue post-secondary education. Given the importance of higher education, it makes sense to prepare students for the undergraduate process as part of their class instruction to ensure that all students have access to the necessary information to attain their goals. To this end, middle schools and high schools participating in the program would dedicate one hour each week of their classroom activity to higher education preparation of students utilizing the core curriculum.

Additionally, I seek to create a network of intensive academic support for students by encouraging public-private partnerships to emphasize the importance of higher education. Partnerships with private entities create a unique opportunity for middle schools and high schools to supplement and enhance the core curriculum by offering appropriate enrichments, including guest speakers, videos and web-based services. For example, through these partnerships, middle school and high school students will gain first-hand knowledge of the skills that businesses are seeking by having the opportunity to speak with business leaders, as well as perhaps tour local facilities. This will underscore the significance and importance of higher education for students as they embark on their future career paths.

To implement this initiative, my bill would authorize $10 million annually for fiscal years 2005 through 2010, for a nonprofit organization to develop a core curriculum which has as its cornerstone higher education preparation, as well as to establish this higher education preparation demonstration project. Under this project, five State educational agencies would be awarded federal funding to offer higher education preparation programs using the core curriculum in middle and high schools with historically low rates of student application and admission to post-secondary institutions.

It is my hope that this Act will ensure that students who wish to enroll in a higher education institution will have access to the tools and resources necessary to help them plan for undergraduate study. We must take this step to encourage students to pursue their educational goals especially those who might not otherwise have this opportunity. I urge my colleagues to join me in cosponsoring this Act, and urge its swift adoption.

By Mr. MCCAIN:

S. 2820. A bill to ensure the availability of certain spectrum for public safety entities by amending the Communications Act of 1934 to establish January 1, 2009, as the date by which the transition to digital television shall be completed, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Mr. President, I rise today to introduce a bill to support the Nation's finest: our police, fire fighters and other emergency response personnel. The "Spectrum Availability for Emergency-response and Law-enforcement to Improve Vital Emergency Services Act," otherwise known as "The SAVE LIVES Act." This bill is drafted in response to the 9-11 Commission's Final Report, which recommended the "expedited and increased assignment of radio spectrum for public safety purposes."

To meet this recommendation, the SAVE LIVES Act would set a date certain for the allocation of spectrum to public safety agencies, specifically the 24 MHz of spectrum in the 700 MHz band that Congress promised public safety agencies in 1997. This is a promise Congress has yet to deliver to our Nation's first responders. Now is the time for Congressional action before another national emergency or crisis takes place. Access to this specific spectrum is essential to our Nation's safety and welfare as emergency communications sent over these frequencies are able to penetrate walls and travel great distances, and can assist multiple jurisdictions in deploying interoperable communications systems.

In addition to setting a date certain, this bill would provide funds for public safety agencies to purchase emergency communications equipment, require the Federal Communications Commission (FCC) and the Department of Homeland Security (DHS) to study whether additional spectrum is necessary to support emergency communications systems, authorize a DHS program promoting interoperable emergency communications systems, provide funds to ensure no consumers' television set goes "dark" due to public safety's use of this television spectrum, mandate labeling of all analog television sets to better prepare consumers for the digital transition, support a consumer education program on digital television and required the FCC to complete its outstanding digital television proceedings.

The 9-11 Commission's Final Report found, "The inability to communicate was a critical element at the World Trade Center, Pentagon and Somerset County, Pennsylvania, crash sites, where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the local, state, and federal levels remains an important problem." This bill would improve public safety interoperability and capability as quickly as possible.

However, the 24 MHz of spectrum promised to public safety organizations is currently being used by the television broadcasters, and will not be available until the broadcasters complete the transition to digital television. At a recent Senate Commerce Committee hearing, Federal Communications Commission (FCC) Chairman Michael K. Powell stated that absent intervening legislation broadcasters may not be able to vacate this spectrum for "decades" or "multiples of decades."

Therefore, this bill would set a firm deadline for the completion of the digital television transition: December 31, 2008. This date ensures that this spectrum would be available for use by police, fire fighters and other first responders no later than January 1, 2009. Is this soon enough? No, I wish it could be sooner. But after hearing testimony from Chairman Powell, public safety organizations and broadcasters at a recent Senate Commerce Committee hearing, I decided that a December 31, 2008 date presents the most reasonable deadline providing numerous benefits to consumers and public safety organizations, including: 1. Adequate time for public safety agencies to begin building their interoperable communications networks to operate in the 700 MHz band; 2. Sufficient time for the government to auction some of the remaining spectrum in the 700 MHz band to raise funds for the purchase and installation of new interoperable public safety communications equipment; 3. The certainty that manufacturers need to warrant the development and build-out of interoperable public safety communications equipment for use in the 700 MHz band; 4. Preparation time for consumers and the government to get ready for the completion of the digital transition, including time to purchase more digital television sets and time for the government to implement a subsidy program to ensure no television sets go "dark" on January 1, 2009; 5. A seamless transition period where all television stations migrate at once to digital broadcasting; and, 6. Sufficient time for the FCC to complete its outstanding proceedings regarding the digital television transition.

In addition to setting a firm date for public safety's use of the spectrum, the bill would require the FCC, in consultation with DHS, to conduct a study to assess public safety organizations' future communications needs, including the need for additional spectrum, the need for a nationwide interoperable broadband mobile communications network, the ability of public safety organizations to use broadband and narrowband applications, and whether other first responders such as hospital and health care workers should be included in a nation-wide interoperable communications system. If our Nation's first responders need more spectrum to perform their work safely, then Congress should ensure that more spectrum is available at the same time the public safety organizations begin preparing to use the promised 24 MHz. This allows for efficiency and ensures that public safety organizations will not be subjected to multiple implementations of new communications equipment.

This bill would also ask the FCC to study the advisability of reallocating some of the spectrum in the 700 MHz band for unlicensed wireless broadband uses. Unlicensed wireless broadband has many prospective benefits to our Nation and allows the potential for pervasive connectivity nationwide. The bill would require the FCC to report back to the Senate and House Commerce Committees within one year of the bill's enactment on both studies' findings; however, nothing in the bill would preclude the FCC from taking action with respect to spectrum for unlicensed uses before completion of its report.

The SAVE LIVES Act would authorize one of the President's top E-Government initiatives: DHS' Wireless Public SAFEty Interoperability COMMunications Program, commonly referred to as SAFECOM. This program serves as the umbrella program within the Federal Government to coordinate the efforts of local, tribal, state and Federal public safety agencies to promote effective, efficient and interoperable wireless communications. SAFECOM has been moved between the Department of Justice and the Department of Treasury and now resides at DHS. By authorizing SAFECOM within its rightful place, DHS, it ensures the program will remain available to assist our Nation's first responders and localities.

SAFECOM has served as a consultant to many states and localities assisting with the development of their interoperable emergency communications systems. However, most importantly, SAFECOM has completed the development of critical standards for public safety communications equipment mandating interoperability, which is now included as a condition on all monies provided to localities by the Federal Government for public safety communications equipment. This should provide for greater national interoperability and decreased costs for localities. Recognizing the need for a centralized office to handle all aspects of emergency communications planning, the Administration created SAFECOM and this bill would authorize it.

Additionally, this bill would appropriate auction revenues from the sale of returned analog broadcast spectrum to create a subsidy to limit the disruption of broadcast services to the public, especially for those who rely exclusively on over-the-air broadcast television. The total cost of this subsidy program is not to exceed $1 billion. This may sound like a great deal on money, especially to a fiscal conservative like myself; however, it is only a small portion of the revenues it is believed the auction of this spectrum will generate. And most importantly, it is a small cost to ensure that all Americans have access to over-the-air television. Local television broadcasting is truly an important part of our homeland security and often an important communications vehicle in the event of a national, regional or local emergency.

The New America Foundation testified before the Commerce Committee in June 2004 that the auction of the analog television spectrum can be expected to yield between $30-to-$40 billion in revenue to the Treasury. Last week in testimony before the Senate Commerce Committee, FCC Chairman Powell stated that he has heard estimates as high as $70 billion. Based on these projections, the $1 billion to fund a consumer subsidy program would be less than three percent of the total expected auction revenues from the analog television spectrum.

One billion may even be more than enough to assist the 17.4 million over-the-air consumers because this figure assumes that digital-to-analog converter boxes will retail for approximately $75 per box in 2008. Last week, Motorola testified that they would introduce a digital-to-analog converter box for $67 per unit in the near term. Motorola calculated that such a price per unit would cap the cost of providing converters at less than $840 million nationwide to all over-the-air consumers. This week Zenith Electronics announced that the company intends to retail digital-to-analog converter boxes at $50 to $70 per unit within four years.

The bill would also establish the parameters for the subsidy program, requiring the program to be developed by the Department of Commerce in conjunction with the Office of Management and Budget and established no later than January 1, 2008. The bill would require the program to give priority to funding equipment or services to low income viewers, to offer these viewers technology neutral options and to be conducted at the lowest feasible administrative cost.

The bill would also authorize any remaining funds from the subsidy program, along with other auction monies, to be used to establish a grant program to provide public safety organizations with emergency communications equipment so these groups can begin using the 24 MHz of spectrum by January 2009. The specific amount would be determined by the Director of the Office of Management and Budget and be based on a National Baseline Interoperability study currently being conducted by SAFECOM. This study is currently being performed to determine the precise amount that is already being provided by the Federal government to local and regional public safety organizations for the purchase of new communications equipment and for the funding of emergency communications training.

There are numerous grant programs throughout the Federal government, however no agency has ever studied how much money from how many grants is being provided to localities. After this study is completed, as required by this legislation by December 31, 2005, the Federal government will best know how much money is necessary to ensure that public safety organizations have the equipment necessary to immediately begin using the 700 MHz spectrum in January 2009.

At the September 8, 2004 Senate Commerce Committee hearing, a representative of public safety organizations testified, "There also needs to be expanded funding for equipment, and more extensive planning and cooperation among public safety personnel at all levels of government. This includes local governments who must interoperate with their neighbors and with overlapping jurisdictions, regional authorities covering large metropolitan areas and sometimes crossing state borders, states through their State Interoperability Executive Committees (SIECs), and the Federal Government." This bill would respond to such requests from public safety organizations and localities. Just providing spectrum to public safety is not enough. Without funds to purchase new equipment, this spectrum may sit fallow after being vacated by the broadcasters. This would be an unfair result to broadcasters, public safety organizations and American citizens.

In pursuit of educating consumers about the digital television transition, the bill would require, after September 30, 2005, the labeling of all analog television sets to communicate to buyers that the purchase of additional equipment may be necessary after December 31, 2008. The bill would also require retailers to post the same information at the store.

Also in an effort to educate consumers about the digital television transition, the bill would require, within one year of enactment, that the Department of Commerce report back to the Senate and House Commerce Committees any recommendations on an effective program to educate consumers about the digital television transition; the need, if any, for Federal funding, and the duration of such a program. Lastly, the bill would require the FCC to issue a decision on some remaining DTV proceedings, including a proceeding on whether cable or satellite companies should be required to carry broadcasters' multi-cast channels and whether broadcasters should have additional public interest requirements as part of the DTV transition.

Specifically, the 9–11 Commission's Final Report gave Congress clear directives: accelerate the availability of spectrum for public safety and provide more spectrum for public safety. Public safety organizations have stated that neither of these goals can be met without increasing funding for public safety. This legislation charts a course to achieve all three of these objectives without stranding over-the-air television consumers.

As you may be aware, Senator LIEBERMAN and I introduced S. 2774 earlier this month implementing the 9–11 Commission's final recommendations, including the recommendation that Congress should support H.R. 1425, "The Homeland Emergency Response Operations Act," commonly known as "The HERO Act." The HERO Act would set an earlier date of December 31, 2006 for the return of this spectrum. Senator LIEBERMAN and I included this language in our bill S. 2774.

After introducing S. 2774, I heard criticisms from some consumers and broadcasters that the HERO Act was flawed as it did not ensure continued over-the-air broadcast television service. Public safety organizations also remained skeptical that they would have the funds necessary to purchase equipment to operate on the newly acquired spectrum. Therefore, last week, as Chairman of the Commerce Committee, I held a Committee hearing to examine the benefits and shortcomings of the HERO Act, and whether there are other policy proposals that could achieve the same result, providing spectrum and equipment expediously to public safety organizations, without potentially forcing some television broadcast stations to go "dark."

I heard testimony that in order to meet the HERO Act's December 31, 2006 deadline, at least 40 broadcast stations, and possibly more, broadcasting on this spectrum would be required to vacate. In many of these markets, there is no available spectrum for station relocation, meaning this legislation may force some stations, including many Spanish language stations, to cease over-the-air broadcasting possibly harming consumers. As the CEO of PAXTV, a broadcaster who broadcasts on 17 of these 40 affected stations, aptly stated, "Our money was invested on the basis that we would be treated equally with all television stations during the transition. The [HERO Act] discriminates against us."

I heard testimony from public safety representatives that the 24 MHz was not enough, that more spectrum and more funds were needed to ensure adequate interoperable emergency communications systems are in place to ensure the safety of first responders and the public. Chief Devine of the Missouri State Highway Patrol stated, "Inadequate spectrum leads to congested channels and interference among licensees, potentially blocking life-saving radio communications and generating confusion during critical incidents. Additional spectrum capacity would alleviate that congestion and allow for much faster 'ramping up' of communications capability when major emergencies occur."

In an effort to expediously retrieve the spectrum for the Nation's first responders, to preserve over-the-air television accessibility to consumers and to ensure the adequate funding of both, I urge the enactment of The SAVE LIVES Act.

By Ms. SNOWE (for herself and Mr. BOND):

S. 2821. A bill to reauthorize certain programs of the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to introduce the "Small Business Reauthorization and Manufacturing Assistance Act of 2004," that reauthorizes programs administered by the Small Business Administration under the Small Business Act and the Small Business Investment Act of 1958, and contains significant improvements to SBA programs.

I am confident that the bill before us will accelerate our efforts to work with the other body to resolve outstanding issues that are blocking passage of a larger Small Business Administration reauthorization bill. It is my hope Congress can send a final bill to help small businesses to the President for signature before the close of the 108th Congress.

The bill before us contains many provisions that are substantively similar to the Small Business Administration 50th Anniversary Reauthorization Act of 2003, S. 1375, which was passed by the Senate on September 26, 2003.

The fundamental purpose of the SBA is to "aid, counsel, assist, and protect the interests of small-business concerns." The methods for carrying out the mandates set forth by Congress include a wide array of financial, procurement, management, and technical assistance programs tailored to encourage small business growth and expansion. As the economy continues to recover and grow, it is essential that Congress send a message that affirms long-term stability in the programs the SBA provides to the small business community.

In the 50-year period since the establishment of the SBA, there have been many revisions and additions to the methods and organizational structure used by the SBA to respond to the evolving needs of the small business. This bill I introduce today builds on those changes.

Since 1953, nearly 20 million small business owners have received direct or indirect help from one of the SBA's lending or technical assistance programs, making the agency one of the government's most cost-effective instruments for economic development.

SBA's current loan portfolio of more than 200,000 loans worth more than $45 billion makes it the largest single supporter of small businesses in the country. In this year alone, lenders have made 83,912 loans to small businesses in the SBA's two major loan programs, with a total value of $16.5 billion.

Moreover, the SBA's Small Business Investment Company program's current portfolio of more than 16,900 financings with an initial investment amount of $17.2 billion makes it the largest single equity-type backer of U.S. businesses in the Nation. Since 1958 the venture capital program has put more than $42.3 billion into the hands of small business owners, and this year it has produced investments of more than $2.6 billion in small businesses.

The SBA estimates that thus far in the current fiscal year its loan and venture capital programs have provided small businesses with $19.7 billion in various forms of financing, and have allowed small businesses to create or retain 716,144 jobs.

In my home State of Maine, almost 2,500 SBA loans have been made since 1999, for a total of over $288 million, to small businesses that might not have qualified for loans through lending channels not supported by the SBA.

Each year, there are 3 to 4 million new business start-ups and one in 25 adult Americans are taking steps to start a business. These small business owners now want to make plans for the future, including decisions that will create approximately two-thirds of all net new jobs and help sustain local communities, according to a recent survey by the National Federation of Independent Business.

Over the last five years the SBA's programs and services have helped create and retain over 6.2 million jobs. According to the SBA, the $65.5 billion awarded to small businesses in Federal prime and subcontracts in FY 2003 will create or retain close to 500,000 jobs.

The SBA also estimates that reauthorizing the agency will result in the creation or retention of an estimated 3.3 million jobs over the next 5 years. During that same period, the SBA and its programs are predicted to support over 1 million jobs through prime contracts and subcontracts.

In September 2003, the Senate unanimously passed a bill that I had introduced to reauthorize for 3 years the SBA and its programs, the Small Business Administration 50th Anniversary Reauthorization Act of 2003. However, the other body has been stalled for almost a year in its consideration of legislation to reauthorize the SBA.

In a highly competitive and dynamic economy, too much is at stake for small firms, and the economy as a whole, to let this legislation languish. With passage of a new multi-year reauthorization bill, we will ensure that the SBA is well-positioned to help small businesses. Clearly, this is not the time to delay legislation that directly benefits the backbone of our economy, and our hope for the future—the small firms that are most responsible for putting people to work.

With the close of the 108th Congress rapidly approaching, the time to act is now!

I urge my colleagues to support this bill for the benefit of small businesses, our economy, and our Nation.

By Mr. REID (for himself, Mr. BOND, and Mr. JEFFORDS):

S. 2822. A bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Environment and Public Works.

Mr. REID. Mr. President, just this week—and this is only Tuesday—the American Association of State Highway and Transportation Officials, known as AASHTO, which is comprised of the transportation leaders from the 50 States—the State of Missouri has a director of the department of transportation, the State of Ohio has a director of the department of transportation, the State of Nevada does; their titles may vary a little bit, but that is their job; that is who this AASHTO is composed of, among others—they have called this week upon Congress to immediately pass a "well funded, six year reauthorization" of the Nation's transportation program. I agree with them. But as you know, this program expired a year ago and the States have been operating under a series of short-term extensions. This has disrupted their construction programs, delayed safety improvements, and interrupted funding to transit operators.

The fact is, we are not going to have a 6-year reauthorization bill this year for a lot of reasons, not the least of which is that we passed, as the Presiding Officer knows, a bill that was advocated for and supported by the senior Senator from the State of Missouri, a bill that passed this House by a huge margin, a bill that created funding at a level of $318 billion over the period of time of the bill. That bill did not increase the Federal deficit a skinny dime, not anything. It was a good bill, and we were stunned to learn that the President wanted a bill at a much lower level, some $250-odd billion. Why? I have spoken to some of his closest friends around here, and they have not got a reason for that.

We have now some in this body who are bowing to pressure from the White

House and are trying to write a bill at $284 billion, which is $28 billion more than what the President said he would agree to. Both of these are well below the spending limits called for by the U.S. Department of Transportation as to what they need, what their analysis is, and that which is sought by the entire transportation industry.

Not only do we have a resolution from AASHTO, the transportation directors, but we also have a letter from the United States Conference of Mayors which is quite clear and basically says the same thing. We also have a resolution from the Association of Metropolitan Planning Organizations.

In the absence of a well-funded, multiyear reauthorization bill, the Nation's State transportation officials have called for at least a 6-month extension of the current program.

I ask unanimous consent that the resolution dated September 20, 2004, from the American Association of State Highway and Transportation Officials be printed in the RECORD, along with the documents I spoke of from the United States Conference of Mayors and the Association of Metropolitan Planning Organizations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POLICY RESOLUTION PR–06–04

Whereas, rescission of previously apportioned contract authority has become commonplace in recent appropriations bills, and

Whereas, the Transportation Equity Act for the 21st Century, authorizing funding for federal-aid highway, transit and highway transit safety programs, expired on September 30, 2003;

Whereas, the AASHTO Board of Directors passed a resolution on May 16, 2004 calling for prompt enactment of a well-funded, six-year reauthorization bill;

Whereas, the Congress has not yet passed a well funded, six-year reauthorization bill;

Whereas, further extensions are intolerable and have the following negative impacts on the Nation's transportation system: Disruption to the construction program, adverse effects on transportation decision making, safety improvements delayed, funding disruptions to grant recipients;

Whereas, prompt enactment of such a bill before the adjournment of the 108th Congress remains the top priority of state departments of transportation: Now, therefore, be it

Resolved, if Congress determines that an extension is absolutely necessary, then it should be for six months to avoid a series of disruptive and harmful shorter term extensions; and be it further

Resolved, That such extension should provide for funding at levels higher than FY 2004; and be it further

Resolved, That immediate reauthorization of the highway and transit program at maximum funding levels is urgently needed and preferable to any extension; and be it further

Resolved, That a six-month extension of the federal-aid highway and transit programs should, to the maximum extent possible, apportion highway funds to the States through the existing core highway programs.

THE UNITED STATES
CONFERENCE OF MAYORS,
Washington, DC, September 21, 2004.

Hon. DON YOUNG,
Chair, Transportation and Infrastructure Committee, Rayburn House Office Building, House of Representatives, Washington, DC.

Hon. JAMES OBERSTAR,
Ranking Member, Transportation and Infrastructure Committee, Rayburn House Office Building, House of Representatives, Washington, DC.

Hon. JAMES M. INHOFE,
Chair, Environment and Public Works Committee, Dirksen Senate Office Building, U.S. Senate, Washington, DC.

Hon. JAMES M. JEFFORDS,
Ranking Member, Environment and Public Works Committee, Dirksen Senate Office Building, U.S. Senate, Washington, DC.

DEAR CONFEREES: In August, The United States Conference of Mayors met in Chicago, Illinois for a special leadership meeting to release its updated 4-point policy agenda for keeping America Strong: Mayors '04 Metro Agenda for America's Cities.

A major cornerstone of that agenda is transportation investment of no less than $318 billion over six years for the reauthorization of the nation's surface transportation law (TEA–21) to build a 21st Century Transportation system with modern transit, bridges, large-scale transportation infrastructure projects, and metro highway systems with new technologies that link major metro areas, cut the time people spend in traffic, create more jobs, and move goods and services more productively.

Should Congress determine an extension is necessary to meet an investment of $318 billion over six-years, the nation's mayors urge the adoption of a simple extension of no less than six months avoiding disruption to the transportation program occurring under short-term extensions.

Maintaining the Conference's support for a $318 billion transportation bill requires continued balanced transportation investment in our metropolitan areas including:

PUBLIC TRANSPORTATION INVESTMENT

Recognizing that public transportation reduces congestion, the nation's mayors urge no less than $56.5 billion for public transportation to stimulate a dramatic expansion of high-capacity public transit systems, including light rail, heavy rail, commuter rail, and bus service.

Funding for the transit program from the general fund and the Mass Transit Account of the Highway Trust Fund should be guaranteed and we support maintaining current federal-local matching shares for the transit program as authorized under ISTEA and TEA–21.

Oppose efforts to increase funding for the highway program by reducing funding for the transit program by maintaining the 20% transit–80% highway share.

Support the historical funding allocation of 40% for rail modernization, 40% for the new starts program and 20% for the bus and bus facilities program as included in H.R. 3550.

Recognizing that cities throughout the United States are embracing less expensive, fixed guideway transit projects like streetcars, trolleys and bus rapid transit, we support the establishment of a new Small Starts Program with modified Federal rules to expedite these projects.

METROPOLITAN INFRASTRUCTURE INVESTMENT

Acknowledging that 32 percent of our major roads are in poor condition and 29 percent of the nation's bridges are structurally deficient or functionally obsolete, we urge you to fund the core highway programs at no less than the $261.5 billion identified in the Senate bill.

Recognizing that it is difficult for localities and states to dedicate adequate resources to build, rebuild, or repair large-scale infrastructure projects addressing freight and goods movement, safety, and aging and congested transportation infrastructure, we urge no less than $6.6 billion for "Projects of National and Regional Significance."

ENVIRONMENTAL INVESTMENT

The Congestion Mitigation and Air Quality Program (CMAQ) should be funded at the Senate's $13.4 billion level in response to the growing number of non-attainment areas designated under the 8-hour ozone and fine particulate matter standards.

Oppose efforts designed to divert CMAQ funds to other purposes, undermining commitments to metropolitan areas to fund the clean air mandate. Recognizing that metropolitan areas are struggling with the contamination of drinking water and the clean-up of streams, rivers, lakes and ponds from stormwater discharge, including oil, grease, lead and mercury, the nation's mayors support the establishment of a Highway Stormwater Discharge Mitigation Program as designed in S. 1072.

SAFETY AND INCREASED PUBLIC INVESTMENT

Recognizing that safe routes for bicycles, walking and other non-motorized transportation choices are still inadequate in many metropolitan areas, the nation's mayors support the Safe Routes to School program as designed and funded H.R. 3550 and also support maximum funding for Transportation Enhancements.

We urge you to support the metropolitan planning fund provision in the Senate bill that would increase the take down for metropolitan areas from 1 percent to 1.5 percent. We believe this adjustment will enhance clean air efforts, increase public involvement and will improve congestion relief efforts.

OPPOSE TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM PROVISION THAT PREEMPTS LOCAL AND STATE RIGHTS-OF-WAY AUTHORITY

We urge you to oppose the Transportation Technology Innovation and Demonstration Program provision in S. 1072 (Section 2105 (a)(5)) and H.R. 3550 (Section 5205 (g)(4)) that preempts a local or state government from enforcing its rights-of-way management rules on companies seeking to provide Intelligent Vehicle Highway Systems.

We urge you to respect the unimpeded right of local government as owners/trustees of the rights-of-way to manage their rights-of-way and to receive compensation, including collection of all costs, including recovery of reasonable rent, for the rights-of-way by companies seeking access to the rights-of-way to provide Intelligent Vehicle Highway Systems.

Transportation is a top priority for America's mayors. Transportation is an economic stimulus. It creates jobs and helps ensure that metropolitan economies thrive and in turn the nation's economy.

The United States Conference of Mayors would be pleased to supply additional information to further your assessment of these issues before the conference committee. With strong backing from mayors across the nation on these issues, we stand ready to work with you on the reauthorization of TEA–21.

Sincerely,

TOM COCHRAN,
Executive Director.

RESOLUTION OF THE ASSOCIATION OF METROPOLITAN PLANNING ORGANIZATIONS TRANSPORTATION REAUTHORIZATION

Whereas, The Transportation Efficiency Act for the 21st Century, authorizing federal funding for highway and transit programs, expired on September 30, 2003; and

Whereas, the Congress has not yet passed a well-funded six-year reauthorization bill; and

Whereas, the last extension funds transportation projects through September 24, 2004, nearly the end of the federal fiscal year; and

Whereas, Metropolitan Planning Organizations (MPOs) develop their long range plans and Transportation Improvement Programs based on the expectation that predictable funding will be distributed for core programs, as has consistently been done in the first four TEA–21 extensions; and

Whereas, ongoing extensions impede quality planning; and

Whereas, after the 2000 census, 46 new MPOs were created without additional funds distributed to MPOs: Now, let it be

Resolved That the Association of Metropolitan Planning Organizations (AMPO) urges Congress to promptly pass either a multi-year fully funded bill or a one-year extension, bearing in mind the needs of MPOs; and be it further

Resolved That money in the extension should be distributed by formula to core programs and earmarks should be deferred until reauthorization legislation; and be it further

Resolved, That core program funding should be spent for its intended purpose and not flexed into other areas, particularly CMAQ and STP suballocated to TMAs; and be it further

Resolved That Congress and the Administration take corrective action in order to ensure that the calculation for the allocation of FHWA metropolitan planning (PL) funds and urban attributable suballocated funds includes the minimum guarantee amount for the FY 2005 apportionment, whether a multi-year bill or a one-year extension is passed.

Mr. REID. As this Congress draws to a close, there continue to be large obstacles standing in the way of a well-funded, multiyear reauthorization. For this reason, I have joined with my friend and colleague Senator BOND in a bipartisan effort and have introduced this day a clean 6-month extension of the highway, transit, and highway safety programs. It certainly is my hope this would provide State and local officials with the predictability they need to effectively manage our transportation system.

I remain committed to working in a bipartisan way to achieve a successful reauthorization of the Nation's surface transportation laws. I hope we can move forward on this 6-month extension. It is important we do that. It is important we do it as quickly as possible. There is even some disagreement as to when the bill runs out, when we close down the Department of Transportation, whether it is this Friday or next Friday. The fact is, we have to do it very soon.

I appreciate the attention of Members.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Surface Transportation Extension Act of 2004, Part VI".

SEC. 2. ADVANCES.

(a) IN GENERAL.—The Secretary of Transportation (referred to in this Act as the "Secretary") shall apportion funds made available under section 1101(c) of the Transportation Equity Act for the 21st Century (117 Stat. 1111; 118 Stat. 876), to each State in the ratio that—

(1) the State's total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program; bears to

(2) all States' total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program.

(b) PROGRAMMATIC DISTRIBUTIONS.—

(1) PROGRAMS.—Of the funds to be apportioned to each State under subsection (a), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under paragraph (2), for—

(A) the Interstate maintenance program;

(B) the National Highway System program;

(C) the bridge program;

(D) the surface transportation program;

(E) the congestion mitigation and air quality improvement program;

(F) the recreational trails program;

(G) the Appalachian development highway system program; and

(H) the minimum guarantee.

(2) IN GENERAL.—The amount that each State shall be apportioned under this subsection for each item referred to in paragraph (1) shall be determined by multiplying—

(A) the amount apportioned to the State under subsection (a); by

(B) the ratio that—

(i) the amount of funds apportioned for the item to the State for fiscal year 2004; bears to

(ii) the total of the amount of funds apportioned for the items to the State for fiscal year 2004.

(3) ADMINISTRATION OF FUNDS.—Funds authorized by section 1101(l) of the Transportation Equity Act for the 21st Century (as added by subsection (d)) shall be administered as if the funds had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code; except that the deductions and set-asides in the following sections of such title shall not apply to such funds: sections 104(a)(1)(A), 104(a)(1)(B), 104(b)(1)(A), 104(d)(1), 104(d)(2), 104(f)(1), 104(h)(1), 118(c)(1), 140(b), 140(c), and 144(g)(1).

(4) SPECIAL RULES FOR MINIMUM GUARANTEE.—In carrying out the minimum guarantee under section 105(c) of title 23, United States Code, with funds apportioned under this section for the minimum guarantee, the $2,800,000,000 set forth in paragraph (1) of such section 105(c) shall be treated as being $1,400,000,000 and the aggregate of amounts apportioned to the States under this section for the minimum guarantee shall be treated, for purposes of such section 105(c), as amounts made available under section 105 of such title.

(5) EXTENSION OF OFF-SYSTEM BRIDGE SET-ASIDE.—Section 144(g)(3) of title 23, United States Code, is amended in the first sentence by inserting after "2004," the following: "and in the period of October 1, 2004, through March 31, 2005,".

(c) REPAYMENT FROM FUTURE APPORTIONMENTS.—

(1) IN GENERAL.—The Secretary shall reduce the amount that would be apportioned, but for this section, to a State for programs under chapter 1 of title 23, United States Code, for fiscal year 2005, under a multiyear law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act by the amount that is apportioned to each State under subsection (a) and section 5(c) for each such program.

(2) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds apportioned under subsection (a) for a program category for which funds are not authorized under a law described in paragraph (1) may be restored to the Federal-aid highway program.

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 1101 of the Transportation Equity Act for the 21st Century (112 Stat. 111; 117 Stat. 1118) is amended by adding at the end the following:

"(l) ADVANCE AUTHORIZATION FOR FISCAL YEAR 2005.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 2(a) of the Surface Transportation Extension Act of 2004, Part VI $18,080,500,000 for the period of October 1, 2004, through March 31, 2005.

"(2) SPECIAL RULE.—Funds apportioned under section 2(a) of the Surface Transportation Extension Act of 2004, Part VI shall be subject to a limitation on obligations for Federal-aid highways and highway safety construction programs.

"(3) CONTRACT AUTHORITY.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.".

(e) LIMITATION ON OBLIGATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), for the period of October 1, 2004, through March 31, 2005, the Secretary shall allocate to each State for programs funded under this section and section 5(c) an amount of obligation authority made available under an Act making appropriations for the Department of Transportation for fiscal year 2005 that is—

(A) equal to the greater of—

(i) the State's unobligated balance, as of October 1, 2004, of Federal-aid highway apportionments subject to any limitation on obligations, except that unobligated balances of contract authority from minimum guarantee and Appalachian development highway system apportionments for which obligation authority was made available until used shall not be included for purposes of calculating a State's unobligated balance of apportionments for this clause; or

(ii) $\frac{5}{12}$ of the State's total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program; but

(B) not greater than 75 percent of the State's total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program.

(2) LIMITATION ON AMOUNT.—The total of all allocations under paragraph (1) and allocations, for programs funded under sections 4, 5 (other than subsection (c)), and 6(a) of this Act, of obligation authority made available under an Act making appropriations for the Department of Transportation for fiscal year 2005 shall not exceed $17,450,000,000, except that this limitation shall not apply to $319,500,000 in obligations for minimum guarantee for the period of October 1, 2004, through March 31, 2005.

(3) TIME PERIOD FOR OBLIGATIONS OF FUNDS.—No funds shall be obligated for any Federal-aid highway program project after March 31, 2005, until the date of enactment of a multiyear law reauthorizing the Federal-aid highway program that is enacted after the date of enactment of this Act.

(4) TREATMENT OF OBLIGATIONS.—Any obligation of an allocation of obligation authority made under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 2005 for the purposes of the matter under the heading "(LIMITATION ON OBLIGATIONS)" under the heading "FEDERAL-AID HIGHWAYS" in an Act making appropriations for the Department of Transportation for fiscal year 2005.

SEC. 3. TRANSFERS OF UNOBLIGATED APPORTIONMENTS.

(a) IN GENERAL.—In addition to any other authority of a State to transfer funds, for fiscal year 2005, a State may transfer any funds apportioned to the State for any program under section 104(b) (including amounts apportioned under section 104(b)(3) or set aside, made available, or suballocated under section 133(d)) or 144 of title 23, United States Code, before, on, or after the date of enactment of this Act, that are subject to any limitation on obligations, and that are not obligated, to any other of those programs.

(b) TREATMENT OF TRANSFERRED FUNDS.—Any funds transferred to another program under subsection (a) shall be subject to the provisions of the program to which the funds are transferred, except that funds transferred to a program under section 133 (other than subsections (d)(1) and (d)(2)) of title 23, United States Code, shall not be subject to section 133(d) of that title.

(c) RESTORATION OF APPORTIONMENTS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of a multiyear law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act, the Secretary shall restore any funds that a State transferred under subsection (a) for any project not eligible for the funds but for this section to the program category from which the funds were transferred.

(2) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds transferred under subsection (a) from a program category for which funds are not authorized may be restored to the Federal-aid highway program.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—No provision of law, except a statute enacted after the date of enactment of this Act that expressly limits the application of this subsection, shall impair the authority of the Secretary to restore funds pursuant to this subsection.

(d) GUIDANCE.—The Secretary may issue guidance for use in carrying out this section.

SEC. 4. ADMINISTRATIVE EXPENSES.

(a) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for administrative expenses of the Federal-aid highway program $225,000,000 for fiscal year 2005.

(b) CONTRACT AUTHORITY.—Funds made available by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, and shall be subject to a limitation on obligations for Federal-aid highways and highway safety construction programs, except that such funds shall remain available until expended.

SEC. 5. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 118 Stat. 877) is amended—

(i) by inserting before the period at the end the following: "and $137,500,000 for the period of October 1, 2004, through March 31, 2005"; and

(ii) by adding at the end the following: "The minimum amount made available for such period that the Secretary, in cooperation with the Secretary of the Interior, shall reserve for Indian reservation road bridges under section 202(d)(4) of title 23, United States Code, shall be $6,500,000 instead of $13,000,000.".

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 118 Stat. 878) is amended by inserting before the period at the end the following: "and $123,000,000 for the period of October 1, 2004, through March 31, 2005".

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 118 Stat. 878) is amended by inserting before the period at the end the following: "and $82,500,000 for the period of October 1, 2004, through March 31, 2005".

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 118 Stat. 878) is amended by inserting before the period at the end the following: "and $10,000,000 for the period of October 1, 2004, through March 31, 2005".

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 118 Stat. 878) is amended by inserting before the period at the end the following: "and $70,000,000 for the period of October 1, 2004, through March 31, 2005".

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 112; 118 Stat. 878) is amended by inserting before the period at the end the following: "and $19,000,000 for the period of October 1, 2004, through March 31, 2005".

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—To carry out section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005; 118 Stat. 878), of funds made available by the amendment made by subparagraph (A)—

(i) $5,000,000 shall be available for section 1064(d)(2) of such Act;

(ii) $2,500,000 shall be available for section 1064(d)(3) of such Act; and

(iii) $2,500,000 shall be available for section 1064(d)(4) of such Act.

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 878) is amended by striking "fiscal years 2003 and 2004" and inserting "fiscal year 2003, and $13,750,000 for the period of October 1, 2004, through March 31, 2005".

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 118 Stat. 878) is amended—

(A) by striking "and"; and

(B) by inserting before the period at the end the following: ", and $5,500,000 for the period of October 1, 2004, through March 31, 2005".

(6) HIGHWAY USE TAX EVASION PROJECTS.—Section 1101(a)(14) of such Act (112 Stat. 113; 118 Stat. 878) is amended by inserting before the period at the end the following: "and $2,500,000 for the period of October 1, 2004, through March 31, 2005".

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—

(A) IN GENERAL.—Section 1101(a)(15) of such Act (112 Stat. 113; 118 Stat. 878) is amended by inserting before the period at the end the following: "and $55,000,000 for the period of October 1, 2004, through March 31, 2005".

(B) CONFORMING AMENDMENT.—Section 1214(r)(1) of such Act (112 Stat. 209; 117 Stat. 1114) is amended by striking "2004" and inserting "2005".

(8) SAFETY GRANTS.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 118 Stat. 879) is amended by inserting before the period at the end the following: "and $250,000 for the period of October 1, 2004, through March 31, 2005".

(9) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 879) is amended by inserting before the period at the end the following: "and $12,500,000 for the period of October 1, 2004, through March 31, 2005".

(10) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.—Section 188 of title 23, United States Code, is amended—

(A) in subsection (a)(1)—

(i) by striking "and" at the end of subparagraph (E);

(ii) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(iii) by adding at the end the following:

"(G) $70,000,000 for the period of October 1, 2004, through March 31, 2005.";

(B) in subsection (a)(2)—

(i) by striking "2003 and" and inserting "2003,"; and

(ii) by inserting after "2004" the following: "and $1,000,000 for the period of October 1, 2004, through March 31, 2005"; and

(C) in subsection (c)—

(i) by striking "2004" and inserting "2005"; and

(ii) by striking the period at the end of the table and inserting the following:

"2005 .... $1,300,000,000.".

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat..419; 118 Stat. 879) is amended—

(A) by striking "2003, and" and inserting "2003,"; and

(B) by inserting after "2004" the following: ", and $52,500,000 for the period of October 1, 2004, through March 31, 2005".

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 118 Stat. 879) is amended—

(A) by striking "2003, and" and inserting "2003,"; and

(B) by inserting after "2004" the following: ", and $27,500,000 for the period of October 1, 2004, through March 31, 2005".

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 118 Stat. 879) is amended—

(A) by striking "2003, and" and inserting "2003,"; and

(B) by inserting after "2004" the following: ", and $10,500,000 for the period of October 1, 2004, through March 31, 2005".

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 118 Stat. 879) is amended by inserting before the period at the end the following: ", and $15,500,000 for the period of October 1, 2004, through March 31, 2005".

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 118 Stat. 879) is amended—

(A) by striking "2003, and" and inserting "2003,"; and

(B) by inserting after "2004" the following: ", and $57,500,000 for the period of October 1, 2004, through March 31, 2005".

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 118 Stat. 879) is amended—

(A) by striking "2003, and" and inserting "2003,"; and

(B) by inserting after "2004" the following: ", and $62,000,000 for the period of October 1, 2004, through March 31, 2005".

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 118 Stat. 880) is amended—

(A) by striking "2003, and" and inserting "2003,"; and

(B) by inserting after "2004" the following: ", and $13,500,000 for the period of October 1, 2004, through March 31, 2005".

(c) METROPOLITAN PLANNING.—

(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 134 of title 23, United States Code, $120,000.000 for the period of October 1, 2004, through March 31, 2005.

(2) DISTRIBUTION OF FUNDS.—The Secretary shall distribute funds made available by this subsection to the States in accordance with section 104(f)(2) of title 23, United States Code.

(3) CONTRACT AUTHORITY.--Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, and shall be subject to a limitation on obligations for Federal-aid highways and highway safety construction programs.

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (117 Stat. 1116; 118 Stat. 880) is amended by inserting after "2004" the following: "and $18,200,000 for the period of October 1, 2004, through March 31, 2005".

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (117 Stat. 1116; 118 Stat. 880) is amended by inserting after "2004" the following: "and $9,400,000 for the period of October 1, 2004, through March 31, 2005".

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (117 Stat. 1117; 118 Stat. 880) is amended by inserting after "2004" the following: "and $250,000 for the period of October 1, 2004, through March 31, 2005".

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (117 Stat. 1117; 118 Stat. 880) is amended by inserting after "2004" the following: "and $50,000,000 for the period of October 1, 2004, through March 31, 2005".

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (117 Stat. 1117; 118 Stat. 880) is amended by inserting after "2004" the following: "and $50,000,000 for the period of October 1, 2004, through March 31, 2005".

(i) RECREATIONAL TRAILS ADMINISTRATIVE COSTS.—Section 1101(i)(1) of such Act (117 Stat. 1117; 118 Stat. 880) is amended by inserting after "2004" the following: "and $375,000 for the period of October 1, 2004, through March 31, 2005".

(j) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—Section 1101(j)(1) of such Act (117 Stat. 1118; 118 Stat. 880) is amended—

(1) by inserting before "; except" the following: "and $2,625,000 for the period of October 1, 2004, through March 31, 2005"; and

(2) by inserting before "for eligible" the following: "and not less than $125,000 instead of $250,000 shall be available for the period of October 1, 2004, through March 31, 2005".

(k) NONDISCRIMINATION.—Section 1101(k) of such Act (117 Stat. 1118; 118 Stat. 880) is amended—

(1) in paragraph (1) by inserting after "2004" the following: "and $5,000,000 for the period of October 1, 2004, through March 31, 2005"; and

(2) in paragraph (2) by inserting after "2004" the following: "and $5,000,000 for the period of October 1, 2004, through March 31, 2005".

(l) ADMINISTRATION OF FUNDS.—Funds authorized by the amendments made by this section shall be administered as if the funds had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code, except that the deductions under sections 104(a)(1)(A) and 104(a)(1)(B) of such title shall not apply to funds made available by the amendment made by subsection (a)(1) of this section.

(m) REDUCTION OF ALLOCATED PROGRAMS.—The Secretary shall reduce the amount that would be made available, but for this section, for fiscal year 2005 for allocation under a program, that is continued both by a multiyear law reauthorizing such program enacted after the date of enactment of this Act and by this section, by the amount made available for such program by this section.

(n) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds allocated under this section for fiscal year 2005 for a program category for which funds are not authorized for fiscal year 2005 under a multiyear law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act may be restored to the Federal-aid highway program.

SEC. 6. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION PROGRAMS.

(a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 117 Stat. 1119) is amended by striking "2004." and inserting "2004, and $82,500,000 for the period October 1, 2004, through March 31, 2005.".

(b) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2009(a)(2) of such Act (112 Stat. 337; 117 Stat. 1119) is amended by striking "2004" and inserting "2004, and $36,000,000 for the period October 1, 2004, through March 31, 2005".

(c) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2009(a)(3) of such Act (112 Stat. 337; 117 Stat. 1120) is amended by inserting "and $10,000,000 for the period October 1, 2004, through March 31, 2005" after "fiscal year 2004".

(d) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS.—Section 2009(a)(4) of such Act (112 Stat. 337; 117 Stat. 1120) is amended by "and $20,000,000 for the period October 1, 2004, through March 31, 2005" after "fiscal year 2004".

(e) NATIONAL DRIVER REGISTER.—Section 2009(a)(6) of such Act (112 Stat. 338; 117 Stat. 1120) is amended by inserting "and $2,000,000 for the period October 1, 2004, through March 31, 2005" after "fiscal year 2004".

SEC. 7. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—Section 7(a)(1) of the Surface Transportation Extension Act of 2003 (117 Stat. 1120) is amended by inserting "and $130,000,000 for the period October 1, 2004, through March 31, 2005" after "fiscal year 2004".

(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Section 31104(a) of title 49, United States Code, is amended by adding at the end the following:

"(8) Not more than $84,500,000 for for the period October 1, 2004, through March 31, 2005.".

(c) INFORMATION SYSTEMS AND COMMERCIAL DRIVER'S LICENSE GRANTS.—

(1) AUTHORIZATION OF APPROPRIATION.—Section 31107(a) of such title is amended by adding at the end the following:

"(6) $9,500,000 for the period October 1, 2004, through March 31, 2005.".

(2) EMERGENCY CDL GRANTS.—Section 7(c) of the Surface Transportation Extension Act of 2003 (117 Stat. 1121) is amended by inserting "and up to $500,000 for the period October 1, 2004, through March 31, 2005," after "$1,000,000".

(d) CRASH CAUSATION STUDY.—Section 7(d) of such Act is amended by inserting "and up to $500,000 for the period October 1, 2004, through March 31, 2005," after "fiscal year 2004.".

SEC. 8. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) ALLOCATING AMOUNTS.—Section 5309(m) of title 49, United States Code, is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by adding at the end the following: "and for the period of October 1, 2004 through March 31, 2005,";

(2) in paragraph (2)(B), by inserting at the end the following:

"(iii) OCTOBER 1, 2004 THROUGH MARCH 31, 2005.—Of the amounts made available under paragraph (1)(B), $5.200,000 shall be available for the period of October 1, 2004, through March 31, 2005, for capital projects described in clause (i).";

(3) in paragraph (3)(B), by striking "2004" and inserting "2004 (and $1,500,000 shall be available for the period October 1, 2004, through March 31, 2005)"; and

(4) in paragraph (3)(C), by inserting after "2004" the following: "(and $25,000,000 shall be available for the period October 1, 2004, through March 31, 2005)".

(b) APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION.—The Secretary of Transportation shall determine the amount that each urbanized area is to be apportioned for fixed guideway modernization under section 5337 of title 49, United States Code, on a pro rata basis to reflect the partial fiscal year 2005 funding made available by subparagraphs (A)(vii) and (B)(vii) of section 5338(b)(2) of such title.

(c) FORMULA GRANTS AUTHORIZATIONS.—Section 5338(a)(2) of title 49, United States Code, is amended—

(1) in the paragraph heading, by inserting "AND FOR THE PERIOD OF OCTOBER 1, 2004 THROUGH MARCH 31, 2005" after "2004";

(2) in subparagraph (A)—

(A) in clause (v), by striking "and" at the end;

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) $1,747,128,500 for the period of October 1, 2004, through March 31, 2005.";

(1) in subparagraph (B)—

(A) in clause (v), by striking "and" at the end;

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) $256,459,000 for the period of October 1, 2004, through March 31, 2005."; and

(1) in subparagraph (C), by striking "2003" and inserting "2004 (other than for the period of October 1, 2004 through March 31, 2005)".

(d) Allocation of Formula Grant Funds for the Period of October 1, 2004 Through March 31, 2005.—Of the aggregate of amounts made available by or appropriated under section 5338(a)(2) of title 49, United States Code, for the period of October 1, 2004 through March 31, 2005—

"(1) $2,424,975 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307 of such title;

"(2) $25,000,000 shall be available to carry out section 5308 of such title;

"(3) $47,344,500 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310 of such title;

"(4) $125,660,195 shall be available to provide financial assistance for other than urbanized areas under section 5311 of such title; and

"(5) $1,799,682,829 shall be available to provide financial assistance for urbanized areas under section 5307 of such title.".

(e) Capital Program Authorizations.—Section 5338(b)(2) of title 49, United States Code, is amended—

(1) in the paragraph heading by adding after "2004" the following: "AND FOR THE PERIOD OF OCTOBER 1, 2004 THROUGH MARCH 31, 2005";

(2) in subparagraph (A)—

(A) in clause (v), by striking "and" at the end;

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) $1,488,427,500 for the period of October 1, 2004, through March 31, 2005."; and

(2) in subparagraph (B)—

(A) in clause (v), by striking "and" at the end;

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) $218,485,000 for the period of October 1, 2004, through March 31, 2005.".

(f) Planning Authorizations and Allocations.—Section 5338(c)(2) of title 49, United States Code, is amended—

(1) in the paragraph heading by inserting after "2004" the following: "AND FOR THE PERIOD OF OCTOBER 1, 2004 THROUGH MARCH 31, 2005";

(2) in subparagraph (A)—

(A) in clause (v), by striking "and" at the end;

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) $31,828,000 for the period of October 1, 2004, through March 31, 2005.";

(1) in subparagraph (B)—

(A) in clause (v), by striking "and" at the end;

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) $4,672,000 for the period of October 1, 2004, through March 31, 2005."; and

(1) in subparagraph (C), by inserting "or any portion of a fiscal year" after "fiscal year".

(g) Research.—Section 5338(d)(2) of such title is amended—

(1) in the paragraph heading by inserting after "2004" the following: "AND FOR THE PERIOD OF OCTOBER 1, 2004 THROUGH MARCH 31, 2005";

(2) in subparagraph (A)—

(A) in clause (v), by striking "and" at the end;

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) $23,980,000 for the period of October 1, 2004, through March 31, 2005.";

(1) in subparagraph (B)—

(A) in clause (v), by striking "and" at the end;

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) $3,520,000 for the period of October 1, 2004, through March 31, 2005."; and

(1) in subparagraph (C), by inserting "other than for the period from October 1, 2004 through March 31, 2005" after "fiscal year".

(h) Allocation of Research Funds for the Period from October 1, 2004 Through March 31, 2005.—Of the funds made available by or appropriated under section 5338(d)(2) of title 49, United States Code, for the period of October 1, 2004 through March 31, 2005—

(1) not less than $2,625,000 shall be available for providing rural transportation assistance under section 5311(b)(2) of such title;

(2) not less than $4,125,000 shall be available for carrying out transit cooperative research programs under section 5313(a) of such title;

(3) not less than $2,000,000 shall be available to carry out programs under the National Transit Institute under section 5315 of such title, including not more than $500,000 shall be available to carry out section 5315(a)(16) of such title; and

(4) the remainder shall be available for carrying out national planning and research programs under sections 5311(b)(2), 5312, 5313(a), 5314, and 5322 of such title.

(i) University Transportation Research Authorizations.—Section 5338(e)(2) of title 49, United States Code, is amended—

(1) in the paragraph heading by adding after "2004" the following: "AND FOR THE PERIOD OF OCTOBER 1, 2004 THROUGH MARCH 31, 2005";

(2) in subparagraph (A), by inserting "and $2,616,000 for the period from October 1, 2004 through March 31, 2005" after "2004";

(3) in subparagraph (B), by inserting "and $384,000 for the period from October 1, 2004 through March 31, 2005" after "2004"; and

(4) in subparagraph (C)—

(A) in clause (i), by inserting "(other than for the period of October 1, 2004 through March 31, 2005)" after "fiscal year"; and

(B) in clause (iii), by inserting "(other than for the period of October 1, 2004 through March 31, 2005)" after "fiscal year".

(j) University Transportation Research Funds.—

(1) In general.— Of the amounts made available under section 5338(e)(2)(A) of title 49, United States Code, for the period October 1, 2004 through March 31, 2005—

(A) $1,000,000 shall be available for the center identified in section 5505(j)(4)(A) of such title; and

(B) $1,000,000 shall be available for the center identified in section 5505(j)(4)(F) of such title.

(2) Training and curriculum development.—Notwithstanding section 5338(e)(2) of title 49, United States Code, any amounts made available under such section for such period that remain after distribution under paragraph (1) shall be available for the purposes identified in section 3015(d) of the Federal Transit Act of 1998 (112 Stat. 857).

(3) Conforming amendment.—Section 3015(d)(2) of the Federal Transit Act of 1998 (112 Stat. 857) is amended by inserting "or in the period October 1, 2004 through March 31, 2005" after "2004".

(k) Administration Authorizations.—Section 5338(f)(2) of title 49, United States Code, is amended—

(1) in the paragraph heading by inserting after "2004" the following: "AND FOR THE PERIOD OF OCTOBER 1, 2004 THROUGH MARCH 31, 2005";

(2) in subparagraph (A)—

(A) in clause (v), by striking "and" at the end;

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) $34,008,000 for the period of October 1, 2004, through March 31, 2005.";

(2) in subparagraph (B)—

(A) in clause (v), by striking "and" at the end;

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) $4,992,000 for the period of October 1, 2004, through March 31, 2005.".

(l) Job Access and Reverse Commute Program.—Section 3037(l) of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

(1) in paragraph (1)(A)—

(A) in clause (v), by striking "and" at the end;

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) $54,500,000 for the period of October 1, 2004 through March 31, 2005.";

(2) in paragraph (1)(B)—

(A) in clause (v), by striking "and" at the end;

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) $8,000,000 for the period of October 1, 2004 through March 31, 2005."; and

(3) in paragraph (2), by inserting before the period at the end the following: ", except that in the period of October 1, 2004 through March 31, 2005, not more than $5,000,000 shall be used for such projects".

(m) Rural Transportation Accessibility Incentive Program.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended—

(1) in paragraph (1), by adding at the end the following:

"(G) $2,625,000 for the period of October 1, 2004 through March 31, 2005."; and

(2) in paragraph (2), by inserting "(and $850,000 shall be available for the period of October 1, 2004, through March 31, 2005)" after "2004".

(n) Urbanized Area Formula Grants.—Section 5307(b)(2) of title 49, United States Code, is amended—

(1) in the heading, by inserting "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MARCH 31, 2005" after "2004"; and

(2) in subparagraph (A), by inserting "and for the period of October 1, 2004, through March 31, 2005" after "2004".

(o) Obligation Ceiling.—Section 3040 of the Federal Transit Act of 1998 (112 Stat. 394; 118 Stat. 708) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(7) $3,879,000,000 for the period of October 1, 2004, through March 31, 2005.".

(p) Fuel Cell Bus and Bus Facilities Program.—Section 3015(b) of the Federal Transit Act of 1998 (112 Stat. 361; 118 Stat. 885) is amended by inserting "(or, in the case of the period of October 1, 2004, through March 31, 2005, $2,425,000) after "$4,850,000".

(q) Advanced Technology Pilot Project.—Section 3015(c)(2) of the Federal Transit Act of 1998 (49 U.S.C. 322 note; 118 Stat. 885) is amended—

(1) by inserting ", and $2,500,000 for the period of October 1, 2004, through March 31, 2005," after "per fiscal year".

(r) Projects for New Fixed Guideway Systems and Extensions to Existing Systems.—Section 3030 of the Federal Transit Act of 1998 (112 Stat. 373; 118 Stat. 885) is amended by inserting "and for the period of October 1, 2004, through March 31, 2005," after "2004" each place it appears.

(s) New Jersey Urban Core Project.—Section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 118 Stat. 885) is amended by inserting "and for the period of October 1, 2004, through March 31, 2005, after "2004" each place it appears.

(t) Treatment of Funds.—Section 8(t) of the Surface Transportation Extension Act of 2003 is amended—

(1) in paragraph (1), by striking "and by section 7 of the Surface Transportation Extension Act of 2004, Part IV" and inserting "by section 7 of the Surface Transportation Extension Act of 2004, Part IV, and by section 8 of the Surface Transportation Extension Act of 2004, Part VI"; and

(2) in paragraph (2), by inserting "for fiscal year 2004" after "section".

(u) Local Share.—Section 3011(a) of the Federal Transit Act of 1998 (49 U.S.C. 5307 note; 118 Stat. 886) is amended by inserting "and for the period of October 1, 2004, through March 31, 2005" after "2004,".

SEC. 9. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA-21.

(a) Highway Trust Fund.—

(1) In general.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking "October 1, 2004" and inserting "April 1, 2005",

(B) by striking "or" at the end of subparagraph (J),

(C) by striking the period at the end of subparagraph (K) and inserting ", or",

(D) by inserting after subparagraph (K) the following new subparagraph:

"(L) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2004, Part VI.", and

(E) in the matter after subparagraph (L), as added by this paragraph, by striking "Surface Transportation Extension Act of 2004, Part V" and inserting "Surface Transportation Extension Act of 2004, Part VI".

(2) Mass transit account.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking "October 1, 2004" and inserting "April 1, 2005",

(B) in subparagraph (H), by striking "or" at the end of such subparagraph,

(C) in subparagraph (I), by inserting "or" at the end of such subparagraph,

(D) by inserting after subparagraph (I) the following new subparagraph:

"(J) the Surface Transportation Extension Act of 2004, Part VI,", and

(E) in the matter after subparagraph (J), as added by this paragraph, by striking "Surface Transportation Extension Act of 2004, Part V" and inserting "Surface Transportation Extension Act of 2004, Part VI".

(b) Aquatic Resources Trust Fund.—

(1) Sport fish restoration account.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking "Surface Transportation Extension Act of 2004, Part V" each place it appears and inserting "Surface Transportation Extension Act of 2004, Part VI".

(2) Boat safety account.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking "October 1, 2004" and inserting "April 1, 2005", and

(B) by striking "Surface Transportation Extension Act of 2004, Part V" and inserting "Surface Transportation Extension Act of 2004, Part VI".

(3) Exception to limitation on transfers.—Paragraph (2) of section 9504(d) of such Code is amended by striking "October 1, 2004" and inserting "April 1, 2005".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) Temporary Rule Regarding Adjustments.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on March 31, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 430—DESIGNATING NOVEMBER 2004 AS "NATIONAL RUNAWAY PREVENTION MONTH"

Mr. HATCH (for himself and Mr. Leahy) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 430

Whereas the prevalence of runaway and homeless youth in the United States is staggering, with studies suggesting that between 1,600,000 and 2,800,000 young people live on the streets of the United States each year;

Whereas running away from home is widespread, with 1 out of every 7 children in the United States running away before the age of 18;

Whereas youth that end up on the streets are often those who have been thrown out of their homes by their families, who have been physically, sexually, and emotionally abused at home, who have been discharged by State custodial systems without adequate transition plans, who have lost their parents through death or divorce, and who are too poor to secure their own basic needs;

Whereas effective programs supporting runaway youth and assisting young people in remaining at home with their families succeed because of partnerships created among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and businesses;

Whereas preventing young people from running away and supporting youth in high-risk situations is a family, community, and national responsibility;

Whereas the future well-being of the Nation is dependent on the value placed on young people and the opportunities provided for youth to acquire the knowledge, skills, and abilities necessary to develop into safe, healthy, and productive adults;

Whereas the National Network for Youth and its members advocate on behalf of runaway and homeless youth and provide an array of community-based support services that address the critical needs of such youth;

Whereas the National Ruhaway Switchboard provides crisis intervention and referrals to reconnect runaway youth to their families and to link young people to local resources that provide positive alternatives to running away; and

Whereas the National Network for Youth and the National Runaway Switchboard are co-sponsoring National Runaway Prevention Month to increase public awareness of the life circumstances of youth in high-risk situations and the need for safe, healthy, and productive alternatives, resources, and supports for youth, families, and communities: Now, therefore, be it

Resolved, That the Senate designates November 2004 as "National Runaway Prevention Month".

SENATE RESOLUTION 431—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED NATIONS SECURITY COUNCIL SHOULD IMMEDIATELY CONSIDER AND TAKE APPROPRIATE ACTIONS TO RESPOND TO THE GROWING THREATS POSED BY CONDITIONS IN BURMA UNDER THE ILLEGITIMATE RULE OF THE STATE PEACE AND DEVELOPMENT COUNCIL

Mr. McCONNELL (for himself, Mrs. Feinstein, Mr. McCain, Mr. Feingold, Mrs. Dole, Ms. Mikulski, Mr. Brownback, Mr. Leahy, Mr. Lugar, and Mr. Corzine) submitted the following resolution; which was referred to the Committee on Foreign Relations;

Whereas the National League for Democracy, headed by Daw Aung San Suu Kyi, is the legitimately elected political leadership in Burma;

Whereas the ruling State Peace and Development Council, headed by General Than Shwe, and its affiliated organizations continue, through a variety of means, to violate the human rights and dignity of the people of Burma through murder, torture, rape, forced relocation, the employment of child soldiers, the use of forced labor, and the exploitation of child laborers;

Whereas the State Peace and Development Council has detained over 1,300 prisoners of conscience, including National League for

Democracy leaders and supporters of democracy;

Whereas, under the repressive rule of the State Peace and Development Council, the situation in Burma poses an immediate and growing threat to the Southeast Asia region, including through the unchecked spread of HIV/AIDS, the illicit production of, and trafficking in, narcotics, trafficking in persons, and alleged efforts to purchase weapons from North Korea, China, and Russia;

Whereas, at the 58th session of the United Nations General Assembly, a resolution was adopted by the General Assembly that expresses grave concern about the ongoing systematic violations of human rights inflicted upon the people of Burma and calls on the State Peace and Development Council to release all political prisoners, respect the results of the national elections in 1990, and restore democracy to Burma; and

Whereas the National League for Democracy has called upon the United Nations Security Council to intervene on behalf of the people of Burma: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United Nations Security Council should immediately consider and take appropriate actions to respond to the growing threats posed to the Southeast Asia region by conditions in Burma under the illegitimate rule of the State Peace and Development Council, including the threats posed by widespread human rights violations, the unchecked spread of HIV/AIDS, the illicit production of, and trafficking in, narcotics, trafficking in persons, and alleged efforts by the State Peace and Development Council to purchase weapons from North Korea, China, and Russia.

Mr. McCONNELL. Mr. President, today I submit, along with some fellow members of the unofficial, bipartisan Senate Burma Caucus, a resolution expressing the sense of the Senate that the United Nations Security Council should immediately consider and take appropriate actions to respond to the growing threats posed by the State Peace and Development Council (SPDC) in Burma to its immediate neighbors and the entire region.

What are these threats? The unchecked spread of HIV/AIDS that is further aggravated by the SPDC's use of rape as a weapon of war against the people of Burma, particularly ethnic women and girls; the illicit production and trafficking in narcotics, which destroys the lives of Asian youth and families; trafficking in persons and brutal crackdowns on ethnic minorities that create significant populations of internally displaced persons and refugees; alleged efforts to purchase weapons from North Korea, the People's Republic of China and Russia.

For the past decade, we have know that the SPDC poses a clear and present danger to the people of Burma, including democracy leader and Nobel Peace Prize recipient Daw Aung San Suu Kyi, and other senior members of the National League for Democracy (NLD). Resolutions, statements and reports by the U.S. State Department, the United Nations, the European Nation (E.U.), and human rights organizations have repeatedly documented and condemned brutal human rights violations committed with impunity by the SPDC.

Today, there is no question that Burma's myriad problems are no longer the internal affair of a handful of psychopathic generals in Rangoon.

Last May, the NLD called upon the U.N. Security Council to intervene.

Secretary-General Kofi Annan, the United Kingdom, and the Administration, who are scheduled to take over chairmanship of the Council in October and November, respectively should heed their call.

In Burma, time now favors the democrats. With the international community's continued vigilance, appropriate pressure can be placed on the SPDC before they assume chairmanship of the ASEAN in 2006 to secure a meaningful path toward reconciliation that includes the full and unfettered participation of the NLD. If the Security Council takes up the matter of Burma, significant strides will be made toward democracy and justice in that country.

It is an understatement to say that I am disappointed with the E.U.'s decision to allow "low level" participation by the SPDC in the upcoming ASEM meeting in Hanoi, Vietnam. Such action serves only to prolong the suffering of the Burmese people, including the hundreds currently languishing in prisons for peacefully championing the principles of freedom and justice, and the three NLD youths recently arrested for the "heinous" crime of gathering signatures on a petition calling for Suu Kyi's release from house arrest.

With France, Spain and Portugal reportedly clamoring to derail the toughening of sanctions against Burma, it is only fair to ask: When will they act to support the democrats of Burma?

It is time the world's democracies make 2006 the "Year of Democracy" in Burma.

I want to recognize Senators FEINSTEIN, McCAIN, MIKULSKI, FEINGOLD, LEAHY, and DOLE for their support of the resolution, and freedom and justice in Burma.

I ask unanimous consent that an article by William Ashton that appeared in the Irrawaddy on the SPDC's efforts to procure weapons be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ARMS KEEP COMING—BUT WHO PAYS?

(By William Ashton)

Burma's ruling State Peace and Development Council, or SPDC, has been at pains over recent months to tell the international community that it is devoting a considerable effort to implementing a new "road map" to multi-party democracy and introducing measures for a more open economy. The military government has also claimed major advances in promoting education and public health, and in developing the country's civil infrastructure.

The Rangoon regime can certainly point to an increase in diplomatic activity, and show visitors to Burma many new roads, buildings and dams. However, the SPDC's statements continue to ignore the fact that, for the past 15 years, a large proportion of its central budget-probably between 35 and 45 per cent each year-has been allocated to the armed forces, or Tatmadaw. This does not include significant allocations to the defense sector from off-budget sources and unofficial payments that never appear in the national accounts. Also, while an increasing proportion of Burma's annual defense expenditure is now used to pay for recurring personnel and maintenance costs, a high percentage is still devoted to the acquisition of new arms and equipment from abroad.

Continued Military Expansion

When the armed forces took back direct political power in 1988, they launched an ambitious defense expansion and modernization program. Since then, the regime has consistently spent a greater proportion of central government outlays on defense than any other country in the Asia-Pacific region. The Burmese armed forces have doubled in size, making them the second largest in Southeast Asia and, by some calculations, the 15th largest in the world. New command and control structures have been put in place, and capabilities in key support areas like intelligence, communications and logistics have been substantially upgraded. The country's military infrastructure has also been improved. In addition, the Burma Army has acquired a wide range of tracked and wheeled armor, towed and self-propelled artillery, air defense weapons, transport, small arms and communications equipment. The air force has taken delivery of more than 150 helicopters, fighters, ground attack, transport and training aircraft. The Burma Navy too has expanded dramatically, with new corvettes, missile patrol boats, offshore patrol vessels and riverine craft.

Given its enormous expansion since 1988, the massive influx of arms and equipment since then, and the difficulties of keeping its current inventory fully operational, it might be expected that the Tatmadaw's acquisition programs would now be slowing down. Yet, over the past 18 months, there has been clear evidence that the Rangoon regime continues to give its highest priority to the development of Burma's military capabilities.

While some of the SPDC's more ambitious projects, such as the planned acquisition of strategic weapon systems, have reportedly been shelved for the time being, other major contracts have gone ahead. China remains Burma's principal source of military technology but, despite an arms embargo imposed by its traditional suppliers, the regime has managed to find a number of new vendors.

Arms Deliveries

A survey of arms deals with Burma over the past 18 months has revealed the following:

CHINA

Rangoon is locked into a continuing close logistical relationship with Beijing, due to the need to maintain all the arms and military equipment purchased from China, at an estimated cost of billions of dollars, since 1988. However, the SPDC is interested in acquiring even more arms, and new weapons and consignments of materiel continue to be delivered. There have been reports of 200 heavy-duty trucks crossing the China-Burma border, and of shipments of unspecified "air force weapons", multiple rocket launchers and possibly artillery. There were also reports in March 2004 that the Burma Army was negotiating yet another arms deal with China, this time to buy obsolescent weapons being phased out by the People's Liberation Army. In addition, there have long been rumors that Burma has been negotiating with China for the purchase of combat helicopters, minesweepers, anti-ship missiles and sea mines.

NORTH KOREA

Rangoon's developing relationship with Pyongyang has gone well beyond the small arms ammunition purchased in 1990, and the sixteen 130mm artillery pieces acquired by the SPDC in 1998. For example, in 2003 a team of North Korean technicians was sent to Rangoon to install surface-to-surface missiles on some new Burma Navy vessels. In addition, discussions have taken place between Rangoon and Pyongyang over the purchase of a small submarine, and possibly even a number of SCUD short-range ballistic missiles. Late last year there were even suggestions that North Korea was assisting Burma with the construction of a nuclear reactor, raising the specter of the Rangoon regime one day acquiring a nuclear weapon.

INDIA

As part of a renewed effort to get closer to Burma, India has provided the Tatmadaw with a range of weapons, ammunition and equipment. In May 2003 the Indian Defense Ministry confirmed that it had sold the Tatmadaw eighty 75mm howitzers (or "mountain guns"). Also, India has reportedly sold mortar and artillery ammunition to Rangoon, and advanced communications equipment. A Burmese military delegation visiting India in early 2004 said that the Tatmadaw welcomed further arms deals. The Indian Defense Minister has stated that New Delhi is keen to sell Burma naval vessels. A demonstration by Indian combat aircraft in Burma this year prompted speculation about future sales to the Burma Air Force.

UKRAINE

The Russian language press stated in late 2002 that the Ukraine had contracted to provide Burma with some 36D6 radar systems. In mid-2003 it was reported that the Ukraine had sold the Tatmadaw 50 T–72 main battle tanks. In February 2004, a Ukrainian-flagged ship made a secret delivery to Rangoon, probably of air defense weapons. Also, in May 2003, one of the Ukraine's leading arms exporters signed a contract with Burma worth US $500 million, to provide the Rangoon regime with components for 1,000 BTR–3U light armored personnel carriers. Over the next ten years these vehicles will be supplied in parts, and assembled in a new, purpose-built factory in Burma. More arms deals between Rangoon and Kiev are likely.

SERBIA

In December 2003, Serbian language sources claimed that Rangoon had contracted with Belgrade to buy a number of "Nora" self-propelled howitzers. The cost of these weapons, which are marketed by Jugoimport-SDPR, is unknown. In addition, in March 2004 about 30 Serbian engineers arrived in Burma to repair and upgrade the Burma Air Force's 12 Soko G–4 jets, which were purchased from the Republic of Yugoslavia in the 1990s. These aircraft have been grounded for several years, due largely to a lack of spare parts.

RUSSIA

In late 2002 the SPDC purchased eight MiG–29B–12 air superiority combat aircraft and two dual-seat MiG–29UB trainers from Russia, at a reported cost of about US $130 million. All these aircraft were delivered to Burma by the end of 2003. In addition, in July 2002 Rangoon signed a contract with the Russian Ministry of Atomic Energy (Minatom) for the construction of a nuclear reactor in Burma. While the project has encountered major problems, probably due to its cost, it may still go ahead. It is likely that the shipments of Russian military equipment detected in southern Burma in April 2003, which were thought to be components for the reactor, were in fact deliveries of a new communications system.

SLOVAKIA

According to a news report dated October 2003, the Unipex Company of Slovakia is currently being investigated for taking part in the illegal export to Burma of machines for the manufacture of "artillery grenades" (possibly rocket propelled grenades).

It is likely that other contracts have been signed but not yet been made public. The frequent visits to Rangoon of North Korean and Ukrainian cargo vessels over the past 18 months, and the measures taken to hide the nature of their cargoes, strongly suggests that other deliveries of arms and equipment have occurred. Several eastern European countries are keen to sell arms to Burma. Also, countries like Singapore, Pakistan and Israel maintain close links with Rangoon. All have weapon systems that are on the Tatmadaw's wish list. In the past, these factors have often led to substantial sales of weapons, military equipment and dual use goods to Burma, and related training contracts.

PAYING THE BILL

In considering the financial implications of these sales, several factors need to be borne in mind. Not only does the regime need to cover the initial purchase price of these arms, but it faces the continuing costs of keeping them serviceable, providing facilities to house them, buying spare parts to maintain them and training people to repair and use them. The latter often includes sending selected military personnel overseas for specialized training, and in a few cases supporting foreign experts resident in country. Some of these costs can be paid in local currency, but they still constitute a heavy drain on Burma's precious foreign exchange reserves. The regime is still able to earn hard currency through the export of gas, gems, timber, agricultural produce and other natural resources, but its economy is facing major problems. These have not been helped by the new sanctions imposed by the U.S. in June 2003, after a government mob violently attacked democratic opposition leader Aung San Suu Kyi.

In the past, some of these costs have been met through trade deals, under which Burma has paid for part of its contracts with primary goods like rice and teak. North Korea and Russia, for example, have accepted such commodities in part payment for arms and military equipment. Even the Russian nuclear reactor could be paid for in part through barter arrangements. Also, for strategic and other reasons, some arms suppliers have been very generous in their terms. For example, China has repeatedly offered the Rangoon regime special "friendship prices" for arms, and overlooked deadlines for the repayment of loans. The Ukrainian firm selling Burma APCs has probably provided vendor financing of some kind.

Even so, given the regime's current debts, its continuing need for foreign logistical support, and its latest acquisitions, the investment required now and in the future will be huge for a country like Burma. These costs must inevitably be carried at the expense of other sectors of the government that are desperate for scarce resources.

Mrs. FEINSTEIN. Mr. President, I rise today to express my support for a resolution submitted today by Senator MCCONNELL and myself that urges the United Nations Security Council to respond to the growing threats posed to the Southeast Asia region by conditions in Burma under the rule of the State Peace and Development Council (SPDC).

I have been proud to work with Senator MCCONNELL to raise awareness about the situation in Burma and to put pressure on the SPDC to respect the wishes of the Burmese people, restore democracy, and release from house arrest the leader of the National League for Democracy and Nobel Peace Prize winner, Aung San Suu Kyi. Congress has acted decisively in support of these efforts by passing the Burmese Freedom and Democracy Act of 2003 to impose a complete ban on Burmese imports for one year and renewing that ban this past July.

There is still much work to be done. The threat posed by the military junta goes beyond Burma's borders and extends to the entire Southeast Asia region. The SPDC has committed numerous human rights abuses and detained over 1,300 political prisoners. It has allowed the spread of HIV/AIDS to go unchecked. It has engaged in the illicit production and trafficking of narcotics. It has engaged in the trafficking of human beings. It has attempted to purchase weapons from North Korea, China, and Russia.

The international community simply cannot afford to ignore these threats any longer. Inaction will only strengthen the regime in Rangoon and foster greater instability in the Southeast Asia region. This resolution simply encourages the United Nations Security Council to consider the situation in Burma carefully and take appropriate action.

While I am proud that the United States has acted in support of freedom and democracy in Burma, we need the help of our friends and allies to put pressure on the SPDC to change its behavior and respect the wishes of the Burmese people and the international community. I urge my colleagues to support the resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3664. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 2666, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2005, and for other purposes.

SA 3665. Mr. CAMPBELL proposed an amendment to the bill S. 2666, supra.

SA 3666. Mr. CAMPBELL (for Mr. STEVENS (for himself and Mr. DURBIN)) proposed an amendment to the bill S. 2666, supra.

SA 3667. Mr. CAMPBELL (for Mr. DURBIN) proposed an amendment to the bill S. 2666, supra.

SA 3668. Mr. LUGAR (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill S. 2781, to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes; which was referred to the Committee on Foreign Relations.

SA 3669. Mr. MCCONNELL (for Mr. HOLLINGS (for himself and Mr. MCCAIN)) proposed an amendment to the bill S. 2279, to amend title 46, United States Code, with respect to maritime transportation security, and for other purposes.

TEXT OF AMENDMENTS

SA 3664. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 2666, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 21, strike lines 13 and 14 and insert "approval of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.".

SA 3665. Mr. CAMPBELL proposed an amendment to the bill S. 2666, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 22, lines 23 and 24, strike "With respect to claims within the jurisdiction of the Senate" and insert "With respect to any claim of a Senator or an employee whose pay is disbursed by the Secretary of the Senate".

SA 3666. Mr. CAMPBELL (for Mr. STEVENS (for himself and Mr. DURBIN) proposed an amendment to the bill S. 2666, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 42, between lines 14 and 15, insert the following:

ADMINISTRATIVE PROVISION

SEC. 1501. EXPANSION OF OPEN WORLD LEADERSHIP COUNTRIES.

Section 313(j) of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1151(j)) is amended—

(1) in paragraph (1), by striking "and" after the semicolon;

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) any other country that is designated by the Board, except that the Board shall notify the Committees on Appropriations of the Senate and the House of Representatives of the designation at least 90 days before the designation is to take effect.".

SA 3667. Mr. CAMPBELL (for Mr. DURBIN) proposed an amendment to the bill S. 2666, making appropriations for the Legislative branch for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 26, line 18, strike "$74,558,000" and insert "$74,063,000".

On page 48, between lines 10 and 11, insert the following:

SEC. 211. COMMISSION ON THE ABRAHAM LINCOLN STUDY ABROAD FELLOWSHIP PROGRAM.

(a) APPROPRIATION.—There are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, $495,000, for the Commission on the Abraham Lincoln Study Abroad Fellowship Program established under section 104 of division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 435).

(b) EXTENSION OF REPORT AND TERMINATION DATES.—Section 104 of division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 435) is amended—

(1) in subsection (f), by striking "December 1, 2004" and inserting "December 1, 2005"; and

(2) in subsection (g), by striking "December 31, 2004" and inserting "December 31, 2005".

SA 3668. Mr. LUGAR (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill S. 2781, to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes; which was referred to the Committee on Foreign Relations; as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Peace in Sudan Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) JEM.—The term "JEM" means the Justice and Equality Movement.

(3) SLA.—The term "SLA" means the Sudanese Liberation Army.

(4) SPLM.—The term "SPLM" means the Sudan People's Liberation Movement.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) A comprehensive peace agreement for Sudan, as envisioned in the Sudan Peace Act (50 U.S.C. 1701 note), and in the Machakos Protocol of 2002, is in jeopardy.

(2) Since 1989, the Government of Sudan has repeatedly engaged in and sponsored orchestrated campaigns of attacking and dislocating targeted civilian populations, disrupting their ability to sustain themselves, and subsequently restricting assistance to those displaced in a coordinated policy of ethnic cleansing that is most recently evident in the Darfur region of Sudan.

(3) In response to 2 decades of civil conflict in Sudan, the United States has helped to establish an internationally supported peace process to promote a negotiated settlement to the war that has resulted in a framework peace agreement, the Nairobi Declaration on the Final Phase of Peace in the Sudan signed June 5, 2004.

(4) At the same time that the Government of Sudan was negotiating for a final countrywide peace, enumerated in the Nairobi Declaration on the Final Phase of Peace in the Sudan, it refused to engage in any meaningful discussion with regard to its ongoing campaign of ethnic cleansing in the region of Darfur.

(5) It was not until the international community expressed its outrage, through high level visits by Secretary of State Colin Powell and others, and through United Nations Security Council Resolution 1556 of July 30, 2004, that the Government of Sudan agreed to attend talks to bring peace to the Darfur region.

(6) The Government of the United States, in both the executive branch and Congress, have concluded that genocide has been committed and may still be occurring in Darfur, and that the Government of Sudan and the Janjaweed bear responsibility for the genocide.

(7) The United Nations High Commissioner for Human Rights has identified massive human rights violations in Darfur perpetrated by the Government of Sudan and the Janjaweed, which the Commissioner stated may constitute war crimes or crimes against humanity.

(8) Evidence collected by international observers in the Darfur region between February 2003 and September 2004 indicate a coordinated effort to target African Sudanese civilians in a scorched earth policy, from both air and ground, that has destroyed African Sudanese villages, killing and driving away its people, while Arab Sudanese villages have been left unscathed.

(9) As a result of this coordinated campaign, which Congress and the executive branch have declared to be genocide, reports indicate tens of thousands of African Sudanese civilians killed, the systematic rape of thousands of women and girls, the destruction of hundreds of Fur, Masalit, and Zaghawa villages and other ethnically African populations, including the poisoning of their wells and the plunder of crops and cattle upon which they sustain themselves.

(10) According to the United Nations High Commissioner for Refugees, 1,400,000 people have been displaced in the Darfur region of Sudan, of whom over 200,000 have been forced to flee to Chad as refugees.

(11) The Government of Sudan conducted aerial attack missions and deadly raids across the international border between Sudan and Chad in an illegal effort to pursue Sudanese civilians seeking refuge in Chad.

(12) In addition to the thousands of violent deaths directly caused by ongoing Sudanese military and government sponsored Janjaweed attacks in the Darfur region, the Government of Sudan has restricted humanitarian and human rights workers' access to the Darfur area, primarily through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those displaced from their villages and homes without any means of sustenance or shelter.

(13) The Government of Sudan's continued support for the Janjaweed and their obstruction of the delivery of food, shelter, and medical care to the Darfur region is estimated by the World Health Organization to be resulting in up to 10,000 deaths per month and, should current conditions persist, is projected to escalate to thousands of deaths each day by December 2004.

(14) The Government of Chad served an important role in facilitating the Darfur humanitarian cease-fire (the N'Djamena Agreement dated April 8, 2004) for the Darfur region between the Government of Sudan and the 2 opposition rebel groups in Darfur (the JEM and the SLA) although both sides have violated it repeatedly.

(15) The people of Chad have responded courageously to the plight of over 200,000 Darfur refugees by providing assistance to them even though such assistance has adversely affected their own means of livelihood.

(16) The cooperation and inclusion of all Sudanese is essential to the establishment of peace and security throughout all of Sudan.

(17) The African Union has demonstrated renewed vigor in regional affairs through its willingness to respond to the crisis in Darfur, by convening talks between the parties and deploying several hundred monitors and security forces to the region, as well as by recognizing the need for a far larger force with a broader mandate.

(18) Despite the threat of international action expressed through United Nations Security Council Resolution 1556 of July 30, 2004, the Government of Sudan continues to obstruct and prevent efforts to reverse the catastrophic consequences that loom over Darfur.

SEC. 4. SENSE OF CONGRESS REGARDING THE CONFLICT IN DARFUR, SUDAN.

(a) Sudan Peace Act.—It is the sense of Congress that the Sudan Peace Act (50 U.S.C. 1701 note) remains relevant and should be extended to include the Darfur region of Sudan.

(b) Actions To Address the Conflict.—It is the sense of Congress that—

(1) a legitimate countrywide peace in Sudan will only be possible if the Agreed Principles of Part A of the Machakos Protocol of 2002, confirmed by the Nairobi Declaration on the Final Phase of Peace in the Sudan signed June 5, 2004, negotiated with the SPLM, apply to all of Sudan and to all of the people of Sudan, including the Darfur region;

(2) the parties to the N'Djamena Agreement (the Government of Sudan, the SLA, and the JEM) must meet their obligations under that Agreement to allow safe and immediate access of all humanitarian assistance throughout the Darfur region and must expedite the conclusion of a political agreement to end the genocide and conflict in Darfur;

(3) the United States should continue to provide humanitarian assistance to the areas of Sudan to which the United States has access and, at the same time, develop a plan similar to that described in section 10 of the Sudan Peace Act to provide assistance to the areas of Sudan to which United States access has been obstructed or denied;

(4) the international community, including African, Arab, and Muslim nations, should immediately provide resources necessary to save the lives of hundreds of thousands of individuals at risk as a result of the Darfur crisis;

(5) the United States Ambassador-at-Large for War Crimes should travel to Chad and the Darfur region immediately to investigate war crimes and crimes against humanity to develop a more accurate understanding of the situation on the ground and to better inform the report required in section 11(b) of the Sudan Peace Act;

(6) the United States and the international community should—

(A) provide all necessary assistance to deploy and sustain an African Union Force of at least 4,200 personnel to the Darfur region; and

(B) work to increase the authorized level and expand the mandate of such forces commensurate with the gravity and scope of the problem in a region the size of France;

(7) the President, acting through the Secretary of State and the Permanent Representative of the United States to the United Nations, should ensure that Sudan fulfills its obligations under United Nations Security Council Resolutions 1556 (July 30, 2004) and 1564 (September 18, 2004)

(8) sanctions should be imposed on the assets and activities of those Sudanese Government officials and other individuals that are involved in carrying out the atrocities in the Darfur region;

(9) the Government of the United States should not normalize relations with Sudan, including through the lifting of any sanctions, until the Government of Sudan agrees to, and takes demonstrable steps to implement, peace agreements for all areas of Sudan, including Darfur; and

(10) Presidential Proclamation 6958 issued November 22, 1996, which suspends entry into the United States of members of the Government of Sudan, officials of that Government, and members of the Sudanese Armed Forces, should continue to remain in effect and be strictly enforced.

SEC. 5. AMENDMENTS TO THE SUDAN PEACE ACT.

(a) Assistance for the Crisis in Darfur and for Comprehensive Peace in Sudan.—

(1) In general.—The Sudan Peace Act (50 U.S.C. 1701 note) is amended by adding at the end the following new section:

"SEC. 12. ASSISTANCE FOR THE CRISIS IN DARFUR AND FOR COMPREHENSIVE PEACE IN SUDAN.

"(a) Authorization of Appropriations.—

"(1) Humanitarian assistance.—There is authorized to be appropriated to the President for assistance to address the humanitarian and human rights crisis in the Darfur region and its impact on eastern Chad, pursuant to the authority in section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292), $200,000,000 for fiscal year 2005, in addition to any other funds otherwise available for such purpose.

"(2) Additional assistance.—Subject to the requirements of this section, there is authorized to be appropriated to the President, for development and humanitarian assistance for Sudan upon the conclusion of a permanent, just, and equitable peace agreement between the Government of Sudan and the SPLM, $100,000,000 for fiscal year 2005, in addition to any other funds otherwise available for such purpose.

"(3) Availability.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) or (2) are authorized to remain available until expended, notwithstanding any other provision of law other than the provisions of this section.

"(b) Requirement for Certification.—The assistance authorized under subsection (a)(2) may be provided—

"(1) to the regions administered by the Government of Sudan, in accordance with the peace agreement described in subsection (a)(2), only if the President submits the certification described in subsection (c); and

"(2) to the regions administered by the SPLM, in accordance with the peace agreement described in subsection (a)(2), only if the President submits the certification described in subsection (d).

"(c) Certification with Regard to Actions of the Government of Sudan.—The certification referred to in subsection (b)(1) is a certification submitted by the President to the appropriate congressional committees that—

"(1) the Government of Sudan is taking demonstrable steps to—

"(A) ensure that the armed forces of Sudan and any associated militias are not attacking civilians or obstructing human rights monitors or the provision of humanitarian assistance;

"(B) demobilize and disarm militias supported or created by the Government of Sudan;

"(C) allow full and unfettered access for the provision of humanitarian assistance to all regions of Sudan, including Darfur; and

"(D) cooperate fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan; and

"(2) the Government of Sudan is complying with the provisions of the peace agreement described in subsection (a)(2).

"(d) Certification with regard to SPLM's Compliance with a Peace Agreement.—The certification referred to in subsection (b)(2) is a certification submitted by the President to the appropriate congressional committees that the SPLM is complying with the provisions of the peace agreement described in subsection (a)(2).

"(e) Suspension of Assistance.—If, on a date after the President submits a certification described in subsection (c) or (d), the President determines that either the Government of Sudan or the SPLM has ceased taking the actions described in the applicable subsection, the President shall immediately suspend the provision of any assistance made available as a result of such certification until the date on which the President certifies that such entity has resumed taking such actions.".

(2) Conforming amendment.—Section 3 of the Sudan Peace Act (50 U.S.C. 1701 note) is amended by adding at the end the following new paragraph:

"(4) SPLM.—The term 'SPLM' means the Sudan People's Liberation Movement.".

(b) Reporting Requirement.—Section 8 of the Sudan Peace Act (50 U.S.C. 1701 note) is amended in the first sentence by striking "Sudan." and inserting "Sudan, including the conflict in the Darfur region.".

SEC. 6. OTHER RESTRICTIONS.

(a) Blocking of Assets.—On the date that is 120 days after the date of enactment of this Act, if the President has not submitted the certification described in subsection (c)(1) of section 12 of the Sudan Peace Act, as added by section 5, the President shall, consistent with the authorities granted in the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block the assets of appropriate senior officials of the Government of Sudan.

(b) Continuation of Restrictions.—Restrictions against the Government of Sudan that were imposed pursuant to title III and sections 508, 512, and 527 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (Division D of Public Law 108–199; 118 Stat. 143) or any other similar provision of law may not be lifted pursuant to such provisions of law unless the President also makes the certification described in subsection (c) of section 12 of the Sudan Peace Act, as added by section 5.

SEC. 7. REQUIREMENT FOR REPORT.

(a) Requirement.—Not later than 60 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report on the planned United States response to a comprehensive peace agreement for Sudan.

(b) Content.—The report required by subsection (a) shall include—

(1) a description of the United States response to a modified peace process between the Government of Sudan and the SPLM that would account for the implementation

of a peace in all regions of Sudan, in particular Darfur; and

(2) a contingency plan for extraordinary humanitarian assistance should the Government of Sudan continue to obstruct or delay the international humanitarian response to the crisis in Darfur.

(c) FORM OF REPORT.—The report required by subsection (a) may be submitted in classified form.

SEC. 8. TECHNICAL CORRECTION.

Section 12 of the International Organizations Immunities Act (22 U.S.C. 288f–2) is amended by striking "Organization of African Unity" and inserting "African Union".

SA 3669. Mr. MCCONNELL (for Mr. HOLLINGS (for himself and Mr. MCCAIN)) proposed an amendment to the bill S. 2279, to amend title 46, United States Code, with respect to maritime transportation security, and for other purposes; as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Maritime Transportation Security Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Enforcement; pier and wharf security costs.
Sec. 3. Security at foreign ports.
Sec. 4. Federal and State commercial maritime transportation training.
Sec. 5. Transportation worker background investigation programs.
Sec. 6. Report on cruise ship security.
Sec. 7. Maritime transportation security plan grants.
Sec. 8. Report on design of maritime security grant programs.

SEC. 2. ENFORCEMENT; PIER AND WHARF SECURITY COSTS.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating the second section 70118 (relating to firearms, arrests, and seizure of property), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70119;

(2) by redesignating the first section 70119 (relating to enforcement by State and local officers), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70120)

(3) by redesignating the second section 70119 (relating to civil penalty), as redesignated by section 802(a)(1) of the Coast Guard and Maritime Transportation Act of 2004, as section 70123; and

(4) by inserting after section 70120 the following:

"§ 70121. Enforcement by injunction or withholding of clearance

"(a) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued hereunder, for cause shown.

"(b) WITHHOLDING OF CLEARANCE.—

"(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under section 70119, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70119, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

"§ 70122. Security of piers and wharfs

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall require any uncleared, imported merchandise remaining on the wharf or pier onto which it was unladen for more than 7 calendar days, not including any time the imported merchandise was held in federal custody, to be removed from the wharf or pier and deposited in the public stores or a general order ware house, where it shall be inspected for determination of con tents, and thereafter a permit for its delivery may be granted.

"(b) PENALTY.—The Secretary may impose an administrative penalty of $5,000 on the consignee for each bill of lading for general order merchandise remaining on a wharf or pier in violation of subsection (a), except that no penalty shall be imposed if the violation was a result of force majeure.".

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the items following the item relating to section 70116 and inserting the following:

"70117. In rem liability for civil penalties and certain costs
"70118. Withholding of clearance
"70119. Firearms, arrests, and seizure of property
"70120. Enforcement by State and local officers
"70121. Enforcement by injunction or withholding of clearance
"70122. Security of piers and wharfs
"70123. Civil penalty".

(2) Section 70117(a) of title 46, United States Code, is amended by striking "section 70120" and inserting "section 70123".

(3) Section 70118(a) of such title is amended by striking "under section 70120," and inserting "under that section,".

SEC. 3. SECURITY AT FOREIGN PORTS.

(a) IN GENERAL.—Section 70109 of title 46, United States Code, is amended—

(1) by striking "The Secretary," in subsection (b) and inserting "The Administrator of the Maritime Administration,"; and

(2) by adding at the end the following:

"(c) FOREIGN ASSISTANCE PROGRAMS.—The Administrator of the Maritime Administration, in coordination with the Secretary of State, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Administrator and the Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.".

(b) REPORT ON SECURITY AT PORTS IN THE CARIBBEAN BASIN.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives a report on the security of ports in the Caribbean Basin. The report shall include the following:

(1) An assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security.

(2) An estimate of the number of ports in the Caribbean Basin that will not be secured by July 2004, and an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States.

(3) An assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin.

SEC. 4. FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.

Section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and (2) by inserting after subsection (b) the following:

"(c) FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.—The Secretary of Transportation shall establish a curriculum, to be incorporated into the curriculum developed under subsection (a)(1), to educate and instruct Federal and State officials on commercial maritime and intermodal transportation. The curriculum shall be designed to familiarize those officials with commercial maritime transportation in order to facilitate performance of their commercial maritime and intermodal transportation security responsibilities. In developing the standards for the curriculum, the Secretary shall consult with each agency in the Department of Homeland Security with maritime security responsibilities to determine areas of educational need. The Secretary shall also coordinate with the Federal Law Enforcement Training Center in the development of the curriculum and the provision of training opportunities for Federal and State law enforcement officials at appropriate law enforcement training facilities.".

SEC. 5. TRANSPORTATION WORKER BACKGROUND INVESTIGATION PROGRAMS.

Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Secretary of Transportation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

(1) making recommendations (including legislative recommendations, if appropriate or necessary) for harmonizing, combining, or coordinating requirements, procedures, and programs for conducting background checks under section 70105 of title 46, United States Code, section 5103a(c) of title 49, United States Code, section 44936 of title 49, United States Code, and other provisions of Federal law or regulations requiring background checks for individuals engaged in transportation or transportation-related activities;

(2) setting forth a detailed timeline for implementation of such harmonization, combination, or coordination;

(3) setting forth a plan with a detailed timeline for the implementation of the Transportation Worker Identification Credential in seaports;

(4) making recommendations for a waiver and appeals process for issuing a transportation security card to an individual found otherwise ineligible for such a card under section 70105(c)(2) and (3) of title 46, United States Code, along with recommendations on the appropriate level of funding for such a process; and

(5) making recommendations for how information collected through the Transportation Worker Identification Credential program may be shared with port officials, terminal

operators, and other officials responsible for maintaining access control while also protecting workers' privacy.

SEC. 6. REPORT ON CRUISE SHIP SECURITY.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the security of ships and facilities used in the cruise line industry.

(b) CONTENT.—The report required by subsection (a) shall include an assessment of security measures employed by the cruise line industry, including the following:

(1) An assessment of the security of cruise ships that originate at ports in foreign countries.

(2) An assessment of the security of ports utilized for cruise ship docking.

(3) The costs incurred by the cruise line industry to carry out the measures required by the Maritime Transportation Security Act of 2002 (Public Law 107–295; 116 Stat. 2064) and the amendments made by that Act.

(4) The costs of employing canine units and hand-held explosive detection wands at ports, including the costs of screening passengers and baggage with such methods.

(5) An assessment of security measures taken by the Secretary of Homeland Security to increase the security of the cruise line industry and the costs incurred to carry out such security measures.

(6) A description of the need for and the feasibility of deploying explosive detection systems and canine units at ports used by cruise ships and an assessment of the cost of such deployment.

(7) A summary of the fees paid by passengers of cruise ships that are used for inspections and the feasibility of creating a dedicated passenger vessel security fund from such fees.

(8) The recommendations of the Secretary, if any, for measures that should be carried out to improve security of cruise ships that originate at ports in foreign countries.

(9) The recommendations of the Secretary, if any, on the deployment of further measures to improve the security of cruise ships, including explosive detection systems, canine units, and the use of technology to improve baggage screening, and an assessment of the cost of implementing such measures.

SEC. 7. MARITIME TRANSPORTATION SECURITY PLAN GRANTS.

Section 70107(a) of title 46, United States Code, is amended to read as follows:

"(a) IN GENERAL.—The Under Secretary of Homeland Security for Border and Transportation Security shall establish a grant program for making a fair and equitable allocation of funds to implement Area Maritime Transportation Security Plans and to help fund compliance with Federal security plans among port authorities, facility operators, and State and local agencies required to provide security services. Grants shall be made on the basis of threat-based risk assessments subject to review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administration. The grant program shall take into account national security priorities, national economic, and strategic defense concerns and shall be coordinated with the Director of the Office of Domestic Preparedness to ensure that the grant process is consistent with other Department of Homeland Security grant programs.".

SEC. 8. REPORT ON DESIGN OF MARITIME SECURITY GRANT PROGRAMS.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the design of maritime security grant programs that includes recommendations on—

(1) whether the grant programs should be discretionary or formula based and why;

(2) requirements for ensuring that Federal funds will not be substituted for grantee funds;

(3) targeting requirements to ensure that funding is directed in a manner that reflects a national, risk-based perspective on priority needs, the fiscal capacity of recipients to fund the improvements without grant funds, and an explicit analysis of the impact of minimum funding to small ports that could affect funding available for the most strategic or economically important ports; and

(4) matching requirements to ensure that Federal funds provide an incentive to grantees for the investment of their own funds in the improvements financed in part by Federal funds.

NOTICES OF HEARINGS/MEETINGS

JOINT ECONOMIC COMMITTEE

Mr. BENNETT. Mr. President, I announce that the Joint Economic Committee will conduct a hearing in Room 628 of the Dirksen Senate Office Building, Wednesday, September 22, 2004, from 10 a.m. to 12:30 p.m.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, September 21, 2004, at 9:30 a.m. on Oceans Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, September 21, 2004, at 2:30 p.m., on S. 1963—Wireless 411 Privacy Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, September 21, at 10 a.m. to consider the nominations of Karen Alderman Harbert, to be an Assistant Secretary of Energy for International Affairs and Domestic Policy and John Spitaleri Shaw, to be an Assistant Secretary of Energy for Environment, Safety and Health.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, September 21, 2004, at 10 a.m., to hear testimony on "Indian Jails: A Clarion Call for Reform."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, September 21, 2004 at 10 a.m., and Wednesday, September 22, 2004 at 10 a.m. to hold a business meeting to consider pending Committee business (agenda attached).

AGENDA

Legislation

1. National Intelligence Reform Act of 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to continue its markup on Tuesday, September 21, 2004, at 10 a.m. in Dirksen Senate Office Building room 226. The tentative agenda is attached.

I. Nominations: Claude A. Allen to be U.S. Circuit Judge for the Fourth Circuit; David E. Nahmias to be United States Attorney for the Northern District of Georgia; Ricardo H. Hinojosa to be Chair of the United States Sentencing Commission; Michael O'Neill to be a Member of the United States Sentencing Commission; Ruben Castillo to be a Member of the United States Sentencing Commission; William Sanchez to be Special Counsel for Immigration-Related Unfair Employment Practice; Richard B. Roper III to be United States Attorney for the Northern District of Texas for the term of four years; and Lisa Wood to be United States Attorney for the Southern District of Georgia for the term of four years.

II. Legislation: S. 1634, L–1 Visa (Intercompany Transferee) Reform Act of 2003, Chambliss; S. 1700, Advancing Justice through DNA Technology Act of 2003, Hatch, Biden, Specter, Leahy, DeWine, Feinstein, Kennedy, Schumer, Durbin, Kohl, Edwards; S. 2396, Federal Courts Improvement Act of 2004, Hatch, Leahy, Chambliss, Durbin, Schumer; H.R. 1417, To amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges Act of 2003, Smith of Texas, Berman, Conyers; S. 2204, A bill to provide criminal penalties for false information and hoaxes relating to terrorism Act of 2004, Hatch, Schumer, Cornyn, Feinstein, DeWine; S. 1860, A bill to reauthorize the Office of Drug Control Policy Act of 2003, Hatch, Biden, Grassley; S. 2195, A bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors Act of 2004, Biden, Hatch, Grassley, Feinstein; S.J. Res. 23, A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated Act of 2003, Cornyn, Chambliss; S. 2742, A bill to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court Act of 2004, Hatch, Leahy; and S. 2373, A bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names, Domenici, Graham, Kyl, Sessions.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, September 21, 2004, for a joint hearing with the House of Representatives' Committee on Veterans' Affairs, to hear the legislative presentation of The American Legion. The hearing will take place in room 345 of the Cannon House Office Building at 10 a.m.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 21, 2004 at 10:00 a.m. to hold a closed business meeting.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 21, 2004 at 2:30 p.m. to hold a closed business meeting.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION AND BORDER SECURITY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration and Border Security be authorized to meet to conduct a hearing on "Refugees: Seeking Solutions to a Global Concern" on Tuesday, September 21, 2004, at 2:30 p.m. in SD226.

Agenda:

Panel I: Gene Dewey, Assistant Secretary, Bureau of Population, Refugees, and Migration, Department of State, Washington, D.C.; Eduardo Aguirre, Director, U.S. Citizenship and Immigration Services, Department of Homeland Security, Washington, D.C.

Panel II: Charles H. Kuck, Managing Partner, Immigration Group, Weathersby, Howard & Kuck, LLC, Atlanta, GA; Mark Franken, Chair, Refugee Counsel, USA, Washington, D.C.; Lavinia Limon, Executive Director, United States Committee for Refugees, Washington, D.C.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, September 21 at 2:30 pm.

The purpose of the hearing is to receive testimony on the following bills: S. 784 and H.R. 1630, to Revise the Boundary of Petrified Forest National Park in the State of Arizona, and for other purposes; S. 2656, to establish a National Commission on the Quincentennial of the Discovery of Florida by Ponce De Leon; S. 2499, to modify the boundary of the Harry S Truman National Historic Site in the State of Missouri, and for other purposes; S. 1311, to establish the Hudson-Fulton-Champlain 400th Commemoration Commission, and for other purposes; and H.R. 2055, to amend P.L. 89–366 to allow for an Adjustment in the Number of Free Roaming Horses Permitted in Cape Lookout National Seashore.

THE PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Stephen Kosack, a fellow in my office, be granted the privileges of the floor during the remainder of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that Katie Callahan of my staff be granted the privileges of the floor for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARITIME TRANSPORTATION SECURITY ACT OF 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 530, S. 2279.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2279) to amend title 46, United States Code, with respect to maritime transportation security, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) Short Title.—This Act may be cited as the "Maritime Transportation Security Act of 2004".

(b) Table of Contents.—The table of contents for this Act is as follows:

[Sec. 1. Short title; table of contents
[Sec. 2. In rem liability; enforcement; pier and wharf security costs.
[Sec. 3. Maritime information.
[Sec. 4. Intermodal cargo security plan.
[Sec. 5. Joint operations center for port security.
[Sec. 6. Maritime transportation security plan grants.
[Sec. 7. Assistance for foreign ports.
[Sec. 8. Federal and State commercial maritime transportation training.
[Sec. 9. Port security research and development.
[Sec. 10. Nuclear facilities in maritime areas.
[Sec. 11. Transportation worker background investigation programs.
[Sec. 12. Security service fee.
[Sec. 13. Port security capital fund.

[SEC. 2. IN REM LIABILITY; ENFORCEMENT; PIER AND WHARF SECURITY COSTS.

[(a) In General.—Chapter 701 of title 46, United States Code, is amended—

[(1) by redesignating section 70117 as 70120; and

[(2) by inserting after section 70116 the following:

["§ 70117. In rem liability for civil penalties and certain costs

["(a) In General.—Any vessel subject to the provisions of this chapter, which is used in violation of this chapter or any regulations issued hereunder shall be liable in rem for any civil penalty assessed pursuant to section 70120 and may be proceeded against in the United States district court for any district in which such vessel may be found.

["(b) Reimbursable Costs.—

["(1) In general.—Any vessel subject to the provisions of this chapter shall be liable in rem for the reimbursable costs incurred by any valid claimant related to implementation and enforcement of this chapter with respect to the vessel, including port authorities, facility or terminal operators, shipping agents, Federal, State, or local government agencies, and other persons to whom the management of the vessel at the port of supply is entrusted, and any fine or penalty relating to reporting requirements of the vessel or its cargo, crew, or passengers, and may be proceeded against in the United States district court for any district in which such vessel may be found.

["(2) Reimbursable costs defined.—In this subsection the term 'reimbursable costs' means costs incurred by any service provider, including port authorities, facility or terminal operators, shipping agents, Federal, State, or local government agencies, or other person to whom the management of the vessel at the port of supply is entrusted, for—

["(A) vessel crew on board, or in transit to or from, the vessel under lawful order, including accommodation, detention, transportation, and medical expenses; and

["(B) required handling under lawful order of cargo or other items on board the vessel.

["§ 70118. Enforcement by injunction or withholding of clearance

["(a) Injunction.—The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued hereunder, for cause shown.

["(b) Withholding of Clearance.—

["(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under section 70120, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70120, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

["(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

["§ 70119. Security of piers and wharfs

["(a) In General.—Notwithstanding any provision of law, the Secretary shall require any uncleared, imported merchandise remaining on the wharf or pier onto which it was unladen for more than 5 calendar days to be removed from the wharf or pier and deposited in the public stores or a general order warehouse, where it shall be inspected for determination of contents, and thereafter a permit for its delivery may be granted.

["(b) Penalty.—The Secretary may impose an administrative penalty of $5,000 for each bill of lading for general order merchandise remaining on a wharf or pier in violation of subsection (a).".

[(b) Conforming Amendment for In Rem Liability Provision in Chapter 701.—Section 2 of the Act of June 15, 1917 (50 U.S.C. 192) is amended—

[(1) by striking "Act," each place it appears and inserting "title,"; and

[(2) by adding at the end the following:

["(d) In Rem Liability.—Any vessel subject to the provisions of this title, which is used in violation of this title, or any regulations issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to subsection (c) and may be proceeded against in the United States district court for any district in which such vessel may be found.

["(e) Injunction.—The United States district courts shall have jurisdiction to restrain violations of this title or of regulations issued hereunder, for cause shown.

["(f) Withholding of Clearance.—

["(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (c), or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty or fine under subsection (c), the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

["(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary of the Department in which the Coast Guard is operating.".

[(c) Empty Containers.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall review United States ports and transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the practices and policies in place to secure shipment of empty containers. The Secretary shall include in the report recommendations with respect to whether additional regulations or legislation is necessary to ensure the safe and secure delivery of cargo and to prevent potential acts of terrorism involving such containers.

[(d) Clerical Amendment.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the last item and inserting the following:

["70117. In rem liability for civil penalties and certain costs
["70118. Enforcement by injunction or withholding of clearance
["70119. Security of piers and wharfs
["70120. Civil penalty".

[SEC. 3. MARITIME INFORMATION.

[Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that provides a preliminary plan for the implementation of section 70113 of title 46, United States Code. The plan shall—

[(1) provide the identification of Federal agencies with maritime information relating to vessels, crew, passengers, cargo, and cargo shippers;

[(2) establish a timeline for coordinating the efforts of those Federal agencies in the collection of maritime information;

[(3) establish a timeline for the incorporation of information on vessel movements derived through the implementation of sections 70114 and 70115 of title 46, United States Code;

[(4) include recommendations on co-locating agency personnel in order to maximize expertise, minimize cost, and avoid redundancy;

[(5) include recommendations on how to leverage information on commercial maritime information collected by the Department of the Navy, and identify any legal impediments that would prevent or reduce the utilization of such information outside the Department of the Navy;

[(6) include recommendations on educating Federal officials on commercial maritime operations in order to facilitate the identification of security risks posed through commercial maritime transportation operations;

[(7) include recommendations on how private sector resources could be utilized to collect or analyze information, along with a preliminary assessment of the availability and expertise of private sector resources;

[(8) include recommendations on how to disseminate information collected and analyzed through Federal maritime security coordinator while considering the need for nondisclosure of sensitive security information and the maximizing of security through the utilization of State, local, and private security personnel; and

[(9) include recommendations on how the Department could help support a maritime information sharing and analysis center for the purpose of collecting information from public and private entities, along with recommendations on the appropriate levels of funding to help disseminate maritime security information to the private sector.

[SEC. 4. INTERMODAL CARGO SECURITY PLAN.

[(a) In General.—In addition to the plan submitted under section 3, within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing the following:

[(1) Secure systems of transportation (46 U.S.C. 70116).—A plan, along with timelines, for the implementation of section 70116 of title 46, United States Code. The plan shall—

[(A) provide an update on current efforts by the Department of Homeland Security could be incorporated into the certification process outlined in section 70116 to ensure the physical screening or inspection of imported cargo;

[(B) provide a preliminary assessment of resources necessary to evaluate and certify "Secure Systems of Transportation", and the resources necessary to validate that "Secure Systems of Transportation" are operating in compliance with the certification requirements; and

[(C) contain an analysis of the feasibility of establishing a user fee in order to be able to evaluate, certify, and validate "Secure Systems of Transportation".

[(2) Radiation detectors.—A report on progress in the installation of a system of radiation detection at all major United States seaports, along with a timeline and expected completion date for the system. In the report, the Secretary shall include a preliminary analysis of any issues related to the installation of the radiation detection equipment, as well as a cost estimate for completing installation of the system.

[(3) Non-intrusive inspection at foreign ports.—A report—

[(A) on whether and to what extent foreign seaports have been willing to utilize screening equipment at their ports to screen cargo, including the number of cargo containers that have been screened at foreign seaports, and the ports where they were screened;

[(B) indicating which foreign ports may be willing to utilize their screening equipment for cargo exported for import into the United States, and a recommendation as to whether, and to what extent, United States cargo screening equipment will be required to be purchased and stationed at foreign seaports for inspection; and

[(C) indicating to what extent additional resources and program changes will be necessary to maximize scrutiny of cargo in foreign seaports.

[(4) Compliance with security standard programs.—A plan to establish, validate, and ensure compliance with security standards that would require ports, terminals, vessel operators, and shippers to adhere to security standards established by or consistent with the National Transportation System Security Plan. The plan shall indicate what resources will be utilized, and how they would be utilized, to ensure that companies operate in compliance with security standards.

[(b) Evaluation of Cargo Inspection Targeting System for International Intermodal Cargo Containers.—

[(1) In general.—Within 6 months after the date of enactment of this Act, and annually thereafter, the Inspector General of the

Department of Homeland Security shall evaluate the system used by the Department to target international intermodal containers for inspection and report the results of the evaluation to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. In conducting the evaluation, the Inspector General shall assess—

[(A) the effectiveness of the current tracking system to determine whether it is adequate to prevent international intermodal containers from being used for purposes of terrorism;

[(B) the sources of information used by the system to determine whether targeting information is collected from the best and most credible sources and evaluate data sources to determine information gaps and weaknesses;

[(C) the targeting system for reporting and analyzing inspection statistics, as well as testing effectiveness;

[(D) the competence and training of employees operating the system to determine whether they are sufficiently capable to detect potential terrorist threats; and

[(E) whether the system is an effective system to detect potential acts of terrorism and whether additional steps need to be taken in order to remedy deficiencies in targeting international intermodal containers for inspection.

[(2) Increase in inspections.—If the Inspector General determines in any of the reports required by paragraph (1) that the targeting system is insufficiently effective as a means of detecting potential acts of terrorism utilizing international intermodal containers, then within 12 months after that report, the Secretary of Homeland Security shall double the number of containers subjected to intrusive or non-intrusive inspection at United States ports or to be shipped to the United States at foreign seaports.

[(c) Report and Plan Formats.—The Secretary and the Inspector General may submit any plan or report required by this section in both classified and redacted formats if the Secretary determines that it is appropriate or necessary.

[SEC. 5. JOINT OPERATIONS CENTER FOR PORT SECURITY.

[The Commandant of the United States Coast Guard shall report to Congress, within 180 days after the date of enactment of this Act, on the potential benefits of establishing joint operational centers for port security at certain United States seaports. The report shall consider the 3 Joint Operational Centers that have been established at Norfolk, Charleston, San Diego, and elsewhere and compare and contrast their composition and operational characteristics. The report shall consider—

[(1) whether it would be beneficial to establish linkages to Federal maritime information systems established pursuant to section 70113 of title 46, United States Code;

[(2) whether the operational centers could be beneficially utilized to track vessel movements under sections 70114 and 70115 of title 46, United States Code;

[(3) whether the operational centers could be beneficial in the facilitation of intermodal cargo security programs such as the "Secure Systems of Transportation Program";

[(4) the extent to which such operational centers could be beneficial in the operation of maritime area security plans and maritime area contingency response plans and in coordinating the port security activities of Federal, State, and local officials; and

[(5) include recommendations for the number of centers and their possible location, as well as preliminary cost estimates for the operation of the centers.

[SEC. 6. MARITIME TRANSPORTATION SECURITY PLAN GRANTS.

[Section 70107(a) of title 46, United States Code, is amended to read as follows:

["(a) In General.—The Under Secretary of Homeland Security for Border and Transportation Security shall establish a grant program for making a fair and equitable allocation of funds to implement Area Maritime Transportation Security Plans and to help fund compliance with Federal security plans among port authorities, facility operators, and State and local agencies required to provide security services. Grants shall be made on the basis of the need to address vulnerabilities in security subject to review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administration. The grant program shall take into account national economic and strategic defense concerns and shall be coordinated with the Director of the Office of Domestic Preparedness to ensure that the grant process is consistent with other Department of Homeland Security grant programs.".

[SEC. 7. ASSISTANCE FOR FOREIGN PORTS.

[Section 70109 of title 46, United States Code, is amended—

[(1) by striking "The Secretary" in subsection (b) and inserting "The Administrator of the Maritime Administration"; and

[(2) by adding at the end the following:

["(c) Foreign Assistance Programs.—The Administrator of the Maritime Administration, in coordination with the Secretary of State, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Administrator and the Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.".

[SEC. 8. FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.

[Section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note) is amended—

[(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

[(2) by inserting after subsection (b) the following:

["(c) Federal and State Commercial Maritime Transportation Training.—The Secretary of Transportation shall establish a curriculum, to be incorporated into the curriculum developed under subsection (a)(1), to educate and instruct Federal and State officials on commercial maritime and intermodal transportation. The curriculum shall be designed to familiarize those officials with commercial maritime transportation in order to facilitate performance of their commercial maritime and intermodal transportation security responsibilities. In developing the standards for the curriculum, the Secretary shall consult with each agency in the Department of Homeland Security with maritime security responsibilities to determine areas of educational need. The Secretary shall also coordinate with the Federal Law Enforcement Training Center in the development of the curriculum and the provision of training opportunities for Federal and State law enforcement officials at appropriate law enforcement training facilities.

[SEC. 9. RESEARCH AND DEVELOPMENT.

[(a) In General.—Section 70107 of title 46, United States Code, is amended by striking subsection (i) and inserting the following:

["(i) Research and Development.—

["(1) In general.—As part of the research and development program within the Science and Technology directorate, the Secretary of Homeland Security shall conduct investigations, fund pilot programs, award grants, and otherwise conduct research and development across the various portfolios focused on making United States ports safer and more secure. Research conducted under this subsection may include—

["(A) methods or programs to increase the ability to target for inspection vessels, cargo, crewmembers, or passengers that will arrive or have arrived at any port or place in the United States;

["(B) equipment to detect accurately explosives, chemical, or biological agents that could be used to commit terrorist acts against the United States;

["(C) equipment to detect accurately nuclear or radiological materials, including scintillation-based detection equipment capable of signalling the presence of nuclear or radiological materials;

["(D) improved tags and seal designed for use on shipping containers to track the transportation of the merchandise in such containers, including 'smart sensors' that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit that information to the appropriate law enforcement authorities;

["(E) tools, including the use of satellite tracking systems, to increase the awareness of maritime areas and to identify potential terrorist threats that could have an impact on facilities, vessels, and infrastructure on or adjacent to navigable waterways, including underwater access;

["(F) tools to mitigate the consequences of a terrorist act on, adjacent to, or under navigable waters of the United States, including sensor equipment, and other tools to help coordinate effective response to a terrorist action; and

["(G) applications to apply existing technologies from other areas or industries to increase overall port security.

["(2) Implementation of technology.—

["(A) In general.—In conjunction with ongoing efforts to improve security at United States ports, the Director of the Science and Technology Directorate, in consultation with other Department of Homeland Security agencies with responsibility for port security, may conduct pilot projects at United States ports to test the effectiveness and applicability of new port security projects, including—

["(i) testing of new detection and screening technologies;

["(ii) projects to protect United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access; and

["(iii) tools for responding to a terrorist threat or incident at United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access.

["(B) Authorization of appropriations.—There are authorized to be appropriated to the Secretary of Homeland Security $35,000,000 for each of fiscal years 2005 through 2009 to carry out pilot projects under subparagraph (A).

["(3) Administrative provisions.—

[“(A) NO DUPLICATION OF EFFORT.—Before making any grant, the Secretary of Homeland Security shall coordinate with other Federal agencies to ensure the grant will not be used for research and development that is already being conducted with Federal funding.

[“(B) ACCOUNTING.—The Secretary of Homeland Security shall by regulation establish accounting, reporting, and review procedures to ensure that funds made available under paragraph (1) are used for the purpose for which they were made available, that all expenditures are properly accounted for, and that amounts not used for such purposes and amounts not expended are recovered.

[“(C) RECORDKEEPING.—Recipients of grants shall keep all records related to expenditures and obligations of funds provided under paragraph (1) and make them available upon request to the Inspector General of the Department of Homeland Security and the Secretary of Homeland Security for audit and examination.”.

[(b) ANNUAL REPORT.—Within 30 days after the beginning of each fiscal year from fiscal year 2005 through fiscal year 2009, the Director of the Science and Technology Directorate shall submit a report describing its research that can be applied to port security to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security. The report shall—

[(1) describe any port security-related research, including grants and pilot projects, that were conducted in the preceding fiscal year;

[(2) describe the amount of Department of Homeland Security resources dedicated to research that can be applied to port security;

[(3) describe the steps taken to coordinate with other agencies within the Department to ensure that research efforts are coordinated with port security efforts;

[(4) describe how the results of the Department's research, as well as port security related research of the Department of Defense, will be implemented in the field, including predicted timetables;

[(5) lay out the plans for research in the current fiscal year; and

[(6) include a description of the funding levels for the research in the preceding, current, and next fiscal years.

[SEC. 10. NUCLEAR FACILITIES IN MARITIME AREAS.

[(a) WATERWAYS.—Section 70103(b) is amended by adding at the end thereof the following:

[“(5) WATERWAYS LOCATED NEAR NUCLEAR FACILITIES.—

[“(A) IDENTIFICATION AND SECURITY EVALUATION.—The Secretary shall—

[“(i) identify all nuclear facilities on, adjacent to, or in close proximity to navigable waterways that might be damaged by a transportation security incident;

[“(ii) in coordination with the Secretary of Energy, evaluate the security plans of each such nuclear facility for its adequacy to protect the facility from damage or disruption from a transportation security incident originating in the navigable waterway, including threats posed by navigation, underwater access, and the introduction of harmful substances into water coolant systems.

[“(B) RECTIFICATION OF DEFICIENCIES.—The Secretary, in coordination with the Secretary of Energy, shall take such steps as may be necessary or appropriate to correct any deficiencies in security identified in the evaluations conducted under subparagraph (A).

[“(C) REPORT.—As soon as practicable after completion of the evaluation under subparagraph (A), the Secretary shall transmit a report, in both classified and redacted format, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Select Committee on Homeland Security—

[“(i) describing the results of the identification and evaluation required by subparagraph (A);

[“(ii) describing the actions taken under subparagraph (B); and

[“(iii) evaluating the technology utilized in the protection of nuclear facilities (including any such technology under development).”.

[(b) VESSELS.—Section 70103(c)(3) of title 46, United States Code, is amended—

[(1) by striking “and” after the semicolon in subparagraph (F);

[(2) by striking “facility.” in subparagraph (G) and inserting “facility; and”; and

[(3) by adding at the end the following:

[“(H) establish a requirement, coordinated with the Department of Energy, for criminal background checks of all United States and foreign seamen employed on vessels transporting nuclear materials in the navigable waters of the United States.”.

[SEC. 11. TRANSPORTATION WORKER BACKGROUND INVESTIGATION PROGRAMS.

[Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Secretary of Transportation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

[(1) making recommendations (including legislative recommendations, if appropriate or necessary) for harmonizing, combining, or coordinating requirements, procedures, and programs for conducting background checks under section 70105 of title 46, United States Code, section 5103a(c) of title 49, United States Code, section 44936 of title 49, United States Code, and other provisions of Federal law or regulations requiring background checks for individuals engaged in transportation or transportation-related activities; and

[(2) setting forth a detailed timeline for implementation of such harmonization, combination, or coordination.

[SEC. 12. SECURITY SERVICE FEE.

[(a) IN GENERAL.—Chapter 701 of title 46, United States Code, as amended by section 2, is further amended by adding at the end the following:

“§ 70121. Security service fee

[“(a) IN GENERAL.—

[“(1) SECURITY FEE.—Within 90 days after the date of enactment of the Maritime Transportation Security Act of 2004, the Secretary of Homeland Security shall assess and collect an international port security service fee on commercial maritime transportation entities that benefit from a secure system of international maritime transportation to pay for the costs of providing port security services. The amount of the fees assessed and collected under this paragraph and paragraph (2) shall, in the aggregate, be sufficient to provide the services and levels of funding described in section 70122(c).

[“(2) INTERNATIONAL TRANSSHIPMENT SECURITY FEE.—The Secretary shall also assess and collect an international maritime transshipment security user fee for providing security services for shipments of cargo and transportation of passengers entering the United States as part of an international transportation movement by water through Canadian or Mexican ports at the same rates as the fee imposed under paragraph (1). The fee authorized by this paragraph shall not be assessed or collected on transshipments from—

[(A) Canada after the date on which the Secretary determines that an agreement between the United States and Canada, or

[(B) Mexico after the date on which the Secretary determines that an agreement between the United States and Mexico,

has entered into force that will provide equivalent security regimes and international maritime security user fees of the United States and that country for transshipments between the countries.

[“(b) SCHEDULE OF FEES.—In imposing fees under subsection (a), the Secretary shall ensure that the fees are reasonably related to the costs of providing services rendered and the value of the benefit derived from the continuation of secure international maritime transportation.

[“(c) IMPOSITION OF FEE.—

[“(1) IN GENERAL.—Notwithstanding section 9701 of title 31 and the procedural requirements of section 553 of title 5, the Secretary shall impose the fees under subsection (a) through the publication of notice in the Federal Register and begin collection of the fee within 60 days of the date of enactment of the Maritime Transportation Security Act of 2004, or as soon as possible thereafter. No fee shall be assessed more than once, and no fee shall be assessed for international ferry voyages.

[“(2) MEANS OF COLLECTION.—The Secretary shall prescribe procedures to collect fees under this section. The Secretary may use a department, agency, or instrumentality of the United States Government or of a State or local government to collect the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

[“(3) SUBSEQUENT MODIFICATION OF FEE.—After imposing a fee under subsection (a), the Secretary may modify, from time to time through publication of notice in the Federal Register, the imposition or collection of such fee, or both. The Secretary shall evaluate the fee annually to determine whether it is necessary and appropriate to pay the cost of activities and services, and shall adjust the amount of the fee accordingly.

[“(4) LIMITATION ON COLLECTION.—No fee may be collected under this section except to the extent that the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

[“(d) ADMINISTRATION OF FEES.—

[“(1) FEES PAYABLE TO SECRETARY.—All fees imposed and amounts collected under this section are payable to the Secretary.

[“(2) INFORMATION.—The Secretary may require the provision of such information as the Secretary decides is necessary to verify that fees have been collected and remitted at the proper times and in the proper amounts.

[“(e) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee collected under this section—

[“(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

["(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

["(3) shall remain available until expended.

["(f) REFUNDS.—The Secretary may refund any fee paid by mistake or any amount paid in excess of that required.

["(g) SUNSET.—The fees authorized by subsection (a) may not be assessed after September 31, 2009.".

[(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, as amended by section 2, is amended by adding at the end the following:

["70121. Security service fee.".

[SEC. 13. PORT SECURITY CAPITAL FUND.

[(a) IN GENERAL.—Chapter 701 of title 46, United States Code, as amended by section 11, is further amended by adding at the end the following:

["§ 70122. Port security capital fund.

["(a) IN GENERAL.—There is established within the Department of Homeland Security a fund to be known as the Port Security Capital Fund. There are appropriated to the Fund such sums as may be derived from the fees authorized by section 70121(a).

["(b) PURPOSE.—Amounts in the Fund shall be available to the Secretary of Homeland Security—

["(1) to provide financial assistance to port authorities, facility operators, and State and local agencies required to provide security services to defray capital investment in transportation security at port facilities in accordance with the provisions of this chapter;

["(2) to provide financial assistance to those entities required to provide security services to help ensure compliance with Federal area maritime security plans; and

["(3) to help defray the costs of Federal port security programs.

["(c) ALLOCATION OF FUNDS.—

["(1) FUNDS DERIVED FROM SECURITY FEES.—From amounts in the Fund attributable to fees collected under section 70121(a)(1) and (2)—

["(A) no less than $400,000,000 (or such amount as may be appropriate to reflect any modification of the fees under section 70121(c)(3)) shall be made available each fiscal year for grants under section 70107 to help ensure compliance with facility security plans or to help implement Area Maritime Transportation Security Plans;

["(B) funds shall be made available to the Coast Guard for the costs of implementing sections 70114 and 70115 fully by the end of fiscal year 2006;

["(C) funds shall be made available to the Coast Guard for the costs of establishing command and control centers at United States ports to help coordinate port security law enforcement activities and implementing Area Maritime Security Plans, and may be transferred, as appropriate, to port authorities, facility operators, and State and local government agencies to help them defray costs associated with port security services;

["(D) funds shall be made available to the Under Secretary of Homeland Security for Border and Transportation Security for the costs of implementing cargo security programs, including the costs of certifying secure systems of transportation under section 70116;

["(E) funds shall be made available to the Under Secretary of Homeland Security for Border and Transportation Security for the costs of acquiring and operating nonintrusive screening equipment at United States ports; and

["(F) funds shall be made available to the Transportation Security Administration for the costs of implementing of section 70113 and the collection of commercial maritime intelligence (including the collection of commercial maritime transportation information from the private sector), of which a portion shall be made available to the Coast Guard and the Customs Service only for the purpose of coordinating the system of collecting and analyzing information on vessels, crew, passengers, cargo, and intermodal shipments.

["(2) TRANSSHIPMENT FEES.—Amounts in the Fund attributable to fees collected under section 70121(a)(3), shall be made available to the Secretary to defray the costs of providing international maritime transshipment security at the United States borders with Canada and Mexico.

["(d) UTILIZATION REPORTS.—The Commandant of the Coast Guard and the Secretary of Homeland Security shall report annually to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on utilization of amounts received from the Fund.

["(e) LETTERS OF INTENT.—The Secretary of Homeland Security, or his delegate, may execute letters of intent to commit funding to port sponsors from the Fund.".

[(f) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, as amended by section 11, is amended by adding at the end the following:

["70122. Port security capital fund.".]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Maritime Transportation Security Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents
Sec. 2. In rem liability; enforcement; pier and wharf security costs.
Sec. 3. Maritime information.
Sec. 4. Intermodal cargo security plan.
Sec. 5. Joint operations center for port security.
Sec. 6. Maritime transportation security plan grants.
Sec. 7. Assistance for foreign ports.
Sec. 8. Federal and State commercial maritime transportation training.
Sec. 9. Port security research and development.
Sec. 10. Nuclear facilities in maritime areas.
Sec. 11. Transportation worker background investigation programs.
Sec. 12. Report on cruise ship security.
Sec. 13. Report on design of maritime security grant programs.

SEC. 2. IN REM LIABILITY; ENFORCEMENT; PIER AND WHARF SECURITY COSTS.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating section 70117 as 70120; and

(2) by inserting after section 70116 the following:

"§ 70117. In rem liability for civil penalties and certain costs

"(a) IN GENERAL.—Any vessel subject to the provisions of this chapter, which is used in violation of this chapter or any regulations issued hereunder shall be liable in rem for any civil penalty assessed pursuant to section 70120 and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(b) REIMBURSABLE COSTS.—

"(1) IN GENERAL.—Any vessel subject to the provisions of this chapter shall be liable in rem for the reimbursable costs incurred by any valid claimant related to implementation and enforcement of this chapter with respect to the vessel, including port authorities, facility or terminal operators, shipping agents, Federal, State, or local government agencies, and other persons to whom the management of the vessel at the port of supply is entrusted, and any fine or penalty relating to reporting requirements of the vessel or its cargo, crew, or passengers, and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(2) REIMBURSABLE COSTS DEFINED.—In this subsection the term 'reimbursable costs' means costs incurred by any service provider, including port authorities, facility or terminal operators, shipping agents, Federal, State, or local government agencies, or other person to whom the management of the vessel at the port of supply is entrusted, for—

"(A) vessel crew on board, or in transit to or from, the vessel under lawful order, including accommodation, detention, transportation, and medical expenses; and

"(B) required handling under lawful order of cargo or other items on board the vessel.

"§ 70118. Enforcement by injunction or withholding of clearance

"(a) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued hereunder, for cause shown.

"(b) WITHHOLDING OF CLEARANCE.—

"(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under section 70120, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70120, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

"§ 70119. Security of piers and wharfs

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall require any uncleared, imported merchandise remaining on the wharf or pier onto which it was unladen for more than 5 calendar days to be removed from the wharf or pier and deposited in the public stores or a general order warehouse, where it shall be inspected for determination of contents, and thereafter a permit for its delivery may be granted.

"(b) PENALTY.—The Secretary may impose an administrative penalty of $5,000 for each bill of lading for general order merchandise remaining on a wharf or pier in violation of subsection (a).".

(b) CONFORMING AMENDMENT FOR IN REM LIABILITY PROVISION IN CHAPTER 701.—Section 2 of the Act of June 15, 1917 (50 U.S.C. 192) is amended—

(1) by striking "Act," each place it appears in subsection (c) and inserting "title,"; and

(2) by adding at the end the following:

"(d) IN REM LIABILITY.—Any vessel subject to the provisions of this title that is used in violation of this title, or any regulations issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to subsection (c) and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(e) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this title or of regulations issued hereunder, for cause shown.

"(f) WITHHOLDING OF CLEARANCE.—

"(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (c), or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty or fine under subsection (c), the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary of the Department in which the Coast Guard is operating.".

(c) EMPTY CONTAINERS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall review United States ports and transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the practices and policies in place to secure shipment of empty containers. The Secretary shall include in the report recommendations with respect to whether additional regulations or legislation is necessary to ensure the safe and secure delivery of cargo and to prevent potential acts of terrorism involving such containers.

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the last item and inserting the following:

"70117. In rem liability for civil penalties and certain costs
"70118. Enforcement by injunction or withholding of clearance
"70119. Security of piers and wharfs
"70120. Civil penalty".

SEC. 3. MARITIME INFORMATION.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that provides a preliminary plan for the implementation of section 70113 of title 46, United States Code. The plan shall—

(1) identify Federal agencies with maritime information relating to vessels, crew, passengers, cargo, and cargo shippers, those agencies' maritime information collection and analysis activities, and the resources devoted to those activities;

(2) establish a lead agency within the Department of Homeland Security to coordinate the efforts of other Department agencies in the collection of maritime information and to identify and avoid unwanted redundancy in those efforts;

(3) establish a timeline for coordinating the efforts of those Federal agencies in the collection of maritime information;

(4) include recommendations on co-locating agency personnel in order to maximize expertise, minimize costs, and avoid redundancy in both the collection and analysis of maritime information;

(5) establish a timeline for the incorporation of information on vessel movements derived through the implementation of sections 70114 and 70115 of title 46, United States Code;

(6) include recommendations on how to leverage information on commercial maritime information collected by the Department of the Navy, and identify any legal impediments that would prevent or reduce the utilization of such information outside the Department of the Navy;

(7) include recommendations on educating Federal officials on commercial maritime operations in order to facilitate the identification of security risks posed through commercial maritime transportation operations;

(8) include recommendations on how private sector resources could be utilized to collect or analyze information, along with a preliminary assessment of the availability and expertise of private sector resources;

(9) include recommendations on how to disseminate information collected and analyzed through Federal maritime security coordinator while considering the need for nondisclosure of sensitive security information and the maximizing of security through the utilization of State, local, and private security personnel; and

(10) include recommendations on the need for and how the Department could help support a maritime information sharing and analysis center for the purpose of collecting and disseminating real-time or near real-time information to and from public and private entities, along with recommendations on the appropriate levels of funding to help disseminate maritime security information to the private sector.

SEC. 4. INTERMODAL CARGO SECURITY PLAN.

(a) IN GENERAL.—In addition to the plan submitted under section 3, within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing the following:

(1) SECURE SYSTEMS OF TRANSPORTATION.—A plan, along with timelines, for the implementation of section 70116 of title 46, United States Code. The plan shall—

(A) provide an update on current efforts by the Department of Homeland Security to ensure the physical screening or inspection of imported cargo;

(B) provide a preliminary assessment of resources necessary to evaluate and certify secure systems of transportation, and the resources necessary to validate that the secure systems of transportation are operating in compliance with the certification requirements;

(C) contain an analysis of the feasibility of establishing a user fee in order to be able to evaluate, certify, and validate secure systems of transportation;

(D) contain an analysis of the need and feasibility of establishing a system to inspect, monitor, and track intermodal shipping containers within the United States; and

(E) contain an analysis of the need and feasibility for developing international standards for secure systems of transportation, including recommendations, that includes an examination of working with appropriate international organizations to develop standards to enhance the physical security of shipping containers consistent with the provisions of section 70116 of title 46, United States Code.

(2) RADIATION DETECTORS.—A report on progress in the installation of a system of radiation detection at all major United States seaports, along with a timeline and expected completion date for the system. In the report, the Secretary shall include a preliminary analysis of any issues related to the installation or efficacy of the radiation detection equipment, as well as a cost estimate for completing installation of the system.

(3) NON-INTRUSIVE INSPECTION AT FOREIGN PORTS.—A report—

(A) on whether and to what extent foreign seaports have been willing to utilize screening equipment at their ports to screen cargo, including the number of cargo containers that have been screened at foreign seaports, and the ports where they were screened;

(B) indicating which foreign ports may be willing to utilize their screening equipment for cargo exported for import into the United States, and a recommendation as to whether, and to what extent, United States cargo screening equipment will be required to be purchased and stationed at foreign seaports for inspection; and

(C) indicating ways to increase the effectiveness of the targeting and screening activities of United States Customs Service inspectors who are stationed outside the United States and to what extent additional resources and program changes will be necessary to maximize scrutiny of cargo in foreign seaports that is destined for the United States.

(4) COMPLIANCE WITH SECURITY STANDARD PROGRAMS.—A plan to establish, validate, and ensure compliance with security standards that would require ports, terminals, vessel operators, and shippers to adhere to security standards established by or consistent with the National Transportation System Security Plan. The plan shall indicate what resources will be utilized, and how they would be utilized, to ensure that companies operate in compliance with security standards.

(b) INSPECTOR GENERAL IMPLEMENTATION REPORT.—One year after the date on which the plan described in subsection (a)(1) is submitted to the Committees, the Inspector General of the Department of Homeland Security shall transmit a report to those Committees evaluating the progress made by the Department in implementing the plan.

(c) EVALUATION OF CARGO INSPECTION TARGETING SYSTEM FOR INTERNATIONAL INTERMODAL CARGO CONTAINERS.—

(1) IN GENERAL.—Within 6 months after the date of enactment of this Act, and annually thereafter, the Inspector General of the Department of Homeland Security shall evaluate the system used by the Department to target international intermodal containers for inspection and report the results of the evaluation to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. In conducting the evaluation, the Inspector General shall assess—

(A) the effectiveness of the current tracking system to determine whether it is adequate to prevent international intermodal containers from being used for purposes of terrorism;

(B) the sources of information, and the quality of the information at the time of reporting, used by the system to determine whether targeting information is collected from the best and most credible sources and evaluate data sources to determine information gaps and weaknesses;

(C) the targeting system for reporting and analyzing inspection statistics, as well as testing effectiveness;

(D) the competence and training of employees operating the system to determine whether they are sufficiently capable to detect potential terrorist threats; and

(E) whether the system is an effective system to detect potential acts of terrorism and whether additional steps need to be taken in order to remedy deficiencies in targeting international intermodal containers for inspection.

(2) INCREASE IN INSPECTIONS.—If the Inspector General determines in any of the reports required by paragraph (1) that the targeting system is insufficiently effective as a means of detecting potential acts of terrorism utilizing international intermodal containers, then within 12 months after that report, the Secretary of Homeland Security shall double the number of containers subjected to intrusive or non-intrusive inspection at United States ports or to be shipped to the United States at foreign seaports.

(d) REPORT AND PLAN FORMATS.—The Secretary and the Inspector General may submit any plan or report required by this section in both classified and redacted formats if the Secretary determines that it is appropriate or necessary.

SEC. 5. JOINT OPERATIONS CENTER FOR PORT SECURITY.

The Commandant of the United States Coast Guard shall report to Congress, within 180 days *after the date of enactment of this Act, on the potential benefits of establishing joint operational centers for port security at certain United States seaports. The report shall consider the 3 Joint Operational Centers that have been established at Norfolk, Charleston, San Diego, and elsewhere and compare and contrast their composition and operational characteristics. The report shall consider—*

(1) whether it would be beneficial to establish linkages to Federal maritime information systems established pursuant to section 70113 of title 46, United States Code;

(2) whether the operational centers could be beneficially utilized to track vessel movements under sections 70114 and 70115 of title 46, United States Code;

(3) whether the operational centers could be beneficial in the facilitation of intermodal cargo security programs such as the secure systems of transportation program;

(4) the extent to which such operational centers could be beneficial in the operation of maritime area security plans and maritime area contingency response plans and in coordinating the port security activities of Federal, State, and local officials; and

(5) include recommendations for the number of centers and their possible location, as well as preliminary cost estimates for the operation of the centers.

SEC. 6. MARITIME TRANSPORTATION SECURITY PLAN GRANTS.

Section 70107(a) of title 46, United States Code, is amended to read as follows:

"(a) In General.—The Under Secretary of Homeland Security for Border and Transportation Security shall establish a grant program for making a fair and equitable allocation of funds to implement Area Maritime Transportation Security Plans and to help fund compliance with Federal security plans among port authorities, facility operators, and State and local agencies required to provide security services. Grants shall be made on the basis of the need to address vulnerabilities in security subject to review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administration. The grant program shall take into account national economic and strategic defense concerns and shall be coordinated with the Director of the Office of Domestic Preparedness to ensure that the grant process is consistent with other Department of Homeland Security grant programs.".

SEC. 7. ASSISTANCE FOR FOREIGN PORTS.

(a) In General.—Section 70109 of title 46, United States Code, is amended—

(1) by striking "The Secretary," in subsection (b) and inserting "The Administrator of the Maritime Administration,"; and

(2) by adding at the end the following:

"(c) Foreign Assistance Programs.—The Administrator of the Maritime Administration, in coordination with the Secretary of State, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Administrator and the Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.".

(b) Report on Security at Ports in the Caribbean Basin.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives a report on the security of ports in the Caribbean Basin. The report shall include the following:

(1) An assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security.

(2) An estimate of the number of ports in the Caribbean Basin that will not be secured by July 2004, and an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States.

(3) An assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin.

SEC. 8. FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.

Section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

"(c) Federal and State Commercial Maritime Transportation Training.—The Secretary of Transportation shall establish a curriculum, to be incorporated into the curriculum developed under subsection (a)(1), to educate and instruct Federal and State officials on commercial maritime and intermodal transportation. The curriculum shall be designed to familiarize those officials with commercial maritime transportation in order to facilitate performance of their commercial maritime and intermodal transportation security responsibilities. In developing the standards for the curriculum, the Secretary shall consult with each agency in the Department of Homeland Security with maritime security responsibilities to determine areas of educational need. The Secretary shall also coordinate with the Federal Law Enforcement Training Center in the development of the curriculum and the provision of training opportunities for Federal and State law enforcement officials at appropriate law enforcement training facilities.".

SEC. 9. RESEARCH AND DEVELOPMENT.

(a) In General.—Section 70107 of title 46, United States Code, is amended by striking subsection (i) and inserting the following:

"(i) Research and Development.—

"(1) In general.—As part of the research and development program within the Science and Technology directorate, the Secretary of Homeland Security shall conduct investigations, fund pilot programs, award grants, and otherwise conduct research and development across the various portfolios focused on making United States ports safer and more secure. Research conducted under this subsection may include—

"(A) methods or programs to increase the ability to target for inspection vessels, cargo, crewmembers, or passengers that will arrive or have arrived at any port or place in the United States;

"(B) equipment to detect accurately explosives, chemical, or biological agents that could be used to commit terrorist acts against the United States;

"(C) equipment to detect accurately nuclear or radiological materials, including scintillation-based detection equipment capable of signalling the presence of nuclear or radiological materials;

"(D) improved tags and seals designed for use on shipping containers to track the transportation of the merchandise in such containers, including 'smart sensors' that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit that information to the appropriate law enforcement authorities;

"(E) tools, including the use of satellite tracking systems, to increase the awareness of maritime areas and to identify potential terrorist threats that could have an impact on facilities, vessels, and infrastructure on or adjacent to navigable waterways, including underwater access;

"(F) tools to mitigate the consequences of a terrorist act on, adjacent to, or under navigable waters of the United States, including sensor equipment, and other tools to help coordinate effective response to a terrorist action;

"(G) applications to apply existing technologies from other areas or industries to increase overall port security; and

"(H) improved container design, including blast-resistant containers.

"(2) Implementation of technology.—

"(A) In general.—In conjunction with ongoing efforts to improve security at United States ports, the Director of the Science and Technology Directorate, in consultation with other Department of Homeland Security agencies with responsibility for port security, may conduct pilot projects at United States ports to test the effectiveness and applicability of new port security projects, including—

"(i) testing of new detection and screening technologies;

"(ii) projects to protect United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access; and

"(iii) tools for responding to a terrorist threat or incident at United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access.

"(B) Authorization of appropriations.—There are authorized to be appropriated to the Secretary of Homeland Security $35,000,000 for each of fiscal years 2005 through 2009 to carry out pilot projects under subparagraph (A).

"(3) Administrative provisions.—

"(A) No duplication of effort.—Before making any grant, the Secretary of Homeland Security shall coordinate with other Federal agencies to ensure the grant will not be used for research and development that is already being conducted with Federal funding.

"(B) Accounting.—The Secretary of Homeland Security shall by regulation establish accounting, reporting, and review procedures to ensure that funds made available under paragraph (1) are used for the purpose for which they were made available, that all expenditures are properly accounted for, and that amounts not used for such purposes and amounts not expended are recovered.

"(C) Recordkeeping.—Recipients of grants shall keep all records related to expenditures and obligations of funds provided under paragraph (1) and make them available upon request to the Inspector General of the Department of Homeland Security and the Secretary of Homeland Security for audit and examination.".

(b) Annual Report.—Within 30 days after the beginning of each fiscal year from fiscal year 2005 through fiscal year 2009, the Director of the Science and Technology Directorate shall submit a report describing its research that can be applied to port security to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security. The report shall—

(1) describe any port security-related research, including grants and pilot projects, that were conducted in the preceding fiscal year;

(2) describe the amount of Department of Homeland Security resources dedicated to research that can be applied to port security;

(3) describe the steps taken to coordinate with other agencies within the Department to ensure that research efforts are coordinated with port security efforts;

(4) describe how the results of the Department's research, as well as port security related research of the Department of Defense, will be implemented in the field, including predicted timetables;

(5) lay out the plans for research in the current fiscal year; and

(6) include a description of the funding levels for the research in the preceding, current, and next fiscal years.

SEC. 10. NUCLEAR FACILITIES IN MARITIME AREAS.

(a) Waterways.—Section 70103(b) is amended by adding at the end thereof the following:

"(5) Waterways Located Near Nuclear Facilities.—

"(A) Identification and Security Evaluation.—The Secretary shall—

"(i) identify all nuclear facilities on, adjacent to, or in close proximity to navigable waterways that might be damaged by a transportation security incident; and

"(ii) in coordination with the Secretary of Energy, evaluate the security plans of each such nuclear facility for its adequacy to protect the facility from damage or disruption from a transportation security incident originating in the navigable waterway, including threats posed by navigation, underwater access, and the introduction of harmful substances into water coolant systems.

"(B) Rectification of Deficiencies.—The Secretary, in coordination with the Secretary of Energy, shall take such steps as may be necessary or appropriate to correct any deficiencies in security identified in the evaluations conducted under subparagraph (A).

"(C) Report.—As soon as practicable after completion of the evaluation under subparagraph (A), the Secretary shall transmit a report, in both classified and redacted format, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Select Committee on Homeland Security—

"(i) describing the results of the identification and evaluation required by subparagraph (A);

"(ii) describing the actions taken under subparagraph (B); and

"(iii) evaluating the technology utilized in the protection of nuclear facilities (including any such technology under development).".

(b) Vessels.—Section 70103(c)(3) of title 46, United States Code, is amended—

(1) by striking "and" after the semicolon in subparagraph (F);

(2) by striking "facility." in subparagraph (G) and inserting "facility; and"; and

(3) by adding at the end the following:

"(H) establish a requirement, coordinated with the Department of Energy, for criminal background checks of all United States and foreign seamen employed on vessels transporting nuclear materials in the navigable waters of the United States.".

SEC. 11. TRANSPORTATION WORKER BACKGROUND INVESTIGATION PROGRAMS.

Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Secretary of Transportation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

(1) making recommendations (including legislative recommendations, if appropriate or necessary) for harmonizing, combining, or coordinating requirements, procedures, and programs for conducting background checks under section 70105 of title 46, United States Code, section 5103a(c) of title 49, United States Code, section 44936 of title 49, United States Code, and other provisions of Federal law or regulations requiring background checks for individuals engaged in transportation or transportation-related activities;

(2) setting forth a detailed timeline for implementation of such harmonization, combination, or coordination;

(3) setting forth a plan with a detailed timeline for the implementation of the Transportation Worker Identification Credential in seaports;

(4) making recommendations for a waiver and appeals process for issuing a transportation security card to an individual found otherwise ineligible for such a card under section 70105(c)(2) and (3) of title 46, United States Code, along with recommendations on the appropriate level of funding for such a process; and

(5) making recommendations for how information collected through the Transportation Worker Identification Credential program may be shared with port officials, terminal operators, and other officials responsible for maintaining access control while also protecting workers' privacy.

SEC. 12. REPORT ON CRUISE SHIP SECURITY.

(a) In General.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the security of ships and facilities used in the cruise line industry.

(b) Content.—The report required by subsection (a) shall include an assessment of security measures employed by the cruise line industry, including the following:

(1) An assessment of the security of cruise ships that originate at ports in foreign countries.

(2) An assessment of the security of ports utilized for cruise ship docking.

(3) The costs incurred by the cruise line industry to carry out the measures required by the Maritime Transportation Security Act of 2002 (Public Law 107–295; 116 Stat. 2064) and the amendments made by that Act.

(4) The costs of employing canine units and hand-held explosive detection wands at ports, including the costs of screening passengers and baggage with such methods.

(5) An assessment of security measures taken by the Secretary of Homeland Security to increase the security of the cruise line industry and the costs incurred to carry out such security measures.

(6) A description of the need for and the feasibility of deploying explosive detection systems and canine units at ports used by cruise ships and an assessment of the cost of such deployment.

(7) A summary of the fees paid by passengers of cruise ships that are used for inspections and the feasibility of creating a dedicated passenger vessel security fund from such fees.

(8) The recommendations of the Secretary, if any, for measures that should be carried out to improve security of cruise ships that originate at ports in foreign countries.

(9) The recommendations of the Secretary, if any, on the deployment of further measures to improve the security of cruise ships, including explosive detection systems, canine units, and the use of technology to improve baggage screening, and an assessment of the cost of implementing such measures.

SEC. 13. REPORT ON DESIGN OF MARITIME SECURITY GRANT PROGRAMS.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the design of maritime security grant programs that includes recommendations on—

(1) whether the grant programs should be discretionary or formula based and why;

(2) requirements for ensuring that Federal funds will not be substituted for grantee funds;

(3) targeting requirements to ensure that funding is directed in a manner that reflects a national, risk-based perspective on priority needs, the fiscal capacity of recipients to fund the improvements without grant funds, and an explicit analysis of the impact of minimum funding to small ports that could affect funding available for the most strategic or economically important ports; and

(4) matching requirements to ensure that Federal funds provide an incentive to grantees for the investment of their own funds in the improvements financed in part by Federal funds.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Hollings amendment at the desk be agreed to, the Committee-reported substitute, as amended, be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the Record as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3669) was agreed to.

(The amendment is printed in today's Record under "Text of Amendments.")

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2279), as amended, was read the third time and passed, as follows:

S. 2279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Maritime Transportation Security Act of 2004".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents
Sec. 2. Enforcement; pier and wharf security costs.
Sec. 3. Security at foreign ports.
Sec. 4. Federal and State commercial maritime transportation training.
Sec. 5. Transportation worker background investigation programs.
Sec. 6. Report on cruise ship security.
Sec. 7. Maritime transportation security plan grants.
Sec. 8. Report on design of maritime security grant programs.

SEC. 2. ENFORCEMENT; PIER AND WHARF SECURITY COSTS.

(a) In General.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating the second section 70118 (relating to firearms, arrests, and seizure of property), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70119;

(2) by redesignating the first section 70119 (relating to enforcement by State and local officers), as added by section 801(a) of the

Coast Guard and Maritime Transportation Act of 2004, as section 70120;

(3) by redesignating the second section 70119 (relating to civil penalty), as redesignated by section 802(a)(1) of the Coast Guard and Maritime Transportation Act of 2004, as section 70123; and

(4) by inserting after section 70120 the following:

"§ 70121. Enforcement by injunction or withholding of clearance

"(a) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued hereunder, for cause shown.

"(b) WITHHOLDING OF CLEARANCE.—

"(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under section 70119, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70119, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

"§ 70122. Security of piers and wharfs

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall require any uncleared, imported merchandise remaining on the wharf or pier onto which it was unladen for more than 7 calendar days, not including any time the imported merchandise was held in federal custody, to be removed from the wharf or pier and deposited in the public stores or a general order warehouse, where it shall be inspected for determination of contents, and thereafter a permit for its delivery may be granted.

"(b) PENALTY.—The Secretary may impose an administrative penalty of $5,000 on the consignee for each bill of lading for general order merchandise remaining on a wharf or pier in violation of subsection (a), except that no penalty shall be imposed if the violation was a result of force majeure.".

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the items following the item relating to section 70116 and inserting the following:

"70117. In rem liability for civil penalties and certain costs
"70118. Withholding of clearance
"70119. Firearms, arrests, and seizure of property
"70120. Enforcement by State and local officers
"70121. Enforcement by injunction or withholding of clearance
"70122. Security of piers and wharfs
"70123. Civil penalty".

(2) Section 70117(a) of title 46, United States Code, is amended by striking "section 70120" and inserting "section 70123".

(3) Section 70118(a) of such title is amended by striking "under section 70120," and inserting "under that section,".

SEC. 3. SECURITY AT FOREIGN PORTS.

(a) IN GENERAL.—Section 70109 of title 46, United States Code, is amended—

(1) by striking "The Secretary," in subsection (b) and inserting "The Administrator of the Maritime Administration,"; and

(2) by adding at the end the following:

"(c) FOREIGN ASSISTANCE PROGRAMS.—The Administrator of the Maritime Administration, in coordination with the Secretary of State, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Administrator and the Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.".

(b) REPORT ON SECURITY AT PORTS IN THE CARIBBEAN BASIN.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives a report on the security of ports in the Caribbean Basin. The report shall include the following:

(1) An assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security.

(2) An estimate of the number of ports in the Caribbean Basin that will not be secured by July 2004, and an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States.

(3) An assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin.

SEC. 4. FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.

Section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

"(c) FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.—The Secretary of Transportation shall establish a curriculum, to be incorporated into the curriculum developed under subsection (a)(1), to educate and instruct Federal and State officials on commercial maritime and intermodal transportation. The curriculum shall be designed to familiarize those officials with commercial maritime transportation in order to facilitate performance of their commercial maritime and intermodal transportation security responsibilities. In developing the standards for the curriculum, the Secretary shall consult with each agency in the Department of Homeland Security with maritime security responsibilities to determine areas of educational need. The Secretary shall also coordinate with the Federal Law Enforcement Training Center in the development of the curriculum and the provision of training opportunities for Federal and State law enforcement officials at appropriate law enforcement training facilities.".

SEC. 5. TRANSPORTATION WORKER BACKGROUND INVESTIGATION PROGRAMS.

Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Secretary of Transportation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

(1) making recommendations (including legislative recommendations, if appropriate or necessary) for harmonizing, combining, or coordinating requirements, procedures, and programs for conducting background checks under section 70105 of title 46, United States Code, section 5103a(c) of title 49, United States Code, section 44936 of title 49, United States Code, and other provisions of Federal law or regulations requiring background checks for individuals engaged in transportation or transportation-related activities;

(2) setting forth a detailed timeline for implementation of such harmonization, combination, or coordination;

(3) setting forth a plan with a detailed timeline for the implementation of the Transportation Worker Identification Credential in seaports;

(4) making recommendations for a waiver and appeals process for issuing a transportation security card to an individual found otherwise ineligible for such a card under section 70105(c)(2) and (3) of title 46, United States Code, along with recommendations on the appropriate level of funding for such a process; and

(5) making recommendations for how information collected through the Transportation Worker Identification Credential program may be shared with port officials, terminal operators, and other officials responsible for maintaining access control while also protecting workers' privacy.

SEC. 6. REPORT ON CRUISE SHIP SECURITY.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the security of ships and facilities used in the cruise line industry.

(b) CONTENT.—The report required by subsection (a) shall include an assessment of security measures employed by the cruise line industry, including the following:

(1) An assessment of the security of cruise ships that originate at ports in foreign countries.

(2) An assessment of the security of ports utilized for cruise ship docking.

(3) The costs incurred by the cruise line industry to carry out the measures required by the Maritime Transportation Security Act of 2002 (Public Law 107–295; 116 Stat. 2064) and the amendments made by that Act.

(4) The costs of employing canine units and hand-held explosive detection wands at ports, including the costs of screening passengers and baggage with such methods.

(5) An assessment of security measures taken by the Secretary of Homeland Security to increase the security of the cruise line industry and the costs incurred to carry out such security measures.

(6) A description of the need for and the feasibility of deploying explosive detection systems and canine units at ports used by cruise ships and an assessment of the cost of such deployment.

(7) A summary of the fees paid by passengers of cruise ships that are used for inspections and the feasibility of creating a dedicated passenger vessel security fund from such fees.

(8) The recommendations of the Secretary, if any, for measures that should be carried out to improve security of cruise ships that originate at ports in foreign countries.

(9) The recommendations of the Secretary, if any, on the deployment of further measures to improve the security of cruise ships,

including explosive detection systems, canine units, and the use of technology to improve baggage screening, and an assessment of the cost of implementing such measures.

SEC. 7. MARITIME TRANSPORTATION SECURITY PLAN GRANTS.

Section 70107(a) of title 46, United States Code, is amended to read as follows:

"(a) IN GENERAL.—The Under Secretary of Homeland Security for Border and Transportation Security shall establish a grant program for making a fair and equitable allocation of funds to implement Area Maritime Transportation Security Plans and to help fund compliance with Federal security plans among port authorities, facility operators, and State and local agencies required to provide security services. Grants shall be made on the basis of threat-based risk assessments subject to review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administration. The grant program shall take into account national security priorities, national economic, and strategic defense concerns and shall be coordinated with the Director of the Office of Domestic Preparedness to ensure that the grant process is consistent with other Department of Homeland Security grant programs.".

SEC. 8. REPORT ON DESIGN OF MARITIME SECURITY GRANT PROGRAMS.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the design of maritime security grant programs that includes recommendations on—

(1) whether the grant programs should be discretionary or formula based and why;

(2) requirements for ensuring that Federal funds will not be substituted for grantee funds;

(3) targeting requirements to ensure that funding is directed in a manner that reflects a national, risk-based perspective on priority needs, the fiscal capacity of recipients to fund the improvements without grant funds, and an explicit analysis of the impact of minimum funding to small ports that could affect funding available for the most strategic or economically important ports; and

(4) matching requirements to ensure that Federal funds provide an incentive to grantees for the investment of their own funds in the improvements financed in part by Federal funds.

UNANIMOUS CONSENT AGREEMENT—H.R. 1350

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate receives the House message to accompany H.R. 1350, the IDEA reauthorization bill, if the House amends the Senate amendment, the Senate disagree with the House amendment or insist upon its amendment, as is appropriate, and request a conference with the House on the disagreeing votes of the two Houses; provided, alternatively, that if the House requests a conference, the Senate agree to the request for a conference, and in either case the Chair be authorized to appoint conferees with a ratio of 11 to 10.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, this is the way we should proceed. This is excellent. I have confidence in Judd Gregg, the chairman of the committee. I don't agree with him lots of times, but he is a man who believes in the procedures we have established here many years ago. I am confident this will be a very successful conference.

Mr. McCONNELL. Mr. President, I, too, am pleased that we have been able to finally get to conference on IDEA. We hope the conferees will be successful shortly.

Mr. KENNEDY. Mr. President, I am pleased that we are going to conference on the reauthorization of the Individuals with Disabilities Education Act. This is the landmark Federal law that sets national standards for special education, and defines the rights of children with disabilities in our public schools.

We have ahead of us the key challenge of modernizing this important law to meet today's demands and to ensure that the rights of children with special needs truly are protected. Disabled does not mean unable. We must do everything possible to ensure that children with disabilities have the same opportunities to learn as other children.

I want to thank our committee chairman, Senator GREGG, for his leadership in guiding through the Senate a strong bipartisan bill to meet that challenge. I look forward to working closely with him, Chairman JOHN BOEHNER, Congressman GEORGE MILLER, and our other colleagues on the committee to produce a final bill that parents can support and that will enjoy bipartisan support.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, as in executive session, I ask unanimous consent that on Wednesday, immediately following morning business, the Senate proceed to executive session to consider the following nomination on today's Executive Calendar:

PORTER GOSS to be Director of Central Intelligence.

I further ask unanimous consent that there be 6 hours of debate, equally divided between the chairman and vice chairman or their designees; provided further that upon the use or yielding back of that time, the Senate proceed to a vote on the confirmation of the nomination; further, that following the vote, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, SEPTEMBER 22, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, September 22. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period for morning business for up to 90 minutes, with the first 45 minutes under the control of the majority leader or his designee and the final 45 minutes under the control of the Democratic leader or his designee; provided further that following morning business, the Senate proceed to Executive Calendar No. 815, the nomination of PORTER GOSS to be Director of the Central Intelligence Agency, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, for the information of all Senators, tomorrow, following morning business, the Senate will begin consideration of the Goss nomination. Under the previous order, there will be up to 6 hours of debate prior to a vote on confirmation. It is my hope we will not require the entire allotment of debate time. Senators should expect a vote on the nomination sometime tomorrow afternoon, and that vote will be the first vote of tomorrow's session.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:14 p.m., adjourned until Wednesday, September 22, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 21, 2004:

DEPARTMENT OF VETERANS AFFAIRS

WILLIAM A. MOORMAN, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS FOR THE TERM OF FIFTEEN YEARS, VICE KENNETH B. KRAMER, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. MARSHALL K. SABOL, 5866

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND AS PERMANENT PROFESSORS, UNITED STATES AIR FORCE ACADEMY, UNDER TITLE 10, U.S.C., SECTIONS 9333 (B) AND 9336 (A):

To be colonel

KATHLEEN HARRINGTON, 3610

PAUL E. PIROG, 2276

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 531 AND 1211:

To be lieutenant colonel

GEORGE J. KRAKIE, 1542

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 531 AND 1552.

To be lieutenant colonel

DAVID A. LUJAN, 8287
MICHAEL C. SCHRAMM, 0654

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531.

To be lieutenant colonel

DOUGLAS A. HABERMAN, 2893
EDWARD H. LINCH III, 8751
KIRBY E. W. SIMMONS, 1994
KEVIN J. STEVENS, 6342
MATTHEW S. WARNER, 6501

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be major

MARTIN J. TOWEY, 6681

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOHN R. PELOQUIN, 6373

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

RANDY O. CARTER, 4153

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

DWAYNE BANKS, 6599

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

BILLY R. DAVIS, 2573
BROOK DEWALT, 6263
DOUGLAS GABOS, 5765
MARGUERITE A. GILLILAND, 0358
KIMBERLY S. MARKS, 6932
PHILIP R. ROSI II, 7168
JASON P. SALATA, 2967
WILLIAM H. SPEAKS, 8447

HOUSE OF REPRESENTATIVES—*Tuesday, September 21, 2004*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. HENSARLING).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 21, 2004.

I hereby appoint the Honorable JEB HENSARLING to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. DELAY).

TEN YEARS

Mr. DELAY. Mr. Speaker, this week the Republican congressional majority will celebrate the 10th anniversary of the legislative agenda that helped win our majority in the 1994 elections. There will be both praise and criticism of our tenure in the majority, though on the whole, the record shows the benefits our stewardship has brought the Nation in the last decade.

In the last decade, welfare has been reformed, taxes have been cut four times, Medicare has been secured and our health care system strengthened, our military has been restored to its rightful place atop our national agenda, the budget came into balance, public schools have been called to account for decades of underachievement, and our economy has grown 69 percent.

It was doubted so much could be accomplished in 20 years, let alone 10. But while many will seek to argue over our accomplishments of the last decade, the responsibility of those of us in the majority is to focus on the next decade. If the last 10 years have shown the American people that Republicans can govern, the next 10 years must show them that Republicans should govern. So, rather than looking back on an old agenda, we must look forward to a new one, of equal principle and utility, an agenda not just of words but deeds, to protect and defend the security, prosperity and families of the United States.

An agenda not just of tax relief but of fundamental, national tax reform. Not just of preserving our health care and retirement systems for the greatest generation, but of fundamentally rethinking those systems for all generations. Not just of helping small businesses succeed, but of passing sweeping lawsuit abuse reform and universal regulatory reform to get predatory lawyers and busybody bureaucrats off small businesses' backs once and for all. Not just of bandaging over the social wounds inflicted by a culture of death, but of taking up the cause of America's armies of compassion and our Nation's emerging culture of life. Not just of defending our Nation, but of proudly fighting for it, and the ideals upon which it was founded, anywhere and everywhere they are threatened.

It has been a good 10 years, Mr. Speaker. But the celebrations this week do not mark an end, but a new beginning, and a new era of ever more ambitious and worthy ideas, so that we may leave our Nation better than we found it.

That is the purpose of this institution, the goal of this Republican majority, and the driving force behind our agenda for the next 10 years.

SECURING THE NATION'S BORDERS

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from California (Mr. DREIER) is recognized during morning hour debates for 5 minutes.

Mr. DREIER. Mr. Speaker, since the 9/11 Commission's final report was issued, we in this body have been working diligently to prepare legislation to improve our Nation's security. To that end, I want to talk about a paramount national security concern, and that is the security of our borders. I know many of us have seen this recent Time Magazine cover story which focused on the incredibly porous southern border that we have with Mexico.

I personally was absolutely horrified when I read this article, Mr. Speaker, on reports of human rights abuses perpetrated by "coyotes" who charge exorbitant fees to lead immigrants illegally across the border, as well as Time's accounts of the heinous acts committed by some of those illegals. And clearly, having a border which people feel they can cross illegally at any time is a national security vulnerability.

We must recognize that the vast majority of people who are coming across our borders illegally are looking for better economic opportunity for themselves and their families. This does not justify illegal entry into the United States. So let me make it very clear, Mr. Speaker, "illegal" means "illegal." But it does mean that a long-term solution to our immigration problem will only be found when the economies of Mexico and the rest of Latin America provide better opportunities for their citizens. But the process of improving those economies, while underway, will be very, very difficult, it will take decades, and we obviously are hoping to implement the Ronald Reagan vision of a Free Trade Area of the Americas which will be very important to that.

As altruistic as Americans have historically been toward immigrants, we are, after all, a Nation of immigrants as we all know, we clearly cannot have foreigners illegally crossing the United States borders unbeknownst to our government. We know that international terrorists have illegally entered our country. That is why we must act now.

In this effort, I have been working closely with two great Americans. Those of you who read this Time Magazine article may recall the comments made by T.J. Bonner, a 26-year veteran still working as a border patrol agent, who is president of the National Border Patrol Council, which represents 10,000 border patrol employees. Bonner's first priority is to ensure that our border patrol agents have the backing they need to do their job. It is his plan, the Bonner plan, which I am introducing as legislation today.

I am joined by my good friend and Democratic colleague, the gentleman from Texas (Mr. REYES), who himself served as chief of the border patrol in both McAllen and El Paso, Texas, during a long and distinguished career fighting to protect our border from infiltration. I am extremely pleased to have the support of Messrs. Bonner and Reyes, for their expertise in border patrol issues is unparalleled. Our legislation gets at the root of the problem of illegal immigration, the draw of our strong economy.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

We know why most people illegally cross our borders, as I was saying earlier. Jobs lure them to this country. They are seeking economic opportunity. We do not want to shut the door on that great American dream of opportunity, which is why we have programs where foreign nationals can legally migrate to the United States, can work and can eventually become citizens. But people who skirt the process and enter the United States illegally should not expect to benefit from the American taxpayer.

Under the Bonner plan, we will strenuously enforce laws which prohibit American businesses from employing illegal immigrants. Regrettably, these laws have not been regularly enforced. The laws are also undermined by the explosion in counterfeit identity documents and employers who are unable or unwilling to establish the authenticity of documents presented by job applicants.

Under our legislation, Mr. Speaker, we will dramatically improve the security of the very precious Social Security card by adding a photo ID and other countermeasures to reduce fraud. This same card will be encoded with a unique electronic algorithm to allow employers to verify each prospective applicant's work eligibility status prior to hiring, either through an electronic card reader or a toll-free number. Mr. Speaker, employers will face stiff Federal fines of up to $50,000 and up to 5 years in jail if they knowingly hire an illegal immigrant or choose not to verify a prospective employee's eligibility. The employer would also then be responsible for the cost of deporting the illegal immigrant. With the new and improved Social Security card and verification system, employers will have no excuse if they are found to have hired illegal immigrants.

By eliminating the supply of jobs for illegal workers, we will end the incentive for illegal immigrants to enter the United States because they know that they will be unable to make a living here.

I fully recognize that a number of American industries, from agriculture to gardening and house cleaning and others, have come to depend on an ample supply of illegal workers. That is why I have long supported efforts to establish a responsible guest worker program to allow willing employers to match up with willing foreign workers and to allow those workers to legally enter the United States temporarily to work and then ensure that they return to their homes as scheduled. Coupled with a guest worker program, the Bonner plan will have a positive impact on our economy and on our prospective workers. Workers will only need to update their Social Security card once, to have their photo placed on the card and for other long overdue antifraud measures to be applied. A worker would only need the updated Social Security card when applying for a new job. I want to make it very clear that this is not a national ID card. This is not a national ID card, Mr. Speaker. In fact, the legislation contains language to ensure that the improved Social Security card does not become a national ID card and is only used to verify a prospective employee's authorization to work in the United States. Social Security cards are already routinely required to be provided to new employers. The changes we are proposing to the Social Security card take us no further down the road of creating a national ID card.

Mr. Speaker, I encourage my colleagues to join in supporting this very important effort that will, as Governor Schwarzenegger has said, encourage the American people and those who are looking to come in to play by the rules. This is a top national security priority for us. I hope all of our colleagues will join with us.

[From Time Magazine, Sept. 20, 2004]

Who Left the Door Open?

(By Donald L. Barlett and James B. Steele)

The next time you pass through an airport and have to produce a photo ID to establish who you are and then must remove your shoes, take off your belt, empty your pockets, prove your laptop is not an explosive device and send your briefcase or purse through a machine to determine whether it holds weapons, think about this: In a single day, more than 4,000 illegal aliens will walk across the busiest unlawful gateway into the U.S., the 375-mile border between Arizona and Mexico. No searches for weapons. No shoe removal. No photo-ID checks. Before long, many will obtain phony identification papers, including bogus Social Security numbers, to conceal their true identities and mask their unlawful presence.

The influx is so great, the invaders seemingly trip over one another as they walk through the old copper-mining town turned artist colony of Bisbee (pop. 6,000), five miles from the border. Having eluded the U.S. border patrol, they arrive in small groups of three or four, larger contingents of more than a dozen and sometimes packs of a hundred. Worried citizens who spot them keep the Bisbee police officers and Cochise County sheriffs deputies busy tracking down all the trespassing aliens. At night as many as 100 will take over a vacant house. Some crowd into motel rooms, even storage-compartment rental units. During the day, they congregate on school playgrounds, roam through backyards and pass in and out of apartment buildings. Some assemble at the Burger King, waiting for their assigned drivers to appear. Sometimes stolen cars are waiting for them, keys on the floor. But most continue walking to designated pickup points beyond Bisbee, where they will ride in thousands of stolen vehicles, often with the seats ripped out to accommodate more human cargo, on the next leg of their journey to big cities and small towns from California to North Carolina.

The U.S.'s borders, rather than becoming more secure since 9/11, have grown even more porous. And the trend has accelerated in the past year. It's fair to estimate, based on a TIME investigation, that the number of illegal aliens flooding into the U.S. this year will total 3 million—enough to fill 22,000 Boeing 737–700 airliners, or 60 flights every day for a year. It will be the largest wave since 2001 and roughly triple the number of immigrants who will come to the U.S. by legal means. (No one knows how many illegals are living in the U.S., but estimates run as high as 15 million.)

Who are these new arrivals? While the vast majority are Mexicans, a small but sharply growing number come from other countries, including those with large populations hostile to the U.S. From Oct. 1 of last year until Aug. 25, along the southwest border, the border patrol estimates that it apprehended 55,890 people who fall into the category described officially as other than Mexicans, or OTMS. With five weeks remaining in the fiscal year, the number is nearly double the 28,048 apprehended in all of 2002. But that's just how many were caught. TIME estimates, based on longtime government formulas for calculating how many elude capture, that as many as 190,000 illegals from countries other than Mexico have melted into the U.S. population so far this year. The border patrol, which is run by the Department of Homeland Security, refuses to break down OTMS by country. But local law officers, ranchers and others who confront the issue daily tell TIME they have encountered not only a wide variety of Latin Americans (from Guatemala, El Salvador, Brazil, Nicaragua and Venezuela) but also intruders from Afghanistan, Bulgaria, Russia and China as well as Egypt, Iran and Iraq. Law enforcement authorities believe the mass movement of illegals, wherever they are from, offers the perfect cover for terrorists seeking to enter the U.S., especially since tighter controls have been imposed at airports.

Who's to blame for all the intruders? While the growing millions of illegal aliens cross the border on their own two feet, the problem is one of the U.S.'s own making. The government doesn't want to fix it, and politicians, as usual, are dodging the issue, even though public-opinion polls show that Americans overwhelmingly favor a crackdown on illegal immigration. To be sure, many citizens quietly benefit from the flood of illegals because the supply of cheap labor helps keep down the cost of many goods and services, from chicken parts to lawn care. Many big companies, which have an even clearer stake in cheap labor, aggressively fend off the enforcement of laws that would shut down their supply of illegal workers.

The argument is getting stronger, however, that this is a short-sighted bargain for the U.S. Beyond the terrorism risks, Washington's failure to control the Nation's borders has a painful impact on workers at the bottom of the ladder and, increasingly, those further up the income scale. The system holds down the pay of American workers and rewards the illegals and the businesses that hire them. It breeds anger and resentment among citizens who can't understand why illegal aliens often receive government-funded health care, education benefits and subsidized housing. In border communities, the masses of incoming illegals lay waste to the landscape and create costly burdens for agencies trying to keep public order. Moreover, the system makes a mockery of the U.S. tradition of encouraging legal immigration. Increasingly, there is little incentive to play by the rules.

In the aftermath of 9/11, illegal immigration slowed dramatically for two years. Now it has turned up again. The chronic reason is a Mexican economy unable to provide jobs with a living wage to a growing population.

But those who live and work along the border say there is another, more immediate cue for the rush. In a speech on immigration policy last January, George W. Bush proposed "a new temporary-worker program that will match willing foreign workers with willing American employers when no Americans can be found to fill the jobs." The President said his program would give three-year, renewable work visas "to the millions of undocumented men and women now employed in the United States." In Mexico that statement was widely interpreted to mean that once Mexican citizens cross illegally into the U.S., they would be able to stay and eventually gain permanent residence. Even though the legislation shows no signs of getting through Congress this year, a run to the border has begun.

Ranchers, local law officers and others say that is the story they have heard over and over from border crossers. Rancher George Morin, who operates a 12,000-acre spread a few miles from the border, tells TIME, "All these people say they are coming for the amnesty program.

[They] have been told if they get 10 miles off the border, they are home free."

The border patrol, by nature an earnest and hard-working corps, is no match for the onslaught. From last October through Aug. 25, it apprehended nearly 1.1 million illegals in all its operations around the U.S. But for every person it picks up, at least three make it into the country safely. The number of agents assigned to the 1,951-mile southern border has grown only somewhat, to more than 9,900 today, up from 8,600 in 2000.

Given that the crisis of illegal immigration bridges the two main issues in the presidential campaign—the economy and national security—one might think that the candidates would pound their podiums with calls for change. But that's not the case so far. Bush has reaffirmed his pledge for an immigration policy that would provide worker's permits for aliens who find jobs, and John Kerry has promised to propose legislation that would lead to permanent residence for many illegal-alien workers. Neither candidate has called for imposing serious fines on the people who encourage illegal immigration: corporate employers.

On the Mexican side of the border, President Vicente Fox has actively encouraged the migration. He made his goal clear in 2000 when he called for a fully open border within 10 years, with "a free flow of people, workers" moving between the two countries. When U.S. opposition to the proposal intensified after 9/11, Fox sought the same goal through the back door. He pushed U.S. businesses and city and state governments to accept as legal identification a card called a matricula consular, issued by Mexican consulates. That has allowed illegals to secure driver's licenses and other forms of identification and open bank accounts. Earlier this year Fox pushed U.S. bankers to make it easier for Mexicans working here—some of them legally but most illegally—to ship U.S. dollars back home.

Because of the exploding illegal population, the money sent back represents the third largest source of revenue in Mexico's economy, trailing only oil and manufacturing. That figure reached a record $13 billion last year.

The current border-enforcement system has fostered a culture of commuters who come and go with some hardship but little if any risk of punishment. Thousands cross the U.S.-Mexico border multiple times.

Under immigration law, they could be imprisoned after the second offense. But no one is. Nor on the third, fourth or fifth. In fact, almost never. When asked whether Homeland Security would initiate criminal proceedings against a person who, say, is picked up on four occasions coming into the country illegally, a border-patrol representative said if it did, the immigration legal system would collapse. Said the spokeswoman: "Because there's such a large influx of people coming across, if we're to put the threshold at four and send them up [to Tucson, Ariz., or Phoenix, Ariz., for processing], we'd be sending . . . too many people, and it would overwhelm the immigration system."

People who live and work on the Arizona border know all about being overwhelmed.

LIVING IN THE WAR ZONE

When the crowds cross the ranches along and near the border, they discard backpacks, empty Gatorade and water bottles and soiled clothes. They turn the land into a vast latrine, leaving behind revolting mounds of personal refuse and enough discarded plastic bags to stock a Wal-Mart. Night after night, they cut fences intended to hold in cattle and horses. Cows that eat the bags must often be killed because the plastic becomes lodged between the first and second stomachs. The immigrants steal vehicles and saddles. They poison dogs to quiet them. The illegal traffic is so heavy that some ranchers, because of the disruptions and noise, get very little sleep at night.

John Ladd, Jr., a thoughtful, soft-spoken rancher just outside Bisbee, gives new meaning to the word stoic. He is forced to work the equivalent of several weeks a year to repair, as best he can, all the damage done to his property by never-ending swarms of illegal aliens.

"Patience is my forte," he says, "but it's getting lower." The 14,000-acre Ladd ranch, in his mother's family since the 1800s, is right on the border. Ladd and his wife and three sons as well as his father and mother have their homes there. The largely flat, scrub-covered piece of real estate, with its occasional groves of cottonwoods, spiny mesquite and clumps of sacaton grass and desert broom, seems to offer few places to hide. But the land is laced with arroyos in which scores of people can disappear from view. Ditches provide trails from the border to Highway 92, a distance of about three miles. That is the route that Ladd says 200 to 300 illegals take every night as they enter the U.S. They punch holes in the barbed-wire border fence and then tear up the many fences intended to separate the breeding cattle—Brahmin, Angus and Hereford—that divide the Ladd land.

Ladd doesn't blame the border patrol, most of whose officers, he says, are doing all they can under the circumstances. Indeed, apprehensions of illegals in Arizona have soared from 9% of the nation's total in 1993 to 51% this year. "I have real heartache for the agents who are really working," he says. "They track down the [smugglers], and the judges let them off, and they get a free trip back to Mexico, where they can start all over." The border-patrol agents, Ladd feels, "are responsible guys in a hypocritical bureaucracy."

Border crossing at the Ladd ranch is so flagrant that sometimes the illegals arrive by taxi. A dirt road parallels the border fence and the Ladd property for several miles, in full view of border-patrol electronic lookout posts that ceased functioning long ago. When drivers reach an appropriate location, passengers pile out and run through one of the many holes in the fence and make their way across the ranch.

These gaps present their own special problem. On the other side are Mexican ranches whose cattle wander onto Ladd's. "I'm up to 215 Mexican cows that I've put back into Mexico," he says. "I've got a dual citizen friend—he's Mexican and American—works on this side for Phelps Dodge [Mining Co.], but he's got a ranch over at the San Jose Mountain. So I call him, and then he calls the Mexican cattle inspector. Then that guy meets me at the border and then coordinates the cows getting back to the rightful owners in Mexico." Ladd acknowledges that his do-it-yourself cattle diplomacy is "breaking both countries' laws." How so? "[In] the United States, you're supposed to quarantine any Mexican cattle for 30 days, and they test them for disease and everything else. What the problem is, there isn't enough cattle inspectors to do that, and then they don't have a holding corral anymore to do that."

Why does he spend so much time returning strays? So his counterparts in Mexico will return the favor because some of his cattle amble across the border through the same holes. "The whole reason that I started doing this for the Mexican ranchers was to show'em, 'Yeah, I'm honest. I'm going to give you yours back, so you give me mine.' And it's worked. But the whole story is that I've spent money on long-distance and talked to everybody from the Boundary Commission to USDA to border patrol to customs and everybody else, and I said, 'You need to do something with your international fence.'" He's still waiting.

While the Department of Homeland Security seemingly lacks the money to secure the border, it does have money to spend in quixotic ways.

In a $13 million experimental program started in July, the border patrol will not just drop illegal Mexican aliens at the border but actually fly them, at taxpayer expense, into the heart of Mexico. The theory is that it will discourage them from making the trek north again. But as one illegal, a Dallas construction worker who was among the 138 aboard the first flight, told a Los Angeles Times reporter, "I will be going back in 15 days. I need to work. The jobs in Mexico don't pay anything."

The plight of Jim Dickson, a hospital administrator in Bisbee, is summed up with one image. It's an ambulance that pulls into tiny Copper Queen Community Hospital and discharges illegal aliens injured in an auto accident. The border-patrol officers—on orders from Washington—have refused to take them onto the hospital property after taking them into custody. Instead, the officers have called an ambulance for the injured. If the officers were to arrive at the hospital to make their drop-off, then the border patrol (make that the U.S. government) would be responsible for paying the medical bill. And that's something the Federal Government (make that Congress) will not do. Instead, the government stiffs Dickson, 56, the genial CEO of the Copper Queen, a hospital that dates back to the turn of the previous century, when Bisbee was the largest town between San Diego and St. Louis, MO.

Dickson and his community hospital symbolize much of what has gone wrong with the immigration policies of the U.S. and Mexico—"the irresponsibility," as Dickson puts it politely, of both governments.

He figures he has another three years, maybe a little longer, before he might be forced to shut down the hospital. "We used to have 250 emergency-room visits a month. Now it's 500," says Dickson. They range from a lone man or woman rescued in the desert, suffering from dehydration or a heart attack, to multiple victims injured when vans jammed with 20 or more illegals crash during high-speed chases. Along the way the hospital is seeing more and more tuberculosis, aids and hepatitis. "We don't have to do disaster drills like other hospitals," Dickson says. "We have enough real disasters every year."

Unlike big governments, small community hospitals cannot run deficits forever. The Copper Queen's shortfall from treating illegal aliens grows each year. This year it will be about $450,000, bringing the total for the past few years to $1.4 million. With each money-losing year, a tiny piece of the 14-bed hospital dies. When that happens, the entire community suffers. Dickson's most agonizing decision came when he was forced to shutter the long-term-care unit. "It was the only place the elderly could go," he says. "If someone had dementia, we had a room for them." But no more. Now if people who spent their life in Bisbee need elder care, they must leave the area. "The more free care we give," Dickson says, "the more we have to ration what's left."

Dickson emphasizes that not all the free care is going to illegal aliens passing through on their way to other states. About half goes to Mexicans who use the Copper Queen as their personal emergency-care facility. In effect, the hospital, which performs general surgery, has become the trauma center for that stretch of northern Mexico. If an ambulance pulls up to the border-crossing point near Bisbee and announces "compassionate entry," the border patrol waves it through, and the Copper Queen is compelled to treat the patient. It is one more program that Congress mandates but does not pay for. "If you make me treat someone," says Dickson, "then you need to pay me. You can't have unfunded mandates in a small hospital." Although the Medicare drug act that passed last year provides for modest payments to hospitals that treat illegal aliens, Dickson says there is a catch that the U.S. government has yet to figure out. "How do I document an undocumented alien? How am I going to prove I rendered that care?

They have no Social Security number, no driver's license."

The limits of compassion are also being tested on the Tohono O'odham Nation. About twice the size of Delaware, the tribe's reservation shares 65 miles of border with Mexico. Like the residents of the small Arizona towns just to the east, the Native Americans, many of whom live without running water and electricity, are overwhelmed. The Nation's hospital is often packed with migrants who become dehydrated while crossing the scorching desert, where summertime temperatures reach upwards of 110 (degree). The undermanned tribal police force helps the border patrol round up as many as 1,500 illegals a day. "If this were happening in any other city or part of the country," says Vivian Juan Saunders, Tohono O'odham chairwoman, "it would be considered a crisis."

Yet the highest levels of the U.S. and Mexican governments have orchestrated this situation as a kind of dance: Mexico sends its poor north to take jobs illegally, and the U.S. arrests enough of the border crossers to create the illusion that it is enforcing the immigration laws while allowing the great majority to get through.

Local lawmen like Jim Elkins and Larry Dever have learned the dance firsthand, and their towns and counties have to pay for it.

Elkins has been the police chief in Bisbee for 12 years, on the force for 30. Dever has been the sheriff of Cochise County—which includes Bisbee and encompasses an area almost the size of Connecticut and Rhode Island, with 84 miles along the Mexican border—for eight years and a deputy before that for 20 years. The two lawmen handle the same kinds of citizen demands made on local law-enforcement agencies everywhere—from murder to drugs to reports of abandoned cats. But never have they seen the likes of today's work, in which their time is monopolized by relentless reports of alien groups making their way through the area. The entries from Bisbee police logs speak for themselves, these a sampling from Friday, May 7: 9:05 a.m.: "[Caller] advised udas [undocumented aliens] on foot, west [of] high school on dirt road. At least 10 in area. U.S. border patrol advised of same. 38 udas turned over to U.S. border patrol."

4:31 p.m.: "[Officer] located three udas walking on Arizona and Congdon. All three turned over to usbp [U.S. border patrol] Naco."

4:32 p.m.: "[Officer] copied a report of a silver-in-color van loaded with approximately 30 udas left Warren. Later copied vehicle went disabled at mile post 345 on Highway 80. Thirty to 35 udas were located with vehicle. Udas turned over to U.S. border patrol."

7:52 p.m.: "[Officer] located a group of udas in the area [of Blackknob and Minder streets]. Fifteen udas turned over to BP." 10:02 p.m.: "Reported a group of udas gathering on the bridge on Blackknob at Minder. Officers located six udas. tot [turned over to] usbp."

On and on it goes. "Every day we deal with this," says Elkins.

"People don't feel safe. The smugglers are dangerous people . . . I find it hard to believe we can get 80 to 100 people in our neighborhoods. They come across in droves." Transporting them requires fleets of stolen cars, which explains why Arizona ranks No. 1 in cars stolen per capita, with 56,000 ripped off last year. "This is a lot of work for us. We're a small department," says Elkins, who has 15 officers. "So much of our time is spent on federal issues. We should be getting money for this [from the Federal Government]. But we don't."

The kinds of crime found in most communities are interwoven with the illegal-alien traffic on the border. "Our methamphetamine problem is alarming," Elkins tells TIME. "The last three homicides here were related to meth. Kids doing meth will take a load of udas to Tucson or Phoenix for a couple of hundred dollars."

Sheriff Dever says more than a quarter of his budget "is spent on illegal immigration activities," and he points to the ripple effect through the criminal justice system: "The illegal aliens can't make bond, so they spend more time in jail. They're indigent, so they get a public defender. If they have health problems, they have to be treated."

Dever feels overrun and doesn't mind who knows it. He relates a story about a recent visit by a television crew that arrived in his office and asked whether he was aware that a group of presumably illegal aliens was camped out in a drainage ditch next to the sheriff's headquarters. Sensing a story, the crew wondered if he was embarrassed by the aliens' presence. A plainspoken man, Dever said he was not the least bit embarrassed. Their presence, he said, illustrated quite pointedly just how pervasive the problem was.

The people who probably should be a little embarrassed are the folks up the road at Fort Huachuca, Ariz., home of the U.S. Army's top-secret Intelligence Center. The facility, which trains and equips military intelligence professionals assigned around the world, also happens to be a thoroughfare for illegal aliens and drug smugglers, with mountains on the base providing a safe haven.

Using some of the same routes as the people smugglers, the drug runners are well armed, equipped with high-tech surveillance equipment and don't hesitate to use their weapons. That's what happened earlier this year, when law-enforcement officers and Mexican drug runners engaged in a fire fight at the border in front of a detachment of Marines just back from Iraq, who were installing a steel fence to prevent illegal aliens from driving through the flimsy barbed wire. The Marines, unarmed, watched placidly. None were injured.

The situation across southern Arizona has spun so far out of control that many on the border believe a day of reckoning is fast approaching, when an incident—an accidental shooting, multiple auto fatalities, a confrontation between drug and people smugglers—will touch off a higher level of violence. And the nightmare scenario: some resident frustrated by the Federal Government's refusal to halt the onslaught will begin shooting the border crossers on his or her property. As a rancher summed up the situation: "If the law can't protect you, what do you do?" Everyone, it seems, is armed, including nurses at the local hospital, who carry sidearms on their way to work out of fear for their safety.

HOW CORPORATE AMERICA THRIVES ON ILLEGALS

Popular belief has it that illegals are crossing the border in search of work. In fact, many have their jobs lined up before they leave Mexico. That's because corporate managers go so far as to place orders with smugglers for a specific number of able bodies to be delivered. For corporate America, employing illegal aliens at wages so low few citizens could afford to take the jobs is great for profits and stockholders. That's why the payrolls of so many businesses—meat packers, poultry processors, landscape firms, construction companies, office-cleaning firms and corner convenience stores, among others—are jammed with illegals. And companies are rarely, if ever, punished for it.

A single statistic attests to this. In 2002 the former Immigration and Naturalization Service (INS) issued orders levying fines on only 13 employers for hiring illegal aliens, a minuscule portion of the thousands of offenders. Nonenforcement of employer sanctions, which is in keeping with the Federal Government's nonenforcement of immigration laws across the board, has been the equivalent of hanging out a help wanted sign for illegals. Says Steven Camarota, research director for the Center for Immigration Studies, a nonpartisan think tank on immigration issues: "They're telling people, 'If you can run that border, we have a job for you. You can get a driver's license.

You can get a job. You'll be able to send money home.' And in that context, you'd be stupid not to try. We say, 'If you run the gauntlet, you're in.' That's the incentive they've created."

For nearly 20 years, it has been a crime to hire illegal aliens. Amid an earlier surge in illegal immigration, Congress passed the Immigration Reform and Control Act of 1986, which provided that employers could be fined up to $10,000 for every illegal alien they hired, and repeat offenders could be sent to jail. The act was a response to the widespread belief that employer sanctions were the only way to stem the tide. "We need employer sanctions to reduce the attraction of jobs in the U.S.," an INS spokesman declared as Congress debated the bill. When President Ronald Reagan signed it, he called the sanctions the "keystone" of the law. "It will remove the incentive for illegal immigration by eliminating the job opportunities which draw illegal aliens here," he said. Making it a crime for a company to hire an illegal was seen as such a dramatic step at the time that many worried over the consequences. Phil Gramm, then a Republican Senator from Texas, said the legislation "holds out great peril, peril that employers dealing in good faith could be subject to criminal penalties and in fact go to jail for making a mistake in hiring an illegal alien."

But companies had little to fear. Neither Reagan nor subsequent Presidents or Congresses were eager to enforce the law. The fate of just one provision in the 1986 act is revealing. As part of the enforcement effort, the law called for a pilot program to establish a telephone verification system that employers could use when hiring workers. It would allow employers to tap into a national data bank to determine the legal status of a job applicant. Only those who had legitimate documentation would be approved. With such a system, employers could no longer use the excuse that they had no way to verify a potential worker's legal status.

To this day—18 years after passage of the immigration-reform bill—a nationwide telephone-verification system has yet to be implemented. A small-scale verification project was established in 1992, but it covered only nine employers in five states. In 1996, Congress enacted yet another immigration-reform bill, and it too provided for a telephone verification program. Called Basic Pilot, it promised to provide employers with an easy way to verify a prospective employee's status. An employer who signed up for the system could call an 800 number and provide the name, Social Security number or the alien ID number of a new hire. The employer would receive either a confirmation that the number and name were valid or an indication that called for further checking.

The system is fatally flawed. Basic Pilot is voluntary. Employers aren't required to sign up. Imagine what compliance with tax laws would be if filing a 1040 were optional.

For all the rhetoric about the perils of illegal immigration, Congress shows no interest in cracking down on employers. When the INS attempted in the past to enforce the law, lawmakers slapped down the agency. In 1998 the INS launched Operation Vanguard, a bold attempt to catch illegals in Nebraska's meat-packing industry. Rather than raid individual plants to round up undocumented workers, as it had done for years, the INS aimed Operation Vanguard at the heart of illicit hiring practices. The agency subpoenaed the employment records of packing houses, then sought to match employee numbers with other data like Social Security numbers.

The INS subpoenaed some 24,000 hiring records and identified 4,700 people with discrepancies at 40 processing plants. It then called for further documentation to verify the workers' status. Nebraska was seen as just the first step. Plans were in the works to launch similar probes in other states where large numbers of illegals were known to be employed in the meat-packing industry. But the INS never got the chance. A huge outcry in Nebraska from meat-packers, Hispanic groups, farmers, community organizations, local politicians and the state's congressional delegation forced the INS to back off.

Not surprisingly, the INS's employer-sanctions program has all but disappeared. Investigations targeting employers of illegal aliens dropped more than 70%, from 7,053 in 1992 to 2,061 in 2002. Arrests on job sites declined from 8,027 in 1992 to 451 in 2002. Perhaps the most dramatic decline: the final orders levying fines for immigration-law violations plunged 99%, from 1,063 in 1992 to 13 in 2002.

As might be expected, employers got the message, albeit one quite different from that spelled out in the 1986 and '96 legislation. Now many corporate managers feel emboldened to place orders for workers while the prospective employees are still in Mexico, then assist them in obtaining phony documentation and transport them hundreds, sometimes thousands of miles from the interior of Mexico to a production line in an American factory.

This notion was supported by evidence introduced during an alien smuggling trial in 2003 involving Tyson Foods Inc., which describes itself as "the world's largest processor and marketer of chicken, beef and pork." In this secretly recorded conversation, a federal undercover agent posed as an alien smuggler who was taking an order from the manager of a chicken-processing plant in Monroe, N.C.:

FEDERAL AGENT: [After explaining that he was a friend of a mutual friend] He said you wanted to talk to me?

CHICKEN-PLANT MANAGER: Yeah, about help . . . Now I'm going to need quite a few . . . Starting on the 29th, a Monday, we are going to start. How many can I get, and how often can you do it?

FEDERAL AGENT: Well, it's not a problem. I think [the mutual friend] told me that you wanted 10?

CHICKEN-PLANT MANAGER: Well, 10 at a time. But over the period of the next three or four months—January, February, March, April, probably May, stuff like that—I'm going to replace somewhere between 300 and 400 people, maybe 500. I'm going to need a lot.

FEDERAL AGENT: . . . I can give you what you need.

CHICKEN-PLANT MANAGER: Now let me ask you this. Do these people have a photo ID and a Social Security card?

FEDERAL AGENT: No . . . these people come from Mexico. I pick them up at Del Rio. That's in Texas, after they cross the river, and then we take them over there, and they get their cards. [The mutual friend] gets them their cards, I guess.

CHICKEN-PLANT MANAGER: I need to talk to him about that.

FEDERAL AGENT: About the cards?

CHICKEN-PLANT MANAGER: Yes, some of them that's got the INS card, and if they put it in a computer . . . if it's not any good . . . Something happens, and we have to lay them off. But if they just have got a regular photo ID from anywhere and a Social Security card, then we don't have to do that.

Securing phony paperwork was part of the scheme, and corporate plant managers often knew in detail how the illegals got their papers. This was apparent in the following exchange between the undercover federal agent arranging for illegals and the manager of a Tyson facility in Glen Allen, Va. The manager is talking about a go-between named Amador who had delivered workers in the past.

TYSON MANAGER: When I went to Tyson and I met Amador, we had very few Spanish-speaking people. With Amador's help, in a couple of years, we went from very few to 80%.

FEDERAL AGENT: My job . . . is to get the people in Mexico to come to the border. When they cross the river, I pick them up, and then I take them to Amador. And he says he can get them, you know, their cards—their IDs and their Social Security cards, and they can go to work that way.

TYSON MANAGER: Excellent. That's what we're needing.

Two Tyson managers later pleaded guilty to conspiring to hire illegal aliens. Three other managers were acquitted of the charges, as was the Tyson Corp. itself. The company insisted that it did not know that illegals were being hired at some of its plants. A company spokesman said the charges were "absolutely false. In reality, the specific charges are limited to a few managers who were acting outside of company policy at five of our 57 poultry-processing plants."

One of the arguments that is regularly advanced to justify hiring illegal workers is that they are merely doing jobs American workers won't take. President Bush echoed the theme earlier this year when he proposed the immigration-law changes that would allow millions of illegals to live and work in the U.S.: "I put forth what I think is a very reasonable proposal, and a humane proposal, one that is not amnesty, but, in fact, recognizes that there are good, honorable, hard-working people here doing jobs Americans won't do."

While there is no doubt that many illegal aliens work long hours at dirty, dangerous jobs, evidence suggests that it is low wage rates, not the type of job, that American workers reject. That also surfaced in the Tyson case. The two Tyson managers who pleaded guilty contended that they had been forced to hire illegals because Tyson refused to pay wages that would let them attract American workers.

One of those two managers was Truley Ponder, who worked at Tyson's processing plant in Shelbyville, Tenn. In documents filed as part of Ponder's guilty plea, the U.S. Attorney's office noted, "Ponder would have preferred for the plant to hire 'local people,' but this was not feasible in light of the low wages that Tyson paid, the low unemployment rate in the area from which the plant drew its work force, and the general undesirability of poultry processing work when there were numerous other employment opportunities for unskilled and low skilled employees.

"Ponder made numerous requests for pay increases in Shelbyville above and beyond what the company routinely allowed, but Tyson's corporate management in Springdale rejected his requests for wage increases for production workers. This refusal to pay wages sufficient to enable Tyson to compete for legal laborers, plus the limited work force in the local area, dictated Ponder's need to bring workers in to meet Tyson's production demands." Needless to say, hiring illegals had benefits for Tyson. A government consultant estimated that the company saved millions of dollars in wages, benefits and other costs.

When asked whether the company has any illegals on its payroll today, a Tyson spokesman said, "We have a zero tolerance for the hiring of individuals who are not authorized to work in the U.S. Unfortunately, the reality for businesses across the country is that it is becoming increasingly difficult to determine just who has proper authorization.

The tangle of laws and the increasing sophistication of those providing false documentation puts employers in a very tough position . . . Given the scope of undocumented immigration to the U.S., we and countless other American businesses face a very difficult task in trying to figure out who is eligible to work."

The impact of the below-market wage earners tends to fall hardest on unskilled workers at the bottom of the wage pyramid. "Any sizable increase in the number of immigrants will inevitably lower wages for some American workers," says George Borjas, a professor at the Kennedy School of Government at Harvard. Borjas calculates that all immigration, by increasing the labor supply from 1980 to 2000, "reduced the average annual earnings of native-born men by an estimated $1,700, or roughly 4%." Borjas says African Americans and native-born Hispanics pay the steepest price because they are more often in direct competition with immigrants for jobs.

WHY ALIEN CRIMINALS ARE AT LARGE IN THE U.S.

Perhaps the most alarming aspect of having 15 million illegals at large in society is Congress's failure to insist that federal agencies separate those who pose a threat from those who don't. The open borders, for example, allow illegals to come into the country, commit crimes and return home with little fear of arrest or punishment.

From Oct. 1, 2003, until July 20, 2004, the border patrol's Tucson sector stopped 9,051 persons crossing into the country illegally who had criminal records in the U.S., meaning they committed crimes here, returned to Mexico, then were trying to re-enter the country. Among them: 378 with active warrants for their arrest. In one week, said border patrol spokeswoman Andrea Zortman, there were two with outstanding "warrants for homicide."

And those were just the illegals the border patrol determined had arrest records. Most go undetected. Reason: the border patrol's electronic fingerprint-identification system, which allows officers to determine how many times an alien has been caught sneaking into the U.S., has only a limited amount of criminal-background data. The FBI maintains a separate electronic fingerprint-identification system that covers everyone ever charged with a crime. In true bureaucratic fashion, the two computer systems do not talk to each other. In the 1990s, the two agencies were directed to integrate their systems.

They are still working at it. The most optimistic completion date is 2008. Until then, illegals picked up at the border may have any number of criminal charges pending, but the arresting officers will never know and will allow the intruders to return home.

In any event, the numbers suggest that tens of thousands of criminals, quite possibly hundreds of thousands, treat the southern border as a revolving door to crimes of opportunity. The situation is so out of control that of the 400,000 illegal aliens who have been ordered to be deported, 80,000 have criminal records—and the agency in charge, the Homeland Security Department, does not have a clue as to the whereabouts of any of them, criminal or noncriminal, including those from countries that support terrorism.

What's more, those figures are growing. Every day, prisons across the U.S. release alien convicts who have completed their court-ordered sentences. In many cases, the INS has filed detainers, meaning the prisons are obliged to hold the individuals until they can be picked up by immigration agents and returned to their native countries. But state law enforcement authorities are not permitted to keep prisoners beyond their original sentence. When Homeland Security agents fail to show up promptly, which is often, the alien convicts are released back into the community. In addition to all these, at least 4 million people who arrived in the U.S. legally on work, tourist or education visas have decided to ignore immigration laws and stay permanently.

Again, Homeland Security does not have the slightest idea where these visa scofflaws are.

The government's record in dealing with the 400,000 people it has ordered to be deported is dismal. A sampling of cases last year by the Justice Department's Office of Inspector General (oig) found that of illegal aliens from countries supporting terrorism who had been ordered to be deported, only 6% of those not already in custody were actually removed. Of 114 Iranians with final orders for removal, just 11 could be found and were deported. Of 67 Sudanese with final-removal orders, only one was deported. And of 46 Iraqis with final-removal orders, only four were sent packing. All the rest, presumably, were living with impunity somewhere in the U.S. Those statistics tell only part of the story. Most people charged with an immigration-law violation do not even bother to show up for a court hearing. Imagine for a moment a majority of people charged with a crime in state or federal courts flouting the indictment or charge and refusing to appear in court. They would be swiftly arrested.

But immigration law marches to a different drummer. Most illegals, including those with arrest records, are not jailed while awaiting a hearing. That's because Congress has failed to appropriate enough money to build sufficient holding facilities. Rather, the immigrants are released on their promise to return. They don't. And the odds are they won't be found. The oig investigation revealed that of 204 aliens ordered to be removed in absentia, only 14 were eventually located and shipped out.

The situation is even worse when it comes to those aliens whose requests for asylum are rejected and who are ordered to be deported.

The oig study found that only 3% of those seeking asylum who were ordered removed were ultimately located and deported. That pattern, like failed immigration-law enforcement across the board, bodes well for potential terrorists. In the 1990s, half a dozen aliens applied for asylum before committing terrorist acts. Among them: Ahmad Ajaj and Ramzi Yousef, who entered the country in 1991 and 1992, respectively, seeking asylum. According to the oig, Ajaj left the U.S. and returned in 1992 with a phony passport. He was convicted of passport fraud. Yousef completed the required paperwork and was given a date for his asylum hearing. In the meantime, in 1993, the two men helped commit the first World Trade Center attack, for which they were convicted and imprisoned. At the time, Yousef's application for asylum was still pending.

So what does the failed immigration system mean for ordinary people?

Just ask Sister Helen Lynn Chaska. Actually, you can't. You will have to ask her family and friends.

It's the waning days of summer in 2002 in Klamath Falls, Ore., a city of about 19,000 on the eastern edge of the Cascade Mountains. Two nuns who belonged to the Order of the Immaculate Heart of Mary in Bellevue, Wash., had made one of their periodic trips to Klamath Falls to carry out missionary work. As they had in the past, Sister Helena Maria (her church name), 53, and Sister Mary Louise, 52, checked into a Best Western motel. On Saturday, Aug. 31, they spent the evening proselytizing and selling religious items outside an Albertsons supermarket.

After returning to the motel, the two set out on their ritual prayer walk shortly after midnight. They were dressed in the blue habits they always wore as they walked on a darkened bike path behind the motel, reciting their rosaries. As they reached the midway point in their prayers and turned back toward the motel, they heard a bicycle coming up behind them. A Hispanic male in his 30s or 40s got off, grabbed both women and began kissing them. The more they resisted, the angrier he became. He finally punched Sister Mary Louise in the right eye so hard that she fell and hit her head on a rock, leaving her dazed. While holding Sister Helena Maria so tightly by the rosary knotted around her neck that she gasped for breath, he raped her first and then raped and sodomized Sister Mary Louise and raped Sister Helena Maria a second time. The man pulled the veil over Sister Mary Louise, told her not to move or he would kill her, climbed back on his MTB Super Crown bike and pedaled off. Sister Helena Maria was dead. The rosary had been wound so tightly, its marks were embedded in her neck.

Later that day, police tracked a suspect to another motel, where they began questioning him. He gave his name as Jesus Franco Flores, which turned out to be one of many names he used. In the end, he confessed to beating and raping both nuns. He was not supposed to be in the U.S.; he had been deported at least three times. By his account, his unlawful entries into the U.S. began in 1986 at the age of 17. Under the name Victor Manuel Batres-Martinez, which may have been his legal name, he found his way to Oregon, where he was arrested for unauthorized use of a motor vehicle. His sentence to a juvenile facility was suspended, with the understanding that the INS would deport him. The agency did so and in May 1987 granted him a voluntary return to Mexico, with a notation on government records that "subject has many good productive years ahead of him."

Assuming he went as the INS promised, he didn't stay long. In September that year, he was arrested and convicted of theft and shoplifting in Wenatchee, Wash., under the name Manuel Martinez. Two months later, he was convicted of felony sales of marijuana and hashish in Los Angeles and sent to jail for 60 days. In March 1988 he was arrested in Los Angeles, once for robbery, once for possession of a controlled substance. Another possession arrest followed in April.

In August he was arrested in Los Angeles for robbery. In December he was sent to prison in California for second-degree robbery and kidnapping. While there, he was treated for what was deemed to be "a significant psychiatric disorder."

In January 1992, after his release, the INS sent him back to Mexico by way of Nogales, Ariz. Six months later, he was back again, spotted by border-patrol officers as he attempted to come back into the U.S. near El Paso, Texas. When agents tried to stop him, he ran into rush-hour traffic on Interstate 10, "narrowly avoiding collision with several cars," according to immigration records. He subsequently was arrested, that time under the name Mateo Jimenez, and ordered to be returned to Mexico. It didn't stick. In November he was arrested by Portland, Ore., police for possession and delivery of a controlled substance. He never showed up for court appearances.

On two occasions in January 2002, border-patrol agents again apprehended him as he tried to re-enter the U.S. Both times they returned him to Mexico. If the border patrol's electronic fingerprint identification system had been in synch with the FBI's, the agents would have discovered Batres-Martinez's extensive criminal record. Given his prior deportations, Batres-Martinez could have been charged with re-entry after deportation, a felony that carries a substantial prison sentence. In any event, Batres-Martinez told police in Klamath Falls that he entered the U.S. on Aug. 11, 2002, that time coming through New Mexico. He said he hopped a freight train for San Bernardino, Calif., and looked for work, without success, from Los Angeles to Stockton. When he heard that he might have better luck in Portland, he hopped another train but got mixed up in a freight yard and ended up in Klamath Falls.

To avoid the death penalty, Batres-Martinez pleaded guilty to the murder of Sister Helena Maria, attempted aggravated murder of Sister Mary Louise and rape of both nuns. He was sentenced to life in prison without the possibility of parole.

As for U.S. immigration authorities, they were characteristically ineffectual. On Sept. 5, four days after the murder, the INS faxed an immigration detainer to the Klamath County jail, concerning Maximiliano Silerio Esparza, also known as Victor Batres-Martinez: "You are advised that the action below has been taken by the Immigration and Naturalization Service concerning the above-named inmate of your institution: Investigation has been initiated to determine whether this person is subject to removal from the United States."

Both political parties and their candidates pay lip service to controlling the borders. But neither President Bush nor Senator Kerry supports a system that would end the incentives for border crossers by cracking down on the employers of illegals. T.J. Bonner, president of the National Border Patrol Council, a labor organization that represents 10,000 border-patrol employees, believes the solution is obvious. The U.S. government, he says, should "issue a single document that's counterfeit proof, that has an embedded photograph, that says this person has a right to work in the U.S. And that document is the Social Security card. It's not a national ID card.

It's a card that you have to carry when you apply for a job and only then. The employers run it through a scanner, and they get an answer in short order that says, Yes, you may hire, or No, you may not. That would cut off 98% of all the traffic across the border. With your work force of 10,000 border-patrol agents, you actually could control the borders."

But Bonner doesn't see that happening anytime soon because of pressure from corporate America. And all the available legislative evidence of the past quarter-century supports that view. "All the politicians—it doesn't matter which side of the aisle you're on—rely heavily on the donations from Big Business," he says, "and Big Business likes this system [of cheap illegal labor].

Unfortunately, in the post–9/11 world, this system puts us in jeopardy."

In the 9/11 commission's final report, now on the best-seller lists, the panel of investigators took note of the immigration breakdown in general, saying that "two systemic weaknesses came together in our border system's inability to contribute to an effective defense against the 9/11 attacks: a lack of well-developed counterterrorism measures as a part of border security and an immigration system not able to deliver on its basic commitments, much less support counterterrorism. These weaknesses have been reduced but are far from being overcome."

Folks on the border who must deal daily with the throngs of illegals are not optimistic that the Federal Government will change its ways.

As Cochise County Sheriff Dever dryly observes, "People in Washington get up in the morning, their laundry is done, their floors are cleaned, their meals are cooked. Guess who's doing that?"

THE BUSH MEDICARE BILL'S DIRTY LAUNDRY

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, America's newspapers are widely read, except on Saturdays. So it is not much of a surprise that the Bush administration waited until late on a Friday afternoon leading into Labor Day weekend to announce that they were raising Medicare premiums by a record 17.4 percent. That is the sort of news, however, you just cannot suppress, so the news that Saturday was all about the Bush administration's plans to impose the biggest premium increase in Medicare's 38-year history. But the White House public relations office is nothing, if not tenacious. So faced with the bad news and faced with the blame for that increase that would naturally affix to the Bush administration, they did what they always do, they tried to shift the blame. Even though the Republicans have controlled the House and the Senate and the White House for the last 3½ years, it is actually the Democrats, they said, who are responsible for the premium increase. But no one bought it then and no one buys it now. The facts are the facts and no amount of spin, no amount of revisionist history, can change the facts.

Before the Bush Medicare bill became law, the nonpartisan Medicare trustees estimated the monthly Medicare premium increase for 2005 would be $2. After the Bush Medicare bill became law, the premium increase instead jumped $11.60. That is the 17.4 percent record increase. The facts are that the premium increase after the Bush Medicare law, which was written by the drug and insurance companies, is five times larger than the premium increase estimated before Congress passed the Medicare law.

So where is all that money going? Where are the billions of dollars out of seniors' pockets, that huge increase, where are those dollars going? The Bush administration is quick to remind us that some of it goes to new preventive health care benefits. That is true. But what they are less eager to say is that a whole lot of it is going directly from seniors' pockets into the pockets of the biggest HMO insurance companies in the country.

The Bush Medicare law creates a $23.5 billion slush fund that HMOs can use to lure seniors out of Medicare and out of Medicare's reliable, equitable core program into the HMO private insurance. This windfall is in addition, this insurance company payoff, to the payments HMOs receive in exchange for covering enrollees. It is a bonus largely paid for because of major political contributions the insurance and the drug industries have made to the Bush administration. Seniors who already spend more than 20 percent of their incomes on out-of-pocket health care costs are receiving a giant increase in their Medicare premiums, and HMOs are receiving a giant boost to their bottom line. HMO profits already, before the Bush administration did this, jumped 50 percent last year. They hardly need more money from America's overstretched seniors.

Social Security benefits for seniors will increase by 2 percent next year. So the Social Security increase and the checks that seniors get will go up 2 percent. The Medicare premiums will go up 17 percent. I will say it again. The Bush administration is draining billions from the Medicare trust fund into the pockets of the big insurance companies. At the same time, the Bush administration is emptying the pockets of America's seniors, again to the tune of billions of dollars.

It is no secret that President Bush and his privatization of Medicare plans wants to take the responsibility for retiree health care away from Medicare and give it to HMOs. But to actually make seniors pay more so the President can pave over their Medicare program, every senior should be enraged, every American taxpayer should be outraged and none of us should put up with it.

The bottom line is the Medicare legislation which the President pushed through this Congress and signed was written by the drug industry and the insurance industry. Medicare premiums went up 17 percent announced by the administration earlier this month and the drug companies and the insurance companies have given President Bush and the Republican leadership tens of millions of dollars in political contributions this year. In the end, it is really as simple as that.

STENHOLM DEBT LIMIT AMENDMENT TO TREASURY TRANSPORTATION APPROPRIATIONS BILL

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Texas (Mr. STENHOLM) is recognized during morning hour debates for 5 minutes.

Mr. STENHOLM. Mr. Speaker, 3½ years ago, there was a lot of talk around here about budget surpluses. Some folks actually claimed there was a danger that the government would pay off our debt held by the public too quickly. Today, projections of large budget surpluses have been replaced with projections of deficits as far as the eye can see, and the administration is asking Congress to approve another increase in the debt limit, the credit card limit, if you please, for the United States of America.

Last year, the Republican leadership slipped through a $984 billion increase in the debt limit, the largest increase in history, without an up-or-down vote in the House of Representatives. This came less than 8 months after we raised the Federal debt ceiling by $450 billion. To put that in proper perspective, it took our country 204 years to borrow the first $984 billion. The Treasury Department estimates that the national debt will exceed the statutory debt limit, which is currently $7.384 trillion, sometime in late September or October, just before the election.

But instead of taking responsibility to pass an increase in the debt limit to pay for our policies, the leadership is counting on the Treasury Department to rely on so-called extraordinary actions, such as dipping into retirement trust funds to avoid reaching the statutory debt limit until mid November and avoid a vote on legislation increasing the debt limit until a lame duck session after the election. These extraordinary actions should be a last resort to avoid a default during a crisis, not a routine action used for political convenience. It would be irresponsible to take funds from retirement trust funds simply to avoid a discussion of the fiscal problems highlighted by the need to increase the debt limit.

When the House resumes consideration of the Treasury Transportation appropriations bill today, I will offer an amendment which would prohibit the Secretary of Treasury from dipping into retirement trust funds in order to circumvent the statutory debt limit. The effect of my amendment would be to force Congress to take responsibility for the increase in the national debt by approving an increase in the debt limit before adjourning in October instead of deferring action until a lame duck session. Congress should have a full and open debate on increasing our national debt limit above $8 trillion instead of relying on financial maneuvers to avoid a vote.

There would be no risk of default if Congress met its responsibility to approve an increase in the debt limit before we adjourn for the election. If my Republican colleagues honestly believe that tax cuts with borrowed money is good economic policy, they should be willing to stand up and vote to increase the national debt to pay for their tax cuts instead of relying on financial maneuvers. Just like credit card spending limits serve as tools to force families to examine their household budgets, the debt limit reminds Congress and the President to evaluate our budget policies.

The national debt has increased by $670 billion over the last 12 months and $1.5 trillion over the last 3 years. The Congressional Budget Office projects that the national debt will exceed $10 trillion in just over 4 years under our current budget policies. As of the end of April, $1.813 trillion of our debt was held by foreign investors, more than $1 trillion of which is held by official institutions. Japan now holds $695 billion of our debt, and the Chinese another $217 billion. Despite this, the leadership of this body is talking about bringing up legislation this week that would add another $130 billion to that debt.

We should not pay for tax cuts or spending by borrowing money against our children's future. Congress should be required to sit down and figure out how to make things fit within a budget just like families do every day. The borrow-and-spend policies of the current majority will leave a crushing debt burden for future generations who do not have any say in what we are doing today and do not benefit from the tax cuts and spending programs for current generations.

The one tax that cannot be repealed is the debt tax, the cost of paying interest on our national debt. The debt tax consumed 18 percent of all government revenues to pay interest on the national debt last year and 40 percent of every dime of income taxes is required to pay interest today at current interest rates. Congress should not grant the administration a blank check to continue on the path of deficit spending. Before we vote to increase the debt limit, we should reinstate the budget enforcement rules which make it harder to pass legislation which would put us further into debt, including pay-as-you-go for all legislation.

If the leadership were willing to work with us to add meaningful budget enforcement provisions to legislation increasing the debt limit, the Blue Dog Democrats would gladly supply bipartisan support for an increase in the debt limit. But if the majority wants to continue with their economic policies that have us on a path to running up more than $10 trillion in debt by the end of the decade, they should be willing to step up to the plate and approve the increase in the debt limit necessary to pay for their policies and not hide until after the elections to tell the people what the results are.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 53 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOOZMAN) at 2 p.m.

PRAYER

Dr. Gary P. Zola, Executive Director, American Jewish Archives, Cincinnati, Ohio, offered the following prayer:

As we begin legislative deliberations in this great shrine of democracy, we call to mind the words of an American original, Sam Levensen, that Spanish-teacher-turned-entertainer whose homespun stories about his immigrant parents delighted our Nation for generations. Upon his death, Levensen's children discovered their father's ethical will containing these prayerful sentiments:

To America, I owe a debt for the opportunity it gave me to be free and to be me. To my parents I owe America. They gave it to me, and I leave it to you. Take good care of it.

To the Bible, I owe the belief that the human does not live by bread alone, nor do we live alone at all. This is also the democratic tradition. Preserve it.

In this year marking the 350th anniversary of Jewish life in this great land, may we all acknowledge our debt to America, to the courageous immigrants who gave us this national inheritance, and to the Source of All for endowing us with the benefit of our patriot's dream, a Nation pledged to uphold the conviction that liberty and justice are for all.

Thankful are we this day for the manifold blessings that are our daily portion and possession in this great and blessed Nation.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) come forward and lead the House in the Pledge of Allegiance.

Mrs. CHRISTENSEN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 138. Concurrent resolution commending John W. Kluge for his dedication and commitment to the United States on the occasion of his 90th birthday.

The message also announced that the Secretary be directed to request the return of (H.R. 4567) "An act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes," in compliance with a request of the Senate for the return thereof.

The message also announced that pursuant to Public law 106–170, the Chair, on behalf of the Democratic Leader, after consultation with the ranking member of the Senate Committee on Finance, announces the appointment of the following individual to serve as a member of the Ticket to Work and Work Incentives Advisory Panel: Andrew J. Imparato, of Maryland.

The message also announced that pursuant to section 128, of Public Law 108–132, the Chair, on behalf of the majority leader, appoints the following individual to the Commission on Review of Overseas Military Facility Structure of the United States—

Admiral Anthony A. Less of Virginia.

WELCOMING DR. GARY PHILLIP ZOLA, EXECUTIVE DIRECTOR, AMERICAN JEWISH ARCHIVES, CINCINNATI, OHIO

(Mr. PORTMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTMAN. Mr. Speaker, I rise today to welcome a distinguished constituent of mine, Dr. Gary Phillip Zola, who we just heard from, who was the guest chaplain of the House today. Dr. Zola is the executive director of the Jacob Rader Marcus Center of the Jewish Archives in Cincinnati, which is the world's largest archival resource which documents the history of North American Jewry. Dr. Zola also serves as an associate professor at Hebrew Union College-Jewish Institute of Religion in Cincinnati.

Under Dr. Zola's leadership, the American Jewish Archives has initiated an impressive array of innovative projects that have captured the attention of both the Jewish and general communities in our country. Currently, Dr. Zola is serving as Chair of the Commission for Commemorating the 350th Anniversary of American Jewish History, which has been organized to help our Nation mark the 350th anniversary of Jewish communal life in North America. This commission represents a historical collaboration of the Library of Congress, the National Archives, the American Jewish History Society, and the Jacob Rader Marcus Center of the American Jewish Archives. The exhibit, by the way, is currently open at the Library of Congress right across the street.

Prior to assuming leadership of the Marcus Center, Dr. Zola served for more than 15 years as the National Dean of Admissions, Student Affairs and Alumni Relations for Hebrew Union College, a true treasure in greater Cincinnati.

Dr. Zola and his wife, Stefi, live in Blue Ash, Ohio, with their four children, Mandi, Jory, Jeremy, and Samantha.

I thank him so much for taking the time to come join us this afternoon and to deliver a very thoughtful prayer and thoughtful moment for us here in the House of Representatives.

OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, positioned at the base of Capitol Hill, the National Museum of the American Indian rises up out of the ground with its curved limestone walls to celebrate the lives and achievements of our country's first citizens. This museum is a unique addition to our National Mall, in so much as it displays a living history of a vibrant people who exists among us today.

Native Americans are not an extinct people to be catalogued. Theirs is not a culture that can be relegated to the confines of a glass display. Accordingly, the new National Museum of the American Indian does not exhibit archaeological artifacts to be surveyed by passersby, but rather offer visitors a glimpse into a lively and vibrant culture that lives on through the customs and traditions practiced by generations of native peoples.

Mr. Speaker, I would like to welcome the thousands of Native Americans that have come to Washington today to celebrate the opening of the National Museum of the American Indian, and I ask my colleagues to join in the celebration this week and take time to reflect upon the rich culture of Native Americans.

MEDIA BIAS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, between now and the election, I am announcing the weekly award for the most biased media story.

The CBS broadcast on President Bush's National Guard service has collapsed. CBS and Dan Rather issued an apology, but still tried to justify their actions.

However, there is no excuse for why this broadcast made its way into the homes of millions of Americans. There is no excuse for not trying to obtain the original documents. There is no excuse for not checking the credibility of the person making the accusation who has a history of attacking President Bush. There is no excuse for being in a rush to smear President Bush. There is no excuse for contacting the Kerry campaign before airing the broadcast, and there is no excuse for this serious breach of journalistic ethics.

Mr. Speaker, this week's media bias award has no competition. It goes to CBS News.

OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, today is a very special day for our country because we celebrate the opening of the Smithsonian's National Museum of the American Indian.

I urge all Americans to visit the museum because it will take you through a personal journey to the different experiences of native peoples of the Americas by exposing you to their histories, their art, and their cultures.

Included in its vast collection, the museum shares the stories of the 12 tribes in my own State of Michigan whose historical roots lie with the Chippewa, Ottawa, and Potawatomi Nations.

As a child, I learned of the injustices perpetrated against the Indian people of Michigan; and when I was first elected to public office in 1964, I vowed to work for the human dignity of the Native American people.

That is why I, along with so many of my colleagues, fight so hard today to protect the sovereign rights of our country's first Americans.

Mr. Speaker, I can think of no better physical interactive monument that pays tribute to the past, present, and future of the American Indian than the National Museum of the American Indian.

RIGHTFUL PLACE OF HONOR OF THE FIRST AMERICANS IS REALIZED

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, in the nearly 10 years that I have been honored to serve in the House, I have welcomed many constituents from Arizona to our Nation's capital, but one visit stands out in particular. It was in my first term. The gentleman visiting me was a Vietnam veteran. He was a White Mountain Apache, and he came to my office late in the day and he said, Congressman, I have seen all the monuments, I have seen so many statues, but where is the Indian?

It was not a rhetorical question; but now, for that constituent, and Mr. Speaker, for all Americans, the rightful place of honor of the first Americans is realized. As my colleague from Michigan mentioned earlier, today we celebrate on our National Mall the opening of the National Museum of the American Indian.

Mr. Speaker, I was honored when I first came to this House that nearly one out of every four of my constituents was Native American, and I think the challenge we can confront is that, though we may divide between political parties, there are really only two types of people who serve in the Congress of the United States, those who represent what we now call Indian Country and those who represent what was once Indian Country.

CELEBRATING THE OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

(Mr. BACA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BACA. Mr. Speaker, this week marks a monumental event in our national history. We celebrate the opening of the National Museum of the American Indian. We celebrate the Native American culture, tradition, and rich heritage that they have contributed to this great Nation.

This is a great tribute to the first Americans. We must not stop here. We must do more. We must do more to ensure that we honor our government's trust responsibility and protect tribal sovereignty.

I have stood by Native Americans and fought for their sovereignty since I was first elected to the assembly in California.

We must do more to provide tribes with resources to fulfill their basic needs. Tribes receive only about one-third of the money they need for vital programs. This is unacceptable.

We must do more to end the health disparities for Native Americans

We must do more to protect Native American lands.

Government entities must work together to meet the needs of Native Americans, making a brighter future for all of our people.

Native Americans must be treated with the respect they deserve.

That is why I have introduced H. Res. 167 to create a federally recognized holiday for Native Americans and instruct schools to teach about Native Americans, the role they have in our American history.

Let us remember our Native Americans who have made a great contribution to this Nation and this country.

□ 1415

FEDERAL LAW ENFORCEMENT TRAINING CENTER TRAINING FLIGHT DECK OFFICERS IN THE USE OF FIREARMS

(Mr. PEARCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEARCE. Mr. Speaker, this past weekend, I traveled with the Chairman of the Subcommittee on Aviation of the Committee on Transportation and Infrastructure to my district, to Artesia, New Mexico, where the Federal Law Enforcement Training Center is engaged in training Federal flight deck officers for carrying firearms on aircraft.

Mr. Speaker, that is a policy that this House passed and that the President signed and has now implemented, and I can say that our traveling public is much safer because of the professional training that is being received by people who are flying our aircraft. They are screened psychologically, they are screened in many other ways, so that after they come out of that facility, they come out able to defend the safety of the people on their aircraft at all cost, even up to and including the use of firearms.

Mr. Speaker, the terrorists should be aware of that. We have trained thousands and will continue training thousands more in my district. I would like to commend the people at the Federal Law Enforcement Training Center in Artesia, New Mexico.

NATIONAL MUSEUM OF THE AMERICAN INDIAN

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, today's grand opening of the Smithsonian National Museum of the American Indian is an excellent opportunity for this Congress and the public to develop a deeper understanding of issues that currently affect Native Americans, and also to celebrate their rich history and culture.

I am proud to be here today to commemorate the history of Native Americans nationally, and in my district of Northern Michigan, which is home to six Native American tribes: The Bay Mills Chippewa Indian Community, Hannahville Potawatomi Indian Community, Keweenaw Bay Indian Community, Lac Vieux Desert Band of Lake Superior Chippewa Indians, Little Grand Traverse Bay Band of Odawa Indiana, and the Sault Ste. Marie Tribe of Chippewa Indians.

The Smithsonian's National Museum of the American Indian is a great way of preserving their vibrant history and culture to our Nation. This beautiful long-awaited museum, located on the National Mall, will honor the culture of Native Americans who have contributed so much to this Nation and the world.

The museum, which is set against a backdrop of the United States Capitol building, symbolizes a deeper understanding and reconciliation between America's first citizens and those who have come to make these shores their home. This museum represents a spirit of the Native American tribes across this great Nation. I join them in celebrating the museum's grand opening.

Mr. Speaker, let us all work together to educate ourselves as to the issues affecting Native Americans in this Nation.

COMMEMORATING OPENING OF AMERICAN INDIAN MUSEUM IN WASHINGTON, D.C.

(Mr. GRIJALVA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRIJALVA. Mr. Speaker, I rise today on behalf of the native people of my district and of Arizona to commemorate the opening of the American Indian Museum today in Washington, D.C. This is an historic moment when, at long last, the indigenous people of this continent have a place to call their own on our National Mall and in our national consciousness.

The museum is not a place that will display relics of the past but a living monument to the multitudes of cultures, arts, and languages that exist in the Americas. This museum will be a living legacy to those who have come before and a gift to those who will be born in the future.

This morning I had the honor of seeing the procession of Native American people on our National Mall. Thousands of people from every corner of the continent filled the Mall. They came to make a ceremonial and symbolic journey representing the millions of native people who live and thrive on this continent.

So let us honor our first Americans and let us remember this day as a day where we continue to working and looking forward to extending the support and the respect that the first Americans deserve.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. BOOZMAN) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, September 20, 2004.
Hon. J. DENNIS HASTERT,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on September 20, 2004 at 2:15 p.m. and said to contain a message from the President whereby he notifies the Congress he has terminated the national emergency with respect to Libya by an Executive Order.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

TERMINATION OF EMERGENCY DECLARED IN EXECUTIVE ORDER 12543 WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–216)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Consistent with subsection 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA), I hereby report that I have issued an Executive Order (the "order") that terminates the national emergency declared in Executive Order 12543 of January 7, 1986, and revokes that Executive Order, Executive Order 12544 of January 8, 1986, Executive Order 12801 of April 15, 1992, and Executive Order 12533 of November 15, 1985. I have determined that the situation that gave rise to this national emergency has been significantly altered by Libya's commitments and actions to eliminate its weapons of mass destruction programs and its Missile Technology Control Regime (MTCR)-class missiles, and by other developments.

Executive Order 12543 of January 7, 1986, imposed sanctions on Libya in response to policies and actions of the Government of Libya that constituted an unusual and extraordinary threat to the national security and foreign policy of the United States. Those sanctions were modified in Executive Order 12544 of January 8, 1986, Executive Order 12801 of April 15, 1992, and supplemented Executive Order 12538 of November 15, 1985.

Based on Libya's recent commitments and actions to implement its December 19, 2003, commitment to eliminate its weapons of mass destruction programs and its MTCR-class missiles, and other developments, I have determined that the situation that gave rise to the national emergency declared in Executive Order 12543 has been significantly altered. My order, therefore, terminates that national emergency with respect to Libya and revokes Executive Orders 12543, 12544, and 12801, and lifts the trade, commercial, and travel sanctions imposed against Libya based on that national emergency. The order also revokes Executive Order 12538, which blocked the import of petroleum products refined in Libya into the United States.

While the order formally lifts sanctions under the national emergency with respect to Libya, it will not lift a wide variety of other sanctions imposed on Libya due to its designation as a state sponsor of terrorism under section 620A of the Foreign Assistance Act (restriction on foreign assistance), section 40 of the Arms Export Control Act (restriction on arms exports), and section 6(j) of the Export Administration Act of 1979 (restriction on exports of certain items on the Commodity Control List), as well as other statutory restrictions applicable to Libya.

I have enclosed a copy of the order, which is effective at 12:01 a.m. eastern daylight time on September 21, 2004.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 20, 2004.*

APPOINTMENT AS MEMBER TO HOUSE LIBRARY OF CONGRESS TRUST FUND BOARD

The SPEAKER pro tempore. Pursuant to section 1 of the Library of Congress Trust Fund Board Act (2 U.S.C. 154 note), the order of the House of December 8, 2003, and upon the recommendation of the minority leader, the Chair announces the Speaker's appointment of the following member on the part of the House to the Library of Congress Trust Fund Board for a 5-year term to fill the existing vacancy thereon:

Mr. J. Richard Fredericks, San Francisco, California.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

LLAGAS RECLAMATION GROUNDWATER REMEDIATION INITIATIVE

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4459) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes.

The Clerk read as follows:

H.R. 4459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Llagas Reclamation Groundwater Remediation Initiative".

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) GROUNDWATER REMEDIATION.—The term "groundwater remediation" means actions that are necessary to prevent, minimize, or mitigate damage to groundwater.

(2) LOCAL WATER AUTHORITY.—The term "local water authority" means the Santa Clara Valley Water District.

(3) REMEDIATION FUND.—The term "Remediation Fund" means the California Basins Groundwater Remediation Fund established pursuant to section 3(a).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. CALIFORNIA BASINS REMEDIATION.

(a) CALIFORNIA BASINS REMEDIATION.—

(1) ESTABLISHMENT OF REMEDIATION FUND.—There shall be established within the Treasury of the United States an interest bearing account to be known as the California Basins Groundwater Remediation Fund.

(2) ADMINISTRATION OF REMEDIATION FUND.—The Remediation Fund shall be administered by the Secretary of the Interior, acting through the Bureau of Reclamation. The Secretary shall administer the Remediation Fund in cooperation with the local water authority.

(3) PURPOSES OF REMEDIATION FUND.—

(A) IN GENERAL.—Subject to subparagraph (B), the amounts in the Remediation Fund, including interest accrued, shall be used by the Secretary to provide grants to the local water authority to reimburse the local water authority for the Federal share of the costs associated with designing and constructing groundwater remediation projects to be administered by the local water authority.

(B) COST-SHARING LIMITATION.—

(i) IN GENERAL.—The Secretary may not obligate any funds appropriated to the Remediation Fund in a fiscal year until the Secretary has deposited into the Remediation Fund an amount provided by non-Federal interests sufficient to ensure that at least 35 percent of any funds obligated by the Secretary for a project are from funds provided to the Secretary for that project by the non-Federal interests.

(ii) NON-FEDERAL RESPONSIBILITY.—Each local water authority shall be responsible for providing the non-Federal amount required by clause (i) for projects under that local water authority. The State of California, local government agencies, and private entities may provide all or any portion of the non-Federal amount.

(iii) CREDITS TOWARD NON-FEDERAL SHARE.—For purposes of clause (ii), the Secretary shall credit the appropriate local water authority with the value of all prior expenditures by non-Federal interests made after January 1, 2000, that are compatible with the purposes of this section, including—

(I) all expenditures made by non-Federal interests to design and construct groundwater remediation projects, including expenditures associated with environmental analyses and public involvement activities that were required to implement the groundwater remediation projects in compliance with applicable Federal and State laws; and

(II) all expenditures made by non-Federal interests to acquire lands, easements, rights-of-way, relocations, disposal areas, and water rights that were required to implement a groundwater remediation project.

(b) COMPLIANCE WITH APPLICABLE LAW.—In carrying out the activities described in this section, the Secretary shall comply with any applicable Federal and State laws.

(c) RELATIONSHIP TO OTHER ACTIVITIES.—Nothing in this section shall be construed to affect other Federal or State authorities that are being used or may be used to facilitate remediation and protection of the Llagas groundwater subbasin. In carrying out the activities described in this section, the Secretary shall integrate such activities with ongoing Federal and State projects and activities. None of the funds made available for such activities pursuant to this section shall be counted against any Federal authorization ceiling established for any previously authorized Federal projects or activities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Remediation Fund $25,000,000. Such funds shall remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico (Mr. PEARCE).

GENERAL LEAVE

Mr. PEARCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4459, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. PEARCE. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. POMBO), the distinguished, wise and principled chairman of the Committee on Resources.

Mr. POMBO. Mr. Speaker, I thank gentleman for yielding me this time.

Mr. Speaker, in California's Eleventh District, the City of Morgan Hill and surrounding communities, face a serious problem due to groundwater contamination with perchlorate. Hundreds of private and city-owned wells have been closed, and many residents are forced to rely on bottled water.

To help remedy this situation, I introduce H.R. 4459, the Llagas Reclamation Groundwater Remediation Initiative. This bill will provide $25 million in Federal funding to assist the Santa Clara Valley Water District's efforts to identify the scope of the contamination and begin a comprehensive, long-term program to once again provide high-quality drinking water to the area's residents. This funding mechanism is based on a practical working model currently underway in the San Gabriel Basin in Southern California.

Everyone agrees on the need for safe drinking water for our communities. This bill reflects this consensus and puts words into action. It is my hope that this bill will act as a successful model for other areas of the country as well.

Mr. Speaker, I urge my colleagues to support this important bill.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I speak to H.R. 4459, I just want to also take this opportunity to recognize the opening of the Smithsonian National Museum of the American Indian which will honor, memorialize, and teach the history and culture of the first people of this country and to welcome their representatives here to the Nation's Capitol.

Mr. Speaker, on H.R. 4459, many communities in California, and, in fact, throughout the Nation, are faced with the prospect of shutting down their drinking water supply wells because water has been contaminated with perchlorate or other chemicals. It is critically important we provide assistance to these communities so they can clean up their drinking water supplies.

H.R. 4459 will specifically provide assistance to communities in the Santa Clara Valley area of California. The Committee on Resources has also approved similar legislation, H.R. 4606, for Southern California, introduced by our colleague on the Committee on Resources, the gentleman from California (Mr. BACA). I support both bills and I appreciate the support and leadership demonstrated by the gentleman from California (Mr. POMBO) on this important problem.

Mr. Speaker, I reserve the balance of my time.

Mr. HONDA. Mr. Speaker, I commend Chairman POMBO for introducing the Llagas Reclamation Groundwater Remediation Initiative.

On January 16, 2003, residents of San Martin, Morgan Hill, and Gilroy in south Santa Clara County were shocked to learn that perchlorate had been detected in more than 800 area wells. The approximately 90,000 residents of the Llagas Groundwater Subbasin rely solely on groundwater for their drinking water supply, but the perchlorate concentration in more than 200 wells exceeds the California Public Health Goal of 6 micrograms per liter.

From 1956 to 1996, the Olin Corporation owned and, along with Standard Fusee, operated a flare manufacturing facility on Tennant Avenue in Morgan Hill. During that time, waste water containing perchlorate was discharged to evaporation ponds on the site, which allowed perchlorate to enter the subsurface and contaminate groundwater. The perchlorate was first detected in a public water supply well across the street from the Olin facility in Spring 2002. Subsequent groundwater testing by Olin and the Santa Clara Valley Water District revealed a 10.5 mile long perchlorate plume contaminating the groundwater in the area.

As a result, bottled water is being provided to approximately 800 households, and thousands of other residents are receiving treated groundwater from the city of Morgan Hill, the West San Martin Water Works, or San Martin County Water District. The level of community interest in the situation and participation in efforts to solve it, has been unprecedented. The Santa Clara Valley Water District has held two public meetings to respond to community concerns, and approximately 800 people attended the first meeting, with 450 attending the second meeting. Water District staff continues to receive dozens of inquiries from the public every week.

The Water District has spent more than $2,000,000 addressing the perchlorate issue to date. In addition, the City of Morgan Hill has incurred costs for wellhead treatment and the city of Gilroy has incurred costs for contingency planning. The county of Santa Clara has incurred costs related to analyzing health data and communicating health risks to the community. Residents in the affected area have devoted their own time and resources toward finding solutions. The entire community has been affected land is working together to find solutions, and the Federal Government should help in any way it can.

While much work has been done on this contamination case, significant unknowns remain and many of the necessary remediation efforts, including containment of the 10.5 mile long perchlorate plume, have not yet been started. Residents still wonder when the contamination will reach their wells, whether it is safe to eat produce from their gardens or the store, and whether health problems of people they know are related to the perchlorate contamination. The community has the right to have its groundwater restored to the condition it was in before it was polluted. That cleanup should begin now, before the plume affects any more areas.

H.R. 4459 establishes a program that can address the community's perchlorate needs and interests. The $25 million specified in the bill provides a means of implementing overdue solutions for the community. The funding in the bill provides a means for local agencies to implement timely, necessary solutions to protect the community, for which they can be reimbursed by the responsible party at a later date. It is not meant to excuse responsible parties from their duties to remediate contamination.

In the past, Chairman POMBO, Representative LOFGREN, and I have been fortunate to secure appropriations for perchlorate groundwater remediation and cleanup in this area where our Congressional districts come together, but the implementing regulations have prevented the use of this funding to move many projects of interest to the community forward. The broad parameters of H.R. 4459, which authorizes the Secretary of the Interior to participate in the funding and implementation of a balanced, long-term remediation program for California, will provide for solutions the community is asking for.

Once again, I thank chairman POMBO for his hard work on this bill and for bringing it to the House floor quickly. I look forward to continuing to work with him in the future to solve the perchlorate problem in south Santa Clara County.

Mr. PEARCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 4459.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CASTLE NUGENT FARMS, ST. CROIX, VIRGIN ISLANDS, NATIONAL PARK FEASIBILITY STUDY

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2663) to authorize the Secretary of the Interior to study the suitability and feasibility of designating Castle Nugent Farms, located on St. Croix, Virgin Islands, as a unit of the National Park System, and for other purposes.

The Clerk read as follows:

H.R. 2663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL PARK SERVICE STUDY REGARDING CASTLE NUGENT FARMS.

(a) FINDINGS.—Congress finds the following:

(1) Castle Nugent Farms, located on the southeastern shore of St. Croix, U.S. Virgin Islands, is the largest parcel of privately-held land in the Virgin Islands and has been an operating cattle ranch for 50 years.

(2) This land has the largest and healthiest fringing coral reef anywhere in the Virgin Islands.

(3) It consists of Caribbean dry forest and pasturelands with considerable cultural resources including both pre-Columbian and post-European settlement.

(4) Castle Nugent Farms contains a large historic 17th century Danish estate house that sits on over 4 miles of pristine Caribbean oceanfront property.

(5) In addition to being an area for turtle nesting and night heron nesting, it is the home for the Senepol cattle breed, a unique breed of cattle that was developed on St. Croix in the early 1900's to adapt to the island's climate.

(b) STUDY.—The Secretary of the Interior shall carry out a study regarding the suitability and feasibility of designating Castle Nugent Farms as a unit of the National Park System.

(c) STUDY PROCESS AND COMPLETION.—Section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)) shall apply to the conduct and completion of the study required by this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico (Mr. PEARCE).

GENERAL LEAVE

Mr. PEARCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2663, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. PEARCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2663, introduced by my colleague on the Committee on Resources, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), would authorize the Secretary of the Interior to study the suitability and feasibility of designating the Castle Nugent Farms, located on St. Croix, U.S. Virgin Islands, as a unit of the National Park System.

I understand that the owners of the Farm, the largest parcel of privately-held land in the U.S. Virgin Islands, are aware of this legislation and support the National Park Study.

Mr. Speaker, H.R. 2663 is supported by the majority and minority of the Committee on Resources and the administration. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

□ 1430

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased the House is considering my bill, H.R. 2663, to provide for a study to determine the feasibility and suitability of designating Castle Nugent Farms on my home island of St. Croix in the U.S. Virgin Islands as a unit of the National Park System.

Castle Nugent Farms is a unique 1,350-acre property located on the southeastern shore of St. Croix. It contains natural and cultural resources which could provide an unparalleled insight into the plantation period of the Virgin Islands.

Castle Nugent Farms is presently operated as a cattle ranch by owners who are very interested in preserving and interpreting the natural and cultural resources of the area. I want to take this opportunity to commend Caroline Gasperi and her family for the stewardship of this land for more than 50 years and for her enthusiasm and dedication to this cause.

The owners are justifiably proud of their ranch which contains more than 4 miles of pristine oceanfront with a large and healthy fringing coral reef. The interior of the property consists of Caribbean dry forest and pasture lands with cultural resources from both pre-Columbian and post-European settlement. A large Danish estate house, dating to the 1730s, sits on the property. That house is listed on the National Register of Historic Places.

At various points in its history, Castle Nugent Farms has been operated as a cotton plantation and a sugarcane plantation. Its current use as a cattle ranch involves raising unique Senepol cattle, a breed which is well-suited to the climate and vegetation of the area.

H.R. 2663 is a noncontroversial bill. The National Park Service has no objections to the legislation, and the property's owners not only support a park study of the site but are enthusiastic about the opportunity to preserve the natural and cultural resources of the farm.

Mr. Speaker, it is my hope that the park study will provide the blueprint by which we can preserve and interpret this unique piece of island history and resources for the benefit of present and future generations.

I want to thank the gentleman from California (Mr. POMBO) for taking the time to personally communicate with my constituent, Mrs. Gasperi, and for his strong support and for shepherding this bill through the committee. And I thank my colleagues on the Committee on Resources for their favorable consideration of H.R. 2663 and express my wholehearted support for the adoption of this bill by the House this afternoon.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEARCE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 2663.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RIGHT-TO-RIDE LIVESTOCK ON FEDERAL LANDS ACT OF 2004

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2966) to preserve the use and access of pack and saddle stock animals on public lands, including wilderness areas, national monuments, and other specifically designated areas, administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service where there is a historical tradition of such use, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Right-to-Ride Livestock on Federal Lands Act of 2004".

SEC. 2. USE AND ACCESS OF PACK AND SADDLE ANIMALS ON PUBLIC LANDS.

(a) National Park System Lands.—Section 12 of Public Law 91–383 (16 U.S.C. 1a–7) is amended by adding at the end the following new subsection:

"(c) Use and Access of Pack and Saddle Animals.—

"(1) General rule.—The Secretary of the Interior shall provide for the management of National Park System lands to preserve and facilitate the continued use and access of pack and saddle stock animals on such lands, including wilderness areas, national monuments, and other specifically designated areas, where there is a historical tradition of such use. As a general rule, all trails, routes, and areas used by pack and saddle stock shall remain open and accessible for such use. The Secretary may implement a proposed reduction in the use and access of pack and saddle stock animals on such lands only after complying with the full review process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) Rules of construction.—Nothing in paragraph (1) shall be construed—

"(A) to authorize the Secretary to refuse to issue a permit for a new use of pack and saddle stock animals, including use by a commercial outfitter or guide, without complying with applicable resource management plans and planning processes required under this Act or any other provision of law;

"(B) to limit the authority of the Secretary to impose a temporary emergency closure of a trail, route, or area to pack and saddle stock animals or issue special permits; or

"(C) to create a preference for one recreational use for any unit of the National Park System, without consideration of the stated purpose of the unit.".

(b) Bureau of Land Management Lands.—Section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) is amended by adding at the end the following new subsection:

"(e) Use and Access of Pack and Saddle Animals.—

"(1) General rule.—The Secretary shall provide for the management of public lands to preserve and facilitate the continued use and access of pack and saddle stock animals on such lands, including wilderness areas, national monuments, and other specifically designated areas, where there is a historical tradition of such use. As a general rule, all trails, routes, and areas used by pack and saddle stock shall remain open and accessible for such use. The Secretary may implement a proposed reduction in the use and access of pack and saddle stock animals on such lands only after complying with the full review process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) Rules of construction.—Nothing in paragraph (1) shall be construed—

"(A) to authorize the Secretary to refuse to issue a permit for a new use of pack and saddle stock animals, including use by a commercial outfitter or guide, without complying with applicable resource management plans and planning processes required under this Act or any other provision of law;

"(B) to limit the authority of the Secretary to impose a temporary emergency closure of a trail, route, or area to pack and saddle stock animals or issue special permits; or

"(C) to create a preference for one recreational use for any area of the public lands, without consideration of the stated purpose of the area.".

(c) National Wildlife Refuge System Lands.—Section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(d)) is amended by adding at the end the following new paragraph:

"(5)(A) The Secretary shall provide for the management of System lands to preserve and facilitate the continued use and access of pack and saddle stock animals on such lands, including wilderness areas, national monuments, and other specifically designated areas, where there is a historical tradition of such use. As a general rule, all trails, routes, and areas used by pack and saddle stock shall remain open and accessible for such use. The Secretary may implement a proposed reduction in the use and access of pack and saddle stock animals on such lands only after complying with the full review process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) Nothing in subparagraph (A) shall be construed—

"(i) to authorize the Secretary to refuse to issue a permit for a new use of pack and saddle stock animals, including use by a commercial outfitter or guide, without complying with applicable resource management plans and planning processes required under this Act or any other provision of law;

"(ii) to limit the authority of the Secretary to impose a temporary emergency closure of a trail, route, or area to pack and saddle stock animals or issue special permits; or

"(iii) to create a preference for one recreational use for any unit of the System, without consideration of the stated purpose of the unit.".

(d) National Forest System Lands.—Section 15 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1613) is amended—

(1) by inserting "(a)" before "Regulations"; and

(2) by adding at the end the following new subsection:

"(b) Use and Access of Pack and Saddle Animals.—

"(1) General rule.—The Secretary shall provide for the management of National Forest System lands to preserve and facilitate the continued use and access of pack and saddle stock animals on such lands, including wilderness areas, national monuments, and other specifically designated areas, where there is a historical tradition of such use. As a general rule, all trails, routes, and areas used by pack and saddle stock shall remain open and accessible for such use. The Secretary may implement a proposed reduction in the use and access of pack and saddle stock animals on such lands only after complying with the full review process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) Rules of construction.—Nothing in paragraph (1) shall be construed—

"(A) to authorize the Secretary to refuse to issue a permit for a new use of pack and saddle stock animals, including use by a commercial outfitter or guide, without complying with applicable resource management plans and planning processes required under this Act or any other provision of law;

"(B) to limit the authority of the Secretary to impose a temporary emergency closure of a trail, route, or area to pack and saddle stock animals or issue special permits; or

"(C) to create a preference for one recreational use for any unit of the National Forest System, without consideration of the stated purpose of the unit.".

(e) Issuance of Rules.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall issue final rules to define the meaning of a historical tradition of use of pack and saddle stock animals on Federal lands for purposes of the amendments made by this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico (Mr. PEARCE).

GENERAL LEAVE

Mr. PEARCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. PEARCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2966, introduced by the gentleman from California (Mr. RADANOVICH), will preserve the use and access of pack and saddle stock animals on our public lands where there is a historical tradition of such use. Mr. Speaker, the claim may be made by some that the bill singles out pack and saddle use and affords it greater consideration than other forms of recreation or commercial use.

I would argue that pack and saddle use has played a far greater historic role on our public lands, particularly in our Western States, than simply recreation. What may be perceived by some today as recreation was a vital part of everyday living throughout our Nation's history. In addition, this bill in no way diminishes the secretary's ability to implement emergency closures or permanent reductions in the use and access of these pack and stock animals after complying with the full public review process required under the National Environmental Policy Act.

Mr. Speaker, H.R. 2966, as amended, codifies our commitment to access and to preserving one of the most fundamental and truly historic ways to experience our public lands. The bill is supported by the majority and minority of the committee. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when H.R. 2966 was considered by the Committee on Resources, the gentleman from West Virginia (Mr. RAHALL), the ranking member, offered a very humorous assessment of the legislation. We all enjoyed his statement's abundant use of horse terms. However, behind his humorous words, the gentleman from West Virginia (Mr. RAHALL) was pointing out there are serious problems with H.R. 2966, and I share the concern raised by the gentleman from West Virginia (Mr. RAHALL), the Bush administration and others that the bill is unnecessary and unwise.

It is not a question of whether there should be pack and saddle animal use on public lands. Many people partake of such use, and there are many places where such use occurs on public lands. No, the real question is whether we should single out and legislatively enshrine a narrow specific recreational use into the missions of the various Federal land management agencies.

No other recreational use, whether historic or not, is enshrined in the Organic Acts of the various land management agencies. H.R. 2966 would bestow on a select group a right not enjoyed by hunters and fishermen, to name just a few. To single out pack and saddle animal use for special consideration upsets the balance that is sometimes necessary between competing uses and resource management.

The underlying problem with the bill is that it directs each land management agency to preserve and facilitate pack and saddle animal use. As the Bush administration testified, conflicts are likely to arise with such a narrow and specific mandate. Further, such a mandate creates a confusing contradiction for land managers when such use is incompatible with the respective land management agency's core mission.

Mr. Speaker, I do not think there is a single person in this room who believes we should ban pack and saddle animal use of public lands. With or without this legislation, it has been and will remain a recreational option on public lands. Our problem is not with that use but with the singling out of that use for special consideration in the law. When and where such use occurs are decisions best made in resource management plans, not in generic statute.

Mr. WAMP. Mr. Speaker, I am a very proud sponsor of H.R. 2966, the Right to Ride Livestock on Federal Lands Act of 2004.

Pack and saddle stock animals were a critical element in many early Americans' livelihood. Today's bill directs the Secretary to provide for the management of public lands to preserve and facilitate the continued use and access of horse and saddle stock animals on such lands, including wilderness areas, national monuments, and other specifically designated areas where there is a historical tradition of such use.

Not later than 120 days after the date of the enactment of this Act, the Secretary shall issue final rules to define the meaning of a "historical tradition of use" by pack and saddle stock animals on federal lands.

Defining managed recreation of this historical practice within our national forests is critical in recognizing the cultural contributions and precedent of pack and saddle stock in our public lands above simple recreational use.

I believe that horse and saddle stock hold a unique place in our heritage. We must pass this bill to ensure its historical preservation and continued enjoyment as a national pastime.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mr. PEARCE. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 2966, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RIVERSIDE-CORONA FEEDER AUTHORIZATION ACT

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3334) to authorize the Secretary of the Interior to participate in the design and construction of the Riverside-Corona Feeder in cooperation with the Western Municipal Water District of Riverside, California, as amended.

The Clerk read as follows:

H.R. 3334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PLANNING, DESIGN, AND CONSTRUCTION OF THE RIVERSIDE-CORONA FEEDER.

(a) IN GENERAL.—The Secretary of the Interior, in cooperation with the Western Municipal Water District, may participate in a project to plan, design, and construct a water supply project, the Riverside-Corona Feeder, which includes 20 groundwater wells and 28 miles of pipeline in San Bernardino and Riverside Counties, California.

(b) AGREEMENTS AND REGULATIONS.—The Secretary may enter into such agreements and promulgate such regulations as are necessary to carry out this section.

(c) FEDERAL COST SHARE.—

(1) PLANNING, DESIGN, CONSTRUCTION.—The Federal share of the cost to plan, design, and construct the project described in subsection (a) shall be the lesser of 35 percent of the total cost of the project or $50,000,000.

(2) STUDIES.—The Federal share of the cost to complete the necessary planning study associated with the project described in subsection (a) shall not exceed 50 percent of the total study cost.

(d) IN-KIND SERVICES.—In-kind services performed by the Western Municipal Water District shall be considered a part of the local cost share to complete the project described in subsection (a).

(e) LIMITATION.—Funds provided by the Secretary under this section shall not be used for operation or maintenance of the project described in subsection (a).

SEC. 2. PROJECT AUTHORIZATIONS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 1637. YUCAIPA VALLEY REGIONAL WATER SUPPLY RENEWAL PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the Yucaipa Valley Water District, may participate in the design, planning, and construction of projects to treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine disposal within the Santa Ana Watershed described in the report submitted under section 1606.

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000.

"SEC. 1638. CITY OF CORONA WATER UTILITY, CALIFORNIA, WATER RECYCLING AND REUSE PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Corona Water Utility, California, is authorized to participate in the design, planning, and construction of, and land acquisition for, a project to reclaim and reuse wastewater, including degraded groundwaters, within and outside of the service area of the City of Corona Water Utility, California.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.".

(b) CONFORMING AMENDMENTS.—The table of sections in section 2 of Public Law 102–575 is amended by inserting after the item relating to section 1636 the following:

"1637. Yucaipa Valley Regional Water Supply Renewal Project.
"1638. City of Corona Water Utility, California, water recycling and reuse project.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico (Mr. PEARCE).

GENERAL LEAVE

Mr. PEARCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. PEARCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3334 sponsored by the gentleman from California (Mr. CALVERT) is another step towards drought-proofing southern California. It also reduces the region's dependence on imported water supplies.

This important legislation authorizes the Secretary of the Interior to help local planners plan and build the Riverside-Corona Feeder project, which would capture and store water in the wet years to increase firm water supplies through a series of groundwater wells and pumps. This bill would also authorize Federal assistance to the city of Corona, California, for its water recycling and reuse project.

The bill also authorizes the Department of the Interior to help build the Yucaipa Valley Water Supply Renewal Project. Located in the district of the distinguished gentleman from California (Mr. LEWIS), this project will include an advanced water filtration system and a brine disposal pipeline to remove salinity, contaminants other organic compounds from the water supply.

All of these projects will help develop much-needed domestic water supplies and reduce over-dependence on imported water while providing limited Federal assistance. I urge my colleagues to support this important measure.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3334 would authorize the Secretary of the Interior to design and construct a water supply project, known as the Riverside-Corona Feeder, in Riverside, California.

This legislation also would authorize the Secretary of the Interior to participate in a water reuse project for the city of Corona. Finally, the bill would authorize the secretary to participate in the Yucaipa Valley Regional Water Supply Renewal Project in California.

My colleague on the Republican side has explained the legislation. We have no objection.

Mr. Speaker, I yield back the balance of my time.

Mr. PEARCE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 3334, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WESTERN RESERVE HERITAGE AREAS STUDY ACT

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3257) to authorize the Secretary of the Interior to conduct a study to determine the suitability and feasibility of establishing the Western Reserve Heritage Area, as amended.

The Clerk read as follows:

H.R. 3257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Western Reserve Heritage Areas Study Act".

SEC. 2. NATIONAL PARK SERVICE STUDY REGARDING THE WESTERN RESERVE, OHIO.

(a) FINDINGS.—The Congress finds the following:

(1) The area that encompasses the modern-day counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio with the rich history in what was once the Western Reserve, has made a unique contribution to the cultural, political and industrial development of the United States.

(2) The Western Reserve is distinctive as the land settled by the people of Connecticut after the Revolutionary War. The Western Reserve holds a unique mark as the original wilderness land of the West that many settlers migrated to in order to begin life outside of the original 13 colonies.

(3) The Western Reserve played a significant role in providing land to the people of Connecticut whose property and land was destroyed during the Revolution. These settlers were descendants of the brave immigrants who came to the Americas in the 17th century.

(4) The Western Reserve offered a new destination for those who moved west in search of land and prosperity. The agricultural and industrial base that began in the Western Reserve still lives strong in these prosperous and historical counties.

(5) The heritage of the Western Reserve remains transfixed in the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio. The people of these counties are proud of their heritage as shown through the unwavering attempts to preserve agricultural land and the industrial foundation that has been embedded in this region since the establishment of the Western Reserve. Throughout these counties, historical sites, and markers preserve the unique traditions and customs of its original heritage.

(6) The counties that encompass the Western Reserve continue to maintain a strong connection to its historic past as seen through its preservation of its local heritage, including historic homes, buildings, and centers of public gatherings.

(7) There is a need for assistance for the preservation and promotion of the significance of the Western Reserve as the natural, historic and cultural heritage of the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa and Ashland in Ohio.

(8) The Department of the Interior is responsible for protecting the Nation's cultural and historical resources. There are significant examples of such resources within these counties and what was once the Western Reserve to merit the involvement of the Federal Government in the development of programs and projects, in cooperation with the State of Ohio and other local governmental entities, to adequately conserve, protect, and interpret this heritage for future generations, while providing opportunities for education and revitalization.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall, in consultation with the State of Ohio, the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland, and other appropriate organizations, carry out a study regarding the suitability and feasibility of establishing the Western Reserve Heritage Area in these counties in Ohio.

(2) CONTENTS.—The study shall include analysis and documentation regarding whether the Study Area—

(A) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(B) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(C) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(D) provides outstanding recreational and educational opportunities;

(E) contains resources important to the identified theme or themes of the Study Area that retain a degree of integrity capable of supporting interpretation;

(F) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles for all participants, including the Federal Government, and have demonstrated support for the concept of a national heritage area;

(G) has a potential management entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity;

(H) has a conceptual boundary map that is supported by the public; and

(I) has potential or actual impact on private property located within or abutting the Study Area.

(c) BOUNDARIES OF THE STUDY AREA.—The Study Area shall be comprised of the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico (Mr. PEARCE).

GENERAL LEAVE

Mr. PEARCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. PEARCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3257 sponsored by the gentleman from Ohio (Mr. RYAN) and amended by the Committee on Resources would authorize the Secretary of the Interior to conduct a study to determine the suitability and feasibility of establishing the Western Reserve Heritage Area. The proposed study area under this bill would encompass 14 modern-day counties in

Ohio which throughout history have made a unique contribution to the cultural, political and industrial development of the United States.

The Western Reserve is every bit as distinctive as the land settled by the people of Connecticut after the Revolutionary War and holds a unique mark as the original wilderness in the West that many settlers migrated to in order to begin life outside the original 13 colonies.

Mr. Speaker, H.R. 3257, as amended, is supported by the majority and minority of the committee and by the administration. I urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our system of national heritage areas, created over the last two decades, has been enormously successful. These are grassroots projects that leverage limited Federal support to develop locally funded and managed conservation and preservation programs.

Areas rich in historic and scenic resources but which might not qualify for inclusion in the National Park System receive the funding they need through the National Heritage Area Program. H.R. 3257 will authorize a study to determine whether or not the area in Ohio once known as the Western Reserve would qualify as a National Heritage Area.

Mr. Speaker, the gentleman from Ohio (Mr. RYAN) is to be commended for his tireless efforts on behalf of the communities that would be included in this new area. The gentleman from Ohio (Mr. RYAN) is a freshman member of this body, but he is already demonstrating a willingness to go to bat for communities in need of the kind of Federal support the Heritage Area Program can provide. We look forward to working with him to create the Western Reserve Heritage Area should the study we are authorizing today support such a move.

The gentleman from West Virginia (Mr. RAHALL) and I congratulate the gentleman from Ohio (Mr. RYAN) on this important legislation, and I urge my colleagues to support H.R. 3257.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. RYAN).

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Mr. RYAN of Ohio. Mr. Speaker, I thank the gentlewoman for yielding me this time. And I would also like to take this opportunity to thank the gentleman from California (Chairman POMBO) for the opportunity to do this study.

This is a tremendous opportunity for our community. We have had a ton of issues in Northern Ohio and in Northeastern Ohio, and I would like to just thank the chairman for giving me an opportunity to help us try to redefine our community. I would also like to thank the gentleman from West Virginia (Mr. RAHALL), ranking member, who has been a tremendous help and support in guidance and his counsel over the past couple of years since I have been in Congress on a variety of issues, but this one in particular. I would also like to thank Jim Zoia on his staff for helping us with the day-to-day operations. I would also like to thank Jennifer Moore on my staff and my chief of staff, Mary Anne Walsh, for their help in making this happen.

The Western Reserve, as has been stated already, was the original West. There were many people from the American Revolution who were forced out of their houses and their homes over into the West, just west of Pennsylvania into Northern Ohio, and it was 14 original counties that are still there today; and there have been significant changes. But since 1792, this area has always represented a place that was indicative, I think, of the American spirit, and the people who were there were very industrious, and they came there with that spirit; and we have had enormous success.

The Western Reserve has been the leader and has showed great progress since 1792. It has been the foundation of the steel industry. It has been the rubber capital of the world. It had the first African American newspaper. It has the oldest labor newspaper. In the last 25 or 30 years or so, this area has had some great challenges. With the decimation, really, of the steel industry in the United States of America, this area took a great fall, and there have been enormous challenges throughout the whole manufacturing sector in these 14 counties, which I think makes this legislation that much more significant because we need to preserve what I believe to be the real history of these communities, a history of progress, a history of economic progress, a history of participation in the social justice aspects of our society.

And I think it is important for us through this heritage corridor to communicate to our children and to our grandchildren that they come from an area that once led the world in the economic and social arenas.

This is the area for the first electric street car, the first Warner Brothers film. The first Packard car was produced in this area; the baseball score card; and one of my favorites, the hot dog, was invented in the old Connecticut Western Reserve; also, the American trucking industry.

And we want our children to know that they come from a place that had three Presidents, President Garfield, President McKinley, President Hayes; three United States Supreme Court justices; Thomas Edison; John Brown the great abolitionist. And the success of our future depends on our understanding of the past. As the gentleman from West Virginia (Mr. RAHALL) said, this heritage corridor in many instances throughout this country provides the economic engine for rebirth of an area, and that is exactly what we need.

We are working on regionalization in Northeast Ohio, and we cannot just have economic regionalization. We need the cultural and historic preservations and have all the groups in our community working together, and this is the rallying point for our community.

So I want to thank, again, the chairman. I want to thank the gentleman from West Virginia (Mr. RAHALL) for helping us improve the quality of life in our community. I would like to thank the gentleman from New Mexico, as well, because I think if these kids and our grandkids know that they come from this stock of Presidents and inventors and entrepreneurs and scientists and many others who have contributed to the economic progress of our country and the social justice of our country that they will be inspired to continue this proud tradition.

Mr. RAHALL. Mr. Speaker, as the Ranking Democratic Member of the Resources Committee, it is a pleasure and privilege to have H.R. 3257, sponsored by our esteemed colleague from Ohio, TIM RYAN, be considered on the floor today.

The dramatic tapestry of our Nation's cultural heritage is one which many of us are seeking to preserve for the benefit of not just current, but future generations, in the form of National Heritage Areas. We do this not just for educational or inspirational purposes, but also, because heritage areas are engines for economic development.

While the measure pending before us today is the logical first step, an authorization of a feasibility study for a proposed Western Reserve Heritage Area, I am confident that once completed, it will find that this particular region of Ohio deserves national recognition for the special cultural and historic resources values it contains. And when that day arrives, it will be a tribute to the untiring dedication and hard work of Representative TIM RYAN.

Indeed, although a freshman Member of this body, TIM RYAN has already garnered a reputation as a fighter for the people of the 17th District of Ohio. The bill we are considering today is reflective of their good judgment in sending a person such as TIM RYAN to Congress to represent them.

I urge my colleagues to support H.R. 3257.

Mr. PEARCE. Mr. Speaker, I thank the gentleman from Ohio for his comments, and I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEARCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from

New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 3257, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RAILROAD RIGHT-OF-WAY CONVEYANCE VALIDATION ACT OF 2003

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1658) to amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes.

The Clerk read as follows:

Senate amendment:

Page 2, line 12, strike out "104" and insert "401".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico (Mr. PEARCE).

GENERAL LEAVE

Mr. PEARCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. PEARCE. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Chairman POMBO).

Mr. POMBO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, H.R. 1658 would amendment the Railroad Right-of-Way Conveyance Validation Act to legalize, validate, and confirm as far as any interest of the United States is concerned two additional conveyances in San Joaquin County, California. These conveyances involve lands forming part of a right-of-way granted by the U.S. to the Central Pacific Railroad Company under previous law. This bill would declare the conveyances to be between the railroad company and the Bank of America recorded in September, 1945, and between the railroad company, the Southern Pacific Transportation, and the Tri-Valley Packing Association recorded in November of 1957. In short, this bill would lift the cloud over the title to these lands.

This bill passed the House of Representatives by unanimous consent on November 18, 2003. It has been returned to the House for further consideration due to a technical change made by the other body. I support this change, as do the majority and minority of the Committee on Resources and the administration.

Mr. Speaker, I understand the Senate amendment has a technical error. It references line 17, but it should be line 15. We are very clear that we are correcting a page reference to a deed book in the underlying bill. Rather than send the House bill back to the other body, we will pass it today and make any technical changes later in the session the Senate enrolling Clerk determines necessary.

I urge my colleagues to support this legislation.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a technical matter that will clear title to property owned by several of the gentleman from California's (Chairman POMBO) constituents. The cloud on their title arises out of Federal rights-of-way granted more than a century ago. It is unfortunate that Federal legislation is required to resolve this issue, but there is no other solution.

I join the gentleman from West Virginia (Mr. RAHALL), ranking Democrat, in commending the gentleman from California (Chairman POMBO) for his work on this bill. While this is a simply technical matter, working to address the problems facing our districts one constituent at a time is the essence of our job as Representatives. We urge our colleagues to support the gentleman from California (Chairman POMBO) as he works on behalf of these land owners.

Mr. Speaker, I yield back the balance of my time.

Mr. PEARCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1658.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

INTELLECTUAL PROPERTY PROTECTION AND COURTS AMENDMENTS ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3632) to prevent and punish counterfeiting of copyrighted copies and phonorecords, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3632

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intellectual Property Protection and Courts Amendments Act of 2004".

TITLE I—ANTI-COUNTERFEITING PROVISIONS

SEC. 101. SHORT TITLE.

This title may be cited as the "Anti-counterfeiting Amendments Act of 2004".

SEC. 102. PROHIBITION AGAINST TRAFFICKING IN COUNTERFEIT COMPONENTS.

(a) IN GENERAL.—Section 2318 of title 18, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"**§2318. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging**";

(2) by striking subsection (a) and inserting the following:

"(a) Whoever, in any of the circumstances described in subsection (c), knowingly traffics in—

"(1) a counterfeit label or illicit label affixed to, enclosing, or accompanying, or designed to be affixed to, enclose, or accompany—

"(A) a phonorecord;

"(B) a copy of a computer program;

"(C) a copy of a motion picture or other audiovisual work;

"(D) a copy of a literary work;

"(E) a copy of a pictorial, graphic, or sculptural work;

"(F) a work of visual art; or

"(G) documentation or packaging; or

"(2) counterfeit documentation or packaging,

shall be fined under this title or imprisoned for not more than 5 years, or both.";

(3) in subsection (b)—

(A) in paragraph (2), by striking "and" after the semicolon;

(B) in paragraph (3)—

(i) by striking "and 'audiovisual work' have" and inserting the following: "'audiovisual work', 'literary work', 'pictorial, graphic, or sculptural work', 'sound recording', 'work of visual art', and 'copyright owner' have"; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(4) the term 'illicit label' means a genuine certificate, licensing document, registration card, or similar labeling component—

"(A) that is used by the copyright owner to verify that a phonorecord, a copy of a computer program, a copy of a motion picture or other audiovisual work, a copy of a literary work, a copy of a pictorial, graphic, or sculptural work, a work of visual art, or documentation or packaging is not counterfeit or infringing of any copyright; and

"(B) that is, without the authorization of the copyright owner—

"(i) distributed or intended for distribution not in connection with the copy, phonorecord, or work of visual art to which such labeling component was intended to be affixed by the respective copyright owner; or

"(ii) in connection with a genuine certificate or licensing document, knowingly falsified in order to designate a higher number of licensed users or copies than authorized by the copyright owner, unless that certificate or document is used by the copyright owner solely for the purpose of monitoring or tracking the copyright owner's distribution channel and not for the purpose of verifying that a copy or phonorecord is noninfringing;

"(5) the term 'documentation or packaging' means documentation or packaging, in physical form, for a phonorecord, copy of a computer program, copy of a motion picture or other audiovisual work, copy of a literary work, copy of a pictorial, graphic, or sculptural work, or work of visual art; and

"(6) the term 'counterfeit documentation or packaging' means documentation or packaging that appears to be genuine, but is not.";

(4) in subsection (c)—

(A) by striking paragraph (3) and inserting the following:

"(3) the counterfeit label or illicit label is affixed to, encloses, or accompanies, or is designed to be affixed to, enclose, or accompany—

"(A) a phonorecord of a copyrighted sound recording or copyrighted musical work;

"(B) a copy of a copyrighted computer program;

"(C) a copy of a copyrighted motion picture or other audiovisual work;

"(D) a copy of a literary work;

"(E) a copy of a pictorial, graphic, or sculptural work;

"(F) a work of visual art; or

"(G) copyrighted documentation or packaging; or"; and

(B) in paragraph (4), by striking "for a computer program"; and

(5) in subsection (d)—

(A) by inserting "or illicit labels" after "counterfeit labels" each place it appears; and

(B) by inserting before the period at the end the following: ", and of any equipment, device, or material used to manufacture, reproduce, or assemble the counterfeit labels or illicit labels".

(b) CIVIL REMEDIES.—Section 2318 of title 18, United States Code, is further amended by adding at the end the following:

"(f) CIVIL REMEDIES.—

"(1) IN GENERAL.—Any copyright owner who is injured, or is threatened with injury, by a violation of subsection (a) may bring a civil action in an appropriate United States district court.

"(2) DISCRETION OF COURT.—In any action brought under paragraph (1), the court—

"(A) may grant 1 or more temporary or permanent injunctions on such terms as the court determines to be reasonable to prevent or restrain a violation of subsection (a);

"(B) at any time while the action is pending, may order the impounding, on such terms as the court determines to be reasonable, of any article that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation of subsection (a); and

"(C) may award to the injured party—

"(i) reasonable attorney fees and costs; and

"(ii)(I) actual damages and any additional profits of the violator, as provided in paragraph (3); or

"(II) statutory damages, as provided in paragraph (4).

"(3) ACTUAL DAMAGES AND PROFITS.—

"(A) IN GENERAL.—The injured party is entitled to recover—

"(i) the actual damages suffered by the injured party as a result of a violation of subsection (a), as provided in subparagraph (B) of this paragraph; and

"(ii) any profits of the violator that are attributable to a violation of subsection (a) and are not taken into account in computing the actual damages.

"(B) CALCULATION OF DAMAGES.—The court shall calculate actual damages by multiplying—

"(i) the value of the phonorecords, copies, or works of visual art which are, or are intended to be, affixed with, enclosed in, or accompanied by any counterfeit labels, illicit labels, or counterfeit documentation or packaging, by

"(ii) the number of phonorecords, copies, or works of visual art which are, or are intended to be, affixed with, enclosed in, or accompanied by any counterfeit labels, illicit labels, or counterfeit documentation or packaging.

"(C) DEFINITION.—For purposes of this paragraph, the 'value' of a phonorecord, copy, or work of visual art is—

"(i) in the case of a copyrighted sound recording or copyrighted musical work, the retail value of an authorized phonorecord of that sound recording or musical work;

"(ii) in the case of a copyrighted computer program, the retail value of an authorized copy of that computer program;

"(iii) in the case of a copyrighted motion picture or other audiovisual work, the retail value of an authorized copy of that motion picture or audiovisual work;

"(iv) in the case of a copyrighted literary work, the retail value of an authorized copy of that literary work;

"(v) in the case of a pictorial, graphic, or sculptural work, the retail value of an authorized copy of that work; and

"(vi) in the case of a work of visual art, the retail value of that work.

"(4) STATUTORY DAMAGES.—The injured party may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for each violation of subsection (a) in a sum of not less than $2,500 or more than $25,000, as the court considers appropriate.

"(5) SUBSEQUENT VIOLATION.—The court may increase an award of damages under this subsection by 3 times the amount that would otherwise be awarded, as the court considers appropriate, if the court finds that a person has subsequently violated subsection (a) within 3 years after a final judgment was entered against that person for a violation of that subsection.

"(6) LIMITATION ON ACTIONS.—A civil action may not be commenced under section unless it is commenced within 3 years after the date on which the claimant discovers the violation of subsection (a).".

(c) CONFORMING AMENDMENT.—The item relating to section 2318 in the table of sections for chapter 113 of title 18, United States Code, is amended to read as follows:

"2318. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging.".

SEC. 103. OTHER RIGHTS NOT AFFECTED.

(a) CHAPTERS 5 AND 12 OF TITLE 17; ELECTRONIC TRANSMISSIONS.—The amendments made by this title—

(1) shall not enlarge, diminish, or otherwise affect any liability or limitations on liability under sections 512, 1201 or 1202 of title 17, United States Code; and

(2) shall not be construed to apply—

(A) in any case, to the electronic transmission of a genuine certificate, licensing document, registration card, similar labeling component, or documentation or packaging described in paragraph (4) or (5) of section 2318(b) of title 18, United States Code, as amended by this title; and

(B) in the case of a civil action under section 2318(f) of title 18, United States Code, to the electronic transmission of a counterfeit label or counterfeit documentation or packaging defined in paragraph (1) or (6) of section 2318(b) of title 18, United States Code.

(b) FAIR USE.—The amendments made by this title shall not affect the fair use, under section 107 of title 17, United States Code, of a genuine certificate, licensing document, registration card, similar labeling component, or documentation or packaging described in paragraph (4) or (5) of section 2318(b) of title 18, United States Code, as amended by this title.

TITLE II—FRAUDULENT ONLINE IDENTITY SANCTIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Fraudulent Online Identity Sanctions Act".

SEC. 202. AMENDMENT TO TRADEMARK ACT OF 1946.

Section 35 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (commonly referred to as the "Trademark Act of 1946"; 15 U.S.C. 1117), is amended by adding at the end the following new subsection:

"(e) In the case of a violation referred to in this section, it shall be a rebuttable presumption that the violation is willful for purposes of determining relief if the violator, or a person acting in concert with the violator, knowingly provided or knowingly caused to be provided materially false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering, maintaining, or renewing a domain name used in connection with the violation. Nothing in this subsection limits what may be considered a willful violation under this section.".

SEC. 203. AMENDMENT TO TITLE 17, UNITED STATES CODE.

Section 504(c) of title 17, United States Code, is amended by adding at the end the following new paragraph:

"(3) (A) In a case of infringement, it shall be a rebuttable presumption that the infringement was committed willfully for purposes of determining relief if the violator, or a person acting in concert with the violator, knowingly provided or knowingly caused to be provided materially false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering, maintaining, or renewing a domain name used in connection with the infringement.

"(B) Nothing in this paragraph limits what may be considered willful infringement under this subsection.

"(C) For purposes of this paragraph, the term 'domain name' has the meaning given that term in section 45 of the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes' approved July 5, 1946 (commonly referred to as the 'Trademark Act of 1946'; 15 U.S.C. 1127).".

SEC. 204. AMENDMENT TO TITLE 18, UNITED STATES CODE.

(a) SENTENCING ENHANCEMENT.—Section 3559 of title 18, United States Code, is amended by adding at the end the following:

"(f)(1) If a defendant who is convicted of a felony offense (other than offense of which an element is the false registration of a domain name) knowingly falsely registered a domain name and knowingly used that domain name in the course of that offense, the maximum imprisonment otherwise provided by law for that offense shall be doubled or increased by 7 years, whichever is less.

"(2) As used in this section—

"(A) the term 'falsely registers' means registers in a manner that prevents the effective identification of or contact with the person who registers; and

"(B) the term 'domain name' has the meaning given that term is section 45 of the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes' approved July 5, 1946 (commonly referred to as the 'Trademark Act of 1946') (15 U.S.C. 1127).".

(b) UNITED STATES SENTENCING COMMISSION.—

(1) DIRECTIVE.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend the sentencing guidelines and policy statements to ensure that the applicable guideline range for a defendant convicted of any felony offense carried out online that may be facilitated through the use of a domain name registered with materially false contact information is sufficiently stringent to deter commission of such acts.

(2) REQUIREMENTS.—In carrying out this subsection, the Sentencing Commission shall provide sentencing enhancements for anyone convicted of any felony offense furthered through knowingly providing or knowingly causing to be provided materially false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering, maintaining, or renewing a domain name used in connection with the violation.

(3) DEFINITION.—For purposes of this subsection, the term "domain name" has the meaning given that term in section 45 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (commonly referred to as the "Trademark Act of 1946"; 15 U.S.C. 1127).

SEC. 205. CONSTRUCTION.

(a) FREE SPEECH AND PRESS.—Nothing in this title shall enlarge or diminish any rights of free speech or of the press for activities related to the registration or use of domain names.

(b) DISCRETION OF COURTS IN DETERMINING RELIEF.—Nothing in this title shall restrict the discretion of a court in determining damages or other relief to be assessed against a person found liable for the infringement of intellectual property rights.

(c) DISCRETION OF COURTS IN DETERMINING TERMS OF IMPRISONMENT.—Nothing in this title shall be construed to limit the discretion of a court to determine the appropriate term of imprisonment for an offense under applicable law.

TITLE III—COURTS

SEC. 301. ADDITIONAL PLACE OF HOLDING COURT IN THE DISTRICT OF COLORADO.

Section 85 of title 28, United States Code, is amended by inserting "Colorado Springs," after "Boulder,".

SEC. 302. PLACE OF HOLDING COURT IN THE NORTHERN DISTRICT OF NEW YORK.

Section 112(a) of title 28, United States Code, is amended by inserting "Plattsburgh," after "Malone,".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3632, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation addresses a growing problem facing our Nation's creative community. Efforts to ensure that consumers are able to know whether they are buying legitimate software, music, movies, or other forms of intellectual property are being subverted by those who counterfeit authentication labels and steal legitimate ones. These counterfeited and illicit labels are then attached to counterfeit products defrauding consumers into thinking they have purchased a legitimate copy of the product when they have not.

The committee has been made aware of numerous efforts by organized groups to counterfeit authentication labels and to traffic in illicit ones. The activity is highly profitable and less likely to lead to arrest than for dealing in drugs; and until this legislation is signed into law, subject to a loophole in the existing law that allows those who traffic in such labels to face no criminal penalties. The middleman who traffics in illicit and counterfeit labels can walk away from his crime with no penalties. The bill would close this loophole and ensure that everyone who undertakes a scheme to defraud consumers faces criminal penalties.

Because of the short time remaining in this session, H.R. 3632 also incorporates the text of three other noncontroversial bills, H.R. 3754, H.R. 112, and H.R. 4646, in the manager's amendment. H.R. 3754 provides for additional penalties for those who use false domain name contact information to commit crimes. As Internet-based crimes continue to increase in number, updated laws are needed to stop this growth. H.R. 112 and H.R. 4646 provide for a new place of holding Federal district court in Colorado Springs, Colorado, and Plattsburgh, New York, respectively.

H.R. 112 is cosponsored by both Republican and Democratic members of the Colorado delegation. The 10th Circuit Court of Appeals, the Administrative Office of the U.S. Courts have stated they support enactment of the bill. H.R. 4646 is similarly supported by the U.S. Judicial Conference and the U.S. Attorney for the Northern District of New York.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3632, as amended, today by the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary.

As amended, H.R. 3632 is a combination of several bills reported by the Committee on the Judiciary after full consideration. I believe this amalgam of bills is largely noncontroversial and thus ask my colleagues to join me in supporting its passage.

Title I is designed to deter counterfeiting of U.S. copyrighted works. Such counterfeiting is an enormous and growing problem. It costs U.S. software companies alone approximately $11 billion a year and, as a result, costs the U.S. economy thousands of high-tech jobs in the software industry. The impact on other American copyright holders is equally devastating.

Recent events have underscored the scope of the counterfeiting problem as well as the need for title I of this bill. Just last week, a Los Angeles grand jury indicted 11 individuals for conspiring to distribute more than $30 million of counterfeit software. The counterfeiting ring possessed 15,929 genuine stand-alone certificates of authenticity. Those known as COAs are authentication features, like holograms, used to distinguish genuine goods.

Because many COAs are difficult to convincingly reproduce, counterfeiters have become an eager and lucrative market for misappropriated, genuine COAs. And, in fact, the COAs seized last week have an estimated retail value of approximately $1.7 million.

While current law prohibits trafficking in counterfeit software and fake COAs, it provides no sanction against the traffic in genuine COAs. Thus the counterfeiting ring busted last week will escape liability for the almost 20,000 genuine COAs they misappropriated.

□ 1500

Title I remedies this situation. It expands the current prohibitions on trafficking and labels to include genuine labeling components, such as certificates of authenticity.

Title II of the bill before us contains the provisions of H.R. 3754, a largely uncontroversial bill reported out by the Committee on the Judiciary on a voice vote in June of this year. Title II is designed to improve the accuracy and completeness of the Whois database by providing additional civil and criminal remedies for domain name fraud.

The Whois database contains the names, street and e-mail addresses and other contact information of domain name registrants. While all domain name registrants are required to submit information for the Whois database, there are no processes to ensure that this information is either accurate or complete. Inaccurate Whois data hampers law enforcement investigations, facilitates consumer fraud, impairs copyright and trademark protection, imperils computer security, enables identity theft and weakens privacy protection efforts.

Title II seeks to rectify this growing problem through narrow amendments to current law. Title II provides a rebuttable presumption of willfulness with regard to a civil trademark or copyright infringement, if in connection with the infringement the infringer registers a domain name with materially false contact information. Additionally, the bill increases the maximum possible imprisonment for a Federal felony offense when the offender knowingly provided materially false domain name contact information in connection with the offense.

Title III contains the text of H.R. 112 and H.R. 4646, two minor and entirely non-controversial bills previously reported by the Committee on the Judiciary. Section 301 adds Colorado Springs as a place of holding court in the District of Colorado. Section 302 adds Plattsburgh as a place of holding court in the Northern District of New York. Both changes were requested by their respective Congressional delegations and have been supported by the administrative office of the U.S. courts.

Mr. Speaker, in conclusion, I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Wisconsin, the chairman of the Committee on the Judiciary, for yielding me time.

Mr. Speaker, product names are a key part of the American economy, not only to boost sales of a product, but also to assure that consumers have some assurances about the identity of the manufacturer of the product they are interested in buying.

Counterfeiting, the effort to deceive consumers into buying lower quality goods instead of the high quality goods they want, is now a real problem for high-tech companies.

For many years, software publishers have attempted to thwart counterfeiting activity by developing physical authentication components, called COAs, that help consumers and law enforcement agencies distinguish between genuine software and sophisticated counterfeits.

Counterfeits are now combining pirated CD-ROMs and packaging with genuine components obtained through theft or fraud. Multiplied by millions of transactions, the result to legitimate businesses is lost jobs, lost profits and lost tax revenue on a scale that compromises the health of otherwise vibrant industries.

Last week, a Federal indictment charged 11 people with conspiring to distribute more than $56 million in counterfeit software and products. However, due to a loophole in existing laws, charges could not be brought concerning over 20,000 illicit COAs that were seized.

Until H.R. 3632 is enacted, Federal law does not prohibit trafficking in genuine physical authentication components. Prosecutors find it impossible to take any legal action in such situations. As a result, this activity has become a highly profitable and largely risk-free elicit business.

The legislation will close this loophole and empower Federal authorities to prosecute counterfeiting activity on a greater scale with better results. Americans will be better protected from those who attempt to deceive them into spending their money on counterfeit products.

The text of H.R. 3754, the Fraudulent Online Identity Sanctions Act, has also been included in the underlying legislation. The Fraudulent Online Identity Sanctions Act assures those that use false identities in conjunction with a domain name face additional penalties for other crimes they commit.

To ensure that online anonymity is protected, the mere act of using an alias online is not penalized. A savings clause assures that first amendment rights are not impacted by the legislation. This legislation, though, will ensure that those who deceive others as they commit crimes online are, in fact, subject to additional criminal penalties for such deceit.

Two Federal Court bills also have been added to the underlying legislation, H.R. 112 and H.R. 4646. These bills create new places of holding U.S. Federal District Court in Colorado Springs, Colorado, and in Plattsburgh, New York. Americans seeking their constitutional right to be heard in Federal Court will find it easier to do so once this legislation is enacted.

H.R. 112 is cosponsored by both Republican and Democratic members of the Colorado delegation.

Mr. Speaker, I urge my colleagues to support this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the bill before the House, H.R. 3632, the Anti-Counterfeiting Amendments of 2003. Fortunately, the Subcommittee on Courts, the Internet and Intellectual Property successfully marked this bill up and reported it out favorably on March 31, 2004, as its provisions will address some serious concerns.

The trafficking of security components, for example Certificates of Authenticity (COAs) is a problem that the current law does not adequately address. Logistically, since the security components are useless without the actual product, such action serves no legitimate business purpose. Furthermore, criminal prosecutors have a hard time attaching crimes to the counterfeit sales made by these traffickers.

Nevertheless, the COA is like currency because it gives the real value to the product to which it is attached. The prohibitions found in this legislation will discourage piracy.

To address this problem, H.R. 3632 would amend Section 2318 of Title 18 to prohibit trafficking of these products. With this narrowly-tailored amendment to Section 2318, federal law enforcement and copyright owners will have the tools needed to prevent trafficking in genuine physical security components.

The Anticounterfeiting Amendments will help combat the growing threat of international counterfeiting crimes by ensuring that U.S. laws address all aspects of counterfeiting activities.

In Texas, a crime ring was implicated that was believed to have imported over 100 million counterfeit cigarettes, mislabeling shipping documents by indicating that they were importing toys or plastic parts.

Passage of this important bill with the amendments that will be offered to improve its scope will, in the long run, improve the quality of our intellectual property and technological developments. Moreover, with adequate legal checks put in place to reduce trafficking of security products will foster a more competitive environment. For the above reasons, Mr. Speaker, I support this legislation.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3632, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VIDEO VOYEURISM PREVENTION ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1301) to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States, and for other purposes, as amended.

The Clerk read as follows:

S. 1301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Video Voyeurism Prevention Act of 2004".

SEC. 2. PROHIBITION OF VIDEO VOYEURISM.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 87 the following new chapter:

"CHAPTER 88—PRIVACY

"Sec.
"1801. Video voyeurism.

"§ 1801. Video voyeurism

"(a) Whoever, in the special maritime and territorial jurisdiction of the United States, has the intent to capture an image of a private area of an individual without their consent, and knowingly does so under circumstances in which the individual has a reasonable expectation of privacy, shall be fined under this title or imprisoned not more than one year, or both.

"(b) In this section—

"(1) the term 'capture', with respect to an image, means to videotape, photograph, film, record by any means, or broadcast;

"(2) the term 'broadcast' means to electronically transmit a visual image with the intent that it be viewed by a person or persons;

"(3) the term 'a private area of the individual' means the naked or undergarment clad genitals, pubic area, buttocks, or female breast of that individual;

"(4) the term 'female breast' means any portion of the female breast below the top of the areola; and

"(5) the term 'under circumstances in which that individual has a reasonable expectation of privacy' means—

"(A) circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the individual was being captured; or

"(B) circumstances in which a reasonable person would believe that a private area of the individual would not be visible to the public, regardless of whether that person is in a public or private place.

"(c) This section does not prohibit any lawful law enforcement, correctional, or intelligence activity.".

(b) AMENDMENT TO PART ANALYSIS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 87 the following new item:

"88. Privacy .... 1801".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 1301.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1301 imposes civil and criminal penalties for intentionally capturing an image of a private area of an individual without the individual's consent and in a circumstance where the individual has a reasonable expectation of privacy.

With the development of smaller cameras and the instantaneous distribution capability of the Internet, the issue of video voyeurism is a huge privacy concern. Unsuspecting adults, as well as high school students and children, have been targeted in school locker rooms, department store dressing rooms, and even in their homes.

One egregious example occurred in Monroe, Louisiana, where a neighbor installed cameras in Susan Wilson's attic. Using those cameras, the neighbor had been watching the Wilsons for months, but because Louisiana had no laws at the time to prosecute the invasion of privacy, the Wilsons have no options for redress.

Many States have since passed laws that target video voyeurism to protect those in private areas, but there are fewer protections for those who may be photographed in compromising positions in public places. S. 1301 makes the acts of video voyeurism illegal on Federal land such as national parks and Federal buildings, using the well-accepted legal concept that individuals are entitled to a reasonable expectation of privacy. It also serves as model legislation for States that have not yet enacted their own laws or need to update existing laws to account for the rapid spread of camera technology.

This crime would be punishable by a fine of not more than $100,000 or imprisonment for up to 1 year or both. The penalties found in this bill reflect the serious injury that is caused by the invasive nature of these crimes.

The Senate passed S. 1301 by unanimous consent on July 24, 2003, and the gentleman from Ohio (Mr. OXLEY), the gentleman from Texas (Mr. GONZALEZ), the gentleman from Virginia (Mr. GOODE) and the gentleman from Washington (Mr. BAIRD) introduced a bill that was substantially the same in the House.

The gentlewoman from Texas (Ms. JACKSON-LEE) added a definition to the term "broadcast" to cover those who would not only video, but directly broadcast these pictures on the Internet. These changes improved the bill, and it is my understanding that the original sponsors in the House and the other body support them.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. CHRISTENSEN. Mr. Speaker, I yield myself of such time as I may consume.

Mr. Speaker, I rise in support of the legislation before us today. Recent technological advances have made it all too easy for modern day, high-tech peeping toms to recklessly infringe on the privacy rights of many unsuspecting individuals.

The Video Voyeurism Protection Act of 2003 attempts to bring an end to this disturbing phenomenon by making it a crime to secretly take pictures of someone in a State of undress. Specifically, the bill prohibits the use of certain devices to videotape, photograph or record the genitals, pubic area, buttocks or breast of an individual without that individual's consent.

Second, the bill guarantees that perpetrators of video voyeurism will be punished by imposing a sentence of fine or imprisonment for up to 1 year.

Video voyeurism is a serious crime, the extent of which has been greatly exacerbated by the Internet. Because of Internet technology, the pictures that a voyeur captures can be disseminated to a worldwide audience in a matter of seconds. As a result, individuals in the victims rights' community have labeled video voyeurism "the new frontier of stalking."

Finally, I would like to commend Senators LEAHY, SCHUMER and DEWINE for taking the lead on this important issue and for making sure that it remains at the forefront of public debate. By all accounts, this bill is truly a worthwhile endeavor. I strongly urge my colleagues to lend their support this sensible piece of legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. OXLEY), the House author of the bill, with the sincere hope that he does not use it all.

Mr. OXLEY. Mr. Speaker, I thank the gentleman for yielding me time, and he will be pleased to know that I will not use the entire 18 minutes.

Mr. Speaker, as the proud sponsor of the Video Voyeurism Act, I would like to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from North Carolina (Chairman COBLE) for their leadership in getting this bill through the committee, and also would like to thank the gentleman from Texas (Mr. GONZALEZ) for sponsoring this bipartisan bill with me.

I would like to express my appreciation for Senator DEWINE's work in passing the companion bill in the Senate. I have introduced this bill in the past 3 Congresses, and I am very happy to see it on the floor today.

My original interest in this issue came from a concern that a constituent expressed in a letter. I had also just written the Child Online Protection Act, which is something we need to have implemented after years of legal delays.

Video voyeurism is something that has been in the news a lot lately, in part, due to the improper use of the camera cell phones that have become so popular. For the victim, it is embarrassing and degrading to be photographed in a compromised position. It is an invasion of personal privacy.

What we have seen in recent years is that technologically savvy predators have infiltrated high school locker rooms, department store dressing rooms and even people's homes using small concealed cameras. Women have even been victimized standing in line at the mall or an amusement park.

What makes it worse now is that these pictures can be instantly posted on the Internet for millions to use. In fact, there are a multitude of Web sites devoted specifically for these types of pictures and videos.

As is often the case, the law has not kept up with technology. Many of these cases have been tried under old peeping tom laws which were not written to cover photographic equipment, so a case either cannot be brought or the sentence does not adequately fit the crime.

Although more States are passing laws to address this, our Video Voyeurism Prevention Act would create a comprehensive law that covers all forms of video voyeurism on Federal land, and it will serve as a model for States that either have not enacted or may not want to strengthen their own laws against video voyeurism.

Mr. Speaker, it is a good bill that protects privacy and decency, and I urge my colleagues to support it.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 1301, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1515

CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO PERSONS WHO COMMIT, THREATEN TO COMMIT, OR SUPPORT TERRORISM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–217)

The SPEAKER pro tempore (Mr. BOOZMAN) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the national emergency with respect to persons who commit, threaten to commit, or support terrorism is to continue in effect beyond September 23, 2004, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on September 22, 2003 (68 FR 55189).

The crisis constituted by the grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks in New York, in Pennsylvania, and against the Pentagon committed on September 11, 2001, and the continuing and immediate threat of further attacks on United States nationals or the United States that led to the declaration of a national emergency on September 23, 2001, has not been resolved. These actions pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to persons who commit, threaten to commit, or support terrorism, and maintain in force the comprehensive sanctions to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 21, 2004.*

GENERAL LEAVE

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the further consideration of H.R. 5025, and that I may include tabular material on the same.

The SPEAKER pro tempore (Mr. OXLEY). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 770 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5025.

□ 1518

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, with Mr. BOOZMAN (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, September 15, 2004, the amendment by the gentleman from Virginia (Mr. MORAN) had been disposed of.

Pursuant to the order of the House of that day, the order of the House of September 14, 2004, was amended to strike any provision for the amendment by the gentleman from Arizona (Mr. FLAKE) regarding Cuba.

The reading has progressed to page 166, line 3.

AMENDMENT NO. 5 OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. SANDERS:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ____. None of the funds appropriated by this Act may be used to assist in overturning the judicial ruling contained in the Memorandum and Order of the United States District Court for the Southern District of Illinois entered on July 31, 2003, in the action entitled Kathi Cooper, Beth Harrington, and Matthew Hillesheim, Individually and on Behalf of All Those Similarly Situated vs. IBM Personal Pension Plan and IBM Corporation (Civil No. 99–829–GPM).

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentleman from Vermont (Mr. SANDERS) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, this tripartisan amendment is cosponsored by the gentleman from Minnesota (Mr. GUTKNECHT), the gentleman from California (Mr. GEORGE MILLER), the gentleman from New York (Mr. HINCHEY), and the gentleman from Illinois (Mr. EMANUEL). This amendment also has the strong support of the AARP, the largest senior citizen group in this country, representing over 35 million Americans; the AFL–CIO, representing all of organized labor; and the Pension Rights Center.

Mr. Chairman, last year, this amendment passed the House by a vote of 258 to 160. Two years ago, a similar amendment passed by a vote of 308 to 121. By voting for this amendment today, we will be protecting the retirement benefits of some 8 million American workers who have seen their pensions slashed by as much as 50 percent through age discriminatory cash balance pension schemes and the 14 million more American workers who still have traditional, defined benefit plans that could be converted to cash balance schemes. That is the issue today: standing up for those workers and protecting the pensions that they have been promised.

The reason that this amendment is coming up again today is, despite the very strong, tripartisan support that we have seen in the House, this bill has yet to be implemented into law, and it is imperative that we keep fighting and keep standing with American workers who want us to do that.

Mr. Chairman, this amendment is simple and straightforward. In July of 2003, a Federal court ruled that IBM's cash balance pension plan violates Federal anti-age discrimination law. The judge in this case is expected to award damages to IBM employees any day now, after which the company will appeal to the Seventh Circuit Court of Appeals.

Our amendment today would simply prohibit the Federal Government from assisting in overturning this pro-worker court decision. IBM deserves its day in court, like every other litigant, but taxpayer money should not be used to support an age-discriminatory cash balance plan. And this amendment gives Congress the opportunity to make that very clear.

Mr. Chairman, let us be very clear. While this particular lawsuit involves IBM's conversion to a cash balance plan, there are hundreds of other companies that have done exactly the same thing. This is not just IBM; it is hundreds of companies, companies like AT&T, Duke Energy, CBS, Bank of America, Enron, WorldCom and many others. It is not only IBM employees who are hurting but millions of workers from one end of this country to the other who have also been affected, people whose retirement dreams have been shattered when companies change the rules of the game and slash the retirement benefits that were promised to their employees.

This precedent-setting court ruling against cash balance plans confirms what American workers have been saying for years: Cash balance pension conversions discriminate against workers based on age, are illegal and, without adequate protections for older workers, must be stopped. And that is what we are here to do today.

Mr. Chairman, let me just read a brief excerpt from the ruling of Judge Murphy: "In 1999, IBM opted for a cash balance formula. The plan's actuaries projected that this would produce annual savings of almost $500 million by 2009. These savings would result from reductions of up to 47 percent in future benefits that would be earned by older IBM employees. The 1999 cash balance formula violates the literal terms of the Employee Retirement Income Security Act. IBM's own age discrimination analysis illustrates the problem." That was Judge Murphy.

Mr. Chairman, I became involved in this issue several years ago when hundreds of IBM employees in Vermont contacted my office and told me that the pensions that they had been promised by the company had been cut by 20 to 50 percent. In fact, the largest town meeting that I have ever held in Vermont, and I have held many, was for some 700 IBM workers who came out to demand that the company rescind the changes that had been made in their pension plan.

Mr. Chairman, think about it. Think about workers staying at a company through good times and bad times, providing loyalty to their employers because, among other reasons, they expect to receive certain agreed-upon pensions when they retire. And then, Mr. Chairman, one day, out of nowhere, the company sends a document, maybe it is an e-mail, which says, in so many words: Thank you, employees, for your dedicated service to the company, but forget about the promises that we made to you regarding the retirement that you and your family were anticipating. Forget about it. That is gone.

And, in many instances, while pulling the rug out from under their employees, we are seeing older workers, years of service to a company, suddenly find that the pensions that they had been planning on, the retirement dreams that they had been expecting, slashed by up to 50 percent.

Mr. Chairman, for those Members who will tell us that cash balance conversions are good things and should be supported, and there will be some today, I would remind them of a report from the Congressional Research Service that I requested. And very simply, what I asked the CRS to tell me is, what impact would a conversion to cash balance mean for Members of Congress, because I hear over and over again, Members of Congress, they want the American people to have what they have.

Well, surprise, surprise. What the CRS reported was that, if Congress converted to cash balance payment plans, our retirement benefits would go down, down, down. So, if any Member today thinks that it is a great idea to force cash balance payment plans on the workers of America, I hope that they will do the same thing for the Members of Congress and cut their pensions by up to 50 percent.

Mr. Chairman, all over this country today, there is enormous pension anxiety. People who have worked for decades are wondering whether the promises made to them will be kept. That is the issue today. Let us vote for this tripartisan amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Oklahoma (Mr. ISTOOK) is recognized for 20 minutes.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, maybe people do not realize what we are actually debating. We are not debating pension plans. We are not debating conversion of pension plans from one type to another. We have before us the amendment by the gentleman from Vermont to this Transportation and Treasury appropriation bill, and maybe people do not realize what the amendment says.

The amendment says that you cannot use any of the money appropriated in this bill to assist in overturning the judicial ruling on a particular court case. That case, which was in the Southern District of Illinois, decided last year, was the action of Kathi Cooper, Beth Harrington and Matthew Hillesheim, Individually and on Behalf of All Those Similarly Situated v. IBM.

The amendment says, do not use any of the money in this appropriations bill to assist in overturning a court case to which the United States Government is not even a party. It is a case between IBM and some workers at IBM. Not only that, this bill does not contain funding for the judicial system, nor do I believe it is the role of this Congress to say, when I like a court decision, I am going to come here with a bill that says, nobody can overturn this court decision. If I do not like a court decision, I am going to come here with a bill that says, we must overturn the court decision.

Now, we can change underlying law. That is our job. But it is not our job to say, we are going to decide a particular court case. If we want to change the law that governs the entire country, we ought to do it, but not come with a bill that has nothing to do with the judicial system and say, you cannot use this to overturn a court case between IBM and some of its workers.

Now, there is a lot of controversy, we know, about types of pension plans and conversions of pension plans. We have legislation that is being considered. We have the Treasury Department, which is working on potential regulations relating to those conversions. And the Treasury Department works with every company in the country and every individual covered by a pension plan in the country, and you cannot say you do not communicate with each other.

□ 1530

But, again, that is not what this says. It says, do not help somebody overturn a court case to which you are not a party. Come on, get real. Besides which, there has been other litigation on this case, and other courts came down on the other side. I think there have been four cases around the country. Three went one way; this one went the other.

If we want to talk about the issues, let us bring legislation to talk about what pension laws should be generally, not try to say we are going to overturn a court case with an action before this Congress in the amendment.

One final thing just because I know that the proponents of the amendment are getting into the merits of the case. Basically, that case said, well, it is age discrimination if somebody is going to work for a company longer and so their benefits earn more interest than somebody that works for a shorter period of time. And this court decided that was age discrimination. If money accrues more interest because it is invested longer, they call that age discrimination. I do not. I do not think most people who apply common sense would think that.

But this amendment does not belong on this bill. This is not changing the law of the land. This is trying to change the outcome of a lawsuit that is now on appeal to which the United States is not even a party. We should not be doing that.

I ask for opposition to this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SANDERS. Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota (Mr. GUTKNECHT), a gentleman who has been very active in supporting workers on pension issues.

Mr. GUTKNECHT. Mr. Chairman, I thank the gentleman for yielding me time.

I want to agree in most part with what the chairman said about this issue. It probably is not the appropriate time to have a big debate about pension policy, but I come to a completely different conclusion.

He said this amendment does not belong on this bill. It is a shame that we have to talk about this amendment on this bill, because it really is about pension policy, and it is about age discrimination, and it is about one company in particular. Now, I do disagree with the gentleman from Vermont (Mr. SANDERS). I do not think all of these cash balance plans are inherently evil. And, frankly, there have been a number of companies that have converted their pension plans working with the collective bargaining units, working with their employees, giving employees their choice that have done things the right way. So these are not inherently evil things in terms of pension.

As we go forward as a society, as people change jobs more often, the idea of a cash balance plan may make some sense; but it does not make sense when you have a system that works the way it did in the IBM employees' case, and that is where they were given no choice, they were given no say. These were people with vested benefits.

Let me remind Members about what vested says about things. This is the quotation from Webster's Collegiate Dictionary. It says: "Fully and unconditionally guaranteed as a legal right, benefit, or privilege."

Now, these employees showed up for work one day, and they thought they had a pension benefit plan that was vested, that was theirs, that was fully and unconditionally guaranteed; and all of the sudden they found out that day that vested does not mean what they thought it meant. And they finally wound up getting this case before a Federal judge in a Federal court. And the Federal court, and I believe the Federal court in this case was absolutely right, said, wait a second. You cannot do this because the way pensions accrue value is you get most of the benefit.

There is sort of an ascending curve in pension benefits, and it is toward the end of your working career when you get the most benefit. So people who had worked for IBM for 20 years and were going to retire in 5 or 6 years, and I will say that IBM under enormous pressure did rescind the original package that they put in front of the employees, they made it a little better for older workers.

But it did not change the basic facts. First of all, the employees were given no choice even if they were vested. What it did and the reason why IBM and a lot of other employees wanted to convert to these cash balance plans is because they understood that it was a way to shave off those benefits for older workers in the last 5 or 6 years that they might be working for the company.

The bottom line is this: what they were really trying to do is get their hands in the pension funds, because they realized and their actuaries realized that most of these pension funds were overfunded, and they could literally move that money from the pension fund to their bottom line by making these conversions.

Companies are now coming and saying, gee whiz, this is going to cost us billions of dollars. Well, yes, it is going to cost billions of dollars because that was the employees' money. It did not belong to the employer. In fact, in some respects pension funds do not belong to the employee or employer. It is money being held in trust. And one company broke that trust, and the Federal courts have come down on them very heavily.

I agree with the chairman, we should not have to be offering this amendment today because it is just outrageous for us to think that our own Federal Government would attempt to intervene in a case in which they are not a party to try and overturn a hard-won victory for the employees of IBM. This is an outrage. This is where we, whether Republicans or Democrats, ought to stand together and say it is wrong to steal from pension funds.

Support the Gutknecht-Sanders amendment.

I come to the floor as a cosponsor of this important amendment. IBM employs about 5000 people in my district and there are close to 5000 IBM retirees across the state of Minnesota. Their employees are also my constituents and I, therefore, have a vested interest in ensuring IBM employees are treated fairly.

Fifty years ago a salary was the most important thing to workers. Times have changed. today pensions and other benefits are the main reasons workers choose a particular company. It is important we encourage employers to keep their promises to their employees and not change their pension plans in midstream.

When an employee becomes vested in a pension plan he or she expects to receive those benefits. "Vested" according to my Webster's Collegiate Dictionary means "fully and unconditionally guaranteed as a legal right, benefit, or privilege." These expected benefits should not be taken away.

Unfortunately, IBM did just that. Perhaps IBM received bad business advice, but the method by which IBM went about switching to a cash balance pension plan was far from exemplary. Let me remind you we're not talking about a company in dire fiscal straits. We're talking about a very healthy company.

Originally IBM offered only those employees within five years of retirement a choice between the old and new pensions plans. While I am pleased they expanded this choice to cover more employees after the employees rightly expressed their outrage, I believe the court case brought against IBM should proceed without intervention by the U.S. Treasury Department.

I wish IBM had adopted models used by other companies when they switched to alternatives to traditional defined benefit pension plans.

For example, Honeywell, another company with many employees in Minnesota, across America, and around the world, switched to a pension equity plan in 2000. Honeywell offered all their employees a choice between remaining in the old plan and switching to the new plan. This is the model of how I feel companies should proceed in this area.

The Director of Benefits for Eaton Corporation, Ellen Collier, testified in front of the House Education and Workforce Committee this year that her company has given employees the choice between two retirement plans. Motorola, Deloitte & Touche, Northern States Power, Eastman Kodak and many other companies have all given their employees choice between old and new plans.

I understand that cash balance plans are a reality of the modern world and we should not discourage companies from offering them. I, however, do feel there are right and wrong ways to go about converting from one plan to another.

IBM handled this inappropriately and I believe the court case should proceed without federal government involvement.

This amendment overwhelmingly passed the House last year by a vote of 258 to 160 with strong support from both sides of the aisle. It is supported by the AARP. I urge my colleagues to support the Sanders/Gutknecht Amendment.

Hon. GIL GUTKNECHT,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE GUTKNECHT: AARP supports the Gutknecht-Sanders amendment to the Transportation, Treasury and Independent Agencies Appropriations Act for Fiscal Year (FY) 2005 to ensure that the Internal Revenue Service (IRS) does not use any funds in contravention of current law prohibitions on age discrimination in pension plan funds and to specifically prohibit the IRS from issuing regulations or implementing any other measure that would conflict with the July 31, 2003, federal court ruling in Kathi Cooper, et al. v. IBM Personal Pension Plan, et. al.

AARP has long been concerned with the legal basis for the hybrid cash balance formula and the significant age discriminatory issues that arise when employees convert defined benefit pension plans to a cash balance formula. We believe that a careful review of the legal distinction between defined benefit and defined contribution plans such as was conducted by the federal court in Cooper makes clear that the most common designs for hybrid cash balance plans do not fit within the current legal framework of the Internal Revenue Code (IRC), the Age Discrimination in Employment Act (ADEA), and the Employee Retirement Income Security Act (ERISA).

As the court concluded in Cooper, the cash balance plan formula discriminates against older workers, and older workers are particularly disadvantaged when an employer converts from a defined benefit pension plan to a cash balance plan. These longer-term employees have given up wages and accepted a lower pension in the early years of their employment in exchange for the larger future benefits from their employer's traditional defined benefit pension plan. Without adequate protection, older workers will now lose some of the benefits they were promised. Older workers generally have less time to accumulate benefits under a new cash balance formula, have a harder time leaving their current job if compensation and benefits are cut, will have fewer prospects of finding a new job, and are less able to adjust to the changes that may dramatically reduce their retirement security (for example, they have less time to adjust by increasing their savings for retirement).

In September 1999, the IRS imposed a moratorium on corporate plans that convert traditional defined benefit plans to a cash balance formula so the agency could review the matter. The moratorium suspended consideration of approximately 300 pending applications submitted by corporations to convert an existing plan to a cash balance formula. The Treasury initially proposed regulations in December 2002 that would have lifted the moratorium and permitted corporations to establish cash balance plans. However, the IRS withdrew the proposed regulations in July of this year.

In its FY 2005 budget, the Administration proposed legislation that would have addressed some of the concerns related to cash balance plan conversions. AARP was pleased that the legislative proposal recognized the problem with so called "wear-away" and recommended a ban on the wear-away of any benefits at any time after a cash balance plan conversion. In recognition of the transition problem faced by workers, the Administration's proposal also included a five-year "hold harmless" period after each cash balance plan conversion.

While the proposal is a step in the right direction, it does not go far enough. More can be done to ensure that older workers are adequately protected from the impact of a "pension pay cut" in any conversion to a cash balance plan. In fact, many of the recent pension conversions—recognizing the harm to older workers—have provided older and longer-service workers with more generous transition relief, including a choice to remain in the old plan rather than move to the new cash balance plan. This is further confirmation that business can and should do the right thing for their older, longer-service employees.

AARP believes that Treasury should not take any action that would encourage companies to change their pension plans in a manner that is contrary to the age discrimination laws and the federal court ruling. Rather, Congress should act to ensure that older workers are protected in any cash balance conversion. We urge adoption of this amendment.

Thank you for your leadership and dedication to strengthening the private pension system and protecting the pension benefits of workers. Please let me know, or have your staff call Frank Toohey (202-434-3760) of our Federal Affairs office, if we can be of further assistance.

Sincerely,

MICHAEL NAYLOR,
Director of Advocacy.

Mr. SANDERS. Mr. Chairman, does the gentleman have additional speakers?

Mr. ISTOOK. Mr. Chairman, I have another speaker that may be arriving, but they are not here at this time; and other than that, I know of no other Members seeking time.

Mr. SANDERS. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Chairman, I thank the gentleman for yielding me time.

I would like to commend the gentleman from Vermont (Mr. SANDERS), the gentleman from Minnesota (Mr. GUTKNECHT), the gentleman from California (Mr. GEORGE MILLER), the gentleman from New York (Mr. HINCHEY) for their leadership on this issue.

We have been down this road before. We dealt with this earlier where a bipartisan group of Members of Congress came together and sent a clear message as it relates to retirement and pensions that you cannot do what IBM and other corporations tried to do. And Congress in that issue was not left versus right. As my colleague from Minnesota (Mr. GUTKNECHT) always says, it is about right versus wrong. And a bipartisan group came together as it relates to the retirement plans of Americans who negotiated a deal and woke up in the middle of the night and had that deal abrogated, and that is not right.

Now, as my colleague from Minnesota said, there is a right way and a wrong way and you can create a win-win situation. For the older workers who have a defined benefit plan, we are going to honor that. And for younger workers, we are going to get you into a 401(k) or what is called typically a defined contribution, that can happen as well. But you cannot wholesale change something people negotiated in good faith, won at the negotiating table and try in a backhanded way to take that money away. And if we had done that, and as my colleague from Vermont (Mr. SANDERS) has shown, if Members of Congress had opposed all of the sudden a cash balance type of retirement system, people here with 18, 20 years would lose hundreds of thousands of dollars in their retirement plan. They would not think it is right. And if it is not right for a Congressman, it should not be right for people who are employees of companies who agreed to something. That would be wrong.

Now, we are dealing with two cases here: the particular case of IBM and the general issue of retirement plans. On the IBM case, I think it is appropriate for this amendment because to date the Treasury Department has consistently tried to find a way, and this is the latest vehicle to get involved in this IBM case as it relates to the retirement plan and IBM's attempt to go to a cash balance retirement plan which would cheat older workers of many years of their retirement savings that they agreed to and have knowledge that they have when they retire.

We need to stop Treasury from doing what they have been trying to do for 2 years. I do compliment them for their resourcefulness. They have never missed an opportunity to try to figure out a back door to imposing cash balance as a retirement plan.

Now, in general, the larger subject, and, unfortunately, we in this Congress have not gotten to dealing with retirement plans yet as I in my city, we have United Airlines, we have a crisis in people's retirement plans, but we have a subject here. We as a society have told people, save for your retirement outside of Social Security. It is important for you to save and not just rely on Social Security. And here you have a case of workers who have saved outside of Social Security, done everything they have been told to do, and then corporate America is allowed to walk away and cheat them of that.

You cannot tell people on one hand, you need to save for your retirement, and on the other hand let corporate America steal from it or cheat them of it. You either tell them one thing and have the laws of the land follow it, or you tell them another thing and have the laws of the land follow it.

And the deal we are having here on this, because we have no other venue in dealing with the retirement crisis in America, is that we have to tell people, you are going to save outside of retirement and the laws of the land are going to respect what you have done for your life, which is to plan for you and your spouse's retirement and so you can retire with dignity, with Social Security, health care as well as the retirement plan you have in the private sector. And our laws are not going to undercut what you have done your whole life. And we are not going to allow management, I understand the pressure management is under, but we are not going to allow them to walk away with what they agreed to.

You can create, as Secretary of Treasury John Snow did at CSX when he was in private sector, he went to a cash balance, and did right. He did right to older workers. He did right to younger workers, and he did right to his bottom line and his shareholders; and he did not cheat anybody.

It is high time the folks in the Treasury Department get their greedy little hands off and stop trying to figure out every way to undermine working men and women in this country and retirees from what they have earned rightfully at the negotiating table.

Mr. SANDERS. Mr. Chairman, does the gentleman's status remain the same?

Mr. ISTOOK. Mr. Chairman, I just received a note that there is a Member that is on his way.

Mr. SANDERS. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman from Vermont (Mr. SANDERS) for yielding me time.

This amendment is, in fact, about fairness. It is fairness to the American workers. A Federal court ruled in 2003 in the IBM case a conversion to cash balance plan, in that instance, which would have reduced pensions for older workers by 47 percent was a violation of Federal age discrimination rules.

Now, even though that provision has become law, it has not stopped consultants from trying to convince the Treasury Department to issue new guidance that would overturn that rule and other Court rulings in favor of employees.

By prohibiting the Federal Government from assisting in overturning these judicial rulings, this amendment protects millions of people. Those people stand the risk of having their pensions from hard work and long hours taken away from them by the conversion. It is only right and fair and just that we pass this amendment. More than 8 million employees and retirees have lost $334 billion in benefits as a result of pension plans being shifted to cash balance plans inappropriately.

A large number of older Americans, in this case defined by people 40 years and older, have lost up to 50 percent of the values of their plans. So I think what is even worse about this is the fact that President Bush's administration has supported treating these workers unfairly by backing cash balance plans.

In December of 2002, the IRS proposed lifting the 1999 moratorium on cash balance plan conversion. This year, the administration's budget proposed to give corporations a green light to violate pension age discrimination laws, while providing inadequate protection to workers affected in the future. These threats by the administration to workers' pensions demonstrate the importance of passing this amendment.

By voting for this amendment, Congress will be taking another important step toward protecting the rights of workers. I urge my colleagues to do just that. Support this amendment and stand up for America's workers.

Mr. SANDERS. Mr. Chairman, how much time is left on both sides?

The CHAIRMAN pro tempore (Mr. THORNBERRY). The gentleman from Vermont (Mr. SANDERS) has 3 minutes remaining. The gentleman from Oklahoma (Mr. ISTOOK) has 16 minutes remaining.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think it is important to remind people what this amendment is and what this amendment is not.

This amendment is not determining the question of what types of pension plans are permitted by law. This amendment does not determine the question about whether you can convert, if you are a company, from one type of pension plan to another. That is not what we are talking about. This amendment says specifically that you cannot overturn a particular court case between IBM and its workers that is in contradiction of multiple other court cases about whether a retirement plan is age discriminatory or not.

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That case is on appeal. That case is going to be decided under the law as it existed at the time. We are not changing the underlying law. We are not being asked to create a uniform standard for all companies. We are being asked to help people make sure that they do not lose their case on appeal, even if that appeal is contrary to other court decisions, even if that is not a proper role of this Congress. That is what the amendment is about. It is about stopping the overturning of a particular court case.

Mr. Chairman, yes, there is a large part of other issues that are out there that relate to pension plans, and most of the speakers have been talking about those issues. There are many companies that will tell us they made some bad decisions in years past, and because of it, they and their workers are in a tough spot. They may not be able both to pay the benefits they promised to workers in years past and stay in business.

Many companies have gone into bankruptcy because of this; and in bankruptcy court, if it is a reorganization procedure, they can abrogate, or in other words, they can do away with, or change the terms of, prior pension plans. It is a conflict often between people who worked for a company and received certain promises, and they want those promises fulfilled and people who currently work for a company, and the company is not going to be able to stay in business if it is stuck with the old pension plan rules.

That is why so many companies want options in this. That is why we are looking at legislation to give companies options. It is a bona fide, honest debate that we need to be having, but it is not what this amendment is about.

This amendment, says, well, you cannot use any money in this particular appropriations bill to help overturn this one case with one set of workers and one company. We should not even be considering an amendment like this, and I oppose it.

Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Chairman, I rise today to oppose the amendment by the Representative from Vermont.

The gentleman from Ohio (Chairman BOEHNER) and I are working on legislation to reform the pension system, and this ill-timed amendment will undermine our efforts. I ask my colleagues to refrain from using the appropriations process to undermine our comprehensive reform efforts in the committee of jurisdiction.

The various sponsors of this amendment have had a problem with the conversion of the IBM pension plan 5 years ago. Despite the fact that IBM gave its employees everything they were asking for, the sponsors of this amendment now want to continue pushing this issue past its logical conclusion.

They now want to enshrine in law a flawed court case. The court case essentially found that the time value of money is age discriminatory.

An example might explain this crazy logic. Let us say a 25-year-old and a 52-year-old were hired on the same day to do the same job at the same pay. Their company would make an equal contribution to each employee's pension account.

The Cooper case found that the equal pension contribution is age discriminatory. Why? Because the 52 year old has less time to accumulate interest before retiring.

Yes, the logic of the case is that interest or the time value of money is age discriminatory. It is flawed logic, and it has been found to be flawed in every other court that has reviewed this issue.

Thousands of cash balance pension plans cover millions of Americans.

To the extent that the flawed logic of this amendment is given any support in Congress, it will undermine pension plans. Given the growing reluctance of businesses to sponsor traditional defined benefit pension plans, this amendment is just one more reason for companies to walk away from this type of pension and our constituents who need them.

We need to oppose this flawed amendment.

Mr. SANDERS. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, I hate to rise and oppose two of my good friends, but I thank the gentleman from Texas (Mr. SAM JOHNSON), who has just given a speech; and I just want to contradict a couple of things he said.

First of all, if the IBM company had given IBMers all they wanted, they would not be in court; and if there were not age discrimination, they would not have won; and if it were not for the IRS and the Department of Treasury wanting to get involved in this case, we would not have to offer this amendment.

This is wrong. As my friend said, this is not a matter of right versus left. It is right versus wrong. It is wrong for employers to steal from pension funds. It is that simple.

The reason we are here today is to try and keep this administration from doing something incredibly stupid, and that is, getting involved in this case which the workers have already won, and they are right, because it is the age discrimination.

Cash balance plans are not intrinsically evil. I said that earlier; but when you do it in such a way so that you shave off the end where people really accrue benefits, the courts have correctly ruled.

Mr. SANDERS. Mr. Chairman, I would inquire as to the amount of time left both on sides.

The CHAIRMAN pro tempore (Mr. THORNBERRY). The gentleman from Vermont (Mr. SANDERS) has 2 minutes remaining. The gentleman from Oklahoma (Mr. ISTOOK) has 11 minutes remaining, and he has the right to close.

Mr. ISTOOK. Mr. Chairman, I intend to reserve the balance of my time for closing.

Mr. SANDERS. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Chairman, I applaud the gentleman from Vermont (Mr. SANDERS) and the gentleman from Minnesota (Mr. GUTKNECHT) for their leadership and work on this issue.

The gentleman from Vermont's (Mr. Sanders) amendment is very clear. It would prohibit the Federal Government from assisting in overturning or, for that matter, in taking any role thereby in overturning the court decision in this case.

Now, the chairman has characterized this amendment as saying that this court decision cannot be overturned. That is not true at all. IBM and the workers for IBM can contest that, and it can be overturned. The amendment merely says that the U.S. Government cannot take part in the overturning.

The gentleman from Texas has said that this amendment would undermine pension reform. Whatever the chairman's views on the appropriateness of this amendment for this bill, last year this amendment passed this House on this very same bill by a vote of 258 to 160. The chairman was the chairman then. Two years ago, a similar amendment passed the predecessor subcommittee, the Subcommittee on Treasury, Postal Service and General Government, which the chairman was the chairman of also, by a 308 to 121 vote.

So it has been applied to this bill at previous times; and here again, the only issue is that taxpayer money should not be used to support IBM's age discriminatory cash balance plan, as the court decided. It would be an insult to workers if their own Federal dollars were used to cut their own pension plans, and we should overwhelmingly adopt this amendment today as we have done on two previous occasions to the exact same bill in previous years.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

This amendment is not necessary for us to intervene in a lawsuit that is on appeal. Even if we did, we would be intervening against the weight of what other courts have ruled, and we would also threaten the efforts that this body and many people in it are undertaking, trying to resolve the tricky issues of pension plans, conversions of other pension plans between defined benefit and defined contribution plans.

This does not belong on this bill, and I ask Members to oppose the amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I rise in support of the Sanders Amendment.

The Sanders amendment would ensure that the Treasury Department does not use any of its funds to undermine the Federal court decision in Cooper v. IBM that held that cash balance conversions violate Federal pension and age discrimination law.

We've been here many times before.

In fact, this is the fourth time that the House is voting to protect older workers' pensions under cash balance pension plan conversions. The last two times the amendment passed by 308–121 and 258–160.

Instead of voting to prevent the Treasury Department from undermining workers' pensions, I wish we were voting affirmative legislation to set standards for cash balance plans.

This issue has been going on since 1999.

In 1999, IBM converted its pension plan to a cash balance plan. Luckily, its computer savvy workers quickly figured out that the conversions would reduce their expected pensions. The workers mobilized and got Congress to hold hearings.

The Clinton administration imposed a moratorium on approvals of conversions in September 1999. But then, the new Bush administration tried to issue regulations lifting the moratorium and permit conversions without any worker protections.

Immediately 218 Members of Congress wrote to the President urging him to revise the regulations and protect older workers.

Four times the House and Senate have voted to require Treasury to withdraw its regulations and protect older workers.

Finally, this year, in 2004, the Bush administration relented and withdrew the regulations. The administration even sent up a revised legislative proposal that contained a modicum of older worker protections through it did not go far enough to protect older workers.

But, still the issue is not resolved. Either Congress or the courts must set standards for cash balance plans and conversions to such plans.

The Republican Congress has done nothing on this issue for almost 6 years. If anything, Republican leader would defer to employer lobbying and simply permit cash balance conversions without any protections for older workers.

That's why the courts may have to be the body that resolves some of these issues.

One court, the Federal district court for the State of Illinois, determined that conversions are illegal. Other courts have disagreed. These cases and others still waiting to be heard will take years to resolve.

This amendment makes clear that the Treasury Department shall not interfere in these cases.

Today worker pension security is in crisis. This administration has done nothing to protect worker's pensions and done everything to undermine them.

They didn't protect workers after Enron and Worldcom from employers loading pension plans with employer stock and letting the executive protect themselves while leaving the workers stuck with worthless stock.

They didn't protect participants in 401(K) plans from a broad range of mutual fund abuses that have decimated retirement nest eggs.

And they are not protecting workers now from rampant pension underfunding. The PBGC, the agency that insures traditional pensions, has a $10 billion deficit. And if the airlines go under, the deficit will increase by another $30 billion. Over 1,000 pension plans are more than $50 million underfunded. And workers don't even know because the PBGC is required to keep the information secret.

The administration and the Republican majority are doing nothing to protect worker pensions.

I urge my colleagues to vote once again and remind the majority that it is the will of the Congress that older workers be protected in cash balance pension plan conversions.

Mr. ISTOOK. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. All time for debate has expired. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Vermont (Mr. SANDERS) will be postponed.

AMENDMENT NO. 11 OFFERED BY MR. VAN HOLLEN

Mr. VAN HOLLEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. VAN HOLLEN:

At the end of the bill (before the short title), insert the following:

SEC. . None of the funds made available by this Act may be used to implement the revision to Office of Management and Budget Circular A–76 made on May 29, 2003.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentleman from Maryland (Mr. VAN HOLLEN) and the gentleman from Oklahoma (Mr. ISTOOK) each will control 10 minutes.

The Chair recognizes the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment deals with the process that we now have in place for contracting out work that is being performed by Federal employees, in other words, the rules that govern the privatization of Federal Government jobs.

That process, which is known as the A–76 process, named after the OMB circular, is now a broken process. In fact, both Federal Government employees and private contractors have serious, legitimate complaints about the existing competitive sourcing process.

This amendment would, in effect, encourage OMB to go back to the drawing board and develop a competitive sourcing process that makes sense and is fair to all parties.

It is an amendment that is identical word for word to the amendment that the House passed on a bipartisan basis last year as part of the Transportation-Treasury appropriations bill.

We passed this amendment last year for a very simple reason. We recognized that the existing contracting-out process is unfair and that it needs to be fixed, and that has not changed from last year to this.

Indeed, already this year, the Committee on Appropriations and this House have acknowledged that the process is inadequate because we have passed both appropriations and authorization bills that change the competitive sourcing process as it applies to specific government agencies.

For example, the Defense appropriations bill that we passed, and which the President has already signed, changes the existing rules for Department of Defense Federal employees in a number of ways.

That bill ensures that Federal employees of the Defense Department are always given an opportunity to compete to keep their jobs by forming what is known as The Most Efficient Organization.

The Defense appropriations bill, again signed by the President already this year, requires that whatever entity is seeking to take over the work, to bid on the work, whether it be a private contractor or a group of Federal employees, must demonstrate that they will save the taxpayer dollars through a procedure known as "minimal cost differential," or the "10 percent savings rule." It makes sense that we would ask as part of the competitive process that we save the taxpayers money.

The Defense appropriations bill also prevents private contractors from gaining an advantage by contributing less to health insurance for their employees or by stripping people of their health benefits.

Those are provisions that have already passed the House, the Senate, and signed by the President as part of the Defense appropriations bill. They make sense and they are fair. If the current process is working, why did we change them as part of this year's Defense appropriations bill?

Why should those rules which we now have applied to DOD employees regarding contracting out not also apply to Federal employees at the Department of Transportation, Treasury Department, and other Government agencies? Why should those other Federal employees be treated as second-class citizens?

We also passed the Defense authorization bill this year. That legislation contains changes to the contracting-out process that requires that Federal employees and private contractors have the same rights to appeal an adverse decision. If they get a bad decision, they appeal.

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We should make sure that right applies equally to both parties. That is simple fairness.

Then there are the Homeland Security appropriation bills and the Interior appropriation bills that have already passed this House. Those bills also have specific little changes to the contracting-out process. If it is so fair as it is, why did we as a body already change it this year with respect to those agencies?

And, indeed, the bill we are on today, the Transportation-Treasury appropriation bill, as it came out of committee, contained the Hoyer-Wolf language that also would have made the process more fair, that was taken out on a procedural motion earlier. But the pattern is clear: The Committee on Appropriations and this House, through the actions we have already taken this year on numerous appropriations and authorization bills, have recognized serious problems in the contracting-out process. The only problem is we have responded on an ad hoc piecemeal fashion.

We now have four different sets of rules in different appropriation bills, and we keep changing the rules year to year. The result is we have a patchwork of different rules that apply to different agencies. It is unfair to Federal employees, it is unfair to the private contractors. We should address this issue in a uniform comprehensive manner.

That is what this amendment is all about. It does not get rid of the competitive sourcing rules. The rules in effect before May 2003 will apply until OMB gets its act together and addresses the inadequacies in the process and addresses the kind of issue that this House has addressed this year in its appropriation bill. That is what this is about; sending it back to OMB and telling them to start from scratch and get a fair process in place. Then we will not have to deal with this issue year after year on this appropriation bill, Mr. Chairman.

Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I claim the time in opposition to the gentleman's amendment, and I yield myself such time as I may consume.

Mr. Chairman, I think there are many Members of this body who would object to any form of competitive sourcing of work that is currently being done by government workers. It is not a case of the specifics of any particular framework for doing that, they just want to make sure that people that have government jobs are the ones that do the work, despite inefficiencies, despite work that may be outside of the core work of a government agency.

For example, a government agency that may be involved with health care does not have expertise in cleaning its facilities or landscaping its facilities or copying services, or many of the myriad of things that are outsourced or competitively sourced frequently. They may have their own cafeteria workers rather than hiring a company that has expertise in running an employee cafeteria. There is a multitude of instances where it makes sense for the government to do what the private sector has done, and that is to take government functions that are performed by government workers that are not inherently governmental and find someone else that can do it better and cheaper.

The goal of so many Members of this body is to shut down any effort to make the Federal Government more competitive and more efficient because they want to make sure that people are on the government payroll, even if it costs more to do the work, and even if it is less efficient. If it uses more of the taxpayers' money, they do not care. They want to preserve government employees' jobs.

Well, this is not even a question about whether those people will get the jobs. If they go through the process of competitively sourcing it, and maybe letting someone else come in, typically they will hire the same people to do it, but under a new management. Moreover, when we have competitive sourcing competitions between government workers and the private sector, then government workers have to become more competitive; government workers have to become more responsive.

In fact, in these competitions, typically the government employees retain 90 percent of the work. They are not outsourced. This amendment is just trying to stop government efficiency because we have some Federal employee unions and others that insist that the people that do the work have to be members of their unions. That should not be the issue. The issue ought to be making the most of the taxpayers' money.

Now, the administration has already sent us what is called the Statement of Administrative Policy that tells us if this language gets in this bill, it is headed for a veto. We do not need that. We do not need to hurt the taxpayers and we do not need to slow down the legislative process by having a veto on a bill that needs to be adopted and needs to be passed.

The administration has acted to try to streamline what is called the A–76 process, the competitive sourcing process. They are trying to make it more efficient. They are trying to make it fairer to everybody involved. They have tried to make sure that instead of taking 4 years, 4 years, Mr. Chairman, as it often takes to manage these competitions under some old rules, they say you ought to be able to do it in 12 months. That is common sense where I come from, and it is common sense to most people. This amendment, though, wants to shut it down. The amendment wants to block the Committee on Government Reform. It wants to block savings for the taxpayers.

Mr. Chairman, I oppose this bill and I ask other Members to oppose the amendment also.

Mr. Chairman, I reserve the balance of my time.

Mr. VAN HOLLEN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman for yielding me this time, and I do have to comment that I think this amendment does not want to shut down the process that the gentleman from Oklahoma talks about. In fact, he wants to revise the 2003 process to make improvements that have already been recommended by the General Accounting Office, that have been recommended by congressional lawmakers and, in fact, have been recommended by the Office of Management and Budget from the administration. It is an opportunity for them to get it right.

This amendment would give lawmakers in the OMB an opportunity to revise this privatization process along the lines that Congress has already done in the other instances that my colleague from Maryland has mentioned. So it is not a process of shutting it down, but it is a process of hoping that it will be done fairly and will get the taxpayers the best solution and also treats the Federal employees fairly on this.

This administration has been relaxing health and safety protections, has been scaling back overtime rules, and has been enacting new regulations designed to weaken unions. This administration has been, in fact, waging an all-out assault on the American worker. And now they are shifting it over, to make matters worse, and extending those attacks on the benefits and protections of workers who have chosen public service as a career.

Those people who pursue a career in Federal Government are one of the greatest resources that we have and they are some of the very best in this country. They make our system work and they do their job with skill and, many times, without any recognition. Mr. Chairman, there has been no good reason and no evidence of poor performance to lead this attack on the Federal workforce and no reason to have it come under assault on that basis.

We can have the competition people talk about if it is done properly and it is done on a level playing field. The President has already attempted to curtail the collective bargaining rights of some 180,000 workers in the Department of Justice and in the Department of Homeland Security and threatening to do it in the Department of Defense.

In addition to those legislative reforms, there are proposed revisions in the regulations about outsourcing to private contractors, even trying to redefine the type of work to be considered inherently governmental.

Without this amendment, the changes will affect too many people in an unfair way. Mr. Chairman, I suggest this is not pragmatic public policy. We ought to move and do what this amendment says we should do. I urge my colleagues to support the Van Hollen amendment.

Mr. VAN HOLLEN. Mr. Chairman, may I inquire about the balance of time on each side?

The CHAIRMAN pro tempore (Mr. THORNBERRY). The gentleman from Maryland (Mr. VAN HOLLEN) has 3 minutes remaining, and the gentleman from Oklahoma (Mr. ISTOOK) has 6 minutes remaining.

Mr. VAN HOLLEN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I rise in support of the Van Hollen amendment to prohibit the use of funds in the Transportation-Treasury and Independent Agencies appropriation bill for fiscal year 2005, which would implement revisions made in 2003 to the Office of Management and Budget's long-standing rules that govern Federal agencies' outsourcing of work.

Given the fact we have lost more than 2 million jobs since 2001, we should present a more thoughtful approach to Federal contracting that is fair to both the Federal and private sectors. I am not convinced that the rush to privatization is a cure-all for all of the workplace issues that we need to deal with. Therefore, I am not sure it is going to necessarily save taxpayers money.

We should accept the Van Hollen amendment. I urge support for it. Let us go back to the drawing board and get it right.

Mr. ISTOOK. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this is not about whether we keep or do not keep jobs in the United States of America. We are going to keep those jobs. The question is: Does certain work within government agencies have to be performed by a government worker or do they have the ability in a government agency to find the best deal for the taxpayers; the most effective and economical way to accomplish the task?

If it is cheaper to pay a private service to do some work that otherwise you would have to hire a government worker to do, why not hire that private service? Look about us, businesses that have proliferated, for example take the copying business, things like FedEx, Kinkos, and the UPS stores, who do copying over and over. Because they do the same thing and they do it repetitively, for that reason it costs everybody less. Are my colleagues telling me that if we have a big load of copying to do in a government office, and believe me, that happens all the time, are we saying the only way we should be permitted to do it is with a government copying machine, with a government worker standing at that, rather than sending it out where the same thing can be done for less and done quicker and cheaper?

That is a simple example, but it makes the point. There are lots of things the Federal Government does that do not need to be done by the Federal Government. They do not involve people interpreting Federal laws, they do not involve people making a judgment call, they are not law enforcement issues, they are not privacy issues, and they are not confidential information. They are just everyday things that can be done in the private sector as well as in the government sector.

If we competitively source those and give other people the chance to do it, what is wrong with that? What do some people say is wrong? Well, for goodness sakes, then it is not done by somebody that is a member of that government workers' union. And that is the essence of the challenge. That is what the amendment is about. Let us save the taxpayers money and vote against the amendment.

Mr. VAN HOLLEN. Mr. Chairman, I yield myself the balance of my time.

Let me just say that this amendment is not, with due deference to the subcommittee chairman, about whether competitive sourcing is a good idea or not, or whether we are going to continue to do competitive sourcing. We have, as a U.S. government, done that, we will continue to do that, and it is a good thing when it is done in a fair and balanced manner. That is what this amendment is about.

I would ask the subcommittee chairman why he would object to a provision that says when we do competitive sourcing the contractor seeking the work has to show that they are going to save taxpayers money. That is one of the things this House has included in appropriation bills that have passed this year, so we can make sure the taxpayer gets a better deal. That is not part of the existing rules.

I would ask the subcommittee chairman why the Committee on Appropriations in this House have already passed four different bills through this House this year, one signed by the President, that already changed the contracting-out rules with respect to certain agencies to make the process more fair? That is what this amendment is about.

This amendment is designed to make sure we have a more even playing field, that we are not here in Congress trying to correct the unfairnesses every year, but we send OMB back to the drawing board, have them use the old rules until they establish a new set of contracting-out, competitive-source rules that are fair to Federal and Government employees, fair to contractors, and get a good deal for the taxpayer.

Mr. Chairman, I urge adoption of the amendment.

Mr. ISTOOK. Mr. Chairman, I yield the balance of my time, which I believe is 4 minutes, to the gentlewoman from Tennessee (Mrs. Blackburn).

Mrs. BLACKBURN. Mr. Chairman, I rise to speak against this amendment. The amendment would eliminate many of the contract reforms that we have worked so hard, so very hard to pass in order to increase the efficiency of government operations.

Contrary to statements of supporters of this amendment, competitive outsourcing is not outsourcing or privatization. I do not know why the supporters of this amendment oppose demanding the most for our taxpayer dollars because that is what we are doing when we talk about competitive sourcing. These contracting reforms create an environment where Federal employees can compete against each other and the private sector to provide services for the government. This is much of what our the government reform efforts are about in this Congress.

Competitive sourcing allows the commercial functions of the government to be contracted out to whomever offers the best deal for the taxpayer. That is called getting the most bang for your buck.

Mr. Chairman, that is what my constituents constantly talk about, is having government work efficiently, having it meet our needs, and having it do so making the best possible use of that taxpayer dollar; being the best steward that we can possibly be of the taxpayer dollar.

□ 1615

If this body adopts the Van Hollen amendment, the progress we have made in eliminating waste in the Federal bureaucracy, much of that will be undone and millions of taxpayer dollars will be spent needlessly. We cannot allow this to happen. We are on the road to making some great strides in reforms.

I urge my colleagues who are serious about having an efficient and effective government, a smaller government that serves the needs of the American people, to vote against the Van Hollen amendment.

The CHAIRMAN pro tempore (Mr. Thornberry). The question is on the amendment offered by the gentleman from Maryland (Mr. Van Hollen).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. VAN HOLLEN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Maryland (Mr. Van Hollen) will be postponed.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of engaging in a colloquy with the gentleman from Massachusetts (Mr. Tierney) regarding disposal of Federal property in the town of Nahant in Massachusetts.

Mr. TIERNEY. Mr. Chairman, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, I thank the ranking member for the opportunity to discuss an issue that is critical to my constituents in Nahant, within the Sixth Congressional District of Massachusetts.

One hundred years ago, the Coast Guard seized land from the town of Nahant for the purpose of stationing military personnel. While some of that land was returned in 1954, the town has remained interested in reacquiring the remainder of the parcel located in the Castle Road, Goddard Drive and Gardner Road area. Recently, to address housing needs elsewhere in New England, the Coast Guard decided to sell this property through the General Services Administration. Unfortunately, despite over 50 years of positive relations and Nahant's express interest in purchasing the land, the Coast Guard did not inform the town of that decision.

I became involved to help facilitate a solution that was agreeable to all parties. After a series of meetings and discussions, the General Services Administration and the town of Nahant agreed in principle that the 12 housing units will be conveyed to the town for an amount of $2 million.

Since then, Nahant has convened a special town meeting and approved the $2 million for the purchase of the land. This agreement is moving toward a satisfactory conclusion, but specific legislative language is necessary to codify the sale.

That language, developed in collaboration with and which has the full support of GSA, the Coast Guard, the town of Nahant and the gentleman from Minnesota (Mr. Oberstar), chairman of the Subcommittee on Economic Development, Public Buildings, and Emergency Management, was crafted and accepted in the version of this bill which this subcommittee and the Committee on Appropriations reported last month.

I thank Members for their support of this provision throughout the subcommittee's consideration of the bill. Additionally, I would like to point out, this sale generates $2 million in revenue for the Federal Government. I understand that we cannot get this in the UC list coming up, but I ask for Members' continued support for this as this bill goes to conference.

Mr. OLVER. Mr. Chairman, I completely agree with the gentleman from Massachusetts (Mr. Tierney) on the particulars of this legislation. I thank the subcommittee chairman for showing that he actually agrees with this as well by the fact that we have included section 410 at each stage in the appropriations process.

However, section 410 was one of many important provisions which should have been and under normal circumstances would have been protected under the rule by which we are debating this legislation, but it was struck on a point of order.

The gentleman from Massachusetts (Mr. Tierney) has made urgency for action in this matter very clear. I give the gentleman my full support.

Mr. Chairman, I ask that the gentleman from Oklahoma work with me to include this provision in the final version of the bill.

Mr. ISTOOK. Mr. Chairman, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, I commend the ranking member and the gentleman from Massachusetts (Mr. TIERNEY) for their leadership on this issue. Throughout my time in Congress, of course, I have been a strong supporter of establishing fair market rate for the disposal of excess Federal real property, and I believe the provision we had in this bill accomplishes that. It is unfortunate that under our parliamentary procedures it was stricken on a point of order.

I do agree this sale actually generates revenue for the Federal Government, the $2 million. I understand the concern of the gentleman, that the town has moved forward approving the funds, and I want this resolved in a manner that does not jeopardize that agreement.

I pledge to work with the gentleman from Massachusetts (Mr. TIERNEY) and the gentleman from Massachusetts (Mr. OLVER), the ranking member, as we move through conference to be able to reinstate this provision.

AMENDMENT OFFERED BY MS. NORTON

Ms. NORTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. NORTON:

Page 166, after line 3, insert the following:

SEC. 647. None of the funds made available in this Act may be used to enter into or renew any contract under chapter 89 of title 5, United States Code, for a high deductible health plan that does not require enrollees to remain enrolled in such plan for at least 3 consecutive years from the date of initial enrollment.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentlewoman from the District of Columbia (Ms. NORTON) and the gentleman from Oklahoma (Mr. ISTOOK) each will control 5 minutes on the amendment.

The Chair recognizes the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I yield myself such time as I may consume.

This amendment, I think, could be a win/win for both sides. It protects the Federal Employees Health Benefits Plan while allowing health savings accounts to proceed. My amendment is necessary to preserve the FEHBP.

Surely Members have heard from millions of retirees from across the country who are terrified of health savings accounts, and let me tell Members why.

My bill would allow the health service accounts to proceed putting only enough restrictions on them to keep people from gaming the system, and the way it is set up now, that is what people are encouraged to do. What will happen if health service accounts go into effect the way they are now proposed is that people are encouraged to stay in a health savings account so long as they can anticipate low health care costs. If that is how you anticipate it, you are in. But the moment you know, you anticipate a more major procedure, you are going to get out and get back into the FEHBP, leaving those who must be in the plan, like retirees throughout the United States, paying more.

So what would I do, put a 3-year time limit on it. This is in keeping with how the FEHBP works now. You cannot get out of your plan any time you want to; you have to wait until open season which comes every year. When we are putting the entire system at risk, as this would do, it says you have to be in 3 years so you do not game the system and cost those who must be in the system more money.

The FEHBP is touted as the best plan in the country for a good reason. It has a huge pool of the healthy and not-so-healthy. We spread the burden, we share the rewards. Break up the pool, we destroy the system. Now who is likely to leave? Members can figure it out for themselves: the young and the healthy. That is why the Federal retirees are wiring Members saying: Do not do this to us. Remember the 17 percent increase in Medicare they just had. It is bad enough the increased health care costs we are getting. We know that the young and healthy are going to leave us, not to mention many others who will just take the chance, many of them families, because health care costs are rising so much they will take the chance and may be left in a terrible position when, in fact, they need a traditional response from their insurer.

This is not speculation. I am citing the largest county in Idaho. It is unusual because it is one of the few public employers which allowed health service accounts. Immediately, within the year, premiums rose. So they were in it not a year and got out of it. Their broker said, you have to use health service accounts for everybody or no health service accounts. The hybrid does not work. The mixed system leaves those left holding the bag while others get out of the system when they think it is to their advantage, jumping out when it is to their advantage, jumping right back in when it is not.

I am concerned about healthy young families because they are going to get out because they are trying to save money anywhere they can. We have testimony from people in Idaho who say, if they knew then what they know now. A young person who broke his ankle had been in the health savings account, was left with that huge deductible, he ended up paying the whole thing because you never know. If you never know and you are young, you take the chance. If you are middle-aged or a retiree and in the FEHBP, you will not take the chance, but you will end up paying more in premiums, destroying the very basis for the FEHBP.

I am saying we defeated the notion there should be no health services accounts. My amendment is not going to protect what we have now in the FEHBP. There is going to be an adverse effect. At the very least, the responsible thing to do is to use the Idaho experience, limit the adverse effect by saying fair is fair. You win here and save money, and you are in here for 3 years so you do not leave our families with higher premiums because you can afford to game the system, jumping in when you think it helps you and jumping out when it does not help them.

Mr. Chairman, who can blame them. This is the kind of calculation people make when they want to save money. But the FEHBP should not be destroyed because we have blindly walked into health service accounts ignoring the existing experience. The way to have both, to do a win/win, is to support my amendment.

Mr. ISTOOK. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the FEHBP is successful because it offers opportunity to Federal workers to choose among a variety of plans, to pick which one best meets their needs. It also is successful because when you make that choice, it is not permanent. Annually there is an open season. If workers have gotten into a plan that does not meet the needs of their family the way they desire, they can change every year.

The gentlewoman's amendment says, for certain plans, workers do not have that option. They have to lock themselves in for 3 years. It is a way of killing a type of plan, and we should not do it.

Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, I rise in opposition to the Norton amendment. Just a few minutes ago, I was here on the House floor arguing about a pension issue because employees were not given a choice. The essence of the Norton amendment is to not give Federal employees this choice.

The idea that Federal employees and public employees in general do not want to have the choice of a health savings account is simply not true. It may not work as we think it will. I have heard of the study in Idaho, but I have also heard studies from private employers that these programs provide as good or better quality health care, and they do something we must do, they save money.

But do not take my word for it. Public employees in the State of Minnesota have studied these, and they want access. I have letters, and I will submit them for the RECORD, from the Minnesota Teamsters Local 320, Minneapolis Police Relief Association, Minnesota Firefighters' Relief Association, Minnesota State Retirement System and from the Public Employees Retirement Association in the State of Minnesota representing over a quarter of a million people in Minnesota, public employees, who want to have access to health savings accounts.

Will they work as well as some people think they will, we do not know. But putting this as part of the Federal Employees Health Benefits Program is one way to find out. The Norton amendment is one small step in chipping away at the option that Federal employees ought to have to find out whether health savings accounts work as well as many of us believe. Public employees from the State of Minnesota have studied this issue. They want to have that opportunity. We should not deny that opportunity for Federal employees.

MINNESOTA TEAMSTERS PUBLIC &
LAW ENFORCEMENT EMPLOYEES'
UNION, LOCAL NO. 320,
Minneapolis, MN, July 1, 2004.

Congressman GIL GUTKNECHT,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: We are writing to you seeking your continued leadership in addressing Health Savings Accounts (HSA's). As you are well aware, in the 2003 Medicare Act, individuals over the age of 65 were excluded from participating in the newly created HSA's.

It is important that not only do the changes to the Medicare Reform Act of 2003 include participation for those over age 65 in the HSA's but the language which ties Medicare ineligibility to HSA participation must also be removed. HSA participation would provide a very modest way in which our over 65 retiree's could tax defer some of their financial resources.

Our public safety retirees put in their time and duty and had planned on living out their retirement years with not having to face financial difficulties. However, health care costs for those over 65 years of age have increased dramatically over the last decade. Supplemental insurance to Medicare can cost a retired couple up to $8,000 per year.

We strongly encourage you to work with other members of Congress and the Bush Administration to correct his discrimination against our retirees.

Again, thank you for all your support and past leadership in the HSA's. Please continue to assist us in this battle for affordable health care.

Sincerely,

SUE MAUREN,
Secretary-Treasurer,
Teamsters Local #320.

MINNEAPOLIS FIREFIGHTERS'
RELIEF ASSOCIATION, PENSION FUND,
Minneapolis, MN, July 6, 2004.

Congressman GIL GUTKNECHT,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: We are writing to you seeking your continued leadership in addressing Health Savings Accounts (HSA's). As you are well aware, in the 2003 Medicare Act, individuals over the age of 65 were excluded from participating in the newly created HSA's.

It is important that not only do the changes to the Medicare Reform Act of 2003 include participation for those over age 65 in the HSA's but the language which ties Medicare ineligibility to HSA participation must also be removed. HSA participation would provide a very modest way in which our over 65 retirees could tax defer some of their financial resources.

Our Firefighter retirees have dedicated their lives to serving the public and planned on living out their retirement years with not having to face financial difficulties. However, health care costs for those over 65 years of age have increased dramatically over the last decade. Supplemental insurance to Medicare can cost a retired couple up to $8,000 per year.

We strongly encourage you to work with other members of Congress and the Bush Administration to correct this discrimination against our retirees.

Again, thank you for all your support and past leadership in the HSA's. Please continue to assist us in the battle for affordable health care.

Sincerely,

WALTER C. SCHIRMER,
Executive Secretary.

MINNEAPOLIS POLICE
RELIEF ASSOCIATION,
Minneapolis, MN, June 30, 2004.

Congressman GIL GUTKNECHT,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: We are writing to you seeking your continued leadership in addressing Health Savings Accounts (HSA's). As you are well aware, in the 2003 Medicare Act, individuals over the age of 65 were excluded from participating in the newly created HSA's.

It is important that not only do the changes to the Medicare Reform Act of 2003 include participation for those over age 65 in the HSA's but the language which ties Medicare ineligibility to HSA participation must also be removed. HSA participation would provide a very modest way in which our over 65 retiree's could tax defer some of their financial resources.

Our public safety retirees put in their time and duty and had planned on living out their retirement years with not having to face financial difficulties. However, health care costs for those over 65 years of age have increased dramatically over the last decade. Supplemental insurance to Medicare can cost a retired couple up to $8,000 per year.

We strongly encourage you to work with other members of Congress and the Bush Administration to correct his discrimination against our retiree's.

Again, thank you for all your support and past leadership in the HSA's. Please continue to assist us in this battle for affordable health care.

Sincerely,

RICHARD M. NELSON,
Vice President.

MINNESOTA STATE
RETIREMENT SYSTEM,
Saint Paul, MN, July 26, 2004.

Congressman GIL GUTKNECHT,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: I want to thank you for your leadership in establishing Health Savings Accounts for those under age 65. I strongly encourage you to support similar accounts that would be valuable for retirees age 65 and over.

As you know, rising health care costs and prescription drug costs have made it difficult, if not impossible, for many people to afford adequate health care coverage. Health Savings Accounts would provide a modest and extremely effective way to help pay for these costs.

On behalf of the 50,000 state employees and 23,000 benefit recipients covered by the Minnesota State Retirement System (MSRS), I encourage you to work with members of Congress and the Bush Administration to provide Health Savings Accounts to all retirees.

Again, thank you for your support and leadership on this and your attempts to lower prescription drug costs.

Sincerely,

DAVID BERGSTROM,
Executive Director.

PUBLIC EMPLOYEES RETIREMENT
ASSOCIATION OF MINNESOTA,
Saint Paul, MN, July 20, 2004.

Hon. GIL GUTKNECHT,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: The Public Employees Retirement Association (PERA) of Minnesota is seeking your continued leadership in addressing the issues associated with the Healthcare Savings Accounts (HSA). As you are well aware, with the enactment of the 2003 Medicare Act, individuals over the age of 65 were not included for participation in the newly created accounts.

Important to our participants—150,000 of whom are currently working local government employees and about 60,000 of whom receive monthly benefits from PERA—is ensuring not only a change in the Medicare Reform Act of 2003 to include the availability of the HSA to individuals over the age of 65, but also removing the language which ties Medicare ineligibility to HSA participation. HSA participation would provide a very modest way in which our over-age-65 retirees could defer taxes on some of their financial resources.

Our public safety retirees typically retire earlier than other public employees due to the physical and emotional stresses associated with their positions. Due to the earlier retirement, many begin paying their health insurance at younger ages, hoping to live out their retirement years without having to face financial difficulties. The HSA will help these early retirees until age 65, but as you know health care costs for those over the age of 65 are rising at a significant rate. Supplemental insurance to Medicare can cost a retired couple up to $8,000 a year. Losing the availability of the HSA at age 65 will prove ever more burdensome to individuals on limited retirement incomes.

We strongly encourage you to work with other members of Congress and the Bush Administration to advance legislation that is fair to retirees of all ages.

Again, thank you for all of your support and the leadership you have demonstrated in enacting the HSA legislation thus far. We look forward to your continuing assistance in this battle for affordable health care.

Sincerely,

MARY MOST VANEK,
PERA Executive Director.

Mr. ISTOOK. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Chairman, I rise in opposition to this amendment.

First of all, this concern was already addressed in this plan design. The gentlewoman from the District of Columbia (Ms. NORTON) says this is going to have a huge adverse selection, that all of the wealthy and all of the healthy Federal employees are going to run to these health savings accounts, and we are going to have a death spiral in the Federal employee health benefits situation.

Number one, all of the data that is coming out that is bearing fruit from the imposition of HSAs are proving that to be untrue. What we are finding out is the opposite is happening. Older folks and people with more health risk profiles are those who are buying health insurance.

Mr. Chairman, 42 percent of the people who have bought HSAs this year, according to eHealthInsurance, are people who did not have insurance.

□ 1630

Fifty-six percent of the people who bought HSAs are people over the age of 40 years old. We are finding that this is a good tool for people who are the very people who are vulnerable in our system. But more importantly, just in case there was concern that there was any legitimacy to this claim, the folks at OPM devised this system so that the premiums are basically the same as any other premium, so that they do not have a big, tiered premium, so that they have a huge discount on these higher deductible HSA plans versus other traditional plans within the Federal Employee Health Benefit Plan, so they will not have that drain.

But more importantly, what this amendment does is it denies Federal employees choices. It takes one product that they now have as a choice, an option, and say they have got to take it or leave it for 3 years; for 3 years this is all they can have. They cannot participate in open season like they always could, like the other people in the Federal Employee Health Benefit Plan, but it does not apply these limits to the rest of the programs.

So we are saying to all these Federal employees we have this new option, a choice, with premiums very similar to all the other options and choices. They can have it, but they have got to take it for 3 years. That is denying flexibility and choice that we have come to enjoy and appreciate in the Federal Employee Health Benefit Plan.

I urge rejection of this amendment. Adverse selection is not occurring with these products.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when we want fair competition, we try to make an equal playing field. If they have a horse race, they try to make sure that each horse is carrying the same burden. They weigh the jockey, they weigh the saddle, they wear the gear; and if they are not the same, they add extra weight to some people so that they are all carrying the same burden.

The gentlewoman from the District of Columbia's (Ms. NORTON) amendment wants to make sure that one type of health care plan does not have fair competition. They say to them, you carry an extra couple of hundred pounds. That is not right. If we want people to have a fair choice and to determine what plan is right for them and their family, they should be able to choose it.

I ask people to reject the amendment.

Mr. SAM JOHNSON of Texas. Mr. Chairman, this debate is about freedom.

Participants in the Federal Employee Health Benefit Program are armed with the ability to leave any given plan at the end of the year if they aren't satisfied with the care, customer service or cost of their coverage.

And that choice is what creates the incentive for health plans to offer good plans.

Ms. NORTON's amendment would bind employees who choose high-deductible plans to a three-year commitment, for fear of something called "adverse selection."

And you know what, that's a valid concern.

But it is a concern that has already been addressed by the Office of Personnel and Management—the folks who run our F.E.H.B.P.

The O.P.M. has vowed to keep premiums for standard plans and high-deductible plans very close to each other—maybe the difference of a dollar or two.

So employees will not be choosing HSA's because of their lower premium.

And as long as that's the case, there is no need to lock them into a three-year contract.

That completely undermines the foundation of the program: Choice!!

Last week we debated whether Federal employees deserve the option of HSA's and the House vote said that they do—let's give them that option without any strings attached—I urge a no vote.

The CHAIRMAN pro tempore (Mr. THORNBERRY). The question is on the amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Ms. NORTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON) will be postponed.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the President's request for the Treasury Department in this year's budget included a $400 million increase focused on initiatives in the Tax Law Enforcement Bureau. The budget we have before us today cuts nearly three quarters of the President's requested initiative. That, of course, is a prerogative of this Congress, but I think we should examine carefully the inevitable result of making such a deep cut from the President's budget request.

Commissioner Everson of the IRS, in sworn testimony, pointed out that the tax gap, which is defined as the difference between total taxes owed to the Treasury under the provisions of law and what is actually paid into the national Treasury by all filers, both individual and corporate, the tax gap has grown to a minimum of $250 billion each and every year. Now, $250 billion unpaid each year in taxes represents a major part of the yearly deficit which we are accruing and passing off to be paid by our children.

The Commissioner went even further, pointing out that the $250 billion estimate came from studies which from several years ago is almost certainly low and is probably $300 billion per year now. As large as that $250 billion or $350 billion yearly tax gap is, and we have to understand that $1 out of roughly $7 owed in taxes under the law is not paid by those who do not file, who underreport or otherwise evade the legal payment of the taxes owed, the most startling part of Commissioner Everson's testimony under oath, again I say, was his statement that the percentage of Americans who think it is okay to cheat on their taxes has increased from 11 percent to 17 percent in just a few years.

Commissioner Everson stated that two thirds of the new enforcement dollars requested would be devoted to "attacking abuses by high-income taxpayers and corporations and increasing criminal investigations."

Under further questioning, he stated that each dollar expended on added enforcement personnel would yield on average a direct $6 increase in payment of tax owed, but the added enforcement activity would begin to reverse the trend toward a higher percentage of people not paying the taxes owed under the law and in that way be able to reduce the tax gap dramatically.

Mr. Chairman, ours is a tax system that rightly depends largely on voluntary compliance. When a tax gap rose to the point where $1 out of every $7 owed under the law is evaded by nonfiling or systematic underreporting of income or use of illegal tax schemes and shelters, then the vast majority of honest taxpayers pay in taxes what they owe under the law. The vast majority of honest taxpayers are paying 15 percent higher in taxes than they owe while another group pays none or less than they owe under the law. Such obvious unfairness in the system breeds cynicism and contempt broadly among the citizenry, and we should not in this House be complicit in that unfairness.

Mr. Chairman, at this time I had intended to offer an amendment to add

$286 million to the tax law enforcement account under the Treasury Department, thereby restoring full funding to the President's request for tax law enforcement in the Treasury Department. But given that this House has already stripped $41 billion from this legislation, including Federal highway grants to States, airport improvement grants to local communities, essential air service grants for rural airports, transit formula grants for States and funding in major capital investment projects, and highway traffic safety grants to the States, this is not the day to offer such a commonsense amendment.

AMENDMENT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. STENHOLM:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds appropriated by this Act may be used by the Secretary of the Treasury to implement, pursuant to sections 8348(j)(1) and 8348(l)(2) of title 5, United States Code, any suspension of issuance of obligations of the United States for purchase by the Civil Service Retirement and Disability Fund, to implement, pursuant to sections 8438(g)(1) and 8438(h)(2) of such title, any suspension of issuance of obligations of the United States for purchase by the Thrift Savings Fund for the Government Securities Investment Fund, or to implement, pursuant to section 8348(k)(1) of such title, any sale or redemption of securities, obligations, or other invested assets of the Civil Service Retirement and Disability Fund before maturity.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentleman from Texas (Mr. STENHOLM) and the gentleman from Oklahoma (Mr. ISTOOK) each will control 10 minutes.

The Chair recognizes the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I yield myself 3½ minutes.

Mr. Chairman this is a very simple amendment to restore a little bit of accountability and honesty around here about our fiscal policies. My amendment would prohibit the Secretary of the Treasury from dipping into retirement trust funds in order to circumvent the statutory debt limit.

The effect of my amendment would be to force Congress to take responsibility for the increase in the national debt by approving an increase in the debt limit before adjourning in October instead of deferring action until a lame duck session. There would be no risk of default if Congress met its responsibility to approve an increase in the debt limit before we adjourn for the election. The Treasury Department has repeatedly warned Congress that we are approaching the debt limit and need to increase it above its current level of 7.384 trillion.

Just 3 years ago, the administration stated that we would not need to raise the debt limit for 7 years and actually warned that we were in danger of paying off our debt too quickly. After 3 years of our current economic policies, projected surpluses have turned into record deficits; and we are being asked to increase the debt limit for the third time in 3 years to more than $8 trillion. But instead of taking responsibility to pay for the debt that we have run up as a result of our policies, the Republican leadership is relying on the Treasury Department to protect them from having to take this vote before the election by dipping into retirement trust funds to avoid breaching the statutory debt limit until mid-November.

When Treasury Secretary Rubin took these extraordinary actions as a last resort to avoid an imminent default during a crisis, he was loudly criticized by Republican leaders in Congress. The Republican majority in Congress passed legislation which would have taken these tools away from him, and some Republicans in Congress called for his impeachment. Today, instead of criticizing the Treasury Department for planning to dip into retirement trust funds, Republican leaders are actively encouraging the Treasury Department to take these same steps as a routine action used for political convenience.

It would be irresponsible to take funds from retirement trust funds simply to avoid a discussion of the fiscal problems highlighted by the need to increase the debt limit. Instead of honestly facing up to our ballooning national debt, the leadership of this body is talking about bringing up legislation this week that would add another $130 billion to that debt.

We should not pay for tax cuts by borrowing money against our children's future. Congress should be required to sit down and figure out how to make things fit within a budget just like families across the country do every day. I would say to my Republican colleagues that if they honestly believe that tax cuts with borrowed money is good economic policy, if they believe that deficits do not matter, they should be willing to stand up and vote openly and honestly on this floor to increase the credit card limit for our country to make room for those cuts.

There would be no need for these maneuvers to avoid a vote on the debt limit if the leadership were willing to work with us to stop the increase in deficit spending. The Blue Dog Democrats will gladly supply bipartisan support for an increase in the debt limit if it is accompanied by meaningful budget enforcement provisions, including the pay-as-you-go rules that were instrumental in turning budget deficits into surpluses in the 1990s. But we will not vote to approve a blank check that will allow the Government to continue runaway deficit spending.

If my colleagues on the other side of the aisle want to continue with our current economic policies that have us on a path of running up more than $10 trillion in debt, it will be up to them to provide the votes. We will work with them if they will work with us.

Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I certainly appreciate the good intentions of the gentleman from Texas. He and I both share a great concern about the national debt, about the challenges of having a budget that is not balanced as it should be in normal times, certainly in peacetime. However, this particular amendment does have problems.

The amendment is not necessary to make sure that we have protection for existing trust funds. And I want to refer to some papers we have been provided by the Treasury Department, and I will recite from those for Social Security.

For the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, i.e., the Social Security trust funds, that are specified in the proposed amendment, there is existing law, namely title 42 of the U.S. Code, section 1320b-15, that already prohibits any officer or employee of the United States from delaying the deposit of any amount into, or delaying the credit of any amount to, any such trust fund or otherwise varying from the normal terms, procedures, or timing for making such deposits or credits.

That existing law also prohibits them from refraining from the investment in public debt obligations of amounts in any such trust fund or from redeeming prior to maturity amounts in any such trust fund which are invested in public debt obligations for any purpose other than the payment of benefits or administrative expenses from any such trust fund. We do not need the gentleman's amendment to protect the Social Security trust fund.

Secondly, again, proceeding with the information from the Treasury Department for another trust fund, for the Civil Service Retirement and Disability Fund and the Government Securities Investment Fund, existing law, namely title 5 of the U.S. Code, section 8348(j)(3) and (4) and title 5 of the U.S. Code, section 8438(g)(3) and (4), these already require Treasury at the end of a debt limit impasse to restore those trust funds to the financial position they would have been in if Treasury exercises the authorities given by Congress to suspend investment or make early redemptions of investments of the CSRDF or of the G fund.

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Then for the Department of Defense Military Retirement Fund, the Unemployment Trust Fund, the Department of Defense Education Benefits Fund, the Post-Vietnam Era Veterans Education Fund and the Black Lung Disability Trust Funds, which are specified in the proposed amendment, there is no history that Treasury has ever delayed deposits into or has ever suspended investment or redemption of investments early in those trust funds during debt limit impasses.

The amendment is not necessary to safeguard trust funds. It is not necessary to handcuff the Treasury Department in the management of the national debt. It is necessary that we take steps to control Federal spending and to move toward balancing the Federal budget. But this amendment is not necessary.

I thought it important that someone stands up and recite this information from the Treasury Department to make that case of the lack of a need for this particular amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. STENHOLM. Mr. Chairman, I yield myself 1 minute to respond to the chairman.

I will say that everything he has said is 100 percent the truth. We did not mention Social Security. I deliberately did not mention Social Security because that is not the issue here. Everything the gentleman said in the letter from the Treasury is the truth. That is not the point of our amendment.

The point of our amendment is to have an up or down vote by this body to assume the responsibility, rather than allow, under the law, the Secretary of the Treasury to manipulate the funds in a legal way to avoid having a vote on this floor prior to November 2, to have an assumption of the responsibility of the fiscal matters of this country. That is all I am asking.

The chairman is exactly right: We do not need this. If he would assure me that we will have a vote, and since both of us agree on a balanced budget constitutional amendment, this is helpful to those of us like you and I, Mr. Chairman, that want to bring fiscal accountability. That is all we are asking. Let us not confuse this issue with anything other than a clear, plain, up and down vote of expression.

I have already offered on behalf of a substantial number of Democrats to support an up or down vote, if you will put some budget enforcing accountability back into our process.

Mr. ISTOOK. Mr. Chairman, I reserve the balance of my time in order to close.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank the gentleman for offering this amendment. I thank him for his extraordinary leadership on the issue of fiscal responsibility in this country.

My presumption is that every conservative in the House of Representatives will vote for this. The President talked about who is conservative and who is liberal. It is conservative to be fiscally responsible.

Like the gentleman from Texas, I have supported a constitutional amendment for a balanced budget. I am for investing in programs that I think help America, but I am for spending money that we have, and I am not for spending money that we do not have.

Quite simply, his amendment would force our Republican friends to come to grips with their irresponsible fiscal policies. They talk about balancing the budget, but they have not had a bill vetoed by this President that spent more money than we had, period; not one, not ever. And they are going to spend all of Social Security funds, they are going to spend all of the money that they borrow.

Just two months after taking office, President Bush promised the American people, "We will pay off $2 trillion of debt over the next decade." He explained, quoting again, "Future generations should not be forced to pay back money that we have borrowed."

Amen, Mr. President. Why do you not practice what you preach?

Well, Mr. Chairman, the President and Congressional Republicans have run rough-shod over that rhetoric. They did not pay down the debt in 2002; they increased the debt limit by $450 billion. They did not pay down the debt in 2003; they increased the debt limit without a straight up or down vote, which they always demanded when they were in the minority, they increased it by $984 billion.

When I came to Congress, the entire debt from 1789 to 1981 was $985 billion, just $1 billion more than we raised it last year alone. Now the Treasury Secretary is back for more. He warns that the national debt will exceed the statutory debt limit, now $7.384 trillion, later this month or in October. As a result, our Republican friends desperately want the Treasury Department to temporarily dip into the retirement funds of Federal employees to avoid breaching the debt limit, for which they wanted to impeach Bob Rubin. What short memories they have.

Very simply, Mr. Chairman, the Stenholm amendment would prohibit the Secretary from doing that.

Mr. Chairman, the Republican party can run, but it cannot hide, from the debt disaster that its economic policies have caused. None of us will allow the United States to default on its obligations; none of us. But let us show some courage. If the debt limit must be increased, we should vote on it in the open, up or down.

I urge my colleagues to vote for the Stenholm amendment.

Mr. STENHOLM. Mr. Chairman, who has the right to close?

The CHAIRMAN pro tempore (Mr. THORNBERRY). The gentleman from Oklahoma (Mr. ISTOOK) has the right to close.

Mr. STENHOLM. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentleman is recognized for 2½ minutes.

Mr. STENHOLM. Mr. Chairman, I hope everyone caught the significance of the exchange between the chairman and me, because I am not disagreeing with anything that he offered in opposition to this amendment, because what he said is 100 percent true. I hope everyone in this body understands the significance of this side offering the hand of bipartisanship to pass an increase in the debt ceiling, which we must do. If we did not do that, our Nation would default on our good credit, and that is intolerable, unthinkable.

The purpose of this amendment, though, is to try once again to get my friends on that side of the aisle to accept the responsibility for the economic policy that they have voted and revoted and voted and revoted and continue to do, and that is building the debt for our children and grandchildren at a rate unseen in our history of our country.

It took us 204 years to borrow the first $1 trillion. We are about to borrow $19 trillion in a year-and-a-half, and my friends on that side do not seem to care.

We are offering to put back pay-as-you-go for spending and tax cuts to be paid for. It does not mean we cannot cut taxes. In fact, I support repeal of the marriage tax penalty, I support doing the child tax credit. I would like to see it. But I want to see it paid for, not passed on to my three grandsons in debt because it is good politics right before an election.

We are offering sincerely to offer some votes. Bring it up and vote on it. Do not force the Treasury to go through the mechanizations that they will go through just to avoid voting on this prior to November 2.

Mr. Chairman, we are sending alerts, the Blue Dogs, in which we will put in writing our willingness to work with you on doing this, because it is the responsible thing for us to do. But we also think it is responsible for this body in a bipartisan way to begin to actually do something about the deficit, other than talk about it and increase it, as we will do later this week, by another $130 billion, unpaid for.

Our grandchildren do not have a vote. That is why it is so easy for us to say here today we can fight two wars, we can fund homeland security, we can fight the war on terrorism, we can do all of these things, but we are going to send the bill to our grandchildren. We are not willing to pay for it, any of it, today. In fact, even worse, we are willing to decrease the amount of money available to do all of these things.

Mr. Chairman, I ask for an aye vote on this, because it is the responsible thing for this body to do.

Mr. ISTOOK. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from Texas and I are in agreement on a great many things, and I appreciate his pointing that out. I think we both also recognize that the gentleman's intent is to try to force a vote on what is called the statutory debt ceiling and to force a vote before the elections.

Well, we all know that this fiscal year expires September 30. I think it is common knowledge in this town also that with the possible exception of the homeland security appropriation, this current appropriations bill and the other appropriations bills will not be completed before the fiscal year expires September 30. We do not expect most likely those bills will be completed before the election.

Whatever is in this bill is not going to be law by that time. Any instructions to Treasury or anybody else in this bill will not be in law by that time. So we are not accomplishing anything.

But we also should not mistake a vote on the statutory debt ceiling for the votes that actually create the debts of the United States, the spending bills. People argue about the tax cut bills, and I will certainly tell you the tax cuts have done a great deal to stimulate the economy, not only to help people keep more of what they earn, but actually to increase the revenues of the Federal Government by increasing economic activity. We can have that debate another time and place. That is not my point. My point is we are not accomplishing anything in this particular amendment.

Each administration, Republican and Democratic administrations, have had to deal with the challenge of the statutory debt ceiling being set to expire at a certain time or be exceeded. Treasury Secretaries have had to do what they could to make sure the crisis was not created, to make sure that we averted any problems and that the full faith and credit of the United States never lapsed behind our obligations.

That is going to happen again. Those obligations are not going to lapse. But let us not mistake votes upon a statutory debt ceiling for the votes that actually create the debt, which is talking about the level of spending. Let us remember that we have the opportunity, which I expect we will have in the next couple of weeks, to vote on a balanced budget requirement to make sure that in normal times, when we are at peace, in normal times we do have a balanced budget. That will force discipline. That will force controversial votes on this floor. It will require us to exercise self-discipline, to accept our responsibility.

Mr. Chairman, this amendment is not necessary.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. STENHOLM).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. DAVIS OF FLORIDA

Mr. DAVIS of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. DAVIS of Florida:

At the end of the bill, before the short title, insert the following:

SEC. . (a) None of the funds made available in this Act may be used to implement, administer, or enforce the amendments made to section 515.560 or 515.561 of title 31, Code of Federal Regulations (relating to travel-related transactions incident to travel to Cuba and visiting relatives in Cuba), as published in the Federal Register on June 16, 2004.

(b) The limitation in subsection (a) shall not apply to the implementation, administration, or enforcement of section 515.560(c)(3) of title 31, Code of Federal Regulations.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentleman from Florida (Mr. DAVIS) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise to offer an amendment to repeal the administration's recently enacted rule restricting family travel to Cuba.

Today, as the Cuban people are struggling to recover from the devastation of Hurricanes Charlie and Ivan, the Department of Treasury is prohibiting Cuban Americans from visiting Cuba to help their own family members abroad.

On June 30 of this year, the Department of Treasury implemented new restrictions on family travel to Cuba. Cuban Americans are now limited to one 14-day visit with their Cuban relatives every 3 years. Let me say that again. Cuban Americans are now limited to one 14-day visit with their Cuban relatives every 3 years.

This administration has also attempted to redefine the definition of the Cuban family. Cuban Americans are no longer permitted to visit their aunts, uncles or cousins in Cuba.

My amendment would prohibit funds in this bill from being used to implement, administer or enforce these changes made to family travel. A vote in favor of my amendment is a vote to reinstate the previous policy, which allowed Cuban Americans one trip per year under a general license, allowed for additional emergency visits under a specific license, and kept uncles, aunts and cousins where they belong, as part of the family.

Mr. Chairman, let me be clear: This amendment deals exclusively with keeping families together and would not permit unfettered travel. I have seen with my own eyes the cruelty of the Castro regime and have consistently voted against allowing tourist travel to Cuba, because I believe the United States should not unilaterally allow Castro to reap these profits.

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But the United States should also not be in the business of separating families. This new family travel rule undermines families, punishes Cubans on both sides of the Florida straits, and has minimal effect on the government of Cuba.

The Cuban people are talented and ambitious, but under Castro's oppressive rule, they are left with little hope. For many, their only lifeline is the emotional and financial support they receive from relatives in America.

Mr. Chairman, I have spoken with numerous Cuban-Americans in my community, the Tampa Bay area and across Florida who are heartbroken by these regulations. Rufino Blanco, a Korean War veteran from my hometown, had planned to celebrate his 75th birthday with his many first and second cousins in Cuba this summer. When this rule was enacted, he had to cancel his trip. If this rule stays in place, he will probably never see his relatives again.

Last year, Ignacio and Gloria Menendez of Miami traveled to Cuba to help their daughter recover from an emergency surgery. They had already visited Cuba once that year, so they had to apply for a specific license to make the emergency trip. Under the administration's new rule, their daughter would have to fend for herself, because the Menendezes will not be able to see their daughter again for 3 years.

In fact, a Deputy Assistant Secretary at the U.S. State Department summed up the outrageous insensitivity of this rule when he was quoted by Reuters as saying, "An individual can decide when they want to travel once every 3 years, and the decision is up to them. So if they have a dying relative, they have to figure out when they want to travel." How outrageous.

I share the disgust of Simon Rose, whose Cuban-American wife can now only visit her mother once every 3 years. He says these regulations are "a perversion to the family values I grew up with." And then, most recently, we learned about U.S. Army Specialist and Medic Carlos Lazos who my colleague, the gentleman from Massachusetts (Mr. DELAHUNT) will talk about.

Mr. Chairman, in closing, this chamber is constantly celebrating and supporting America's families. We have passed marriage penalty relief and child tax credits. But these sweeping changes on family travel to Cuba were enacted without so much as one hearing in Congress.

Today, we have an opportunity to right this wrong. We have the opportunity to support families who may be divided in geography but not in flesh and blood and certainly not in heart.

Hurricane Charley caused 5 deaths and at least $1 billion in damage in Cuba. It damaged more than 70,000 homes and flattened hundreds of acres of crops. We are still just starting to gather the statistics on the damage caused by Ivan.

How can Congress stand in the way of Cuban-Americans who so desperately want to go to Cuba to help their own flesh and blood, their relatives in the aftermath of this destruction? How can we strip the Cuban people of this support when they have such little hope to cling to?

Mr. Chairman, this body may be divided on whether the United States should allow travel to Cuba for tourism and business reasons, but I hope today we can unite in support of families. I urge my colleagues to set politics aside and vote in favor of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. THORNBERRY). The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) will control 30 minutes.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield myself such time as I may consume.

The President of the United States put a tremendous amount of thought into how to best accelerate a democratic transition in Cuba. The tyranny there, the dictatorship has oppressed the people of that enslaved island for 45 long years. And President Bush has a very strong commitment to do everything possible to accelerate what we know is inevitable, because there is a consensus of opposition within Cuba to, obviously, oppression and dictatorship, but the tyrant has a tremendous amount of personal power based on the fact that he rules with fear, through fear. And President Bush put a tremendous amount of thought into and issued a policy, really the first comprehensive policy on Cuba by the United States in over 40 years, in this 400-page document that he issued and ordered through Executive order, and then implemented its recommendations just a few months ago.

Now, it is a very serious, well-thought-through policy, with various key components. One is to increase the effectiveness of broadcasts, radio and television broadcasts, into Cuba by Radio and Television Martinique to break through the jamming, the embargo, if you will, that Castro maintains on information to the Cuban people. President Bush has even gone so far as to order military aircraft to be used, C–130 aircraft to be used to broadcast television and radio. The jamming is being broken through, and news and information on an increased basis are getting to the Cuban people. That is one element of the President's comprehensive new policy.

The second one is to facilitate increased assistance to the internal pro-democracy movement. Key steps, important steps are being taken in that regard. The head of the United States interests section in Cuba, an extraordinary career diplomat, Jim Cassin, Ambassador Jim Cassin, is doing a great job working with the internal opposition. That also is a serious aspect of the President's new policy.

And the third aspect of the President's policy with regard to accelerating the democratic transition is to reduce the currency that the regime obtains.

Now, what is the objective of our policy, the reason that we have as part of our policy sanctions on the dictatorship in Cuba? It is a three-step goal. Three steps are required for normalization, for the end of the embargo, for aid and assistance: the liberation of all political prisoners, without exception, men and women who are rotting in the totalitarian gulag today, simply because they dream of freedom for their country; the legalization of all political parties, labor unions and the press; free speech, as President Bush likes to refer to that aspect of the goal of U.S. policy, freedom for the prisoners, free speech, and the scheduling of free elections.

Now, that, Mr. Chairman, in a country that for 45 years has been ruled by a totalitarian tyrant who offers to this day harbor, safe harbor, to hundreds of international terrorists as well as countless fugitives from U.S. justice, cop killers, hijackers, drug dealers; a dictator who has engaged aggressively in espionage against the United States, as the FBI will confirm to any Member of this chamber; a regime that has the head of its air force at this time, at this very time, indicted in the United States for murder of unarmed American citizens and the head of its Navy indicted in the United States for drug trafficking.

Now, with regard to that aspect of the President's plan to accelerate a democratic transition that calls for steps to be taken to reduce as much as possible hard currency in the hands of the terrorist state in Cuba, terrorist regime, a reduction in Cuban-American travel to Cuba is part of an important means to getting it accomplished. The dictatorship, just this week, through one of its spokesman, admitted that 25 percent of travel to Cuba and accompanying dollars coming from the United States has been reduced in only the months since the President implemented, ordered the implementation of this new policy. The overwhelming majority, Mr. Chairman, of those affected by the regulations that reduce the amount of travel by Cuban-Americans to Cuba, the amount of those affected directly are in the districts of the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Florida (Mr. MARIO DIAZ-BALART) and the gentleman from Florida (Mr. MENENDEZ) and myself, the Cuban-American members of the United States Congress. It is we, it is we who are accountable in our daily lives when we go to a restaurant, a supermarket, a dry cleaner and at the polls every 2 years, we are accountable to those most affected by the new regulations.

But Cuban-Americans know, and they know very clearly, that freedom never comes free. They also know that the Cuban Adjustment Act in effect treats all Cubans who reach the shores of the United States as political asylees. They know that no other nation's citizens receive that legal treatment and, thus, that with special privileges come special responsibilities.

Political asylees, for example, cannot return to the country from which they sought asylum until the political conditions change in the country from which they sought asylum. Nevertheless, the President's policy permits that Cuban-Americans can return to Cuba, even before the political conditions change there, once every 3 years.

Now, I cannot, Mr. Chairman, I would not pretend to be more expert on the most important issues in each of my colleagues' districts than each of my colleagues. But despite the arrogance inherent in doing so, this amendment says, we know better what is good for Cuban-Americans; we know better what is best for your constituents; we know better than the Members who represent the overwhelming majority of Cuban-Americans in this Congress.

Mr. Chairman, I believe that this amendment is soaked, if you will, in arrogance, and I ask that this body reject it.

Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Florida. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Fort Lauderdale, Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Chairman, I would, actually, in a sense, not dialogue but mention several things in response to my good friend and one of my closest friends in this chamber, the last speaker, that I do not have the good fortune of having been born a Cuban-American, but having represented the district closest to Cuba for 10 years and having over 200,000 Hispanics, tens of thousands, if not more, Cuban-Americans in my district and having just completed a statewide run where at least all democratic Cuban-Americans had the opportunity to vote for or against me, I think I have a feel for Cuban-Americans and their perspective.

But beyond that, I think that, as my good friend also knows, that for over 20 years, I have stood side-by-side with him in doing everything humanly possible to fight the dictatorship. And I think what needs to be clear on this particular issue and this particular amendment today, that this is not the travel ban issue, this is not the embargo issue, where I have stood side-by-side for the last 12 years with my good friend and colleague, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) in fighting, successfully, against many of those who today might be joining me in this amendment with the gentleman from Florida (Mr. DAVIS).

Again, let me just be clear for my colleagues and my friends who are listening, that I have fought for 12 years in this House and for 10 years prior to that as an elected official in the State legislature with my friend and colleague in the State legislature, when we could deal with issues to support freedom in Cuba and for the Cuban people.

But this is a very, very specific and a very narrow issue that I think, in fact, goes against everything that we have fought together for, for over 20 years, and it is a very, very, very specific issue. This is not repealing the travel ban. I would be standing here and rigorously fighting if that proposal were here, as often as I have for 10 years, and would be speaking against it and lobbying against it and working against it rigorously, but that is not what this proposal is about.

This is a very specific proposal that deals with very specific things, only family members and changing the rule today that does not let, or until the President implemented the rule, that does not allow free travel, does not allow free access, does not allow free flow of capital to the dictator. Even that restriction was limited, limited to once a year, limited to emergency situations, true emergency situations, not made-up emergency situations, not going to a dance or graduation, but true emergency situations that have been elaborated on and mentioned earlier today. So there were several restrictions even.

I would say to my colleagues that if we actually look at this in terms of capital to the dictator, I mean these are people who are staying with relatives. This is not staying at five-star or tourist hotels. Let us think about what this actually is. It was a mistake. This policy is a mistake. It was a mistake. It was not a thought-through policy in the specifics in terms of the implementation.

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I urge all of my colleagues, Democrats and Republicans, supporters of the embargo, opponents of the embargo, supporters of the trade ban, opponents of the trade ban to join in the support of this amendment which is narrowly drawn, very specific, to just deal with a very, very humane issue that deals with not taking a stand on what is the best policy, but on the narrow issue, which is a human issue. I can tell you that not only for the Cuban Americans that I have talked to, but for all Americans, this is a position that has close to universal support throughout this country and throughout the State of Florida.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. DELAY), the distinguished majority leader.

Mr. DELAY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, he will take the money. He will take the money. There is no such thing as industry in Cuba or family income or tourism or any other economic term that we understand in this country. The only word that describes the economic policy of Fidel Castro's terrorist regime in Cuba is theft.

Every dime that finds its way into Cuba first finds its way into Fidel Castro's bloodthirsty hands. Every dollar of trade with his country is a dollar of trade with his regime, that vile confederation of sycophant contract-killers that he calls a government. That government exists for one purpose, the oppression of the many for the enrichment of one.

If we lift the trade embargo or the travel ban, and American capital flows into Havana Harbor, he will take the money. American consumers will get their fine cigars and their cheap sugar but at the cost of their national honor.

We will tell four decades of Cuban dissidents, dead or alive, in prison or in exile, that their cause was never quite worth fighting for, that freedom is just another commodity to be auctioned off to the highest bidder.

We will tell both our allies and our enemies that America's moral courage has an expiration date. And we will give credence to the great communist lie that all history is economic. We cannot and we must not say any such thing, Mr. Chairman.

Fidel Castro is a terrorist, a murderer and a thief. He funds and otherwise supports international terrorism and the downfall of American democracy.

He mercilessly oppresses dissent in his country, with the help of a secret police that has been responsible for the murder of more than 100,000 Cubans since he took power in 1959. He is not a leader but a Mafia don, greedy, corrupt and evil.

We are not blind. We know commerce with Cuba means commerce with Castro which means more bullets, more machine guns and torture chambers to satisfy his lust for power. Lifting the embargo and opening American tourism and even this amendment to Castro's prison-island would represent a surrender to evil and provide a successful playbook for every terrorist on Earth. It cannot be done.

History is not all economic, Mr. Chairman. Generations hence will not judge us by our wealth but by our courage. History, true history, Mr. Chairman, is not economic. It is moral. That is the standard by which we will be judged and the standard we should apply in this vote today on these amendments.

I urge all my colleagues to stand with free men the world over and vote no on these amendments.

Mr. DAVIS of Florida. Mr. Chairman, I yield 6½ minutes to the distinguished gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, today we have a very simple choice before us. While it implicates the United States' policy regarding Cuba, at a very fundamental level it is about more, much more than the United States and Cuba. It is about values. Family values.

We hear a lot about family values in this Chamber, about the sanctity of the family and the need to protect and strengthen family ties. Well, today the Davis amendment provides us an opportunity to match that rhetoric with action.

It is a test. It is a test for all of us. It is a test to measure the sincerity and the quality of our commitment to family values. In June, as has been indicated, the White House announced new restrictions on family travel which some have suggested would undermine the Cuban government; but I would submit that it is not going to hurt Fidel Castro. No, no. They will not overthrow him, but they will certainly punish families on both sides of the Florida Straits, in Cuba, and in the United States, because until now, Cuban Americans could travel to Cuba to visit family every year, every single year, bringing assistance to their families to help them survive. Well, not any more.

Now Cuban Americans can only visit the islands once every 3 years and they are allowed to travel even on that one occasion if they get permission from the travel police over there somewhere in the Treasury Department. By the way, they can now only visit certain members of the family. They cannot visit aunts and uncles, nieces and nephews. They do not count anymore. And note well, there are no humanitarian exceptions.

The author of this amendment quoted one of the individuals who was instrumental in crafting this anti-family policy. Deputy Assistant Secretary of State Dan Fisk, and I think it is worthy of repetition. These are his words: "An individual can decide when they want to travel once every 3 years and the decision is up to them." I guess this is freedom of choice. "So if they have a dying relative, they have to figure out when they want to travel."

I ask my colleagues to pause and think about that for a moment. If your mother and father are both ill and dying and they should die within 3 years of each other, you have to make the decision which funeral you are going to attend. Let me suggest that is anti-family. Let me suggest it is immoral. Let me suggest that it is not what America is all about.

Now, some who support this new anti-family policy argue that allow family travel will somehow promote Cuban terrorism. Let us see, family reunification abets terrorism. That is just simply absurd, Mr. Chairman. That is just simply absurd.

I would urge the opponents of this amendment to meet Carlos Lazo, a blow-up of Mr. Lazo is to my right, and tell him he is abetting terrorism. He is a Cuban American who escaped from Cuba some 12 years ago on a raft. Now he is a medic in the National Guard serving in Iraq. When he was home on leave, he could not visit Cuba to see his two sons that are now teenagers. And now he is back in Iraq. Hopefully he will see his sons again. But let us remember that that is a hope because every day he risks his life for his adopted country.

Opponents of this amendment would insinuate that this American hero is abetting terrorism? Come on. That is offensive. Let us be clear, this new policy translates an already-failed policy, because Castro has been there for 45 years, into one that is cruel and heartless, anti-family and anti-American, while today the amendment by the gentleman from Florida (Mr. DAVIS) provides a test for those who speak to family values.

I urge my colleagues to support the Davis amendment.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. MARIO DIAZ-BALART).

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, I am always intrigued when I hear about how the United States and measures that the United States can take to help liberate people who are oppressed is anti-family. I am also very intrigued when I do not hear that the cause of all of the problems that the Cuban people suffer from, it is only one individual and his regime, the Castro regime, the anti-American, terrorist regime.

What is pro-family is helping the Cuban people liberate themselves from that regime. What is anti-family is a regime that has destroyed family, a whole Nation, a whole people. So measures that help that anti-family, pro-terrorist regime, measures that help that regime cannot be called pro-family. They are an anti-American terrorist regime.

I am also frankly rather amused when I see letters. Last year I quoted a letter from a Member of Congress on this floor who just spoke right now, about his concern for Cuban Americans. You see, because let us keep that in mind, this amendment only affects Cuban Americans. That is it. Nobody else. And then this amendment, I guess as we had heard before, a little while ago, claims that it knows what is right for Cuban Americans better than Cuban Americans.

We have heard that before. We have heard those similar debates on this floor year after year after year. Pretty soon we are going to hear, Some of my good friends are Cuban Americans.

Well, the reality is this: There is a bipartisan group of us here who represent a majority of the Cuban Americans. Every 2 years we run for reelection, election or reelection, and we do not have to be shown a picture of one individual or two individuals. We represent the vast majority of Cuban Americans. We represent the vast majority of the family members of those people in Cuba. And I keep hearing about how others from other parts of the country seem to know what is right for this group of Hispanics. They know better than those Hispanics know. They know better than that minority group knows about what is best for them.

Well, the reality, Mr. Chairman, is this: I repeat, there are four of us that represent the vast majority of Cuban Americans, the only people affected by this amendment, the only people affected by this amendment. And unanimously those four Members of Congress, one happens to be a Democrat, the other ones happen to be Republicans, all agree unanimously on what is right to help the Cuban people be free, what is right for Cuban Americans in this country.

□ 1730

What is right for them is to not help the Castro regime by allowing it to get more money, to not help that anti-American terrorist regime by allowing it to get more money.

My dear friend, the gentleman from Florida (Mr. DEUTSCH), who has always been on the right side of this issue on the major parts, said today, and I just want to make sure there is no confusion, that what we are talking about here is people cannot go to Cuba and stay at the expensive hotels. Well, wait a second. They could until the new measures put in place by President Bush. Until those new measures, yes, they could.

So to my good friend, the gentleman from Florida (Mr. DEUTSCH), I think he may be a little bit confused as to what this amendment does. If this amendment were to pass then, yes, people could go and travel as many times as they wanted to stay in the most expensive hotels, by the way, all of them run and owned by the Cuban military, by that oppressive military of that anti-American terrorist regime. If this amendment passes, what my good friend, the gentleman from Florida (Mr. DEUTSCH), said that is not happening would happen and could happen.

I am amazed, Mr. Chairman, that people claim they know what is best for areas that are very far away from them and that they know what is best for certain groups, happens to be a Hispanic, large Hispanic group, that they know best. No, those Hispanics, the people that they elect are wrong. They do not know how to elect the right people, so it is up to somebody from way other parts of the country to tell those Hispanics, that minority group, what is really good for them. That is at best patronizing, and there could be some other words that could be used as well.

Mr. DAVIS of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from Miami, Florida (Mr. MEEK), whose district abuts the gentleman from Florida's (Mr. MARIO DIAZ-BALART).

Mr. MEEK of Florida. Mr. Chairman, it is a pleasure to present a position on this amendment before the House here today.

I just want to qualify the fact that I live in south Florida, and I do have some good friends that are Cuban, and I do represent many of those individuals. I must say that I voted against this very bill last year in solidarity with many of my friends who are against embargo and want to put pressure on Castro. I believe in that, but I believe that we have crossed the line now as it relates to going into family.

There was some discussion from my good friend and colleague from Miami Dade County talking about, well, folks are going to stay in hotels. Well, if a person is going to see a family member that is sick, nine times out of 10 they are going to stay with that family member.

What has happened now, we are putting on Cuban Americans, I must say Cuban Americans want to go over and visit their family members when they are sick. Now if they have an aunt that is sick, under the new Bush restriction they cannot visit an aunt or a cousin or an uncle that helped to raise them. They could very well be the last living member of their family in Cuba, but they cannot go.

Let us just say that their mother or father is terminally ill and they would like to go and consult with the doctors; they would like to go and give them moral support, spiritual support. They are going have to make a decision now, because President Bush put this restriction in 4 months prior to a major election, I guess because the polling said it was appropriate to do so, they are going to have to make a decision, are they going to visit their family members to give them that support, or are they going to the funeral. If they go to the funeral, they only have a couple of days to do that. Guess what, God forbid if another family member gets sick. Now, if we want to present democracy to families and we want to hurt Castro, then let us hurt Castro. Let us not hurt families.

I have been around Miami Dade County in South Broward for a very long time; and I will tell my colleagues this, there are a lot of people that are hurting and feeling the pain and suffering of this particular restriction. This is far beyond politics and partisanship. This is dealing with families.

I want the people that are paying attention to this debate here today to really understand, if a person has a family member that is on their death bed and they have to make the decision if they are going to be there while they are living and support them or they are going when it is time to put them down to rest, think about that and think about is America trying to present democracy to a Communist country and to Cuba.

Castro is going to turn this around by saying, they will not even allow you to see your son and your daughter for the last time because they came a year before.

This will not deter the Castro government from doing what they are doing. This will make sure that he has another tool to say how bad the United States is. I tell my colleagues, I for one want to see Castro go. I want to see his regime go, and the way to present democracy is not hurting families.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am confused. I thought that the rules of this House required Members to address the contents of the amendment under discussion. Now, the purpose of this amendment, as I understand it, is to allow families to be reunited more than once every 3 years, and yet we have heard a number of voices on the Republican side of the aisle address a very different question. I must assume that they have not read the amendment; and for any of them for whom it would help, I would be happy to read the amendment again.

But based on the comments that I have heard, for instance, from the gentleman from Texas (Mr. DELAY), according to the gospel by the gentleman from Texas (Mr. DELAY), we are supposed to oppose this amendment because Castro is a bad fellow.

Well, I find it interesting that because of our dislike for Fidel Castro, who will either eventually die or fall of his own weight, because of our dislike of Mr. Castro, this Congress is being told that we are supposed to say to a person living in the United States who wants to visit his wife or his daughter or his brother, sorry, but because we do not like Castro, we are going to take it out on you and we are not going to allow your family to see each other more than once every 3 years.

Now, the gentleman from Texas (Mr. DELAY) may think that is consistent with family values. Some of the other majority Members of this House may think that is consistent with family values. I think that is a gross perversion of politics. We are letting our political dislike for Mr. Castro impact negatively the family yearnings of individual Americans and Cubans.

To me, that is a fundamentally immoral position for our government to take, and I just have to again ask Members, before they get up on this floor on this amendment and bloviate about how much they dislike Mr. Castro, I would simply suggest they read the amendment and ask whether or not they think it is morally justified, because they dislike Mr. Castro so much, to take their dislike out on the victims of Castro, which are the families who are split up and who, unless this amendment is passed, will continue to be in a position where the politicians in Washington decide that they know better than individual family members who do not give a rip about politics and are simply trying to figure out ways to see their loved ones.

This is an incredibly disgraceful performance.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I would ask how much time is remaining on both sides.

The CHAIRMAN pro tempore (Mr. THORNBERRY). The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) has 13 minutes remaining. The gentleman from Florida (Mr. DAVIS) has 11½ minutes remaining.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield myself such time as I may consume.

Perhaps the distinguished gentleman who spoke previously needs to get a little bit more informed on the constituents that we represent. They do care about human rights and they do care about liberty and they do care about politics, the politics of freedom, the politics of human rights, the politics of political prisons. They do care.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. LINCOLN DIAZ-BALART of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I am sure they care about politics, but I am sure they do not care for the fact that some Members of this House seem to care more about politics than they do those Cuban families.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I do not know if you do.

Mr. OBEY. With all due respect, I was not referring to myself. I was referring to you.

Mr. LINCOLN DIAZ-BALART of Florida. Well, that is, I believe, uncalled for; but ultimately, what I want to make clear is that our constituents, the constituents represented in an overwhelming majority by the gentleman from Florida (Mr. MARIO DIAZ-BALART), the gentlewoman from Florida (Ms. ROS-LEHTINEN), and the gentleman from New Jersey (Mr. MENENDEZ), and myself do care about their relatives, about human rights, about the three goals of U.S. policy with regard to an island nation that has been oppressed for 45 years, the liberation of all of the political prisoners who are languishing in the gulag, their liberation of all of them without exception. Free speech, the right of free speech, labor unions and the press and political parties and the scheduling of free elections, the unshackling of the chains of the family members is of concern and care to our constituents, and that is why they, being aware that this is a comprehensive, multifaceted policy, not only are supportive of the policy but elect us who are supportive of the policy and who have to be accountable for the policy, not only every 2 years at the polls, but every day at the grocery store and the laundry and the gas station, because it is not a question, as the gentleman from Florida (Mr. MARIO DIAZ-BALART) stated before, of us putting up a photograph.

I would like to put up another photograph now, if I may, of someone who our constituents are very concerned about, and on a daily basis we fear for his life, and that is perhaps the best known political prisoner in Cuba today, a physician. His name is Oscar Biscet, and he lives in a box. This is a replica of the box. This is a replica of the box where Dr. Biscet is being held by the tyrant.

Our constituents are continuously concerned and our prayers, as well as our thoughts, are with Dr. Biscet in that box, punishment cell it is called, where he is held because he is a believer in Gandhi and in nonviolent change as espoused by Martin Luther King. So the tyrant has him in a box.

No, no, no. The politics of oppression, the politics of denial of human rights, the politics of freedom are very much the concern of our constituents. That is why they support these policies that have been implemented by President Bush after comprehensive study in the context of a multifaceted policy, and they continue to support us not only when we go to the gas station and the laundry but at the polls every 2 years.

□ 1745

So to say that our constituents do not know, or as one gentleman just said, have no concern about these issues, is really rooted in ignorance of our constituents. Mr. Chairman, I would say to those distinguished colleagues who may be listening in by television, as I stated before, I would never pretend to be expert on what are the most critical issues in each of our constituents' districts. I would never pretend, never dare to pretend that I would be more expert than each of my colleagues on the most critical important issues in their districts.

But that is what this amendment is saying. This comprehensive policy, which has a facet of reduction of hard currency to the terrorist regime, hard currency that is utilized not only to oppress the Cuban people, but to export terror and to harbor international terrorists, that policy, we have heard today, our constituents cannot be supportive of, or so say Members who do not represent them.

So, again, without seeking to be more expert than everybody else here on their issues, on issues in every Members' district, I would simply ask for the same respect that I think everyone should show toward the most important issues in each of our districts; and, thus, rejection of what I consider an arrogant attitude, which is this amendment of "we know better what is good for your constituents." We know better; that you should have your thoughts elsewhere and not in the suffering of Dr. Biscet.

Mr. Chairman, I reserve the balance of my time.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. THORNBERRY). The Chair again reminds all Members that remarks in debate are to be directed to the Chair.

Mr. DAVIS of Florida. Mr. Chairman, I yield 15 seconds to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, the issue is very simple. When someone who lives in Florida wants to go to his wife's funeral or visit a family Member who is deathly sick, the question is whose judgment should prevail, the judgment of that individual constituent or the judgment of the gentleman from Florida (Mr. LINCOLN DIAZ-BALART).

I think the answer is clear.

Mr. DAVIS of Florida. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me this time.

To hear the debate, like the gentleman from Wisconsin (Mr. OBEY), I wonder what amendment we are debating. It seems we are debating the Flake amendment all over again. I would like to be debating the Flake amendment. I decided last week that this is not the time to do so, just because of the political environment; that it would not be given a good hearing.

It seems that is what we are debating, the full-out travel for humanitarian, tourism, et cetera, whatever; just allowing Americans the freedom to travel. I wish we were debating that. I think that is the policy we should have. But we are not. This is a very narrow debate on a very specific issue.

The only difference I would have with the comments of the gentleman from Wisconsin (Mr. OBEY) is that many Republicans share this view. In fact, I think over 60, 2 years ago, or 50 or so Republicans voted for the Flake amendment to allow all travel, to allow freedom of all people to travel, and I assume the vote will be even larger among Republicans today.

I too am struck by this amendment and what is termed arrogance. I am called arrogant, I guess, because I assume that Cuban American families ought to decide for themselves whether they should travel. That is not arrogance. It is not arrogance to assume that I do not represent all Cuban Americans. I do not represent very many. There are some in my district; some who have contacted me; some who do want to travel. I think they ought to be given that choice for themselves. It would be arrogant of me to say otherwise.

I think it would be arrogant of me to say, no, I know what is better for you. I think you should not be able to travel to your mother's funeral or that you should have to decide whether to go to your mother or your father's funeral, or that you cannot decide for yourself whether or not you should travel to see another sick relative. That is not a choice we ought to be making for everyone.

I come from a small town in northern Arizona, the town is called Snowflake, named after my great-great grandfather. There are a lot of Flakes in Snowflake, by name, not reputation. I do not represent that area, but I assume I represent a lot of the feelings coming from that group. There are a lot of people who are not Flakes in Snowflake. I would not pretend to represent them. I would not pretend to know where they should travel or where they should not. That is not a decision I should make for them. That is a decision they should make for themselves.

So, for one Member of Congress in a different State than Florida to say he thinks that Cuban Americans in Florida or New Jersey or Indiana or Wisconsin or elsewhere should make that decision for themselves, that is not arrogance, that is simply embracing freedom and that they should have that choice by themselves; that we should not make that choice for them. That is what we are arguing today. That is what it is all about today.

A vote against this amendment puts us in the position of telling Cuban Americans that we know what is best for them, not the opposite. A vote for this amendment says that we make the choice ourselves; that we know whether it is best to travel to Cuba to visit a sick relative, to go to a mother's funeral or to not. That is what this amendment is all about.

Mr. Chairman, I urge support for it, and I commend the gentleman from Florida for bringing this forward, and I commend those who have participated in the debate. Let us just remember what it is about. This is about freedom. This is about family values. It is about allowing families to travel and to make their own decisions.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. MARIO DIAZ-BALART).

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, it is amazing how history repeats itself. I was not here during the whole South Africa debates, but I heard them. During those South Africa debates, we had those who said we should do business as usual with South Africa to help the blacks in South Africa; that we should be able to do all sorts of business, and by the way, we did business with South Africa, business as usual, forever. Did it help the oppressed people under apartheid? No.

And, Mr. Chairman, when those oppressed people had an opportunity to vote, finally, after many, many years, they did not support those that wanted to do business as usual; that talked about doing business as usual. They supported those that led the efforts to sanction the apartheid regime in South Africa.

Many people on this floor, some who are still here, voted for sanctions against South Africa and yet vote to lift sanction against Cuba using the same argument. I saw just a month ago people on this floor who are against sanctioning the anti-American terrorist regime 90 miles away from the United States vote and speak for sanctions against China. It is interesting how this double standard is so prevalent.

Again, history repeats itself. Those who said we should do business as usual in South Africa to help the oppressed were wrong, and when the oppressed people had an opportunity to speak, they showed how wrong they were. Dr. Biscet and others will have an opportunity to speak, and I think there will be a lot of red faces of those that say they are doing it to help the oppressed people. We do not help the oppressed people by helping to finance the oppressor.

Mr. DAVIS of Florida. Mr. Chairman, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. SMITH), a fighter for human rights who I very much admire.

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in very strong opposition to the Davis amendment and the other four amendments being offered on Cuba today.

Under the current U.S. laws, we all know, travel to Cuba is allowed for 13 licensed categories. Last year, under these licenses, approximately 100,000 U.S. citizens traveled to Cuba, the vast majority of whom were family members. However, these new regulations promulgated by the administration would further refine this travel to deny at least some of the $96 million in hard currency that has been gotten and gleaned by this rogue regime, through the manipulation of those family visits in 2003, the number from that year. Custom duties and excess baggage fees have added $20 million more in revenue to this gross dictatorship.

To my colleagues, I want to say that I just held a hearing, along with the gentleman from California (Mr. HUNTER), on the issue of human trafficking. Cuba is a Tier III country, an egregious violator when it comes to human trafficking. Approval of this amendment would prop up a regime that not only traffics in human persons, but allows for the exploitation of young children, who are reduced to this horrible thing called child prostitution. When we allow trafficking and child prostitution for the amusement of those who travel there, many of whom bring that hard currency that is now permitted by this administration, I think we are seriously erring and making a grave mistake. We are also enobling and enabling a human rights violator.

Let me also say to my good friend and colleague who spoke a moment ago about the political prisoner, Dr. Biscet, and so many others who are subjected to unspeakable cruelty. A couple of years ago, I offered an amendment that said we will lift the travel ban if and only if the prisoners are let go. Fidel Castro has said one big no to that. And not only has he continued to incarcerate and torture hundreds of political prisoners, the best and the brightest and the bravest of Cuba, he now has arrested another 75 to 80 more and meted out sentences of 25 to 27 years. That is unconscionable.

We do not want to directly or indirectly enable that kind of dictatorship, that kind of repressive regime. If my colleagues or myself were sitting in one of Cuba's gulags, we would hope that someone would say human rights do matter; that we are not going to provide the hard currency to prop up his regime so that his thugs can so mistreat those prisoners.

I have tried, along with the gentleman from Virginia (Mr. WOLF), to get into the prisons of Cuba and I have been denied. I can get into Cuba and meet with Fidel Castro and have a jawfest for 4 or 5 hours, as some of my colleagues have, but to get into the prisons to say these people should be allowed to go, no, we cannot do that. The ICRC, the Red Cross, has tried repeatedly to get into those prisons and has been refused.

Mr. Chairman, I urge my colleagues to vote "no" on this amendment. This is all about human rights and enabling a dictatorship. Say no to the Davis amendment.

Mr. DAVIS of Florida. Mr. Chairman, who has the right to close on the amendment?

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. DAVIS) has the right to close on this amendment.

Mr. DAVIS of Florida. And how much time remains on each side, Mr. Chairman?

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. DAVIS) has 7¼ minutes remaining, and the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) has 1 minute remaining.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Florida. Mr. Chairman, I yield 3½ minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I listen to this debate and I am stunned, and I find it staggering that we are flying in the face of family values, of family reunification. And because of some people's interest or disinterest or dislike or hate or whatever the range of emotions are about an individual, we really are destroying the fabric of life for Cuban Americans and their families who are in Cuba.

These regulations will disrupt the lives of thousands of Cuban Americans in the United States. It will do nothing to improve human rights. It will do nothing to improve human rights. It will do nothing to bring democracy to that island. Why are we penalizing the good people of Cuba and the people here in the United States who have family there; whose only thought is how they might be reunified with their family, especially if there is a time of need, especially if there is illness, especially if there is a death? What is wrong with us that we do not understand this; and that we only care about family values if we have people living in a democracy?

□ 1800

But for those who do not, and that could be in a lot of places all over this world, we say: Be gone; we are not interested in what your lives are about. Is that what the United States of America is all about?

Close relatives have been able to visit their families once every 12 months. These new regulations say once every 3 years and 14 days at a time. My colleagues have mentioned that the Deputy Assistant Secretary of State for the Western Hemisphere says an individual can decide when they want to travel once every 3 years, and the decision is up to them. So if they have a dying relative, they have to figure out when they want to travel. So much for compassionate conservatism.

Rules drastically limit the amount of money Cuban-Americans can bring back to their family members. Funds do not prop up the Castro regime, but they certainly do support families who at this moment are recovering from the devastation of Hurricane Ivan.

Other changes in our Cuba policy will be similarly ineffective, including preventing high school students from visiting the island, prohibiting university trips shorter than 10 weeks. And this will effect a democratic change in Cuba?

I am the daughter of immigrants, Italian immigrants. My father was born in Italy. We have relatives in Italy. He and my mom would go to the bank on a weekend, take some money out, whatever they could afford, to get it back to the family there. There was a tie between that town of Scafati, Italy, and New Haven, Connecticut, where people could come together and support their families. When there was a problem, my dad could visit or my mom could visit with him.

It does not make sense to punish families. Let us stand up for Cuban-American families. Members can be opposed to Castro, but Members cannot be opposed to the Cuban people, whether they are in Cuba or whether they are in the United States. I understand this experience. So many in this body understand that experience. Let us support this amendment of my colleague from Florida. Let us understand what family values are all about, and let us not pick and choose whose families we want to be united or reunited.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore (Mr. THORNBERRY). The Chair would advise the gentleman from Massachusetts (Mr. OLVER) that since the gentleman from Wisconsin (Mr. OBEY) has struck the last word during this amendment, that can only be by unanimous consent. The gentleman may ask unanimous consent to strike the requisite number of words.

Mr. OLVER. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. OLVER. Mr. Chairman, early in this debate, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) who controls the time in opposition to this amendment asserted that the President of the United States gave this issue a tremendous amount of thought. Surely that assertion contains an oxymoron.

Mr. SMITH of New Jersey. Mr. Chairman, with all due respect to my friend and colleague, those kinds of words have no place in a reasonable and dignified debate. That is beyond the pale. I would hope the gentleman would retract them.

The CHAIRMAN pro tempore. The gentleman will suspend. The time is controlled by the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Chairman, the latest get-tough initiative to rid Cuba of Fidel Castro punishes ordinary Cubans on both sides of the Florida straits and will surely have no more effect on the longevity of the Castro regime than all other such measures over the last 45 years, over the lifetime of ten different Presidents, have had.

Specifically, the interim rule which went into effect on June 30, 2004, limits family visits to Cuba to one trip every 3 years for a maximum of 14 days under a specific license to visit only immediate family. No longer will emergency visits, even deathbed visits, be allowed, nor visits to aunts, uncles and cousins who are outside the definition of immediate family.

The old policy allowed one trip per year under a general license for an unstated number of days, included a broader definition of family and allowed emergency visits under a specific license. Further, the new rule has ordered cutting the amount that Cuban-Americans visiting Cuba can spend on a daily basis from $167 to $50, and $50 does not buy very much these days. And these sweeping changes were done without so much as one hearing in Congress.

The Davis amendment would prohibit funds in the bill from being used to implement, administer or enforce the rule containing these changes made in family travel. Regardless of Members' opinions on the travel ban, this policy is politics at its worse being played with families. We should adopt the amendment overwhelmingly and put a stop to this policy folly.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, with a great sense of responsibility, I say that political prisoners in Cuba have asked that their support for President Bush's policy be made known. I know that the wrath, the brutality of the tyrant falls upon with all severity heroes such as that, but I think I have an obligation to say that Felix Navarro Rodriguez of Guantanamo asked that his support for this policy and its reduction, which has been admitted already by the regime to be substantial, of dollars to the coffers of the terrorists state be noted.

Mr. Chairman, the Cuban people have never stopped fighting for freedom during these 45 years, and Cuba will be free. And men and women like Felix Navarro Rodriguez and Oscar Elias Biscet and Jorge Luis Garcia Perez and Rafael Ibarra and Francisco Chaviano, those are the people who will be respected for generations to come because they, in those dungeons, stood up for the freedom of the Cuban people. They support these measures. We owe it to the Cuban people to sanction the regime and support President Bush's policy. Reject the Davis amendment, I ask my colleagues with all due respect.

Mr. DAVIS of Florida. Mr. Chairman, I yield myself the balance of my time.

I want to start by clarifying that there is no dispute whatsoever that this is not a debate about tourism. This is not a debate about trade or the embargo. This is a debate about the right of family members to visit each other without government interference.

There has been virtually no response to the merits of the issue as to how anybody might defend the indefensible; that is to restrict the ability of family members to see their own. I understand that. If I were opposing this, I would not have anything to say on the merits either. Members cannot defend the indefensible here.

The only opposition that has been raised is to call the amendment arrogant, and it is based on a point of view sincerely expressed by the opposition that a few Members of Congress which represent a significant portion of Cuban-Americans in this country ought to essentially have a monopoly on that issue. I respectfully disagree. I personally offer this amendment tonight. I feel compelled to speak. I feel a sense of obligation because I represent roughly 120,000 people who would proudly describe themselves as Hispanic in the Tampa Bay area, many of whom are Cuban, and I feel obliged to present the voice tonight of Simon Rosen and Rufino Blanco, Ignacio and Gloria Menendez and the U.S. Army medic, Carlos Lazo, who was denied the ability on his leave from Iraq to visit his teenage sons in Cuba. What a disgrace.

One of the few things that I think we can all agree on here tonight is that life is very cruel for people in Cuba. It is very cruel for families. One of the few sources of support and hope they have is their own flesh and blood, their own family, whether they be in Cuba or in the United States.

In Florida, we just went through a supreme test. We have been through three hurricanes. It brought out the worst of Mother Nature, and it brought out the best in Floridians. And the best in Floridians is neighbor helping neighbor and family helping family, a hand extended to offer hope and support.

Cuba has just been through two horrific hurricanes. How can we deny to Cuba the support and comfort, the peace of mind of their own flesh and blood which has sustained so many Floridians throughout the southeast who have been affected by this terrible hurricane? This amendment is a test of our humanity. It is a test of who we are. This amendment is a test of whether we truly believe, as I believe we do, as Democrats and Republicans, in the values of family and that the government's job is to support families and not to interfere.

Let us adopt the Davis amendment and reaffirm to the Cuban people and people who fled Cuba from this ruthless dictatorship that we are counting on them to support each other, much as we support each other in this country. I urge adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. DAVIS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. OLVER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida (Mr. DAVIS) will be postponed.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. OLVER. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I would alter the debate somewhat this evening recognizing a number of important issues have come to our attention during debate on the transportation appropriations bill.

Yesterday, Mr. Chairman, the ACI had the beginning of its meeting in Houston, some 1,500 airports. I realize that airports create jobs, and airports are a vital economic arm of our communities, but I also realize that airports typically are in our communities. Whether rural or urban, many times they are in communities that are fully residential.

I rise today to speak to a question that I think is important to bring attention to, and I would hope that, in the conference and the work of the ranking member and the chairman, we can look again at the restoration of airport mitigation dollars for noise abatement.

We know that exposure to excessive noise, that is 55 decibels, can lower children's learning and academic performance, increase blood pressure and incidence of cardiovascular disease, cause mental health disorders, stress and depression, and cause work performance issues. Each decibel increase in airport noise results in a 0.5 to 2.5 percent decrease in real estate value.

According to a 1998 Cornell University study, the constant roar of a jet aircraft can seriously affect the health and psychological well-being of children. These problems include higher blood pressure and boosted levels of stress hormones and have lifelong effects.

I hope we can move this body and the Committee on Appropriations and our authorizing committee to deal with increased mandatory damage mitigation funding, increased FAA oversight, mandatory noise and pollution monitoring, enforcement of land use and clean air assurances. Our communities deserve this. We must be able to live compatibly with those residential communities around airports for our airports to survive.

On April 17, 2003, the FAA proposed to modify the Houston class B air space. The FAA proposed this action due to a significant growth in aircraft operations over the past 10 years and thousands of complaints from residents. To address this growth, the city of Houston completed construction of a new runway, 8L/26R in October 2003. Since the runway expansion, residents near the airport have suffered increased noise and vibrations from airport operations and aircraft.

This is not only just for residents. We have, amongst those community activists that I imagine might be all over the Nation, Mark Goble who happens to be an airline pilot. Let me share with my colleagues, and I hope in the Committee of the Whole I will be able to put these into the RECORD.

We can see what happens outside of the homes of many of the residents.

□ 1815

Aircraft on a constant basis over churches.

I believe it is important in working with the gentleman from Texas (Mr. LAMPSON), the gentleman from Texas (Mr. GREEN), and the gentleman from Texas (Mr. BRADY) that we work with the Houston Airport, but this cannot be a local issue alone. We must have Federal resources to help us in communities across the Nation.

So I rise today to bring attention to this issue, hoping that my colleagues on the Transportation, Treasury and Independent Agencies Subcommittee of the Committee on Appropriations in conference will look to this issue again and be able to address the Federal funding, mandatory funding, to help our local communities mitigate this noise, help to mitigate and help to bring about noise abatement.

Each Member should understand the significant environmental impact that airports have on abutting communities. The concept of Not in My Backyard usually comes to mind when we speak of nuisances and their effect on communities. One 747 arriving and departing from JFK Airport in New York produces as much smog as a car driven over 5,600 miles and as much noxious nitrogen oxides as a car driven nearly 26,500 miles. While Federal regulations require automobiles to undergo stringent emissions testing and certification, aircraft do not receive the same level of scrutiny. We all want to live in a peaceful and safe location.

And I would simply say I understand the needs of airports and airlines. I said yesterday in my remarks to the ACI, airports, airlines connect us to the world and to the Nation. They are the engine of economic opportunity. But I also am concerned about the communities that grow up around them or are already there when they have to expand. We must find a way in this Government to assist our local governments in this effort of mitigation.

I want to thank the ranking member and the chairman for their consideration. Let me say that I do not know if we have unanimous consent to extend for a response, but I hope to ask both the gentleman from Oklahoma (Mr. ISTOOK) and the ranking member for their consideration of this important issue.

Exposure to excessive noise (that is, 55 decibels) can: (1) Lower children's learning and academic performance, (2) increase blood pressure and incidence of cardiovascular disease, (3) cause mental health disorders, stress, and depression, and (4) cause work performance issues. Each decibel increase in airport noise results in a 0.5 to 2.0 percent decrease in real estate value.

According to a 1998 Cornell University study, the constant roar of a jet aircraft can seriously affect the health and psychological well-being of children. These health problems include higher blood pressure and boosted levels of stress hormones and have lifelong effects.

On April 17, 2003, the Federal Aviation Administration (FAA) proposed to modify the Houston Class B airspace area. The FAA proposed this action due to a significant growth in aircraft operations over the past 10 years and thousands of complaints from residents. To address this growth, the City of Houston completed construction of a new Runway 8L/26R in October 2003. Since the runway expansion, residents near the airport have suffered increased noise and vibrations from aircraft and airport operations and the complaints have actually doubled! While the Airport and FAA have taken some steps toward mitigation, local residents continue to raise legitimate concerns and demand that more be done to solve the noise problem.

I joined my colleagues Mr. LAMPSON, GREEN, and BRADY in calling for Houston Airport Systems to make improvements to its noise abatement program for aircraft operations at Intercontinental Airport (IAH). This problem still exists, so I ask this Subcommittee to use this legislation, H.R. 5025 as a vehicle to bring peace and good health to densely populated communities like the one surrounding Intercontinental in Houston.

Each member should understand the significant environmental impact that airports have on abutting communities. The concept of "Not In My Back Yard" usually comes to mind when we speak of nuisances and their effect on communities. One 747 arriving and departing from JFK airport in New York City produces as much smog as a car driven over 5,600 miles and as much noxious nitrogen oxides as a car driven nearly 26,500 miles. While Federal regulations require automobiles to undergo stringent emissions testing and certification, aircraft do not receive the same level of scrutiny. We all want a peaceful and safe place to raise our children and to live.

I speak now to advocate for families like one of my constituents who is actually a pilot out of Intercontinental Airport (IAH). He indicated that aircraft would fly between 300–500 feet away from his home in the Woodcreek Subdivision of Houston, TX. Furthermore, as a pilot, he measured the height of some of his own flights as low as 540 feet above heavily populated areas—and this was typical of flight patterns out of the airport.

He, his wife, and his two children once counted over 150 flights directly over his home. The health impacts of such proximity to flying aircraft are tremendous and inhuman. Federal dollars are needed to standardize flight patterns and design runways in such a way that respects the health of abutting communities—regardless of whether the region has zoning laws on its books.

Legislation such as H.R. 5025 allocates funds for enhancements to be made for modes of transportation. These funds should not be allocated without the inclusion of funding for damage mitigation and future monitoring for damages to abutting communities. I suggest that language should be included in this legislation that restricts funding for airports unless adequate damage or nuisance mitigation plans and agreements have been executed. Furthermore, this legislation needs more oversight provisions in the area of the Federal Aviation Administration (FAA). The agency should not have the ability to publish and promulgate rules that serve to hurt communities. Appropriations legislation serves as effective tools for guiding government behavior.

As I have learned from community activist groups in Houston, we must work to guide the FAA to change the way it assigns its air space categories. Low intercepts altitudes should not be allowed in heavily populated areas or where landing paths cannot avoid residential areas. These low intercept altitudes decrease property values severely, destroy quality of life, promote illness and disease among inhabitants, and do not aid our efforts to keep our homeland secure in light of current elevated threat levels. Furthermore, we should include mandatory noise and pollution monitoring for areas that abut airports and lower the legal designation of "significant noise" from 65 DNL to 55 DNL.

Mr. Chairman, I ask that the conferees take this grave issue into consideration, and I support the legislation.

LEGISLATIVE OBJECTIVES

Federal:

Mandatory damage mitigation funding.

Reduce Class B Airspace over populated areas.

Increased FAA oversight.

Mandatory noise and pollution monitoring.

Enforcement of land use and clean air assurances.

State and Local:

Direct notice laws.

Mandatory noise abatement procedures for airport owners.

Mandatory land use management plans around airports.

[May 26, 2004, Coalition of Homeowner Alliances Requiring Government Equity]

CHARGE SHORT RANGE GOALS?

Short Range Goals:

Combat the noise of IAH.

Address the related pollution exposures.

Secure compensation for those experiencing extreme noise.

[May 26, 2004, Coalition of Homeowner Alliances Requiring Government Equity]

Mr. NEY. Mr. Chairman, I rise in strong support of the $15 million appropriation in the Transportation-Treasury bill dedicated to enabling the Election Assistance Commission, EAC, to carry out its responsibilities under the Help America Vote Act, HAVA. During its first year in existence, the EAC has done a commendable job in carrying out its responsibilities while operating on a shoestring budget. In order for the Commission to fully achieve the many tasks assigned to it by HAVA, however, it will need the $15 million appropriated in this bill during the upcoming fiscal year.

The funds being made available will ensure that the EAC has the resources necessary for conducting research on voting system security and other important election-related issues. It will also allow the EAC to hire the staff and invest in the infrastructure needed to fulfill its numerous HAVA obligations.

The American people demand and deserve a voting process in which they can have full confidence. That is why I am proud to have been a chief sponsor and author of HAVA, which holds the potential for fundamentally improving the health of our Nation's democracy. The EAC plays an important role in ensuring that the promise of HAVA becomes a reality.

I, therefore, urge my colleagues to support the $15 million appropriation to the EAC.

Mr. ISTOOK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FLAKE) having assumed the chair, Mr. THORNBERRY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, had come to no resolution thereon.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 6 o'clock and 18 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

☐ 1832

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PEARCE) at 6 o'clock and 32 minutes p.m.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 770 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5025.

☐ 1832

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5052) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, with Mr. THORNBERRY (Chairman pro tempore) in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, a request for a recorded vote on Amendment No. 2 offered by the gentleman from Florida (Mr. DAVIS) had been postponed and the bill had been read through page 166, line 3.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: Amendment No. 11 offered by Mr. VAN HOLLEN of Maryland; amendment No. 5 offered by Mr. SANDERS of Vermont; amendment offered by Ms. NORTON of the District of Columbia; and amendment No. 2 offered by Mr. DAVIS of Florida.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 11 OFFERED BY MR. VAN HOLLEN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Maryland (Mr. VAN HOLLEN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 210, noes 187, not voting 36, as follows:

[Roll No. 457]

AYES—210

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Burr
Butterfield
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutknecht
Harman
Hastings (FL)
Herseth
Hill
Hinojosa
Hoeffel
Holden
Holt
Hooley (OR)
Hostettler
Hoyer
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Shimkus
Simmons
Skelton
Slaughter
Smith (NJ)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Walsh
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—187

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cantor
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Ehlers
Everett
Feeney
Ferguson
Flake
Foley

Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Houghton
Hulshof
Hunter
Issa
Istook
Johnson (CT)
Johnson, Sam
Keller
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Latham
Leach
Lewis (CA)
Linder
Lucas (OK)
Manzullo
McCotter
McCrery
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shuster
Simpson
Smith (MI)
Smith (TX)
Smith (WA)
Souder
Stearns
Stenholm
Sullivan
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—36

Baird
Bishop (GA)
Blumenauer
Bonner
Brown, Corrine
Cannon
Carson (OK)
Culberson
DeMint
Dunn
Frost
Goss
Greenwood
Gutierrez
Hensarling
Hinchey
Hoekstra
Honda
Isakson
Jenkins
John
King (NY)
Majette
Matsui
McInnis
Meek (FL)
Millender-McDonald
Miller (FL)
Mollohan
Rohrabacher
Sandlin
Schrock
Tancredo
Tauzin
Visclosky
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. THORNBERRY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1858

Mr. NEY, Mrs. MYRICK, and Messrs. BACHUS, HALL, and KINGSTON changed their vote from "aye" to "no."

Mr. WALSH changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, the remainder of this series will be conducted as 5-minute votes.

AMENDMENT NO. 5 OFFERED BY MR. SANDERS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Vermont (Mr. SANDERS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 237, noes 162, not voting 34, as follows:

[Roll No. 458]

AYES—237

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bilirakis
Bishop (NY)
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Chandler
Clay
Clyburn
Coble
Conyers
Costello
Cramer
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Fossella
Frank (MA)
Frelinghuysen
Gephardt
Gerlach
Gilchrest
Gonzalez
Goode
Gordon
Green (TX)
Grijalva
Gutknecht
Harman
Hastings (FL)
Hefley
Herseth
Hill
Hinojosa
Hoeffel
Holden
Holt
Hooley (OR)
Hoyer
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Miller (MI)
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Platts
Pomeroy
Price (NC)
Quinn
Rahall
Rangel
Renzi
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Shimkus
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Woolsey
Wu
Wynn
Young (FL)

NOES—162

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burns
Burr
Buyer
Calvert
Cantor
Carter
Castle
Chabot
Chocola
Cole
Collins
Cooper
Cox
Crane
Crenshaw
Crowley
Cubin
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Ehlers
English
Everett
Feeney
Flake
Foley
Forbes
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Goodlatte
Granger
Graves
Green (WI)
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hobson
Hostettler
Houghton
Hulshof
Hunter
Issa
Istook
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kennedy (MN)
King (IA)
Kingston
Kline
Knollenberg
Kolbe
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
McCrery
McKeon
Meeks (NY)
Mica
Miller, Gary
Moran (KS)
Murphy
Myrick
Nethercutt
Neugebauer
Norwood
Nunes
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shuster
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Vitter
Walden (OR)
Wamp
Weldon (FL)
Weller
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—34

Baird
Bishop (GA)
Blumenauer
Bonner
Brown, Corrine
Cannon
Carson (OK)
Culberson
DeMint
Dunn
Frost
Goss
Greenwood
Gutierrez
Hensarling
Hinchey
Hoekstra
Honda
Isakson
Jenkins
John
King (NY)
Majette
Matsui
McInnis
Millender-McDonald
Miller (FL)
Mollohan
Sandlin
Schrock
Tancredo
Tauzin
Visclosky
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. THORNBERRY) (during the vote). Members are advised that two minutes remain in the vote.

☐ 1905

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MS. NORTON

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 175, noes 224, not voting 34, as follows:

[Roll No. 459]

AYES—175

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Becerra
Bell
Berman
Berry
Bishop (NY)
Boswell
Boucher
Brady (PA)
Brown (OH)
Burr
Butterfield
Capps
Capuano
Cardin
Carson (IN)
Chandler
Clay
Clyburn
Cole
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gephardt
Goode
Gordon
Grijalva
Hastings (FL)
Herseth
Hinojosa
Hoeffel
Holden
Holt
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Scott (GA)
Scott (VA)
Serrano
Sherman
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wolf
Woolsey
Wynn

NOES—224

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Cardoza
Carter
Case
Castle
Chabot
Chocola
Coble
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goodlatte
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hobson
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Issa
Istook
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pastor
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wu
Young (AK)
Young (FL)

NOT VOTING—34

Baird
Berkley
Bishop (GA)
Blumenauer
Bonner
Brown, Corrine
Cannon
Carson (OK)
DeMint
Dunn
Frost
Goss
Greenwood
Gutierrez
Hensarling
Hinchey
Hoekstra
Honda
Isakson
Jenkins
John
King (NY)
Majette
Matsui
McInnis
Millender-McDonald
Miller (FL)
Mollohan
Sandlin
Schrock
Tancredo
Tauzin
Visclosky
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised that 2 minutes remain in the vote.

☐ 1912

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. DAVIS OF FLORIDA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. DAVIS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 225, noes 174, not voting 34, as follows:

[Roll No. 460]

AYES—225

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Bartlett (MD)
Bass
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bishop (NY)
Boehlert
Bono
Boswell
Boucher
Brady (PA)
Brady (TX)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cubin
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Gallegly
Gephardt
Gilchrest
Gonzalez
Gordon
Graves
Green (TX)
Grijalva
Harman
Herger
Herseth
Hill
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Moore
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Rehberg
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays

Sherman
Shimkus
Slaughter
Smith (MI)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Toomey
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOES—174

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Barton (TX)
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Boozman
Boyd
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
English
Everett
Feeney
Ferguson
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Granger
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hobson
Hulshof
Hunter
Hyde
Issa
Istook
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McIntyre
McKeon
Mica
Miller (MI)
Miller, Gary
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Ose
Oxley
Pearce
Pence
Petri
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—34

Baird
Bishop (GA)
Blumenauer
Bonner
Brown, Corrine
Cannon
Carson (OK)
Davis, Tom
DeMint
Dunn
Frost
Goss
Greenwood
Gutierrez
Hensarling
Hinchey
Hoekstra
Isakson
Jenkins
John
King (NY)
Majette
Matsui
McInnis
Millender-McDonald
Miller (FL)
Mollohan
Sandlin
Schrock
Strickland
Tancredo
Tauzin
Visclosky
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised that two minutes remain in this vote.

□ 1921

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. ISTOOK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BURGESS) having assumed the chair, Mr. THORNBERRY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, had come to no resolution thereon.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. MOORE. Mr. Speaker, pursuant to clause 7(c) of rule XXII, I hereby announce my intention to offer a motion to instruct on H.R. 1308, the Tax Relief, Simplification, and Equity Act of 2003.

The form of the motion is as follows:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 1308 be instructed to agree, to the maximum extent possible within the scope of conference, to a conference report that:

Number 1, extends the tax relief provisions which expire at the end of 2004; and

Number 2, does not increase the budget deficit.

CONSIDERATION OF MEMBER AS FIRST SPONSOR OF H.R. 2119

Mr. BUTTERFIELD. Mr. Speaker, I ask unanimous consent that I may hereafter be considered as the first sponsor of H.R. 2119, a bill originally introduced by Representative BALLANCE of North Carolina, for the purposes of adding cosponsors and requesting reprintings pursuant to clause 7 of rule XII.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

COMMEMORATING THE OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

Mr. EHLERS. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 41) commemorating the opening of the National Museum of the American Indian.

The Clerk read as follows:

S.J. RES. 41

Whereas the National Museum of the American Indian Act (20 U.S.C. 80δ et seq.) established within the Smithsonian Institution the National Museum of the American Indian and authorized the construction of a facility to house the National Museum of the American Indian on the National Mall in the District of Columbia;

Whereas the National Museum of the American Indian officially opens on September 21, 2004; and

Whereas the National Museum of the American Indian will be the only national museum devoted exclusively to the history and art of cultures indigenous to the Americas, and will give all Americans the opportunity to learn of the cultural legacy, historic grandeur, and contemporary culture of Native Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL MUSEUM OF THE AMERICAN INDIAN.

Congress—

(1) recognizes the important and unique contribution of Native Americans to the cultural legacy of the United States, both in the past and currently;

(2) honors the cultural achievements of all Native Americans;

(3) celebrates the official opening of the National Museum of the American Indian; and

(4) requests the President to issue a proclamation encouraging all Americans to take advantage of the resources of the National Museum of the American Indian to learn about the history and culture of Native Americans.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. EHLERS) and the gentleman from Connecticut (Mr. LARSON) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

Senate Joint Resolution 41 commemorates the opening of the National Museum of the American Indian.

Today brings to a conclusion a concept that started over 20 years ago, to create a national museum in our Nation's capital which is dedicated exclusively to Native American art, history, and culture.

Today will also mark the beginning of a lasting tribute to those individuals who were our country's earliest inhabitants.

The Smithsonian Institution's National Museum of the American Indian sits adjacent to the National Air and

Space Museum on over 4 acres of land, just southwest of the U.S. Capitol.

The building's appearance is unlike any other in Washington, D.C., and it has symbolic references to Native American culture. The building's limestone exterior gives it the appearance of natural rock formations that have been carved by wind and water.

Three-quarters of the site is reconstructed natural habitats that are indigenous to this southeastern region, and the building itself will display about 8,000 objects from its permanent collection. The displays will include not only historical artifacts, but will also portray ongoing vital contributions Native Americans bring to this Nation's art and culture.

The building has some special features which include an entrance facing east toward the rising sun, a prism window and a 120-foot high atrium called the Potomac, which was designed in consultation with many Native Americans.

Native Americans indeed have had profound influences on our Nation's culture from the very birth of our country through today and will continue into the future.

At a time when our military receives so much focus, it is important to remember that some of our military's great heroes, such as the code talkers, were Native Americans who helped preserve our country's ideals and beliefs.

It is also important to note that Native Americans make up less than 1 percent of the total U.S. population, but represent half the languages and cultures in the Nation.

The term "Native American" includes over 500 different groups and reflects great diversity of geographic location, language, socioeconomic conditions, and retention of traditional spiritual and cultural practices. However, many teaching materials present a generalized image of Native American people with little or no regard for differences that exist from tribe to tribe. I believe this museum provides a strong presentation of these differences and will be very educational to the viewer and to the Nation.

It is remarkable that Native Americans have retained many of their longstanding traditions, even though numerous outside influences create pressures for change.

Thanks to the efforts of Senator INOUYE and our former House colleague, Senator BEN NIGHTHORSE CAMPBELL, legislation was signed by former President George Herbert Walker Bush on November 28, 1989; and today this museum has become a reality.

I hope all my colleagues and all who visit our Nation's capital will take the opportunity to visit this wonderful museum, and I urge my colleagues to support S.J. Res. 41.

Mr. Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Michigan. Indeed, I am pleased to support Senate Joint Resolution 41, commemorating the successful 15-year effort to create the National Museum of the American Indian and requesting the President to issue a proclamation for this occasion.

What a day it has been already, having the celebration kicked off this morning. So many Native Americans from my great State of Connecticut are down here for this very special commemoration.

I would also echo the remarks and sentiments of the gentleman from Michigan. What a great tribute. This is the 18th such museum that the Smithsonian has put up; and under their tutelage, we know that it is going to continue to be as spectacular as the 17 others that come under their control and auspices.

I am equally proud as well that so many tribes in the great State of Connecticut have contributed not only to our great economy and employment there but they themselves have been leaders. The Mashantucket Pequots of Mashantucket have put together their own museum and are going to collaborate here with the national museum. They are both extraordinary sites and worth everyone visiting, as well as have the Mohegans in Connecticut who are also great economic contributors and employers in the State of Connecticut, who have also put together an educational program and archaeological field trips that teach both the culture and the storytelling and the lore of all that are so important.

So, Mr. Speaker, I am proud and encourage everyone to support this resolution today.

I am pleased to support S.J. Res. 41, commemorating the successful 15-year effort to create the National Museum of the American Indian (NMAI) on the Mall, and requesting the President to issue a proclamation for the occasion.

The legislation was originally introduced by Senators CAMPBELL and INOUYE, the chairman and ranking member of the Committee on Indian Affairs, and passed the Senate on July 22. Many of Connecticut's tribal nations are here this week for the commemoration.

The Museum encompasses the culture and history of indigenous peoples throughout the Western Hemisphere, who total more than 35 million.

The Museum, which is part of the Smithsonian Institution, opens today at 4.25 acre site southwest of the U.S. Capitol grounds. It is the only national museum devoted exclusively to the life, languages, literature, history and arts of cultures indigenous to the Americas.

Earlier today there are a ceremonial procession of Native Americans from the Smithsonian to the Capitol, followed by the Museum dedication ceremony on the Mall and the opening of the Museum to the public. A six-day festival and celebration on the Mall also begins today.

Besides the site on the Mall, the Museum also includes the George Gustave Heye Center, a museum in New York; and the Cultural Resources Center, a research and collections facility in Suitland, Maryland.

The National Museum of the American Indian is the 18th museum under the control of the Smithsonian. It was formally created by Congress in 1989 after the Heye Foundation in New York City agreed to transfer its own unique collection to the Smithsonian. Construction on the Mall began in 1999.

The structure has a unique architectural design using Kasota limestone which gives the appearance of having been weathered by the elements. It is a majestic setting which enhances the Mall, and the Museum's location along Independence Avenue near the Capitol ensures that it will become one of Washington's premier attractions for visitors. American Indians have played a key role in the Museum's design and fund-raising, as well as the exhibitions and programs.

The Smithsonian Institution has developed a special expertise in conceiving and managing museums which move beyond traditional concepts of exhibitions that remain static for decades, and instead allow living and evolving history to be displayed.

This is especially appropriate since Native American communities in the United States and Canada, and throughout the Hemisphere, remain vital forces in the cultural identifies of the many new nations with which they have been joined.

The Native American communities in the United States remain distinct, highly visible entities culturally, and often politically and economically, in the States where they are located. In this country alone there are more than 500 distinct Native cultural communities recognized by the Federal government, and States recognize still more.

There are more than two million indigenous peoples residing in the United States.

The Mashantucket Pequot Tribe, in my home State of Connecticut, in addition to being a major employer and economic force in the State due to its well-known casinos, was the first Tribe to make a large donation to the National Museum of the American Indian. Its $10-million donation was, at the time, the largest-ever single contribution to the Smithsonian. Both the Mohegan Tribe of Connecticut and the Oneida Tribe of New York later made similar donations.

The National Museum of the American Indian has also been the beneficiary of numerous other sizable donations from tribal communities and tribally related organizations. Tribes and tribal organizations have donated nearly one quarter of the approximately $199 million total cost of the Museum building, a testament to the continuing cultural and economic vitality of Indian tribes and their interest in disseminating knowledge to the broader American public.

The Mashantucket Pequots also own and operate the Mashantucket Pequot Museum and Research Center in Mashantucket. This 308,000 sq. ft. facility houses the largest collection of Native American artifacts in the world. Four full acres of permanent exhibits at the Center depict 18,000 years of Native and natural history in thoroughly researched detail. The Mashantucket Pequot Tribe, along with the Mashantucket Pequot Museum and Research Center will continue to work together in a cooperative agreement with the National Museum of the American Indian.

The Mohegans have also created many educational resources to bring their contributions to a wider audience. Their Archaeological Field School provides an opportunity to learn about Native American history firsthand. Cultural and community programs bring Mohegan culture to life through presentations of tribal artifacts.

It is an honor for me to know personally so many tribal leaders, including from the Mohegans, Lifetime Chief and former Chairman Ralph Sturges, Chairman Mark F. Brown, Vice Chairman Peter J. Schultz and Ambassador Jayne G. Fawcett; and from the Mashantuckets, Chairman Michael Thomas, Vice Chairman Richard "Skip" Hayward, Executive Director of Public Affairs Pedro Johnson, and Councilmember Kenny Reels.

Mr. Speaker, the successful completion of the National Museum of the American Indian bodes well for public interest in the National Museum of African American History and Culture, which was created by Congress last year and is in the preliminary stages of development, site selection and fund-raising.

I insert in the CONGRESSIONAL RECORD at this point a chronology of the development of the National Museum of the American Indian prepared by the Smithsonian Institution.

NATIONAL MUSEUM OF THE AMERICAN INDIAN CHRONOLOGY

1980—Discussions begin between the Smithsonian Institution and the Museum of the American Indian, Heye Foundation in New York City. The Heye collection of 800,000 objects, representing tribes from the entire Western Hemisphere, was one of the largest Native American collections in the world. The talks were initiated by the museum's trustees, and discussions centered on an affiliation with the Smithsonian while still maintaining an independent museum in New York. Although not conclusive in themselves, these early talks lead the way to future negotiations.

April 1987—Smithsonian Secretary Robert McC. Adams accompanied Senator Daniel Inouye (D-Hawaii) to New York to talk with officials of the Museum of the American Indian, Heye Foundation.

May 4, 1987—The board of trustees of the Museum of the American Indian unanimously adopted a resolution providing for an affiliation between its museum and the Smithsonian, and for the relocation of the museum collections to a new building on the National Mall in Washington.

May 11, 1987—The Smithsonian Board of Regents approved a motion encouraging the Secretary to "continue discussions with representatives of the Museum of the American Indian, Heye Foundation, about the prospect of a formal institutional relationship between the museum and the Smithsonian."

Following discussion with the Smithsonian and the Heye Foundation's board of trustees, Senator Inouye introduced a bill (S. 1722) on September 25, 1987, to establish a National Museum of the American Indian within the Smithsonian Institution.

The Smithsonian Institution continues its negotiations with the board of trustees of the Museum of the American Indian, Heye Foundation. The Smithsonian Board of Regents approved an "agreement in principle" on January 30, 1989 to transfer the Museum of the American Indian collection to the Smithsonian.

March 16, 1989—Julie Johnson Kidd, chairman of the Heye Foundation, signed the agreement. The Smithsonian Board of Regents gave its final approval to the agreement on May 8, 1989, and it was endorsed the same day by Secretary Adams.

Senator Inouye introduced S. 978 to establish the National Museum of the American Indian on May 11, 1989, and Senator Ben Nighthorse Campbell (R-Colorado), at that time a U.S. representative from Colorado, introduced companion legislation, H.R. 2668 on June 15, 1989.

September 12, 1989—Secretary Adams joined Senators Inouye and Campbell for a press conference announcing the Smithsonian's revised policy on repatriation of American Indian human remains in the National Museum of Natural History collections. The legislation establishing the new museum, to be named the National Museum of the American Indian, would incorporate the repatriation policy and appropriate funds for an inventory of human remains in the Smithsonian's collections.

November 28, 1989—President George Bush signs legislation establishing the National Museum of the American Indian as part of the Smithsonian Institution.

May 21, 1990—Secretary Adams announced the appointment of W. Richard West (Southern Cheyenne), as founding director of the new museum, effective June 1, 1990.

April 1991—The Smithsonian selected Venturi, Scott Brown and Associates Inc. of Philadelphia to assist the National Museum of the American Indian in developing general architectural program requirements and criteria for the design of the new museum in Washington, D.C., and for a Cultural Resources Center in Suitland, MD, about six miles from Washington where the museum's collections would be housed.

June 1992—The Smithsonian selected Polshek and Partners of New York City, Tober + Davis of Reston, VA, and the Native American Design Collaborative to provide architectural and engineering services for the Cultural Resources Center.

A preview exhibition, "Pathways of Tradition," a selection of more than 100 objects representing American Indian cultures and creativity, was on view at the Smithsonian's George Gustav Heye Center of the National Museum of the American Indian in New York City from November 15, 1992–January 24, 1993.

February 1993—The Smithsonian selected the architectural firm of GBQC of Philadelphia in association with Douglas Cardinal Architect Ltd. of Ottawa, Canada, to create the design concept for the National Museum of the American Indian on the National Mall in Washington.

October 30, 1994—The museum's Geroge Gustav Heye Center officially opened in the Alexander Hamilton U.S. Custom House at One Bowling Green in New York City.

January 1998—The Smithsonian terminated its relationship with GBQC and Douglas Cardinal (Blackfoot) and the Institution assumed responsibility for the design and construction of the museum on the National Mall. Assisting the Smithsonian were Polshek/Smith Group and Johnpaul Jones (Cherokee/Choctaw).

September 28, 1999—The groundbreaking and blessing ceremony takes place on the National Mall in Washington, DC, at the site of the National Museum of the American Indian's Mall Museum. The new museum will occupy the Mall's last remaining site. Three planned inaugural exhibitions will feature historic and contemporary aspects of Native life, and will highlight artifacts from the museum's priceless collection.

June 26, 2001—The Smithsonian Institution awarded a contract to "CLARK/TMR, A Joint Venture," to build the National Museum of the American Indian. CLARK/TMR is composed of the Clark Construction Company of Bethesda, MD, and Table Mountain Rancheria Enterprises Inc., a construction company that is a subsidiary of the Table Mountain Rancheria of Friant, CA.

September 14–15, 2002—A national Pow Wow was sponsored by the museum on the National Mall adjacent to the museum construction site. Approximately 25,000 people attended to watch nearly 500 Native Americans dance over the two-day event.

November 20, 2002—A "topping out" (a circular section of glass was installed on the roof of the building) ceremony and blessing was held to mark the completion of the major structural elements of the new building.

January 15, 2004—The first phase of occupancy of the new museum by staff begins.

Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey (Mr. PALLONE) may control the remainder of my time.

The SPEAKER pro tempore (Mr. MCCOTTER). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. EHLERS. Mr. Speaker, I reserve the balance of my time to close. I have no further speakers other than myself.

Mr. PALLONE. Mr. Speaker, I yield 7 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I want to thank the gentleman from Michigan and my good friend from New Jersey for the management of this proposed legislation.

Mr. Speaker, I rise in support of Senate Joint Resolution 41, as offered by the good Senator from the State of Colorado, Mr. CAMPBELL; and I would like to take this occasion to commend Senator BEN NIGHTHORSE CAMPBELL and Senator DANIEL INOUYE on the historic opening of the National Museum of the American Indian.

The museum's opening and the other celebratory events of this week represent a culmination of over 15 years of dedicated work by Senator BEN CAMPBELL and Senator DANIEL INOUYE to establish a national museum that acknowledges and honors the history, the achievement, and the arts and the culture of Native Americans.

□ 1930

This museum also symbolizes the courage and determination of Native Americans to persevere in the face of over 500 years of hardship and adversity. The National Museum of the American Indian is a true national treasure, a living legacy to the vitality and creativity of the first Americans of our Nation, a treasure that would not exist today without the vision and the efforts of Senator BEN "NIGHTHORSE" CAMPBELL and Senator DANIEL INOUYE.

Senator CAMPBELL has worked tirelessly on behalf of Native Americans throughout his distinguished career. He introduced important legislation for native communities on issues as divergent as economic development, job training, trust reform and health care. Senator CAMPBELL has also introduced resolutions honoring the contributions of Native American veterans to the United States and designating November 2003 as National American Indian Heritage Month. Senator CAMPBELL has been a leading voice in establishing Native American policies and addressing the numerous challenges facing the Native American people, and his voice will be sorely missed when he retires at the end of this congressional session.

Senator INOUYE has a tremendous reputation among the American Indian community. He deserves high praise for his countless contributions to the health and the well-being of our Nation's native people. Senator INOUYE has been actively involved in the Senate Committee on Indian Affairs since 1978, playing a key role in establishing the committee from a select committee to a standing committee in order to better address long-neglected issues affecting our Native American community.

Senator INOUYE has introduced legislation recognizing tribal sovereign authority, supporting native health care, and in conjunction with Senator CAMPBELL, authorizing the construction of the National Museum of the Native American Indian.

Mr. Speaker, I also commend the Native American Caucus here in our own Chamber, led by my colleagues, the gentleman from Michigan (Mr. KILDEE) and the gentleman from Arizona (Mr. HAYWORTH) for their outstanding leadership on issues of concern to the Native American community. For 16 years I have proudly supported the Native American Caucus as it advanced the interests of Native Americans in Congress, in the ongoing mission to improve the relationship between the United States Government and the Native American tribes to one of dignity and mutual respect.

Mr. Speaker, when I think of the American Indian museum, I think of the many trials and tribulations and suffering of the Native Americans. I am reminded of their generosity and humanity to teach the first pilgrims how to farm and to save the first Europeans from starvation. I am reminded of the forced removal of the Cherokees on the infamous "Trail of Many Tears," and the moving surrender speech of Chief Joseph, who said, "My heart is sick and sad. From where the sun now stands, I will fight no more, forever."

Mr. Speaker, when I think of the American Indian Museum, I am reminded of the great speech by Chief Seattle, a member of the Squamish-Dowamish tribe in the State of Washington, and I will submit the text of Chief Seattle's speech for the RECORD. Chief Seattle's speech was a moving and most profound and keen observation on the relations between Native Americans and our country; profound, in that his insights were prophetic and accurate. I want to share with my colleagues an excerpt of Chief Seattle's speech, and I quote.

"Every part of this country is sacred to my people. Every hillside, every valley, every plain and grove has been hallowed by some fond memory or some sad experience of my tribe. Even the rocks, which seem to lie dumb as they swelter in the sun along the silent shore in solemn grandeur thrill with memories of past events connected with the fate of my people. The very dust under your feet responds more lovingly to our footsteps than to yours because it is the ashes of our ancestors, and our bare feet are conscious of the sympathetic touch, for the soil is rich with the life of our kindred."

Mr. Speaker, as my good friend and colleague, the gentleman from California (Mr. BACA) alluded to earlier, the unmet social, political, educational and health care needs of some 4.1 million Native Americans is still an embarrassment, at least in this Member's opinion, and is not a record of which our national government can be proud. Yes, we are giving assistance, but never enough to do the job. I, for one, am puzzled by our Nation's inability to provide the necessary resources to assist our Native American community with the very serious problems affecting them, especially health care and education.

Today, Mr. Speaker, the opening of the National Museum of the American Indian is a celebration of the Native American contributions to our national identity as well as a testament to the drive and determination of our congressional leaders who fought to make this museum a reality. Again I applaud the efforts of Senator BEN "NIGHTHORSE" CAMPBELL and Senator DANIEL INOUYE for their leadership and initiative, and I am hopeful that Congress will now act to give our Native American community a voice in government, hopefully for generations to come.

Mr. Speaker, I urge my colleagues to support Senate Joint Resolution 41.

Mr. Speaker, the speech of Chief Seattle, referred to above, follows:

CHIEF SEATTLE'S SPEECH

As Translated by Dr. Henry Smith—Seattle, Washington Territory, During Treaty Negotiations—1854

Yonder sky that has wept tears of compassion upon our fathers for centuries untold, and which to us looks eternal, may change. Today is fair, tomorrow it may be overcast with clouds. My words are like the stars that never set. What Seattle says the Great Chief at Washington can rely upon with as much certainty as our paleface brothers can rely upon the return of the seasons.

The son of the White Chief says his father sends us greetings of friendship and good will. This is kind, for we know he has little need of our friendship in return because his people are many. They are like the grass that covers the vast prairies, while my people are few and resemble the scattering trees of a storm-swept plain.

The Great, and I presume, also good, White Chief sends us word that he wants to buy our lands but is willing to allow us to reserve enough to live on comfortably. This indeed appears generous, for the Red Man no longer has rights that he need respect, and the offer may be wise, also, for we are no longer in need of a great country.

There was a time when our people covered the whole land as the waves of a windruffled sea covers its shell-paved floor. But that time has long since passed away with the greatness of tribes now almost forgotten. I will not mourn over our untimely decay, nor reproach my paleface brothers for hastening it, for we too, may have been somewhat to blame.

When our young men grow angry at some real or imaginary wrong, and disfigure their faces with black paint, their hearts, also, are disfigured and turn black, and then their cruelty is relentless and knows no bounds, and our old men are not able to restrain them.

But let us hope that hostilities between the Red Man and his paleface brothers may never return. We would have everything to lose and nothing to gain.

True it is, that revenge, with our young braves is considered gain, even at the cost of their own lives. But old men who stay at home in times of war and mothers who have sons to lose, know better.

Our great father, Washington, for I presume he is now our father as well as yours, since George has moved his boundaries to the North—our great and good father, I say, sends us word by his son, who, no doubt, is a great chief among his people, that if we do as he desires he will protect us.

His brave armies will be to us a bristling wall of strength, and his great ships of war will fill our harbors so that our ancient enemies far to the northward—the Simsiams and Hydas—will no longer frighten our women and old men. Then he will be our father and we will be his children.

But can that ever be? Your God is not our God! Your God loves your people and hates mine! He folds His strong arms lovingly around the white man and leads him as a father leads his infant son—but He has forsaken his red children. He makes your people wax strong every day and soon they will fill all the land; while my people are ebbing away like a fast receding tide that will never flow again. The white man's God cannot love His red children or He would protect them. They seem to be orphans who can look nowhere for help.

How, then, can we become brothers? How can your Father become our father and bring us prosperity and awaken in us dreams of returning greatness?

Your God seems to us to be partial. He came to the white man. We never saw Him, never heard His voice. He gave the white man laws, but had no word for His red children whose teeming millions once filled this vast continent as the stars fill the firmament.

No. We are two distinct races, and must ever remain so. There is little in common between us.

The ashes of our ancestors are sacred and their final resting place is hallowed ground, while you wander away from the tombs of your fathers seemingly without regrets.

Your religion was written on tablets of stone by the iron finger of an angry God, lest you might forget it. The Red Man could never remember nor comprehend it.

Our religion is the traditions of our ancestors—the dreams of our old men, given to them by the Great Spirit, and the visions of our Sachems, and is written in the hearts of our people.

Your dead cease to love you and the homes of their nativity as soon as they pass the portals of the tomb. They wander far away beyond the stars, are soon forgotten and never return.

Our dead never forget the beautiful world that gave them being. They still love its winding rivers, its great mountains and its sequestered vales, and they ever yearn in tenderest affection over the lonely-hearted living, and often return to visit and comfort them.

Day and night cannot dwell together. The Red Man has ever fled the approach of the white man, as the changing mist on the mountain side flee before the blazing morning sun.

However, your proposition seems a just one, and I think that my folks will accept it and will retire to the reservation you offer them, and we will dwell apart and in peace, for the words of the Great White Chief seem to be the voice of Nature speaking to my people out of the thick darkness that is fast gathering around them like a dense fog floating inward from a midnight sea.

It matters little where we pass the remainder of our days. They are not many. The Indian's night promises to be dark. No bright star hovers above his horizon. Sad-voiced winds moan in the distance. Some great Nemesis of our race is on the Red Man's trail, and wherever he goes he will still hear the sure approaching footsteps of the fell destroyer and prepare to meet his doom, as does the wounded doe that hears the approaching footsteps of the hunter.

A few more moons, a few more winters, and not one of all the mighty hosts that once filled this broad land or that now roam in fragmentary bands through these vast solitudes or lived in happy homes, protected by the Great Spirit, win remain to weep over the graves of a people once as powerful and as hopeful as your own!

But why should I repine? Why should I murmur at the fate of my people? Tribes are made up of individuals and are no better than they. Men come and go like the waves of a sea. A tear, a tamanamus, a dirge and they are gone from our longing eye forever. Even the white man, whose God walked and talked with him as friend to friend, is not exempt from the common destiny. We may be brothers after all. We shall see.

We will ponder your proposition, and when we have decided we will tell you. but should we accept it, I, here and now, make this the first condition, that we not be denied the privilege, without molestation, of visiting at will the graves of our ancestors and friends.

Every part of this country is sacred to my people. Every hillside, every valley, every plain and grove has been hallowed by some fond memory or some sad experience of my tribe. Even the rocks, which seem to lie dumb as they swelter in the sun along the silent shore in solemn grandeur thrill with memories of pass events connected with the fate of my people, the very dust under your feet responds more lovingly to our footsteps than to yours, because it is the ashes of our ancestors, and our bare feet are conscious of the sympathetic touch, for the soil is rich with the life of our kindred.

The sable braves, and fond mothers, and glad-hearted maidens, and the little children who lived and rejoiced here and whose very names are now forgotten, still love these solitudes and their deep fastnesses as eventide grows shadowy with the presence of dusky spirits.

And when the last Red Man shall have perished from the earth and his memory among white men shall have become a myth, these shores will swarm with the invisible dead of my tribe and when your children's children shall think themselves alone in the field, the store, the shop, upon the highway, or in the silence of the woods, they will not be alone. In all the earth there is no place dedicated to solitude.

At night, when the streets of your cities and villages shall be silent and you think them deserted, they will throng with the returning hosts that once filled and still live this beautiful land.

The white man will never be alone. Let him be just and deal kindly with my people, for the dead are not powerless.

Mr. EHLERS. Mr. Speaker, I continue to reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, may I inquire about the amount of time I have remaining?

The SPEAKER pro tempore (Mr. MCCOTTER). The gentleman from New Jersey has 12 minutes remaining.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume, and I do not intend to use all the time, but I do want to speak out about the National Museum of the American Indian.

First of all, let me say that 15 years after Congress passed legislation calling for the establishment of a National Museum of the American Indian, we finally arrive today at the day when American Indians have a place to call their own in the Nation's Capital. I had the opportunity today to witness most of the procession that took place beginning at 9 a.m. and then the opening ceremony at 12 noon, and then the opportunity this afternoon to go and visit the museum itself. So I want to talk a little bit about my firsthand experiences today and why I think it is so significant that this museum has finally opened.

When I was talking to Native Americans today, some of whom I had met before, some of whom I had not, they all seemed to say the same thing, which is, finally, finally, the day had come when they were going to be recognized in this museum. I asked some of them what they meant by that, and they pretty much said the same thing, which was that for a long time in these United States, Native American culture was not paid attention to.

Many people, I would say, particularly on the East Coast, are not even aware of the fact that Native American communities continue to exist. It is almost as if they are something that happened and occurred a long time ago, maybe 100 years ago, and now there is very little knowledge on the part of many Americans about Native Americans or their communities. So the museum seeks to change all that.

When I went through the museum today, there was, of course, reference to the genocide that occurred, there was, of course, reference to, I remember one particular place where there is a wall that talks about how so many Native Americans were wiped out through diseases when Europeans arrived. But, generally speaking, it was not so much a museum about the past, it was much more a museum about communities that exist today, the peoples that exist today, the cultures that exist today, and the uniqueness of them and how there is so much variety between the various tribes and Indian nations, not only in the United States, but in all of the Americas.

So the museum has become an affirmation of the fact that Native Americans and their communities not only continue to exist, but are growing and are vibrant and are an important part of American culture. I think that is a lesson that is certainly important for nonNative Americans. In the museum today, most of the people seemed to be American Indians, but there were certainly a lot of people who were not, and the museum serves as a way of explaining to them how the Native American culture continues to exist and survive and strive and move forward.

I have to also say that looking at the museum, the artwork was just unbelievable, not only in terms of traditional culture, such as baskets, moccasins, clothing, and blankets, but also in terms of modern art, like abstract art and abstract paintings. It truly is a museum that encompasses the entire spectrum of the Native American culture. So I just want to say that when I went down there today and witnessed the museum, I just felt that this was sort of the culmination of the artistic achievement of the Native American culture in the United States.

The other thing that was so significant was the opening ceremony today. I think they estimated there were over 10,000 native peoples that participated in the opening ceremony. They were arranged alphabetically by tribe. And when you saw them march, you could see the pride in their faces, you could see the children that were learning from the experience, you could see the elders that were so proud to be there, and the various cultures in just watching that procession with the various tribes.

I do not know how many tribes were represented. I am sure there had to be hundreds, not only from the United

States, but also throughout the Americas. I saw Incas from Peru, I saw people from the extreme southern part of South America, and I saw Arctic peoples. It was just truly amazing.

So I just want to close today, although I do see we have another speaker that I will yield some time to, but I want to close today by saying on my behalf, and also on behalf of the Native American Caucus, of which I am one of the vice chairs, we want to welcome the thousands of Native Americans that came to Washington to celebrate the opening of the National Museum of the American Indian, and certainly ask my colleagues here in the House to join in the celebration this week and take time to reflect now upon the rich culture of Native Americans.

Mr. Speaker, I reserve the balance of my time.

Mr. EHLERS. Mr. Speaker, I continue to reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, I appreciate the opportunity to talk on this resolution because I think it is a long time in coming. Our treatment of the first people in this country has been abysmal. We are largely ignorant of what their culture was or that there was a culture, and this is now an opportunity to redress what I think has been a serious error that has been made by the United States.

What is amazing about this is that it is not over. At the time of the last 8 years under President Clinton, a number of tribes tried to get their recognition. The Dowamish and Chinook tribes in the State of Washington went through the entire process in the Department of the Interior. They were given their status as recognized tribes in this process. The President signed the order creating this relationship with the Chinooks and the Dowamish, and when the new administration came in, one of the very first things they did was reach back into the desk drawer and wipe out the Dowamish tribe. They do not exist any more, to this administration.

Now, I come from a city called Seattle, that is a corruption of the name of the Chief of the Dowamish tribe, Sealth. Chief Sealth was a Dowamish. He lived in this country when everybody arrived. He helped those people who came into Pugent Sound all by themselves. And, in fact, he gave his name to the city. He made a speech once where he said, "When I met the great white father, I didn't know the land was his. I thought that God gave us, the great spirit gave us the land to live in and to share and to leave it in better condition than when we found it." That kind of wisdom is in that museum, and you will see it.

However, the fact is there are still wrongs that need to be righted. This Congress needs to advance a bill, which we put in a couple of years ago and no one ever wants to even have a hearing on. We want to be out here glorify the opening of a museum. And it is a good thing the museum was started before this administration got in place, or it never would have happened. I believe that there are these kind of grievances that people need to go and find out about.

We took their land. We created treaties with people who did not really understand how skillful we were with words, but they took us at our words and they have tried to live with us. But the fact is that we still continue to leave the Dowamish without their recognition and Chief Sealth is a man without a tribe.

□ 1945

That is wrong. We should fix that, too.

Mr. PALLONE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I wanted to join my colleagues out of respect for the final reckoning and recognition of those who were first on this land. So many times as we speak on the floor of the House we are engaged in the tumultuous challenges of diversity and opportunity, and we raise the claims of African-Americans, Hispanics, Asians and many others who in this 20th and 21st century have faced challenges.

I want to acknowledge Native Americans as individuals who have experienced challenges and obstacles throughout the centuries. In the backdrop of those obstacles, however, has been an outstanding and wonderfully enriched culture and heritage. I have had the opportunity of visiting the Pueblos in New Mexico and working with various Members of this body on issues dealing with our Native American community.

I salute them for their strength, their love of country and what they have added to the richness of America. We would not be America had it not been for this vital part of our history. What better tribute than this magnificent museum which will eventually be part of fixing the history of America. We have not yet done that. There are many pieces of the puzzle that we have left out.

Just recently, in Houston, we have finally come to acknowledge the importance of having an African-American history museum in that city. Each time, we are continuing to put the pieces together. I am so grateful to the leaders of this Congress and the authors of the legislation who were able to move this Congress to establish this great museum. Let me say, come one, come all, come to the Nation's capital to understand how America is made much more whole and how we can love, cherish and respect the history of Native Americans.

Mr. EHLERS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, it is my pleasure to wrap up this debate. I thank my colleagues for their fine speeches and good comments that have been made. However, I must express my concern that the gentleman from Washington State tarnished this joyous event by raising partisan issues, and I certainly dispute the gentleman's statement that the current President of the United States would have stopped the construction of this museum if he had been able to. That is certainly a wrong assumption, and I am sorry that statement was made.

I want to speak on behalf of the full Congress and say we are very pleased to join the Smithsonian and the Native American community in this country by celebrating the completion of this museum. It will be a tremendous asset to this country in understanding the first human inhabitants of this continent, and I hope everyone who proceeds through the museum will regard with great reverence and respect the history of the American Indian and learn a great deal about the founders of this country and who established the first governments. I am very pleased to be able to participate in this event.

Mr. CARSON of Oklahoma. Mr. Speaker, this week, thousands of indigenous people from across the Western Hemisphere have come to Washington, DC. It is arguably the largest gathering of native people in U.S. history. By planes, cars, metro, and on foot, native people have come to celebrate the opening of the National Museum of the American Indian. The museum is a stunning and long overdue tribute to indigenous people across this land.

If is entirely fitting and appropriate that the National Museum of the American Indian join the United States' other national treasures, and take its place among the family of Smithsonian museums on the Mall. For, the history and culture of our nation is inseparable from the history and culture of Indian people.

Through centuries of great hardship, Indian people have struggled to maintain their social and cultural identity. The museum opening marks a revolution in this struggle, for it is a reclaiming of native identity. It is the culmination of thousands of hours of work by Indian people to tell their story. It links the past, present, and future of Indian people in a way that visitors can experience and understand the native perspective. The design and construction of the museum, itself, reveals an animate, live entity. And inside visitors find the living cultures of Indian people in language, history, dance, arts, cultural values, and spirituality.

As a Representative of Oklahoma, the State historically known as Indian Country, and as a member of the Cherokee Nation, I am deeply honored to join the native community in witnessing and welcoming this historical event, for the opening of the National Museum of the American Indian celebrates what was once despised, and honors what our Nation for too long tried to eradicate.

It is my hope, the location and majesty of the museum will today—and forever—remind lawmakers on Capitol Hill of the United States legal and moral responsibilities to Indian nations. For we must never forget to honor and recognize all that Indian tribes contribute and have sacrificed.

Mr. GRIJALVA. Mr. Speaker, I rise today on behalf of all the tribal people of my district and of Arizona to commemorate the opening of the American Indian Museum today in Washington, DC. This is an historic moment when at long last the indigenous peoples of this continent have a place to call their own on our National Mall and in our national consciousness.

The museum is not a place that will display relics of the past, but a living monument to the multitudes of cultures, arts, and languages that exist in the Americas. This museum will be a "living legacy" to those who have come before, and a gift to those who will be born in the future.

This morning I had the honor of seeing the procession of Native American people on the National Mall. Tens of thousands of people from every corner of this continent filled the Mall. They have come to make a ceremonial and symbolic journey, representing the millions of native people who live and thrive in the Americas.

But, while we honor this monument to our native peoples today we must not forget the ongoing struggle these communities face to retain their dignity in face of poverty, unemployment, lack of access to adequate healthcare, among other issues.

For example, the infant mortality rate is 150 percent greater for Indians than that of White infants. Indians have the highest prevalence of Type-2 diabetes in the world, and are 2.6 times more likely to be diagnosed with diabetes. Indians have a life expectancy 5 years less than the rest of the U.S. population.

The United States has a longstanding trust responsibility to provide health care services to American Indian and Alaska Natives. As a society, we can and we must take action to address the disparity and distress many of these communities face.

So on this occasion, I ask my fellow Members of Congress to join me in honoring the opening of the American Indian Museum, and I also ask you to join me in seeking to address some of the difficulties facing our native population in order to truly honor the first Americans.

Mr. EMANUEL. Mr. Speaker, I proudly rise to recognize the American Indian Center of Chicago, the longest-running urban Indian organization in the country and the leader of the National Urban Indian Family Coalition. I would like to congratulate the American Indian Center on its family oriented activities and publication of the new book "Chicago's 50 Years of Powwows." I would also like to congratulate them on the special honor of being selected by the Smithsonian Institute as the only organization representing contemporary urban American Indians to be featured in the opening of the new Smithsonian's National Museum of the American Indian. This museum celebrating the past and present of American Indians, and their rich history, opened today.

The American Indian Center of Chicago is showcased in the new Smithsonian's National Museum of the American Indian exhibit Our Lives: Contemporary Life and Identities. Our Lives presents the American Indian culture from a first voice perspective and tells stories of modern American Indian communities, examining the personal and collective identities of American Indian peoples in the 21st century.

The American Indian Center of Chicago was organized in 1953 by the Chicago American Indian community, in response to the Indian Relocation Act. That bill brought an influx of American Indians to Chicago, which soon became home to individuals from more than 50 tribes, including Oneida, Ojibwa, Menominee, Sac and Fox, Potawatomi, Lakota, Navajo, Blackfoot, Papago, and many others.

Throughout its history, the American Indian Center has been the principal cultural resource for American Indians in Chicago, promoting cultural awareness and cultural education within and outside the American Indian community. Over the years the center has hosted powwows, potlucks, bingo, birthdays, special celebrations, wakes and commemorative dinners, and many other special events.

Today, the American Indian Center of Chicago is a family-focused urban center and educational organization. It is also the cultural institution where the richness of American Indian traditions and culture are celebrated. The center serves as a model for other American Indian urban organizations in the country.

Mr. Speaker, on this historic day marking the opening of the new Smithsonian's National Museum of the American Indian on the National Mall, I wish to congratulate the American Indian Center of Chicago on its leadership and work with the American Indian community, and high honor of being selected by Smithsonian as part of its grand opening exhibits. On this remarkable day, I am proud to join the American Indian people of my district, as well as those of American Indian descent throughout the country, in celebrating this historic event.

Mr. REYES. Mr. Speaker, I rise today in strong support of S.J. Res. 41, commemorating the opening of the Smithsonian's National Museum of the American Indian.

For the first time in our Nation's history, the American public is being provided with a venue in which they can explore and develop a deeper understanding of this rich culture, its history, and the issues that affect these communities. Our Native American citizens have long been awaiting this day.

My district is fortunate to have one of the three Native American reservations in Texas. The Tiguas of Ysleta del Sur founded one of the oldest communities in the Southwest over 300 years ago. They have faced many hardships, but they continue to thrive and persevere as a united community. It is a great honor to have the Tiguas share their rich culture and history with the El Paso community, and I am glad to see that all Native American communities will now be able to do the same with the rest of the Nation in this beautiful new museum.

Mr. Speaker, I encourage all Americans to visit the National Museum of the American Indian when in Washington, DC, and I urge my colleagues to show their support for this very worthy resolution.

Mr. RAHALL. Mr. Speaker, I rise today to congratulate our first Americans on this, the long awaited opening day of the National Museum of the American Indian. If, indeed, the last shall be first, this is a fine example as this museum dedicated to our first Americans is located on the last spot open on the National Mall.

This a joyous day. At this very moment, thousands of native Americans who traveled from all the corners of our country, Canada, and South America are participating in a procession on the Mall leading to the museum itself. They are dressed in unique traditional attire, stopping along the way to celebrate with dance, song, and drums.

I am honored to say that as a member of the Interior and Insular Affairs Committee, I worked with then Chairman Mo Udall on the legislation to build a museum devoted solely to the culture, art, and history of our Native Americans. Although Mo is no longer with us, I am certain that he is smiling down upon us today.

I encourage everyone to visit this magnificent National Museum of the American Indian and use its resources to learn about the rich history and legacy of Native Americans, as well as contemporary Indian life. I promise your lives will be enriched by the experience.

Mr. MATHESON. Mr. Speaker, I rise in celebration of today's opening of the National Museum of the American Indian—a historic event that is long overdue. My congressional district contains lands of the Navajo Nation, the Southern Utah Paiutes, and the Northern Ute Indian Tribe—people who understand all too well the atrocities that Native Americans have experienced at the hand of our Federal Government.

The opening of this museum is a bold step toward the United States becoming a nation that understands the history of its people and celebrates the uniqueness of native cultures in its society. My hope is that the museum will help foster and maintain this understanding for "as long as the rivers shall run and the grass shall grow."

The designing of the National Museum of the American Indian was indicative of the cooperative and inclusive process that the Federal Government should always use when working with Native American tribes. I am proud of the collaborative efforts of all of the people who worked to make this museum a success, and I welcome the many Utahns who join me in celebrating this joyous occasion.

Mr. Speaker, I yield back the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCCOTTER). The question is on the motion offered by the gentleman from Michigan (Mr. EHLERS) that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 41.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EHLERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S.J. Res. 41.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM THE COMMITTEE ON RULES

Mr. REYNOLDS (during debate on Senate Joint Resolution 41), from the Committee on Rules, submitted a privileged report (Rept. No. 108–692) on the resolution (H. Res. 780) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2028, PLEDGE PROTECTION ACT OF 2004

Mr. REYNOLDS (during debate on Senate Joint Resolution 41), from the Committee on Rules, submitted a privileged report (Rept. No. 108–693) on the resolution (H. Res. 781) providing for consideration of the bill (H.R. 2028) to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance, which was referred to the House Calendar and ordered to be printed.

UNSCRUPULOUS TACTICS ON MILITARY BASES

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise to commend the gentleman from Ohio (Mr. OXLEY) of the Committee on Financial Services for his leadership in addressing the unscrupulous tactics of life insurance salesmen at our military bases.

During a recent Committee on Financial Services hearing, we learned that greedy insurance companies are selling enlisted men as young as 19 years of age expensive life insurance policies which actually pay out less than $30,000. These young men and women are forced to attend "financial courses" held by these salesmen who are usually former military men, men that these young men and women look up to.

Young GIs, who are being taught to trust their commanding officers, are deceptively told they are enrolling in savings accounts and are given papers that they are not permitted enough time to look over. They are ordered to sign here without question.

Protecting those who protect us certainly is a bipartisan priority, and I look forward to working with the gentleman from Ohio (Mr. OXLEY) and the other members of this committee on this very important issue.

HONORING TOM JOYNER

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this evening to salute our friend Tom Joyner of the Tom Joyner Morning Show for his national campaign of Take a Loved One to the Doctor.

Today, in my congressional district, I had the pleasure of visiting two of our large multi-service centers that are in our communities that hosted health fairs in order for the community to come to medical professionals.

Mr. Speaker, 44 million people in America are uninsured. Our children are losing the valuable CHIPS program in Texas and many other States. This administration is cutting the dollars for children's health insurance programs, and that is why I applaud Tom Joyner for sending out a message all over the Nation for those who are uninsured to come and be tested this day.

I put the phrase, Take a Loved One to the Doctor, but Love Yourself and Go to the Doctor. Mr. Speaker, it is time to focus on the needs of health care of all Americans. We thank Tom Joyner for his understanding and leadership, reaching out with his media to ensure and enhance the life and opportunities of good health for all Americans.

Mr. Speaker, I thank Tom Joyner and the Tom Joyner Morning Show and the staff for their good efforts.

THREE TRILLION IS A BIG NUMBER

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, 3 trillion is a very, very big number. Astronomers think there may be a tenth planet 3 trillion miles from the earth. Astronomers are using the biggest telescopes on earth to peer into the darkness of space. Something out there is causing a wobble in passing comets 3 trillion miles away.

But here on earth, the President's plan to spend $3 trillion over the next 10 years is causing a wobble in the U.S. economy and a black hole in the budget deficit.

Mr. Speaker, Members do not need binoculars to see it or astronomers to explain it. It is not a tenth planet; it is the Republican economics by a Congress controlled by Republicans and the White House. At the rate this economy is going, the phrase "to infinity and beyond" will stand for where the deficit is going; but it is only going to go until the second of November.

PRESIDENT BUSH VISITS OHIO AGAIN

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, President Bush was again in Ohio in the last few days, a key battleground State, again trying to justify a failed economic policy, a policy where we have lost one out of six manufacturing jobs in our State, a policy where we have lost 150 jobs every single day of the Bush administration, yet the President's answer continues to be the same old tired bromides, tax cuts for the wealthiest Americans. Taxpayers who make $1 million a year, they get a $123,000 tax cut, hoping it trickles down to create new jobs. That has not worked.

The other President Bush answer to bad economic times is more trade agreements that ship jobs overseas. In fact, this body is coming back in a lame duck session in November, probably to try to pass a Central American Free Trade Agreement to expand the failed policies of the North American Free Trade Agreement.

Mr. Speaker, we need a new economic direction in my State of Ohio where we have lost more than 200,000 jobs. We need a new economic direction in this country.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

DEGRADATION OF THE DEMOCRATIC PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I am here to protest what has become a significant degradation of the democratic process in this House. We have a situation in which the House leadership has turned the legislative process into a propaganda arm. With increasing and depressing frequency, we are given resolutions to vote on in a form which does not allow for amendments, and these resolutions contain a mix of the good, the bad and the ugly.

What we have is a pattern of taking sentiments to which all Members of the House or nearly all Members subscribe, sentiments which are quite proper, and then adding into these sentiments are far more controversial sentiments, sentiments that many of us disagree with.

It is an abuse of the process of democracy to bring forward on this floor resolutions which combine those things with which Members agree with things which are controversial in a form which does not allow Members to even begin to separate them.

There are, for good reasons, parliamentary rules and ways through which Members can express partial agreement. We can amend. We can divide the question. But when bills are brought here under suspension of the rules, as they often are, the legislative process is turned into a political propaganda machine. What happens is Members feel coerced into voting in very large numbers for particular sentiments which could not in many cases get a majority on their own and certainly could not get majorities of the size that they get.

□ 2000

And then having gotten that, people will say, see, everybody agrees with that. Most recently this happened on September 9 when we voted on the resolution brought out of the Committee on International Relations dealing with the terrible events of September 11, 2001; and I will insert this in the RECORD, appropriately marked. It has resolve clauses that we all agree with, but it also has a series of "whereas" clauses which include a number of things which are extremely controversial, in my view, untrue, and unworthy of being put through in this coercive fashion.

Paragraphs 4 and 5, which I have noted on my copy of the resolution, treat the war in Iraq as part of the global war on terrorism. It has been made increasingly clear, most recently by our colleague who is now waiting confirmation as head of the CIA, that statements by administration officials tying Iraq to the September 11 situation were simply not true. Yet this resolution acts as if they were. This resolution implicitly reaffirms the increasingly discredited notion, believed, I think, by almost nobody except possibly the Vice President because he talks about it all the time, that said that there was a direct link between September 11 and Iraq.

And it is wrong to coerce Members to vote for statements that falsely assert this claim because otherwise they will be accused of not caring about the events of September 11.

Then on paragraphs 15 through 21, we have inappropriate celebratory language. If we read these paragraphs, we have solved the problems of immigration and terrorism. We are examining all the cargo. We have taken care of everything. We have "whereas" clauses here that look like part of the President's reelection campaign. He is entitled to a reelection campaign. He is not entitled to take things that belong in a reelection campaign statement and bundle them into an otherwise noncontroversial resolution to coerce people into voting for him.

This congratulates us, for example, that we have extended our borders overseas and to secure and screen cargo before it is placed on ships destined for United States ports of entry. It talks about the great success of the Terrorist Threat Integration Center. Frankly, if one read this resolution and believed it, they would not need the 9/11 Commission report. These paragraphs basically celebrate the accomplishments of what the 9/11 Commission points out need to be done.

We have congratulations to the Immigration Service, congratulations to the FBI, congratulations to the Coast Guard. There are very hard-working decent people trying hard to accomplish these things, but we have not done them yet. These things, if they had been brought forward on their own as statements, would have been rejected, I believe.

It is absolutely wrong to take these inaccurately self-congratulatory statements about the administration's performance and our own performance here in Congress and get votes for them because otherwise people would be accused of not wanting to express our horror of September 11 and our thanks to those who worked so hard against it.

So, Mr. Speaker, because I did not think that the war in Iraq was part of the war on terror, I do not think we deserve to claim "mission accomplished" with regard to the fight against terrorism, I voted against this resolution. And I hope we will stop this practice of giving a bait-and-switch approach to legislation.

H. RES. 757, IN THE HOUSE OF REPRESENTATIVES, U.S., SEPTEMBER 9, 2004.

Whereas on September 11, 2001, while Americans were attending to their daily routines, terrorists hijacked four civilian aircraft, crashing two of them into the towers of the World Trade Center in New York City, and a third into the Pentagon outside Washington, D.C., and a fourth was prevented from also being used as a weapon against America by brave passengers who placed their country above their own lives;

Whereas three years later the country continues to, and shall forever, mourn the tragic loss of life at the hands of terrorist attackers;

Whereas by targeting symbols of American strength and success, these attacks clearly were intended to assail the principles, values, and freedoms of the United States and the American people, intimidate the Nation, and weaken the national resolve;

4

Whereas three years after September 11, 2001, the United States is fighting a Global War on Terrorism to protect America and her friends and allies;

5

Whereas since the United States was attacked, it has led an international military coalition in the destruction of two terrorist regimes in Afghanistan and Iraq while using diplomacy and sanctions in cooperation with Great Britain and the international community to lead a third terrorist regime in Libya away from its weapons of mass destruction;

Whereas the United States is reorganizing itself in order to more effectively wage the Global War on Terrorism by transforming the Department of Defense, sharpening the Federal Bureau of Investigation's counterterrorism focus, strengthening the authority of the Director of Central Intelligence to coordinate national intelligence activities, and creating a Department of Homeland Security;

Whereas of the senior al-Qaida leaders, operational managers, and key facilitators that the United States Government has been tracking, nearly two-thirds of such individuals have been taken into custody or killed;

Whereas just as significant, with the help of its allies, the United States has disrupted individuals and organizations that facilitate terrorism—movers of money, people, messages, and supplies—who have acted as the glue binding the global al-Qaida network together;

Whereas Pakistan has taken into custody more than 500 members of al-Qaida and the Taliban regime, including Khalid Sheik Mohammed and Ramzi bin al Shibh, conspirators in the September 11, 2001, attacks, and Kahallad Ba'Attash, an individual involved in the planning of the attack on the USS COLE in 2000;

Whereas Jordan continues its strong counterterrorism efforts, arresting two individuals with links to al-Qaida who admitted responsibility for the October 2002 murder in Amman, Jordan, of Lawrence Foley, a United States Agency for International Development Foreign Service Officer;

Whereas in June 2002, Morocco took into custody al-Qaida operatives plotting to attack United States Navy ships and ships of other member nations of the North Atlantic Treaty Organization in the Strait of Gibraltar;

Whereas the United States and its allies in Southeast Asia have made significant advances against the regional terrorist organization Jemaah Islamiyah, which was responsible for the attack in Bali, Indonesia, in October 2003 that killed more than 200 people;

Whereas Singapore, Indonesia, the Philippines, Thailand, and other countries in Southeast Asia have taken into custody leaders and operatives of local al-Qaida-affiliated terrorist organizations and members of al-Qaida traveling through such countries;

Whereas the United Kingdom, France, Germany, Italy, Spain, and other countries have disrupted cells of the al-Qaida terrorist organization and are vigorously pursuing other leads relating to terrorist activity;

15

Whereas following the attacks of September 11, 2001, the United States Government initiated innovative programs, such as the Customs-Trade Partnership Against Terrorism program and the Container Security Initiative, to extend our borders overseas and to secure and screen cargo before it is placed on ships destined for United States ports of entry;

16

Whereas the Department of Homeland Security implemented the US-VISIT border security screening system in December 2003 at all air and sea ports of entry, requiring that nonimmigrant visa holders entering the United States be fingerprinted and screened through various criminal and terrorist databases before entry into the United States, and this system will be expanded to land ports of entry in accordance with congressional deadlines;

17

Whereas since September 11, 2001, the Coast Guard has conducted more than 124,000 port security patrols, 13,000 air patrols, boarded more than 92,000 vessels, interdicted over 14,000 individuals attempting to enter the United States illegally, and created and maintained more than 90 Maritime Security Zones;

18

Whereas following attacks of September 11, 2001, the Terrorist Threat Integration Center was established, which now fuses, for the first time in United States history, terrorist-related information, foreign and domestic, available to the United States Government for systematic analysis and dissemination to prevent or disrupt terrorist attacks on the United States;

19

Whereas following the attacks of September 11, 2001, the Terrorist Screening Center, a multi-agency partnership, was established to integrate the dozens of separate terrorist databases that existed before September 11th into a single terrorist watch list for use by Federal, State, and local law enforcement, intelligence, and border security personnel.

20

Whereas following the attacks of September 11, 2001, the United States Government has ensured the hardening of cockpit doors on airplanes and greatly expanded the use of armed Federal air marshals to prevent and deter future hijackings that could turn commercial planes into weapons of mass destruction;

21

Whereas having recognized the need to prevent terrorist organizations from using their resources, the Federal Bureau of Investigation has worked closely with the Department of the Treasury to target 62 terrorist organizations and freeze $125,000,000 in assets of such organizations worldwide used to fund terrorist activities;

Whereas to date United States Armed Forces and Coalition forces have killed or captured 43 of the 55 most wanted criminals of the Saddam Hussein regime in Iraq, including Saddam Hussein himself;

Whereas the al-Zarqawi terror network used Baghdad as a base of operations to coordinate the movement of people, money, and supplies; and

Whereas thousands of families have lost loved ones in the defense of freedom and liberty against the tyranny of terror: Now, therefore, be it

Resolved: That the House of Representatives—

(1) extends again its deepest sympathies to the thousands of innocent victims of the September 11, 2001, terrorist attacks, their families, friends, and loved ones;

(2) honors the heroic actions and the sacrifices of United States military and civilian personnel and their families who have sacrificed much, including their lives and health, in defense of their country in the Global War on Terrorism;

(3) honors the heroic actions of first responders, law enforcement personnel, State and local officials, volunteers, and others who aided the innocent victims and, in so doing, bravely risked their own lives and long-term health;

(4) expresses thanks and gratitude to the foreign leaders and citizens of all nations who have assisted and continue to stand in solidarity with the United States against terrorism in the aftermath of the September 11, 2001, terrorist attacks;

(5) discourages, in the strongest possible terms, any effort to confuse the Global War on Terrorism with a war on any people or any faith;

(6) reaffirms its commitment to the Global War on Terrorism and to providing the United States Armed Forces with the resources and support to wage it effectively and safely;

(7) vows that it will continue to take whatever actions necessary to identify, intercept, and disrupt terrorists and their activities; and

(8) reaffirms that the American people will never forget the sacrifices made on September 11, 2001, and will never bow to terrorist demands.

ORDER OF BUSINESS

Mrs. BLACKBURN. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Tennessee?

There was no objection.

TENNESSEE'S ECONOMY AND HEALTH SAVINGS ACCOUNTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, virtually every day JOHN KERRY and his campaign are telling America that our best days are not ahead, that our economy is not growing, and that President Bush has not waged a tough war on terrorism. Fortunately, most Americans, as we hear when we are out in our districts, as we see in the polls, most Americans are seeing through Candidate KERRY'S empty rhetoric.

For the past several months, our economy has shown strong growth. I have here with me tonight an article from the National Tennessean. It is headlined "Nashville area added 11,308 in fiscal year 2003–2004." The article notes that these 11,308 jobs are five times last year's total. Mr. KERRY may not want people to know, but this is an indication of real economic growth and what is happening out there in the heartland.

No matter what JOHN KERRY or CBS might tell us, President Bush and this Congress are making the right decisions for our economy and for the war on terrorism.

Another subject that has been getting a great deal of attention from the left is health care, specifically the Health Savings Accounts that were created last year by this body. And for months KERRY and the Democrats have been calling choice, flexibility, and ownership in health care a bad idea. But they are absolutely wrong. The Health Savings Accounts are all about giving the consumer power over their health coverage, over health decisions, and over those precious health care dollars.

Republicans do not favor a one-size-fits-all universal health care system. We understand what a one-size-fits-all system does. We know that that would mean universally poor care that leaves consumers basically with no power and no rights in the management of their own health coverage and their own health decisions.

Outside the Beltway, people are excited about Health Savings Accounts, personal health accounts. This editorial from the National Business Journal is titled "Health Savings Plans Can Help Business." This recognizes that small businesses will be able to offer health care to employees in a way that reduces paperwork and empowers the employee. As the editorial states: "This is part of an ownership society," something that we are hearing the President talk about daily. An ownership society. What this means is more health care coverage, more options, more power for consumers in those personal health accounts, and we think that that is a very good idea.

In another article that I have, this time from the Memphis Business Journal, the other end of my district, it has said that the new health care items, this is what is "getting the enthusiasm," is the health savings accounts. And why? Because they function like a health care IRA, giving consumers ownership over a tax-free account. What a great idea.

Mr. Speaker, regardless of what Candidate KERRY and the liberal left would tell us, it is clear that Americans are increasingly aware of what President Bush and the Congress have done to reinvigorate our economy, to expand health care options, and to win the war on terror. Faced with the horrific attacks on America, a trillion dollar hit to our economy, and a preexisting recession, the Bush administration and this Republican Congress have made significant strides in the right direction. And that is something we are looking forward to continuing in the year ahead.

SMART SECURITY AND IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, as thousands of our brave American soldiers continue to fight and die and receive serious wounds halfway around the world, I want to speak about two Iraqs that are presented to the American people.

There is the Iraq that President Bush and his administration want people to see, the one that is supposedly one small step away from becoming a peaceful democracy. And then there is the real Iraq, the quagmire halfway around the world that the rest of us know.

In President Bush's Iraq, the war was never a mistake, never a failure, and never something to question, much less regret. The same war, which as of today has caused the deaths of 1,027 American soldiers and seriously wounded at least seven times that many, not to mention the thousands of Iraqi civilians that have been killed. President Bush says he would have gone to war in Iraq even if had he known 2 years ago what he knows now.

That means he would have gone to war knowing that Iraq did not have a nuclear weapons program. He would have gone to war knowing that Saddam Hussein never harbored al Qaeda terrorists, and he would have gone to war knowing that thousands of our young soldiers would be killed. Somehow, and I do not know how, somehow President Bush fails to recognize the death, destruction, and deprivation that his war has caused.

The rest of us see a different Iraq than President Bush. In the real Iraq, America preemptively waged a war that was never a war of necessity and never a war to protect our Nation. Instead, President Bush and the Republican-controlled Congress led this country into a war that U.N. Secretary General Kofi Annan recently called "illegal."

In the real Iraq, hundreds of soldiers have died because they were not given the battle armor that would have stopped bullets from entering their bodies, even after Congress made funds available for that very specific purpose. This was a drastic mistake made by the Pentagon.

In the real Iraq, President Bush, as Commander in Chief, has failed to properly address the insurgency that is killing scores of troops and civilians every day. This is a failure that could have and should have been addressed during the planning stages of the war.

In the past week, four Republican Senators have bucked their party line and acknowledged the sweeping problems that exist in the real Iraq. Senator CHUCK HAGEL of Nebraska said, "I don't think we're winning . . . we're in trouble. We're in deep trouble."

Senator RICHARD LUGAR, chairman of the Senate Foreign Relations Committee, went further. When asked why only $1 billion of the $18 billion appropriated for Iraq's reconstruction has been spent, he said, "Well, this is the incompetence of the administration."

This did not have to be an unmitigated disaster. But Iraq is woefully unstable largely due to planning failures by the Bush administration: the failure to enlist most of our allies as partners in the war, the failure to anticipate the anger and intensity of the insurgency, and the failure to allocate the billions of dollars in reconstruction funds that could have helped secure that country.

Fortunately, we have opportunities to fix this awful mess. Earlier this week Senator JOHN KERRY offered a better, smarter solution to fixing the real problems in Iraq. JOHN KERRY's plan includes soliciting and enlisting support from our allies, properly training Iraq's security forces, and carrying out a viable reconstruction plan that truly involves the Iraqi people, instead of giving companies like Halliburton the benefit of America's investment, while leaving Iraqi companies without contracts and the Iraqi people without jobs.

We need to engage in smarter policies if we want to stop the bleeding in Iraq. That is why I have introduced H. Con. Res. 392, to create a smarter security resolution for the 21st century. SMART stands for Sensible, Multilateral American Response to Terrorism. With SMART security, we would not be in the mess that we are in today. SMART security treats war as an absolute last resort. It fights terrorism with stronger intelligence and multilateral partnerships, and it controls the spread of weapons of mass destruction with aggressive diplomacy, strong regional security arrangements, and vigorous inspection regimes.

EXPRESSING OUTRAGE AT REPUBLICAN DOUBLE STANDARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, the Nation is talking about Dan Rather, CBS, and the false National Guard memos. Republicans are saying that he misled the Nation, that it is a scandal that threatens our body politic. Congressional Republicans are talking about an ethics investigation. And yesterday on a radio show, Bill Bennett said the Dan Rather incident went beyond bias. He said, "This is corruption."

Let me tell the Members something. Dan Rather is going to get a whopping, and he deserves it. CBS has a black eye, and they earned it. There is no excuse for what happened. However, all this outrage from the self-righteous right wing of this country has taken hypocrisy to a new low.

Let me ask my colleagues where was the moral outrage and where is the moral outrage when the President of the United States here in the State of the Union at this podium used falsified evidence to allege in his State of the Union that Iraq had attempted to purchase yellow cake uranium from Nigeria?

□ 2015

Where is their moral outrage when Condoleezza Rice and DICK CHENEY repeatedly link Saddam Hussein and al Qaeda, all the while knowing that no evidence supports the claim?

Where is their moral outrage when our President said we would find tens of thousands of pounds of chemical and biological weapons when we invaded Iraq, even though he knew there was no absolute proof?

Where is the their moral outrage when we are told that Iraq purchased aluminum tubes in order to refine uranium, even though weapons experts said otherwise?

Where is their moral outrage when Paul Wolfowitz told the Congress that Iraqi oil money would pay for reconstruction, all the while knowing that the burden would be placed on the American taxpayers?

And where is their moral outrage when we discovered that the chief architects of the Iraqi war, Vice President CHENEY, Deputy Secretary of Defense Paul Wolfowitz, Douglas Feith, Richard Perle and Donald Rumsfeld, paid Mr. Ahmed Chalabi $49 million in U.S. taxpayer money for faulty intelligence claiming that Iraq had mobile weapons labs and that we would be greeted as liberators? If this is how Iraqis greet liberators, they have a funny way of saying "welcome."

Mr. Speaker, the outrage of the self-righteous right over the falsified National Guard documents is nothing more than opportunistic partisan politics at its worst.

Did Dan Rather do wrong? Undoubtedly, and he is going to get what he deserves, as will CBS. Dan Rather deserves criticism and he should be held accountable.

But I fail to understand why Dan Rather's credibility has raised such a moral outrage, but the same critics cannot find that the President's credibility equals that of Dan Rather's. What civics class did they go to, where they learned that Dan Rather's credibility weighs more important to the fabric of this country than the President of the United States?

As far as I am concerned, both individuals have a piece of the public's trust; both individuals have to be accountable for what they say. Dan Rather said he was wrong and he will be held accountable. We have yet to hear that same explanation from the President of the United States.

I say this in all seriousness: I do not think the President of the United States takes it lightly. Dan Rather's poor judgment and false statements did not lead to where the country is today in Iraq and the cost we have paid both in lives and in our treasure. Time and again, this administration has used false statements and false documents to justify their actions, and America has paid dearly.

Mr. Speaker, my challenge to my friends on the right wing is, I will join you any time you want to condemn Dan Rather. If you want to have an hour debate here on the floor, I will be down there. But I offer you the invitation to come and join me any time you want to have an hour debate about the President's false statements and what he used to justify a war, knowing all the while that was not true.

Dan Rather will pay for this, as will CBS. But the President of the United States also has credibility, all of our credibility, and when it is misused, we all pay dearly for it.

So I ask the people on the right who usually talk about moral consistency to stop being so inconsistent in their moral relativism, where they see Dan Rather's credibility and his character as more important than that of the President of the United States. Understand that the President, our President, speaks for all of us, and his credibility is our credibility, and when we use it in front of the world and we are questioned from here forward because we no longer have told the truth and people do not believe us, we all pay a price that we are seeing every day in the news.

THE BUSH MEDICARE BILL'S DIRTY LAUNDRY

The SPEAKER pro tempore (Mr. McCotter). Under a previous order of the House, the gentleman from Ohio (Mr. Brown) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I want to follow on the heels of the comments of the gentleman from Illinois (Mr. Emanuel) about the Bush administration not telling the truth about Iraq and how much the country has paid for that and discuss how the President of the United States did not tell the truth about the Medicare bill and how, unfortunately, because of that, senior citizens of this country will be inflicted with the largest Medicare premium increase, 17.4 percent, that seniors have ever seen in the 38 years of Medicare's history.

On this chart we can look at what is entitled "Medicare Bill's Dirty Laundry." I want to talk for a moment how we got where we got, how this bill came to become law and led to that 17.4 percent premium increase that Medicare beneficiaries will be forced to pay.

First of all, the Medicare bill was written by the drug industry and the insurance industry, both industries having given the President of the United States tens of millions of dollars, and to the gentleman from Texas (Mr. DeLay) and Republican leadership, tens of millions of dollars for their political campaigns. So the legislation was written by the drug and insurance companies as a payback by the Republicans for the help that they had gotten from these industries.

Now, when the bill came to the floor of the House of Representatives, and everybody in this body remembers that night, the debate started at midnight, the votes started at 3 o'clock in the morning. The vote went for 2 hours 55 minutes as the Republican leadership attempted to bribe, as told the next day by one Republican Member, strong arm, twisted arms, waked up the President, got him on the phone with Members of Congress, campaign contributions flowed liberally to Republican Members of Congress, and that vote, after 2 hours 55 minutes, the longest vote in Congressional history, two Members changed their vote at 5:55 in the morning and that Medicare bill barely passed.

Then the administration used tens of millions of dollars, of taxpayers' dollars, to try to convince the public that this was a good bill. At the same time we found out that this bill that was to cost $400 million, we were told would actually cost about $530 billion, from $400 billion to $530 billion. The President knew it, the head Medicare knew it, and they simply did not tell the people and the Congress of the United States. That is why we ended up with a 17 percent increase.

Then this was capped off by the fact that the President of the United States did not release this information about the 17 percent increase until they could almost do it in the dead of night. They chose a Friday afternoon right before the Labor Day weekend to announce to the public that, yes, this increase was going to be 17 percent.

Now, before the Bush Medicare bill became law, the nonpartisan Medicare trustees said the premium increase for 2005 for Medicare beneficiaries would be $2. Instead, once the Bush Medicare bill became law, the premium increase jumped to $11.60. The premium increase after the Bush Medicare law was more than five times larger than the previous premium increase was estimated to be.

So where does that money go? Where do the billions of dollars that come out of seniors' pockets on the one hand go? It comes out of seniors' pockets. By and large, it goes into the insurance company HMO pockets.

Insurance company HMOs had a 50 percent increase in profits last year. That is before the Medicare bill became law. In fact, that 17 percent largest increase in Medicare history premium goes directly into a $23.5 billion slush fund for the insurance industry. The insurance industry, which enjoyed huge profit increases the year before, now is going to get a $23.5 billion bonus, thanks to the increase in premiums for seniors.

So, Mr. Speaker, it makes a perfect circle. The Medicare bill is written by the drug companies and insurance companies; the bill passes Congress in large part because of huge contributions from the drug and insurance companies to the Republican leadership and to President Bush and to Republican rank and file members; the bill then means huge subsidies for the insurance companies, $23.5 billion, and even bigger profits for the drug companies; and then, when all this is over, the premium goes up not $2, but $11, 17 percent, the largest premium increase in Medicare history.

Mr. Speaker, that is the kind of corruption that I hoped we would never see in this body, where campaign contributions result in a bill written for the drug and insurance industries under the guise of improving Medicare, although seniors never really believed that. The bill passes in the dead of night, seniors' Medicare premiums go up 17 percent, the largest increase in history, and Republicans cash in with political contributions.

Mr. Speaker, that is shameful.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members that remarks in debate may not include personal criticisms of or accusations against the President.

Mr. BROWN of Ohio. Mr. Speaker, is pointing out that the President receives tens of millions of dollars from the drug and insurance companies, is that considered a criticism? Is that appropriate to say?

The SPEAKER pro tempore. Remarks in debate must avoid personally offensive language toward the President.

Mr. BROWN of Ohio. Mr. Speaker, I was only talking about his actions. It is nothing personal. I just thought that tens of millions of dollars in contributions which lead to legislation which means bigger profits for the insurance and drug companies was shameful. I did not cast aspersions on the President himself.

The SPEAKER pro tempore. The accusation that the President did not tell the truth prompted the Chair's admonition.

Mr. BROWN of Ohio. I guess, Mr. Speaker, that I do not know if the President told the truth, but people who report to the President that should have been informing the President certainly did not tell the truth, because they said the bill would cost $400 billion. It cost $534 billion, and that led to the biggest Medicare premium increase in history.

The SPEAKER pro tempore. The President's advisors are not protected by House rules and practices governing debate.

MEDICARE PART B PREMIUMS TO INCREASE 17 PERCENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise this evening to talk about the Bush administration's increase on our senior citizens of Part B of Medicare, which is the doctors' coverage, of an additional $139.20 per year. That means that seniors will begin paying an additional $11.60 a month, the total premium being $78.20 per month. So over the course of a year, the increase over the previous amount is 17 percent. This is on top of a 14 percent increase from last year.

This is going to eat up a substantial chunk of the cost of living allowance that seniors truly depend upon, and with heating prices in the winter increasing, gasoline prices increasing, food prices increasing, this is a huge, unprecedented increase in the Medicare Part B premium.

Mr. Speaker, normally this premium increase would be announced in October when the Social Security COLA increases lock in so that seniors could calculate their budget for the coming year. But the Bush administration actually announced this increase during a holiday weekend just about a month ago, hoping that no one would really take notice.

The question I have is how much of this increase is actually due to the fact that the Bush administration refuses to let the government of the United States negotiate the best prices for pharmaceuticals and prescription drugs with these big companies that contribute so much to campaigns here in Washington, and, because of that, our seniors are going to have to bear the cost of an additional 17 percent increase.

This is the largest increase in the history of the program. Under this administration, Medicare premiums have increased twice as much as during the Clinton presidency, which lasted 8 years. So in a short 3½ years, they have increased the amount twice compared to the prior 8 years. And the premium increase comes on the heels of a decision by the Secretary of Health and Human Services, Tommy Thompson, not to permit the government to negotiate the best price and not to permit our seniors to buy prescription drugs that come in here that are safe and approved by FDA from Canada and other places.

Mr. Speaker, I believe we should never compromise on safety, nor should we restrict the competition that could be instrumental in holding down rising prices for our Medicare beneficiaries. So I offered an amendment that was passed in this House on the agriculture bill that would permit the FDA to allow the reimportation of drugs from Canada and overseas at lower prices.

□ 2030

When our bill was sent over to the Senate, the other body, they struck that provision out.

So I would hope that Senator KERRY would go back over to the Senate and hold a press conference and merely tell the Republicans over there to put my amendment back in, because it would do what the Republican prescription drug bill forbids doing, and that is allowing the same drugs that are sold here that exist in Canada and other places to be brought into this country so our seniors do not have to pay these exorbitant prices. And with these rising medicare premiums, it is really something to think about.

The Republicans not only do not permit the reimportation of drugs, they lock the hands of the Federal Government to negotiate the best price. And who ends up paying the burden of the increase? Our senior citizens, and they have just gotten the bill, and, as I said, over the next year, they are going to be paying an additional $139.20 on the doctor's portion, the Medicare Part B premium. That is simply wrong, when the wealthiest people in this country, those earning over $1 million, have gotten over $100,000 a year in additional tax cuts from the Bush administration and so many people in our country have absolutely no health insurance at all. And our seniors are having to choose in the wintertime between food and medicine and heating the places in which they live.

So I wanted to say a word about that this evening and also to place in the RECORD an article from the New York Times today about the tragic, tragic beheading of Eugene Armstrong from Hillsdale, Michigan. I want to draw to the attention of the American people the fact that there is an additional hostage being held, Mr. Jack Hensley of Marietta, Georgia. These men were contractors. They were not under the employ of our U.S. military, and I think that the jagged line between civilian and military inside of Iraq is something this administration has done.

There are over 25,000 contractors in Iraq right now, and when they get in trouble, nobody helps them. In fact, Mr. Hensley's brother said that over the last few days, few weeks, those that were guarding these gentlemen disappeared; they left. They were fearful of their own welfare, yet these Americans remain there.

In the case of Mr. Hensley, he was in touch with his wife, saying that he wanted financially to remain there because he is laid off. He was a worker from our country, laid off, and she had been urging him to come back home because the family had become increasingly concerned that their guards were leaving.

Now, what kind of a military operation is it where we have 25,000 contractors whose lives are at risk, yet they may be earning more money than our regular military? But the lines are blurred, and one really cannot tell who has responsibility. Here we have another situation of a patriotic American who has lost his life so tragically over in Iraq simply because this administration cannot get it right, and they cannot conduct a military operation where people's lives are protected in theater to the greatest extent possible.

We had the armored Humvees with no armor. We have Guard and Reserve forces strung out, without the kind of backup they need, tired, in the field. We are short two divisions in the U.S. military, and now we have civilians really performing functions that the regular military should do. These gentlemen were doing construction which is normally done by the Army Corps of Engineers, who have backup. In this case, we have Americans whose body guards end up leaving, and they are cold in the field. They have nobody to help them. What kind of a system, what kind of a military operation is this administration conducting in the nation of Iraq?

I want to place these additional articles from the New York Times in the RECORD, along with a chart showing the increasing number of hostages being taken in Iraq over the last several months, and it is on the increase.

GRIEF AND AN EVENING VIGIL IN A MICHIGAN SMALL TOWN

(By Danny Hakim)

HILLSDALE, MI, Sept. 20.—Scores of townspeople gathered at an impromptu candlelight vigil in the early evening here after hearing that a Westerner identified as Eugene Armstrong had been executed in Iraq.

Mr. Armstrong grew up in this town of about 8,000 people in southern Michigan, and though he left more than a dozen years ago to travel the world, his brothers and cousins remain here.

"We're just devastated," said Cyndi Armstrong, a cousin by marriage who attended the vigil on behalf of the family. "I don't know what else to say about how we feel."

Mr. Armstrong, a 53-year-old construction worker known as Jack, lived with his wife in Thailand. Cyndi Armstrong said F.B.I. officials first notified members of the Armstrong family last week that he and two other Western workers had been kidnapped in Iraq. Among those notified, she said, was Mr. Armstrong's mother, who lives in Germany.

Few in the crowd here knew Mr. Armstrong well because he left Hillsdale long ago. His brothers chose not to attend the vigil.

"His brothers are broken up about it," said a cousin of Jack Armstrong, Pat Armstrong, who served as a marine in the Middle East during the first Persian Gulf war and who said he was not happy about how the latest Iraq war had deteriorated.

"I think we should steamroll them, either that or leave" Pat Armstrong said. "Eliminate the problem or leave instead of not trying to upset too many people."

The vigil took place in the early evening while it was still light in front of the Hillsdale County Courthouse on a town square framed by light poles bearing hanging planters with purple flowers. The Pledge of Allegiance was recited, candles were wedged into plastic coffee cup lids and passed through the crowd, and a local pastor, Randy Branson, was asked to say a few words.

"We know the price of freedom is being paid all across the globe," Mr. Branson said. "Today we pray for freedom and the two men who are still being held."

Cyndi Armstrong said Jack Armstrong loved to travel and had spent time in Germany before moving to Thailand.

"He was a great guy and he loved his country," she said, twisting an American flag in her hands. "He liked to travel; he liked to read books. I didn't know him personally very well, but he was a great guy, and he will be missed very much."

Richard Buehrle, 46, a cook who knows one of Mr. Armstrong's brothers, said: "I heard about it at 2:30 this afternoon. I was kind of shocked, but it didn't really surprise me. Once they're captured over there, it's touch and go."

Mrs. Armstrong said that only two weeks ago her own daughter enlisted in the Army. She did not want to talk about her personal feelings on the war, Ms. Armstrong said, though she supported her daughter's decision. Still, she said, it was hard to comprehend what had happened to Mr. Armstrong.

"I don't understand," she said, "Jack was there to help them, not to hurt them."

Jack Hensley of Marietta, Ga., is the remaining American hostage from the three construction workers who were taken from their house in Baghdad. The third is a Briton.

Earlier Monday, Mr. Hensley's relatives spoke to reporters about his kidnapping.

His brother, Ty Hensley, told NBC News that he and his brother had been regular e-mail correspondents before the kidnapping. Ty Hensley said his brother had become increasingly concerned in the week and a half before he and his colleagues were abducted. Their guards were leaving one by one because of death threats, Jack Hensley had written, and he believed the three Westerners were being watched.

Ty Hensley said that his brother had gone to Iraq when he could not find construction work at home and that leaving early would have been a financial blow.

But he said Jack's wife, Patty, had tried to persuade him to come home anyway.

"I'm sure that he had signed a year contract," Ty Hensley said of his brother. "It was important that he make it a year for him financially, but she began talking to him in very strong capacity to come back over the last week and a half. And she told him it does not matter financially, to come home.

"I talked to Jack every other day through e-mail," Mr. Hensley continued. "And the type of work that he is doing, again, is to work with the Iraqi people in helping develop a water system for the Iraqi people. He's helped work on a school, rebuild a museum and also housing for the Iraqi people."

HOSTAGES IN IRAQ

In addition to two Americans, Nicholas Berg and Eugene Armstrong, at least 27 people from 9 different countries are believed to have been killed in captivity this year, according to information from reporters for The New York Times and news agencies. At least 22 others are still being held hostage, but at least 81 have been released or rescued.

MEDICARE BY THE NUMBERS

The SPEAKER pro tempore (Mr. McCOTTER). Under a previous order of the House, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes.

Ms. SCHAKOWSKY. Mr. Speaker, the Medicare Modernization Act: good for the HMOs, great for the pharmaceutical companies, bad for seniors and bad for persons with disabilities.

Let us consider the numbers.

$54 million: That is the amount drug companies spent lobbying Congress and the administration between 1997 and 2002.

675: That is the number of paid drug company lobbyists, more than 1 for each of the 535 Members of the U.S. House and Senate.

$67.7 million: That is the amount of drug company political contributions since 1999, and Republicans received 71 percent of those.

$891,208: That is the amount of drug company campaign contributions President Bush has received since 1999.

Zero: That is the number of Democrats who were allowed into the conference committee when this bill was finally crafted, the bill that was supposed to provide relief to seniors but really has provided great relief to the drug companies. That means that the gentleman from Michigan (Mr. DINGELL) and the gentleman from New York (Mr. RANGEL), veterans of the House and experts on Medicare, were locked out of the committee.

Twenty-three percent: the percent of average Americans' out-of-pocket medical expenses spent on prescription drugs.

Seventy percent: the amount of discounts the Veterans' Administration obtains on cholesterol medications by using its bargaining clout with the pharmaceutical companies, something not allowed for Medicare beneficiaries.

Sixty-six cents: the amount the Veterans' Administration paid for a 30-day supply of Zocor, that is high cholesterol medicine, in 2002, compared to $3.77 at the retail pharmacy.

Thirty-six percent: the amount of U.S. medical research funded, by who? By you, the taxpayers, by the Federal Government, not by the pharmaceutical companies.

$139 billion: the amount of additional drug company profits to be reaped from the new Medicare law.

$46 billion: the amount of additional payments to Medicare HMOs expected from the new Medicare law.

$400 billion: That is how much the Republicans swore the Medicare bill would cost.

$540 billion: That is the amount the Medicare actuary, the numbers cruncher, knew it was really going to cost, but he was threatened with his job if he told the truth to Congress.

$576 billion: That is the recent estimate by the Office of Management and Budget of the cost of the Republican expensive and worthless Medicare plan.

$4,000: what a senior citizen with $5,000 in yearly drug costs would have to pay under the new Medicare benefit.

2.7 million: the number of seniors expected to lose existing retiree drug benefits under the new Medicare law.

Six million: the number of low-income seniors and persons with disabilities are expected to pay more for prescription drugs under the new Medicare law.

Seventeen percent: the average profit margin of the top-ten drug companies in 2002.

3.1 percent: the average profit margin of the rest of the Fortune 500 companies in 2002.

Seventeen percent: next year's increase in Medicare Part B premiums.

2.5 percent: That is the expected Social Security cost of living adjustment increase next year.

53.6 percent: That is the percent of the average 65-year-old's Social Security recipients benefits that would go to out-of-pocket Medicare expenses in 2026. In other words, more than half of their Social Security check would end up going to pay for Medicare expenses.

Now, at the time that this bill passed, I warned my colleagues on the other side of the aisle who thought it was so great and that the senior citizens would love it. I have to tell my colleagues, another zero in my district. That is the number of senior citizens who think that the Medicare Modernization Act is a good deal for them.

EXCHANGE OF SPECIAL ORDER TIME

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to use the time of the gentleman from Ohio (Mr. STRICKLAND).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ADMINISTRATION LAUNCHES NEW CAMPAIGN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, the administration has launched a new campaign to win the Iraq war. The offensive is not in Baghdad or Fallujah or Sadr City. It is in New York and right here in Washington, D.C. The administration has launched another public relations campaign. They did it in the run-up to the war, and they are doing it again in the run-up to the election.

The administration will have its Iraqi functionary here in a few days to speak to this Congress. The appearance by Mr. Allawi in the U.S. Congress is meant to give the American people the illusion that Mr. Allawi was elected, not appointed. It is meant to suggest stability amid a sea of escalating violence.

The American people will decide what they believe to be true. They have already had a preview, because England was the first stop on the PR campaign. This is what the American people are going to hear over and over and over again. In London, Mr. Allawi downplayed the growing violence in Iraq. Since the middle of June, in just the last 90 days, the chaos in Iraq has claimed more than 2,000 Iraqi lives and more Americans than in any other part of this war, yet the administration's hand-picked administrator says of the insurgency, "It is not getting stronger. We are squeezing out the insurgency."

Then, he changed that glowing assessment for a different British audience where Mr. Allawi said, "Terrorists are coming and pouring in from various countries."

Now, what is the real story? We will still be asking that question after Mr. Allawi leaves.

At a time when the American people need straight talk about what is happening in Iraq, we are going to get carefully planned photo opportunities.

The groundwork has already been laid. Just the other day, the President told the American people, "I am pleased with the progress." Really, Mr. President?

Iraq today is more violent than ever. Insurgency is either being squeezed out or terrorists are pouring in. Check the morning paper tomorrow or the nightly news if you are not sure which of those statements is correct. Iraq is so out of control that religious clerics are being assassinated in broad daylight. Hostages are being kidnapped from guarded homes and beheaded. And U.S. soldiers are in greater danger than ever. Iraq is so out of control that a new offensive by the U.S. military is being planned for later this year, but not until after the election. Sounds a lot like Nixon's secret plan to end the war.

The administration is delaying action because it denies the magnitude of the crisis in Iraq. Instead, they want carefully-scripted political appearances and speeches to make the American people believe that your eyes and your ears deceive you. The coming public relations events are meant to do just that.

The President says he is pleased with the progress. Mr. Allawi says elections are coming. Mr. Allawi also admits that the so-called free elections in January may only be about half fair. When he speaks before the Congress, I hope Mr. Allawi will clarify which half of the Iraqi election will be fair and which will be rigged. The American people deserve straight talk, but we are getting double-talk. So is the rest of the world.

At the United Nations today, the President said he is "enforcing the demands of the world." Less than a week ago, the U.N. Secretary General Kofi Annan told the world that the Iraq war was illegal.

At the U.N. today, there was every opportunity for the President to tell it like it is. Instead, he told it like the spin doctors want it, and the world heard the sound of a President in total denial.

Later this week, Mr. Allawi will say exactly what the administration wants him to say as their puppet here in the House. He is their guy. This is their war, and they need more money. They will say what they want us to hear, despite the deafening sounds of daily violence underneath their very words. They will say what they hope will silence the critics, because they cannot silence the gunfire. They will say whatever they think will win another term in office, because that is their first and only priority.

That is not the way to fight a war or win the peace, but it is the only way this administration knows, which is why Iraq's best chance for peace can only be realized by a regime change in the United States. It will happen on November 2.

□ 2045

RECORD DEFICITS ABOUND

The SPEAKER pro tempore (Mr. MCCOTTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from South Carolina (Mr. SPRATT) is recognized for 60 minutes as the designee of the minority leader.

Mr. SPRATT. Mr. Speaker, in less than 10 days we will close the books on fiscal year 2004, and what a year it has been. A few days after that we will declare a deficit of $422 billion. You got it, $422 billion.

Now, there will be all sorts of spin to make that shortfall seem a lot less serious than it really is. But here are the hard facts. At $422 billion, this year's gift will set an all-time record, $47 billion more than last year, which itself last year was the worst deficit on record. And at $422 billion this deficit is bad enough; but if you back out the surplus in Social Security, as you should, 15 years ago we adopted a law and said Social Security shall not be included in the regular budget of the United States. It is, after all, a trust fund. The money is incumbent for the beneficiaries.

So if you back out those trust funds and the surplus they incur this year, the deficit in the regular budget of the United States is $574 billion for fiscal year 2004, $574 billion, more than a half trillion dollars in debt.

Now, the President keeps telling us that this economy is on the mend. Usually when the economy gets better, the bottom line of the budget gets better, but not now. This year's deficit, you see, is not going away. It is not even going down by much. Even if the economy improves, it will still be about where it is, 4 to $500 billion for the next 10 years. What we have got, what we are stuck with for the time being until we do something about it is what economists call a structural deficit. It is built into the texture of the budget itself.

On the House Committee on the Budget, our Democratic staff has taken the latest projection of the deficit and the economy given to us just a few days ago by the Congressional Budget Office, CBO, our neutral, nonpartisan budget shop. We have taken their forecast, and we have made what we regard as political readjustments to it. We have actually decreased the war of Afghanistan and Iraq that they have included because we do not think and do not hope, certainly, it will continue at existing levels. We have assumed that the alternative minimum tax will be fixed, as politically it must be fixed over the next several years; and we have assumed that the President's tax cuts will be made permanent as he earnestly seeks. He will get his way.

When you do that, you see what happens on this bottom red line which starts in 2004 at $422 billion, that is this year's deficit, because from 422 to 360, yes, it gets a bit better, we hope, but then it bombs out in that range. And by the time you get to the end of this 10-year period in 2014, the deficit is $503 billion.

As I said, the deficit does not go away and it does not go down by much; and at the end of the 10-year period it is bigger than it is today and we have accumulated a mountain of debt. By our calculation, using CBO's forecast, the Federal Government will incur $6,816,000,000 in additional debt between now and 2014. And when that $6.8 trillion in new debt is added to our old debt, which is $7 trillion or thereabouts, the total debt of the United States will come to $14,890,000,000 in that year.

If we follow the fiscal course the President has laid down, keep implementing his policies, do not make any changes in this budget, we are adopting basically his budgetary assumption, that is where we will be: $15 trillion in debt by the year 2014. That is the legacy that we are leaving our children.

If this burden were not enough, we always have to remember that out there, looming on the horizon, beginning in the year 2008, it is a phenomenon called the baby boomers, 77 million of them are marching to their retirement as I speak tonight. They have already been born. They have already qualified for their retirement benefits, and in 2008 they will start drawing their Social Security. In 2011 they will start drawing their Medicare.

In 20 years they will double the number of beneficiaries on Medicare and Social Security. And what should we do to prepare for this unprecedented demographic event, the doubling of the number of people on retirement?

We should be saving money now, no question about it; in this period of time we should be saving money. Instead, we are doing just the opposite. We are building up mountains of debt as this chart shows.

Mr. SCOTT of Virginia. Mr. Speaker, I would ask the gentleman to explain what this blue line on the top might be.

Mr. SPRATT. The blue line on the top is the path plotted by the Bush administration in 2001 when they brought us their first budget. They said, this is the path that we expect to follow. This was the basic baseline of the budget, before the Bush policies that were projected back in 2001. That is how good things looked. This is how bad things are now 3 short years later.

Mr. SCOTT of Virginia. I thank the gentleman.

Mr. SPRATT. Well, I said what we should be doing is saving, paying down our debt, not building up our debt.

Now, some may discover that, some might say, when did the United States Government ever pay down any debt? Well, in case you do not know it, in 1993, when President Clinton came to office, the deficit was right there, $290 billion, a record deficit under the last President Bush, $290 billion in 1992. That was the deficit situation President Clinton inherited.

We passed in this House, in the mid-spring of 1993, a deficit reduction act that the President sent to us. We passed that bill by one vote here in the House and by one vote in the Senate. As a consequence, every year after that for the next 8 years, the bottom line of the budget got better and better and better to the point where in the year 2000 we had a surplus of $236 billion. All of that happened on the watch and under the administration of the Clinton administration because of two major multi-year budgets that we adopted in those years, hard votes, probably cost the Democrats control of the House, but we did the right thing and there was a payoff, a budget and surplus by an unprecedented $236 billion in the year 2000.

As Yogi Berra likes to say, If you do not believe it, you can look it up. It is a matter of national record.

Well, what has happened since then? This is when President Bush came to office. He inherited a surplus. The budget there, midfiscal year 2001 was in surplus by $127 billion, but every year thereafter the bottom line of the budget has gotten worse and worse to the point where it is $422 billion in debt today.

Now, let me show you what those surpluses in the Clinton years meant, which was also unprecedented. In those 3 years from 1997 to the year 2000, that 3-year period of time, the debt of the United States held by the public outside the Government went from $3,772,000,000 to $3,409,000,000. We paid off in those 3 years $362 billion of debt. If you take what was paid off in the year 2001 when President Bush came to office and inherited the budget of the previous administration, it is over $400 billion in debt reduction.

By contrast, this administration told us when they came to office in 2001, their own economists at OMB, Office of Management and Budget and CBO both, they told us if you stay this budgetary course, you can pay off the debt held by the public; keep doing what the Clinton administration has been doing, you can pay off the debt held by the public by 2010, 2008 as early as that. But in the foreseeable future, if you stick to this budget course, to these fiscal policies, you can pay off the debts of the United States and lay the basis of the solvency of Social Security, the first big step you can take towards making Social Security and Medicare solvent for a long time to come.

We know the story. The Bush administration did not choose to stay that budgetary course. They chose their own budgetary course, which called for deep tax cuts, very significant tax cuts; and when the budget forecasts did not materialize as expected, those budget cuts, those budget tax cuts ate even more deeply into the deficit of the United States.

As a consequence, in the year 2002 instead of paying down more debt, we had to increase the national debt of the United States. We had to raise the statutory ceiling. There is a statutory limit on the debts that we can incur. We had to raise it by $450 billion in the year 2002. Next year, having raised it $450 billion, the very next year we had to raise the debt ceiling again by $984 billion. Let me tell you something, $984 billion is more than the entire debt of the United States in 1981 when President Reagan came to office. But we had to raise the debt ceiling by that amount in 2004 in order to accommodate the increases in debt.

When you add all of these together, you will see what I have cited earlier, the phenomenal increase in debt under this administration. If we stay the course we will be going to $14,890,000,000. But already with the two debt-ceiling increases passed of 450 plus 984, plus one that is pending right now, which is $650 billion, when those three debt-ceiling increases are passed, it will come to $2.1 trillion. That is the fiscal record of this administration. Compare it to the last 3 years of the Clinton administration which I have just shown you where we paid off $362 billion.

Mr. ALLEN. Mr. Speaker, I would like to make one point because I think it is worth going back to March of 2001 when the President was traveling the country pitching the first tax cut, the big tax cut; and he came to my hometown, he came to Portland, Maine, and he went to the Merrill Auditorium in city hall and he spoke to almost 2,000 people. And I remember sitting in the front row and listening to him speak. And I will never forget what he said, and this is about as close to word for word as you can get. He was selling his tax cut and he said, I know these are big numbers, but this is reality we are talking about. We hold spending to a 4 percent increase.

I would say, well, not exactly, because the Department of Defense had not submitted its budget yet.

He went on. We pay down $2 trillion worth of debt.

Well, only if the whole program works.

Then he said, We set aside a trillion dollars for contingencies. There was no trillion dollars contingency account. They made it up. They simply made it up. So all over the country the President went around saying we have set aside a trillion dollars for contingencies; and then he said in Portland and around the country, and there is still money left over. But the hard cold truth was there was no contingency account; once the tax cut was passed, once it was signed into law in the big ceremony in the Rose Garden, you cannot find the words "contingency account."

The administration never said as the economy deteriorated and spending went up. They never said, boy, thank God we have that trillion dollar contingency account to fall back on.

So right from the beginning, this tax cut was oversold. It was oversold. They went out and said things to justify the tax cut when they did not have the evidence to support it. And I think it is worth remembering that, because it is not easy to dig a 14.8 hole for yourself when you are starting at $3.87 billion. In just a few short years they have managed to drive this country in a direction where our children and grandchildren will be paying a bill for decades to come. I would like to come back to that at a later time.

Mr. PRICE of North Carolina. Mr. Speaker, with an unprecedented fiscal meltdown in this country, going from $5.5 trillion in projected surplus over the next 10 years to over $3.5 billion in additional debt, fiscal turnaround of over $9 trillion, would we not like to think that, at least for that degree of damage to the Federal budget, that we have gotten the maximum economic stimulus, or that we have at least been able to fund our major priorities like education and research and health care, transportation? Yet I do not know any economist who will claim that we have had the best possible economic stimulus or the economic turnaround. This is as sluggish an economic recovery as anybody can remember.

Mr. SPRATT. Mr. Speaker, we are one million jobs short to the number of jobs we had on March 1, 2001, when the last recession started. It was over in November. And we are still a million jobs short of that despite the supposed economic stimulus which obviously did not stimulate the economy by nearly enough.

□ 2100

Mr. PRICE of North Carolina. Has the gentleman seen any economic analysis that would suggest that a massive tax cut, 43 percent of which went to the top 1 percent in earnings, was the most effective economic stimulus that could have been applied?

Mr. SPRATT. That is why we are not seeing the results in jobs.

Mr. PRICE of North Carolina. Mr. Speaker, the President seems to want to claim that, but I have seen analyses, and they are readily available, that show there are dozens of things that could be done in terms of middle class tax cuts, in terms of infrastructure improvements and transportation improvements, in terms of aid to the States that were so hard-pressed and still are hard-pressed. Extension of unemployment benefits to those who are still trying to turn their situation around, any one of those things would not only have been fairer in terms of the people affected, but it would have been a far more effective stimulus.

Then to turn to my second point, have we been able to adequately fund our major priorities in this country?

If you are going $450 billion into debt each year, additional debt, you would at least like to think you are getting some bang for the buck in terms of things we need to be investing in in this country. But yet at last report this House cannot even pass a highway bill, cannot even agree on investment in our infrastructure, which used to be a no-brainer around here, both Democrats and Republicans agreeing that nothing was better for the economy than having a healthy infrastructure and getting money out to the States to build highways and transit systems.

Mr. SPRATT. I thank the gentleman, and let me just wrap up and now turn to my other colleagues and yield to them, first by saying or asking, how does this administration respond to these dismal results? Nobody can put a pretty face on numbers like these, a deficit of $420 billion, a fiscal course that has led us to nearly $15 trillion in debt. Some legacy to leave to our children. In just 10 years, that is the course we are on according to CBO, even OMB. How do they respond to it?

Last July when the administration issued, as required by law, its so-called mid-session review of the budget they actually resolved this. When they issued that, they went through the numbers as they projected them, put the best face they possibly could on them, and came to the conclusion that these deficits were indeed unwelcome. That was the strongest word they could muster, that these deficits were unwelcome. Did they offer a plan? No. Did they hold out any prospect that this deficit would be reduced and that the country would be put back on a path of fiscal stability? Not on your life. There is no plan, no prospect of it, no shock, no shame and no solution.

We want to tell you more about the situation we find ourselves in, and now I yield to the gentleman from Virginia (Mr. SCOTT) for that purpose.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding to me.

One of the things that we have found in the debate on the budget is you really have to use charts because one side will say the deficit is bad; the other side, it is manageable. But when you look at the chart, going back to Johnson, Nixon, Ford and Carter, that is the yellow; the Reagan and Bush deficits, that is the red; the green, that is the Clinton administration; and this is on-budget surplus. That is after Social Security and Medicare, and then President Bush. You cannot create a chart like this by accident.

The gentleman from South Carolina pointed out that in 1993 we cast tough votes. Not a single Republican in the House or the Senate voted for the budget that turned this deficit around, started it up. Now, some like to point out that the Republicans had control of the House and the Senate during six of the 8 years of the Clinton administration and, therefore, deserve some credit for the elimination of the deficit and the generation of the surplus. Wrong.

In 1995, when the Republicans came in, they passed irresponsible budgets. President Clinton vetoed them. They threatened to close the Government down. He vetoed them again. They closed the Government down, rather than allow those deficits to return, and as a result of the Presidential vetoes, we maintained the progress towards a surplus. So you cannot take credit for those kinds of budgets that were vetoed. In fact, we know what would happen if the President had signed those budgets because, when President Bush came in, they passed the same kind of budget; and we see the total collapse of the budget, record deficits, as the gentleman from South Carolina has pointed out, as far as the eye can see.

Now, just to give you an idea of the deterioration of the budget, this is the 2004 budget, the budget we are in today. In January 2001, when this administration came in, we projected a $390 billion surplus, and then the tax cuts and the administration policy was adopted so they had to, in May, recalculate. A 274 surplus was projected for this year. After September 11, March, almost 6 months after September 11, they projected, well, maybe it will be a small little deficit. In March of 2003, a year later, they recalculated $330 billion in the hole. Last month, latest figures, $422 billion in the hole, a deterioration of over $800 billion.

Now, when you use big numbers we like to put them in perspective. You add up everybody's individual income tax. The revenue generated from the individual income tax across America totaled $800 billion. Deterioration in the budget for this year's budget since this administration came in, $800 billion deterioration. That is the number.

When you run up deficits, you run up interest on the national debt. As the gentleman from South Carolina pointed out, the interest on the national debt, because the debt was headed towards zero, interest on the national debt was headed towards zero, but this chart shows the interest on the national debt that we are going to have to pay. In 2009, the difference of what we thought we are going to have to pay and what we have to pay, over $300 billion, and let us put that number in perspective.

At $30,000 each, how many people can you hire with $300 billion? Answer: 10 million. Another question: How many people are drawing unemployment in America today? How many people are unemployed, drawing unemployment today in America? Answer: less than 9 million. You could hire everybody with a $30,000 job that is on unemployment and have billions of dollars left over with the additional interest on the national debt.

We cannot fund No Child Left Behind for the lack of $9 billion. We cannot fully fund veterans health care the way it should be funded. There are a lot of things we cannot do because we do not have the money. $300 billion, interest on the national debt.

This has national security implications, too, because a lot of that debt is bought by foreign countries, and you cannot negotiate a trade deal with somebody who has got $100 billion of your paper, China, Japan, other countries. It has national security implications. If somebody wanted to start building nuclear weapons and they are buying all of our debt, what kind of negotiations could we have?

Interest on the national debt is run up because of the fiscal irresponsibility of this administration. We were told that we had to go into that kind of fiscal collapse to create jobs. We have heard this administration, and in fact, we had a member of the other party bragging about the success of this administration creating jobs just this afternoon. This chart shows what the actual numbers are, the percentage increase or decrease in jobs, going back to Herbert Hoover. Herbert Hoover lost jobs. Every other administration since then, before this administration, gained jobs. This administration lost jobs.

Now, this is the chart. So that there is no confusion, this is the private sector job growth since Herbert Hoover. Now we will notice before we come up with the excuses that this time frame includes not only World War II and the Korean War and the Vietnam War and the Cold War and the hostages in Iran, Persian Gulf War, Somalia, Grenada, it also includes Pearl Harbor. Everybody back to that period of time created jobs. This administration did not. So 9/11 could not have caused this chart, and neither could the so-called inherited recession.

First of all, let us get the facts straight. The recession started in March 2001, well after this administration had been sworn in, well after they had been elected and their policies were becoming part of the economy, which was reacting to their articulated policies; but whenever it occurred, this chart shows how many jobs you have 40 months after the beginning of a recession. Everybody is up to 3.8 percent, 1.9 percent. 1990 to 1993 is the worst before this administration. Everybody else 2, 3, 4, 7 percent more jobs, 40 months after a recession began until you get to this administration. So whenever this recession started, you cannot blame that recession for the collapse in the economy.

One of the things that we pointed out is that we ought to be saving money because the baby boomers will retire. The blue bars show that we are bringing in more money in Social Security. The Medicare chart shows the same pattern; but after 2017, you will be paying out more money in Social Security than we are bringing in, and you cross the 300 line, that is $300 billion. That is $2,000 for every man, woman and child in America.

Obviously, this is a very challenging chart to deal with until you look at this chart, which shows that if you add up all of the President's tax cuts and reduce them to present value so we know what we are talking about, that is more than the combined total deficit in Social Security plus the combined deficit in Medicare for as far as the eye can see, 75 years or more.

In other words, we had a choice. We could make Social Security and Medicare solvent, or we could cut taxes. We had a choice. It was about the same amount of money. We cut taxes. We created the deficit, and now we do not know how we are going to pay for Social Security and Medicare.

In fact, the GAO produced a chart that answers the question, if you do not change directions you might end up where you are headed. Where are we headed? This chart shows the line across is the revenue coming in at the President's policies. This shows right now we are borrowing money for some Government spending; but by 2040, we will have enough money for the blue, which is interest on the national debt, a little bit of money for Social Security. We will have to borrow the rest of the money for Social Security, no money for Medicare or Medicaid, and no money for the green which is Government spending like defense, transportation and everything else.

Obviously, this is not sustainable. We have to do something and make profound changes in our economy, in our funding, in balancing the budget; and it is not going to be done with rhetoric and constitutional amendments.

We are tomorrow marking up a constitutional amendment to so-called "balance the budget," the balanced budget amendment. What they do not tell you is that the amendment does not require a balanced budget. It just prescribes the method for passing a budget that is not balanced. We had a hearing on that, and we asked the Republican witnesses whether or not it would be more likely or less likely that you would actually have a balanced budget if that legislation was adopted. They could not give a definitive answer to that question.

□ 2115

The fact of the matter is it would make it less likely that you would pass a good deficit reduction plan because you made it more difficult. So even if that legislation were to pass, and it will not because people know what a fraud it is, it will not, but even if it passed, you would still, at some time or another, have to cast the tough votes.

When we were fixing the deficit, eliminating the deficit, we had a rule called PAYGO, pay-go, pay as you go. If you want to increase spending, you have to increase taxes or cut spending to pay for it. If you want to cut taxes, you either have to cut spending or increase somebody else's taxes to pay for it. You could not have any initiative that had an adverse effect on the budget without paying for it.

Well, right after this administration came in, that policy evaporated and they passed tax cuts without paying for it. They passed other programs without paying for it. And all of the red ink, interest on the national debt in this chart, is a direct result of that policy.

Mr. ALLEN. Mr. Speaker, if the gentleman from Virginia will yield, I want to follow up on the gentleman's comments about the consequences of running these huge deficits, because we have the numbers now. We know where the Federal budget is headed, and it is not a pretty picture. But there are some very serious consequences. I wanted to mention several.

First of all, Social Security, when you look at the administration's budget over the next 10 years, they spend, on general government purposes, every single dollar of the social security's surplus. And the Social Security surplus for the next 10 years may be quite substantial. So, every single dollar. Then we have Alan Greenspan turning around and saying, oh, we have long-term problems with Social Security. We really should be reducing Social Security benefits. And there is the President of the United States saying, what we really need to do is to create individual accounts, which is another way of saying we need to reduce Social Security benefits. They both come to the same thing.

So the first impact is on Social Security, and it could be absolutely devastating. But the second impact goes to the question that I think the gentleman was raising about are these tax cuts effective. We have now had 4 years of an administration doing three rounds of tax cuts. If you judge an economy by jobs and wages and health care, then let us first look at jobs.

As the gentleman pointed out, we are down about a million private sector jobs over the 4 years. No job recovery. Worst record since Herbert Hoover. Clearly, jobs have not come back despite the three tax cuts.

Mr. SCOTT of Virginia. Mr. Speaker, if the gentleman will let me respond to the point on jobs, and the gentleman from North Carolina alluded to it, it is absolutely incredible that we could run all this red ink without creating jobs. At least when President Reagan was running up deficits he was creating jobs. It is difficult to cut taxes the way the administration has cut taxes, in those amounts, without creating some jobs. But the taxes they cut were the kinds of taxes that did not stimulate the economy. It only rewarded those in the very upper income, the ones least likely to actually spend it.

If you want to stimulate the economy, give the money to those who will actually spend it. The gentleman from North Carolina mentioned extending unemployment benefits. People who had jobs, who lost a job and are continuing to look for a job but have not found one yet, their unemployment benefits have run out. If you give them some money, they will spend it right away. If you give a cut on dividends to someone who has substantial stock holdings already, if you cut tax and dividends in half and someone benefits $300, if you do the arithmetic they must have had, on average, $100,000 in stock. Three hundred dollars to them, if they wanted to buy something that cost $300 and they have a $100,000 stock portfolio, they would have already bought it.

If they wanted a television, they would already have bought the television. The $300 tax cut does not stimulate the economy, given there. But if you give it to a family with children, unemployed, low income, they are going to spend the money.

There are a lot of ways you can cut taxes and create many jobs, as President Reagan did, but if you cut the taxes that President Bush cut, which ruined the economy, ruined the budget and lost jobs, it is incredible how you can run up the deficits. And just the interest on the national deficit in 2009, in that year, if we did not have the kinds of increased interest on the national debt, we could hire 10 million people at $30,000 apiece, which would be more than anybody has created in 4 years. Ten million would be setting records. We could do that in 1 year with just the interest, each and every year, with the interest on the national debt that we are going to have to pay over and above what we expected to pay when this administration came in.

Mr. ALLEN. Mr. Speaker, if the gentleman will yield further, that is a very good point, and it goes to the second point I was going to make about wages.

The median wage in this country now has dipped down slightly in these last 4 years. And if we look at health care, a third component of whether or not we are in a healthy economy or not, there are 5 million more Americans who do not have health insurance today. We are at 45 million instead of the 40 million uninsured when George Bush took office.

So there has been deterioration across the board. And the worst is yet to come, because the Office of Management and Budget has a memorandum out there and that makes it very clear that in the 2006 budget, which is coming right down in front of us, there are going to be deep cuts in many government services, including cuts to education, veterans' health care, environmental protection, job training and child care.

The last thing that I personally wanted to say about this is that I have been thinking a lot about my father's generation. My parents are both gone now, but they went through the depression and the Second World War, and a lot of people did not come through the Second World War. The guiding principle of my parents and their whole generation, I believe, was to make sure their children and grandchildren had more opportunity than they did. They sacrificed a lot that might have been for their own immediate pleasure in order to be sure their kids had a good education and that we had opportunities that they had not had when they were growing up. That generation would never have done to us what the Bush administration and the congressional Republicans are doing to our children and grandchildren, sticking them with a debt that is so large that they will be paying exorbitant interest on the national debt for decades to come; and seeing cuts in education, cuts in job training, cuts to the Small Business Administration, the squeezing of economic opportunity out of this country because of fiscal policies that are essentially tax cuts today and a billion dollars for Iraq every week.

The guiding philosophy that was expressed by the majority leader, the gentleman from Texas (Mr. DELAY), when we were debating last year the March 2003 tax cut, he said "Nothing is more important in a time of war than cutting taxes." In other words, stick it to our kids. Force them to pay for the Iraq war and force them to pay for tax cuts for the wealthiest 1 percent in America. It is an embarrassment. It is an absolute embarrassment, it is wrong and, as I said before, the greatest generation, the World War II generation, would never have done to us what George Bush and the congressional Republicans are doing to our children and grandchildren.

Mr. SCOTT of Virginia. And, Mr. Speaker, the most unseemly part of what is going on is, as the interest on the national debt gets bigger and bigger, and, as I earlier indicated, the individual income tax only generates about $800 billion, we are paying $200 billion, $300 billion, $350 billion more in interest on the national debt and growing right at the time when the Social Security Trust Fund is going to be running the big, bigger, and bigger deficits, we have to assume that this administration has no intention of paying Social Security after 2017.

Mr. PRICE of North Carolina. Mr. Speaker, if the gentleman from Virginia will yield, I am struck by what our colleague from Maine has been saying about the national debt and the burden it represents on future generations.

We have had a discussion tonight that may strike some people as pretty complicated, with a lot of charts and figures. And sometimes we are criticized for not being able to reduce our arguments to a bumper sticker. Well, I have a couple of bumper stickers to suggest that I think sum up just what the gentleman from Maine and the gentleman from Virginia have been saying.

People like having that bumper sticker on the car about having an honor student at so-and-so high school. How about this one? "My honor student will be paying for the Bush national debt." Or how about another one. "George W. Bush: We will be forever in his debt."

That is what we are talking about here. We are talking about an administration that has managed to engineer a $9.5 trillion fiscal reversal. And I appreciate the gentleman pointing out so competently the dimensions of that and exactly what it does portend for future generations.

Mr. SCOTT of Virginia. I thank the gentleman.

And the interest on the national debt that has to be paid, people have a sense that when you started charging things on your credit card, the minimum payment does not hurt you too much, until you start running up to where that minimum payment starts hurting. We are paying interest on the national debt at levels that rival the defense budget.

The defense budget this year is what, around $400 billion?

Mr. SPRATT. Four hundred twenty billion.

Mr. SCOTT of Virginia. Four hundred twenty billion dollars. The 2009 interest on the national debt is $316 billion over and above what we expected it to be. These are numbers which mean that later on we will not be able to do the kinds of things that we want to do.

We had projected surpluses in the hundreds of billions of dollars, which meant that we would be able to afford health care for the uninsured, education, college education, and veterans' benefits, including health care. The kinds of things that are real priorities. This year's budget did not have enough money in it to maintain present services for our veterans in health care. The veterans' groups wrote letters criticizing what we were doing, and yet we did not have the money because we are running up additional interest on the national debt.

We have a lot of priorities we are not able to meet, and the interest on the national debt gets larger and larger and larger and starts hitting us at exactly the same time when the Social Security surplus evaporates.

Mr. SPRATT. Mr. Speaker, I would like now to yield to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I thank the gentleman for yielding to me, and I appreciate the opportunity to share some of my thoughts with my colleagues, because I thought when President Bush took office, he promised to maintain the projected budget surplus. He promised to pay off the national debt and help the middle class working Americans. Instead, what I have seen is his policies have led to record deficits, increased Federal debt, and have put a squeeze on the middle class. These failed policies burden all Americans and endanger the future of hard-working families in Nevada and throughout this Nation.

When President Bush took office in January of 2001, the Congressional Budget Office projected a 10-year, $5.6 trillion surplus. Because of the irresponsible and failed economic policies of the Bush administration and the congressional Republicans, we can now expect a 10-year $3.5 trillion budget deficit. This is a $9 trillion, dare I say it, dare I use the word, flip-flop.

This year's deficit alone is a record $422 billion, the largest deficit in this Nation's history. We have gone from one of the largest budget surpluses in our Nation's history to the worst deficit our Nation has ever seen. And it does not matter what these neoRepublican economists are now saying. The facts are deficits matter.

Federal deficits directly affect every American. Higher deficits mean increased interest rates, higher car payments and rising mortgage costs. If the deficits continue the way they are, mortgage rates could go back to where they were in the 1980s, through the roof, making the dream of American home ownership virtually impossible for working families in this country. If interest rates rise by just 1 percent, 1 percent, homeowners will pay an additional $1,200 in interest payments every year for a typical $150,000, 30-year, fixed-rate mortgage.

□ 2130

Mountings deficits have also increased the Federal debt. The Federal debt was $6.7 trillion at the end of 2003. By the way this administration is going, the debt is going to be over $14 trillion in another 10 years. The Bush administration's solution to this skyrocketing debt, just raise the national debt ceiling for the third year in a row.

So what does an increase in the Federal debt mean to the people we represent? This year, Americans will spend $159 billion, an average of $4,400 per family, to pay the interest on the debt. Our constituents, the good people of Nevada, South Carolina and Virginia, want to spend their money on something else other than paying off the national debt. How about paying down their credit cards? How about paying their own student loans or house payments?

And how far is this President willing to go? How much more will this President drain from American families. How long are we going to put up with his fiscal foolishness and irresponsibility?

The Bush administration and congressional Republicans have had plenty of opportunities to fix this financial mess. They have not. They have refused to require spending offsets for new tax cuts as well as for new spending. We call this PAYGO, and it is essential to restoring this country's fiscal health.

In the 1990s, PAYGO led to budget surpluses and the largest economic expansion in this Nation since World War II, and it is hard to imagine responsible leaders rejecting this proven and successful budget policy. PAYGO, what is it? It is simple, we do not spend what we do not have. You pay as you go. It makes sense to everybody else except President Bush and the Republican leadership in Congress.

This administration and this Republican Congress are failing American families by failing to address our growing deficits. The first of 77 million baby boomers will be collecting Social Security benefits in less than 4 years and Medicare in less than 7. We should be preparing now by saving more and getting our Nation's economic house in order. Are we doing it? No we are not. President Bush and the Republican Congress are closing the door on a house on fire. They are running up the biggest deficits in history, no planning, no savings, no economic strategy, just reckless, foolish borrowing and spending.

To make matters worse, the Bush administration and Republican leaders are pushing for new tax cuts for corporations and for people who do not need more tax cuts. New tax cuts are not the solution. In 2004, this past year, 46 percent of Nevada taxpayers, the people I represent, received a tax break of less than $100, and what did Nevadans get for this $100?

Since President Bush took office, health care costs for families have risen $793; college tuition and fees have increased over $1,200; and gas prices have gone up an average of 33 percent. The average Nevada family now spends $495 more this year on gas than they did when President Bush took office. A $100 tax break barely dents the skyrocketing cost of living.

It is time for President Bush and Republicans in Congress to address the enormous financial burdens these growing deficits are placing on us. It is time to stop turning a blind eye to the burdens their failed policies will place on our children. It is time the American people hold President Bush and the Republican Congress accountable. I do not know what we have to do to make the American public wake up and see what is going on because night after night, day after day, we stand here, and we tell the American public what is going on and what is going to happen, and until we realize the seriousness of these deficits and the foolishness of this administration's fiscal policy, I fear that we are going to be in a world of hurt when this is all over.

Mr. SPRATT. Mr. Speaker, I yield to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I thank the gentleman from South Carolina (Mr. SPRATT), the ranking member on the Committee on the Budget.

The people in the audience may wonder, what is the problem? Why are you getting so excited about this issue? Well, the problem is that, within another couple weeks, this fiscal year will have concluded, and according to the White House, the Congressional Budget Office and pretty much anyone who studies these numbers, we will have spent $422 billion more than we took in, a $422 billion deficit.

Now when President Bush took office, they estimated for this fiscal year we would have a $397 billion surplus. So, more than an $800 billion reversal has occurred just this year. The real impact is not going to be felt so much by the Members of Congress, those of us in our fifties and sixties, some of us; the real impact is on those who are in their twenties and thirties or just starting out raising a family, acquiring a home, looking forward to a bright future.

I do not think there has been any generation that has left a more challenging future for its children than our generation, the baby boom generation. It did not have to happen. But when Members consider a $422 billion deficit, that is 132,000 times more than the average young person is ever going to earn in their lifetime. It is an enormous figure.

Of course, all that contributes to a cumulative debt. It will be $6.7 trillion. And given the policies that the majority has put into place, recommended by the President, it will be a $13.3 trillion public debt by 2014, in 10 years.

Again, not our problem for those in the baby boom generation who will be retiring, doubling the number of people dependent on Social Security and Medicare; it will be primarily the problem of the next generation. But imagine what fiscal irresponsibility, to take all of the political credit for cutting taxes, for giving people everything they want and then passing the bill on to our children.

This election, in fact, I would suggest is really about that next generation. Even though they may not be the ones primarily voting, they are going to be the ones most adversely affected.

We had a hearing just last week. The gentleman from South Carolina (Mr. SPRATT) convened it. We brought in some young people that very well represented their age group, and we shared with them some numbers, that, in fact, the average college graduate now has a debt of $19,000. That is a student loan debt of $19,000. People in their twenties face an unemployment rate of 9 percent and a third lack health insurance. So, obviously, there is going to need to be more investment in education and making higher education more affordable, more investment in health care, making health insurance more affordable for the working class.

Clearly, there is a need to keep interest rates down, and yet what is going to happen, according to the Congressional Budget Office, if we make permanent all of these tax cuts, if we keep spending on defense primarily, but if we keep spending at the rate that this administration and the House and the Senate of the same political party obviously have been spending, and those are reasonable assumptions, that within a little more than a decade, there are only going to be three programs in the Federal Government; there will be Social Security, Medicare and defense, and interest on the public debt.

That interest we estimate, by 2014, is going to be $350 billion, more than a thousand dollars per person, and if the

President's policies are all implemented as he wants, it will be over $400 billion per year for nothing, to pay off the interest on the debt that the next generation's parents incurred. And they are going to get nothing back.

Where are they going to find the money to educate their own children and make health insurance affordable? Where are they going to find the money to send their kids on to college? I do not know. I do not know where they find the money for public transportation, health research or any of the things that have made this country great, but those are the issues that this deficit is all about. That is why we are making such a big deal about it. It is so wrong, so irresponsible.

We will have spent a couple hundred billion dollars in Iraq. We will have spent money on homeland security, maybe $30 billion a year. But those are not the principal reasons we have the deficit. About 60 percent of this deficit, way over the majority of the deficit, is attributable to tax cuts, to a policy that has been irresponsible from the very beginning. There is nothing wrong with giving people child tax credits. There is nothing wrong with accelerating depreciation in plant and equipment and so on, but there is something wrong when the average 20-year-old gets about $300 from a tax cut, and that is about 1 percent of what millionaires will get out of this tax cut. That is wrong.

This tax cut did not go to those people who needed it the most; it went to those people who needed it the least. And it is so doubly wrong to be paying for it on the backs of the working class by borrowing from Social Security and Medicare trust funds, by sending the debt to our children's generation and then retiring on Social Security and Medicare, leaving them to pay for our Social Security and medical costs, leaving them to pay the interest on the debt we accumulated and leaving them with virtually no resources to invest in their own children's education, health care, transportation, law enforcement and the like. It is just unbelievable how irresponsible this economic policy has been.

We would never treat our own children like this, but somehow, as a country, despite all our rhetoric to the contrary, this body has left a debt on the backs of our children that we know they can never, ever recover from, and it did not have to happen. That is why we are on the floor today urging this administration, urging this House of Representatives to do the right thing, not to continue to make permanent tax cuts that cannot be paid for, that are not necessary to stimulating this economy; not to continue a policy that is based upon turning the debt over to the next generation. It is irresponsible, it is un-American, and it is wrong.

Mr. SPRATT. Mr. Speaker, I thank the gentleman from Virginia (Mr. MORAN) for his eloquent remarks. That is the reason we took advantage of this Special Order, to call attention to this problem. It should be a problem of national concern, a call to action.

Here we are 9 days before the end of the fiscal year, and we do not even have a budget for next year, much less a multi-year budget like those we adopted in 1990, 1993 and 1997 and finally brought the deficit to heel. We do not have any of the implements in place to deal with this monumental problem, even though we proved in the 1990s that those implements, like the PAYGO rule, the discretionary spending ceiling and sequestration were useful tools and could actually turn the budget around from a deficit of $290 billion in 1992 to a surplus of $236 billion in 1998. That actually happened, and it can happen again if there is leadership coupled with the right process and procedures in this House, and we do not have them at all.

We do not even have enough consensus under the Republican leadership of this House and Senate to develop a budget for next year, much less a budget for the next 5 years. We will never do it. If there is anything learned from the 1990s, we will never do it ad hoc. Indeed, the biggest enemy I have often said of deficit reduction is something we call disaggregation, breaking the process up into so many pieces that nobody ever gets a full picture of what is happening even though it is a monumental process.

So here I stand, 9 days before the end of the fiscal year. We thought it was an appropriate time to call attention to the record of this year, the record debt, and to the fact there is no prospect for dealing with this in 2005 at all.

Mr. MORAN of Virginia. Mr. Speaker, I thank the gentleman from South Carolina (Mr. SPRATT) for clarifying the context in which this Special Order was made. I know that the gentleman supported President Bush, the 41st President's policy of PAYGO. If we are going to cut taxes, we have to show how we are going to pay for it.

□ 2145

We have got to balance the budget. President Bush the 41st set us on to that path of fiscal responsibility. President Clinton, in the 1993 Balanced Budget Act, made it work. He put tight spending limits. He made sure that if we cut taxes, then we are going to offset it so that we can continue to keep that balanced budget. And, boy, it worked. For 8 years it worked. And I know how strongly our ranking member on the Committee on the Budget supported that policy.

But now I know that the ranking member has supported just as strongly trying to sustain that policy; and yet for some reason, the other side, apparently, the majority of this Congress, feels that that policy, even as successful as it was, should not be continued.

Mr. SPRATT. Mr. Speaker, reclaiming my time, to wrap it up, looking back, we started off talking about the deficit and accumulation of debt. Here is what we have accomplished, this Congress and this administration, in 3 years:

The first year, instead of paying down the debt as the Clinton administration had done for 3 years in a row, they raised the debt ceiling by $450 billion. That was good for just 1 year. The next year, 2003, they raised the debt ceiling again by $984 billion, the biggest increase ever; and it has lasted for 15 months. Waiting in the wings right now is another debt ceiling increase of $690 billion; and what it is waiting on is a bill to which it can be attached, a vehicle that can carry it to passage with as few fingerprints on it as possible because nobody wants to be responsible for passing that kind of debt ceiling increase.

So the Treasury is reduced to engaging in a lot of gimmicks with Federal retirement funds, for example, in order that we can tie things over until finally that debt-ceiling increase can be passed. In 3 years we will have raised the debt ceiling by $2.1 trillion. Compare that to the previous 8 years, and it is a phenomenal and depressing reversal.

I thank the gentleman for his participation and his eloquent comments.

OUR TROOPS IN IRAQ

The SPEAKER pro tempore (Mr. MCCOTTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. HUNTER) is recognized for 60 minutes as the designee of the majority leader.

Mr. HUNTER. Mr. Speaker, I rise to talk about the rotation of troops in Iraq that has occurred over the last year or so and the rotation that is being scheduled for the next year.

There has been a statement by the Kerry campaign, by Senator KERRY, to the effect that there is a secret plan to call up a lot more troops and to do some wild thing after the election. That is not the case, Mr. Speaker. And, in fact, we held a hearing in July in which the Department of Defense walked through their plan for the next phase or the next rotation of troops into Iraq. And let me for the record just go over what has taken place.

The first half of this chart showing Iraq shows the present configuration of major ground forces in Iraq; and what we had before this, of course, was the 101st Airborne up north in the northern area. We had the 4th Infantry Division in the Tikrit area. That is over here. We had the 1st Armored Division in the heart of Baghdad, and we had out to the western area, all the way to the Syrian border, the 82nd Airborne Division. That rotation took place in which those forces were replaced by the forces that are there right now.

And as a result of that, we have got a striker brigade up north that took the place of the 101st Airborne. We have got the 1st Marine Division, in fact, the 1st Marine Expeditionary Force consisting mainly of the 1st Marine Division and supporting elements in this western area of operation. That is this big AO that goes all the way to the Syrian border. Elements of the 1st Armored Division remain in Iraq, did not move out, while some of them did move back to Germany. And to supplement that force, the 1st Cavalry Division moved into the Baghdad area. And, of course, we have the 1st Infantry Division that took over for the 4th Infantry Division in the Tikrit area.

That is the present state of forces. And the complement of Reserve forces that mainly supports these active major units is roughly 40 percent of the total force of the 138,000-or-so Americans who serve in Iraq right now.

We will have what we call OIF–3. That is the next phase of deployments to Iraq, and that was briefed by the Department of Defense. It was not a secret, for Senator KERRY's edification. In fact, they came in and had a hearing with the Committee on Armed Services, with our committee, and laid out their blueprint; and we had nationally televised hearings on this rotation. And this rotation reflected this: that we will be going in the western area of operation, that is this area that goes west of Baghdad to the Syrian border. The 1st Marine Expeditionary Force will be replaced by another Marine Expeditionary Force. To the north we will have another striker brigade. That is the Mosul area. The 1st Infantry Division will be replaced in the Tikrit area up north of Baghdad by the 42nd Infantry Division. The 3rd Infantry Division will move into the Baghdad area, and portions of the 10th Mountain Division will move into the Baghdad area also, displacing the 1st Cav, which is presently in the Baghdad area, and the 1st Armored Division.

After Senator KERRY made those remarks, I contacted the Chairman of the Joint Chiefs, General Myers, and he sent a letter, which I am going to place in the RECORD, Mr. Speaker, saying this: "With regard to the recent comments concerning our Reserve and National Guard alert notification process, I can assure you there has never been any guidance to defer notification until after the Presidential election."

The clear message in Senator KERRY's remarks was that somehow there was a secret plan to have a big rotation of troops that would be announced shortly after the election. Well, every 180 days there is an announcement of the next rotation of troops, and the reason we do that is so that the troops will have notification and will be able to tell their loved ones and get their affairs in order so that they can, in fact, embark on that particular rotation.

So in the spring, the Department of Defense came and told us about this next rotation that is called OIF–3 that will take place starting this fall and moving through the spring. Then in November or December, they will come in, and they will give notification just like they did in April and May about the next rotation of forces that will displace OIF–3 and rotate into Iraq on a regularly scheduled basis.

The Reserve component of this 135,000 to 138,000 troops that is presently in Iraq will continue to be between 35 and 40 percent of the total force. So it will remain constant. There is not going to be any huge spike in the proportion or number of troops from the Reserves that make this particular force mix.

Let me read the last statement by General Myers when he talked about this. This is the Chairman of the Joint Chiefs of Staff, after having said "I can assure you there has never been any guidance," never been any guidance, "to defer notification until after the Presidential election"; so every 6 months they make an announcement, and they lay down a blueprint like the blueprint that is front of us here. He says, "Alert notification is an established and consistent process based on meeting the needs of the combatant commander while ensuring, to the maximum extent possible, earliest notification of those units affected. As in the past, our goal is to alert as early as possible and mobilize in order to conduct necessary training before deployment.

"Our target for Reserve combat units is 6 months prior to their deployment given the time required to achieve proficiency at the company, battalion, and brigade levels of competence. Our target for our Reserve logistics units is less, currently at 4 months prior to deployment, since their tasks are typically smaller and less complex than their combat counterparts.

"The notification date is a balance between early notification and ensuring units are notified in as complete a package as possible and not so early that changes in the operational situation may alter the combatant commander's needs and ultimately the composition of the deploying force. In the case of the current rotation, we announced our plan in the spring of 2004, testified before your committee in July, 2004, and deployed the first unit in the fall of 2004. For the next rotation, we will announce our plan in November, 2004, with the first unit deploying in May, 2005."

He goes on: "As of September 15, 2004, 800 individual ready Reserve members have been activated. The intent is to fill 5,600 slots by December, 2004, with the potential to go higher if required. The skill sets that are in the highest demand are transportation, logisticians, mechanics, military police, and engineers." And that figure is consistent with what DOD told us several months ago, referring to the 5,600 people.

So, Mr. Speaker, this is a blueprint of the deployment that has taken place and a blueprint of the deployment that is to come; and every 6 months, without regard to politics, without regard to elections, and simply with regard to the men and women who wear the uniform of the United States and their families, the Department of Defense will continue to give advance notice on about a 180-day basis. So, Mr. Speaker, I wanted to lay that out.

A letter from the Chairman of the Joint Chiefs of Staff follows:

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, September 20, 2004.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: With regard to the recent comments concerning our Reserve and National Guard alert notification process, I can assure you there has never been any guidance to defer notification until after the Presidential election.

Alert notification is an established and consistent process based on meeting the needs of the Combatant Commander while ensuring, to the maximum extent possible, earliest notification of those units affected. As in the past, our goal is to alert as early as possible and mobilize in order to conduct necessary training before deployment. Our target for reserve combat units is six months prior to their deployment, given the time required to achieve proficiency at the company, battalion and brigade levels of competence. Our target for our reserve logistics units is less, currently at four months prior to deployment, since their tasks are typically smaller and less complex than their combat counterparts. The notification date is a balance between early notification and ensuring units are notified in as complete a package as possible, and not so early that changes in the operational situation may alter the Combatant Commander's needs and ultimately the composition of the deploying force. In the case of the current rotation, we announced our plan in the spring of 2004, testified before your committee in July 2004, and deployed the first unit in the fall of 2004. For the next rotation, we will announce our plan in November 2004, with the first unit deploying in May 2005.

As of September 25, 2004, 800 Individual Ready Reserve members have been activated. The intent is to fill 5,600 slots by December 2004, with a potential to go higher, if required. The skill sets that are in the highest demand are transportation, logisticians, mechanics, military police and engineers.

To reiterate, and consistent with our notification process, we will notify the next package of combat troops in support of OPERATION IRAQI FREEDOM and OPERATION ENDURING FREEDOM in late November 2004 to meet a May 2005 deployment date or the lead unit of the rotation.

Sincerely,

RICHARD B. MYERS,
Chairman.

I yield to the gentleman from Georgia (Mr. GINGREY) and allow him to make a few remarks on the subject of Iraq.

Mr. GINGREY. Mr. Speaker, I thank the gentleman from California, my chairman of the House Committee on Armed Services, for yielding to me.

Mr. Speaker, in recent days many of my colleagues from the other side of the aisle have come to the floor of the House to criticize the President's policies on Afghanistan and Iraq. The rhetoric of the minority side of the aisle is paltry at best, and tonight I would like to try to set the record straight.

The two chief arguments of the Democratic Party that I believe are based on faulty logic are these: first, America has lost its focus on the war on terrorism in Afghanistan; and, second, President Bush has failed to build a true international coalition to fight this war.

Let us point to the administration's Afghan focus. First and foremost, we in the Congress must make the distinction between less cable news coverage and less administrative attention to the situation in Afghanistan. Despite what many would have us believe, the success stories coming out of Afghanistan are not only remarkable, but they far outnumber the negative ones. Negative stories make the news, but the positive ones are there as well. And native Afghans are returning to their homeland in droves now that the country has been liberated from the oppression of the Taliban. Just this year 200,000 Afghans have returned home from Pakistan, bringing the total number to 2.2 million from Pakistan since 2002. Also, recently the 1 millionth Afghan refugee returned home from Iran. Many of these refugees are highly educated teachers, health care providers, and community leaders that were thrown out of the country by the Taliban.

I do not believe that this extraordinary number of Afghan citizens would pick up and return home if they believed that Afghanistan was not a safer place. To the contrary, they are returning home because their country has been liberated from an oppressive regime and they are once again free. The Afghan economy continues to power ahead; and previously unheard-of opportunities are opening up, particularly, Mr. Speaker, for Afghan women.

Let us talk about democratic development. Perhaps the most notable development in Afghanistan is the progress of democracy. The country's first post-war presidential election is scheduled for October of this year. Voter registration efforts have exceeded, far exceeded, expectations. Several months ago, officials predicted up to 5 million registered voters, but according to the Joint Election Commission, more than 9 million people, out of 10 million eligible voters, have registered to vote, and 41.6 percent of them are women.

□ 2200

Furthermore, despite serious efforts to disrupt it, voter registration continues at a pace of up to 125,000 people per day. Afghan citizens are optimistic and excited by democracy, I think their country is headed in the right direction, and I commend our President for his efforts in this regard.

President Bush's efforts to build a true international coalition, let us just talk about that for a little while. Few positive and accurate statements have been made regarding the 32-nation United States-British led coalition in Iraq or the 35-country security force in Afghanistan. Unfortunately, this has reinforced the falsehood that America is isolated and hated on the world stage.

Well, to the contrary, in fighting the War on Terror, the United States has assembled one of the greatest international coalitions this world has ever seen. The coalition in Iraq includes 21 nations from Europe and nine from Asia and Australia. Twelve of the 25 members of the European Union are represented. Sixteen of the 26 NATO member States are represented as well.

Let us recall that the decision to go to war in Iraq was undertaken only after years, years, of negotiations with the UN Security Council and no less than 17 failed resolutions.

There is broad political support internationally for United States aims and objectives in Iraq, as confirmed by the unanimously-passed UN Security Council Resolution 1546 which endorses the return of full sovereignty to Iraq and its interim government; sets out the role of the United Nations; and outlines the relationship between the new Iraqi government and the multinational force in the country after the end of the occupation by the CPA, the Coalition Provisional Authority, on May 28.

Furthermore, the United States has spearheaded a huge international effort to reconstruct Iraq and to negotiate forgiveness of the country's massive debts.

I am concerned that a failure to properly account for the reality of international coalition efforts strengthens all of this anti-American sentiment abroad and diminishes the sacrifices and the contributions that our allies are making in the war on terror.

Mr. Speaker, with the aid of the international coalition, millions of people have been liberated, 170 newspapers are now being published, new modern power plants are being built, 64,000 secondary school teachers have been trained and some 5,000 school principals and administrators. More than 8.7 million textbooks have been printed and distributed throughout Iraq. Coalition forces have rehabilitated almost 2,500 schools, 22 universities and 43 technical institutes and colleges are open today. All 240 hospitals and more than 1,200 health clinics are open for business.

Healthcare spending in Iraq has actually increased 30 times over its pre-war levels and children, listen to this, are receiving crucial vaccinations for the first time ever. Over 5 million children have been immunized for measles, mumps and rubella.

Mr. Speaker, this is just a handful of the good that this coalition has brought to the people of Iraq. It is a coalition that was forged and preserved by our President, and I believe that it is fundamentally wrong to diminish the achievements of this coalition.

Furthermore, I hope that the rhetoric of the minority party would not dishearten brave citizens of the 32 other nations that are giving of their talent, their time, and, yes, their treasure to do what they think is right in defending the freedom and interests of the people of Iraq and Afghanistan.

I yield back to the chairman of the Committee on Armed Services, and I thank him for giving me a little time to talk about all the good that is going on in Iraq and Afghanistan. We need to continue to bring that to the attention of our colleagues and the American people.

Mr. HUNTER. Mr. Speaker, reclaiming my time, I would like to just follow my colleague's comments for a second and then yield to the fine gentleman from Utah (Mr. BISHOP), also a member of the committee.

I am reminded that the gentleman has a military base in his area that is close to his hometown, Fort Benning, Georgia, the home of the United States Infantry.

Just thinking about Fort Benning, I am reminded of the great troops who are produced by Fort Benning over the many, many years, of people who fought in very difficult wars and who acquitted themselves in such an admirable fashion.

I am reminded of the attempts in recent years, especially in Vietnam, by members of the media and some Members of Congress, including Senator KERRY, to demean those people.

I remember Senator KERRY's statements when he came back in April of 1971 and appeared before a Senate committee and stated that America "had murdered 200,000 Vietnamese." He said at one point that 60 to 80 percent of our GI's were stoned 24 hours a day. He made outrageous statements.

It was that type of stereotyping and characterization that led to a mindset among some in this country that Vietnam veterans, that the GIs, the great products of the Infantry School at Fort Benning and many other GIs, were somehow misfits.

I can remember when we had a mass murder that happened at a McDonald's restaurant in San Diego during the '70's and one of the anchor persons asking, was it a Vietnam veteran that did it, as if "Vietnam veteran" and "misfit" went hand-in-hand.

That image was, to some degree, perpetrated by Senator KERRY and those like him who came back telling these outrageous lies about the people who carried the flag for the United States. He did not just speak against the war, which was fine; he demeaned his fellow troops.

I am reminded of another movie that was made about those great infantrymen who came from Fort Benning, and that is the movie that chronicled Hal Moore, who was a major who took on a huge number of North Vietnamese forces in the battle for LZ X-Ray early the war when he commanded the First Cavalry unit, the unit of the same First Cav in Iraq today.

This movie for the first time, in which Mel Gibson starred and I think did a great job, characterized the true spirit of the American fighting man. It was the first movie that had been done for 20 years that was not shot through the eyes of a drug-crazed hippie in Hollywood, but was in fact directed and produced through the eyes of an infantryman, in this case Hal Moore.

I thought one of the most moving parts of that movie was not only the fact that here was an Infantry leader that prayed with his troops, which Hal Moore did, but it also reflected the greatness of these military wives who were waiting back at Fort Benning as the battle for LZ X-Ray took place and casualty counts were coming in.

They dreaded that knock on the door by a Western Union telegram man saying that your husband was KIA in this battle for LZ X-Ray, which was an intense battle with a lot of casualties on the U.S. side and enormous casualties on the side of the North Vietnamese.

The wife of Hal Moore, having the telegram man come to her door and she thought this is it, Hal has been shot, he came in and said he was actually looking for another address up the street and she realized her good friend was going to get the bad news in a few minutes. She said, “Wait a minute, I will deliver that telegram,” and Hal Moore's wife then went door-to-door delivering these telegrams and consoling the women whose husbands had been lost.

That movie, for the first time in 20 years, overcame the image, the wrongful image, that people like Senator KERRY had produced, that was largely consumed by the American public. When he appeared before that Senate committee and said that American GIs were cutting off limbs and raping and robbing, I think he used the term in a manner like Genghis Khan, he said Genghis Kahn instead of Genghis Khan, that put together an image, a false image, that was not shaken for almost 20 years in this country.

So I just want to thank the gentleman for representing that great piece of America that is truly the home of the Infantry.

Mr. GINGREY. If the gentleman will yield further, I thank the chairman.

Mr. Speaker, what the chairman was just saying is just so true. It came home to me in a big and tragic way in this past week. I am a graduate of the Georgia Institute of Technology in Atlanta. The president of the student body just a couple of years ago at Georgia Tech, my alma mater, a young first lieutenant, Tyler Brown, was killed leading his troops in a firefight in Iraq.

He was an outstanding young man. Everybody said that one day Tyler would surely become President. I do not know about that, but I know that his mom and dad and his older brother Brent are suffering deeply now, as much as a person could possibly suffer, over the tragic loss of their son and brother.

As the chairman says, Mr. Speaker, you cannot support the troops out of one side of your mouth and criticize them out of the other. This is the one thing that this family, this Brown family, has to hold on to for the rest of their lives, to know that Tyler, their son, who had such great potential, who gave his life for this country, killed in action, was not killed in vain.

I really appreciate the chairman, Mr. Speaker, bringing that out tonight, because you cannot be for the troops and against them. You cannot have it both ways.

I just felt like I needed to make that statement. I appreciate the chairman giving me the additional time to do that.

Mr. HUNTER. Mr. Speaker, I appreciate the gentleman and I appreciate the fact that he represents that great home of the Infantry.

I would like to yield at this time to the gentleman from Utah (Mr. BISHOP), also a very articulate member of the Committee on Armed Services.

Mr. BISHOP of Utah. I agree, Mr. Chairman, with that concept that we have a great many men and women who are serving nobly and have in the history of this great country.

Mr. Speaker, in the words of that great philosopher, Dan Quisenberry of the Kansas City Royals, he once said, “I have seen the future. It is just like the past, only longer.”

Well, Mr. Speaker, I am just an old history teacher who believes that if we do not view our past, we fail to clearly view our future, and that history illustrates there are several principles which have made this a great country.

I would like to talk about two of those principles in relationship to Iraq that I think are characteristics that have built this great country. One is patience in the face of adversity, and the second is a feeling of charity that Americans have always displayed to other people.

Sometimes I think we live in a society that venerates speed. Everything has to be done quickly. Our dialogue, our actions, sometimes illustrate that impatience that we have.

I would like at times to go back to the days of Williams Jennings Bryan when he would go along the Chautauqua circuit, and he could speak for 2 or 2½ hours to an audience, totally mesmerizing them.

I realize that some of the speeches that are given on this floor feel as if they are going 2 or 2½ hours and we are not always that hot in the mesmerizing category, but, nonetheless, it does have a precedent.

In Berlin in 1948, when the Soviet Union decided it was going to push us out of that city, we made a commitment that lasted over 15 months that every day, every 3 minutes, another plane landed to defend that particular city. It was our commitment, our patience and persistence in the face of adversity.

Even in the 1960s, if you were a politician, the average sound bite, the average response someone had on the media, was about 45 seconds, which does not sound like much, but it is a long time if you think of what you can explain in 45 seconds.

Today, in contrast, we live in a world where kids watching children's programs will find that the visual will change every 10 seconds so they do not lose interest; that we have a sit-com mentality that thinks that all problems in the world have to be solved in 22 minutes plus commercials; and we are frustrated when we do not quickly have results. Instead of 45 seconds for a response, today in the media if you cannot give a response in 8 seconds or less, which is the average, it just does not happen.

All this contributes to a rush of judgment where we consider the situations we are in today unique, and we fail to learn what I think is important lessons from the past, and it is critical, in light of what is happening in Iraq.

We have people that believe since we are trying to reform a country and create a democracy in an area that has no tradition of that, that is a task that is too daunting, and if we cannot transform that society overnight, then it is a task that is too frustrating. And an enemy that is comprised mostly of non-Iraqis are there to try and test our patience in the face of adversity.

Now, what I would like to say is if you look at history, this situation is not unique or unusual. After World War II, we went into Japan, a country that had absolutely no tradition of democracy, and yet by 1952 we had created or helped to create and establish a stable democracy that is one of the major forces of the world today. But we fail to remember that that took 7 years of effort to reach that point.

In Germany, at the same time, we created a new constitution that is still in use, the “Basic Law,” the Federal Republic, which is a strong republic, but we fail to remember that took us 4 years to reach that particular point.

In the Philippines after the Spanish-American War, it was 6 years of bloody violence before peace was brought and you could even start the reconstruction of that island nation.

☐ 2215

In Iraq, which we have been in about the same time as the Berlin airlift used to break the Soviet determination to destroy that beautiful city, we have established a constitution, a new government, planned for elections, have a police force and an armed forces that are increasing every day. That is a phenomenal success in a short period of time. I guess we are doing things quickly today, but it is very positive. And that success will only come if we still maintain that value we have always had of patience in the face of adversity.

History says it is possible. History says that this country is best suited to be successful, and I believe that we can, in part because of the quality of our people.

If I could just very quickly talk about that other characteristic, which is the charity that we have always had to other people, by mentioning two people who have characteristics in common. One is they have great hearts; the other is they happen to be Utahans. If I could mention the name of Jared Kimber from Tremonton, a chief warrant officer, who emulated a former Utahan, a neighbor of his, Gail Halverson, known as the candy bomber in that Berlin airlift area of time.

But Jared, who flies a Black Hawk for the 82nd medical company, flying over the area, noticed that there were kids who just simply had nothing with which they could play. One day he noticed a bunch of kids trying to play soccer with a ball that deflated. So that day, he went to the PX. He bought candy. He bought soccer balls. He bought Frisbees, and as he was flying over, he distributed that from his helicopter. Every day he did that.

So, by June, he was getting packages from home weighing 60 pounds of stuff. A lady donated all of her stuffed bears for the kids of Iraq. The 9-year-olds in his community organized, and they got 300 balls of very different kinds so that the kids in Iraq could play with them, and those became Jared's kids for whom he sacrificed out of the goodness and the charity of his heart.

Another Utahan by the name of Paul Holton, a chief warrant officer in the Utah National Guard, a man that was mentioned by the President in his February National Prayer Breakfast is known now as Chief Wiggles over there, taking on something called Operation Shoe Fly where soldiers got shoes for needy families in Afghanistan. He recognized a problem in Iraq and gave it a new name called Operation Give in which clothing, dental supplies, toys and books are used for needy people.

In talking to students in Utah, Mr. Holton said, "War is challenging, sometimes a kill-or-be-killed kind of thing, and you are in a strange place, and it is dangerous. But what is missing? Well, it is the people." Holton said he was sick of hearing about all the bad stuff when there are so many good things that are also happening in Iraq.

He said the media makes it look like all Iraqis are hostile and want U.S. troops out. He realized it was important not only to help them establish freedom in their country but to reach out to them and address them on a personal level. He showed students pictures of friendly Iraqi children who benefited from this project as well as the families who welcomed the soldiers with open arms.

They are just like us in many ways, but they have lots of needs. Project Give or Operation Give helps let them know that we are not your enemy, we are here to help you and to give you freedom.

With that, he established a warehouse in Baghdad in an effort to try and help those who are from the poorest schools in the poorest segment. In the spring of last year, he went to the high schools in Utah and said, as you are cleaning out your lockers, instead of throwing away all of your notebooks and supplies and pencils and crayons and everything, put them in a box. He gathered them together to make part of his trip to take them back to the poorest schools who, even though they have schools, do not have the supplies they need.

This is Operation Give, and this is the quality of people that we have working and leading and fighting and leading in Iraq.

Mr. Speaker, I do not know if it is against the rules if I mention that people can find out about Operation Give if they look up operationgive.org or www.chiefwiggles.com, because I certainly would not want to break the rules in letting people know about operationgive.org or chiefwiggles.com, so I hope if I say that, it is in the rules.

But I also recognize that we have within Iraq a situation that is going to be fraught with challenges, but we can meet those challenges because of the quality of people that we have and the history of success we have if we only keep our charity and our patience in the face of adversity.

As Patrick Henry once said, "I have but one lamp by which my feet are guided, and that lamp is experience. I know of no way of judging the future but by the past." We have a great past to guide us.

Mr. Chairman, I appreciate the opportunity of being here and sharing this time.

Mr. HUNTER. Mr. Speaker, I thank the gentleman very much. I am reminded, when the gentleman talks about the goodness of American GIs, that our country is good, and those GIs are good because they come from families where giving and helping other people is part of their character and part of their values.

I myself have a chief of staff who, with another member of the staff, have formed a group called Rescue Task Force, and even shortly after we had taken Iraq, this chief of staff Wendall Cutting, who himself had cancer for a long period of time, moved into Iraq with the help of other international organizations and built medical facilities for the people of Iraq. And when we were operating in Kosovo, and Albania was an area in which we had many refugee camps, Mr. Cutting and another staff member, Gary Becks, were the first people into those refugee camps with 40,000 of what they call "love boxes" from the people of the United States. And those were little shoe boxes that would hold scissors, combs, some medical things. It would help people, maybe a pair of socks, things that people who had to leave their house immediately, as a lot of the people who were forced out of Kosovo had to do, would need.

And along with those boxes containing immediate convenience items, they brought in ultimately millions of dollars worth of medical equipment and food to those refugee camps. And the first camp they went into, they mentioned that every child in the camp was ill because they did not have a good water supply.

I am reminded that, when I talked about helping them to raise money for this organization, my chief of staff Wendall Cutting, who himself has cancer, said, that will be great, because we have about $1 million worth of supplies ready to go in to the people who suffered from the hurricanes in the southeast. And even as we talk, they are moving to take those supplies to those very needy people.

So, Mr. Speaker, Americans are good, and the American people are good. And they have infused and embedded those values and that virtue in their sons and daughters who right now are serving in Iraq. And that is a message that I think is not lost on the world.

Mr. Speaker, a lot of the noise that we hear in the world is something that is manufactured. It is not genuine. A lot of the criticism of the United States is not genuine. I am reminded of the time that my mother and father were in the Philippines, visiting the Philippines. And they were near the embassy in Manila, and there was a long line of people waiting to get visas at that embassy, as there are every day I might add. And they had at the same time an anti-American demonstration in the town square there next to the embassy in Manila. And the demonstrators had big, well-made signs that said: "America out of the Philippines"; "Uncle Sam, go home";

"America, get lost." And interestingly, the organizers of the demonstration against America were going over to the visa line where Filipinos were waiting to get visas to come into the United States, and they were hiring people out of the visa line to come hold these demonstration placards that said, "We hate America." So it is very clear that many of the anti-American demonstrations around the world are not genuine.

The people in almost every country know the goodness of Americans. It is interesting, a friend of mine remarked today that with all of the talk about what we can do to make the Muslim world understand the goodness of America, I was reminded that the last several wars that we have fought have been on behalf of Muslim nations. That is, we freed Kuwait from the occupation of Saddam Hussein, and we saved Saudi Arabia, because Saddam Hussein's tanks were in third gear at the moment that we stopped his armored divisions dead still with the insertion of American combat troops. And we saved people in Bosnia who were being brutalized. And we have helped Muslim people around the world.

The message of America is that goodness prevails, and our people are good. Our GIs are great ambassadors of that goodwill, and all of the projects that the gentleman from Georgia and the gentleman from Utah talked about that are being undertaken in Iraq are real projects. They really help people. Those inoculations really do save babies, and it is something that we can be very proud of.

I would like to yield to the gentleman from Michigan, Mr. McCOTTER.

Mr. McCOTTER. Mr. Speaker, I thank the distinguished chairman of the Committee on Armed Services for recognizing a lowly member of the Committee on International Relations.

Mr. HUNTER. Mr. Speaker, I would just tell the gentleman that he is a very articulate member of the Committee on International Relations. We would not think of not recognizing him.

Mr. McCOTTER. Mr. Speaker, hopefully, we do a better job of talking so my colleagues have to do less cleaning up of our messes.

I just wanted to take a moment to talk about the President's speech in front of the United Nations, especially in relation to the horrific events that we have seen in Iraq. I think it is very important that we see that we have two messages, deeply distinct, that are being aimed at the hearts of the world and our fellow Americans. On the one hand, we have the President of the United States standing in front of the United Nations General Assembly and reaffirming this Nation's commitment to democracy, to liberty and to hope throughout the world. On the other hand, we have terrorists who, despite whatever political rationale they put forward, are nothing short of murderers who offer a perpetuation of evil and horror for their fellow human beings.

It would seem to me today that nothing could more show the stakes in Iraq, because, despite the panaceas that are proffered by many politicians, Iraq has two futures. Iraq will be a democracy, or Iraq will belong to Zarqawi. No amount of international support that is promised will materialize. It is up to the Iraqi people and America's coalition partners to ensure that Iraq remains free from any tyrant, especially the tyrants of terror that are currently exerting their will in some pockets of the country.

I bring this up because it is important for us here at home to realize that the gravest threat to the United States of America in the battle for Iraq is our resolve, as the President has rightly said. For, as it has been noted often, the war on terror is fought as much on a map as it is on your mind as a civilian. The images that we see, the actions that are put forward are designed to terrorize us. And they are designed to terrorize us so that we can no longer think clearly or rationally about the situation in Iraq. It is designed so that a handful of evil people can try to obscure the fact that tens of millions of Iraqi people are living daily lives and are trying to build a country and a better future for themselves.

Mr. Speaker, a terrorist attack by one suicide bomber that blows up 47 people standing in line to join in the defense of their country and the promotion of their future, the story there is not the terrorists, the suicide, the foreign terrorists destroying innocent life; it is over 47 people in Iraq were killed to stand in line to defend their freedom, to fight for a better future for themselves and their children. And they will keep standing in line, and they will keep coming. That is the story. It is the resiliency of the Iraqi people, not the evil of the terrorists who wish to subjugate them once again and turn Iraq back into a haven for terrorists.

It is the terror that will preclude us from seeing that stark reality, the reality that we need to see, the reality that the gentleman from Georgia talked about, the historical examples that have been put forward by the gentleman from Utah, the rational thought that is required of us as policymakers and as people of this Nation to understand not only the stakes but the situation.

As we go forward and as the world looks and has a chance to reflect upon the message of the terrorists or the message of our President at the U.N., I think it is also necessary at this time for me to point out that, at the United Nations, many of those people in that General Assembly would not be sitting in those seats if their countries were free and democratic. So to all of those nations, be they free or democratic in the United Nations, regarding Iraq, I would just like them to ponder one thing. History may commend them for a reluctance to wage a war, but history will condemn them for their refusal to win the peace. And right now, those are the stakes.

I appreciate the opportunity to talk on this issue.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for his very eloquent remarks.

Mr. Speaker, before I wrap up here, I would like to go over the rotation of U.S. forces in Iraq because, once again, the presidential candidate Senator KERRY has alleged that there is some secret plan to bring up a lot more people after the November elections, and I have a letter from the chairman of the Joint Chiefs, General Myers, that says that there is no secret plan.

□ 2230

He states that there has been no deferences of any notices of the rotations in Iraq as a function of pressure from anybody. Once more, let me go over the units that have moved in on the last rotation and the units that will move in on the next rotation.

We had the First Airborne Division or the 101st Airborne Division in Northern Iraq, that has been replaced now by the First Striker Brigade up in the Mosul area. We had the Fourth Infantry Division in eastern Iraq centered in the Tikrit area. And that Fourth Infantry Division has been replaced by the First Infantry Division.

We had the 82nd Airborne in the western area of operations that goes all the way to the Syrian border. That has been replaced by the First Marine Expeditionary Force, made up primarily of the First Marine Division.

We had the First Armored Division in Baghdad. Part of its elements have been replaced by the First Cavalry Division. And we are going to be going to a new rotation that was briefed to us in July with plenty of time, plenty of advance notice and plenty of publicity to the world. I do not know if Senator KERRY saw it, but it certainly was not secret. It was on national television, and that rotation is manifested in the second chart.

That shows the Striker Brigade that is in northern Iraq presently being replaced by another Striker brigade. It shows the First Infantry Division in the eastern sector being replaced by the 42nd Infantry Division. It shows the First Cav and the First Armored Division being replaced by the Third Infantry Division, and the Tenth Mountain Brigade, and it shows the First Armored Division moving out and the First Cavalry Division moving out.

So that is the rotation with respect to Reserves. The ratio of Reserves to active forces will remain in the 35 to 40 percent range, and there are 5,600 members of the individual ready reserve. That number has already been laid out by the Pentagon and those people are in particular specialties, 800 of them have been called up. More will be called up as time goes on. And in November or December there will be another blue print because there is a blueprint laid down every 180 days, and it will maintain approximately the same number of people, 135,000 to 140,000 personnel in Iraq. And it will maintain approximately the same Reserve to active duty proportion.

So that is the game plan that has been laid out in front of the entire Nation by DOD. There has not been any attempt to hide it, to delay it, to wait for the election before they laid it out. And in another 4 or 5 months they will lay out the next 180-day plan, and 180 days from then they will lay out the next plan.

That is the means of notifying the country so that units and individual families and personnel in the armed services can have plenty of notice.

CONGRESSIONAL BLACK CAUCUS AND THE PENDING ELECTION

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for half the time to midnight, or 43 minutes.

MS. JACKSON-LEE of Texas. Mr. Speaker, I stand this evening to continue the Congressional Black Caucus Special Orders and discussion with our colleagues on the pending election that will be held this year on November 2, 2004; to speak to my colleagues about the absolute imperative need to educate America and to be able to be diligent on what we fear to be episodes of attempts to suppress voting all over the Nation.

As I listened to my colleagues who preceded me on the floor of the House, I believe it is important to share some thoughts about the dilemma we find ourselves in. It may even be the engine behind the selection on November 2, 2004.

All of us have recognized the bravery and the valiant efforts, sacrifices that have been made by our friends and neighbors who find themselves in Afghanistan and Iraq. In my community alone, it is not only the enlisted personnel but it is likewise the Texas National Guard, the Reservists and many, many civilians.

We came to where we are today on different pathways. Some of us voted to authorize the authority to go to war, and many of us, such as myself, were adamant that this was the wrong direction to take. In the course of this debate, none of us, however, have taken to the task of criticizing or not recognizing the valor of our troops. And tonight I continue that position, to respect them and thank them, and to apologize to those families and to offer them sympathy, for those families whose brave men and women have already lost their lives.

One thing about this Nation is that we are eager to rise to the occasion to defend this Nation's honor. We were eager to defend America after the horrific tragedy of 9/11. And as I began, I started out by speaking to the question of voter suppression and the rights of voters, and I wanted to mention the tragedies in Iraq, as I have mentioned the tragedy on 9/11, because I think it all comes to the point of the American people finally making the decision of the direction they want this Nation to go.

In the last 48 hours or a week ago some 80-plus people were killed in Baghdad. There is no doubt that in the last weekend it was one of the bloodiest weekends that we have experienced. We know that three hostages were held. We know that Americans were held. We know that families in America today are mourning the loss of their loved ones who were beheaded in the last 48 hours.

We also knows that this administration, the Secretary of Defense, and those responsible for the policy of this war, or the lack of policy, have not offered one solution, one suggestion of how we can return from Iraq with honor. There is suggestion, of course, that there will be an election in Iraq in January and one pending in Afghanistan. We took away the resources from Afghanistan and the support for President Karzai to be distracted by a war directed and called for by this administration which today we find out was on a truly false basis. That is why this election is one of extreme importance. As many have said, it may be the most historic election, the most important election of our lifetime.

So I think it begs the question that we can come on the floor and pay tribute to those brave young men and women, but we have to tell the truth. There is a complete disaster in Iraq. There is complete pillage and murder and brutality and violence and explosions and loss of life and continued loss of life of those who we have sent to be on the front lines and who have been willing to take the oath to stand up and defend America.

Whose obligation is it? It is those of us who were elected. The President of the United States has to stand before the American people with a solution that will allow our men and women to return with honor. They have to in fact recognize that there must be action. In the President's remarks to the United Nations I did not hear a response to Senator KERRY's very provocative and important and instructive and meaningful statement on yesterday morning about solutions, calling together all of the allies that were in New York to help assist them or help to have assistance in working with Iraq, provide better training for Iraqi security forces, provide benefits to the Iraqi people, allow more Iraqi people to in fact engage in the rebuilding of Iraq, and as well ensure that democratic elections can be held next year. Actions, a statement of actions.

I bring this to the attention of my colleagues because the Congressional Black Caucus has been consistent in asking for some orderly response to a war that was called on the basis of weapons of mass destruction, called on the basis of imminent threat to the United States, called on the basis of a connection to al Qaeda, none of which are true. We simply asked for the truth. And so we continue with that message and we build on it because as we move towards the elections, we are likewise concerned with the people of the United States, and it is our commitment to ensure because this election is so important and it will be the telling story of how we move forward in Iraq, Afghanistan, North Korea, Indonesia, and the war on terror. We cannot afford for one single vote to be lost.

As I mentioned, the speech that was given by Senator KERRY, I perused some of the newspapers today because when we speak about voter suppression, many times it is thought that we speak about one group versus another. Yes, the Voter Rights Act of 1965 covered Southern States and protects the rights of African Americans and Hispanics in protecting them from being denied the right to vote. I might say that even with those laws, we had a tumultuous time in 2004. But I thought I would just show to my colleagues why I am standing here today, standing against voter suppression for any American.

As I read the Wall Street Journal, I am looking at both Alina and Paul Shipman, and the article talks about the anatomy of a hospital bill. There are people spending $29,000 because they do not have any insurance. That is what is going on in America, and that is why this election is so very important.

Or maybe we want to read the Los Angeles Times and look at a picture that shows somewhat of traffic congestion that is all over America because we need more transportation dollars and resources to improve our mobility. We need dollars to fix our bridges, to support our rail and our bus and our airplanes and our airports and our neighborhoods where there is extreme noise from our airports. We need dollars invested in America.

Then I show this last picture of Marita Michael, who testified in Washington, D.C. against the effort by this Congress to repeal the assault weapons ban in D.C. after she lost her young beloved son of 15 years old by gunshot.

This is why this election is so very important, and this is why we cannot afford to be denied the right to vote. And as I remind those, let me say that this is not a frivolous discussion, because even today we are finding out that we are going to have a tough time in this election, even in the backdrop of the legislation passed in 2002, the Help America Vote Act of 2002, which I will discuss later as I see my colleague has joined me, even as we have that legislation or the legislation of Senator DODD in 2001 that would have created the Equal Protection of Voting Rights Act of 2001, primarily because we are still facing the challenges of an election that can be tampered with.

Let me cite two or three points as I yield to the distinguished gentlewoman from California (Ms. WATSON), but I think it is important to set the groundwork. The reason why we are on the floor of the House is because there are families paying $30,000 for hospitalization because they have no health insurance.

There are people trying to get to work and trying to develop jobs, and they are immobilized by traffic conditions that do not allow the free ingress and egress because we are stalemated in this Congress because so many dollars are going overseas to fight the war in Iraq. And there is no solution it appears, no pronouncement from this administration, no relief to these families who are longing, no relief to these individuals who are serving us, no understanding whether they will be able to come home or not.

Mr. Speaker, I was in the airport over the weekend, and I saw a number of our men and women who had come home for some time frame; and I stopped to thank them for their service and asked them how long they would be home. Some I hoped were coming home for good, but do you know what they said to me, Mr. Speaker? We have got 15 days and then we go back.

□ 2245

These are men and women who cannot be told when we are going to have a resolution in Iraq, when we are going to transfer, if you will, the security aspects of Iraq to the people who should be securing their own country.

No one is suggesting that we cut and run, but we are suggesting that there be a statement, a pronouncement that there is a solution and that this administration knows the direction in which it goes.

So, again, this is an important election and just to remind you why it is important, why the Voting Rights Act is important and this election law is important, because even in the last election in Florida, there was the use of armed, plainclothes officers from the Florida Department of Law Enforcement to question elderly black voters in their homes and senior citizens' homes, the easiest persons to intimidate. The incidents were part of a State investigation of voting irregularities in the city's March 2003 mayoral election. Let me share with you one other aspect.

This year in Florida the State ordered the implementation of the potential felon purge list to remove voters from the rolls. That in itself was chilling, in a disturbing echo of the infamous 2000 purge which was found to be patently incorrect and egregiously wrong, suggesting that people who came to the polls in 2000 were felons when they were not.

In 2000, thousands of eligible voters, particularly African Americans, were removed from the rolls. After an outcry of the people in Florida and those around the country, the State abandoned the plan, after the news media investigations revealed that the 2004 list also included thousands of people who were eligible to vote and heavily targeted African Americans, while virtually ignoring many other voters.

Then lastly, Mr. Speaker, this is in a southern State protected by the Voting Rights Act of 1965 and 1968. In 2002 in Louisiana, flyers were distributed in African American communities telling voters they could go to the polls on Tuesday, December 10. Mr. Speaker, they also added that if they could not go, they could go this Tuesday, December 10, excuse me, 3 days after a Senate run-off election was held. Let me go over that again. They sent flyers out to tell the African American voters that they could vote Tuesday, December 10, which was actually 3 days past the election date that they should have showed up at. This is the kind of underhanded, almost insulting, but really threatening to the Constitution, actions that have gone on before by those who would want to turn away voters who disagree with them.

So that is why we stand here today, and I am delighted to yield to the distinguished gentlewoman from California (Ms. WATSON) who has been a strong voice on the issues of voter suppression and a member of the Congressional Black Caucus.

Ms. WATSON. Mr. Speaker, I would like to thank my colleague, the gentlewoman from Texas (Ms. JACKSON-LEE) for yielding to me and for the Caucus for organizing this important discussion on voter intimidation and suppression in the United States.

In a Nation where children are taught at the earliest age that every citizen has the right to vote, it would be comforting to know that the last vestiges of voter intimidation, oppression and suppression have been swept away by the passage and the enforcement of the Voting Rights Act of 1965. The facts, however, are discomforting.

In every national election since reconstruction, in every election since the Voting Rights Act was passed in 1965, voters, and particularly African Americans and other minorities, have faced calculated and determined efforts at intimidation and suppression, both above and below the Mason Dixon line, from California to Maine to Texas to Montana.

Overt, and often violent, voter participation in the era of Jim Crow now has been replaced by more subtle, but often just as intimidating, tactics. Gone are the days of poll taxes and literacy tests. Today, intimidation, threats, innuendo and deception are often more used to discourage voter turnout.

The list of strategies used by those who wish to suppress or intimidate voters is indeed varied and includes the following: challenges and threats against individual voters at the polls by armed private guards, off duty law enforcement officers, local creditors, fake poll monitors and poll workers and managers; signs posted at polling places warning of penalties for voter fraud and non-citizen voting or illegally urging support for a candidate; poll workers assisting voters in filling out their ballots and instructing them on how to vote; criminal tampering with voter registration rolls and records; flyer and radio advertisements containing false information; roadblocks placed near polling places; and internal memos from party officials in which the goals of suppressing voter turnout are outlined.

Mr. Speaker, the overwhelming evidence of widespread voter intimidation and suppression in our Nation and the fact that the presidential election of 2004 promises to be as close as the 2000 election, when every vote did count but was not counted, prompted me to draft a resolution condemning all efforts to suppress and intimidate voters in the United States and affirming that the right to vote is a fundamental right of all eligible United States citizens.

The resolution also urges States to replace decades-old election machinery with less error-prone equipment before the November 2004 national elections. It calls upon all States to institute a moratorium on the erection of roadblocks or identity checkpoints designed to racially profile or intimidate voters on election day.

Mr. Speaker, I saw this happening when I was the ambassador to Micronesia, thousands of miles away and watching on CNN. I was horrified that my country would see on election day these kinds of racially-profiled activities that were intended to stop the person of color from voting. I was horrified and ashamed.

My resolution calls upon the Attorney General to vigorously monitor and investigate all credible allegations of voter intimidation and suppression and to expeditiously prosecute all offenders to the full extent of the law.

Mr. Speaker, all of us here today are very aware of the voter irregularities that took place in Florida during the 2000 election. We are very aware that every vote does count and that in 2000 perhaps as little as 600 votes separated the two presidential candidates.

We are also aware that many of the votes in Florida were disqualified due to antiquated voting machines used predominantly in minority neighborhoods. While just 11 percent of Florida's voters are African American, more than half of the spoiled ballots, that is, more than 90,000 of the votes tossed out, were cast by African Americans.

We are also aware of other unsettling events, one of which was conducted by the Florida Department of Law Enforcement in Orlando this summer. In that investigation, elderly African American voters were visited at their homes by law enforcement officers, curious about their voting behavior. Florida officials deny any attempt to intimidate voters. However, the Justice Department recently disclosed that it had initiated a civil rights investigation into what had occurred in Orlando.

The recent event in Florida follows on the heels of two other well-publicized events in Florida when in 2001 State officials attempted to purge its list of alleged felons, predominantly African Americans, and in 2004, when the State again attempted to purge its voter list.

Mr. Speaker, I, along with my colleagues from the Congressional Black Caucus, come to the floor of this House this evening to declare that never again will such acts of voter intimidation and suppression be used. It is high time for both parties to sign a mutual pledge to renounce any and all efforts to suppress the vote in this upcoming election.

The world will be watching our Nation on the eve of November 2. As we go into other Nations and the United Nations talking about liberty and democracy, we cannot be hypocritical. Not only will the Western world be watching, but the non-Western, and particularly the Arab, world will be following the election. If we intend to bring liberty to Iraq and any other country, we must model that behavior here at home.

So I want to show the world how democracy should be practiced, not how it should not, and as a person whose roots are on the continent of Africa, no longer will we be suppressed or intimidated because our skins are black.

I am an American. I have been an American ambassador. I have a right to vote, and no one should stop me or mine from exercising that right.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentlewoman, and I am very honored, as any Member of the Congressional Black Caucus and Member of this body, to join the gentlewoman on this very important legislation to eliminate voter suppression.

The gentlewoman's chronicling the indictments of our various election systems is very important to educate our colleagues because many times it is thought that with the passage of legislation, and as you well know, we worked very hard to craft the Help America Vote Act of 2002.

Mr. Speaker, since this legislation, we are chronicling this list of indictments against the various election systems throughout the country. The Voting Rights Act of 1965 will be 40-years-old in about 6- to 8-months, and look at us. We are standing here talking about voter suppression. This is shameful.

Mr. Speaker, I want to thank my colleague and I want to make sure that we are mentioning my colleagues in the Congressional Black Caucus and our chairperson, the gentleman from Maryland (Mr. CUMMINGS) because, Mr. Speaker, we are committed to coming to this floor as often as it is needed to be able to educate our colleagues and to encourage you to join with us in supporting this resolution.

This resolution should be bipartisan and unanimous. Not one of us should be interested in suppressing the votes of someone like Ms. Michael who wanted to express herself in Washington, D.C., about the assault weapons ban.

□ 2300

She needs to be able to vote. No one should want to suppress the votes of thousands upon thousands of Americans who are stuck in traffic because we have not been able to focus on the investment in transportation in America. And certainly none of us should want to be able to stifle the votes of the 44 million uninsured, who like this family, the Shipman family, are paying enormous hospital bills, maybe even more than this, $30,000.

The votes are important, but it makes me very sad when I can cite instances that occur today that go back to 1880 and 1910. For example, Florida adopted literacy tests, property qualifications, grandfather clauses which permitted an individual to vote only if his grandfather had thereby excluded the descendants of slaves.

Mr. Speaker, I want to engage with the gentlewoman from California as I put this forward. We are thinking that we have moved beyond this. In fact, let me say that one of the good news stories coming out of this is that we are going to be prepared. People for the American way, the Voters Institute, the NAACP, the National Urban League, and many other groups are coming together to say loudly to America that we will not tolerate the denial of a vote and a vote not being counted.

Mr. Speaker, we expect to have some 10,000 or more lawyers, and we are recruiting them now. And if it is within the ethical posture, I hope those who are listening to my voice and who desire to be part of democracy and the privilege of voting and the rights of people voting would be in contact with these organizations and the Congressional Black Caucus regarding their desires, as legal scholars, to participate in protecting the rights of Americans so that votes will not be denied.

We have the right for provisional voting, Mr. Speaker. Let me tell you what is happening. We are intimidating people from using provisional voting. Just this weekend we came from Ohio, my good friend, the gentlewoman from Ohio (Mrs. JONES), a great leader in that State, invited some of us in to survey the procedures and to look at the opportunities and the structures for voting in Ohio. Lo and behold, we had one of their State officials suggesting restrictions on provisional voting. We will join with the gentlewoman from Ohio in working to ensure that that does not happen. That is not what provisional voting says. It says that if you come to a voting booth and you believe you have the right to vote, you can sign an affidavit, you can provisionally vote, and your vote should be counted. This is intimidation, Mr. Speaker, nothing more, nothing less.

Then we find out, as we visited our men and women in Iraq and Afghanistan, and I hear my colleagues saluting them, and I join them in doing so, but we know the trouble we had with our military voting in 2000. Well, I am surprised and concerned that we do not have a clear understanding how overseas ballots from our military personnel will get to their respective hometowns to be counted.

Now, I understand, and we are looking into this, that these ballots are to be received by the Pentagon. What an intimidating aspect to a specialist P4, a person who is simply an enlisted person, doing their best, having to know that some officer may have the opportunity to look at their vote. Where is the right of privacy?

So to all those family members who have loved ones in the military, you need to be tuned in and ask the questions of your elected persons: How will my loved one, my son, my husband, my daughter, my wife, my family member's vote be counted and will it be secure?

Additionally, Florida's current lifetime ban on voting by convicted felons, which disenfranchised nearly a third of all black males during the 2000 elections, dates back to the reactionary measures implemented in the late 19th century. We still have laws today that deny those who have done their time, paid their dues, who are denied the right to vote. We need a national legislative initiative, as we have ongoing in this Congress, to restore the rights of individuals who have paid their dues for the crime they have committed, and who are committed to being contributing citizens of this Nation. How dare we deny them their right to vote, and I hope we are able to pass this legislation as soon as possible.

What about local election officials who use the secret ballot law to take advantage of high illiteracy among blacks? Under the guise of protecting the integrity of the ballot, the State of Florida barred anyone from providing assistance to a voter, even if they could not read. Frankly, I think that we are clearly a Nation that has a long way to go.

I would like to thank the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), who I joined, along with a number of others, I know the gentlewoman from California (Ms. WATSON) did as well, with her international experience. We will have international observers, Mr. Speaker, and that is no shame to the United States. If we are a democracy that we are proud of, then we need international observers to affirm the fact that we have lived up to our own obligations, duties and values. We should not be denying those individuals who are uninsured, people stuck in traffic, who cannot get from a job that probably does not pay that much because we have no public transportation, a mother who is crying over her deceased son concerned about the assault weapons ban. They need to vote November 2nd, 2004, in the various early vote methods that areas may have.

We have a catastrophe here, and I encourage those who are concerned about this Constitution to consider voting one of your most precious rights. We expect that this century and this election, to be the first presidential election fully into the 21st century after the turn of this century, this election should set the standard that we are prepared for anyone who seeks public office. It should not matter whether we agree with their position, whether they are black or white or Hispanic, whether they are south Asian or Native American, whatever their diversity, we should not undermine voters because of who they are and because of who they desire to vote for.

Mr. Speaker, the election in 2000 was won actually in the popular vote by another person. This election cannot have that dichotomy. This is a solemn challenge for this House and for the other body. This is a solemn challenge for those of us who take an oath of office and rise every morning to pledge allegiance to our flag. This is an enormous burden that we now have.

Frankly, Mr. Speaker, I am frightened, because of what the gentlewoman from California (Ms. WATSON) said, a former ambassador, when she was not a Member of Congress in that 2000 election and the experience that she had. I spent 30 days in Florida after that election. I spoke to Floridians, senior citizens who were frustrated by the fact that they did not get a chance to vote as they desired. There were county officials distorting the ballot that then distorted the results of the election. I had disabled persons coming to me after that election crying out that we should never have it happen again where a disabled person cannot vote in dignity with the privacy that is necessary.

So it is important that we come on the floor almost every night, because I do not believe this law, the Help America Vote Act, has really been implemented. Ask how many jurisdictions have the technology necessary to allow disabled persons to vote privately, Mr. Speaker. I want every disabled person to be aware that they can go to their county seat right now, whoever is in charge of elections, and demand they be able to vote privately and have the kind of procedures in place to do so. It is their constitutional right.

So, Mr. Speaker, I believe that the work we have to do is yet undone; disabled persons, senior citizens and, yes, students. Students like the ones at Texas Prairie View A&M, who the district attorney told because they were students, they could not vote in the jurisdiction where they went to school. We are finding this happening all over America. The Constitution and the United States Supreme Court confirms that they can vote. The 1979 case that governed Prairie View A&M is applicable to students all over the country. Students can vote in the place of their school residency as long as they vote no place else. Let our voices be heard to all election officials who would even attempt to deny college students eligible to vote such as they did at Florida A&M, denying them the right to vote.

We believe elections should be guided by four fundamental principles: The voting process, particularly the voting systems in the administration of elections must be uniform and nondiscriminatory.

Voters must be able to independently and privately cast and verify their ballot. That is number two. That is the one we mentioned with respect to the disabled and senior citizens. No one who has a challenge of any kind should be intimidated and insulted and disgraced at the voting booth.

□ 2310

Number three, any voting system must comply with national certification standards.

And four, voter confidence and reliability in the electoral process must be maintained.

I yield to the gentlewoman from California (Ms. WATSON) for a question. She has crafted this resolution dealing with voter suppression. She comes from California. Many times we believe that these issues are only relegated to the southern States. I would like the gentlewoman to share some of the language out of the resolution and the final resolve that says we are against voter suppression and intimidation because I hope, as we conclude our remarks tonight on the floor of the House, that we will be moving this legislation as quickly as possible because we cannot have in the 21st century the long shadow of Jim Crow. We cannot have the taking away of votes and the undercounting of votes.

Ms. WATSON. Mr. Speaker, I thank the gentlewoman from Texas (Ms. JACKSON-LEE), and I appreciate the gentlewoman's passionate expression of the right to vote. That undergirds the reason why I introduced a resolution.

I read in the paper last week that there was a gentleman in one of the States up north who said we must suppress the black vote because, as you know, blacks vote Democrat, and so we must find ways to suppress their getting to the polls. I was appalled and shocked that we are dealing with something that was outlawed, we thought, by the Voting Rights Act of 1965. But we always have to be awakened to the facts and realities in which we live, that racism is not dead in this country; it just takes a different position, a different posture.

So despite the gains that we have made in securing our right to vote, new roadblocks have been successfully erected, including diluting the African-American vote by switching to an at-large election, preventing African-Americans from becoming candidates or obtaining office, voter fraud, the discriminatory selection of election officials, denying African-Americans access to precinct meetings and the harassment and outright exclusion of African-Americans from polling places.

And we know that, prior to the last election, there were notices sent out that said if the weather is bad, you do not have to vote on November, let us just use the 2nd, but you can vote on December 10. These are things that are occurring in today's atmosphere.

Mr. Speaker, I have put together a series of whereases in this resolution. What they do is document progress that has been made. I would like to read just one of them: Whereas voters in the United States, particularly African-Americans and other minorities, have faced calculated and determined efforts at voter intimidation and suppression in every national election since the reconstruction era.

An example of that was a few weeks ago in Florida where names were purged, but only names of African-Americans, and the person who was in charge, the secretary of state, said that the information gotten from the database on the census did not indicate whether Hispanics should be purged because they were considered to be white. If you have a Gonzalez and a Solis and a Menendez, that might make one question whether you have some Hispanics on this list. It is these kinds of calculated efforts that we want to do away with, and when I get back to my district, I am going to contact my county bar association and ask if they will join in our efforts to be sure we have attorneys throughout this country who will be ready in a flash to go to court when we see these violations of the Voting Rights Act.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am delighted for the gentlewoman to make that point. Let me quickly close by first of all thanking the gentlewoman and making mention of our chairperson, the gentleman from Maryland (Mr. CUMMINGS), and say that all of us are going to engage our county bar associations, the bars of the respective communities who believe in the justice of voting, to work with us.

Mr. Speaker, let me say, the reason why, even with Native Americans in the South Dakota 2004 primary, they were prevented from voting and were challenged because they did not have photo IDs which were not required in that State. The State of Arizona is now looking to do that.

We see there is reason for us to raise up the Constitution on the idea of voting, the Voting Rights Act and the very privilege of voting. We are in trouble, and the fact we are in trouble, there is a crisis and a need for us to surround the Nation with the idea that we will not tolerate one single act of voter suppression.

I ask my colleagues to support enthusiastically the Watson resolution against voter suppression. I ask those who are listening to engage their county government. And finally, I ask that we look at all of the electronic voting machines because we will engage in lawsuits if necessary to have a paper trail to protect the votes that will be going into those electronic voting machines.

Today we spoke on voter suppression. We will continue to do so because it is the right of the American people. This election must be free, and we must stand for freedom, justice and equality.

Despite significant gains our Nation has made to secure the voting rights of all Americans, credible reports of voter intimidation and suppression demonstrate that this most fundamental democratic right remains a dream deferred for some Americans.

I have joined my colleague from California, Ms. WATSON in introducing a resolution condemning all efforts to suppress and intimidate voters in the United States.

This resolution reaffirms that voting is a fundamental right of all eligible United States citizens; urges States to replace decades-old election machinery with less error-prone equipment before the November 2004 national elections; calls upon States to institute a moratorium on the erection of roadblocks or identity checkpoints designed to racially profile or intimidate voters on election day; and calls upon the Attorney General to vigorously monitor and investigate all credible allegations of voter intimidation and suppression and to expeditiously prosecute all offenders to the fullest extent of the law.

As we all learned during the last national election, each individual vote counts. By most accounts, the upcoming presidential election will again underscore the importance that votes are counted accurately and that every qualified voter is allowed to exercise his or her constitutional right.

PEOPLE FOR THE AMERICAN WAY—PROTECTING THE INTEGRITY AND ACCESSIBILITY OF VOTING IN 2004 AND BEYOND

A STATEMENT OF PRINCIPLES ON VOTING SYSTEMS AND VOTER VERIFICATION

As the 2004 election approaches, there is significant concern among Americans that our voting system has not been sufficiently protected from a repeat of widespread disenfranchisement. New technologies require election officials to grapple with a complex set of interests, including accessibility for people with disabilities and sufficient security and accountability to prevent elections from being affected by equipment malfunction or tampering.

The enormous logistical difficulties facing state and local election officials in implementing the Help America Vote Act are compounded by limited resources and a lack of guidance from the federal government.

Preventing disaster on Election Day will require a public commitment from election officials at all levels of government—especially chief state election officials—as well as the resources to put in place equipment and procedures that will advance and protect the voting rights of all Americans.

Maintaining the integrity of our electoral process is critical to America's democratic institutions. Providing people with disabilities with the opportunity to vote in an independent and private matter is essential to comply with the moral and legal imperative of equality.

We are confident that there is a clear way forward that will allow states to achieve both goals to the maximum extent feasible for this year's elections, while encouraging additional advances in technology to fully serve the needs of all voters and election officials in future elections.

We believe action by election officials should be guided by four fundamental principles:

1. The voting process, particularly the voting systems and the administration of elections, must be uniform and nondiscriminatory;
2. Voters must be able to independently and privately cast and verify their ballot;
3. Any voting system must comply with national certification standards; and
4. Voter confidence and reliability in the electoral process must be maintained.

Less than ten weeks before the national elections, potential problems with voter registration lists, new and unproven technologies, insufficient resources for poll worker training, and inadequate voter education are increasingly being scrutinized for their potential to rob voters of their right to cast a vote that is counted. These, however, are not the only threats to the integrity of the elections, as a report released by People For the American Way Foundation and the NAACP makes clear.

The Long Shadow of Jim Crow: Voter Intimidation and Suppression in America documents that the vestiges of voter intimidation, oppression and suppression were not swept away by the Voting Rights Act or by subsequent efforts to enforce it. In fact, deliberate efforts to deceive or intimidate voters into staying away from the polls continue to emerge in nearly every major election cycle.

NAACP Board Chairman Julian Bond has been quoted as saying that "Minority voters bear the brunt of every form of disenfranchisement, including pernicious efforts to keep them away from the polls."

"This report is a reminder that while we are keeping an eye on state officials and new voting machines, we cannot relax our vigilance against these kinds of direct assaults on voters' rights."

Poll taxes, literacy texts and physical violence of the Jim Crow era have been replaced by more subtle and creative tactics.

This summer, Michigan state Rep. John Pappageorge (R–Troy) was quoted in the Detroit Free press as saying, "If we do not suppress the Detroit vote, we're going to have a tough time in this election." African Americans comprise 83% of Detroit's population.

In Kentucky in July 2004, Black Republican officials joined to ask their State GOP party chairman to renounce plans to place "vote challengers" in African-American precincts during the coming elections.

Most recently, controversy has erupted over the use in the Orlando area of armed, plainclothes officers from the Florida Department of Law Enforcement (FDLE) to question elderly black voters in their homes as part of a state investigation of voting irregularities in the city's March 2003 mayoral election. Critics have charged that the tactics used by the FDLE have intimidated black voters, which could suppress their turnout in this year's elections. Six members of Congress recently called on Attorney General John Ashcroft to investigate potential civil rights violations in the matter.

This year in Florida, the state ordered the implementation of a "potential felon" purge list to remove voters from the rolls, in a disturbing echo of the infamous 2000 purge, which removed thousands of eligible voters, primarily African-Americans, from the rolls. The state abandoned the plan after news media investigations revealed that the 2004 list also included thousands of people who were eligible to vote, and heavily targeted African-Americans while virtually ignoring Hispanic voters.

In South Dakota's June 2004 primary, Native American voters were prevented from voting after they were challenged to provide photo IDs, which they were not required to present under state or federal law.

Earlier this year in Texas, a local district attorney claimed that students at a majority black college were not eligible to vote in the county where the school is located. It happened in Waller County—the same county where 26 years earlier, a federal court order was required to prevent discrimination against the students.

Last year, voters in African American areas of Philadelphia were systematically challenged by men carrying clipboards and driving sedans with magnetic signs designed to look like law enforcement insignia.

The Long Shadow of Jim Crow also reviews the historical roots of recent voter intimidation and suppression efforts in the days following emancipation, through Reconstruction and the "Second Reconstruction," the years immediately following the passage of the Voting Rights Act.

The 1965 Voting Rights Act was among the crowning achievements of the civil rights era, and a defining moment for social justice and equality. Yet as The Long Shadow of Jim Crow documents, attempts to erode and undermine those victories have never disappeared. Voter intimidation is not a relic of the past, but a strategy used with disturbing frequency in recent years. Sustaining the promise of the civil rights era, and maintaining the dream of equal voting rights for every citizen requires constant vigilance, courageous leadership, and an active, committed and well-informed citizenry.

This year, with widespread predictions of a historically close national election and an unprecedented wave of new voter registration, unscrupulous political operatives may seek any advantage, including suppression and intimidation efforts. As in the past, minority voters and low-income populations will be the most likely targets of dirty tricks at the polls.

"Forewarned is forearmed," said Bond. "We are reminding voters, election officials, and the media about the kinds of dirty tricks that can be expected. We must be prepared to confront and defeat them."

Mr. Speaker, I ask my colleagues on this side of the aisle to take heed to the warning of Mr. Bond, for four more years is a very long time and could mean the difference between a safe America and continued war and costly occupation; money for our children's education and failure to utilize affirmative action to bring about equality in education; respect for the U.S. Constitution and continually closing doors to federal courthouses. Four years could mean a very long time if we do not work for change in the administration of our government.

BIG TROUBLE LIES AHEAD

The SPEAKER pro tempore (Mr. MCCOTTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for half the time until midnight or approximately 43 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I think it was in The Music Man where the seller of that musical equipment says, "We have big trouble right here in River City." We have big troubles here in Washington, D.C., and in America, for a couple of reasons.

The competition from other countries as they try to copy our techniques of production means that the competition is greater than it has ever been. Our future generations are going to be much more challenged than we have been. Actually, the baby boomers are a generation that is going to start retiring in the next 4 or 5 years; 73 million baby boomers will start retiring, probably the richest retirees that this country has ever had, probably the richest retirees this country will ever have.

We have some challenges in Washington as politicians tend to solve more and more problems, saying, somehow it must be Washington's responsibility rather than the individual's responsibility to solve some of these problems. What we have done is ended up, for example, with a tax system where now, today, 50 percent of the adults in the United States only pay about 1 percent of the income tax. So, of course, there is a lot of that 50 percent who are suggesting that maybe government should solve more of their problems because they do not have a stake in it.

The flat tax or the consumption tax, the sales tax are some suggestions that say, everybody has to have a stake in the way this country operates and the services that Federal Government provides.

This first chart shows some of the problems of over-promising. What the economists with the green eye shades call unfunded liabilities means the amount of today's dollars that would have to be put in a savings account drawing interest that equals inflation and the time, value of money to come up with the dollars necessary to pay for these programs, over the next 75 years in this case.

□ 2320

If we add up Medicare, part A Medicare; part B Medicare; part D, the drug program; and Social Security, it comes to $73.5 trillion, according to Dr. Saving, who is the trustee for both Social Security and Medicare, $73 trillion that would have to be put in a savings account today to earn the revenues in addition to the money coming in from the FICA tax, the payroll tax, to accommodate today's promises. A huge challenge for this government to try to develop the kind of discipline of stopping the overpromising and, for that matter, stopping the overspending. If we add the unfunded liabilities to the debt, the $7 trillion debt that we have today, added to the $73 trillion in unfunded liabilities, it means that it is almost insolvable without dramatic cuts in benefits or drastic increases in taxes.

If we do not make some changes, what we see happening in other countries can very well happen in the United States. And that means, Mr. Speaker, take a guess, and I ask my audience to take a guess of what the payroll tax is in France to accommodate their senior population. It is over 50 percent. The payroll tax in Germany to accommodate their senior population has just gone over 40 percent. Of course, that makes them much less competitive. And I am just suggesting, Mr. Speaker, let us not let that happen in the United States by continuing the tendency, the political tendency, because the more we overpromise, traditionally the likelier we are to get a few more votes and get elected to Congress, and if the people that elect us to Congress want somebody there who is going to spend more, promise more, borrow more, tax more, then that is the kind of government we are going to end up having.

Let me just briefly go through this chart of unfunded liabilities. Medicare part A, which is mostly to hospitals, is estimated to have an unfunded liability of $21.8 trillion. Medicare part B that doctors charge, mostly doctors, is $23.2 trillion. Medicare part D, the new prescription drug bill that we passed recently, adds another $16.6 trillion unfunded liability to the cost of Medicare. Social Security is just at 11.9, $12 trillion unfunded liability for Social Security. That is more than a quarter of a million dollars of unfunded liabilities for every man, woman, and child in America.

How do we shout long enough, hard enough, aggressive enough to get the Congress to pay attention? I think probably the secret is that Americans have to start paying attention to what is happening in their United States Congress, what is happening in their State legislatures, what is happening with their counties as governments at all levels are called on to solve more and more of the problems of individuals.

Let us take a look at the fact that we are going to have a strong economy. I mean, regardless of what we do and the solutions to Medicare and Social Security and stopping the overspending and trying to balance the budget, and, by the way, hopefully in the next several weeks we are going to take up the Balanced Budget Amendment that will add a little more pressure to us to stop our overspending, regardless of what we do, if we do not have a strong economy in America, we are not going to make it. We are going to start going downhill relative to other countries.

The interest on the debt is now over $300 billion a year, and the interest rate is continuing to climb. In fact, we are still at a very low interest rate; but it is still using up 14 percent of the total Federal budget, and that is growing rapidly for two reasons: interest rates are going up and our propensity to overspend because people do not like taxes, borrowing is sort of putting off the tax increase for a later time, and usually what we are talking about is a later generation.

So we continue to overpromise, overspend, and overborrow. And what that means is a tremendous obligation to future generations, not only coming up with the promises, overpromises, and the unfunded liabilities, but coming up with the additional amount of the budget that is sucked up paying the interest on their debt.

I would suggest that if we are going to have a strong economy, we have got to change our tax system. Our tax system in the United States puts our businesses at a competitive disadvantage.

It discourages savings and investment, and that is why I have introduced H.R. 3060, which is a flat tax that ends up taxing at the rate of 17 percent. After the deduction, it taxes at 17 percent across the board. So, number one, everybody has a stake. Number two, it puts our businesses in a more competitive position with other countries in terms of the selling of our product.

Let me talk about our current Tax Code: 7,000 Tax Code changes have been made just since 1986, 74 percent increase in the tax rules since 1986, and they are growing every day. Taxpayers spend 6.1 billion hours, 6.1 billion hours, preparing their tax returns, 8 billion pages of returns every year, and it is becoming more complicated. So people, individuals, taxpayers, do not totally understand how the tax system works. I have heard young people say, Well, I am looking forward to tax day because government sends me a check. But the fact is they have been taking money away from them on every paycheck, and so the government owes them much more money than they are getting back.

Government estimates of tax compliance costs reach $183 billion every year. Compliance costs approach 20 percent of the total income tax revenue. Extremely complicated, difficult, takes a lot of time. Businesses adjust their business decisions to lower their income tax often more than the commonsense, logical, market-based decisions they would otherwise make, which makes them more inefficient in terms of being competitive.

I thought it would be fun to just review the total pages of Federal tax rules. As lobbyists and special interest groups come in to lobby Members of the House and Members of the Senate and lobby the White House, they are interested in having special provisions in our complicated tax system that are going to benefit their particular clients. And what this has resulted in is more and more complications, more and more rules, and more and more pages of tax returns that if one is going to understand the system, they have to hire an accountant that is going to spend full time almost on the tax policy.

In 1913, we had very few rules and very few taxes. In 1945, we approached 10,000 pages. By 1984, we approached 30,000 pages. Now we have about 50,000 pages of Federal tax rules that go into detail explaining the laws that this Congress has passed often to benefit some particular interest group.

Just briefly on the flat tax, the flat tax bill I have introduced starts at 19 percent for the first year and then drops to 14 percent the second year and thereon. It is a 17 percent flat rate after the deduction. The deduction is $36,600 for a family of four. So they do not pay any tax on the first $36,600 if they are a family of four; 25,000 if they are a couple. It ends the double taxation on savings, ends the double taxation on dividends and capital gains. That means there is going to be a greater incentive to invest and to save. And that is what makes our economy and our productivity grow: the savings investment is the seed corn of the research and development that develops the kind of research and technology that result in better products produced more efficiently.

□ 2330

That is what is going to keep us competitive.

Just as a footnote, I would urge every parent to encourage their kids to make a special effort in science and math. Science and math achievement in the United States is one of the lowest in the world, and probably as technology becomes more an integral part of how we develop more efficient ways to produce products and actually the development of those products, students that have a good background in science and math are going to be the ones that are going to find it most easy to get a good-paying job.

I think I am down to the fact that it allows individuals to file their returns on a simple postcard form. I printed up that postcard form of what I see as the kind of tax form that is going to make taxpaying very simple and very easy. It increases confidence that everyone pays their fair share.

The flat tax is pro-growth. It is pro-freedom. I think most people in America are sick and tired of the rhetoric that says, well, we are going to make some adjustments here and there. They would like to get rid of the IRS. They would like to have the kind of tax system that encourages them to work and to produce and to save and invest.

Look, when we started this country, that is how our forefathers wrote the Constitution. They said in effect those that work hard, that study, that use that knowledge, that save and invest and try, end up better off than those that do not.

Of course, what we have done in the last 30 or 40 years is we have tended to divide the wealth and take away from those that are successful and give it to those that are less successful. In so doing, we have taken away some of the incentive that has made this country great, and that is the rewards for achievement and the rewards for trying and saving and hard work.

This is the flat tax postcard form. You put down your wages and your salary and your pensions. The personal allowance is $25,580 for married filing jointly, $12,790 for a single, $16,330 for a single head of household. Number of dependents on the next line. Line 4 is the personal allowance. Multiply $5,510 by each dependent.

What you have left after you subtract those deductions from wages, salary and pension is what you pay your 17 percent tax on. If you paid ahead of time, you subtract the taxes that you have already paid and figure out what government now owes you or what you owe the government.

We are having a lot of debate. Everybody agrees that we should change our complicated Tax Code because of its preferences that have been built in over the years to special interest lobbyists, because of its complication, and because it discourages effort and it discourages learning and it discourages savings.

Should we have a flat tax or sales tax? On the flat tax or sales tax, let me suggest that they both have the same type of tax base and they accomplish the same kind of results as far as encouraging business expansion, good jobs, a fair way to tax.

However, the tax base of a true national sales tax and a flat tax in the fashion of Dick Armey's or Steve Forbes' proposal will be the same. The tax base of a true national sales tax and a flat tax are going to be the same. In both cases, the tax is on consumption and not on investment, which is a superior tax for economic growth that is going to benefit our competitive position with other countries and certainly benefit the general public.

The question then really is on which tax is going to be administratively most feasible, and the flat tax is the winner hands down. At least 20 years ago, two economists, Hall and Rabushka, laid out the case for the flat tax in detail. The second edition of their book on the flat tax in the mid-1990s is called The Flat Tax. In the book they make it clear why the tax base of a national sales tax and the flat tax are the same.

What I am trying to point out, Mr. Speaker, is both the flat tax and the sales tax have the same tax base. They both accomplish the same goals. So now we are trying to decide which one is more possible to replace this complicated Tax Code that we have now. Let me give you a little intuition on why both of these taxes are essentially both the same.

The tax base of a flat tax is income, but people only do two things with income. They either spend it or they save it. Since there is no tax on savings, this means the flat tax is on consumption. But this is the same as a sales tax.

Let me try to be a little more technical. I started trying to work out an alternative to Michigan's sales tax as a flat tax when I was chairman of the senate finance committee back in Michigan. Under the national sales tax, business is taxed on its sales minus what it purchases from other firms minus what it pays on investment and capital. That is on the sales tax.

On the flat tax, individuals pay taxes only on their wage income and not on the income from savings, such as interest or dividends. Business actually pays the taxes on savings, interest and dividend, because they are not allowed to deduct it. Businesses pays taxes on its sales minus what it buys from other firms minus investment in capital minus wages.

Now, between the business income tax and the individual income tax, what is taxed then is sales minus what business buys from other firms minus what it pays on investment and capital. So the two tax bases are the same.

Now, when it comes to administration, the flat tax is much simpler. The individual and business both fill out a short form and it is clear what is going to be taxed.

Under the sales tax, lots of things will be difficult to determine. First, there is going to be political pressure, as there is in every State that has a sales tax, not to have that sales tax on such things as food and prescription drugs, not to tax medical services or dental costs. As was the case in Michigan and in most every other state that has a sales tax, we have done this. As this happens and you reduce what is going to be taxed on food, prescription drugs, health benefits, services, what that means is the tax rate for the sales tax is going to go up.

For example, to raise the revenue that is equivalent to our 17 percent flat tax is going to require a sales tax that is much higher. In initial calculations it could be as high as a 28 percent sales tax. If it is a 28 percent sales tax, this is certainly going to lead to all sorts of incentives to hide sales, which will be easier to do than to hide income, and this will lead to an even higher sales tax. You can call them free riders or whatever you want.

But I would suggest in the sales tax effort to get rid of the IRS, in its place what we are going to do is have a new Federal police force examining what is produced so we can determine how much production is being avoided on paying the sales tax. Where you tend to say that individuals consuming are paying the sales tax, what we have done in Michigan and most other states that charge a sales tax, to simplify it, we say well, you can add the tax if you want to, but who is responsible for the sales tax are the businesses that are selling the product.

Let me just briefly show the difference in what an individual taxpayer ends up with that earns money and decides to save the money.

First, under the current system, for example, let us say after you have your income, after you spend what you are going to spend, you are fortunate enough and diligent enough that you save $10,000, and then you end up paying 28 percent tax on the $7,200, now on $7,200, so what you have left, out of what you have saved and minus your tax, what you have left is $7,200. Let us say the interest rate, or your returns on investment are maybe around 6 percent; that means I think that that money would double in about 10 years. So after 10 years, that $7,200 that you have left after taxes doubles to $14,000. And then what do we do under the current system? We tax you on the interest rate you earned. So if you tax on the interest on the $7,200, as the money doubles, you end up having $12,384.

With the flat tax that encourages savings because we do not tax savings, after expenses, you end up with $10,000, you pay the 17 percent, and that leaves you $8,300. In 10 years, it doubles to $16,600, but we do not have any tax on that increased earnings of the dividends or interest, so that leaves you with a net of $16,600. So the point that I am trying to make is you are much better off and it encourages savings and investment, which is key to the kind of discoveries that we can have for businesses to be more competitive in a world market.

I think a problem with the sales tax is determining what is a final retail sale. In trying to change our sales tax in Michigan to take in some services, the overwhelming problem is what is the final retail sale that you charge a sales tax on? For example, say I am an accountant and I do your books, I am going to charge you a sales tax on it as the final user. But what if I am the same accountant, but I am doing the books for a local retail store, and that retail store is going to take the increased cost that they pay for that bookkeeper and add it to the price of their product; the sales tax is going on the price of their product, so you do not charge sales tax when you are an accountant doing work for a firm or a retailer that can pass that tax on in a product that is going to be taxed on the sales tax. It is complicated. It is complicated, figuring out what you are going to tax sales tax on.

Because of the fact that the advocates of the fair tax and the sales tax suggest that we want to change the 16th Amendment to the Constitution, a political complication of talking this chamber into having a two-thirds vote that is going to change the Constitution, and then after that, you have to have three-quarters of the States agree to ratify what has been suggested as a constitutional change.

Pretend for a moment that you are back in that State legislature, and here is the Federal Government saying, look, we want to change the system to get rid of the income tax and have a sales tax. We would sort of like you as the State to collect that money for us, for the Federal Government because, look, you are going to have a sales tax anyway in your State because you cannot copy the Federal income tax any more because we are going to have a sales tax, but we would also like you to collect the sales tax for the Federal Government, State legislatures and governor. We also are suggesting that you have this sales tax that we are going to pass into law and that it be on services and drugs, that it be on medical supplies. It is going to be a tough getting three-quarters of those States to ratify the Constitution with that kind of threat that they are going to have to be the instigators of that sales tax in their State.

I think what is likely is that all of the problems of a sales tax, how it is going to be administered, what do you calculate as the final sale that is going to be taxed for the sales tax, and the complicated effort of convincing States that they have to be a part of this effort to now expand their sales tax and maybe even start collecting it for the Federal Government.

A third problem has to do with purchases, for example, over the Internet. You might make purchases from another country over the Internet, and that is more and more available. How are these going to be taxed? What is likely is that they will not be and, thus, U.S. retailers will be at a disadvantage compared to foreign retailers. I think these are just a few of the problems in implementing a national retail sales tax.

The fact that no State has successfully managed to put in place a true retail sales tax that captures all final goods and services should tell us that it will be very difficult to do at the national level also.

Okay, back again, reviewing. Implementation, the flat tax is just going to be a bill passed by a majority and signed by the President. The sales tax, it is the bill, plus the constitutional amendment. The burden on States on the flat tax: none. On a sales tax, the States must collect the Federal taxes, often new ones on services; and for those States that do not have a sales tax, implementing that kind of a tax structure in those States.

The burden on the taxpayer. We have seen the simple form for a flat tax. On the sales tax, there is no form for individuals, but it is going to end up with much more business monitoring to know how much is being produced to determine what is being avoided in the sales tax, and the risk of tax evasion. The risk of tax evasion with a flat tax is the same as the current tax system. But with a sales tax, the high tax on goods increases the incentives for invasion. It increases the incentives to trade with your neighbor instead of paying a very high sales tax that I have estimated will go to 28 percent, maybe even higher.

In conclusion, let me just suggest that getting back to our predicament of over-spending, over-promising, the challenges that we face with medicare and Social Security, the challenges we face with paying our veterans' benefits, the challenges we face coming up with retirement benefits for Federal employees, means that we need to make the kind of changes in government that is going to help make sure that this country stays on the cutting edge of competition in the new challenging world market. And one of the tools that we can use to do this is getting rid of the IRS, getting rid of the complicated Tax Code that has preferences based on the strength of PACs and lobbyists that have influenced this and the other chamber and the White House over the last 50 years, and come up with a tax system that is going to be better for individuals, it is going to be better for the long-term competition that future generations are going to face.

CORRECTION TO THE CONGRESSIONAL RECORD OF WEDNESDAY, SEPTEMBER 15, 2004, AT PAGE H7232

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 361. To designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

H.R. 3908. To provide for the conveyance of the real property located at 1081 West Main Street in Ravenna, Ohio.

H.R. 5008. To provide an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through September 30, 2004, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1576. An act to revise the boundary of Harpers Ferry National Historical Park, and for other purposes.

CORRECTION TO THE CONGRESSIONAL RECORD OF WEDNESDAY, SEPTEMBER 15, 2004, AT PAGE H7234

H. Res. 776. A resolution of inquiry requesting the President and directing the Secretary of Health and Human Services provide certain documents to the House of Representatives relating to estimates and analyses of the cost of the Medicare prescription drug legislation; referred jointly to the Committees on Energy and Commerce, and Ways and Means, in each case for consideration of such provisions as fall within the jurisdiction of the committees concerned.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FROST (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. BAIRD (at the request of Ms. PELOSI) for today and September 22 on account of attending the funeral of a close friend.

Mr. BISHOP of Georgia (at the request of Ms. PELOSI) for today and the balance of the week on account of a death in the family.

Ms. MILLENDER-MCDONALD (at the request of Ms. PELOSI) for today on account of business in the district.

Mr. TAUZIN (at the request of Mr. DELAY) for today and the balance of the week on account of medical reasons.

Mr. WICKER (at the request of Mr. DELAY) for today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FRANK of Massachusetts) to revise and extend their remarks and include extraneous material:)

Mr. FRANK of Massachusetts, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

(The following Members (at the request of Mrs. BLACKBURN) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, September 22 and 23.

Mr. COLE, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today and September 22, 23, and 24.

Mrs. BLACKBURN, for 5 minutes, today.

Mr. MCCOTTER, for 5 minutes, September 22.

Mr. BURGESS, for 5 minutes, September 22.

Mr. PAUL, for 5 minutes, September 23 and 24.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 138. Concurrent resolution commending John W. Kluge for his dedication and commitment to the United States on the occasion of his 90th birthday; referred to the Committee on Government Reform.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on September 16, 2004 he presented to the President of the United States, for his approval, the following bills.

H.R. 361. To designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

H.R. 3908. To provide for the conveyance of the real property located at 1081 West Main Street in Ravenna, Ohio.

H.R. 5008. To provide an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through September 30, 2004, and for other purposes.

ADJOURNMENT

Mr. SMITH of Michigan. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, September 22, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9619. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bitertanol, Chlorpropham, Cloprop, Combustion Product Gas, Cyanazine, et al.; Tolerance Actions [OPP-2004-0088; FRL-7358-6] received July 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9620. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Robert B. Flowers, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

9621. A letter from the Deputy Chief of Naval Operations (Manpower and Personnel), Department of Defense, transmitting notification of a decision to implement performance by the Most Efficient Organization (MEO) for Design Engineering at the Puget Sound Naval Shipyard, Detachment Boston (initiative number NC20010767); to the Committee on Armed Services.

9622. A letter from the Deputy Chief of Naval Operations (Manpower and Personnel), Department of Defense, transmitting notification of a decision to implement performance by the Most Efficient Organization (MEO) for Retail Supply Southwest in San Diego, CA (initiative number NC20000611); to the Committee on Armed Services.

9623. A letter from the Deputy Chief of Naval Operations (Manpower and Personnel), Department of Defense, transmitting notification of a decision to implement performance by the Most Efficient Organization (MEO) for Research, Development, Test, & Evaluation Support Services in Philadelphia, PA (initiative number NC20020775); to the Committee on Armed Services.

9624. A letter from the Director of Defense Research and Engineering, Department of

Defense, transmitting a report on the utilization of the Laboratory Revitalization Demonstration Program (LRDP), pursuant to Public Law 105–261, section 2871(d); to the Committee on Armed Services.

9625. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to India pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

9626. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Mexico pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

9627. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Ambient Air Quality Standards for Particular Matter [OAR-2003-0229; FRL-7794-1] (RIN: 2060-AM02) received July 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9628. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Operating Permits Program; State of Iowa [R07-OAR-2004-IA-0002; FRL-7793-8] received July 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9629. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Operating Permits Program; State of Nevada, Clark County Department of Air Quality Management [NV117a-OPP; FRL-7795-7] received July 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9630. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Operating Permits Program; State of Kansas [R07-OAR-2004-KS-0001; FRL-7793-6] received July 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9631. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans New Jersey Emission Statement Program [Region II Docket No.NJ 67-274 FRL-7788-6] received July 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9632. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Clean Air Act Approval of Revisions to the Title V Operating Permit Program in the State of New Mexico, Albuquerque/Bernalillo County, New Mexico, and the State of Arkansas [NM-47-1-7606a; FRL-7810-2] received September 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9633. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions from Existing Hospital/Medical/Infectious Waste Incinerator Units [VA139-5073a; FRL-7810-7] received September 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9634. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Adequacy of Minnesota Municipal Solid Waste Landfill Program [FRL-7810-9] received September 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9635. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Transportation Conformity Rule Amendments for the New 8-hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes; Correction to the Preamble [FRL-7789-6] (RIN: 2060-AL73) received July 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9636. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, South Coast Air Quality Management District [CA 298-0459a; FRL-7784-3] received July 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9637. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, South Coast Air Quality Management District [CA287-0458; FRL-7781-9] received July 20, 2004, pursuant tc 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9638. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Monterey Bay Unified and Santa Barbara County Air Pollution Control Districts [CA 289-0451a; FRL-7783-9] received July 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9639. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Asbestos [OAR-2002-0082; FRL-7789-5] received July 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9640. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Maryland: Final Authorization of State Hazardous Waste Management Program Revisions [FRL-7791-3] received July 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9641. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Maintenance Plan Revisions; Ohio [R05-OAR-2004-OH-0001; FRL-7784-2] received July 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9642. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Maryland; Virginia; Technical Amendment [DC-2025, MD-3064, VA-5052; DC052-7007, MD143-3102, VA129-5065; FRL-7790-5] received July 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9643. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Hazelwood SO2 Nonattainment and the Monongahela River Valley Unclassified Areas to Attainment and Approval of the Maintenance Plan [PA209-4302; FRL-7781-3] received July 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9644. A letter from the Acting Chief, WCB/TAPD, Federal Communications Commission, transmitting the Commission's final rule — Schools and Libraries Universal Service Support Mechanism [CC Docket No. 02-6] received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9645. A communication from the President of the United States, transmitting notification to terminate the national emergency with respect to Libya declared in Executive Order 12543 of January 7, 1986, and revokes that Executive Order, Executive Order 12544 of January 8, 1986, Executive Order 12801 of April 15, 1992, and Executive Order 12538 of November 15, 1985, pursuant to 50 U.S.C. 1622(a); (H. Doc. No. 108–216); to the Committee on International Relations and ordered to be printed.

9646. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 09-04 which informs of intent to sign a Memorandum of Understanding (MOU) between the United States, Germany, and Italy for the Medium Extended Air Defense System (MEADS), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

9647. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to the United States (Transmittal No. DDTC 052-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9648. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services to Germany (Transmittal No. DDTC 072-04), pursuant to 22 U.S.C. 2776(c–d); to the Committee on International Relations.

9649. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services to Japan (Transmittal No. DDTC 065-04), pursuant to 22 U.S.C. 2776(c–d); to the Committee on International Relations.

9650. A letter from the Deputy Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency blocking property of persons undermining democratic processes or institutions in Zimbabwe that was declared in Executive Order 13288 of March 6, 2003; to the Committee on International Relations.

9651. A letter from the Secretary, Department of State, transmitting consistent with the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Pub. L. 107-243), the Authorization for the Use of Force Against Iraq Resolution (Pub. L. 102-1), and in order to keep the Congress fully informed, reports prepared by the Department of State for the April 16-June 17, 2004 period and the June 18-August 16, 2004 period including matters relating to post-liberation Iraq under Section 7 of the Iraq Liberation Act of 1998 (Pub. L. 105-338); to the Committee on International Relations.

9652. A letter from the Executive Secretary and Chief of Staff, Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9653. A letter from the Executive Secretary and Chief of Staff, Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9654. A letter from the Executive Secretary and Chief of Staff, Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9655. A letter from the Executive Secretary and Chief of Staff, Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9656. A letter from the Director, Office of Personnel Management, transmitting the semiannual report on the activities of the Inspector General and the Management Response for the period of October 1, 2003 to March 31, 2004, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

9657. A letter from the Secretary, Department of the Interior, transmitting the biennial report on the quality of water in the Colorado River Basin (Progress Report No. 21, January 2003), pursuant to 43 U.S.C. 1596; to the Committee on Resources.

9658. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the designation as "foreign terrorist organizations " pursuant to Section 219 of the Immigration and Nationality Act, pursuant to 8 U.S.C. 1189; to the Committee on the Judiciary.

9659. A letter from the Secretary, Department of the Treasury, transmitting Notification of determination that, by reason of the public debt limit, the Secretary is unable to comply with the requirements of section 8348(c) of title 5, United States Code, pursuant to 5 U.S.C. 8348(l)(2) and 5 U.S.C. 8438(h)(2); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2028. A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance; with amendments (Rept. 108–691). Referred to the Committee of the Whole House on the State of the Union.

Mr. REYNOLDS: Committee on Rules. House Resolution 780. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–692). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 781. Resolution providing for consideration of the bill (H.R. 2028) to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance (Rept. 108–693). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CASE:

H.R. 5106. A bill to amend the Federal Crop Insurance Act to expand the Agricultural Management Assistance Program to include the State of Hawaii; to the Committee on Agriculture.

By Mr. SENSENBRENNER (for himself, Mr. CONYERS, Mr. CHABOT, Mr. COBLE, Mr. DELAHUNT, Ms. PRYCE of Ohio, Mr. GREEN of Wisconsin, Mr. SCOTT of Virginia, Mr. JENKINS, Mr. SCHIFF, Mr. WEINER, Ms. HART, Mr. BACHUS, Ms. BALDWIN, Mr. KELLER, and Mr. NADLER):

H.R. 5107. A bill to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes; to the Committee on the Judiciary.

By Mr. MANZULLO:

H.R. 5108. A bill to reauthorize certain programs of the Small Business Administration, and for other purposes; to the Committee on Small Business.

By Mr. CROWLEY (for himself, Mr. SERRANO, Mr. SHERMAN, Mr. HOEFFEL, Mr. WEINER, Mrs. MCCARTHY of New York, Mr. SMITH of Washington, Mr. BERMAN, Mr. HOLT, Mrs. MALONEY, Mrs. LOWEY, Mr. STARK, Mr. ISRAEL, Mr. MORAN of Virginia, Mr. GREEN of Texas, Mr. DELAHUNT, and Mr. SCHIFF):

H.R. 5109. A bill to establish the Airport Noise Curfew Commission; to the Committee on Transportation and Infrastructure.

By Ms. HERSETH:

H.R. 5110. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, a credit for individuals who care for those with long-term care needs, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DREIER (for himself, Mr. REYES, and Mr. ISSA):

H.R. 5111. A bill to enforce restrictions on employment in the United States of unauthorized aliens through the use of improved social security cards and an Employment Eligibility Database, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISRAEL:

H.R. 5112. A bill to provide for a certificate recognizing employees of defense companies for contributions to the national defense during the Cold War; to the Committee on Armed Services.

By Mr. KILDEE (for himself, Mr. VAN HOLLEN, and Mr. GEORGE MILLER of California):

H.R. 5113. A bill to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program; to the Committee on Education and the Workforce.

By Mr. KING of Iowa:

H.R. 5114. A bill to amend the Internal Revenue Code of 1986 to make improvements to assist young farmers and ranchers; to the Committee on Ways and Means.

By Mr. MICA (for himself and Mr. BILIRAKIS):

H.R. 5115. A bill to award posthumously a Congressional gold medal to Constantino Brumidi; to the Committee on Financial Services.

By Mr. PALLONE:

H.R. 5116. A bill to amend title II of the Social Security Act to waive the 24-month waiting period for Medicare coverage of individuals disabled with distant stage cancer; to the Committee on Ways and Means.

By Mr. SCHIFF (for himself, Mr. GOODLATTE, Mr. BECERRA, and Mr. FOLEY):

H.R. 5117. A bill to establish in the Office of the United States Trade Representative an Assistant United States Trade Representative for Intellectual Property Rights; to the Committee on Ways and Means.

By Mr. SESSIONS:

H.R. 5118. A bill to combat terrorism, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REYNOLDS:

H. Con. Res. 494. Concurrent resolution supporting the goals and purposes of National Farm Safety and Health Week and applauding the men and women who provide a stable supply of food and fiber for the United States and the world; to the Committee on Agriculture.

By Mr. HILL (for himself, Ms. CARSON of Indiana, and Mr. PENCE):

H. Res. 779. A resolution celebrating the life of Joseph Irwin Miller of Columbus, Indiana; to the Committee on Government Reform.

By Mr. BLUMENAUER (for himself, Mr. SHAYS, Mr. GEORGE MILLER of California, Mr. GREENWOOD, Mr. ALLEN, and Mr. UDALL of Colorado):

H. Res. 782. A resolution affirming the commitments made by the United States at the World Summit on Sustainable Development in Johannesburg, South Africa, to improve worldwide access to safe drinking water and basic sanitation services; to the Committee on International Relations.

By Mr. HOUGHTON:

H. Res. 783. A resolution recognizing Jerry J. Jasinowski on the occasion of his retirement from the presidency of the National

Association of Manufacturers; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 571: Mrs. McCarthy of New York and Mr. Pence.

H.R. 603: Mr. Frank of Massachusetts.

H.R. 623: Ms. Bordallo.

H.R. 713: Mr. Carson of Oklahoma and Mr. McCrery.

H.R. 756: Mr. Sullivan.

H.R. 785: Ms. Bordallo.

H.R. 792: Mr. Manzullo and Mr. Sabo.

H.R. 870: Mr. Latham.

H.R. 883: Ms. Bordallo.

H.R. 970: Ms. Harris and Mr. Schrock.

H.R. 980: Mr. Olver.

H.R. 997: Mr. Ryun of Kansas.

H.R. 1057: Ms. DeLauro.

H.R. 1212: Mr. Kleczka.

H.R. 1294: Mr. Pastor, Mr. Fattah, and Mrs. McCarthy of New York.

H.R. 1323: Mr. Gordon.

H.R. 1345: Mr. Bishop of Georgia and Mr. Davis of Alabama.

H.R. 1428: Mr. Bishop of Georgia.

H.R. 1657: Mr. Lantos.

H.R. 1734: Mr. Olver, Mr. Kucinich, and Mr. Ortiz.

H.R. 1859: Mr. Carson of Oklahoma and Mr. Rangel.

H.R. 1873: Mr. Porter and Ms. Millender-McDonald.

H.R. 1919: Mr. McCotter.

H.R. 1939: Mr. Olver.

H.R. 1958: Mr. Rush, Mr. Gutierrez, Mr. Lampson, Ms. Jackson-Lee of Texas, Mr. Meeks of New York, Mr. Lewis of Georgia, and Mr. Pallone.

H.R. 2094: Mrs. McCarthy of New York.

H.R. 2101: Mr. Hoeffel.

H.R. 2387: Mrs. Wilson of New Mexico, Ms. DeLauro, and Mr. Markey.

H.R. 2505: Mr. Bradley of New Hampshire.

H.R. 2680: Mr. Thompson of California, Mr. Ryan of Ohio, Mr. Stenholm, Mr. Crowley, Mr. Tom Davis of Virginia, Mr. Udall of New Mexico, Mr. Gordon, Mrs. Davis of California, Ms. Berkley, Mr. Rothman, Mr. Turner of Texas, Mr. Engel, and Mr. English.

H.R. 2735: Ms. Solis.

H.R. 2787: Ms. DeLauro.

H.R. 2959: Mr. Wynn, Mr. Emanuel, and Mr. Payne.

H.R. 3085: Ms. McCarthy of Missouri, Mr. Schiff, and Mr. Emanuel.

H.R. 3142: Ms. Lee.

H.R. 3242: Mr. Kennedy of Rhode Island and Ms. DeLauro.

H.R. 3543: Mr. DeMint, Mr. Pitts, and Mr. Brown of South Carolina.

H.R. 3634: Mr. Meeks of New York, Mr. Serrano, Mr. Towns, Mrs. Maloney, and Mr. Frank of Massachusetts.

H.R. 3729: Mr. Kildee, Ms. Kilpatrick, Mr. Brady of Pennsylvania, Mr. Wilson of South Carolina, Mr. Reyes, Mr. Markey, Mrs. Christensen, Mr. Clay, and Mr. Bell.

H.R. 3859: Mr. Bell, Mr. Langevin, Mrs. McCarthy of New York, Mr. Udall of New Mexico, Ms. Majette, Mrs. Maloney, Mrs. Velázquez, Mr. Towns, Mr. Olver, Mr. Gutierrez, Mr. Berman, and Ms. Eddie Bernice Johnson of Texas.

H.R. 3880: Mrs. Capps.

H.R. 3921: Mr. Blumenauer.

H.R. 3951: Mr. Spratt.

H.R. 4026: Mr. Gerlach.

H.R. 4032: Mr. Waxman.

H.R. 4057: Mr. Kennedy of Minnesota.

H.R. 4076: Mr. Kucinich.

H.R. 4169: Ms. Baldwin.

H.R. 4214: Mrs. Northup.

H.R. 4256: Mr. Strickland.

H.R. 4264: Mr. Conyers.

H.R. 4283: Mr. Hyde.

H.R. 4284: Mr. Simpson.

H.R. 4306: Mr. Gordon.

H.R. 4341: Mr. Pallone.

H.R. 4343: Mr. McKeon.

H.R. 4367: Mr. Ross.

H.R. 4395: Mr. Baird and Mr. Sandlin.

H.R. 4399: Mr. Serrano and Mr. Pallone.

H.R. 4420: Mr. Weldon of Florida, Mr. Goodlatte, Mr. Peterson of Minnesota, Mr. Jenkins, Mr. Cannon, Mr. Davis of Tennessee, Mr. Rahall, Mr. McCotter, and Mr. Doolittle.

H.R. 4502: Mr. Lincoln Diaz-Balart of Florida and Mr. Hyde.

H.R. 4575: Mr. Filner and Mr. Michaud.

H.R. 4595: Mr. Frank of Massachusetts.

H.R. 4605: Mr. Blumenauer.

H.R. 4610: Mr. Greenwood.

H.R. 4616: Mr. McDermott, Mr. Ryan of Ohio, Mr. Gutierrez, Mr. Holden, Mr. Filner, Mr. Kucinich, and Mr. Stark.

H.R. 4656: Mr. Gordon.

H.R. 4674: Mr. Grijalva.

H.R. 4676: Mr. Scott of Virginia and Ms. Majette.

H.R. 4682: Ms. Velázquez, Mr. Clay, Mr. Boehlert, and Mr. Owens.

H.R. 4706: Mr. Hinchey, Mr. Faleomavaega, Mr. Nadler, and Mr. Waxman.

H.R. 4712: Mr. Garrett of New Jersey and Mr. Neugebauer.

H.R. 4715: Mr. Wilson of South Carolina.

H.R. 4717: Mr. Neugebauer.

H.R. 4740: Mr. Cardin.

H.R. 4782: Mr. Sullivan and Mr. Lucas of Oklahoma.

H.R. 4783: Mr. Ross.

H.R. 4793: Ms. Carson of Indiana, Mr. Conyers, Mr. Jackson of Illinois, Mrs. Christensen, Ms. DeLauro, Mr. Scott of Georgia, Mr. George Miller of California, Mr. Olver, and Mr. Blumenauer.

H.R. 4838: Mr. Beauprez and Mr. Udall of Colorado.

H.R. 4849: Mr. Camp.

H.R. 4900: Mr. Case and Ms. Ros-Lehtinen.

H.R. 4927: Mr. Price of North Carolina.

H.R. 4928: Mr. Faleomavaega.

H.R. 4936: Ms. Pelosi and Ms. DeLauro.

H.R. 4976: Mr. Allen.

H.R. 4979: Ms. Millender-McDonald.

H.R. 4982: Mr. Andrews.

H.R. 5040: Mr. Andrews, Mr. Markey, Mr. Frost, and Mr. Moran of Virginia.

H.R. 5046: Ms. Norton.

H.R. 5061: Mr. Honda, Mr. Burton of Indiana, Mr. Cardoza, Mr. Smith of New Jersey, Mr. English, Ms. Lee, Mr. Capuano, Mr. Markey, Ms. Carson of Indiana, Mr. Rangel, Mr. Pallone, and Mr. Gordon.

H.R. 5068: Mr. Smith of Texas, Mr. Turner of Texas, Ms. Jackson-Lee of Texas, and Mr. Kennedy of Rhode Island.

H.R. 5069: Mr. Turner of Texas, Mr. Smith of Texas, Mr. Sandlin, Ms. Jackson-Lee of Texas, and Mr. Etheridge.

H.R. 5094: Mr. Putnam, Mr. Feeney, Mr. Burr, and Mr. Serrano.

H.J. Res. 22: Mr. Bass, Mrs. Cubin, and Mr. Sandlin.

H.J. Res. 102: Mr. Berman and Mr. Burton of Indiana.

H. Con. Res. 369: Mr. Farr.

H. Con. Res. 375: Mr. Camp and Mr. Bishop of Georgia.

H. Con. Res. 416: Mr. Bradley of New Hampshire.

H. Con. Res. 425: Mrs. Northup and Mr. Waxman.

H. Res. 556: Mr. Schiff and Mr. Blumenauer.

H. Res. 586: Mr. Paul.

H. Res. 641: Mr. Quinn.

H. Res. 745: Ms. Kilpatrick and Mr. Filner.

H. Res. 746: Mr. Green of Texas, Mr. Moran of Virginia, Mr. Wu, and Ms. Lee.

H. Res. 755: Mr. Kennedy of Rhode Island and Mr. Wexler.

H. Res. 761: Mr. Udall of Colorado, Ms. Pryce of Ohio, Mr. Spratt, and Ms. Loretta Sanchez of California.

H. Res. 774: Mr. McGovern, Mr. Cardin, Mr. Hinchey, Mr. Visclosky, Mr. Meeks of New York, Mr. Gordon, Mr. Greenwood, Ms. McCarthy of Missouri, Mr. Conyers, Mr. McDermott, Mr. Lampson, and Ms. DeLauro.

EXTENSIONS OF REMARKS

TRIBUTE TO JAMES A. GALLAGHER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. LANTOS. Mr. Speaker, it is with great honor that I rise today to pay tribute to James A. Gallagher, who is retiring after 28 years as the voice and face of the San Mateo County Transit District, which operates throughout my Congressional District. For almost three decades Mr. Gallagher has worked to improve our community, and he has left a lasting mark on the agency and the Bay Area as a whole. Both his colleagues and the citizens of San Mateo County will miss his leadership.

Born in Fresno, California, James Gallagher joined the United States Marine Corps were he served our country for two years. After his service in the Corps, James worked for several newspapers throughout the region, before becoming the sportswriter, copy-editor and city editor for the Redwood City Tribune in my district.

James left the newspaper industry to become the fifth employee hired at the San Mateo County Transit District in March 1976. Back then the transit district operated in a dozen cities in San Mateo County and served 7,500 riders per day. Today, SamTrans connects 100,000 people each day to all 20 communities in the county, as well as cities from San Francisco to Gilroy, California. SamTrans has become a major player in transportation in the Bay Area through its gifted employees, and due, in no small measure; to the perseverance of Mr. Gallagher. James rose up through the ranks at SamTrans, from the Public Information Officer to the Director of Administration and Marketing and finally the Deputy General Manager.

Mr. Speaker, when James went to Stanford University, he would have to race his teammates each week to make the traveling squad for the university track team. His friends like to say that even then he was racing to catch the bus. At SamTrans, James worked tirelessly to ensure that not one resident would have to run to catch the bus. He will be remembered as someone who, among other things, attempted to make the county accessible for those who were underprivileged, underserved and underrepresented. Mr. Speaker, James A. Gallagher's contribution to the growth of SamTrans cannot be measured or replicated. I urge my colleagues to join me in paying tribute to James A. Gallagher, and wishing him well on his well-deserved retirement.

PAYING TRIBUTE TO MATT HEMINGWAY

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. TANCREDO. Mr. Speaker, the 2004 Summer Olympic Games are returning to the birthplace, Athens, Greece. The Games are an opportunity for the world's athletes to showcase their talents, and have the possibility to earn the distinction of the World's best of their sport.

Matt Hemingway, a relative of Ernest Hemingway, has trained rigorously to earn a spot on the 2004 American Olympic team; to be classified as one of America's best high jumpers. Hemingway cleared 7 feet, 7.25 inches, winning the silver medal. The gold medal winner, Sweden's Stefan Holm, jumped 7–9.

At the 2004 Olympic trials, Matt placed second with a jump of 7–6.5, a foot more than his 6′ 7″ frame. In 2000, Hemingway reached his personal best height of 7–9.5, the best jump in the world that year; earning him the 2000 United States Indoor title.

Matt occupied a two year hiatus by acting as a whitewater river guide in Colorado. However, his passion for the sport and the thrill of competition called him back to competing. Matt now trains by playing basketball and running in the Colorado hills. Colorado's high altitude and temperate climate provides an excellent environment for Olympic caliber athletes to train and live.

Mr. Speaker, the accomplishments of the 2004 Olympic athletes are awe-inspiring. Matt and the other Olympians have made us all proud.

HONORING MARTHA VIRGINIA PENNINO

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor and remember Martha Virginia Pennino, a former vice chairman of the Fairfax County Board of Supervisors. Mrs. Pennino died September 17, 2004 at Inova Fairfax Hospital at the age of eighty-six.

Mrs. Pennino was born in 1918, in Roanoke, Virginia and was raised in Gloucherster, Massachusetts. She received a bachelor's degree from Emerson College in Boston.

Mrs. Pennino served three terms on the Vienna Town Council prior to being elected to the Fairfax County Board of Supervisors in November 1967, representing what was then the Centreville District. From 1968 to 1991 Mrs. Pennino was at the center of nearly every major decision made in Fairfax County. She was involved in such projects as the Dulles Toll Road, Reston Hospital Center, South Lakes High School, the Reston Community Center and the Reston Regional Library. Mrs. Pennino played an instrumental role in the planned community of Reston, which was taking shape when she took office. She became one of the longest-serving members of the Board of Supervisors spending 24 years on the board. Mrs. Pennino served as Vice Chairman for 17 years.

During her many years on the Fairfax County Board of Supervisors Mrs. Pennino was deeply committed to helping the poor and homeless. She pushed for the building of the Embry Rucker shelter for the homeless, supported building low-cost housing and buying and renovating the run-down Stonegate apartment complex. Prior to the construction of the shelter, she even provided cots in her supervisor's office and opened it at night to people with nowhere else to go.

Mrs. Pennino received many accolades for her work in Fairfax County. In 1985, she was awarded the Tom Bradley Regional Leadership award from the National Association of Regional Councils. The group cited her efforts in developing the first energy policy for a metropolitan area; the region's car-pool program and a fair-share housing program. In 1986, Washingtonian magazine named her "Washingtonian of the Year."

Mrs. Pennino was also involved with many community boards and foundations. She was a member of the advisory board of the Northern Virginia Youth Services Coalition, director of the Northern Virginia Community Foundation, a commissioner on the Northern Virginia Regional Commission and a member of the Board of Visitors of George Mason University. Additionally, Mrs. Pennino served as president of the Virginia Association of Counties of the Virginia Municipal League and was a member of the board of directors of the Metropolitan Washington Council of Governments for 17 years, holding posts of president and chairman.

Mr. Speaker, in closing, I would like to express my gratitude to Martha Virginia Pennino for her service to Fairfax County. I call upon my colleagues to join me in applauding Mrs. Pennino's past accomplishments and remembering her dedication to her community.

TRIBUTE TO CORPORAL CHARLES COMPTON

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Corporal Charles Compton, a World War II veteran who

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

resides in the Fifth Congressional District of Florida.

On August 16, 2004, I had the pleasure of recognizing Corporal Compton for his heroism and bravery as a U.S. Marine who fought in the Second World War from May 1943 until November 1945.

After serving his country for just over a year fighting in the Pacific, Corporal Compton was injured in a blast in June of 1945. The force of the blast knocked him unconscious. He was evacuated to a hospital ship but returned to the front lines to continue fighting the enemy.

I presented Corporal Compton with the Purple Heart, the oldest military decoration in the world, more than 50 years overdue.

Though he earned this honor, he never received it from the Defense Department and I am honored to have the opportunity to present to him the Purple Heart for his selfless devotion to duty and service to the United States.

IN HONOR OF ANGELICA HARRISON

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Angelica "Angel" Harrison for her outstanding commitment to serving her community. She is being honored today, September 21, 2004, with the Mary T. Norton Memorial Award by the United Way of Hudson County at the Crowne Plaza Hotel in Secaucus, New Jersey.

Mrs. Harrison has shown remarkable passion for helping the homeless. She has helped countless people make the transition from poverty to self-sufficiency and has helped raise critical funding for those in need. For 33 years, she has worked at the Hudson County Division of Welfare, serving as a social worker, supervisor, administrative advisor, and deputy director. Since 1983, Mrs. Harrison has been the director of the agency.

Mrs. Harrison's dedication to public service is demonstrated by her participation in numerous agencies throughout the community. She is a member of the State Medicaid Planning Committee, the State Corrective Action Panel, and the Hudson County Child Care Committee. Mrs. Harrison has also shown great leadership, serving as a board member for the Human Services Advisory Council; chairperson for the Comprehensive Emergency Assistance System; two-time past president of the New Jersey County Welfare Directors' Association; and current president of the Hudson County Pension Committee.

Over the years, Mrs. Harrison has worked tirelessly to improve the lives of those in need. She opened a food pantry at the County Welfare Agency to help those ineligible to receive food stamps. In addition, she established the Supportive Assistance to Individuals and Families (SAIF) program, which aids clients in the transition from welfare to self-sufficiency. She successfully secured a $1.8 million grant for this program in Hudson County.

Mrs. Harrison was born and raised in Jersey City, New Jersey. She received her bachelor's degree in both education and psychology from Jersey City State College.

Today, I ask my colleagues to join me in honoring Angelica Harrison for her remarkable work in Hudson County and her outstanding contributions to the social welfare and outreach programs in her community.

IN HONOR OF THE DEDICATED SERVICE OF MARVIN C. SHARP TO THE DELAWARE FIREFIGHTER COMMUNITY

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. CASTLE. Mr. Speaker, during my service as a Member of the House of Representatives, it has been my honor and privilege to rise and pay tribute to organizations and people who really make a difference in the Delaware community. Today, I rise to recognize Marvin C. Sharp, President of the Delaware Volunteer Firemen's Association (DVFA).

Marvin C. Sharp has been an extremely active and influential member of the fire prevention community for years. President Sharp is a Life Member of the Carlisle Fire Company of Milford where he served in several capacities as an emergency responder—including Ambulance Captain. He was "Fireman of the Year" in 1980 and "Ambulance Attendant of the Year" in 1986.

Marvin Sharp was formerly the President of Kent County Volunteer Firemen's Association. He served as President of the Kent County Ambulance Association and as President of the Delaware State Ambulance Association. As a result of his demonstrated leadership Marvin was subsequently nominated and elected as the Second Vice President of the Delaware Volunteer Firemen's Association in 2001. He was elected First Vice President in 2002, and President in 2003. This year he was elected Fourth Vice President of the Cumberland Valley Volunteer Firemen's Association. His various positions within the fire services community are a testament to his dedication to the public, as well as the faith that President Sharp's leadership resulted in an amendment to the by-laws of the DVFA which allowed the Wilmington Fire Department, our state's only fully career fire department, to join the Association as a full member. In an era where some volunteer and career fire departments are experiencing problems in working together, Delaware again stands tall by including every fire company in Delaware under the DVFA banner.

The Delaware Volunteer Firemen's Association has been served well by President Marvin C. Sharp. Along with my fellow Delawareans, I would like to commend Marvin, not only for his tireless efforts on behalf of the First State, but also for his tremendous contributions to the DVFA. Marvin is an exemplary model of commitment and excellence, and a valuable member of the Delaware community. I salute Marvin C. Sharp for his efforts to keep the Delaware Volunteer Firemen's Association a strong and vital part of Delaware.

HONORING THE COMMUNITY SERVICE OF CHRISTINE HUDDLESTON

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. GORDON. Mr. Speaker, I rise today to recognize the outstanding community service of Christine Huddleston, who has taken care of the needs of the homeless for 50 years. In fact, she has been running a homeless shelter in my hometown of Murfreesboro, Tennessee, for nearly 18 of those years.

Room at the Inn is a clean, safe place for the homeless to get their lives back in order. While Christine compassionately nurtures those who stay at the shelter, she expects everyone to pull his or her own weight. Accordingly, residents are expected to get gainful employment and do their fair share of chores around the facility.

She has helped everyone from college professors to the working poor get back on their feet again. That's why many who stay at the shelter lovingly refer to her as "Ma." Christine's unique understanding of human nature has allowed her to help people strengthen their self esteem and make a better life for themselves. But make no mistake about it, she is not a push over and knows when to practice tough love.

Christine's dedication to her work and the Room at the Inn has garnered her much support and admiration from the community. What started out as a small operation supported by only seven local churches has evolved into a community-wide effort aided by 70 churches, the business community and the city of Murfreesboro. I commend Christine for her hard work and tireless service to the homeless. She epitomizes what it means to be a Christian.

CONGRATULATING ST. MARY'S ANTIOCHIAN ORTHODOX CHURCH ON THE OCCASION OF ITS 100TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. KANJORSKI. Mr. Speaker, I rise today to call the attention of the House of Representatives to St. Mary's Antiochian Orthodox Church in Wilkes-Barre, Pennsylvania, on the joyous occasion of its 100th anniversary.

This church has a rich history in Northeastern Pennsylvania. The first immigrants to the area from Syria and Lebanon traveled to our region in the 1890s. By 1904, there were about 35 families who grouped together to form the first parish of St. Mary. On March 13, 1904, Archimandrite Raphael Hawaweeney organized St. Mary's Syrian Orthodox Men's Group. In the Spring of 1904, a young man named John Michael Curry Saba was ordained as the first priest of St. Mary's.

The parish bought the land on which to build a church at 132 High Street for $300. From 1904 through 1908, the congregation gathered in a private home. In 1907, Father George Kattouf was ordained and became pastor of St. Mary's.

By 1907, the parish had grown to about 65 families. A Russian Orthodox contractor named Michael Hlipko offered to build the church for $8,500.

St. Mary's was the first Antiochian parish established in the United States. On November 3, 1908, the parish received its official charter of incorporation for Luzeme County and the state of Pennsylvania. The official name was St. Mary's Syrian Greek Orthodox Catholic Church of Wilkes-Barre and vicinity. The first liturgy was held in 1908 and the Church was consecrated by Bishop Raphael during a visit in 1911 to celebrate the burning of the church's mortgage.

A rectory was built in 1912 and the old part of the Church cemetery in Hanover Township was also acquired. Father Joseph Elia Xanthopoulos became the pastor in 1912 when Father George moved to Allentown. Father Joseph was fluent in Arabic and Greek, and he chanted in Byzantine. He started a Syrian school for young people, who had begun to chant with him during the service.

The community began to split in 1914 because the Syrian Mission in America began to divide. During this time, services were held at the church on High Street for those following the Russian Patriarch, and at 107 Blackman Street, for those following the Antiochian Patriarch.

Several pastors served the Church through the years: Father Daniel George, Father Abdallah Khoury, Father Constantine Abou-Adal, Archbishop Aftimios Ofeish and Father George Mitchell, Father Anthony Sakey, Father Nicholas Hussan and Father Herbert Nahas.

In 1958, the parishioners decided they wanted to build a new Church, Hall and Rectory. They chose a site at the south end of Main Street and purchased it for $28,500 in 1964. This turned out to be a blessing in disguise, as the other three sites that had been considered were completely submerged in 16 feet of water by Hurricane Agnes in June 1972.

When Agnes hit Wilkes-Barre, 108 families from the parish were left homeless. The businesses of 35 parishioners were closed for months. Miraculously, the flood waters stopped just outside the parish hall doors, and the building became one of many shelters. The men and women of St. Mary's worked tirelessly to help the victims of the devastating flood.

In 1985, Father Edward Hughes became pastor of the Church, followed by Father Mark Sahady in 1994. Father Thomas Zain came to St. Mary's in 1994 and served as pastor until 1997. Father John Winfrey became pastor of the Church in 1997. The Very Reverend Father David Hester came to St. Mary's in 2000 and currently serves as pastor.

Mr. Speaker, it is my pleasure to represent a parish community with such a rich history. The parishioners at St. Mary's have preserved their heritage and kept meticulous records of their history to pass on to future generations, and I congratulate them on the joyful occasion of the Church's 100th anniversary.

HONORING COLONEL ROBERT N. AGEE FOR HIS 32 YEARS OF SERVICE TO THE MISSOURI AIR NATIONAL GUARD

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Colonel Robert N. Agee, Vice Commander for 139th Airlift Wing at Rosecrans Air National Guard Base in St. Joseph, Missouri. Colonel Agee is retiring on October 1, 2004 after 32 years of service to the Missouri Air National Guard. Colonel Agee currently resides in St. Joseph with his wife Sheila, and together they have two daughters, Rachael and Jennifer, and a son R.J.

Colonel Agee was born on December 25, 1949 in St. Joseph. He joined the Missouri Air National Guard in 1970, and graduated from the first Air National Guard Officer Preparatory Academy in May of 1971. Following his graduation, he was commissioned as a Second Lieutenant. Colonel Agee attended pilot training at Williams AFB in Arizona, and earned his pilot wings on September 9, 1972. In 1976, Colonel Agee graduated from Missouri Western with a Bachelor of Science Degree in Business Administration Management. Additionally, he has completed Squadron Officer School, Air Command and Staff College, and the Air War College.

Colonel Agee has performed duties in training, safety, tactics, standardization/evaluation and was the director of operations for the flying squadron prior to his current assignment. He was activated in December 1990 for Operation Desert Shield/Storm and served as the director of operations for the 180th Airlift Squadron in theater until their release from active duty in June 1991. In addition to training aircraft, he has flown the C–97G, KC–97L, C–130A, and the C–130H.

Among his military decorations are the Bronze Star, Meritorious Service Medal, Air Force Commendation Medal with one oak leaf cluster, Air Force Outstanding United Award with the three oak leaf clusters and "V" device, Air Force Expeditionary Medal, Southwest Asia Service Medal, and Kuwait Liberation Medals from Saudi Arabia and Kuwait.

As the former Operations Group Commander he had responsibility for our units, the 180th Airlift Squadron, the 139th Operations Support Flight, the 139th Aerial Port Flight, and the 241st Air Traffic Control Squadron in addition to the Standardization/Evaluation section. These squadrons are the support and execution component of the C–130 airlift mission. The unit continuously supports real-world airlift commitments in the United States and overseas in addition to local air training.

Mr. Speaker, I proudly ask you to join me in commending the career of Colonel Robert N. Agree, who has exemplified the qualities of dedication and service throughout his tenure with the Missouri Air National Guard.

PAYING TRIBUTE TO MATT ZISKA

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. TANCREDO. Mr. Speaker, I rise today to pay tribute to one of my constituents, Matt Ziska. Mr. Ziska recently received national recognition from the National Disaster Medical System (NDMS) for his hard work and dedication in his field. The Departments of Homeland Security, Health and Human Services, Defense, Veterans Affairs, and FEMA, all partnered with the NDMS, to grant this award.

Mr. Ziska has been employed as a hazardous materials technician at the Tri-County Health Department based in Aurora. His advice to the Disaster Medical Assistance Team has helped them enhance and improve protective measures designed to safeguard against the dangers of hazardous materials.

Mr. Ziska was selected from a field of 130 team members.

Mr. Speaker, I would like to join in paying tribute to Matt Ziska, and wish him the best in all his future endeavors.

HONORING THE 90TH ANNIVERSARY OF AGUDAS ACHIM CONGREGATION AND RECOGNIZING THE MILITARY VETERANS OF THE CONGREGATION

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to commemorate the 90th anniversary of the Agudas Achim Congregation, a conservative synagogue located in the city of Alexandria, Virginia.

In conjunction with this anniversary, honor is being paid to the military veterans of the congregation throughout the Veteran's Day weekend of November 12–14, 2004.

Jewish servicemen and servicewomen have served and continue to serve proudly in all branches of the United States as career and reserve servicemen and servicewomen. From Bunker Hill and the Battle of Springfield (NJ) to Omaha Beach and the Battle of the Bulge, from Pusan, South Korea to the Mekong Delta in Vietnam as well as Afghanistan and Iraq, Jewish servicemen have worn the uniform of the United States proudly—defending democracy and the freedoms we all cherish as Americans.

We remember those who fearlessly paid the ultimate price in defending the United States of America during times of war. We also recall those who have bravely fought and returned home as well as those who continue to fight for the freedoms and liberties that make this nation great—the same freedoms and liberties such as freedom of religion that brought hundreds of thousands of Jewish people to the United States escaping despotism and religious tyranny.

Mr. Speaker, in closing, I would like to congratulate Agudas Achim Congregation on their

90th anniversary. I call upon my colleagues to join me in honoring the congregation's military veterans.

TRIBUTE TO STAFF SERGEANT JOSEPH FALES

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Staff Sergeant Joseph Fales, a World War II veteran who gave his life fighting against tyranny so that we might live free.

In honor of Memorial Day, I had the pleasure of recognizing Staff Sergeant Fales for his heroism and bravery as a U.S. Soldier who fought in the Second World War until his death in October 1943.

Staff Sergeant Fales served in the Army Air Force and heroically performed the perilous job of a waist gunner aboard a B–17 Bomber. His plane was shot down over the Adriatic Sea, and an American Hero was lost. Sergeant Fales was only twenty years old.

I had the honor of presenting his family with medals Joseph Fales earned during his service to our nation. They included the World War II Victory Medal, the Honorable Service Lapel Button, the European Middle Eastern Campaign Medal with one bronze star, the Good Conduct Medal, the Air Medal and the Purple Heart, the oldest military decoration in the world more than fifty years overdue.

I am humbled by the courage and sacrifice of Joseph Fales. I am thankful for the gift of freedom that he fought to protect. We must never forget Joseph Fales and those soldiers who paid the ultimate price on our behalf.

IN HONOR OF DR. HOWARD PARISH

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Dr. Howard Parish for his contributions to higher education and outstanding community service. He is being honored today, September 21, 2004, with the Louis T. Scialli Memorial Award by the Jersey City Education Association at the Crowne Plaza Hotel in Secaucus, New Jersey.

For 40 years, Dr. Parish shared his passion for science in the classroom before retiring in 2002. He spent 37 years at the New Jersey City University, where he was a professor and chair of the Department of Geosciences. He also served as the director of International Studies. Dr. Parish played an integral part in establishing the Office of Grant Development, and was able to secure numerous grants for New Jersey City University.

Throughout the past 15 years, Dr. Parish has displayed a strong commitment to his community by participating in both local and national non-profit organizations, where he frequently dedicates his time to fundraising.

Dr. Parish has demonstrated his leadership skills by holding advisory positions for nearly a dozen organizations. He spent 10 years on the Board of Directors for the National Education Association and was chair of the National Education Association's Higher Education Caucus. He continues to be involved as the legislative liaison for educators in District 32 and serves as a consultant for the New Jersey Education Association.

Dr. Parish received his bachelor's degree in physical science from Jersey City State College and his master's degree in geological science from Rutgers University. He also holds a doctorate in geosciences from Columbia University.

Today, I ask my colleagues to join me in honoring Dr. Howard Parish for his years of dedicated service, both in the classroom and the community.

IN HONOR OF THE DEDICATED SERVICE OF NANCY GREEN TO THE DELAWARE FIREFIGHTER COMMUNITY

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. CASTLE. Mr. Speaker, during my service as a Member of the House of Representatives, it has been my honor and privilege to rise and pay tribute to organizations and people who really make a difference in the Delaware community. Today, I rise to recognize Nancy Green, President of the Ladies Auxiliary of the Delaware Volunteer Firemen's Association (LADVFA).

Nancy Green joined the Harrington Fire Company Ladies Auxiliary in 1964. She is a Life Member of the Harrington Ladies Auxiliary, and has served as Vice President and President. Nancy also served as President of the Ladies Auxiliary of the Kent County Firemen's Association.

Nancy's record of service to Delaware is exemplary. While a teacher in the public school system for 30 years, Nancy volunteered as a Delaware State Fire School instructor—teaching public fire safety education programs. Nancy is also a Library Commissioner at the Harrington Public Library, President of the Century Club, and the Newsletter Editor of her high school alumni association. With out a doubt, Nancy has proven her dedication to improving her community and our state.

The Ladies Auxiliaries are a very important element of the volunteer fire service. These organizations assist the firefighters by providing meals and beverages at the emergency scene. Auxiliaries also serve public dinners and conduct other fund-raising events to provide the fire companies with. Nancy's service included these important missions, and as President of the LADVFA all Delaware's Auxiliaries when she was elected as President.

The Ladies Auxiliary of the Delaware Volunteer Firemen's Association has been served well by President Nancy Green. She is an exemplary model of commitment and excellence and a valuable member of the Delaware community. I salute Nancy Green for her efforts to keep the Ladies Auxiliary of the Delaware Volunteer Firemen's Association a strong and vital part of Delaware.

HONORING LEE VICTORY'S LEGACY TO CHILDREN

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. GORDON. Mr. Speaker, I rise today to honor the memory of my friend, Lee Victory. It is only fitting that a year after his passing, his beloved hometown of Smyrna, TN, would name its recreation park after him.

I was there 20 years ago when the park first opened, largely due to Lee's efforts. Lee loved his family, and he loved Smyrna. He worked very hard to make the community a better place to live and was a leader in the development of its recreational parks.

Lee was involved with area youth long before Smyrna had a park. He was instrumental in starting Little League and Babe Ruth baseball and youth football leagues. I'm sure his five sons—Kenneth "Coon," Billy, Eddie, E.A., and Carl David—had something to do with Lee's involvement in youth programs. Team sports, he probably knew, would help make his boys more responsible and keep them out of trouble, at least during practices and games.

Lee would later become the head of maintenance for the Smyrna Parks and Recreation Department. He also was well known for his annual fish fry, but his biggest legacy is to Smyrna's young people. This Saturday morning, in a fitting tribute to my friend just before the start of a ball game, Mayor Bob Spivey, "Coon" Victory and representatives from the soccer, girls' softball, Little League baseball and youth football teams will unveil a monument dedicating the Lee Victory Recreation Park.

This monument will be a reminder to all residents of Smyrna that Lee's contributions and efforts improved the quality of life for all, especially the children. I congratulate the town for honoring someone who gave so much of his time and energy ensuring that children had the opportunity to play sports and learn valuable skills.

CONGRATULATING THE CATHERINE McAULEY CENTER ON ITS 20TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. KANJORSKI. Mr. Speaker, I rise today to call the attention of the House of Representatives to the Catherine McAuley Center in Dallas, PA, on the occasion of its 20 years of service to homeless mothers and children in Lackawanna and Luzerne Counties.

Since 1984, the center has provided emergency shelter, transitional and permanent housing, food, furniture, and support services to thousands of women and children in my district.

The Catherine McAuley Center is sponsored by the Sisters of Mercy and is named after their founder. Catherine McAuley devoted her life to serving others. Even on her deathbed, she is said to have told those around her to "be sure to have a comfortable cup of tea for them when I am gone."

Mr. Speaker, it is truly an honor to represent an organization whose mission is helping women in need. Please join me in congratulating the selfless staff, volunteers, and friends of the Catherine McAuley Center on 20 years of service to the women and children of Lackawanna and Luzerne Counties.

HONORING FRANK AND ROSSIE BUCHTEL

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Frank and Rossie Buchtel of Princeton, MO. It's been 40 years since the Buchtels retired from teaching, and they're still going strong. Frank turned 100 on July 2, and he and Rossie celebrated their 75th wedding anniversary on August 26. In light of these important milestones, the Rotary Club in Princeton is renaming its scholarship in honor of Frank. Additionally, Mercer County, MO, has designated September 28, 2004, as a day to honor both Frank and Rossie Buchtel.

Rossie's family had long been established in the area when Frank accepted a teaching and coaching position in Princeton in 1927. Rossie's parents were long-time Princeton residents, and her grandparents were pioneer citizens of Mercer County. Frank had an immediate impact on Princeton though, as he coached the Princeton football Tigers to an undefeated season in 1928. After that unbelievable season, Frank probably thought that life couldn't get much better, but he soon fell in love with Rossie; they were married in 1929. Shortly after their wedding, the Buchtels set out for Scottsbluff, NE, where Frank had accepted a coaching job at the junior college. Every summer, the Buchtels would venture to Evanston, IL, where Frank earned his master's degree at Northwestern University. In 1930, their daughter Barbara was born.

In 1936 Frank was appointed athletic director at Aurora College in Illinois. During the 5 years that Frank served as athletic director, Rossie completed her AB degree. Rossie's passion for library science, which she developed in Aurora, later led her to a graduate degree in the field at the University of Chicago.

In the fall of 1941, Frank, Rossie, and Barbara moved to Chicago Heights, IL. Frank served as coach and athletic director Bloom Township High School for the next 27 years, while Rossie was a librarian at a nearby school. Barbara graduated from Bloom and then DePauw University during these years. Barbara later married Elmer Duerst, and Frank and Rossie became proud grandparents of Dan and Debra, Barbara and Elmer's two children. In 1964, Frank and Rossie retired from their respective careers to settle in Princeton.

Mr. Speaker, I proudly ask you to join me in commending Frank and Rossie Buchtel, two remarkable citizens of Northwest Missouri who so exemplify the qualities of dedication and service. I am honored to call Frank and Rossie Buchtel constituents of Missouri's Sixth District.

PAYING TRIBUTE TO STAN SCHEER

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. TANCREDO. Mr. Speaker, I am very pleased to announce that this year's Kiwanis Club of Littleton Valor Award was given to Stan Scheer, the superintendent of Littleton Public Schools. He has done an excellent job in his position, working to meet the needs of the community.

Superintendent Scheer began working for Littleton Public Schools 6 years ago, and has been well received in the community for his dedication to improving the quality of education in Littleton.

The Kiwanis Club honors individuals with the Valor Award every 2 years. The proceeds from the Valor Award reception go to provide assistance to nonprofit organizations chosen by the recipient. This year, Superintendent Scheer has asked that the proceeds be donated to the Littleton Public Schools Foundation and the Kids in Need of Dentistry.

I would like to join the Kiwanis Club in applauding Mr. Scheer's continued success and dedication as the superintendent for Littleton Public Schools, and wish him the best of luck in all his future endeavors.

HONORING ADA KATHERYN LEWIS ON HER 80TH BIRTHDAY

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker I rise today to honor Ada Katheryn Lewis on her 80th birthday as well as her many years of dedication to the surrounding community.

Ms. Lewis was born September 27, 2004, in Wayne County, NC to Charles and Annie Coor. She then graduated from Atlantic Christian College, cum laude in 1945 and began teaching. Throughout her teaching career, she taught in Johnston, Franklin, Wilson, and Pitt Counties.

In 1962, Ms. Lewis received her MA in Educational Administration with honors from East Carolina University. In 1978, she was appointed assistant superintendent of Pitt County Public Schools, becoming the first-ever woman to hold such a position at that level in North Carolina.

In 1982, Ms. Lewis retired from the Public School System and became the first director of the Rural Education Institute at East Carolina University, ECU. She held this position until 1986 when she retired and became a consultant for the Institute. She holds the title of Professor Emeritus and was appointed "Visiting Lecturer" to the ECU School of Education as well as being named "Distinguished Educator."

Ms. Lewis has been recognized by virtually every appropriate institution for nearly 50 years of dedication to the education of those that were influenced by her teachings.

Mr. Speaker, in closing, I would like to extend my heartfelt thanks to Ms. Lewis for her years of service to the youth of America and her dedication to the human mind. Her contributions and efforts are much appreciated and will always be remembered. Her service is an exemplary example of an ideal citizen.

TRIBUTE TO GEORGE BLAZVICK

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, rise today to honor George Blazvick, a Vietnam veteran who now resides in Dunnellon, Florida, within my Fifth Congressional District.

On August 19, 2004, I had the pleasure of recognizing Mr. Blazvick for his heroism and bravery as a United States soldier who served his country from September 1966 to September 1968.

After completing 10 months of service, Mr. Blazvick was injured in an unfortunate blast when an M–79 grenade exploded in close proximity to his position. He was wounded in his leg and evacuated to a military hospital in Japan. He served the remainder of his tour in Fort Benning, Georgia.

I presented Mr. Blazvick with the Purple Heart, the oldest military decoration in the world, more than 30 years overdue.

Though he earned this honor, he never received it from the Defense Department and I am honored to have had the opportunity to present to him the Purple Heart for his selfless devotion to duty and service to the United States.

IN HONOR OF DR. PATRICIA LORRAINE BURKE McGEEHAN

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Dr. Patricia Lorraine Burke McGeehan for her outstanding leadership and distinguished accomplishments in education. She is being honored today, September 21, 2004, with the Mary T. Norton Memorial Award by the United Way of Hudson County at the Crowne Plaza Hotel in Secaucus, New Jersey.

Dr. McGeehan began her work as an educator at the Lincoln Community School. In the years that followed, she was principal of the Mary J. Donohoe School, Robinson School, and Midtown Community School. She has been the superintendent for Bayonne Schools since 2000.

Under her leadership, the Bayonne School District has received numerous awards for excellence. Dr. McGeehan has also been instrumental in forming partnerships that have generated grant money for school programs.

She has demonstrated her commitment to education by actively participating in more than a dozen community organizations and holding advisory positions on many of the boards, such as vice-president of both the St. Barnabus Burn Foundation and the Simpson Baber Foundation for the Autistic.

For her efforts, she has been honored by both civic and community organizations. Dr. McGeehan has been presented with more than ten awards for her leadership and achievements, including NAACP's President's Award, the Jersey Journal Woman of the Achievement Award, and the Christopher Columbus Community Service Award, to name a few.

Dr. McGeehan earned a bachelor's degree in economics from the College of St. Elizabeth and received her New Jersey Supervisor/Principal's Certificate, New Jersey Administrator's Certificate and master's in elementary education from Seton Hall University. She also holds a doctorate in education/administration from Seton Hall. Dr. McGeehan is a resident of Bayonne.

Today, I ask my colleagues to join me in honoring Dr. Patricia Lorraine Burke McGeehan for her exemplary efforts towards improving the Bayonne City School District in New Jersey and her lifelong commitment to education and helping others.

HONORING RALPH THEODORE BROWN, SR. ON THE OCCASION OF HIS RETIREMENT

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to congratulate Detective Ralph Theodore Brown, Sr. as he retires after twenty-seven years of dedicated service to the Police Department of the City of West Haven, Connecticut. Through his professional career and volunteer service, Teddy has shown a unique commitment to his community.

Returning to West Haven in 1962 from four years of service as a Special Services Airman in the United States Air Force, Teddy settled with this wife, Carroll to raise their three sons. Joining the West Haven Police Department as a patrol officer in 1977, Teddy quickly moved through the ranks and was named Detective just three years later. During his career with the Department, Teddy has worked in the Youth Division and served with the Statewide Narcotics Task Force as an undercover agent. Too often, we overlook the incredible work of our local law enforcement officers. These are the men and women who dedicate themselves to protecting our families and neighborhoods. Teddy's own career has been recognized with a myriad of commendations and awards including the Medal of Merit. The West Haven community has certainly been fortunate to have such a dedicated individual working diligently on their behalf.

In addition to his professional contributions, Teddy has long been an avid volunteer in his community. From coaching "Biddy Basketball" to serving as a Commissioner for the West Haven Parks & Recreation Department, he has been a friend and mentor to hundreds of our young people. Teddy, who has served as a Deacon for over fifteen years, has also been an active member of the Dixwell Congregational United Church of Christ for over three decades. In addition to these activities, Teddy is also a founding Member of the West Haven Black Coalition, member of the West Haven Race Relations Committee, and a member of the NAACP—three organizations which have worked to build on the diversity of West Haven and create a stronger community.

Through all of his good work, Teddy has touched the lives of many. His dedicated service and unparalleled commitment to enriching his community has left an indelible mark which will serve as an inspiration to others. For his many contributions—both professional and volunteer—to our community, I am proud to stand today and join his wife, Carroll; sons, Teddy, Jr., Erik, and Shawn; grandchildren, Shane and Camryn; as well as the many family, friends and colleagues who have gathered to congratulate and extend my sincere thanks and appreciation to Ralph Theodore Brown, Sr. as he celebrates his retirement. My very best wishes for many more years of health and happiness.

HONORING THE SYRACUSE ALL-STAR BABE RUTH BASEBALL TEAM

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. WALSH. Mr. Speaker, I rise in honor of the Syracuse All-Star Babe Ruth baseball team. On August 21, the team won the Babe Ruth baseball 16-year-old World Series in Loudoun County, Virginia, for the second consecutive season.

As Middle Atlantic Regional Champions, the Syracuse All-Stars competed against the best Babe Ruth players from around the country in the World Series tournament. Their victory is a testament to their hard work, determination, and competitive spirit throughout the entire season. It is also a continuation of the Central New York tradition for producing some of the best young baseball talent in the country, and the teams own winning tradition.

I congratulate the members of the Syracuse All-Star Team, their coaches, their parents, families and friends. They have earned the pride and admiration of all of Central New York not only through their victories but also through their demonstration of hard work, good sportsmanship, and fair play. The team's continuing success and their impressive back-to-back Babe Ruth World Series championships deserve the recognition of this House and the nation at large. I am proud that such a talented group of young athletes come from my Congressional District, and again I offer them my sincerest congratulations.

RECOGNIZING JACOB STAVES FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Jacob Staves, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 376, and by earning the most prestigious award of Eagle Scout. Jake currently attends Liberty High School and Chandler Baptist Church, and will receive his Eagle Scout Award on September 12, 2004.

Jake has been very active with his troop by participating in many Scout activities, earning numerous merit badges, and serving in a variety of leadership positions. He has held such positions as Assistant Patrol Leader, Patrol Leader, Senior Patrol Leader, as well as Troop Guide. He has earned the World Conservation Award and is BSA Lifeguard Certified. In addition to these accomplishments, Jake is a member of both honor camping programs, Order of the Arrow and the Tribe of Mic-O-Say. For his Eagle Scout project, Jake once again displayed his dedication to service by leading a group of Boy Scouts to build and install a sign for Chandler Cemetery.

Mr. Speaker, I proudly ask you to join me in commending Jacob Staves for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

REPLIES TO TOBACCO INDUSTRY MAILINGS

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. WAXMAN. Mr. Speaker, the tobacco industry distributes millions of coupons, surveys, and offers in the mail to its prospective customers. Sometimes, these customers or their loved ones write back. For years, these letters have been buried in secret industry files. As a result of tobacco litigation, they are now available to read on the internet.

Here are a few examples:

One New Jersey wife wrote, "Please do not send anything about smoking. My husband . . . does not smoke any more. He has emphysema as a direct result of smoking. He is terminally ill. He will not get better and will eventually die from a lack of oxygen. . . . [he] is only 57 years old."

An Arizona husband wrote, "My wife of 28 years has been diagnosed with terminal lung cancer, caused by use of your product. . . . She is unable to go to the mailbox, much less read your self-serving propaganda."

A son or daughter in New York wrote, "This is to let you know that you can never get to know my father any better—he died from emphysema because of smoking most of his life. My mother, who passed away four months prior to my Dad, and never smoked, had the lungs of a smoker because of living with him all her life. Don't ever send literature like this to me again. . . . You have my permission to use this in your advertising program."

A mother in Texas wrote, "I will be delighted to tell you about my daughter. . . . She lost her life to lung cancer at the age of 40. Caused from smoking. . . . Hope you think again before you send out such a letter. You don't know how you hurt someone who has lost a loved one. A grieving mother."

I urge all my colleagues to read these letters. You can find many of them on a new web site run by nurses called www.nightingalesnurses.org, and you can also search for more at http://legacy.library.ucsf.edu/index.html.

TRIBUTE TO ST. JOHN AME CHURCH

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. PAYNE. Mr. Speaker, I rise today to recognize the members of St. John African Methodist Episcopal Church in Jersey City, New Jersey. On Sunday, September 26, 2004, they will be celebrating 60 years of community ministry with a re-dedication ceremony.

St. John AME Church was founded in May 1944 and its members have served the people of Jersey City through their outreach to children, families, and seniors; their involvement in neighborhood initiatives; and their dedication to meeting the needs of the community in which they live.

They worked with the Communipaw Avenue Block Association and the Jersey City Landmarks Conservancy to restore the historical Rev. Dr. F. Webb Park, and they are a member of the Communipaw Avenue Block Association and Garden Club. They have developed a Spiritual and Social Plan dealing with fair housing, financial problems, and other neighborhood matters. The have been active in the Morris Canal Redevelopment Area Development Coalition Plans and have planted trees in local parks.

St. John AME Church has developed a Voter Education and Registration Project and Database, and is building a Community and Cultural Center for Senior Citizens and Youth. They have an Uplifting the Brotherhood of Men Ministry for fathers and their children, a cell phone ministry for battered women, an Outreach Golden Senior Citizen ministry, and are a member of the Today I Must Excel (TIME) program for Inner City families and youth.

They have a DSL computer lab for children and have developed an Adult and Youth Job Training Center. Every year they hold a Health Fair addressing minority health matters, an October Harvest Feast for Community Youth and their families, and a Profound Black Leaders Lecture Series.

Under the leadership of Rev. Charles W. McNeill, Jr., these outstanding citizens continue to fulfill the legacy of community service that St. John AME Church has exemplified for the last 60 years.

Mr. Speaker, I ask you to join me as I recognize these men and women who are dedicated to making our community a better place, and I encourage my colleagues to join me in sending our best wishes for many, many more years of service and ministry.

IN RECOGNITION OF BERNARD BARUCH HOUSES' 50TH ANNIVERSARY

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Ms. VELÁZQUEZ. Mr. Speaker, I rise today on the floor of the U.S. House of Representatives to recognize the 50th anniversary of the Bernard Baruch Houses Tenant Association located in the Lower East Side of Manhattan.

As the largest New York City Housing Authority (NYCHA) development in Manhattan—Bernard Baruch Houses provides homes for over 2,000 residents in our city. They also offer amenities that serve nearly 200 senior citizens and disabled residents.

The Bernard Baruch Houses Tenant Association is a well-known presence in our community, and continues its work to strengthen ties with its residents on a daily basis. This association truly exemplifies neighborhood cooperation, enhancing the opportunity for each and every New Yorker to live in a safe, affordable home.

The Bernard Baruch Houses has been instrumental in providing families throughout New York City with reliable and responsible services. Their buildings have served our city's families, elderly and disabled for the past 50 years.

Therefore, Mr. Speaker, I rise today to honor Bernard Baruch Houses Tenant Association on their 50th anniversary, and join with my colleagues in the House of Representatives to recognize their service within the New York City community.

RECOGNIZING NATIONAL WEEK OF ACTION FOR IMMIGRANT RIGHTS

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Ms. SOLIS. Mr. Speaker, I rise to recognize the National Week of Action for Immigrant Rights. Scheduled for Monday, September 20, 2004, through Sunday, September, 26, 2004, hundreds of community activists will mark the National Week of Action by holding rallies, visiting Congressional offices, and hosting educational events throughout the United States to celebrate the one-year anniversary of the historic Immigrant Workers Freedom Ride and highlight the need for comprehensive immigration reform.

It has been nearly one year since hundreds of immigrant workers and their supporters traveled throughout the United States as part of the Immigrant Workers Freedom Ride. Modeled after the Freedom Rides of the 1960's, the 2003 Freedom Riders raised awareness about the unjust realities of our current immigration policies and urged fair treatment of immigrant workers. I was proud to introduce House Resolution 384, cosponsored by fifty of my colleagues, to honor the Freedom Riders for their courageous campaign and to encourage President Bush and Congress to enact policies that support the goals of the Freedom Ride.

This year's National Week of Action will highlight again the need to reform our broken immigration system. Advocates will urge passage of H.R. 4262, the Safe, Orderly Legal Visas and Enforcement (SOLVE) Act, H.R. 3142, the Agricultural Job Opportunity, Benefits and Security (AGJOBS) Act, and other legislation which would fix our immigration system while honoring our tradition as a nation of immigrants and strengthening our national security.

The National Week of Action includes a fast by students and supporters to highlight the need for passage of S. 1545, the Development, Relief, and Education for Alien Minors (DREAM) Act, and H.R. 1684, the Student Adjustment Act. I am a proud original cosponsor of H.R. 1684, bipartisan legislation to open the doors of higher education to immigrant students who work hard and deserve the opportunity to attend college and pursue the American dream.

Throughout our nation's history, we have welcomed immigrants to this country. We should continue to honor this tradition and recognize the enormous economic and cultural contributions that immigrants have made to our nation.

I commend the New American Opportunity Campaign (NAOC) for spearheading the National Week of Action and honor the commitment of its supporters to ensure equal rights for all people. I encourage my colleagues and the American public to use the National Week of Action to learn more about our immigrant community and the need for reform of our immigration system.

IN HONOR OF MRS. KAREN COOPER'S 40 YEARS OF SERVICE TO OUR SOLDIERS AND OUR NATION

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. KINGSTON. Mr. Speaker, Mrs. Karen A. Cooper consistently displayed outstanding service to this Nation as she served the United States Army for over forty years. Her distinguished public service began in 1964. Mrs. Cooper will end her dedicated service to the United States in 2004 as the Administrative Assistant for the Office of the Deputy Assistant Secretary of the Army (Installations and Housing). Her insight and grasp of administrative procedures and knowledge of her job enabled her to insure the successful completion of all tasks with the United States Army Secretariat. Through Mrs. Cooper's diligence and exceptionally high degree of professionalism and technical abilities, she made a marked improvement in Army installations for soldiers, Army families, and civilian employees.

40TH ANNIVERSARY OF THE WILDERNESS ACT

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Ms. LEE. Mr. Speaker, earlier this month we celebrated the 40th Anniversary of an historic piece of legislation, the Wilderness Act, which was signed into law by President Lyndon B. Johnson on September 3, 1964. Since the Act's inception, over 105 million acres of our collective natural heritage has been protected under the wilderness designation.

This week, as we take time to recognize the accomplishments of the Wilderness Act, we must also recognize the work that has yet to be done. Throughout the nation, there are many more wilderness areas that have yet to fall under the full protection of the Wilderness Act—places like the Arctic Coastal Plain, Utah's Redrocks wilderness, and the Northern California Coastal wilderness.

We must continue our efforts to safeguard these existing natural habitats from human exploitation and development in order to protect threatened and endangered species and to ensure the long-term health and vitality of the entire ecosystem.

And I believe that as a global community, we must quickly recognize the dramatic impact that human development has made on our natural environment and work to reduce the human footprint that we leave behind on the world.

IN HONOR OF HERBERT JULES FRIEDMAN

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of Herbert Jules Friedman, a man who dedicated his life to helping others, and who left his mark of generosity on the Tampa Bay community.

After fighting in World War II's Battle of the Bulge as part of the 106th Infantry Division, Herb moved to Tampa. Always a hard worker, with a knack for business, Herb started Southern Mill Creek Products and quickly found success in the agricultural chemicals and equipment manufacturing industry.

Herb was always willing to share his success with others. His employees will remember their boss for his big heart and generous spirit. And members of the Berkeley Preparatory High School football team will remember how Herb always made sure there were summer jobs available for them.

But Herb may be best remembered for the many charitable and cultural organizations that he supported. The members of the Tampa Bay Wheelchair Athletic Association will never forget the year that Herb took 17 wheelchair athletes on a free Las Vegas vacation, or the many other ways that he supported their organization. Nor will the West Tampa Pony League Baseball Team forget the year that Herb donated funds to pay for new uniforms and equipment. These are just a few of the ways that Herb shared his joy for life with those less fortunate.

Herb also served as a board member for the Tampa Philharmonic Orchestra, the University of Tampa Board of Fellows, the Berkeley Preparatory School and Congregation Schaarai Zedek, of which he was a member for 55 years. Herb was also an active member of the Rotary Club of Tampa.

But even with all of these activities, Herb always made time for his family. On behalf of the entire Tampa Bay community, I would like to extend my deepest sympathy to Herb's beloved wife, Nell, and their four children, who made Herb so proud. Herb always did right by you, and by our entire community. We thank you for sharing his kindness and charity with us all.

THANKING MR. LAURICE WALTON FOR HIS SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. NEY. Mr. Speaker, on the occasion of his retirement in September 2004, we rise to thank Mr. Laurice Walton for 29 years of outstanding service to the U.S. House of Representatives.

Laurice began his career at the House working as a Computer Systems Analyst and then was promoted to a Senior Systems Analyst. In that capacity Laurice has served this great institution for the last 29 years as a valuable employee of House Information Resources (HIR) within the Office of the Chief Administrative Officer. During his career, Laurice has made significant contributions to support the tracking of legislation in the House. He developed the Summary of Proceedings and Debate (SOPAD) and the Congressional Budget Office Early Warning systems. SOPAD was eventually replaced by the Legislative Information Management System (LIMS) used by the Office of the Clerk to collect, record and report official legislative information on House floor proceedings and the progress of bills through the legislative process. Laurice individually developed the LIMS Reports Due to Congress application. He also produced the quarterly Member Profiles and provided support for the daily operation of LIMS.

Laurice has displayed great passion for his work and dedicated himself to ensuring that the needs of his customer, the Clerk's office of Legislative Computer Systems, are met to its satisfaction.

On behalf of the entire House community, we extend congratulations to Laurice for his many years of dedication and outstanding contributions to the U. S. House of Representatives. We wish Laurice many wonderful years in fulfilling his retirement dreams.

HONORING THE CITY OF WALLED LAKE

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. McCOTTER. Mr. Speaker, I rise today to acknowledge and honor the City of Walled Lake, Michigan on the occasion of its 50th anniversary. Founded on December 7, 1954 the beautiful City of Walled Lake is noted for its bustling community of some 7,000 residents enveloped by a country atmosphere. The City of Walled Lake's caring citizens, diligent community leaders, superior schools, vibrant economy, and proud heritage constitute an exceptional civic life for its citizens.

The City of Walled Lake's rich history dates back to 1830, when two men by the names of King and Prentice established a trading post for Native Americans on the lake's eastern shore. Soon, in 1838 a general store to be established here William R. Adams; and in 1834, Ms. Fanny Tuttle taught in the first log cabin school.

The twentieth century saw the city serve as home to the Walled Lake Amusement Park, the abode of the Flying Dragon, the Pretzel, the Tilt-a-Wheel, the Rocket Ride, as well as the Walled Lake Casino where all of the name bands played—Red Nichols and the Dorsey Brothers, Les Brown, Harry James, Vaughn Monroe, Lawrence Welk, and Chuck Berry. Today, the City of Walled Lake has truly created a blend of old time charm with new and continued growth for its residents and its business community.

Mr. Speaker, today I ask you and my esteemed colleagues to please join me in congratulating the citizens of the City of Walled Lake on their very special anniversary.

IN RECOGNITION OF THE INTERNATIONAL MARTIAL ARTS COLLEGE OF THE UNITED STATES

HON. TODD RUSSELL PLATTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. PLATTS. Mr. Speaker, I would like to recognize the International Martial Arts College of the United States, founded in Pennsylvania's 19th Congressional District.

The original International Martial Arts College (IMAC) was created in 1993 in St. Petersburg, Russia with a mission of bringing countries together to promote peace and cross cultural exchange through the universal medium of athletics. Over the last 11 years, competitions sponsored by IMAC have grown from several hundred participants to the largest competition in the world.

When IMAC sought a team from the United States, Master Tony Abel of York, Pennsylvania became the coach and team Captain and remains in both capacities today. Recognizing the importance of the United States role as ambassadors, an international tournament was held in York in 1995 and attended by many countries. Master Abel also officially formed a Board of Directors for the United States chapter of IMAC that same year.

To this day, international competition through IMAC continues, benefiting not only the participants but also helping to break down the barriers of culture and language. IMAC anticipates a future role in the Olympics where representatives, including residents of my District, will be able to compete. I wish them well in the years ahead, and I applaud their devotion to their sport and to international goodwill.

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IN HONOR OF CAPT. DALE A. LUMME

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. HUNTER. Mr. Speaker, it is with great pleasure that I rise today to recognize and honor the service and career of Captain Dale A. Lumme as he retires after 24 years of distinguished service in support of our Nation. Throughout his career, Captain Lumme has epitomized the Navy's core values of honor, courage and commitment, and has displayed exceptional leadership, providing a lasting contribution to the future capability and readiness of the U.S. Navy.

A 1980 graduate of the United States Naval Academy, Captain Lumme first served as an intern in the office of the Chief of Naval Operations. Following this internship, he departed for Pensacola, Florida, where he was selected for flight training. In less than 2 years he pinned on the coveted Navy Wings of Gold and embarked on a career as a Navy Helicopter Pilot.

In the following 4 years, Captain Lumme was stationed in San Diego, California with the Sea Snakes of Helicopter Anti-Submarine Squadron Light 33, where he made deployments on the USS *Leftwich*, the USS *Robert E. Peary* and the USS *David R. Ray*.

Following these deployments, in 1986, Captain Lumme was chosen as the Flag Lieutenant to Admiral Paul Miller, the Commander of U.S. Seventh Fleet, Yokosuka, Japan. An internship with the Joint Chiefs of Staff followed, and he completed his shore duty with a position in the Office of Legislative Affairs.

By December of 1989, the aviator was ready to get back to sea, and this time with far greater responsibility. Capt. Lumme spent 3 years in San Diego, California, followed by 2 subsequent years in Atsugi, Japan deploying on a variety of Naval Ships as the helicopter detachment Officer in Charge. He divided his time between the USS *Chosin*, the USS *O'Brien*, the USS *Elliot*, the USS *Curts*, the USS *Bunker Hill*, the USS *Mobile Bay* and the USS *Carl Vinson*.

Capt. Lumme then went back to the Joint Chiefs of Staff in June of 1994 for 3 years with the National Military Command Center. In 1997, he was chosen for squadron command, and he returned to Pensacola for a tour as Executive Officer and then Commanding Officer of Training Squadron SIX. After 3 years, he joined CINCLANTFLEET as Admiral Clark's Executive Assistant and Flag Secretary, followed by the role of Commanding Officer for CLF Shore Activities Staff.

In July of 2000, he became Deputy EA for the Chief of Naval Operations. Capt. Lumme's career culminated with his assignment to the prestigious and rewarding role of the Director of the Navy Liaison Office to the House of Representatives, where his exceptional leadership and skills were invaluable to the Secretary of the Navy, the Chief of Naval Operations and the Chief of Legislative Affairs.

His steadfast leadership and superb performance have won him numerous awards, including the Legion of Merit, the Defense Meritorious Service Medal, three Meritorious Service Medals, three Joint Service Commendation Medals, the Joint Service Achievement Medal, three Navy Commendation Medals and the Navy Achievement Medal.

Capt. Lumme completes his distinguished and honorable career leaving an impression of his inspiring leadership, a mastery of national defense issues and all-encompassing support for the Navy's combat readiness, programs, and quality of life.

I am pleased to recognize and thank Dale Lumme for his long and dedicated service to this country and join with his friends and colleagues in wishing him "Fair Winds and Following Seas" as he, his wife Roxanne and their two daughters, Reagan and Lauren leave the Navy after 24 years of remarkable contribution and service.

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MAHONING VALLEY SCRAPPERS WIN NY-PENN LEAGUE TITLE

HON. TIM RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. RYAN of Ohio. Mr. Speaker, I rise today to extend special recognition to the Mahoning Valley Scrappers, a Division I–A minor league baseball team located in Niles, Ohio, which won the 2004 New York-Penn League Championship for the first time in its 6-year history.

On Monday September 13, the Scrappers claimed the title after defeating the Tri-City Valley Cats 4–2 in a two-game sweep. The Scrappers finished the year with a 42–34 record, with new manager Mike Sarbaugh at the helm.

The Scrappers, an affiliate of the Cleveland Indians major league baseball franchise, averaged more than 4,100 spectators per game this year, placing the team near the top third in its league for attendance.

I commend the team for its extraordinary achievements and join with my community to thank the players and the organization for bringing America's favorite pastime home to the Mahoning Valley.

* * *

INTRODUCING RESOLUTION AFFIRMING THE COMMITMENT TO INCREASE WORLDWIDE ACCESS TO CLEAN WATER AND SANITATION

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. BLUMENAUER. Mr. Speaker, two years ago this month, over 185 nations came together at the World Summit on Sustainable Development in Johannesburg and made a commitment to increase worldwide access to clean water and sanitation.

Today, I introduced a bipartisan resolution to affirm the commitments made by the United States in Johannesburg, recognize efforts made to meet this commitment, and call for a greater effort by the U.S. and all developed nations towards meeting this public health, economic development, and environmental challenge. Original cosponsors of this resolution are CHRISTOPHER SHAYS, GEORGE MILLER, JAMES GREENWOOD, TOM ALLEN and MARK UDALL.

In 2002, 17 percent of the world's population lacked access to safe drinking water and 42 percent had no access to basic sanitation. Between 2 million and 5 million people die each year because of this lack of clean water and sanitation, including 4,000–10,000 children every day.

The resolution is supported by CARE, the Natural Resources Defense Council, MercyCorps, the National Wildlife Federation, Living Water International, and WaterPartners International.

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HONORING OLYMPIC ATHLETE RYAN LOCHTE

HON. TOM FEENEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. FEENEY. Mr. Speaker, it is with great pride that I note the Olympic accomplishments of Ryan Lochte, a constituent of mine from Port Orange, Florida.

For swimmers, the Olympics represent the ultimate contest. No other swimming meet rises to that level of competition. In his first Olympic event, 20-year-old Ryan Lochte earned the gold.

That event was the Men's 4 x 200 meter Freestyle Relay—one of the most exciting finishes in the 2004 Summer Olympics. Here, the underdog American team of Ryan Lochte, Michael Phelps, Peter Vanderkaay, and Klete Keller faced an Australian team that dominated this event for several years.

After Michael Phelps gave the Americans a one-second lead in the first leg, Ryan Lochte and Peter Vanderkaay extended that lead to 1.5 seconds. But Klete Keller faced the Australian legend Ian Thorpe who proceeded to cut into that lead. However, Klete Keller rose to that challenge. As a capacity crowd rose to its feet for the finish, Klete Keller touched the wall 0.13 seconds ahead of the Australian.

And Ryan Lochte and his teammates won the gold.

Two days later, Ryan Lochte competed in the Men's 200 meter Individual Medley. He came out of the final turn fifth in a field of eight. But in those last 50 meters, Ryan—swimming the freestyle, his best stroke—passed three swimmers to capture the silver and turn in his career-best time of 1:58.78.

Two proud and sacrificing parents contributed to Ryan's success. His father—Steven Lochte—is a nationally-recognized swimming coach and coaches the Spruce Creek High School team and the Daytona Beach Speed club team. Mr. Lochte pursues an untraditional coaching style that develops young swimmers at a gradual pace. Thus, his protégés blossom at the critical age of late teens and early 20s and avoid the burnout experienced by many young athletes. Mr. Lochte personally witnessed his son's feats in Athens.

Ryan's mother—Ileana Lochte—taught Ryan how to swim. She's a typical swim team mother who has traveled to hundreds of meets and been her son's biggest cheerleader. Ms. Lochte stayed home when Ryan went to Athens because school had started for Ryan's younger siblings. But she was standing by the pool at the Port Orange YMCA when her cell phone rang with the news of Ryan's gold medal win.

Ryan adds to the Gator legacy while attending the University of Florida and is an 11 time All American swimmer. He has brought much pride to his family, teammates, and his community.

ON RELEASE OF THE FINAL REPORT OF THE U.S. COMMISSION ON OCEAN POLICY

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. FARR. Mr. Speaker, five months ago yesterday, the U.S. Commission on Ocean Policy released a Preliminary Report outlining the imperiled state of our oceans. Yesterday, the U.S. Commission moved our country one step closer to being better stewards of our oceans by submitting to the President and to Congress a Final Report on "everything oceans." This comprehensive document makes recommendations on a wide range of topics, from improving governance of ocean resources to promoting greater marine stewardship and education, from recognizing the need to manage the oceans on an ecosystem basis to suggesting greater exploration of unknown areas of the sea, from discussing reform of fisheries management to arguing for increases in our marine science research budget, and from speaking to the connections between coastal land uses and the oceans to implementing an integrated ocean observation system.

Submission of the Final Report of the U.S. Commission on Ocean Policy is truly an historic event. It has been more than 30 years since we, as a nation, have evaluated our relationship with the sea. I sincerely hope that our evaluation does not get ignored, but instead serves as a springboard for increased protection of this country's largest public trust resource.

The U.S. Commission on Ocean Policy was mandated by the Oceans Act of 2000, legislation on which I am an original cosponsor and which is based on bills that I initially introduced in 1997 and 1999. In the Oceans Act, we gave the Commissioners an enormous task and today I want to recognize the efforts of the 16 Commissioners, 26 Advisors, and countless staff who helped to create such a comprehensive report. All of these people have spent a large portion of the past five months reading comments on the Preliminary Report provided by Governors, tribal interests, non-governmental organizations, and members of the public—not a small task. I am sure that the Commission's excitement over the release of the Final Report, an endeavor embarked upon roughly three years ago, approximates the thrill felt by those of us who love, care deeply about, and want to protect the oceans.

The Final Report of the U.S. Commission on Ocean Policy details the crises facing our oceans. Building on the Preliminary Report, the Final Report includes refinements in a few areas: the funding mechanism is provided in detail, marine cultural heritage is included, more attention is given to how climate change will affect the oceans, the intent to include all coastal areas such as the Great Lakes and Territories is clarified, and the important role that states should play in protecting ocean resources is emphasized.

While we have many crises—at home and abroad—that require our immediate attention, we cannot overlook the fact that our oceans are in a state of crisis, too. It is my sincere hope that both Members of Congress and the Bush Administration will read the U.S. Commission's Report and realize that our oceans need attention—now—and that the country is looking to us—their leaders—to act. I look forward to analyzing the President's response to the Final Report, a response that, under law, must be submitted within 90 days of today.

We all depend on our oceans and coasts, from the person who lives off the water to the person who visits once in a lifetime. The oceans provide food, jobs, vacation spots, scientific knowledge, and opportunities for reflection. Despite our inability to measure the many non-market values associated with our oceans and coasts, we are able to quantify some of the benefits they provide. For example, over a trillion dollars is added to our economy each year by ocean and coastal economies. I trust that we can all agree that this is a huge contribution; a contribution that must be protected so the returns keep coming.

Protection of our oceans will require a change of course. Unfortunately, all too often we take our oceans for granted: we underestimate their value and we ignore the negative consequences human-related activities can have on them. Our oceans represent the largest public trust resource in the U.S. and cover an area nearly one and a half times the size of the continental United States. Americans expect the Government to safeguard this vast resource and I hope that the Final Report will be the impetus for us to actually begin to do so.

Simply put, our current ocean and coastal management system, created over thirty years ago, is archaic and incompatible with new knowledge about how the oceans and coastal waters function as a whole. Our policies are fragmented, both institutionally and geographically. For example, Mr. Speaker, today we find ourselves with over ten federal departments involved in the implementation of more than 130 ocean-related statutes. It is time to reconsider this incoherent and oftentimes incompatible management situation and bring order to our ocean governance structure. The U.S. Commission's Report offers some guidance on how to do just this.

One of the biggest advances in our understanding of oceans to occur since our last national review of ocean policy is that the natural world functions as ecosystems, with each species intricately connected to the other parts that make up the whole. The U.S. Commission's Final Report, as well as the independent Pew Oceans Commission Report released in June of 2003, clearly states that we must adopt a new policy framework that is based on the concept of "the whole," an ecosystem-based approach rather than one based on political boundaries. This approach will not be as easy or straightforward as our previous approaches, but we must dedicate ourselves to making it a reality. With a comprehensive national ocean policy explicitly written to maintain healthy ocean ecosystems, our oceans will be a bountiful resource in which we can all take pride.

The Final Report released yesterday also stresses the importance of instilling a new ecosystem-based stewardship ethic. Involved in instilling this ethic is increasing ocean-related education for all Americans at all levels, from first-graders learning how to read to graduate students investigating intricate scientific processes. The U.S. Commission details suggestions on how we can instill a new stewardship ethic by emphasizing and investing in greater marine science education. I see this recommendation—that of committing ourselves to teaching people about all aspects of the oceans and how our activities can have negative consequences for ocean ecosystems—as being fundamental to ensuring a better future for our oceans.

It is up to each of us to not let this unprecedented opportunity pass us by—we cannot wait any longer to clean up this mess we have created for our oceans. On this point both the Pew and U.S. Commission reports are adamant: we must rethink the way we look at the oceans. We are at a turning point in oceans management and we have a once-in-a-generation opportunity to take the momentum created by the two ocean reports and make long lasting changes to protect our seas.

Within the Legislative Branch, I have been working to bring attention to oceans issues. I worked with my fellow co-chairs of the bi-partisan House Oceans Caucus, Mr. JIM GREENWOOD (R–PA), Mr. TOM ALLEN (D–ME), and Mr. CURT WELDON (R–PA), to introduce a comprehensive oceans bill, H.R. 4900 (informally known as OCEANS–21). OCEANS–21 answers the calls of the Pew and U.S. Commissions by establishing a clear national oceans policy and by providing a framework for addressing the many problems outlined in the reports. I hope that those in the majority party will recognize the bi-partisan nature of OCEANS–21 and give it consideration during this session of Congress. In addition to my efforts on H.R. 4900, I am working closely with Mr. RAHALL, Ranking Member of the House Resources Committee, on his efforts to implement those recommendations from the Pew and U.S. Commissions that address management of our nation's fishery resources (H.R. 4706). The specific elements of this bill include separating the biological science from the allocation decisions, implementing conflict of interest requirements for members of the fishery councils, and broadening representation on the councils. I am also the lead sponsor on H.R. 4100, a bill that addresses the problem of pollution from cruise ships, and am a cosponsor of both H.R. 4897, a bill to protect deep sea corals, and H.R. 5001, a bill to establish an ocean observation pilot project that will move us closer to having an integrated ocean observation system. Individual members of the House of Representatives have been working hard to introduce legislation that implements the changes needed to ensure that the oceans we pass to the next generations are oceans that we can be proud of. We are now looking to the House leadership to consider our bills and to make good on the collective responsibility we have to future generations.

Within the Executive Branch, the Bush Administration has a prime opportunity to take the steps necessary to instill a new ocean ethic in our government. In fact, Pew and U.S. Commission recommendation-based action by this Administration could very well save our largest public trust. The time for leadership is now. I am dedicated to providing it in Congress, with the help of my fellow Oceans Caucus co-chairs and other colleagues concerned about ocean issues, and I hope the President will provide it in the White House.

Mr. Speaker, I would like to close with a quote from the Final Report that encapsulates my thoughts on the importance of yesterday's historic occasion:

> The responsibility of our generation is to reclaim and renew the oceans for ourselves, for our children, and—if we do the job right—for those whose footprints will mark the sands of beaches from Maine to Hawaii long after ours have washed away.

Mr. Speaker, I urge all of my colleagues to dedicate themselves to shaping a better future for our oceans.

HONORING THE ACADEMY OF TEJANO ARTISTS AND MUSICIANS

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. RODRIGUEZ. Mr. Speaker, on behalf of the House of Representatives, I wish to recognize the Academy of Tejano Artists and Musicians, also known as the "Tejano Academy," for mobilizing a unified effort and creating this organization headquartered in San Antonio, Texas. The Tejano Academy is a unique musician-led organization that is committed to ensuring that artists and musicians have a voice of advocacy in the entertainment industry.

The Tejano Academy is the first organization of its kind in the Tejano Music Industry to encourage its membership to recognize and honor talent without relying on record sales, airplay, or any other type of monetary gain in an effort to diversify and elevate music standards. By diversifying categories, they are able to bring due recognition to artists and musicians who have been continuously overlooked and subsequently, educate the public about Tejano music.

The success of the Tejano Academy is due to the great leadership of the following Board Members: Donald Garza, President; Zeke Martinez, 1st Vice President; David Lee Garza, 2nd Vice President; Stefani Montiel, 3rd Vice President; Sasha Sullivan, Secretary; Steve Roth; and Gibby Escobedo, Parliamentarian. Additionally, the Tejano Academy would not have been realized without the hard work, unwavering commitment and long hours persevered by Executive Director, Chayo Zaldivar. With this great team's continued hard work, the Tejano Academy is filling an important void in the Tejano Music Industry.

Mr. Speaker, I ask my colleagues to recognize the many achievements and services provided by the Academy of Tejano Artists and Musicians. Please join me in honoring the Tejano Academy on September 19, 2004 for their 1st Annual Awards Presentation and Banquet.

THE KANSAS-PARAGUAY PARTNERSHIP

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. MOORE. Mr. Speaker, on Sunday, August 1, 2004 a devastating fire engulfed the Ycuá Bolaños supermarket in Asunción, Paraguay, resulting in 399 deaths and many more injuries. In light of the long-standing relationship between the State of Kansas and Paraguay, on behalf of the citizens of Kansas' Third Congressional District, and on behalf of all Kansans, I wish to express our deep condolences to the citizens of Paraguay after this time of national tragedy.

The Kansas Paraguay Partnership was started 36 years ago as part of the international Partners of the Americas, headquartered in Washington, D.C., in which states in the United States are paired with countries or regions in Latin America and the Caribbean. The cross cultural pairing between Paraguay and Kansas is one of 60 partnerships throughout the Americas whose linkages provide assistance when help is needed.

The relief effort in the aftermath of the fire was directed and carried out by volunteers from Partners of the Americas' Paraguayan chapter with assistance from its counterpart chapter here in Kansas. All firemen in Paraguay are volunteers and depend to a great extent on donated equipment. Efforts are currently underway in both Paraguay and Kansas to replace the fire equipment which was lost in fighting the fire.

Partners of the Americas is today one of the largest private sector networks of volunteers in the Western Hemisphere. It mobilizes citizens to serve as a grassroots, people-to-people catalyst for change. Volunteer initiatives have resulted in a rich array of programs, such as the Kansas-Paraguay efforts to strengthen citizen participation and improve farming operations, as well as increasing understanding through cultural and educational exchanges. This unique, twofold approach has turned thousands of ideas into creative action across borders.

Mr. Speaker, I know that all members of this House join with me in sharing our support with the people of Paraguay during this difficult time.

RECOGNIZING REPRESENTATIVE D.J. DAVIS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. SKELTON. Mr. Speaker, Missouri State Representative D.J. Davis is retiring at the end of the year. He has served the people of the 122nd district since 1996.

A graduate of North Andrew High School in Rosendale, Missouri, Representative Davis graduated with a bachelor of science degree in secondary education from Northwest Missouri State University in 1962 and a master's degree in secondary administration in 1970. Before serving in the Missouri House of Representatives, Representative. Davis worked in the field of education for more than 30 years. He retired as the principal of Odessa High School in Odessa, Missouri.

As an educator, Representative Davis was recognized for his contributions to the field. He received the Missouri Association of Secondary School Principals Silver Service Award in 1991 for 25 years as a secondary school principal. Additionally, he received awards from the Lafayette County Farm Bureau, the Mighty MO 4–H Club, the Missouri Association for Career and Technical Education and the AARP.

Mr. Speaker, whether as an educator or a legislator, Representative Davis has worked on behalf of others and is truly a role model for young Missourians. He has made important contributions to both fields. I know my fellow Members of the House will join me in thanking him for his many years of service and in wishing him all the best in the years ahead.

INTRODUCTION OF THE EMERGENCY LOAN ABUSE PREVENTION ACT OF 2004

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. KILDEE. Mr. Speaker, today I am introducing the Emergency Loan Abuse Prevention Act of 2004, along with my colleagues, Representatives VAN HOLLEN and GEORGE MILLER.

Through a loophole in the Higher Education Act, nearly $1 billion in special student loan subsidies will be paid by the Federal government to lenders this year, rather than used for financial aid for students. This bill closes this loophole and requires the savings to be used to increase the maximum Pell grant.

This antiquated subsidy results from an obscure provision in the Higher Education Act and its regulations which provide lenders a 9.5 percent rate of return on certain student loans. This rate of return is excessive when you consider that lenders are guaranteed approximately a 3.5 percent rate of return on other student loans.

The 9.5 percent guarantee was established in the high interest rate year of 1980. Congress intended for it to phase out of existence beginning in 1993. But through a loophole, the guarantee has continued. Both the New York Times and the L.A. Times have reported on this loophole. The Government Accountability Office (GAO) has issued a report which calls for the Department of Education to correct its regulations on this matter—an action the Bush Department of Education is refusing to take.

This special subsidy has caused a lost financial opportunity for students. Students are bearing the brunt of rising college costs and shrinking grant aid. This bill provides an opportunity to correct this problem.

Despite this issue being addressed in the last Presidential Budget, the recent reaction by the Bush Administration has been inaction and silence. Rather than eliminate the use of this provision through immediate regulation, the Bush Administration has let this special subsidy triple in the past 3 years. In FY 2001, the 9.5 percent guarantee cost American taxpayers approximately $200 million. Now GAO and others have estimated that this cost is projected to be nearly five times greater this fiscal year. The GAO report estimates that on top of this year's near billion dollar cost, growth in the special subsidy will cost an additional $2.8 billion in future years, if not halted immediately.

This bill closes the loophole which the Bush Department of Education and this Republican Congress has permitted to go unchecked. The amendment ends this special subsidy and expends the savings to increase the maximum Pell grant for needy students.

I urge Members to join me and others in supporting this legislation.

THE PRAIRIE ROSE CHAPTER OF THE DAUGHTERS OF THE AMERICAN REVOLUTION SALUTES CONSTITUTION WEEK

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. MOORE. Mr. Speaker, the week of September 17–23 has been officially designated as Constitution Week. This marks the 217th anniversary of the signing of our Constitution.

The guardian of our liberties, our Constitution established our republic as a self-governing nation dedicated to rule by law. This document is the cornerstone of our freedom. It was written to protect every American from the abuse of power by government. Without that restraint, our founders believed the republic would perish.

The ideals upon which our Constitution is based are reinforced each day by the success of our political system to which it gave birth. The success of our way of government requires an enlightened citizenry.

Constitution Week provides an opportunity for all Americans to recall the achievements of our founders, the nature of limited government, and the rights, privileges and responsibilities of citizenship. It provides us the opportunity to be better informed about our rights, freedoms and duties as citizens.

Mr. Speaker, at this time I particularly want to take note of the outstanding work of the Prairie Rose Chapter of the Kansas Society of the Daughters of the American Revolution, which is actively involved in the Third Congressional District in events this week commemorating Constitution Week. The Prairie Rose Chapter has been involved with this effort in our communities for a number of years and I commend them for doing so.

Our Constitution has served us well for over 200 years, but it will continue as a strong, vibrant, and vital foundation for freedom only so long as the American people remain dedicated to the basic principles on which it rests. Thus, as the United States continues into its third century of constitutional democracy, let us renew our commitment to, in the words of our Constitution's preamble: "form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity . . ." I know that the Prairie Rose Chapter of the Kansas Society of the Daughters of the American Revolution joins with me in urging all Americans to renew their commitment to, and understanding of, our Constitution, particularly during our current time of crisis, when Americans are fighting overseas to defend our liberties here at home.

RECOGNIZING REPRESENTATIVE BILL L. RANSDALL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. SKELTON. Mr. Speaker, a distinguished career in the Missouri House of Representatives will soon end. Representative Bill Ransdall will be retiring at the end of the year.

Rep. Ransdall was elected to the Waynesville City Council in 1978. He dedicated the next 18 years to serving the people of Waynesville, taking the position of Mayor Pro Tem in 1982. He then was elected Mayor, a position he held from 1988 through 1996.

The people of the 148th district first elected Rep. Ransdall to the Missouri House in 1996 and reelected him to the maximum four terms allowed under state term limits laws. His leadership was recognized in the legislature and he was elected to the post of Assistant Minority Floor Leader. His advice and counsel have been sought in the legislature and in the administration on the complex issues of the state budget and legislative procedure.

In addition to his legislative work, he has a record of service and leadership in the community—including the United Methodist Church, Association of the United States Army, Masonic Lodge No. 375 AF and AM, Abou Ben Adhem, Scottish Rite, Sojourners, Committee of Fifty, Missouri Cattlemens Association, Farm Bureau, Ducks Unlimited, and the National Wild Turkey Federation. He also has been a successful businessman and farmer.

Rep. Ransdall has earned the respect of many throughout his district and the state. He received of the Outstanding Civilian Award with Medal by the Department of the Army. He also has been recognized as Legislator of the Year by the Missouri Chamber of Commerce, earned the Legislative Recognition award from the Missouri Association for Career and Technical Education, and received the Missouri Vocational Special Needs Association Distinguished Service for Community Involvement Award.

His tireless work on behalf of his constituents created many opportunities for economic expansion in the 148th district and beyond. He has been an effective advocate for his neighbors in their issues with the state agencies in Missouri.

Mr. Speaker, Representative Ransdall's dedication to public service is an example to us all. He has devoted many years of his life to taking care of the needs of others. I am sure the other Members of the House will join me in thanking my friend Bill for his hard work and in wishing him and his wife, Pat, all the best in the years to come.

HAITI NEEDS HELP FROM THE UNITED STATES—NOW

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. MEEK of Florida. Mr. Speaker, I rise today to address a human crisis of the highest magnitude. It demands a strong, unequivocal and immediate response from the international community and particularly from the United States.

The latest storm struck Gonaives on Saturday. So far, the only aid from the Bush Administration has been $60,000 in relief assistance. This is just a drop in the bucket compared to the desperate need of the Haitian people. It is wholly inadequate. The Bush Administration needs to exercise leadership in coordinating immediate assistance from our own country and the international community.

While the Bush Administration is watching the development of this disaster and assessing what its response will be, thousands of Haitians are suffering. This situation demands an immediate emergency response from the United States Government.

As reported in these Miami Herald and the New York Times articles, nearly 700 lives have been lost in Haiti because of the flooding and mudslides triggered by Tropical Storm Jeanne. Already the poorest nation in the

Western Hemisphere, this new crisis has made conditions in Haiti even worse. And the desperate situation that Haiti faces today because of this disaster comes on top of the catastrophic floods only 4 months ago with over 3,000 Haitians killed, missing, or presumed dead.

The press has reported widespread human suffering in Haiti, with unburied bodies in the streets; hospitals and hospital equipment rendered unusable because of water and mud, grave shortages of fresh water, food and antibiotics, a very real threat of public health epidemics, and thousands without even rudimentary shelter.

The government of Haiti is totally unequipped and unable to deal with this massive crisis, because they have neither the resources nor the organization. Private voluntary groups are reportedly overwhelmed by the enormity of this crisis.

Given the gravity of this situation, in which thousands of Haitian lives hang in the balance, I call upon President Bush to immediately send significant U.S. emergency assistance to Haiti in the form of food, medicine, fresh water, clothing, and emergency shelter, and to immediately coordinate, with the international community, the manpower, transportation and distribution of these needed commodities to provide immediate relief to the people of Gonaives and the surrounding countryside.

We know from the storm damage in our own country that fast action is imperative in natural disasters; Haiti's poverty and the size and scope of the disaster there makes the need for speed even greater.

If ever there was a time when the people of Haiti need the help and support of the United States Government, it is now. I urge President Bush not to delay this aid any further, but to act immediately.

[From the Miami Herald, Herald.com,
September 21, 2004]

STORM FLOODS KILL MORE THAN 600 IN HAITI

(By Amy Bracken)

GONAIVES, HAITI—.Rescuers dug through mud and ruined homes for bodies Tuesday, expecting the death toll of more than 600 from Tropical Storm Jeanne to rise even further, with half the crowded northern city of Gonaives still under water from the weekend's devastating winds and rain.

Gonaives was hardest hit in the latest tragedy to beset Haiti in a year of revolts, military interventions and devastating floods. Bodies, including many children, were stacked at the city's main morgue, where weeping relatives searched for loved ones.

At least 500 people were killed in the city, according to Toussaint Kongo-Doudou, a spokesman for the U.N. peacekeeping mission in Haiti.

"I lost my kids and there's nothing I can do," said Jean Estimable, whose 2-year-old daughter was killed and another of his five children was missing and presumed dead.

"All I have is complete despair and the clothes I'm wearing," he said Monday, pointing to a floral dress and ripped pants borrowed from a neighbor.

Floods are particularly damaging in Haiti, the poorest country in the Americas, because it is almost completely deforested, leaving few roots to hold back rushing waters or mudslides. Most of the trees have been chopped down to make charcoal for cooking.

Aid workers were struggling to get relief to victims amid worries over looting and crime, said Hans Havik from the International Federation of Red Cross and Red Crescent Societies.

"Security is little bit tense. We have to be careful with bringing in the materials because we risk looting," Havik said.

Three trucks carrying Red Cross relief supplies rolled into Gonaives Monday, but before they could reach their destination at the mayor's office, two of them were mobbed by people who grabbed blankets and towels. U.N. troops stood by watching.

People tripped over each other to grab tiny bags of water thrown from a Red Cross truck in front of City Hall, where officials said about 500 injured were treated Monday.

Dieufort Deslorges, a spokesman for the government civil protection agency, described the situation in Gonaives as "catastrophic." He said survivors need everything from potable water to food, clothing, medication and disinfectants.

"We expect to find dozens more bodies, especially in Gonaives, as . . . floodwaters recede," Deslorges said.

Floodwaters destroyed homes and crops in the Artibonite region that is Haiti's breadbasket.

"Everyone is desperate," said Pelissier Heber of the Artibonite Chamber of Commerce.

Elsewhere, 56 people were killed in northern Port-de-Paix and 17 died in the nearby town of Terre Neuve, officials said. Deslorges of the civil protection agency reported another 49 bodies recovered in other villages and towns, most in the northwest.

Although there were fears of many more dead on La Tortue island, Deslorges said: "The government has been in contact with officials on La Tortue. Nothing happened there."

Jeanne lashed Haiti on Saturday, four months after devastating floods along the southern border of Haiti and neighboring Dominican Republic. Some 1,700 bodies were recovered and 1,600 more were missing and presumed dead.

Gonaives, a city of about a quarter million people, also suffered fighting during the February rebellion that led to the ouster of President Jean-Bertrand Aristide and left an estimated 300 dead.

All this in a year supposed to be dedicated to celebrating the 200th anniversary of the country's independence from France. Haiti, the only country to launch a successful rebellion against slavery, was the world's first black republic.

Jeanne regained hurricane strength over the Atlantic on Monday but posed no immediate threat to land. At 5 a.m. Tuesday, it was moving east-northeast with 90 mph winds, about 445 miles east of Great Abaco Island in the Bahamas.

The storm entered the Caribbean last week, killing seven people in Puerto Rico before heading to the Dominican Republic where it killed at least 18. The overall death toll from Jeanne stands at 647, 622 of them in Haiti.

Waterlines up to 10 feet high showed the passage of the storm waters, which turned some roads into fast-flowing rivers.

Argentine troops who are among more than 3,000 U.N. peacekeepers in Haiti treated at least 150 people injured by the floods in Gonaives, mostly for cuts on feet and legs.

One man stood outside the flooded base used by Argentine troops, asking soldiers to remove 11 bodies that were floating in his house, including four brothers and a sister.

"I would like to see if the soldiers could do something about these bodies," said Jean-Saint Manus, a 30-year-old student. "The door was closed. Everybody was trapped inside."

He said he had been outside and could only get in once the floods subsided.

Interim Prime Minister Gerard Latortue toured flooded areas Sunday and declared Gonaives a disaster area, calling for aid. The U.S. Embassy announced $60,000 in immediate relief.

Meanwhile, Hurricane Karl and Tropical Storm Lisa remained far out in the Atlantic. Karl's sustained winds were 140 mph, making it a Category 4 hurricane. Lisa had winds of 60 mph.

[From the New York Times, nytimes.com,
Sept. 21, 2004]

DEATH TOLL NEARS 700 FROM HAITI FLOODING

(By Reuters)

PORT-AU-PRINCE, HAITI (Reuters).—The death toll in Haiti from flooding and mudslides triggered by Tropical Storm Jeanne rose above 660 on Tuesday and government officials were still struggling to reach areas cut off by flood waters.

The storm swept north of Haiti during the weekend, drenching the impoverished Caribbean nation, inundating cities and sending deadly mudslides through towns and villages.

Interim Prime Minister Gerard Latortue, who declared three days of national mourning for the victims, planned to visit some of the hardest hit areas on Tuesday.

The government put the death toll from the floods at 662 people and expected the total to rise as relief workers recovered bodies and reached areas isolated by the now receding water.

The known toll included 550 deaths in the coastal city of Gonaives, 65 in Haiti's Northwest province and 47 in other towns.

"There's not one house in Gonaives that has not been affected," Latortue said before leaving Port-au-Prince to tour the city. Officials estimated half of the 200,000 residents needed immediate assistance with shelter, water and food.

The city is the birthplace of Haiti's independence from France 200 years ago and it was where an armed revolt began that led to the ouster of President Jean-Bertrand Aristide earlier this year.

Latortue's entourage hoped to land on the island of La Tortue off Haiti's north coast to assess damage there. U.N. workers said on Monday it was barely visible beneath the flood waters and rescue workers have been unable to reach it.

U.N. peacekeeping forces sent to stabilize Haiti after Aristide's departure were helping with rescue efforts and providing transportation for relief shipments.

Haiti, the poorest nation in the Americas, is frequently inundated by flash floods and mudslides because of extensive deforestation. Around 2,000 Haitians died when extensive floods washed away villages near the Dominican-Haitian border in May.

Tropical Storm Jeanne also killed 11 people in the Dominican Republic, which shares the island of Hispaniola with Haiti, and two in the U.S. territory of Puerto Rico.

The storm meandered in the Atlantic about 445 miles east-northeast of the Bahamas' Great Abaco Island on Tuesday but posed no immediate threat to land, forecasters at the U.S. National Hurricane Center said.

PERSONAL EXPLANATION

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. ROGERS of Michigan. Mr. Speaker, on the legislative day of Tuesday, September 14, 2004, the House had a vote on an amendment to H.R. 5025. On House rollcall vote No. 452, I was unavoidably detained. Had I been present, I would have voted "yea."

IN SPECIAL RECOGNITION OF THE DEDICATION OF AN HISTORICAL LANDMARK SIGN MARKING THE RED RIVER OX CART TRAIL IN ANOKA, MINNESOTA

HON. MARK R. KENNEDY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today to call attention to the dedication of an historical marker where the Red River Ox Cart Trail once passed through the city of Anoka, Minnesota.

More than 150 years ago, the Red River Ox Cart Trail served as one of the main channels used by traders from Canada into St. Paul, Minnesota. The first of many ox cart trains on this trail was brought from Canada in 1844 by Norman W. Kittson, a trader for the American Fur Company, and within 20 years an annual amount of more than $250,000 worth of pelts, food and other goods were being transported in this manner to St. Paul, where some of the goods would be unloaded, repacked and sent down the Mississippi River to St. Louis, Missouri for shipment east.

The carts used on this trail were unmistakable—large and wooden with six-foot wheels held together with wood pegs and rawhide, which produced a loud squealing sound that could be heard from miles away. The carts and their drivers, in their blue outfits adorned with brass buttons, red sashes and beaded caps became a familiar sight in St. Paul, where, after a 30–day trip from the Red River, the drivers would re-load their carts with food, medicine, hardware, and other goods before they returned northward.

Mr. Speaker, it is my privilege to recognize today's dedication of an historical marker where history literally drove through Anoka, Minnesota. The use of this trail and others like it helped create a thriving shipping economy in Minnesota, which was sustained well after ox carts were replaced by the railroads. Today's dedication is the result of much hard work. I applaud Anoka's Heritage Preservation Society in keeping a piece of Minnesota's rich history alive.

EPA'S GREEN POWER PARTNERS IN TEXAS' 26TH DISTRICT

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. BURGESS. Mr. Speaker, I rise today to recognize the United States Environmental Protection Agency's Green Power Partners located in the 26th District of Texas: China Star of Lewisville, East Ocean of Flower Mound, Four Seasons Dry Cleaners of Carrollton, Judy L. Kelly PC/Wellness Plus of Carrollton, Main Street Car Wash and Lube of Lewisville, Mike's Hobby Hanger of Carrollton, and Oishi Japanese Restaurant of Lewisville.

The EPA's Green Power Partnership is a voluntary program that encourages organizations to use green power as a part of best-practice environmental management. Today, the EPA recognized these Green Power Partners in Texas for their commitment to renewable energy.

Green power is beneficial renewable energy generated from natural resources; these resources are chosen due to their low environmental impact and abundant availability. Green Power Partners include commercial, industrial and community organizations that guarantee green power use as part of their yearly energy consumption. I am proud that Texas is the national leader in the number of Green Power Partners.

Renewable energy should be a part of our comprehensive national energy policy. I appreciate the important contribution that renewable energy sources make to our national energy supply, while at the same time minimizing environmental impact.

Again, I would like to commend the seven businesses located in the 26th District, as well as all of the businesses and organizations nationwide that participate in the Green Power Partnership for their dedication to environmentally friendly electricity.

PAYING TRIBUTE TO DAVID BARTON AND WALLBUILDERS

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. SAM JOHNSON of Texas. Mr. Speaker, on Saturday, September 25th a dinner gala will take place in Arlington, TX honoring the WallBuilders organization. I rise today to recognize WallBuilders and its valuable contributions to our great country.

WallBuilders is a national pro-family organization which distributes historical, legal, and statistical information that encourages people become active in their local schools and communities.

WallBuilders has been a renowned resource for educating Americans of their rich faith based heritage since 1989 when David and Cheryl Barton founded the organization. Since then, WallBuilders has produced numerous works and award-winning videos applying the lessons of our national history to contemporary issues.

WallBuilders derives its name from the Old Testament book of Nehemiah, when the nation of Israel rallied together to help rebuild the walls of Jerusalem.

Sadly, the moral foundations of America have been severely shaken. As the English Statesmen Edmund Burke said, "All that is necessary for the triumph of evil is that good men do nothing." Thankfully WallBuilders, under the steady leadership of David Barton, is doing something.

The dedication and devotion to the constitutional, moral, and religious foundation on which America was built remains essential for a return to original intent. I believe that a public understanding of our founding principles is vital to the continuity of our Republic.

The reach of WallBuilders extends far beyond the Texas borders. For example, David Barton's message of faith and hope impacted Congressman SCOTT GARRETT of New Jersey and his wife. At a recent event discussing his personal life, GARRETT mentioned how David Barton touched his heart and changed his life. Now that's not something you hear about every day on Capitol Hill.

We Americans share a noble past. The blood of our ancestors has given us freedom and independence. I join WallBuilders and all those attending the dinner gala in celebrating God's gift of liberty. May our resolve for defending it only be strengthened.

God bless America. God bless WallBuilders. I salute you.

INTRODUCTION OF THE "FORTIFYING AMERICA'S INTELLECTUAL PROPERTY RIGHTS (FAIR) ACT"

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. SCHIFF. Mr. Speaker, I rise today to introduce, with my colleague Representative GOODLATTE, the "Fortifying America's Intellectual Property Rights (FAIR) Act"—legislation that we have worked on for some time now, to make a number of important reforms to strengthen our fight against the scourge of global piracy.

International markets are vital to U.S. intellectual property industries, providing a strong export base that sustains American jobs. However, this important sector of the U.S. economy is under attack due to widespread patent and trademark infringement, and the unauthorized reproduction, distribution and sale of U.S.-made movies, music, software, and other creative works.

The United States is the world's largest creator, producer and exporter of copyrighted materials, accounting for over 5 percent of the U.S. GDP and adding $531 billion to the U.S. economy. The motion picture industry estimates losses due to global piracy amount to $3.5 billion annually, not including illegal downloading. In Russia, for example, 9 out of 10 DVDs sold are counterfeit copies. Globally, 2 in 5 music recordings are pirate copies, with annual world-wide pirate sales of music estimated at $4–$5 billion. The software industry estimates losses of over $13 billion due to worldwide piracy in 2002.

The Office of the U.S. Trade Representative (USTR) has been charged with identifying countries that deny adequate and effective protection of intellectual property rights. The negotiation of bilateral free trade agreements has proven to be an excellent mechanism for achieving legally binding bilateral obligations to address rampant international copyright piracy.

These efforts have been undertaken with only very limited resources available, and could be more effective if additional tools and resources are provided. The legislation I am introducing today with Representative GOODLATTE will make a number of reforms in the Office of the United States Trade Representative. Specifically, our legislation will establish a new USTR office dedicated exclusively to intellectual property matters, increase the resources dedicated to securing high standards of intellectual property rights protection in trade agreements and enforcing these provisions vigorously, and establish this as the lead office in the Administration for all international trade-related intellectual property matters.

The protection of our intellectual property rights abroad is vital to promoting America's competitive advantages in world commerce. As our trade deficit continues to soar, Congress must step in now to ensure that we aggressively protect our intellectual property rights at home and abroad.

STATEMENT IN HONOR OF PAT LYNCH

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Ms. PELOSI. Mr. Speaker, I rise to pay tribute to Virginia Summers Lynch, known to her family and friends as "Pat," who passed away on August 1, 2004. Involved in politics and in her community, Pat's boundless energy and enthusiasm were an inspiration to all who knew her. She epitomized the best of San Francisco.

Pat was a fifth-generation Californian and a descendent of Spanish colonists who settled in the Monterey area in the 18th century. She spent her childhood in the San Simeon area and then attended UC Berkeley where she met her future husband, a law student from San Francisco named Thomas Lynch. They settled in San Francisco and remained happily married until his death in 1986. Together, they had two wonderful sons whom she loved dearly.

Pat was actively involved in San Francisco's civic life. She was a founding member of JACKIE, a foster childcare organization, and she served as President of the Democratic Women of the San Francisco Bay Area. Pat was on the boards of directors for many organizations, including the Humane Society of San Francisco and the Humane Society of United States.

Pat played an integral part in her husband's demanding legal career. Thomas Lynch served as San Francisco's District Attorney and was later appointed by Governor Pat Brown to be California's Attorney General. Pat's support was crucial to her husband's success.

Loved and admired by her friends, one of Pat's most celebrated friendships was with the San Francisco Chronicle's famed columnist Herb Caen. Pat was the source of many of his items and was frequently mentioned in his column.

We thank her sons, Kevin and Michael, for sharing their magnificent mother with us. I hope it is a comfort to them that so many people share their loss and are praying for them at this sad time.

THE COMPREHENSIVE LONG TERM CARE SUPPORT ACT

HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Ms. HERSETH. Mr. Speaker, today I am introducing the Comprehensive Long Term Care Support Act of 2004. This Act will make it easier for families to obtain critical long-term care insurance.

As I traveled around my home state of South Dakota this August, the most common concerns I heard relate to health care needs. We sit on the verge of a new crisis in health care. Health care should not be considered a luxury for anyone—but quality, affordable care remains out of reach for far too many Americans. Medicine has moved dramatically toward treating and curing many illnesses through pharmacology and advances in technology, often avoiding the need for invasive surgical procedures. Public policy, however, still has not done enough to keep pace with these advances.

As members of Congress we must be committed to improving our health care system and directly addressing the rising cost of health insurance and prescription drugs, the high number of uninsured, and the challenges associated with long-term care.

A year in a nursing home now averages more than $55,000, while daily home care can cost just as much. In South Dakota—where we have the nation's highest rate of women over age 85 living at or below the poverty level and the second highest rate of people over 65 living alone—the average cost of a year in a nursing home is over $47,000. Long-term care insurance is often the only way to meet these expenses without sacrificing one's life savings and other assets in order to qualify for Medicaid.

We know that we need to do more to make long-term care more affordable. But often lost in that discussion is the important role that adult children and other family members play in providing care for their parents. Today I introduce legislation to help alleviate the burden of providing long-term care for our nation's families.

This legislation makes long-term care insurance premiums tax deductible—separate from itemized deductions—for those who pay the premiums for themselves, their parents, or for any other family member. It also gives a tax credit of up to $3000 for those caregivers with an income of less than $75,000/year who are responsible for an individual who has been certified as having long-term care needs.

Family caregivers are a critical source of care to older persons with disabilities and chronic health problems. The unpaid and informal care they provide is an essential source of help for elders in the community. The National Family Caregiver Support Program helps caregivers obtain vital information and supportive services in their community. This legislation also doubles the authorized funding for this successful program.

Health care, including long-term care is essential for the social and economic health of our communities. I urge my colleagues to support this important legislation.

SENATE—*Wednesday, September 22, 2004*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN ENSIGN, a Senator from the State of Nevada.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, giver of every good and perfect gift, great are Your works. We sing of Your strength, for You are the ruler of the universe. Your righteousness endures forever. Give us the wisdom to ask You for Your guidance and to follow Your counsel. Subdue freedom's enemies and provide a shield for liberty.

Lord, thank You for America, with all of its freedoms and opportunities. May we always feel gratitude for this land.

Bless our Senators. Give them insights that will make justice roll down like waters. Help them to make laws that will maintain the rights of the afflicted and the destitute. Empower them to rescue the perishing and to care for the dying. Incline their hearts to so labor that Your will may be done on Earth as it is in Heaven.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN ENSIGN, a Senator from the State of Nevada, led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, September 22, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN ENSIGN, a Senator from the State of Nevada, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. ENSIGN thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, following my remarks and the remarks of the Democratic leader, we will proceed to a period for morning business for 90 minutes. The first 45 minutes will be under the control of the majority and the second half under the control of the minority. Following that time, the Senate will proceed to executive session for the consideration of PORTER GOSS to be Director of Central Intelligence. The agreement we reached last night allows for up to 6 hours equally divided for debate on the Goss nomination. The discussion the leaders were just having was that we want to make as much time available to everyone who would like to speak, but in the event we do not need all of that time, that would be yielded back and we would be able to proceed to a vote on that nomination. Again, we have up to 6 hours, but I expect time will be yielded back.

Today we do have a briefing for Senators regarding Iraq this afternoon from 3 to 4. Before that briefing, we will be able to set the vote. I am sure even later this morning we will be able to announce the time we will be voting later today.

We are also continuing to negotiate agreements on some of the remaining appropriation bills. I hope we can agree to a consent to allow us to consider the spending bills with a reasonable time limitation. If so, we will be able to follow the Goss nomination with that. I suspect that will be tomorrow morning.

We have the expiring family-friendly tax items and we want to consider that legislation as soon as it becomes available. I understand that progress is being made. It will be important for us to vote on that this week. In the event that is Friday morning, that will have to be Friday morning, but I do want to encourage the conferees, who I think are very close to reporting out that legislation, so that the House of Representatives can consider it and we can consider it. We will be voting on that this week, either Friday or, if it is available, Thursday night. Obviously, I encourage the latter.

I remind my colleagues of the joint meeting tomorrow morning at 10 with Prime Minister Allawi of Iraq. He will be addressing both Houses on Thursday. Members should be in the Senate Chamber no later than 9:30 in order to proceed to that joint meeting.

NOMINATION OF PORTER GOSS TO BE CIA DIRECTOR

Mr. FRIST. Mr. President, I will take a few minutes to comment on Representative PORTER GOSS' nomination to the post of Director of the CIA, as well as to comment on the real progress the Senate Governmental Affairs Committee is making as we address the issues of the 9/11 recommendations.

With regard to the former, I congratulate the Senate Intelligence Committee. One of the reasons I do not think there will be as much debate on the floor today is that they very thoroughly addressed the nomination with very good debate in committee and reported him out of that committee with an overwhelmingly positive vote.

Mr. GOSS is a highly capable manager and leader, with a strong background and extensive experience in intelligence matters. As we all know, he served in the Congress representing the people of southwest Florida for the past 15 years. He has a long history of public service, which I am sure will be outlined on the floor later. He served as mayor of Sanibel Island. In 1983, he was appointed to the Lee County Board of Commissioners by then Governor BOB GRAHAM. PORTER GOSS has a long career that has, of course, extended these last 15 years as a House Member where he held the chairmanship of the House Permanent Select Committee on Intelligence.

As chairman, he led one of the key investigations into possible intelligence failures regarding 9/11. He was thorough. He demonstrated a thoughtful and fair approach in these hearings and investigations. His committee's findings did add critical insights into how we can and should move forward to strengthen our defenses against terrorist attack.

So far, his committee, including the subcommittees, has held over 60—I think it was 62—oversight hearings on various aspects of the intelligence community. That number is more than the committee has held in any other calendar year. I use that as an example to show that Mr. GOSS takes his duty to investigate and reform the intelligence community very seriously.

Despite this, he did come under some harsh criticism from the other side. It has been charged that he has been too partisan in his career as a Congressman to take over this very important post. I do believe, however, that if one looks at his record of service to this country, that that criticism falls by the wayside.

PORTER GOSS has specific experience working for the Agency he is now nominated to run. During the Cold War, Mr. GOSS was a clandestine services case officer. He served as director of operations. In his own words, the CIA's mission "is to obtain the plans and intentions of our enemies, adversaries and their associates before they could attack the United States."

Mr. GOSS articulated so clearly and succinctly how this has occurred and will occur, and states very clearly indeed this mission has not changed and will not change.

Mr. GOSS understands the criticism now being leveled at him. As he told the Senate Intelligence Committee, he is sensitive to it; he understands the grave responsibility of leading the CIA and effecting the necessary reforms to strengthen our Nation's security. As he himself explains, being the Director of the CIA is a capabilities job, not a policy job.

There is no doubt that PORTER GOSS—former CIA agent, former U.S. Army intelligence agent, Congressman, and public servant—is totally committed to the safety and security of America. He is committed to making the CIA run effectively. He has both the inside and the outside perspective we need. Clearly, Mr. GOSS is the man for the job. I urge my colleagues to give him their overwhelming support when we vote on this nomination today. He is an outstanding choice to lead this agency.

I do hope we do not have a shift in conversation, which should be about his eminent qualifications, to distracting other issues. I do hope we focus on the man and the job for which he is being nominated.

INTELLIGENCE REFORM

Let me also close in saying we made real progress on the intelligence reform front. I know there are a lot of people who say slow down or don't have knee-jerk reactions or don't go too fast or it is a huge issue. I think the leadership is very sensitive to that. I wish to reassure our colleagues and the American people and the other House—really everyone—that we are addressing this as a huge issue, as big as any issue we have had to address in recent times, because it does focus on the safety and security of the American people.

There is a sense of urgency that this body has a responsibility to reflect. If there is a better system, if there is a better way to guarantee the safety and security of Americans, and we know it—and we do know it—then it is our responsibility to act and to do it thoughtfully and deliberately, and that is the process that the Democratic leader and I set up in which to address the two important issues.

Senator SUSAN COLLINS and Senator JOE LIEBERMAN, who are managing the initial legislation through the Governmental Affairs Committee, have very carefully, and are very carefully, considering all the information. They have been doing so for a long period of time, most acutely since the day the 9/11 Commission report and recommendations came out. They made great progress in marking up this legislation yesterday and will continue on that over the course of the day. That is exactly the task Senator DASCHLE and I set out for them in late July, to have the vehicle through which all the ideas, thoughts, and deliberations can be collected, understanding there are lots of very good ideas out there. But it is an important vehicle, an important bill, and one we will be addressing on the floor of the Senate next week.

The committee's baseline legislation does create a national intelligence director. It does establish a national counterterrorism center, which has the responsibilities which have been well defined in the legislation. It does implement a whole range of initiatives to improve the quality and effectiveness of the intelligence community. It does track closely with the plans and decisions put forward by many bodies, including proposals put forth by the White House, which has embraced the major conclusions of the 9/11 Commission.

I do hope, once this bill is completed in the Governmental Affairs Committee, people take the time to look at it very quickly and look at possible amendments over the course of the end of this week so they will be prepared for next week in terms of amendments they might put forward, so we, over the course of the deliberations, can improve that bill appropriately where people think it needs to be improved.

Just one final comment: Senator DASCHLE and I established a bipartisan task force to address the issues that look at how we need to reorganize in this body, so that our responsibility of oversight can be appropriately carried out. That task force has met on a number of occasions, at the Member level and at the staff level. Senators MCCONNELL and REID, the managers of this effort who represent the leadership on that task force, have been discussing this matter, as I understand it, daily.

There are a number of issues on which we can come to agreement relatively quickly. Others will have to be resolved through floor debate and votes. That just remains to be determined, once we see what those recommendations are. Either way these reforms will be implemented through Senate resolution or through modification of the Senate's rules. My goal remains to get these reforms in motion before the Senate adjourns next month.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Democratic leader is recognized.

INTELLIGENCE DELIBERATIONS

Mr. DASCHLE. Mr. President, I wish to associate myself with the remarks made by the majority leader with regard to the progress we have made on both fronts, both the reorganization of the executive branch as well as the reorganization of the legislative branch with regard to the 9/11 recommendations. I think both efforts have been laudable, they have been bipartisan, and they have been cooperative.

I don't think that being deliberate and being expeditious is a mutually exclusive proposition. We have to be deliberate but I don't see any reason why we can't also be expeditious.

Three very important commissions have analyzed and advised over the course of the last 3 years. It is not as if this came up within the last couple of weeks. It has been under consideration and very thoughtfully and carefully considered. I found it somewhat remarkable that all three commissions had many of the same recommendations to the Congress.

So this is in keeping with those experts who have very thoughtfully and carefully deliberated about this matter. We are simply continuing in that deliberative fashion, first in the committee and then on the task force. I am hopeful we can continue to be both deliberate as well as expeditious as we consider our responsibilities before the end of this session of Congress.

ORDER OF PROCEDURE

During the Democratic period this morning, I ask unanimous consent that Senator KENNEDY be given 10 minutes; Senator MURRAY, 5 minutes; Senator CONRAD, 25 minutes; and Senator REID, 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I ask, as is always the case, the leader time not be taken from the Democratic time.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SKYROCKETING COST OF HEALTH CARE

Mr. DASCHLE. Mr. President, recently, a new study confirmed a trend that most American families and businesses have known and felt for the past 3 years. Health care costs are rising at unsustainable rates, straining family budgets, weakening our economy, hampering job growth and forcing millions more Americans every year to go without insurance.

According to the annual survey by the Kaiser Family Foundation, health premiums increased 11.2 percent last year, more than five times the rate of wages. This is the fourth consecutive year of double-digit increases. Since 2000, health care premiums have increased by 59 percent and 5 million fewer Americans have access to employer health care coverage.

Last month the Census Bureau also reported that in 2003 alone, the number of uninsured Americans jumped by 1.4 million. Seniors are among the hardest hit. In addition to facing record increases in the price of prescription drugs, Medicare recipients recently learned they will be forced to pay a 17.5 percent increase in premiums, the steepest increase in Medicare's history.

The true costs of this crisis can't be depicted by statistics. There is no way to measure the stress caused by exorbitant health care bills. There is no way to measure the cost of the fear of families who worry that they are one layoff, one bad crop, one accident, or one illness away from being totally vulnerable, and they fell helpless to protect themselves.

Not long ago, I heard from the Imm family of Turton, SD. A few months back, their 24-year-old son, Monte, came down with a case of Crohn's disease.

As his disease grew worse, he couldn't work and he had to quit his job. After his insurance lapsed, he tried to buy coverage for himself, but with his condition, no insurer would offer him a policy.

Monte's monthly prescription bill is $500, and that is on top of the tests and emergency room visits that have become all too routine.

Doctors in Sioux Falls have recommended a trip to the Mayo Clinic, but the clinic requires a $1,500 deposit just to see Monte. The total cost will be much, much higher. Monte's parents are trying to help and are reaching into their retirement savings to do so. But Monte's health care costs will surpass $10,000 this year alone, and without good insurance, eventually the medical bills will eat up all they have worked for.

Millions of American families are in the same position as the Imm family, and the implications of this crisis are rippling outward throughout our country.

There is new evidence that as the cost of health care goes up, it is eating away at America's economy, holding back job creation, and stifling growth. A recent article in the New York Times showed that the cost of health insurance is preventing businesses, large and small, from hiring new workers, even if the workload demands it.

One small business owner said:

> Before, we hired based on workload. Now it's a question of affordability.

Economists are finding that high health care costs are a major reason our economy has been unable to create jobs. Not long ago, when I asked a businessman why he outsources his jobs overseas, he said the reason was health care. He did not have to pay it in India. He did not have to pay it in countries abroad. He pays it here at home.

Small businesses, which employ 50 percent of the Nation's workforce, face the greatest pressure of all. Because they are not big enough to bargain with insurers for better rates, and they cannot spread risk among larger pools of employees, small businesses too often are forced to pay for the nationwide increase in health care costs.

In the past year, in the midst of the toughest business environment in a generation, the total cost for insuring employees of small businesses alone rose 18 percent. Those small businesses that try to do the right thing and offer their employees health benefits are finding it more difficult to do so with each passing year.

I was recently contacted by Skip VanDerhule, who runs VanDerhule Moving and Storage, in Yankton. Even after raising employee premiums and copays, Skip's monthly premiums have risen 252 percent in 6 years. Skip has tried to look for better coverage, but recently an employee needed a kidney transplant, and he requires $30,000 per year in medicine alone just to keep his body from rejecting the new kidney. "As soon as the insurer sees that," Skip said, "they don't want us. And they'll quote us a price to make sure that we don't want them." So Skip is stuck with the prospect of higher health care costs with absolutely no end in sight.

In most businesses, the costs are passed along to their employees. Jana Schroeder, a medical professional from Sioux Falls, wrote me to say that even with good, dependable health insurance, her family pays $10,000 a year in health care costs.

A recent, routine mammogram cost $2,700, of which she was asked to pay $850. She said:

> I guess I should feel lucky I have insurance, but $848 is a full paycheck [for me]. So, do you pay that medical bill or the house payment? I surely can't pay it all at once.

Even with 100,000 Americans losing their health insurance every month since January of 2001, the White House has not provided any real options, no leadership in stopping the growth of this crisis.

Some of the most promising possibilities for bringing down the cost of health care, such as drug reimportation, the administration has opposed. Yet this crisis will not solve itself. Unless we act, health care premiums will continue to rise, driving more people into the ranks of the uninsured, and holding back more businesses from earning profits and creating jobs.

We have to do better. This is a national problem, and fixing it demands national leadership. Medical research is producing miracles quite often. Yet we are not solving a problem that is dragging tens of millions of Americans into poverty and poor health. This is not a question of ability or capacity; it is a question of will and leadership. It is time we seek out new ideas to help bring down the cost of health care.

One promising new initiative would create a reinsurance system to help blunt the cost of catastrophic medical illness. Some researchers have suggested that such a program could save South Dakota employers tens of millions of dollars each year and billions nationwide.

We need to debate these issues in Washington, but, regrettably, we have not had the opportunity to do so. In the past 2 years, we have spent 30 days discussing ways to limit access to the courtroom, but not 1 day to debate real ways to bring down the cost of health care for all Americans.

It is time for real action. We have an obligation to focus on the troubles of our economy and the Americans who are struggling to work and raise families. Our citizens are asking for leadership, and we have an obligation to answer that call.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of morning business for up to 90 minutes. The first 45 minutes is under the control of the majority leader or his designee and the next 45 minutes is under the control of the Democratic leader or his designee.

The Senator from Nevada.

THE UNITED NATIONS

Mr. ENSIGN. Mr. President, I rise to discuss the failure of the United Nations. The U.N. is failing to promote liberty, democracy, and human rights for all citizens.

The world has changed a great deal since the United Nations was formed some 59 years ago. The dangers of Nazism and communism have been replaced by an ever-evolving, ever-increasing threat of terrorism.

The United Nations is not up to the challenges of this new century. The U.N. now has sponsors of terrorism and repression overseeing the protection of human rights around the world. The countries of Sudan, China, and Cuba currently serve as members of the United Nations Commission on Human Rights.

Yesterday, the United Nations Secretary General, Kofi Annan, lectured the world body that the rule of law in Iraq is being disrupted as much by the United States as by the terrorists who ravage the country through bombings and beheadings.

Any person or group who cannot decipher the moral difference in this struggle against terror and repression cannot and should not be trusted to lead.

In a BBC interview last week, the Secretary General stated that the liberation of Iraq by the United States and its coalition partners was illegal and a violation of the U.N. Charter. This declaration comes on the heels of his earlier statement that "there should have been a second resolution" authorizing the invasion.

Today, Mr. Annan seems to be saying that the only way force can be used legitimately in the modern world is to first obtain the unanimous permission of the U.N. Security Council.

I am pleased President Bush does not adhere to this line of thinking. And I am proud every time I hear him say that he will never wait for permission to defend the United States.

The Secretary General's latest posturing is far from harmless. The U.N. has been given the lead role in organizing the elections in Iraq in January. But Mr. Annan's comments that we have acted illegally in Iraq, comments which have been replayed across the Arab world, have given an added feeling of legitimacy to every jihadist hoping to disrupt the vote.

I believe the U.N. has lost its way. It has ceased to be able to judge the difference between right and wrong. The Secretary General's speech to the General Assembly yesterday illustrated his belief that there is a moral equivalence between the terrorists and those who are fighting them. That is disturbing, and that is wrong.

However, the Secretary General is not alone in expressing it. It is extremely disturbing that a former United Nations official, Anna Di Lellio, has been named as the Director of Communications for the Volcker panel, a supposedly independent panel investigating the Oil For Food scandal. Why is this so disturbing? Because Ms. Di Lellio has compared President Bush and key U.S. ally, Prime Minister Silvio Berlusconi, to Osama bin Laden. This shows, again, how the United Nations is failing in the essential tasks for which it is responsible.

There is a difference between right and wrong. And words do have consequences.

I also want to read a quote the Democratic nominee made yesterday. It is in the Washington Post today. It says:

> Kerry did not directly answer a question about whether he agrees with U.N. Secretary General Kofi Annan, who called the Iraq war illegal. "I don't know what the law or legalities are," Kerry said.

The U.N. Secretary General says the Iraq war is illegal because the United States didn't have United Nations' Security Council approval.

And JOHN KERRY can't give a clear answer that the United Nations Secretary General is wrong? This is a person running for the President of the United States.

Increasingly, the United Nations does not advocate the interests of those pursuing peace, freedom, and democracy in the world. If the United Nations spent more time working for liberty and less time coddling dictators, the world would be a better place.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

IRAQ

Mr. CHAMBLISS. Mr. President, I rise today to help frame the issue in Iraq. The American people deserve straight forward answers on issues of war and national security; especially when their lives are directly threatened and our military forces are engaged around the world in the war on terrorism. And it is not just our military forces that are at risk; our diplomats, intelligence professionals, and ordinary civilians working in war zones all face enormous danger from a very treacherous and barbaric enemy.

The recent, brutally grotesque beheadings of innocent Americans Eugene Armstrong on Monday and Jack Hensley yesterday are just two of many examples of the kind of evil that we face and why it must be eradicated.

Ambiguity is something we probably should expect in a heated political campaign, but anything less than total candor on national security issues is not acceptable.

The junior senator form Massachusetts has accused President Bush of "colossal failures of judgment" on his plan for Iraq. He then went on to lay out his own four-point plan for handling the conflict in Iraq. His four points were, No. 1, to get more help from other nations; No. 2, provide better training for Iraqi security forces; No. 3, provide benefits to the Iraqi people; and No. 4, ensure democratic elections can be held next year as promised.

I have no problem with this plan, because it is the short term and long term plan now in place by the Bush administration. Our President has consistently and assiduously worked with our allies to get more help in Iraq.

Sure, we would like to get more countries on board with us, but this is tough business and it takes bold, visionary leadership—like we see in Great Britain, Italy, Poland, Denmark, the Netherlands, Australia, and dozens of our closest allies. To imply, as some of my colleagues have, that the United States is not getting help from our international friends is simply untrue. As terrorism spreads to other countries, as it did recently in Russia, we should expect—and provide—even more help.

And let me point out the obvious about some allies, like France, who have not been supportive of our policies in Iraq. Their foreign policy decisions are based on internal political considerations and not on the personality of the President of the United States. For some of my colleagues to imply that some countries will change their policies toward Iraq if we change our President is ludicrous and misleading. The French will change their foreign policy when they change their President, not when we change ours. I have a great deal of trust and confidence in the common sense of the American people and I am sure they will understand exactly what I am saying.

The junior Senator from Massachusetts has also called for better training for Iraqi security forces. I am glad that he also agrees with President Bush on this point. Training Iraqi security forces is a high priority of this administration.

Let us look at the facts. The Iraqi Army has more than 62,000 members. Of these, almost 46,000 have been trained and another 16,000 are currently in training. All 27 battalions of the Iraqi Army will be operational by January 2005.

Speaking at New York University recently, the Democratic Presidential candidate said, "Of the 35,000 police now in uniform, not one, not one, has completed a 24-week field training program." Just yesterday, however, The Washington Post reported that the head of strategic plans and policy for the Joint Chiefs of Staff, Lt. Gen. Walter Sharp, said that Kerry's accusation was just not accurate. According to Gen. Sharp, who is in a position to know, basic training for new Iraqi police officers is eight weeks, followed by 26 weeks of "on-the-job" field training. The Post article went on to say that Gen. Casey, the top U.S. commander in Iraq, estimates that Iraqi security forces will be in "local control" of the majority of Iraq by the end of December, which is just 3 months away. Gen. Casey defined "local control" as a combination of having Iraqi security forces in place, plus an assessment of the ability of local political leaders to govern and to manage economic reconstruction efforts.

Others have criticized the President for not getting NATO involved in Iraq. Too bad they didn't read yesterday's London Financial Times. If they had, they would have read that, "NATO is close to a deal to establish a military training academy in Iraq. The academy, which would have a staff of about 300, is intended to give substance to a decision by a NATO summit in June to provide training to the war-torn country as it seeks to build up its institutions." I hasten to add, that this NATO initiative was put forward by our President. So getting NATO involved is another area where the Democratic Presidential candidate agrees with the administration's policy in Iraq. Let me also add that 15 of 26 NATO member states are sharing the military burden on the ground with us in Iraq.

Charles Colton's famous quotation, "Imitation is the sincerest of flattery," certainly applies to my colleague, Mr. KERRY. His four-point plan is not new and it certainly is not original. A careful review of President Bush's policies in Iraq clearly shows that the administration has been implementing all the points addressed by Senator KERRY well before he even articulated them.

We need to judge the President's policy in Iraq, not by the rhetoric of his detractors, but by those who know the facts. Tomorrow, the Congress will welcome, in Joint-Session, the interim Prime Minister of Iraq, Dr. Allawi. Let us hear from him how things are going in Iraq. Let us listen to him to find out what the Iraqi people think of our policies and programs for restoring security and getting the Iraqi economy going.

Let me close by quoting from President Bush's speech, which he gave at the UN yesterday. I believe it clearly shows why we are in Iraq, something that others do not seem to grasp. The President said:

> Our security is not merely found in spheres of influence, or some balance of power. The security of our world is found in the advancing rights of mankind. These rights are advancing across the world—and across the world, the enemies of human rights are responding with violence. Terrorists and their allies believe the Universal Declaration of Human Rights and the American Bill of Rights, and every charter of liberty ever written, are lies, to be burned and destroyed and forgotten.

He went on to say:

> We are determined to destroy terror networks wherever they operate, and the United States is grateful to every nation that is helping to seize terrorist assets, track down their operatives, and disrupt their plans.

The Acting Secretary of the Army, Les Brownlee, has eloquently framed why Iraq is important in the war on terrorism when he said:

> This is not simply a fight against terror—terror is a tactic. This is not simply a fight against al Qaeda, its affiliates and adherents—they are foot soldiers. This is not simply a fight to bring democracy to the Middle East—that is a strategic objective. This is a fight for the very ideas at the foundation of our society, the way of life those ideas enable, and the freedoms we enjoy.

Thank you Mr. President.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, it is said that politics is the art of the possible. And while certain things are simply not possible, it is our duty to try all the same.

So today, I will try to explain the unexplainable. The distinguished junior Senator from Massachusetts has made so many statements on this country's involvement in Iraq that he has taken every conceivable position possible, and many that are simply not possible. The result is a record of "dizzying contradictions," as Charles Krauthammer recently wrote, so confusing that the more he speaks, the less we understand.

Mr. President, JOHN KERRY has spoken on so many aspects of the liberation of Iraq. He has been on both sides of just about every coin in this entire debate. I want to address just four different positions he has taken.

What is more disturbing is that he has taken these four positions on the most basic question of the liberation of that country. The question is not nearly as difficult as the multiple answers we continue to get.

The question is: Would you have used force to remove Saddam Hussein?

Back in 2002, the answer was clear enough. Citing Saddam Hussein's use of weapons of mass destruction, his terrorist-like actions, and the fact that he was part of a global scourge of terrorism, Senator KERRY said he completely agreed with the President to effect regime change in Iraq, unilaterally if necessary. So he voted for the Iraq war resolution in October of 2002. Support in October of 2002.

Nine months later, Senator KERRY started to use another answer. He now claimed that the war resolution he supported in October 2002 did not empower the President to engage in regime change.

By January of 2004, around the time of the Iowa caucuses, Senator KERRY had a new position. He was now the "antiwar candidate." In January of 2004, he was now the antiwar candidate, campaigning in the Iowa caucuses, having been, in October 2002, entirely supportive of the war.

He then went on to lock up the Democratic nomination for President. So we are into the general election season, Mr. President. When challenged by the President to answer whether he would have gone into Iraq and removed Saddam Hussein based on what we now know, KERRY stood on the edge of the Grand Canyon—a dramatic pose facing the Grand Canyon—and said on August 11:

> Yes, I would have voted for that authority.

In August of 2004, in the general election, he seems to be back where he was in October of 2002. He has gone from support to oppose and back to support.

But that was last month. A week ago, on the "Imus in the Morning" show, Senator KERRY was asked:

> Do you think there are any circumstances we should have gone to war in Iraq?

That is a pretty simple question. Here was Senator KERRY's response:

> Not under the current circumstances, no. There are none that I see.

This was last week. A month ago, he was in support of the war, but last week he was back in opposition to the war. He says:

> I voted based on weapons of mass destruction. The President distorted that, and I've said that. I mean, look, I can't be clearer. But I think it was the right vote based on what Saddam Hussein had done, and I think it was the right thing to do to hold him accountable. I've said a hundred times, there was a right way to do it and a wrong way to do it. The President chose the wrong way. Can't be more direct than that.

Let's try this one more time. Senator KERRY, on the "Imus" show last week, said, in answer to the question:

> Do you think there are any circumstances we should have gone to war in Iraq?

He said:

> Not under the current circumstances, no. There are none that I see. I voted based on weapons of mass destruction. The President distorted that, and I've said that. I mean, look, I can't be clearer. But I think it was the right vote based on what Saddam Hussein had done, and I think it was the right thing to do to hold him accountable. I've said a hundred times, there was a right way to do it and a wrong way to do it. The President chose the wrong way. Can't be more direct than that.

When KERRY finished his interview with Imus, here is what Imus had to say about it. Don Imus said:

> I asked him a number of questions about Iraq and I can't tell you what he said.

That was Don Imus' summary of JOHN KERRY's position on Iraq on his program last week.

Well, Mr. Imus, you are not alone. The top ranking Democrat on the Foreign Relations Committee, Senator BIDEN, recently stated:

> I don't think John should go back and try to explain accurate statements that are unexplainable.

That is our colleague in the Senate, an enthusiastic supporter of Senator KERRY. He said why try to explain the unexplainable, referring to Senator KERRY's various positions on Iraq.

We could all use clarity from JOHN KERRY with regard to Iraq's liberation, but none more than Prime Minister Ayad Allawi, who will be here among us addressing Congress tomorrow morning. Dealing with the terrorists and Baathist insurgents, he needs, more than anyone, to know that the U.S. position of supporting the liberty of Iraq is clear, unequivocal, and steadfast. He would not get that from reading JOHN KERRY's numerous positions.

Mr. President, a Senator's position on Iraq should not be all that hard to explain because it is not a complicated question. It is, however, a tough question, representative of the sort of tough issue any Commander in Chief frequently gets. In trying to answer and re-answer the most important issue of this election, central to the struggle for freedom today and tomorrow, we have a Presidential candidate who constantly changes his mind. This is not some little issue; this is the biggest issue confronting the country today. We are 6 weeks from the election, and this is a man who flip-flops like a fish on the deck of a boat, back and forth, back and forth, who doesn't know where he stands on the most important issue we are confronting in our era.

For example, when asked if he would have gone into Iraq to remove Saddam Hussein, KERRY recently answered:

> You bet, we might have.

Let me read that one more time. When asked if he would have gone into Iraq to remove Saddam Hussein, KERRY recently said:

> You bet, we might have.

Not exactly Winston Churchill. Perhaps there is some nuance here, such as an exclamation point or a question mark, that tells whether this is a declaration or a question, but the answer to the most critical issue in this election should not leave the world wondering and more confused than before.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

HURRICANE DEVASTATION

Mrs. DOLE. Mr. President, so many States have been devastated this hurricane season. My own home State of North Carolina has been ravaged by the effects of not one, but four hurricanes in the last few weeks.

Most recently, western North Carolina suffered extensive damage caused by the torrential wind and rain of Hurricane Ivan. Initial estimates from the storm's destruction in Buncombe County alone are already topping $100 million. Sadly, this same county had already projected that exact amount in damages following Hurricane Frances.

Counties in western North Carolina had barely begun to recover from the flooding of Frances before Ivan roared through town late last week. The death toll from the storm, so far, is 10 people. In the town of Henderson, a man and his wife were sleeping soundly when a huge tree crashed through their house into their bedroom. The husband was pinned beneath the fallen tree, which ultimately took his life as the home had to be stabilized before the tree could be removed. In the Peeks Creek community in southern Macon County, a landslide sent homes crashing against each other, killing at least four people, including an unborn child whose mother was forced to have a leg amputated and remains in critical condition.

Houses have literally been washed away, and some left standing have been split in two by fallen trees. Main roads and neighborhood streets have been shut down from landslides and pavements giving way. Well over 200,000 residents were left without power over the weekend. Needless to say, it will take time before western North Carolina can return to a sense of normalcy.

I have been down to the devastated areas twice over the past two weeks. While my heart broke at the sight of destroyed homes and washed out roadways, my hopes were buoyed by the goodness of neighbor helping neighbor. It was an image played out all over the towns I visited. Local officials and first responders, some from as far as Raleigh and Charlotte, have done—and continue to do—a phenomenal job in the midst of challenging circumstances.

I think of the heroic efforts of families like Aileen and Glenn Holland. They are not strangers to offering aide after a natural disaster. Long time volunteers through the North Carolina Baptists Men Disaster Relief, they have traveled all over the United States. But last weekend, they didn't have to travel anywhere. The destruction came right to their front door. Fifteen homes were annihilated in Macon County, but the Holland's was left standing. When they heard the screams of neighbors, Aileen and Glenn began taking people in. They even found a toddler covered in mud crying from fear. The Hollands remained in their home, providing shelter for friends and family until fellow volunteers from the Baptist Men Disaster Relief arrived on the scene.

I also applaud the efforts of local churches, nonprofits, and groups such as the Red Cross for the helping hands they're extending all over western North Carolina. I had the chance to stop in and thank the volunteers at the Red Cross Shelter in Henderson County. I was touched to see the families finding refuge and reassurance there.

These are the memories I will keep with me as I think back on the far-reaching effects from this hurricane season. Yes, there is destruction. Yes, there is great pain. But I find encouragement in the selfless hearts of North Carolinians who are going to great lengths to help those struggling through the wreckage left behind.

It is my desire that we, too, can add to that goodwill and deliver the financial aide these areas need to get back on their feet. Fifteen Western North Carolina counties have been declared federal disaster areas, including Buncombe, Haywood, Henderson and Macon. This designation means that homeowners and businesses are eligible for assistance in the form of loans or grants from the Federal Emergency Management Agency, FEMA or the Small Business Administration. There is a $60 million request for North Carolina included in the President's emergency budget. We're obviously going to need much more. I would encourage Congress to expedite this aid to those who need it most.

I can only hope the end of this devastating hurricane season comes quickly. The autumn season makes western North Carolina one of the most beautiful places on earth—and the good folks from the mountains are well suited to give some southern hospitality to visitors from around the country. It is important that we get the word out that this magnificent part of the country is open for business during its prime tourism season. My thoughts and my prayers are with every person touched by these hurricanes, not only North Carolina but throughout the southeast and east coast. May God bless each and every one of them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

INTELLIGENCE REFORM AND THE WAR ON TERRORISM

Mr. THOMAS. Mr. President, I believe it is appropriate, as we move toward the end of our session, to take a look at those issues that are before us that are most important. Certainly, we have had a difficult 4 years. Unusual and difficult events have happened which have been very hard to deal with, and they have made this a challenging and difficult time for all of us.

We had an economic downturn starting before the beginning of this 4 years. So we have taken steps to develop and strengthen the economy, which is still a job before us. However, we are making good progress, I believe, with respect to that issue.

We had September 11, which is a tragedy we will all always remember. And then, as a part of and following that tragedy, we have had the war on terrorism.

Certainly one has to understand that we have had a tough time. I think we have done rather well moving through this kind of a background and dealing with this situation that is very unusual.

We continue to face tough decisions and the followup on those decisions. We have made an excellent start in the economy. We have made an excellent start in the war on terrorism and, indeed, are moving forward in that regard. We are faced with responsibilities and issues that have an impact on the movement we are seeking. It is up to us to deal with those issues.

In the short term, we are dealing with the budget, appropriations—those items having to do with spending. One of the impacts of what has happened is a spending deficit. All of us, I think, would agree that under the circumstances, it was a reasonable and necessary thing to do. Most of us understand it is time we begin to do away with that deficit and get back to a balanced budget, about which I certainly feel strongly.

We are going to be faced as well with the reorganization of our intelligence-gathering situation. Today, we will be faced with a new Director of the CIA, which is a place to begin. Obviously, there need to be some changes there.

Along with that, during the next several weeks, we will be involved in the reorganization of the entire intelligence operation which, again, is very important. Of course, the most important aspect of our future is winning the war on terror and support for what we are doing in Iraq and Afghanistan.

We will take up the reform of our intelligence services. All of us recognize the hard work the Commission has done in putting together a plan, 41 suggestions and recommendations. We will look at those recommendations. They have done it under tough circumstances. We need to do our best to put into place the best program we can. This is not a political issue. This is an issue we ought to take a look at and say: How do we best avoid the kinds of problems we had in the past in collecting and putting to good use information and intelligence?

I do not think we should rush to complete this job. Obviously, it is something we need to do, and there is interest in getting it done as quickly as possible. I hope our target is to do it in the best way we know how as opposed to the fastest way we know how. Perhaps we need to do both.

We all agree there are weaknesses. Our Government institutions have not adapted to the growing threat of terrorism over more than a decade. We need to understand again, in terms of war, that the situation has changed so much. Not long ago, we fought a war with 17 divisions, landing boats on shores. That is not the case anymore. That is not the case at all. That is not the challenge. The challenge is not often knowing who the enemy is or where the enemy is. We have a totally different circumstance surrounding the need for intelligence.

We have to deal with the fact that terrorists are there to exploit the weaknesses in our defenses and in our knowledge of what needs to be done. Fortunately, this election year has focused some on that point. We have seen fingerpointing attempts to lay blame partly to political advantage, but that is not what it is about.

As we move forward with the debate in the Senate, I am hopeful we will never forget that the blame for the attacks on 9/11 rests solely on the al-Qaida terrorists and Osama bin Laden and the people involved in the Middle East for a long time working at these kinds of things. We need to understand also that the threat is not over, and we need to continue to deal with it.

So our focus is trying to figure out ways to improve the situation and correct the problem so the events of September 11 will not happen again.

So this obviously involves increasing both the quality and quantity of human intelligence, and we need to take a look at our overall situation, intelligence as well as military, because things, indeed, have to change. We need to have coordination certainly among all the intelligence agencies throughout the country, in different agencies than they have been in the past. Whether they put them all into one is one of the questions before us, but whether we do or not there has to be coordination and conversation and information exchange among them. There has to be sharing. We have to define the goals we are seeking so we understand whât it is we are putting forth and that each of these various units within our intelligence agencies know what their responsibilities are and their goals are and we can put them together to equal what our totals are. We need, obviously, to invest more in the technical intelligence capabilities. Those things change constantly.

So more importantly, I suppose most importantly, we need to ensure the coordinated use of these resources and the personnel and improve communications. It sounds like an easy thing, but apparently it is not. In the end, this type of reform and reform of our intelligence gathering process is necessary. I look forward to the debate we will have soon and I suppose some starting today, as a matter of fact, with the recommendation before us for Director of the CIA.

Again, I hope that we can aim toward fixing the problems, aim toward moving to solutions rather than again finding ourselves in the 40-some days from elections where nearly everything is talked about having to do with the elections.

Of course, overall, the most important challenge we have before us now is to win the war on terrorism in places such as Iraq and Afghanistan.

The problems and the failures in prewar intelligence gathering are troubling, and I am pleased we are doing something about it so our leaders will have the best accurate information on which to make decisions.

And we acknowledge errors in the past. However, the coming debate should not draw from the central fact that operations in Iraq are and always have been a critical part of the war on terrorism. The war being fought in Afghanistan and Iraq is one that is designed fundamentally to change the environment that has given rise and power to Islamic extremism.

The introduction of a stable democracy in that oppressed region of the world will create an environment in which freedom and liberty and peace have the potential to grow and to thrive. I am persuaded that is really the goal of most of Iraqis. When I visited there some months ago, I was very much impressed with the feeling of most people. You would go out to schools, to powerplants, into the streets of Baghdad, and generally there were all kinds of cars and activity, kids standing on the street waving as we went by in military cars.

I understand how difficult it is with the relatively small group of protesters and persons who do not care about the future and are willing to blow you up with a car bomb. But the fact is most people see the merit of having the kind of government, the kind of country where they can enjoy freedom and the prosperity of freedom. So if we can continue to provide an opportunity for these folks to take care of themselves, form their own government, which is our plan, of course, that is our goal.

Now, it is difficult and I understand politically advantageous to complain about the speed at which or the slowness at which it is taking place. The fact is it is going to be slow. It is going to be difficult. It is a difficult thing to accomplish. We hear complaints about not having a plan. We do have a plan. Is everything perfect? Of course not. But there is a plan. We know what we are doing. I was out to the training facility for the Iraqi police and army, and they are making an effort. It is slower than we thought, of course, but that is the case.

We are going to have the fanatics and the insurgents and they are going to be fighting us and the Iraqis and they will be acting out of desperation, and that is difficult. This is not the kind of war where somebody puts up a white flag and suddenly it is all over. This is not that kind of arrangement. This is much different. People will do it. This will, of course, eventually deny the terrorists and extremists the havens they need. So it is a very important issue. It is a victory that will be long and difficult. I believe we have to acknowledge that.

Again I understand the politics of saying it is too long, we need to get out, and we do and everyone agrees with that. But there is a sequence in completing our task. There is the first sequence. It will take a long time and there will be casualties and it will be difficult. But there are happy things to talk about. There are more than 400,000 security forces conducting stability operations there. The Government is in close consultation, training commanders; 99,000 Iraqis have been trained in various security forces. There is a lot going on there. Have we accomplished what we want yet? Of course not. Or else we would be saying that we have accomplished everything. But it is so important that we focus not only on that but on those things that now are important to us.

We are focused on our budget. We are focused on holding down spending in the nonessential areas so we can make up this deficit. We need to focus on creating jobs so that we can continue to get strength in the economy. We need to focus on having the kind of intelligence that can avoid these things happening in the future. We need to focus on completing the task we have undertaken.

So we will have an opportunity in the next couple of weeks to do some things, and then certainly we will come back later. I guess my only hope is that we can continue to see the tasks clearly before us, seek to complete the task successfully as opposed to trying to make a political issue out of wherever the controversies lie. That is the challenge for us and a challenge I believe we can accomplish.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I understand now that we are on the time that has been designated for Senator DASCHLE, the minority leader.

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I have been yielded 10 minutes and then I understand my colleague and friend from Washington has been yielded 5.

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Would the Chair notify me when I have 2 minutes remaining?

The PRESIDING OFFICER. Yes.

EDUCATION FUNDING

Mr. KENNEDY. Mr. President, yesterday, JOHN EDWARDS was in Cleveland, OH, and gave a powerful speech on the economy. He pointed out the struggles of the middle class and asked why President Bush made the choices he has to boost the wealthiest Americans and abandon hard working men and women. I urge my colleagues to take a look at this great speech.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR JOHN EDWARDS

It is an honor to be with you.

When I was in school, I remember coming down the stairs at night. I would see the glow of the television, hear the volume on low, and see my Dad working at the kitchen table. He wasn't going over the family bills or paper work from his job at the mill. He was learning math on TV.

After a long day at work, he would come home and turn on a local TV station to learn. Every year, he'd see another young person with no experience and a college degree move past him. And he knew that if he didn't try something his chances of moving up would disappear.

So my Dad—like millions of Americans—did what he could for himself so that he could better provide for his family. I was proud of what he was trying to do. I was sad because he couldn't get a college degree. And I realized that I lived in a country where I could.

Standing in that house, I always had hope. At that time, America was a place where hard work and determination could take you anywhere. My mother ran her own small business, refinishing furniture to help pay for my tuition. Thanks to my mother and father's hard work in that mill, in that business, and at that kitchen table, they were able to buy a house. Later on, they were able to help me become the first person in my family to go to college. And I stand here today because I have lived in the bright light and the blessing of America.

What I saw in that house in Robbins, North Carolina was very American. It was two parents working hard, meeting their responsibilities, and living in an economy that made the American Dream possible. It was a time when you knew that faith, responsibility and hard work would lift your family up. They would give you and your children the future they deserve. And this is the great promise of America.

But I fear today, that that light is flickering and that blessing is no longer there for any but a few. And this great shift away from the power and the promise of our middle class means that the gifts and the graces of too many young people never have a chance to shine.

Today, I fear that a young boy in Athens who goes downstairs and sees his parents at the kitchen table doesn't sense hope in his house. He sees his parents trying to get through the month. He sees them divide up their bills into piles that say "pay now" and "pay later." And he sees his mother and father work hard and they can't even break even.

That boy thinks, "This is what life will be like." He looks on with resignation and the false belief that this is as good as it gets.

Two people are responsible for causing this great shift in America: George W. Bush and Dick Cheney. Their policies have decimated the economy of Ohio and the American values we believe in.

This campaign is about different leaders and different economic plans. It's about different visions for America. And it's about what's holding our economy down—the callous view of a few at the top who believe that the values that got us here can now be left behind.

It is because George Bush and Dick Cheney abandoned our values that Ohio has lost 237,000 jobs; family incomes have dropped by more than $1,500; health care costs have gone up more than $3,600; tuition at Cleveland State and Ohio State is up $3000; and once every five minutes an Ohio family files for bankruptcy.

The struggles people face in Ohio and the weakness in our economy are a direct result of decisions made by George Bush and Dick Cheney. And those decisions are the direct result of a vision that honors wealth and privilege rather than work and responsibility.

When our economy suffered after September 11, this President made a choice. He fought for tax cuts for the wealthiest Americans. And he did nothing to put more money into the pockets of working families.

When our country went 7 straight months of losing jobs, this President made a choice. He proposed $25 billion in backward-looking tax cuts for big corporations like Enron. But he did nothing to pass tax cuts that would encourage businesses to create jobs.

When the incomes of working families began to fall after 7 years of strong growth, this President made a choice. He slashed the overtime for six million workers. But he did nothing to raise the minimum wage.

When health care costs skyrocketed out of control, this President made a choice. He gave away $140 billion to the big drug companies and fought to lift the responsibilities of HMOs and insurance companies while taking away the rights of families. But he did nothing to lower health care costs so Americans could keep more of their hard-earned money.

When Ohio schools raised college tuition because of state budget deficits, this President made a choice. He stood up for subsidies to big banks and tried to cut off Pell Grants for 84,000 students. But he did nothing to relieve the burden on our state budgets and increase student aid.

Every choice he made did something to harm our middle class and weaken our economy. So when it comes to what working people need, this really is a Do-Nothing Presidency: Do Nothing to create jobs, do nothing to relieve the pressure on the middle class, do nothing to bring down health care costs, and do nothing to help more young people go to college.

You can count on George Bush and Dick Cheney to do one thing: look out for their friends at the top. It is very simple: they honor wealth, not work.

Make no mistake. This idea is the most radical and dangerous economic agenda to hit our shores since socialism a century ago. Like socialism, it corrupts the very nature of our democracy and our free enterprise tradition. It is not a plan to grow the American economy. It is a plan to corrupt the American economy and shrink the winners' circle.

John Kerry and I believe that the hard work and responsibility of the middle class are the engine of our economy. We believe our government should honor those values and give everyone who works hard and takes responsibility a chance to do well. We believe in expanding the winner's circle. We believe in one America.

History shows us that our approach works better for America. To have real economic growth in this country, we have to strengthen and expand the middle class.

We saw it with the G.I. Bill. Young men had fought for America, and America invested in them. Millions of young people went to college and triggered the greatest expansion of the middle class the world has ever seen.

We saw it in the 1990s. Government lived within a budget just like our families do. A tight labor market drove up wages. The average family made $7000 more, and we lifted 6 million Americans out of poverty.

And look where we are today. George Bush and Dick Cheney have replaced that virtuous path with a vicious circle when it comes to our economy.

We have a labor market that cannot keep up with our growing population. We see declining wages even as health care costs go through the roof. And the gap between the Two Americas is growing. Corporate profits are up. Our most expensive stores' sales are up. But average wages are down over the last year, and the Targets and Gaps are seeing their sales stall. Instead of creating good middle-class jobs, we're creating more temporary positions, part-time jobs, and jobs in fast food restaurants.

When you have a government that does nothing to reward work, our economy doesn't pick up and this vicious circle continues. The people at the top do just fine. The people who make this country work struggle to get through the month, and our economy never picks up steam.

John Kerry and I will break this vicious circle. And we will put America back on a virtuous path where work is rewarded, the middle class expands, and the American Dream is there for all who are willing to work for it.

It is time to build one America with one economy that works for everyone. Where no child ever looks on at his parents and thinks, "I can't hope for something better." But dreams only of building something better. And this is the season for change. It is time to build an economy that honors our values and rewards work.

I know personally what it's like when the factory or the plant closes down. The whole town suffers, and that's what happened when the textile mill my father worked in closed down.

We can prevent some of these jobs from leaving America. And there are real steps we can take that will stem the loss of manufacturing jobs in Ohio. But that alone won't be enough.

One constant of our new global economy is that there will always be change—one sector will be growing while another lags. It is the responsibility of our leaders to anticipate these changes, do what they can to save the old jobs and create new ones, and give our workforce the tools it needs to adapt to the new economy.

What I will present today is our plan to help Ohio and America build one economy. This plan will attract new business to Ohio and create more manufacturing jobs. And it will strengthen and expand the middle class so that the American dream of building something better is never replaced with the dream of just getting by.

First, we are going to create and keep good paying jobs right here in America.

Today, if one company wants to move its factory to China and another company wants to keep its plant open outside of Marietta, the company that ships its jobs overseas is rewarded. They get the tax break while our middle class watches more and more good paying jobs leave this country. They get the tax break while our middle class loses its muscle. And they get the tax break while your friends and neighbors have to figure out how to live on $12,000 less in their new job.

This administration values America's work so little that they actually proposed to offer new tax breaks for companies to go overseas. We should be exporting American products, not American jobs.

When John Kerry is President, we will end the tax deferral rules that encourage companies to ship jobs overseas. Instead, we will cut taxes for businesses that create jobs here. In fact we will cut taxes for 99% of American companies that pay taxes and create jobs.

For those small businesses and manufacturers that want to hire new employees we will create a new jobs tax credit to pay your share of the payroll tax for every person you hire. And for those small business owners who want to hire more employees but cannot afford to insure them, we will give you up to a 50% tax cut on your health care to cover your employees.

You see, we believe government should cut taxes on American business. But it shouldn't cut and run from America's values when it does.

Another way to honor work is to enforce our trade agreements and trade laws so we secure a more level playing field for our workers. We need to trade for our businesses, our consumers, and our economy. But we need to make sure that our trading partners honor their part of the bargain.

Your own Senator, George Voinovich called America's enforcement of trade laws, "nothing short of abysmal." Right now, this administration is using our trade policy to compensate for their own failed foreign policy, by cutting deals with small countries willing to support us. And in the meantime, our major trading partners are cleaning our clock, bringing two or three trade cases against us for every one we bring against them.

Today we are running the biggest trade deficit in history. Exports are down for the first time in history. And no place feels the downside of an Administration that fails to look out for our businesses and our workers more than Ohio.

Ohio has lost 173,000 manufacturing jobs under this President. Here in Cleveland, CHC Industries shut down its plant because of Chinese dumping.

And I heard a similar story from the workers from Techneglas in Columbus. They were part of the television glass and components manufacturer that closed three plants and sent 1,100 workers home. And one of the reasons they closed is China's continued manipulation of its currency. They are able to sell products for up to 40 percent less—not because they're more efficient or cheaper, but because they play games in the currency markets. This president won't even say it's against the rules.

John Kerry will. He will fight China's currency manipulation. And he will stand up and defend the federal trade enforcement law that that has delivered over $200 million to Ohio manufacturers over the last four years.

These trade policies aren't abstract ideas or some things that happen over there. They impact our lives. While we must always trade and open our markets, we must do so in a way that is right for our workers and the world's workers.

We all have to do well if this economy is going to break this vicious circle and start to grow. And that means making sure businesses across America can compete with businesses around the world. Today, health care costs add $400 to the cost of a Japanese car, but $1400 to the cost of an American car. American manufacturers that have always done the right thing and offered health care are at a growing disadvantage compared to our international competition.

We can change that. We can change it by lifting the burden of catastrophic costs from businesses and by offering tax credits to make health care more affordable. We can change it by allowing the reimportation of prescription drugs and the government to negotiate a fair price. And we can change it by passing a new three-strikes-and-you're out rule that targets the lawyers who clog our court systems with meritless cases that should never be filed—not the victims whose injuries are all too real.

John and I also understand that a strong economy isn't just about Wall Street doing well. It's about the strength and livelihoods of our Main Streets and back streets in our small towns and rural areas.

That's why we'll create a venture capital fund to support small businesses and entrepreneurs in small towns that are hurting. We will make sure we have broadband everywhere in America and help small manufacturers upgrade their technology. And we can invest in the new technologies and renewable energies so that America can become independent of Middle East oil.

Here in Ohio, your leading universities, research institutes, and advanced manufacturing industries will spark new growth and innovation. They are critical for strengthening our high tech economy and key to Ohio's economic future.

Since the Second World War, technology has accounted for nearly 50 percent of the state's economic growth. There are 167,000 Ohio workers employed in high tech jobs.

If we expand investment in technology, we can create an economic environment where these kinds of good paying jobs are created every day. And by investing in education, we can use our best and our brightest to solve our countries greatest challenges. The strength and knowledge of our working men and women will launch the next wave of economic expansion. And Ohio can and will lead the way.

Once we take these steps, our walk is not done. When we put America back to work, we also need to make sure that work is honored and rewarded.

George Bush is talking about building an ownership society, but he has spent four years building a debt society for everyone except those at the top. His economic vision has one goal: to get rid of taxes on unearned income and shift the tax burden onto people who work. And he has moved toward that goal with the tax cuts he has passed already.

The President's new "tax reform" is the ultimate expression of his values. We don't know all of the details, but we know a lot of them because of a memo released by his former Treasury Secretary.

We know people who inherit hundreds of millions will pay nothing; firemen and waitresses and working people will pay everything. And we know his plan will take away the most important incentive for the single most important form of ownership: it will eliminate entirely the tax deduction for home mortgage interest.

According to the Treasury Department, the effects of this project on the economy as a whole are "uncertain." But the effects on the middle class are clear. It means that they will bear more of the tax burden in America.

It's time to return to the idea that made this country great: Instead of helping wealthy people protect their wealth, we should reward the work of America's middle class.

That is why John Kerry and I have a plan to cut taxes on work and expand our middle class. To help middle class families pay for health care, health care reform and a tax credit to help lower premiums up to $1,000 a year. To help them cover the rising costs of child care, a tax credit up to $1,000 so children have a safe place to go while their parents work. To help middle-class families keep more of their hard-earned money, we will stop the deceptive and unfair credit card deals that cost families billions each year.

And to give more young Americans the chance I had to be the first member of their family to go to college, a plan to make college affordable. We will provide $10 billion in aid for states, including $340 million for Ohio, as long as the state holds tuition in line with inflation. We will provide every person with a tax credit on $4,000 of college tuition. And if young people are willing to give two years of service to their community, state or country, then we'll give them four years of college tuition.

When we say that we want to cut taxes for the middle class, these are more than words. It's what John and I have fought for over and over again. They want more tax cuts for millionaires. We want more tax cuts for the middle class because we know that a strong and growing middle class means a stronger America.

Just as families live within a budget, Washington should too. And we will restore fiscal discipline in Washington. We will roll back tax cuts on multimillionaires, restore real budget rules, and we will cut corporate loopholes, corporate welfare, and the federal bureaucracy that is growing again under George W. Bush. Our plan will cut the deficit in half and this will restore confidence in our markets. It will free up new capital for new businesses and encourage them to start hiring again.

There is a fundamental American principle we all believe in—creating wealth for those who'll work for it and expanding the middle class. But the very idea of the "working poor" has no place in our America.

Cleveland is a proud city, a great city. And it belongs at the top of many lists. But not the one we heard about last month—having the highest poverty rate in the nation. We need to see these numbers as a call to action.

Poverty isn't something we can live with. It's something we must strive to end. Based not on handouts, but based on hard work. We will encourage the job creation in Cleveland by fixing our tax policies and our trade policies and investing in our small businesses. We will honor hard work by raising the minimum wage. That will help 396,000 people in Ohio. And we will honor hard work by expanding tax credits for those who work.

In Cleveland, thousands of working families who are eligible for those tax credits don't collect them. Thousands get advance "tax refunds" that are actually loans at interest rates of 100 percent or higher. And often these families see their earnings eroded even more by predatory lending at rates no one should have to bear. Ohio has the highest foreclosure rate in the country, and in Cleveland, 1 in 66 homes were in foreclosure in 2003.

We can do something about it. First, we'll work with Cleveland to lead an outreach campaign, expand voluntary help with taxes, speed up tax refunds, and get the IRS out of the business of encouraging high-interest loans. We will crack down on predatory lending to save Ohio families $300 million a year, and use our laws to prompt banks to offer more loans and services to low income families. And we can make sure fathers honor their responsibilities by paying child support and helping them work.

We can lead a rebirth right here in Cleveland. This city has 350 brownfields covering 6,000 acres. We can clean them up and replace hollowed out buildings with good new homes. And we can strengthen the public schools in Cleveland so that families stay in the city. You just laid off more than 800 teachers because the schools are underfunded. How are we going to educate the best minds of tomorrow without a good teacher at the head of every classroom?

One thing that you understand here in Cleveland is that poverty isn't "their" problem. Nobody is more eager than you to fight poverty because you understand that the fate of your city depends on the success of all of your residents. And that is exactly the same thing for America. Creating opportunity for all is not an expression of compassion. It is an expression of our commitment to do what is best for America.

At the heart of this campaign, we want to make sure that everyone has those same opportunities that I had growing up—no matter where you live, who your family is, and what the color of your skin is. This is the America we believe in.

You honor work and inspire confidence by building one economy that honors our values and strengthens our great middle class. With this simple and enduring principle serving as our moral compass, we can break this current vicious circle and put our economy back on a virtuous path.

This is what the politics of what's possible can build and John and I need your support to make this happen in America.

For in the end, this election comes down to a simple choice. If you believe that our economy—Ohio's economy—is strong when month after month jobs are lost and family incomes decline, then you can vote for George Bush and Dick Cheney. But if you want an economy that honors work and lifts up our middle class, then your choice is clear and it is time to make John Kerry our next president.

Many of us are angry at what George Bush and Dick Cheney have done to our great country and the values we cherish. But anger never changed America; our actions do. And this is what we will do create good paying jobs, invest in the jobs of the future, and lift up and expand our great middle class.

We will do this for America.

So that once again, we can live in the bright light and the blessing of America.

Where a child no longer sees despair when his parents sort bills at the kitchen table, but believes in the promise of America. That hard work, responsibility and the love of his family can create a future filled with hope and grace.

Mr. KENNEDY. Mr. President, few issues are more important to a strong America than strong schools. Education can open the doors of opportunity to our people. It helps the next generation realize their potential and fulfill their dreams. A good education strengthens our economy as it prepares young Americans to get good jobs and compete in today's world. Parents want their children to succeed, but over the past 4 years we have seen a President and an administration with an incompetent education policy and incompetent education budget.

President Bush can find more than $1 trillion to give away in tax breaks for the elite but he cuts funding for his own education reforms. He can waste billions of dollars in contracts to Halliburton but cannot find a dime to increase Pell grants. When it comes to the education of our children and helping the middle-class families afford college for their children, and helping workers get retrained for new jobs, this administration has been AWOL.

On issue after issue, the administration has misled the country with the long trail of broken promises and unmet commitments. Incompetence is hurting our families and our communities. On Iraq, the administration manipulated and distorted intelligence in a rush to war. We have had incompetent leadership in trying to find a way of peace, and America is less safe today.

We have had incompetency in the management of our economy with the loss of 1,700,000 jobs. Wages are down. Expenses are up. Health premiums are going through the roof. Gasoline prices are up. College premiums are up. In health care, we have a double-digit increase in premiums. Drug costs are going through the ceiling. There is a rising number of uninsured. Iraq, the economy, health care, and now education.

I have a statement the President made January 23, 2001:

> My focus will be on making sure that every child is educated.

These are the K–12. This is the college education. These are the children who need the training programs and yet we see that under the administration's budget 4.6 million of these children are being left behind.

College tuition has gone up 38 percent in the new calculations since this President took office, which makes payment of the premiums for a college education out of the reach of middle-income families.

We have had an actual $600 million cut in job training programs.

This is what the President said:

> Funding is important and so is reform. So we must tie funding to higher standards and accountability—

We agreed with that—

> for results. Schools will be given a reasonable chance to improve and the support to do so.

Money is not the answer to everything but it is a clear indication of a nation's priorities. This is a commitment of the President to provide the support so we can have higher standards so that we can have higher results and academic achievement for our children. Yet we find that Bush underfunded the reforms of No Child Left Behind this year by $9.4 billion.

There are 6,500 schools identified as in need of improvement and President Bush has never once proposed funding to turn around schools that need improvement.

Here it is. The President said on January 23, 2001:

> Many of our schools, particularly low-income schools, will need help in the transition to higher standards.

Higher standards mean better trained teachers who are teaching in underserved areas. It means support services for those children who are not being able to keep up with the rest of the class. It means help and assistance for limited-English-speaking children, those who are speaking a foreign language who need the extra help and assistance in order to be able to perform at standard, and also reforms for struggling schools in many of our urban areas and some in our rural areas.

There was a guarantee in the No Child Left Behind funding for qualified teachers, funding for afterschool programs, funding for limited-English-speaking children, funding for struggling schools, and yet that has been a failed promise.

This chart indicates where the Bush budget is with regard to the No Child Left Behind Act, all the way out to fiscal year 2012, and that leaves over 4 million children left out and left behind.

This was the commitment in the No Child Left Behind Act that this President signed to say that no child would be left behind, and that every child could reach proficiency.

In my State of Massachusetts, in the last MCAS test, which is generally recognized nationwide, 62 percent of the children were able to get proficiency in reading and 57 percent in math. We are not giving up on those children but evidently the administration has.

Next, in higher education, this is what the President said on August 30, 2000:

> A child eligible for a Pell grant future will be affected by the size of the Pell grant. I am going to ask Congress to bolster the first year aid . . . to $5,100 per recipient of the Pell grant. . . .

That was on August 30, 2000. When was that? Just before the election.

I have the budget of this administration on the Pell grants for the last 4 years: Zero, zero, zero in terms of the increase of the Pell grants at a time when we have increases in higher education going up 38 percent.

This is an abdication of responsibility to the children of this country. We have had an abdication of responsibility in health care, in the economy, and in education.

What we do not have with this administration is attention to special interests. We saw over the passage of the Medicare debate where this administration gave $139 billion in windfall profits to the drug industry, $46 billion to the HMO industry. Now what do we have, the student loan scandal.

My friend from the State of Washington will speak to this issue, but I wish to point out what was printed today in the New York Times that says it all.

I ask unanimous consent that the whole article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 22, 2004]

BANKS AND THE COLLEGE LOAN LOOPHOLE

The Bush administration has studiously looked the other way while well-connected lenders have exploited a loophole in the student loan program that will reap them nearly a billion dollars in undeserved subsidies this year alone. Congress, which rakes in contributions from banks and other lenders, was reluctant to even discuss this problem until a public outcry recently made it impossible to avoid. The Education Department has claimed that it lacks the authority to close the loophole unilaterally. But that position was blown away this week in an unusually caustic report by the Government Accountability Office, which outlined the scope of the problem and urged the Education Department to solve it quickly.

At issue is a special category of student loans for which the government guarantees the lenders a whopping return of 9.5 percent, even though the prevailing rate charged to students is now less than 3.5 percent. The 9.5 percent loans, backed by tax-exempt bonds, were established when interest rates were high in the 1980's to keep lenders in the college laon business, Congress tried to phase out the high-interest loans in 1993, when it rightly concluded that they were no longer needed, but they have not gone away.

As interest rates declined, the lenders, abetted by the Education Department, developed a series of accounting tricks that create new 9.5 percent loans essentially out of thin air. This process, sometimes described as cloning, has made the number of 9.5 percent loans balloon and ratcheted up the subsidies that the government must pay. Worse still, recent press accounts suggest that higher-ups in the department may have overruled auditors who tried to put an end to this process.

The House voted to end the unfair subsidies temporarily—and is likely to settle on a permanent solution soon. But the Senate Appropriations Committee ducked the issue last week when it rejected a measure that would have driven a stake through the wasteful program and redirected some of the savings to student aid. By one estimate, even six months' delay in dealing with this problem would cost the taxpayers nearly $3 billion in interest payments. That money should be going to poor and working-class college students—not to banks.

Mr. KENNEDY. By one estimate, even 6 months' delay in dealing with this problem will cost the taxpayers nearly $3 billion in interest payments. That money should be going to poor and working class college students, not to the banks.

We have an administration that takes care of the special interests, and now we find they are taking care of the banks as well. They take care of the drug companies, the HMOs, and the banks. All one has to do is read the newspaper. Look at this morning's newspaper on the Federal page, September 22, "EPA Wording Found To Mirror Industry's."

> For the third time, environmental advocates have discovered passages in the Bush administration's proposal for regulating mercury pollution from power plants that mirror almost word for word portions of memos written by a law firm representing the coal-fired power plants.

There it is again, taking care of the banks, taking care of the powerplants, taking care of the drug industry, but not taking care of working class Americans, not taking care of middle-income Americans.

I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 22, 2004]

EPA WORDING FOUND TO MIRROR INDUSTRY'S

(By Juliet Eilperin)

For the third time, environmental advocates have discovered passages in the Bush administration's proposal for regulating mercury pollution from power plants that mirror almost word for word portions of memos written by a law firm representing coal-fired power plants.

The passages state that the Environmental Protection Agency is not required to regulate other hazardous toxins emitted by power plants, such as lead and arsenic. Several attorneys general, as well as some environmental groups, have argued that the Clean Air Act compels the EPA to regulate these emissions as well as mercury.

The revelations concerning language written by Latham & Watkins could broaden an ongoing probe by the EPA's inspector general into whether the industry had an undue influence on the agency's proposed mercury rule, legislative critics of the proposed rule said.

Sen. James M. Jeffords (I-Vt.), ranking member of the Senate Environment and Public Works Committee and one of the senators who called for the probe last spring, said the revelation that the EPA adopted the same wording as an industry source "no longer comes as much of a surprise."

"The Bush administration continues to let industry write the rules on pollution, and this is just one more example of how they abuse the public trust," he said.

EPA spokeswoman Cynthia Bergman would not comment on the connection between the law firm memo and the agency's proposal beyond saying that it is "a public document. It was publicly debated as part of the rulemaking process."

She added that pollutants such as lead and arsenic are not the central issue: "EPA continues to be most concerned with mercury. We will be regulating mercury emissions from power plants for the first time, and we will concentrate on the need to protect children and pregnant women."

Environmentalists have assailed the EPA for months arguing that the mercury rule, slated to be finalized next March, would not adequately curb a toxin that can enter the food chain through fish and cause development damage in infants and young children.

The rule, they said, does nothing to limit chromium, lead and arsenic pollution from utilities, all of which exceed mercury emissions and could pose a health threat.

"The big story here is the public health story; things like arsenic, lead and chromium are being released in very large quantities and pose a very serious health threat," said John Stanton, a senior lawyer for Clear the Air, an environmental coalition that spotted the similarities between the regulation's language and the industry memo.

The proposed regulation concludes that although the EPA determined in 2000 that arsenic, chromium and other metals are potential carcinogens, there is too much uncertainty to justify regulating them.

That conclusion is backed by two sections of the proposed rule that address whether the EPA is compelled to regulate non-mercury pollutants, an issue that first arose in 1990 when Congress rewrote sections of the Clean Air Act. At the time, Congress made an exemption for the utilities, saying the EPA should study whether it was both "appropriate and necessary" to regulate them. In 2000, in the waning months of the Clinton administration, the EPA concluded that utilities should be listed as a source of toxic emissions and regulated accordingly.

In light of the 2000 decision and past studies, EPA officials said they are obligated to regulate only mercury in coal-fired power plants and nickel in oil-fired plants. The nine attorneys general and two state environmental secretaries wrote the agency on June 28 saving the EPA is legally required to address other pollutants as well, citing a 2000 decision by the U.S. Court of Appeals for the D.C. Circuit.

The Aug. 5, 2002, memo from Latham & Watkins, submitted during the public comment period on the rule, said hazardous air pollutants other than mercury did not need to be regulated. It made multiple references to statements by Rep. Michael G. Oxley (R-Ohio) that "Congress provided a distinct regulatory mandate for utility [hazardous emissions] because of the logic of basing any decisions to regulate on the results of scientific study and because of the emission reductions that will be achieved and the extremely high costs that electric utilities will face under other provisions of the new Clean Air Act amendments."

The EPA used nearly identical language in its rule, changing just eight words. In a separate section, the agency used the same italics Latham lawyers used in their memo, saying the EPA is required to regulate only the pollutants under Section 112 of the Clean Air Act "after considering the results of the study required by this paragraph." The memo uses the world "subparagraph" instead of paragraph but is otherwise identical.

Latham lawyer Robert A. Wyman Jr., who authored the memo, declined to comment last week on grounds that the firm does not discuss client matters unless directed to do so.

The Washington Post and the Los Angeles Times reported earlier this year on instances in which industry-written language had surfaced in the mercury proposal. A spokesman for the inspector general's office said its investigation of the issue should be done by early next year.

That, I believe, is what this whole election is about.

Finally, the President of the United States is out today in Pennsylvania and also in Wisconsin. I hope he will explain to the people in Pennsylvania why he is leaving out 65,800 schoolchildren, who are being left behind in the funding of the No Child Left Behind Act in Pennsylvania. And when he travels to Wisconsin on Friday, I hope he will explain to the parents out there in Wisconsin why he is leaving behind 26,300 children, who are left behind in the State of Wisconsin.

The parents of the children in Pennsylvania, the parents of the children in Wisconsin, are entitled to answers. They are tired of rhetoric. They are tired of cliches. They are tired of misrepresentations. They want the facts. They want the truth. We have a candidate who will give it to them.

I see my friend and colleague in the Chamber, Senator MURRAY. Whatever remaining time I have, I yield to her, and I thank the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator has 5 minutes 15 seconds.

STUDENT LOAN SCANDAL

Mrs. MURRAY. Mr. President, I come to the floor today to talk about this scandal to which the Senator from Massachusetts alluded. It is mentioned in the New York Times today, "Banks and the College Loan Loophole."

I talk to families all over the State of Washington, and they are struggling to pay for college for their kids. They all agree college education is far too expensive for many families. You would think the Federal Government would be doing everything possible today to make college more accessible for all of our families. Sadly, that is not the case.

Last week in the Senate we had a chance to help students to get to and get through college. Unfortunately, the majority on the Appropriations Committee blocked my commonsense, student-friendly proposal. Instead of standing up for students, unfortunately the committee stood up for banks and other special interests that have been gaming the system for years, at taxpayer expense.

I am on the Senate floor today to say that students should come before special interests. Student loan programs were started to help our students. They were not started to line the pockets of lenders. It is time to end the taxpayer ripoff that is occurring today and do more to help our students afford college.

Back in the 1980s, interest rates were high. Many people were concerned that our lenders would stop making student loans, so Congress created a temporary—and I emphasize "temporary"—measure to keep college loans affordable for our students.

At the time, it worked. Lenders kept making loans, and students were able to afford college loans. This was supposed to be, as I said, a temporary measure. In fact, it was supposed to be phased out in 1993, when interest rates started coming back down. Interest rates came down; this subsidy lived on. For the past 11 years, taxpayers have paid these lenders far more than they should have. Taxpayers are actually subsidizing profitable companies to make loans that are far above today's interest rates. Clearly, taxpayers are paying a huge bill while special interests are taking the money to the bank.

Who is paying the price? Our college students. This year we are throwing away $1 billion that we could be using to help more students go to college. So in the Appropriations Committee last week, I offered an amendment to finally stop this taxpayer ripoff. My amendment would have used the savings from this ripoff to help 700,000 students get another $3,000 for college. It would have helped the parents of 25,000 low-income students get child care on campus. It would have helped another 200,000 students get $800 in grants. It would have helped 180,000 low-income and first-generation students prepare for college through TRIO and GEAR UP. And it would have helped thousands of migrant students attend college.

When I offered my amendment, everybody on the committee seemed to agree that this subsidy should end. But when it came time to vote, every Republican member voted against my amendment. They voted against taxpayers, they voted against students, and they voted against our families. They said they wanted to deal with it later. I am here today to say that taxpayers are getting ripped off every day we delay. If we wait 6 months, as was suggested, taxpayers will lose billions of dollars, and students will not get the help they need. The time to do this is now.

I am not willing to waste another dollar that could be in the pockets of our students today, and that is why the Senate needs to act now. The Government is paying 30 times more than it should for these special interest subsidies—30 times more. That is a ripoff.

This is as if you walk into a college book store and a textbook on the shelf costs $100. If that textbook had the same outrageous markup as these loans, that student would be paying $3,000 for the same textbook. Taxpayers are paying $3,000 for something that only costs $100 because of this runaway subsidy, and that is outrageous. There is no reason for taxpayers to be paying a markup of 30 times the real cost.

We were all outraged when Halliburton charged taxpayers $45 for a case of soda that sells for $7 at the supermarket. Halliburton marked those prices up 6 times. Today, lenders are marking up student loans at a price 30 times higher than they should. No wonder the Washington Post called this a scandal.

I ask unanimous consent to have the Washington Post editorial on this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 10, 2004]

STUDENT LOAN SCANDAL

There are bureaucratic errors, there is congressional negligence—and then there are bureaucratic errors and congressional negligence on a scale so vast that it is hard to believe they can be accidental. The hundreds of millions of dollars in unnecessary government payments to the student loan industry in the past 18 months amount to such a scandal. The loans in question, established in 1980, are guaranteed by the government at 9.5 percent. Yet most students are paying interest rates of 3.5 percent or less. The difference—all taxpayers' money—is pure profit for the companies that have taken advantage of a loophole in the law.

According to a recent report by the Institute for College Access and Success, a nonprofit education think tank, Congress had actually intended to end in 1993 the 9.5 percent loan guarantee, one of many programs that provide incentives for institutions to lend to students. In May 2003, one company, Nelnet Inc., wrote to the Education Department to confirm its intention to expand its holdings of old loans with the 9.5 percent interest rate. Nelnet received no answer from the department for a year, during which time the department continued paying the company. In June of this year, the department replied inconclusively—at which point the company's stock price climbed 20 percent. Although Nelnet is the largest holder of loans guaranteed at 9.5 percent—and its holdings of such loans have increased by 818 percent since January 2003—it is only one of many such lenders. According to a preliminary Government Accountability Office report, commissioned by Reps. Chris Van Hollen (D-Md.) and Dale E. Kildee (D-Mich.), 37 lenders receive payments for loans with guaranteed interest rates of 9.5 percent, at a government cost of $1 billion annually, and the volume of such loans is rising.

Why wasn't the loophole shut long ago? Education Department officials argue strenuously that only a two-year regulatory process could have done so, and they didn't initiate one, they say, because they thought Congress would deal with it. Congressional Republicans say they expected to deal with the problem in a comprehensive higher education bill, but that has failed to pass (and in any case the proposed language would not have ended all the payments). Yet, other solutions could have been found: In the wake of revelations about the scale of the payments, the House yesterday passed an amendment to an appropriations bill, offered by Mr. Van Hollen and Mr. Kildee, that would close the loophole completely, albeit temporarily. (Of course, there is no guarantee it will become law.) And one former Education Department general counsel has written to the secretary of education, Roderick R. Paige, arguing that the loophole could have been closed immediately if officials had wished to do so.

There could be other explanations for their reluctance. One is that the president of Nelnet, Don R. Bouc—who has called for the loophole to be shut and the money to be better used—is well-connected enough to have been appointed to Mr. Paige's advisory committee on student financial assistance. Here is another: According to a report in the Chronicle of Higher Education, Nelnet is the second-largest contributor to congressional campaigns in the student loan history, beaten only by industry giant Sallie Mae. Over the past 18 months, the student loan industry has contributed about $750,000 to the 49 members of the House Committee on Education and the Workforce, of which $136,000 has gone to the committee chairman, Rep. John A. Boehner (R–Ohio), and $175,000 to Rep. Howard P. "Buck" McKeon (R–Calif.), chairman of the subcommittee on higher education. Mr. Boehner's spokesman vehemently denies any connection between the contributions and the issue and maintains that the committee's bill would have fixed the problem, which was mentioned in the president's latest budget. Still, it is difficult to understand, given the sums involved, why neither Mr. Paige nor Congress made this a higher priority.

For nearly a decade we have argued that Congress should reduce subsidies for banks that lend to students, and instead expand the direct-loan program, which provides about a quarter of student aid—or else reform the system to make it harder to manipulate. This scandal provides an excellent reason to look again at these questions.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. MURRAY. I ask for an 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, the Senator from Massachusetts asked unanimous consent to have the New York Times editorial from today printed in the RECORD. It clearly laid out the case for what is happening today to taxpayers who are paying a tremendous price. And who is losing? It is our students.

We have to stop overcharging the American people. We still have time to do it this year and help students get to college at a time when we all know tuition rates are rising. We need to give more to get more students there.

I warn the Senate, the clock is ticking. Every Member of the Senate has to decide if they stand with students and families and taxpayers, or if they are going to stand with the special interests. Millions of students and millions of families are waiting for this answer. We have to stop the special interest subsidy today.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I understand we have a colleague who is on her way to the floor. I ask unanimous consent she be entitled to 5 minutes and that we have 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask the Chair to remind me when I have 1 minute left.

I ask the Senator from the State of Washington, does she not agree with me that this administration has the power to do something about this, and could do something about it today, this giveaway that is written about in the prominent national newspapers as a giveaway to the banks? Does she agree with me that the Department of Education has said we don't have the authority, we don't have the power, we don't have the legal ability to do something about it? Yet we have the General Accounting Office report:

> Family education loan program, statutory and regulatory changes could avert billions—

Hear that? Billions—

> . . . in unnecessary Federal subsidy payments.

On page 8:

> We disagree with the department's characterization of their authority.

It seems to me, if this President were interested in protecting middle-income families, in avoiding the kind of continued wasteful subsidy and giveaway to the banks, that the President, the Department of Education, this administration, could do something and do something today.

Would the Senator be willing to express an opinion on that?

Mrs. MURRAY. Mr. President, the Senator from Massachusetts is absolutely correct. The Department of Education could end this today with a simple rulemaking procedure. Instead they are pointing fingers, saying Congress has to do it. Congress had the opportunity in the Appropriations Committee last week. They said, no, we have to wait for an authorization 6 months from now. Every month that goes by we lose billions of dollars in taxpayers' money and thousands of students don't get access to college. We don't need any more fingerpointing on this.

I think the Senator would agree that we don't need the Department of Education pointing to Congress and Congress pointing to the Department of Education. We need to stop this now. The Department of Education can do it by rulemaking and we can do it on any bill that comes before us. But we need to do it and we need to do it quickly.

Mr. KENNEDY. I thank the Senator for her comments.

On August 27, Sally Stroup, Assistant Secretary for Education, said, "I don't think we have the legal authority to stop them."

They made no effort to try to stop them. Senator MURRAY is leading the fight in the Appropriations Committee to try to save the taxpayers and save middle-income families who are stretched with their tuition. Now we have the General Accounting Office saying they do have the power.

I wonder if the Senator would agree with me that we see a whole pattern from this morning's newspapers about how the administration is effectively right in the tank for the powerplants with regard to mercury, coal-fired powerplants, and is now with the bank on student loans. We have seen it with regard to the HMOs. I am wondering who is going to stand up for working families and who is going to stand up for middle America.

Mrs. MURRAY. Mr. President, the Senator from Massachusetts is absolutely right. This is outrageous. We have the Department of Education pointing fingers at Congress when they can make a ruling and stop this practice today. According to all accounts, the delay of this is costing billions of dollars. If we wait for Congress to act on reauthorization of the act 6 months or longer from now, taxpayers are going to lose $2.8 billion in interest payments. We are in the Senate where we know that access to Head Start is critical, we know access to college is critical, and we know that $2.8 billion sent to the bank today means students are not getting higher education.

Mr. KENNEDY. Mr. President, when we made the commitment of No Child Left Behind, we thought we were including all children. When this body committed to Medicare, we didn't say we are going to leave some senior citizens out; we said all seniors. When we made a commitment to voting rights, we said voting rights for all Americans. When we made our commitment to all children in this country, we meant all children.

There it is. This is not disputed. We are failing more than 4 million children. That is unacceptable, particularly when we find that this administration is looking out for their special interests.

I think we have an opportunity to change that on election day, and hopefully will.

I thank the Senator.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes.

THE ECONOMY

Mr. CONRAD. Mr. President, yesterday we heard a number of my colleagues talk about their view of the economy and their view of the fiscal affairs of the country and their view that things are on a positive track. Today, I would like to respectfully offer the other side of the story and what I view as a very dangerous course the Nation is pursuing under the leadership of President Bush.

Earlier this year, on August 30, the President was on the NBC "Today" show and the host asked him this question:

> Let me ask you about deficits. This year, $445 billion. Ballpark, do you think that's pretty good?

President Bush:

> Yes. I do, I do.

That is an odd sense of accomplishment because that is the biggest deficit in the history of the United States. The deficit that is now estimated to be some $422 billion we know is going to be larger because we are funding some of next year's defense money this year because of mounting costs in Iraq. But even at the $422 billion figure, that is the largest deficit in the Nation's history, and by a big margin.

Last year, under President Bush's fiscal plan, we had what was then a record deficit of $375 billion. Now it has increased to $422 billion. But frankly, that understates how serious the situation is.

By contrast, if you go back to the Clinton years, each and every year of the Clinton administration the deficits were reduced and held for a 3-year period. We actually ran budget surpluses. This President has punched us back into deficit, and by a country mile.

The Bush administration now claims that the deficits are coming down. This is the budget director, OMB, chosen by President Bush. He says:

> We continue to have deficits, even though they are coming down dramatically.

I don't know what his notion of coming down is, but here is the record. The deficits are not coming down. The deficits are getting bigger.

The last year of the Clinton administration, the first year of the Bush administration, which is a budget that the President inherited, the budget was in surplus by $127 billion. The next year, 2002, it went to $158 billion of deficit. That was the first year under the Bush administration. The next year, $375 billion of deficits, then the largest dollar deficit in our history. This year, it is $422 billion, and the President's budget director says the deficits are going down dramatically. What is he talking about? The deficits are not going down. The deficits are going up.

The truth is the official deficit, what is called the deficit by the press, what is called the deficit by this administration, badly understates how serious the fiscal condition is of the United States. The debt of our country is not going to increase by the advertised deficit of $422 billion. This may come as a great surprise and shock to many to find that the debt is going to increase by much more than the deficit. But the truth is the debt of the country is going to increase by over $633 billion this year. The reason for the difference is they are not counting the $150 billion—roughly $150 billion—they are borrowing from Social Security, every penny of which they have to pay back. It does not get counted in the deficit calculation. If you add in the money they are borrowing from Social Security, which they have to pay back, the money they are borrowing from Medicare, which they have to pay back, the money they are borrowing from every other trust fund, which they have to pay back, the debt of the United States is going to increase this year by over $630 billion. That is a staggering sum.

The Bush administration promised that deficits will be reduced in the future. President Bush in Annandale, VA, on August 9 of this year said:

> So I can say to you that the deficit will be cut in half over the next 5 years.

This is the same President who said, by the way, in his first year there would be no deficits. In his second year, reporting to Congress, he said the deficits would be small and short term. Both of those statements were wrong and wrong by a country mile. Then he said they would be small by historical standards. Wrong again; biggest deficits we have ever had. Now he says don't worry, I am going to cut the deficit in half over the next 5 years; wrong again.

Don't believe it because it is not going happen. The only way the President comes up with the claim that he is going to cut the deficit in half over the next 5 years is he leaves out whole areas of spending. He leaves out finance costs for the war. In his previous budget, he left out any war costs past September 30 of this year. He didn't put money in his budget; none.

Does anybody believe there is no war cost past September 30 of this year? That is what the President said in the budget he sent up here.

He said there is no money needed to fix the alternative minimum tax past this year. Yet we know the alternative minimum tax, that affects 3 million people now and will affect 30 million people by 2010. That is the old millionaire's tax that has now become a middle-class tax. My friends, we all know Congress is not going to allow the alternative minimum tax to affect 30 million taxpayers. Yet the President provides nothing in his budget past next year—nothing.

In fact, if you go back and you put back the items the President has left out—the money he is borrowing from Social Security that he has to pay back; it is not in his budget; if you put in the money needed to fix the alternative minimum tax or the money for the ongoing war costs—this is what emerges as a realistic analysis of what is going to get added to the debt and what the deficits are going to look like over the next decade. Actually, this is conservative because we have left out a lot of things that are also being done by this administration that will add to the debt. So this, too, understates how serious the situation will become.

But even with this look, on just a limited number of items—the President's request for additional tax cuts, the President's need for additional funding for defense, the President leaving out the cost of the alternative minimum tax—you can see we are not going to see a reduction in the deficit in the coming years under the President's plan. No. The amount being added to the debt is going to increase, and increase, and increase. What we see is an ocean of red ink over the next decade.

Let me show you some of the things the President has left out as he has structured his budget. As I have indicated, on the tax cut, he only shows now in his budget the first 5 years of the effect of the tax cut. Before he submitted 10-year budgets; this year, just a 5-year budget. Why? Because he did not want to disclose to the American people what all of us know is the pattern of his tax cuts.

Past the 5-year budget window, the cost of these tax cuts explode. The President is hiding that from the American people with a 5-year budget. He is doing the same thing with the alternative minimum tax, the same pattern. The cost of fixing the alternative minimum tax explodes. He only provided for 1 year of addressing the alternative minimum tax in his budget.

The war cost, it is the same pattern. The President has $25 billion he supported in a reserve fund for next year, money, by the way, he is not waiting to spend next year. He is spending it now. He is spending next year's money this year. Even that dramatically understates what the Congressional Budget Office says the cost of the ongoing wars will be. He has $25 billion reserved in his budget. It was not in his budget, by the way. The budget he sent up had nothing in it. But when Congress said that is not realistic, he supported Congress's move to put in a $25 billion reserve fund. But look what the Congressional Budget Office says the real cost is going to be: over $300 billion. It is not in the President's budget.

Of course, the President has left out the money he is borrowing from Social Security. Mr. President, $2.4 trillion is being borrowed from Social Security over the next 10 years, every penny of which has to be paid back. He has no plan to do so. In fact, he has a plan to add even more costs by having a privatization of Social Security, or at least a partial privatization that would cost trillions of dollars more. From where is the money coming? From where is the money coming? It is all being borrowed.

Is anybody paying attention to what this administration is doing to the fiscal policy of this country? Is anybody paying attention to what this means to our economic future? Is anybody paying attention to what it means to our future military strength? You cannot be strong militarily if you are weak financially. This administration is digging a deeper and deeper hole for this country on the financial front.

You remember, when the President unveiled his tax cuts, 3 years ago, he said he was going to have maximum paydown of the Federal debt. Do you remember that? He said he was going to pay off all of the Federal debt that was available to pay off. But look what has really happened. The debt is not being paid off. The debt is exploding. The debt that was $5.8 trillion in 2001 we now anticipate will approach $15 trillion by 2014, and, of course, all of this is happening at the worst possible time, right before the baby boomers retire.

Not only is the President borrowing every penny available to be borrowed from Social Security—and, by the way, he is doing the same thing with Medicare—he is also now borrowing from countries all over the world. It may surprise people to find out that, under this administration, the borrowing from Japan has risen to almost $700 billion. We borrowed $167 billion from China; $130 billion from the United Kingdom. We have even borrowed over $90 billion from the Caribbean banking centers. The Caribbean banking centers, we are in hock to them for over $90 billion. South Korea—who would have believed it, who would have believed we have borrowed over $60 billion from South Korea? That is the reality. That is the hole that this President is digging.

Just in the last 3 years, this is the increase in foreign holdings of our debt. When the President came in in January of 2001, we owed $1 trillion abroad. Now we are up over $1.8 trillion in indebtedness to foreign countries, an 80-percent increase in our foreign indebtedness in just 3 years.

If it was just what has happened so far I would not be so concerned, but it is the direction this President is taking us that has to be of foremost concern because the President's plan for the future is more of the same and a whole lot more—a whole lot more debt, a whole lot more in deficits. This fundamentally threatens the economic security of the country.

This chart I show you is not a chart made by me or my staff; this is from the Congressional Budget Office. It is their analysis, assuming an extension of the President's tax cuts, the need for alternative minimum tax reform, maintaining current spending policies. Look where we are headed. This is what CBO says will happen to the deficits and the debt of the country if, roughly, the President's budget policy is pursued.

In fact, this is just the deficit. I misspoke when I said debt. The debt chart would be much worse than this chart. This is just the deficit. This leaves out the money being borrowed from Social Security, this leaves out the money being borrowed from Medicare—trillions of dollars that are not in the President's calculations at all.

This is a course that makes no sense. This is what the CBO Director said, because some around this town say we will just grow out of this problem. This is what the Director of the Congressional Budget Office says. By the way, this man came from the Bush administration. He came directly from the President's Council of Economic Advisers. This is what he said:

> [T]his is a fiscal situation in which we cannot rely on economic growth to cause deficits to disappear.

He is telling the truth. This is what the Federal Reserve Chairman said, Chairman Greenspan, who opposes deficit-financed tax cuts. Everybody knows Chairman Greenspan is a big fan of tax cuts but not deficit-financed tax cuts. This is what he says:

> If you're going to lower taxes, you shouldn't be borrowing essentially the tax cut. And that over the long run is not a stable fiscal situation.

But that is exactly what this President is advocating, not just for this year, for every year for the next 10 years.

Mr. President, what is the outcome of this set of policies? I think the Chairman of the Federal Reserve is warning us of where this is all headed. Back in February, he urged a cut in Social Security. Future benefits must be curtailed. Now he has said, not only cut Social Security but cut Medicare, too.

I hope people are listening. I hope people are paying attention because that is exactly where the Bush fiscal plan is leading. It is leading to cuts—dramatic cuts—in Social Security and Medicare. That is where this is all headed. Why? In part, it is because the tax cuts the President has gotten passed overwhelmingly go to the wealthiest among us; 68.7 percent of the benefits went to the top 20 percent. What is most startling is over a third of the benefits—right at a third, 33.1 percent of the benefits—went to the top 1 percent, or the people earning over $337,000 a year. The people in the bottom 20 percent got virtually nothing. Those in the middle class got pretty modest relief. Those in the middle 20 percent got 10 percent of the benefits. The top 20 percent got 68 percent of the benefits. The top 1 percent, over 33 percent of the benefits.

Mr. President, when our colleagues say everything is going well in the economy, they are living in a different economy than the one I am watching. Look at the difference on this chart. This is what has happened in the last nine recessions. The dotted red line is what has happened to job growth as an average of the last nine recessions since World War II. This black line is what is happening this time. Do you notice the difference? Something dramatically different is occurring between recoveries in the last nine recessions and this one. At this stage of the recovery, we would expect to have, based on what has happened in the nine previous recoveries since World War II, 5.5 million more private sector jobs than we have this time.

Something is wrong. We have already seen 1.6 million jobs lost since January 2001. These are the job loss numbers. We are still 1.6 million jobs below where we were in 2001. The Chairman of the President's Council of Economic Advisers said we expect, sort of on average jobs in 2004 to be 2.6 million more than jobs in 2003. For that to happen, we would have to have monthly job growth of 1.725 million. But what we are getting is 141,000. That is a jobs gap of enormous proportion. The hard reality is that the President's record on jobs shows a loss of private sector jobs for the first time since back to the administration of Herbert Hoover.

The President hates that comparison. In some ways, it is unfair because Hoover presided over the Great Depression. That is certainly not the case now. We are not in a depression. We are not in a recession. But the fact is that every administration since Hoover has seen private sector job growth—every single administration, except this one.

The President's record on jobs, the President's record on the economy, the President's record on deficits and debt is the worst record of any President we have had, certainly in my memory, because he has taken a reckless fiscal course. We all know the story on manufacturing jobs: 2.1 million manufacturing jobs were lost since January of 2001. Now we get an economic report of the President in February of this year saying they ought to consider changing the definition of manufacturing jobs. The way out of this is not to create more manufacturing jobs, it is to change the definition of what is a manufacturing job. Here is what the President's economic report said:

> The definition of a manufactured product is not straightforward. When a fast food restaurant sells a hamburger, for example, is it providing a service or is it combining inputs to manufacture a product?

Now, there are all kinds of ways to deal with a bad jobs record, but to try to redefine manufacturing as McDonald's manufacturing hamburgers is not going to sell.

Mr. DODD. Will my colleague yield for a question?

Mr. CONRAD. Yes.

Mr. DODD. Mr. President, I don't want to interrupt the flow. The Senator is going through a lot of numbers and statistics, and we owe a debt of gratitude to Senator CONRAD for this analysis. I would like to come back to this deficit picture. I think these other numbers on jobs and so forth are in direct relation to our fiscal policies. There is a correlation because of our inability—and I am posing a question to the Senator—or unwillingness to make the kind of important investments that any period of economic growth requires, which are obviously being adversely affected by the amount of debt we are accumulating.

I don't know if my colleague from North Dakota saw the same article I did yesterday, which was the lead story in the World Business section of the New York Times in which the IMF chief sees potential hazard in U.S. fiscal policies. I quote:

> "We believe that such a large imbalance"

Talking about debt and deficit.

> "is a risk not only to the United States economy, but for the world economy" as well.

There are implications of allowing this fiscal situation to get so out of hand so quickly. As I recall it, in January 2001, we were looking at 10 years of surplus of $5.6 trillion. We are told now that the projections over the next 10 years of debt is somewhere around $3.5 trillion.

My question is, what are the implications for the younger generation? We have heard debate about death taxes. What about a birth tax here? What are the obligations of the children being born who are accumulating the debt that is occurring here? I wonder if he might comment on the IMF story and what it means for a child born in the 21st century with this kind of debt, what sort of price tag have they been saddled with as a result of the mismanagement of our fiscal economy?

Mr. CONRAD. It is interesting. This is the second warning the IMF has issued this year about the U.S. deficits and debt. This is the second time the International Monetary Fund has warned us and warned the world that growing U.S. deficits and debt threaten not only our own economic security but the world's economic security. Why? Because as the United States accumulates more and more debt, at some point those dollars that we are sending—that are being borrowed by us, money that is coming from China and Japan and, amazingly enough, South Korea—can you imagine that we have borrowed $60 billion from South Korea. At some point, that money has to be repaid. How is it repaid? How can it be repaid? Well, we have to reduce our standard of living in order to produce the funds to pay back the rest of the world.

Mr. DODD. Mr. President, I was stunned by those numbers. As I recall, I think you said that we have borrowed around $600 billion from Japan, about $150 billion from China, and billions more from other countries. To make the picture clear, that is like a bank holding a mortgage on your home. They hold the paper on America. They can call due those notes at any time, I presume, or within a reasonable time, and could insist upon us paying back those obligations. So, in other words, our economic well-being is in no small measure tied to the desires of nations that may not have the same goals as we do, either in economic or foreign policy. They hold the mortgage, in a sense, on our future; is that correct?

Mr. CONRAD. That is exactly correct. The foreign debt of the United States under this administration has gone from $1 trillion to 1.8 trillion, an 80-percent increase in our foreign indebtedness.

Mr. DODD. In 40 months.

Mr. CONRAD. In 42 months. I was teaching back home in North Dakota at one of the universities, and I asked the students there: Does it make a difference, should you care, does it matter to you that we owe Japan almost $700 billion? Does it matter we owe China over $160 billion? Does it matter that we have borrowed over $60 billion from South Korea? They said it matters.

I said: How do you think it matters?

They said: If there is a military confrontation of some kind, maybe that affects our ability to do things we might think is in the national interest because we owe them so much money.

On trade, can we really call their hand when they are treating us unfairly in trade relationships when we owe them hundreds of billions of dollars? And what are the consequences here if all of a sudden we do return to economic growth and we have borrowed all this money and we have to start paying it back, what is the effect on interest rates here?

That is what frightens the International Monetary Fund. That is what concerns people such as Chairman Greenspan. That as we see rising interest rates because of this enormous indebtedness, and we have to start paying more interest to keep getting people to loan us money, that all of a sudden, the cost of servicing this debt will go up dramatically, it makes it much worse, and, more importantly, for the economy—because we have millions of people who have variable interest rates on their homes, on their cars, on their student loans—these interest rates will start going up dramatically because countries are less willing to continue to loan us money, and all of a sudden the economic strength of America is weakened.

Mr. DODD. Mr. President, if I may further add, that is just the exact point I wanted to raise with my colleague from North Dakota. We talk about rising interest rates, and we are talking about some tax cuts. As I understand it, when we begin to talk about an interest rate hike, which we invariably are going to see, the actual cost of a college loan, a home mortgage, a car payment, or any other obligation which most middle-income families have to borrow to meet these obligations—we have watched higher education costs go up more than 30 percent; we have watched health care premiums go up 45 percent; we have watched the price of gasoline go up 20 percent; all under this President's watch. To make those payments, it will actually exceed whatever tax cut we may be providing to that middle-income family because of our inability or the unwillingness of this administration to actually be more responsible in managing the fiscal picture of this country, and average consumers are going to see interest rate hikes that are going to dwarf any tax cut they may get; isn't that correct?

Mr. CONRAD. None of us can predict with clarity what is going to happen with interest rates, although we know under this fiscal condition, interest rates are going to go up. Clearly, that is going to offset, if not completely eliminate, the advantage of some of the tax reductions we get.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CONRAD. I know we are out of time. I ask for an additional 30 seconds to close.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I am going to go right to the end of my charts. Real median household income has gone down under this President. That is a serious problem for this country, a serious problem for the middle class, and wages are falling behind inflation. This is something which should concern all of us because we see wage increases falling behind inflation. That is why people feel squeezed, and we have not seen anything yet if the fiscal policies of the country are not altered, if we do not begin to get back to fiscal balance to reduce the threat to the long-term economic security of our country.

I thank the Chair.

Mr. DODD. Mr. President, I ask unanimous consent for 1 minute to conclude my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I thank my colleagues. Mr. President, I thank the Senator from North Dakota for taking a little time to go over this issue. These are our choices. There are those who may think the path we are on is a reasonable and sound one, that these numbers really do not make any difference. We hear that all the time: Deficits don't matter. My colleague from North Dakota has laid out exactly why they do matter and why we are going to have to pay for these things and get our fiscal picture in shape, or we are going to pay an awful price.

When we think of the IMF warning countries about their economic policies or fiscal policies, we are normally talking about third and fourth world nations. Here is the head of the IMF now telling the greatest economy in the history of the world: You better get your act together; not only are you going to hurt yourself, but you are going to hurt the world economy.

In a few days, Americans have a choice to make, and the choice the Senator from North Dakota laid out is a clear one. Politics is about the future. What the Senator is talking about is the future. I am tired hearing about debates 40 years ago. Americans want to know what is going to happen to their kids and grandchildren, and the Senator from North Dakota laid out the scenario that if we do not make the right choices, it will cost us dearly.

I thank the Senator.

THE TAX BILL

Mr. REID. Mr. President, we are shortly going to have before us a tax bill that will increase the debt of this country by, in some estimates, more than $1 trillion. This year's deficit that the President acknowledges is $430 billion. Of course, as we have learned here today in the presentation of Senator CONRAD, the ranking member of the Budget Committee, that doesn't take into consideration the cost of the war, nor does it take into consideration the fact that he is borrowing money from the Social Security trust fund. So the debt, of course, is closer to $600 billion, this year.

Today we learn from any newspaper we pick up that one way the President is going to try to save a few bucks is by going after the poorest of the poor. He is doing this by changing housing subsidies. I quote: "The Bush administration is changing the fair market rent to section 8 tenants. The Government pays tenants about 7 percent of this amount. Here's a sampling in metropolitan areas."

This sampling will cause the hair on the back of your head to come up. What has happened is, to help the President pay for all the things to help the rich of this country, corporate America, he is going after the poorest of the poor. The poor in Boston, section 8 tenants, in a one-bedroom apartment will lose 5 percent; in a four-bedroom apartment, 27 percent. In Detroit, they will lose, in a one-bedroom apartment, 6 percent; a four-bedroom apartment, 21 percent. In New Haven, they will lose 4 percent on a one-bedroom, 21 percent on a four-bedroom; in Trenton, 18 percent on a four-bedroom; in Atlanta, 16 percent; in New York City, 14 percent; in Philadelphia, 13 percent. On and on with these slashes that affect the poorest of the poor.

I hope the people around this country are seeing what has happened to the fiber of our country. We used to talk about a safety net. There is no safety net anymore. It has been eradicated in the last 4 years. Section 8 tenants in the major cities of America are going to really suffer. It is too bad. It is too bad that the poor are getting poorer, the rich are getting richer, the middle class is becoming smaller and smaller. That is what this administration has done to America.

I yield the floor, and any time I have left in morning business, I yield back.

LOBBYING ABOUT MEDICARE

Ms. STABENOW. Mr. President, I felt compelled to come to the Senate floor today to respond to something I read today that was in the newspaper, the Hill, that relates to another effort to confuse people about what happened with the Medicare prescription drug bill, the Medicare cards that I hate to even call discount cards because they are not discounts. In fact, we are now seeing an effort to pay people to reach out and say something nice about the Medicare prescription drug bill and to get seniors to do it. Let me read to you some of this article.

> A Republican lobbying firm is offering healthcare consultants almost $4,000 each to find senior citizens who are willing to speak out in favor of the Medicare drug discount card and write letters to Congress thanking members for saving them money on pharmaceuticals.

Obviously, it is difficult to find people to do that, so now they are paying people to go out in the form of headhunters, if you will, to find people who are willing to say something nice about the new Medicare prescription drug bill.

> The DCI Group, a Washington, DC-based lobbying shop that advertises to potential clients that it can treat "corporate issues like campaigns," is offering healthcare consultants $3,750 plus expenses over six weeks [between now and the election] to generate positive news stories about the drug card and offer support to Congress for voting for the Medicare drug law . . .
>
> A recent e-mail sent from the DCI Group's Starlee Rhoades to healthcare consultants says that the campaign will run from September 15 to October 31 and that the client is RetireSafe, which has sponsored the hiring of healthcare consultants . . .

to go out and say good things about the Medicare prescription drug bill.

> The DCI Group represents the Pharmaceutical Research and Manufacturers of America—PhRMA.

That is not surprising.

> Tony Feather, who helped found the DCI Group, has close ties to President Bush's top political adviser, Karl Rove.

Also not a surprise.

> The DCI Group e-mail to healthcare consultants, obtained by The Hill, stipulates a number of "minimum deliverables" that come with the job of touting the drug card.

Or duties, if you will.

> The e-mail says that RetireSafe wants seniors, families of seniors and healthcare community leaders "to send letters to their congressmen and senators thanking them for supporting the Medicare benefit, or asking for that support in the future." [And by the way] "We have help available to write letters if the signer is not comfortable drafting the letter entirely on their own."

For $3,750 plus expenses, health care officials must be available as an expert source of information to the media and that community and personally stop by the offices of their Congressman and Senators and thank them.

This is also very important as part of the deliverability. They must bring at least one senior or health care community leader to stand up at a townhall meeting and thank the lawmaker. I look forward to that.

The DCI group also asked the health care consultant to speak out on their own in support of the drug card.

Finally, every Wednesday from now until the 31st they are expected to send a report to the DCI that answers many questions, including how many events they attended. Did you speak in favor of the card and benefit? How many health care leaders did you ask to stop by the office of their Congressman or Senators? And how many actually did.

Then it says you will be responsible for acting as a local spokesperson at community events and media to get health care professionals' opinions, which goes a long way in making the story seem credible to the general public.

Reached yesterday, the lady involved initially denied she was involved in this campaign. But when told that her e-mail had been distributed widely, she said, "I can't talk about it."

I feel compelled to talk about this and to take a moment and say that $3,750 will buy a lot of Medicare for seniors. In fact, I am tempted to actually encourage seniors in my State and around the country to offer to say something nice between now and the election because they can buy a lot of medicine with this. That would be a better way to put it if, in fact, we were giving it directly to seniors.

The truth is, this was a good bill. If the discount cards were really a discount, if the Medicare prescription drug bill was really good for seniors, you would not have to pay consultants $3,750 plus expenses for 6 weeks. And the truth is, it doesn't matter how much you pay. Seniors know. They are the ones who have to write the checks. They are the ones who have to go to the counter every day and every month to look at what the bill is and decide if they walk away with their medicine or leave it there at the counter. They are the ones who decide whether they take them every other day, cut them in half, share them with their spouse, maybe don't get the medicine, pick it up today or get their medicine another day.

This is real for people. No matter how many consultants are paid $3,750 plus expenses, people know. It is unfortunate that there are those who underestimate the intelligence of older people in our country, their families, or the disabled. They know.

I hear stories every day of people who have gone to the Web site for Medicare and tried to wade through all of the cards—up to 70-some different cards—to figure out how to get some kind of discount. Then they look at prices continuing to go up.

I had a lady the other day tell me she bought the card, paid $25, and a couple of weeks later the medicine she was taking no longer had the discount, and she didn't get her money back.

People know. That is the great thing about our country. It doesn't matter what you have or how much you spend. People know whether they are better off. People know what is really happening.

We need to get about the business of getting this Medicare prescription drug bill right. We need to go back and do it over again, and do it right. Pharmacists need to have the ability of doing business with pharmacists in Canada who can really cut prices in half. Then we don't have to pay consultants $3,750 plus expenses to go find the senior citizen who would say something nice about a Medicare bill. People would say it because it would be true and it would be real.

But in the meantime, I say to folks who are today trying to figure out who to pay for their medicine, you might want to try offering, during the next 6 weeks, to say something nice about the Medicare bill for $3,750 plus expenses. I know it would buy my mom a lot of medicine. It would buy a lot of folks a lot of medicine, and it would be a better way to spend it than have more lobbyists trying to tell folks something that is not true.

The PRESIDING OFFICER. All time has expired.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the remainder of the morning business time be reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF PORTER J. GOSS TO BE DIRECTOR OF CENTRAL INTELLIGENCE

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to executive session to begin consideration of Calendar No. 815, which the clerk will report.

The legislative clerk read the nomination of PORTER J. GOSS, of Florida, to be Director of Central Intelligence.

The PRESIDING OFFICER. Under the previous order, there are 6 hours of debate on the nomination equally divided between the chairman and vice chairman of the Select Committee on Intelligence.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I ask unanimous consent that any quorum calls that take place during the consideration of the Goss nomination be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. Mr. President, I rise today to urge my colleagues in the Senate to confirm Mr. PORTER J. GOSS, of Florida, to be the next Director of Intelligence.

On August 10, 2004, President Bush nominated PORTER GOSS to be the next Director of Central Intelligence, or the DCI. In doing so, the President stated that Mr. GOSS "is a leader with strong experience in intelligence and in the fight against terrorism. He knows the CIA inside and out. He is the right man to lead this important agency at this critical moment in our Nation's history."

The Goss nomination was received in the Senate on September 7. On September 14 and September 20, the Select Committee on Intelligence held extraordinary open hearings on this nomination that were televised and widely covered in the press.

At the September 14 hearing, Mr. GOSS was introduced to the committee by both of Florida's distinguished Senators, BOB GRAHAM, former chairman of the Select Committee on Intelligence, and BILL NELSON, who is well known to the Intelligence Committee as an interested and informed supporter of our efforts.

That both Florida Senators reached across the aisle to support this nomination is a testament to the wide bipartisan support that it does enjoy.

After 2 days of thorough and wide-ranging public hearings, the Goss nomination was placed before the Intelligence Committee membership for a vote yesterday morning.

In yet another impressive display of bipartisanship, the committee approved the Goss nomination and ordered it reported in a vote of 12 to 4. At this time, I would like to congratulate the Intelligence Committee members of both parties for their sober, penetrating, and thorough consideration of this nomination. The committee's handling of this nomination is very much in keeping with the bipartisan spirit that has animated its work during a very difficult year of challenges in the global war on terrorism in Iraq and in other areas around the world.

This bipartisan spirit did produce important steps forward, such as the committee's report on Iraq WMD, in understanding intelligence problems and gaps and also making recommendations in that regard.

As such, the committee's work will certainly help Mr. GOSS as he strives to make the intelligence community better and to produce the best possible intelligence product. I want to say I also appreciate Mr. GOSS's efforts during his 2 days of public hearings to respond to members' concerns and questions. He took these hearings very seriously and with attention to detail demanded by consideration for a position that has in the past been part of the Cabinet.

In my opinion, during his confirmation hearings Mr. GOSS showed the qualities we want to see in a good DCI. They are coolness under pressure, a willingness to look at alternative views and, very importantly, a willingness to "take a few licks" for past judgments.

Most important of all, he demonstrated his ability to put the lawmaker's so-called partisan hat aside and take up the strictly nonpartisan duties of this critical executive branch office.

As I noted at Mr. GOSS's first public hearing on September 14, the role of the Director of Central Intelligence is of paramount importance to the security of this Nation. It is also one of the most challenging jobs in the executive branch today.

Obviously, this Nation is currently engaged in a war not only in Iraq, not only in Afghanistan, but elsewhere around the globe. In this war, for the most part there are no trenches. There is no barbed wire. There is no well-defined no man's land. On the contrary, in this war of shadows and darkness, intelligence defines the front line and indicates its weak points and gaps.

Recently, a distinguished former National Security Adviser remarked to Senators that during the last 3 years our world has changed dramatically. In the old world, the threats were posed by nation states and organized military forces. In our new world, the greatest threats may be domestic. These threats may come from nation states and their agents and terrorist groups such as al-Qaida. Organized military conflict is only one of many threats.

In our new world, we are not fighting against nation states but against a network of disparate terrorist groups that operate not only in the shadows but at times right in our own midst. Whether

Afghanistan or Iraq or here at home, defeating this enemy depends primarily upon the ability of our intelligence services to locate, to penetrate and, yes, to destroy the terrorist cells. We are involved in a world war which requires timely and actionable intelligence to ensure victory and the safety of the American people.

The Director of Central Intelligence is personally responsible for producing this intelligence. As we fight Islamic terror, other global threats continue to menace our Nation, and among them are these: The development of nuclear programs by adversary regimes such as those in Iran and also North Korea; the steady transformation of the People's Republic of China into a power capable of challenging our interests broadly and exercising influence over the region; and the continuing worldwide expansion of WMD technology.

The Director of Central Intelligence is also responsible for producing intelligence to keep the President and policymakers informed about these threats.

And if that were not daunting enough, Mr. GOSS has been nominated for a position which in all probability may not exist for much longer. As Senators know, the President and many in the Congress now support the creation of a new national intelligence director. There has been a great deal of discussion among my colleagues about reform. Above all, we must ensure that a national intelligence director is something more than a weak and ineffective figurehead.

Most of the debate outside the Intelligence Committee has centered on how to grant increased authority to the new national intelligence director while leaving the structural status quo undisturbed.

Many on the Intelligence Committee believe this is simply unworkable. In other words, significant structural change is vital to real reform. I believe strongly that we must create a new structure. This new structure must accommodate the diverse activities of our intelligence agency by giving direct responsibility and control of primary intelligence disciplines and the corresponding agencies to a truly empowered national intelligence director and his assistants. And true empowerment includes both budget authority and line authority to direct and control the activities of the intelligence activities. One without the other may leave us with an intelligence head who can neither succeed nor be held accountable, and that would be a most unfortunate outcome.

We don't know how or when reform will finally be enacted. Until then, however, we need a strong Director of Central Intelligence with the necessary skills to manage a community which needs reform. PORTER GOSS understands these issues. As chairman of the House Intelligence Committee he helped create momentum for reform.

PORTER GOSS will be a good man to have in the intelligence community driver's seat as Congress, in cooperation with the executive branch, goes through the consideration of major reform. His unique background will serve him well as he meets these and other challenges while directing our intelligence community.

For over 40 years, PORTER GOSS has been serving his Nation, his State, and his community. As an Army intelligence officer, a clandestine CIA case officer, a newspaper man, a county commissioner, a U.S. Representative, and chairman of the House Intelligence Committee, PORTER GOSS has done his duty with skill, with honor, and with integrity. I believe, and Members on both sides agree, that his experience makes him uniquely suited to serve as the Director of Central Intelligence.

I have known Mr. GOSS personally for 16 years. I served with him in the other body, the House of Representatives. I have worked with him on a weekly basis since I joined the Intelligence Committee. I have formed a strong opinion about his fitness to lead the intelligence community.

One of PORTER GOSS's most important characteristics is that he does not ride in a partisan posse. In that sense and in many others, the President has selected an outstanding public servant to be his principal adviser on intelligence.

In concluding my opening statement on the Goss nomination, I would like to underscore an important point. If, as I earnestly hope, the Senate approves this nomination today, this body will not simply have performed a routine pro forma duty. On the contrary, PORTER GOSS's confirmation as the DCI represents perhaps the most important changing of the guard for our intelligence community since 1947. This confirmation represents a fresh start for our Nation's intelligence community. He will be the first Director of Central Intelligence in a new and hopefully better intelligence community. It is not the same entity that George Tenet inherited when he was confirmed by this body 7 years ago.

It is not the same entity that existed on September 10, 2001. The intelligence community has undergone vitally important changes since the terrorist attacks of 2001. These changes are the result of many factors: statutory requirements, Executive orders, and other major changes in policy. That snapshot that we took of the intelligence community back on September 10, 2001, and the snapshot today is much better in terms of improvement. A key factor is the vigilance and dedication of the intelligence community rank and file, to include those men and women who, today, as I speak, are putting their lives at risk in remote and dangerous places to protect our Nation.

Still other changes are on the immediate horizon as Congress considers major intelligence reform. So let us understand clearly what we do here today. PORTER GOSS, as the new DCI, will lead a new intelligence community into a new chapter. Senate confirmation of PORTER GOSS does not mean simply painting a new name on the mailbox at Langley. It represents the opening of a new era for the intelligence community. The errors and omissions of Iraq are well known. They must be corrected.

Steps have been taken and will be taken to ensure that. The errors and the omissions of 9/11 are very clearly and thoroughly described in both the joint inquiry that was conducted by the Senate Intelligence Committee, the House Intelligence Committee, and the 9/11 Commission Report.

These errors and omissions must and will be corrected. PORTER GOSS's task will be to build, inspire, and open a new chapter in our intelligence activities. We must never forget the errors of the past or their human cost. Likewise, we should not dwell on them or allow them to paralyze us. We must grapple with them and overcome them. That is what is happening now, with structural intelligence community reform. PORTER GOSS's task will be to open the new chapter and lead the intelligence community into that fresh start.

Today, perhaps our highest legislative priority is to repair what is broken in the intelligence community. We must not let this laudable desire immobilize us.

John McLaughlin, the Acting Director, has done a professional and commendable job as the Acting DCI. He, no less than the rank and file of the intelligence community, needs long-term, permanent leadership, and we need it now.

One of the concerns voiced by the 9/11 Commission was that it takes too long to put key intelligence community officials into place. In the case of this nomination, I believe the Senate definitely got the message. The watch word for this nomination since the beginning has been goodwill and bipartisanship. As I stated at the beginning, Senators GRAHAM and NELSON of Florida introduced and strongly endorsed this nominee at his first confirmation hearing. We had an impressive bipartisan vote on this nomination in the Senate Intelligence Committee. The ranking member of the House Intelligence Committee, the Honorable Ms. JANE HARMAN, has pointed with pride to her committee's involvement in intelligence reform under Mr. GOSS's chairmanship. Expressions of support for this nomination have come from both sides of the aisle and both sides of Capitol Hill.

This nominee is ready to go to work and he is needed. I urge the Senate to confirm him as soon as possible. I, personally, and I think I speak for the members of the Intelligence Committee, look forward to working with PORTER GOSS, the next and possibly last DCI.

I understand the vice chair is waiting to speak, but I ask his indulgence to permit Senator CHAMBLISS to speak first.

Mr. ROCKEFELLER. Yes.

Mr. ROBERTS. How much time does the Senator request?

Mr. CHAMBLISS. I request 7 minutes.

Mr. ROBERTS. I yield him such time as he would consume.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I appreciate the Senator from West Virginia allowing me to go before him. The leadership that the chairman and the vice chairman of the Senate Intelligence Committee have provided has been unparalleled in this difficult time in the history of our country. Both Senators have conducted themselves in a very professional way and have brought continued honor and dignity to the Senate Intelligence Committee in a bipartisan way, and I want to publicly commend both of them for their leadership.

I rise today in support of the nomination of PORTER GOSS to be the Director of Central Intelligence. There is no more important time in the history of our country, from an intelligence perspective, than we are in today. PORTER GOSS has been nominated by the President to be the chief intelligence officer for the United States. PORTER GOSS brings to the office an unparalleled wealth of experience and knowledge relative to intelligence matters. PORTER GOSS has been a friend of mine for 10 years, and I bring to this argument and this debate a little bit different perspective than any other Member of this body because I served in the House of Representatives for 8 years with PORTER GOSS, the last 2 as a member of the House Intelligence Committee under the chairmanship of PORTER GOSS.

During the last 2 years as a Member of the Senate and as a member of the Senate Select Committee on Intelligence, I have continued a relationship with PORTER GOSS in the intelligence community. Both before September 11 and subsequent to September 11, I have seen PORTER GOSS in the trenches doing the kind of work that lawmakers have to do relative to their day-to-day jobs. Nobody has provided stronger leadership on the issue of intelligence than PORTER GOSS has, both before September 11 as well as after September 11, and more significantly after.

As I think about the arguments that have been brought forth in the public hearings over the last couple of weeks regarding Mr. GOSS, the primary thrust of the negative arguments have been that he is too partisan and too political to carry out the job of the DCI.

Well, I will say this about this man for whom I have so much respect: I have seen him in an atmosphere of committee work. I have seen him in an atmosphere of social work. I have seen him in an atmosphere of operating on the floor of the House of Representatives. Certainly, there is nobody who is a stronger advocate for his position on any issue than PORTER GOSS. He is very direct. He is very plain spoken, and it is pretty obvious which side of the issue he is on. But he always does his arguing in a very respectful way, and in a way which advocates his position but does not get into personalities. Unfortunately, that is where the partisanship occurs in both this body and the body across the U.S. Capitol.

PORTER GOSS has conducted himself in a professional and nonpartisan way as chairman of the House Select Committee on Intelligence, as well as a member of the Rules Committee and otherwise in the U.S. House. He is a strong advocate for his positions but he is not a partisan person.

I will discuss very quickly why I feel so strongly about his background and what it brings to the table relative to his confirmation. PORTER GOSS started out early in his career as a military intelligence officer in the U.S. Army. He then moved into the realm of the Central Intelligence Agency and was a clandestine officer for the CIA in two different overseas posts. He knows the people within the CIA. A number of individuals who he served with during his CIA years are still employees at the CIA. He knows not only the organization, but he knows the personalities, and he knows the kinds of people who are led, and the kinds of people who need to lead at the Central Intelligence Agency.

PORTER GOSS followed his time as an Intelligence Officer in the field with 8 years as chairman of the House Select Committee on Intelligence. He has covered the spectrum from an intelligence perspective. He has been on the ground as an Army intelligence officer, and the Department of Defense is the largest customer of the CIA. He has been at the ground level of the CIA, where the real work is done and where the real intelligence is gathered, by being a clandestine officer within the CIA. Then in his years as chairman of the House Select Committee on Intelligence he has been in a position to provide oversight for the work that not only he did as an active member of the intelligence community but following, particularly, post-September 11 he has provided the oversight and been critical where he needed to be critical, and yet complimentary where he needed to compliment the intelligence community relative to the work they were doing.

I don't know of anyone else who has the same diversified background as a soldier, a clandestine case officer, and a legislator as does PORTER. It is pretty obvious that his background and vast experience are two of the main reasons why the President selected Mr. GOSS to be the next Director of Central Intelligence.

PORTER GOSS is a personal friend and he is somebody for whom I have great respect. I know what kind of family man he is, I know the strength of his character, and I know his dedication to duty, which is why he accepted the nomination to become our next DCI. I also know the wealth of intelligence background he will bring to the table as our next DCI.

The main point I want to conclude with is the fact that we are in a very complex world. We are in a world where intelligence matters. We are in a world where we need to have the cooperation of our allies around the world to collect intelligence against common enemies and common threats.

I have been with PORTER GOSS when he has had meetings with numerous—too many to detail—heads of the intelligence communities of our allies, both abroad as well as here in Washington. I have seen the rapport and the relationship he enjoys with these individuals. I have been to other countries around the world to meet with the heads of their intelligence agencies, and the first question they will ask is not how am I doing but, "How is my friend PORTER GOSS doing?" He has an unparalleled relationship with the intelligence community around the world—not because he is just a good guy but because they respect him for the work he has done and they respect him for the knowledge and the experience he brings to the table relative to the intelligence community.

I strongly support the nomination of PORTER GOSS to be the next Director of Central Intelligence. I ask my colleagues to review the record on Mr. GOSS, listen to the debates, but at the end of the day I hope we will send a resounding message to the President, and that is: You have picked the right man. Let's confirm PORTER GOSS as Director of Central Intelligence and move forward.

I yield the floor.

Mr. ROBERTS. Mr. President, I yield such time as he may use to the distinguished Senator from Missouri, a member of the Intelligence Committee.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my distinguished chairman.

It is a pleasure today to rise in support of PORTER GOSS to be Director of the Central Intelligence Agency. The Senate Intelligence Committee has done its due diligence. It has done its duty with regard to examining the nominee's fitness and qualification for the post of Director of the Central Intelligence Agency. His nomination should be approved without delay.

Much of the work that goes on in the Intelligence Committee is conducted in confidence because of the need to maintain confidentiality. But I will say that the thorough hearings we had on Congressman GOSS were similar to the thorough hearings we have had on all of the subjects brought under the jurisdiction and supervision of our distinguished chairman from Kansas, along with the ranking Democratic member from West Virginia.

There is no question that there is a lot of important work awaiting the new Director of Central Intelligence. Somebody has to be in charge. We are at war with those who seek to destroy us and all freedom-loving people's way of life.

Whether we have a new national Director of Intelligence, whether we have a CIA Director with expanded powers or limited powers, the fact remains that we need to move forward with the nomination of PORTER GOSS.

We have a long way to go to hash out what kinds of changes we are going to make to the organization of the intelligence committee. The more I hear, the more I watch other committees working, the more divergence of opinions I see. Whatever structure we have, we need somebody to control intelligence and make sure we put it on the right path.

A cornerstone of our fight in the war against terrorists, as well as other challenges that confront us, is the paramount need for timely and actionable intelligence to ensure good policy decisions, to ensure adequate preparation for actions that we may take, and to ensure victory for our forces that are deployed in the real-life battles against those who threaten us or threaten national security. Our national security depends on the ability of intelligence services to locate, penetrate, identify targets, and/or destroy terrorist cells.

In addition, we need a Director of Central Intelligence who will keep policymakers informed about other global threats facing our Nation. And, yes, while we are looking at the war on terrorism, we need to be concerned about and following developments about the possible nuclear program advances or missile advances in Iran and North Korea, the steady growth of troubling developments in other major world powers, and the continuing proliferation of weapons of mass destruction technology.

The intelligence community needs a leader right now, the support of the President, and the support of this body who has the experience coupled with a commitment to reform. I am convinced that PORTER GOSS possesses these qualities. He was a former intelligence officer, a former CIA clandestine officer, and as chairman of the House Intelligence Committee, where he probably also went in harm's way to handle that post, PORTER GOSS clearly knows the intelligence business and has the experience.

As cochairman of the joint House-Senate inquiry into the 9/11 intelligence failures, he is intimately aware of the problems currently existing within the intelligence community's ability to counter terrorists. He is someone who will work with the Congress and the administration to implement needed reforms.

Mr. GOSS has also earned the respect of his colleagues and fellow policymakers on both sides of the aisle. One of the most, if not the most important principles that applies to our intelligence community and our oversight should be our nonpartisanship.

PORTER GOSS has been praised by his Democratic colleagues year after year for being nonpartisan on national security.

Senator GRAHAM of Florida said of PORTER GOSS, in our hearing:

> He is uniquely qualified to be here today as the President's nominee to serve as the Director of Central Intelligence. . . . He is a man of great character, unusual intelligence, a tremendous work ethic and an outstanding personal and professional standard of integrity.

Senator GRAHAM also went on to say:

> In addition to those personal qualities, when it comes to the intelligence community, Congressman GOSS has, in my judgment, a balanced perspective, a perspective gained both as an insider and then as an outsider. For a decade, early in his career, Congressman GOSS served our Nation in both the Army and the CIA. He knows firsthand the value and the risk of clandestine operations.

I could cite many other statements by leaders in both bodies. Senator BILL NELSON of Florida, last month, said of Representative GOSS:

> He's a class act. Goss combines all of those characteristics, which are kind of somebody I like.

My colleague and friend from Missouri, Representative IKE SKELTON, the minority leader on the Armed Services Committee, said, in 1997, talking about the work on the intelligence authorization bill:

> I salute both the chairman, the gentleman from Florida [Mr. GOSS], and the ranking Democrat, the gentleman from Washington [Mr. DICKS] for their dedicated and bipartisan work.

I believe he can work on a bipartisan basis. In addition, PORTER GOSS understands the endemic deficiencies within the intelligence community. There can only be true, meaningful changes if there is a solid understanding of why change is necessary. PORTER GOSS understands what is broken and is determined to work with us to fix what needs to be fixed and not to mess with what does not need to be fixed.

There are some glaring problems we identified in our report on the prewar intelligence on Iraq. One of them was the poor state of human intelligence. That is spies on the ground, HUMINT as it is called in intel-speak. We did not have any. What a disaster. We also have problems in collection in general, analysis, and the consistent problems with information sharing. These are problems that PORTER GOSS has, during his tenure as chairman of the House Intelligence Committee, devoted himself to improving.

As Chairman ROBERTS mentioned in yesterday's open session, PORTER GOSS held over 62 hearings on intelligence community reform issues this year.

Under Chairman GOSS's leadership, the House Intelligence Committee advocated changes and added resources annually to address the intelligence community's most pressing problems, especially those related to HUMINT and analysis.

His commitment to reform forced the CIA to repeal its restrictive internal guidelines that had a "chilling effect" on HUMINT operations. He attempted to refocus CIA analytic resources toward longer term, predictive, strategic intelligence, and directed that more attention be paid to language training, breaking down stovepipes, and enhancing information sharing.

I can tell you, the stovepipes still exist. We still have bureaucracies that only want to share information up and down within their little fiefdoms, and we need somebody in charge who is willing to break down those barriers and make sure sensitive information is shared on a need-to-know basis.

PORTER GOSS was a member of the Aspin-Brown commission which was formed to assess the future direction, priorities, and structure of the intelligence community in the post-Cold-War world. The commission made a number of recommendations, including looking how to streamline the DCI's responsibilities and give him more flexibility in managing the intelligence community.

Those who question PORTER GOSS's commitment to change must remember that his leadership and dedication to intelligence community reform is apparent in his work on the "Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001." This report contained 19 recommendations. It laid the foundation for the 9/11 Commission recommendations—the changes that have been the subject of much discussion in the press over the last several months.

Those who question Representative GOSS's commitment to reform as well as his commitment to operate independent of the current administration should recall that Mr. GOSS took the initiative to introduce his intelligence reform legislation on June 16 of this year, H.R. 4584, which called for significant changes in the intelligence community structure in addition to providing a DCI or DNI the much needed personnel and budgetary authority required to be a truly effective leader. It should be noted that PORTER GOSS's legislation did not fall in lockstep with the recent Executive order issued by the President, thus proving that Mr. GOSS will take the necessary bold steps to do what is right for the community.

I quoted Senator NELSON of Florida earlier, but he also said of PORTER GOSS:

> . . . Congressman GOSS is someone whose public life has been illustrative of being nonpartisan, fair and independent.

When PORTER GOSS was pressed to defend past partisan statements before our committee, he acknowledged there are times on Capitol Hill when partisanship will rear its head. That is, unfortunately, part of the job. However, he told our committee the following:

> I well understand that I am leaving one arena and, if confirmed, heading to another arena that operates completely differently where partisan politics are not part of the job.

A considerable record has been created, embracing both substantial comment on PORTER GOSS on his nomination and several commitments by him on intelligence matters involving counterterrorism and other important activities. I stress again the importance of approving Mr. GOSS's nomination at this time of paramount importance in the intelligence community. I hope my colleagues will join with the chairman, with me, and other members of the committee in extending him our support.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Presiding Officer.

Mr. President, the nomination of Representative PORTER GOSS to be the next Director of the Central Intelligence Agency comes, obviously, at an absolutely critical time in our Nation's history.

The documented intelligence failures prior to the terrorist attacks of September 11 and leading up to the war in Iraq have left the intelligence community's credibility bruised and their image tarnished, which none of us wants.

The community's objectivity, their independence, and their competency have been called into question. That is fair in some cases. As a result, a bipartisan call for reform has steadily grown to the point where the Congress is on the threshold of passing landmark legislation, I believe and I hope, to create a stronger, better managed intelligence community before we adjourn this year. I do not think we should stretch it out and wait. I think we should do it, and do it now.

The next Director of Central Intelligence will be the most important person for that position ever confirmed by the Senate. Our decision on who should lead the Central Intelligence Agency, and the other 14 intelligence agencies, according to the law, should not be a rubberstamp job.

The importance of this position requires a thorough examination of the nominee's record and his ability to carry out the weighty responsibilities of the job.

As I have indicated, never before in the 57-year history of the intelligence community has there been such a need for a Director of Central Intelligence with unimpeachable character, proven leadership and management experience, and strong national security credentials.

The new Director will face, in my judgment, no fewer than four major challenges: waging an unrelenting offensive clandestine campaign against al-Qaida and other terrorist organizations around the world; supporting ongoing military operations in Afghanistan and Iraq; managing an intelligence community in a state of transition; and, restoring the intelligence community's lost credibility.

The next Director of Central Intelligence must be extraordinarily qualified in order to successfully carry out these and other national security tasks.

I simply say all of this to say the stakes are enormous. Perhaps most importantly, the next Director of Central Intelligence must be nonpartisan, independent, and objective. This standard is not simply this Senator's; it is what the law, the National Security Act law, requires specifically in language.

I know of no other position of importance in Government requiring that independence, objectivity, and nonpartisanship as a requirement for confirmation. The very first responsibility of the Director of Central Intelligence under the National Security Act—and these are the words—says that his advice to the President, the executive branch, the military, and the Congress must be timely, must be objective, and must be independent of political considerations, and based upon all sources available to the intelligence community. That is the law.

I have reviewed Representative GOSS's record closely. I have gone over his writings and his speeches of the past 10 years. We have just completed two open hearings, which I thought were good hearings, in the Intelligence Committee, where Representative GOSS was asked questions about his past record, his commitment to reform the intelligence community, and his ability to be forthright, objective, and independent.

Representative GOSS is, without question, qualified in many respects. He is a fine person. I have been able to work with him well over the past few years—that is not one of the requirements, but it happens to be true—both in the joint congressional inquiry into 9/11, and also in House-Senate conferences. His past employment with the Central Intelligence Agency, doing extremely dangerous work, and his 7-year tenure as chairman of the House Intelligence Committee, have given him both an insider's and outsider's perspective of the intelligence community. There is no doubt that he is an extremely knowledgeable person with respect to the inner workings of the Central Intelligence Agency and the other agencies he is nominated to manage.

But Representative GOSS's record is troubling in other regards. I wish to speak about them. He has made a number of statements relative to intelligence matters—many in the past year—that are, in fact, highly partisan and displayed a willingness on his part to use intelligence issues as a political broadsword against members of the Democratic Party. Again, ordinarily, that is kind of routine around here, but with respect to the Director of Central Intelligence, that should not be and cannot be according to the law. When taken collectively, this list of partisan statements and actions on intelligence matters raise a serious doubt in my mind as to whether PORTER GOSS can be the type of nonpartisan, independent, and objective national intelligence adviser our country needs.

What is the public record of the person the President has nominated to be the next director of the CIA? Has he been independent, objective, and nonpartisan on intelligence issues, again, as required by law?

In March of this year, Representative GOSS coauthored an intelligence op-ed piece entitled "Need Intelligence? Don't ask John Kerry." In this political attack piece, he made a number of highly charged political allegations relating to intelligence spending. These are quotes from the Congressman:

> . . . when Democrats controlled the Congress, the cuts were deep, far-reaching, and devastating to the ability of the CIA to do its job to keep America safe.
>
> . . . during the Clinton years, the Intelligence Community was given a clear message that if they failed in politically risky operations . . . there would be no backing from the Clinton White House or the Democratic-controlled Congress.

And then Representative GOSS targeted Senator KERRY, who he claims "was leading the way to make deep and devastating cuts in the intelligence community's budget" and "was leading efforts in Congress to dismantle the Nation's intelligence capabilities." Severe criticism. A few months later, in a June 23, 2004 statement on the floor of the House, Representative GOSS claimed that "the Democratic Party did not support the Intelligence Community." And in the same June floor debate, he offered the following justification for his claim:

> My comment is that when there was opposition to intelligence and, year after year, efforts to cut the intelligence budget, they did

come from the Democratic side through the period of the 1990s.

I have gone back over the record and determined that Representative GOSS's election year claims mischaracterize the intelligence record of both the Democratic Party and Senator KERRY, in my judgment. He also failed to point out his own record as a member, and eventual chairman, of the House Intelligence Committee during this time. Had he stated the intelligence record factually, it would have taken the sting out of his political attacks and created an entirely different picture than the one he painted.

It is true that during the first two years of the Clinton administration, the intelligence budgets declined. That is true. This was a period of deep cuts in almost all areas of Government, as we tried to grapple with the legacy of the previous 12 years of uncontrolled deficits. Over the next 6 years, however, the Clinton administration's budget increased every single year for intelligence. During that 6-year period, fiscal years 1996 to 2001, Republicans controlled both Houses of Congress, and the Congress cut the President's request in 1996, 1997, 1998, and 2001. In 1999, the Republican-controlled Congress initially cut the intelligence budget, but then passed a large one-time supplemental appropriation.

In fiscal year 2001, the Republican-controlled Congress returned to its pattern of cutting intelligence funding. After the 9/11 attacks, Congress once again passed emergency supplemental funding. By that point, the Democrats had a majority of the Senate—briefly.

Representative GOSS voted for every Intelligence authorization bill and every Defense appropriation bill during this period. So he must have thought that the so-called underfunding President Clinton was requesting was acceptable.

Now, I want to look at exactly what Senator KERRY proposed in 1994, and I want to contrast that with a bill, H.R. 1923, introduced by Representative Solomon that had as its first cosponsor Congressman GOSS.

In 1994, Senator KERRY introduced a bill to cut the deficit by $45 billion over 5 years—at a time when Congress was searching for ways to undo the 12 years of uncontrolled deficits under the Reagan and Bush administrations. Senator KERRY's proposal would have rescinded $1 billion from the 1994 Intelligence appropriations and then increased intelligence spending over the next 4 years by the inflation rate. Representative GOSS's proposal in 1995 would have cut not less than 4 percent of the personnel from all intelligence agencies in each of the following 5 years. After the initial cut in 1994, Senator KERRY's proposal would have provided significantly more funding for intelligence than was appropriated by the Congress controlled by the Republicans, beginning with the fiscal year 1996 budget.

Representative GOSS's proposal, on the other hand, would have resulted in dramatically lower intelligence funding and, in fact JOHN KERRY's proposal would have resulted in $8.8 billion more for intelligence than Congressman GOSS's lead-cosponsored bill.

And worse, all of the cuts Representative GOSS proposed in 1995 would have been achieved by firing 20 percent, by law, of America's intelligence officers at the very time the terrorist threat from al-Qaida was growing. In fact, had the Congress followed the Goss plan, the intelligence community would have had tens of thousands fewer intelligence officers in the year 2000: fewer intelligence collectors in the CIA, NSA, and elsewhere; fewer intelligence analysts across the community; fewer intelligence officers in the military service; and fewer counterterrorism officers in the FBI.

The Goss plan would have made, using his own words, in fact, "deep and devastating cuts in the intelligence community budget." But this year, an election year, Representative GOSS chose to level that charge against the Democratic Party as a whole and Senator JOHN KERRY by name. Why? When asked at the nomination hearing to reconcile these facts with his charge that it was the Democrats who did not support intelligence, Representative GOSS simply said, "The record is the record," about four or five times. He also refused to admit that his accusations might have been in error.

When asked whether anyone from the White House or the President's reelection campaign asked him to write the March editorial and to give the June floor statement against JOHN KERRY, he said he couldn't recall.

Representative GOSS's unwillingness to be forthright in his answers on this matter were troubling to me and a number of my colleagues on the committee. His dismissive answers to tough, but as I said repeatedly, I thought fair questions lacked candor.

I was left with doubt that as Director of Central Intelligence, he would have a forceful and independent voice on intelligence assessments that do not necessarily support a political agenda, if there is one, of the current President.

There are other instances where Representative GOSS, as chairman of the House Intelligence Committee, played the partisan blame game. It is against the law for the Director of the CIA to be involved in such. That was then. He is being confirmed now. Does this man's life change completely after 15 years from partisanship to total nonpartisanship?

In 1999, when it was disclosed that the Chinese espionage efforts against our Department of Energy weapons laboratories may have resulted in loss of sensitive nuclear weapons design information, a counter-investigation was begun, eventually resulting in charges being brought against Los Alamos scientist Wen Ho Lee.

Representative GOSS repeatedly laid the blame for this espionage activity on the Clinton administration's failure to protect national security. In the final days of the 2000 Presidential election campaign, Representative GOSS took to the House floor and stated:

> We have in the Clinton-Gore administration seen a cultural disdain for security.

Again, Representative GOSS's statements on important intelligence issues mischaracterized the record in the attempt to score political points.

The Cox Commission, which PORTER GOSS served on as vice chairman, found that the security problems at the Department of Energy weapons laboratories predated the Clinton administration and that the Chinese espionage collection program against the weapons lab began in the 1970s.

The Cox Commission report also noted it was the Clinton administration that issued Presidential Decision Directive 61 requiring the Department of Energy to improve counterintelligence programs.

Evidently, mentioning these points was not helpful to Representative GOSS when he was making sweeping statements about "a cultural disdain for security," which is highly offensive to me as a Democrat who is vice chairman of the Intelligence Committee, and I think all Republicans and all Democrats care desperately, seriously about what happens in intelligence.

In the rush to assign partisan blame, Representative GOSS ignored the record. In a number of other statements, Representative GOSS erroneously singled out the Clinton administration and congressional Democrats for cutting human intelligence programs in the 1990s that, in turn, he said, limited the intelligence community's ability to carry out its mission.

Yet it was Representative GOSS himself who said in 1998 that human intelligence collection programs needed to be cut by the time the 1990s began. His comment specifically was:

> I am convinced that the U.S. clandestine service, the CIA Directorate of Operations was in the mid to late 1980s too large.

When the identity of Valerie Plame, an intelligence officer with the CIA whose clandestine identity is protected by law from unauthorized disclosure, was leaked and published by columnist Robert Novak, Representative GOSS was asked whether the disclosure warranted investigation. His response was stunning. He said:

> Someone sends me a blue dress and some DNA, I'll have an investigation.

The whole basis for the law protecting the identity of covered intelligence community employees from being disclosed is to protect the lives of American intelligence officials that are endangered if their true identity is known to our adversaries.

As a former CIA case officer and chairman of the House Intelligence Committee, Representative GOSS knows this. For him to make such a statement, with its clearly implied shot at President Clinton, was wrong, inappropriate, and insensitive to the gravity of the matter. I hope Representative GOSS, if confirmed by the Senate to lead the CIA, will have a more serious attitude toward the outing of CIA employees undercover.

When Richard Clarke, the coordinator for counterterrorism for the National Security Council from 1993 to October 2001, provided testimony to the 9/11 Commission that was clearly damaging to Bush administration claims, Representative GOSS, and others, questioned his integrity and claimed he may have lied before the joint congressional inquiry in closed session, vowing to declassify his testimony to prove it.

These claims were never substantiated, and when the National Security Council forwarded to Chairman GOSS, as requested, a declassified version of Richard Clarke's testimony on June 25, nearly 3 months ago, he took no action to publicly release it so that allegations of perjury and the like could be laid to rest.

While the Senate voted to support the creation of the independent National 9/11 Commission, which eventually became the Commission led by Governor Tom Kean and Representative Lee Hamilton, Representative GOSS opposed the measure on the House floor.

When the Senate and House Intelligence Committees met in the fall of 2002 to conference this issue, he continued to oppose the creation of an independent 9/11 Commission stating that the issue would be decided "above my pay grade."

When the Senate Intelligence Committee undertook an investigation into the use of intelligence—not the collection, analysis, and production of intelligence, but when you hand it to policymakers—the use of intelligence by the administration officials prior to the war as part of our broader Iraq intelligence inquiry, Representative GOSS made disparaging comments about two Democratic Senators in particular who, like many others in this body, are profoundly concerned about the veracity of public statements made about the U.S. intelligence agency, calling them "two old attack dogs gumming their way through artificial outrage about something they should know a lot more about and be more responsible about."

What makes this particular criticism curious is Representative GOSS's lack of action on the issue of pre-war intelligence. Despite assurances over a year ago that the House Intelligence Committee was evaluating the intelligence community's performance on Iraq since the end of the gulf war, Chairman GOSS failed to issue the promised report on the failures and mistakes leading up to the war.

Chairman ROBERTS and I, in a thoroughly bipartisan fashion, did so in a 17-to-0 vote. I think we are both proud of that, and justifiably so, along with our colleagues on the committee. The House produced nothing. They produced press releases, but nothing else.

When both the Senate Armed Services Committee and the Senate Intelligence Committee, as committees with shared jurisdiction, began holding difficult but necessary oversight hearings into the improper treatment and interrogation of prisoners in Iraq, Representative GOSS viewed our actions with disdain, saying:

> I am not comfortable with what the Senate is doing . . . I do honestly question whether or not they have balance over there on this issue . . . We've got a circus in the Senate, which is always the likely place to look for this circus.

PORTER GOSS chose to denigrate the Senate's investigation, while the House chose to largely ignore the matter and not ask the tough questions about what happened inside Abu Ghraib prison and at other detention facilities in Iraq or elsewhere.

All too often, Representative GOSS's statements and actions as chairman of the House Intelligence Committee seemed designed to protect the administration by avoiding contentious issues which could be embarrassing to the administration and placing blame on Democrats for shortcomings in the intelligence community.

Not surprisingly, one thing missing from Representative GOSS's records is any public statements on intelligence critical of Members of his own party or the administration. During his nomination hearing, Representative GOSS assured the committee that these partisan inclinations of the past would not prevent him from carrying out his duties as Director of Central Intelligence. He said he understood the Director must be an independent adviser to the President and the Congress, beyond reproach and beyond the reach of politics.

While I appreciate his testimony and commitment to being a nonpartisan Director of Intelligence, I cannot say with absolute certainty that he will be exactly that. I must vote on his record. I cannot vote on his promise, and I do not think the Senate should. His record is his record. He said it.

The truth is, Chairman GOSS and I have a very good working relationship, one that I expect will continue and improve in the future. We had a good exchange in recent days, even during difficult nomination hearings. In contrast to those who wish to gloss over this issue, PORTER GOSS himself understands exactly the dilemma that I and many of my colleagues face with this nomination. He knows this is one of only a handful of positions in the entire U.S. Government that requires by law nonpartisanship and objectivity, and in this case the demand is all the greater because it is about our national security.

PORTER GOSS openly acknowledged in his testimony before the committee this week that he has at times approached national security issues with excessive partisanship, and he expressed regret about that. And I respect that. I believe PORTER GOSS knows that in essence, on this whole question of independence, he is asking us to take it on faith, so to speak, that he can make a clean break from the last 10 to 20 years of his political career.

I hope he is right. I very much want him to be right about that, but at end of the day I do not think taking it on faith is enough for this vice chairman of the Intelligence Committee when it comes to such a critical position of Director of Central Intelligence. It does not meet the legal standard, and it does not meet my obligation, in my judgment, as vice chairman.

These are troubled times for the intelligence community in our country. In so many ways, we are still recovering from the tragedy of 9/11. We are grappling with the tragic impact of flawed and exaggerated intelligence leading up to the war in Iraq, and we are struggling still to understand the truth about what is happening in the world.

Just yesterday, our President surprised and shocked many of us by dismissing outright the highest level of consensus view of the intelligence community when he said they were "just guessing" about the gravity of the situation in Iraq.

In light of all of this, I believe I owe it to the men and women of the intelligence community to send a clear and strong signal about the paramount importance of independence and objectivity. It needs to be said not only in words but in action. So I will vote against the nomination of PORTER GOSS to be the next DCI.

I sincerely hope PORTER GOSS will prove my vote wrong, and I told him that. In fact, I intend to work with him in order to help him prove me wrong. But based on his record of partisanship, based on the dictates of the law, and based on my own strong conviction against mixing politics and intelligence at the CIA, I must vote no.

I yield the floor.

I yield such time as he may consume to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, in beginning my comments, I first want to commend the chairman, Senator ROBERTS, for the way in which he conducted the hearing. He was eminently fair. I believe I had five rounds of questions myself for the nominee, and I want to express my appreciation to the chairman for the way he conducted the hearings, and also express my thanks to Senator ROCKEFELLER. His leadership on the committee has been invaluable to me.

I also want to commend the vice chairman for an excellent statement this afternoon, much of which I agree with, as he knows.

PORTER GOSS is a good man and a good Congressman, but his long record of supporting business-as-usual intelligence policies is not good enough to warrant his appointment as CIA Director at this dangerous hour. Mr. GOSS showed that on his watch, as chairman of the House Intelligence Committee, he passed on virtually every opportunity to move aggressively for reform. His commitment to public service is unquestioned, but his unwillingness to displease the powerful to force change in our intelligence community is unfortunate.

In the committee, there were three major areas that came up as we sought to evaluate the nominee. The first, as the distinguished Senator from West Virginia has talked about today, has been the issue of partisanship. The second area at which the senior Senator from Michigan, Mr. LEVIN, looked at some length, was the question of the nominee's ability to objectively analyze intelligence. The third was the area that I focused on, which was why the nominee has been so slow to push aggressively for intelligence reform.

I have come to the conclusion that it is possible—and we have all tried, as the Senator from West Virginia has said, to give one the benefit of the doubt in these various areas. I have come to the conclusion that I can give the nominee the benefit of the doubt on the issue of partisanship. I can give the nominee the benefit of the doubt with respect to his pledge to be objective in analyzing intelligence. But I just cannot get over the answers we were given during almost 9 hours of hearings with respect to why the nominee was so slow to be an agent for change in the intelligence community.

It is really that leadership that I find so central. I have tried, as a member of the committee, to be as bipartisan as I possibly can. We understand politics should stop at our borders. We all stand ready to put in place the policies necessary to protect America's security, but to do that we need leadership.

I and others try to be bipartisan. Senator LOTT, Senator SNOWE, Senator GRAHAM, and others sought, for example, to change the way Government documents are classified. I think that is an important issue, to make the right structural changes in intelligence. But if we do not get the right information, information consistent with national security and not classified for political purposes, we are still going to have problems making reforms in the intelligence area.

I want to be bipartisan. I listened carefully to the questions that were asked in the committee, good questions by Senator ROCKEFELLER, and I am willing to give the nominee the benefit of the doubt with respect to the partisanship issue.

But I will tell you, the answers that we were given with respect to why it took the nominee so long to push for changes in the intelligence community still leave me unconvinced. For example, at one point in our hearings the nominee told me it was difficult to get attention to the issues of intelligence on his watch. He said the reason he had not introduced legislation is that people were not focused on it; it was hard to get people's attention.

Let's think about what happened in those years when we evaluate the nominee's response on that question. PORTER GOSS was chairman of the Intelligence Committee in 1998 when al-Qaida bombed our embassies in Kenya and Tanzania. He was chairman of the Intelligence Committee in 1999 when the United States was investigating allegations of Chinese theft of our nuclear materials. He was chairman of the Intelligence Committee when the USS *Cole* was bombed by al-Qaida in October of 2000. And, of course, he was chairman of the House Intelligence Committee when we faced 9/11.

It took him nearly 3 years to introduce reform legislation after 9/11. I believe that is not good enough. I believe a chairman of a key committee can get attention when that chairman wants to use that chairmanship as a bully pulpit to be an agent for change. I believe a chairman who is committed to intelligence reform has the chance, when he bangs his gavel, to speak out for why changes are needed.

A leader must lead. We all get election certificates, in the U.S. Congress, to try to tackle problems, important problems, but chairmen have a special opportunity. If you look at the long record—and he said the record is the record—the nominee passed on virtually every opportunity to use his bully pulpit, to use his gavel, and to work for the kind of changes that would make this country as safe as necessary.

We, all of us, understand it takes courage to rock the boat. It takes courage to be an agent for bold change. But if you want an example of an individual who did it, an individual who is a prominent Republican, you need look no further than former New Jersey Governor Tom Kean and his performance as the Chair of the 9/11 Commission. This stalwart Republican made truth his only goal. He pressed Republicans and Democrats alike to do the same. He was more successful and has already begun to engineer more change than hardly anybody thought possible in this fractured political climate. What a boon it would have been, had we had the same commitment to change on the issue of intelligence, intelligence reform, by the current nominee to head the CIA.

The current nominee had a front row seat during all those years, the years I outlined when those terrible acts of terrorism occurred, when he could have pushed for reform. Yet after weeks of going through the nominee's record and 2 full days of questioning, I am hard pressed to find anywhere—in a bill, a vote, or an inquiry—anything that demonstrates the nominee will hold people accountable, for example, rather than just going along with the status quo.

The record shows, to me, again and again, the nominee chose to play it safe rather than take the risks necessary to bring about change in the intelligence community. When I looked at Mr. GOSS's record, the first question that occurred to me was could he give us some examples, some concrete examples of when he was willing to stand up, to go against the popular wisdom and even his own party to bring about change; whether he was willing to take the far less dangerous risks that we take as Congressmen and elected officials than lots of other people do, certainly those wearing the uniform.

Right now, we need somebody to head the CIA who is willing to stand up, who is willing to help this country come up with policies that leave the Cold War mentality behind—those are fit for a very different kind of threat—and to hold himself and others accountable.

Mr. GOSS has a long, distinguished career as a Member of Congress. I know him personally. I served with him in the other body. It would be hard to find a more decent individual. I will say there are very few jobs in the Government of our country at which I don't think PORTER GOSS would do a good job. But being effective here on Capitol Hill and in other parts of the Government is not where I set the bar for this key appointment. The bar ought to be set very high because we know we have great challenges ahead of us.

For example, I have come to the conclusion that on the intelligence reform legislation we, hopefully, will be dealing with on the floor of the Senate shortly, it may not be the structural problems that are our greatest challenge in improving intelligence and making our country safer. I think there is more to it than moving the boxes around on an organizational chart with respect to intelligence. I think this is as much a people problem as a structural problem. If you are going to solve those problems, in the area of people, human interaction, you have to have leadership, you have to have somebody who is willing to stick his or her neck out.

That is where I set the bar. I think the long record and the questions I asked established beyond a doubt that PORTER GOSS is a good man. He has been a good legislator. But there simply is no evidence that he is willing to rock the boat in the intelligence community, which I think is necessary to make this country as safe as it needs to be.

For that reason I join the distinguished vice chairman of our committee in opposing the nomination. Like the vice chairman, I am very hopeful I will be proved wrong. As I said, on the issue of partisanship, on the issue of objectivity of analysis, I give the nominee the benefit of the doubt. With respect to his willingness to fight aggressively for bold change, I remain unconvinced. For that reason I will oppose the nominee.

I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The distinguished Senator from Kansas.

Mr. ROBERTS. I yield as much time as he may need to a valued member of the Intelligence Committee, the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I believe PORTER GOSS is the right man certainly in this crucial time in the history of our intelligence community.

PORTER GOSS spent over a decade at the CIA. He had the opportunity to see it from the inside, to work there in a distinguished career. For the last few years, he has had the opportunity to serve in the Congress, to serve on the Intelligence Committee in the House, and then for the last few years as the chairman. I think it is significant that he has been the chairman for the last few years at the same time many of us have served on the Senate Intelligence Committee, when the force of history has compelled all of us to examine as we have never done before the role of the intelligence community in the world we live in today, a world confronted by the failures of the intelligence community, where we have taken a magnifying glass for the last several years as Members of the House and Members of the Senate to see exactly what is wrong with the intelligence community. There has only been a handful of people who have had that experience. Some of them are in this room today.

PORTER GOSS has distinguished himself in that exercise as chairman of the House Intelligence Committee, as the leader in the House when we went through the joint Senate-House investigation. I had the chance to watch him through that endeavor. I had the chance to watch him learn, as all of us did, about the tragedy of September 11 and how the intelligence community did not function the way we want it to function.

In PORTER GOSS we will have someone who knows the community from the inside, but also has stood back, been on the other side, been on the outside, and has looked at it to see what is wrong, and has looked at it in a critical time in our history. I think that is so very important as we begin the task as a country and he begins the task as the new Director of the CIA to bring about needed reform.

This is a tough job, but I believe PORTER GOSS is a tough man. I believe he is the right man. Some people might say this is an impossible job. I do not know if it is an impossible job, but it is a very difficult job. Let us think about it for a moment.

This is the man who walks in to see the President every morning, walks in to the Oval Office and greets him, gives him the intelligence report. I think we all understand there has to be a chemistry between the President and the Director; that if there isn't, that relationship—and we have seen that in the past with Presidents and Directors, sometimes there isn't that relationship—if there isn't that relationship, they do not talk and the country suffers.

There has to be a relationship of trust, of confidence. Yet that same man who comes in to see the President every morning where there has to be that relationship, that trust, that rapport, is also a man who has to tell the President what the President does not want to hear; a man who has to have the guts to do it; a man who has to look the President in the eye and have the guts to tell the President of the United States, the most powerful man in the world, Mr. President, that is not the way it is; or maybe a more difficult thing to say, Mr. President, we messed up, we were wrong 6 months ago or 3 months ago, what we told you was not right; or maybe this is the toughest thing of all to say to the President, Mr. President, we don't know.

And when we look at some of the problems, some hypothetical, some factual, some of the things that occurred, those have been some of the problems. That man has to also be able to look at the President of the United States and say, Well, here is what we think it is, but also there are people in the intelligence community who have a minority view. That man has to have the guts to tell the President that as well. That is a difficult job.

This man also is the person who protects us every day in this world because he is the one who has to be in charge of putting together all of the intelligence. And today it is the intelligence that protects us just as much as our national defense. The facts he comes up with, our intelligence community comes up with, are our first line of defense today. Yet we are telling this man today, if you get this job, at the same time you are carrying on this war on terrorism and you are providing these facts, we expect you to go as fast as you can to carry out reform.

Further, we tell this man that he has to deal with whatever today's crisis is. What we are focused on, of course, is terrorism today. But he has to deal with the long-term crises—nuclear proliferation, what is going on in China, you pick the challenge. He has to be 5 years out, or 10 or 15 years out, and he had better not get it wrong.

This is a new era for the CIA, a new era for the intelligence community which came to maturity in the Cold War, the Soviet Union versus the United States. We sort of understood in those decades when we developed that intelligence community. Official cover worked pretty well. The new head of the intelligence community has to continue that change, continue to change away from that. We have to move out from the official cover to a nonofficial cover. That is just one of the changes that has to take place. It is a tough job.

I think when you vote on someone's confirmation, a lot of this is kind of a gut check. You don't know what the exact issues are going to be in the future. This is an intensely personal job, as I have pointed out. The person who runs the agency, I suspect we are going to end up giving a lot more power. If PORTER GOSS is confirmed, he may end up with an entirely different job later on. He is going to run a big intelligence community, but it is also an intensely personal job in that relationship with the Congress and that relationship with all of the consumers. And the ultimate consumer, of course, being the Commander in Chief, the President of the United States.

I think it gets down to a lot of the person. What do you think of this guy, or woman if that be the case? Can they handle it?

I think it is helpful to talk to some of the persons who know this person best. I was struck by the testimony of the two Senators from Florida, Senator BOB GRAHAM, of course, the senior Senator, but also significantly the chairman of the Select Intelligence Committee of the Senate, and a pretty harsh critic of the intelligence community and of the administration. This is what he had to say:

> Let me say at the beginning that I am not unbiased. I believe that Porter Goss is an exceptional human being and will be an exceptional head of our Central Intelligence.

Senator GRAHAM also said:

> Mr. Chairman, I have known PORTER GOSS for well over two decades, and I can tell you from personal experience that he is uniquely qualified to be here today as the President's nominee to serve as the Director of Central Intelligence. He is a man of great character, unusual intelligence, a tremendous work ethic, and an outstanding personal and professional standard of integrity.

Senator GRAHAM added that as Governor of Florida, when he first met the nominee:

> Party affiliation did not matter then. What was necessary, good men and women who could carry out a difficult task.

My colleagues, I believe party affiliation does not matter today. The challenge that PORTER GOSS, on a much magnified scale, will face as Director of Central Intelligence is very analogous to the challenge he faced 20 years ago in restoring integrity to his local community and completing a very complex project.

As to PORTER GOSS's fitness to serve as an independent, unbiased DCI, this is what Senator GRAHAM of Florida said.

> . . . when it comes to the intelligence community, Congressman Goss has, in my judgment, a balanced perspective, a perspective gained both as an insider and then as an outsider. For a decade, early in his career, Congressman Goss served our Nation in both the Army and the CIA. He knows firsthand the value and the risk of clandestine operations. Since he has been in Congress, especially as a member and chair of the House Permanent Select Committee on Intelligence, he came to know the agencies from an oversight capacity.

Senator GRAHAM continued:

> Some have said he is too close to the intelligence agencies, that he would be too protective of the status quo. Well, most of you served with Porter and myself on the joint inquiry into the events of 9/11. I believe you would join me in saying from that experience Porter is a man who will be independent in his judgments and unflinching in his criticism where he believes they are necessary.

Senator GRAHAM concluded with these words:

> I am confident he will not be a part of the problem but rather a leader in taking us toward principled, thoughtful solutions when it comes to reforming the intelligence community. I strongly recommend the confirmation of Porter Goss.

Senator BILL NELSON also participated in the September 14 Goss confirmation hearing. These are some of the things Senator NELSON had to say:

> I think we need intelligence reform. I think we need it now. And I think Porter Goss is the man to lead the effort.

Senator NELSON also called PORTER GOSS:

> . . . a uniquely gifted individual whose public life has been illustrative of being nonpartisan, fair, and independent.

The Senator further pointed out that:

> Those characteristics in this town that is so highly charged with partisanship are sorely needed in a Director of Central Intelligence.

Those statements are from his two colleagues on the other side of the aisle from Florida.

I think sometimes it is good to know and talk to people who know someone best.

Mr. President and Members of the Senate, let me conclude by saying I have known PORTER GOSS for a long time. I have dealt with him on issues not just in the area of intelligence. Sometimes you get to know people in the Senate and the House working in Congress on a variety of issues.

PORTER GOSS and I had shared a tragic situation when we had constituents, hemophiliacs who acquired AIDS because they had to take massive amounts of blood because of their condition. The blood was tainted. It is a long story. I will not go into it now. But the blood was tainted because we thought there was an error made by the Federal Government, that the Federal Government did not become involved early enough, that the Federal Government made mistakes.

I had constituents. I listened to their tragic story. PORTER GOSS listened to some constituents of his. So we both moved in our respective bodies to try to bring about some help for these folks. I saw how compassionate he was and how strongly he felt about the issue and what he did about it and how he took that passion and feeling he felt for those folks in wanting to do something about it. I worked with him. I traveled with him to Haiti, the poorest country in this hemisphere. I have seen his compassion for the people of Haiti.

I have worked with him on the Intelligence Committee. I will be honest with you, I have had the occasion, many times, to pick up the phone and call across the Capitol and ask PORTER: What is really going on in the intelligence community? What is really going on at the CIA? I will tell you, each time he had an insight that was unrivaled, or rivaled by very few people I have talked to, of what was really going on inside the intelligence community. That is an insight that came about from his years of experience inside the community and his years of experience of watching the community in the oversight capacity while being on the committee and of being the chairman.

He has a passion and an understanding of the intelligence community and of what needs to be done to change it. He understands the importance of human intelligence. Long before it was fashionable in this town to be saying, oh, we have to have more human intelligence, PORTER GOSS was pushing, pushing, and pushing the intelligence community for more human intelligence.

It may not have been flashy, it may not have been with a lot of big speeches, but he was there. He understood it. He understood what the needs were. This man gets it. If you want someone to lead the reform of this community, if you want someone who understands what the problems are, who can do it from the inside, if you want someone who will have the guts to report to the President of the United States and tell it like it is, PORTER GOSS is your man.

So, Mr. President, I am proud to come to the floor today to recommend to my colleagues, based on my personal experience with this man, what I have seen over the years, that we vote for his confirmation. He has a tough job and, yes, it may be almost an impossible job, but I think he is the right man at the right time at this point in our history.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, may I inquire how much time is remaining on each side?

The PRESIDING OFFICER. The majority has 124 minutes remaining; the minority has 128 minutes remaining.

Mr. LOTT. Mr. President, I believe the chairman of the committee had indicated a desire to yield 5 minutes, or what time the Senator may consume, to Senator ALLARD of Colorado. It would be my intent to follow Senator ALLARD.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the acting chairman for yielding 5 minutes.

Mr. President, I would like to associate myself with the comments of the distinguished Senator from Ohio. I, too, proudly claim PORTER GOSS as a friend and somebody who I think will do a great job.

There is no doubt that the intelligence community right now is in somewhat disarray, concerned about their jobs and the job they are doing and the public perception.

I say, first, there are a lot of good people at the Central Intelligence Agency. I think Congressman GOSS recognizes that. I think there are some bureaucratic problems over there, too.

I think he has the temperament to deal with some of those problems. PORTER GOSS is a strong leader. He is a quiet individual. He doesn't grandstand. He is a hard worker. He is intelligent and he understands the intelligence community.

I have had an opportunity to serve on the Intelligence Committee in the Senate for 4 years, and I even developed a greater appreciation for the job Mr. GOSS did on the House side in his service on the Intelligence Committee.

For those reasons, I rise to support the President's nomination to head the Central Intelligence Agency. That nominee is Representative PORTER GOSS. I believe he is the right man at the right time for the job. That has been stated a couple of times already. I truly think that is the case. I am glad to see other colleagues recognize that fact. I am asking my colleagues to join me in voting for his confirmation.

The intelligence community is at a critical juncture. It is clear that after the horrific attacks of September 11, and the problems involved with uncovering weapons of mass destruction in Iraq, the intelligence community needs firm leadership during a time when reforms are needed. The President has heeded that call.

President Bush has put into motion, through executive order, most of the recommendations of the 9/11 Commission, and he is committed to strengthening the budget authority given to the intelligence community head administrator. The next step in intelligence reform is to bring in someone who is committed to reforming the Central Intelligence Agency from the inside out. That man is Porter Goss.

I have had the pleasure of knowing Representative Goss personally and professionally. I was lucky enough to serve with him in the House of Representatives, and I value his knowledge of national security issues. Even then, when I served with him in the House, he was a voice both Democrats and Republicans turned to when debating important intelligence issues, and he continues to be a leader in the House today. More importantly, I got to know Porter Goss on a personal level. He is someone I trust and have come to call my friend. There is no one I would rather see as director of the agency.

I am convinced Representative Goss is ready for this challenging task. Representative Goss will bring a unique perspective to the Director's office in the Central Intelligence Agency. His perspective will not only drive the much-needed changes in the CIA, but will also bring our concerns as a Congress to the agency.

Porter Goss has been an Army intelligence officer. He has served as a clandestine agent in the CIA and has chaired the House Intelligence Committee. There is no one better prepared or qualified to be the Director of the Central Intelligence Agency. There should be no doubt that the combination of experience Representative Goss has will serve the American people well.

I have heard concerns raised that Mr. Goss is too partisan. I simply have to discount those concerns. This is a man who has served as an officer in the Army and understands very well his duty to the United States and to the citizens he will soon swear to defend.

I am pleased to see the bipartisan support Representative Goss has already received. His nomination was approved by the Senate Intelligence Committee by a 12-to-4 vote. His colleague from Florida, Bob Graham, has come out strongly in favor of Mr. Goss.

It is time for the Senate to act on this nomination so we can continue the reforms to the intelligence community that are badly needed. Representative Goss is prepared to take the agency in a direction that will strengthen our collection and analytical intelligence activities and provide the information we need to keep America safe. He is a man who is truly interested in the needs of our country. He is somebody that I feel I can work with on the Armed Services Committee. I have some of the intelligence programs under my jurisdiction in the subcommittee which I chair, and they are extremely important programs. They are programs that are badly needed, they are expensive programs, and they do have some problems. We need somebody who has the background in intelligence to tackle those, and somebody I think I can work with.

I ask my colleagues to support his nomination because I personally think he is the best man for the job.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. I yield to the chairman.

Mr. ROBERTS. Mr. President, I will be happy to soon yield to the distinguished Senator from Mississippi, a valued member of the Intelligence Committee.

On the issue of the HPSCI activity, the House intelligence activity, in regard to reform and other intelligence challenges during the last 3 Congresses, which has been brought up, I ask unanimous consent to have printed in the Record the Survey of Activities of the Permanent Select Committee on Intelligence During the 107th Congress. I also commend to my colleagues the Survey of Activities of the Permanent Select Committee on Intelligence during the 106th Congress and the 105th Congress.

There being no objection, the material was ordered to be printed in the Record, as follows:

Survey of Activities of the Permanent Select Committee on Intelligence During the 107th Congress

Mr. Goss, from the Permanent Select Committee on Intelligence submitted the following report.

This report covers the activities of the House Permanent Select Committee on Intelligence during the One Hundred Seventh Congress. Porter J. Goss (Republican, Florida) served as Chairman; Nancy Pelosi (Democrat, California) served as the Ranking Minority Member.

The stated purpose of H. Res. 658 of the 95th Congress, which created the House Permanent Select Committee on Intelligence, was to establish a committee "to oversee and make continuing studies of the intelligence and intelligence-related activities and programs of the United States Government and to submit to the House appropriate proposals for legislation and report to the House concerning such intelligence and intelligence-related activities and programs."

H. Res. 658 also indicated that the Committee "shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence and intelligence-related activities of the United States to assure that such activities are in conformity with the Constitution and the laws of the United States."

In carrying out its mandate from the House regarding oversight of U.S. intelligence and intelligence-related activities, the Committee created four subcommittees:

SUBCOMMITTEE ON HUMAN INTELLIGENCE, ANALYSIS, AND COUNTERINTELLIGENCE

Jim Gibbons (R-NV), Chairman,
Leonard L. Boswell (D-IA), Ranking Member,
Sherwood Boehlert (R-NY),
Alcee L. Hastings (D-FL)*,
Ray LaHood (R-IL),
Silvestre Reyes (D-TX)*,
Randy "Duke" Cunningham (R-CA),
Gary Condit (D-CA),
Peter Hoekstra (R-MI),
Collin C. Peterson (D-MN),
Richard M. Burr (R-NC),
Sanford D. Bishop, Jr. (D-GA)*,
Saxby Chambliss (R-GA),
Robert E. (Bud) Cramer, Jr.* (D-AL).

SUBCOMMITTEE ON TECHNICAL AND TACTICAL INTELLIGENCE

Michael N. Castle (R-DE), Chairman,
Sanford D. Bishop, Jr. (D-GA), Ranking Member,
Jim Gibbons (R-NV),
Jane Harman (D-CA),
Sherwood L. Boehlert (R-NY),
Alcee L. Hastings (D-FL)*,
Randy "Duke" Cunningham (R-CA),
Silvestre Reyes (D-TX),
Peter Hoekstra (R-MI),
Leonard L. Boswell (D-IA),
Richard M. Burr (R-NC),
Robert E. (Bud) Cramer, Jr.* (D-AL),
Terry Everett (R-AL).

SUBCOMMTTEE ON INTELLIGENCE POLICY AND NATIONAL SECURITY

Douglas K. Bereuter (R-Nebraska), Chairman,
Gary A. Condit (D-CA), Ranking Member,
Ray LaHood (R-IL),
Sanford D. Bishop, Jr. (D-GA),
Michael N. Castle (R-DE),
Tim Roemer (D-IN),
Saxby Chambliss (R-GA),
Collin C. Peterson (D-MN),
Jim Gibbons (R-NV),
Terry Everett (R-AL).

SUBCOMMITTEE ON TERRORISM AND HOMELAND SECURITY

Saxby Chambliss (R-GA), Chairman,
Jane Harman (D-CA), Ranking Member,
Peter Hoekstra (R-MI),
Gary A. Condit (D-CA),
Jim Gibbons (R-NV),
Tim Roemer (D-IN),
Ray LaHood (R-IL),
Alcee L. Hastings (D-FL)*,
Richard M. Burr (R-NC),
Silvestre Reyes (D-TX)*,
Terry Everett (R-AL),
Robert E. (Bud) Cramer, Jr.* (D-AL).

*Member served on Subcommittee for only part of 107th Congress.

SCOPE OF COMMITTEE REVIEW

U.S. intelligence and intelligence-related activities under the jurisdiction of the Committee include the National Foreign Intelligence Program (NFEP), the Joint Military Intelligence Program (JMIP), and the Department of Defense Tactical Intelligence and Related Activities (TIARA).

The National Foreign Intelligence Program consists of activities in the following departments, agencies or other intelligence elements of the government: 1) the Central Intelligence Agency (CIA); 2) the Department of Defense; 3) the Defense Intelligence Agency (DIA); 4) the National Security Agency (NSA); 5) the National Reconnaissance Office (NRO); 6) the Departments of the Army, Navy, and Air Force; 7) the Department of State; 8) the Department of Treasury; 9) the Department of Energy; 10) the Federal Bureau of Investigation (FBI); 11) the National Imagery and Mapping Agency (NIMA); and, 12) the Coast Guard (USCG).

The JMIP was established in 1995 to provide integrated program management of defense intelligence elements that support defense-wide or theater-level consumers. Included within the JMIP are aggregations created for management efficiency and characterized by similarity, either in intelligence discipline (e.g., Signals Intelligence and Imagery Intelligence) or function (e.g., satellite support and aerial reconnaissance). The programs comprising the JMIP also fall within the jurisdiction of the House Armed Services Committee.

The TIARA are a diverse array of reconnaissance and target acquisition programs that are a functional part of the basic military force structure and provide direct information support to military operations. TIARA, as defined by the Joint Chiefs of Staff and the Secretary of Defense, include those military intelligence activities outside the defense intelligence programs that respond to requirements of military commanders for operational support information, as well as to national command, control, and intelligence requirements. The programs comprising TIARA also fall within the jurisdiction of the Armed Services Committee.

OVERSIGHT ACTIVITIES

During the 107th Congress, the House Permanent Select Committee on Intelligence (HPSCI), under the leadership of Chairman Porter Goss—

—Responded effectively to the catastrophic attacks on September 11, 2001, by the al Qai'da terrorists by conducting investigations jointly with its sister committee in the Senate, the Senate Select Committee on Intelligence, to determine whether the IC should have been more adept, better resourced and more capable of thwarting the attacks;

—Promoted a bipartisan effort to continue rebuilding and refining the nation's intelligence capabilities to meet increasingly complex geopolitical and technological challenges to national security; and

—Advanced the education of Members of Congress and the public on matters of vital interest to national security and the distinct role intelligence plays in its defense.

Although the end of the Cold War warranted a reordering of national priorities, the steady decline in intelligence funding since the mid-1990s left the nation with a diminished ability to address emerging threats—such as global terrorism—and the technical challenges of the 21st Century. Further, the IC's lack of a corporate approach to addressing enduring intelligence problems helped to create a culture that hindered data collection (especially human intelligence collection), data sharing, and collaborative analysis.

The revitalization of the National Security Agency (NSA) was the Committee's top priority during the 107th Congress. Although this continues to be one of the Committee's priority concerns, the focus has turned to information sharing and cross community analysis. The Committee notes that the individual intelligence agencies and, moreover, their extremely talented and dedicated people, labor continuously to provide the absolute best intelligence products possible in defense of the Nation. These efforts are, however, generally conducted in isolation from one another, and, most disturbingly, existing rules and procedures often restrict information from the community's depth and breadth of analytic talent. Therefore, those individual efforts can usually only piece together fragments of the overall intelligence puzzle. Crucial in the post-9/11 era is having a community that is, to the maximum extent possible, liberated from information sharing restrictions and one that fosters a culture focused on greater collaborative analysis. The Authorizations for fiscal years 2002 and 2003 included detailed language on the need for the IC to breakdown barriers to information sharing and the need to cease the practice of allowing agencies to routinely restrict "their data" from other agencies, including law enforcement.

In order to maximize further the IC's analytic effectiveness and output, we must ensure that the dedicated professionals of the IC are properly trained and provided the skills necessary for the tasks that are required to fight the global war on terrorism and other daunting threats. For a number of years, the Committee has articulated its specific concerns about the dearth of language skills throughout the IC. The lack of depth in the so-called "low-density' languages was acutely experienced during operations in Afghanistan The Committee finds this situation unacceptable and has emphasized the critical need for a robust effort to improve foreign language capabilities throughout the Intelligence Community.

The Committee remains concerned about the viability and effectiveness of a future overhead architecture, given the apparent lack of a comprehensive architectural plan for the overhead system of systems, specifically in the area of imagery. For example, the Committee believes the Administration is facing a major challenge in addressing technical and funding problems with the Future Imagery Architecture (FIA) program that could force untenable trades between critical future capabilities and legacy systems. In the Authorization for fiscal year 2003, the Committee has addressed the known FIA problems as well as the need to develop imagery alternatives if developmental problems exist or persist. The Committee noted, however, that the Intelligence Community has engaged in a continuing pattern by which many individual programs have been provided resources with little or no regard to the entire set of IC collection capabilities, including space-based and airborne. The Committee believes that, although individual systems certainly have specific merit, it would be wiser for the Intelligence Community to consider whether the overall collective mix brings the appropriate assets to bear against the range of threats to U.S. national security. Moreover, the ability to fund all legacy, developmental, and desired systems has a finite limit. Therefore, there is a critical need to review each program mindful of the strategic needs so that and necessary tradeoffs are made based on substantive requirements.

Finally, the Committee continued its focus on a number of enduring IC challenges—the need to improve NSA acquisition efforts, the need to improve the depth and breadth of Human Intelligence (HUMINT), and improving research and development (R&D). With respect to NSA, the Committee has been pleased with the Director's attempts to baseline current capabilities so that future needs can be properly identified and resulting acquisition decisions can be appropriately made. To assist the Director in completing these efforts, the Committee included incentives in the Authorization Act for fiscal year 2003. Regarding, HUMINT, the Committee focused on improvements in training, enhancing technical resources to operations, and properly funding analytic efforts. All of these capabilities are supported by R&D efforts. Therefore, the Committee has supported the Administration's increases in basic R&D programs. The Committee believes that the IC must continuously renew itself in this ever-changing world. Intelligence is the first line of defense against elusive and unstructured threats and enemies that use asymmetric means to harm America and her people. Only through providing these much needed resources and a long-term commitment can the IC be prepared for the global challenges that confront us.

INTELLIGENCE AUTHORIZATIONS FOR FISCAL YEARS 2002 AND 2003

During the 107th Congress, particularly in the aftermath of the September 11th attacks, the Committee continued to pursue its objective of rebuilding and revitalizing our national intelligence capabilities to better meet the threats of the 21st century. Finally, after eight years of congressional admonition to the executive branch to develop a long term funding program to correct serious and critical Intelligence Community (IC) deficiencies, the President's budget requests provided a down payment on the resources necessary to ensure that our policymakers and military commanders have timely and reliable intelligence support that is crucial to our nation's security.

The Committee reviewed extensively the President's budget submissions for Fiscal Years 2002 and 2003, fulfilling its responsibility to closely examine the nation's intelligence programs and proposed expenditures. These reviews included substantive and programmatic hearings, Member briefings, and numerous staff briefings. Testimony on the President's budget submissions was taken from the Director of Central Intelligence (DCI); the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (C31); the Directors of DIA, NSA, NIMA, NRO, and the FBI; and other major intelligence program managers.

The Committee's examination of the President's Fiscal Years 2002 and 2003 intelligence budgets included 13 committee budget-related hearings principally on a program level. Additional hearings were held addressing the DCI's overall budget submission, the state of health of the IC, and the DCI's views and plans for the future of intelligence and the IC.

In reviewing the President's budget requests, the Committee found that the President has begun to aggressively address the lack of investment and years of neglect that has harmed our nation's intelligence capabilities. The fiscal year 2002 budget request, submitted before the tragic events of September 11, 2001, reflected no major improvements or investment in intelligence capabilities. The fiscal year 2003 budget submitted by the President included the most substantial increase for programs funded in the National Foreign Intelligence Program in history, however, the intelligence authorizations for both fiscal years 2002 and 2003 reiterated the need for renewed investment by focusing on enhancing programs and information sharing across the various IC agencies.

In addition to budget-related hearings, the Committee held over 58 committee hearings and briefings on various issues vital to our IC and national security. Among the subjects examined by the Committee were: terrorism, HUMINT, and developments in Colombia, Southeast Asia, and rogue states.

Given the September 11, 2001, terrorist attacks, the Committee's immediate priority was, and continues to be, the effectiveness of our counterterrorism efforts and the security of our nation. In the last two budget authorization bills, the Committee addressed critical and immediate counterterrorism needs as well as long-term intelligence issues facing the United States.

The "Intelligence Authorization Act of Fiscal Year 2002", (P.L. 107–108), in addition to authorizing generally the activities of the U.S. IC, directly addressed IC shortfalls in domestic counterterrorism efforts, intelligence collection and analysis, threat reporting, aggressive recruitment of human assets, foreign language capabilities, and sharing of intelligence information and analysis across the government. For example, the Congress specifically enacted legislation that repealed restrictions on human intelligence sources. In the wake of the September 11, 2001, attacks on America, the House and Senate significantly increased spending authorizations for intelligence activities well beyond that level requested by the President. The committee also directed significant resource allocation to countering terrorism.

The "Intelligence Authorization Act of Fiscal Year 2003", (P.L. 107–306), in addition to authorizing the intelligence activities of the U.S. IC highlighted five priority areas that must receive significant, sustained attention if intelligence is to fulfill its role in our national security strategy. Those areas are: (1) improving information sharing and all-source analysis; (2) improving IC professional training with a major emphasis on developing language skills; (3) ensuring national imagery collection program viability and effectiveness; (4) correcting enduring systemic problems, deficiencies in HUMINT, and rebuilding a robust research and development program; and (5) establishing a budgeting process that no longer relies so heavily on supplemental appropriations. For example, the fiscal year 2003 legislation provided very clear policy direction to the Administration to improve the cross-community sharing of information from material seized as part of the global war on terrorism. This resulted in new processes and procedures being implemented to improve the access that community analysts have to this material. Further, the fiscal year 2003 authorization legislation provided significantly enhanced funding for skills training in areas such as foreign languages, analyst-to-analyst technical exchanges and in-area familiarization travel. And finally, the Committee's legislation also provided critically needed direction and funding to ensure the nation's imagery architecture will be capable of supporting customer needs long into the future.

COMMITTEE INVESTIGATIONS

Terrorism Review

The Committee, through its THLS Subcommittee at the behest of the Speaker and Minority Leader as the focal point and coordinating mechanism in the House of Representatives for post-9/11 counterterrorism and homeland security oversight activities."

Prior to the 9/11 terrorist attacks, the Committee's Working Group on Terrorism and Homeland Security held numerous classified hearings and briefings on the terrorist threat, gaps in the IC's counterterrorism capabilities, the need for a more focused and better coordinated national effort on homeland security, and a variety of related matters.

Following 9/11, the Working Group was converted into a full subcommittee with expanded powers of jurisdiction to act as the lead entity in formulating the House's response to the attacks. The new Subcommittee on Terrorism and Homeland Security held what for the Committee was an unprecedented series of televised hearings culminating in a field hearing with then-Mayor Rudy Giuliani in New York City. A significant number of closed hearings and briefings on all aspects of the attacks followed; along with a report to the Speaker and Minority Leader on the gaps in counterterrorism capabilities at CIA, NSA, and the FBI leading up to 9/11. Following publication of this report, the Committee, in conjunction with the Senate Select Committee on Intelligence, established a Joint Investigative Staff on 9/11 that conducted a thorough investigation of the Intelligence Community's inability to prevent the 9/11 attacks. The work of the JIS included a series of open and closed hearings, and the publication of a classified report."

Committee Investigations

At the behest of the Speaker and Minority Leader, the Committee's Subcommittee on Terrorism and Homeland Security was directed in the immediate aftermath of 9/11 to evaluate the performance of the CIA, and FBI against the terrorist target. To this end, the Subcommittee issued a report in July 2002 that offered the following conclusions:

America's intelligence capability shortfalls prior to 9/11 were significantly affected by resource constraints imposed during much of the 1990s, but also by a series of questionable Intelligence Community management decisions on funding priorities.

As a first step, the USG should adopt a single definition of terrorism, which it currently does not have at a cost of significant inefficiencies.

CIA: The availability and allocation of resources, including the redirection by CIA managers of funds for core field collection and analysis to headquarters bureaucracy, hurt CIA's counterterrorism (CT) capabilities prior to 9/11. Internal human rights guidelines issued in 1995 also had a "chilling effect" on CT operations, and these guidelines were only repealed after the Subcommittee's report was released in July 2002. CIA chronically lacks foreign language skills and core CT-specific training, and has become overly reliant on foreign liaison at a cost to its unilateral capability.

FBI: Preventing terrorism was less important than solving crimes prior to 9/11, when FBI decentralized CT information and investigations. FBI also had insufficient linguists and analytic capability and an outdated IT infrastructure. It paid little attention to financial tracking, and did not share information.

NSA: The CT mission was not given a high enough priority in the competition for limited resources prior to 9/11, and NSA must reform program management, systems engineering and integration, and budget management for new investments to have a lasting impact. NSA has been chronically short of linguists, and must better leverage industry for technical solutions to collection problems.

Congressional oversight of counterterrorism is highly duplicative and inefficient. A leadership staff mechanism should be created to streamline the oversight process on both counterterrorism and homeland security matters."

JOINT INQUIRY INVESTIGATIONS

In February, 2002, the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence authorized an investigation, to be conducted as a Joint Inquiry, into the Intelligence Community's activities before and after the September 11, 2001 terrorist attacks against the United States. This bicameral investigation, supported by a separate, unified, professional staff, sought to identify what the Community knew or should have known regarding those attacks prior to September 11th, the nature of any systemic problems that may have impeded the Community's ability to prevent those attacks, and recommendations for reform to improve the Community's ability to uncover and prevent similar attacks in the future.

In the months that followed, the Inquiry's investigative staff reviewed massive amounts of information within the Intelligence Community. This included the review of almost 500,000 pages of relevant documents, 300 interviews, and participation in numerous briefings and panel discussions, involving about 600 individuals. Although the inquiry was primarily focused on the Intelligence Community, the investigation also considered relevant information from federal agencies outside the Intelligence Community; from state and local authorities; from foreign government authorities; and from private sector individuals and organizations. Building on the extensive investigative work, the Committees held nine joint public hearings and, given the highly classified nature of much of this information, thirteen joint closed sessions. In December, 2002, both Committees approved, by separate votes, the classified Final Report of the Joint Inquiry. The Committees are currently working with the Intelligence Community in an effort to declassify, consistent with national security interests, as much as possible of the Final Report for public release.

The work of the Joint Inquiry confirmed that although the Intelligence Community had relevant information that was, in retrospect, significant regarding the September 11th attacks, the Community too often failed to focus on the information and to appreciate its collective significance in terms of a probable terrorist attack. The Inquiry's factual record identified not only the information that was overlooked but also a number of systemic weaknesses that contributed to the Community's inability to detect and prevent the attacks. These included a lack of sufficient focus on the potential for a domestic attack, a lack of a comprehensive counterterrorist strategy, insufficient analytic focus and quality, a reluctance to develop and implement new technical capabilities aggressively, and inadequate sharing of relevant counterterrorism information. To correct such deficiencies, the Final Report includes nineteen recommendations for reform, including such things as the creation of a Cabinet-level Director of National Intelligence and prompt consideration of whether the FBI, or a new agency, should perform the domestic intelligence functions of the U.S. Government.

OPEN HEARINGS

During the 107th Congress, the Committee held 13 open hearings on issues of concern to the Intelligence Community and the American people. While committed to the protection of sources and methods and ensuring the security of our nation's secrets, it is the intention of the Committee, whenever possible, to hold open hearings in an unclassified setting on issues of vital importance and concern to the public.

The Committee held four open hearings: Defining Terrorism—September 26, 2001;

Asymmetric Threats to Homeland—October 3, 2001; Role of NSC in Current Crisis—October 11, 2001; Domestic Preparedness & Emergency Response—October 29, 2001.

The Joint Inquiry Committee held nine open hearings: Family Advocates for September 11 Victims—September 18, 2002 and September 19, 2002; Intelligence Community Knowledge of September 11 Hijackers—September 20, 2002; Phoenix Memo—September 24, 2002 and September 26, 2002; Counterterrorism Information Sharing—October 1, 2002; Intelligence Community Reform Proposals—October 3, 2002; Past Terrorist Attacks—October 8, 2002; Factual Finding of Inquiry—October 17, 2002.

Mr. ROBERTS. Mr. President, I yield as much time as he may consume to the distinguished Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the chairman. I also commend the chairman and the vice chairman of the Intelligence Committee for the very difficult job they have been performing, leading the Intelligence Committee. It has to be one of the toughest jobs that I have witnessed in the Senate. It takes time, it takes experience, and it takes intellect to be able to deal with the issues that come before this committee.

I also commend them for the way they have handled this particular nomination. They were patient. They gave every Senator ample time to make their points and ask questions, and they have been commended by Members of both sides of the aisle for the way they handled the nomination. That is why I think the nomination was approved by the Intelligence Committee, and why I believe this nomination will be confirmed by a wide margin.

Before I get into a little more discussion about why I support PORTER GOSS to be head of the CIA and director of intelligence, I will talk about my overall concerns regarding the intelligence area.

As a member of the leadership over the years, I was able to have briefings and meet with Director Tenet. There are specific requirements in the law that certain Members have to be notified when particular actions are taken. I always took those matters very seriously and spent the time that was necessary to get those briefings. For the last year and a half, I have been on the Intelligence Committee. I must confess that when I went on the committee, I thought I would be a big defender and big supporter of our intelligence community, because I think that what they do is so important. I do support the men and women who work in that community.

But I must say, over the last year and a half, I have developed many concerns about how that job is being done, how the Congress does its job. I didn't appreciate how important oversight is regarding intelligence matters, how important it is that a Senator develop expertise to be able to ask the right questions, do the oversight, and understand what is going on.

I have come to the conclusion that our intelligence community is not set up properly and we are not doing our job in the Congress. We can point fingers and blame somebody else, but a lot of the problem resides here in this body and in the Congress—not because we don't try to do our job, but we are not organized properly to do it. We have this multifaceted process of so many committees claiming jurisdiction, and with good reason. Armed Services needs to be aware of what's going on, as do Foreign Relations, Appropriations, and Governmental Affairs. Is there anybody who doesn't have their finger in this intelligence pie a little bit? Basically, nobody is doing the oversight job properly, because the members of the Intelligence Committee are not there permanently; they come and go and are on the Committee maybe 2 years, 4 years, or 8 years. Once you get to where you know what to ask and what is going on, you leave the Committee.

Frankly, I think the CIA and the intelligence community's attitude is: Don't give them anything; give them a little bit of a courtesy, a brush-off, and we will get what we want from the appropriators in the end.

I think we have real problems in the intelligence community and in the Congress, and we need to fix them. I don't have a magic design. I want to hear what the experts have to say and see what legislation is proposed. I know this: Something has to be done in the way the intelligence community operates. You cannot operate under a construct where you have 15 different agencies and 80 percent of the money going to the Defense Department, with the director of intelligence having little or no control over the money or many of those intelligence agencies.

We need major changes, and we need them now. I am concerned about concerns that were raised yesterday that if we do not do this right, if we rush to reorganize the intelligence community, we could do damage because the job of gathering intelligence has to go on every day. Men and women are putting their lives on the line to gather intelligence. We need to be careful, but we need to press forward with change.

I know this body is loath to change anything. Any kind of reform is looked at suspiciously: Oh, we can't do that; it has always been done this way. I have taken the time over the years to look at a lot of these issues, and it has not always been done this way. A lot of what we do and say around here, which some say is sacrosanct and cannot be changed, is relatively new. It evolved over the years.

At some point, you have to say there is a higher priority, that there is something more important than turf or jurisdiction or the way it was or is being done.

What is most important is how we are going to do the best job for the men and women in uniform, men and women in intelligence, and for the American people. So I think we need to make necessary changes.

The important point is that we have to have somebody in charge. We have good people in the CIA doing the job. We have an Acting Director who is a good man doing a good job. But we do not need an Acting Director forever. We need a man or woman in charge making decisions, making changes that need to be carried out even without legislation that overhauls the whole operation, and we need it now.

This is a dangerous time we are in. We need to not only confirm this nominee right away, but we need to do it overwhelmingly. We need to show him, we need to show the agencies, and we need to show the departments that he has the confidence of the American people through their representatives in the Senate. We are dealing with very important issues, and it is so important that we have leadership at the top. We need to do it right away.

We have a good man who has been nominated. A lot of thought went into his selection. I know the President sought out the counsel, advice, and the thinking of a number of Members of Congress on both sides of the aisle, in the House and Senate, before he went forward with this nomination. He has nominated a man who is uniquely qualified to be the Director of Intelligence.

PORTER GOSS is the right age. He is in his mid-sixties, still young enough to do the job, and old enough to know what needs to be done. He has a background of military experience, where he was in Army intelligence for 2 years. He worked in the Directorate of Operations of the CIA for many years. Most of this is in the RECORD, but I think it is worth repeating so that my statement will make sense, hopefully, in its entirety.

When he left the CIA, he continued to be involved in trying to serve his fellow man and his community. He was a leader in his hometown in Florida. He served on the city council, was mayor, was a member of the board of commissioners, and has served in Congress since 1988, which is a pretty good period of time. He eventually became chairman of the House Permanent Select Committee on Intelligence where I know he did a good job.

I have watched him. I have watched him deal with difficult issues. I have watched him take a leadership role, and I have watched him work with the ranking member of that committee and with Democrats, and I have been impressed with the job he has done on the Intelligence Committee in the House.

So he knows the CIA. He knows it from having been in Army intelligence, he knows it from having been in the CIA, and he knows it from the position he held as chairman of the Intelligence Committee. He knows where the problems are because he was there, and he knows how to strengthen the intelligence community and make it better. He is no stranger to the difficulty and the complexity of foreign intelligence.

When I look back on some of the former heads of the CIA, frankly, some of them did not have much of a background in that area. But here is a man who is uniquely qualified. He has been in the intelligence community. I know that some people say that if you are in the institution, you are part of the problem. But, my experience leads me to ask, how can you solve a problem if you do not really understand an institution? There are some in Washington that say, if you know the subject, whether it is transportation or oil or intelligence, you should not be in government because you have been coopted.

I think absolutely the opposite is the case. Practical experience is invaluable. You have to understand the culture, you have to understand the people, and anybody who has paid close attention to the intelligence community in recent months and years knows what changes should be made and have to be made.

PORTER GOSS, a Member of Congress, has been critical of the intelligence community. He does not sugar-coat it. He has called the human intelligence program dysfunctional. He has spoken the truth about the way we have funded the CIA, which he says has not been adequate, it has not been done in the right way, and we have not put enough emphasis on human intelligence. In fact, Congress stopped this nation from having the human intelligence we needed, if we go back and look at the results of the Church Commission some 30 years ago. Once again, we are part of the problem.

He knows we need to do more in linguistic training, and he has raised these questions as chairman of the committee and in his communications with the DCI.

His confirmation would bring stability and experience to the intelligence community. One thing that worries me, as I have talked to some of our intelligence personnel, is a certain concern about whether they are really appreciated, and are the old experienced hands going to stay, or are they going to leave. I have noticed some of the intelligence people I see are getting younger, younger, and younger. They need a firm and experienced leader. They need a person who has been there with them, understands their needs, and appreciates the job they do, and PORTER GOSS would do that.

He does support what Congress is about to do. We are going to create a national intelligence director position, and we are going to pass legislation that is going to reorganize the intelligence community at some point, maybe sooner than later.

Again, he has the right attitude and supports the position I believe that Congress is going to be taking.

There are those who have questioned his independence. Is he a partisan? Is he a politician? Whatever happened to congressional courtesy? Over the years, I have supported Members of the other party from this body and the other body, even though they have sometimes been very partisan politicians, very aggressive in their speeches on the floor of the House and Senate, but I knew them to be good men and women, and I knew when they took on a different role. When you are in Congress, when you are in politics, you are a politician. That is not a damnation. That is somebody involved in the art of government. When you are a member of a party, sometimes members of the other party get under your skin, and you speak out.

I noticed over the years, PORTER GOSS has not been one of those rabid partisans. He has been very calm and very stable. Sometimes he gets a little upset. Maybe he thought perhaps the Senate was getting carried away with some of our hearings recently. On occasion, I have thought we did a little grandstanding in the Senate, and I said so even though it was sometimes directed at my own party.

I know he is an independent thinker, and I know he will put his job as head of the CIA, uppermost. He will put his political past and his partisanship behind him. He also will be a man, I believe, who can go in and meet with the President at those early morning meetings and say: Mr. President, this is what we know, this is the truth about the situation, and if you go this way, you are going to have certain problems.

He has that stature, he has that credibility, and he will have the independence to do that.

I think having served so many years, having been on the Intelligence Committee, and having the record he built at the Intelligence Committee, is proof that he will be independent to do that job for the American people. I believe he will be more candid with the Congress.

Quite often when we had testimony before the Intelligence Committee, I felt as if I did not get a complete story. Frequently, testimony was less than fully satisfactory or sufficient. PORTER GOSS is going to be able to speak to us on a level basis, not from the perspective of a former staff member. He was one of us, and he will not try to fool us. I think he will tell us the truth.

By the way, I think we will be very comfortable telling him: Mr. Director, we don't believe that. We will be able to be very candid with him. I believe he will show flexibility as we move from where we are to where we need to be.

He has been questioned about the positions he has taken, but he satisfied the members of the Intelligence Committee by a vote of 12 to 4 with several Democrats voting for his confirmation. They asked him the tough questions. They had their reservations, and those reservations have been satisfied.

I cite one point of how he dealt with the former Director. On September of 2003, he wrote a letter to DCI Tenet pointing out concerns he had with intelligence. He joined with the ranking member of the Intelligence Committee in the House, Congresswoman HARMAN, and indicated there were significant deficiencies with respect to the intelligence community's collection activities concerning Iraq's WMD programs and ties to al-Qaida prior to the commencement of hostilities there.

So he did not wait until after the fact; he raised concerns when they needed to be raised. If my colleagues have taken a look at that letter, it certainly shows independence and it was the kind of thing that the DCI needed to hear at that particular time.

So I can attest from experience, from observation, and from a written record that this Congressman will be an independent, thoughtful, strong voice at the CIA.

I urge my colleagues, let us have our discussion but let us have a vote and let us make it overwhelming. Let us do it now because we need strong leadership and we have the right man to do this job. PORTER GOSS will provide leadership for the intelligence community. He will be able to work with Congress and he will help give the intelligence community the ability to do an even better job.

I thank the chairman for yielding me this time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. I yield such time as he may consume to the distinguished Senator from Utah and thank him for his service on the Intelligence Committee.

Also, I thank the Senator from Mississippi for his excellent commentary, more especially highlighting Mr. GOSS's independence and the fact he will be a nonpartisan DCI.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank my colleague and I certainly appreciate the leadership Senators on the Intelligence Committee, in particular the Senator from Kansas. He has done a great job. I think Senator ROCKEFELLER has worked with him very well for the most part.

I associate myself with the remarks of the distinguished Senator from Mississippi. There are very few people around here who have had to deal with the personalities of so many people as

Senator LOTT has. He has done a terrific job throughout both his House and Senate career, and I think we ought to listen to the wise people like that with regard to whether we should vote for PORTER GOSS.

There is no doubt in my mind that PORTER GOSS is worthy of this position and, in my mind, he will do it in an effective way. I compliment the distinguished Senator from Mississippi for his cogent remarks and his very practical remarks to which we ought to all be paying attention.

I remember when George Tenet was nominated, and George Tenet was a Democrat. He was a staffer to Senator Boren. Senator Boren, George Tenet, and I traveled all over the world together. There was not any question that we were going to support George Tenet when he came up for CIA Director, and I think he did a much better job than all of his critics are saying. A lot of that was because he worked very hard for Senator Boren and for the committee and knew an awful lot about intelligence to begin with. This is a tough job. It is almost an impossible job to do. In fact, I think it is an impossible job to do in every way, in every respect, totally right.

The fact is, we supported Mr. Tenet and he was a member of our family. I believe PORTER GOSS is a member of our family, too, and a person who is worthy of this position. We should not politicize this appointment.

The next person to head the Central Intelligence Agency will lead the organization at its most demanding time in history. The next Director of Central Intelligence will have to provide leadership in shepherding that organization through a much needed reform while continuing to play a major role on the ongoing global war on terror. The next person to hold this post will require much more than a passing experience with the workings of the intelligence community. He will need to understand the role of the executive in conducting our foreign policy at war, and the essential role of congressional oversight and support in ensuring that our intelligence community is flexible enough to address threats that have never before been the primary focus of our foreign policy.

President Bush made the right call when he chose PORTER GOSS to fill this role. I am happy to note that an overwhelming majority of my colleagues on the Senate Select Committee on Intelligence have also recognized this, having approved his nomination yesterday. I commend Chairman ROBERTS for his leadership and I thank our majority and minority leaders for bringing this nomination to the floor today. It is important.

I have had the opportunity to work closely with the chairman of the House Permanent Select Committee on Intelligence. In the months of collaboration between our two committees which produced the joint inquiry, I had the opportunity to take the measure of PORTER GOSS's mind, as well as his experience and his commitment to the intelligence community. I totally support this nomination.

As we all recognize, the intelligence community will be undergoing a major reform, a process that can only succeed if there is close cooperation between the White House and all the relevant executive agencies, the Congress—and that includes Democrats and Republicans—and especially this committee, and the intelligence community.

The reform that will be promoted should not be a mere bureaucratic reshuffling; it should be a reform of our intelligence community that enhances and strengthens our ability to understand, penetrate, co-opt, and neutralize the threat of armed groups to our national security. The success of the next Director of the Central Intelligence Agency must understand this to be successful.

The next Director of Central Intelligence must understand that the new initiatives we are debating in draft legislation this month, legislation we are referring to as an intelligence community reform, will be the beginning, not the end, of reform. In fact, I fear that once we pass a reform package some of us will believe we will have accomplished reform. In fact, we will have only begun.

Everyone agrees that we need better results from our intelligence community. I suppose that is always going to be the case. Most of us, I hope, also agree that the efforts of the intelligence community, from the Director on down, have been admirable, brave, selfless, and intense. I believe former Director Tenet worked hard to revitalize capabilities that devolved after the end of the Cold War. I know he worked hard. He inherited an agency that needed a lot of improvement, and to the extent that he could, he did his best to do so.

The next Director of Central Intelligence must recognize that our goal should not be to rebuild a capability but to build a new capability. We need better results and we need a strategy for achieving them.

Director Tenet was candid in speaking before the 9/11 Commission in saying that our human intelligence capabilities would take at least 5 years to rebuild. PORTER GOSS, when confirmed, must recognize that this will be the issue I will address in our first closed hearing. I will ask: How do you intend to rebuild the capability? What is your strategy? To what standards of measurement will you hold yourself?

The American intelligence community of the 21st century will face traditional geopolitical threats, as we did in the past. We will need intelligence to address the question of rising powers, such as China, and remilitarizing states, such as Russia. We will need intelligence to deal with the failing States of North Korea and Cuba.

As we all know, we will also need to develop intelligence capabilities to gain a strategic advantage against the threat we face now and will face for some time to come: the threat of armed groups—terrorists, if you will.

I strongly believe al-Qaida will be defeated in the coming years. It is not going to be easy, but we will defeat them. On the other hand, I think a somber analysis of the world we live in today should remind us that, even when al-Qaida is defeated, we will face the threat of other armed groups. Nations that have developed a strategic advantage to understand, penetrate, co-opt and, when necessary, destroy armed groups will enhance their national security.

We rely on our intelligence community for that strategic advantage. PORTER GOSS understands these requirements. He has worked within the intelligence community, and he has performed years of congressional oversight over that community. He respects the community and he knows what is expected of it. If we do our jobs, I can assure PORTER GOSS, when he is confirmed, he will be the Director made most accountable to Congress in the history of intelligence community oversight.

As I said, when the next director comes before our committee, we should not settle for reports. We must demand strategy for achieving reform and measurement standards. Our legislative initiatives can only do so much. Our oversight, and the stewardship of a responsible and experienced director, will be what advances reform.

There is no doubt in my mind that this man can do the job and can do it well. There is no doubt in my mind that as a Member of Congress he has occasionally made statements that have irritated the other side of this aisle. That is probably true of everyone on both sides of the floor. I have to admit I have been irritated from time to time by statements made by my colleagues on the other side—and even by some of my colleagues on our side—and I am sure I have made statements from time to time that have irritated colleagues on the other side as well. I have not wanted to, but I am sure I have. It is just the nature of being in this political arena. But to then presume a person is an indecent partisan because occasionally they find fault with the other side, I think shows a degree of immaturity, of political and professional immaturity that is unworthy of the nomination process.

Nobody is going to come before us who is perfect in every way. But I have to say, there are very few people who have served as much as PORTER GOSS has and who have as much knowledge of the intelligence community as he has, who have ever been members of the top echelon of the CIA.

I have every confidence in him. I am going to support him. I hope all my colleagues also will support him. He is worthy of it. He is a Member of Congress. He is a person who deserves our support. I hope we all get together and support him and continue to support him as he serves in this job which almost nobody can completely fulfill. This is a job that takes immense capabilities and, I might add, commitment. He has both and we should support him.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from West Virginia.

Mr. ROCKEFELLER. I yield such time as the Senator from New Jersey wishes to express his views. I yield him that amount of time.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, we are discussing the nomination of Representative PORTER GOSS to be Director of Central Intelligence. This nomination comes to the floor at a critical time for our Nation's intelligence community. With Chairman COLLINS's leadership and Senator LIEBERMAN's ranking membership, the Governmental Affairs Committee is in the process this very day of marking up legislation to reform the intelligence community. It is a task that all of us on the committee are taking very seriously. After all, it was the failures of intelligence that led to the horrors of 9/11 and the loss of almost 3,000 lives. Seven hundred of them came from my home State of New Jersey. It was a painful moment in American history.

It was failures of intelligence that led to our false premises for invading Iraq. I thought everyone from the President on down had agreed that we needed to take intelligence data more seriously. That is why it was so shocking to hear President Bush's odd statement yesterday about our Nation's intelligence data on Iraq. A few hours after the President spoke at the United Nations about why we went it alone in Iraq, President Bush was asked by a reporter about the CIA report that he had received in July, regarding the deteriorating situation in Iraq, which could even lead to a full-blown civil war.

The President at that moment dismissed the CIA report by saying that the CIA might have been "just guessing." Just guessing? The Central Intelligence Agency just guessing? That is quite a way to describe their activities.

On this placard we see what President Bush actually said.

> The CIA laid out a—several scenarios that said, life could be lousy, life could be OK, life could be better. And they were just guessing as to what the conditions might be like.

That is quite a description, on September 21, yesterday, at the Waldorf-Astoria in New York. If the President thinks our Nation's intelligence system is just guessing, then we are really in trouble. Casual statements.

I remind President Bush that when you pronounced "mission accomplished" on the deck of that aircraft carrier, we had lost 138 American citizens. But since then, since the mission was accomplished—"mission accomplished" means job done—almost 900 people, 900 Americans have perished.

How do we treat subjects so casually, statements like this? Does President Bush believe Congressman GOSS will simply direct the guessing game at the CIA? Is that all he expects from our main intelligence agency?

As we now know, in July the CIA sent the President a report that laid out three scenarios for Iraq, with the rosiest scenario being the continuation of the disastrous status quo. Under this scenario, we see an average of 87 attacks a day against our troops, and 1,037 dead to date. That is a horrible situation.

The CIA report to the President identified the worst scenario as an all-out civil war, with our troops in the crossfire. This is not what the President wanted to hear. So what did he do? He ignored it. And now when asked how the information came to him, he said: The CIA—just guessing.

President Bush's comments are a frightening sign he is not dealing with reality, in that he continues to ignore the truth about what is happening on the ground in Iraq. That is why I am so concerned about the nomination of PORTER GOSS to head the CIA.

I know Mr. GOSS only casually. Certainly he seems like a nice enough, intelligent fellow. But what the President needs more than ever is an intelligence chief who will tell it like it is, and not revamp intelligence to meet the President's expectations.

Congressman GOSS has not shown himself to be a person who will deliver nonpartisan, objective information to the President.

At a time when the independence and the objectivity of the CIA is more crucial than ever before, President Bush has nominated a politician who has been particularly partisan. In a PBS "Frontline" interview after 9/11, Representative GOSS refused to characterize what happened as an intelligence failure. How could one argue that 9/11 was not an intelligence failure? He also opposed the creation of the 9/11 Commission.

Congressman GOSS attacked Senator KERRY claiming that Senator KERRY tried to cut the Nation's intelligence budget during the Clinton administration. But Congressman GOSS made the attack against Senator KERRY while not revealing that he cosponsored a bill during the same period that would have made even deeper budget cuts.

Here is what Mr. GOSS called the Senate Armed Services Committee in recent hearings on the Abu Ghraib prison scandal. I quote him. He said:

> We've got a circus in the Senate which is always a likely place to look for the circus.

Quite a commentary about what Mr. GOSS thinks of our Government. First of all, the abuse of prisoners at Abu Ghraib—he thinks the Senate is a circus in hearings, and then he describes this place as a big circus tent. Is that what he thinks of us? I hardly think that is the kind of person who ought to be taking this serious job.

When asked whether he would investigate the disclosure of covert CIA agent Valerie Plame's identity, he dismissed the scandal, saying, "There's a much larger dose of partisan politics going on right now than there is worry about national security."

Then he added flippantly, "Somebody sends me a blue dress and some DNA and I will have an investigation."

What kind of an insulting comment is that intended to be? Do you want to trust this individual with a bipartisan responsibility to the entire Nation who can be so casual, so insulting, so sarcastic in his view of what takes place here? Do we honestly expect someone who has been a partisan attack dog for President Bush's reelection efforts to be independent and nonpartisan? It is just not realistic.

It is time for the President and this administration to return to reality—the reality of Iraq, the sadness of the loss of life, the ruination of families, the emotional disturbances that occur. We have some reservists from the State of New Jersey on active duty in Iraq. We just had our 33rd death of service people from New Jersey in Iraq. The disturbances that go to normal life, the daddies missing, mommies missing in the household—it is terrible. We have to get back to reality, the reality of Iraq, the reality that our Nation's intelligence is not just guessing, and the reality is that we need an objective, nonpartisan intelligence chief in this Nation.

I say with regret that we cannot accept turning responsibility over for managing this Nation's intelligence gathering to someone who first looks at which side of the political aisle someone is on before he makes decisions about the responsibility for the CIA.

I yield the floor.

The PRESIDING OFFICER. The Senator from the great State of Kansas.

Mr. ROBERTS. Thank you, Mr. President.

I now yield as much time as the distinguished Senator from Maryland may use. I thank the distinguished Senator for her service on this committee as she always provides the committee with very candid, independent, and right-on views. I am delighted to yield time to her at this time.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. I thank the chairman of the Intelligence Committee for his words. I also thank him for the process he provided for us to evaluate the suitability of PORTER GOSS to be the Director of the Central Intelligence Agency. He gave us a lot of time to be able to interview Mr. GOSS directly. His staff has been quite collegial and quite cooperative, and we want to thank him for providing us with that type of environment in which to make a wise and prudent decision.

Indeed, deciding on this nomination is vitally important. The Director of the CIA needs to be up to the job. These are very dangerous times, and it is vitally important that we make the right choice. Now more than ever, the security of our Nation depends on timely, reliable intelligence to detect, disrupt, and deter terrorist attacks on the United States of America and to also make sure attacks don't happen to treasured allies, and to help policymakers, from the President and his Cabinet to Members of Congress, to make the right decisions about what we need to do related to diplomacy and the deployment of our troops.

The next Director of the CIA will have to do all of this and even more. The next Director will also have to push through the much needed reform at the CIA and to cooperate in the reforming of other intelligence agencies. We want to make sure there are no more 9/11's and no more wars based on dated and dubious evidence.

The constitutional duty of the Senate is to review the nominations of the President. I take that very seriously. When a nominee comes, regardless for what position or from whatever party is in power, for an important position like this, I ask four questions: Is that person competent? Do they bring integrity to the job? Are they committed to the core mission of the agency? And will they function in an independent way?

As I said at our hearings, I know PORTER GOSS, and I have worked with him over the years. I have no doubt that Congressman GOSS is competent based on his years of service, both as an agent at the CIA as well as in the House of Representatives chairing the House Intelligence Committee. From my knowledge, he has been a man of integrity. And yes, he is committed to the mission of the CIA and the importance of intelligence to help protect the United States of America. The great big caution yellow light I have is the one about independence—the willingness to speak truth to power, committed to reform, to be nonpartisan, and also never to sugarcoat, dilute, or twist the information going to the President of the United States and top policymakers.

During the last year, I have become very concerned about Mr. GOSS's partisan activities. He has unfairly attacked Democrats. He has been strident in other statements in terms of the political campaign for the Presidency.

My questions are, Who is this PORTER GOSS? Is he the one I served with in the House who was a moderate conservative, straightforward, and also someone who said we have to think out of the box so we don't end up in a box? Or is he a rather an aggressively partisan person? My question about PORTER GOSS is, Would he be an independent voice in the administration as well as a strong advocate for real and deep reform? Would he present the President with the best information based on facts and sound analysis without regard to ideology or conventional wisdom? Would he tell the President what he should hear, not what the President would like to hear? That is what speaking truth to power means.

Speaking truth to power is not easy. It is very difficult. Yet for the Director of the CIA it is important that he speak the whole truth and nothing but the truth, without sugarcoating, no matter how difficult. The President must receive the best judgment and information. That is what I am looking at.

Now, having had those questions when Mr. GOSS was before the committee, in my usual way I asked very direct questions. I raised those issues. I even raised the issue the previous Senator, the Senator from New Jersey, Mr. LAUTENBERG raised. What about this investigation, the blue dress, and the DNA? Well, I put it to him. And his answer back was, yes, he would be nonpartisan. That he understood the role of the Director of the CIA is different from being a Congressman. That it is not a political job, it is a job that is both policy and operational.

He said he would speak truth to power to both the President and to the Congress. And if anyone knows the importance of congressional oversight, it is PORTER GOSS. He agreed to work with the Congress to reform our intelligence agencies.

As you can see, at the hearing, in response to both my questioning and questioning by the chairman and other members, particularly on this independence issue, he said he would raise these issues.

So when I have to think about, is this the PORTER GOSS who is moderate, straightforward, willing to work across the aisle, or is this the aggressively partisan and even intemperate person, I take him at his word. However, in the words of Ronald Reagan, who said "trust but verify," that is the way I feel about the PORTER GOSS nomination. I accept him at his word, which he not only gave to me but he gave to the entire committee in a public format, that he would be nonpartisan, committed to the truth, a leader for independence and reform, and would always speak truth to power. So I accept him at his word, but I also believe we must engage in vigorous congressional oversight to make sure PORTER GOSS does the job he is to do, and to make sure he does what he has committed to do.

So when my name is called, I will vote for PORTER GOSS. But I want to make it very clear that in voting for PORTER GOSS to be the Director of the CIA, I am not voting for him to be the future NID. As you know, we are not clear on what is the framework for reform we will adopt. There are ideas coming forth that I know we will be debating and voting on next week and in the weeks ahead. So we want to be sure whatever framework we create, and if we do create the National Intelligence Director, a position I have supported for many months, that person's nomination come to us separately. In voting for PORTER GOSS, I am voting for him to be the head of CIA, but I am not using this vote for him to be the NID by proxy.

Again, let me conclude by thanking the chairman and the vice chairman for their hard work on this committee. It is a committee with great responsibility. We take it seriously. But at the end of the day, my analysis concludes that I will vote for PORTER GOSS. I will trust, but I will use congressional oversight to verify.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I thank Senator MIKULSKI for her very forthright statement. Like the Senator, I understand the point raised by Senator LAUTENBERG and would only make two points about the notion of PORTER GOSS's alleged lack of independence from the administration.

First, Mr. GOSS sent a very candid letter to DCI Tenet, along with Congresswoman JANE HARMAN, who is the ranking member of the House Intelligence Committee, expressing deep concern about our intelligence on Iraq. That letter is not the work of a shrinking violet, I can assure you.

Mr. President, I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the material was orderd to be printed in the RECORD, as follows:

U.S. HOUSE OF REPRESENTATIVES,
PERMANENT SELECT COMMITTEE
ON INTELLIGENCE,
Washington, DC, September 25, 2003.

Hon. GEORGE J. TENET,
Director of Central Intelligence,
Washington, DC.

DEAR MR. TENET: At the outset, we reaffirm our support for the dedicated men and women working in the Intelligence Community (IC). Their deep commitment to our country and to their profession is evident. The nation owes these professional men and women its gratitude for their tireless efforts to provide policymakers with the intelligence they need to make informed decisions about the security of Americans at home and in places like Iraq.

Thank you, again, for promptly responding to the Committee's request for all intelligence information related to Iraq's weapons of mass destruction (WMD) capabilities, as well as any ties to terrorist organizations, including al Qa'ida. The Committee has reviewed all 9 volumes of material that you provided. Additionally, it has held several closed hearings and an open hearing, conducted a number of interviews, made several oversight trips to Iraq, and reviewed additional materials over the last four months. Although the Committee's work continues, we have some preliminary views that we offer so that the IC can begin to consider necessary improvements. In addition, we offer these views to provide you a chance to answer questions or clarify any issues that will assist us in concluding our review.

At this point, several months into our review, we believe there were significant deficiencies with respect to the IC's intelligence collection activides concerning Iraq's WMD programs and ties to al-Qa'ida prior to the commencement of hostilities there.

We have a fundamental disagreement generally on whether the National Intelligence Estimate on Iraq's WMD programs and the intelligence on Iraq's ties to al-Qa'ida were deficient with regard to the analysis and presentation, especially in the certainty of the IC's judgments. The Ranking Member believes it was. The Chairman believes it was not.

Additionally, the Committee is also reviewing the intelligence assessments that existed pre-March 2003 regarding the nature and level of resistance that U.S. troops could expect in Iraq and the health of Iraq's civilian infrastructure.

IRAQ'S WMD

In October 2002, the Intelligence Community produced a National Intelligence Estimate that included statements that "We judge that Iraq has continued its weapons of mass destruction (WMD) programs in defiance of UN resolutions and restrictions. Baghdad has chemical and biological weapons . . ." and "in the view of most agencies, Baghdad is reconstituting its nuclear weapons programs." (Iraq's Continuing Programs of Weapons of Mass Destruction at p. 5 (hereafter "NIE")). The Committee thoroughly reviewed the underlying intelligence supporting these conclusions, that you have provided, as well as the reporting from the early efforts to locate WMD after the cessation of major military action in Iraq. Thus far, it appears that these judgments were based on too many uncertainties.

IRAQ'S POSSESSION OF CHEMICAL AND BIOLOGICAL WEAPONS

The U.S. and the U.K. took limited air strikes in 1998 (Operation Desert Fox), based on Iraq's lack of cooperation and violation of United Nations Security Council resolutions regarding weapons of mass destruction. In early 1998, while the UN inspectors were still in Iraq and providing some amount of solid information about the WMD programs, the IC's judgments were based, in substantial part, on circumstantial information. Such information—among other things—identified: gaps and inconsistencies in Iraq's WMD declarations to the UN; Iraq's obstruction of United Nations Special Commission (UNSCOM) inspections and monitoring activities; Saddam's efforts to declare certain sites exempt from inspections; and Saddam's efforts to end inspections entirely.

After the departure of UN weapons inspectors and Operation Desert Fox, in 1998, some new information continued to be developed on Iraq's capabilities, but access to "ground truth" corroboration was lost. The IC was also faced with the daunting challenge of trying to interpret snippets of information in an environment where the regime was engaged in massive denial and deception efforts. Based on past assessments and some new "piecemeal" intelligence, which was otherwise seemingly valid, the Community's analysis of Iraq's WMD programs and capabilities reflected an assumption that these long-standing judgments on the issue were still valid. The absence of proof that chemical and biological weapons and their related development programs had been destroyed was considered as proof that they continued to exist.

The dearth of post-1998 underlying intelligence reflects a weakness in intelligence collection. The Committee on a number of occasions in the past expressed its concern that the IC was facing serious shortfalls in specific areas of intelligence collection—to include intelligence from human sources (HUMINT) and from technologies designed to tell us about weapons development (Measurement and Signatures Intelligence, or MASINT). The issues presented with respect to Iraq's WMD programs and capabilities appear to be a case in point. Lack of specific intelligence on regime plans and intentions, WMD, and Iraq's support to terrorist groups appears to have hampered the IC's ability to provide a better assessment to the policymakers from 1998 through 2003.

Iraq has held a place of priority in U.S. foreign policy and national security during successive Administrations. For instance, in 1998 U.S. policy toward Iraq was clarified by Congress and the President to reflect an unequivocal policy to seek regime change. See Iraq Liberation Act of 1998 (P.L. 105-338 Oct. 31, 1998). Given the high priority placed on Iraq policy, we believe greater efforts should have been made to acquire more and better sources of information—particularly well-targeted, close-in HUMINT.

RECONSTITUTION OF IRAQ'S NUCLEAR WEAPONS PROGRAM

In October 2002, the NIE on Iraq's WMD programs made a statement about Iraq's nuclear program, ". . . in the view of most agencies, Baghdad is reconstituting its nuclear weapons program." (NIE at page 5.) The NIE cited six factors in making this judgment:

Iraq's aggressive pursuit of high-strength aluminum tubes;

Iraq's attempts to obtain permanent magnet production capability;

Iraq's attempts to obtain high-speed balancing machines;

Iraq's attempts to obtain computer-controlled machine tools;

Iraq's efforts to re-establish and enhance its cadre of weapons personnel, which included appearances by Saddam on Iraqi TV exhorting his nuclear scientists; and

Activities at suspected nuclear sites.

Our examination has identified the relatively fragile nature of this information. With respect to the aluminum tubes, as was stated in the NIE, the Bureau of Intelligence and Research (INR), citing the Department of Energy (DoE) analysis, disagreed with the view that these tubes were intended for Iraq's nuclear program. The other items that Iraq was seeking (permanent magnet production capability, high-speed balancing machines, and computer-controlled machine tools), in addition to having utility in a nuclear weapons program, also have civilian uses. Other elements of information available to the IC on the topic of nuclear reconstitution may have been susceptible to Iraqi denial and deception efforts. These included trying to determine the nature of Iraqi activities at suspected nuclear sites or the purpose of Saddam's TV appearances exhorting his nuclear scientists. We have not found any information in the assessments that are still classified that was any more definitive.

IRAQ'S TIES TO TERRORISTS INCLUDING AL-QA'IDA

The Committee has reviewed the three volumes of information provided by you on Iraq's ties to terrorism, most of which remains classified. We have found no reason to question the State Department's decision to designate Iraq as a state sponsor of terrorism for at least a decade.

On the issue of Iraq's ties to al-Qa'ida, however, we believe substantial gaps in collection—particularly HUMINT—contributed to the Intelligence Community's inability to give policymakers a clear understanding of the nature of the relationship.

In place of an assessment characterizing the relationship between Saddam and al-Qa'ida, the Intelligence Community reported on possible contacts between al-Qa'ida associates and Iraq. As in other cases of IC reporting on terrorism generally, we believe that there was either a "low threshold" or "no threshold" for disseminating information on ties between Iraq and al-Qa'ida. As a result, intelligence reports that might have been screened out by a more rigorous vetting process made their way to the analysts' desks, providing ample room for vagary to intrude. Although the Intelligence Community often noted that the reports were "from sources of varying reliability," these reports did not make clear which of them were from sources that were credible and which were from sources that would otherwise be dismissed in the absence of any other corroborating intelligence.

NATURE OF IRAQI RESISTANCE AND THE STATE OF IRAQ'S INFRASTRUCTURE

In addition to these two issues, we are concerned whether the policymakers were warned adequately about the nature and level of resistance our troops would face in Iraq, or about the dilapidated state of Iraq's civilian infrastructure. The Committee will be reviewing the intelligence available to policymakers prior to the commencement of hostilities to determine if there were shortcomings in the support provided on these issues. The Committee will seek to understand what requirements were levied on the IC prior to the invasion, what assessments were made, whether the assessments were completed in a timely manner, and, with the benefit of hindsight, how well the assessments match what has been found in Iraq since the cessation of major hostilities.

POLICYMAKERS STATEMENTS ON IRAQ

The Committee has reviewed extensively allegations that there was a disconnect between public statements by Administration officials and the underlying intelligence. The Committee's purview does not extend to the formulation or articulation of foreign policy. We do believe, however, that if public officials cite intelligence incorrectly, the IC has a responsibility to go back to that policymaker and make clear that the public statement mischaracterized the available intelligence. The IC exists to inform policymakers on matters of foreign intelligence. It does not make policy. The IC is one of many sources of information available to policymakers. Policymakers are under no obligation to believe or adhere to the IC's judgments. Nor should the IC dictate U.S. foreign policy.

SUMMARY

The assessment that Iraq continued to pursue chemical and biological, weapons remained constant and static over the past ten years. The U.S. understanding of Iraq's ties to terror groups was also longstanding. We note, however, that there was insufficient specific information regarding the following:

Saddam's plans and intentions,

the status of Iraq's WMD programs and capabilities, and

Iraq's links to al-Qa'ida, specifically.

The intelligence available to the U.S. on Iraq's possession of WMD and its programs and capabilities relating to such weapons after 1998, and its links to al-Qa'ida, was fragmentary and sporadic. These assessments and longstanding judgments were not challenged as a routine matter within the IC. Saddam Hussein, for his part, apparently made no effort to dispel the conclusions that he possessed weapons of mass destruction, had programs in place to produce them and had the capabilities to deliver them, or that he had links to terrorist groups.

Underlying these problem areas were serious deficiencies in our HUMINT collection capabilities against this target. HPSCI has consistently recommended greater management attention and allocation of resources to core intelligence mission areas—such as HUMINT and analysis. We believe Iraq is, in many ways, a case study for improvements in these areas.

We would appreciate your response to the issues raised in this letter. In addition, we seek your assurance that the shortcomings identified will be promptly addressed. Finally, we intend to have additional hearings, open and closed, as appropriate.

Sincerely,

PORTER J. GOSS,
Chairman.
JANE HARMAN,
Ranking Democrat.

Mr. ROBERTS. Second, the independence issue was thoroughly explored at Mr. GOSS's confirmation hearing as of this week. Mr. GOSS has assured the committee—and I do believe him, knowing him for 16 years in the Congress—that he has the integrity, as Senator MIKULSKI put it, to look the President in the eye and say no.

Mr. President, at present, it does not appear either side has a Member requesting time, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. Mr. President, I yield such time to the distinguished Senator from Florida as he might consume and thank him for his contributions, not only with his strong interest in the Intelligence Committee and the leading intelligence issues and challenges we face today, but for his service on the Armed Services Committee as well, for working with me with regard to Captain Spiker and other issues. I look forward to his comments.

Mr. NELSON of Florida. Mr. President, we are at "no fooling time" with regard to our intelligence activities. Because the only thing that is going to prevent another terrorist attack, of which there are many attempts, is the accuracy and quality and the timeliness of the intelligence information we get. In dealing with a secretive nation such as North Korea, which in this Senator's opinion is one of the gravest threats to the interests of the United States because of their outspoken attempt to acquire nuclear capability, we simply have to penetrate a secret society such as that with our intelligence apparatus more than we have been doing.

Therefore, who is going to lead this administrative apparatus on intelligence gathering and intelligence analysis and intelligence coordination, with the multitude of agencies all dealing with intelligence, is extremely important. That is why I am standing here speaking on behalf of my fellow Floridian and my friend PORTER GOSS.

This Congress will have a monumental task before it very shortly on the reorganization of the intelligence apparatus as well as the reorganization of putting our own house in order as we exercise that oversight or give direction to the executive branch of government. And that needs to be done better than we have in the past.

But the task before us right now is to exercise our constitutional duty in confirming or rejecting an appointment by the President to lead the intelligence apparatus, right now as symbolized by the Director of the Central Intelligence. That is why I am here to speak on behalf of PORTER GOSS.

It has already been said before many times that he started in 1960 as an Army intelligence officer, right out of school. Having gone into the CIA from that, with a distinguished career, he ended up back being a city councilman and a mayor in a little town on the southwest coast of Florida. Then-Governor GRAHAM, now my senior colleague in the Senate, when three vacancies occurred on the Lee County Commission—they had occurred for whatever reason, but they were there—then—Governor GRAHAM chose PORTER GOSS to fill one of those vacancies. Then his public service expanded, and he later ran and won a seat in the U.S. House of Representatives. We have known of his public service through his capacity as the chairman of the House Intelligence Committee.

Now, has PORTER said some things he probably wishes he would not have said? Yes. But who among us has not made those kinds of mistakes? This Senator knows him to be, in this political cauldron of highly charged partisan politics, one of the most bipartisan of all Members of Congress that I have had the pleasure of knowing. It is my understanding that he made a commitment to the Intelligence Committee, and specifically to questions propounded by the vice chairman of that committee, the distinguished Senator from West Virginia, Mr. ROCKEFELLER, that he would not engage in a partisan manner, which is the least that can be expected of the Director of the CIA. The stakes are too high for this country for any of that kind of nonsense.

I believe PORTER is a man of his word to the Senate Intelligence Committee. I believe, given the circumstances of where we are now, with so much at stake and having to have the right kind of leader, this is the leader the President has nominated. We are now in the process of advising and probably consenting, and with the admonitions he has received, with the exceptional educational background he has had, with the breadth of his experience, not only as an agent but as the chairman of the committee, I think it is the constitutional duty of the Senate to render a verdict. I think that verdict ought to be for the approval of PORTER GOSS as Director of Central Intelligence.

Mr. President, that is my effort to lend to this debate. It is short and sweet. This Senator, as well as my senior colleague from Florida, will be voting in favor of PORTER GOSS.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, seeing no other Senators requesting time now, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, following Senator DORGAN's remarks, I ask unanimous consent that the Senate stand in recess until 4 o'clock, and that the time during the 4 o'clock period be equally charged against both sides.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERTS. Reserving the right to object, and I shall not object, it is my understanding, or I can ask the distinguished Senator—

Mr. REID. He said he has a short statement.

Mr. ROBERTS. He would be able to finish his remarks at 3, in time for the meeting?

Mr. REID. Especially if we didn't talk more.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERTS. No.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I do not have a long presentation. My guess is the 3 o'clock briefing is one most Senators want to attend. I do want to, however, visit a bit about this issue of the Director of the Central Intelligence Agency.

We have been through pretty tough times with respect to intelligence in this country, and this is a critically important position. The President's choice is an important choice, especially given what we have been through. Let me make a couple of comments.

First of all, I am going to vote for this nomination, but I do so without great enthusiasm, and I would like to explain why.

PORTER GOSS, I think, is qualified to assume this role. There is little in his record that suggests he is a reformer, and there is some piece of that record that suggests there is some partisanship, which bothers me. But I know PORTER GOSS. I have known him for a long while. When I served in the House of Representatives, I knew him.

While I would not have made this choice had I been President, the President has the opportunity to make the selection and deserves, in this case, his own team. My hope is the questions asked of Mr. GOSS at his hearings will make certain he will run the CIA with a reformist attitude, with an understanding that things need to change, with an understanding that this cannot, under any circumstance, be a position from which partisanship flows, and that we have to get straight answers, as does the President, from the Central Intelligence Agency.

Over the years, we have had many, many failures in intelligence. For those of us who have been through top secret briefings in room 407 of the Capitol Building, it is nearly unbelievable what they told us they knew from all their different kinds of intelligence-gathering devices and their analysis, and what we subsequently learned were the facts or the truth of the matter.

I am telling you because we need a good intelligence system to protect our country and protect our homeland. I worry about all of this, knowing that the intelligence system was deeply flawed. In candid moments, most Members of the Senate would tell you that which was told them as top secret intelligence information has often turned out to be fundamentally wrong.

We now read, for example—and I am not now discussing that which comes from top secret briefings; I am discussing things that come from the periodicals—we read, for example, that the intelligence we were given in briefings about the issue of mobile chemical weapons laboratories, it turns out came from one source, a source they call "Curve Ball." I am describing this from Newsweek and Time magazine, not from top secret briefings. One source turns out to apparently have been a drunk and a fabricator and, as a result of that source, we get top secret briefings and the Secretary of State makes a presentation at the United Nations about something that apparently we now know was untrue. What kind of intelligence system is that?

We learned that Germans provide the name and information of a terrorist to the CIA here in the United States and the telephone number and nobody checks on him, nobody follows up at all. Our intelligence folks cannot find a couple of alleged terrorists living in San Diego when their names and telephone numbers are in the phonebook? What on earth is this? I suppose it is Keystone Kops, except this is about the security of the United States of America.

I want the CIA and the Intelligence Community to succeed. Our country depends on it being able to succeed in gathering good intelligence and protecting this country.

There is so much that is wrong here. Hans Blix, the U.N. weapons inspector, said he was "not impressed" by the intelligence presented by the administration regarding Iraq's weapons of mass destruction. The Blix team checked every site where U.S. intelligence indicated weapons of mass destruction would be found in Iraq, and there was nothing.

It goes on and on.

David Kay, the CIA chief weapons hunter, said the intelligence community failed.

On the 9/11 issue, the intelligence community failed to connect the dots. I am not talking here just about the CIA; I am talking about the FBI. The list goes on.

When we are talking about 9/11, we also ought to talk about a report that was done by the Joint Intelligence Committee in December of 2002 that was published with 28 pages missing. Those 28 pages are about the Saudis. Fifteen of the 19 who attacked this country were Saudi citizens. But when the report was published for the public to read, the White House redacted or eliminated the 28 pages that dealt with Saudi Arabia.

On October 29 of last year, I offered an amendment to the Foreign Operations appropriations bill, a sense-of-the-Senate resolution, calling on the administration to declassify those 28 pages. If one is talking about 9/11, and talking about intelligence, I believe the American people and every Member of this Senate and the Congress need to understand what is in those 28 pages dealing with Saudi Arabia.

It is interesting, even the Saudi Ambassador and the Saudi Foreign Minister, publicly insisted that this information be declassified. Senator SHELBY, the top Republican Senator on the 9/11 inquiry, said that 95 percent of the classified pages of these 28 pages could be released without jeopardizing our national security.

I say once again to the administration and to my colleagues that the 28 pages dealing with Saudi Arabia and 9/11 needs to be released to the American people. This Congress and the American people should not be evaluating 9/11 and our intelligence without releasing those 28 pages, so that the American people see what was deemed required to be classified. It should not have been classified.

Whether we are talking about Iraq, Afghanistan, Pakistan, Syria, or back even further, Libya or the old Soviet Union, there have been intelligence failures. We spend a great deal of money on U.S. intelligence. We want it to work. I do not want our intelligence system to fail our country, because our country requires a good intelligence system to prevent the next terrorist attack and to attack terrorists where they live.

The attack on Iraq was a preemptive strike that the President said was necessary to protect our country. Well, it is very important when talking about preemption, which is a doctrine that has been foreign to this country's interests in the past, to have good intelligence. Preemption can never occur based on what one thinks. Preemption could only occur based on what one knows. What one knows must come from good intelligence.

We have discovered, since the time preemption was discussed by this administration, that the intelligence was just plain horrible on major points delivered in top secret briefings to Members of this Congress. Our intelligence community was just flat wrong. So we all need to fix it.

There is no Republican or Democratic way to deal with intelligence. We need to fix this system in the interests of this country. Our safety depends on it.

I am going to vote for Mr. GOSS. I think he is qualified to do this job. As I indicated, I am concerned about some things he has done in the past. I hope that is over. I am concerned about the intelligence agencies themselves. I believe they are in desperate need of reform. I hope Mr. GOSS will be a reformer. Most importantly, our country, all of us, each of us, needs to work together to create an intelligence system that works for the safety of this country and works in a way that a President, a Congress, a Director of the CIA can rely on good intelligence from all around the world.

My understanding is that we will be in recess for 1 hour until the hour of 4 p.m.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, we will now stand in recess until the hour of 4, with the time charged evenly to both sides.

Thereupon, the Senate, at 3:04 p.m., recessed until 4 p.m. and reassembled when called to order by the Presiding Officer (Mr. CORNYN).

EXECUTIVE SESSION

NOMINATION OF PORTER J. GOSS TO BE DIRECTOR OF CENTRAL INTELLIGENCE—Continued

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. What is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is the nomination of PORTER GOSS.

Mr. DURBIN. Mr. President, I rise to speak in reference to that nomination.

Mr. President, I will vote against the nomination of Congressman PORTER GOSS to serve as the next Director of Central Intelligence. I do so reluctantly. I have known Congressman GOSS for a number of years, and I consider him a good person and a good public servant. But we are on the verge of enacting significant, historic, and much needed reform of the U.S. intelligence community. It is more important than ever that the next leader of the intelligence community be nonpartisan and firmly committed to meaningful intelligence reform.

Based on his record and his public statements, and on the confirmation hearings before the Intelligence Committee on which I serve, I do not believe Mr. GOSS is the right person at this moment in time for this vitally important national security position.

Mr. GOSS has served as chairman of the House Intelligence Committee for almost 8 years, the second longest tenure in that position in the almost 30 years since its creation. The chairman of a congressional committee has considerable power in determining on which issues the committee will focus, and the manner in which they will conduct their oversight. I believe this oversight record is a reasonable measure of Mr. GOSS's likely effectiveness in managing the intelligence community during this highly challenging transitional period.

Despite having served on the Aspin-Brown-Rudman commission on the roles and capabilities of the U.S. intelligence community in 1996, 8 years ago, and cochairing, along with Senator BOB GRAHAM, a joint inquiry into the 9/11 terrorist attacks, and serving on the House Permanent Subcommittee on Intelligence for almost 10 years, Congressman GOSS's record demonstrates that he has been more a protector of the status quo than an agent of meaningful reform. Only a few months ago did Congressman GOSS introduce, for the first time, legislation to reform the intelligence community. It should be noted that on July 25, 2002, Mr. GOSS voted against the amendment of Congressman Tim Roemer of Indiana on the House floor creating the independent National Commission on Terrorist Attacks Upon the United States, commonly known as the 9/11 Commission. That is an incredible fact that must be taken into consideration.

The man who is seeking to be head of the Central Intelligence Agency, at this moment, when significant reform is about to take place, voted against the creation of the 9/11 Commission, which has inspired both parties and the President to our current state.

This 9/11 Commission Report is the foundation upon which current intelligence reform efforts are being undertaken. I met personally with Congressman GOSS because I do respect him, and I wanted to hear his explanation. How can he ask to be head of the CIA, when he voted against the creation of the 9/11 Commission?

His argument was not convincing. He argued it was a matter of timing; that while he was undertaking a joint inquiry about 9/11, the creation of a separate commission might, in fact, lead to the executive branch stalling information or refusing to cooperate. That was hardly a satisfying answer.

In addition, it appears that as chairman of the House Intelligence Oversight Committee, Congressman GOSS has been reluctant to conduct aggressive oversight of Intelligence Committee issues, particularly when they appear to deal with issues that may be embarrassing to the current administration. For example, although the Senate Intelligence Committee completed the first phase of its inquiry into the intelligence community's performance regarding prewar intelligence related to Iraq, and issued a public report, the House Intelligence Committee, under Mr. GOSS's leadership, has yet to complete a similar thorough investigation, despite starting it last year.

As another example, in June of this year during the House Intelligence Committee's markup of the fiscal year 2005 Intelligence Authorization Act, Mr. GOSS led a party-line vote to reject an amendment that would have required the Department of Defense to provide an accounting of the nature and extent of its contacts with the Iraqi exile leader, Ahmed Chalabi.

Why is that significant? I hope that people who are following this debate remember Ahmed Chalabi. He was the self-proclaimed leader of an Iraqi national congress. He was the one you couldn't miss on talk shows before the invasion of Iraq. He was the one spreading the information far and wide across America and around the world about the threats of Saddam Hussein. He was the person who was the favored and trusted ally of our Department of Defense when they made critical decisions about committing thousands of American soldiers and their lives to the cause of Iraq.

What do we know of Ahmed Chalabi? We know that some 5 years ago, the Central Intelligence Agency and the Department of State stopped dealing with Mr. Chalabi because they did not believe he was credible. They didn't trust his judgment. They wouldn't bring him into the councils to make important decisions.

But Department of Defense Under Secretary Rumsfeld and his special assistant, Mr. Douglas Feith, thought Chalabi was just what the doctor ordered. He was there to confirm the fears that they spread across America about Saddam Hussein. He was there to confirm the presence of weapons of mass destruction, which became the clarion call of this administration, drawing us into an invasion of Iraq. He was the one constantly suggesting that there was a connection between the 9/11 terrorism in the United States and Saddam Hussein.

What happened to Ahmed Chalabi? Those who follow news know what happened. He went to Iraq, became a somewhat controversial figure in the provisional government, returned to the United States, and was treated by some in the administration as a conquering hero.

In fact, at one moment in time, to the embarrassment, I am sure, of everyone involved today, Ahmed Chalabi was positioned behind the First Lady at one of President Bush's State of the Union Addresses so that he would be on camera, showcased before the American people.

Fast forward just a few months. Ahmed Chalabi has now been the subject of extensive searches by the American Government because of our suspicion that he has not only misled us about information on Iraq but has had some connection with Iran of an entirely dubious nature. Ahmed Chalabi is persona non grata in this country. We are no longer sending him some $350,000 to $360,000 a month to subsidize his lifestyle. He virtually has been banished from his role as prime adviser to the United States.

When Mr. GOSS was confronted with this and asked by his own committee for an investigation as to how Mr. Chalabi, discredited by the CIA, discredited by the State Department, became the darling and favorite of the Department of Defense, peddled bad information to the United States and the American people, and may have betrayed us to Iran—when he was asked to investigate this, he declined. He refused. You have to ask yourself: If Mr. GOSS was unable or unwilling to ask the most basic questions about Ahmed

Chalabi, how aggressive, how objective will he be as Director of the CIA?

That is not the only thing. One of the most important issues we have to keep in mind is that the men and women of our intelligence community are dedicated, patriotic, hard-working people committed to the security of our Nation. Occasionally, there will be those who will disappoint us, but that is true of virtually every institution in America. But remembering their patriotism and the fact that many of them put their lives on the line, there came a moment in time when columnist Robert Novak outed the identity of a CIA agent, Valerie Plame. This is not only disgraceful, it is dangerous. It meant that her life and her career were in danger. It sent ripples through the intelligence community of men and women in similar positions wondering who would step forward in Washington to stand up for the integrity of our agents in the intelligence community. Mr. GOSS was then chairman of the House Select Committee on Intelligence. He was asked in October 2003 whether he would investigate the purposeful identification of covert CIA agent Valerie Plame. Mr. GOSS responded, "If somebody sends me a blue dress and some DNA, I'll have an investigation."

Mr. GOSS apologized publicly and privately for that statement, but the fact remains that he was loathe to challenge any intelligence-related decision of this administration.

That is not at all reassuring when we consider the well-documented intelligence failures leading up to 9/11 and prior to the invasion of Iraq.

This is not a routine appointment. This is not a routine position. Intelligence is the first line of defense in our war against terrorism. It is the first line of defense for the American people and our national security. Having the best intelligence network and the best intelligence agency will be critical if we want our children to live in peace and safety. That is why it is so essential that we bring a person to this job who understands what we have lived through during the past 4 years.

Lengthy reports by the 9/11 Commission, as well as the Joint Intelligence Committee's inquiry, have come to the conclusion that our intelligence agency failed us before the 9/11 attack. We know now that they should have gathered more information, shared more information, drawn obvious conclusions, and done something proactive to protect America. They did not and 3,000 innocent Americans died in Pennsylvania, Virginia, and New York.

Similarly, there came a point in time when we had to make a critical decision in America whether to launch a preemptive attack against Saddam Hussein in Iraq, the first such preemptive attack in our history. We were told it was essential that we do so. We were told by the President, the Vice President, the Secretary of State, the Secretary of Defense, the head of the CIA, and virtually every spokesman of the Government that it was essential we attack Saddam Hussein because he had arsenals of weapons of mass destruction which could be used against the Middle East, other countries in the region and the United States, that he was developing nuclear weapons that would be a danger to the world, that he possessed unmanned aerial vehicles that could even strike the United States, that he was linked with the al-Qaida attacks of 9/11, and the list goes on and on. Today, a year and a half after the invasion, we have found that intelligence information was wrong, just plain wrong.

Think of it. Depending on the intelligence community as our first line of defense, it failed. It failed to alert us of the danger of 9/11, it failed to accurately assess the state of one nation, Iraq, before we launched an invasion which has cost us over 1,000 American soldiers' lives, over 7,000 seriously wounded, and literally billions of dollars.

Can the intelligence community continue with business as usual? No. If there was ever a time in our history when we needed someone clearly nonpartisan, someone who would stand up to a President of either political party and tell them the sober, cold truth, even if it wasn't popular, if there was ever a time that we needed a Director of the CIA determined to reform that agency and the other intelligence agencies under his supervision, that time is today. This is not a routine nomination. This is a nomination as important as any to be considered by the Senate.

I will not go into the lengthy partisan statements made by Mr. GOSS so many times in the past where he has taken to task my political party, members of it, suggesting that we were weak on defense, weak on intelligence. In fact, he was drawn into this Presidential campaign in a role now which he has neither explained nor given us much to work with.

When we went to Mr. GOSS and said, You have criticized Senator KERRY and Democrats for intelligence spending but back in 1995 you were the cosponsor of a budget proposal that would have had a minimum 20-percent cut in our intelligence community personnel, he wouldn't answer the question. When confronted by Senator ROCKEFELLER with his obvious contradiction between his accusations and his actions, Mr. GOSS refused to acknowledge the obvious. The best he could tell us was, "The record is the record." I don't know what that means. I have never before heard it from another witness nor nominee. But it basically told the Intelligence Committee he wasn't about to discuss the issue with us.

I am sorry. I think Mr. GOSS should have been open and candid and told us exactly what he meant, and if he made a mistake to concede that point. It would have put him in a much better position to be a credible agent for nonpartisan leadership and for change as Director of the CIA.

Because I have serious doubts about Mr. GOSS's commitment to reform, his ability to be independent and nonpartisan, I do not believe he is the right person to be serving at the helm of the intelligence community during this extraordinarily challenging time and I will oppose his nomination.

I concede the outcome of the vote on this nomination. I assume he will be comfortably confirmed by the Senate.

I sincerely hope Mr. GOSS will take my comments and the comments of those who vote against him as a challenge to him in his new role at the CIA. I hope he proves me wrong. I hope that I stand before this Chamber in the future and say he was nonpartisan, he was committed to reform, he was prepared to tell this administration and any administration he served the truth, even if it was politically painful. I hope that day will come.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, I have listened with interest to the comments of my good friend from Illinois, as I did earlier today by my friend from West Virginia. I respect their analysis of this nomination. I hope they respect my disagreement with that analysis.

I rise today to support the nomination of a friend, a man with whom I have worked for over 25 years, a fellow Floridian whose judgment and integrity I highly regard.

I support the confirmation of PORTER GOSS as the next Director of the CIA. I have known Congressman GOSS and his wonderful family for more than two decades. I commend them for their willingness to delay the well-earned retirement which they thought would lie before them at the end of this session of Congress to take on this very difficult and important responsibility.

My colleagues know that I have been extremely critical of this administration for, among other things, its failure to hold anyone accountable for the intelligence failures that allowed terrorists to strike our Nation on September 11, 2001, and for the failure that led us into the war in Iraq.

I have been extremely critical of the President and the Vice President for allowing America to be distracted from the real war against terror in Afghanistan and to call upon us to retreat from that real war against the real terrorists who had killed 3,000 Americans and using fabricated intelligence to draw us into the war in Iraq.

I have repeatedly questioned why the President has waited more than 3 years since September 11 to begin a serious discussion of restructuring, reorienting, and reforming our intelligence capabilities.

I am here today to support the nomination of PORTER GOSS precisely because of these concerns. From my personal experience, I can tell you that PORTER GOSS is the right man for this job. He is uniquely qualified to serve as America's Director of Central Intelligence. He is a man of great character, exceptional intelligence, a tremendous work ethic, and outstanding personal and professional integrity.

Let me share a story.

As Governor of Florida, I had known of PORTER GOSS as he served as a distinguished mayor of the town of Sanibel Island, FL. In the early 1980s, the county in which Sanibel is located, Lee County, FL, was in the midst of probably the largest public works project in the history of that county, a major new airport which is now known as the Southwestern Florida International Airport.

In the midst of that, three of the five members of the county commission were indicted for corruption, largely relating to activities involving the construction of the airport. The county government was in disarray. Public confidence in the county government had sunk to a new low, and this major, critically important project to the future of the citizens of southwest Florida had come into question. It was my responsibility as Governor of Florida to first suspend from office those individuals who had been indicted, and then to look for three citizens of Lee County who could assume the important responsibility of restoring the integrity of county government and completing the important airport project.

Although I am a Democrat, and had just been reelected as a Democrat, and PORTER is a Republican, it was my feeling that his personal characteristics were more important than his party label, and so I appointed him to one of those three positions. And from that appointment, he quickly became the chair of the Lee County commission.

Party affiliation did not matter then. I do not believe party affiliation should matter today in determining who should be the next Director of our Central Intelligence operation. What mattered then was the fact that PORTER, with his clear commitment to public service, his integrity and his leadership skills, at a time when his community desperately needed all of them, was able to recapture the confidence of the people, was able to restart this important airport project, which now is one of the most important economic assets of the community.

When it comes to the intelligence community, Congressman GOSS has the balanced perspective of having been both an insider and an outsider. For a decade early in his career, he served the Nation both in Army Intelligence and the CIA. He knows from personal, firsthand experience the value and the risks of clandestine operations.

Since he has been in Congress—elected in 1988—and especially as a member of the House Permanent Select Committee on Intelligence, he has come to know the agencies from an oversight capacity.

Now, some have said he is too close to the intelligence agencies, that he is too protective of the status quo. But from my partnership with him as cochairmen of the congressional joint inquiry into the events of September 11, it is my firm belief, and my assurance to my colleagues, that PORTER GOSS can and will be independent in his judgments. PORTER GOSS will also be clear and tough minded in determining where there are needed reforms and leading us to those reforms.

If any of my colleagues or citizens of this great Nation wish to have an indication of where those reforms are likely to take us, I would direct you to the 19 reforms recommended by that congressional joint inquiry, upon which our Presiding Officer participated with great distinction.

As we move to implement much-needed reforms in our intelligence community, I am confident PORTER GOSS will not be part of the problem but will be a leader in taking us toward principled and effective solutions which will make Americans safer.

This time the President got it right. I strongly urge the confirmation of his nominee to be the Director of Central Intelligence, PORTER GOSS.

Mr. KOHL. Mr. President, I intend to vote today to confirm the nomination of Representative PORTER GOSS to be the Director of Central Intelligence. I recognize the deep experience that Representative GOSS brings to this position as the recent Chairman of the House Permanent Select Committee on Intelligence, and as a former CIA officer and Army intelligence officer. I also understand the unique role the DCI plays in providing the President with intelligence and advising him on intelligence matters. Thus, I believe that on balance Mr. GOSS's qualifications are sufficient to confirm the President's choice for this position.

However, I want to express concerns about PORTER GOSS and the very partisan way in which he has conducted himself. His statements mischaracterizing Democratic presidential nominee Senator JOHN KERRY's positions on intelligence and accusing Congressional Democrats of being weak on intelligence are not the sort of rhetoric we want associated with the leader of our intelligence community. As former Secretary of State Henry Kissinger testified in the Appropriations Committee yesterday, the ideal leader for our Nation's intelligence community should be as non-partisan as possible. Mr. GOSS has acknowledged that as DCI he will need to be non-partisan and objective if he is to provide the President with independent judgments about the intelligence he provides, and during his nomination hearings, he made a commitment to do just that. We must hold him to his commitment.

Many of my colleagues have come to the floor today to speak of PORTER GOSS's integrity and his strong qualifications. He will no doubt be confirmed and will take on one of the most critical jobs in our government at a time of uncertainty about how his very job will be structured. The 9/11 Commission has made a compelling case for making major changes to the organization of our intelligence community. The new threats which confront us require a more cohesive intelligence effort that emphasizes shared intelligence over turf battles. To meet this challenge, we need a leader at the helm of the intelligence community who embraces the spirit of reform—even if not all the specifics of the 9/11 Commission recommendations—and who is willing to implement the reforms that all agree are sorely needed. I have no doubt that PORTER GOSS is capable of managing the changes that need to take place and I am hopeful that he will dedicate himself to these efforts.

Mr. LEVIN. Mr. President, the most important quality I am looking for in a Director of Central Intelligence is someone who can be relied upon to provide objective intelligence assessments independent of the policy and political agenda of the White House. Too often we haven't had that.

The massive intelligence failures before the Iraq war were, to a significant degree, the result of the CIA shaping intelligence to support administration policy. The CIA's errors were all in one direction, making the Iraqi threat clearer, sharper and more imminent, thereby promoting the administration's decision to remove Saddam Hussein from power. Nuances, qualifications and caveats were dropped; a "slam-dunk" was the assessment. The CIA was saying to the administration, to the Congress, and to the American people what it thought the administration wanted to hear.

The problem of intelligence being manipulated and politicized is not new. Forty years ago, Secretary of Defense McNamara used classified communications intercepts, later proved to be very dubious, to push for passage of the Gulf of Tonkin resolution, which was then used by President Johnson as the legislative foundation to expand the war in Vietnam.

Intelligence was manipulated by then-DCI William Casey during the Iran Contra period. The bipartisan Iran-Contra report cited evidence that Director Casey "misrepresented or selectively used available intelligence to support the policy he was promoting."

We need a different kind of DCI, one who is not going to be influenced by the policy choices or politics of whatever administration is in power. After reviewing Congressman GOSS's record, I am not convinced that he would be that kind of DCI. For example, the Washington Post reported that in 2002, when asked about intelligence failures in Iraq, Congressman GOSS said "I don't like to see the left-wingers splattering mud on an agency that's done some very fine work." The Senate Intelligence Committee produced a unanimous 500-page report on the massive CIA failures leading up to the Iraq war. I would not characterize the committee as "a bunch of left wingers." We need someone who is committed to independence and reform, not an ideology.

During his nomination hearing, Congressman GOSS was very reluctant to admit there had been intelligence failures on the part of the intelligence community during the most recent Iraq War. And, when asked questions about some of his partisan comments, Congressman GOSS answered many of them by simply saying "the record is the record." Whatever that means, it is not an acceptable answer from a nominee for Director of Central Intelligence.

I will vote against Congressman GOSS. I hope that, if confirmed, he will prove me wrong.

Mr. DODD. Mr. President, I rise today to speak about the nomination of PORTER GOSS to be the Director of the Central Intelligence Agency, CIA. Yesterday the Senate Intelligence Committee voted 12-to-4 to send Representative GOSS' nomination to the Senate floor. I welcome the opportunity to say a few words about this important nomination and about the state of our Nation's intelligence community.

As my colleagues know, in 1947, President Harry Truman signed legislation which provided for the establishment of the CIA. This important agency supports the President, the National Security Council, and American officials who play a role in shaping or executing the national security policy of the United States. The CIA engages in research and analysis of information, as well as a host of other activities related to foreign intelligence and national security.

However, as every American knows all too well, times have changed since 1947. We are now engaged in new battles. We are facing new threats. The Soviet Union is no longer our arch enemy. Instead we face an enemy that is dispersed throughout the world in small cells—sometimes connected, sometimes acting independently. The new threat—terrorism—is an asymmetrical one.

Nonetheless, we must remember that terrorism alone is not our enemy. It is a tactic used by our enemies. Therefore, our task is twofold. First, we must defeat soundly those who would attack our country and endanger the security of Americans. But secondly, we must also defeat the murderous ideology of terrorism. That is because terrorism is the enemy of all humankind. It knows no faces, names, or nationalities. And I am confident that a strong America, which is respected by our friends and allies, can defeat this scourge.

Indeed, one thing we can all agree upon in this body is that a strong and capable intelligence effort has never been more important to the security of our Nation. That brings me to the nomination before us today. At the best of times the job of Director of Central Intelligence is a difficult one. And we all know that these are not the best of times. Our intelligence infrastructure failed this Nation when we needed it most.

There are two important traits that the next Director of the CIA needs to possess in order to be successful in restoring the effectiveness of our intelligence capabilities.

First, it is of the utmost importance that the Director of the CIA be nonpartisan. The safety of the American people is not a matter of political parties. National security is an issue that must unite us in a common cause. To that end, I share the deep concerns of several of my colleagues that some of Representative GOSS's comments during his tenure as chairman of the House Intelligence Committee were overly partisan and blindly supportive of the Bush administration.

Moreover it is critical to recognize that he chose to become involved in the political process. That decision was not forced on him. He chose it freely. And I believe that it has undermined his ability to be a nonpartisan Director of Central Intelligence, DCI. There is no question that intelligence has been politicized in this administration. I know it. The American people know it. And the civil servants who work at the CIA know it. To rush to confirm an individual who has played a role in politicizing intelligence is extremely unwise and only serves to further demoralize the individuals who are working so hard to protect our national security.

Second, he or she must have the knowledge and experience necessary to lead some of our most critical intelligence efforts. We cannot ignore the fact that the most egregious lapses in history by our Nation's intelligence community happened while Mr. GOSS was chairman of the House Intelligence Committee—the committee responsible for ensuring that US intelligence agencies function effectively. If he failed in his oversight responsibilities, as I believe he has, how then can we have any confidence that he is capable of accomplishing an even more difficult task—the fundamental reform of the entire intelligence apparatus? I do not believe that we can.

We all know that the 9/11 Commission has recommended a major overhaul of our intelligence operations. Much of that will have to be done at the CIA. It is going to take an individual with very strong management skills to carry out the restructuring of that agency. He will have to have credibility within the institution of the CIA if he is to be successful. Institutions resist change. Based upon Mr. GOSS' weak oversight of the agency, I am not confident that he has the wherewithal to overcome the resistance he will confront to the fundamental reforms being contemplated.

Actions always speak louder than words. Unfortunately, we don't know what Mr. GOSS's actions will be as director, but we do know what his actions have been as chairman of the House Intelligence Committee. In my opinion, to confirm Mr. GOSS with such uncertainty about his ability to get the job done would be irresponsible.

This position is too critical to leave to chance. The agency is currently being led by a very able career intelligence director. He is already working with the committees of Congress to devise a plan to restore the effectiveness and credibility of the U.S. intelligence community. In the immediate future, he will continue to do so.

For those reasons, I will oppose this nomination when the Senate votes today.

Mr. KENNEDY. Mr. President, I intend to vote against the nomination of PORTER GOSS to serve as Director of Central Intelligence.

The American people have learned much since 9/11 about the vital role of objective, nonpolitical intelligence in keeping us safe at home and in protecting American interests abroad. We also have witnessed the disastrous consequences of the administration's manipulation of intelligence in its rush to war in Iraq—disastrous for our brave troops on the ground, for their families, for our country, and for our standing in the world.

When it comes to intelligence, this is no time for politics. As we reorganize and strengthen our intelligence structures, we need a leader of the CIA whose only loyalty is speaking truth to power.

We need an unbiased advisor to the President, not a partisan—someone who will deliver the good news and the bad with candor, foresight, and authority. With PORTER GOSS, however, we get not only a partisan, but a cheerleader for the Bush campaign.

What is most disturbing about the PORTER GOSS nomination is that he has offered no explanation for his partisan behavior as chairman of the House Permanent Select Committee on Intelligence.

He has made partisan attacks on JOHN KERRY for cutting intelligence budgets, when Mr. GOSS himself voted 7 out of 10 years to scale back intelligence appropriations.

He was initially unwilling to pursue the administration's vengeful leak of the name of CIA agent Valerie Plame to the press, which ended her career as a covert CIA officer and endangered her life.

He rushed to discredit former counterterrorism czar Richard Clarke after Mr. Clarke's testimony to the 9/11 Commission became so embarrassing to the White House.

He did not support an inquiry into Ahmad Chalabi, even after allegations that Chalabi had leaked American secrets to Iran, because the Chalabi affair was embarrassing to White House and the Pentagon.

Mr. GOSS waited until June of this year to introduce legislation to reform our intelligence community a full 18 months after the initial joint congressional inquiry that he helped lead uncovered massive structural problems the resulted in the intelligence failures before 9/11. That is not leadership. That is not vision.

In his confirmation hearing, when asked repeatedly about his partisan statements and actions, he offered no explanation. He repeatedly offered the same unsatisfactory response: "the record is the record."

If the record is the record for Mr. GOSS, then it is a record that puts politics above the national interest. If the record is the record, then it is one that places partisan gain ahead of the facts. If the record is the record, then Mr. GOSS is the wrong person to serve as our Nation's Director of Central Intelligence.

Mr. GOSS cannot, even now, cite a single instance in which public statements of Bush administration policymakers mischaracterized the available intelligence prior to the Iraq war. If he can't speak the plain truth about such an obvious fact, how can the American people have any confidence in him as the head of our intelligence community?

The challenges of 9/11 and the administration's misuse of intelligence in rushing to war in Iraq demand that any reforms to our intelligence community be rooted firmly in the principle that intelligence must be completely insulated from partisan politics and ideology. The confirmation of PORTER GOSS as Director of Central Intelligence violates that principle in the most fundamental sense.

We owe it to our fellow citizens to do better. I oppose the nomination of PORTER GOSS.

Mrs. BOXER. Mr. President, I will vote for the nomination of PORTER GOSS to be Director of the Central Intelligence Agency.

I served with PORTER GOSS during my time in the House of Representatives. He is a good, intelligent man with a tremendous work ethic. He has served his country honorably in the Army, as a CIA officer, and as a congressman from Florida.

He is the President's choice and I am willing to give the benefit of the doubt. However, the two days of nomination hearings held by the Senate Select Committee on Intelligence highlighted several areas of concern, and my vote today should not be seen as support for Congressman GOSS to become the National Intelligence Director.

Mr. BIDEN. Mr. President, Congressman PORTER GOSS will become Director of Central Intelligence at a difficult and important time for the U.S. Intelligence Community. In the coming months, he must help both Congress and the administration to take sensible steps on intelligence reform. In the years to come, if he remains in office, Mr. GOSS must lead our intelligence agencies into a new era of flexibility, skill, and inter-agency cooperation.

I will vote in favor of confirming Mr. GOSS to this position, although not without some misgivings. I will support his confirmation in part because I know him to be a gentleman and a man with a deep and sincere interest in intelligence, as well as substantial background in the field. I will support him because many others who know him well, including our colleagues from Florida and others whose views I respect, have contacted me and testified to his integrity and capabilities.

And I will support Mr. GOSS because the President wants him. A CIA Director cannot succeed unless the President likes and respects him enough to take seriously the facts and warnings the Director conveys to him. The President must be willing to accept advice when the Director says that something is not "a slam dunk," and I hope that this President will be willing to accept such advice from this nominee.

As a matter of general policy, however, I have real concerns about appointing a partisan politician to such sensitive positions as Director of Central Intelligence or Director of the FBI. In 1976, I voted against George H. W. Bush as Director of Central Intelligence for precisely that reason. I suggested: "The chances for forceful integrity will be infinitely greater if the Director of Central Intelligence is a highly respected nonpolitical figure."

The need for a DCI to transcend partisan politics is crystal clear. He is the person who must be able to tell the President that the world is not as the President might wish it, that a cherished policy proposal will not work, or that some unforeseen development poses a threat to our national security. As we remove the walls between domestic and foreign intelligence, moreover, the DCI—like the FBI Director—will be handling and presenting sensitive information on American citizens.

The next DCI will preside, moreover, over great and perhaps wrenching transition in U.S. intelligence. The report of the 9/11 Commission highlighted a series of long-standing shortfalls in our intelligence agencies. Although the particulars regarding the fight against al-Qaida may have been new, the challenges facing U.S. intelligence are ones that go back many years:

We need to provide instant and accurate intelligence to our military forces, and this drives much of our intelligence collection and analysis today. At the same time, however, we need to provide a wide range of so-called "national" intelligence to the rest of the national security community. Balancing those needs is a continuing challenge, especially as the funds for intelligence will often compete against other defense priorities.

We need intelligence collectors and analysts with a wider range of linguistic and cultural skills than ever before. Once we fought a communist enemy that was worldwide, but centrally directed. Now we must vanquish the twin perils of radical Islamic terrorism and the proliferation of weapons of mass destruction, both of which are nearly world-wide, but no longer controlled by a central, well-defined enemy.

And we need technical intelligence collection systems that are ever more powerful, that provide more real-time information, and that will be effective in a world where technology often favors secrecy over transparency.

We need seamless sharing of very sensitive intelligence information—between agencies, between countries, and between Washington and the State and local forces that guard us from terrorism on a daily basis. "Stovepipes" and "rice bowls" are outmoded and in need of a real make-over to meet the needs of the 21st century.

At the same time, however, we need strong protections for our civil liberties, which are the very foundation of our society. When the most recognizable member of this Senate is denied an airline ticket in his home town because his name shows up on some Government list, we know that the intelligence feeding into our homeland security programs leaves a lot to be desired.

That is quite a menu of challenges, and they must all be addressed. There is no "pick one from column A" option in heading U.S. intelligence.

In addition to all that, the Director must be willing and able to "speak truth to power." He must have the stature and Presidential trust that leads top officials to accept his warnings and advice. And he must be an able defender of the independence of intelligence analysis, while still ensuring that it is relevant to the needs and concerns of policy-makers.

I will support the confirmation of Mr. Goss in the hope that he will transition successfully from a serious congressman and a leading partisan figure to a clear-eyed, independent Director of Central Intelligence who is able to rally his troops, to make them as effective as possible, and to keep policymakers from misusing or ignoring the work of the thousands of skilled and patriotic men and women who work in U.S. intelligence today. The perilous times in which we live demand nothing less than complete dedication to those objectives.

Mr. CORZINE. Mr. President, after much deliberation, I have decided to vote against the confirmation of Porter Goss to be Director of Central Intelligence. The conclusions of the 9/11 Commission, as well as the failures of our pre-war intelligence on Iraq, have demonstrated the enormous challenges we face in restructuring, reforming and improving our intelligence capabilities. At this critical moment, we should be focusing our efforts on enacting into law the recommendations of the commission, including the creation of the position of National Intelligence Director. The confirmation of a new Director of Central Intelligence, when the role of the DCI has yet to even be defined, does not advance the hard reform work yet to be done. Nor does the appointment of Porter Goss, whose objectivity, capacity to work across party lines, and openness to reform are subject to serious question.

The National Intelligence Director envisioned by the 9/11 Commission will oversee our intelligence community, including the DCI. It is critical that we clarify, in law, the relationship between these two positions. Unfortunately, the administration, by prioritizing the nomination of the DCI over the restructuring of our intelligence community, seems to be signaling an attachment to the status quo.

Congressman Goss's record, in which he has repeatedly rejected independent efforts to improve our intelligence whenever those efforts were perceived to be contrary to the interests of the Bush administration, is also cause for concern. He opposed the establishment of the 9/11 Commission, he attacked the integrity of Richard Clarke, the former coordinator for counter-terrorism at the National Security Council, he opposed an investigation into the disclosure of the identity of a CIA operative, and he referred to the bipartisan Senate investigation into the abuse of Iraqi detainees as a "circus."

Congressman Goss has also opposed investigations into intelligence on Iraq, in particular the use of intelligence by the administration. He dismissed Senators who called for an examination of the circumstances that led us to war as "attack dogs" and charged that they were expressing "artificial outrage." He has also implied that open discussions of the challenges facing our intelligence damage the morale of our armed forces and aid our enemies. These are not the statements of someone who appears prepared to undertake the difficult work of reform, without regard to political considerations.

This reform will require cooperation between the administration and the Congress and between Republicans and Democrats. Unfortunately, Congressman Goss has made repeated, incendiary charges, including allegations that the Democratic Party does not support the intelligence community and that Senator Kerry seeks to "dismantle the nation's intelligence capabilities." These charges are not only flat wrong, they are completely counterproductive to the bipartisan effort that is urgently needed at this moment.

Repairing our intelligence capabilities is critical to fighting the war on terrorism and is an urgent priority. We must enact into law the recommendations of the 9/11 Commission. We must examine the failures of our intelligence related to Iraq. We must begin the work of restructuring our intelligence community so that it is more effective and less politicized. These challenges require the utmost objectivity, independence, and nonpartisanship from the Director of Central Intelligence. Any reluctance on the part of the DCI to fully engage in the reform process, for whatever reason, could set us back at a moment when we can least afford it.

Mr. BUNNING. Mr. President, I speak today in support of the nomination of Representative Porter J. Goss to the Director of Central Intelligence. He is a good man and a good friend. President Bush could not have selected a more capable and qualified man for the job. He brings to the Central Intelligence Agency and the intelligence community what they have needed for years—intelligence experience, political experience, an open mind, and forward thinking.

I first met Representative Goss shortly after he was elected to the House of Representatives in 1988. We served together for 10 years before I was elected to this body. Representative Goss and his wife, Mariel, are personal friends of my wife and myself to this day. I know his personal character and I am confident he will bring integrity, honesty, and forthrightness to his new job.

The Director of Central Intelligence holds one of the most important and unforgiving jobs in our Government. All his actions and decisions are analyzed and criticized by politicians, the press, and the public. And the pressures on the intelligence community are immense. They must be right 100 percent of the time, while the terrorists only have to be right once. That is a heavy burden for one man to bear, but I believe Representative Goss is up to the challenge.

I cannot think of anyone with more experience for this job. Representative Goss has extensive experience in intelligence, on both the practical and policy sides. He knows firsthand the importance of human intelligence, serving as an intelligence officer in the Army and as a case officer in the agency he will now lead. At that time the United States was promoting freedom and fighting the evil of communism. Though the evil we now face takes a different form, the value of information and power of knowledge remain the same.

We are in the midst of a review and reform of our intelligence organizations, and, going forward, one of the most important jobs for the Director of Central Intelligence will be working with Congress. Again, Representative Goss's experiences will be an asset to the intelligence community and the Congress. For the last 8 years he has been chairman of the House Permanent Select Committee on Intelligence. In that position he has worked fairly with both parties and both bodies of Congress without compromising his beliefs. I am confident he will continue to work honestly and fairly with Representatives and Senators of both parties in his new job.

Representative Goss's practical and political experience will also pay dividends as the entire intelligence community is reformed in the coming weeks and months. He has proven his openmindedness in constantly seeking to improve our intelligence capabilities and structures during his tenure in Congress. He has held dozens of hearings on problems in the intelligence community and how to fix them. He was a member of the Aspin-Brown Commission, which took a deep look at our intelligence community and provided some of the recommendations that we are currently reviewing. He also cochaired the bicameral investigation on intelligence issues surrounding the 9/11 terrorist attacks. His open mind and willingness to think critically about the status quo will serve us all well.

I have seen firsthand his dedication, integrity, and character, and I support Representative Goss's nomination without reservation. I wish him well in that extremely important job and I look forward to seeing him in briefings and hearings in the coming months.

Mr. JEFFORDS. Madam President, I was unavoidably absent from yesterday's vote on the nomination of Porter Goss to be Director of Central Intelligence. I wish the Record to show that if I had been present, I would have voted in favor of the nomination.

The Constitution gives the President the power to select the heads of government agencies and departments.

The Senate was given the responsibility of reviewing these choices and approving or disapproving them. As a body, the Senate was not given the authority to choose whomever it wishes to fill these positions. Nor is any Senator able to substitute the President's choice with an individual who he or she feels is better qualified than the President's nominee. Rather, the Senate's consent is designed to act as a "check" on the selection of an egregious candidate and a final review of the qualifications and competencies of the nominee.

PORTER GOSS would not have been my choice for Director of Central Intelligence. I share the concerns of many of my colleagues about the partisan political nature of many of Representative GOSS's statements and positions in recent months. His opposition to the creation of the 9/11 Commission is particularly troubling. With his extensive knowledge of the intelligence community, I would have expected him to be acutely aware that the commission was vitally important to improving national security and healing the wounds of September 11, 2001.

However, one cannot dispute the fact that Representative GOSS has a great deal of experience both inside and outside the intelligence community. Early in his career he worked for the CIA both in covert operations during the Cold War and in analysis for the Directorate of Operations. This familiarity with the agency proved very valuable when, after his election to Congress in 1988, he joined the House of Representatives Permanent Select Committee on Intelligence, serving as its chairman for the past 7 years. By all accounts, Representative GOSS has worked diligently to perform the oversight functions invested in Congress and to improve the quality of intelligence operations.

Representative GOSS indicated in his testimony last week before the Senate Select Committee on Intelligence that he appreciates that the Director of Central Intelligence, DCI, does not have the same freedom as a Member of Congress to be partisan or provocative. The DCI is required by law to be nonpartisan, and remain above the political fray. As we saw in the Iraq war, politicization of intelligence is one of the gravest threats to our national security. Representative GOSS acknowledged that "objective and precise intelligence is only possible if the intelligence community's leadership is itself objective, independent and clear in its commitment to these ideas."

Mr. GOSS has been quite forthright in criticizing the intelligence community for relying too heavily on national technical means and not investing in the more difficult area of human intelligence collection. This takes more time and commitment, but it is essential if we are to make headway against international terrorism.

The coming years will bring considerable reorganization and potential turmoil for the intelligence community. I believe changes must be made in a very careful, conscientious, and nonpartisan manner. Representative GOSS has said he understands that politics must stop at the DCI's office door. Based on his assurance that he understands the difference between being a Member of Congress and being in charge of the Nation's intelligence, I will support his confirmation. For the sake of the Nation, we all must hope that he is successful.

Mr. REED. Mr. President, I rise to discuss the nomination of PORTER GOSS to be Director of Central Intelligence. I served with PORTER GOSS in the House of Representatives and I respect him. However, I do not believe he is the best choice for the position in these times.

On September 11, 2001, our country suffered a devastating attack. Now our country is in the midst of a war on terror and a war in Iraq. There have been many examinations of our intelligence leading up to September 11, leading up to the war in Iraq, and as we continue to wage the war on terror. There are many unanswered questions about whether the intelligence was accurate, whether it was manipulated, whether our soldiers and leaders can rely on it each and every day as they make difficult decisions.

I recognize that members of the President's Cabinet, like the Secretary of Defense and the Secretary of State, must weigh political considerations as they develop policy. However, the Director of Central Intelligence is a unique position. It should stand above politics. The citizens of the United States have the right to assume that the Director of Central Intelligence is providing objective information and analysis to allow the President to make the best possible decisions.

When Director Tenet resigned, the President had an opportunity to appoint a nominee who was nonpartisan, nonpolitical. He did not do so. Instead he chose Mr. GOSS, who clearly knows the intelligence community well, but is also clearly partisan and political.

The CIA is in turmoil. The hard-working men and women of the Agency need a strong leader who will reform the system to make sure that the information they offer is used in a proper and timely fashion. The people of this country need to know that the U.S. intelligence community is doing its best to protect and serve U.S. national interests.

I do not believe that Mr. GOSS is the best candidate to lead the intelligence community through a difficult task of reform and restoring confidence in the midst of a war.

It is important that our intelligence not be partisan, yet Mr. GOSS has been partisan in his comments over the past year. He has been fiercely critical of former President Clinton, our colleague Senator KERRY, and the Democratic Party. His comments do not lead me to believe that he will now abandon his partisanship or his political approach as the Director of CIA.

No greater task lies before us today than to reform the intelligence community so that it is effective as the leading weapon in the war on terrorism. Mr. GOSS certainly knows the CIA and the intelligence community, but in these times, experience is simply not enough. A leader committed to reform without regard to politics is also critical. Those attributes, I fear, Mr. GOSS does not have, and therefore I oppose his nomination.

Mr. McCAIN. Mr. President, I rise to express my support for the swift confirmation of Congressman PORTER GOSS as Director of Central Intelligence. I have been privileged to know Mr. GOSS for a number of years, and I can attest that he is a leader, a man of personal intelligence and integrity, and a true patriot. He is also extremely well qualified for the position to which he has been nominated.

I do not believe I am divulging any state secrets when I mention that PORTER GOSS knows the intelligence community from the ground up—beginning with his service as a young case officer and most recently as chairman of the House Intelligence Committee. His 10-year career with the Central Intelligence Agency gave him a thorough understanding of how that large organization operates—invaluable background as the Congress and the executive branch proceed with various plans for reorganizing the intelligence community. His experience on the CIA staff, combined with his oversight responsibilities in the House, makes him perhaps uniquely qualified to understand the challenges and opportunities facing the community today. Congressman GOSS has demonstrated time and again his commitment to the needs and goals of the intelligence community in its service to our Nation and the American people. He is not merely qualified. He was meant for this position.

When he takes up his duties, he will do so at a time of great change in the intelligence community. Reeling from the intelligence failures of 9/11 and Iraq, and faced with comprehensive reorganization, the community's leadership has rarely been so important. I am confident that Mr. GOSS will lead the CIA in an independent and nonpolitical manner as he has committed to do, ensuring that policymakers receive the best intelligence and analysis that our government can provide. I am also confident that he will be helpful as the Congress reorganizes itself in order to better conduct oversight over the intelligence community. We in the Congress sometimes forget that intelligence failures the Nation has experienced are not limited to the agencies alone. Congressional oversight has been, as the

9/11 Commission put it, "dysfunctional," and must be changed.

As we face the national security challenges that are so evident to all of us, the Nation will be privileged to have PORTER GOSS at the helm of the CIA. America needs an individual who will help lead our intelligence agencies into a new era. I wholeheartedly support his confirmation.

Mr. DOMENICI. Mr. President, I rise today in strong support of the nomination of PORTER GOSS to be Director of Central Intelligence. Few people are as eminently qualified as he to lead the CIA at this critical time in our Nation's history.

PORTER GOSS combines experience as both a U.S. Army Intelligence and CIA officer with 15 years as a Member of the U.S. House of Representatives. During his time in Congress he has used his knowledge and experience to serve as chairman of the House Permanent Select Committee on Intelligence. He is a public servant who has earned our confidence and that of the President to lead the dedicated men and women of the CIA who work tirelessly to preserve our Nation's security.

Now at this time when Congress is working hard to reshape our intelligence services, I applaud the President for nominating a man like PORTER GOSS who understands what is working with intelligence and that which needs to be improved. And based on his experience, he will undoubtedly be as well prepared as any DCI to communicate with Congress concerning the needs of the CIA, and to understand the oversight responsibilities of the legislative branch as it pertains to the intelligence community.

The challenges we face in defeating global terrorism remain great. PORTER GOSS understands where we have made mistakes in both intelligence operations and assessment. He understands that we need improved human intelligence capabilities, as well as a culture of competition among intelligence analysts, to ensure that policymakers have objective information and a range of options to choose from in meeting the terrorist challenge. PORTER GOSS is committed to making these changes on behalf of the American people.

In conclusion, I believe the President has chosen the right man to lead the CIA in its very important work, and I strongly support the nomination of PORTER GOSS.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, we have two speakers. I inform the distinguished leader, the minority whip, a man from Searchlight, that we have two speakers.

If I could ask Senator SNOWE how much time she would like to have.

Ms. SNOWE. About 12 minutes. And I would like to yield 2 minutes to the Senator from Oklahoma.

Mr. ROBERTS. All right. So a total of what, 15 or 20 minutes?

Ms. SNOWE. Yes.

Mr. ROBERTS. I am assuming by about 4:45—I am not anticipating any further speakers on our side. That could change.

Mr. REID. If my friend will yield?

Mr. ROBERTS. I am delighted to yield.

Mr. REID. We could not have a vote before 5 o'clock.

Mr. ROBERTS. Right.

Mr. REID. We have a couple people off campus doing other things.

Mr. ROBERTS. Could we agree to have a UC request in regard to a vote certain at 5 o'clock?

Mr. REID. Mr. President, I would be happy to agree to having a vote at 5 o'clock and having the time between now and then evenly divided. I frankly don't think we are going to be using any more time, so if you need more time on your side, you could have part of ours.

Mr. President, I ask unanimous consent that the vote occur at 5 o'clock and that the time between now and then be evenly divided.

Mr. ROBERTS. I have no objection. I think that is an excellent suggestion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. Mr. President, I yield whatever time she may consume to the Senator from Maine.

Ms. SNOWE. Fifteen minutes.

Mr. President, I thank the Senator from Kansas, and I am glad to yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Maine.

Let me make a couple comments about this man.

First of all, before he leaves the Chamber, I want to thank the Senator from Florida for his comments and for his efforts in this nomination. I also thank the chairman of our select committee in the Senate, the Senator from Kansas.

Two years after I was elected to the House—I believe it was 2 years afterward—PORTER GOSS was elected to the House from Florida. It took us no time at all to figure out this guy was one of the foremost authorities on the intelligence community. He had experience with the CIA, with Army Intelligence. We relied on him. I am talking about way back 16 years ago.

When I went from the House to the Senate in 1994, I took the place of Senator David Boren, who is now the president of Oklahoma University. He is a very close friend of mine. He was my predecessor in this Senate seat. He was also chairman of the Senate Select Committee on Intelligence. The thing he warned me of when I first came in was: You are going to have to do something about this mess we have in intelligence. He said: You have the DIA and the CIA and the FBI and the NSA, and nobody is talking to each other.

I found out before too long that was the case. He said he had been working on this for about 6 or 7 years and had not been able to achieve it. It became a turf battle. On one occasion I found there was a listening device the NSA had that they would not even share with the FBI for some of their investigations. This was wrong.

We have come a long way since that time. It has been my experience in both Kosovo and Bosnia that you have a lot of these agencies around the table sharing information and working together that did not do so before. So I believe we have come a long way.

One of the reasons I have been resisting a lot of changes within our intelligence system is I wanted to wait until PORTER GOSS came on board. I believe PORTER GOSS has more knowledge on intelligence than anybody else who could have been nominated.

I think the President made an excellent nomination. I think we see by this bipartisan support that we are going to be able to overcome the obstacles and move ahead aggressively in achieving quality intelligence to protect the American people.

I thank the Senator from Maine for yielding to me.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I rise today regarding the nomination of PORTER GOSS as our next Director of Central Intelligence. I commend the President for his timely submission of this nomination as Director of the Central Intelligence Agency. Given our war on terror and the missions in Afghanistan and Iraq, now is not the time to leave a vacuum in leadership for our Nation's intelligence.

On that note, I also commend our chairman, Senator ROBERTS, for his leadership in conducting the hearings and shepherding the entire process so we can complete this confirmation and ensure our intelligence apparatus has the direction it deserves and the leadership it must have in order to move forward.

As we all know, this nomination arrived during a time in which we are compelled to undertake the most profound, sweeping reform of our entire intelligence community in nearly 60 years, 3 years after the worst attack ever on American soil. Indeed, there is no longer a question whether we are at the threshold of the single most comprehensive and critical restructuring of the manner in which intelligence is gathered, analyzed, and disseminated in at least a generation. The questions are: What shape will this reform take? How will the leadership of the intelligence community implement and execute these changes? And how will the nominee, PORTER GOSS, synthesize and translate his knowledge and depth of experience into specific, tangible changes in how the intelligence community performs? Because the person who is asked to implement this type of reform must be firm, bold, visionary, and lay the foundation for our intelligence community for the 21st century.

Many of us who serve on the Intelligence Committee—indeed, throughout the Senate—have been advocating for comprehensive improvements in the intelligence community structures and methods. Shortly, the Senate will have the opportunity to deliberate with respect to overall and fundamental reform. It is absolutely the type of change and reform not only this Senate, this Congress, and the President must embrace; this permanent reform is essential to address the grave failures in communication, coordination, and cooperation that certainly the 9/11 Joint Inquiry, the Senate Intelligence Committee, the 9/11 Commission, and others have found with respect to the attacks on September 11, 2001, as well as the pre-Iraq-war assessment of weapons of mass destruction that failed to reconcile with the realities in the postwar chapter. Indeed, with the new reality in which we live, delaying reforming the intelligence community is no longer an option.

As a member of the Senate Intelligence Committee, this last year we have undertaken a major review of the prewar intelligence of Iraq's weapons of mass destruction, the regime's ties to terrorism, Saddam Hussein's human rights abuses, and his regime's impact on regional stability. That report was a detailed, comprehensive cataloguing not only of the facts but also a stunning revelation of systemic, pervasive flaws in our intelligence community that coalesced to produce broad failures in intelligence gathering and analysis. It revealed a pervasive complacency as well as a lack of accountability throughout the chain of command that allowed outdated assumptions about intelligence to be carried forward for years unquestioned and that tolerated an absence of rigorous analysis and a kind of monolithic grouping.

From that report, we now know that even after the lack of information sharing was found to have played a key role in the intelligence failures of 9/11, intelligence reporting continues to be highly compartmentalized, and analysts with a need to know are not given access to information. Essentially, the intelligence community continues to operate in a "stovepiped" manner, preventing critical information sharing essential for sound analysis. There was a lack of analytic rigor on one of the most critical and defining issues spanning more than a decade: the question of the preponderance of weapons of mass destruction within Iraq. The community had failed to do its analysis for more than a decade, we soon discovered.

Moreover, there was a lack of human intelligence that is so critical to assessing the enemy's capabilities and intentions. They were forced to rely on outdated, vague intelligence from less than credible sources.

I say all of this because that is the reality that our next Director of Central Intelligence must not only confront, but he also must address. It is in that light that our committee, during the confirmation process, reviewed the qualifications, the credentials, and the qualities that PORTER GOSS possesses in order to address some of the most systemic and profound changes this intelligence community is going to face since its inception in 1947.

I have come to believe that PORTER GOSS, in examining his record, his testimony before the committee, his responses to the committee, has the experience, the character, the credibility, the knowledge, the disposition, and the predilection for reform to lead this comprehensive overhaul and restructuring of our entire intelligence community.

Let me first say that I worked with Congressman GOSS in the House of Representatives for 6 years. I have no doubt about his competence, certainly his intelligence, his character, his unimpeachable integrity, or his bipartisanship. He was far from a polarizing or partisan force in the House of Representatives. Rather, what I discovered in working with him in the House, he was interested in solving problems rather than creating political points or sound bites. He was interested in reaching a consensus on the issues.

I know there had been some questions during the course of the hearing as to whether PORTER GOSS would be able to be sufficiently independent minded in a position where he will be the President's chief adviser on intelligence issues. Certainly this was an issue that was thoroughly explored in the confirmation hearings just concluded. At the opening of that hearing, Congressman GOSS addressed the issue directly when he told the committee:

> . . . I understand completely the difference in obligations the position of [director of Central Intelligence agency] carries with it and that which the role of a Congressman carries. These are two completely distinct jobs in our form of government. I understand these distinctions and if confirmed commit myself to a nonpartisan approach to the job of [director of Central Intelligence agency].

That is important to underscore.

Moreover, in response to questions about some specific political statements that PORTER GOSS had mentioned a few months ago on the floor of the House of Representatives, he expressed regret and apologized if he sounded any partisan notes in the past on any issues or matters of national security.

I know others have raised the question of whether PORTER GOSS will be willing to inform administration officials if or when public statements deviate from or distort available intelligence. In responding to this question, I would refer directly to the House Intelligence Committee's 2003 interim assessment of the pre-Iraq-war intelligence when then-Chairman GOSS stated that if public officials cite intelligence incorrectly, the intelligence community has a responsibility to address that policymaker on any mischaracterization of available intelligence. I expect that not only would PORTER GOSS be held to that assessment as DCI but that he would hold himself to that assessment.

We must also recognize the unique qualifications that PORTER GOSS brings to the position. As I mentioned earlier, he is a product of service in the intelligence community, while he also later served as chairman of the House Intelligence Committee. He can view the intelligence community through the eyes of a former CIA officer and intelligence officer and also as someone who has stood outside of that world looking in with his oversight of the intelligence apparatus as chair of the House Intelligence Committee.

I know there has been some concern expressed that maybe PORTER GOSS will be too wedded to the CIA or that he is too CIA-centric and, therefore, would not have the independent vision necessary to institute the required changes and the reforms that surely are to come. I would argue that it is precisely because of his past work within the community that he is best suited to take it into the future, all the more so as his service imbues him with an indispensable credibility that would engender the kind of trust within a community where some continue to believe that necessary changes have already been made, that we should not identify the failures that we did in our comprehensive report within the intelligence community in the prewar assessments as egregious or systemic or broad or comprehensive failures. That is the kind of atmosphere that he will be entering as the new Director of the Central Intelligence Agency and trying to bring about the kind of reform that is absolutely vital.

His own record of reform initiatives is also important to explore because it also will belie the claim that somehow he will not be predisposed or have a predilection for the type of reform we certainly are going to be considering, hopefully next week, and enacting in Congress, and also the reform that has also been brought about as a result of the President's Executive orders.

Still others have questioned whether PORTER GOSS could have done more to institute intelligence reform prior to the attacks of 9/11. Again, I think as we review the 9/11 Commission's recommendations, we can see much could have been done in all spheres. Whether it was on the part of former Presidents, on the part of Congress, committees, individuals, agencies, and bureaucracies, we know that the history documented in the 9/11 report was replete with examples of what could have been and should have been done differently.

What is required now is that we look at the totality of the record of the nominee we are considering today. In so doing, I believe we will see an individual who is wholly committed to providing the impetus and the leadership required to institute critical reform. Indeed, who better than someone who has not only been a member of the intelligence world but also one who has investigated that world to understand why change is necessary.

The most glaring of problems—those we identified in the Senate Intelligence Committee report, such as the poor state of human intelligence, operations, intelligence collection in general, analysis, and the pervasive problems with information sharing—these have all been issues that PORTER GOSS has been committed to addressing throughout his tenure as chairman of the House Intelligence Committee. Indeed, Mr. GOSS has held over 62 hearings on intelligence community reform just this year. So I do believe that he shows a predisposition and indeed a drive for reform.

I think we also see that commitment reflected in Mr. GOSS's contributions as a member of the Aspin-Brown commission, which was formed to assess the future direction, priorities, and structure of the intelligence community in the post-Cold-War world. This commission made a number of recommendations including looking at how to streamline the DCI's responsibilities and provide him with additional flexibility in managing the community.

He provided insights and leadership in the "Joint Inquiry Into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001"—a report that contained 19 recommendations, including the creation of a director of national intelligence among the many changes that we have now been debating in Congress.

So all of this undoubtedly served as a catalyst for Congressman GOSS authoring his own reform legislation, which he introduced this past June, that calls for significant reform of the intelligence community's structure, as well as enhanced DCI, with critically needed personnel and budgetary authority—going beyond even what the President issued in his own Executive orders.

But I think PORTER GOSS also understands, in response to many of the questions that were raised during the course of the confirmation hearing, that a director of national intelligence will need to possess both the budgetary and personnel authorities that will be vital to a newly created director of national intelligence in order for that individual to be effective in implementing the kinds of changes that need to be brought about within the overall intelligence community.

Finally, there is further evidence of the extent to which PORTER GOSS is compelled to remedy our intelligence shortcomings. He has recognized—after his committee's investigation into the failures that occurred prior to the Iraq war—that the intelligence community has repeatedly fallen short in the area of information collection, most notably in the area of human intelligence.

For those who are not convinced he understands what is required to be done—particularly in this regard—as PORTER GOSS himself has said, the CIA's human spy operation was headed "over a proverbial cliff" and in danger of becoming only a fleeting memory of "the nimble, flexible, core, mission-oriented enterprise" it once was. Sounds like a person who is convinced of the need for change.

He has also stated that the intelligence community failed to provide the best possible intelligence to policymakers, and that the requisite, both from a collection and analytical viewpoint, was not provided.

I believe PORTER GOSS embodies the credibility and credentials that will be required to lead the intelligence community agencies and the professionals within that community in implementing the types of reforms from within—by Executive order or through congressional enactment. He brings unique and exceptional experience both in the field and behind the gavel. I believe he is well prepared to see our intelligence apparatus as it undergoes the major transformation necessary for a new era.

I yield the floor.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the distinguished chairman of the Armed Services Committee, a vital member of the Intelligence Committee, be recognized for 5 minutes. Senator WARNER is a previous member of the Intelligence Committee, now again on the Intelligence Committee, and he is chairman of the Armed Services Committee. He has a unique perspective to offer my colleagues. Is 5 minutes appropriate?

Mr. WARNER. Yes, thank you.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank my good friend and colleague, the chairman of the Intelligence Committee. I hope the Senate appreciates the thoroughness with which Chairman ROBERTS has gone into this nomination. He has provided the members of the committee and many others with an opportunity to express their views with regard to the nomination. An extensive series of hearings have been held—more than have been held on a nominee in a long time. Maybe only Supreme Court Justices occasionally see the volume and thoroughness with which this nomination has been carefully viewed by the Senate. I compliment the chairman, and indeed the ranking member who participated very actively in this, as well as the members of the committee.

I first came to know the nominee about a decade ago. I remember one of our most revered, distinguished contemporary colleagues, Senator Moynihan, who sat right back there. I was on the floor and he stood and said it was time to abolish the CIA. He had a lot of concerns about the Agency. At that time, I was the vice chairman of the Intelligence Committee. Together, with PORTER GOSS and some others, we put together a piece of legislation establishing a commission to examine some of the concerns of our distinguished late colleague from New York. PORTER GOSS and I served on that commission. Les Aspin was the first chairman. He had an untimely early death and he was followed by Harold Brown. That was my initiation to work with this fine, able individual.

I commend the President for selecting him to take on this important assignment. I thank Representative GOSS, his wife, and family for undertaking another chapter of public life.

All of his credentials have been carefully reviewed. I would like to talk about somewhat of a different aspect of the challenges that will face PORTER GOSS. We just concluded a very extensive briefing upstairs with the Secretary of Defense, Ambassador Negroponte, the commander of CENTCOM, the Chairman of the Joint Chiefs, and the Deputy Secretary of State, almost three-quarters of the Senate being present. The briefing was about the situations primarily in the Iraq and Afghanistan theater, but it was about terrorism on the whole.

As part of our discussion, we talked about the ongoing work in the Congress of the United States with regard to the 9/11 report, which all of us believe is a very significant contribution by a conscientious group of tried, tested, and able public servants. But we worked through these equations and options. The Governmental Affairs Committee is doing the markup of what will be the primary vehicle. Senator ROBERTS contributed his views on it.

The Senate Armed Services Committee had a hearing with the Secretary of Defense, as well as the Acting Director of the CIA. So the Senate has done a lot of work in preparation.

How does that relate to PORTER GOSS? I cannot predict, and I don't think anyone can, at this time what will eventually evolve with regard to the legislative achievements of this body and the House in a conference. Perhaps a lot of people have high expectations that a bill will be before our President shortly.

I intend to work conscientiously, as I have, and will continue to work, forgetting any question of turf, to try to achieve a strong bill that clearly improves and strengthens our intelligence system.

I brought in a reference to the briefing today because in some discussion with our colleagues—and it was a classified briefing, but I can share this—General Abizaid said he is acting on intelligence daily to conduct his mission. Lives are at risk, and he clearly, drawing on his extensive experience in the Army said: Today the intelligence collection that my soldiers, sailors, airmen, and marines need and have and use is vastly improved over what we had in gulf war 1 in 1991.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. WARNER. Mr. President, I ask unanimous consent that I may speak for another 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, there has been steady progress in the improvements in our intelligence system. The Department of Defense is the largest user, and these senior people in the Department of Defense—civilian and military alike—have not tried to tell the Congress what to do but respectfully told us what not to do: Don't do anything to weaken the improvements that we have achieved—I say we, working with the Congress and the President—we have achieved to date since 1991 in the first gulf war and, indeed, since 9/11 with President Bush and Executive orders, a wide range of implementation of important things that have been done to improve our intelligence system, particularly from the standpoint of the tactical use by the U.S. military.

If confirmed and if we pass a new law signed by the President, PORTER GOSS will be the man entrusted to implement that law. And I say to my colleagues with the deepest respect, that is a daunting task—to do it in a way not to shake the confidence of the tens upon thousands of conscientious employees in the various departments and agencies, the CIA, the Department of Defense who are concerned about their jobs, concerned about their futures. We need to hold the team in place. We need to keep what is working now going as we phase in such new laws and provisions as this body, working with the House and signed by the President, may enact.

I do not know of another individual who has the experience of PORTER GOSS or is better qualified to take on the task of implementing such new laws as the Congress and the President may enact.

I urge my colleagues to give this very fine, outstanding American who, once again, was thinking about a quieter form of life the opportunity to move into this job.

There was printed in the RECORD a report that was issued by the CSIS, prepared by a number of former colleagues and others in the intelligence community trying to say to the Congress we best move with considerable caution as we enact this new legislation. I found this very helpful in my work participating in drawing up this bill, and I commend it to my colleagues.

Mr. President, again I thank the distinguished chairman and the distinguished vice chairman of the committee for their work in making it possible for this nomination to have been carefully reviewed by the Senate in terms of a series of hearings and a very active and thorough debate on the Senate floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, with this debate and the vote certain at 5 o'clock, I think there has been an extraordinary level of examination of this nomination. Two days of open hearings were held. By way of comparison, that is one day more than Secretary of State Powell had during his confirmation in early 2001.

It is certainly understandable that an official of the DCI stature would be the subject of close Senate scrutiny. I think we have achieved that level of scrutiny, and members of the Intelligence Committee on both sides have expressed satisfaction with the way this process has unfolded. It was not by accident. It was in close conference and cooperation with the distinguished vice chairman of the Intelligence Committee, the Senator from West Virginia.

I think Mr. GOSS has been forthcoming. I think he has been candid with the committee. He provided literally dozens of written answers to questions sent to him by the committee, both before and after his confirmation hearings. He also provided complete and exhaustive details about his background and his professional life in connection with his nomination.

In short, I believe the examination of this nomination has been thorough and informative. The nominee and Members on both sides should be complimented for the way it has unfolded.

Expressions of support for his nomination have come from both sides of the aisle and both sides of Capitol Hill. This nominee is ready to go to work, and he is needed.

I urge the Senate to vote for his confirmation, and I look forward to working with PORTER GOSS as the next and, by the way, possibly last DCI.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, at the proper time, which I believe will be at 5 o'clock, I will call for the yeas and nays, or can I do that now before I make a statement?

The PRESIDING OFFICER. The Senator can do it any time he chooses.

Mr. ROCKEFELLER. I wish to make a short statement, and then I will call for the yeas and nays.

PORTER GOSS has been very well vetted. What has come from this discussion back and forth are several things.

One, he is a very good man. Second, he knows the intelligence business. Third, I think there is still a question of whether he has run any larger organizations, and that becomes a factor. The third had to do with partisanship. It was interesting to me that a number of people said everybody around here is partisan. Of course, that is true. But this has to do with a nomination for the Central Intelligence Agency. That is a position where the national security law forbades a nominee from being political in any way, shape, or form.

I think the question really is with him. I want to believe it is true, but based upon the record, I cannot accept it as true to this point, and I have to look at what has happened as opposed to what he says will happen; that he has been very partisan and very partisan within the field of intelligence and very partisan within the field of intelligence very recently at a time, obviously, when we are engaged in a broad election.

I think it is probable that he will be confirmed, but that does not take away from my responsibility to point out what I think is critical: That now, more than ever, it is important for a CIA Director or for anybody in intelligence to tell the truth, to make sure that if there was a reference in a Cincinnati October 2 speech about Niger and uranium enrichment and the possible seeking of it by Iraq, and then when it comes to the State of the Union that somehow that the CIA Director disappeared and never said, Oh, no, that shouldn't be in the State of the Union because it was never true—I don't want to get into that now. The point is we need somebody who is independent and takes pride, who describes himself, defines himself as being independent and standing up for the intelligence business and, therefore, is speaking the truth. I hope that person will be PORTER GOSS. That is not yet proven, and based upon the record it is not possible for me to vote anything but no at this time.

It being very close to 5, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of PORTER J. GOSS, of Florida, to be Director of Central Intelligence? On this question, the yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Ms. MURKOWSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 77, nays 17, as follows:

[Rollcall Vote No. 187 Ex.]

YEAS—77

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carper
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
Daschle
Dayton
DeWine
Dole
Domenici
Dorgan
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchison
Inhofe
Inouye
Johnson
Kohl
Kyl
Landrieu
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Schumer
Sessions
Shelby
Smith
Snowe
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—17

Bingaman
Byrd
Clinton
Conrad
Corzine
Dodd
Durbin
Harkin
Kennedy
Lautenberg
Leahy
Levin
Reed
Rockefeller
Sarbanes
Stabenow
Wyden

NOT VOTING—6

Akaka
Edwards
Jeffords
Kerry
Santorum
Specter

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

The Senator from Kansas.

MORNING BUSINESS

Mr. ROBERTS. Madam President, I ask unanimous consent that there now be a period of morning business, in the evening, with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On November 20, 2000, in Savannah, GA, the body of Billy Jean Levette, a transgender individual, was found in a secluded area. His body was face up with a wound to the back of the head, his pants pulled halfway down and his shirt pulled up. Levette was the second transgender individual killed in the Savannah area in a year.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

SECURITY FOR SUPREME COURT JUSTICES

Mr. LEAHY. Mr. President, I am pleased to be an original cosponsor of S. 2742, which is a short but important piece of legislation that Senator HATCH and I have cosponsored at the request of the Supreme Court. This legislation would renew authority to provide security for the Justices when they leave the Supreme Court. Recent reports of the assault of Justice Souter when he was outside of the Supreme Court highlight the importance of security for Justices. If no congressional action is taken, the authority of Supreme Court police to protect Justices off court grounds will expire at the end of this year.

Another provision in this legislation allows the Supreme Court to accept gifts "pertaining to the history of the Supreme Court of the United States or its justices." The administrative office of the Courts currently has statutory authority to accept gifts on behalf of the judiciary. This provision would grant the Supreme Court authority to accept gifts but it would narrow the types of gifts that can be received to historical items. I think this provision strikes the proper balance.

Finally, this legislation also would provide an additional venue for the prosecution of offenses that occur on the Supreme Court grounds. Currently, the DC Superior Court is the only place of proper venue despite the uniquely Federal interest at stake. This legislation would allow suit to be brought in United States District Court in the District of Columbia.

ROTTERDAM CONVENTION ON PRIOR INFORMED CONSENT

Mr. JEFFORDS. Mr. President, this week, seventy-four nations are meeting in Geneva at the first Conference of the Parties to the Rotterdam Convention on Prior Informed Consent (PIC) for Certain Hazardous Chemicals and Pesticides. This important international agreement establishes a legally binding framework that requires exporters of listed substances to secure informed consent from governments of importing countries prior to any shipment of such chemicals. Simply put, the convention recognizes and incorporates the basic principle of right-to-know with respect to trade in hazardous chemicals. As such, it marks yet another positive step in the direction of a comprehensive international approach to chemicals management.

Unfortunately, the United States is not yet a party to the convention, and thus will not be at the table this week when important decisions are made regarding organization, scope, and future direction. Earlier this week, for example, the parties agreed to add fourteen new chemicals to the convention's list of substances requiring informed consent. Because we are not a party, the United States did not participate in that decision.

Lest one think this is an exceptional case, the Rotterdam Convention is one of three important international agreements on chemicals that the United States has signed, but so far failed to ratify. The two other agreements—the Stockholm Convention on Persistent Organic Pollutants (POPs) and the POPs Protocol to the Convention on Long Range Transboundary Air Pollution—ban or severely restrict the production and use of some of the most hazardous chemicals in existence. Both agreements have entered into force, and preparations are being made for the first meetings of the parties. Yet, the United States is not on board.

Although our Government played a leading role in negotiating all of these agreements and despite the fact that the United States is a signatory to each, the current administration along with the leadership in Congress has so far failed to move the necessary implementing legislation that would allow the United States to become a party. Such legislation involves the work of four different committees in the Congress. To date, however, only the Senate Environment and Public Works Committee has reported a bill, which I co-sponsored with Senator CHAFEE. This bill provides a reasonable and effective approach to meeting our current obligations under all three of these agreements, while also providing a robust mechanism for accommodating future decisions of the parties. I would urge my colleagues to follow our lead and swiftly enact sensible implementing legislation. The United States cannot afford to sit on the sidelines any longer.

LANHAM ACT CLARIFICATION

Mr. CRAIG. Mr. President, I ask unanimous consent to have printed in the RECORD some additional information about the genesis and intent of a bill introduced last week, strengthening and clarifying a provision of the Lanham Act. Specifically, S. 2796 was introduced to clarify that service marks, collective marks, and certification marks are entitled to the same protections, rights, privileges of trademarks.

It is my hope that the Congress will act on this measure in short order, and I offer this information to assist my colleagues in evaluating the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENTS TO LANHAM ACT

[Indicated by Brackets]

Sec. 3 [15 U.S.C. 1053]. Service marks registrable

Subject to the provisions relating to the registration of trademarks, so far as they are applicable, service marks shall be registrable, in the same manner and with the same effect as are trademarks, and when registered they shall be entitled to the protection[s, rights and privileges] provided in this chapter in the case of trademarks. Applications and procedure under this section shall conform as nearly as practicable to those prescribed for the registration of trademarks.

Sec. 4 [15 U.S.C. 1054]. Collective marks and certification marks registrable

Subject to the provisions relating to the registration of trademarks, so far as they are applicable, collective and certification marks, including indications of regional origin, shall be registrable under this chapter, in the same manner and with the same effect as are trademarks, by persons, and nations. States, municipalities, and the like, exercising legitimate control over the use of the marks sought to be registered, even though not possessing an industrial or commercial establishment, and when registered they shall be entitled to the protection[s, rights and privileges] provided in this chapter in the case of trademarks, except in the case of certification marks when used so as to represent falsely that the owner or a user thereof makes or sells the goods or performs the services on or in connection with which such mark is used. Applications and procedure under this section shall conform as nearly as practicable to those prescribed for the registration of trademarks.

BACKGROUND AND JUSTIFICATION

Section 4 of the Lanham Act, 15 U.S.C. §1054, states that certification marks and collective marks "shall be entitled to the protection provided" to trademarks. This section expresses the congressional intention that all certification marks and collective marks be treated with equivalent rights and protections to trademarks, except where Congress, by statute, has expressly provided otherwise.

It is common in trademark, service mark, collective mark and certification mark licenses to include provisions under which licensees acknowledge the validity of an agree not to challenge the marks. These "no challenge" provisions play an important role in protecting the marks, reducing mark owners' litigation costs, and providing assurances to licensees that the marks they are investing in will have continued validity. After applying principles of equity, many courts have upheld such "no challenge" provisions in trademark licenses and dismissed validity challenges.

Recently, the Second Circuit Court of Appeals in the case of *Idaho Potato Commission* v. *M & M Produce Farm and Sales*, 335 F.3d 130 (2d Cir. 2003), interpreted the Lanham Act as requiring that certification marks be treated differently from trademarks with respect to "no challenge" provisions. The court reasoned that the public policy underlying certification marks was more analogous to the public policy underlying patents. As a result, the court ruled that licensee certification mark no challenge provisions are governed by the Supreme Court's decision in *Lear, Inc* v. *Adkins*, 395 U.S. 653 (1969). The Second Circuit's decision appears to have gone beyond congressional intent relating to certification marks. Certification marks have none of the preclusive effects of patents. Rather, the competitive effects of certification marks are the same as trademarks. Certification marks guard the public from deception and protect mark owners' and their licensees' investments. Like trademarks, certification marks provide information vital to consumers' purchasing decisions. Certification marks help consumers identify goods and services that have the quality and safety features they want.

It is important to remove any perceived distinction between certification marks and collective marks as compared to trademarks, except as expressly provided otherwise by statute. Therefore, this bill clarifies Congress, original intentions regarding the treatment of certification marks and collective marks through this amendment to Section 4 of the Act. Licenses governing certification marks, and the provisions contained in such licenses, should be treated no less favorably than licenses for trademarks and other marks. "No challenge" provisions, and other non-quality related provisions in certification mark licenses or agreements are to be accorded the same respect and treatment, and are to be the subject to the same principles of equity, as like provisions in trademark licenses and agreements. While nothing in this revision to the Lanham Act should be read as impairing a court's ability to apply existing principles of equity, where their application is appropriate, such licensing provisions are essential to preserving the public benefits of such marks without increasing the litigation and other transactional costs for certification mark owners. Similarly, certification and collective mark owners have the same remedies for infringement of their marks that are available to trademark owners.

Section 3 of the Lanham Act, 15 U.S.C. §1053, is amended in the same manner as Section 4 to maintain the parallel language of the two sections and to evidence congressional intent that all four marks protected by the Lanham Act are to be accorded the same rights and protections except as specifically provided by statute.

HONORING WORLD WAR II VETERANS

Mr. BAYH. Mr. President, throughout my service to the State of Indiana, I have been honored to represent thousands of Hoosier veterans who have fought bravely for our country. It is with great honor that I recognize the sacrifices of these three courageous men, Private First Class Leo Wilson Landess, Private First Class Robert Eugene Osborn, and Private First Class John Lee Reynolds, who were called to service in World War II to safeguard American freedom. These valiant young men defended our Nation and our liberty in the face of evil, before they had a chance to receive a high school diploma. It was more than 60 years ago that these three men left Governor I.P. Gray High School and were inducted into the Army. I applaud the Jay County High School Corporation for honoring these three World War II veterans, on June 12, 2004.

Their effort and unwavering commitment along with 120,000 other Hoosier World War II veterans, played a vital role in the long and difficult process of helping others enjoy freedom and democracy. By the end of the war, almost 13,000 Hoosier soldiers lost their lives. I am reminded by a quote by Douglas MacArthur, "The soldier, above all other people, prays for peace, for he must suffer and bear the deepest wounds and scars of war." I would like to express my deep appreciation for their dedicated service and the many sacrifices they made on behalf of our Nation.

MISSOURI RIVER DROUGHT CONSERVATION PLAN

Mr. JOHNSON. Mr. President, last Tuesday, September 14, the Senate Appropriations Committee reported out the Fiscal Year 2005 Interior Appropriations bill on a unanimous and bipartisan vote. The bill funds several of the Federal agencies that are responsible for managing millions of acres of land in South Dakota, including the U.S. Forest Service, the Fish and Wildlife Service, and the National Park Service. Included in that bill was a provision directing the Corps of Engineers to immediately implement the drought conservation measures outlined in the 2004 Missouri River Master Water Control Manual. This is an important provision that will better balance the competing uses of Missouri River water and, more importantly, bring a sense of equity and fair play to a process long-slanted toward a single group of navigation interests.

Perhaps no Federal agency has a more direct impact on South Dakotans than the U.S. Army Corps of Engineers. The Corps of Engineers has a tough job in South Dakota, balancing a host of competing and, it appears from time to time, mutually exclusive interests. However, on the key issue of managing the Missouri, the Corps has consistently come up short as a steward of America's longest river. With a current water storage rate of 35.9 million acre-feet, the main-stem Missouri River reservoirs are at the lowest level in history. The provision included in the Interior Appropriations bill faces up to this reality by taking a strong step toward conserving our water resources.

Unfortunately, yesterday, in an unprecedented maneuver to strike out and cancel the express will of the Appropriations Committee, a provision was inserted in the fiscal year 2005 Veterans, Housing and Urban Development, and Independent Agencies Appropriations bill that cancels out the drought conservation plan. The proponents of this new provision had already been rebuffed last week when attempting to change the original section. Surely we can find some common ground for the upstream states struggling with the lack of water flow. I expect an uphill battle, but I will do everything I can to fight for the needs of upstream states.

JUMPSTART OUR BUSINESS STRENGTH ACT

Mr. SMITH. Mr. President, I rise to speak about an important piece of legislation that is pending before Congress. The Jumpstart Our Business Strength, JOBS, Act, also known as FSC/ETI. This bill was passed by both the House and the Senate earlier this year and now awaits the appointment of conferees by the House of Representatives. As a Senate conferee, I am hopeful that we can move quickly toward a conference with the House and complete action on FSC before the 108th Congress adjourns.

This bill has aptly been named the JOBS Act because of the direct impact it will have on businesses and employment in the United States. I believe this bill can strengthen the U.S. shipping industry. Over the past year I have worked closely with my colleagues, Senators TRENT LOTT, JOHN BREAUX and others, to provide critical tax reform for the U.S. maritime industry. I intend to work in conference to provide necessary relief to the maritime industry in Oregon and elsewhere throughout our country.

It is clear to me that the ability of the American shipowner to operate ships on a comparable economic basis as foreign competitors is vital to the competitiveness of the U.S.-flag industry. Yet United States shipping companies are subject to significantly higher taxes than their foreign-based competition, particularly those that operate foreign vessels under what are commonly known as "flag-of-convenience" countries. Thus, American shipowners are increasingly unable to compete with their foreign-flag counterparts in the foreign trade of the United States.

Recently, many of the industrialized trading partners of the U.S., including the United Kingdom, Norway and Germany, have developed tonnage-based corporation tax regimes, known as "tonnage tax" regimes, to enable their fleets to compete fairly on the international stage. In a similar manner, our proposed tonnage tax provisions would authorize an alternative U.S. tax regime based upon the tonnage of a taxpayer's U.S.-flag fleet. That alternative regime would create a positive economic environment for U.S.-flag international shipping operations in line with that of other major U.S. trading partners.

This legislative provision is urgently needed to preserve U.S.-flag shipping and related employment opportunities for U.S. merchant mariners. At this time, there are only 89 U.S.-flag vessels engaged in the foreign trade that are operated by U.S. companies to which the tonnage tax regime would apply. Implementation of the tonnage tax regime is required now to prevent further reductions in an already decimated U.S.-flag commercial fleet and depleted U.S. mariner pool.

It is also important to the U.S. maritime industry that we enact an additional reform measure to defer U.S. tax on the foreign shipping income of a controlled foreign corporation, CFC—but only if that CFC is affiliated with a U.S. company that maintains a qualified fleet of at least two U.S.-flag commercial vessels. Generally, the U.S. does not tax foreign-source income earned by a CFC until that income is repatriated as a dividend to the U.S. shareholders of the CFC. However, a CFC's foreign shipping income is taxed to its U.S. shareholders in the year earned without regard to whether it is then, or ever, distributed to those shareholders.

I look forward to working with my Senate and House colleagues towards enactment of the FSC/ETI tax legislation and to ensure that these critical maritime provisions are included in the final version of the bill.

ROBERTO CLEMENTE DAY

Mr. SANTORUM. Mr. President, today I rise to speak about a topic that holds a special place in my life and the communities of Pennsylvania—baseball. Like our Nation's democracy, baseball is a part of our country's collective definition of community, history, and heroism.

The Pittsburgh Pirates and Philadelphia Phillies are recognized by fans for their hometown affiliation but more for their heroes. In Pennsylvania, we have plenty of players to boast about, but one in particular comes to mind, Roberto Clemente. Clemente is Pittsburgh's most reversed hero. He was the first Latin-American to be inducted into the Hall of Fame and the first player for whom the Hall's required 5-year waiting period was waived. In honor of the humanitarian work in which he was so involved, the Roberto Clemente Foundation now serves Pittsburgh's inner-city through programs to instill responsible community behavior in disadvantaged youth, and to provide them with organized recreation. Clemente's example is an amazing illustration of how powerful professional sports heroes can be as role models.

Roberto Clemente Day was established in 2002 to increase awareness of the Roberto Clemente Award and the amount of time and effort its recipients dedicate towards community and charitable endeavors. Since 1971, Major League Baseball has annually presented an award that recognizes a player who best exemplifies the game of baseball through sportsmanship, community involvement, and positive contributions to his team. The award was named in honor of Clemente in 1973. The national recipient of the 2004 Roberto Clemente Award will be announced during the 2004 World Series. This year, September 22 has been designated as 2004 Roberto Clemente Day.

PNC Park in Pittsburgh will be among the many ballparks around the country that will hold a ceremony commemorating Roberto Clemente Day. As residents of Pittsburgh cross the Roberto Clemente Bridge, which spans the Allegheny River, may they remember the example that Roberto Clemente set for us all.

Roberto Clemente Walker was born in Barrio San Anton in Carolina, Puerto Rico, August 18, 1934. Roberto always excelled at track and field; however, his real love was baseball.

Clemente joined the Pittsburgh Pirates in 1955, where he played his entire 18-year Major League Baseball career from 1955 to 1972. Clemente is considered one of the finest outfielders to ever play professional baseball, amassing over 3,000 hits, 12 Golden Glove Awards, a league MVP Award, and leading the Pittsburgh Pirates to World Series victories in 1960 and 1971.

Clemente was also a devoted father. With his wife Vera Cristina, he raised three sons: Roberto Jr., Luis Roberto, and Roberto Enrique. Proud of his heritage Roberto insisted that Vera give birth to all three sons in Puerto Rico.

I will always remember feeling deeply saddened upon hearing the news, on December 31, 1972, that Clemente had died in a tragic plane crash off the coast of Puerto Rico. The plane was taking medical, food, and clothing supplies to earthquake stricken Nicaragua. Clemente will always be remembered as one of the greatest humanitarians of all time.

Aside from playing baseball myself over the years, the culture of identifying with star baseball players and my hometown team is an inextricable part of my boyhood. As a young boy playing and watching baseball, I learned the value of hard work, the importance of teamwork, how to deal with success and failure, how to concentrate and stay focused on a goal, and how to look beyond personal achievement to something bigger than oneself. Roberto Clemente embodied all of these virtues.

As our Nation recognizes Hispanic Heritage Month during the month of September, this is an ideal time to honor this exceptional person and personal hero and his legacy that lives on through the recipients of the Roberto Clemente Award.

IN MEMORIAM TO STATE SENATOR HENRY J. MELLO

Mrs. BOXER. Mr. President, I take this opportunity to honor the memory of one of California's dedicated public servants, California State Senator Henry Mello. Senator Mello passed away on September 4, 2004. He was 80 years old.

Senator Mello was first elected to the Santa Cruz County Board of Supervisors in 1966, where he served for 8 years. In 1976, he was elected to the California State Assembly. After serving for two terms in the assembly, Senator Mello was elected to the California State Senate, where he spent the majority of his career in public service. During his tenure as a member of the California State Legislature, Senator Mello carried a record number of bills and resolutions—727—of which 456 were signed into law. Because of his successful leadership skills and his ability to work across partisan lines, Senator Mello served as the State Senate's majority whip from 1981 to 1992, and as the majority leader from 1992 to 1996.

Whether he was championing childrens' rights or seniors' rights, environmental issues or public education, residents of the central coast knew they had an advocate in Senator Mello. Among his many accomplishments in the State legislature, Senator Mello advocated for the establishment of the Monterey Bay National Marine Sanctuary; the creation of the California Senior Legislature, and the conversion of Fort Ord Army Base into California State University Monterey Bay. A particular highlight in his career, Senator Mello cosponsored the Mello-Roos Act, which established tax-exempt bonds and special districts for school construction and other public improvements.

Senator Mello was proud of his Portugese heritage, and regularly traveled to Washington, DC to advocate for increased foreign aid to Portugal. The King of Portugal knighted Senator Mello for his efforts. In his spare time, Senator Mello was also an avid deep-sea fisherman and jazz pianist. In 2002, Senator Mello played with the Jimmy Dorsey Orchestra at the performing arts center in Watsonville that is named after him—the Henry J. Mello Center for the Performing Arts.

Senator Mello was a deeply loved member of both the California State legislature and the central coast community, and a strong, tenacious man who championed the causes of those he represented. He will be missed by all who knew him. We take comfort in knowing that future generations will benefit from his spirit, his vision, and his leadership.

ADDITIONAL STATEMENTS

HONORING THE ACCOMPLISHMENTS OF DISHA PANCHOLI

• Mr. BUNNING. Mr. President, I wish to pay tribute to and congratulate Disha Pancholi of Louisville, KY, on being awarded a Boren Undergraduate Scholarship from the David L. Boren National Security Education Program, NSEP.

Ms. Pancholi was one of 181 applicants nationwide to receive one of these scholarships. NSEP administered within the National Defense University in the Department of Defense. It funds outstanding U.S. students to study critical languages and world regions in exchange for a commitment to seek employment with the Federal Government in the arena of national security.

Ms. Pancholi has been studying Arabic and will spend her fall term in Egypt. She attends the University of Louisville and is majoring in biology and political science.

The citizens of Jefferson County should be proud to have a women such as Disha Pancholi in their community. Her example of dedication and hard work should be an inspiration to the entire Commonwealth. She has my most sincere admiration for this work and I look forward to her continued service to the United States.•

REMEMBERING DONALD M. DOCKERY III

• Mr. COCHRAN. Mr. President, my dear friend, and neighbor for many years, Donald M. Dockery III, died on September 7. As a World War II veteran, he was pleased that he lived to watch on television the dedication of the memorial on the Mall here in Washington honoring those who served in that great conflict.

He served in Europe as a pilot in the U.S. Army Air Corps. After the war, he remained in the Reserves and retired as a Lieutenant Colonel in the U.S. Air Force.

Donald Dockery was a special friend. He and his family were our closest neighbors when I was growing up in the Byram community, 7 miles south of Jackson, MS. His wife, Stella, and their children, Donna, Kay, and Billy were also very close friends of mine, and my family.

Donald's death was like having a death in our own family. He and Stella watched after me as I grew up in the neighborhood. Donald was the personification of a good citizen, the kind who enriches our country with a strong spirit of community.

He was active in the boosters club at our school, helping children who needed money for lunch room tickets or a band uniform. He was a very successful businessman. He owned a store and was in the pulp wood and cattle business. He also got into the bottled water business; and, with his father-in-law and his son, he developed their company into a very impressive enterprise.

When my father's health began declining several years ago, Donald would visit him every day. Their friendship was steadfast and enduring for over 50 years.

It is impossible to measure the influence another person can have on one's life, but I am sure Donald Dockery helped shape my views of the role a good citizen should play in his community and the importance of being a loyal and caring friend.

My family and I will miss him very much.•

TRIBUTE TO DONALD COMLISH

• Mr. TALENT. Mr. President, I rise today to mourn the passing of Donald Comlish, who was the vice president for international affairs of the Air Transport Association. Through his years of service, Mr. Comlish helped provide great service to our airline industry as well as the traveling public, and he will be truly missed.

Mr. Comlish worked for the ATA for 22 years as the chief representative of the airline industry in the negotiation of the international agreements between the United States and foreign countries that provide the legal and operational basis for international airline flights.

He participated in the negotiation of aviation agreements with France, Germany, Japan, Thailand and many other countries during his career, helping to literally open up the world to American travelers. Mr. Comlish helped to negotiate the 1977 Bermuda II agreement, which eased restrictions on air travel between the United States and Britain. He also helped to complete a partnership between the United States and China that provided for post-World War II resumption of direct air service between the two countries.

Donald Comlish was born in Stratford, CT and enlisted in the Navy after high school. He attended the Navy School of Music in Washington and played with the Navy Band. He graduated from St. Bonaventure University in 1961, and received a law degree from Catholic University in 1965. He began his career as a law clerk for the firm of Spencer & Whalen and the Civil Aeronautics Board, and then began working for the ATA. Donald was a well-respected and accomplished attorney who was admitted and qualified as an attorney and counselor to the Supreme Court. After leaving the ATA in the mid-1990s, he remained a consultant to the airline industry until his retirement in 1999.

Shortly before he retired, he decided to once again pursue his love of music and began playing saxophone and clarinet for the Montgomery Village Community Band and the Virginia Grand Military Band. He was also a member of the International Aviation Club.

Mr. Comlish's survivors include his wife of 42 years, Carol Comlish; 6 children: Jeannie, Michael, Gregory, Matthew, Paul, and Chrissy; and 1 grandson. His efforts improved the lives of every American who travels, and he certainly left the world better than he found it.●

MESSAGE FROM THE HOUSE

At 2:18 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1658) to amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes.

The message also announced that the House has passed the following bill and joint resolution, without amendment:

S. 1301. An act to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States, and for other purposes.

S.J. Res. 41. Joint resolution commemorating the opening of the National Museum of the American Indian.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2663. An act to authorize the Secretary of the Interior to study the suitability and feasibility of designating Castle Nugent Farms located on St. Croix, Virgin Islands, as a unit of the National Park System, and for other purposes.

H.R. 2966. An act to preserve the use and access of pack and saddle stock animals on public lands, including wilderness areas, national monuments, and other specifically designated areas, administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service where there is a historical tradition of such use, and for other purposes.

H.R. 3257. An act to authorize the Secretary of the Interior to conduct a study to determine the suitability and feasibility of establishing the Western Reserve Heritage Area.

H.R. 3334. An act to authorize the Secretary of the Interior to participate in the design and construction of the Riverside-Corona Feeder in cooperation with the Western Municipal Water District of Riverside, California.

H.R. 3632. An act to prevent and punish counterfeiting and copyrighted copies and phonorecords, and for other purposes.

H.R. 4459. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes.

The message also announced that pursuant to section 1 of the Library of Congress Trust Fund Board Act (2 U.S.C. 154 note), the order of the House of December 8, 2003, and upon the recommendation of the Minority Leader, the Speaker appoints the following member on the part of the House of Representatives to the Library of Congress Trust Fund Board for a 5-year term to fill the existing vacancy thereon: Mr. J. Richard Fredericks of San Francisco, California.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2663. An act to authorize the Secretary of the Interior to study the suitability and feasibility of designating Castle Nugent Farms located on St. Croix, Virgin Islands, as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2966. An act to preserve the use and access of pack and saddle stock animals on public lands, including wilderness areas, national monuments, and other specifically designated areas, administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service where there is a historical tradition of such use, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3257. An act to authorize the Secretary of the Interior to conduct a study to determine the suitability and feasibility of establishing the Western Reserve Heritage Area; to the Committee on Energy and Natural Resources.

H.R. 3334. An act to authorize the Secretary of the Interior to participate in the design and construction of the Riverside-Corona Feeder in cooperation with the Western Municipal Water District of Riverside, California; to the Committee on Energy and Natural Resources.

H.R. 3632. An act to prevent and punish counterfeiting of copyrighted copies and phonorecords, and for other purposes; to the Committee on the Judiciary.

H.R. 4459. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2823. A bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-9353. A communication from the Acting Assistant Director, Directives and Regulations Branch, Forest Service, transmitting, pursuant to law, the report of a rule entitled "Sawtooth National Recreation Area-Private Lands; Increasing Residential Outbuilding Size" (RIN0596-AC00) received on September 17, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9354. A communication from the Congressional Review Coordinator, Animal Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Citrus Canker; Quarantined Areas" (Doc. No. 04-045-1) received on September 17, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9355. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC-9356. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC-9357. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC-9358. A communication from the Deputy Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR part 592, Rough Diamonds Control Regulations" received on September 24, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-9359. A communication from the Deputy Secretary of the Treasury, Department of the Treasury, transmitting, pursuant to law, a report on the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1005; to the Committee on Banking, Housing, and Urban Affairs.

EC-9360. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled the "Research and Special Programs Reorganization Act"; to the Committee on Commerce, Science, and Transportation.

EC-9361. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety Zone (including 2 regulations): CGD001-04-099, CGD01-04-111" (RIN1625-AA00) received on September 21, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9362. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations (including 3 regulations): CGD07-04-

103, CGD05–04–143, CGD05–04–157'' (RIN1625–AA08) received on September 21, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9363. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone (Including 3 Regulations): CGDF13–04–031, CGD05–04–170, CGD05–04–172'' (RIN1625–AA00) received on September 21, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9364. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations (Including 4 Regulations): CGD01–04–114, CGD01–04–105, CGD08–04–031, CGD08–04–024'' (RIN1625–AA09) received on September 21, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9365. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Wiscasset, Maine; Demolition of Maine Yankee Former Containment Building CGD01–04–099'' (RIN1625–AA00) received on September 21, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9366. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulation for Marine Events: Patapsco River, Inner Harbor, Baltimore, MD CGD05–04–158'' (RIN1625–AA08) received on September 21, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9367. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Mandatory Ballast Water Management Program for U.S. Waters USCG–2003–14273'' (RIN1625–AA52) received on September 21, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9368. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Protection of Military Cargo, Captain of the Port Zone Puget Sound, WA CGD13–04–019'' (RIN 1625–AA87) received on September 21, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9369. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Notification of Arrival in U.S. Ports; Certain Dangerous Cargoes; Electronic Submission USCG–2003–16688'' (RIN 1625–AA82) received on September 21, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9370. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Generic Letter 2004–02: Potential Impact of Debris Blockage on Emergency Recirculation During Design Basis Accidents at Pressurized-Water Reactors'' received on September 17, 2004; to the Committee on Environment and Public Works.

EC–9371. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Air Quality Classifications for the 8-Hour Ozone National Ambient Air Quality Standards'' (FRL#7816–2) received on September 17, 2004; to the Committee on Environment and Public Works.

EC–9372. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Kentucky and Indiana: Approval of Revisions to 1-Hour Ozone Maintenance Plan for Louisville Area'' (FRL#7812–4) received on September 17, 2004; to the Committee on Environment and Public Works.

EC–9373. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; North Carolina: Raleigh/Durham Area and Greensboro/Winston-Salem/High Point Area Maintenance Plan Updates'' (FRL#7815–9) received on September 17, 2004; to the Committee on Environment and Public Works.

EC–9374. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Nevada; Las Vegas Valley Carbon Monoxide Nonattainment Area'' (FRL#7801–8) received on September 17, 2004; to the Committee on Environment and Public Works.

EC–9375. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion'' (FRL#7816–9) received on September 17, 2004; to the Committee on Environment and Public Works.

EC–9376. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Missouri; Final Approval of Missouri Underground Storage Tank Program'' (FRL#7816–1) received on September 17, 2004; to the Committee on Environment and Public Works.

EC–9377. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to the California State Implementation Plan, Antelope Valley Air Quality Management District'' (FRL#7812–2) received on September 17, 2004; to the Committee on Environment and Public Works.

EC–9378. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Treatment of Certain Settlement Funds as Pertaining to Purchase Price Allocations in Deemed and Actual Asset Acquisitions'' (RIN 1545–BD59) received on September 17, 2004; to the Committee on Finance.

EC–9379. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Place for Filing Returns or Other Documents'' (TD9156) received on September 17, 2004; to the Committee on Finance.

EC–9380. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—October 2004'' (Rev. Rul. 2004–96) received on September 17, 2004; to the Committee on Finance.

EC–9381. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Returns Relating to Interest Payments on Qualified Education Loans'' (Notice 2004–63) received on September 17, 2004; to the Committee on Finance.

EC–9382. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Guidance Concerning Use of 2001 CSO Tables Under Section 7702'' (Notice 2004–61) received on September 17, 2004; to the Committee on Finance.

EC–9383. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Fringe Benefits Aircraft Valuation Formula'' (Rev. Rule 2004–70) received on September 17, 2004; to the Committee on Finance.

EC–9384. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Request for Comments on Staggered Remedial Amendment Period Revenue Procedure'' (Ann. 2004–71) received on September 17, 2004; to the Committee on Finance.

EC–9385. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Electronic Filing of Duplicate Form 5472'' (TD 9161) received on September 17, 2004; to the Committee on Finance.

EC–9386. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Manufacturer's Submission of Average Sales Price Data for Medicare Part B Drugs and Biologicals (ASP)'' (RIN 0938–AN05) received on September 17, 2004; to the Committee on Finance.

EC–9387. A communication from the Regulations Coordinator, Office of the Secretary, transmitting, pursuant to law, the report of a rule entitled ''Civil Money Penalties: Procedures for Investigations Imposition of Penalties and Hearings—Extension of Expiration Date'' received on September 17, 2004; to the Committee on Finance.

EC–9388. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–9389. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles that are firearms sold commercially under a contract in the amount of $1,000,000 or more to Italy; to the Committee on Foreign Relations.

EC–9390. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Germany; to the Committee on Foreign Relations.

EC–9391. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC–9392. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Canada; to the Committee on Foreign Relations.

EC–9393. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed manufacturing license agreement for the manufacture of significant military equipment to Spain; to the Committee on Foreign Relations.

EC–9394. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed manufacturing license agreement for the manufacture of significant military equipment in Egypt; to the Committee on Foreign Relations.

EC–9395. A communication from the Deputy Secretary of State, transmitting, pursuant to law, a report relative to supporting Iraq's political transition, creating democratic institutions, and rebuilding the country's social and economic infrastructure; to the Committee on Foreign Relations.

EC–9396. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–9397. A communication from the Chairman, Commission for the Preservation of America's Heritage Abroad, transmitting, pursuant to law, a report relative to the Commission's work over the past three years; to the Committee on Governmental Affairs.

EC–9398. A communication from the Inspector General, Department of Defense, transmitting, pursuant to law, the report of the Office of Inspector General's results of our audit of undefinitized contractual actions; to the Committee on Governmental Affairs.

EC–9399. A communication from the Director, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Fire Protection in Shipyard Employment" (RIN 1218–AB51) received on September 21, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9400. A communication from the Director, Regulations Management, Board of Veterans' Appeal, transmitting, pursuant to law, the report of a rule entitled "Board of Veterans' Appeals: Obtaining Evidence and Curing Procedural Defects" (RIN 2900–AL77) received on September 21, 2004; to the Committee on Veterans' Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCAIN for the Committee on Commerce, Science, and Transportation.

*Jon D. Leibowitz, of Maryland, to be a Federal Trade Commissioner for a term of seven years from September 26, 2003.

*Deborah P. Majoras, of Virginia, to be a Federal Trade Commissioner for the unexpired term of seven years from September 26, 2001.

Coast Guard nominations beginning Capt. Gary T. Blore and ending Capt. Joel R. Whitehead, which nominations were received by the Senate and appeared in the Congressional Record on September 7, 2004.

Mr. McCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Coast Guard nomination of Kenneth W. Megan.

Coast Guard nominations beginning John B. McDermott and ending David C. Clippinger, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Coast Guard nomination of Karen W. Quiachon.

Coast Guard nominations beginning Michael H Anderson and ending Gordon K Weeks, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Coast Guard nominations beginning Scott B. Beeson and ending Needham E. Ward, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

National Oceanic and Atmospheric Administration nominations beginning Jonathan W Bailey and ending Richard A Edmundson, which nominations were received by the Senate and appeared in the Congressional Record on September 20, 2004.

National Oceanic and Atmospheric Administration nominations beginning Timothy J Gallagher and ending Bernerd R Archer, which nominations were received by the Senate and appeared in the Congressional Record on September 20, 2004.

By Mr. GREGG for the Committee on Health, Education, Labor, and Pensions.

*Gerard Schwarz, of Washington, to be a Member of the National Council on the Arts for the remainder of the term expiring September 3, 2006.

*James Ballinger, of Arizona, to be a Member of the National Council on the Arts for a term expiring September 3, 2010.

*Terence Alan Teachout, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 2010.

*Jonathan Baron, of Maryland, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of three years.

*Elizabeth Ann Bryan, of Texas, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of four years.

*James R. Davis, of Mississippi, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of two years.

*Frank Philip Handy, of Florida, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of three years.

*Eric Alan Hanushek, of California, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of two years.

*Caroline M. Hoxby, of Massachusetts, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of four years.

*Roberto Ibarra Lopez, of Texas, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of two years.

*Richard James Milgram, of New Mexico, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of three years.

*Sally Epstein Shaywitz, of Connecticut, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of three years.

*Joseph K. Torgesen, of Florida, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of four years.

*Herbert John Walberg, of Illinois, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of three years.

*Herman Belz, of Maryland, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

*Tamar Jacoby, of New Jersey, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

*Craig Haffner, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

*James Davidson Hunter, of Virginia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

*Harvey Klehr, of Georgia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

*Thomas K. Lindsay, of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

*Iris Love, of Vermont, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

*Thomas Mallon, of Connecticut, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

*Ricardo Quinones, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

*Beverly Allen, of Georgia, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2008.

*Gail Daly, of Texas, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2008.

*Donald Leslie, of Wisconsin, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2006.

*Amy Owen, of Utah, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2008.

*Sandra Pickett, of Texas, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2005.

*Renee Swartz, of New Jersey, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2007.

*Kim Wang, of California, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2004.

*William T. Hiller, of Ohio, to be a Member of the National Institute for Literacy Advisory Board for a term expiring November 25, 2006.

*Richard Kenneth Wagner, of Florida, to be a Member of the National Institute for Literacy Advisory Board for a term expiring November 25, 2006.

*Juan R. Olivarez, of Michigan, to be a Member of the National Institute for Literacy Advisory Board for a term expiring November 25, 2006.

*Maria Otero, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.

*Young Woo Kang, of Indiana, to be a Member of the National Council On Disability for a term expiring September 17, 2006.

*John H. Hager, of Virginia, to be Assistant Secretary for Special Education and Rehabilitative Services, Department of Education.

*Arden Bement, Jr., of Indiana, to be Director of the National Science Foundation for a term of six years.

Mr. GREGG. Mr. President, for the Committee on Health, Education, Labor, and Pensions I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Public Health Service nominations beginning Terence L. Chorba and ending Parmjeet S. Saini, which nominations were received by the Senate and appeared in the Congressional Record on April 8, 2004.

Public Health Service nominations beginning Daniel Molina and ending James D. Warner, which nominations were received by the Senate and appeared in the Congressional Record on May 17, 2004.

Public Health Service nominations beginning Songhai Barclift and ending Gregory Woitte, which nominations were received by the Senate and appeared in the Congressional Record on May 17, 2004.

Public Health Service nominations beginning Alvin Abrams and ending Ariel E. Vidales, which nominations were received by the Senate and appeared in the Congressional Record on May 17, 2004.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. CLINTON:

S. 2827. A bill to amend the Federal Rules of Evidence to create an explicit privilege to preserve medical privacy; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. FEINGOLD, Mr. LIEBERMAN, and Mr. SCHUMER):

S. 2828. A bill to amend the Federal Election Campaign Act of 1971 to define political committee and clarify when organizations described in section 527 of the Internal Revenue Code of 1968 must register as political committees, and for other purposes; to the Committee on Rules and Administration.

By Mr. ALLARD (for himself and Mrs. DOLE):

S. 2829. A bill to establish a grant program administered under an agreement among the Secretaries of Housing and Urban Development, Health and Human Services, and Veterans Affairs, in consultation with the U.S. Interagency Council on Homelessness, to address the goal of ending chronic homelessness through coordinated provision of housing, health care, mental health and substance abuse treatment, and supportive and other services, including assistance in accessing non-homeless specific benefits and services, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SANTORUM (for himself and Mr. BAYH):

S. 2830. A bill to amend part A of title IV of the Social Security Act to promote healthy marriages and responsible fatherhood, and for other purposes; read the first time.

By Mr. SMITH (for himself, Mr. BINGAMAN, Mr. CONRAD, Mr. DASCHLE, Mr. HATCH, and Mr. THOMAS):

S. 2831. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to clarify that federally recognized Indian tribal governments are to be regulated under the same government employer rules and procedures that apply to Federal, State, and other local government employers with regard to the establishment and maintenance of employee benefit plans; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CORZINE (for himself, Mr. BAUCUS, Mr. DURBIN, and Mr. DASCHLE):

S. Res. 432. A resolution expressing the sense of the Senate that Congress should reject Social Security privatization proposals, including those that require deep cuts in Social Security benefits, such as the proposals of President Bush's Social Security Commission; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 333

At the request of Mr. BREAUX, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 847

At the request of Mr. SMITH, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1428

At the request of Mr. MCCONNELL, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1428, a bill to prohibit civil liability actions from being brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for damages or injunctive relief for claims of injury resulting from a person's weight gain, obesity, or any health condition related to weight gain or obesity.

S. 1890

At the request of Mr. ENZI, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1890, a bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes.

S. 1945

At the request of Mr. MCCAIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1945, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 2468

At the request of Ms. COLLINS, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2468, a bill to reform the postal laws of the United States.

S. 2526

At the request of Mr. BOND, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 2526, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 2560

At the request of Mr. LEAHY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2560, a bill to amend chapter 5 of title 17, United States Code, relating to inducement of copyright infringement, and for other purposes.

S. 2561

At the request of Mr. JOHNSON, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2561, a bill to amend title 38, United States Code, to provide for certain servicemembers to become eligible for educational assistance under the Montgomery GI Bill.

S. 2568

At the request of Mr. BIDEN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2731

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2731, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 2759

At the request of Mr. ROCKEFELLER, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2759, a bill to amend title XXI of the Social Security Act to modify the rules relating to the availability and method of redistribution of unexpended SCHIP allotments, and for other purposes.

S. 2781

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2781, a bill to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes.

S. 2794

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2794, a bill to improve elementary and secondary education.

S. 2807

At the request of Mr. CRAPO, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2807, a bill to amend the Internal Revenue Code of 1986 to exempt containers used primarily in potato farming from the excise tax on heavy trucks and trailers.

S. 2815

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2815, a bill to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

S. 2822

At the request of Mr. REID, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 2822, a bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st century.

S.J. RES. 31

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S.J. Res. 31, a joint resolution to provide for Congressional disapproval of certain regulations issued by the Office of the Comptroller of the Currency, in accordance with section 802 of title 5, United States Code.

S.J. RES. 32

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S.J. Res. 32, a joint resolution to provide for Congressional disapproval of certain regulations issued by the Office of the Comptroller of the Currency, in accordance with section 802 of title 5, United States Code.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in may each year as "National Visiting Nurse Association Week".

S. CON. RES. 127

At the request of Mr. SCHUMER, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. Con. Res. 127, a concurrent resolution expressing the sense of Congress that the President should designate September 11 as a national day of voluntary service, charity, and compassion.

S. CON. RES. 136

At the request of Mr. CONRAD, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Maryland (Ms. MIKULSKI), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 408

At the request of Mr. SMITH, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. Res. 408, a resolution supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence.

S. RES. 424

At the request of Mr. CRAIG, the names of the Senator from Colorado (Mr. CAMPBELL), the Senator from Kentucky (Mr. BUNNING), the Senator from Wisconsin (Mr. KOHL), the Senator from West Virginia (Mr. BYRD) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. Res. 424, a resolution designating October 2004 as "Protecting Older Americans From Fraud Month".

S. RES. 427

At the request of Mr. SARBANES, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. Res. 427, a resolution congratulating the citizens of Greece, the members of the Athens 2004 Organizing Committee for the Olympic and Paralympic Games, the International Olympic Committee, the United States Olympic Committee, the 2004 United States Olympic Team, athletes from around the world, and all the personnel who participated in the 2004 Olympic Summer Games in Athens, Greece.

S. RES. 431

At the request of Mrs. FEINSTEIN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. Res. 431, a resolution expressing the sense of the Senate that the United Nations Security Council should immediately consider and take appropriate actions to respond to the growing threats posed by conditions in Burma under the illegitimate rule of the State Peace and Development Council.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. CLINTON:

S. 2827. A bill to amend the Federal Rules of Evidence to create an explicit privilege to preserve medical privacy, to the Committee on the Judiciary.

Mrs. CLINTON. Mr. President, today, I rise to introduce the Patients' Privacy Protection Act, legislation that will close a loophole in the Federal Rules of Evidence and ensure that every American's medical records remain confidential. I want to acknowledge my friend Congressman NADLER who is introducing the House companion to this bill today as well as Senators CORZINE, WYDEN, LAUTENBERG, BOXER, JEFFORDS, and MIKULSKI who join me as original cosponsors of this critical measure.

I began exploring this issue when I learned that Attorney General John Ashcroft had subpoenaed the confidential medical records from thousands of women around the country to defend the first-ever Federal abortion ban in Federal court. The fact that the women in question were not a party to the lawsuits did not deter him.

Such a deliberate intrusion into people's medical privacy record is deeply disturbing. Americans deserve full confidence that the government is not looking into their medical records. Without such an assurance, how will Americans trust their doctors? What procedures, discussions, and diagnoses will they avoid for fear that these records could shame them or adversely impact their future if unearthed?

At issue in this bill is what a reasonable person should expect when they walk into a doctor's office. That person expects that what they say to her doctor stays with her doctor. Only because of that confidence are people able to be honest. And only through that honesty are people able to obtain the healthcare they need.

The right to private medical records is an issue that, in rhetoric at least, has broad support on both sides of the partisan divide. In fact, it was President Bush himself who, as recently as 2001 during a statement on the Medical Privacy Rule said, "I believe that we must protect both vital health care services and the right of every American to have confidence that his or her personal medical records will remain private."

Even Attorney General Ashcroft has made strong statements in support of the privacy of medical records. Back in 1998, in a press release put out by his Senate office in which he is referred to as a "consistent champion of privacy rights," then-Senator Ashcroft says "We should guarantee that the federal government does not undermine an individual's fundamental right to privacy . . . Without privacy protections in place, people may be discouraged from seeking help or taking advantage of the access to health care."

I agree. But unlike Attorney General Ashcroft, I believe preserving patient privacy entails more than issuing a press release. Patient privacy doesn't end when it conflicts with a political agenda, no matter how deeply felt that conviction.

Throughout this Administration, we have seen Attorney General Ashcroft disregard civil liberties in the name of preventing terrorism. But through this action, we see him disregarding civil rights in the name of outlawing abortion. This is a very slippery slope that, if unchecked, could affect not just women seeking reproductive healthcare, but all Americans. Over the past few months, the Department of Justice has asserted that federal law does not recognize the doctor-patient privilege, and that individuals no longer have a reasonable expectation of medical privacy. These are alarming statements.

Thankfully, Attorney General Ashcroft is not being allowed to run roughshod over our right to privacy and medical confidentiality. On March 5, 2004, a San Francisco court ruled that the Department of Justice has no right to view the records in question in the Planned Parenthood Federation of America lawsuit against the abortion ban. The decision issued by Judge Phyllis Hamilton soundly affirmed women's right to privacy. She said, "There is no question that the patient is entitled to privacy and protection. . . . Women are entitled to not have the government looking at their records."

Nevertheless, we cannot take a chance that once again, when it suits the political or ideological interests of this Administration or Administrations to come, the federal government will intrude upon the most personal of information. That is why I stand before you today.

The Patient Privacy Protection Act of 2004 is very simple. It states that a patient's medical records and any communication about their medical history are confidential unless a judge determines that the public interest in those records being made public significantly outweighs the patient's privilege. In the cases where a judge orders the records to be disclosed, the court shall, to the extent practicable, eliminate any and all personally identifiably information.

I am pleased to be introducing this simple, straightforward, common-sense piece of legislation. I do not believe there is a Member of either Chamber of Congress who in good faith could oppose this measure, and I look forward to working with my colleagues, Representative NADLER and others to see it enacted into law expediently.

By Mr. McCAIN (for himself, Mr. FEINGOLD, Mr. LIEBERMAN, and Mr. SCHUMER):

S. 2828. A bill to amend the Federal Election Campaign Act of 1971 to define political committee and clarify when organizations described in section 527 of the Internal Revenue Code of 1968 must register as political committees, and for other purposes; to the Committee on Rules and Administration.

Mr. McCAIN. Mr. President, I am pleased to be joined by my good friend and colleague from Wisconsin, Senator FEINGOLD, and our good friends who lead the campaign finance reform fight in the House, Representatives SHAYS and MEEHAN, in introducing a bill to end the illegal practice of 527 groups spending soft money on ads and other activities to influence Federal elections.

As my colleagues know, a number of 527 groups have been raising and spending substantial amounts of soft money in a blatant effort to influence the outcome of this year's Presidential election. These activities are illegal under existing laws, and yet once again, the Federal Election Commission (FEC) has failed to do its job and has refused to do anything to stop these illegal activities. Therefore, we must pursue all possible steps to overturn the FEC's misinterpretation of the campaign finance laws, which is improperly allowing 527 groups whose purpose is to influence Federal elections to spend soft money on these efforts.

Last week, we filed a lawsuit to overturn the FEC's failure to issue regulations to stop these illegal practices by 527 groups. President Bush and his campaign filed a similar lawsuit against the FEC last week as well, and I also appreciate President Bush's support for the legislative effort we begin today on 527s. We are introducing legislation that will accomplish the same result. We are going to follow every possible avenue to stop 527 groups from effectively breaking the law, and doing what they are already prohibited from doing by longstanding laws.

The bill we introduce today is simply. It would require that all 527s register as political committees and comply with Federal campaign finance laws, including Federal limits on the contributions they receive, unless the money they raise and spend is only in connection with non-Federal candidate elections, State or local ballot initiatives, or the nomination or confirmation of individuals to non-elected offices.

Additionally, this legislation would set new rules for Federal political committees that spend funds on voter mobilization efforts effecting both federal and local races and, therefore, use both a federal and a non-Federal account under FEC regulations. The new rules would prevent unlimited soft money from being channeled into Federal election activities by these Federal political committees.

Under the new rules, at least half of the funds spent on these voter mobilization activities by Federal political committees would have to be hard money from their Federal account. More importantly, the funds raised for their non-federal account would have to come from individuals and would be limited to no more than $25,000 per year per donor. Corporations and labor unions could not contribute to these non-federal accounts. To put it in simple terms, a George Soros could give $25,000 per year as opposed to $10 million to finance these activities.

Let me be perfectly clear on one point here. Our proposal will not shut down 527s, it will simply require them to abide by the same Federal regulations every other Federal political committee must abide by in spending money to influence Federal elections.

It is unfortunate that we even need to be here introducing this bill today. This legislation would not be necessary if it weren't for the abject failure of the FEC to enforce existing laws. As my colleagues well know, some organizations, registered under section 527 of the Internal Revenue Code, have had a major impact on this year's presidential election by raising and spending illegal soft money to run ads attacking both President Bush and Senator KERRY. The use of soft money to finance these activities is clearly illegal under current statute, and the fact that they have been allowed to continue unchecked is unconscionable.

The blame for this lack of enforcement does not lie with the Congress, nor with the Administration. The blame for this continuing illegal activity lies squarely with the FEC. This agency has a duty to issue regulations to properly implement and enforce the nation's campaign laws—and the FEC has failed, and it has failed miserably to carry out that responsibility. The Supreme Court found that to be the case in its McConnell decision and Judge Kollar-Kotelly found that to be the case in her recent decision overturning 15 regulations incorrectly adopted by the FEC to implement the new BCRA law. That is why a Los Angeles Times editorial today stated that, "her decision would make a fitting obituary for an agency that deserves to die."

It should be clear by now why we have introduced legislation to abolish the FEC and replace it with a new enforcement agency. And we will be conducting a major effort starting at the beginning of next year to enact our bill to get a new, true enforcement agency and to pass the 527 reform act we are introducing today. We are not going to allow the destructive FEC to continue to undermine the nation's campaign finance laws as it has been consistently doing for the past two decades. In the mean time, given the unmitigated failure of this agency, I believe that its Chair, Bradley Smith and its Vice Chair, Ellen Weintraub, should resign and recognize that they have failed to carry out their responsibilities as public officials.

Opponents of campaign reform like to point out that the activities of these 527s serve as proof that the Bipartisan Campaign Reform Act of 2002 (BCRA) has failed in its stated purpose to eliminate the corrupting influence of soft money in our political campaigns. Let me be perfectly clear on this. The 527 issue has nothing to do with BCRA, it has everything to do with the 194 law and the failure of the FEC to do its job and properly regulate the activities of these groups.

As further evidence of the FEC's lack of capability, let me quote from a couple of recent court decisions which highlight this agency's shortcomings. First, in its decision upholding the constitutionality of BCRA in McConnell v. FEC, the U.S. Supreme Court stated that the FEC had "subverted" the law, issued regulations that "permitted more than Congress had ever intended," and "invited widespread circumvention" of FECA's limited on contributions. Additionally, just this past Saturday, a federal district court judge threw out 15 of the FEC's regulations implementing BCRA. Among the reasons for her actions were that one provision "severely undermines FECA" and would "foster corruption", another "runs completely afoul" of current law, another would "render the statute largely meaningless" and, finally, that another had "no rational basis."

The track record of the FEC is clear, and by their continued stonewalling, the Commission has proven itself to be nothing more than a bureaucratic nightmare, and the time has come to put an end to its destructive tactics. The FEC has had ample, and well documented, opportunities to address the issue of the 527s illegal activities, and each time they have taken a pass, choosing instead to delay, postpone, and refuse to act.

Enough is enough. It is time to stop wasting taxpayer's dollars on an agency that runs roughshod over the will of the Congress, the Supreme Court, the American people, and the Constitution. We've fought too long and too hard to sit back and allow this worthless agency to undermine the law.

So, here is the bottom line: if the FEC won't do its job, and its commissioners have proven time and time again that they won't, then we'll do it for them. The bill Senator FEINGOLD and I introduce today will put an end to the abusive, illegal practices of these 527s. And we will fight beginning next year to replace this rogue agency with a real enforcement agency.

I urge my colleagues to support swift passage of these bills and put an end to this problem once and for all.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "527 Reform Act of 2004".

SEC. 2. TREATMENT OF SECTION 527 ORGANIZATIONS.

(a) DEFINITION OF POLITICAL COMMITTEE.—Section 301(4)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)(A)) is amended to read as follows:

"(A) any committee, club, association, or other group of persons that—

"(i) during one calendar year, receives contributions aggregating in excess of $1,000 or makes expenditures aggregating in excess of $1,000; and

"(ii) has as its major purpose the nomination or election of one or more candidates;".

(b) DEFINITION OF MAJOR PURPOSE FOR SECTION 527 ORGANIZATIONS.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"SEC. 325. DEFINITIONS AND RULES FOR DETERMINING ORGANIZATIONS AND DISBURSEMENTS INFLUENCING FEDERAL ELECTIONS.

"(a) MAJOR PURPOSE OF SECTION 527 ORGANIZATIONS.—For purposes of section 301(4)(A)—

"(1) IN GENERAL.—A committee, club, association, or group of persons that—

"(A) is an organization described in section 527 of the Internal Revenue Code of 1986, and

"(B) is not described in paragraph (2),

has as its major purpose the nomination or election of one or more candidates.

"(2) EXCEPTED ORGANIZATIONS.—Subject to paragraph (3), a committee, club, association, or other group of persons described in this paragraph is—

"(A) an organization described in section 527(i)(5) of the Internal Revenue Code of 1986, or

"(B) any other organization which is one of the following:

"(i) A committee, club, association, or other group of persons whose election or nomination activities relate exclusively to elections where no candidate for Federal office appears on the ballot.

"(ii) A committee, club, association, or other group of persons that is organized, operated, and makes disbursements exclusively for one or more of the following purposes:

"(I) Influencing the selection, nomination, election, or appointment of one or more candidates to non-Federal offices.

"(II) Influencing one or more State or local ballot initiatives, State or local referenda, State or local constitutional amendments, State or local bond issues, or other State or local ballot issues.

"(III) Influencing the selection, appointment, nomination, or confirmation of one or more individuals to non-elected offices.

"(IV) Paying expenses described in the last sentence of section 527(e)(2) of the Internal Revenue Code of 1986 or expenses of a newsletter fund described in section 527(g) of such Code.

"(3) SECTION 527 ORGANIZATIONS MAKING CERTAIN DISBURSEMENTS.—A committee, club, association, or other group of persons described in paragraph (2)(B) shall not be considered to be described in such paragraph for purposes of paragraph (1)(B) if it makes disbursements for a public communication that promotes, supports, attacks, or opposes a clearly identified candidate for Federal office during the period beginning on the first day of the calendar year preceding the calendar year in which the general election for the office sought by the clearly identified candidate occurs and ending on the date of the general election.".

SEC. 3. CERTAIN EXPENSES BY MAJOR PURPOSE ORGANIZATIONS TREATED AS EXPENDITURES.

(a) IN GENERAL.—Section 301(9)(A)(i) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)(i)) is amended by inserting ", including any amount described in section 325(b)" after "office".

(b) APPLICABLE COMMUNICATIONS.—Section 325 of the Federal Election Campaign Act of 1971 (as added by section 2(b)) is amended by adding at the end the following new subsection:

"(b) CERTAIN EXPENDITURES FOR MAJOR PURPOSE ORGANIZATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value for—

"(A) a public communication that refers to a clearly identified candidate for Federal office or to a political party (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes, supports, attacks, or opposes a candidate for that office or a political party (regardless of whether the communication expressly advocates a vote for or against a candidate), or

"(B) voter registration activity, voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for

State or local office also appears on the ballot),

shall be an expenditure under section 301(9)(A)(i) if made by, or on behalf of, a political committee (as defined in section 301(4)) or a committee, club, association, or other group of persons for which the nomination or election of one or more candidates is its major purpose.

"(2) Exception.—Any funds used for purposes described in paragraph (1) that, in accordance with allocation rules set forth in section 325(c), are disbursed from a non-Federal account shall not be treated as expenditures.".

SEC. 4. RULES FOR ALLOCATION OF EXPENSES BETWEEN FEDERAL AND NON-FEDERAL ACTIVITIES.

Section 325 of the Federal Election Campaign Act of 1971 (as added by section 2(b) and amended by section 3) is amended by adding at the end the following:

"(c) Allocation and Funding Rules for Expenses of Separate Segregated Funds and Nonconnected Committees Relating to Federal and Non-Federal Activities.—

"(1) In general.—In the case of any disbursements by any separate segregated fund or nonconnected committee for which allocation rules are provided under paragraph (2)—

"(A) the disbursements shall be allocated between Federal and non-Federal accounts in accordance with this subsection and regulations prescribed by the Commission, and

"(B) in the case of disbursements allocated to non-Federal accounts, may be paid only from a qualified non-Federal account.

"(2) Costs to be allocated and allocation rules.—Disbursements by any separate segregated fund or nonconnected committee in connection with Federal and non-Federal elections for any of the following categories of activity shall be allocated as follows:

"(A) At least 50 percent of any administrative expenses, including rent, utilities, office supplies, and salaries not attributable to a clearly identified candidate shall be paid with funds from a Federal account, except that for a separate segregated fund such expenses may be paid instead by its connected organization.

"(B) At least 50 percent of the direct costs of a fundraising program or event, including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where Federal and non-Federal funds are collected through such program or event shall be paid with funds from a Federal account, except that for a separate segregated fund such costs may be paid instead by its connected organization.

"(C) At least 50 percent of the expenses for public communications or voter drive activities that refer to a political party, but do not refer to any clearly identified Federal or non-Federal candidate, shall be paid with funds from a Federal account.

"(D) 100 percent of the expenses for public communications or voter drive activities that refer to a political party, and refer to one or more clearly identified Federal candidates, but do not refer to any clearly identified non-Federal candidates, shall be paid with funds from a Federal account.

"(E) At least 50 percent of the expenses for public communications or voter drive activities that refer to a political party, and refer to one or more clearly identified non-Federal candidates, but do not refer to any clearly identified Federal candidates, shall be paid with funds from a Federal account, except that this subparagraph shall not apply to communications or activities that relate exclusively to elections where no candidate for Federal office appears on the ballot.

"(F) At least 50 percent of the expenses for public communications and voter drive activities that refer to one or more clearly identified candidates for Federal office and one or more clearly defined non-Federal candidates, without regard to whether the communication refers to a political party, shall be paid with funds from a Federal account.

"(3) Qualified non-Federal account.—For purposes of this subsection—

"(A) In general.—The term 'qualified non-Federal account' means an account which consists solely of amounts—

"(i) that, subject to the limitations of subparagraphs (B) and (C), are raised by the separate segregated fund or nonconnected committee only from individuals, and

"(ii) with respect to which all other requirements of Federal, State, or local law are met.

"(B) Limitation on individual donations.—

"(i) In general.—A separate segregated fund or nonconnected committee may not accept more than $25,000 in funds for its qualified non-Federal account from any one individual in any calendar year.

"(ii) Affiliation.—For purposes of this subparagraph, all qualified non-Federal accounts of separate segregated funds or nonconnected committees which are directly or indirectly established, financed, maintained, or controlled by the same person or persons shall be treated as one account.

"(C) Fundraising limitation.—No donation to a qualified non-Federal account may be solicited, received, directed, transferred, or spent by or in the name of any person described in subsection (a) or (e) of section 323.

"(4) Voter drive activity and Federal account defined.—For purposes of this subsection—

"(A) Voter drive activity.—The term 'voter drive activity' means any of the following activities conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot):

"(i) Voter registration activity.

"(ii) Voter identification.

"(iii) Get-out-the-vote activity.

"(iv) Generic campaign activity.

"(B) Federal account.—The term 'Federal account' means an account which consists solely of contributions subject to the limitations, prohibitions, and reporting requirements of this Act. Nothing in this subsection or in section 323(b)(2)(B)(iii) shall be construed to infer that a limit other than the limit under section 315(a)(1)(C) applies to contributions to the account.".

SEC. 5. CONSTRUCTION.

No provision of this Act, or amendment made by this Act, shall be construed—

(1) as approving, ratifying, or endorsing a regulation promulgated by the Federal Election Commission, or

(2) as establishing, modifying, or otherwise affecting the definition of political organization for purposes of the Internal Revenue Code of 1986.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall take effect on January 1, 2005.

Mr. FEINGOLD. Mr. President, I am pleased to once again be working with my partner in reform, the Senator from Arizona, Senator McCAIN, and also with the Senator from Connecticut, Senator LIEBERMAN, who was so instrumental in getting the 527 disclosure bill passed in 2000. We are introducing today the 527 Reform Act of 2004. This bill will do what the FEC could and should do under current law, but, once again, has failed to do.

It sometimes seems like our mission in life is to clean up the mess that the FEC has made. We had to do that with BCRA, the Bipartisan Campaign Reform Act, which passed in 2002, closing the soft money loophole that the FEC created in the late '70s and expanded in the '90s. We are doing it again with the regulations that the FEC put in place after BCRA passed. Just this past weekend an extraordinary court decision came down that threw out 15 of the 19 FEC regulations challenged by Representatives SHAYS and MEEHAN in a lawsuit under the Administrative Procedures Act. That decision was an extraordinary rebuke to a Federal agency.

And now we are here to introduce a bill that will make absolutely clear that the Federal election laws apply to 527 organizations. Let me emphasize one thing. We believe that current Federal election law requires these groups to register as political committees and stop raising and spending soft money. But the FEC has failed to enforce the law, saying it is too complicated or that it is too late in the election cycle to take action. Those excuses are unacceptable, so we must act in the Congress.

This bill will require all 527s to register as political committees unless they fall into a number of narrow exceptions. The exceptions are basically for groups that Congress exempted from disclosure requirements because they are so small or for groups that are involved exclusively in State election activity.

Once a group registers as a political committee, certain activities such as ads that mention only Federal candidates will have to be paid for solely with hard money. But the FEC permits Federal political committees to maintain a non-Federal account to pay a portion of the expenses of activities that affect both Federal and non-Federal elections. Our bill sets new allocation rules that will make sure that these allocable activities are paid for with at least 50 percent hard money.

Finally, the bill makes an important change with respect to the non-Federal portion of the allocable activities. We put a limit of $25,000 per year on the contributions that can be accepted for that non-Federal account. And we prohibit corporate or union funds from being given to those non-Federal accounts. So no more will million dollar soft money contributions be used to pay for get-out-the-vote efforts in the Presidential campaign.

Nothing in this bill will affect 501(c) advocacy groups. The bill only applies to groups that claim a tax exemption under section 527. And it would be effective in the next election cycle, not this one.

The soft money loophole was opened by FEC rulings in the late '70s. By the time we started work on BCRA, the problem had mushroomed and led to the scandals we saw in the 1996 campaign. When we passed BCRA, I said we would have to be vigilant to make sure that the FEC enforced the law and that similar loopholes did not develop. That is what we have been doing for the past 2 years, and what are again doing today.

I have no doubt that if we don't act on this 527 problem now, we will see the problem explode into scandals over the next few election cycles. This time we're not going to wait.

I ask unanimous consent that the text of our bill and a section-by-section analysis be printed in the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

527 Reform Act of 2004 Section-by-Section Analysis

Section 1. Short Title. The bill may be cited as the "527 Reform Act of 2004."

Section 2. Treatment of Section 527 Organizations. This section revises the definition of "political committee" in the Federal Election Campaign Act ("FECA") to add the requirement that an organization "has as its major purpose the nomination or election of one or more candidates." This language is taken from the Supreme Court's decision in Buckley v. Valeo, which added this "major purpose" test to the existing statutory definition that a "political committee" is a group that raises or spends $1,000 or more in a year in contributions or expenditures to influence federal elections. The "major purpose" test has not previously been codified.

This section also provides that 527 organizations have the "major purpose" of nominating or electing candidates, and thus satisfy that portion of the test for political committee status, unless they meet one of the following exceptions:

(1) has annual receipts of less than $25,000;

(2) is the campaign committee of a non-Federal candidate;

(3) is a state or local party committee;

(4) is devoted exclusively to election activities relating to an election where no candidate for federal office appears on the ballot;

(5) raises and spends money exclusively for the selection, nomination, election or appointment of non-Federal candidates;

(6) raises and spends money exclusively to influence state or local ballot initiatives, referenda, constitutional amendments, bond issues, or other ballot measures;

(7) raises and spends money exclusively to influence the selection, appointment, nomination, or confirmation of individuals to non-elected offices.

An organization that makes a disbursement for a public communication that promotes, supports, attacks or opposes a clearly identified candidate for Federal office during the two-year election cycle of that candidate cannot qualify for exceptions (2)–(7) above.

Section 3. Certain Expenses by Major Purpose Organizations Treated as Expenditures. This section supplements the definition of "expenditure" for any organization whose "major purpose" is the nomination or election of one or more candidates. (This goes to the other portion of the test for "political committee" status: whether a group with a "major purpose" to influence federal elections spends $1,000 in "expenditures" in a year.)

Payments for the following activities by "major purpose" organizations, which under Section 2 include 527 organizations involved in Federal elections, will be considered expenditures:

(1) public communications that promote, support, attack, or oppose a clearly identified Federal candidate or a political party;

(2) voter registration activity, voter identification, get-out the vote activity, or generic campaign activity conducted in connection with an election where a Federal candidate appears on the ballot.

Section 4. Rules for Allocation of Expenses Between Federal and Non-Federal Candidates. This section provides allocation rules for political committees (other than candidate committees or political party committees) that engage in both Federal and non-Federal election activities. If a political committee engages in activities that mention a clearly identified Federal candidate or candidates, or a political party generally, it must fund at least 50% of those activities from a Federal account that contains only hard money, even if such activities also mention, or are for the benefit of, non-Federal candidates. The other portion may be funded from a "qualified non-Federal account." An activity that mentions both Federal candidates and a political party generally must be paid for entirely with hard money. These allocation rules apply to administrative expenses, the costs of fundraising programs or events, public communications, and voter drive activities, which are defined in this section as voter registration, voter identification, get out the vote, and generic campaign activities.

The section also provides that contributions to "qualified non-Federal accounts" used to pay the non-Federal portion of expenses that are allocated under this section must come only from individuals and may not exceed $25,000 per donor per year. ($25,000 per year is the same contribution limit that applies to contributions by individuals to national party committees.) Individuals can contribute $5,000 per donor per year to the Federal account of political committees.

Section 5. Construction. This section provides that the 527 Reform Act shall not be construed as approving, ratifying, or endorsing any regulation issued by the FEC. It therefore will have no effect on pending litigation concerning regulations issued by the FEC to implement the Bipartisan Campaign Reform Act of 2002. The Act also shall not be construed to establish, modify, or otherwise affect the definition of political organization for purposes of the Internal Revenue Code.

Section 6. Effective Date. The amendments made by the 527 Reform Act shall take effect on January 1, 2005. They will have no effect on the 2004 elections.

Mr. LIEBERMAN. Mr. President, I rise today as a cosponsor of the legislative efforts of my friends and colleagues Senators McCain and Feingold to close the "527" loophole that threatens the health of our Federal elections by allowing unlimited amounts of soft money to dictate the terms of debate in defiance of the letter and spirit of the McCain-Feingold Bipartisan Campaign Reform Act.

These 527 groups have become nothing more than multi-million dollar megaphones advocating the special interests of wealthy individuals and groups. And it will only get worse in years to come.

527 groups have been growing since the mid-1990s thanks to loopholes resulting in part from puzzling decisions by the Internal Revenue Service and the Federal Election Commission.

The 527 groups would get tax-exempt status from the IRS by claiming they existed to influence elections. But then they would avoid election disclosure laws by denying to the Federal Election Commission they were trying to influence elections because they did not use the magic words like "vote for" or "vote against."

The result was a tax exemption for groups influencing Federal campaigns, but a lack of disclosure so voters did not know who the groups were, who they gave their money to and where they got their money from.

Congress partially closed this loophole in June 2000, by passing the first significant campaign finance reform measure in a quarter century. This legislation was passed out of the Government Affairs Committee, of which I was chairman at the time, and signed into law later that year by President Clinton.

The new law required 527 groups to give notice of their intent to claim tax-exempt status; to disclose information about their large contributors and expenditures; and to file annual informational returns along the lines of those filed by virtually all other tax-exempt organizations.

But this only partially closed this loophole. Despite the McCain-Feingold campaign finance reforms, 527s can still raise unlimited amounts of cash from just a few wealthy individuals or groups whose interests and motivations are likely unknown to the American public. The Federal Election Commission could have closed this loophole but has failed to act despite massive evidence that 527s are skirting Federal election law.

This is both an end-run around our campaign finance laws as well as a direct assault on our democracy. Elections should be determined by millions of individual voters who cast their ballots uninfluenced by the millions of dollars of advertising paid for a by a few individuals or groups with special interests.

Reform of the 527 loophole does not mean silencing these groups or taking away their right to put their message on the air. All this reform would require from 527s is to follow the same rules as other political advocacy groups when it comes to raising and spending money on federal elections. The money must come from individuals in amounts no larger than $5,000, with no contributions from corporations or unions allowed.

If the 527 groups' support is as widespread as they claim, they will have no problem getting their message out.

We started the job in 2000. We knew it was not enough. Now it's time to finish the job and get unlimited soft money out of the system.

The voices of millions of average Americans should not be reduced to a whisper because they can't afford the price of the pulpit.

And the voices of a few should not shout like thunder because they have the money to command the air waves.

By Mr. ALLARD (for himself and Mrs. DOLE):

S. 2829. A bill to establish a grant program administered under an agreement among the Secretaries of Housing and Urban Development, Health and Human Services, and Veterans Affairs, in consultation with the U.S. Interagency Council on Homelessness, to address the goal of ending chronic homelessness through coordinated provision of housing, health care, mental health and substance abuse treatment, and supportive and other services, including assistance in accessing non-homeless specific benefits and services, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ALLARD. Mr. President, I rise today to introduce the Samaritan Initiative Act of 2004, and I am pleased to have Senator DOLE join me in this effort. The Samaritan Initiative would mark the beginning of a new, collaborative approach in the Federal effort to end chronic homelessness.

The Initiative would create a groundbreaking joint effort between the Department of Housing and Urban Development, the Department of Health and Human Resources, and the Department of Veterans Affairs. Each department would contribute money to a joint fund and would coordinate in the effort to end chronic homelessness. This coordinated approach will streamline the grants application process and will ensure consistent standards. It will also ensure that each department continues to provide its own particular expertise. I am hopeful that other Federal agencies will join in the effort as well.

Homeless individuals often have needs far beyond simple shelter; they may need assistance with healthcare, substance abuse, mental illness, job training, or other basics of life. Providing shelter without any supportive services may fail to address some of the underlying problems that can cause an individual to become, and remain, homeless.

By addressing the comprehensive needs of homeless individuals, the Samaritan Initiative will help reduce incidents of chronic homelessness. According to the Interagency Council on Homelessness, this 10 percent of the homeless population consumes more than half of the resources. The Samaritan Initiative will help provide the flexible resources necessary to move chronically homeless individuals into stable, permanent, supportive housing, which will in turn free up other resources.

For many years now I have been a strong advocate for the Government Performance and Results Act, which requires a focus on outcomes through clear, measurable goals. I am pleased to say that the Samaritan Initiative embodies this outcome-based focus and requires visible, measurable, quantifiable performance outcomes in reducing and ending homelessness. A focus on outcomes, rather than case management or process, also allows for new, innovative solutions to chronic homelessness. This will ensure that taxpayer dollars are spent in a responsible, effective manner.

I am proud to say that the Samaritan Initiative is supported by The U.S. Conference of Mayors, The National Association of Counties, The National League of Cities, The Enterprise Foundation, The National Alliance for the Mentally Ill, the National AIDS Housing Coalition, The National Alliance to End Homelessness, The Corporation for Supportive Housing, the Association for Service Disabled Veterans, the National Coalition for Homeless Veterans, and many other groups. I look forward to working with them, along with my colleagues in the Senate, to end chronic homelessness in America.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Samaritan Initiative Act of 2004".

SEC. 2. SAMARITAN INITIATIVE.

Title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11136 et seq.) is amended by adding at the end the following:

"Subtitle H—Samaritan Initiative

"SEC. 495. PURPOSE.

"The purpose of this subtitle is to authorize competitive grants for coordinated comprehensive housing, treatment, and support services to chronically homeless persons—

"(1) to reduce the prevalence of chronic homelessness;

"(2) to support promising strategies to move chronically homeless persons in urban and rural communities from the streets to safe, permanent housing;

"(3) to provide for integrated systems of services to improve the effectiveness of programs serving chronically homeless persons;

"(4) to promote self-sufficiency and recovery among chronically homeless persons; and

"(5) to encourage programs serving chronically homeless persons to promote access to Federal, State, and local non-homeless specific programs of assistance for which such persons are eligible.

"SEC. 495A. DEFINITIONS.

"For purposes of this subtitle, the following definitions shall apply:

"(1) CHRONICALLY HOMELESS PERSON.—The term 'chronically homeless person' means an unaccompanied individual with a disabling condition who—

"(A) has been sleeping in 1 or more places not meant for human habitation, or in 1 or more emergency homeless shelters, for longer than 1 year; or

"(B) has had 4 or more periods of homelessness that, in total, have lasted more than 3 years.

"(2) DISABLING CONDITION.—The term 'disabling condition' means a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of 2 or more of such conditions, that limits the ability of an individual to work or perform one or more activities of daily living.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means a State, unit of general local government, public housing agency, local workforce investment board, or private nonprofit organization, including a faith-based or community-based organization.

"(4) ELIGIBLE VETERAN.—The term 'eligible veteran' means a person who served in the active United States military, naval, or air service, and who was discharged or released under conditions other than dishonorable.

"(5) HOMELESS MANAGEMENT INFORMATION SYSTEM.—The term 'homeless management information system' shall means a computerized data collection application maintained by an eligible entity, that—

"(A) enumerates the homeless population within the jurisdiction of the eligible entity and the number of homeless individuals that received services from the eligible entity; and

"(B) compiles information on the characteristics and service needs of homeless individuals.

"(6) HOMELESSNESS.—The term 'homelessness' means sleeping in a place not meant for human habitation or in an emergency homeless shelter.

"(7) INTERAGENCY IMPLEMENTATION AND MONITORING TEAM.—The term 'interagency implementation and monitoring team' means the interagency implementation and monitoring team established under section 495B(d).

"(8) PARTICIPATING FEDERAL AGENCY.—The term 'participating Federal agency' means the Departments of Housing and Urban Development, Health and Human Services, and Veterans Affairs, or any other Federal agency that may receive appropriations for purposes of participating under the provisions of this subtitle.

"(9) PRIVATE NONPROFIT ORGANIZATION.—The term 'private nonprofit organization' means a private organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board; and

"(C) that has an accounting system or a designated fiscal agent in accordance with requirements established by the participating Federal agencies.

"(10) PUBLIC HOUSING AGENCY.—The term 'public housing agency' has the same meaning as in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

"(11) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to provisions of this subtitle.

"(12) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' means—

"(A) a city, town, township, county, parish, village, or other general purpose political subdivision of a State; and

"(B) any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the jurisdiction with regard to provisions of this subtitle.

"SEC. 495B. GRANT AUTHORITY AND ADMINISTRATION.

"(a) IN GENERAL.—The participating Federal agencies shall enter into a cooperative agreement to make and administer competitive grants to eligible entities, including faith-based and community-based organizations, in accordance with the provisions of this subtitle for the purpose of providing treatment and support services that are coordinated with the provision of housing for chronically homeless persons.

"(b) DELEGATIONS.—No provision of this subtitle shall limit the ability of the participating Federal agencies to delegate, assign, or share administrative responsibilities as the participating Federal agencies may determine to be necessary or appropriate.

"(c) COORDINATION AMONG PARTICIPATING FEDERAL AGENCIES.—The Secretary of Housing and Urban Development shall coordinate with the participating Federal agencies to implement and administer the grant program established under this subtitle.

"(d) INTERAGENCY IMPLEMENTATION AND MONITORING TEAM.—The participating Federal agencies shall establish an interagency implementation and monitoring team to review and conduct oversight of the award of grants, and the use of grant funds awarded under this subtitle. Each participating Federal agency shall appoint appropriate designees to serve on the interagency implementation and monitoring team.

"(e) COORDINATION REQUIREMENTS.—

"(1) IN GENERAL.—In carrying out this subtitle, the interagency implementation and monitoring team shall, as appropriate and to the extent feasible, establish uniform or coordinated requirements, standards, procedures, and timetables with respect to—

"(A) application procedures and grant requirements, including those providing for—

"(i) a single consolidated application form: and

"(ii) a single timetable, location, and procedure for filing of a consolidated application;

"(B) criteria for the award of grants;

"(C) a coordinated process for review and the approval or denial of the consolidated application;

"(D) the establishment of performance standards and measures of performance outcomes, including—

"(i) the requirement that the Secretary of Housing and Urban Development attempt to quantify the reduction in chronic homelessness; and

"(ii) the requirement that, where applicable, the grantees utilize a homeless management information system;

"(E) oversight, including monitoring, audits, and evaluations of grantees, and requirements for annual reports by grantees; and

"(F) such other factors that the interagency implementation and monitoring team determines are necessary or appropriate.

"(2) PERFORMANCE ASSESSMENT.—

"(A) IN GENERAL.—The interagency implementation and monitoring team shall establish such performance standards, performance measures, and annual reporting requirements, and make such performance reviews and audits as may be necessary or appropriate—

"(i) to determine whether a grantee has carried out its activities in a timely manner and in accordance with the applicable requirements of this subtitle;

"(ii) to assess the effectiveness of a grantee in accomplishing the objectives of this subtitle; and

"(iii) for other purposes as the interagency implementation and monitoring team determines significant with respect to the performance assessment of a grantee.

"(B) PROVISION OF SUPPORT AND STAFF.—The Secretary of Veterans Affairs may provide program monitoring and evaluation services and staff to participating Federal agencies. In such cases, participating Federal agencies may reimburse the Department of Veterans Affairs for the cost of such staff and services.

"(f) PROVISIONS AND REQUIREMENTS APPLICABLE TO GRANTS UNDER THIS SUBTITLE.—

"(1) IN GENERAL.—A grantee under this subtitle shall establish and operate a system of assistance to chronically homeless persons that identifies such persons and provides them access to affordable permanent housing that is coordinated with appropriate treatment and support.

"(2) REQUIRED GRANTEE ACTIVITIES.—A grantee under this subtitle shall carry out, directly or through arrangements with a network of other entities, activities relating to the housing, treatment, and support of homeless persons, which may include the following:

"(A) HOUSING ACTIVITIES.—Eligible activities specified in section 495C(a) that ensure the placement of chronically homeless persons in safe, affordable, permanent housing.

"(B) TREATMENT AND SUPPORT ACTIVITIES.—Eligible activities specified in section 495D(a) to address the multiple physical health, mental health, and substance abuse treatment needs of chronically homeless persons who are eligible for or residents in housing under section 495C(a).

"(C) SERVICE COORDINATION.—Activities, including those coordinated with local planning bodies, that promote the access of eligible chronically homeless persons to a range of services that contribute to self-sufficiency, recovery, employment, stability in housing, and access to health care.

"(D) ADMINISTRATION.—Administrative and planning activities, including the development and implementation of comprehensive plans for housing and services at the grantee level with costs not to exceed 6 percent of total costs of carrying out the program under this subtitle.

"(E) OTHER SERVICES.—Such services and activities as the participating Federal agencies may find necessary and appropriate.

"(3) CRITERIA FOR GRANT AWARD.—In awarding grants under this subtitle, the participating Federal agencies shall consider—

"(A) the extent to which the applicant demonstrates an understanding of the unique characteristics of chronically homeless persons;

"(B) the adequacy of the approach of the applicant in addressing the needs of the chronically homeless;

"(C) the capacity of the applicant to carry out and sustain required activities;

"(D) where services are to be provided through a network of entities, the adequacy of the qualifications of such entities, and the stated willingness of such entities, to collaborate and participate in carrying out proposed activities;

"(E) the extent to which the applicant has been involved in Federal, State, or local nonhomeless specific programs of assistance that could provide additional assistance to eligible chronically homeless persons;

"(F) the commitment and the demonstrated ability of the applicant to achieve the reduction in the number of chronically homeless persons; and

"(G) such additional factors as the participating Federal agencies may determine significant or necessary with respect to the potential success of the applicant in carrying out the purposes of this subtitle.

"(4) INITIAL TERM OF GRANT.—Notwithstanding any other provision of law, each grant awarded under this section shall be for an initial term of 3 years.

"(5) GRANT RENEWAL.—Upon the expiration of a grant under this section, the participating Federal agencies may award, on a competitive basis, a renewal grant under this subtitle for an additional 3-year term, subject to the continued qualification of the grantee for the grant as determined by the participating Federal agencies. The amount of a renewal grant under this paragraph may be up to 50 percent of the cost of the activities to be carried out by the grantee.

"(6) FEDERAL MATCHING.—

"(A) IN GENERAL.—A grant under this subtitle shall be available to pay the Federal share of the costs incurred by the grantee for activities under this subtitle.

"(B) FEDERAL SHARE.—For purposes of subparagraph (A), the Federal share shall be—

"(i) 75 percent of the cost of the program for the first year of the grant;

"(ii) 75 percent for the second year of the grant; and

"(iii) 50 percent for each succeeding year, including each year of a renewal grant term under paragraph (5).

"(C) NON-FEDERAL SHARE.—The non-Federal share of costs incurred by the grantee may be in cash or in-kind, as appropriate.

"(7) GEOGRAPHIC DISTRIBUTION.—The participating Federal agencies shall ensure that consideration is given to geographic distribution (such as urban and rural areas) in the awarding of grants under subsection (a).

"(8) DISCLOSURE.—Section 12(a) of the Department of Housing and Urban Development Act (42 U.S.C. 3537a(a)) shall not apply to this subtitle.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FISCAL YEAR 2005.—There are authorized to be appropriated to carry out this subtitle $70,000,000 for fiscal year 2005, of which—

"(A) $50,000,000 is authorized to be appropriated to the Department of Housing and Urban Development;

"(B) $10,000,000 is authorized to be appropriated to the Department of Health and Human Services; and

"(C) Not more than $10,000,000 is authorized from the amounts to be appropriated to the Department of Veterans Affairs for treatment of homeless veterans under medical care to carry out section 495D.

"(2) FISCAL YEARS 2006, 2007, AND 2008.—There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for each of fiscal years 2006, 2007, and 2008.

"(h) AUTHORITY TO CONSOLIDATE FUNDS.—

"(1) IN GENERAL.—For purposes of carrying out this subtitle, and in accordance with the agreement under subsection (a), the participating Federal agencies are authorized to transfer to the Secretary of Housing and Urban Development funds appropriated for use under this subtitle, and the Secretary of Housing and Urban Development may receive such funds.

"(2) Rule of Construction.—Notwithstanding subsection (g), in the event that funds are not appropriated for use in accordance with this subtitle to one or more participating Federal agencies in any fiscal year, paragraph (1) shall not be construed to require a participating Federal agency that has been provided with budget authority pursuant to subsection (g) in a fiscal year to use such budget authority to fund grants for activities that are not in accordance with the primary mission of such participating Federal agency.

"(i) Technical Assistance and Support.—In addition to funds otherwise provided for agency administrative costs, not more than 2 percent of amounts appropriated for the activities under this subtitle may be used by the participating Federal agencies for administrative costs, including costs associated with—

"(1) providing technical assistance to applicants and grantees; and

"(2) providing support and assistance in selecting and assessing projects to carry out this subtitle, including any preparation necessary for such selection and assessment.

"SEC. 495C. HOUSING ACTIVITIES.

"(a) Eligible Housing Activities.—Subject to section 495B, a grant under this subtitle shall be used for activities in support of permanent housing for chronically homeless persons, including the following:

"(1) Provision of housing.—

"(A) Acquisition.—The acquisition of occupancy-ready real property.

"(B) Rehabilitation.—The minor rehabilitation of real property for housing.

"(C) Operating costs.—The costs of operating a housing project, including salaries and benefits, maintenance, insurance, utilities, replacement reserve accounts, and furnishings.

"(D) Leasing.—Leasing of an existing structure or structures, or portions thereof to provide housing.

"(E) Housing counseling.—The costs of counseling and advice services with respect to property maintenance, financial management, and other such matters as may be appropriate to assist chronically homeless persons in obtaining housing.

"(2) Rental assistance.—Project-based or tenant-based rental assistance for chronically homeless persons, which assistance shall be provided to the extent practicable, and administered in the manner provided under the rules and regulations governing the provision of assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

"(3) Other activities.—Such other activities as the Secretary of Housing and Urban Development determines to be appropriate.

"(b) Program Requirements for Housing Activities.—

"(1) Requirements concerning real property.—

"(A) Use restriction.—Each grantee under this subtitle shall ensure that permanent housing for chronically homeless persons that are acquired or rehabilitated with grant amounts under this subtitle is used for such persons for not less than 10 years.

"(B) Housing quality.—Each grantee under this subtitle shall ensure that housing assisted with grant amounts provided under this subtitle is decent, safe, and sanitary, and complies with all applicable State and local housing codes, building codes, and licensing requirements in the jurisdiction in which the housing is located.

"(C) Prevention of undue benefit.—Subject to section 495B(e), the Secretary of Housing and Urban Development may prescribe such terms and conditions as the Secretary considers necessary to prevent grantees from unduly benefiting from the sale or other disposition of projects, other than a sale or other disposition resulting in the use of a project for the direct benefit of chronically homeless persons.

"(2) Homeless management information system.—Each grantee shall be required to provide such information to the appropriate administrator of the local homeless management information system, as is necessary for the implementation and operation of homeless management information systems.

"SEC. 495D. TREATMENT AND SUPPORT SERVICES.

"Subject to section 495B, a grant under this subtitle shall be used to provide treatment and support services, which may include the following:

"(1) Primary health services.—Primary health services, including the following:

"(A) Physician and other services.—Health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and where appropriate, physicians' assistants, nurse practitioners, or nurse midwives.

"(B) Diagnostic services.—Diagnostic laboratory and radiological services.

"(C) Preventive services.—Preventive health services.

"(D) Emergency services.—Emergency medical services.

"(E) Access to pharmaceutical services.—Access to pharmaceutical services.

"(2) Alcohol and drug abuse services.—Services or activities designed to prevent, deter, reduce, or eliminate substance abuse or addictive behaviors, including a comprehensive range of personal and family counseling methods, early interventions, methadone treatment for opiate abusers, or detoxification for alcohol and other drug abusers, and treatment services such as intake and assessment, behavioral therapy and counseling, clinical and case management, pharmacotherapies, and self-help and peer support activities.

"(3) Mental health and counseling services.—Mental health and counseling services, including services and activities that apply therapeutic processes to personal, family, or situational problems in order to bring about a positive resolution of the problem or improved individual functioning or circumstances, including crisis interventions, individual supportive therapy, and prescription of psychotropic medications or explanations about the use and management of medications.

"(4) Outreach and engagement.—Outreach services including extending services or help to homeless persons to develop a relationship of trust and engage such persons into appropriate service programs.

"(5) Information and referral.—Services or activities designed to provide information about services and assistance provided through public and private programs, including Federal, State and local non-homeless targeted programs that provide or financially support the provision of medical, social, educational, or other related services, and a brief assessment of client needs to facilitate appropriate referrals.

"(6) Case management.—Case management services and activities, including the arrangement, coordination, monitoring, and delivery of services to meet the needs of individuals who are homeless, including individual service plan development, counseling, monitoring, securing and coordinating services.

"(7) Other services.—Such other services as the Secretary of Health and Human Services determines appropriate.

"SEC. 495E. VETERANS' BENEFITS.

"Subject to section 495B, the Secretary of Veterans Affairs is authorized to provide eligible veterans with case management services.

"SEC. 495F. AUTHORITY OF OTHER FEDERAL AGENCIES TO PARTICIPATE UNDER THIS SUBTITLE.

"Federal agencies other than the participating Federal agencies may participate in the grant program established under this subtitle to the extent that funds are appropriated for such purpose to each agency.".

By Mr. SMITH (for himself, Mr. Bingaman, Mr. Conrad, Mr. Daschle, Mr. Hatch, and Mr. Thomas):

S. 2831. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to clarify that federally recognized Indian tribal governments are to be regulated under the same government employer rules and procedures that apply to Federal, State, and other local government employers with regard to the establishment and maintenance of employee benefit plans; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to speak about the need to clarify the legal status of employee benefit plans offered by Indian tribal governments.

In the past, the pension and welfare benefit plans of Indian tribal governments enjoyed the same status as granted to state and local governments. However, in recent years, a legal cloud has developed over the status of these plans. Confusion has arisen regarding whether or not the existing definition of a governmental plan includes plans sponsored by Indian tribal governments. In part, this has been a result of the Internal Revenue Service's lack of guidance to tribal governments on this issue; the inconsistent practice of granting governmental plan status to plans sponsored by Indian tribal governments; and finally a January "no ruling" position by the Internal Revenue Service that places many plans in the status of operating without a current determination letter recognizing the legality of their plan. As a result, many tribal governments have limited their offering of such welfare and retirement benefits to employees.

Today, I am introducing legislation—the Government Pensions Equalization Act—to remove this legal uncertainty by amending the definition of a governmental plan to explicitly include plans offered by Indian tribal governments. Indian tribes, like all employers, require legal certainty regarding the status of their employee benefit under the

Internal Revenue Code and ERISA. Moreover, Indian tribes should be afforded the same sovereignty status given state and local governments.

Governmental plans are relieved from many of the requirements governing the operation of tax qualified pension and welfare benefit plans. There are several reasons for this relief. Governments exist for the benefit of their citizens and are not subject to the profit and loss pressures affecting the private sector. Governments offer redress for grievances under their own judicial systems. Elected officials who are responsible for government benefit programs are directly accountable to their constituents via the ballot box. Governments often offer more generous benefit plans for key officers, such as judges, legislators, and key executive personnel as a means to gain the valuable services of these skilled individuals. They also offer special pensions for public safety officers who can retire at a relatively young age and short period of service. This flexibility is impossible without the special relief provided governmental plans.

Indian tribal governments meet all the special protections, conditions, and needs I have described. This legislation clarifies once and for all that they should be afforded the same treatment as their state and local government counterparts.

Passage of this legislation is an important step in the fight to protect the sovereignty of Indian country and to foster the ability of tribal governments to provide retirement security to their employees and nation. I look forward to President Bush signing this legislation into law. I ask unanimous consent that the text of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed ion the Record, as follows:

S. 2831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Governmental Pension Plan Equalization Act of 2004".

SEC. 2. CLARIFICATION OF "GOVERNMENTAL PLAN" DEFINITIONS.

(a) Amendment to Internal Revenue Code of 1986.—Section 414(d) of the Internal Revenue Code of 1986 (definition of governmental plan) is amended by adding at the end thereof the following new sentence: "The term 'governmental plan' also includes a plan established or maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency or instrumentality of an Indian tribal government or a subdivision thereof, or an entity established under tribal, Federal, or State law which is wholly owned or controlled by any of the foregoing.".

(b) Amendment to Employee Retirement Income Security Act of 1974.—Section 3(32)of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32)) is amended by adding at the end the following new sentence: "The term 'governmental plan' also includes a plan established or maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40) of the Internal Revenue Code of 1986), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or an entity established under tribal, Federal, or State law which is wholly owned or controlled by any of the foregoing.".

SEC. 3. EXTENSION TO ALL GOVERNMENTAL PLANS OF CURRENT MORATORIUM ON APPLICATION OF CERTAIN NONDISCRIMINATION RULES APPLICABLE TO STATE AND LOCAL PLANS.

(a) In General.—

(1) Subparagraph (G) of section 401(a)(5) and subparagraph (H) of section 401(a)(26) of the Internal Revenue Code of 1986 are each amended by striking "section 414(d))" and all that follows and inserting "section 414(d)).".

(2) Subparagraph (G) of section 401(k)(3) of such Code and paragraph (2) of section 1505(d) of the Taxpayer Relief Act of 1997 are each amended by striking "maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof)".

(b) Conforming Amendments.—

(1) The heading for section 401(a)(5)(G) of such Code is amended to read as follows:

"(G) Governmental plans.—".

(2) The heading for section 401(a)(26)(H) of such Code is amended to read as follows:

"(H) Exception for governmental plans.—".

(3) Section 401(k)(3)(G) of such Code is amended by inserting "Governmental plan.—" after "(G)".

SEC. 4. CLARIFICATION THAT TRIBAL GOVERNMENTS ARE SUBJECT TO THE SAME DEFINED BENEFIT PLAN RULES AND REGULATIONS APPLIED TO STATE AND OTHER LOCAL GOVERNMENTS, THEIR POLICE AND FIREFIGHTERS.

(a) Amendments to Internal Revenue Code of 1986.—

(1) Police and firefighters.—Subparagraph (H) section 415(b)(2) of the Internal Revenue Code of 1986 (defining participant) is amended—

(A) in clause (i) by inserting ", Indian tribal government (as defined in section 7701(a)(40))," after "State", and

(B) in clause (ii)(I) by inserting ", Indian tribal government," after "State" both places it appears.

(2) State and local government plans.—

(A) In general.—Subparagraph (A) of section 415(b)(10) of such Code (relating to limitation to equal accrued benefit) is amended by inserting ", Indian tribal government (as defined in section 7701(a)(40))," after "State".

(B) Conforming amendment.—The heading for section 415(b)(10) of such Code is amended to read as follows:

"(10) Special rule for state, Indian tribal, and local government plans.—".

(3) Government pick up contributions.—Paragraph (2) of section 414(h) of such Code (relating to designation by units of government) is amended by inserting ", Indian tribal government (as defined in section 7701(a)(40))," after "State".

(b) Amendments to Employee Retirement Income Security Act of 1974.—Section 4021(b)of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321(b)) is amended—

(1) in paragraph (12), by striking "or" at the end;

(2) in paragraph (13), by striking "plan." and inserting "plan; or"; and

(3) by adding at the end the following new paragraph:

"(14) established and maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40) of the Internal Revenue Code of 1986), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or an entity established under tribal, Federal, or State law which is wholly owned or controlled by any of the foregoing.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to years beginning before, on, or after the date of the enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 432—EXPRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD REJECT SOCIAL SECURITY PRIVATIZATION PROPOSALS, INCLUDING THOSE THAT REQUIRE DEEP CUTS IN SOCIAL SECURITY BENEFITS, SUCH AS THE PROPOSALS OF PRESIDENT BUSH'S SOCIAL SECURITY COMMISSION

Mr. CORZINE (for himself, Mr. Baucus, Mr. Durbin, and Mr. Daschle) submitted the following resolution; which was referred to the Committee on Finance:

S. Res. 432

Whereas Social Security is based on a promise to the American people: if you work hard and contribute to Social Security, you will be able to retire and live in dignity;

Whereas Social Security is the primary source of income for two-thirds of American seniors;

Whereas Social Security benefits for retired workers average only about $900 per month;

Whereas $900 per month is insufficient to maintain a decent standard of living in many parts of the United States, especially for seniors with relatively high health care costs;

Whereas in 2001, President George W. Bush created the President's Commission to Strengthen Social Security (referred to in this resolution as the "Bush Social Security Commission"), naming as Commission members only those who advocated Social Security privatization, and mandating that the proposals put forward by the Commission include privatization of Social Security;

Whereas the Bush Social Security Commission produced Social Security privatization proposals that required deep cuts in Social Security benefits;

Whereas the Bush Social Security Commission's proposed changes could reduce Social Security benefits to future retirees by as much as 46 percent;

Whereas under the Bush Social Security Commission's proposal, the cuts in Social Security benefits would apply to all seniors, not just those seniors who choose to participate in privatized accounts;

Whereas the cuts in Social Security benefits could be even deeper if individuals do shift funds to privatized accounts;

Whereas privatization advocates attempt to justify cuts in Social Security benefits by pointing to future projected shortfalls in the Social Security trust fund, but diversion of payroll tax revenues from the trust fund into privatized accounts would substantially accelerate the date by which the Social Security trust fund becomes insolvent;

Whereas in order to avoid accelerating the insolvency of the Social Security trust fund, the Bush Social Security Commission was forced to propose that the Federal Government incur as much as $4,700,000,000,000 in Federal debt (in today's dollars) by 2041;

Whereas in response to the Bush Social Security Commission's report, 50 members of the Senate wrote to President Bush, urging him to reject the Commission's proposed cuts in Social Security benefits;

Whereas the President has not complied with the request of the Senators and instead has reiterated his intention to move toward the privatization of Social Security; and

Whereas the deep cuts in Social Security benefits proposed by the Bush Social Security Commission could jeopardize the financial security of millions of Americans: Now, therefore, be it

Resolved, That it is the sense of the Senate that Congress should reject Social Security privatization proposals, including those that require deep cuts in Social Security benefits, such as the proposals of President Bush's Social Security Commission.

Mr. CORZINE. Mr. President, today, along with Senator DASCHLE, Senator BAUCUS and Senator DURBIN, I am submitting a resolution that calls on the Congress to reject Social Security privatization plans, including those that require deep cuts in guaranteed benefits, such as the proposals by President Bush's Social Security Commission.

For nearly 70 years, Social Security has reflected the best of America's values. Social Security promises Americans that if you work hard, pay your taxes, and play by the rules, you will be able to retire and live in dignity.

Social Security benefits are far from lavish. The average retiree receives only about $900 a month. That doesn't go far in many parts of the country—certainly not in New Jersey. Unfortunately, even the benefits promised under current law are now at risk.

President Bush says he wants to move toward privatization. But what he does not say is that shifting funds from the Social Security Trust Fund into privatized accounts almost inevitably leads to deep cuts in guaranteed benefits.

To appreciate the depth of the cuts that flow from privatization, one need only consider the privatization plans developed by President Bush's own Social Security Commission. That commission included only proponents of privatization selected by President Bush, and it developed privatization plans that call for deep benefits cuts. According to the nonpartisan actuaries at the Social Security Administration, those cuts would exceed 25 percent for some current workers. In the future, seniors could face a 45 percent cut in benefits.

The President likes to argue that privatization is about choice. But there would be no choice about these cuts—they would harm every senior. In fact, those who chose to participate in privatized accounts would see their benefits cut even deeper.

That is why, in response to the Bush Commission's report, 50 members of the Senate wrote to President Bush, urging him to reject the Commission's proposed cuts in benefits. Unfortunately, we have yet to receive a response.

Privatization advocates try to justify cuts in Social Security by pointing to future projected shortfalls in the Trust Fund. But diverting payroll taxes from the Trust Fund only makes matters worse, and would substantially accelerate the date by which the Fund would become insolvent. That is why privatization almost inevitably leads to deep cuts in benefits.

It is critical that this issue be fully discussed now—before the election. So I will be looking for an opportunity to bring this resolution before the Senate before the end of the year. I hope we can kill this radical idea before it has a chance to get off the ground.

We must never accept any plan that takes the security out of Social Security.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held Wednesday, September 29, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills: S. 2378, to provide for the conveyance of certain public land in Clark County, NV, for use as a heliport; S. 2410, to promote wildland firefighter safety; H.R. 1651, to provide for the exchange of land within the Sierra National Forest, CA, and for other purposes; H.R. 2400, to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam; H.R. 3874, to convey for public purposes certain Federal lands in Riverside County, CA, that have been identified for disposal; H.R. 4170, to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior; and Senate Resolution 387, a resolution commemorating the 40th Anniversary of the Wilderness Act.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510–6150.

For further information, please contact Dick Bouts at 202–224–7545, Frank Gladics at 202–224–2878, or Amy Miller at 202–224–8276.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 22, 2004, at 2 p.m., to conduct a hearing on "Examination and Oversight of the Condition and Regulation of the Insurance Industry."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet on Wednesday, September 22, 2004, at 9:30 a.m., on pending committee business.

AGENDA

1. S. 2541, NASA Authorization Act of 2004, Floyd DesChamps/Jean Toal Eisen;
2. S. 2393, A bill to improve transportation security, Robert Chamberlin/Chris Bertram/Sam Whitehorn/Gael Sullivan;
3. S. 1798, American Home Fire Safety Act, Ken Nahigian/David Strickland/Cathy McCullough;
4. S. , Public Safety Spectrum Proposal, Bill Bailey/James Assey/Rachel Welch;
5. S. 1963, Wireless 411 Privacy Safety Act, Bill Bailey/Paul Martino/James Assey/Rachel Welch;
6. S. 1380, Rural Universal Service Equity Act of 2003, Bill Bailey/James Assey/Rachel Welch;
7. S. 2145, The Spy Block Act, Paul Martino/James Assey/Rachel Welch;
8. S. 2647, National Ocean Policy and Leadership Act, Drew Minkiewicz/Margaret Spring;
9. S. 2489, Coastal and Ocean Mapping Integration Act, Drew Minkiewicz/Margaret Spring;
10. S. 480, Training for Realtime Writers Act of 2003, Bill Bailey/James Assey/Rachel Welch;
11. Nomination of Deborah P. Majoras, PN 1899, of Virginia, to be a Commissioner of the Federal Trade Commission, Pablo Chavez/Ken Nahigian/Virginia Pounds/David Strickland/Cathy McCullough;
12. Nomination of Jon D. Leibowitz, PN 1898, of Maryland, to be a Commissioner of the Federal Trade Commission, Pablo Chavez/Ken Nahigian/Virginia Pounds/David Strickland/Cathy McCullough; and

13. Nominations for Promotion in the U.S. Coast Guard, PNs 1953, 1919, 1918, 1917, 1876, 1856, Drew Minkiewicz/Virginia Pounds/Amy Fraenkel.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 22, 2004, at 2 p.m., to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, September 22, 2004, at 9:30 a.m. in room 485 of the Russell Senate Office Building to conduct a business meeting on pending Committee matters, to be followed immediately by an oversight hearing on the Contributions of Native American Code Talkers in American Military History.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, September 22, 2004, at 9:30 a.m. on "A review of Counter-Terrorism Legislation and Proposals, including the USA Patriot Act and the SAFE Act" in the Dirksen Senate Office Building Room 226.

Witness List:

Panel I: The Honorable Larry Craig, United States Senator, R–ID and The Honorable Richard Durbin, United States Senator, D–IL.

Panel II: The Honorable James Comey, Deputy Attorney General, United States Department of Justice, Washington, DC.

Panel III: The Honorable Bob Barr, R-GA, former Member, United States House of Representatives and Daniel Collins, Esq., Munger, Tolles & Olson, LLP, Los Angeles, CA.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, September 22, 2004, at 3:30 p.m. on "Judiciary Nominations" in the Dirksen Senate Office Building Room 226.

Witness List:

Panel I: Senators.

Panel II: Christopher Boyko, to be United States District Judge for the Northern District of Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST—S. 2273

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 536, which is S. 2273, at a time to be determined by the majority leader, in consultation with the Democratic leader, but no later than Friday, October 1, and that the measure be considered under the following limitations: There be 30 minutes equally divided and controlled in the usual form for debate on the bill and the committee-reported amendments; that the only amendments in order other than the committee-reported amendment be a Reed-Sarbanes transit amendment, the text of which is S. 2453; that there be 1 hour for debate on the amendment; that the time be equally divided and controlled between the bill managers and the amendment sponsors or their designees; that upon the use or yielding back of the time on that amendment without further intervening action or debate the Senate proceed to a vote with respect to the amendment; that upon disposition of the Reed-Sarbanes amendment all time be yielded back, the committee amendments be agreed to, the bill, as amended, be read a third time, and the Senate vote on passage of the bill, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Reserving the right to object, and I will have to object because there is objection on our side, we are prepared to pass the Rail Safety Act, S. 2273, without amendment, but I am not at liberty to agree to taking up the bill in the context that was suggested by my good friend from Nevada. Therefore, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. McCONNELL. Mr. President, consistent with what I just said, I am going to propose a unanimous-consent agreement to which I am sure my good friend will then object. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 536, S. 2273, the rail safety bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Yes, I object.

The PRESIDING OFFICER. The objection is heard.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 709, S. 2826, the District of Columbia appropriations bill; that the bill be read a third time; that the Appropriations Committee then be discharged from further consideration of H.R. 4850, the House-passed DC appropriations bill, and the Senate proceed to its consideration.

I further ask unanimous consent that all after the enacting clause of H.R. 4850 be stricken; the text of S. 2826 be inserted in lieu thereof; the bill, as amended, be read a third time and passed; and the motion to reconsider be laid upon the table.

I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on behalf of the Senate.

Finally, I ask unanimous consent that S. 2826 then be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I thank the Senator from Louisiana, Ms LANDRIEU, the ranking member on the DC Appropriations Subcommittee, for her hard work and efforts in helping to draft the appropriations bill before us today. This bill provides $560 million in Federal funds for the District of Columbia and includes the city's own local budget of $6.2 billion.

The funds in this bill focus on a number of key priorities for the District of Columbia: First, improving the lives and opportunities for children in the District; second, reducing and preventing crime in the District; and third, increasing security in our Nation's capital.

The bill continues an initiative we began last year to help improve the city's long-troubled foster care system by providing funds for intensive intervention when children first enter care; providing resources for early and continued mental health services for all children in foster care; providing incentives to retain qualified social workers and foster parents; and funding a new computer tracking system for children in foster care.

The bill also focuses on children by enhancing educational opportunities for inner-city students. We are continuing to provide a total of $40 million for three interrelated educational components: $13 million to promote excellence in traditional public schools; $13 million to expand choice through high quality charter schools; and $13 million for opportunity scholarships for low-income students in failing schools.

The second priority that this bill funds crime fighting in the District. The federal government entirely funds the D.C. Courts and the Court Services and Supervision Agency. The committee is providing a total of $337 million for these agencies, which is $55 million more than the fiscal year enacted level. Most of these additional resources are for renovations and repairs to the City's 4th oldest building, the Historic Old Courthouse, which will make it habitable once again and provide much-needed courtroom capacity.

The bill also provides additional resources to enhance supervision of high-risk sex offenders, offenders with mental health problems, and domestic violence offenders.

With this bill, we are beginning an important federal investment in a new forensics lab for the District of Columbia. Currently, the city must rely on the generosity of the FBI's crime lab. Because of its own heavy workload, the Bureau limits the amount of evidence that it can process for the city. With so many unsolved rape, murder, and other violent crime cases in the District, a new crime lab is a crucial need.

The sobering fact is that, as the seat of our Nation's capital, the District of Columbia is a target of bioterrorism attacks. And, those attacks must be investigated. Indeed, the anthrax attacks of 2001 and the ricin scare of 2004 have shown that a forensics lab is vital to public safety in the District and deserving of federal support.

The final priority in this bill is improving security in the District. As the seat of the federal government and as a symbol of our democracy, the District of Columbia faces increased risks of terrorist attacks. Therefore, the bill includes security funding, including resources to complete a Unified Communications Center, which will be the center for coordinated multi-agency responses in the event of regional and national emergencies. The bill also continues to provide funds to reimburse the city for increased police, fire, and emergency personnel costs associated with events that occur in the District because of the presence of the Federal Government.

I take this opportunity to recognize the city's leadership in improving the financial condition of the District. Recently, the District received a vote of confidence from Wall Street when its bonds were upgraded two steps from "BBB+" to "A". Despite this good news about the city's short-term financial performance, I am well aware that the city faces a long-term economic structural imbalance. This imbalance represents a gap between the District's ability to raise revenue at reasonable tax rates and its ability to provide services of reasonable quality to its residents.

I recognize that the structural imbalance is driven by expenditure requirements and revenue restrictions which are mostly beyond the control of the District's leadership. Clearly, the city's revenue capacity would be larger without Federal constraints on its taxing authority, such as its inability to tax Federal property or the income of nonresidents.

I agree that the city faces a troubling problem in the long-term. I want to help close the financial gap and help ensure the long-term economic health of our Nation's capital. This is a Federal enclave, established by the Constitution, and it must live by the constraints imposed on it by the Federal Government. I believe that the Federal Government must recognize the costs it places on the city and the burden it places on the city's infrastructure, all the while limiting the ability of the city to raise revenue. Indeed, many of the problems facing the District result from it being the seat of the Federal Government.

This bill takes two small steps to begin to address the structural imbalance. First, we are providing $4 million to assist the city with its annual operating payment to the Washington Metropolitan Transit Authority, commonly referred to as the "Metro":

The District's share of the Metro operating subsidy is $208 million. Whereas the State governments of Maryland and Virginia both help subsidize the Metro, the District does not have a State to help share the burden of this cost. In addition, many Federal workers use the Metro system to travel between Federal buildings throughout the workday.

Second, the bill provides $10 million for a combined sewer overflow system. The current system was constructed in 1890 and overflows 60 to 70 times each year, dumping raw sewage into the Anacostia River. Clearly, the Federal Government places a heavy burden on this system and should help share the cost of upgrading it. I believe these small Federal contributions for infrastructure are important, but clearly the Federal Government must do more to help eliminate this structural imbalance that it has helped create.

I again thank Senator LANDRIEU. She and I share the same concerns for the children and residents who live in the District of Columbia, as well as the millions of visitors who come here every year to see America's seat of government. She and I have worked as close partners in writing this bill. Together, we have put together a bill that focuses on improving the well-being of the District's children and protecting the safety of all who live and work here. I thank the Senator from Louisiana, and I turn to her now for her remarks.

Ms. LANDRIEU. Mr. President, I am pleased to join Chairman DEWINE in presenting the bipartisan fiscal year 2005 District of Columbia appropriations bill to the Senate. The bill totals $560 million, which is an increase of $18.3 million from fiscal year 2004. The chairman and I moved this bill through the full Appropriations Committee on Tuesday, September 21 by a near-unanimous vote with no controversial amendments. During our 3-year chairman and ranking membership of the D.C. subcommittee, we have met many policy and partisan challenges and remained great friends. This year is truly an achievement of the chairman's bipartisan lead of this bill. We continue to marry our interests in strengthening education and child welfare in the District.

Great communities need great schools. This bill includes $26 million for public education in support of the committee's goal to improve education in the District. Fifty years after the landmark Brown v. the Board of Education decision of the Supreme Court, 3 years after enactment of the significant No Child Left Behind Act, we are still working to shape the two-sided face of public education, excellence and failure, into a more equal experience for children. The District's schools have been mired in years of changing superintendents, management and oversight challenges. A new superintendent has been hired, Dr. Clifford Janey, we are excited about his energy to reform and improve and want to support his efforts as strongly as possible. This bill includes certain tools to, hopefully, contribute to Dr. Janey's work.

In our public schools we must recognize and reward excellence. We must acknowledge and eliminate failure. This bill directs a total of $7 million for a new incentive grant program for public education improvement in both traditional public schools and public charter schools. These grants will be awarded to the principal of high performing or significantly improved public schools to reward their good work. A reward is a powerful incentive to build on success and meet some of the areas which can make their school thrive. These grants could be for a specialized librarian, new books, and bonuses for excellent teachers, or even to support sports and recreation with a new basketball court. It is entirely up to the principal to decide. In addition, the bill includes $5 million to support the very successful D.C. program to reconstitute the schools designated as in need of improvement by the standards of the No Child Left Behind Act. The Transformation School Initiative has successfully breathed new life into 15 of the lowest performing public schools in the District with innovative ways to reinvigorate teachers, reinvest parents, and get kids exciting about going to school and excited about learning. We are very pleased to support these programs with $13 million for public schools as part of the $40 million School Improvement Fund created last year.

The second prong of the School Improvement Fund, $13 million for public charter school, is supported by robust support to strengthen the chartering system. With 41 charters granted to date, the District has achieved the distinction of having the highest number of charter schools per capita. As such, the District is in a position to serve as leader in the effort to use charter schools to spur system-wide improvement from within our system of public education. Senator DEWINE and I maintain our commitment to serve as a full and equal partner in this endeavor.

It is important to note that while the primary reason for the rapid growth in the number of charter schools was the unmet desire of education reformers to find a way to "step out of the box" that had become our public school system, charter schools are by definition independent public schools. With their relative autonomy, charter schools are a way to provide greater educational choice and innovation while not abandoning the public school system. Recent studies show that the existence of a charter school in a district not only increases the quality of education available to the students served directly by the charter school but in all surrounding public schools. In addition, charter schools provide a healthy dose of competition into the public school system and have the effect of accelerating reforms and improvements in traditional public schools.

Despite the increased challenge of educating students with the greatest need, objective surveys and reports show that the academic progress among charter schools students outpacing that of their cohorts in traditional public schools. Those successes included gains in reading and math performances; test scores higher than district, state and neighborhood schools; increased parental involvement; and higher attendance and fewer disciplinary problems.

Strengthening charter schools, which were created in the D.C. by Congress in the 1995 School Reform Act, is a primary tenant of our work to improve education. Pursuant to Section 120 of P.L. 106-522, the Fiscal Year 2001 DC Appropriations Act, the local government is prohibited from amending the School Reform Act. Therefore, Congress has continued our oversight responsibility of the charter school law this year. The bill fortifies the environment where strong, accountable, academically excellent charter schools flourish.

This bill includes language which will encourage public schools to convert to charter schools. The 1996 School Reform Act allows for traditional public schools to petition to convert to a public charter school, if the teachers and parents in the community want a more responsive and engaging school. However, to date, only one school, Paul Junior High, has exercised that option. We are not trying to say that every public school should be a charter school, but we support if the community of a particular school sees a benefit in becoming a charter school and can gain a majority consensus of that community, a conversion is possible.

In addition, we toughen oversight of chartering boards to better screen applications and strengthen oversight of existing schools. We think this will make a stronger public charter school community, and should not create any additional bureaucracy which would tamp down reform. Finally, we included language which will improve access to facilities for charter schools, which can be their greatest challenge. The buildings in which children learn are just as critical as the other tools available to make these kids a success.

Under the kind leadership of Chairman DEWINE, we have also invested in the welfare of the most vulnerable children in the District, those in the custody of the abuse and neglect welfare system. Just in the last week, the District has suffered the loss of another child, Angel Fleming, who was put in the custody of the Child and Family Services Agency.

The bill supports our priority of reforming child welfare by providing the tools necessary to the foster care system with $5 million. We are funding for early intervention services to try to keep kids with relatives, rather than send them to temporary foster care homes. The bill also continues to ensure that all kids in foster care get mental health assessments and services. Finally, Senator DEWINE has ensured that an area often forgotten, foster parents, receive the respite services necessary and promote grassroots foster parent recruiting and training efforts.

This bill meets our Federal responsibility to the criminal justice system and infrastructure investments requested by the mayor and council. The new family court, which embraces the ideal of one family-one judge, is fully funded and we continue to provide for their new building. In addition, the bill initiates a new investment in the administration of justice in the District by contributing $8 million to the construction of a new forensics lab. This laboratory will alleviate contract pressure D.C. imposes on other Federal agencies, such as the FBI, to complete local forensic work. The bill also contributes to security and emergency preparedness in the Nation's capital with $22 million to bolster the police and first responders. In addition to all of the important initiatives in the District this bill invests in, there is $13 million for cleaning up the Anacostia River and providing recreation for the entire region and $5 million for transportation improvements.

I want to thank the mayor of the District, Anthony Williams, the entire council, particularly the Chair Linda Cropp, and the D.C. Delegate to Congress ELEANOR HOLMES NORTON for their many contributions and advice in developing this bill. They are great partners for Chairman DEWINE and I to ensure the bill meet the needs of the District. I appreciate the chairman's consideration and our ability to work together on this bill.

Mr. NICKLES. Madam President, the District of Columbia appropriations bill for fiscal year 2005, S. 2666, as reported by the Senate Committee on Appropriations provides $560 million in budget authority and $540 million outlays in fiscal year 2005. There is no mandatory funding in this bill.

The bill provides total discretionary budget authority in fiscal year 2005, of $560 million. This amount is equal to the President's request, it matches the 302(b) allocations adopted by the Senate Appropriations Committee, and is $18 million more than fiscal year 2004 enacted levels excluding fiscal year 2004 supplemental appropriations.

I commend the distinguished chairman of the Appropriations Committee for bringing this legislation before the Senate, and I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2826, 2005 DISTRICT OF COLUMBIA APPROPRIATIONS

[Spending Comparisons—Senate-reported bill (Fiscal Year 2005, $ millions)]

	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority	560	....	560
Outlays	540	....	540
Senate Committee allocation:			
Budget authority	560	....	560
Outlays	554	....	554
2004 Enacted:			
Budget authority	542	....	542
Outlays	516	....	516
President's request:			
Budget authority	560	....	560
Outlays	534	....	534
House-passed bill:			
Budget authority	560	....	560
Outlays	538	....	538
SENATE-REPORTED BILL COMPARED TO:			
Senate 302(b) allocation:			
Budget authority	....	....	....
Outlays	−14	....	−14
2004 Enacted:			
Budget authority	18	....	18
Outlays	24	....	24
President's request:			
Budget authority	....	....	0
Outlays	−14	....	−14
House-passed bill:			
Budget authority	....	....	0
Outlays	2	....	2

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 4850), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

The Chair appointed Mr. DEWINE, Mrs. HUTCHISON, Mr. BROWNBACK, Mr. STEVENS, Ms. LANDRIEU, Mr. DURBIN, and Mr. INOUYE conferees on the part of the Senate.

MEASURE READ THE FIRST TIME—S. 2830

Mr. MCCONNELL. Mr. President, I understand that S. 2830 is at the desk. I ask its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2830) to amend part A of title IV of the Social Security Act to promote healthy marriages and responsible fatherhood, and for other purposes.

Mr. McCONNELL. I ask for its second reading, and in order to place the bill on the calendar in accordance with rule XIV, I object to my own request.

The PRESIDING OFFICER. The bill will be read the second time on the next legislative day.

RESPONDING TO CONDITIONS IN BURMA UNDER THE ILLEGITIMATE RULE OF THE STATE PEACE AND DEVELOPMENT COUNCIL

Mr. McCONNELL. I ask unanimous consent the Foreign Relations Committee be discharged from further consideration of S. Res. 431 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 431) expressing the sense of the Senate that the United Nations Security Council should immediately consider and take appropriate actions to respond to the growing threats posed by conditions in Burma under the illegitimate rule of the State Peace and Development Council.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 431) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 431

Whereas the National League for Democracy, headed by Daw Aung San Suu Kyi, is the legitimately elected political leadership in Burma;

Whereas the ruling State Peace and Development Council, headed by General Than Shwe, and its affiliated organizations continue, through a variety of means, to violate the human rights and dignity of the people of Burma through murder, torture, rape, forced relocation, the employment of child soldiers, the use of forced labor, and the exploitation of child laborers;

Whereas the State Peace and Development Council has detained over 1,300 prisoners of conscience, including National League for Democracy leaders and supporters of democracy;

Whereas, under the repressive rule of the State Peace and Development Council, the situation in Burma poses an immediate and growing threat to the Southeast Asia region, including through the unchecked spread of HIV/AIDS, the illicit production of, and trafficking in, narcotics, trafficking in persons, and alleged efforts to purchase weapons from North Korea, China, and Russia;

Whereas, at the 58th session of the United Nations General Assembly, a resolution was adopted by the General Assembly that expresses grave concern about the ongoing systematic violations of human rights inflicted upon the people of Burma and calls on the State Peace and Development Council to release all political prisoners, respect the results of the national elections in 1990, and restore democracy to Burma; and

Whereas the National League for Democracy has called upon the United Nations Security Council to intervene on behalf of the people of Burma: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United Nations Security Council should immediately consider and take appropriate actions to respond to the growing threats posed to the Southeast Asia region by conditions in Burma under the illegitimate rule of the State Peace and Development Council, including the threats posed by widespread human rights violations, the unchecked spread of HIV/AIDS, the illicit production of, and trafficking in, narcotics, trafficking in persons, and alleged efforts by the State Peace and Development Council to purchase weapons from North Korea, China, and Russia.

APPOINTMENT OF COMMITTEE TO ESCORT HIS EXCELLENCY AYAD ALLAWI, PRIME MINISTER OF THE INTERIM GOVERNMENT OF THE REPUBLIC OF IRAQ

Mr. McCONNELL. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join a like committee on the part of the House of Representatives to escort His Excellency Ayad Allawi, Prime Minister of the Interim Government of the Republic of Iraq, into the House Chamber for the joint meeting tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 2823

Mr. McCONNELL. Mr. President, I understand there is a bill at the desk that is due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill for a second time by title.

The assistant legislative clerk read as follows:

A bill (S. 2823) to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

Mr. McCONNELL. Mr. President, I object to further proceedings on the measure at this time in order to place the bill on the calendar under the provisions of rule XIV.

The PRESIDING OFFICER. The bill will be placed on the calendar.

ORDERS FOR THURSDAY, SEPTEMBER 23, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 11 a.m. on Thursday, September 23. I further ask unanimous consent that following the prayer and pledge the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business for up to 30 minutes with the first 15 minutes under the control of the Democratic leader or his designee and the final 15 minutes under the control of the majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, for the information of all Senators, tomorrow morning there will be a joint meeting of Congress to receive a speech from Prime Minister Allawi of Iraq. We will convene following that speech for a short period of morning business. Following morning business, we hope to consider the Foreign Operations appropriations bill. We have been working on an agreement and we hope to have that language worked out by tomorrow morning. We would like to finish that legislation and consider the family friendly tax bill when that conference report becomes available sometime tomorrow. Therefore, Senators can expect votes throughout the day.

Mr. REID. Mr. President, on the Foreign Operations bill, we are anxious and ready and willing to have an agreement. We think the bill can be resolved very quickly, and we want the RECORD to reflect our willingness to go to the bill tonight, tomorrow, anytime. We think it is very important that we get as many appropriations bills completed as possible. We are not in any way standing in the way of this. There is no objection on our side to going to this bill.

I also say that this Friday is the most holy of all holidays for those of the Jewish faith, Yom Kippur. We have a number of Senators who must travel west that day to prepare for the holiday. They cannot make their transportation arrangements unless they can leave here at 10:20 on Friday morning. The leader has spoken to some of the Jewish Members of the Senate and he recognizes the problem. We have this tax bill of which we know the importance. But we have to let the high holy day take precedence over what has to be done here on Friday.

I hope the two leaders and my distinguished friend on the floor now and the Republican leader will take that into consideration. It has been brought to my attention by several Senators this afternoon.

Mr. McCONNELL. Mr. President, let me say that there are Members on both sides of the aisle for whom Friday is an exceedingly important day. We are certainly aware of that. That is another good reason for finishing the family friendly tax bill tomorrow night. We will press on and try to complete both Foreign Operations and the family friendly tax bill tomorrow night.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:33 p.m., adjourned until Thursday, September 23, 2004, at 11 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate September 22, 2004:

CENTRAL INTELLIGENCE

PORTER J. GOSS, OF FLORIDA, TO BE DIRECTOR OF CENTRAL INTELLIGENCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Wednesday, September 22, 2004*

The House met at 10 a.m.

The Reverend Austin DeLoach, Jr., Pastor, Southside Baptist Church, Lakeland, Georgia, offered the following prayer:

Heavenly Father, I come to You thankful for this great country that You have blessed us to live in.

Please keep us ever mindful that freedom only comes with a price and cannot be sustained without responsibility.

Give our Nation wisdom to understand that liberty must be protected in part by laws that are grounded in Your truth.

I come humbly before You today asking You to give this body, the Congress of the United States, wisdom and guidance as they fulfill their call to serve others through public office.

According to Your Word, as written in Romans 13:1, You, Lord, have ordained government and chosen to work through those who serve. So I lift up every man and woman of this Congress to You. Bless their families and the people they represent, that these United States may serve Your purpose in this world, as the book of Esther says, for such a time as this.

I thank You for hearing this prayer and I ask it in Jesus' name.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida (Mr. FOLEY) come forward and lead the House in the Pledge of Allegiance.

Mr. FOLEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4837. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4837) "An Act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mrs. HUTCHISON, Mr. BURNS, Mr. CRAIG, Mr. DEWINE, Mr. BROWNBACK, Mr. STEVENS, Mrs. FEINSTEIN, Mr. INOUYE, Mr. JOHNSON, Ms. LANDRIEU, and Mr. BYRD, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 2279. An act to amend title 46, United States Code, with respect to maritime transportation security, and for other purposes.

FULFILLING AMERICA'S PROMISE

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, this year we celebrate our 10th anniversary as the governing party of this great Chamber.

In 1994, the Dow Jones industrial average was at 3,834. Today, it is 10,453. Homeownership was at 64 percent. Today it is a record high of 69.2. Violent crime is down. Interest rates are down from 8.5 to 4.42.

Charitable giving among Americans is at its highest, from $150.7 billion in 1996 to over $241 billion now. Bankruptcy rates are down from 17.9 to 2.8. Per capita incomes are growing. Poverty is shrinking. African Americans living in poverty are decreasing and their homeownership is at record highs. Unemployment is down from 6 to 5.4.

These may be dry statistics to some, but they are progress to many Americans, thanks to the direction we have taken this country and this Congress. Yes, America is safer, and I thank the President for standing steadfast against terrorism, against tyranny.

DEMOCRATIC PARTNERSHIP WITH THE AMERICAN PEOPLE

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, today House Democrats will announce a new partnership with the American people, a partnership that would strengthen six of our Nation's most important core values. We will put Americans back to work, make health care more affordable, hold polluters responsible for the contamination they cause, give our children the education and development tools they need to have a positive future, and restore fiscal responsibility here in Washington.

Democrats' new partnership is necessary today because a large majority of Americans have lost faith in Congress. Over the past decade, Republicans have controlled the people's House and have often strayed from these core American values.

My Democratic colleagues and I have been fighting for these causes for many years, but this is the first time we are unveiling a partnership with the American people, a promise, if you will, that if the American people put their trust in us and elect a Democratic majority in November, we will work with them as partners to make their lives and our government better.

TEN-YEAR ANNIVERSARY OF THE GOP HOUSE MAJORITY

(Mr. BLUNT asked and was given permission to address the House for 1 minute.)

Mr. BLUNT. Mr. Speaker, Americans like the partnership they have. Republicans have trusted the ingenuity of the American people to expand opportunity for themselves and their families.

For 10 years, the Republican majority has worked to expand the power of the American people over the power of the American government.

We believe in letting people keep more of their hard-earned money so that they are better able to provide for their families and invest in their own futures.

We trust small business owners to create jobs and grow the economy better than government programs can.

We understand that school teachers and parents in Springfield, Missouri, and other places across this Nation know what is best for students, not bureaucrats in Washington.

We know that excessive government regulations never created a single job for an American worker.

House Republicans believe individuals make better decisions than government, and when Americans are

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.
Matter set in `this typeface` indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

given freedom to exercise personal responsibility to provide for their futures, they have a greater stake in securing that future.

After 10 years, that future is bright. As a majority, we have accomplished so much, but there is still so much more to do. In many ways, we have only just begun to make the impact our Nation needs.

Although priorities have changed, our principles do not, as we move forward into a second decade.

REPUBLICAN PARTY IN BREACH OF CONTRACT

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, it is time to declare the Republican Party in breach of contract.

A decade ago, the GOP promised the American people they would balance the budget. Instead, they have engineered the largest deficit in history.

A decade ago, the GOP promised Americans a fair shake. Instead, average Americans have seen their incomes shrink, their jobs evaporate, Social Security threatened, and health care beyond the reach of 45 million Americans.

A decade ago, the GOP promised to help seniors. Instead, the GOP sent plastic cards to senior citizens and big profits to drug companies. Some contract.

When it comes to the American people, the GOP, like the President, have been AWOL. The contract is null and void. It is time for a new partnership. Come January, we will stand and say, Madam Speaker, as the gentlewoman from California (Ms. PELOSI) becomes the first woman Speaker of the House.

The time is now and it is long overdue. It is only 40 days away.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMMONS). Members are admonished to refrain from improper references to the President.

TEN YEARS OF A REPUBLICAN HOUSE

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, in the past 10 years, the Republican majority in this House has created a stronger, safer and more prosperous Nation and we celebrate that today. At the heart of that prosperity stand our Nation's small businesses.

Under our Republican-led House, the number of small businesses has exploded, most notably female-owned companies. From 1992 to 1997, women-owned firms increased by 16 percent, accounting for a quarter of all small businesses. Today, nearly 40 percent of all small businesses are owned by women, a number that is increasing at double the rate of all U.S. companies.

By cutting red tape and providing tax relief and regulatory reform, House Republicans have made it possible for Americans, women especially, to become independent entrepreneurs. Less time tangled up in red tape and buried in paperwork means more time at home with their children, the ability to hire more workers, even the possibility of opening another store or factory.

Mr. Speaker, the Republican majority understands the tremendous potential of the American entrepreneur. I look forward to the next 10 years, seeing American dreams become realities in our communities across this country.

DEMOCRATS OFFER A DIFFERENT VISION

(Ms. SCHAKOWSKY asked and was given permission to address the House for 1 minute.)

Ms. SCHAKOWSKY. Mr. Speaker, perhaps the greatest disservice that the Bush administration and the Republican leadership have inflicted upon the American people is the lowering of expectations of what this great country of ours can be.

As the undisputed superpower of the world and the richest nation in the history of the planet, our opportunity to be a force to advance humankind in all respects is without limit and, one after another, this Nation has squandered those opportunities, leaving more Americans in poverty and without health insurance, breathing dirtier air, fewer with a chance of college, 1,027 dead in a war that has made the United States reviled around the world.

The Democrats are offering today a different vision, inviting all Americans to partner with us and each other in an America built on our shared values of prosperity, opportunity and fairness for all, national security, accountability and community.

Together, we can fulfill the great promise and the great hope that is the United States of America.

WELCOMING DAVE AND KELLY KEIM OF BERNE, INDIANA

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I rise this morning to welcome Dave and Kelly Keim of Berne, Indiana, to our Nation's capital. They are in town today to stand with many others in this building to oppose embryonic stem cell research.

Why would people come from Berne, Indiana? The answer can be found in their 18-month-old twins, Caroline and Spencer, who are a daily and profound reminder that embryonic adoption should be preferred in the law always over destroying human embryos for stem cell research.

Mr. Speaker, Caroline and Spencer Keim are fully human today, just as they were 18 short months ago when they were in the frozen embryonic stage of their development. They stand as a living testament to the truth that it would have been morally wrong to destroy their embryonic lives, even for well-intentioned medical research.

Ronald Reagan said it wisely in the year 1984, "We cannot diminish the value of one category of human life, the unborn, without diminishing the value of all human life."

Mr. Speaker, I welcome Dave and Kelly Keim and their two beautiful twins, Caroline and Spencer, to Washington today, and I thank them for their courageous stand for life in this critical issue of embryonic stem cell research.

DEMOCRATS UNVEIL NEW PARTNERSHIP FOR AMERICA'S FUTURE

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, recently the President of the United States announced a record increase, 17.4 percent, in the premiums that Medicare beneficiaries will be forced to pay, a record not matched in the 38-year history of Medicare. Why this increase? Because of the President's prescription drug bill, a drug bill written by the insurance industry, written by the drug industry.

☐ 1015

Twenty-three billion dollars in direct subsidies go from the pockets of seniors, with their premium increase, into the coffers of the insurance companies, $180 billion dollars extra profits for the already record profitable drug companies.

And this has happened over and over on the House floor: middle of the night votes, literally a bribe offered on the House floor during the passage of Medicare. That is why Democrats are unveiling today the New Partnership for America's Future to take our country in a new direction, to take our country in a better direction.

JOE LOCKHART SHOULD LEAVE THE KERRY CAMPAIGN

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, CBS has publicly apologized for airing the story on President Bush's National Guard service which relied on fraudulent documents. The fallout from this story will be felt for a long time. CBS has discredited itself as a news organization.

Some were surprised to learn that the man who produced those forged documents, Bill Burkett, was in contact with the Kerry campaign. A series of e-mails has surfaced showing that Burkett spoke with Max Cleland, an adviser to JOHN KERRY's presidential campaign about assisting the Democrats with a counter attack on Bush.

Also, a senior adviser to KERRY, Joe Lockhart, said that on the advice of CBS producer Mary Mapes, he spoke with Burkett about Vietnam and the Presidential campaign shortly before the piece aired. Lockhart's role in this attack is particularly disturbing.

Fraudulent political attacks by anyone are reprehensible. Joe Lockhart is talented and intelligent, but I believe he should excuse himself from the Kerry campaign.

WAR IN IRAQ IS COSTING U.S. LIVES AND DOMESTIC PROGRAMS

(Ms. WATERS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATERS. Mr. Speaker, I am sick and tired of waking up every morning to the news that more men and women are being killed in Iraq. I am as patriotic as anybody, but why are we in Iraq? We have discovered that we were misled. There are no weapons of mass destruction. But our young men and women are dying every day.

At the same time, we are spending $1 billion per week on this war. We are spending $1 billion a week, but we have 44 million Americans without health insurance. We have rising poverty. We have men and women who work every day but cannot afford to pay rent. Yet this administration is cutting the section 8 program that would support families in their ability to have a house.

What are we doing in education? Far too many dropouts, not only in our inner cities but in our rural areas. This President says, leave no child behind, but it is empty rhetoric. He is not putting his dollars where his mouth is.

RECOGNIZING 10 YEARS OF REPUBLICAN MAJORITY IN U.S. HOUSE

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, several of us are coming to the well this morning to celebrate the decade since those revolutionary, visionary Republicans gained a majority in this House and helped put America back on the right track.

Today, Americans are paying lower taxes. We have a stronger, more well-trained military, and we fight every day to decrease regulation and to get at the heart of waste, fraud and abuse in our government. None of this, not any of it, would have happened without those passionate patriotic Republicans.

We understand that small businesses are what fuel this economy, so we have worked to help create and expand jobs. We have created health savings accounts, which give Americans more control over their health care dollars, greater choices.

Our historic tax relief has helped push America out of recession and helped to protect the American Dream for future generations. Republicans know that government does not create jobs; small business does. And we celebrate 10 years of success.

TEN YEARS: ADVANCES

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, Republicans have been in the majority here in the House of Representatives for 10 years now, and a lot has changed. We have helped to free working families from the heavy tax burden, but we need to make our work permanent. We need to make a child tax credit, elimination of the marriage penalty tax and the elimination of the death tax permanent. Only the Republicans are committed to doing this.

We have established a more optimistic welfare system that encourages self-sufficiency and has shortened the welfare lines. But there are still families on welfare who want to get off, so there is more work to be done. Only Republicans are committed to doing this.

Since 1994, unemployment rates are lower. Median household income is higher. A greater percentage of Americans are graduating from college. Home ownership rates are higher. And the violent crime rate has decreased.

Mr. Speaker, the numbers prove that American families are better off, much better off with Republicans making the laws.

GOP 10-YEAR ANNIVERSARY

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, Americans celebrate the 10-year anniversary of Republican majority in this House of Representatives. Let us remember that it was President Reagan's emphasis on security that provided the legacy that we now use as the starting point for the Grand Old Party.

If Congress does not see to it that every American is safe, does anything else matter? Republicans answered this question by strengthening our military, equipping our troops, confronting terrorists on their turf and taking care of our veterans when they return home. From the fall of the Iron Curtain and the demise of communism to the liberation of Iraq and Afghanistan, Republicans have driven policy that has transformed unsafe nations while protecting our own.

Republicans recognize that we do not need to seek a permission slip to defend our Nation and that nothing is more important than a safe, secure America.

HOUSE REPUBLICANS: A PROUD AND POSITIVE 10-YEAR RECORD OF ACHIEVEMENT

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, for the last 10 years, the House Republican majority has built a proud and positive record that has improved the lives of American families. In 1994, Republicans were overwhelmingly elected to bring leadership and accountability to Washington. Republicans had a clear vision to restore fiscal responsibility, rebuild our defense and intelligence, and create jobs through relieving the tax burden and reforming welfare, improving education for our children, protecting the lives of the unborn and the sanctity of marriage, and leading with honesty and integrity.

In the last 10 years, the stock market has more than doubled in value. Poverty has decreased. Unemployment has declined. And household income has risen substantially. We have reformed welfare, passed the Defense of Marriage Act and promoted quality education in our schools, fulfilling the Reagan revolution.

As a lifelong member of the Republican Party, I have never been prouder of our party. Under the leadership of our Speaker, the gentleman from Illinois (Mr. HASTERT); our majority leader, the gentleman from Texas (Mr. DELAY); the chairman of the Republican Conference, the gentlewoman from Ohio (Ms. PRYCE); and our majority whip, the gentleman from Missouri (Mr. BLUNT), working with President George Bush, this team will continue to promote America's families.

In conclusion, may God bless our troops, and we will never forget September 11.

GOP 10-YEAR ANNIVERSARY

(Mr. GARRETT of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARRETT of New Jersey. Mr. Speaker, in 10 years of majority, Republicans have made a difference and a difference not by over-legislating but by having confidence and faith in the American people and the American individual.

My Republican colleagues and I believe that it is the individual American and not the government who can best improve their lives. Financial decision-making is best done by the family and not by the Federal government. The taxpayers' money belongs in the taxpayers' pockets. They work hard for it, and they know how to spend it best.

Republicans created across-the-board tax cuts for working Americans, giving them a greater chance to spend and to save their money as they deem fit, giving them options, giving them independence. The benefits of our tax relief have rolled on to jump-start the economy, with 1.7 million new jobs this past year, with the current unemployment rate lower than the average rates of the 1970s, 1980s and 1990s combined.

Mr. Speaker, in the next 10 years, the Republicans will continue to respect the American individual and, in turn, build on our successes and on the success of this great Nation.

SUPPORT THE PLEDGE

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, amidst the controversy surrounding the Pledge of Allegiance, I fear that we have forgotten our Founding Fathers' true intentions behind the establishment clause in the Constitution. While our critics argue that the words "under God" violate the establishment cause, our founders actually encouraged this type of religious recognition.

As George Washington said in his farewell address, and I quote, "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. The mere politician, equal with the pious man, ought to respect and to cherish them."

Washington encourages us to respect religion, and I think he feared that the government might misapply the establishment clause to things like the Pledge. Even Thomas Jefferson, who advocated the wall of separation between church and State, articulated this, and I quote, "No Nation has ever yet existed or been governed without religion, nor can be."

Considering our Founding Fathers' clear statements, it is hard to say that the Pledge establishes religion or crosses the wall of separation. I urge my colleagues to embrace the founders' original intent and support H.R. 2028.

REPUBLICAN MAJORITY AND FAMILY HEALTH CARE

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, in the 10 years of Republican majority in the House, we have always put families first. We recognize that protecting our Nation's families means in part creating access to better health care, providing affordable prescription drugs to seniors and ensuring the best doctors and care for our children. These are critical and necessary commitments.

In 1994, when Republicans took the majority, many of our citizens were being left behind without access to rapidly developing medical technology. Last year, we passed the most sweeping modernization to Medicare legislation since its creation in 1965. For the first time, our seniors now have a prescription drug benefit. Americans know that their parents and grandparents will be taken care of and that they are in safe hands.

We have provided better options to our Nation's low-income families by making doctors' appointments and necessary checkups available through community health centers; 15 million families nationwide now have a place to count on for health care through these centers.

America's families will always receive the best existing health care. Republicans recognize the importance of family health care, and we will continue to recognize it as a top priority in the future.

CELEBRATING 10 YEARS OF REPUBLICAN MAJORITY

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, 10 years ago, 25 hearty souls met for 3 hours every week to decide whether we could change the course of America, led by then House Minority Whip Newt Gingrich. We said that if you gave us the authority and the power, we would change the way America works, and we did it with a specific Contract With America; 9 million additional people voted in that election and gave us the opportunity to lead.

We believed that too many people were on welfare, and they deserved an opportunity to get off, so we changed that. We balanced the budget and paid down debt. Some of that is going by the wayside now with a war to fund, but when we stood before the American people in 1994, we stood for something solid, and we can do it again.

We want to thank the American people for giving us the opportunity. And, Mr. Speaker, I want to thank Newt Gingrich, who would be our Speaker ultimately, for leading us to that majority.

□ 1030

THE RECORD OF THE REPUBLICAN-CONTROLLED CONGRESS

(Mr. HINCHEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINCHEY. Mr. Speaker, the Republicans have reminded us that it has been 10 years since they have controlled this Congress, and I think it is important to reflect upon that record. Since they have been in the majority here, they have managed to shift the tax burden from the most affluent people in America to the white and blue collar working class, raising taxes for working Americans, lowering them for multimillionaires. They have established the conditions for, and presided over, the Enron and other corporate scandals. And since they have controlled not just the legislative branch but the executive branch as well, they have managed to increase the poverty level in America in the last 4 years by 4.3 million people now living in poverty.

They have reduced the average income of the average American family by more than $1,500. They have raised the energy costs of the average American family by more than $1,000 a year. They have raised the number of people who are without health insurance, bringing it up to 45 million people without health insurance. The list goes on. And we will have other opportunities to discuss it, I am sure.

PLEDGE PROTECTION

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, this week we will vote on keeping "one Nation under God" in the Pledge of Allegiance. The Pledge is under attack, and activists are using wayward judges to chip away at this time-honored tradition. Our national motto is "In God We Trust." In Texas the people have already spoken. Starting last year, all school districts require students to recite the Pledge to the United States and Texas flags daily.

The bill we have on the floor today is essential to ensuring that the will of the people of Texas is not circumvented by some unelected judge in another State. For the sake of our country's morale and heritage, we must keep "under God" in the Pledge.

I will just close with God bless America.

THE REPUBLICAN PARTY'S CONSISTENT SUPPORT FOR THE MILITARY

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, one of the reasons why I became a Republican is because of the Republican Party's consistent support for the military.

Since 2000, base military pay has increased by 29 percent. Mid-grade noncommissioned officers, who represent the core experience and talent in the Armed Forces, have seen their pay increase an average of 35 percent. Congress under Republican control provided $6 billion for repair, maintenance, and operations of the military houses and bases. Congress increased the basic allowance for housing and eliminated servicemembers' out-of-pocket housing expenses, increased family separation allowance, and increased the amount for imminent danger pay.

I am proud that the Republican Party stands for strong support for the military, and I am sure we will consistently support our men and women serving in dangerous places around the world and their families.

SNOWFLAKES EMBRYO ADOPTION

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, less than 5 minutes ago, I was in a room here in the Capitol filled with children who were frozen embryos, several months—even years ago—who went on to be adopted. The stories of these adopted embryos, with names like Kate and Mike, are compelling. We know of at least 60 children who were once cryogenically frozen but have now gone on to be adopted. An adoption program called Snowflakes adoption agency that has been promoting this loving adoption option and underscores why we need to protect these newly created human beings and not steal their stem cells for use in research.

Let me also point out to my colleagues that we often hear the term "spare embryos" in connection with embryonic stem cell research. I hope that we will cease employing that very false term. There is no such thing as a spare embryo. These individuals can be adopted, they are being adopted; and they are just like any other little boy or girl.

We should put our emphasis, and our research dollars, Mr. Speaker, on adult stem cell research and cord blood stem cell research. This research has no ethical downside. And it has worked. That is where the real breakthroughs are occurring each and every day. Heart repair and myriad other advances are occurring not from embryonic, but from adult—and cord blood stem cells.

10TH ANNIVERSARY OF REPUBLICAN MAJORITY IN CONGRESS

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, what a difference a decade makes. It is true we are marking the 10th anniversary of the Republican majority controlling this institution, and it has been great for the American people.

One issue that is of paramount interest and is often forgotten is the fact that leading up to our having won the majority in 1994, we in this country, from the early 1960s forward, were dealing with a very tragic generational cycle of welfare. We saw this cycle of dependence continuing on and on and on where people were in fact losing their motivation, losing the kind of incentive that they needed to succeed in life. And when we in 1995, 1996 worked very hard to bring about an end to that generational cycling of welfare, what is it that we did? We not only created opportunity for people, but story after story had us telling anecdotal evidence of people saying, I have finally gotten the pride back that was so desperately needed.

So, Mr. Speaker, that is just one example of the kind of success that we have had with our majority, and I hope we can keep working for the American people for years to come.

THE SUDAN

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, yesterday afternoon the gentleman from Illinois (Mr. JACKSON) and I returned from a 4-day trip to the Sudan, including mostly into the Darfur region in West Sudan. We visited the camps where the displaced persons are. We visited North Darfur, which is an area under control by the Sudanese Liberation Movement, the rebel groups.

I am here to report to my colleagues today that unfortunately the attacks on the people of Darfur are continuing by the Janjaweed, that is the militia that has been armed by the government and sent on these missions to destroy and to kill the people there, increasing the huge numbers of displaced persons who are fleeing into these camps. The conditions in these camps are absolutely intolerable. They are living in positive squalor. The world's humanitarian community is responding in a very positive way, but the conditions continue to grow worse.

What is needed is greater security. What is needed is a greater commitment by the African Union to send troops to provide that kind of security. What is needed is a commitment by the Sudanese government to end the Janjaweed attacks and to allow the humanitarian community to provide the relief that is necessary and to provide the security also so that these people can return to their homes.

TIME FOR A NEW PARTNERSHIP

(Mr. DeFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DeFAZIO. Mr. Speaker, it is 10 years since the Contract on America, the Republican takeover. If people think the country is going in the right direction, then I guess they are doing a great job.

They talk about fiscal responsibility; $600 billion deficit this year. Every penny of the Social Security surplus and trust fund borrowed and spent and replaced with IOUs. We have lower wages, outsourced jobs, unemployed Americans, economic insecurity, and record numbers of uninsured. And they brag about their record on health care, a prescription drug benefit written by and for the pharmaceutical industry at tremendous tax to the taxpayer, subsidies to that industry.

It is time for a new partnership for the majority of Americans, not more government by and for an elite few.

TO CELEBRATE AMERICA

(Mr. HAYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES. Mr. Speaker, I stand today to celebrate with my colleagues the American people. We in the majority have worked hard to empower people to create opportunities, to make jobs, to do things that turn America into a place where people can achieve their dreams. That is what is happening. It is also in stark contrast to the U.N., that sits on their collective duffs while people in the Sudan, Iraq, Afghanistan need help.

So, yes, we do celebrate America today because the majority will stand up and empower the American people to live that American Dream and to be part of making a better, freer, and safer world.

THE REPUBLICAN CONTRACT WITH AMERICA

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, 10 years ago the Republican Party put forth the Contract with America, and it was the first time that collectively Members of Congress had put forth an agenda. And certainly the Democrats did not like it, but 10 years later they are trying to do the same thing, and I applaud them. I think it is good to honestly show the folks what their platform is.

Part of our platform, of course, was tax cuts. Does anyone think that we would have had tax cuts had the Democrats stayed in power?

Part of our platform was welfare reform. There were 14 million people on welfare. Today there are about 4 million. Does anyone think that 9 million people would be back in the workplace if it had not been for the Republican Contract with America?

The military spending went from $260 billion to today $419 billion and restrengthened our military. Does anybody think that would have happened without the Republican Contract with America?

And No Child Left Behind, our landmark education reform bill that put parents back in charge and teachers, not bureaucrats, in Washington. Does anyone think that would have happened without the Contract with America?

These platforms are good. This debate is worth having. We have been in power for 10 years. There is a lot more we need to be doing. We are going to work for tax simplification and more tax reduction, and we need to get better control on spending. Both parties need to do that.

Mr. Speaker, I am proud that we have been in power 10 years and proud of the accomplishments we have had in that period.

CELEBRATING 10 YEARS OF A REPUBLICAN HOUSE

(Mr. EHLERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EHLERS. Mr. Speaker, it is a pleasure to join in this celebration today.

I well remember 1994 because I was sworn in during January, 1994, and took my oath of office. Shortly thereafter I wrote an article which was distributed to my party colleagues entitled "How We Can Take the Majority." What a change has happened since then.

The Contract with America was a genuine brainstorm, a very effective technique; but also it gave guidance for a number of years for what we were to do. And if we compare the condition of the Nation today to the condition of the Nation 10 years ago, it is absolutely amazing what we have accomplished. Much of it has been controversial, but almost all of it has been good. And I am very pleased with the progress that we have made and the way we have moved this country along over these 10 years.

I would also add, Mr. Speaker, I have always been a great believer that good work deserves a reward. And this is a very clear case where the good work of the Republican Party in this Congress deserves a reward of continuing to remain in the majority for another 10 years. We have proved we can do good work. We will continue to do it.

GENERAL LEAVE

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the further consideration of H.R. 5025 and that I may include tabular material on the same.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 770 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5025.

☐ 1044

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, with Mr. SIMMONS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, September 21, 2004, amendment No. 2 printed in the CONGRESSIONAL RECORD by the gentleman from Florida (Mr. DAVIS) had been disposed of, and the bill had been read through Page 166, line 3.

AMENDMENT NO. 12 OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Ms. WATERS:

At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available in this Act may be used to implement any sanction imposed by the United States on private commercial sales of agricultural commodities (as defined in section 402 of the Agricultural Trade Development and Assistance Act of 1954) or medicine or medical supplies (within the meaning of section 1705(c) of the Cuban Democracy Act of 1992) to Cuba (other than a sanction imposed pursuant to agreement with one or more other countries).

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentlewoman from California (Ms. WATERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. WATERS).

☐ 1045

Ms. WATERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a very simple amendment. The United States has a trade deficit. We are not able to sell our goods abroad in the way that we should be able to do it.

Cuba has been literally dying for us to sell them goods. We finally had the good sense to open up the way for the sale of agricultural commodities, medicine and medical supplies to Cuba, and they are buying, but they have to pay cash on the barrel head. So this amendment would prohibit the use of funds to implement sanctions on private commercial sales of agricultural commodities, medicine and medical supplies to Cuba.

U.S. exports of agricultural products and medical supplies to Cuba have been legal since 2001. However, American farmers and other exporters must maneuver through a myriad of restrictions in order to export these products to Cuba. Exporters are denied access to export assistance, credit guarantees and private commercial financing. All transactions must be conducted in cash in advance or with financing from third countries. These restrictions make trade with Cuba unnecessarily expensive, bureaucratic and complicated.

The effect of my amendment would be to free exporters from the need to comply with these cumbersome regulations.

The people of Cuba need food and medicine. Their needs have never been greater than they are now, following the devastation caused by Hurricane Ivan. Cuba is one of several islands in the Caribbean ravaged by Hurricane Ivan, and the people of Cuba are trying to recover from the extensive damage caused by this terrible storm.

The people of Cuba are more than willing to purchase food and medical supplies from their American neighbors. American exporters have already exported $210 million in products to Cuba in the first 5 months of this year despite the cumbersome restrictions involved, and they can expect to increase their market share significantly if they are freed from these restrictions.

U.S. agri-business companies have estimated that U.S. farmers are missing out on a market of $700 million in Cuba because of these restrictions. Removing the prohibition on private financing would be especially helpful to smaller companies and individual farmers. Small businesses cannot afford to export goods to a foreign country without financing.

My amendment would ensure that American exporters could use private financing to export agricultural products and medical supplies to Cuba. A similar amendment was offered by my colleague, the gentleman from Kansas (Mr. MORAN), and was adopted by the House on July 23, 2002. Unfortunately, this amendment was not included in the conference report.

Other countries, like China, Germany and Canada, permit trade with Cuba, and these countries have financing arrangements that facilitate exports to Cuba. If the United States continues to make exports of food and medicine unnecessarily difficult and complicated, American companies will continue to be left out.

My amendment would ensure that American exporters could use private financing to export agricultural products and medical supplies to Cuba. Exports of food and medicine to Cuba are good for the American economy and they are good for the people of Cuba.

Mr. Chairman, I would urge my colleagues to adopt this amendment. I know that there are Members of this House who strongly dislike Fidel Castro. I know that there are Members who would do whatever they could to disadvantage that island. But I think it does not make good sense to cut off your nose to spite your face. We have all of these small businesses that want to do business with Cuba. Cuba wants to do business with us. We need to get rid of these restrictions so that they can have the kind of credit and financing from private companies, so that they can buy more and more and more.

How are we ever going to get rid of this trade deficit if we are not smart enough not to let some of the political ambitions of a few of our colleagues get in the way of what is good for America? We are sitting right down here 90 miles from Cuba in Florida with a lot of folks who want to do business with them. It is time to change our policies and go in a new direction.

It is time also to show people that we are willing to do the right thing. How can we sit here and know that people need the food, we need the money, and not allow it to happen?

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. SIMMONS). The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 5 minutes.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is important that the facts be clear: The sale of agricultural products and medicine to Cuba, even to the regime, is legal. The only requirement is that they have to pay.

Now, I was involved in a negotiation with a number of Members of this House some years back. It was a very detailed and difficult negotiation, but an agreement ensued that permitted the sale of agricultural products. The sale of medical products had been legal since 1992. The agreement permitted the sale of agricultural products even to the regime, as I said, Mr. Chairman, as long as the regime paid.

Now, even the economic interests that do business with the regime have made it clear that they want to be paid. What the discussion is about today is financing for the dictatorship, to make available financing for the dictatorship.

Amendments seem to find their way to this floor, no matter how much repression and torture the Cuban dictator engages in against his people, no matter how many people he imprisons simply for their views, no matter how much he tortures the people whom he imprisons. No matter how many people he even murders because they try to seek freedom, amendments manage to find their way to this floor to reward the tyrant. So now there is one amendment here that seeks to reward the dictator with financing.

What we are saying is, there has really never been a time to reward a dictatorship for repression and jailing of opponents and the murder of opponents. There has never been a time for that. Much less is there a time now, after the dictator has increased repression.

So on the issue of financing, I would simply remind my colleagues again that even those who sell to the dictator wish to be paid. Even those who sell to the dictator have said that they like the fact that they have to be paid, that they know that the dictator owes billions of dollars to people who have offered financing to him from other places of the world. What we do not want is to increase the amount of debt that the dictator owes, this time to Americans, much less to Americans who might then wish to have the taxpayer later bail them out.

The bottom line is that the sale of agricultural products is legal, that the sale of medical products has for a long time been legal, and that the only requirement is that the dictator pay. So we do not think that it is appropriate now to reward the dictatorship with financing. Even the people who sell are not pushing for that, because they like the fact that they get paid.

Mr. Chairman, this amendment is really in bad taste, especially when you consider the torture that the political prisoners are being subjected to. Those are the future leaders of the Cuban congress, those are the future leaders of the judiciary and, in fact, the future presidents of the Republic of Cuba, people who today are languishing in prison being tortured; and we owe at the very least to them not to reward this dictatorship with financing that even those who sell products are not seeking.

Mr. Chairman, I would simply ask my colleagues to reject this amendment, which is in bad taste and seeks to reward the dictatorship, and remind our colleagues that the sale of medical products and of agricultural products even to the regime is legal. The only conditions are that the regime pay.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentlewoman from California (Ms. WATERS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Ms. WATERS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Ms. WATERS) will be postponed.

AMENDMENT OFFERED BY MS. LEE

Ms. LEE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. LEE:

At the end of the bill (before the short title), insert the following:

SEC.   . None of the funds made available in this Act may be used to implement, administer, or enforce the amendments made to paragraphs (a) and (b) of section 515.565 of title 31, Code of Federal Regulations (relating to specific licenses for United States academic institutions and other specific licenses), as published in the Federal Register on June 16, 2004 (69 Fed. Reg. 33772). The limitation in the preceding sentence shall not apply to the implementation, administration, or enforcement of section 515.560(c)(3) of title 31, Code of Federal Regulations.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentlewoman from California (Ms. LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is very simple. It prohibits funds in this bill from being used to enforce new regulations promulgated on June 30 that severely restrict and in many cases eliminate opportunities for United States students to study abroad in Cuba.

These new election year regulations take our policy toward Cuba in the exact wrong direction. Many of these regulations are just plain undemocratic and punitive, and simply do not make sense for Americans.

Regulations that have already and will continue to deny many American college students the basic opportunity to gain experience, knowledge and insight through study abroad in Cuba should not be funded. In fact, not only were many study-abroad programs to Cuba effectively eliminated by these new regulations, most of the schools received little advance notice of the restrictions. Sadly, it is the students who suffered from this short notice. By the time the students were finally informed of the program cancellations, it was simply too late for them to make new study-abroad arrangements.

Goucher College, Johns Hopkins University, Howard University, Siena College, Butler University, the College of Charleston and Tulane University, just to name a few, were affected by these regulations. In my home State, the University of California coordinates study-abroad programs to Cuba and will be forced to cancel its popular programs next year.

This is an issue of freedom for our students to travel and gain invaluable experience and educational opportunity that only international study-abroad programs can provide. Our students can travel and study abroad in Communist countries such as China and Vietnam.

Make no mistake, isolating Cuba and preventing these important contacts between Cuba and students will not change the government in Cuba. We should allow these students to exchange ideas, values and share experiences. These types of exchanges are what will truly bring change to Cuba.

This amendment is straightforward, Mr. Chairman, and should not be controversial. We are talking about mainstream family values: education, freedom to travel, freedom to learn and the freedom to export our American values.

The State Department and the 9/11 Commission have both stated that our youth are key to spreading American values. Patricia Harrison, Assistant Secretary of State for Educational and Cultural Affairs, stated before the Committee on International Relations on which I serve that "one of our greatest assets in public diplomacy is the American people themselves. Programs that bring Americans and foreign citizens in direct contact can and do have tremendous positive impact."

The recommendations of the 9/11 Commission report state that we must "rebuild the scholarship, exchange and library programs that reach out to young people and offer them knowledge and hope."

I cannot agree more. It is in our best interests to allow our youth to spread our message of American values and hope so that people can see for themselves who America is and what we stand for.

So today I stand against squandering our resources to enforce these ineffective, outdated policies as they relate to education, and I ask Members to support the ranks of American students to be educated, to travel abroad, to gain experience and to make judgments for themselves.

□ 1100

I urge my colleagues to vote yes on the Lee-Tubbs-Jones amendment, and I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 5 minutes.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is another "reward Castro" amendment. Reward the firing squads, reward the imprisonment of the opponents. That is what this amendment is all about.

It is already legal to travel. There are 13 legal categories of travel. One of them is for educational purposes. You have to get a license. You get a license. You go, and you do your travel for educational reasons.

So this amendment simply wants to eliminate all of the regulations.

I would say, it is not going to survive the process. We know that. So what is it? The goal of this amendment is to provide another symbolic victory for the dictatorship, to reward the oppression.

These amendments continue to find themselves on the floor. The reality of the matter is that the facts are pretty clear. As I said before, there are 13 legal categories. One of them is educational travel.

I would simply ask my colleagues to remember those people in the gulag today, those people suffering the full force, the brute force of the repression of that futile totalitarian tyranny.

When they receive these messages at the hands of their jailers of these symbolic amendments, victories that are presented and sometimes passed in the Congress of the United States, how it must make you feel when you are imprisoned. Nevertheless, they continue to resist. They continue to embody the dignity of the Cuban nation, in the totalitarian gulag. They continue, because they are the embodiment of the best of the Cuban nation, the future of Cuba. There are so many men and women in the gulag who deserve such extraordinary respect.

So I would ask my colleagues not to send more messages to them, that the Congress of the United States passes amendments to provide moments of pleasure for the tyrant. Because that is all it is. That is what these amendments that unfortunately continue to make themselves here, they reach the floor, that is what these amendments are.

Ms. LEE. Mr. Chairman, I yield myself such time as I may consume.

Let me just respond to my colleague and say, first of all, this amendment is specifically about United States students, American students who want to visit under their educational programs to study abroad. As I said earlier, students are afforded study-abroad opportunities in a variety of countries. They should not be denied the right to pursue their educational opportunities in countries in which they desire to participate.

Secondly, students are our best ambassadors. They are young people who are very patriotic. They care about America. They want to engage in dialogue with students throughout the world, especially in Cuba. And denying them that right really is a terrible thing, first of all, for our students, but it sets back our foreign policy.

We are talking about creating a global environment of peace and security. How in the world are our future leaders of the world going to be able to understand and relate to countries abroad if they do not have the opportunity to study there? It is a very important initiative, and we should not be using taxpayer dollars to deny United States, American students to travel to Cuba to study.

Under the old regulations, of course, they could go to study. Now they have to stay more than 10 weeks under these regulations. It is ridiculous. It is going to hurt our students. It is going to hurt education. It is bad for family values. I urge my colleagues to pass this amendment.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. MARIO DIAZ-BALART).

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, I just want to again clarify that, right now, you can go to Cuba for educational purposes; you just have to get a license. So the only reason for this amendment is to symbolically tell the Castro anti-American dictatorship, terrorist dictatorship, that we like you. That is all this amendment does. Students can go to Cuba if they get a license.

So despite the fact that the Castro regime continues to imprison and despite the fact that the Castro regime has murdered Americans, murdered American citizens, has American blood on his hands, this amendment would just like to give him a nice pat on the back and say, even though Americans can go with a permit, with a license to get education, go for educational purposes to Cuba, we want to give you a gift, Mr. Castro. Despite the fact that you murder Americans, we want to give you a gift, and here is a little token gift. Because, again, it is not going to happen. It is not going to pass the process, but we just want to show that we support that anti-American dictator who has American blood on his hands. It is a very sad statement.

Again, fortunately, none of these issues ever happen. But, again, that is all this amendment is. It is to show that anti-American dictator, that terrorist 90 miles away, that this amendment supports, still supports that dictatorship. That is all this does, Mr. Chairman.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I think we have made our points. We oppose the amendment strongly.

Mr. Chairman, I yield back the balance of my time.

Mrs. JONES of Ohio. Mr. Chairman, I rise in support of the Lee-Rangel-Tubbs Jones Amendment to H.R. 5025—Transportation, Treasury Appropriations Act for fiscal year 2005. The Lee-Rangel-Tubbs Jones Amendment prohibits the use of funds to enforce new regulations that affect students who study abroad or seek other educational opportunities in Cuba.

America students have become victims of politics, which should not be the intent of U.S. foreign policy. The Office of Foreign Assets Control's (OFAC) purpose is to track terrorist activities, not punish Americans interested in educational exchanges to Cuba.

Members of Congress, especially Members of the Congressional Black Caucus, and the Progressive Caucus, have written and called President Bush and Secretary Powell about the students at the Latin American Medical School (ELAM) and the cuts in general education licenses.

All people-to-people educational travel was eliminated in 2003, which ended thousands of trips by U.S. citizens to Cuba for broader educational purposes each year. Mr. Speaker, these facts make the Lee-Rangel-Tubbs Jones Amendment necessary.

The number of U.S. university-level students receiving credit for study abroad in 2001/02 increased 4.4 percent from the previous year, reaching a record total of 160,920, according to Open Doors 2003, the annual report on international educational published by the Institute of International Education (IIE) with funding from the State Department's Bureau of Educational and Cultural Affairs.

Open Doors 2003 indicates that most students continue to study abroad for shorter sojourns (many for less than eight weeks), with more than 50 percent of U.S. undergraduates and masters degree student electing summer, January term, internships, and other short-term programs instead of academic year or semester programs. Most American students who studied abroad in 2001/02 (91 percent) did so for one semester or less.

The number of U.S. students going to less traditional destinations remains high. The percent of all study abroad students going to Latin America has more than doubled since 1985, from 7 percent the first year of the survey to 15 percent this year, and the number of students going to Latin America increased by 4 percent to 23,300 this year.

Many countries, particularly in Latin America, saw large increases in the number of American students they hosted in 2001/02. Countries with large increases included: Cuba (1,279, up 41 percent), Brazil (1,064, up 40 percent), and El Salvador (145, up 86 percent).

Current regulations adversely effect study-abroad programs in Cuba. Educational travel licenses are only granted to undergraduate and graduate institutions. Under the revised regulations, students can only participate in exchange programs to Cuba that are organized by the institution in which they are enrolled. High schools or other alternative educational institutions are prohibited from having Cuba travel programs.

This directive adversely affects many of my constituents as it is in complete discord with the objective of consortium programs. These young people will be restricted from participating in programs coordinated by other colleges and universities.

Take example of Jamie Vega, a student at Cleveland State University. She was raised in a single family home, was the first person in her family to attend college on a full scholarship. Jamie was an International Relations Major and Spanish Minor. She was awarded the National Security Education Program Scholarship in 2003 and studied at the University of Havana. Due to this Administration's prohibition on educational exchange opportunities to Cuba, other students will not be able to benefit from the rich experiences that Jamie profited from. Mr. Chairman, these facts make the Lee-Rangel-Tubbs Jones Amendment necessary.

In August, the Office of Foreign Assets Control (OFAC) within the Department of Treasury and the State Department issued a two-year license for the 88 students enrolled at the school.

For those students who planned to participate in 10-week exchange programs this year, it is too late for them to make alternate study-abroad arrangements. Even worse, this may have been their only opportunity to study abroad.

These regulations discriminate against these students on the basis of where they want to continue their studies. Full-time American students should be permitted to participate in any exchange initiatives that their institution approves.

Mr. Chairman, I rise in support of the Lee-Rangel-Tubbs Jones Amendment to H.R. 5025—Transportation, Treasury Appropriations Act for fiscal year 2005. The Lee-Rangel-Tubbs Jones Amendment prohibits the use of funds to enforce new regulations that affect students who study abroad or seek other educational opportunities in Cuba.

Ms. WATERS. Mr. Chairman, I rise to support the Lee amendment to prohibit the use of funds in this bill to implement the Administration's new restrictions on travel to Cuba for educational purposes.

These new restrictions prohibit American students from participating in educational programs unless they were organized by the institution in which the students are enrolled. Students would not be allowed to participate in programs organized by other colleges or universities. This would deny students the opportunity to study in Cuba unless their own institution has its own program in Cuba. This unreasonable restriction could prevent thousands of American students from studying abroad in the country of their choice.

Throughout the Cold War, American students studied in the Soviet Union. Many of them went on to become diplomats, scholars and policy-makers who used the knowledge they gained to contribute to the development and implementation of U.S. foreign policy. Similarly, many Americans are studying in the People's Republic of China today. There is no reason to treat study in Cuba differently.

Study abroad provides valuable educational experiences for American students and contributes to the development of knowledgeable and informed professionals who can use their knowledge to serve our country in the future. I urge my colleagues to support the Lee amendment and support educational opportunities for American students in Cuba and throughout the world.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. LEE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RANGEL:

Page 166, insert after line 3 the following new section:

SEC. 647. None of the funds made available in this Act may be used to implement, administer, or enforce the economic embargo of Cuba, as defined in section 4(7) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114), except that the foregoing limitation does not apply to the administration of a tax or tariff.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentleman from New York (Mr. RANGEL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think that in view of the victory that the gentlewoman from California (Ms. LEE) has had, that maybe, just maybe, there is a breath of fresh air entering the House where we can say, let us stop this punitive approach to Cuba and the Cuban government, and let us start a common sense approach.

The gentleman from Florida makes it appear as though we are rewarding a dictator for not upholding the principles of democracy. None of us here want to do that. Some would say that we have a disregard for the loss of life or the imprisonment of people unfairly, as we all agree is wrong and immoral and indecent, but that is not so. We are not talking about rewarding; we are talking about normalization. We are talking about the United States of America's principles. We are talking about Americans who feel so proud of what we believe in that we do not let any nickel-and-dime dictator prevent us from taking our message to the people, the people in Cuba.

For 40 years, we have taken this nonsensical approach that we are going to punish the Cuban people, deny them access to our markets, deny them financial assistance, notwithstanding the pain and cruel treatment that nature has given to them through hurricanes, notwithstanding the poverty in the country, and we have had this belief on our side, at least some of us on both sides, that the American approach, if properly presented to the people, will prevail; not guns, not bombs and not penalties, but the American way.

We believe that trading with people is a way for our business people to be ambassadors of the free market system. As the gentlewoman from California (Ms. LEE) said, we believe our kids are better than any ambassadors that come out of the State Department when they talk about life in the United States. We believe our farmers and our business people, they really know how to talk to these people about doing the right thing. But if what we are saying is that we are afraid of Castro and we are afraid of communism, then I suggest to my colleagues that we ought to get the heck out of China. We ought to get out of Vietnam. We ought to restore sanctions against Libya, and for God's sake, if we are looking for a democracy, we have a long march in Pakistan to find it.

We believe we are powerful enough that we are on the right side of the issue, and for those who are afraid of the truth, then jam their stations, jam their TV, have no communications with these people and just say that we will prevail, because we are powerful enough to bring not Castro down to his knees but the people who are relying on a little assistance from their friends in the United States.

I do not think you have to be Cuban-American, I do not think you have to represent Cuban-Americans to understand what compassion is. But I will tell my colleagues one thing, I would hate to represent a district that had families in Cuba, after this horrific hurricane where people are in real pain economically and socially, and I wanted to send them some money, I wanted to visit, I wanted to see who got hurt, I may have wanted to go to a funeral, but I have to say that my heart, my compassion, my country, we are with you, but because we hate with such vengeance your president who has survived so many of ours, we will not be able to help. That, I think, is a more difficult position than to say that you are against communism.

Mr. Chairman, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

A year ago, I was in New York, and I read a newspaper there, the daily called La Prenza, and there was an interview with the gentleman from New York, the author of this amendment. It related to the summary executions that had just taken place by Castro of three young black men just a few days before, after they had been arrested by the dictatorship for the crime of trying to come to the United States.

I quote from the gentleman from New York (Mr. RANGEL) a little over a year ago: "I am shocked. There is nothing that the Cuban government can tell me that would interest me and that would convince me to speak to them again. It is totally incredible that a government would justify this type of action. The execution of these people puts an end to any possible discussion that there could have been with the Cuban government."

Now, I wish, Mr. Chairman, that I could say that there has been some justice for those summary executions, the murders of those three young men. I wish I could say that the dictator at least had apologized to the grieving family members for their murders.

No, there has been no justice, only increased repression. I showed last night a replica of the punishment box for the best known political prisoner, a physician, Dr. Biscet, who is being held today because he believes in freedom and democracy. After this amendment, I certainly will always recall that it is more important when one truly wants to understand someone to guide oneself by what that person does rather than by what he says.

This, as the gentleman has just stated, is the "normalization of relations" amendment, the "normalization of relations with the Cuban dictatorship" amendment.

Now, the charter of the OAS may say of this hemisphere, only representative democracy is legal, legitimate, and the democratic charter of simply 2 or 3 years says that any interruption in the democratic process in this hemisphere needs to be sanctioned. But this amendment says: No, you can ban elections for 45 years. You can crush labor unions and crush the free press and eliminate and prohibit all political parties and freedom of expression and execute people, including three young black men just a year ago for trying to get to freedom, and imprison them and torture them. And you can kill Americans, and you can harbor terrorists. And you can harbor fugitives from U.S. justice, including cop killers from our States here.

□ 1115

You can do all of that. And you will get an amendment that says let us normalize relations. You can continue to harbor terrorists, and you can continue to harbor U.S. felon fugitives who murder U.S. citizens and spy on the United States and disrupt antiterrorism operations. We will still normalize with you. That is what this amendment is.

So this is very good that this amendment be on the floor today because this is, after all, the debate about economic interests and debate about the coalition of forces that have advocated for the last years for normalization. This is important debate for our colleagues to express themselves on. After 45 years of illegal oppression in this hemisphere, that is the only one where its international law requires representative democracy, and great strides have been made in recent decades towards compliance with that legal international law requirement.

This amendment says, no, in the Western Hemisphere it is all right to oppress for 45 years and murder and execute and torture and spy on Americans and harbor fugitives and harbor international terrorists and disrupt the U.S. international war on terrorism. It is all right. We will reward you. We will normalize, we will grant you the billions of dollars unilaterally without the dictatorship having to release any political prisoners or move towards freedom for its prisoners. We will reward you unilaterally anyway.

I would ask this Congress of the United States that I hold with such reverence to stand with the Cuban people today and to reject this amendment that simply seeks to reward oppression and reward infamy.

The CHAIRMAN. The gentleman from Florida's (Mr. LINCOLN DIAZ-BALART) time has expired. The gentleman from New York (Mr. RANGEL) has 30 seconds remaining.

Mr. RANGEL. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me be brief. It is clear that this is a very emotional issue. All I can say is that in 1950 when I was shot by the Communist Chinese on the Yalu River in North Korea, I was emotional as well. They told me to get over it.

I do not know how many tens of thousands of American lives were lost as a result of the Communists in North Vietnam. When the trade agreement came up, they said, Get over it. The families of those that were killed by the Libyan terrorists in Flight 103, they objected to trade and they said, Get over it. I would suggest to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) he has to get over it.

Ms. WATERS. Mr. Chairman, I rise to support the Rangel amendment to prohibit the use of funds to enforce the economic embargo on Cuba.

If Congress were serious about our relationship with Cuba, Congress would pursue a policy of negotiation and diplomacy—not isolation. Such a policy would allow the export of seeds, agricultural tools, and other products, which are desperately needed by the Cuban population. Instead, Congress is allowing the continuation of its out-dated embargo against this small country, which is only 90 miles from America's shores.

I urge my colleagues to support the Rangel amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. RANGEL).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. RANGEL. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. RANGEL) will be postponed.

VACATING DEMAND FOR RECORDED VOTE ON AMENDMENT NO. 12 OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I ask unanimous consent to withdraw my request for a recorded vote on Waters Amendment No. 12 and to have the Chair put the question de novo.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

The CHAIRMAN. The question is on amendment No. 12 offered by the gentlewoman from California (Ms. WATERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OLVER

Mr. OLVER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OLVER:

At the end of the bill (before the short title), insert the following:

SEC. ___. None of the funds made available under this Act may be used to issue or implement the Department of Transportation's proposed regulation entitled Parts and Accessories Necessary for Safe Operation; Certification of Compliance With Federal Motor Vehicle Safety Standards (FMVSSs), published in the Federal Register, volume 67, number 53, on March 19, 2002, relating to a phase-in period to bring vehicles into compliance with the requirements of the regulation.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentleman from Massachusetts (Mr. OLVER) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, my amendment is a simple funding limitation which says that no funds from this bill can be used to implement a Federal Motor Carrier Safety Administration's rule published in the Federal Register on the 19th of March 2002 in so far as it relates to a phase-in period to bring vehicles into compliance with the requirements of the regulation.

The background here is essentially this: current law requires all motor carriers with minor exceptions entering the United States to comply with U.S. safety standards. Under the North American Free Trade Agreement, Mexican trucks were to operate throughout the four border States by 1996 and in all States by the year 2000. Deep concerns were raised about truck safety if that schedule were to be met and audits which were ordered by the Congress and done by the Transportation Inspector General, Kenneth Meade, in the late 1990s, showed that only a tiny fraction, only 1 percent really, of all trucks were being inspected for safety compliance, and even of those, 50 percent were failing. Driven by those audit results, corroborating the intense safety concerns, Mexican carriers have been limited to shipping to border zone transfer points and trans-shippings by carriers which comply with the U.S. safety requirements.

To move towards full implementation of NAFTA, the administration issued a proposed rule 30 months ago in March of 2002 to establish a process for implementation. Under that rule, all new foreign carriers licensed after the effective date of the rule and all carriers wishing to expand beyond the service area, beyond the border zones after the effective date of the rule, must have certification of testing meeting U.S. safety regulations. But those carriers operating only in the border zones would have 24 months to obtain certification, so that 24 months after promulgation of that March 2002 rule, all motor carriers operating in the U.S. would comply with U.S. safety regulations.

Now, the March 2002 regulation was held up in court actions that went all the way to the Federal Appeals Court for the ninth district and in June of this year, earlier this year, the Supreme Court reversed the appeals ruling unanimously, thereby clearing the last major hurdle to promulgation of the March 2002 rule. Small obstacles remain, but we are close to full implementation of the NAFTA provisions.

Mr. Chairman, every one of the foreign carriers operating in the U.S., both in the border zone and beyond, have known for 20 months, Canadian carriers, Mexican carriers, all of them, that this rule was pending and moving towards promulgation. They could and certainly should have gotten all their vehicles certified long before now. It would now be grossly unfair to add another 24 months on top of the already 30 months which has passed in terms of the competition with fully compliant U.S., Mexican, and Canadian carriers operating in the U.S.

Furthermore, that extra 24 months would prolong the still lingering safety concerns again and create a chaotic inspection and enforcement situation.

My amendment essentially says, promulgate the rule, comply with NAFTA, let all motor carriers which comply with U.S. safety laws, let all of them operate throughout the U.S., but do not give 24 months more on top of the 30 months which has already passed since the proposed rule was published and everyone knew about it to meet the safety regulations which are United States law.

Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Oklahoma (Mr. ISTOOK) is recognized for 15 minutes.

Mr. ISTOOK. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding me time.

I rise in opposition to the amendment offered by the gentleman from Massachusetts (Mr. OLVER). As my colleagues are aware, or should be aware, this is yet another chapter or maybe another page in the book on the implementation of the NAFTA agreement.

NAFTA carries two major provisions when it comes to trucking transportation: one on market access for transportation services, the other relates to cross border investment in the transportation sector. All three countries that are party to NAFTA, Canada, Mexico and the United States, have successfully implemented the provisions on crossborder investment. It is only the United States that has not implemented its commitment for full border market access in transportation services.

For years now the U.S. has fudged, has reneged on this provision of the NAFTA agreement due to spurious claims and lawsuits linked to purported safety and environmental concerns. That was recognized as being spurious by the United States Supreme Court when in an absolute unanimous decision they threw the lawsuits out and said, get on with it, move on, allowing the U.S. now to fulfill its NAFTA obligations, all the while achieving high levels of safety in environmental protection that our citizens expect.

Let us review a few facts of this debate. The Department of Transportation is not planning to exempt any Mexican trucks from the underlying motor vehicle standards. The gentleman from Massachusetts (Mr. OLVER) implied that that was the case, that we are talking about the standards. We are not talking about the case for vehicle safety. All Mexican carriers have to certify that their vehicles comply with the core safety standards in order to receive operating authority. The amendment of the gentleman and the line of argument that he is using is referring to a grace period that is for labeling of trucks that are manufactured 10 or more years ago. It is important for Members to understand that the mere possession of the label or not has nothing to do with actual vehicle safety. All trucks, all trucks, if they have the label or if they do not have the label have to be in compliance with the actual safety standards themselves.

Let me say this a little differently and be more specific. All Mexican trucks will need to meet what are known as the Federal Motor Carrier Safety Regulations, or the FMCSR requirements, in order to operate in the United States. All trucks, it does not matter when they were manufactured, all trucks have to meet those standards in order to operate in the United States. Regardless of whether or not they have a label certifying their manufacturing standard at the time of their production, these trucks are going to be held to a higher, more inclusive standard than is mandated on their operators. Furthermore, these standards measure how their trucks are operating today. That is a far more relevant fact than what it was when they were manufactured 2, 5, or 10 years ago.

I urge my colleagues to oppose this amendment. Ten years ago the United States made a commitment to free trade, and it included the transportation sector. If this amendment passes, it once again represents the United States turning its back on its trading partners. It once again says we are really not reliable. When it comes down to it, we will find ways to avoid complying with it.

I would hope my colleagues will say meeting our legal commitments makes a difference and is something that is important.

Members should understand that this amendment shrouds itself in the name of consumer protection, but it is really all about protectionism. We should not pass on the high cost of protectionism to the U.S. consumers once again. Failure to provide market access in this sector means that U.S. consumers using transportation services in North America needlessly pay the high cost of protectionism benefiting a small, but highly mobilized, interest group.

I think we know what we are talking about here. We are talking about one special interest group, the Teamsters. For Members who are focused on making sure that the U.S. remains competitive and generates jobs, we need to know that failure of our commitments means that U.S. manufacturers and farmers are going to be hurt.

I urge my colleagues to vote "no" on this amendment.

This issue is not about highway safety. It is not about consumer safety. It is not about the environment. Pure and simple, this amendment is about protectionism.

Mr. OLVER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Michigan (Ms. KILPATRICK), a member of the subcommittee.

□ 1130

Ms. KILPATRICK. Mr. Chairman, I thank our ranking member for allowing me the 2 minutes.

I am a member of the subcommittee. We did have extensive debate on this issue, but more than that, my district is a border city. The State of Michigan and the country of Canada border each other. Part of my district carries these trucks and buses.

What the Bush administration wants to do is to not have some trucks and buses, some foreign trucks and buses inspected. At a time of terrorism, is that not about the Teamsters? At a time of terrorism, inspection is what all trucks and buses must have. As one who represents thousands of people who live in a border city, I want all the buses and trucks inspected, and so do all the people who live in my area.

As the Bush administration asks for some of them to be exempted, I think that is wrong. How can we talk about terrorism on one hand and then want to exempt some of the buses and trucks that come into my district and in other border cities around the country?

The Olver amendment would not allow that administrative rule to go into effect. It is simple. It is not hard to understand. Thousands of buses and trucks come into my district every day. We have the largest border crossing in America, with over $1 billion of commerce coming every day. I want all the buses and trucks inspected and inspected thoroughly. I do not want any exempted.

This is a good amendment. We must support it to protect American citizens who deserve our respect.

Mr. ISTOOK. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Chairman, I rise in strong opposition to this amendment. The free flow of goods, services, ideas and capital is very important, especially in this 21st century economy.

Obviously, we are all concerned about safety. The last speaker was just referring to the issue on terror. Inspections are a very high priority, and they are a very important part of this issue.

Three years ago, this Congress passed legislation which put into place 22 specific guidelines for the Department of Transportation. We have already exceeded those 22 guidelines, which are very, very important for us to meet, but as my friend the gentleman from Arizona (Mr. KOLBE) said, this is now actually the 11th year since the landmark passage of the North American Free Trade Agreement; and by the way, we need to realize that today we have nearly a third of $1 trillion in cross-border trade between Mexico and the United States, having improved standard of living, the quality of life on both sides of the border.

Obviously, this issue is an important one, but I will never forget a study I saw when this issue first came to the forefront on truck safety. What it found was that there were greater violations when it came to safety on trucks coming from Canada and on trucks that existed right here in the United States of America than there were on those coming from Mexico.

So, yes, we want to make sure that we maintain the safety and the security of our roads. That is a top priority. We already have in place a mechanism to do just that.

I urge a "no" vote on this amendment.

Mr. OLVER. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, the amendment of the gentleman from Massachusetts will protect safety on our roads by requiring foreign commercial vehicles, that means trucks and buses, to meet the same standards as U.S. trucks and buses. This is not anti-NAFTA. This is not a pro-Teamsters issue. I-35 goes from my district all the way to the Mexican border. I do not want those unsafe Mexican trucks rolling up into Minnesota, up into Duluth, rolling down the hill to Lake Superior and killing people.

Our U.S. safety standards are set by the National Highway Traffic Safety Administration, inspected by the U.S. Department of Transportation, and require a certification label. Yes, it does require a label and that label means something. It means that each vehicle has been built in compliance with U.S. standards, specifically antilock brakes, automatic slack adjusters for heavy vehicles and for trucks, rear underride guards that save lives when there is a rear-end accident.

I have been at the border. I have seen those trucks from Mexico. We funded Mexico for training of inspectors who do not inspect. They go off to do something else. We do not have enough money in our inspection budget to place inspectors at the border to check those trucks and make sure they are in compliance. That is what we need.

All those trucks and buses operating in the United States comply with U.S. safety standards for a good reason. We do not want people being killed on roadways in the United States. Five thousand people a year are killed by car-truck crashes in the United States. If we let those unsafe trucks in from Mexico, that number will go up astronomically. We cannot allow that.

This is a safety issue. This is not a trade issue. If they make sure that they comply, they can come into the United States. Meet our standards. Meet the same standards that U.S. trucks and buses have to meet in this country. Let us not have one standard for the U.S. and another standard for trucks and buses coming in from Mexico. Those that come in from Canada already are in compliance by 85, 95 percent. Let us have fairness and, yes, protect but protect American lives on our roadways.

Mr. OLVER. Mr. Chairman, may I ask how much time is remaining on each side?

The CHAIRMAN. The gentleman from Massachusetts (Mr. OLVER) has 7½ minutes remaining, and the gentleman from Oklahoma (Mr. ISTOOK) has 8½ minutes remaining.

Mr. ISTOOK. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding me time, and I just want to respond to a couple of things that were said here today.

This does not have anything, let me repeat it, this does not have anything to do with the safety standards of the trucks that are traveling on the roads inside the borders of the United States. It does not have anything to do with the safety standards of those trucks. It has to do with the labeling. It has to do with when they were manufactured 10 years ago these trucks were assembled, they are usually U.S. trucks, they are assembled perhaps in Mexico or Canada, but they were not being assembled for use in the U.S. market so they do not have the label. It is hard now to go back and get that.

To come into the United States, every single standard that is required of the truck here in the United States has to be met by that truck coming in from Mexico. Antilock brakes, all the different things that are required of trucks here, all those have to be proven, and they have to be on there and exactly in the same way.

This simply has to do with a labeling requirement at the time of assembly of that truck, and in many cases when it took place 10 years ago, that label is not readily available. So they have to go back to the manufacturer and get all the information that is required.

The gentleman said there were 5,000 people killed last year by truck-auto accidents, and I am sure he is correct about that. How many of those people were killed by an uninspected truck coming into the United States from Mexico? How many of those were killed by that? Accidents occur, but they are not going to occur in any greater number because we have trucks coming in from Mexico that are going to be thoroughly inspected, are going to meet all of the requirements, are going to meet everything that is required on any truck that is operating on the roads in the United States, and the operator has to meet the same kinds of standards.

Let me just make it clear that we are meeting the same kinds of standards. The trucking standards are not being changed. We are talking only about a labeling issue.

This is a bogus amendment. It is a protectionism amendment. It is designed to keep Mexican trucks out of the United States. It has nothing to do with safety.

Mr. OLVER. Mr. Chairman, I yield myself 30 seconds.

If the gentleman says that this is only about labeling, then they are still going to have to get that label. The issue is that they could have started getting that label 30 months ago, and it will be several months before the rule can be promulgated in which they can get the label.

All I am saying is, promulgate the rule and let them get the label, and then they will be in fine shape.

Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, this is not like the label on a mattress that says, "Do not remove under penalty of law." This is a meaningful certification of the manufacturing and the proper equipping of these trucks.

There are many trucks operating in Mexico that do not meet U.S. standards, and what is being advocated on that side is a new faith-based safety standard. Why is it faith-based? Because there is no meaningful inspection going on in Mexico. These trucks do not have a certification on the labels, which they say are meaningless, and we do not have the inspectors at the border to inspect them on the way in because they say we cannot afford it. That is what is going on here.

These trucks will flood into this country. No, there have not been a lot of fatalities involving these trucks because we do not let them go more than 20 miles from our border, but let them go rumbling up I–5 into Oregon and Washington, let drivers who do not have to keep a logbook, they are not trained like our drivers, they are underpaid, operating trucks that do not have the safety equipment of our trucks, and people will die, plain and simple.

Why should there be unequal treatment? Why? That is what my colleagues are advocating here. The people who operate the trucks in the U.S. have to have these labels, which are meaningful. The Canadians have these labels and standards, but these trucks in Mexico, many of which do not meet our standards, do not have the labels.

As the gentleman said, they are all going to be inspected. By whom? Answer that question. The Mexicans will not allow Americans into Mexico to inspect them, the Mexicans are not inspecting them, and we do not have enough people at the border. People will die if we do not adopt this amendment because of unsafe trucks entering our country.

Mr. ISTOOK. Mr. Chairman, I reserve my time to close.

Mr. OLVER. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. OLVER) very much for the time, and I rise to speak in support of the amendment.

It is really just a common-sense amendment that will uphold U.S. certification for trucks to improve safety. I do not think anybody can question my record on trade. Seventy percent of the economy in my district depends on trade. I voted for NAFTA, took a lot of heat for it, but knew it was the right thing to do at the time.

However, if we insist on our trucks being certified for safety, we should insist on others. We have code-sharing for our airlines, and a whole lot fewer people get killed in airplane crashes than on trucks. About 800 commercial drivers die each year in traffic crashes, and roughly 4,900 people die and 130,000 are injured from these large truck accidents, and a lot of them occur in my district.

I–35 from Canada to Mexico has most of it in Texas, and I can assure my colleagues that we see the crashes. We see the trucks that are not safe, and that is all we are asking for.

Mr. OLVER. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, this is not about Mexican trade. This goes to the very issue of safety, besides taking our national sovereignty, our manufacturing base, the American jobs and Mexican jobs. Look at the data. NAFTA is now threatening the safety of our constituents.

The decision by a faceless panel is requiring our government to allow hazardous trucks access to our roadways.

In testimony before the Senate Commerce, Science and Transportation Committee on July 18, 2001, Secretary Mineta stated, "Every Mexican firm, vehicle and driver that seeks authority to operate in the U.S., at the border or beyond, must meet the identical safety and operating standards that apply to the U.S. and Canadian carriers."

That is where it is at. It is a sad day that the Olver amendment is desperately needed 3 years later after Mineta's speech, as we cannot count on the Department of Transportation to act appropriately and in the public's interest by requiring foreign-built trucks and buses from meeting Federal motor vehicle safety standards.

The measures Congress has passed addressing safety have made progress towards ensuring trucks on our highways meet certain standards. It is not just an issue of fairness. It is a matter of life and death.

The bottom line is, Mr. Chairman, the House cannot allow this administration to gut safety regulations or compromise environmental standards in the name of trade. Vote "yes" on the Olver amendment and defend the work of the Congress and defend the work of American working families.

□ 1145

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would remind Members to try to stay within their time limits.

Mr. OLVER. Mr. Chairman, could you let me know again how much time each side has?

The CHAIRMAN. The gentleman from Massachusetts (Mr. OLVER) has 2½ minutes remaining. The gentleman from Oklahoma (Mr. ISTOOK) has 6½ minutes remaining.

Mr. OLVER. Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina (Mr. BUTTERFIELD).

Mr. BUTTERFIELD. Mr. Chairman, I rise in support of this amendment. Given the opportunity and a level playing field, I believe in the ability of American workers to operate their vehicles safely. Without this amendment, we put our workers at a great, great disadvantage, allow our air to be unduly polluted and make our highways less safe.

The gentleman from Arizona says it is about the Teamsters. No, it is about the American people who use America's highways. If trucks from Mexico are going to bring products into our country, using our highways, these trucks need to be held to the same safety and emission standards to which our own trucks are held.

At present, Mexican trucks are not held to American standards for safety and emissions. Allowing an 18-wheel truck loaded with 88,000 pounds of cargo to speed over our highways without ensuring that the vehicle is safe simply makes no sense.

Mexican drivers must be subject to the same level of scrutiny that we demand of our American drivers with regard to training and recordkeeping and incident violations.

I respectfully urge support of this commonsense amendment.

Mr. OLVER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, it is time to get on with the implementation of NAFTA. To the gentleman from California, I say that my amendment makes absolutely no distinction between Mexican trucks, Canadian trucks or U.S. trucks. It says all of them, as does the rule that is in process say all trucks must meet U.S. safety standards.

What my amendment does say is that we are not going to provide 24 more months after the 30 months that has already passed and the additional months that are going to pass before the actual promulgation and effective date of the rule. It does not provide an additional 24 months for those trucks, all trucks, to meet the same set of standards. I think that is absolutely neutral on the issue of whether they are Canadian, U.S. or Mexican. It is saying, get on with it, promulgate it. They had plenty of time to get their certificate, their label, whatever it is that they needed. They have known for a very long time. Let us get on with it.

Support the amendment so that we can do so.

Mr. ISTOOK. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I agree with the gentleman from Massachusetts and every speaker that has spoken about the need for the safety of trucks on the road. I also agree and will work in conference on this bill to make sure that we do not have an inordinate phase-in period, that we try to use some rationality there.

But let us understand the difference between many of the things that are said and what this amendment actually proposes to do. Now, we heard one speaker talk about how he does not want trucks coming up from Mexico along I–35, all the way up to Minnesota, that are unsafe. Well, believe me, I do not either, because they cannot get there without coming through Oklahoma and my district, and I do not want unsafe trucks on I–35 as they come through Oklahoma either.

But this amendment is not about whether a vehicle is safe. It is not about whether it is in safe operating condition. The amendment is about what was the condition of the vehicle at the time it was originally manufactured, not what the condition is now. Everybody that owns or uses a vehicle, a car or a truck or a bus or anything, knows that things get modified; things are retrofitted.

We have the law, and they enforce it at the border. If a vehicle is going to come in and move into the interior of the United States, it has to be in safe operating condition. It has to be in a condition that meets our standards. But that vehicle might not have originally been manufactured to those standards. It may have been retrofitted.

The gentleman's amendment says, well, unless you have certification that it was in that condition at the time it was first built, no matter how many years ago that was, unless that is the case, we are not going to let them in. It is aimed at the companies that have trucks that have been retrofitted that are perfectly safe. That is what it is aimed at. It is trying to remove their ability to compete and give competitive advantages to other companies.

I oppose the amendment. We can talk about what should be the notification procedures and phase-ins and so forth, but let us make sure that we put the emphasis on the safety of the vehicles in the condition they are in now, not whether or not they were originally manufactured to some different specification. I oppose the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. OLVER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. OLVER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. OLVER) will be postponed.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask the gentleman from Oklahoma a question.

We have had five or six amendments adopted, the Van Hollen amendment, the Davis amendment on Cuba, the Lee amendment on Cuba, the Waters amendment on Cuba, the Stenholm amendment on debt ceiling and, I believe, one other. Last year, we had the experience of seeing a good many amendments which had been adopted on this floor to this and several other bills evaporate as soon as they went to conference.

I would like to know whether the gentleman can assure us that he will insist on retaining each of these amendments and will not bring this bill back from conference if these amendments do not stay in the conference this year.

Mr. ISTOOK. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, I certainly appreciate the gentleman's point, and he is well aware that the controversial amendments which relate to Cuba always bring up a lot of heat in the debate in this House. Those amendments are subject to a presidential veto. We have had the message from the White House in the statement of administrative policy, which is very unequivocal in indicating the President would veto the bill over Cuba.

This is why, in past years, the gentleman has certainly seen that amendment, as the gentleman phrases it, evaporate or at least not come through in the conference report to the same degree before. My responsibility, as the gentleman appreciates, is to produce a bill that will pass into law. I am unable to give him the assurance that he is seeking, and I am sure he understands why, although he is not pleased by it.

Mr. OBEY. Reclaiming my time, Mr. Chairman, I thank the gentleman for his candor.

Let me say this, Mr. Chairman, I had originally been willing to support this bill as it came out of committee, even though many of us on this side of the aisle thought the bill woefully inadequate in terms of funding levels for various transportation accounts. But the majority has been in a three-cornered feud with itself. The authorizing committee and a number of others in the majority party caucus, for different reasons, have shredded this bill. They have knocked out, at this point, highway aid to the States. They have knocked out mass transit. They have knocked out funding for airport construction. They have knocked out 80 percent of the Department of Transportation funds that originally were contained in this bill.

In addition to that, we have received no assurance whatsoever that the amendments that the House adopted would be retained in conference. In fact, we have essentially been told, because of the presidential threat of a veto, that these amendments will once again be stripped in the conference. That means that virtually all of the action that occurred on this floor has been meaningless with respect to the items that were debated today and late last night.

I am certainly willing to meet my responsibilities to help move bills forward, even if I do not always agree with their content, provided the majority party itself takes its duty seriously. But if the majority party itself, if the majority party leadership itself will not defend their own legislative product as it comes out of the committee, I certainly do not see why I should, especially when House actions, given the arbitrary action of the authorizing committee, have turned this bill into a cadaver.

So, at this point, I intend to vote "no," because I am not going to vote for a bill which effectively cuts more than half the dollar resources out of this bill and which effectively cuts 80 percent of the transportation funding out of the bill just because some people in this House happen to think that committee jurisdiction is more important than being responsible.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think it is important that I give a response of sorts to my friend from Wisconsin. We all know that, for parliamentary reasons, there have been points of order raised that resulted in certain things being taken from this bill. However, every Member should be aware, and I certainly want to emphasize to the gentleman from Wisconsin, the ranking member of the full committee, everyone is aware that those items relating to transportation funding are going to be reinstated in conference. The conference report will not be subject to the same parliamentary points of order that caused the problem.

So if any Member is concerned about, well, my goodness, what are we accomplishing through this bill, the answer is, we are creating the mechanism that allows us to fund transportation in the United States of America. Whatever may not be in the bill at this moment can be restored in conference. But we do not get there if we do not pass this House bill. And if Members want to telegraph that they do not care about funding for transportation or they do not care about funding for transportation needs and projects in their district, there is probably no better way to indicate that than by voting against the bill.

Now, I understand the gentleman from Wisconsin. His opposition is not toward funding transportation. I understand he is concerned about the Cuba provisions and whether they will endure in the final report. But to every Member of this body it is important that we advance this bill to the conference with the Senate, which enables us to resolve the parliamentary problems with our own rules to put in the transportation funding and, of course, the funding that will benefit the individual Members in their States and in their districts and the projects in their areas. It is important to know who supports that.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding, and let me simply say that I am not only concerned with the Cuba provisions, I am very much concerned with the transportation items. And I am not about to go on record voting for a bill which has cut these bills, in essence, almost 80 percent below last year's level in terms of transportation items.

I have seen the majority party's campaign committee play games with that too often, and I do not expect to see ads run against Members of the Congress because they voted for a product which the majority party itself is asking them to vote for. That has happened too many times for me to be suckered by that one.

Mr. ISTOOK. Reclaiming my time, Mr. Chairman, I reemphasize that this bill is the vehicle for the transportation funding. It goes to the conference with the Senate. The things that were stricken on points of order can then be restored and will be restored. A vote against this bill is a vote against the transportation funding that is important to every Member. It is important to their States and important to projects in their districts.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from South Carolina (Mr. CLYBURN), the vice chair of my caucus.

Mr. CLYBURN. Mr. Chairman, I want to call attention to the important work of the United States Election Assistance Commission and issue my strong support for the $15 million in funding that the Committee on Appropriations has recommended for this year.

Establishing the EAC was delayed in 2003, and because of that, the full commissioners were not appointed until December 2003, and the EAC was woefully underfunded for fiscal 2004.

□ 1200

Yet despite these obstacles, the four commissioners have worked diligently to ensure timely progress on the election reform that Congress envisioned when it passed HAVA 2 years ago. The EAC commissioners have used their collective commitment, skills, and dedication to disburse to States the $2.3 billion in HAVA payments that was appropriated for fiscal year 2004. At the same time, EAC is working closely with State and local election administrators to make certain they implement HAVA requirements for Provisional Voting, Voter Identification, Polling Place Signage, and State Administrative Complaint Procedures that must be in place for this year's elections.

Mr. Chairman, these are not abstract provisions. Rather, they are voter reform measures mandated by Congress to ensure that every eligible citizen can register, vote, and know that their vote can be counted in a timely and fair manner. We are just weeks away from the November 2 elections, which will be the first Federal election since HAVA was enacted.

Free and fair elections are the heart of our democracy. We do not want to repeat what happened in November, 2000. Yet we jeopardize the quality of our elections if we shortchange the EAC's ability to operate, conduct research, set standards for voting systems, and conduct audits of the HAVA funding that is being paid to States.

H.R. 5025 provides $15 million for the United States Election Assistance Commission. Without this funding, we cannot guarantee full implementation of this landmark act, the Help America Vote Act of 2002.

Mr. OLVER. Mr. Chairman, reclaiming my time, this year's Transportation and Treasury bill was brought to the floor with great hopes. It had been improved substantially in subcommittee and again in full committee, and improvements have been made, indeed, on the floor of this body last week and yesterday and today.

There were already some serious problems like the Amtrak problem, which we have talked about; the Federal Transit Administration's New Starts program, which we have talked about; and the Tax Law Enforcement program, which we talked about. Those problems remain there. And because of the reasons that my ranking member of the full committee has already given, we have had a situation where much of the bill has been struck by broad points of order, leaving us with very limited funding, no grants to the States and Federal highway-airport improvement grants; transit formula grants; the highway safety grants, gone. All of that is true.

However, I am going to vote for the bill because the only way and the only place that this bill can be put back together and the serious problems fixed is in the conference. I believe that we are going to have to work very hard within that conference in order to make certain that those fundings and those problems are dealt with properly, but I am willing to work with the chairman to try to do that. I hope that we will be able to rectify enough of those problems in conference that we can produce a bill that will have strong, enthusiastic, bipartisan support. So I will vote for the bill.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the comments of the gentleman from Massachusetts (Mr. OLVER). He is certainly correct that the only mechanism to fix the problems with the bill, the parliamentary problems, is moving it to a conference with the Senate, which requires House passage as a prelude to that, and I appreciate that.

Mr. Chairman, I do wish to enter into a colloquy with the gentleman from Texas (Mr. SESSIONS).

Mr. SESSIONS. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Texas.

Mr. SESSIONS. Mr. Chairman, I thank the distinguished gentleman from Oklahoma (Mr. ISTOOK) for yielding to me for the opportunity to engage in a colloquy.

As the chairman knows, I have done a great deal of work on waste, fraud, and abuse in the Congress. And in particular, I rise today to discuss the efforts that are underway in our government to address ongoing fraud that is costing our highway trust fund untold sums.

There is a significant problem going on in every State of this great Nation that is not only taking money from desperately needed transportation projects but funding organized crime activities and quite possibly terrorist activities. The issue is not glamorous and it is not dangerous. It is not punishable by high criminal penalties and, therefore, receives little attention. The issue is the fraudulent use of off-road untaxed diesel fuel as taxable on-road diesel. This type of fraud leads to a profit of nearly 50 cents a gallon in combined Federal and State taxes.

It may not sound like much. Some estimates, however, have shown that well over $1 billion a year is lost in tax revenue. In the scope of our national budget, some think $1 billion or $2 billion does not seem like a great amount, and it is not the type of thinking that will ensure the problems like these will ever get resolved.

Fortunately, the Internal Revenue Service has been examining technologies for the past few years that will give them better tools to fight this type of fraud. Make no mistake, those involved in this type of fraud are well financed, smart business people that leverage technology at every opportunity. I think it is time that we respond in kind. In order to support the IRS's efforts in finishing this fight, requests have been submitted to the chairman to fund a pilot program to put technology out in the field. What is so unique about this pilot project is that we will see immediate returns. The last time the IRS implemented a program to combat this type of fraud, there was a 22.5 percent increase in tax collections in the first 12 months. This pilot project will pay for itself and will lead to a national program that will recover potentially billions of dollars that are so desperately needed for our highways.

I would like the chairman, if he could, to comment on this pilot project, please.

Mr. ISTOOK. Mr. Chairman, reclaiming my time, I thank the gentleman from Texas for his comments. As he knows, we are very aware of this issue, and we are concerned about the level of tax evasion and fraud that is underway. We want to arm the IRS with the best technology and an overall program not only to combat the fraud but to locate those perpetrating the fraud and put them out of business permanently. There is report language to this effect in this bill. I understand my counterpart in the Senate, Mr. SHELBY, is aware of the issue as well. We will be working with him in conference to have a strong position in the final bill.

Mr. SESSIONS. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Texas.

Mr. SESSIONS. Mr. Chairman, I thank the chairman for his diligent work on this issue and others who are also doing so, and I want to thank him for his hard work on behalf of all Americans. And I thank the gentleman for engaging in this colloquy.

Mr. ISTOOK. Mr. Chairman, reclaiming my time, I believe we will complete debate on this bill after we hear from the chairman of the full committee.

I do want to express my appreciation to the staff that has worked so diligently on this: Our chief clerk of the subcommittee, Rich Efford; a member of my personal staff, Kurt Conrad; and also on the subcommittee staff, Cheryle Tucker, Leigha Shaw, Dena Baron, and Kristen Jones. Without them nothing could be accomplished.

This bill merits the support of every Member of this body, and I ask that people support it accordingly and pass it.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to compliment the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Massachusetts (Mr. OLVER), the ranking member, for having brought this bill to a successful conclusion. Despite some parliamentary obstacles that we had earlier in the debate, they have produced, what I think will be, a highly acceptable bill.

I would like to say, Mr. Chairman, this is number 12 of the 13 regular appropriations bills. There is only one more to go to the floor. But I also want our colleagues to know that the Committee on Appropriations had completed work on all 13 bills prior to the August summer work period. So we have been prepared to move the bills as time became available on the floor.

This is a good bill. As I have said, there were some parliamentary problems that I suggested will need to be repaired when we get to conference. And I am being optimistic when I say it will get to conference. We are hoping there will be a conference. We would like to conclude our appropriations business before we break for the election.

I understand why the gentleman from Wisconsin (Mr. OBEY) has suggested that he would vote against this bill.

I am going to vote for it, and I think it is worthy of a "yes" vote.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would just observe the gentleman said this is a good bill. There is not anything left of this bill except the enacting clause; that is in great shape. Outside of that, it is a hollow shell.

Mr. YOUNG of Florida. Mr. Chairman, reclaiming my time, what is left, is a good bill. And whatever repairs need to be made will be made in the conference. So I urge the Members to vote against the motion to recommit and for final passage on the bill.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would call to the Members' attention the provisions of clause 1 of rule XVII regarding the wearing of communicative badges on the floor, which has been interpreted to proscribe the wearing of such, and the Chair would request that any Members who are doing so remove them when recognized for debate.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: the amendment offered by the gentleman from New York (Mr. RANGEL), the amendment offered by the gentleman from Massachusetts (Mr. OLVER).

The Chair will reduce to 5 minutes the time for the second electronic vote.

AMENDMENT OFFERED BY MR. RANGEL

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. RANGEL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 188, noes 225, not voting 20, as follows:

[Roll No. 461]

AYES—188

Abercrombie
Allen
Baca
Baldwin
Becerra
Bell
Berman
Berry
Biggert
Bishop (NY)
Blumenauer
Bono
Boozman
Boswell
Boucher
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardoza
Carson (IN)
Carson (OK)
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Emerson
Eshoo
Evans
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Gonzalez
Gordon
Graves
Grijalva
Harman
Herger
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Michaud
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Nethercutt
Nussle
Oberstar
Obey
Olver
Osborne
Otter
Owens
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Scott (GA)
Scott (VA)
Serrano
Shays
Shimkus
Slaughter
Smith (WA)
Snyder
Solis
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wynn

NOES—225

Ackerman
Aderholt
Akin
Alexander
Andrews
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berkley
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Cardin
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Engel
English
Etheridge
Everett
Feeney
Ferguson
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall
Harris
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hobson
Holden
Holt
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Marshall
Matsui
McCotter
McCrery
McHugh
McIntyre
McKeon
Meek (FL)
Menendez
Mica
Miller (MI)
Miller (NC)
Miller, Gary
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Ortiz
Ose
Oxley
Pallone
Pascrell
Pearce
Pence
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryun (KS)
Saxton
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Toomey
Turner (OH)
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOT VOTING—20

Baird
Bishop (GA)
Bonner
Cannon
Gephardt
Goss
Greenwood
Hart
Hensarling
Hoekstra
Kirk
Manzullo
McInnis
Meeks (NY)
Millender-McDonald
Miller (FL)
Murphy
Tauzin
Wexler
Wicker

□ 1234

Messrs. ALEXANDER, REHBERG, PALLONE, and DEUTSCH changed their vote from "aye" to "no."

Mr. HERGER and Mr. BOOZMAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. OLVER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. OLVER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 339, noes 70, not voting 24, as follows:

[Roll No. 462]

AYES—339

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baldwin
Bass
Beauprez
Bell
Berkley
Berman
Berry
Bilirakis
Bishop (NY)
Blumenauer
Boehlert
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doolittle
Doyle
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hastings (FL)
Hayes
Hayworth
Hefley
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kleczka
Kline
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren

Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Putnam
Quinn
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—70

Aderholt
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Blackburn
Blunt
Boehner
Bonilla
Brady (TX)
Cantor
Carter
Chocola
Collins
Crane
Cubin
Culberson
Davis, Tom
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Dreier
Dunn
Flake
Franks (AZ)
Garrett (NJ)
Granger
Hastings (WA)
Herger
Istook
Johnson, Sam
Keller
Kennedy (MN)
Kingston
Knollenberg
Kolbe
Lewis (CA)
Linder
McCrery
Musgrave
Myrick
Nethercutt
Nunes
Osborne
Ose
Otter
Oxley
Pearce
Pence
Pitts
Pryce (OH)
Radanovich
Ramstad
Renzi
Schrock
Sessions
Shadegg
Smith (TX)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Vitter
Weldon (FL)

NOT VOTING—24

Baird
Becerra
Bishop (GA)
Bishop (UT)
Bonner
Cannon
Cox
Gephardt
Goss
Greenwood
Hart
Hensarling
Hoekstra
Jones (NC)
Kirk
Manzullo
McInnis
Meeks (NY)
Millender-McDonald
Miller (FL)
Murphy
Tauzin
Wexler
Wicker

□ 1243

Mrs. CUBIN and Mr. OTTER changed their vote from "aye" to "no."

Mr. EVERETT changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. BECERRA. Mr. Chairman, earlier today my floor vote was not recorded on rollcall No. 462, the Olver amendment to H.R. 5025, the Transportation and Related Agencies Appropriations for FY 2005.

Mr. Chairman, had I voted on the Olver amendment, I would have unequivocally voted "aye" on rollcall vote No. 462

The CHAIRMAN. The Clerk will read the last three lines.

The Clerk read, as follows:

This Act may be cited as the "Transportation, Treasury, and Independent Agencies Appropriations Act, 2005".

Ms. MILLENDER-McDONALD. Mr. Chairman, I want to commend the Transportation Appropriation Subcommittee for including in this years Transportation Appropriation bill, $9 million for the hiring and training for the next generation of air-traffic controllers.

As a senior member on the Aviation Subcommittee, we are well aware that air traffic controllers are retiring at a quicker pace than they are being hired.

Over 50 percent of the air traffic controller workforce will retire within the next 10 years.

Industry believes that the Federal Aviation Administration (FAA) must hire 1000 air traffic controllers a year for the next three years to provide the necessary staffing levels and prepare for the wave of air traffic controller retirements.

Authorizers and appropriators may disagree on a quite a bit, especially on this bill, but the safety and security of the flying public is an issue we can all agree on.

This $9 million is a good first step. However, aside from funding we must also strive to train and hire the next generation of air traffic controllers that more accurately represents American society and the flying public.

By that I mean, in 2003 the following is a break down of the percentage of the air-traffic controller hirings: 18 percent women; 1 percent African American; 1 percent Hispanics; 1 percent Asians; and 0 percent Native Americans.

Unfortunately, these hiring percentages are following an all to familiar pattern that has already been established at the FAA.

For example, in 2003 the following is a breakdown of the air traffic controller workforce made up of the following percentages of women and minorities: 18 percent women; 1 percent African American women; 1 percent Hispanic women; 0 percent Asian women; and 0 percent Native American women.

We have a historic opportunity before us. We are facing a time when we must make unprecedented investments into our air traffic controller workforce.

I ask this Congress—and this Administration, to make the effort to reach out to women and minorities so that we may revamp our workforce to be a replica of our society as a whole.

Thank you Mr. Chairman. I look forward to working with you and the Ranking Member on this very important issue as this bill moves to conference with the Senate.

Mr. CASTLE. Mr. Chairman, I rise today in opposition to this bill. Members of this House chose to strip funding for Amtrak from this bill simply because the necessary agreement could not be reached on a floor rule to consider this legislation that would have protected Amtrak. Since the end of Fiscal Year 2002 when Amtrak was last authorized, Congress has continued to keep its commitment to our nation's rail passengers by funding Amtrak and ensuring that the nations trains continue to operate. We must continue that commitment as Congress continues to debate the right path for Amtrak's future through a reauthorization bill.

I am shocked that Members of this House would consider shutting down Amtrak in this manner, when a large majority of Americans favor continuing federal subsidies to Amtrak, and a substantial percentage would increase federal funding so the ailing passenger railroad can enhance its service. Fifty-one percent of respondents in an August 2002 Washington Post poll supported keeping Amtrak's funding current levels and twenty percent supported increasing the funding level.

Mr. Chairman, I request that the House support the $1.2 billion FY 05 level that was recently passed by the Senate Transportation/Treasury Appropriations Subcommittee. This Senate funding level is equal to the amount that Congress appropriated to Amtrak in FY 04 and is well short of the $1.8 billion requested by Amtrak CEO David Gunn to continue his 5-year strategic plan for the railroad. It may not be enough to implement Mr. Gunn's full plan for FY 05 but passage of the Senate level is vital to continue to address the acknowledged "backlog" of security and infrastructure needs on the Northeast Corridor—a backlog that threatens the continuation of safe and reliable passenger rail operations in the northeast region. That funding level is also necessary for Amtrak to continue to implement a system wide security plan.

In a July 17th interview with National Journal, Amtrak President and CEO David Gunn said that if Amtrak were appropriated $900 million in FY 05, the railroad would have to layoff 2,000 maintenance workers and close all major maintenance shops, including those in my home state of Delaware. As the U.S. economy continues to recover, we should not be cutting federal support for Amtrak work that will lead to jobs for our constituents. At the end of June, Mr. Gunn released the company's annual update of its strategic five-year plan that continues the focus of returning the railroad to a state of good repair

The plan addresses problems including aging interlockings, rail ties, bridges, catenary hardware, and sets aside capital for major fleet overhauls. The plan will remove most of the immediate safety threats to continued service and vastly improve reliability and on-time performance. By continuing the implementation of Mr. Gunn's five-year plan, we would remove the immediate impediments to daily service on the Northeast Corridor. Amtrak has made real headway in this work and it would be a shame to slow or scale back this effort.

The National Journal article also detailed that as a result of the management changes during Mr. Gunn's tenure, Amtrak has kept its expenses flat. By contrast, from 1997 to 2001, expenses grew at an average rate of 8.5 percent a year. The company has taken on no additional debt since the federal government's loan in the summer of 2002. Passenger ridership through the first eight months of FY 2004 is 16.2 million, up 6.2 percent over the same period in the last fiscal year. From February to May of 2004, the railroad has sustained four consecutive months of all time record ridership and, should the trend continue through the end of the fiscal year, will exceed 25 million passengers for the first time.

Mr. Gunn's plan also includes a system wide security plan in the wake of the earlier railroad bombing this year in Spain that killed more than 200 people and injured more than 1,600. The FBI announced earlier this year that they have credible intelligence that the nation's railroads are being targeted for terrorist attack. Amtrak's security plan includes the following: Securing key infrastructure, dispatching and control centers; Emphasizing detection and prevention at stations and onboard trains; Improving train communications and incident command systems. The plan states that "Physical and technological improvements will create layered security countermeasures to address the 'openness' of the Amtrak system in critical areas." Now is not the time to limit Mr. Gunn's resources to harden targets on the railroad's infrastructure, improve passenger safety, and strengthen efforts to facilitate an effective first responder response to a terrorist incident involving Amtrak.

Mr. Chairman, I understand the budget restraints that the committee is dealing with in crafting this appropriations bill but now is not the time to reduce our support for Mr. Gunn's effort to rebuild Amtrak's aging infrastructure and secure the railroad from potential terrorist attack

The CHAIRMAN. Are there further amendments?

If not, pursuant to the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMKUS) having assumed the chair, Mr. GILLMOR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, pursuant to House Resolution 770, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment adopted in the Committee of the Whole?

Mr. HOYER. Mr. Speaker, I ask for a separate vote on the Stenholm amendment trying to contain the national debt.

The SPEAKER pro tempore. Is there a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will designate the amendment on which a separate vote has been demanded.

The text of the amendment is as follows:

Amendment:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds appropriated by this Act may be used by the Secretary of the Treasury to implement, pursuant to sections 8348(j)(1) and 8348(l)(2) of title 5, United States Code, any suspension of issuance of obligations of the United States for purchase by the Civil Service Retirement and Disability Fund, to implement, pursuant to sections 8438(g)(1) and 8438(h)(2) of such title, any suspension of issuance of obligations of the United States for purchase by the Thrift Savings Fund for the Government Securities Investment Fund, or to implement, pursuant to section 8348(k)(1) of such title, any sale or redemption of securities, obligations, or other invested assets of the Civil Service Retirement and Disability Fund before maturity.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. HOYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 404, noes 8, not voting 21, as follows:

[Roll No. 463]

AYES—404

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—8

Collins
Davis, Tom
Johnson, Sam
Ose
Portman
Schrock
Scott (VA)
Thomas

NOT VOTING—21

Baird
Bishop (GA)
Bonner
Cannon
DeMint
Gephardt
Goss
Greenwood
Hart
Hensarling
Hoekstra
Kirk
Lantos
Manzullo
McInnis
Millender-McDonald
Miller (FL)
Murphy
Tauzin
Wexler
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS) (during the vote). Members are advised that 2 minutes remain in the vote.

☐ 1304

Messrs. GUTIERREZ, CUNNINGHAM and KOLBE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on engrossment and a third reading.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. OBEY. In its present form, I certainly am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Obey moves to recommit the bill, H.R. 5025, to the Committee on Appropriations with instructions to report the same back to the House promptly with an amendment to restore funding for Payments to Air Carriers, Grants-in-Aid for Airports, the Federal Highway Administration, the Federal Motor Carrier Safety Administration, the National Highway Traffic Safety Administration, the Federal Railroad Administration, the Federal Transit Administration, and the Surface Transportation Board and increase funding above the levels in H.R. 5025, as reported, for the Federal-Aid Highways Limitation on Obligations, Grants to the National Railroad Passenger Corporation, new fixed guideway systems, and Grants-in-Aid for Airports.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, last week during consideration of this bill, three factions of the majority party took turns in striking entire accounts out of this bill.

More than half the budgetary resources that had been in the bill are now missing.

More than 80 percent of the Department of Transportation's resources have been deleted from this bill. This bill is now missing more than $41 billion in funding that was supposed to flow to each of our States for highways, transit and aviation.

My motion to recommit the Department of Transportation programs and provides adequate funding for addressing the Nation's transportation needs. This motion asks that the Committee on Appropriations restore the accounts that were deleted by points of order, and it calls for increased funding above the committee-reported levels for highways, transit, new start projects; Amtrak and Grants-in-Aid for airports.

It restores funding for rural airports through the Essential Air Service Program, Federal Motor Carrier Safety Administration, the National Highway Traffic Safety Administration and the Surface Transportation Board.

The motion is important because without it we are simply not meeting some of the crucial transportation needs of the country.

Mr. Speaker, I am sure that my friend from Oklahoma will say that because of the form of this motion that this bill will effectively be delayed or killed. The fact is, that is not correct. This bill is already dead. This bill is already on the way to the morgue. It quit breathing last Friday. All I am trying to do is to resuscitate the bill and make it something other than a cadaver.

So, without this motion, this House is acquiescing in the fact that jurisdictional arguments between committees have resulted in a bill which has little more than the enacting title, and I do not think that it does very much credit to the House.

If you vote for this amendment, you will be voting to resuscitate the programs that were knocked out because of the willfulness of the authorizing committee last week, and I would urge a "yes" vote for the proposition.

Mr. ISTOOK. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Oklahoma is recognized for 5 minutes in his opposition.

Mr. ISTOOK. Mr. Speaker, I very much appreciate the frustration of the gentleman from Wisconsin, and certainly I have a high level of frustration, and many people do, because of the things that on parliamentary procedures were stricken on points of order, because we have so many programs that have not been reauthorized.

However, there is a much better way to fix the problem, and that is to finish the process, pass the bill, move it to conference where we are then able to bring a conference report back before this House that is not subject to these points of order.

Were we to do what the gentleman from Wisconsin seeks, we would only repeat the exercise in frustration. He wants us to take the bill back to committee, reinsert the things that were taken out on points of order and, while we are at it, put more money in them. Then, if we brought the bill back to the floor, guess what? Those same points of order are here on the floor. We go through the exercise again.

Secondly, we have an additional point of order because the gentleman's request, I believe, would push us above the 302(b) allocation which is our share of the budget allocation, and there would be an additional point of order against the bill. We would only repeat the frustration.

What is worse than being frustrated once? Being frustrated twice. That is what the motion to recommit would accomplish, but opposing the motion to recommit and passing the bill moves it into conference. That is where the problem can and will be fixed.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding.

All of that can be solved by simply having the Committee on Rules this time do its duty and report out a rule that protects a rational bill.

Mr. ISTOOK. Mr. Speaker, I appreciate the gentleman's concern, and certainly the Committee on Rules could have done something on the current bill and could do something on a different bill, but why do we expect the Committee on Rules would have any different action?

The only sure course of action to get this bill passed to fund the transportation for every Member of this body for their States and also to address the desires that different Members have for their different districts is to pass the bill, move it on to the House-Senate conference where we bring it back, and all those problems are wiped clean because now we are under a different parliamentary process that governs the conference report.

I oppose the motion to recommit. There is no sense in killing the bill. Let us keep it alive so that we can keep transportation moving in the country.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for the electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 201, nays 210, not voting 22, as follows:

[Roll No. 464]

YEAS—201

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu
Wynn

NAYS—210

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
McCotter
McCrery
McHugh
McKeon
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—22

Baird
Bishop (GA)
Bonner
Cannon
Foley
Gephardt
Greenwood
Hart
Hensarling
Hoekstra
Kirk
Manzullo
Matsui
McInnis
Mica
Millender-McDonald
Miller (FL)
Murphy
Shaw
Tauzin
Wexler
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS) (during the vote). There are 2 minutes remaining in this vote.

☐ 1333

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 397, nays 12, not voting 24, as follows:

[Roll No. 465]

YEAS—397

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard

Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—12

Castle
Flake
Franks (AZ)
Hefley
Jones (NC)
Kucinich
Obey
Otter
Paul
Royce
Sensenbrenner
Shimkus

NOT VOTING—24

Baird
Bishop (GA)
Bonner
Cannon
Cox
Dunn
Foley
Gephardt
Gillmor
Greenwood
Hart
Hensarling
Hoekstra
Kirk
Manzullo
McInnis
Meehan
Millender-McDonald
Miller (FL)
Murphy
Reynolds
Tauzin
Wexler
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

☐ 1340

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. MILLENDER-McDONALD. Mr. Speaker, on rollcall No. 465, H.R. 5025—Transportation/Treasury Appropriation bill, I was on legislative business and arrived after the vote. Had I been here I would have voted in the affirmative.

PERSONAL EXPLANATION

Mr. FOLEY. Mr. Speaker, on rollcall Nos. 464 and 465, I was meeting with the Governor of Florida concerning hurricane damage. Had I been present, I would have voted "nay" on rollcall No. 464 and "yea" on rollcall No. 465.

PERSONAL EXPLANATION

Mr. KIRK. Mr. Speaker, today, I missed the following rollcall votes: rollcall number 461—on agreeing to the Rangel amendment to H.R. 5025, rollcall number 462—on agreeing to the Olver amendment to H.R. 5025, rollcall number 463—on agreeing to the Stenholm amendment to H.R. 5025, rollcall number 464—on motion to recommit H.R. 5025, rollcall number 465—on passage of H.R. 5025. Had I been present I would have voted "nay" on rollcall votes 461 and 464, and I would have voted "yea" on rollcall votes 462, 463 and 465.

REQUEST FOR REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2028

Mr. OSE. Mr. Speaker, because the bill as introduced was drastically changed in committee, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2028.

The SPEAKER pro tempore (Mr. LINDER). Under clause 7 of rule XII, the Chair may not entertain a request to delete a cosponsor after the last committee authorized to consider the bill has filed its report with the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas or nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

CIVIL WAR SESQUICENTENNIAL COMMISSION ACT

Mr. OSE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2449) to establish a commission to commemorate the sesquicentennial of the American Civil War, as amended.

The Clerk read as follows:

H.R. 2449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil War Sesquicentennial Commission Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The American Civil War was a defining experience in the development of the United States.

(2) The people of the United States continue to struggle with issues of race, civil rights, the politics of federalism, and heritage which are legacies of the Civil War and Reconstruction.

(3) There is a resurgence of interest in the Civil War that is evidenced by the multitude of publications, exhibits, reenactments, research organizations, Internet and multimedia resources, historic parks, and preservation associations focused on the Civil War.

(4) The years 2011 through 2015 mark the sesquicentennial of the Civil War.

(5) The sesquicentennial of the Civil War presents a significant opportunity for Americans to recall and reflect upon the Civil War and its legacy in a spirit of reconciliation and reflection.

(6) The United States Civil War Center at Louisiana State University, Louisiana, and the Civil War Institute at Gettysburg College, Pennsylvania, have been designated by the Federal government to plan and facilitate the commemoration of the sesquicentennial of the Civil War.

(7) The State of Virginia—

(A) witnessed more Civil War military engagements on its soil than any other State;

(B) hosts more historic sites related to the Civil War than any other State; and

(C) is home to the Pamplin Historical Park and the National Museum of the Civil War Soldier and the Virginia Center for Civil War Studies at Virginia Polytechnic Institute and State University, both of which are nationally recognized centers of expertise in the study of the Civil War.

(8) The African American Civil War Museum located in Washington, D.C., is the only museum in the nation dedicated to the study and understanding of the role of African Americans in the Civil War.

(b) PURPOSE.—The purpose of this Act is to establish a Civil War Sesquicentennial Commemoration Commission to—

(1) ensure a suitable national observance of the sesquicentennial of the Civil War;

(2) cooperate with and assist States and national organizations with programs and activities for the observance of the sesquicentennial of the Civil War;

(3) assist in ensuring that any observance of the sesquicentennial of the Civil War is inclusive and appropriately recognizes the experiences and points of view of all people affected by the Civil War; and

(4) provide assistance for the development of programs, projects, and activities on the Civil War that have lasting educational value.

SEC. 3. CIVIL WAR SESQUICENTENNIAL COMMEMORATION COMMISSION.

The Secretary of the Interior shall establish a commission to be known as the Civil War Sesquicentennial Commemoration Commission (hereafter in this Act referred to as the "Commission").

SEC. 4. COMPOSITION OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall be composed of 25 members as follows:

(1) GOVERNMENT MEMBERS.—The Commission shall include—

(A) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives;

(B) 2 Members of the Senate appointed by the President pro tempore of the Senate, in consultation with the Majority Leader and the Minority Leader of the Senate;

(C) the Secretary of the Interior or the designee of the Secretary;

(D) the Secretary of the Smithsonian Institution, or the designee of the Secretary;

(E) the Secretary of the Department of Education, or the designee of the Secretary;

(F) the Chairman of the National Endowment for the Humanities, or the designee of the Chairman;

(G) the Archivist of the United States, or the designee of the Archivist;

(H) the Librarian of Congress, or the designee of the Librarian; and

(I) the Director of the National Park Service, or the designee of the Director.

(2) PRIVATE MEMBERS.—The Commission shall include—

(A) 5 members appointed by the President from among individuals who are representative of the corporate community; and

(B) 9 individuals, appointed by the President, from among persons who by reason of education, training, and experience, are experts on the Antebellum, Civil War, and Reconstruction eras, including—

(i) 6 individuals with expertise in history;

(ii) 1 individual with specific expertise in art history, historic preservation, or a related field;

(iii) 1 individual with expertise in anthropology, cultural geography, sociology, or a related field; and

(iv) 1 individual with expertise in political science, law, economics, or a related field.

(b) Terms.—Members shall be appointed for the life of the Commission.

(c) Vacancies.—Any vacancy in the Commission shall not affect its powers, and shall be filled in the same manner as the original appointment.

(d) Initial Appointments.—The appointment of the members of the Commission shall be made not later than 60 days after the date of the enactment of this Act.

SEC. 5. GENERAL PROVISIONS.

(a) Meetings.—

(1) Initial meeting.—Not later than 60 days after the date on which all members of the Commission have been appointed, the members appointed under subparagraphs (A) and (B) of section 4(a)(2) shall call the first meeting of the Commission.

(2) Subsequent meetings.—The Commission shall hold subsequent meetings at the call of the chairperson.

(b) Chairperson and Vice Chairperson.—At the initial meeting, the Commission shall elect a Chairperson and Vice Chairperson from among its voting members.

(c) Quorum.—A majority of voting members shall constitute a quorum, but a lesser number may hold meetings.

(d) Voting.—

(1) In general.—The Commission shall act only on an affirmative vote of a majority of the voting members of the Commission.

(2) Nonvoting members.—The individuals appointed under subparagraphs (A) and (B) of section 4(a)(1) shall be nonvoting members, and shall serve only in an advisory capacity.

SEC. 6. DUTIES OF THE COMMISSION.

(a) Activities Related to the Sesquicentennial.—The Commission shall—

(1) plan, develop, and carry out programs and activities appropriate to commemorate the sesquicentennial of the Civil War;

(2) encourage interdisciplinary examination of the Civil War;

(3) facilitate Civil War-related activities throughout the United States;

(4) encourage civic, historical, educational, economic, and other organizations throughout the United States to organize and participate in activities to expand the understanding and appreciation of the significance of the Civil War;

(5) coordinate and facilitate the public distribution of scholarly research, publications, and interpretations of the Civil War;

(6) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration of the sesquicentennial of the Civil War;

(7) develop programs and facilities to ensure that the sesquicentennial commemoration of the Civil War results in a positive legacy and long-term public benefit; and

(8) encourage the development and conduct of programs designed to involve the international community in activities that commemorate the Civil War.

(b) Plans and Report.—

(1) Strategic plan and annual performance plans.—The Commission shall prepare a strategic plan in accordance with section 306 of title 5, United States Code, and annual performance plans in accordance with section 1115 of title 31, United States Code, for the activities of the Commission carried out under this Act.

(2) Reports.—

(A) Annual report.—The Commission shall submit to Congress an annual report that contains a list of each gift, bequest, or devise with a value of more than $250, together with the identity of the donor of each such gift, bequest, or devise.

(B) Final report.—Not later than December 30, 2015, the Commission shall submit to Congress a final report that contains—

(i) a summary of activities of the Commission;

(ii) a final accounting of funds received and expended by the Commission; and

(iii) the findings and recommendations of the Commission.

SEC. 7. GRANT PROGRAM.

(a) Grants Authorized.—The National Endowment for the Humanities shall award grants under this section for the uses described in subsection (b).

(b) Use of Grants.—Grants awarded under this section shall be used for appropriate activities relating to the sesquicentennial of the Civil War.

(c) Consideration.—In awarding grants under this section, the National Endowment of the Humanities shall consider established university, museum, or academic programs with national scope that sponsor multidisciplinary projects, including those that concentrate on the role of African Americans in the Civil War.

SEC. 8. POWERS OF THE COMMISSION.

(a) In General.—The Commission may—

(1) solicit, accept, use, and dispose of gifts, bequests, or devises of money or other real or personal property for the purpose of aiding or facilitating the work of the Commission;

(2) appoint any advisory committee as the Commission considers appropriate for the purposes of this Act;

(3) authorize any voting member or employee of the Commission to take any action that the Commission is authorized to take under this Act; and

(4) procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements to carry out this Act (except that any contracts, leases, or other legal agreements entered into by the Commission shall not extend beyond the date of the termination of the Commission); and

(5) use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 9. PERSONNEL MATTERS.

(a) Compensation of Members.—Members of the Commission, and members of any advisory committee appointed under section 8(a)(2), shall serve without compensation.

(b) Travel Expenses.—Members of the Commission, and members of any advisory committees appointed under section 8(a)(2), shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(c) Staff.—

(1) In general.—The Chairperson of the Commission may, without regard to civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(2) Confirmation of executive director.—The employment of an executive director shall be subject to confirmation by the Commission.

(3) Compensation.—

(A) In general.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) Maximum rate of pay.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) Detail of Government Employees.—

(1) In general.—At the request of the Commission, the head of any Federal agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act.

(2) Civil service status.—The detail of an employee under paragraph (1) shall be without interruption or loss of civil service status or privilege.

(e) Volunteer and Uncompensated Services.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(f) Support Services.—The Director of the National Park Service shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(g) Procurement of Temporary and Intermittent Services.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at daily rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(h) FACA Nonapplicability.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(i) Termination.—The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its report under section 6(b)(2).

SEC. 10. AUDIT OF COMMISSION.

The Inspector General of the Department of the Interior shall perform an annual audit of the Commission and shall make the results of the audit available to the public.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated to carry out this Act (other than section 7) $200,000 for each of the fiscal years 2005 through 2016.

(b) Grants.—There is authorized to be appropriated $3,500,000 to the National Endowment for the Humanities to provide grants under section 7, to remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. Ose) and the gentleman from Illinois (Mr. Davis) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. Ose).

GENERAL LEAVE

Mr. OSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. OSE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the Committee on Government Reform, I am pleased that the House is considering H.R. 2449. This legislation, introduced by the distinguished gentleman from Louisiana (Mr. BAKER) creates a commission to commemorate the sesquicentennial of the American Civil War. I rise in strong support of this bill.

Mr. Speaker, perhaps no event shaped the U.S. more than the Civil War. The Civil War was produced by the economic, cultural, and political rivalry between the agrarian South and the industrial North. Though the war was long and dreadful, its outcome preserved the Nation. From South Carolina's secession on December 20, 1860, to General Robert E. Lee's surrender at Appomattox on April 9, 1865, the Civil War set the course for the next century of this Nation's development.

Mr. Speaker, the Civil War Sesquicentennial Commission will ensure a suitable national observance of the 150th anniversary of the Civil War. It promises to be inclusive and appropriately recognizes the perspectives and impacts of all people affected by the Civil War.

Specifically, the commission will plan, develop, and carry out programs and activities appropriate to commemorate the Civil War. The commission will annually report to Congress on its work, and by December 30, 2015, the commission will provide to Congress a final report detailing the activities, findings, and recommendations of the commission.

Mr. Speaker, the creation of a Civil War Commission at this point in American history makes it difficult to overlook the similarities between America's current conflict and the war our Nation endured nearly a century and a half ago. In both cases, an immense tragedy forced this Nation to rise up and defend the liberty and freedom of our Union. However, our current enemy is not ourselves, but terrorist extremists who hate American freedom. While Americans were split and hostile on the two sides of the Civil War, today our great Nation remains united behind our servicemen and servicewomen who sacrifice everything to protect our Nation from terror.

Mr. Speaker, this commission will provide an exciting and somber look back at perhaps the most important event in our Nation's history. I thank the gentleman from Louisiana (Mr. BAKER) for his thorough efforts to commemorate the Civil War.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

H.R. 2449 would establish a Civil War Sesquicentennial Commemoration Commission to cooperate with and assist States and national organizations with programs and activities to ensure a suitable national observance of the 150th anniversary of the Civil War and to educate Americans about the significance of the war in our national history.

With the issuance of the Emancipation Proclamation in 1863, the Civil War became a war to save the Union and to abolish slavery. The war resulted in the loss of 620,000 lives, the liberation of 4 million slaves, and the ratification of three constitutional amendments that changed the way we define freedom and democracy in this country.

Frederick Douglass moved many free and runaway slaves to enlist in the Union Army and to fight for their freedom when he said, "Once let the black man get upon his person the brass letters U.S., let him get an eagle on his button, and a musket on his shoulder and bullets in his pockets, there is no power on Earth can deny that he has earned the right for citizenship in the United States."

Approximately 180,000 African Americans, comprising 163 units, served in the Union Army during the Civil War, and many more served in the Union Navy. Although black soldiers proved themselves as reputable soldiers, discrimination in pay and other areas remained widespread.

We as Americans continue to struggle with issues of race, the politics of federalism and heritage. The 150th anniversary of the Civil War would give us an opportunity to reflect collectively on our shared history and our identity as Americans. Many say and many believe that we have a democracy, that we as African Americans, for example, have equal rights. But we must ask what it really means, and even in 2004 we must ask is freedom and equal rights a reality for all Americans.

□ 1345

What we do have, though, is the right to struggle, and the need for struggle is just as important today as it was during the Civil War.

Frederick Douglass was right then and Douglass is right now when he said that "Struggle, struggle, strife and pain are the prerequisites for change, and if there is no struggle, there will be no progress."

The American Civil War is a critical part of our Nation's history and development. The 105th anniversary of the war should remind us that we have come a long way, but there is still much work to be done, and in the words of the philosopher, we must remember that freedom is a hard-won thing. Each generation must win it, and win it again.

The American Civil War was critical to America's development as a nation and a democracy. The 105th anniversary of the war is an appropriate time for us to reflect on its legacy and its impact on our lives.

Mr. Speaker, I reserve the balance of my time.

Mr. OSE. Mr. Speaker, I am pleased to yield such time as he may consume to the distinguished gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Mr. Speaker, I thank the gentleman for his courtesy in yielding me time. I rise here today to speak to my appreciation for his good work in bringing this matter to the floor of the House.

Mr. Speaker, the American Civil War was perhaps the most dramatic forging event in our Nation's history. In a brief period of time, over 600,000 lives were lost. The struggle was immense. But from this incredible event and the huge loss of life, a new nation was forged, with its eye on principle and in practice to afford equal rights to all.

In the course of our history, this Congress has acted with regard to this matter in years past. In fact, there are two institutions. The United States Civil War Center at Louisiana State University and the Civil War Institute at the Gettysburg College have been the only two institutions nationally recognized as Civil War centers. It is my hope and expectation that as the commission itself is appointed and work is commenced, that they will become significant partners with the center at LSU and at the Gettysburg College in coming to the appropriate decisions for the sesquicentennial celebrations of this event.

It is truly an important, formative event in our Nation's history. It is a time when no one should be without education and understanding, for from it we learn much about ourselves and what makes our Nation as great as it is today.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, I thank the gentleman for yielding me time, and I also thank the chairman of my subcommittee of the Committee on Financial Services for his leadership.

I rise in strong support of this resolution. I have been working with several of my colleagues to organize a Civil War Caucus here in the House of Representatives. Outside this building, just on the West Front, is a statue of General Grant at the very footsteps of the Capitol. A few blocks away from that is a statue of General Meade. Beyond that is the Lincoln Memorial, and beyond that in the hills of Arlington is the Custis-Lee Mansion.

Why do we remember? Why do we erect statues? Why is this bill important? It is important because the Civil

War is really not about the past; it is about our present, it is about our future. It is important because what happened in the Civil War will instruct us in how we meet challenges today.

I serve on the Committee on Armed Services and we are dealing with profoundly difficult challenges around the world, in Iraq, Iran, North Korea, Pakistan, the global war on terror. Sometimes those challenges seem almost insurmountable. What the Civil War teaches all of us is that no challenge is insurmountable.

When I think about the military difficulties that we have in the world today, I also think about the 20th of May on Little Round Top in Gettysburg. It was on that hill that just a small group of men were told to remain in place, to hold that hill at all hazards. They were confronted with enemy in front of them, overwhelming numbers, overwhelming numbers of enemy to their left and above them, and still they held that hill. They repulsed attack after attack after attack, and when they ran out of ammunition and hope, their leader, Colonel Joshua Chamberlain, ordered the men to fix bayonets and charge. That is surmounting challenge.

What we were taught from that battle on many battlefields, on many boats, in north and south, is that we are a unique and special country. That fight was for us. That fight was for our future. That fight was to teach a lesson that higher principles guide us, that there are things worth fighting for that are even more important than ourselves.

This bill is not about statues, it is not about commemoration, it is not about the past. It is about the country we are today and the country we will be tomorrow.

For that reason, I strongly support this bill and urge its adoption.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will just end by suggesting that the Civil War was the costliest war that this country has ever been engaged in and perhaps one of the most important wars that this country will ever fight. I urge strong support of this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. OSE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to join my friend from Illinois in his remarks, and I too urge all Members to support the passage of H.R. 2449.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Linder). The question is on the motion offered by the gentleman from California (Mr. Ose) that the House suspend the rules and pass the bill, H.R. 2449, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HUDSON-FULTON-CHAMPLAIN 400TH COMMEMORATION COMMISSION ACT OF 2004

Mr. OSE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2528) to establish the Hudson-Fulton-Champlain 400th Commemorative Commission, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hudson-Fulton-Champlain 400th Commemoration Commission Act of 2004"

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds the following:

(1) The first European exploration of the Hudson River and Lake Champlain and the introduction of steam navigation to maritime commerce were events of major historical importance, both in the United States and internationally.

(2) In 1609, Englishman Henry Hudson, acting in service of the Dutch East India Company, was the first European to sail up the river later named for him in the vessel HALF MOON, and French explorer Samuel de Champlain was the first European to see the lake later named for him.

(3) These voyages were two of the most significant passages in the European exploration and discovery of America, and began two of the earliest contacts in the New World between Native Americans and Europeans.

(4) These explorations led to the establishment of Fort Orange, a Dutch (and later English) settlement of what is now the capital city of the State of New York, and settlement of French Quebec settlements as far south as Lake George. From these early settlements came an influence on the Nation's history, culture, law, commerce, and traditions of liberty which extends to the present day, and which is constantly reflected in the position of the United States as the leader of the nations of the free world.

(5) In 1807, Robert Fulton navigated the Hudson River from the city of New York to Albany in the steamboat CLERMONT, successfully inaugurating steam navigation on a commercial basis. This event is one of the most important events in the history of navigation. It revolutionized waterborne commerce on the great rivers of the United States, transformed naval warfare, and fostered international relations through transoceanic travel and trade.

(6) The National Park Service owns and operates significant resources in New York related to the early history of the nation and the Hudson River Valley.

(7) In 2002, the State of New York established a Hudson-Fulton-Champlain Commission.

(8) In 2003, the State of Vermont established a Lake Champlain Quadricentennial Commission.

(b) Purpose.—The purpose of this Act is to establish the Hudson-Fulton-Champlain 400th Commemoration Commission to—

(1) ensure a suitable national observance of the Henry Hudson, Robert Fulton, and Samuel de Champlain 2009 anniversaries through cooperation with and assistance to the programs and activities of New York, New Jersey, Vermont, and the commemorative commissions formed by the States;

(2) assist in ensuring that Hudson-Fulton-Champlain 2009 observances provide an excellent visitor experience and beneficial interaction between visitors and the natural and cultural resources of the New York, New Jersey, and Vermont sites;

(3) assist in ensuring that Hudson-Fulton-Champlain 2009 observances are inclusive and appropriately recognize the diverse Hudson River and Lake Champlain communities that developed over four centuries;

(4) facilitate international involvement in the Hudson-Fulton-Champlain 2009 observances;

(5) support and facilitate marketing efforts for a commemorative coin, a commemorative stamp, and related activities for the Hudson-Fulton-Champlain 2009 observances; and

(6) assist in the appropriate development of heritage tourism and economic benefits to the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) Commemoration.—The term "commemoration" means the commemoration of—

(A) the 200th anniversary of Robert Fulton's voyage in the CLERMONT;

(B) the 400th anniversary of Henry Hudson's voyage in the HALF MOON; and

(C) the 400th anniversary of Samuel de Champlain's voyage.

(2) Commission.—The term "Commission" means the Hudson-Fulton-Champlain 400th Commemoration Commission established by section 4(a).

(3) Governors.—The term "Governors" means the Governors of the States of New York, New Jersey, and Vermont.

(4) Secretary.—The term "Secretary" means the Secretary of the Interior.

(5) States.—The term "States"—

(A) means the States of New York, New Jersey, and Vermont; and

(B) includes agencies and entities of each such State.

SEC. 4. HUDSON-FULTON-CHAMPLAIN 400TH COMMEMORATION COMMISSION.

(a) In General.—The Secretary shall establish a commission to be known as the "Hudson-Fulton-Champlain 400th Commemoration Commission".

(b) Membership.—

(1) In general.—The Commission shall be composed of 31 members, of whom—

(A) 3 members shall be appointed by the Secretary, after consideration of the recommendations of the Governors;

(B) 13 members shall be appointed by the Secretary, after consideration of the recommendations from the Members of the House of Representatives whose districts encompass the Hudson River Valley and Champlain Valley;

(C) 6 members shall be appointed by the Secretary, after consideration of the recommendations from the Members of the Senate from New York, New Jersey, and Vermont;

(D) 2 members shall be employees of the National Park Service, of whom—

(i) one shall be the Director of the National Park Service (or a designee); and

(ii) one shall be an employee of the National Park Service having experience relevant to the commemoration, who shall be appointed by the Secretary;

(E) one member shall be appointed by the Secretary, and shall be an individual knowledgeable of the Hudson River Valley National Heritage Area;

(F) 6 members shall be appointed by the Secretary, and shall be individuals that have an interest in, support for, and expertise appropriate to, the commemoration;

(G) one member shall be the chairperson of any commemorative commission formed by New York, or the designee of the chairperson;

(H) one member shall be the chairperson of any commemorative commission formed by New Jersey, or the designee of the chairperson; and

(I) one member shall be the chairperson of any commemorative commission formed by Vermont, or the designee of the chairperson.

(2) TERM; VACANCIES.—

(A) TERM.—Each member of the Commission shall be appointed for the life of the Commission.

(B) VACANCIES.—

(i) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(ii) PARTIAL TERM.—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet—

(i) at least twice each year; or

(ii) at the call of the Chairperson or the majority of the members of the Commission.

(B) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(4) CHAIRPERSON AND VICE CHAIRPERSON.—(A) The Commission shall elect the chairperson and the vice chairperson of the Commission on an annual basis.

(B) The vice chairperson shall serve as the chairperson in the absence of the chairperson.

(5) QUORUM.—A majority of voting members shall constitute a quorum, but a lesser number may hold meetings.

(6) VOTING.—

(A) IN GENERAL.—The Commission shall act only on an affirmative vote of a majority of the voting members of the Commission.

(B) NONVOTING MEMBERS.—The individuals appointed under subparagraphs (G), (H), and (I) of paragraph (1) shall be nonvoting members, and shall serve only in an advisory capacity.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) plan, develop, and execute programs and activities appropriate to commemorate the 400th anniversary of the voyage of Henry Hudson, the first European to sail up the Hudson River, the 200th anniversary of the voyage of Robert Fulton, the first person to use steam navigation on a commercial basis, the 400th anniversary of the voyage of Samuel de Champlain, the first European to discover and explore Lake Champlain;

(B) facilitate Hudson-Fulton-Champlain-related activities throughout the United States;

(C) coordinate its activities with State commemoration commissions and appropriate Federal Government agencies, including the Departments of Agriculture, Defense, State, and Transportation, the National Park Service with respect to the Hudson River Valley National Heritage Area, and the American Heritage Rivers Initiative Interagency Committee established by Executive Order 13061, dated September 11, 1997;

(D) encourage civic, patriotic, historical, educational, religious, economic, and other organizations throughout the United States to organize and participate in anniversary activities to expand the understanding and appreciation of the significance of the voyages of Henry Hudson, Robert Fulton, and Samuel de Champlain;

(E) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration;

(F) coordinate and facilitate for the public scholarly research on, publication about, and interpretation of, the voyages of Henry Hudson, Robert Fulton, and Samuel de Champlain; and

(G) ensure that the Hudson-Fulton-Champlain 2009 anniversaries provide a lasting legacy and long-term public benefit by assisting in the development of appropriate programs and facilities.

(2) STRATEGIC PLAN AND ANNUAL PERFORMANCE PLANS.—The Commission shall prepare a strategic plan in accordance with section 306 of title 5, United States Code, and annual performance plans in accordance with section 1115 of title 31, United States Code, for the activities of the Commission carried out under this Act.

(3) REPORTS.—

(A) ANNUAL REPORT.—The Commission shall submit to Congress an annual report that contains a list of each gift, bequest, or devise with a value of more than $250, together with the identity of the donor of each such gift, bequest, or devise.

(B) FINAL REPORT.—Not later than September 30, 2010, the Commission shall submit to the Secretary a final report that contains—

(i) a summary of the activities of the Commission;

(ii) a final accounting of funds received and expended by the Commission; and

(iii) the findings and recommendations of the Commission.

(d) POWERS OF THE COMMISSION.—The Commission may—

(1) solicit, accept, use, and dispose of gifts, bequests, or devises of money or other real or personal property for the purpose of aiding or facilitating the work of the Commission;

(2) appoint such advisory committees as the Commission determines to be necessary to carry out this Act;

(3) authorize any member or employee of the Commission to take any action that the Commission is authorized to take by this Act;

(4) procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements, to carry out this Act (except that any contracts, leases, or other legal agreements made or entered into by the Commission shall not extend beyond the date of the termination of the Commission);

(5) use the United States mails in the same manner and under the same conditions as other Federal agencies;

(6) subject to approval by the Commission, make grants in amounts not to exceed $20,000 to communities, nonprofit organizations, and commemorative commissions formed by the States to develop programs to assist in the commemoration; and

(7) make grants in amounts not to exceed $20,000 to research and scholarly organizations to research, publish, or distribute information relating to the early history of the voyages of Hudson, Fulton, and Champlain.

(e) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS OF THE COMMISSION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a member of the Commission shall serve without compensation.

(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(C) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(2) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(3) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—

(A) FEDERAL EMPLOYEES.—

(i) IN GENERAL.—At the request of the Commission, the head of any Federal agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act.

(ii) CIVIL SERVICE STATUS.—The detail of an employee under clause (i) shall be without interruption or loss of civil service status or privilege.

(B) STATE EMPLOYEES.—The Commission may—

(i) accept the services of personnel detailed from States (including subdivisions of States); and

(ii) reimburse States for services of detailed personnel.

(5) VOLUNTEER AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(6) SUPPORT SERVICES.—The Director of the National Park Service shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(f) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the

Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(g) FACA NONAPPLICABILITY.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(h) NO EFFECT ON AUTHORITY.—Nothing in this section supersedes the authority of the States or the National Park Service concerning the commemoration.

(i) TERMINATION.—The Commission shall terminate on December 31, 2010, and shall transfer all documents and materials of the Commission to the National Archives or other appropriate Federal entity.

SEC. 5. AUDIT OF COMMISSION.

The Inspector General of the Department of the Interior shall perform an annual audit of the Commission and shall make the results of the audit available to the public.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $500,000 for each of fiscal years 2005 through 2011 to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. OSE) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. OSE).

GENERAL LEAVE

Mr. OSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2528.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. OSE. Mr. Speaker, I yield myself of such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2528, a bill that creates another important congressional commission. This measure, introduced by the gentleman from New York (Mr. HINCHEY), establishes the Hudson-Fulton-Champlain 400th Commemoration Commission.

Mr. Speaker, many outside of the northeast may be unfamiliar with the honorees of the commission, Henry Hudson, Robert Fulton, Samuel de Champlain. But this commemoration aims to raise awareness of their pioneering contributions.

In 1609, Henry Hudson of England was the first European to sail up the river that would later bear his name. That same year, French explorer Samuel de Champlain was the first European to come across the lake that is named after him. Nearly 200 years later, in 1807, Robert Fulton navigated the Hudson River from the city of New York to Albany aboard the steamboat Clermont. This voyage successfully inaugurated steam navigation, and is one of the most important events in the history of navigation.

These three events that occurred on these significant waterways greatly contributed to western expansion across the New World. I know the distinguished Members from New York, New Jersey and Vermont strongly support the establishment of this commission, and as a student of history, I am pleased to join them today in favor of passage of H.R. 2528.

I want to congratulate the distinguished gentleman from New York (Mr. HINCHEY) for advancing this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. HINCHEY), the author of this legislation.

Mr. HINCHEY. Mr. Speaker, I want to also express my appreciation to the gentleman from Illinois (Mr. DAVIS) and the chairman for their work on this legislation and for the way in which it has been brought to the floor. I very much appreciate all the consideration that has been given to it and the attention it has received.

Mr. Speaker, the legislation, as we have heard, will establish a Federal commission to plan, develop and execute programs and activities to commemorate the 400th anniversary of the voyage of Henry Hudson, the 400th anniversary of the voyage of Samuel de Champlain, and the 200th anniversary of the voyage of Robert Fulton. These are events of major historical importance both for the United States and for many other nations as well.

In 1609, Englishman Henry Hudson, acting in the service of the Dutch East India Company, was the first European to sail up the river later named for him in the vessel Half Moon, and French explorer Samuel de Champlain was the first European to see the lake that was later named for him. These voyages were two of the most important passages in the European exploration and discovery of North America, and they began two of the earliest contacts in the New World between Europeans and Native Americans.

These explorations led to the establishment of Fort Orange by the Dutch, which later became the English settlement of Albany, which later became the capital of New York State. It also led to French settlements as far south as Lake George in New York. From these early settlements came an influence on our history, law, culture, commerce and traditions of liberty, which extends right down to the present day.

Furthermore, in 1807, Robert Fulton navigated 150 miles of the Hudson River from New York City to Albany in the steamboat Clermont, successfully inaugurating steam navigation on a commercial basis. This is one of the most important events in the history of naval travel. The trip had previously consumed an average of 4 days. The Clermont under Fulton made the same trip in about 32 hours.

Steam navigation revolutionized waterborne commerce on the great rivers of the United States, such as the Hudson, the Missouri and Mississippi River systems; it transformed transoceanic travel and naval warfare and fostered international relations through travel and trade.

The Hudson, Fulton and Champlain anniversaries have a rich tradition of commemoration, as well, by our Nation. In 1909, Americans celebrated the 300th anniversary of these events with maritime celebrations and art exhibitions. New York and New Jersey created a Hudson-Fulton Celebration Commission, and there was a Champlain Tercentenary in the Champlain Valley. These celebrations were extensive and international in scope. The Dutch built the first replica of Hudson's ship, the Half Moon, and sent it up the Hudson River for that observance.

In 1959, Congress created the Hudson-Champlain Celebration Commission to recognize the 350th anniversary and coordinate Federal participation in those commemoration events. New York, New Jersey and Vermont all participated in the anniversaries.

Then-Governor Nelson Rockefeller of New York proclaimed 1959 the Year of History. Events occurred day and night, such as art exhibits, performance of music, drama and historic reenactments. The Netherlands, Canada, Great Britain and France were all enthusiastically involved.

In order for our country to showcase to the world the monumental effect that exploration has had on today's society and to celebrate the beauty, history and culture of the Hudson River and Lake Champlain, Federal planning for the 400th anniversary must start now. The States are already planning for these anniversaries.

In 2002, the State of New York established a State Hudson-Fulton-Champlain Commission; and in 2003, the State of Vermont established a Lake Champlain Quadricentennial Commission.

A Federal commission is important to expand the scope of these State celebrations, attracting and organizing a national and indeed an international organization for these celebrations. The commission established by this bill will coordinate educational, cultural and historic projects, while cooperating in assisting the programs and activities conceived by New York, New Jersey and Vermont.

Specifically, the legislation will do the following: It will ensure a suitable national observance of the anniversary through cooperation with and assistance to the programs and activities of New York, New Jersey and Vermont.

It will cultivate international involvement in celebration activities and provide an excellent opportunity to strengthen our historic and cultural ties to nations such as the Netherlands, Canada, Great Britain and France.

It will also coordinate the activities of Federal Government agencies such as the Departments of Agriculture, Defense, State, Transportation, as well as the National Park Service, all of which have significant resources in the Hudson and Champlain Valleys.

It will encourage civic, patriotic, historical, educational, religious, economic and other organizations throughout the United States to organize and participate in anniversary activities that expand the understanding and appreciation of the significance of these voyages.

It will provide technical assistance to States, localities, nonprofit organizations to further the commemoration.

It will coordinate and facilitate for the public scholarly research on publication about and interpretation of the voyages of Henry Hudson, Samuel de Champlain and Robert Fulton.

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It will support and facilitate marketing efforts for a commemorative coin, a commemorative stamp, and related activities for the Hudson-Fulton-Champlain 2009 observances. And it will also ensure that the Hudson-Fulton-Champlain 2009 anniversaries provide a lasting legacy and long-term public benefit by assisting in the development of appropriate programs and facilities.

I urge all Members to join me in supporting this legislation, and again, I express my appreciation to the gentleman here today for bringing this legislation to the floor.

Mr. OSE. Mr. Speaker, I have no other speakers, and I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with the gentleman from California (Mr. OSE) and the gentleman from New York (Mr. HINCHEY) in support of this legislation. The Hudson-Fulton-Champlain Commission, as established in this act, will plan and develop programs in 2009 that will celebrate the voyages of discovery made by Henry Hudson, Robert Fulton, and Samuel de Champlain.

The programs and activities will mark the 400th anniversary of the voyage of Henry Hudson, the first European to sail up the Hudson River; the 200th anniversary of the voyage of Robert Fulton, the first person to use steam navigation on a commercial basis; and the 400th anniversary of the voyage of Samuel de Champlain, the first European to discover and to explore Lake Champlain.

The exploration of the Hudson River and Lake Champlain and the introduction of steam navigation in maritime commerce played an important role in shaping New York State. In addition, these early explorers opened a part of North America that was crucial to international trade throughout eastern New York, the North Country and the Lake Champlain region.

The Hudson-Fulton-Champlain 400th Commemoration Commission represents a unique opportunity to celebrate New York, its history and its heritage.

Mr. CROWLEY. Mr. Speaker, I am proud to support the Hudson-Fulton-Champlain 400th Commemoration Commission Act, and I thank my colleague MAURICE HINCHEY for his leadership on this issue.

I am pleased that the bill under consideration today will establish a Commission charged with planning, developing and executing programs and activities appropriate to commemorate the voyages of three explorers. From these early explorations and "The Legend of Sleepy Hollow" to today's waterfront development projects, the Hudson River has enriched life in New York for centuries. Safeguarding the rich historical legacy of these natural resources is a commitment we must all make, and we have an obligation to educate the public on the three explorers and their voyages.

As the co-founder of the Hudson River Caucus, I have worked to help realize the full educational, environmental, and economic potential of the Hudson River and its waterfront. The event that will take place in 2009, commemorating the 400th anniversary of Henry Hudson's voyage, the 200th anniversary of the voyage of Robert Fulton, and the 400th anniversary of the voyage of Samuel de Champlain, will help to achieve these goals. This legislation will celebrate and cherish these significant explorers and voyages, and help ensure historic preservation and increase public awareness for generations to come.

I am happy to support this legislation, and I urge my colleagues to support it.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. OSE. Mr. Speaker, I urge my colleagues to pass this bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). The question is on the motion offered by the gentleman from California (Mr. OSE) that the House suspend the rules and pass the bill, H.R. 2528, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL PREPAREDNESS MONTH

Mr. OSE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 489) supporting the goals and ideals of National Preparedness Month.

The Clerk read as follows:

H. CON. RES. 489

Whereas devastating acts, such as the terrorist attacks on the World Trade Center and the Pentagon, have left many Americans concerned about the possibility of future terrorist incidents and their potential impact;

Whereas terrorists are attempting to acquire or develop weapons of mass destruction, such as biological, chemical, nuclear, and radiological weapons;

Whereas terrorist attacks and other emergencies have, and can again, disrupt hundreds of thousands of lives, resulting in significant numbers of casualties, causing serious damage to buildings and our Nation's infrastructure, and costing billions of dollars;

Whereas the Department of Homeland Security and other Federal, State, and local entities have been working diligently to prevent, prepare for, respond to, and recover from terrorist attacks and other emergencies;

Whereas all Americans can assist in promoting the Nation's overall emergency preparedness by preparing themselves and their families for terrorist attacks and other emergencies;

Whereas Americans can prepare for the unexpected by, among other things, assembling an emergency supply kit, developing a family emergency communications plan, and keeping informed about possible emergencies;

Whereas additional information about citizen preparedness can be obtained through the Department of Homeland Security's Ready campaign, by telephone at 1-800-BE-READY, and on the Internet at www.Ready.gov;

Whereas the Department of Homeland Security, the Department of Education, the America Prepared Campaign, the American Red Cross, and a coalition of more than 50 national organizations will launch National Preparedness Month on September 9, 2004;

Whereas all 56 State and territorial governors have pledged to mark National Preparedness Month with local events; and

Whereas the designation of National Preparedness Month will promote public awareness about the numerous ways that Americans can better prepare themselves and our Nation for terrorist attacks and other emergencies: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) supports the goals and ideals of National Preparedness Month;

(2) supports the designation of National Preparedness Month; and

(3) urges the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe National Preparedness Month with appropriate events and activities that promote citizen and community preparedness for terrorist attacks and other emergencies.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. OSE) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. OSE).

GENERAL LEAVE

Mr. OSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 489.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. OSE. Mr. Speaker, I yield myself such time as I may consume.

As Election Day nears, many Americans are understandably nervous about terrorism. Each day brings news of terror warnings at home, terror attacks or other developments abroad and ways the entire world has changed since the international war on terror began. Literally, we can be overwhelmed by the constant bombardment of these frightening updates.

Indeed, since September 11, our Nation has profoundly changed. Homeland security immediately became America's greatest priority. First responders, military personnel and law enforcement officials have vigilantly defended our homeland against further terrorist attacks. Meanwhile, many Americans want to help shoulder some of the burden in protecting the United States. They may, unfortunately, believe that they can do little more than worry. This resolution intends to increase awareness about how Americans can better prepare themselves and our Nation for terrorist attacks and other emergencies.

Mr. Speaker, this is September, the month in which our Nation was brutally attacked. Consequently, the Departments of Homeland Security and Education, the American Red Cross and dozens of national organizations have joined together to appropriately designate this month as National Preparedness Month. I join with the distinguished chairman of the House Select Committee on Homeland Security, the gentleman from California (Mr. COX) to support the critical goals of National Preparedness Month.

Mr. Speaker, I thank my colleague, the gentleman from California (Mr. COX) for introducing House Concurrent Resolution 489, and I look forward to his words on the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a year after the Department of Homeland Security began its ad campaign to educate the American people on how to prepare for a terrorist attack, a USA Today/CNN/Gallup poll published in March found that most Americans have not heeded the government's advice by stocking up on food and water, formulating a plan to contact family members and identifying a "safe room" in their homes.

This statistic is very troubling, because it demonstrates that the government has not done an adequate job in communicating how important it is to be prepared in the event of an emergency or terrorist attack. Being prepared could mean the difference between life and death.

Establishing a National Preparedness Month will focus the public's attention on emergency preparedness and help to resolve issues people may have, such as where to go and how to contact family members during an emergency.

As elected officials, we have a responsibility to help protect and to educate our constituents about the threats facing our Nation. H. Con. Res. 489 would help us to do exactly that.

There is no such thing as a perfect plan to protect the American people from an attack, but we can work to make our plan as perfect as possible. While the poll suggests that Americans are not as prepared as we should be, it does serve as a wake-up call.

So I urge my colleagues to take advantage of this opportunity to vote in favor of H. Con. Res. 489 and to help make sure that we are as prepared as a nation as we can possibly be.

Mr. Speaker, I yield back the balance of my time.

Mr. OSE. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from California (Mr. COX), the chairman of the Select Committee on Homeland Security and the sponsor of House Concurrent Resolution 489.

Mr. COX. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise today in support of H. Con. Res. 489, which supports the objectives of National Preparedness Month and commends the Department of Homeland Security for initiating this bold and timely program.

I recently introduced this bill, along with my distinguished colleague, the gentlewoman from California (Ms. HARMAN). Her strong leadership on the Select Committee on Homeland Security on behalf of this measure has contributed significantly to keeping our citizens prepared, informed and protected from the continued threat of terrorism. Since September 11, this Congress has worked tirelessly to improve the security of every town and city across America.

This month, September 2004, more than 80 organizations across the United States in every one of the 56 United States and territories are joining with the Department of Homeland Security to encourage Americans to be prepared in our homes, in our businesses and in our schools.

As recent tragic events in Beslan have made it clear, even our children, even our schools are not immune from terrorism.

As we continue to secure our transportation systems and other critical infrastructure, we must also make it a priority to educate our citizens. Moms, dads, students, teachers, businesses and professional men and women, every American at his and her place of work can contribute to the counterterrorism mission. In order to work, this critical mission has to be a partnership, a broad partnership involving not just Federal, State and local governments but each and every citizen.

That is why National Preparedness Month is so important and so relevant to President Bush's strategy for homeland security. It is a creative but practical program that emphasizes clear, commonsense steps that we can all take to secure our communities, to safeguard our neighborhoods and to protect our children.

Every one of us has an important role to play in this effort. We can make emergency communications plans. We should have emergency kits. We can work with our neighbors to promote public awareness and public preparedness.

As Secretary Ridge has reminded us, national preparedness is not just a 30-day exercise. It is not going to be finished and forgotten. It should be for all of our citizens the renewal of a 365-day, 24–7 effort, a commitment to defeat international terrorism in our own homes. National preparedness must be a way of life in defense of our home.

The unthinkable happened on September 11, and we are making sure that it never happens again. The Department of Homeland Security is working to ensure that our capable and courageous police, firefighters and emergency medical personnel are properly trained and equipped. These first responders must be prepared to respond to terrorist attacks and other emergencies, especially if they involve biological weapons or WMDs.

We have come a long way since 9/11, but as the President tells us time and again, there is still much more to do to keep America safe. Each and every one of us, as I said, has an important role to play in this effort. By staying informed and active in our communities, we can all help accomplish this.

I commend Secretary Ridge and the Department of Homeland Security for inaugurating National Preparedness Month, which is keeping us all focused on this important goal.

Mr. Speaker, I yield back the balance of my time.

Mr. OSE. Mr. Speaker, I urge all Members to support the adoption of House Concurrent Resolution 489, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. OSE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 489.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL LONG-TERM CARE RESIDENTS' RIGHTS WEEK

Mr. OSE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 772) supporting the goals and ideals of National Long-Term Care Residents' Rights Week and recognizing the importance to the Nation of residents of long-term care facilities, including senior citizens and individuals living with disabilities.

The Clerk read as follows:

H. RES. 772

Whereas there are nearly 1.7 million individuals living in 17,000 nursing homes and 1 million individuals living in 46,000 board and care and assisted living facilities in the United States;

Whereas residents of long-term care facilities, including senior citizens and individuals living with disabilities, are one of the Nation's most valued resources;

Whereas residents of long-term care facilities include the "Greatest Generation" of Americans who protected our freedoms in World War II and helped rebuild the world in the postwar years;

Whereas almost 160,000 people younger than 65 years of age live in the Nation's nursing homes;

Whereas the Nation should honor and celebrate long-term care residents, recognize their rich individuality, and reaffirm their rights as community members and citizens, including the right to vote;

Whereas the Federal Nursing Home Reform Act of 1987 guaranteed important rights, such as the right to privacy, the right to be treated with dignity, the right to exercise self-determination, the right to participate in the review of one's care plan, the right to be fully informed in advance of any changes in treatment, and the right to voice grievances without discrimination or reprisal;

Whereas long-term care ombudsmen, citizen advocates, facility staff, and family and resident councils work to educate and empower residents in the exercise of their rights;

Whereas the week beginning October 3, 2004, should be celebrated as National Long-Term Care Residents' Rights Week;

Whereas in recognition of National Long-Term Care Residents' Rights Week, individuals and groups around the country will be affirming the importance of quality of care and quality of life for long-term care residents; and

Whereas National Long-Term Care Residents' Rights Week originated in 1980, with resolutions introduced by Representative Claude Pepper and Senator David Pryor to designate a Nursing Home Residents Day: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of National Long-Term Care Residents' Rights Week; and

(2) encourages the President to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities to demonstrate the importance of long-term care residents to our everyday lives.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. OSE) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. OSE).

GENERAL LEAVE

Mr. OSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. OSE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution supports the goals and ideals of National Long-Term Care Residents' Rights Week. Many Americans may not be aware that dozens of national, State and local organizations observe National Long-Term Care Residents' Rights Week during the first week of October. As we approach that time, I am pleased that the House is considering this resolution.

As the U.S. population grows older, long-term care facilities become increasingly important resources for more American families. These homes provide invaluable services by helping people with the day-to-day care of their elderly loved ones.

Nearly 2 million Americans today live in assisted living homes. These people are our parents, our grandparents, our great grandparents, our mentors, neighbors and friends. They have lived full lives, but they have much more living to do. We should always value and respect their dignity as that transpires.

I thank the gentleman from California (Mr. WAXMAN) for his efforts on House Resolution 772, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, almost 1.7 million Americans live in a long-term care facility somewhere in the United States. With improvements in medicine and the aging of the baby boomer generation, that number is likely to increase. Therefore, it is important that we take the steps necessary to secure the safety, dignity and happiness of our senior citizens.

In 1987, the Federal Nursing Home Reform Act was created as an important first step towards protecting the rights of senior citizens. The act guaranteed seniors the right to self-determination, to be treated with dignity and the right to voice grievances without reprisal. However, much more can be done to educate seniors about their rights.

Creating a National Long-Term Care Residents Rights' Week is a step in the right direction. One week each year, Americans will be educated about long-term care facilities and the quality of care and the quality of life that our seniors deserve.

Our seniors are a national treasure that should be valued and treated with the utmost respect. There is no question that we are a stronger, safer and more prosperous nation because of the hard work and sacrifices made by the generations that have come before us.

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We are without doubt in their debt. I support the goals and ideals of National Long Term Care Residents' Rights Week, and I encourage the President to issue a proclamation that calls upon the people of the United States to observe National Long Term Care Residents' Rights Week beginning October 3.

We also need to seriously look at what is being done about the pay of individuals who work in nursing homes and especially those at the lower levels. Even as I speak today, I think of my father who is 93 years old and who is probably breathing out his last breath in a facility today, so I have a great deal of concern for those individuals who work in these facilities and who often times are paid wages that are not commensurate with the importance of the work that they do.

I also would like to express appreciation to the gentleman from California (Mr. WAXMAN) for his leadership on this important piece of legislation.

Mr. WAXMAN. Mr. Speaker, I rise in strong support of H. Res. 772, a resolution supporting the goals and ideals of National Long-Term Care Residents' Rights Week and recognizing the importance of residents of long-term care facilities to our everyday lives.

I want to thank Representative TOM DAVIS and Representative DANNY DAVIS for working with me to bring this resolution to the floor in a timely manner. I also want to recognize Representative JOHN MCHUGH for joining me in sponsoring this National Long-Term Care Residents' Rights Week resolution.

Since coming to Congress 30 years ago, one of my top priorities has been improving the health care received by senior citizens and persons living with disabilities. It is these people whom we honor during National Long-Term Care Residents' Rights Week, which will begin this year on October 3.

I am especially pleased to be following in the footsteps of the legendary Claude Pepper, who first introduced a resolution in 1980 to designate a Nursing Home Residents Day. As many of you may remember, Claude Pepper was a tireless advocate for the interests of senior citizens and the disabled during his five decades of public service. Since 1980, this commemoration has been broadened to include all 2.7 million persons who live in nursing homes, assisted living facilities, and board and care facilities in the U.S.

A large number of these long-term care residents are members of America's "Greatest Generation"—those men and women who protected our freedoms in World War II and helped rebuild the world in the post-war years. Our Nation should honor and celebrate these residents, recognize their rich individuality, and reaffirm their rights. These rights include the right to privacy, the right to be treated with dignity, the right to review one's care plan, the right to voice grievances without fear of reprisal, and the right to vote.

Mr. Speaker, residents of long-term facilities are a vital part of our Nation and they deserve our honor today. I urge the passage of H. Res. 772.

Mr. EMANUEL. Mr. Speaker, I rise in strong support of H. Res. 772, which recognizes the importance of residents of long-term care facilities to the Nation, including senior citizens and individuals living with disabilities. This resolution calls for the week beginning October 3, 2004 to be celebrated as National Long-Term Care Residents' Rights Week.

We should do all that we can to help senior citizens and individuals living with disabilities maintain their rights and dignity in their daily lives as they strive to participate in the community and make meaningful contributions to our society. Helping them achieve their goals and dreams, and empowering them with the resources they need to lead rewarding lives depend on making sure their rights and benefits are preserved and strengthened. The objectives set forth under this resolution are consistent with these laudable goals.

Our nation's elderly include approximately 1.7 million who are living in 17,000 nursing homes and 1 million living in 46,000 assisted living facilities in the United States. About 160,000 people younger than 65 years of age live in the Nation's nursing homes. These numbers show the elderly and disabled constitute growing significant segments of our population and that we should recognize their specific needs and challenges and how to best serve their interests. I encourage my colleagues, therefore, to support the goals and ideals of National Long-Term Care Residents' Rights Week, and I welcome the participation of long-term care advocates as we strive to help those in such facilities lead productive and rewarding lives.

My commitment to our seniors in long-term care facilities and who are cared for by their families is why I introduced "The Elder Justice Act" (H.R. 2490). This bill will elevate problems associated with abuse against seniors to national attention by consolidating existing government functions dealing with the problem in several different federal agencies under a new Elder Justice Office within the Department of Health and Human Services. My legislation will also help States and local agencies combat neglect and exploitation—whether it is physical, psychological or financial—such as assisting victims and at-risk seniors through "safe havens" and supporting local and state prosecution of abuse perpetrated against the elderly.

Mr. Speaker, we should fulfill our commitment to seniors and disabled Americans. And we must ensure that resolutions like these move forward to demonstrate our obligations to those who need our help. I thank the gentleman from California, Mr. WAXMAN, for introducing this important resolution, and I urge my colleagues to support passage of H. Res. 772.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. OSE. Mr. Speaker, I ask that my colleagues support the passage of this important legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). The question is on the motion offered by the gentleman from California (Mr. OSE) that the House suspend the rules and agree to the resolution, H. Res. 772.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF CONGRESS THAT THE PRESIDENT SHOULD DESIGNATE SEPTEMBER 11 AS A NATIONAL DAY OF VOLUNTARY SERVICE, CHARITY, AND COMPASSION

Mr. OSE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res 473) expressing the sense of Congress that the President should designate September 11 as a national day of voluntary service, charity, and compassion, as amended.

The Clerk read as follows:

H. CON. RES. 473

Whereas, across the Nation and around the world, people of all ages and walks of life collectively witnessed an event of immense tragedy on September 11, 2001;

Whereas the events of that day instantly transformed many lives, some through personal loss, and many others through an unfamiliar sense of individual and national vulnerability;

Whereas an unprecedented, historic bonding of Americans arose from the collective shock, unifying the Nation in a sustained outpouring of national spirit, pride, selflessness, generosity, courage, and service;

Whereas, on that day and the immediate days that followed, many brave people heroically, tirelessly, and courageously participated in an extraordinarily difficult and dangerous rescue and recovery effort, in many cases voluntarily putting their own well being at risk;

Whereas September 11 will never and should never be just another day in the hearts and minds of all Americans;

Whereas the creation of memorials and monuments honoring the lives lost on September 11, as well as the efforts of those who participated in rescue, recovery, and voluntary service efforts, are necessary, proper, and fitting, but alone cannot fully capture the Nation's desire to pay tribute in a meaningful way;

Whereas it is fitting and essential to establish a lasting, meaningful, and positive legacy of service for future generations as a tribute to those heroes of September 11;

Whereas many citizens wish to memorialize September 11 by engaging in personal and individual acts of community service or other giving activities as part of a national day of recognition and tribute; and

Whereas to lose this opportunity to bring people together for such an important endeavor would be a tragedy unto itself: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) it is the sense of Congress that it is appropriate to annually observe Patriot Day, September 11, with voluntary acts of service and compassion in honor of the lives lost on that day and in the spirit of selflessness and unity demonstrated by those who participated in the rescue, recovery, and voluntary service activities that day; and

(2) Congress urges the President to issue a proclamation calling upon the people of the United States to annually observe Patriot Day, September 11, with appropriate and personal expressions of voluntary service, charity, and compassion toward others.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. OSE) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. OSE).

GENERAL LEAVE

Mr. OSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 473.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. OSE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in September 2002 President Bush declared the anniversary of the September 11 terrorist attacks as Patriot Day. The President said September 11 should be a national time for prayer and remembrance for the heroes America lost on that fateful, Earth-shattering day. Accordingly, House Concurrent Resolution 473 states that it is appropriate to annually observe Patriot Day on September 11. I join with my colleagues in urging strong support of this meaningful resolution.

Mr. Speaker, the resolution before us takes the call for remembrance a step forward. It urges people to commemorate the day with voluntary acts of compassion towards loved ones, neighbors and others. These actions can have great effects on our communities all year long.

With little question, September 11, 2001, ushered in a new era in American history. This is a period in which we need to be vigilant, aware, unafraid, and appreciative of our freedoms. But because countless Americans have embraced the sentiment of this resolution in the past 3 years, this new era can be one of not just security and freedom but compassion and charity as well.

I congratulate the gentleman from New York (Mr. KING), my distinguished colleague, who will speak in a minute, for his work to move forward House Concurrent Resolution 473.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since the tragedy of September 11, volunteerism has experienced a renewed popularity in our country. Government officials, religious leaders, political activists, health professionals and others all have noted the importance of volunteerism and the positive impact it has on families and communities.

It is fitting, therefore, that we designate September 11 as a national day of voluntary service, charity, and compassion.

After September 11, many Americans channeled their fear, anger, sadness, and frustration into volunteerism. Americans joined the military, volunteered with local charities, and contributed to good causes. Our citizens have shown tremendous resolve by using the tragedy of September 11 to help the less fortunate and those in need.

There are many battles won and lost every day in America. These battles are not exclusive to fighting terrorism. They include fights to eradicate poverty, to improve education, and to reduce crime. By creating a national day of service, we will be giving the American people another vehicle for channeling their grief into progress along their own streets, within their own communities, and around the world.

By working together on a day dedicated to volunteerism, we Americans can create the next defining moment in our history, one marked by generosity, understanding, and compassion. I urge the President to designate officially September 11 as a day of service through which the American people can continue this movement of good will towards others.

Mr. Speaker, I urge unanimous passage of this resolution.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. OSE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. KING), the sponsor of this resolution.

Mr. KING of New York. Mr. Speaker, I thank the gentleman from California (Mr. OSE) for yielding me time.

Mr. Speaker, I rise in support of H. Con. Res. 473, and I thank the gentleman from California for his efforts on having this on the floor today. And I thank the distinguished gentleman from Illinois (Mr. DAVIS) for the bipartisan support which he has given to this resolution. I also wanted to commend Senator SCHUMER in the other body for introducing a similar piece of legislation, because this is truly a bipartisan measure.

Mr. Speaker, the attacks on the United States on September 11, 2001, were obviously the worst national tragedy to ever affect this country. The deaths, the suffering which so many people went through certainly in my district and adjoining districts, there were many hundreds of people killed that day, certainly down here at the Pentagon there were many more killed, almost 3,000 people killed all together. And, again, it was a time of excruciating agony, torment, and suffering.

But as tragic and as terrible as those days were, we also saw something arise in this country, a sense of unity, a sense of people coming together, a sense of the country standing as one.

Obviously in a democratic society, a mood of total unity is never going to prevail for very long; and it is probably just as well that we do have our partisan differences, we have our ideological differences. That is what makes a democracy what it is. But on the other hand, I do wish we could bring back some of that sense of unity that we had in those days immediately following September 11, when people donated blood, when people raised funds, when people actually went to the site of the World Trade Center to assist the rescue workers who were there. It was just a tremendous sense of national unity.

What I have attempted to do with this resolution is to have the President establish a day which would commemorate September 11. It would call upon people to give of themselves. This is not going to be a holiday. We are not talking about giving people time off. We are asking people to go back to that sense of giving and donate their time and their efforts.

People could donate blood. People could take part in food drives. People could go to distribute food to the poor and to the needy. They can go to veterans hospitals. They could work with senior citizens. They could help Alzheimer's patients. They could just find a way to show a sense of giving which so prevailed in our country after September 11.

There are many ways we can honor the legacy of those who died on September 11. We can certainly do it by winning the war on terrorism. We can do that by establishing as much of a bipartisan policy as we can in combating terrorism. But we can also do it in a way which really crosses all ideological and partisan divides. That is by working together, by helping our fellow man, by helping our neighbor, by coming together. That is what this resolution attempts to do.

We call upon the President to designate September 11 as a national day of voluntary service, charity, and compassion. I strongly urge this House to adopt this resolution.

I thank the gentleman from California (Mr. OSE), the gentleman from Illinois (Mr. DAVIS), and all those who co-sponsored it with me.

Mr. OSE. Mr. Speaker, I urge my colleagues to vote as the gentleman from Illinois (Mr. DAVIS) did, unanimously in favor of this resolution.

Mr. OWENS. Mr. Speaker, I ask that my statement be included in the RECORD in its entirety and request permission to revise and extend my remarks.

Mr. Speaker, the bill before us would express the sense of Congress that September 11 be designated a national day of voluntary service, charity and compassion in recognition of the nearly 3,000 Americans who lost their lives in the terrorist attacks at the World Trade Center, the Pentagon, and the hijacked plane that crashed in Pennsylvania. Clearly, all those who tragically lost their lives that day will forever be memorialized by New Yorkers and the Nation at large. Likewise, it is important that we all continue to pay tribute to the countless rescue and recovery workers and volunteers who toiled heroically to locate survivors as well as the deceased and to clean up the Pentagon and Ground Zero.

Yet it is imperative that we do far more than pay symbolic tribute to these front-line heroes. For many on the front lines at Ground Zero in particular, 9/11 can never be a distant memory. Many of these dedicated workers, from the search and rescue teams to the clean-up and construction crews, have significant and lingering health problems as a direct result of exposure to a wide range of toxins. A number have had to retire from active duty due to serious breathing and respiratory symptoms. Far too many can no longer work at their chosen occupations. Others will never be able to work again.

On Workers Memorial Day in 2003, I held a forum in New York City to examine the health status of the 9/11 workers, including a large contingent of immigrant workers entrusted with decontaminating Ground Zero. We must ensure that these brave 9/11 workers, including the group of day laborers; receive all appropriate health care and monitoring as long as necessary. We must also ensure that the health and safety blunders made in this case, and the failure to protect our workers, are never repeated again.

Mr. Speaker, I hope and expect that in the very near future, we will act upon legislation providing the critical health and compensation these brave 9/11 workers merit and require.

Mr. OSE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. OSE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 473, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read: "A concurrent resolution expressing the sense of Congress that it is appropriate to annually observe Patriot Day, September 11, with voluntary acts of service and compassion.".

A motion to reconsider was laid on the table.

EVA HOLTZMAN POST OFFICE

Mr. OSE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R.

5039) to designate the facility of the United States Postal Service located at United States Route 1 in Ridgeway, North Carolina, as the "Eva Holtzman Post Office".

The Clerk read as follows:

H.R. 5039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EVA HOLTZMAN POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at United States Route 1 in Ridgeway, North Carolina, shall be known and designated as the "Eva Holtzman Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Eva Holtzman Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. OSE) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. OSE).

GENERAL LEAVE

Mr. OSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5039.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. OSE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5039, a bill to designate this postal facility in Ridgeway, North Carolina, as the Eva Holtzman Post Office. All Members of the North Carolina delegation have cosponsored the gentleman from North Carolina's (Mr. BUTTERFIELD) legislation.

A community leader, a postal supervisor, a friend, a grandmother of seven, and a great-grandmother of four, Eva Holtzman was an exemplary role model for the small North Carolina community of Ridgeway.

Eva Holtzman served as postmaster of Ridgeway for 38 years, ultimately retiring at age 80. She was a wonderfully devoted postal supervisor. During her tenure as postmaster, this is great, the Postal Service once announced plans to close the community post office at which she worked in order to widen the county roads. In response, she went out and purchased land with her own money and oversaw the construction of a brand new post office.

Mr. Speaker, Eva Holtzman was perhaps best known for her community involvement. For more than 5 decades, she volunteered with the 4-H Club and taught Sunday school. Additionally, she volunteered with Warren County's health department and social services.

I urge my colleagues to honor Eva Holtzman, a benevolent lifetime resident and an institution in Ridgeway, North Carolina.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the ranking member of the Special Panel on Postal Reform and Oversight of the Committee on Government Reform, I am pleased to join my colleagues in consideration of H.R. 5039, legislation designating a U.S. postal facility in Ridgeway, North Carolina, after Eva Holtzman.

This measure unanimously reported by our committee on September 15, 2004, was introduced by the gentleman from North Carolina (Mr. BUTTERFIELD) on September 9, 2004, and enjoys the support and co-sponsorship of the entire North Carolina delegation.

As a lifelong resident of Ridgeway, Eva Holtzman was a well-respected, hard-working community leader. She worked at the Ridgeway Post Office for an extraordinary 50 years, serving 38 of those years as postmaster. Her dedication went far beyond a plaque on the doorway, however.

A perfect example of Ms. Holtzman's dedication to her fellow residents came in the early 60s when, following the closing of the local post office, she constructed her own post office and operated it herself.

Known to people who knew her well as Miss Eva, Eva Holtzman donated a substantial amount of her time to the community as well, starting a 4-H center and initially operating it out of her own home. The gentleman from North Carolina (Mr. BUTTERFIELD) has described her as being a model citizen: "With the uncertainty and chaos that exists in our world today, I can think of nothing better than to honor the memory of one of North Carolina's finest citizens by naming the post office she loved and worked so hard for, the Eva Holtzman Post Office."

Mr. Speaker, I urge swift passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. OSE. Mr. Speaker, I have no further speakers, and I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. BUTTERFIELD), the sponsor of this legislation.

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Mr. BUTTERFIELD. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I want to express my sincere appreciation for the strong bipartisan support of my distinguished colleagues from the North Carolina delegation, both House and Senate, in their sponsorship of this bill.

I would also like to thank the gentleman from Virginia (Chairman TOM DAVIS) and the gentleman from California (Mr. WAXMAN), the ranking member, and Denise Wilson, along with the entire staff from the Committee on Government Reform, for moving so quickly in seeing the value of this legislation.

Mr. Speaker, we are here today to honor a great woman, a great community leader and a great American who helped so many people throughout my home State of North Carolina.

Today, Mr. Speaker, we show our appreciation for an extraordinary woman, Ms. Eva Holtzman, by naming the post office in Ridgeway, North Carolina, in her honor. Affectionately called "Ms. Eva" by all who knew her, she loved the town of Ridgeway with all of her heart. She called Ridgeway her home. She lived and worked there her entire life. She reared four children and ultimately was laid to rest in that community.

Ms. Eva was born in 1918 and educated in Warren County public schools, graduating with honors from Norlina High School in rural North Carolina.

Ms. Holtzman was a strong force in the 4-H association, starting a chapter out of her home that eventually had to move to a local church because of its popularity. Her 50-year tenure with 4-H and teaching Sunday school at St. Paul's Lutheran Church did not go unnoticed when in the year 2000 she was presented with the Jefferson Award for her outstanding and selfless volunteerism by then-Governor Jim Hunt.

Mr. Speaker, Ms. Holtzman was also a dedicated public servant. She worked at the post office for 50 years, 38 of those years as its postmaster. When the Ridgeway Post Office was closed in the early 1960s, Ms. Holtzman refused to let the town live without a post office and built a new one on her own. Sadly, Eva passed away 3 years ago, leaving behind her beloved post office that she worked so hard to preserve.

As one of her Sunday school students, who is now an adult, said, "Everything I learned, I learned because of Ms. Eva." And when asked why she tirelessly dedicated her life to the citizens of North Carolina, she always said, "It's just wonderful to be able to do things for others. I just enjoy people."

Mr. Speaker, while Ms. Eva Holtzman is deserving of far greater accolades. I am sure they will come in time, but it is my great pleasure to offer this legislation on her behalf. I strongly urge this body to pass this bill.

Mr. OSE. Mr. Speaker, I reserve the balance of my time.

Mr. DOGGETT. Mr. Speaker, I ask unanimous consent to take the time that the gentleman from Illinois (Mr. DAVIS) has been given. He has had a family emergency in connection with his father. I know our prayers will be with him.

The SPEAKER pro tempore (Mr. LINDER). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DOGGETT. Mr. Speaker, I yield back the balance of our time.

Mr. OSE. Mr. Speaker, I ask our colleagues to vote in favor of this resolution, and I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. OSE) that the House suspend the rules and pass the bill, H.R. 5039.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

UNITED STATES POSTAL SERVICE HENRY JOHNSON ANNEX

Mr. OSE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 480) to redesignate the facility of the United States Postal Service located at 747 Broadway in Albany, New York, as the "United States Postal Service Henry Johnson Annex."

The Clerk read as follows:

H.R. 480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. UNITED STATES POSTAL SERVICE HENRY JOHNSON ANNEX.

(a) REDESIGNATION.—The facility of the United States Postal Service located at 747 Broadway in Albany, New York, and known as the United States Postal Service Carrier Annex, shall be known and designated as the "United States Postal Service Henry Johnson Annex".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the United States Postal Service Henry Johnson Annex.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. OSE) and the gentleman from Texas (Mr. DOGGETT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. OSE).

GENERAL LEAVE

Mr. OSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 480, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. OSE. Mr. Speaker, I yield myself such time as may consume.

Mr. Speaker, H.R. 480, introduced by the gentleman from New York (Mr. MCNULTY), redesignates the Albany postal facility as the Henry Johnson Annex. This legislation honors Sergeant Henry Johnson, a hero of World War I and a native of Albany.

Sergeant Johnson was a member of the Army's all-black 369th Infantry Regiment, but because black soldiers were unable to fight in American combat units overseas, Sergeant Johnson actually fought on the allied side under the French flag during World War I. For his incredible valor and skill in combat, Sergeant Johnson posthumously earned a Purple Heart, a Distinguished Service Cross and even the greatest French military honor, the Croix de Guerre.

Mr. Speaker, one byproduct of the war on terror has been a renewed and sincere national appreciation for the sacrifices of the men and women in the Armed Forces. This bill, H.R. 480, gives this Congress a chance to publicly acknowledge and appreciate a great patriot of America's past. Sergeant Johnson was a terrific hero of World War I, about whom Americans should never forget.

I am hopeful that this postal facility will soon wear the name of Sergeant Henry Johnson, and I urge the other body to swiftly consider H.R. 480. I urge our colleagues to vote in favor.

Mr. Speaker, I reserve the balance of my time.

Mr. DOGGETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank our colleague, the gentleman from New York (Mr. MCNULTY), for introducing this legislation which was unanimously reported by the Committee on Government Reform on September 15. It enjoys the full support of the entire New York delegation.

Sergeant Henry Johnson, an Albany native, served in the U.S. Army from June 1917 until February 1919. As an African American, he was unable to fight at that time in an American combat unit, and therefore, he became part of what was known as the "Harlem Hell Fighters," who fought in Europe under the French flag with great courage and distinction.

While on duty, he single-handedly fought off a German raider party of more than 20 troops, and despite numerous wounds, he rescued a fellow soldier from capture and killed several enemy soldiers. As a result of his heroism, as our colleague has indicated, he received numerous medals.

When he returned from Europe to a segregated America, he experienced great difficulty and died unrecognized by his own country in 1929. I truly believe that it is never too late to reward a person for service to their country, and for that reason, I am pleased to join with the gentleman from New York (Mr. MCNULTY) and our other colleagues to redesignate a U.S. postal facility in Albany after Henry Johnson.

I urge swift passage of this legislation.

Mr. OSE. Mr. Speaker, I reserve the balance of our time.

Mr. DOGGETT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. MCNULTY), the author of this legislation.

Mr. MCNULTY. Mr. Speaker, I thank my colleague for yielding.

On behalf of the gentleman from New York (Mr. RANGEL), the gentleman from New York (Mr. SWEENEY) and all of the New York delegation, I am proud to support H.R. 480 which designates the U.S. postal service facility at 747 Broadway in Albany, New York, as the Henry Johnson Annex.

Henry Johnson was a native of Albany, served in World War I, and was an African American who joined the all-black New York National Guard unit, the 369th Infantry Regiment, based in Harlem.

Mr. Speaker, about 400,000 black soldiers served in the Armed Forces at that time. Half were sent overseas, and many were stationed in France. They were not allowed to serve with white soldiers. They were not allowed to fight with American combat units. But the members of the 369th soon proved themselves. They became known as the "Harlem Hell Fighters," and that was not a name they took for themselves. That was a name given to them by their enemies.

No one personified the bravery of the 369th more than Henry Johnson. On guard duty on May 14, 1918, then-Private Johnson came under attack by a German raider party of two dozen. Despite sustaining 21 wounds, he single-handedly fought off the Germans and rescued one of his buddies . . . with only a rifle and his bare hands. He became the first American of any color—in any conflict—to receive the Croix de Guerre, France's highest military declaration.

His exploits got newspaper coverage in America and throughout Europe. He was featured in Teddy Roosevelt's book, "Rank and File: True Stories of the Great War." The Army used Johnson's name and likeness to advertise for war bonds and to recruit minorities into service.

Yet, at that time, despite all he had done, Johnson received no official recognition from his government. None. That recognition came much later.

After the war, Henry Johnson returned to upstate New York and worked on the railroad. He later died penniless on the streets of Albany, New York.

Since integration of the military in 1950, some African American service men and women have been recognized for their gallant service. Recognition of African Americans prior to integration, alarmingly neglected for so many years, had finally begun.

It was not until 1997, Mr. Speaker, that Henry Johnson was posthumously awarded the Purple Heart. I was proud to be there for that ceremony. In 2002, his grave was found in Arlington National Cemetery, not in the pauper's cemetery outside of Albany where he was believed to be buried. In 2003, at the Pentagon, in an official service, Herman Johnson, the son of Henry Johnson, a distinguished veteran himself, accepted the Distinguished Service Cross, the Army's number two award, for his Dad.

In 2003, Mr. Speaker, Henry Johnson did all of these things in 1918, and it took until 2003 to award him the Distinguished Service Cross. Many of us are still disappointed that despite all of the documentation we have given to the Pentagon that he has not received the award that he truly deserves, which is the Congressional Medal of Honor.

Mr. Speaker, today, I want to give public thanks to John Howe, the historian of Albany's 369th Veterans Association and all of his colleagues who have worked for years and years to get these recognitions for Henry Johnson.

I want to thank the gentleman from New York (Mr. RANGEL) and the gentleman from New York (Mr. SWEENEY), both of whom have taken leadership positions in making sure that we correct these injustices of the past, along with Senators CLINTON and SCHUMER who have been stalwart supporters of the effort to award the Congressional Medal of Honor to Henry Johnson.

Mr. Speaker, the cause endures. I thank all of my colleagues today for supporting this bill, but believe me, Mr. Speaker, based on the record, we should be doing a lot more than naming a post office building after Henry Johnson. We have worked hard through the years. We got the Purple Heart and we got the Distinguished Service Cross. We need to go the final step and obtain the Congressional Medal of Honor for Henry Johnson.

I thank all the members of our New York delegation, and the many others in the Congress and across this country for staying with us in this battle through the years. In the end, Mr. Speaker, justice shall prevail.

Mr. DOGGETT. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. OSE. Mr. Speaker, I would just ask that our colleagues to support this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. OSE) that the House suspend the rules and pass the bill, H.R. 480.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONGRATULATING LANCE ARMSTRONG ON RECORD-SETTING VICTORY IN 2004 TOUR DE FRANCE

Mr. OSE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 761) congratulating Lance Armstrong on his record-setting victory in the 2004 Tour de France.

The Clerk read as follows:

H. RES. 761

Whereas Lance Armstrong has proven himself to be the premier cyclist in the world with his most recent Tour de France victory;

Whereas Lance Armstrong's victory on July 25, 2004 makes him the only cyclist in history to win the Tour de France 6 times;

Whereas Lance Armstrong displayed incredible perseverance, determination, and leadership on a course that included the mountainous terrain of the Pyrenees and the Alps, cobblestones, crashes among competitors, and inclement French weather on his way to winning his 6th Tour de France;

Whereas in 1997, Lance Armstrong defeated choriocarcinoma, an aggressive form of testicular cancer that had spread throughout his abdomen, lungs, and brain, and after treatment has remained cancer-free for the past 7 years;

Whereas Lance Armstrong is the first cancer survivor to win the Tour de France;

Whereas Lance Armstrong's courage and resolution to overcome cancer have made him a role model to cancer patients and their families around the world, and his efforts through the Lance Armstrong Foundation have helped to advance cancer research, diagnosis, and treatment, and after-treatment services;

Whereas Lance Armstrong is the world's most recognizable face of cycling, which is not only a sport, but a healthy fitness activity, a pollution-free transportation alternative, and a metaphor for life;

Whereas Lance Armstrong continues to represent his hometown of Austin, his home state of Texas, and the United States with unparalleled distinction;

Whereas Lance Armstrong serves as an inspiration to children and adults throughout the world, teaching people that they can overcome incredible odds and achieve their loftiest goals through hard work, determination, and belief in themselves; and

Whereas Lance Armstrong's accomplishments as an athlete, teammate, cancer survivor, and advocate have made him an inspiration to millions of people around the world: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates Lance Armstrong on his historic victory in the 2004 Tour de France;

(2) commends the unwavering commitment to cancer awareness and survivorship demonstrated by Lance Armstrong; and

(3) directs the Clerk of the House of Representatives to transmit an enrolled copy of this resolution to Lance Armstrong.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. OSE) and the gentleman from Texas (Mr. DOGGETT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. OSE).

GENERAL LEAVE

Mr. OSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 761, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. OSE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House celebrates flat out the greatest cyclist who ever lived. Lance Armstrong won his record sixth Tour de France title in July, and for that reason, we honor his successes on the House floor today.

He broke the record of five straight tours held by himself and Spain's Miguel Indurain who won the race from 1991 through 1995.

☐ 1445

No one had ever even won six Tour de France races, let alone six straight.

With his victory, Lance Armstrong further cemented his place as one of sports' greatest individual athletes. His incredible accomplishment of six straight grueling Tour de France wins can be ranked among any of sports' greatest feats; Joe Dimaggio's 56-game hitting streak and Cal Ripken's 2,632 consecutive games played; Edwin Moses' 107 straight hurdles finals wins in track; Wayne Gretzky's 51-game scoring streak in hockey; Bobby Bonds' soon-to-break Henry Aaron's record.

These are all amazing accomplishments, and by virtue of his victory, Lance Armstrong quite simply joins those people as an athlete for the ages. Perhaps more amazing than being the world's greatest cyclist is the fact that Lance is living, period. Eight years ago, he overcame a deadly form of cancer.

Lance has been a stellar athlete since his youth, playing soccer and cycling, but after high school, he focused solely on cycling. From 1991 through 1996, Lance won 13 bike races, including the U.S. National Amateur Championship in 1991 and the World Championships in 1993. By 1996, Armstrong was the top ranked cyclist in the world. But during 1996, after a victory at the Tour Dupont in North Carolina, he began to feel fatigued and more discomfort than usual, even after an exhausting race. Later that year, he was diagnosed with testicular cancer.

Some of Lance's doctors at the time gave him only a 40 percent chance of surviving. And interestingly enough, he is quoted in his book as saying he thought they were being kind. Lance underwent three major operations. He endured chemotherapy to fight off the disease that had spread to his abdomen, his lungs and his brain. And remarkably, with the help of our scientists and medicine, the treatments were successful. Within a short year of being diagnosed with cancer, he was pronounced cancer free.

As a survivor, Lance became one of the world's most influential cancer research advocates. You and I probably see him on TV every now and then. He founded the Lance Armstrong Foundation to promote cancer research and awareness. He also wrote the best selling book, It's Not About the Bike: My Journey Back to Life. It tells the full story of how his early successes were interrupted by cancer, how he survived cancer and how he eventually returned to racing and won his first Tour de France in 1999.

Mr. Speaker, now that Lance has won his sixth straight race at the Tour de France, I strongly urge adoption of this measure. We all congratulate Lance for the most recent of his six incredible wins on the world's greatest cycling stage and for his fervent advocacy of cancer research. I urge my colleagues to adopt this resolution. Today, it is not Vive la France; today, it is Vive la Lance.

Mr. Speaker, I reserve the balance of my time.

Mr. DOGGETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am here today to honor a survivor, a role model, a real-life American hero and, yes, a proud citizen of the capital city of the Lone Star State of Texas.

The name Lance Armstrong simultaneously strikes fear in the hearts of competitors, hope in the hearts of cancer victims, inspiration for survivors around the world and pride in the hearts of Americans everywhere.

After winning his sixth consecutive Tour de France, the most of any cyclist in the history of this event, we have special reason to celebrate today with this resolution. For the more than 10 million Americans living with cancer, as survivors, Lance Armstrong is a true champion in a very personal and particularly meaningful way.

I believe that we are defined not by our setbacks but by our relentless determination to overcome them. Lance Armstrong offers particular evidence of the importance of that approach. I remember watching in awe as Lance crossed the finish line after winning the first Tour de France, overcoming a grueling battle with cancer and a grueling Tour de France. I was overcome with not just the importance of that moment but with the importance of everything that Lance had accomplished in getting to that point.

While his accomplishments on his bike ensure him a place in history, his work as a public health champion right here in the United States Capital, in Austin and throughout the country have assured him a place in the hearts of many who battle cancer and the families and friends who love them. To meet the challenge, to strive to succeed whether in the Tour de France or the fight against cancer, Lance's work shows us the power of personal perseverance.

After an early career, Lance was stricken with a carcinoma, a life-threatening advanced form of testicular cancer that spread to his lungs and brain. While his own recuperation was still not finished, he began to worry about the impact of the disease on others. The drive and determination that the world got to see on display during the Tour de France was evident to cancer patients and survivors before he wore the yellow jersey on the streets of Paris.

That spirit led him to create the Lance Armstrong Foundation, an organization that has raised millions for cancer research, diagnosis, treatment and after-treatment services. Sales of the group's distinctive yellow wristbands, wristbands that I have seen around the country, with Lance's motto, "Live Strong," can be seen as evidence of the support not only for Lance but for all of those who battle cancer.

Not satisfied with being the best cyclist to beat cancer, Lance set out with the goal of being the best cyclist, period. Five years later, he has shown the world again and again, again and again, that determination, character and perseverance accomplish just that. His accomplishments remind us that for more people there should be life after cancer, and it should be meaningful.

This proud Texan and cancer survivor, public health advocate, Olympian and, now, six time Tour de France champion has captivated the imagination and won the hearts of my homestate of Texas, our Nation and the world. I believe it is fair to say that nowhere is the enthusiasm greater than in Austin, where you see yellow bikes everywhere. You see yellow jerseys. You see yellow signs, and that yellow, when it comes to the Tour de France, is a sign of the courage of Lance Armstrong with this historic victory.

Nothing has been more fun for me, Mr. Speaker, in the last few months, than riding down Congress Avenue toward the Texas state capitol with Lance Armstrong, Mayor Will Wynn and a group of Austin police officers as some 70,000 of Lance's fans gathered to cheer and share in this victory for our community.

We can honor Lance's victory by not only this resolution but by supporting the Centers for Disease Control and Prevention's Comprehensive Cancer Control system, which is supported by the Lance Armstrong Foundation. This CCC system is a coordinated approach to reducing cancer incidents, morbidity and mortality through prevention, early detection, treatment and rehabilitation.

According to the Centers for Disease Control, implementation of this approach would help to prevent new cases of cancer, detect cancer early, increase public education and awareness about cancer control, utilize state-of-the-art cancer treatments, provide appropriate rehabilitation and support in cancer care and use limited resources for cancer control more efficiently, eliminating duplication of efforts. There is little doubt why the Lance Armstrong Foundation supports this approach, and I hope Congress can do as well.

We can also honor Lance's victory by recommitting ourselves and increasing funding for transportation enhancements. As a member of the Congressional Bike Caucus, a bipartisan effort aimed at encouraging cycling, I believe that we have an excellent opportunity through the transportation legislation that is pending to honor Lance once again. We have a great Lance Armstrong cross-town bikeway underway in Austin, but it needs to be connected to trails throughout the community. I am pleased the House has recently approved $9 million to do that in east Austin in this transportation bill.

One day we will have the ability for people in central Texas to commute by bike from downtown all the way to the Dell Diamond out in Round Rock and the many trails around the area, similar to ones we have here in the Washington, D.C., area, can be in the capital city of the State of Texas.

Well, it is not just that Lance Armstrong has faced difficult circumstances with cancer, he also outlines in his own book the challenges he faced as a cyclist on highways and byways in Texas. Through the efforts not only of Lance but of the Texas Bicycle Coalition and particularly its very effective leader and executive director, Robin Stallings, we are doing much to promote increased use of cycling in Texas for all, bike to work, bike to school and safe programs going to school. Even if it is just going down to get a gallon of milk or a recreational ride, we can do much more with cycling and to honor Lance by continuing to promote cycling as a wise transportation alternative. We must stay committed to transportation enhancement funding that will allow us to do that and ensure that we have many more people who aspire to the athletic ability of Lance Armstrong but also that, for all the rest of us, there are cycling alternatives as well.

We have gained inspiration from his work, from the work of the Lance Armstrong Foundation, and I am honored to author this resolution that reflects the House of Representatives' recognition of Armstrong's many accomplishments, both on and off the bicycle.

Mr. DOGGETT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I rise to join in commending Lance Armstrong on his 6th consecutive victory in the Tour de France. I know that the gentleman from Nebraska (Mr. OSBORNE) recognizes the extraordinary accomplishment that winning the Tour de France represents.

This is the world's greatest athletic endurance contest. No comparison. It would be like compressing the National Football League's 16 games into 3 weeks, a game a day. I do not think there are any who could sustain the enormous output of energy required by even the least of the 192 riders who begin each year's Tour de France.

To win a stage is a great accomplishment. To win the tour is extraordinary. Only five have won five tours. Only two have won five tours consecutively. And only one has won the Tour de France six times consecutively, and that is our America's Lance Armstrong.

Over 13 million people this year watched in person the Tour de France. It is the greatest citizens sporting event. No one pays to be on the sidelines, to be in attendance at the Tour de France. There are no tickets. There is no reserved seating. There is no special place. There is no charge. And yet a million people watched the time trial on Alpe d'Huez in which the riders in 9½ miles climb 5,000 feet with 21 switchbacks in a race against the clock and which is in itself probably the most challenging sports event in the history of athletics.

Lance Armstrong, after already riding over 2,000 miles, came within 1 second of the all-time record time trial climb on Alpe d'Huez, but that was enough to put him in the record books to solidify his position. As a leader, as an athlete, but, as he would like to be known, as a cancer survivor, he is quick to point out that while all of his accomplishments in the field of cycling are extraordinary, his greatest claim is as a cancer survivor.

Mr. DOGGETT. Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy.

Mr. Speaker, I would like to follow on the heels of my friend, the gentleman from Minnesota (Mr. OBERSTAR) and join in celebrating the amazing athletic accomplishments of Lance Armstrong.

As my colleague mentioned, it is not just one person's struggle against the finest athletes in the world on bicycles, or the most challenging terrain; it was a signal event in terms of concentration and endurance to be able to win this an unprecedented sixth time in a row. It was also one person's struggle in terms of recovering in a battle against cancer to become perhaps the preeminent athlete in the world.

Finally, the point I would make is that Lance Armstrong helps us put a human face on the mode of transportation by cycling. It is not just the most efficient mode of urban transportation ever developed, it is something that is making a difference in the lives and livelihood of people around the country. It is a $6 billion industry. Over 33 million Americans rode their bikes last month, and about half a million get to work every day commuting by bicycle.

Last, but by no means least, at a time when we are deeply concerned about an epidemic of childhood obesity, cycling is a simple, common-sense way for young people to become physically fit, while they help protect our environment and learn lifelong health skills.

Mr. DOGGETT. Mr. Speaker, I reserve the balance of my time.

Mr. OSE. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. DOGGETT. Mr. Speaker, I yield back the balance of my time.

Mr. OSE. Mr. Speaker, I yield myself the balance of my time, and I urge Members to support this legislation. Lance Armstrong is a true American hero, and he has proved it not only with his initial victory but five times over.

I urge passage of this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). The question is on the motion offered by the gentleman from California (Mr. OSE) that the House suspend the rules and agree to the resolution, H. Res. 761.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

RECOGNIZING OUTSTANDING EFFORTS OF INDIVIDUALS AND COMMUNITIES WHO VOLUNTEERED OR DONATED ITEMS TO NORTH PLATTE CANTEEN DURING WORLD WAR II

Mr. FRANKS of Arizona. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 161) recognizing the outstanding efforts of the individuals and communities who volunteered or donated items to the North Platte Canteen in North Platte, Nebraska, during World War II from December 25, 1941, to April 1, 1946, as amended.

The Clerk read as follows:

H. CON. RES. 161

Whereas at the beginning of World War II residents of North Platte, Nebraska, received information that members of the Nebraska National Guard from the North Platte area would be traveling through the community of North Platte on a troop train en route to the west coast;

Whereas residents of the North Platte community met the troop train on December 17, 1941, with food and other gifts for the troops when they arrived at the Union Pacific train station;

Whereas although the troop train carried young men from Kansas instead of members of the Nebraska National Guard, the residents of North Platte presented the young men from Kansas with the food and other items that were donated;

Whereas Rae Wilson, of North Platte, proposed establishing the North Platte Canteen to the North Platte community so residents would greet every troop train that traveled through North Platte and provide the military troops with comforts from home on their way to serve their country during World War II;

Whereas on December 25, 1941, the North Platte Canteen began serving food and other items to the United States military troops traveling across the United States to either the east or west coast before being shipped overseas;

Whereas during World War II, the North Platte Canteen routinely greeted and served food to between 3,000 and 5,000, and up to a maximum of 8,000, uniformed personnel on a daily basis for an approximate total of 6,000,000 personnel from every corner of the Nation;

Whereas individuals from 125 communities in Nebraska, Colorado, and Kansas donated food and volunteered at the North Platte Canteen over its period of operation of approximately 5 years;

Whereas the North Platte Canteen operated strictly with volunteers from local communities, organizations, churches, schools, and other groups and received no Federal assistance for its operation;

Whereas the North Platte Canteen received $137,000 in cash contributions from benefit dances, scrap-metal drives, school victory clubs, donation cans in local businesses, and relatives of servicemembers who traveled through the Canteen to help maintain the Canteen's operations over its period of operation;

Whereas the North Platte Canteen during one month alone served over 40,000 homemade cookies, 30,000 hard-boiled eggs, nearly 7,000 cup, loaf, and birthday cakes, and over 2,800 pounds of sandwich meat to serve to uniformed personnel;

Whereas a typical daily shopping list might include 175 loaves of bread, 100 pounds of meat, 15 pounds of cheese, 2 quarts of peanut butter, 45 pounds of coffee, 40 quarts of cream, and 500 half-pint bottles of milk;

Whereas the greatest contribution of the North Platte Canteen to the war effort was as a morale booster and a reminder to servicemembers of the American values and ideals for which they were fighting; and

Whereas the North Platte Canteen was honored and recognized by the United States military with the War Department's Meritorious Wartime Service Award: Now, therefore, be it—

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes the outstanding efforts of the individuals and communities involved with the North Platte Canteen that served the needs of 6,000,000 military personnel, who traveled through North Platte, Nebraska, on troop trains from December 25, 1941, to April 1, 1946, during World War II; and

(2) requests that the President issue a proclamation recognizing the gallant efforts of those who made enormous sacrifices to make the North Platte Canteen a success during World War II.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. FRANKS) and the gentlewoman from California (Mrs. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. FRANKS).

GENERAL LEAVE

Mr. FRANKS of Arizona. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration, H. Con. Res. 161.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. FRANKS of Arizona. Mr. Speaker, I yield myself such time as I may consume, and I stand today in support of House Concurrent Resolution 161, sponsored by my good friend and colleague, the gentleman from Nebraska (Mr. OSBORNE). This very appropriate resolution recognizes the true American spirit demonstrated by the people of North Platte, Nebraska, during the Second World War. It is the spirit of unwavering dedication to a cause and noble sacrifice for our troops. This is the same spirit that won the Second World War, Mr. Speaker.

The actions of these Americans to build a community center, a canteen, if you will, for our troops, at their own expense and not at the U.S. Government's expense exemplifies the generous heart and patriotic resolve of the people of the Great Plains. Their past devotion to our men in uniform is unforgettable, and it is only fitting that when our country is now at war with terrorism that we recognize the efforts of those on the homefront in our history.

I commend the gentleman from Nebraska (Mr. OSBORNE) for his fine work with this legislation. Today, we in the United States Congress are honored to express our sincere gratitude to the people of North Platte, Nebraska, and our great friend, the gentleman from Nebraska, and to join him in this fine resolution.

Mr. Speaker, I reserve the balance of my time.

Mrs. DAVIS of California. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of House Concurrent Resolution 161 introduced by the gentleman from Nebraska (Mr. OSBORNE).

I am very pleased to be here today with my colleague on the House Committee on Armed Services, the gentleman from Arizona (Mr. FRANKS), to recognize the wonderful efforts of the citizens of North Platte, Nebraska, for their support of the troops during World War II.

Mr. Speaker, as I have learned about this, I am amazed to find out how hard the people of North Platte worked to find out about the brave young men that were heading off to battle. Their compassion and the generosity displayed by these fine citizens should be commended as a shining example of kindness for future generations of Americans.

As World War II reached its peak, the canteen was serving 3,000 to 5,000 service members each day. The daily shopping list included 160 to 175 loaves of bread, 100 pounds of meat, 15 pounds of cheese, 18 pounds of butter, 45 pounds of coffee, 40 quarts of cream, 500 half-pints of milk and 35 dozen rolls, along with 18 to 20 birthday cakes given to those celebrating their birthdays.

□ 1500

This may not sound like much today, but it is truly amazing since many of these individuals and families were donating all of these items while food and other goods were being rationed across the country.

Another thing that struck me was how the North Platte Canteen came into existence. On December 17 of 1941, rumors abounded throughout the town that a train carrying members of the Nebraska National Guard was to arrive. The train did, carrying hundreds of soldiers; but they were not from Nebraska. The troops traveling that day through North Platte were from Kansas. This did not stop hundreds of local citizens from North Platte from greeting the soldiers from out of state and from expressing their deep gratitude.

Of course, North Platte resident Miss Rae Wilson suggested that the town establish a canteen to welcome all the troops traveling through the city so that those heading off to war could have a taste of home on their long journey. The 12,000 citizens of North Platte agreed, and over time clubs and organizations began to contribute volunteers, food, and funding. And pretty soon everyone got together to support the canteen. There were benefit movies and dances, scrap metal drives, and other donations. All contributed to the effort. In all, men, women, and children from over 125 communities, some as far as Colorado and Kansas, worked together to care for the troops during these quick 10-minute train stops. When the doors of the Service Men's Canteen in the Union Pacific Railroad Station in North Platte closed on April 1, 1946, almost 55,000 volunteers from 125 communities had served 6 million servicemen and women.

While other canteens existed across the country during World War II, North Platt's canteen may have been the most famous. We no longer have canteens across the country to support our troops, but American citizens still continue the spirit of charity through their support of USO centers and other organizations around the world.

I urge my fellow Americans to follow in the footsteps of these patriotic citizens and continue their efforts to support our brave servicemembers today. Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANKS of Arizona. Madam Speaker, I yield 5 minutes to the gentleman from Nebraska (Mr. OSBORNE), the sponsor of this resolution.

Mr. OSBORNE. Madam Speaker, I thank the gentleman from Arizona (Mr. FRANKS) for yielding me this time, another member of the Committee on Armed Services.

As was mentioned, on December 25, 1941, it was rumored that there would be a troop train coming through North Platte, Nebraska and would have a number of North Platte area troops on it. So it being Christmas Day, a great number of residents of the community decided that they ought to go down and meet the train and provide some food and show them they were appreciated on Christmas Day. It turned out that the troops were not from Nebraska, as was mentioned earlier, but rather from Kansas. So I guess the citizens of North Platte were a little bit disappointed. But at the same time, they saw the appreciation and they saw the need for this. So Rae Wilson asked the citizens of North Platte to do this for all troop trains.

Many people are not familiar with the geography of Nebraska, but North Platte is a major railroad center. And at that time, most of the trains moving from the East Coast to the West Coast went through North Platte, Nebraska. So this was a massive undertaking. And from that day, December 25, 1941, through April 1, 1946, a span of about 5½ years, the members of North Platte and surrounding communities met every troop train that went through there, and that averaged sometimes as many as 23 trains a day; and this went on day and night. So sometimes the troop train arrived at 3 or 4 o'clock in the morning, and yet there were people there to meet them.

As was mentioned earlier, about 55,000 volunteers served in this effort, and this is somewhat notable in that North Platte itself had a population of 12,000. This is a sparsely populated area. So probably the whole population within 100 miles of North Platte did not much exceed the 55,000. So people from northern Kansas, from Colorado, from that part of Nebraska served in this rather massive effort over the time.

It was mentioned what the daily amount of food dispensed was, and I thought I would flesh this out a little bit and give the Members a monthly total. This was documented at one time. It is estimated that each month troops consumed 40,000 cookies, 30,000 hard-boiled eggs, 6,500 doughnuts, 4,000 loaves of bread, 3,000 pounds of meat, 450 pounds of butter, 1,300 pounds of coffee, 1,200 quarts of ice cream, and so on. And as was mentioned earlier, again, this was done during a time of rationing.

Unfortunately, or fortunately, I am old enough to remember that time. And at that time I think the speed limit was 45 miles an hour to conserve gasoline. One could only get so many gallons of gasoline per week. They could not buy an automobile. Butter was rationed. Meat was rationed. So these people were really donating items from their own families' allotment and using their own gasoline to do this because there was not one dime of Federal money that was involved in this effort. So it was rather interesting.

The other thing that was done in this particular effort was that at that time there were no pay phones around; so if a soldier wanted some family member called, these people would take down the number and they would call the family and say, We met so and so, he was coming through here, he is fine, or mail letters and so on. So these things were all very important to the servicemen.

I wanted to introduce this resolution for two reasons: number one, as we know, many of the veterans of World War II are not going to be with us much longer; and also those who served at the North Platte Canteen, many of them have passed on and a few of them are still left, and they are not going to be with us much longer either. So we wanted to recognize them while there was still time. And this has been certainly memorialized in a book that has been written, a television documentary that was done as well.

And then the second reason was I wanted to simply point out what unity of purpose can accomplish. Right now we are locked in a struggle, and the question is, How unified are we? What direction are we going as a country? And at that time in 1941, December 25, we were certainly not a military power. We certainly were not anywhere near what the Soviet Union at that time or certainly Germany or Japan were militarily. And yet within about a year and a half, we became the strongest military in the world; and within 4 years we had pretty much taken control in World War II.

So I would just like to mention that Rosy the Riveter, the Victory Gardens, and all of those things that took place at that time were critical. And it was so critical that everyone pulled together, everyone was willing to sacrifice, everyone was willing to give up something from their own family, from their own well-being to serve the troops. So we appreciate the support of this particular resolution.

Mrs. DAVIS of California. Madam Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Madam Speaker, I thank the gentlewoman for yielding me this time.

I too rise in support of H. Con. Res. 161 and salute the people and the communities that volunteered and donated to North Platte Canteen. I can remember our own canteen in my hometown of Chisholm, Minnesota, in World War II when I was just a youngster.

Mr. FRANKS of Arizona. Madam Speaker, I yield 3 minutes to the gentleman from Nebraska (Mr. TERRY), cosponsor of the resolution.

Mr. TERRY. Madam Speaker, I want to compliment the gentleman from Nebraska (Mr. OSBORNE) for introducing this. He represents the North Platte area.

This is such a magnificent piece of our Nebraska history, and it really represents the comradery and spirit of America here. The gentleman from Nebraska (Mr. OSBORNE) had mentioned that even in a town of 12,000 that over the period of the months of this canteen, there were literally tens of thousands of volunteers that came to help the servicemen and provide them services at this canteen in North Platte. And this canteen needed all of the support that it could get.

And word spread, literally spread, around the community and all of Nebraska; 125 communities came together to join in this effort. And due to fuel rationing, volunteers often carpooled from nearby communities to North Platte. Cities throughout Nebraska gave, through donations, time, money, supplies, food, meat. And it is really an incredible example of what it means to be an American at that time. The entire community gathered together to support and comfort these troops. Men, women, children all gave their time, money, efforts. Though it may not have been well known throughout the rest of the world, the memory of the North Platte Canteen still glows in the hearts of many Nebraskans. In fact, my own press secretary's mother talks proudly of peeling potatoes as a young child to help her older sisters at the canteen.

□ 1515

Lorene Huebner, of Hershey, Nebraska, just a teenager during this time, still remembers the piano in the canteen, and how it was always being played by either a volunteer or one of the troops and how packed the canteen would get with people talking, having coffee and laughing. She still feels that the whole U.S. was opened up to her through the troops from all across the country that she met in this canteen.

From December 25, 1941, through April 1, 1946, a total of 54 months, over 6 million troops were served at the North Platte Canteen. The outreach of communities to support each other remains an enduring mark of compassion and patriotism. That spirit is with us today in a different form, yes, but no less potent.

It is with great honor that I cosponsored this with my colleague, the gentleman from Nebraska (Mr. OSBORNE), and really look forward to the vote on this.

Mr. FRANKS of Arizona. Madam Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. MORAN), another cosponsor of this resolution.

Mr. MORAN of Kansas. Madam Speaker, I am here to lend my support for not only this resolution, but for the epitome that it represents, the story it tells about folks from the middle of the country, in this case from Nebraska.

Sometimes, particularly during football season, it is unusual for any Kansan to be here speaking about something good happening in Nebraska, but it is this story that the gentleman from Nebraska (Mr. OSBORNE) tells about an historic event that is still part of people's lives of Nebraska and how it affected Kansas. In fact, it affected many soldiers across the country who made the trek across Nebraska on the train and stopped in North Platte at the canteen. In fact, the first soldiers that were cared for at the canteen were from my State of Kansas.

The gentleman from Nebraska (Mr. OSBORNE) explained this story to me one day 4 or 5 months ago, and as he was talking about the sacrifice that those Nebraskans made, those individual farmers, those families, those young men and women, those kids, to try to make a difference in the lives of soldiers who were facing an uncertain future. I could just sense the emotion that the gentleman had for the sacrifice that was made. In fact, it seems to me that tears kind of welled up in the eyes of the gentleman from Nebraska (Mr. OSBORNE).

Again, I think those of us who come from middle America recognize the kind of people that we have the honor to represent, recognize the people who make up the history and tradition of our States and what a difference they make, how much they care.

So I am here to join the gentleman from Nebraska in honoring something that happened that was great about middle America, but really exemplifies not only America then, not only middle America, but all of America, and, most importantly, exemplifies what still goes on in our country today, the concern for our soldiers, sailors, airmen and Marines.

Once again, as our country is calling our men and women in active duty to service in the war on terror, it is an appropriate time for us to recognize those who cared in the past, and once again call upon all Americans to serve and sacrifice for the soldiers and families who serve our country so nobly today.

Mrs. DAVIS of California. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am so pleased to have this opportunity today to join with my colleagues in thanking the people of North Platte for setting such a fine, genuine example of support and patriotism for our troops and for our country.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRANKS of Arizona. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would just remind all of us that we are fortunate to have people like those in North Platte, Nebraska, that have such a patriotic spirit and are so committed to serving our troops. I would encourage my colleagues to support this resolution.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Arizona (Mr. FRANKS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 161, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

RECOGNIZING AND HONORING MILITARY UNIT FAMILY SUPPORT VOLUNTEERS

Mr. KLINE. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 486) recognizing and honoring military unit family support volunteers for their dedicated service to the United States, the Armed Forces, and members of the Armed Forces and their families.

The Clerk read as follows:

H. CON. RES. 486

Whereas members of the Armed Forces and their families make significant sacrifices on behalf of the United States;

Whereas the military necessity of long deployments, frequent relocations, and infrequent family contact for members of the Armed Forces can be extremely challenging for members and their families;

Whereas, in response to these sacrifices and challenges, military unit family support volunteers from each branch of the Armed Forces have stepped forward to provide members of the Armed Forces and their families critical support while members are deployed;

Whereas military unit family support volunteers consist of the Army Family Readiness Volunteers, Navy Ombudsmen, Air Force Spouses Together and Ready volunteers (STARs), and Marine Key Volunteers (KVs);

Whereas military unit family support volunteers are generally spouses of members of the Armed Forces, and they provide assistance to military families while also enduring the challenges of military life;

Whereas military unit family support volunteers are motivated by the desire to improve the lives of other military families and to assist future generations;

Whereas military unit family support volunteers serve as liaisons between military commands and families, often serving as information conduits between the two groups;

Whereas military unit family support volunteers also connect the community with military families and local military installations, often leveraging donations and resources to the advantage of the military families; and

Whereas military unit family support volunteers provide their services on a voluntary basis, with little public recognition and no financial assistance, and often contribute their own resources to help other military families: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress recognizes and honors the military unit family support volunteers of each branch of the Armed Forces who selflessly devote their time, talent, and energy in service to the United States and commends military unit family support volunteers for their dedicated contributions to the Armed Forces and the quality of life of members of the Armed Forces and their families.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota (Mr. KLINE) and the gentlewoman from California (Mrs. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. KLINE).

GENERAL LEAVE

Mr. KLINE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 486.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. KLINE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Concurrent Resolution 486. This resolution recognizes and honors the men and women behind the unparalleled support structure that serves the families of our service members.

The men and women of the United States Armed Forces face a great challenge each day. We ask our active duty service members and citizen soldiers to provide safety and security at times when these words seem little more than lofty ideals.

We also ask a great deal of the families of these young men and women. For each of the 1.4 million active duty service members and the 875,000 citizen soldiers who have served our Nation since September 11, 2001, someone has been left behind to balance the demands of providing emotional and moral support to their loved ones in the field while maintaining their own spirits and carrying on with their everyday lives. These friends and family members make it possible for our armed service members to carry out their work. But who supports them in their important mission?

Fortunately, military family support volunteers take it upon themselves to do just that. These brave volunteers help shoulder the burden of our military families. They provide a source of strength for the families who stay behind while their loved ones serve far away.

Family support volunteers offer this assistance freely, without asking for pay or recognition. Often the spouses of long-serving members of our Armed Forces, these individuals are motivated by the desire to share their wisdom with families who are new to these trials. Because they have also experienced the anxiety that comes with deployment, they understand better than anyone the struggles that come in times of war.

As a young officer, my family and I benefited from these volunteers. As a senior officer, when I was commanding thousands of Marines and sailors far off in Somalia, I was reassured and they were reassured to know that our families back home were being supported by such volunteers. Now, as a Member of Congress, it is my great honor to join my colleagues in providing the recognition the military unit family support volunteers deserve.

Madam Speaker, I urge my colleagues to support the passage of H. Con. Res. 486.

Madam Speaker, I reserve the balance of my time.

Mrs. DAVIS of California. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of House Concurrent Resolution 486. This resolution recognizes and honors the selfless service of America's military unit family support volunteers, who provide such dedicated support to the members of our Armed Forces and their families.

We are all aware of the tremendous sacrifices our service members make in the defense of the United States. Since September 11, 2001, our 1.4 million active duty service members and 875,000 citizen soldiers, the National Guardsmen and Reservists, have served our Nation honorably in the war on terrorism. Many have served in extremely dangerous conditions in Afghanistan and Iraq. Their bravery and sacrifice are an honor to our Nation.

But we must not forget the sacrifices of those whom they leave behind at home. As the poet John Milton said, "Those also serve who only stand and wait."

The months of separation that military families endure can be filled with anxiety, loneliness and hardship. But life goes on for America's military spouses and their families while their loved ones serve overseas. There are doctors appointments, anniversaries, home repairs, holidays, financial problems, graduation, car troubles, birthdays, and in some cases, births. All those joys and trials of life that are shared by a family can become somber days and monumental tasks when one's partner or parent is missing.

In my congressional district, I am honored by the opportunity to work with many Navy ombudsmen and Marine Key Volunteers, or KVs, as they are called. That is why I introduced House Concurrent Resolution 486, because I am constantly amazed by the stories they share with me.

I met one Marine spouse who was facing incredibly difficult circumstances after her husband was deployed to Iraq in June, leaving her with the responsibility of caring for her two sons on her own. In addition to the stress involved with caring for her family, she must also deal with the anxiety that comes when you know your loved one is in harm's way.

Her husband is fighting the insurgency in some of the most dangerous areas of Iraq. In the notes he writes to her, he describes what it is like to be on the front lines and what it is like to come under fire from insurgents.

Fortunately, this brave young woman was assigned a Key Volunteer who cares deeply and who can relate to her. Her KV speaks to her every day to provide comfort and guidance and to offer any other help that she can provide.

Just before the war in Iraq got under way, I heard from a Navy spouse who was 4 months pregnant and her husband was deployed for a 6-month tour. She was new to San Diego and had no family and few friends in the area. She would have to face the remainder of her pregnancy without her husband being there and give birth without him by her side.

However, she was assigned a Navy ombudsman, who went to great length to help her. The dedicated ombudsman contacted her several times to provide moral support and to offer assistance. She also made herself available 24 hours a day in case this young wife needed medical treatment, guidance or just a friend.

In every unit of our great military, groups of these volunteers gather to help support each other when their husbands and their wives deploy. This powerful network of volunteers that makes up the family support group starts out as a collection of spouses who are thrown together by circumstance and grows into a network of friends and extended family.

☐ 1530

This family comes together to shoulder the burden and to share the joys for those coping with the absence of their loved ones.

No one can understand the anxiety and the hardship that deployment brings better than these family support group volunteers, because they too have experienced these hardships. In many cases, family support volunteers are in the same position as those they seek to help. Their spouses are also deployed into harm's way, and I know that many of them have gotten involved as ombudsman persons because of some of the trauma that they experienced.

Madam Speaker, I cannot tell my colleagues how deeply honored I am today for the opportunity to recognize America's family support volunteers. These brave men and women give selflessly of themselves for no pay and no recognition, and they often contribute their own resources to those in need. They do it for their loved ones. They do it for their community, and they do it for their nation.

Our service members need these dedicated volunteers to help keep the home fires burning so that they can focus on the task of fighting the global war on terror, a task that is more difficult if they are worried about their families back home. Knowing their families have the full support of a dedicated volunteer helps to ease their fears and concerns.

I commend these volunteers who so selflessly serve our armed forces and our Nation. The support they give to our military families is truly invaluable, and our country owes them a large debt of gratitude.

Madam Speaker, I see that there are no further speakers. I am delighted to present this. I look forward to presenting it to the ombudspeople and the key volunteers in the San Diego region, and I know that they will be pleased with this recognition from the United States Congress.

Madam Speaker, I urge my colleagues to support this resolution, and I yield back the balance of my time.

Mr. KLINE. Madam Speaker, I yield myself such time as I may consume, only to thank the gentlewoman from California for introducing the resolution. This important resolution is long overdue in order that we recognize the wonderful members of the military family support volunteers.

I urge my colleagues to support this resolution.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Minnesota (Mr. KLINE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 486.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

COMMENDING THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AND ITS EMPLOYEES FOR ITS DEDICATION AND HARD WORK DURING HURRICANES CHARLEY AND FRANCES

Mr. EHLERS. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 488) commending the National Oceanic and Atmospheric Administration and its employees for its dedication and hard work during Hurricanes Charley and Frances, as amended.

The Clerk read as follows:

H. CON. RES. 488

Whereas the National Oceanic and Atmospheric Administration's National Weather Service consistently provides critical forecasts and warnings about severe weather to the Nation's citizens;

Whereas 2 hurricanes, Charley and Frances, recently hit the State of Florida back-to-back, an event which has not occurred since 1964;

Whereas Hurricane Ivan was the third hurricane in a month to hit the United States mainland;

Whereas the employees of the National Oceanic and Atmospheric Administration Tropical Prediction Center/National Hurricane Center and the employees of key Southern Region Weather Forecast Offices worked tirelessly and under great pressure to provide the most up to date information to the public, the media, and emergency management officials during Hurricanes Charley, Frances, and Ivan;

Whereas the employees of the National Hurricane Center conducted 656 live television interviews as well as 1227 telephone briefings to the media and others during Hurricanes Frances and Ivan;

Whereas the forecasts and information from the National Hurricane Center provided notice for the safe evacuation of more than 6,000,000 residents in the line of Hurricanes Charley, Frances, and Ivan and warnings to the residents of Florida, Mississippi, Alabama, and Louisiana;

Whereas the Hurricane Liaison Team, a joint National Oceanic and Atmospheric Administration and Federal Emergency Management Agency partnership, provided support to the 25 different media outlets operating out of the National Hurricane Center;

Whereas the National Oceanic and Atmospheric Administration's Hydrometeorological Prediction Center provided rainfall forecasts and hurricane track guidance to the National Hurricane Center;

Whereas the National Weather Service's National Data Buoy Center, in partnership with the United States Coast Guard, worked expediently after Hurricane Charley to fix data buoys that proved critical for forecasts of Hurricane Frances and Ivan;

Whereas the National Oceanic and Atmospheric Administration's National Ocean Service provided storm surge predictions and hydrographic information support to Federal partners before, during, and after Hurricanes Charley, Frances, and Ivan;

Whereas the National Oceanic and Atmospheric Administration's National Environmental Satellite Data and Information Service provided images of Hurricane Frances every 5 minutes over a 4-day period, an unprecedented number of images for hurricane tracking;

Whereas the Southern and Eastern Region Weather Forecast Offices of San Juan, Miami, Tampa Bay, Key West, Melbourne, Jacksonville, Tallahassee, Atlanta, Birmingham, Huntsville, Mobile, Morristown, Charleston, Morehead City, Wilmington, Wakefield, Taunton, Lake Charles, New Orleans, Jackson, Nashville, and Houston provided up-to-the-minute local details for residents throughout Hurricanes Charley, Frances, and Ivan;

Whereas employees from other offices within the Southern Region provided additional support to key Weather Forecast Offices directly impacted by Hurricanes Charley, Frances, and Ivan;

Whereas more than 1,700 watches, warnings, advisories, and other statements were issued by key local Weather Forecast Offices during Hurricanes Charley, Frances, and Ivan;

Whereas the National Oceanic and Atmospheric Administration's Marine and Aviation Operation's Hurricane Hunters logged 344 hours of flight time through and above the storms to assist the National Hurricane Center in tracking Hurricanes Charley, Frances, and Ivan;

Whereas the 53rd Weather Reconnaissance Squadron of the 403rd Wing of the Air Force Reserve Command at Keesler Air Force Base, Biloxi, Mississippi, logged 537 hours of flight time through and above the storms to assist the National Hurricane Center in tracking Hurricanes Charley, Frances, and Ivan;

Whereas the Southeast River Forecast Center provided critical river flooding forecast information to Federal, State, and private partners during Hurricanes Charley, Frances, and Ivan and accurately predicted the amount of excessive rainfall over the Southeastern United States several days in advance; and

Whereas it is still the first half of hurricane season and all these employees remain engaged tracking tropical storms: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) commends the employees of the National Weather Service, especially the National Oceanic and Atmospheric Administration Tropical Prediction Center/National Hurricane Center, Hydrometeorological Prediction Center, and National Data Buoy Center; the 53rd Weather Reconnaissance Squadron of the 403rd Wing of the Air Force Reserve Command at Keesler Air Force Base, Biloxi, Mississippi; the National Oceanic and Atmospheric Administration Aircraft Operations Center at MacDill Air Force Base, Tampa, Florida; the Hurricane Liaison Team; the National Ocean Service; and the National Environmental Satellite Data and Information Service, for their extraordinary dedication and hard work during Hurricanes Charley, Frances, and Ivan;

(2) commends the Southern and Eastern Region Weather Forecast Offices of San Juan, Miami, Tampa Bay, Key West, Melbourne, Jacksonville, Tallahassee, Atlanta, Birmingham, Huntsville, Mobile, Morristown, Charleston, Morehead City, Wilmington, Wakefield, Taunton, Lake Charles, New Orleans, Jackson, Nashville, and Houston for their extraordinary dedication and hard work during Hurricanes Charley, Frances, and Ivan;

(3) thanks the commercial and media meteorologists for their contributions in disseminating the National Oceanic and Atmospheric Administration forecasts and warnings to the public; and

(4) expresses its support for the ongoing hard work and dedication of all who provide accurate and timely hurricane forecasts.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. EHLERS) and the gentleman from North Carolina (Mr. MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. EHLERS).

GENERAL LEAVE

Mr. EHLERS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 488, the resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. EHLERS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, today we are considering H. Con. Res. 488, which commends the employees of the National Oceanic and Atmospheric Administration for their dedication and hard work during Hurricanes Charley, Frances and Ivan.

As chairman of the subcommittee with jurisdiction over the National Weather Service, I introduced this resolution 2 weeks ago, after Hurricanes Charley and Frances hit the State of Florida back-to-back, something that had not happened since 1964. The employees of the National Weather Service worked tirelessly during the storms to provide forecasts and warnings to alert citizens and help minimize loss of life during the storms.

I have here pictures of Hurricane Frances, and also, in a moment, I will get to Hurricane Ivan. But I would like to point out the immense extensions of Hurricane Charley, covering virtually the entire State of Florida and the entire State of Texas. And almost any Texan in this body would tell us, it is almost impossible to cover the State of Texas, but Hurricane Frances, in fact, would do that.

Fortunately, the winds diminished before it hit land, and that helped considerably in reducing the damage, but it was still, because of its large extent, a very damaging hurricane.

Last week, Hurricane Ivan hit the U.S., the worst hurricane to hit the U.S. since Hurricane Floyd in 1999. Hurricane Ivan, which made landfall near Gulf Shores, Alabama, was the sixth most powerful Atlantic tropical storm on record. It affected States throughout the southeastern and Mid-Atlantic United States, with flooding, high winds and tornadoes. Again, the hard work of NOAA's employees and the broadcast meteorologists was vital for getting out warnings and information to residents in the path of the hurricane.

The right-hand chart up here shows Hurricane Ivan as it came ashore near Gulf Shores, extensive spread through Alabama, Mississippi, nearly to the New Orleans area, and with a very well-defined eye, indicating very high winds, very compact, which means high intensity, and of course, it stretched all the way over to the Panhandle of Florida.

During these three hurricanes, an estimated 6 million people were safely evacuated. Without the warnings from NOAA, I suspect there would have been very few evacuated. While there were 90 fatalities and an estimated $14 billion to $23 billion in damages in the U.S. due to these storms, without the forecasts and warnings from NOAA, the results would have been much, much worse.

It costs about $1.4 billion annually for all weather forecasting at NOAA which comes to a mere 4 cents each day per household in the United States. This investment is well worth it, given the lives saved by NOAA's forecasts and warnings. Let me point out that the amount that this comes to per household in this Nation is, I would estimate, less than the amount that the average household expends on smoke detectors and batteries.

Let me specifically list the offices at NOAA and their Federal and private partners that play an important role in providing hurricane forecasts and warnings. The National Hurricane Center, the Southern and Eastern Region Weather Forecast Offices of San Juan, Miami, Tampa Bay, Key West, Melbourne, Jacksonville, Tallahassee, Atlanta, Birmingham, Huntsville, Mobile, Morristown, Charleston, Morehead City, Wilmington, Wakefield, Taunton, Lake Charles, New Orleans, Jackson, Nashville, and Houston.

In addition, the National Ocean Service provides services and, in this case, provided help with storm surge predictions.

The National Environmental Satellite Data and Information Service provided the satellite images we all saw on television.

The NOAA Marine and Aviation Operation Hurricane Hunters and the Air Force Reserve out of Keesler Air Force Base in Biloxi, Mississippi, fly planes into the hurricanes to gather data.

The Southeast River Forecast Center provided flood predictions, and the many private meteorologists and information providers who disseminate the warnings and weather data and predictions from NOAA.

I must say, being a scientist, perhaps that affects me, but I watched the Weather Channel and the local forecasters for considerable amounts of time during this to try to evaluate for myself what the hurricanes were doing, what direction they were taking, what damage they might cause. So the private sector also deserves mention here.

The dedicated employees of all of these NOAA organizations and the private organizations deserve our utmost appreciation for their hard work and long hours to warn citizens in the line of these three storms and for all of their excellent work as they continue to track tropical storms, this and every hurricane season. I should note that today we are nervously watching Hurricanes Jeanne and Karl currently located in the Atlantic Ocean, and we will continue to depend on NOAA to give us information about those hurricanes.

Madam Speaker, I reserve the balance of my time.

Mr. MILLER of North Carolina. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank my colleague, the gentleman from Michigan (Mr. EHLERS), for bringing this resolution to the floor today. In the last month or two, all of us in the eastern United States have been glued to our television sets watching weather reports as one Atlantic storm after another moved westward from the west coast of Africa across the Atlantic towards the United States. Three storms have made landfall in the United States and done great damage, great property damage and great loss of life.

We have learned more and more about storms just from watching the weather reports, watching with fascination the symmetry, the amazing symmetry of the storms, learning about the definition of the eye wall, how that told us whether the storm was strengthening or weakening or maintaining its strength.

There has been great damage and great loss of life from these storms. Hurricane Charley, which struck and made landfall in Florida as a category 4 storm, resulted in 31 deaths. Hurricane Frances made landfall in Florida as a category 2 storm but stalled over Florida and just rained and rained and rained with great, great damage. And, most recently, Hurricane Ivan struck the Panhandle of Florida and Alabama as a weak category 4, and then moved upward and caused a total of 49 deaths, including about 10 in my State, in flooding in western North Carolina.

These were powerful storms, but we were relatively well prepared for them. The gentleman from Michigan (Mr. EHLERS) referred to the great, great savings in life that resulted from the preparation that we had as a result of the work of NOAA, but let me tell my colleagues how much of a difference that made.

When we look back early in our history, a much less densely populated country, a nation that was not prepared, had no forewarning when storms struck, let me tell my colleagues the loss of life. In 1893, a storm of unknown intensity struck Louisiana, made landfall in Louisiana. The estimate was that there were 2,000 deaths from that storm. That same year, a storm also of unknown intensity made landfall in South Carolina and Georgia with a loss of life of 1,000 or 2,000. In 1900, a storm that we now estimate to be a category 4 struck without warning Galveston and resulted in an estimated 8,000 to 12,000 deaths. In 1928, a storm struck again with very, very little warning in Florida, and resulted in more than 1,800 deaths.

Again, this is a striking contrast. We can thank the people of NOAA, the employees of NOAA for the forecasts and the warnings that we have relied upon to prepare for the storms that have struck the United States this year. It is not an exaggeration to say, because of the work of the employees at NOAA, that there are thousands of Americans alive now who would not have been alive had we not been prepared for these storms, and the way that we have not been prepared for storms before we had that capacity to see storms coming, to know their intensity and to prepare for them.

We now see more storms moving towards us. Hurricanes Jeanne and Karl and storms behind them seem to be taking a number as they are in line, moving towards the United States.

So this resolution is a modest gesture of appreciation for those employees of NOAA who are working around the clock to monitor the paths of hurricanes, the strength of hurricanes, to make sure that we are ready when those hurricanes reach the United States.

So I urge my colleagues to support this resolution.

Madam Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise in support of H. Con. Res. 488 and express my appreciation of the leadership of the gentleman from Michigan (Mr. EHLERS) and our ranking member, the gentleman from North Carolina (Mr. MILLER) for commending the National Oceanic and Atmospheric Administration, known as NOAA.

□ 1545

Indeed, we have profited from their skills. We commend both the agency and its employees for their hard work and dedication during these hurricanes. And also during the time of tornados in my area, we are getting the same type of alerts and notices and it really does save lives. We have not yet been able to save as much material damage and destruction as we have the lives, but the important thing is that we are saving lives. And as we begin to use more of our technology in building, we will see that even the material destruction will diminish. It underscores why we need to continue to support science and technology, to develop more skills for approaching and dealing with these types of catastrophes when they happen.

Texas certainly has benefited from warnings during both hurricanes in the south end of the State and tornados in the north end of the State. And we are grateful for the efficiency and dedication of these employees and are grateful for the existence of this agency that deserves continued support so that we can still benefit from our findings and for our future developments.

Mr. EHLERS. Madam Speaker, I reserve the balance of my time.

Mr. MILLER OF North Carolina. Madam Speaker, I yield 6 minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Madam Speaker, I thank the gentleman for yielding me time. Let me thank him and my colleague, the gentleman from Michigan (Mr. EHLERS), for bringing this resolution to the floor because it is so important.

I rise to add my voice in praise of the staff and leaders of National Oceanic and Atmospheric Administration, NOAA, for the job they have been doing during this remarkably challenging time during this hurricane season.

We talk about hurricanes; but the truth is when a hurricane comes ashore, we have an awful lot of tornados that spawn from that. As any Member from a southern Atlantic coastal State can tell you, this has been a very busy season; and, unfortunately, it does not appear to be over with yet. And if the predictions are right, we are in for some pretty bumpy times in the years ahead.

The folks at NOAA and the National Weather Service have done a fine job in letting our citizens know when the storms are coming, where they would most likely strike, and they have been pretty accurate about how much wind and storm surge they can expect. As a consequence, NOAA has saved millions of lives through its timely reporting and storm tracking, and it has an awful lot to do with saving of property.

I can tell you at my office, and I expect it is true of most offices that are in the line of fire, the staffs check the NOAA Web site, NOAA tracking at 8 a.m. and 11 a.m. and 2 p.m. and 5 p.m. each day because they are the ones that have the information.

While NOAA has performed well, one of the things that could be improved is predicting the potential flooding consequences of the rain associated with these storms. That is why in the 107th Congress I introduced and Congress passed into law legislation to improve the forecasting of inland flooding and to develop an inland flood-warning index similar to the Saffir-Simpson Scale that we use for wind with hurricanes. Unfortunately, we have not seen much progress with the development of the inland flood-warning index. Congress has not provided the funds necessary to develop a warning index that can better alert Americans of flood hazards associated with tropical cyclones, and NOAA has taken only a few steps to implement this legislation.

If we had had an inland flood-warning index in place, many of the more than 70 lives lost from Bonnie, Charley, Frances, and Ivan could possibly have been saved. We heard of what has happened in recent years from what we did at the turn of the century. We still can do better.

In 1999, Hurricane Floyd killed 48 people in the State of North Carolina with heavy floods, almost all of them lived hundreds of miles from the coast and died from fresh-water flooding. That can be corrected.

In Richmond, Virginia, last month the remnants of Tropical Storm Gaston was predicted to drop 4 inches of rain. Instead, it produced more than a foot of rain and resulted in flooding that cost millions of dollars in damage to the city's historic downtown, and much of that damage could have been mitigated had the public been better prepared and had known what was going to happen.

Madam Speaker, as the appropriations process winds down, I urge you to fully implement and fund the Tropical Cyclone Inland Forecasting Improvement and Warning System Development Act, similar to what we did with the Saffir-Simpson scale for hurricanes in providing warning on the coast. This will make a difference in the inland areas. This Congress has shown and has spoken with an overwhelming majority, and I also call on NOAA to move forward aggressively to implement this legislation.

We should never again suffer a hurricane season without adequate prediction tools where life-saving technology exists just beyond our current grasp. It is available. All we have to do is spend just a few dollars and it would be there. NOAA already saves countless lives. Working together we can help them save even more. I urge my colleagues to adopt this resolution.

Mr. MILLER of North Carolina. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EHLERS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I first want to thank the gentleman from North Carolina (Mr. MILLER) for ably managing the time on the minority side and particularly for his provision of the statistics which I find very fascinating, and I do not want to prolong my statement too much by including them, but it illustrates something very dramatically.

Often the public asks us what we do with all their tax money and why do we waste it so much. There are a good many things that the Federal Government does that are very, very good for people. This is one example of that. Funding NOAA is a very worthwhile enterprise. Given the statistics that the gentleman from North Carolina (Mr. MILLER) gave and the statistics that I gave compared to what we do today, you can extend that to tornados as well and other types of disasters.

The average lead time for tornados was 10 minutes during Hurricane Ivan, and frequently it is earlier than that for tornados in the Midwest where I live. Flash flood warnings average 57 minutes; 38 tornados occurred across Florida during Hurricane Ivan, so we really saved a lot of lives in this particular case; and it makes the expenditures for NOAA look small by comparison.

It is very important for all of us, especially the appropriators, for all of to us recognize that this is money well spent. It does save lives. It does save properties. It saves injuries, and it is very important for us to continue that.

Madam Speaker, in closing I want to thank my colleagues from the Florida delegation, virtually all of whom cosponsored this legislation; and I particularly want to thank the gentleman from Florida (Mr. YOUNG) for his enthusiastic support of the resolution. I would also like to thank the gentleman from New York (Mr. BOEHLERT) and the ranking member, the gentleman from Tennessee (Mr. GORDON), of the Committee on Science for their support, and the gentleman from Colorado (Mr. UDALL), the ranking member of my subcommittee.

Mr. BOEHLERT. Madam Speaker, I would like to join my colleagues in thanking the employees of the National Oceanic and Atmospheric Administration for their hard work this hurricane season. I thank my colleague from Michigan, Mr. EHLERS, for introducing this resolution and bringing it to the floor today. Each hurricane season the employees at NOAA provide vital forecasts and warnings to residents in harm's way, minimizing loss of life and property. This year they have gone above and beyond the call of duty with the high number of powerful storms making landfall in the United States. The employees at NOAA who support hurricane forecasts and warning exemplify service to the nation and I am proud to recognize their hard work today.

Mr. GORDON. Madam Speaker, this hurricane season was predicted to be an active one. Unfortunately, the prediction is being fulfilled. We have not yet come to the end of the season and already the eastern half of the country has experienced widespread damage due to three of these storms—hurricanes Charley, Frances and Ivan. In addition, two other offshore hurricanes are being monitored as we speak.

The severe coastal damage in Florida and Alabama, widespread inland flooding, and tornadoes have resulted in loss of life and property throughout the eastern part of the nation—including my home state of Tennessee. We should move quickly to provide assistance to our citizens who are now beginning to assess the damage and make plans to rebuild their homes, communities and businesses. They have a daunting task in the days ahead.

The effects of these storms are devastating, however, without accurate forecasting and time to prepare the toll in human lives would have been unimaginable. Our investments in research and development, weather satellites, specialized aircraft and computer modeling capability coupled with the dedication and professionalism of NOAA's employees has paid off in the timely warnings that we rely upon.

Madam Speaker, with this resolution we express our gratitude to the federal employees and their partners in the commercial weather business for their efforts in bringing the lifesaving warnings and forecasts to our citizens. I urge my colleagues to support this effort to recognize the important work done by the employees of NOAA.

Mr. EHLERS. Madam Speaker, I have no further requests for time, and I yield back balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Michigan (Mr. EHLERS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 488, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution commending the National Oceanic and Atmospheric Administration and its employees for its dedication and hard work during Hurricanes Charley, Frances, and Ivan.".

A motion to reconsider was laid on the table.

JUSTIN W. WILLIAMS UNITED STATES ATTORNEY'S BUILDING

Mr. BURNS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3428) to designate a portion of the United States courthouse located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building".

The Clerk read as follows:

H.R. 3428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

(a) IN GENERAL.—The building and structure described in subsection (b) shall be known and designated as the "Justin W. Williams United States Attorney's Building".

(b) DESCRIPTION.—The building and structure to be designated under subsection (a) is that portion of the United States courthouse located at 2100 Jamieson Avenue, in Alexandria, Virginia (known as the Albert V. Bryan United States Courthouse), that is attached to the courthouse main tower structure, described as A-Wing in the architectural plans, and currently occupied by the Office of the United States Attorney for the Eastern District of Virginia, Alexandria Division.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building and structure described in section 1(b) shall be deemed to be a reference to the "Justin W. Williams United States Attorney's Building".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for appropriate identifying designations to be affixed to the building and structure described in section 1(b) and for an appropriate plaque reflecting the designation and honoring Justin W. Williams and his service to the Nation to be affixed to or displayed in such building and structure.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. BURNS) and the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BURNS).

Mr. BURNS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 3428 introduced by the gentleman from Virginia (Mr. TOM DAVIS), designates a portion of the United States courthouse located at 2100 Jamieson Avenue in Alexandria, Virginia, as the Justin W. Williams United States Attorney's Building. The full courthouse is known as the Albert V. Bryan United States Courthouse.

This bill has the bipartisan support of the entire Virginia delegation.

Born in New York City in 1942, Justin Williams earned his bachelor's degree from Columbia University in 1963, and his law degree from the University of Virginia in 1967. After graduation, Justin Williams embarked upon his legal career. From 1967 to 1986 he worked for Department of Justice, Criminal Division. He served as Assistant Commonwealth's Attorney in Arlington County and the Assistant U.S. Attorney for the Eastern District of Virginia, based in Alexandria.

In 1986, Justin Williams was appointed Chief of the Criminal Division and served in that capacity until his death in 2003. As U.S. Attorney for the Eastern District of Virginia, he supervised over 100 prosecutors and oversaw such high-profile cases as U.S. v. Aldrich Ames, U.S. v. Robert Hanssen, and the prosecution of the Virginia Jihad Network.

In recognition of his achievements, Justin Williams received numerous awards from the Department of Justice, including the Attorney General's Award for Excellence in Furthering the Interests of U.S. National Security. Justin Williams passed away August 31, 2003.

Shortly after the 1-year anniversary of his death, it is my pleasure to bring to the floor this bill which honors a dedicated American who spent his entire career making America safer for everyone. I support this legislation, and I courage my colleagues to do the same.

Madam Speaker, I reserve the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 3428, a bill to designate a portion of the Alexandria courthouse located at 2100 Jamieson Avenue as the Justin W. Williams United States Attorney's Building. The bill was introduced by our colleague, the gentleman from Virginia (Mr. TOM DAVIS), and enjoys very strong bipartisan support.

U.S. Attorney Justin Williams was an extraordinary public servant who served the citizens of Virginia for over 30 years. He received his undergraduate degree from Columbia University and his law degree from the University of Virginia. During his 33 years as a Federal prosecutor, he supervised or was directly involved in every major Federal prosecution in the Eastern District of Virginia.

His career is filled with numerous awards and honors, including the Attorney General's Award for Excellence that is awarded for furthering the interest of national security, the Director's Award for Sustained Superior Performance in the years of 1990, 2000, and 2002, and Sustained Superior Performance for the years of 1990, 1991, 1997, 1998, and 1999.

In addition to being an outstanding lawyer, Justin Williams was a thoughtful mentor, loyal friend, outstanding role model, devoted husband, and a loving father. It is most fitting that we honor the distinguished career of this dedicated public servant with this designation.

□ 1600

Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. BURNS. Mr. Speaker, I urge my colleagues' support of H.R. 3428, and thank the gentlewoman from Texas for her comments. I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Georgia (Mr. BURNS) that the House suspend the rules and pass the bill, H.R. 3428.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REQUEST FOR REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2028

Mrs. BIGGERT. Mr. Speaker, due to the radical changes made by the committee to the introduced bill, I ask unanimous consent to withdraw my name as a cosponsor from H.R. 2028.

The SPEAKER pro tempore. Under clause 7(b) of rule XII, the Chair is constrained not to entertain that request, as the bill has been reported from committee and referred to the calendar.

JOE SKEEN FEDERAL BUILDING

Mr. BURNS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3734) to designate the Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, as the "Joe Skeen Federal Building."

The Clerk read as follows:

H.R. 3734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, shall be known and designated as the "Joe Skeen Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Joe Skeen Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. BURNS) and the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BURNS).

Mr. BURNS. Mr. Speaker, I yield myself such time as I may consume.

H.R. 3734, introduced by my colleague, the gentlewoman from New Mexico (Mrs. WILSON), designates the Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, as the Joe Skeen Federal Building.

Congressman Skeen was born and raised on his family's farm outside of Roswell, New Mexico. In 1948, Congressman Skeen enlisted in the United States Navy and served for 1 year before transferring to the United States Air Force Reserves, where he served from 1949 until 1952.

Following his military service, Congressman Skeen attended and graduated from Texas A&M University with a degree in agricultural engineering.

After graduation, Congressman Skeen worked as a soil and water engineer for the Zuni and Ramah Navajo Indians. He later purchased and ran his family's sheep ranch.

Congressman Skeen was long dedicated to public service. He was first elected to public office in 1960 where he won a seat in the New Mexico State senate. He served until 1970. For the last 6 years of his time in the State senate, he served as the minority leader.

In 1980, Congressman Skeen ran as a write-in candidate and was elected to serve in New Mexico's 2nd District in the United States House of Representatives. Congressman Skeen served in this body for 11 terms.

Congressman Skeen was known for his commitment to property rights, balancing the Federal budget and increased tax relief. He may have been most influential as chairman of the Committee on Appropriations, Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, enhancing the agricultural viability in both New Mexico and throughout the United States. He was also chairman of the Subcommittee on Interior and Related Agencies, dealing with natural resources and public land use.

I support this legislation and encourage my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself such time as I might consume.

H.R. 3734 is a bill to designate the Federal building in Roswell, New Mexico, as the Joe Skeen Federal Building, in honor of a former Member here, Congressman Joe Skeen.

Congressman Skeen was born in Roswell, New Mexico, in 1927, and as a young man, he served a 1-year enlistment in the Navy and served in the Air Force Reserves from 1949 to 1952. In 1950, he got his Texas marks by graduating from Texas A&M University.

He was elected to Congress in 1980 as a write-in candidate in the general election. He was only the third person in the Nation's history to win a U.S. House seat through this type of effort. For more than 2 decades, he served the people of the 2nd district in New Mexico with distinction and devotion, and I had the pleasure of serving with him.

As Congressman, he focused his energy and interests on agriculture, national defense, and public land management. In 1985, he became a member of the House Committee on Appropriations, and in 1995, he became Chair of the Committee on Appropriations, Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies. At the beginning of the 107th Congress, he was named the Chair of the Subcommittee on Interior and Related Agencies.

One of Congressman Skeen's major legislative accomplishments was to ensure the opening of the waste isolation pilot plant, the Nation's first repository for defense-related waste. Concerned about the public's health and safety and the environment, Congressman Joe Skeen worked tirelessly to advance storage of Federal waste.

He supported legislation to maintain the viability of the agricultural industry. He also has been a leader in supporting legislative initiatives on a balanced budget, crime education and military spending. He is an unapologetic advocate of local control, insisting that citizens make their own determination and not let the legislature do it for them.

Congressman Skeen was well respected on both sides of the aisle. He was an earnest and capable legislator, a worthy adviser and a true gentleman devoted to his family and dedicated to his constituents. His goodwill and humor are missed by all of us.

It is fitting and proper to honor Joe Skeen's life and public service with the designation of the Federal building in Roswell, New Mexico, as the Joe Skeen Federal Building.

Mr. Speaker, I reserve the balance of my time.

Mr. BURNS. Mr. Speaker, I yield such time as she may consume to my colleague, the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON of New Mexico. Mr. Speaker, when Joe Skeen was elected to the Congress, one of the first acts that he introduced in 1981 was legislation to name the Federal building in Las Cruces, New Mexico, after the man he replaced, the late-Congressman Harold Runnels, and I believe it is appropriate 23 years later to return the favor.

Joe Skeen won his election with a successful write-in campaign. It was only the third such victory in the history of the United States Congress, and during his nearly 22 years in the House of Representatives, he was a defender, a staunch defender, of New Mexico's rural lifestyle and its farming and ranching interests.

Even as Parkinson's began to claim his speech in his later years, Joe's sense of humor remained intact, and it is one of the things that all of us here treasure about him. Just about everybody in this body has a Joe Skeen story, something that makes us smile. One always knew if they had to go to talk to Joe about something, they might as well start smiling because before it was over he was going to make them laugh.

After 11 terms in the United States Congress, Joe decided to return to his ranch, a place that he described as being "at the center of my upbringing and which shaped my character and principles in life."

Joe's ranch in Picacho is 17 miles from pavement, and Joe was never a gentleman farmer. He was a farmer, a rancher and a gentleman. He could be fixing fences and working with his one hired hand, and hop in the truck and drive to Roswell, fly out, take a shower at his apartment in Washington and come to the floor of the House.

Throughout his service in the Congress, he kept a foot in both worlds, and the country and New Mexico benefited from it. He leaves behind a proud tradition of public service in which he has been a positive influence on many people's lives, including my own.

Joe died peacefully in his sleep of Parkinson's disease and its complications in Roswell, New Mexico, on December 7, 2003. His wonderful wife Mary was with him.

Joe was truly a great New Mexican. He will be deeply missed, and now, near his hometown in Roswell, New Mexico, there will be a building with his name on it. Every time people in Roswell walk by that building, they will look up and smile.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Speaker, I thank the gentlewoman for the time.

Mr. Speaker, I rise today in strong support of H.R. 3734 and to honor Mr. Joe Skeen of New Mexico. Joe served New Mexico with distinction and dedication. During the 4 years we served together in the Congress, I found Joe to be a true gentleman and a statesman.

Today, I am pleased that we will be passing this legislation to name the Federal building in Roswell, New Mexico, after Joe. It is an excellent tribute to honor a great man.

One of the things I respected about him the most was his bipartisanship, and I think every Member of Congress, Democrat and Republican, every Member of this House, loved him for that. He loved this institution. He had a great sense of humor. He did not take this place, where we do this the serious business of the country, too seriously, and he would always have a good story or a quip.

It is difficult to capture with words the impact and the significance that Joe has meant not only to New Mexicans, but to the citizens of the United States and the institution of the Congress as well.

During his tenure as New Mexico's longest-serving U.S. House Member, he built a dedicated and talented staff on Capitol Hill. He was renowned for his tireless work on behalf of agrarian interests. Although he did not get the credit he deserved, he also helped steer millions of Federal dollars to our State.

I was proud to work with Joe on legislation that helped return mineral rights to the Acoma Pueblo. That bill, now Federal law, was easily steered through Congress by Joe's knowledge of the legislative process. While we were ultimately not as successful as we would have liked, we also fought together to change the dairy sections of the 2002 farm bill that were unfair to our State's strong milk and cheese industry. Through it all, I enjoyed working with him every step of the way.

Throughout his years of service, he was a model of integrity and truth. The way he approached his job is the way every elected official should, as a highly principled individual who stuck to his beliefs. He walked his talk. While we did not agree on everything, he always did what he believed in his heart to be true, and he always worked in a bipartisan way to accomplish important work.

Again, this is a deserved honor for a great public servant.

Mr. BURNS. Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, H.R. 3734 would designate the Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, as the Joe Skeen Federal Building.

On December 7, 2003, the Nation lost a leader, but New Mexico lost a friend. As others have said, Joe Skeen was born in Roswell, New Mexico. He was an Aggie, and he stayed an Aggie for his whole life.

He joined the Navy and he served there. Again, that has been mentioned, but I do not think that other people realize just how much he saw the light when he left the United States Navy and scooted over to the U.S. Air Force, but as a former Air Force pilot, I recognized what was going on in his life.

He continued to see the real light when he saw Mary Helen Jones and married her in 1945. I will tell my colleagues that Mary and Joe continued to be favorites throughout their entire careers in New Mexico. Even today people say, "Tell Mary that we are thinking about her."

One of the most important things that people remember about Joe was his sense of humor, and I hear about that constantly. When I go to town hall meetings, they listen to me for 2 hours, and then the first thing they say is, "Joe Skeen was funny." I have enjoyed the comparisons. They also tell me that "Joe Skeen left big shoes to fill; make sure you fill them, son."

Joe was just a lifelong servant to the Nation and to the State. He has been recognized throughout New Mexico, though. They have begun to name different buildings after him already. He helped at New Mexico State University, New Mexico Tech, Holloman Air Force Base and White Sands, and those institutions have begun to name buildings after him. New Mexico Tech named their library after Joe Skeen. New Mexico State University named their new agricultural research building after Joe and Mary Skeen. Chaves County named their new administrative building after Joe Skeen, and New Mexico has named Highway 70, the Joe Skeen Highway.

Today, I am pleased the U.S. House of Representatives will act so that the Federal Government will name a Federal building after Joe Skeen, who left after 22 years of service in this House of Representatives.

□ 1615

Mr. Skeen was a strong supporter of rural New Mexico and all that it requires. He supported roads, schools, medical care, electricity and water and sewage treatment plants. He was impartial when it came to serving the people of New Mexico.

Joe was tremendously respected. He was quiet, yet he had a demeanor that created respect. And his sense of humor disarmed people with grudges and helped all citizens realize that by working together we can solve the people's problems. Joe used to say, let us talk about what we can agree on, and we will work from there.

The people of New Mexico will never forget Mr. Skeen. He was a man of the people. People in the second district have expressed their love for him as I travel through the district. As I took my place in this national Congress and heard from his many friends, I realized he was just as respected nationally as he was in the state.

Mr. Speaker, I urge my colleagues to support H.R. 3734.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BURNS. Mr. Speaker, I yield myself such time as I may consume to thank the gentlewoman from Texas and the speakers here today as they honor Joe Skeen. I urge my colleagues to join me in supporting H.R. 3734 in naming the Federal Building in Roswell, New Mexico, for our former colleague.

Mrs. MALONEY. Mr. Speaker, I rise in strong support of H.R. 3734, a bill to name a federal building in Roswell, New Mexico as the "Joe Skeen Federal Building." We were all saddened when our dear friend and colleague retired at the end of the 107th Congress and passed away in December 2003. However, we were fortunate to serve with Joe and the people of New Mexico were better off because of his 20 years of service.

As Members of Congress, we often work with colleagues from different parts of the country and from across the aisle. It was a great privilege to have worked with Joe Skeen. Since his first election in 1980, he served on the Appropriations Committee, chairing the Subcommittee on Agriculture and then the Subcommittee on the Interior. Joe has always been a true gentleman and always told it like it was. When dealing with Joe, I always knew he would give me a fair hearing on an issue and try to accommodate me when he could and politely say "no" when he couldn't. I could also always depend on Joe telling me a good story to underscore the point he was making.

On a personal note, I had the pleasure of working with Joe to further the progress of Parkinson's Disease research in America. In 1999, along with my colleagues, Mr. EVANS, Mr. MARK UDALL, TOM UDALL, and Mr. WAXMAN, Mr. Skeen and I formed the Congressional Working Group on Parkinson's Disease.

Joe Skeen was a true leader in the fight against Parkinson's Disease. Over the years, the Working Group has sought to increase awareness among Members of Congress on Parkinson's related issues. Most importantly, the Working Group advocates for accelerated and increased funding for Parkinson's research in the hopes that we soon find the cure for what leading scientists call the most curable neurological disorder.

We will carry on the fight to cure Parkinson's, in part, inspired by the legacy of the great Joe Skeen. This bill ensures that the people of New Mexico and those around the country never forget our friend, Joe. I fully support its passage in honor of Joe Skeen—a true national treasure.

Mr. BURNS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Georgia (Mr. BURNS) that the House suspend the rules and pass the bill, H.R. 3734.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BURNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3428 and H.R. 3734, the measures just concluded by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

THE ADOPTION TAX RELIEF GUARANTEE ACT

Mr. CAMP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1057) to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

The Clerk read as follows:

H.R. 1057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Adoption Tax Relief Guarantee Act".

SEC. 2. REPEAL OF APPLICABILITY OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 WITH RESPECT TO ADOPTION CREDIT AND ADOPTION ASSISTANCE PROGRAMS.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

"(c) EXCEPTION.—Subsection (a) shall not apply to the amendments made by section 202 (relating to expansion of adoption credit and adoption assistance programs).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CAMP) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CAMP).

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 1057, a bill to make permanent the adoption tax credit and assistance programs contained within the Economic Growth and Tax Relief Act, which we passed in 2001.

The importance of the Adoption Tax Relief Guarantee Act could not be clearer: helping abandoned children find safe, loving, permanent homes. Three years ago, we took a giant step forward. Our failure to act today would be an equally giant step backward.

The adoption tax credits were originally limited to 10 years. No child should have limits placed on their hopes, dreams, and opportunities for the future, and no loving parent willing to take a child in should be denied due to the financial burdens imposed by the adoption process. By voting in favor of H.R. 1057, we will eliminate the sunset and will make adoptions easier for all families for generations to come.

Adoptions can be prohibitively expensive. Licensed private adoption agencies charge fees ranging from $4,000 to $30,000. Independent adoptions can cost anywhere from $8,000 to $30,000. If the adoption tax credit is cut, the prior law level of $5,000, many families will not be able to afford adoptions. Money may not be able to buy you love, but in the case of adoptions, it may keep you from it.

There are over 565,000 children in publicly-funded foster care waiting to be adopted. Even more are in the private system. Cutting the adoption tax credit will make it more difficult to move children out of foster care and into permanent homes. With H.R. 1057, we will permanently put the health and safety of children first and give our Nation's foster children a fighting chance. We cannot allow this credit to lapse. Over half a million children are counting on us to finish the job we started over a year ago.

Temporary is not an option for adoption, and it should not be for this tax credit either. I urge my colleagues to support this vital piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is broad bipartisan support for assisting adoptive families in meeting their expenses. Helping families afford the cost of adopting children in loving homes is clearly a worthy policy, and targeted tax relief can help promote that goal. I, therefore, support this effort to eliminate the sunset provision in the current adoption tax credit, and I want to compliment my colleague, the gentleman from Michigan (Mr. CAMP), for his work and leadership on this issue.

This extension is particularly worthwhile given the change in the adoption tax credit that took effect last year. Let me just point that out, Mr. Speaker, the adoption tax credit now provides a guaranteed $10,000 tax credit for the adoption of special-needs children who are classified as being more difficult to place for adoption because of certain factors, including physical, mental or emotional impairment. Prior to that change, it was very difficult for people adopting special-needs children to qualify for the tax credit. In fact, less than 15 percent did, because many of their expenses included in the adoption credit were already paid for.

We know that people who adopt children with special needs incur additional costs, including modifying their home to take care of the physical impairments of the child and other types of expenses. Now that we have modified the tax credit, those families can take advantage of this $10,000 credit, and therefore, it is really helping deal with the placement of special-needs children, one additional reason why it is important for this tax credit program to continue without interruption, one additional reason why this legislation should pass.

My only regret about this legislation is that there was no effort to offset its cost. Relative to the other tax extensions, the cost of the adoption tax credit is relatively modest. Let me point out, Mr. Speaker, that the sunset provision is now in the year 2010. There are many other tax provisions that have much sooner sunset dates that we have not acted on yet and we need to deal with.

I support this change, and it has a modest cost, but I am sorry that we did not take advantage of this opportunity to close some tax loopholes, including those available to companies who ship jobs overseas, that could have offset easily the cost of this bill so we do not continue to add to the growing deficit.

The current budget deficit is $422 billion in this fiscal year, and it is projected to grow to over $1.6 trillion over the next 5 years. This amount will be added to a current overall of $7.3 trillion. It should, therefore, be no surprise that we are about to raise our government debt limit for the third time in just the last 3 years. At some point, we are going to have to own up to the fact that we are simply passing on our obligations to our children rather than living within our means.

Mr. Speaker, I hope we will find a way to pay for this and other tax extenders through commonsense changes in the tax code. In the meantime, I support this extension of the adoption tax credit, and I urge my colleagues to support this legislation but to continue to work for more responsible fiscal policies.

Mr. Speaker, I reserve the balance of my time.

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume, and I appreciate the gentleman's comments in support of the bill. I would like to say that we have confirmed with the Committee on the Budget that this legislation does fall within the parameters of the House-passed budget.

Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. DEMINT), the author of this bill who has been a real leader on adoption issues in this House.

Mr. DEMINT. Mr. Speaker, first, let me express my sincere appreciation to the House leadership and, particularly, the chairman of the Committee on Ways and Means for bringing this important legislation to the floor. I would like to thank my colleague, the gentleman from Michigan (Mr. CAMP) for his leadership on the adoption issue over many years, as well as the gentleman from Maryland (Mr. CARDIN) and all of my colleagues on both sides of the aisle for supporting this legislation.

One of the greatest titles in the world is parent, and one of the biggest blessings in the world is to have parents to call mom and dad. So it gives me great joy to stand here along with all my colleagues today to celebrate the thousands of moms and dads and children who have become bigger, stronger families through adoption.

Last Congress, we passed several important adoption provisions. We doubled the adoption tax credit to $10,000 for all adoptions. We indexed that credit to inflation. We increased the earnings limit, and we exempted the beneficiaries from the alternative minimum tax. We included, as has already been mentioned, a $10,000 flat credit for special-needs adoptions. Additionally, we extended and doubled the tax deduction for employer-provided adoption benefits.

Unfortunately, the Senate's sunset provisions will make all these benefits disappear December 31, 2010. Sadly, it will soon start to affect couples who want to begin the adoption process and cannot afford all the adoption costs related to it.

H.R. 1057, the legislation before us today, will help couples by ensuring that they know that the adoption tax credit and the financial relief provided by this tax credit will be there for them when they find that beloved child. This bill will guarantee tax relief for adoptive parents and will help unite children with loving parents who can build strong and stable families in our country.

There may be some unwanted pregnancies, Mr. Speaker, but the thousands of couples that are waiting to adopt children prove that there are no unwanted children, and I urge my colleagues to support this legislation.

Mr. CARDIN. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Washington (Mr. MCDERMOTT), a member of the Committee on Ways and Means.

Mr. MCDERMOTT. Mr. Speaker, the remarks by the gentleman from South Carolina are quite interesting. He has brought out a bill today that all here wholeheartedly support, through tax incentives, making adoptions less costly. Now, that is certainly a good idea.

But it is hard to understand his thinking, because he has introduced legislation here to convert our whole tax regime to one that relies solely on consumption taxes, a sales tax.

Now, I do not know why he is supporting this. I guess he wants to keep making it more complicated so his other bill will pass, but that proposal would be a boon to the wealthy elite. It would remove the tax incentives that would make home purchases, college and health care more affordable. His proposal would tax all purchases on goods and services in our economy, including food, health care and home rents. In fact, the Joint Committee on

Taxation did an analysis of a similar proposal and indicated that in order for a sales tax proposal to be revenue neutral over 10 years, the estimated national sales tax rate would be between 36 and 57 percent. That is a 36 and 57 percent sales tax.

Some of us have a State sales tax of 8 or 9 cents, and we think that is awful. But the gentleman from South Carolina (Mr. DEMINT) is proposing that. In other words, the price of a blood transfusion, prescription drugs and a pair of sneakers would increase by 37 to 57 percent. Now, does that sound fair? Oh, and by the way, of course there would be no adoption tax credit under that regime. So if you adopt a child, well, tough luck.

Very good to talk about it here today. I am sure he would like to take this home for the campaign. But when you put in bills that make no sense, all those people who have lost their textile jobs in South Carolina due to international trade and qualify for health tax credits, well, they would be out of luck, too. And the gentleman from South Carolina is going to expect to sell this proposal to the baby boomers in this country who are about to go on a fixed income? Let us take the best case, a 36 percent sales tax. How is he going to sell that and get elected to the United States Senate?

The Health Insurance Association of the United States states that one of the consequences of a flat tax bill is likely to be a rapid increase in the number of people without private health insurance coverage.

□ 1630

One economist estimated that there would be 8 million more people without health benefits if a flat tax proposal was enacted. James Poterba, an economist at MIT, estimated that eliminating the current tax law benefits for purchasing homes could result in a 17 percent decline in the value of the U.S. housing market.

What about payroll taxes? A flat tax proposal may eliminate the deduction that employers pay for their payroll taxes, amounting to a massive tax increase on businesses of all sizes.

The American public may seem naive to some people running for the other body; but they know what this would mean, which is why the President, the President of the United States, who says he wants to tear the tax structure out by its roots, would not even admit that he supports the gentleman from South Carolina's (Mr. DEMINT) proposals.

If you are out here to help families and you want people to adopt children, this bill is flawed. Too much of the money goes to people on the top end like every other proposal that we have brought out here by this administration and this Republican majority. But if you want to make that kind of proposal, then do not put in these silly bills for a sales tax for this country because the people are going to wonder if you are serious about anything. Nobody who is serious about helping people adopt children is going to think that a sales tax on tennis shoes and diapers and all the things that go with kids makes any sense whatsoever.

We will all vote for this, but I think the people should know what the proposer actually has in mind.

Mr. CAMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BRADY), a distinguished member of the Committee on Ways and Means.

Mr. BRADY of Texas. Mr. Speaker, first let me thank the gentleman from Michigan (Mr. CAMP) as a leader in the Committee on Ways and Means on encouraging adoption and the gentleman from South Carolina (Mr. DEMINT), who has been a leader on this issue for many years since I have been a Member of Congress and have come to know him.

I am an adoptive father. My wife and I have two little baby boys, a 5-year-old son, a redhead, named Will; a 2-year-old named Sean. Whoever said that at my age having young kids keeps one young is absolutely wrong. They make us old fast. But they are an absolute joy to us. And it is only in Washington, unfortunately, that we have such a serious subject about trying to help families build their families with an adopted child, that we have an election-year smear campaign brought to the Chamber against one of our colleagues who is running for an office in South Carolina. I guess in Washington these days it is sort of the order of business that one takes the serious issue of children and adoption, who are looking for a home, and then they run these horrible attacks from here from this Chamber. As an adoptive father, I think it is sad and really disgusting.

Let me make this point on this bill, which is really the subject of today, which is adoptions build families. It provides love and hope where really none exists, both for the child and for the parent as well. It is just a joy. And we are so proud of birth moms and dads who choose that option.

This bill is so important because adoptions are so expensive. I do not know how families afford them anymore. If they use an agency, it is easy to begin with a $25,000 fee. If they have a private adoption, like we did, our first one was very expensive because the adoption was a little more complicated. One can easily spend $10,000 without blinking an eye. And that puts it out of reach for a lot of middle-income families in America.

And these adoptions are expensive for a reason. One, legal expenses. Over the years at the State level and the Federal level, we have tried to make sure adoptions stick. Both for the birth parents who are giving that child up and for the parents like myself who are adopting them, our legal costs are high, higher these days because these are stronger foundations and more secure adoptions, and that is good. But also we use a lot of those moneys for medical expenses through the agencies, working with the mom on prenatal care, making sure she is getting the checkups for the baby, making sure that child has a chance to have a healthy start in life. So the medical expenses are high. As a result of both of those, adoptions can be so expensive.

And, again, without this tax credit, here each and every year we are going to prevent some loving families from occurring. We are going to keep children in foster care who really ought to be in a loving home at night with parents reading to them and providing them with a future. This adoption tax credit is just critical. It ought not to be something that is temporary but permanent that families in our country can count on and encourage.

With that I urge support and appreciate the leadership again of the gentlemen from Michigan and from South Carolina.

Mr. CARDIN. Mr. Speaker, I yield such time as he may consume to the gentleman from North Dakota (Mr. POMEROY), a member of the Committee on Ways and Means.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to begin by offering the comment that on any tax measure brought to the floor of this House, I believe it is entirely appropriate to discuss the larger budget framework facing this country, the out-of-control deficit, the record level of deficit leading to records of levels of debt leading to the impending vote on debt limit. These are all very serious financial matters before the country and brought obviously germane to any discussion of tax cuts, even the one before us.

But I want to speak in favor of this bill. I would have preferred that an offset be included, offsetting the cost of this bill. But, nonetheless, this is a very measured, targeted, and important piece of social policy; and it strikes me right where I live.

On February 3, 1994, I was a freshman Member of this body. My workday ended with a drive to National Airport where my daughter came off the plane from Korea, my daughter, Kathryn, adopted daughter Kathryn; and it was the greatest day of my life, until May 29, 1996, when in another trip after another day out to National Airport brought me face to face for the first time with my baby boy, Scott.

These children have enriched my life more than anything else possibly could and beyond my wildest imagination. Each day with them is a pure joy. I now know, and am learning later than most, what a complete and fabulous adventure parenthood can be and how deeply satisfying it is to the very fundamental purpose of life.

I speak that from a parent's perspective. But I also care so deeply about the perspective of little children, little children who need homes, need families to love them. I especially am concerned about children in circumstances where placement has been difficult: special needs children, slightly older children, children that would pose for families considering adoption higher costs than an infant adoption.

Because I think this experience is so profound and fundamental to life experience, the business of having children who need homes, connected with parents who will love them and raise them as their own, I certainly do not want financial barriers getting in the way.

In the course of activity of recent years, we have moved in place an adoption tax credit, $5,000. We have now moved to double it. And with this action today, we would move to make it permanent. I think that is precisely what we need to do. We must not bar families from this experience because of their inability to front the significant up-front costs now ranging from $8,000 to $30,000 per adoption.

And my belief is that one would have to look long and hard to find an adoption agency for placement less than $15,000. So these are very significant costs. This tax credit will not cover all of them in the great majority of cases, but it will make a difference. This will make a critical difference in allowing families to participate in the miracle of adoption that otherwise would not be available.

I want to commend the gentleman from Michigan (Mr. CAMP), who in particular over the years has led this Congress and earlier Congresses in breaking down barriers that have kept kids in indeterminate status, in foster care arrangements with no certainty, no stability. He has, with earlier legislation, made it possible, I believe, to significantly change the national priority and move toward children's interests first, children interests, that being part of a permanent family.

The financial piece of this follows along with this legislation. I think it dovetails very nicely with the gentleman's earlier work.

So I ask that we put aside partisanship on the question of the bill before us. We certainly have much to discuss about the budget, as I mentioned at the outset; but this is important social legislation, the business of building families through the miracle of adoption, linking parents or would-be parents desiring to play out that role in a little one's life with children who need and want more than anything families to love them and raise them. This is good social policy. This is something we can agree on. Let us help it along with this tax credit, and I urge its adoption.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. DEMINT).

Mr. DEMINT. Mr. Speaker, just a couple of additional comments, and I want to thank the gentleman from North Dakota for his perspective.

And just for those of my colleagues who have budget concerns, as has already been mentioned, this bill fits into the budget. It is also the best investment this country could make, building strong families; and just the reduction in foster care alone more than offset this tax bill.

If I could say a word about the colleague who interrupted our celebration with some political comments about my sales tax, I would assure all my colleagues, so there will not be any concern, that I have never in this body supported anything that increased taxes or costs on the American people and do not intend to and would never support the type of legislation that was just described here. So I do not want there to be concern on the other side, because I cut taxes; I do not raise them.

Mr. CARDIN. Mr. Speaker, I reserve the balance of my time.

Mr. CAMP. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time.

I was watching some of the coverage on TV of the debate and saw some of the worst demagoguery I have ever seen in my life. And we will hear it again and again.

It is true that the gentleman from South Carolina is a cosponsor of a bill for a sales tax. So are 54 of his friends in this House. And it is true that the sales tax would be at 23 percent of what we spend. But the fact of the matter is we are currently giving up 22 percent of what we spend to the current system.

A study that we have from the head of economics at Harvard argues that 22 percent of what we are currently spending at retail represents the embedded cost of the current system. One is paying every tax bill and compliance cost of every company that touched that house or that appliance or even that loaf of bread.

If we are to get rid of the income tax and the payroll tax and all tax on income, competition would drive that out of the system. And if we replace it with a 23 percent tax, we would have a 1 percent higher standard of living, but they would keep their whole check and the average income earner would have a 56 percent increase in take-home pay.

We have heard before the study out of the Joint Committee on Taxation that said it had to be at 50 percent or 60 percent. That is true, because they made some assumptions that the bill would not pass as written; and when they made those assumptions and took taxes off certain things, it raised the cost.

But just think about this for a moment. We have a negative savings rate in this country, which is to say we spend more than we earn. And if the tax needed to be 56 percent on what we spend, then surely we would have to argue that it has to be more than that on what we earn. And I do not hear anybody saying that we have an average income tax at 56 percent.

We are going to be forced to make some tough decisions in the very near future, and we are going to come to a system that gets the tax component out of the price system so that we are more competitive in the world economy. And the only bill that does that is the one that gets rid of all tax on income and the payroll tax. We spend 6 to 7 billion man-hours just filling out IRS paperwork. We spend at least that much time calculating the tax implications of a business decision. We lose 18 percent of our economy to making decisions based on the tax consequences instead of the economics. It is costing us somewhere between 300 and $500 billion a year just to comply with this complicated code.

What it is doing is it is forcing jobs overseas. If we became the only Nation in the world that sold goods and services into a global economy with no tax component in the price system, we would not only be voraciously competitive, but every foreign corporation would build its next plant in this country so that they could sell into a global economy with no tax component in the price system.

We have a coming crisis in Social Security and Medicare. Larry Kotlakof, an economist from Boston University, says that the shortfall, the 75-year unfunded liability in Social Security and Medicare, is $51 trillion.

☐ 1645

The total household debt in America is less than $44 trillion. That system cannot survive by having employees pay for retirees. If we move it to a portion of the 23 cents of the sales tax, we would double the revenues to those categories in 15 years by doubling the size of the economy in 15 years.

Lastly, we have somewhere between $5 trillion and $6 trillion sitting in offshore accounts to protect them from the IRS because it is too expensive to repatriate money. A company would rather borrow at 6 percent than repatriate at 33 percent that. That money would all be in our shores if we were to become the world's largest tax haven, and we would be creating jobs with it.

To demagogue an idea without reading the 132 pages is what this House does an awful lot of. But if someone would take the time to read it and understand that we are already paying this tax, that we totally untax the poor by getting rid of the 22 percent embedded cost and by giving every household a check to totally untax them up to the poverty line, if they would begin to understand that this is actually a tax on accumulated wealth, relieving the tax for low-income people, maybe we could have an honest debate about this and maybe we could speak some truth on the floor of the House. It is way too much to expect, but let us give it a shot.

Mr. CARDIN. Mr. Speaker, this discussion is becoming a little bit more interesting than we thought.

Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, again I support the underlying proposition before us, but there are remarks made about a national sales tax that I simply have to respond to, representing a rural area like I do.

The principal industry in North Dakota is agriculture. Agriculture is based upon family farming. The economics behind a family farm are pretty interesting. Every year, these families essentially stake about everything they have got on making equipment payments, making land purchases, buying the inputs to get the crop in, the seed, the fertilizer, the gas to run the tractor.

You are not going to find for a family-sized small business, I do not think, an undertaking beyond family farming where there is so much money that goes out the door and into the ground with the hope that you are going to have a crop come around harvest time and have something to make up those costs with.

Why go into that is because, just think of it for a minute, suddenly you are going to add about a 23 cent per dollar hit on a national sales tax. You could not come up with a worse scheme if you imagined to knock family farmers out of business all across this country. I believe it would absolutely be a catastrophe to family farmers and to rural America.

Underlying the principle further is the whole notion that we should tax wages, not wealth. The gentleman talks about leaving the payroll tax intact. But for someone living comfortably on trust fund income, zero tax on those earnings; and then a tax, of course, on consumption, like everyone else would have.

What is at stake here is an effort to make incredibly regressive changes to the Tax Code so that the moderate-income families, the middle-income families in this country, suddenly assume a significantly new burden in terms of additional taxes away from the most affluent few.

You would think the changes already made, that have been documented to be so regressive in character, would already have been enough to satisfy this appetite. But there seems to be no limit to what they want to do in terms of increasing burden on the middle- and moderate-income families, while giving a pass to the most-affluent few. When it comes to a particular industry, one I know well, agriculture, this would be a death knell for family farming all across the country.

This national sales tax proposition is very bad business. Let us not let this concept take root, even in a discussion this afternoon on the adoption tax credit. This national sales tax is bad, bad business.

Mr. CAMP. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I guess it is too much for people to read the 132-page bill. We get rid of the payroll tax, we do not leave it in place, and there is simply no tax on farmers. It is only on personal consumption, and the Farm Bureau is very close to endorsing the entire idea.

Mr. CARDIN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, the gentleman from Georgia is correct, we never have enough time to discuss taxes out here. We usually run bills through here with no time at all to think about anything.

The fact is, if you really want to understand what this country is doing, there is a wonderful book called "After the Empire" by a guy named Emanuel Todd. He is the guy that predicted when the Soviet Union would come down. He is the only one who predicted it before it happened.

He is now talking about the chaos that this administration and this Republican majority have put this country in. You are borrowing enough money for the Defense Department. That is what you are borrowing. You are only taking in enough revenue to handle everything but defense, and you are borrowing all over the world, from the Chinese and the Japanese and the Europeans.

If some day they say to us, United States, we are tired of funding your Defense Department so you can come over here and hammer us or mess up things in the Middle East or run around the world anywhere you want and start a war, because you have got a President now who says we can start a war any time we want any place we want. The world is afraid economically of the United States.

This is a war of economics. It is not a war on terror, it is a war on economics. One of the reasons why we got into this whole business in the Middle East is because the rest of the world is thinking about leaving the dollar as the currency that stabilizes the world and going to the Euro. They were doing it in Iran. Saddam Hussein was talking about doing it in Iraq. If they had done that to the oil economics of this world, we would have had a major catastrophe. So one of the side benefits of this little exercise over in Iraq was that we did not get oil denominated in Euros.

You people simply will not look at what you are doing. You cannot fight a war and have 700 bases all over the world and run a deficit of $450 billion every year for the whole future that you can see.

This little bill here today is a minor issue; we know that. But it gives us an opportunity to point out that your economics are upside down.

You talk great things about, we are going to reform the tax system. We had a chairman on the Committee on Ways and Means for the 10 years he was here, who said he was going to reform the tax system, was going to tear it out by its roots, but he never brought a bill to the committee.

So it really is all talk, because you know it is nonsense. You want the American people to believe it. You want the American people to believe that we can get rid of that awful, terrible income tax and we will have this nice, easy sales tax that somebody else will pay. But when you look at it and how it actually works, it does not work, and that is why you will not do it.

You have no courage. You own both Houses, both the Senate and the House, and you have never brought that bill out here to be discussed. Why not? Because you know it is nonsense. You know it is nonsense. That is why you have to run these bills through in the middle of the night with 1 hour's debate or 2.

So, let us be honest here about taxes. This little one will pass, but do not give us this sales tax or what you are going to rip out by the roots.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY). The Chair reminds Members that remarks should be made to the Chair and not to others in the second person.

Mr. CARDIN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, as I said in the beginning, I support this bill. It is good policy, the adoption tax credit. It should be made permanent. This bill will make it permanent. It helps families who need help in adopting children, particularly those with special needs.

But I want to point out that this bill removes the sunset that would take effect in the year 2010. So if this bill were not to be enacted into law this year, I want people to understand that we are not endangering the ability of families to take advantage of the tax credit. There is no urgency as far as the expiration of the tax credit itself is concerned.

I do want to correct statements that I think were made by two of my colleagues, because I think they were misleading when it was said that the passage of this tax credit is consistent with the budget. We have not passed a budget. We have not reconciled the difference between the House and the other body.

Now, I know my colleagues will say, well, we passed one here and we are consistent with what we did. But there is no budget that puts us on a glide path towards responsible budgeting.

That is my concern, Mr. Speaker, and that is one of the reasons I raised the issue. The deficit this year is $422 billion. I do not believe any one of my colleagues is happy with that result.

What will this bill do? It will add a little bit more to the deficit. It will add a little bit more to the red ink of our Nation. I find that regrettable. I think we need to institute budget discipline. We need to offset our expenditures, whether they are in the Tax Code or in the operating budget, so that we do not add to the red ink of the Nation.

Unfortunately, this bill will not do that. And it would be easy for us to agree in a bipartisan manner to the necessary offsets so this bill does not add further to the deficit.

That is the offer that I make on behalf of this side of the aisle. Yes, we support this legislation. Yes, we will work with you to make sure it gets to the President for his signature. But work with us so we do not continue to add red ink and debt to our Nation.

Mr. Speaker, I yield back the balance of my time.

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let met just get back to the basics about what this bill is about. In 2001, this Congress passed tax relief which included an increased and enhanced adoption tax credit. This new law will expire. The sunset was included in the law simply to comply with Senate procedural rules. This legislation would repeal that sunset so that the adoption tax credit provisions remain permanent.

If this legislation, H.R. 1057, is not enacted, then the adoption tax credit would be cut from a maximum of $10,000 to zero. Families who adopt special needs children would no longer receive the flat credit. Instead, it would be a much more limited credit.

Also, certain families may be pushed into higher tax brackets. Fewer families will be eligible for the credit altogether. This is important, because not only can adoptions be very, very expensive; as I mentioned earlier, it would mean that many families could not afford adoptions.

I have a letter here that I will include for the record, a statement of administration policy strongly supporting this legislation, recognizing that adoption is a tremendously wonderful way to build families and to provide loving homes for children in need.

This tax relief will help provide the financial relief families need. The home studies and some of the medical checks that are necessary as a result of an adoption can be very, very expensive, and this will help families as they take that very important step.

So the administration supports this legislation and is urging that we have quick action in Congress to reduce the financial burdens that families have when they undertake adoptions by making this important part of the tax relief that we passed in 2001 permanent.

Mr. Speaker, I urge adoption of this resolution and submit the letter I previously mentioned.

Executive Office of the President, Office of Management and Budget,
Washington, DC, September 22, 2004.

STATEMENT OF ADMINISTRATION POLICY

H.R. 1057—ADOPTION TAX RELIEF GUARANTEE ACT (REP. DEMINT (R) SOUTH CAROLINA AND 203 COSPONSORS)

The Administration strongly supports H.R. 1057, which would permanently extend the expanded tax relief for adoption enacted in 2001. Adoption is a wonderful way to build a family and to provide a loving, permanent home to a child in need. Making the tax relief for adoptions permanent will provide financial relief to families taking this important step.

The President has called on Congress to make provisions of the 2001 and 2003 tax relief acts permanent to prevent tax increases from hitting America's families, small businesses, investors, farmers, and seniors. Tax relief has greatly helped the economy weather the storms of recent years and fueled the economic recovery underway today. Making tax relief permanent will lay the foundation for sustained economic growth and job creation over the long term and enable taxpayers to better plan for their future.

The Administration is pleased that the House is acting now to make tax relief for adoption permanent. The Administration urges quick action in Congress to reduce the financial burden of families undertaking adoption by making this important part of the President's tax relief plan permanent.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. Camp) that the House suspend the rules and pass the bill, H.R. 1057.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CAMP. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

☐ 1700

GENERAL LEAVE

Mr. CAMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of H.R. 1057, the bill just considered.

The SPEAKER pro tempore (Mr. Terry). Is there objection to the request of the gentleman from Michigan?

There was no objection.

CALLING FOR THE SUSPENSION OF SUDAN'S MEMBERSHIP ON THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 137) calling for the suspension of Sudan's membership on the United Nations Commission on Human Rights.

The Clerk read as follows:

S. Con. Res. 137

Whereas in Darfur, Sudan, more than 30,000 innocent civilians have been murdered, more than 400 villages have been destroyed, more than 130,000 men, women, and children have been forced from their villages into neighboring countries, and more than 1,000,000 people have been internally displaced;

Whereas the United States Government has been, and remains as of September 2004, the largest contributor of assistance to the people of Darfur, having provided over $200,000,000 in assistance, which constitutes more than 70 percent of the total assistance provided to that region;

Whereas the United States has pledged $299,000,000 in humanitarian aid to Darfur through fiscal year 2005, as well as $11,800,000 in support of the African Union mission in that region, and is likely to provide support in excess of those pledges;

Whereas United States citizens and private organizations, as well as the United States Government, have admirably worked, at great risk and through great effort, to ease suffering in Darfur, Sudan, and in eastern Chad;

Whereas based on credible reports, Congress determined in late July 2004 that acts of genocide were occurring in Darfur, Sudan, and that the Government of Sudan bears direct responsibility for many of those acts of genocide;

Whereas expressing its grave concern at the ongoing humanitarian crisis and widespread human rights violations in Darfur, including continued attacks on civilians that place thousands of lives at risk, the United Nations Security Council on July 30, 2004, unanimously adopted Security Council Resolution 1556, which called upon the Government of Sudan to fulfill immediately its obligations to facilitate humanitarian relief efforts, to take steps to disarm immediately the Janjaweed militias responsible for attacks on civilians and bring the perpetrators of such attacks to justice, and to cooperate with independent United Nations-sponsored investigations of human rights violations;

Whereas the Government of Sudan has failed to take credible steps to comply with the demands of the international community as expressed through the United Nations Security Council;

Whereas according to press reports, reports from nongovernmental organizations, first-hand accounts from refugees, and other sources, the Janjaweed attacks on the civilians of Darfur continue unabated as of September 2004;

Whereas there are credible reports from some of these same sources that the Government of Sudan is providing assistance to the Janjaweed militias and, in some cases, that Government of Sudan forces have participated directly in attacks on civilians;

Whereas the United States Government, after conducting more than 1,000 interviews with survivors and refugees, has determined that genocide has occurred in Darfur, that it may still be occurring, and that both the Janjaweed and the Government of Sudan bear responsibility for these acts;

Whereas the Secretary of State has determined that the attacks by the Government of Sudan and the Janjaweed on the non-Arab people of Darfur and their villages are based on race, not religion;

Whereas the United States has recently introduced a new resolution in the United Nations Security Council that calls for the Government of Sudan to cooperate fully with an expanded African Union force and for a cessation of Sudanese military flights over Darfur;

Whereas the introduced resolution also provides for international overflights of the Darfur region to monitor the situation on the ground and requires the United Nations Security Council to review the record of compliance of the Government of Sudan to determine whether the United Nations should impose sanctions on Sudan, including sanctions affecting the petroleum sector in that country;

Whereas the resolution also urges the Government of Sudan and the Sudanese People's Liberation Movement to conclude negotiations on a comprehensive peace accord and, most important, calls for a United Nations investigation into all violations of international humanitarian law and human rights law that have occurred in Darfur in order to ensure accountability;

Whereas the United Nations Security Council, in United Nations Security Council Resolution 1556, emphasized that the Government of Sudan bears primary responsibility for respecting human rights and protecting the people of Sudan;

Whereas United Nations Security Council Resolution 1556 calls upon the Government of Sudan to cooperate with the United Nations;

Whereas the United Nations Human Rights Commission, established in 1946 and given the responsibility of drafting the Universal Declaration of Human Rights, is responsible for promoting respect for and observance of, human rights and fundamental freedoms for all;

Whereas the Universal Declaration of Human Rights declares that all human beings are born free and equal in dignity and rights, that everyone is entitled to all the rights and freedoms set forth in the Declaration regardless of race, color, sex, language, religion, political or other opinion, or national or social origin, property, birth, or other status, that everyone has the right to life, liberty and security of person, that no one shall be held in slavery or servitude, and that no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment;

Whereas the Convention on the Prevention and Punishment of Genocide, done at Paris on December 9, 1948 (hereafter in this resolution referred to as the "Genocide Convention"), delineates the criteria that constitute genocide and requires parties to prevent and punish genocide;

Whereas Sudan is a state party to the Genocide Convention and remains a member of the United Nations Commission on Human Rights;

Whereas the Secretary of State determined that, according to United States law, the Government of Sudan is a state sponsor of terrorism and has been since 1993 and therefore remains ineligible for United States foreign assistance;

Whereas due to the human rights situation in Darfur, it would be consistent with United States obligations under the Genocide Convention for the Secretary of State and the United States Permanent Representative to the United Nations to seek the immediate suspension of Sudan from the United Nations Commission on Human Rights and, in the event a formal investigation results in a determination by the United Nations that genocide has occurred in Darfur, the ultimate removal of Sudan from such Commission; and

Whereas it is a mockery of human rights as a universal principle, a challenge to the United Nations as an institution, and an affront to all responsible countries that embrace and promote human rights that a government under investigation by the United Nations for committing genocide against, and violating the human rights of, its own citizens sits in judgment of others as a member in good standing of the United Nations Commission on Human Rights: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes and approves of the findings of the Secretary of State that genocide has occurred and may still be occurring in Darfur, Sudan, and that the Government of Sudan bears responsibility for such acts;

(2) supports the Secretary of State's call for a full and unfettered investigation by the United Nations into all violations of international humanitarian law and human rights law that have occurred in Darfur, with a view to ensuring accountability;

(3) supports the resolution introduced by the United States Government in the United Nations Security Council on September 9, 2004, with regard to the situation in Darfur;

(4) calls upon the Secretary of State and the United States Permanent Representative to the United Nations to take immediate steps to pursue the establishment of a formal United Nations investigation, under Article VIII of the Genocide Convention, to determine whether the actions of the Government of Sudan in Darfur constitute acts of genocide;

(5) calls upon the Secretary of State and the United States Permanent Representative to the United Nations to take immediate steps to pursue the immediate suspension of Sudan from the United Nations Commission on Human Rights;

(6) calls upon the Secretary of State and the United States Permanent Representative to the United Nations to take further steps to ensure that the suspension of Sudan from the United Nations Commission on Human Rights remains in effect unless and until the Government of Sudan meets all of its obligations, as determined by the United Nations Security Council, under United Nations Security Council Resolution 1556 of July 30, 2004, and any subsequent United Nations Security Council resolutions regarding this matter;

(7) calls upon the Secretary of State and the United States Permanent Representative to the United Nations to take steps to ensure that, in the event that the formal investigation of acts of genocide in Sudan results in a determination by the United Nations that genocide has occurred or is occurring in Darfur, the United States Government takes appropriate actions to ensure that Sudan is removed from the United Nations Human Rights Commission;

(8) calls upon the member states of the United Nations Commission on Human Rights to convene an immediate special session to consider the urgent and acute human rights situation in Sudan for the purpose of considering whether Sudan should be suspended from membership in such Commission; and

(9) expects the Secretary of State to report to Congress on progress made toward taking the actions and accomplishing the objectives outlined in this resolution not later than 60 days after the date on which Congress agrees to the resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from New Jersey (Mr. PAYNE) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

In April of 2004, Mr. Speaker, at the same time as world leaders were gathered in Kigali, Rwanda, to remember the Rwandan genocide of 10 years earlier, a humanitarian cease-fire was signed between the government of Sudan, the Sudan Liberation Movement/Army, and the Sudan Justice and Equality Movement to end the atrocities and reverse the humanitarian crisis in Darfur. The agreement was facilitated by the U.S., European Union, the African Union and the United Nations. All parties agreed to take immediate steps to stop the violence and atrocities being perpetrated by the Janjaweed militias.

Sadly, the agreement was not worth the paper it was written on, and the violence continued. The U.N. Humanitarian Coordinator for Sudan later said, "The only difference between Rwanda and Darfur now is the numbers involved." President Bush confirmed this conclusion on September 9 by declaring "The United States is appalled by the violence in Darfur, Sudan. The world cannot ignore the suffering of more than 1 million people."

Mr. Speaker, despite the best efforts of the U.S. Government, including the extraordinary efforts of Ambassador Williamson at the U.N. Conference in Geneva, and I was there and I saw it up close and personal, he did an extraordinary job; Sudan was given nothing more than a half-hearted slap on the wrist during the sixtieth session of the U.S. Commission on Human Rights which concluded its work in May. Like I said, I was there in Geneva, and I was appalled when Sudan was reelected to serve on the commission for another 2 years. The hypocrisy of the election of Sudan, one of the worst violators of human rights on the planet, to serve on the U.N. Commission For Human Rights should not be lost on anyone. It is utterly outrageous.

Sudan now, as it has in the past, uses its clout on the Human Rights Panel to thwart scrutiny of its policies and to water down resolutions of condemnation. Sudan uses its seat on the committee to network and to collude with other rogue nations to run interference for the dictatorships. And again, I saw that firsthand as they were walking the halls in Geneva and working the room to try to water down resolutions.

Finally, let me just say, Mr. Speaker, the atrocities committed in Darfur have all been well documented. An estimated 50,000 people have been killed and another 300,000 face imminent death in the coming months. Over a million have been displaced, and some 200,000 others have been forced to flee to neighboring Chad. This atrocity must come to an end. This resolution again puts us on record in trying to mitigate and, hopefully, end this crisis.

Mr. Speaker, in April 2004, at the same time as world leaders were gathered in Kigali, Rwanda to remember the Rwandan genocide of 10 years earlier, a humanitarian cease-fire was signed between the government of Sudan, the Sudan Liberation Movement/Army, and the Sudan Justice and Equality Movement to end the atrocities and reverse the humanitarian crisis in Darfur. The agreement was facilitated by the United States Government, the European Union, the African Union, and the United Nations. All parties agreed to take immediate steps to stop the violence and atrocities being perpetrated by the Janjaweed militias.

Sadly, the agreement wasn't worth the paper it was written on and the violence continued. The U.N. Humanitarian Coordinator for Sudan later said, "The only difference between Rwanda and Darfur now is the numbers involved." President Bush affirmed this conclusion on September 9 by declaring, "The United States is appalled by the violence in Darfur, Sudan . . . The world cannot ignore the suffering of more than one million people."

Despite the best efforts by the United States Government, including the extraordinary efforts of Ambassador Williamson, Sudan was given nothing more than a half-hearted slap on the wrist during the 60th Session of the U.N. Commission on Human Rights, which concluded its work in May. I was there in Geneva and was appalled when Sudan was reelected to serve on the Commission for another two years. The hyprocacy of the election of Sudan—one of the worst violators of human rights on the planet—to serve on the U.N. Commission for Human Rights should not been lost on anyone. It is utterly outrageous.

Sudan uses its clout on the Human Rights Panel to thwart scrutiny of its policies and to water down resolutions of condemnation. Sudan uses its seat on the Committee to network and collude with other rogue nations to run interference for dictatorships.

Mr. Speaker, this is the third time in the past 4 months that this House has considered resolutions which have shed light on the crisis in the Darfur region. The first resolution, House Concurrent Resolution 403, condemned the Government of Sudan for its attacks against civilians in Darfur. The second, House Concurrent Resolution 467, declared that the atrocities taking place in Darfur constitute genocide. This declaration of genocide was affirmed by President Bush and Secretary of State Powell. Senate Concurrent Resolution 137, which lies before you now, represents a logical next step.

Senate Concurrent Resolution 137 endorses the Secretary of State's call for an investigation into violations of international humanitarian law and human rights law that have occurred in Darfur, and calls for Sudan's suspension from the Commission on Human Rights until that investigation has been completed. Should the investigation lead to a determination by the United Nations that genocide has occurred or is occurring in Darfur, the resolution calls for the removal of Sudan from the Human Rights Commission. Finally, the resolution calls upon the Member States of the Human Rights commission to convene an immediate special session to consider suspension of Sudan's membership.

The atrocities committed in Darfur have been well documented. An estimated 50,000 people have been killed, another 300,000 face certain death in the coming months, over a million have been internally displaced and some 200,000 others have been forced to flee to neighboring Chad. Attacks show a systematic pattern and include murder, rape, gender-based violence, and other scorched earth tactics. Despite the existence of a cease-fire, African Union monitors have confirmed government support for and participation in attacks against civilians in Darfur as recently as August 26, 2004. Human Rights Watch reports that the Sudanese Government has allowed the Janjaweed to maintain military camps in all Darfur states—several of which they share with the Sudanese Army—and that many Janjaweed have been incorporated into the army or police.

On July 22, 2004 the House voted unanimously to declare that the atrocities in Sudan constituted genocide. On September 9, 2004, the State Department followed suit, releasing a report which outlines these atrocities and concludes that the Sudanese Government has "promoted systematic killings based on race and ethnic origin," and that these acts constitute genocide.

It is unconscionable that a government which has perpetrated genocide would be welcome to sit on the U.N. Commission on Human Rights—the very body charged with the protection of human rights around the globe. Sudan should be in the dock—being held accountable for crimes against humanity. Sudan's flagrant disregard for the principles enshrined in the Universal Declaration of Human Rights makes a mockery of the Human Rights Commission's work, and tangibly undermines that work. Its continued presence on that Commission degrades the United Nations system as a whole.

The preamble to the Universal Declaration of Human Rights places great importance on each member country having a common understanding of human rights and freedoms. One must wonder if the Government of Sudan, which has demonstrated such a flagrant disregard for these principles, has ever read that document. If they have, surely they have not taken it to heart.

Mr. Speaker, I welcome the recent adoption of United Nations Security Council Resolution 1565, which establishes the International Commission of Inquiry called for by both this body and by President Bush. But in light of the evidence already before us, I believe it would be extraordinarily difficult to make an argument against suspending Sudan's membership from the U.N. Commission on Human Rights. This resolution is timely, it is logical, and I urge your support.

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that the gentleman from New York (Mr. MCHUGH) control the remaining time on our side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I rise in strong support of this resolution, and I yield myself such time as I may consume.

Mr. Speaker, I would first like to commend our colleagues in the Senate for passing this critically important resolution. The passage was in the spirit of a bipartisan, bicameral coalition that has worked together over the last few years and few months, in particular, on the problem in Darfur, to bring peace and justice there. I commend the gentleman from New Jersey (Mr. SMITH) on his statement and all of those who have worked so diligently, including the gentleman from Colorado (Mr. TANCREDO), the gentleman from Virginia (Mr. WOLF), the gentleman from Maryland (Mr. CUMMINGS) of the Black Caucus, who have all come together to support the terrible actions of the government of Sudan.

Mr. Speaker, this past May, the United Nations Economic and Social Council voted on candidate states for 14 open seats on the Human Rights Commission, the monitoring watchdog of the United Nations. To the dismay of the international community, Sudan was nominated from the Africa group.

Just one month later, the commission censured Sudan over its severe human rights violations in the country's western Darfur region. Sudan was charged with systematically destroying whole villages, executing civilians, raping women and displacing hundreds of thousands of people. I went to that region, to Chad and went 30 miles from the border of Sudan and talked to the refugees there and heard firsthand the horrible stories that they told us about rapes and beatings of children, boys being forced into huts and the huts being burned, just horrible, horrible stories.

Mr. Speaker, this is the same government that gave sanctuary to Osama bin Laden from 1991 to 1996, allowing him to build his terror network worldwide. In fact, I would argue that al Qaeda was conceived and created in Sudan in the early 1990s. Other terrorist acts also link current officials directly to a number of the terrorist acts, and they still sit in the government of Sudan.

Mr. Speaker, in the north-south conflict, more than 2 million people perished, and an estimated 5 million people have been displaced over the last decade. It is the same government that terrorized, enslaved and killed innocent civilians in southern Sudan and the Nuba that is now yet again engaged in the terror campaign that we see in Darfur in western Sudan. We cannot stand idly by, silent and allow Sudan a seat on that body while it is responsible for the ongoing genocide against the people of Darfur.

Before the House and Senate adjourned for summer recess, both chambers took a historic step in passing a resolution declaring that genocide is occurring in Darfur. The Congress has never declared genocide while it was occurring. So this was a giant step forward.

Finally, the administration came to the same conclusion following its own independent investigation, that the Sudanese government was sponsoring genocide by the Janjaweed militia against the ethnic Africans in Darfur.

This past Saturday, the U.N. Security Council approved a U.S.-sponsored resolution asking U.N. Secretary Kofi Annan to set up an investigative commission. This Commission would determine whether the violence in Darfur amounts to genocide. The resolution also threatens oil and other targeted sanctions against Sudan if atrocities continue in Darfur.

We were disappointed by the weak nature of this resolution and for its limited effects. The reaction from Khartoum that "it could have been a lot worse" shows us how far we are from a strong resolution on Darfur. While it passed by 11 votes, I must express extreme disappointment with China, Algeria, Russia and Pakistan, the four nations that abstained from supporting this resolution. As a matter of fact, China had declared that it may veto it, and therefore, the resolution was really diluted, and they still abstained.

We, as the United States, need to rethink our relationships with these nations. One suggestion could be that we revoke Normal Trade Relations status with the People's Republic of China. How would they like it if we said, no longer do you have normal trade relations or, as we used to call it, preferential treatment. I think it would perhaps make them sit up and listen.

Pakistan, called a friend by the administration for its partnership in the war on terrorism, is promoting the terrorist government of Sudan by abstaining on the vote. In a statement today, Khartoum called these nations its "true friends."

While the government of Sudan grudgingly accepted the resolution, as we speak its surrogate militias continue their gruesome assault on innocent men, women, and children in Darfur. Further, in response for calls to international civilian protection forces, Khartoum's leaders threatened to open the "five gates of hell" against such protection.

In a cynical attempt to pretend it has taken action to protect its civilians, Khartoum has recycled Janjaweed militia killers to the Sudan police force and is now using them to guard the camps for the displaced.

Mr. Speaker, how can we expect killers to protect those who they seek to kill? It is an unconceivable notion. How can we stand by and allow this murderous regime to sit on the U.N. Human Rights Commission?

Mr. Speaker, with more than as many as 50,000 civilians slaughtered and over 1 million driven off their lands into unprotected camps, we cannot allow Khartoum to degrade the purposes of the Human Rights Commission by its presence. It is incumbent that the United States Government continue to lead the world on this matter of genocide and do everything possible to have Sudan suspended from the Commission.

The African Union should be recognized for what they are doing in sending 300 monitors to Darfur, but this is definitely not enough. The AU has been sponsoring negotiations between the parties in Abuja, Nigeria, since August 23. The combination of international pressure and facilitation by the AU hopefully will help move Darfur out of this crisis and on to the road of peace.

Mr. Speaker, I commend Secretary of State Colin Powell for finally calling the Darfur genocide by its rightful name. I also want to say that we must, as Secretary Powell has stated, support the AU. It is our responsibility as members of the international community and the United States in particular, as the world's wealthiest Nation, to work along with the African Union and not leave the formidable Darfur crisis to fall on their shoulders alone. They need our support.

So, therefore, I would like to also urge all of our colleagues in the House to support H.R. 5061, introduced by the gentleman from Colorado (Mr. TANCREDO) and myself to provide assistance for the current crisis in the Darfur region of Sudan and to facilitate a comprehensive peace plan in Sudan. I urge my colleagues to support S. Con. Res. 137.

Mr. Speaker, I reserve the balance of my time.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate concurrent resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. McHUGH. Mr. Speaker, it is my honor now to yield such time as he may consume to the gentleman from Virginia (Mr. WOLF), a gentleman who is certainly no stranger to humanitarian causes and who has traveled the world over in support of the oppressed wherever they may be found and no stranger to this region and the good people of this Congress.

Mr. WOLF. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank the gentleman from New Jersey (Mr. PAYNE) for his faithfulness and his leadership on this issue. I share his statement, and I am a supporter of his bill and the gentleman from Colorado (Mr. TANCREDO), and I urge all Members on both sides to cosponsor his bill.

Mr. Speaker, I rise in strong support of S. Con. Res. 137 calling for the suspension of Sudan's membership on the United Nations Commission on Human Rights. I want to commend Majority Leader FRIST and the gentleman from Illinois (Speaker HASTERT) for moving this important resolution very quickly through the Congress, and also the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS).

On September 9, Secretary of State Colin Powell declared that genocide is occurring in Darfur, and we all owe Secretary Powell a debt of gratitude, because that took a tremendous amount of courage, and he did it.

Sudan is accused of the most heinous crime which can be inflicted on an entire group of people. The gravity of what is occurring must not be lost on anyone, not the United States, not the international community and certainly not the United Nations.

On July 30, the United Nations Security Council unanimously adopted Security Council Resolution 1556, calling on the government of Sudan to fulfill immediately its obligation to facilitate humanitarian relief efforts and disarm the Janjaweed militia, bring those responsible for atrocities in Darfur to justice and to cooperate with U.N.-sponsored human rights monitors.

To date, the government of Sudan has failed, has failed to comply with that U.N. resolution.

The Janjaweed is still attacking innocent civilians with support from the government of Sudan, and as recently as late August, credible reports point to direct attacks on villages by the government of Sudan. Just last week, the U.N. Security Council passed a new resolution, as the gentleman from New Jersey said, stating that the government has failed to meet the requirements under the previous resolution and calling on Sudan to cease attacks and cooperate fully with the expanded African Union force or face economic sanctions.

It may come as a surprise to some that Sudan, the country that is committing genocide, the country that is allowing people to go on to kill men, rape women, abduct children and burn villages, sits on the United Nations Human Rights Commission, the lone body responsible for promoting respect for and observance of human rights and fundamental freedoms.

□ 1715

I call on the United Nations to seek the immediate suspension of Sudan from the United Nations Commission on Human Rights. And if the United Nations determines that genocide has occurred in Darfur, to see that Sudan is permanently banned from the commission. This is a test for the United Nations. More importantly in some respects, this is a test for Kofi Annan. Kofi Annan is a good man, decent, honest. But Kofi Annan was the head of the U.N. Peacekeeping Forces in 1994 when the genocide swept through Rwanda and 800,000 Tutsis died. The fact that he was in at that time when genocide took place in Rwanda and is now the head of the whole organization when genocide is taking place in Darfur gives him a tremendous burden and responsibility and that responsibility is to immediately seek the suspension of Sudan from the Commission of Human Rights. It is a slap in the face to the pursuit of universal human rights and a direct affront to the United Nations and all countries which respect the God-given rights of their citizens to have Sudan sit in judgment of others as a member of that commission.

I urge every Member to vote in favor of this resolution. I thank the chairman. I want to particularly thank the gentleman from New Jersey (Mr. PAYNE). He has been there from the very, very beginning as many others have, the Black Caucus has, the gentleman from Colorado (Mr. TANCREDO), Senator BROWNBACK, Senator FRIST and many others. I think eventually we will be successful, but I want to thank the gentleman.

Mr. PAYNE. Mr. Speaker, let me thank the gentleman who has really done an outstanding job in this area for a decade, and I certainly would like to associate myself with his remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank my friend, the gentleman from New Jersey (Mr. PAYNE), for yielding me time.

I want to join the gentleman from Virginia (Mr. WOLF) and the gentleman from New York (Mr. MCHUGH) and others in congratulating the gentleman from New Jersey (Mr. PAYNE) for his leadership, his tenacious, unwavering leadership on this issue, calling the Congress's attention, calling America's attention, indeed, focusing the international community's attention on the genocide that is occurring before our eyes.

Mr. Speaker, the international community can no longer avert its eyes from the humanitarian and human rights catastrophe that is occurring in the Darfur region of Sudan today. Secretary of State Powell has labeled the killings in Darfur as genocide, pointing out that the attacks on innocent men, women, and children by the Sudanese government and the Arab militia group called the Janjaweed are part of a "coordinated effort, not just random violence." This is an intentional, considered act of murder.

The United Nations calls the situation the "world's worst humanitarian crisis." An estimated 30,000 civilians have been murdered. More than 400 villages have been destroyed. One million people have been displaced, and 130,000 have fled to neighboring Chad. And still, and still the international community stands on the sidelines.

Mr. Speaker, inaction in the face of genocide must not be an option. The international community and the United States must be prepared to act to end the armed conflict at the heart of this crisis. Regrettably, the U.N.'s record of responding to crises of this type and magnitude, notably in Rwanda and the Balkans, has been shameful, shameful. The United Nations talks about it, but it does not walk. The United Nations rings its hands but does not raise its hands to stop the killing.

I watched with grief as the United Nations blue helmets were on the ground in Bosnia, watching genocide be perpetrated, and they did nothing to stop it. We watched as the world, ourselves included, lamented what was happening in Rwanda and 800,000 defenseless, innocent souls perished because the mighty stood by and watched. History will not judge us well for that negligence.

Did the slaughter of hundreds of thousands 10 years ago not teach us anything? Does the painful memory of our inaction then not compel a different response today? The answer is muted at best.

We pass resolutions in this body. We talk in New York and people die. We continue to talk in New York and people are displaced. We continue to talk in New York and women are raped. We continue to talk in New York and children starve. Talk is cheap. Talk does not stop killing. Talk does not stop genocide.

It is time for the world to act. This resolution by itself will not diffuse the crisis or stop the bloodshed, but it is nevertheless a siren call to the world that we can no longer ignore the genocide, we can no longer rationalize those who commit it. We ought not to treat as citizens of the world and the United Nations nations who commit genocide.

This resolution is an explicit recognition that is not only a perverse, but a grotesque, situation that Sudan is allowed to retain its membership on the United Nations Commission on Human Rights. What kind of world do we live in where the perpetrator of genocide is included on the nations of the world's Commission on Human Rights? Is there no intellectual honesty in the international community?

This resolution would urge our Nation's representatives at the U.N. to seek the immediate suspension of Sudan from the commission. I would go further than that. I would suggest the immediate suspension of Sudan from membership in the United Nations until this genocide stops. But this resolution is appropriate. It is not enough, but it is a step; and I support it.

I thank my friend from New Jersey (Mr. PAYNE) for his leadership and for his yielding me time.

Mr. MCHUGH. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. BACHUS) who also has a great interest in this resolution and is a member of this cause.

Mr. BACHUS. Mr. Speaker, I thank the gentleman for yielding me time.

I too want to commend the gentleman from New Jersey (Mr. PAYNE). As the gentleman knows, I have been a member of this Congress since 1992; and it seems like ever since I have been a member of this Congress, we have been hearing about Sudan. We first heard about Sudan when the Secretary of State declared Sudan a state sponsor of terrorism and determined that they had been since 1993.

We may recall that Osama bin Laden, who many of us were unaware of who he was and what he was until 9/11, but he in fact had his base of operations in Sudan. He was sponsored by the government of Khartoum. It is the same Sudan that we are here today talking about. The gentleman from New Jersey (Mr. PAYNE), the gentleman from Virginia (Mr. WOLF), Senator BROWNBACK, many have traveled to Sudan. We have talked to refugees. We have talked to survivors from Southern Sudan, people who have witnessed their families being killed.

At that time we suspected that religion may be the root cause because many of those in Southern Sudan were Christians. The Khartoum government was a Muslim government. All was a factor. But whatever the factors, we spoke out and as this House sponsored a sanction, a similar sanction to what the U.N. is considering now against the oil. The Sudanese government duly pulled back at that time, and we passed with only two dissenting votes. It was a strong sanction. It went over to the Senate, and it died there.

Since that time, the one difference in the sanctions that are being considered now and the sanctions that were being considered then is that 2 million Sudanese have died. Action is too late for them. Their bones have long since been buried in Sudan where there are too many graves.

This latest action by Sudan, and all this time they were members of a select group, the United Nations Commission on Human Rights, a country where we have witnessed the worst human rights violations and the worst humanitarian violations known to the world, has sat this entire time on the U.N. body that is designed to take action against. What a travesty. What an embarrassment. What a blight on our international community and on the U.N.

This resolution is a start; but, I would say, and the gentleman from Virginia (Mr. WOLF) and I had thought maybe he might do it today, he introduced back on September 9 "Documenting Atrocities in Darfur." And what we are now witnessing in Western Sudan, for a while in Southern Sudan it was hidden; and there were explanations given by the Sudanese government. There is no explanation. There is no justification. There is no, there are simply no grounds for what is happening in Western Sudan today.

It follows a pattern. And the Sudanese government says we cannot control these Arab militia, Janjaweed. We cannot control them. They say this is a historic thing between nomadic Arab tribesmen and black farmers, and it is just something that has gone on for hundreds of years.

What has gone on for hundreds of years is they have lived peacefully together for hundreds of years. What is going on today is not an Arab militia out of control. It is, in fact, the government of Khartoum.

Thirteen hundred survivors were interviewed, and 25 percent of them said it was not Arab militia. It was government bombers and aircraft and helicopters who flew over our villages, strafed our villages, killed our people. It was not Arab militia because the Arab militia did not have aircraft. They did not have helicopters. This was the government of Khartoum.

Of those interviewed, half of the survivors say that government troops participated in these raids and in these attacks. Read, if you will, what some of these refugees said. Here is what one said. He said, "Slaves run. Leave the country. You don't belong here. Why are you not leaving this area? This area is for Arab cattle to go graze, not yours."

A Sudanese tribesman was told by a man in a brown uniform and a hundred of his followers, "This place belongs to Arab tribes. Blacks must leave."

Look, if you will. I would ask every Member to read "Documenting Atrocities in Darfur." It is only five pages long.

□ 1730

First, the government aircraft comes in and strafes the village, and then the Janjaweed or government soldiers come in. They burn the village. They kill the livestock, they drop them down the wells to poison the wells, but then they began shouting racial epithets at the survivors. They rape women in front of their husbands and children. They kill any young man that is of military age between the ages of 18 and 25 and then they drive the rest off.

Today, as a result of all this, what do we find? We find that 1.25 million Sudanese are living in refugee camps. Those are the fortunate ones that have survived, but they are not fortunate by any other terms because they are at this time permanently displaced.

Let me say this. This is what we should always be mindful of. We need a permanent solution. What the Sudanese Government has done is, they have allowed humanitarian aid to come in on occasion to feed these people in these refugee camps. They have talked to some of the leaders of the opposition. They have engaged in talks, and they have allowed government troops from other areas to come in and protect the refugee camps. But all of this time, they have not gone after the Arab militia.

They have not controlled them. They are continuing to arm them, and they go out in the villages and destroy villages, this month, last month. And their design is to never let these people return home, never to let them go home, to allow them to stay in these refugee camps, a permanently displaced population of millions of people, and let international forces feed those people. That simply will not do.

Those people need to return to their villages. They need to be protected. These Arab militia and their leaders need to be brought to justice, and we can at least start this process.

The last time we voted sanctions on Sudan, 3 years ago and a million deaths ago, two Members of this body voted against it. Today, I hope, as God is our witness, that this is a unanimous vote and that it is not the end of things, it is only the beginning of things.

I second everything that the gentleman from Maryland (Mr. HOYER) and the gentleman from Virginia (Mr. WOLF) said about the United Nations. This is genocide in every sense of the word. It is ethnic cleansing in every sense of the word. And for it to be permitted, sanctioned by the United Nations is a travesty and an atrocity in and of itself.

Analysis of the refugee interviews points to a pattern of abuse against members of Darfur's non-Arab communities, including murder, rape, beatings, ethnic humiliation, and destruction of property and basic necessities. Many of the reports detailing attacks on villages refer to government and militia forces, preceded by aerial bombardment, acting together to commit atrocities. Respondents said government and militia forces wore khaki or brown military uniforms. Roughly one-half of the respondents noted GOS forces had joined Jingaweit irregulars in attacking their villages. Approximately one-quarter of the respondents said GOS forces had acted alone; another 14 percent said the Jingaweit has acted alone. Two-thirds of the respondents reported aerial bombings against their villages; four-fifths said they had witnessed the complete destruction of their villages. Sixty-one percent reported witnessing the killing of a family member. About one-third of the respondents reported hearing racial epithets while under attack; one-quarter witnessed beatings. Large numbers reported the looting of personal property (47 percent) and the theft of livestock (80 percent).

Most reports followed a similar pattern:

1. GOS aircraft or helicopters bomb villages.
2. GOS soldiers arrive in trucks, followed closely by Jingaweit militia riding horses or camels.
3. GOS soldiers and militia surround and then enter villages, under cover of gunfire.
4. Fleeing villagers are targets in aerial bombing.
5. The Jingaweit and GOS soldiers loot the village after most citizens have fled, often using trucks to remove belongings.
6. Villages often experience multiple attacks over a prolonged period before they are destroyed by burning or bombing.

Mr. PAYNE. I thank the gentleman from Alabama for his very passionate remarks and all of his support for many years, even in the capital market sanctions. I really commend him for that.

Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, let me just say thanks to the gentleman from New Jersey (Mr. PAYNE), to the gentleman from Virginia (Mr. WOLF) and the gentleman from New York (Mr. MCHUGH) for the fine work that they have done in bringing this resolution to the floor.

We are here to speak about, why is it that the world is not doing more to stop the Sudanese Government troops and their allied military, the Janjaweed? Together, they have raped, tortured, maimed and burned entire villages to cleanse the area of African Muslims resulting in close to 50,000 deaths.

Another 1.5 million persons have been forced from their homes into camps where they remain vulnerable to attacks by the Janjaweed, who are among the police guarding the camps. The world cannot continue to condone this genocide.

We can also not continue to condone the presence of human rights abusers on a commission that is charged with protecting human rights because it is ridiculous and unconscionable to think that the very perpetrator of a genocide could also be the enforcer of human rights. But that is exactly what is happening by allowing Sudan to continue to serve on the United Nations Human Rights Commission.

That is why I stand behind this bill to suspend the Sudan from the U.N. Commission on Human Rights and for the U.N. to launch a formal inquiry into its acts of genocide in Sudan.

Let us hope the world will begin to work harder to end the atrocities by, first, suspending Sudan from a commission it fails to respect, and second, by standing behind the efforts of the African Union to stop these atrocities.

We are here today to simply speak about why it is that the world is not doing more to stop Sudanese government troops and their allied militia, the Janjaweed. Together they have raped, tortured, maimed, and burned entire villages to cleanse African Muslims from the area—resulting in close to 50,000 deaths. Another 1.5 million persons have been forced from their homes and into camps, where they remain vulnerable to attacks by the Janjaweed, who have been hired as police to guard the camps. The world cannot continue to condone this genocide.

We can also not continue to condone the presence of human rights abusers on a Commission that is charged with protecting Human Rights. It is simply unconscionable to think that the very perpetrators of genocide could also be the enforcers of human rights. But that is exactly what is happening by allowing Sudan to continue to serve on the United Nations Human Rights Commission.

Numerous reports provide evidence of the Sudanese government's involvement in actively committing atrocities in Darfur. However, the Sudanese government continues to deny any connection to the atrocities carried out by the Janjaweed and simultaneously, has done little to stop them. By insisting that no genocide is taking place and repeatedly denying any responsibility for protecting their own people, the Sudanese government has demonstrated that it is not fit to serve on the United Nations Human Rights Commission.

What is needed now is action from the international community. First, Sudan's membership on the United Nations Human Rights Commission must be suspended. The universal declaration on human rights states that, "everyone has the right to life, liberty and security of person" and that no "state, group or person has any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms." The Sudanese government, through its involvement in perpetrating the genocide in Darfur, and its inaction in doing anything to resolve the humanitarian crisis, is in violation of the basic principles of the United Nations Human Rights Commission. It, therefore, cannot remain a member.

Second, the international community must offer increased support to the African Union, which has been a leader in attempting to resolve the conflict in Sudan. In addition to leading peace talks, the African Union has led a small contingency of troops to Darfur to monitor the cease-fire and serve as observers. The African Union must be congratulated on these efforts. Additionally, support for their efforts must be increased. It is essential that the African Union's force be enlarged and allotted a robust mandate to protect Darfur's civilians from new attacks.

We can no longer sit on the sidelines and pretend that nothing is going on while the Sudanese government commits crime after crime against humanity. Murder, rape, forced displacement—these are clearly not the tools of human rights supporters. That is why I stand behind this bill to suspend Sudan from the U.N. Commission on Human Rights and for the U.N. to launch a formal inquiry into the acts of genocide in Sudan.

Mr. PAYNE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Very briefly, I thank all of the Members on both sides, certainly the gentleman from New Jersey (Mr. PAYNE). And my compliments to the gentleman from New Jersey for his leadership not only on this issue but on so many involving human rights. And the gentleman from Maryland (Mr. HOYER), my colleague, the gentleman from New York (Mr. MEEKS), of course, and my two colleagues on our side of the aisle, the gentleman from Virginia (Mr. WOLF) and the gentleman from Alabama (Mr. BACHUS) have summed up the horror of this situation and the incredible circumstances which surround it.

I join with the gentleman from Alabama's (Mr. BACHUS) closing comments that certainly all of us hope and pray that we will have resounding support for this very necessary, unfortunately very necessary resolution, and one that in no way exceeds the dire circumstances in which the Sudan, the Darfur region, finds itself.

Mr. LANGEVIN. Mr. Speaker, as a member of the Congressional Human Rights Caucus, I am pleased to support the resolution before us today and to add my voice to those speaking out against the brutality the world is witnessing in Sudan. This Congress has repeatedly condemned both the atrocities committed by the Janjaweed militia and the Sudanese government's insufficient response to such horrendous acts. Since violence began in the Darfur region in February 2003, tens of thousands of people have been killed and more than a million have been displaced from their homes. Sadly, despite repeated calls from the international community, the Sudanese government has not reined in the militia groups, and the killing continues. The World Health Organization now estimates that between 6,000 and 10,000 are dying every month from violence and disease.

It is unfortunate that we must again come to the floor to express our collective outrage about the situation in Sudan. I was pleased that the U.N. Security Council adopted a resolution last week that establishes an inquiry into the violence in the Darfur region to determine whether it constitutes genocide. The resolution also threatens sanctions against Sudan, a tool we must seriously consider if we do not witness rapid improvements. However, the strong sentiments expressed in the U.N. Security Council Resolution are undermined by the fact that Sudan still holds a seat on the U.N. Human Rights Commission—even while its government betrays the very principles on which the Commission was founded. The resolution before us today is a clear condemnation of this glaring inconsistency and will place greater pressure on the Sudanese government to act responsibly and protect its citizens from harm. I urge my colleagues to support S. Con. Res 137.

Mr. McHUGH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and concur in the Senate Concurrent Resolution, S. Con. Res. 137.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

CONDEMNING TERRORIST ATTACK IN JAKARTA, INDONESIA, ON SEPTEMBER 9, 2004

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 767) condemning the terrorist attack in Jakarta, Indonesia, that occurred on September 9, 2004, as amended.

The Clerk read as follows:

H. RES. 767

Whereas on September 9, 2004, terrorists attacked hundreds of innocent civilians, killing at least nine bystanders, in front of the Australian Embassy in Jakarta, Indonesia; and

Whereas terrorism must be condemned in the strongest terms whenever and wherever it occurs: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns in the strongest possible terms the terrorist attack in Jakarta, Indonesia, that occurred on September 9, 2004;

(2) expresses its deepest condolences to the families of the individuals murdered in the terrorist attack, expresses its sympathies to the individuals injured in the attack, and conveys its hope for the rapid and complete recovery of all surviving victims; and

(3) urges the United States, Indonesia, Australia, and all other countries to stand united against terrorism and to work together to bring to justice the perpetrators of the terrorist attack in Jakarta, Indonesia.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McHUGH) and the gentleman from New York (Mr. MEEKS) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. McHUGH).

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 767, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in an unspeakable act of terror, suspected al Qaeda-linked militants detonated a car bomb outside the Australian embassy in Jakarta, Indonesia, on Thursday, September 9 of this year, killing 9 people and wounding at least 173.

The bomb exploded shortly after 10:15 a.m. local time, just in front of the Australian embassy's gate, flattening a section of the steel fence and shattering scores of windows in the high-rise office building as far as 500 meters away. Most of the casualties were Indonesian policemen, embassy security guards and passers-by. No one inside the embassy was killed, although several Australians and other foreign citizens were wounded in the attack. Police are now investigating whether a suicide bomber triggered the blast.

The Australian embassy bombing is the third attack perpetrated by the Islamic militants in the 2 years since the horrible Bali bombings and a deadly blast at Jakarta's Marriott hotel last year. The attacks have been blamed on the al Qaeda-linked Jemaah Islamiah.

Mr. Speaker, all Americans strongly condemn this outrageous act of violence. We express our deep condolences to the victims and families of this heinous crime, as well as to the peoples of Indonesia and Australia.

It is also fitting, Mr. Speaker, that we recognize the strong steps Australia and Indonesia have taken jointly, as well as separately, to combat terrorism and investigate this crime. We applaud their efforts to stamp out terrorist threats to their countries and the region and are confident they will bring the perpetrators of this brutal attack to justice.

Mr. Speaker I would urge support for the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. MEEKS of New York. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of this resolution.

Mr. Speaker, I would first like to commend our colleague, the gentleman from Indiana (Mr. BURTON), for introducing this timely and important resolution, along with the gentleman from Florida (Mr. WEXLER), who serves as cochair of the Indonesia Caucus along with the gentleman from Indiana (Mr. BURTON).

The resolution before the House condemns the September 9 terrorist attack outside the Australian embassy in Jakarta, Indonesia. Nine Indonesians lost their lives in this brutal attack, and almost 200 people were injured.

This latest attack by Jemaah Islamiah sadly confirms Indonesia's status as a frontline state in the global battle against terrorism. Over 200 young people, mostly Australian, were murdered in the 2002 Bali bombings. Twelve Indonesians were also killed at the suicide bombing at the J.W. Marriott hotel in Jakarta in August 2003.

While this latest attack occurred on Indonesian soil and those killed were Indonesians, the attack itself was aimed at Australia and its people.

However, these cowardly terrorist acts will not prevent Australia from standing strong against terrorism or from continuing to support the spread of democracy and freedom around the world. Neither will these attacks be successful in changing the path of Indonesia, who has just held peaceful, democratic elections in testament to its moderate character.

The United States must continue to play a leadership role in developing an international coalition that works closely with ASEAN countries to help develop strong partnerships that will help prevent future terrorist attacks.

I would like to convey to the Indonesian people my heartfelt sympathies for the innocent loss of life on September 9 and my appreciation to the Australians for their willingness to confront international terrorism at every turn.

I strongly support this resolution.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for the time.

First, I would like to thank him for his leadership, and I would like to add my appreciation, as well, to the gentleman from Indiana (Mr. BURTON), the gentleman from Florida (Mr. WEXLER) and the gentleman from New York (Mr. MEEKS) and the manager of this bill for it is of great importance that we coalesce with our allies and offer a mutual understanding of the pain of the war on terror as it impacts the innocent and the uninvolved.

I rise today to support H. Res. 767, condemning the terrorist attack in Jakarta, Indonesia, that occurred September 9, 2004. Indonesia obviously is not a stranger to terrorist acts, and it was just a few short years ago when they lost hundreds of lives in the terrorist act on one of their local nightclubs, an entertainment center where many tourists found their way.

This is an attack on Australia and the coalition to stand up against terrorism. It is tragic to note that even innocent individuals can face a life of terror because they are victims.

So I rise to say that there should not be one time when our Nation's allies and friends, those who fight their own individual wars on terror, do not receive the sympathy of the American people.

Mr. Speaker, I am reminded of 9/11. I traveled after that. It was so overwhelming to hear from all over the world, no matter what region people lived in, to offer to the United States and all the people who lost loved ones their deepest sympathy and expression of kinship with us, recognizing that we are all in this together.

This war on terror does not find itself comfortable in one place over another, one region, one language or one set of values. Every single nation in this world may be subject to terror sometime, and we would hope that even in those places that would seem to be harboring terrorists, we know that there are people there who want peace.

So I rise to be supportive of H. Res. 767, and as I do that, Mr. Speaker, let me add my support as well for S. Con. Res. 137. That, of course, is the removal of Sudan from the Human Rights Commission in the United Nations.

I was not able to arrive on the floor in the time. I simply want to say that although it may not be characterized as terror, genocide is terror.

□ 1745

We have done everything we could possibly do. The gentleman from New Jersey (Mr. PAYNE), a leader on this issue, the gentleman from New York (Mr. MEEKS), a member of the Committee on International Relations, and I have worked on this issue, many Members have, including the collective Congressional Black Caucus and many, many Members in a bipartisan manner. The Congress has worked its will.

The tragedy is that this does not translate to the government of Sudan. They must receive the greatest penalty, and that may mean the removal from the human rights panel at the United Nations, but it also may mean divestiture, removing the investments of so many from this country and many other places in the economic engine of Sudan.

The government has not learned by our actions. I believe there should be a wake-up call, even stronger than S. Con. Res. 137. I look forward to our coming together, unified as a Congress, to demand action now by the Sudanese government or they will in turn receive the wrath and the punishment of not only the American people but the world.

In conclusion, Mr. Speaker, I support H. Res. 767, ask my colleagues to vote for it and, as well, S. Con. Res. 137.

Mr. MEEKS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield myself the balance of my time, and on a closing note, first of all, my compliments to my colleague, the gentleman from New York (Mr. MEEKS), for his continued leadership on this issue as well. And I want to also commend the original sponsor of the resolution and one of the senior members of the Committee on International Relations, my good friend and former chairman on the Committee on Government Reform, the gentleman from Indiana (Mr. BURTON), who also had a very important hand in this very necessary and I think very appropriate resolution.

And as has been said here today, I certainly would urge all of our colleagues to pass it, and I look forward to its adoption.

Mr. BURTON of Indiana. Mr. Speaker, I would first like to thank you Chairman HYDE, Speaker HASTERT, and Majority Leader TOM DELAY for allowing this most important piece of legislation, H. Res. 767, to be considered before the House of Representatives today.

In the early morning hours of September 9th, 2004, as Indonesians in Jakarta were settling into their places of work, a devastating explosion rocked the Australian Embassy in the heart of Indonesia's capital, sending at least 180 innocent victims to the hospital and killing at least 10 innocent and defenseless bystanders.

It was yet another terrorist attack that the world has unfortunately grown so accustomed to. But, for Indonesia, this act of terrorism was an attack on their modern and moderate Muslim beliefs and against their choice for a free and democratic nation.

This resolution condemns the terrorist attack that occurred in Jakarta, Indonesia, outside of the Australian Embassy on September 9th, 2004, and expresses our deepest condolences to the families of the individuals murdered and those injured in the cowardly terrorist attack, as we hope for the speedy and complete recovery of all the surviving victims.

We—as Americans—understand the terrible devastation that is felt throughout a nation when this type of senseless tragedy occurs. The horrific event on September 9th, 2004, is a reminder that the United States and Indonesia—along with the rest of the freedom loving nations around the world—must continue to stand firm in our resolve against the evils of international terrorism.

It should be noted that this attack was almost three years to the day since the September 11th attacks on New York, Washington, D.C., and Pennsylvania; about two years since a bombing ripped through crowded nightclubs in Bali's Kuta Beach; and only 12 months after the J.W. Marriott hotel bombing in Jakarta.

Furthermore, this devastating attack came just 12 days before the final round of Indonesia's first-ever direct presidential election, which took place on September 20, 2004, and is being heralded as a major milestone and key step towards stabilizing and continuing the numerous democratic gains made by Indonesia in recent years.

The attack also occurred exactly one month before the October 9th, 2004, general election in Australia; and, these radical terrorists must not be allowed to disrupt any free and fair elections, no matter how old or young a Democracy may be.

As a result of Indonesia's belief in the Democratic process, they have been the unfortunate target and victim of Jemaah Islamiah (jeh-mah-Ah Isslah-miyah] terrorists, who have been linked with notorious fundamentalists such as Al-Qaeda, and make their home throughout southeast Asia.

The extremist group of radical muslims, Jemaah Islamiah [Jeh-ma-Ah Isslah-miyah], who claimed responsibility for the September 9th bombing, is trying to disrupt Indonesia's fair and free democratic elections, and the emerging road towards democracy in Indonesia must not be curtailed by these senseless acts of violence.

The United States, Indonesia, Australia, and all of our allies should stand united in the fight against terrorism, working together to bring to justice the perpetrators of the terrorist attack in Jakarta, Indonesia, and all other acts of terror and violence throughout the world.

I would respectfully ask that all of my distinguished colleagues vote "aye" and let the terrorist thugs who destroyed a peaceful Thursday morning in Jakarta know that we will not stand idly by and watch as they disrupt the freedoms of our friends, partners, and allies in the global war against terrorism.

Again, thank you Mr. Speaker for allowing me to speak on this important resolution.

Mr. LEACH. Mr. Speaker, I rise in support of H. Res. 767, condemning the terrorist attack in Jakarta, Indonesia that occurred on September 9, 2004. I would like to thank the gentleman from Indiana, Mr. BURTON, for introducing this timely and thoughtful measure.

Mr. Speaker, a suspected al-Qaeda affiliate known as Jemaah Islamiah detonated a car-bomb outside the Australian Embassy in Jakarta, Indonesia, on Thursday, 9 Sept. 2004, killing nine people and wounding approximately 180 people. While no one inside the Embassy compound was killed, several Australian and other foreign citizens were wounded in the attack. The great bulk of the casualties were suffered by Indonesians who worked in the area or were simply passing by.

The Australian Embassy bombing is the third major attack in Indonesia perpetrated by the Islamic militants, including the deadly Bali bombings in 2002 and a blast at Jakarta's Marriott hotel last year.

Mr. Speaker, all Americans strongly condemn this latest terrorist outrage act of violence. We extend our deepest sympathies to the victims and families of this outrageous crime as well as to the peoples of Indonesia and Australia.

We stand with the people of Indonesia and Australia in opposition to the use of terror, and we salute their individual and collective efforts to bring the perpetrators of this crime to justice.

Barbarous acts of this kind, whether precipitated in New York and Washington, or Jakarta, Istanbul and Madrid, are more crimes against civilization and humanity than attacks on any particular nation. Hence as we seek accountability we look for the support of faithful people and justice seekers of all societies in a war to eliminate the cowardice of terrorism.

The despicable act that occurred in Jakarta earlier this month does not put the Indonesian or Australian democracies at particular risk. It is civilization and civilized values which demand protection.

I urge support for the resolution.

Mr. McHUGH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and agree to the resolution, H. Res. 767, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

ENCOURAGING INTERNATIONAL OLYMPIC COMMITTEE TO SELECT NEW YORK CITY AS SITE OF 2012 OLYMPIC GAMES

Mr. KING of New York. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 475) encouraging the International Olympic Committee to select New York City as the site of the 2012 Olympic Games.

The Clerk read as follows:

H. CON. RES. 475

Whereas the Olympic Games further the cause of world peace and understanding;

Whereas the country hosting the Olympic Games performs an act of international goodwill;

Whereas if New York City were chosen to host the 2012 Olympic Games there would be a substantial local, regional, and national economic impact, which would include 7 years of international sports events, meetings, and related nationwide tourism activity;

Whereas the Olympic movement celebrates competition, fair play, and the pursuit of dreams;

Whereas the United States and, in particular, New York City celebrate these same ideals; and

Whereas New York City has never hosted the Olympic Games: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) encourages the International Olympic Committee to choose New York City as the site of the 2012 Olympic Games; and

(2) hopes that the United States will be selected as the host country of the 2012 Olympic Games, and pledges its cooperation and support for their successful fulfillment in the highest Olympic tradition.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. KING) and the gentleman from New York (Mr. MEEKS) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. KING).

GENERAL LEAVE

Mr. KING of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 475, the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KING of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Con. Res. 475. This resolution encourages the International Olympic Committee to select New York City as the site for the 2012 Olympic Games and supports New York City's desire to host those 2012 Games.

Mr. Speaker, earlier this year, the International Olympic Committee narrowed the selection for the 2012 Games to five cities, New York City being one of them. And in July of next year, they will make their final decision. As a New Yorker, but also as an American, I really urge the Congress to adopt this resolution asserting and expressing the support of the Congress for New York City to be given these Games.

There are any number of reasons, Mr. Speaker, but, first of all, I am sure while my colleague, the gentleman from New York (Mr. MEEKS), and I do not agree on every issue in this House of Representatives, we agree that New York certainly is the best place in the world and where the Olympic Games should be held in any year, especially 2012.

In many ways, New York City personifies what the Olympics are all about. I was looking at the numbers, and there were 202 countries in the last Olympics. There are students or children representing 199 of those countries in New York City's public schools. That is 199 out of the 202 countries who will have representation in New York City. Virtually every country coming to the Olympics, in effect, will be a home team in New York City.

It is that diversity, that strength and also the facilities that make New York so perfect. The facilities are available; more are being constructed. The Mayor and the city officials, the State officials will do whatever has to be done to make sure that all of the events can be accommodated. New York City certainly showed, just last month, during the Republican convention the level of security its police force can provide, the safety and security and hospitality to people from all over the country, and certainly, they will show in 2012 that they can do it for people all over the world. We have the mass transit, and really, we have whatever has to be there for the Olympics.

Also, if we can say, this will be one final step, one further step away from September 11, 2001, showing that New York has come all the way back, not just in the eyes of the city, the State and the country but, indeed, in the world.

Mr. Speaker, I reserve the balance of my time.

Mr. MEEKS of New York. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of this resolution.

Mr. Speaker, I would first like to commend my good friend and colleague, the gentleman from New York (Mr. KING), on the other side. As he said, we may not agree on much, but we do agree on New York being the best place for this. I also would like to commend my friend and colleague, the gentleman from New York (Mr. RANGEL), for introducing this important resolution. His leadership on behalf of the interests of New York City is greatly appreciated.

Mr. Speaker, the 2004 Olympic games in Athens recently unfolded before the eyes of hundreds of millions of people around the world, some watching in person but many more on television every night. It is fair to say, Mr. Speaker, that the Athens Games were an unqualified success. Despite fears of terrorism or that key Olympic venues would not be ready, Athens was more than prepared to receive over 16,000 athletes and officials from around the world, and the Olympic spirit thrived as athletes lived out their dreams.

This resolution before the House seeks to bring that Olympic spirit we witnessed in Athens here to America for the first time since 1996, when they were held in Atlanta. This measure urges the International Olympic Committee to choose the entry of the United States, New York City, to host the 2012 Summer Olympics.

Mr. Speaker, the Olympics brings together people from all over the world, and when they arrive in the city so great they had to name it twice, New York, New York, they will find that virtually every nationality that competes in the Olympic Games is represented among the people of New York City. Of the 202 countries that participated in the Athens Olympics, immigrant children of 199 of them attend New York City schools. Even the smallest Nation attending Olympic Games in New York will find their own cheering section.

New York City already has a developed transportation infrastructure to ensure that athletes and spectators can easily get to all Olympic venues and practice facilities. The Olympic village will also be centrally located, and over 500 acres of parks will be created or improved. New York has detailed plans to first-class sports facilities throughout the city to host the Olympics in an effort that will help to revitalize New York's waterfront.

While the Olympics will have an economic impact of over $11 billion and will create over 135,000 jobs, they will have a longer-term impact upon the blueprint of the city and its ability to host international sporting events for decades to come.

Mr. Speaker, New York is blessed with some of the best financial, creative, marketing and corporate resources in the world. New York is committed to applying these talents to creating the best Games in the history of the Olympics. When the International Olympic Committee meets next July to choose the site of the 2012 Summer Games, I urge committee members to choose New York City, the Empire State.

Mr. Speaker, I strongly support this resolution.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. NADLER), my friend and colleague.

Mr. NADLER. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of this concurrent resolution. New York is eminently suited to host the Olympic Games, and I certainly urge the International Olympic Committee to select New York as the site for the 2012 Games.

I want to say, however, that support for this resolution should not be construed as support for the construction of the Olympic stadium planned for the West Side of Manhattan. There is much opposition to that stadium. Many of us think it is in the wrong place. We support the Olympics, because we trust that common sense will reign and that eventually people will realize that the Olympic stadium should be in Queens or in Shea Stadium.

In any event, we support the Olympics, we support this concurrent resolution, but that support should not be construed as support for construction of a new stadium for the Olympics or for the Jets on the West Side of Manhattan.

Mr. MEEKS of New York. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman for his statement. The question of the stadium is something we will deal with, but we are all together in that we want the Olympics in New York.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KING of New York. Mr. Speaker, I yield myself such time as I may consume in closing to just commend the author of this resolution, the gentleman from New York (Mr. RANGEL), for the tremendous job he is doing on this and on so many other issues affecting New York, and also the Mayor of New York, Michael Bloomberg, who has shown tremendous leadership on this.

Again, this is the essence of bipartisanship, a Republican mayor working with a Democratic congressman, the gentleman from New York (Mr. RANGEL), and the entire New York delegation stands behind this, including the gentleman from New York (Mr. FOSSELLA), who is a prime co-sponsor of the resolution.

So, Mr. Speaker, I urge the adoption of the resolution.

Mr. CROWLEY. Mr. Speaker, I rise today in strong support of the resolution introduced by my good friend from New York, Congressman RANGEL.

This resolution encourages the International Olympic Committee to choose New York City as the host for the Olympic Games in 2012. Congressman RANGEL has been relentless on promoting New York as a great choice for the Olympics and never shying away from any effort to drive this notion. As a member of the New York City delegation, I wholeheartedly support the Resolution.

The United States will not host the Olympic Games for another 8 years now, bringing that span to 10 years—in 2012, I trust the Olympic Committee will see fit to bestow this honor to our great city. Bringing the Games to the United States will not only exert a huge economic boost on local, regional, and of course national level, it will also create jobs not only the for the Games, but also on the road towards them.

New York is uniquely qualified to invite the "world". The Olympic ideals of competition, fair play, and pursuit of dreams are perfectly embodied and thoroughly celebrated in the City. Olympic Games drive world wide cultural understanding and exchange and thus promoting peace.

The diverse ethnicity of the City would resonate with all guests—and vice versa. Not just since the United Nations, as the epitome of those ideals, took root in New York, the City has been a beacon of freedom and a meeting-spot for the world. The City was hit hard on 9/11, but it never retreated and withdrew in its shelter. It kept embracing the world. In 2012, we want to show this yet another time.

Furthermore, the current plans would allow for extraordinary Olympic Games. The so-called "x-plan" will bring athletes and guests right into the heart of New York, perfectly blending the atmosphere of the great New York skyline with the East River riverfront. The Olympic Games right next to the United Nations headquarters would be the biggest display of international understanding and exchange.

I urge all my colleagues to join Congressman RANGEL in supporting this resolution

Mrs. MALONEY. Mr. Speaker, I rise today in strong support of H. Con. Res. 475, of which I am a cosponsor, which expresses the sense of Congress encouraging the International Olympic Committee (IOC) to choose New York City as the site of the 2012 Olympic Games. I would like to thank my friends and colleagues Representatives RANGEL and FOSSELLA for introducing this resolution.

New York City is the greatest city in the world. As the center of arts, business, culture, tourism, architecture, education, and sports, New York is an ideal candidate to host the world's greatest athletic competition. With its top-notch mass transportation systems, New York already has much of the infrastructure in place to transport athletes and fans to the athletic events. Because New York is a site for many of the world's top sports competitions, including the U.S. Open, and the home of several professional sports teams, our city has the necessary capabilities to handle large numbers of people along with the tremendous security requirements.

Aside from allowing New York to showcase its beauty and infinite attractions to a global audience, hosting an Olympic Games would be a tremendous boost to an economy that continues to recover from the 9/11 terrorist attacks. Our local restaurants and businesses would greatly benefit from the potential revenue that the Olympics would bring.

Greece just hosted one of the greatest Olympic Games ever to be held, and I commend them on their success. I am confident that New Yorkers would open their arms and welcome the world to our doorstep just as the people of Greece welcomed us to the birthplace of the Olympics.

I look forward to working with my friends in the New York congressional delegation and our local officials to bring the 2012 Olympic Games to New York City

Mr. KING of New York. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. KING) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 475.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

* * *

SUPPORTING GOALS AND PURPOSES OF NATIONAL FARM SAFETY AND HEALTH WEEK

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 494) supporting the goals and purposes of National Farm Safety and Health Week and applauding the men and women who provide a stable supply of food and fiber for the United States and the world.

The Clerk read as follows:

H. CON. RES. 494

Whereas nearly half of the land in the United States is used for agricultural production;

Whereas many farmers and ranchers operate and maintain heavy-duty equipment and machinery and work with large and unpredictable livestock, which makes farming and ranching among the most dangerous occupations in the United States;

Whereas farmers and ranchers are at risk of serious work-related accidents, and many farmers and ranchers suffer disabling injuries each year;

Whereas the children of farmers and ranchers are at special risk from farm-related accidents;

Whereas the President has proclaimed, by Executive Order, September 19 through September 25, 2004, as National Farm Safety and Health Week ; and

Whereas National Farm Safety and Health Week provides an opportunity for increased awareness and educational programs targeted towards the protection and productivity of farmers and ranchers: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) supports the goals and purposes of National Farm Safety and Health Week; and

(2) applauds the men and women who provide a stable supply of food and fiber for the United States and the world.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume. I should start by congratulating the gentleman from New York (Mr. REYNOLDS) for introducing this resolution, and I rise in wholehearted support of it, which brings our attention to the goals and purposes of National Farm Safety and Health Week which the President proclaimed for this week, beginning September 19.

For those of us who represent American farmers and ranchers, we know the long hours farmers devote to getting the crops safely to the bin or the cotton to the gin. Farmers are in the fields now harvesting this year's field crops. When the weather is ripe for picking corn or cutting beans, farmers understand the good weather window could close at any time, and that could mean fewer bushels or less quality. When the cotton bolls are ready, the gins are ready to run.

Unfortunately, as we have seen in many parts of the country this year, there are risks in this seasonal activity, and today, we want to applaud America's farmers who run the big machines and our ranchers who manage the big and sometimes unruly animals. We want to take a few minutes this afternoon to commend America's men and women who plant, tend and harvest the world's most bountiful supply of food and fiber in the world for us, the American consumers, and a large part of the world as well.

All of us need to understand the importance of agriculture to our economy and our quality of life. This resolution is one part of recognizing the importance of agriculture by bringing the Nation's attention to the importance of safety and health on our farms and ranches.

I again commend the gentleman from New York (Mr. REYNOLDS) for bringing this resolution before the House and urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of H. Con. Res. 494, which supports the goals and purposes of National Farm Safety and Health Week and applauds the men and women who provide a stable supply of food and fiber for the United States and the world.

By way of background, it should be noted that, for well over half a century, Congress has recognized National Farm Safety and Health Week. As far back as the 1940s, President Franklin Delano Roosevelt signed the first presidential proclamation recognizing National Farm Safety and Health Week in order to commemorate the hard work, diligence and sacrifices that our Nation's farmers and ranchers make on a daily basis.

□ 1800

This week is a time for our Nation to reflect upon the important role that U.S. agriculture has played and continues to play in this Nation and throughout the entire world. The United States began as an agrarian society, and agriculture has been the backbone of this country. Over time, however, our Nation became more industrialized, and people left the farms and rural areas to pursue opportunities in the cities. And yet despite the fact that there are fewer people producing the Nation's food and fiber, productivity has increased.

While the business of farming has undergone significant changes since the founding of this Nation, one thing has not changed: farming continues to be one of the most hazardous occupations in the United States. A report by the National Safety Council concluded that agriculture had the second highest fatality rate of all industries in the Nation. In 2003 alone there were 710 farm-related fatalities and 110,000 disabling injuries.

I hasten to add that, because of the nature of family farms, farm-related injuries and fatalities are not solely limited to adults. A 2001 study by the National Children's Center for Rural and Agricultural Health and Safety reported that nearly 1.5 million young people, 20 years or younger, lived or worked on farms. The same study showed that more than 660,000 in that age range were employed but not living on farms. According to the study, more than 100 children younger than 20 die each year and more than 22,000 are injured from agriculture-related injuries. Similarly, a study by the American Academy of Pediatrics showed that for teenagers farm jobs have the highest rate of fatalities of all types of teen employment.

While there are many potential hazards on a farm, the greatest continues to be machinery. Reports indicate that 30 percent of farm machinery-related deaths occur in children less than 5 years old. Additionally, the Occupational Safety and Health Administration concludes that 68 percent of farm-related deaths can be traced to some sort of machinery, including tractors, trucks, equipment such as augers and loaders, power takeoffs, and haying equipment.

Of all the equipment on the farm, tractors remain the most dangerous. In fact, OSHA reports that more than half of the deaths that occur on the farm are the result of tractor accidents. Of the deaths caused by tractor accidents, 57 percent are the result of rollovers and another 9 percent are the result of people either falling off or getting run over by a tractor.

Agriculture-related deaths and injuries are not limited to incidents involving machinery, however. Farmers and ranchers are subject to a whole host of other dangers including agriculture chemicals and fertilizers, unruly and unpredictable livestock, and buildings that contain high dust levels and toxins.

It goes without saying that the commitment to farm safety cannot be limited to a single week. Nevertheless, this timely and welcome resolution to commemorate farm safety reminds us all of how important it is for farmers, ranchers, and their workers to perform their work safely and to take precautions to protect themselves. When one's child is out there with them, take a little extra bit of care for that youngster.

By recognizing the dangers inherent in farming and ranching and by taking steps to prevent accidents, our Nation will continue to lead the world in the production of agriculture commodities.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. REYNOLDS), the author of the concurrent resolution.

Mr. REYNOLDS. Mr. Speaker, I thank the chairman of the Committee on Agriculture for yielding me this time. I also appreciate the strong support of my concurrent resolution by both the chairman and ranking member of the Committee on Agriculture today.

Mr. Speaker, I am here to recognize the National Farm Safety and Health Week and to thank our farmers and ranchers nationwide for their hard work day in and day out.

Over half the land in the United States is used for agricultural production; and without the work of our farmers and ranchers, our Nation and others around the world would not have the safe, stable supply of food and fiber that we enjoy today.

In my home State of New York, agriculture is the number one industry, and I am proud to represent one of the largest agricultural areas in the State. In districts like mine all across this great land, farmers work long, hard hours and make tremendous sacrifices. They should be applauded for their efforts.

Unfortunately, those long, hard hours are not risk-free. Sadly, there are hundreds of farm-related fatalities and thousands of injuries every year, and sadder still, many of these accidents could be prevented through increased awareness and better safety practices.

The National Farm Safety and Health Week is a national effort to reduce the number of farming- and ranching-related deaths and injuries through educational and awareness initiatives. Helping educate our farmers and their families on necessary safety precautions is essential to ensuring the strong productivity of our agricultural sector.

I would like to commend the National Safety Council for their leadership and continued work towards achieving these goals through the National Farm Safety and Health Week. I urge my colleagues to support this resolution.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

I have no further requests for time, but let me just say in closing that I am honored to join today with the chairman of the House Committee on Agriculture and the gentleman from New York (Mr. REYNOLDS) in joining with the President, President Bush, having declared this week National Farm Safety Week; and I am very happy to join in support of that concurrent resolution, in support of the President. I thank the President for recognizing this important contribution.

Mr. Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentleman from Texas for working with us on bringing forth this concurrent resolution and congratulate the gentleman from New York for bringing this forward. And I urge my colleagues to adopt what I think is important to not just people in rural America but in all America, to understand the importance of agriculture and the importance of farm safety. With that, I urge my colleagues to support the concurrent resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LEWIS of Kentucky). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 494.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 494, the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2028, PLEDGE PROTECTION ACT OF 2004

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 781 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 781

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2028) to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

The resolution before us is a well-balanced, structured rule providing 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

It waives all points of order against consideration of the bill and provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read.

It waives all points of order against the committee amendment in the nature of a substitute and makes in order only those amendments printed in the Committee on Rules report accompanying the resolution.

It provides that the amendments printed in the report may be offered only in the order printed in the report, may be offered only by a Member designated in the report. They shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

Finally, it waives all points of order against the amendments printed in the report and provides for one motion to recommit with or without instructions.

Mr. Speaker, I rise today in strong support of this rule and its underlying legislation, the Pledge Protection Act of 2004. This legislation offered by the gentleman from Missouri (Mr. AKIN) follows up and improves upon the work that the House has already accomplished on behalf of protecting the Pledge of Allegiance from those whose ultimate goal is to undermine and devalue the meaning of the Pledge of Allegiance by stripping the words "under God" from it.

Since June 27, 2002, the House has voted three times to protect the Pledge from those fringe and radical elements in our country who dislike its content and its meaning as it is currently written. Twice the House has overwhelmingly voted through House resolutions to express its opinion that the 9th Circuit Court's decision in Newdow v. The United States Congress is incorrect, and once to limit the use of Federal funds from enforcing this onerous judgment.

Today, Congress has the opportunity to once again stand up for the Pledge of Allegiance and the values that it imparts to the millions of patriotic Americans who recite it every day by supporting this carefully crafted resolution.

□ 1815

H.R. 2028 would amend the Federal judicial code to deny jurisdiction to any court established by an act of Congress to hear or determine any claim that the recitation of the Pledge of Allegiance violates the first amendment of the Constitution. This legislation would prevent Federal judges from legislating from the bench and striking down the historic and heartfelt meaning of the Pledge of Allegiance.

My friend, the gentleman from Wisconsin (Chairman SENSENBRENNER), has clearly stated, "A remedy to abuses by Federal judges has long been understood to lie, among other places, in Congress's authority to limit Federal Court jurisdiction."

I too understand this, as my father was a Federal judge for many years, and I know that not all judges are interested in legislating from the bench, but there are those occurrences and abuses that do occur. I believe that the gentleman from Wisconsin (Chairman SENSENBRENNER) is correct.

Mr. Speaker, the choice posed by this legislation is stark and it is very clear: Should Congress allow those activist judges to decide by fiat how patriotic Americans across our great country may pledge their allegiance to our country; or should Congress, which is directly accountable and speaks to and for the people of this great Nation, exercise its authority to act as the ultimate arbiter of the Constitution as envisioned by our Founding Fathers?

I believe that this choice is simple. It is very important for every Member of the House to place themselves on record as sharing the values of the majority of Americans in our country that believe that America is one Nation under God and that the opinion of a few liberal judges in the Ninth Circuit Court of Appeals can never change that fact.

There may be some who come to the floor today to argue that Congress is not competent enough to address this issue. They will argue, I am sure, in an attempt to confuse the issue, that only Federal courts can decide on constitutionality and that this legislation represents some kind of affront to the separation of powers doctrine which our government is based upon.

This attempt to divert attention from the real matter is not only deceptive, I believe it would be patently wrong. The Pledge of Allegiance Act does not dictate how the courts should come to a decision. Instead, it carefully limits the jurisdiction of the Federal courts clearly within the constitutional powers of the Congress to hear a case calling into question the pledge's constitutionality.

Mr. Speaker, I urge all of my colleagues to protect this very important right that we have in our country to recite the Pledge of Allegiance and to stand up for values upon which our great Nation was founded by supporting this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Texas for yielding me time.

Mr. Speaker, I pledge allegiance to the flag of the United States of America because I believe in its stars and stripes, and I believe that they symbolize our strength and our diversity. I do so out of respect for and love of our country, not because the cameras are rolling and voters are watching. Apparently, the same cannot be said of some of my colleagues on the other side of the aisle.

The underlying legislation, more than anything else, is about the politics of a national election. The Republican political spin machine is in full gear playing, in my view, to the lowest common denominator, to reinvigorate some who may not be as invigorated as the majority party would wish that they be. Instead of wrapping themselves in the flag and marketing their candidates with gimmicks, the majority in Congress ought to work for the people and legislate in their interests.

Senator KERRY recently said it very well. He said, "The flag doesn't belong to any President, it doesn't belong to any ideology and it doesn't belong to any political party. It belongs to all the American people."

The underlying bill is totally unnecessary since there is no binding decision in any court, Federal or State, holding that "under God" in the Pledge is unconstitutional.

This is a solution in search of a problem. Given the serious challenges we face, we must act responsibly. But this unnecessary legislation, designed by political consultants as the answer to an uninspired right-wing constituency, detracts from the real work that needs to be done in this body.

In 8 days, 13 appropriation bills must be signed into law. So far, only one has the President's signature. Not even the appropriation for Homeland Security has been completed, despite the terrifying threats the Nation faces. Similarly, this coming Friday the authorization for Federal transportation programs is scheduled to expire and we are nowhere near a new transportation bill.

Did you hear that? Congress has one requirement, to pass the appropriations bills, to act responsibly and pass all 13 appropriations bills before September 30. Under this leadership, Congress has failed miserably.

Why has this congressional session been so disastrous, you might ask? Well, it is because the majority has made the conscious decision to play politics, rather than legislate; to squander opportunities for success, rather than create them; to give lip service to the Nation's needs, rather than address them. The underlying bill is an illustration of that irresponsibility, and in my view, it is ridiculous.

We are at war, a war on terror and a war in Iraq. Unemployment is high, jobs are being outsourced abroad, the economy is anemic, people cannot afford housing at the lower rungs of our economy, health care costs are through the roof, and more than 44 million Americans are uninsured. Right-wing Republicans are suffering the consequences of the wrong decisions made during these years that just passed, as are liberal and moderate Americans: and I, for one, wish this body were discussing how to solve these pressing problems instead of legislating on nonissues.

Now, more than ever, we must use the legislative session wisely and productively to strengthen America's way of life. Now, more than ever, we must do what is necessary to promote the principles that have made us strong.

Simply put, the underlying bill is, at its core, un-American. Indeed, passage of this legislation would represent one of the broadest attacks on the separation of powers in American history. If Congress, by statute, can end-run the Bill of Rights, no rights to liberty, due process or equality under law are safe. Further, it would set the terrible precedent of barring citizens from challenging government infringement of fundamental rights in Federal court.

Mr. Speaker, the Pledge of Allegiance is the recitation of the strong sense of patriotism and pride for American ideas and rules. Throughout my lifetime and that of many of our colleagues on both sides of the aisle here, we have tried to live up to its underlying values. I have done so, as have many of my colleagues, out of conviction, and not at the insistence of a paid political strategist that suggested legislating patriotism.

In the name of liberty, in the name of democracy and in the name of religion, I oppose the underlying legislation, and I call on my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have had a very eloquent opportunity to hear from the gentleman from Florida as he spoke about his desire not to support this legislation. We should also remember that there are many judges around this country who have the same opinion that the gentleman has, and they would wish a case to come forth to them where they could change this Pledge of Allegiance to the United States of America, one Nation under God, indivisible. And this is one of the reasons why this is an important issue.

The gentleman correctly talked about the things which we have now achieved or not achieved, in his opinion, for the last year-and-a-half of this Congress, the 108th Congress. We had votes on taxes. We had votes on opportunities to limit lawsuits, lawsuit abuse. And every single time, we have had an opportunity to vote on these very important issues. So I am proud of what we have done. But I would also say that the Pledge of Allegiance is something that is worth fighting for on the floor of the House of Representatives and to protect.

So I know and recognize that there are my friends in the other party that do not agree with us on this, that they would call it un-American that we would not allow some Federal judge to hear a case and then to legislate against the Pledge of Allegiance. I believe that is what Congress is here to do, and I believe that judges are there to rule on the law, not to make law. That is why we offer this bill, this very important bill, that we have here tonight.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in support of the rule for H.R. 2028, the Pledge Protection Act, because it makes in order an amendment that I strongly support. The amendment to be offered by my colleague, the gentleman from North Carolina (Mr. WATT), is very straightforward. It would restore to the bill the Supreme Court's jurisdiction over questions related to the Pledge of Allegiance, changing the bill back to the way it was originally introduced and as it was when I and 224 other Members of this body cosponsored it.

As introduced, H.R. 2028 would have restricted the Federal district courts and the appellate courts from hearing cases involving the Pledge of Allegiance.

When I signed on as a cosponsor of the original bill a week after its introduction back in May of 2003, H.R. 2028 was a good bill. It took care of those renegade jurists, but it retained the jurisdiction of the Supreme Court over this important constitutional issue.

Its title read, "To amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and in controversies involving the Pledge of Allegiance."

While the title has not changed, the content of the bill certainly has. As reported by the Committee on the Judiciary, H.R. 2028 now prohibits the Supreme Court from hearing such cases.

I recognize that Congress clearly has the authority under Article III of the Constitution to define the jurisdiction of the Federal district and appellate courts. The original H.R. 2028 was perfectly supportable on this point, for it related to the courts "inferior to of the Supreme Court."

I know that the gentleman from Wisconsin (Chairman SENSENBRENNER) cited ex parte McCardle as authority under Article III to make exceptions to the appellate jurisdiction of the Supreme Court. But constitutional scholars say there is no direct precedent for making exceptions to the appellate jurisdiction of the Supreme Court.

This unprecedented restriction of the Supreme Court's authority would violate the basic tenet of checks and balances within our system of government. The Founding Fathers created this balance of power within our democratic government to ensure the integrity of the Constitution. If the Supreme Court is not able to fulfill its constitutional purpose, our Federal Government will be unable to ensure that our laws reflect the rights set forth in our Constitution.

I would caution my colleagues to think twice before tampering with authorities clearly granted in the Constitution. The issue today may be the pledge, but what if the issue tomorrow is environmental protection, civil rights, second amendment rights or a host of other issues that Members may hold dear?

I would ask my colleagues not to succumb to a false comfort that the Supreme Court ultimately will strike down the legislation, so therefore it is acceptable to cast a politically expedient vote that you know is just wrong.

I would also ask my colleagues to think about, do we really want 50 different versions of the Pledge of Allegiance? I certainly do not think so. However, that is what could happen if you believe the Committee on the Judiciary's press release on this bill.

□ 1830

Its headline says it all, "Committee approves legislation allowing States to decide whether 'under God' should remain in the Pledge of Allegiance."

I believe the Supreme Court, not 50 different State courts, should be the final arbiter of any questions on the constitutionality of that congressionally approved phrase.

I come to the floor with a heavy heart on this but, Mr. Speaker, I revere the Constitution and the Pledge of Allegiance. I believe that "under God" are two of the most important words in the pledge. I also believe that the Supreme Court should be the final arbiter of all Federal questions. That is why I urge my colleagues to support this rule and the Watt amendment to the Pledge Protection Act.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

I shall not take an awful lot of time, but I do have a considerable amount of experience in this area, and I can tell my colleagues that the Doctrine of Judicial Review, the notions with reference to "fundamental due process" and "full faith and credit" are matters that we should hold dear and not be about the business of court-stripping on specific matters.

The gentlewoman from Illinois (Mrs. BIGGERT) put forward the exact proposition that I did in last night's Committee on Rules among other things that she has said with which I agree, and that is that another day will come, and this establishes a bad precedent. I note that the original sponsor of the measure is here, and I put to him that question last evening. Perhaps, he and I will have an opportunity for a further exchange with reference to the same matter.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. AKIN), the sponsor of this legislation.

Mr. AKIN. Mr. Speaker, I would start by asking a question that I have had a chance to ask a number of times to different school groups and other collections of Americans, and that is, if you were to take a look at America, the unique nation that it is, and you were to try to put into a phrase or a sentence what is the heart of what America is all about; if you had to, in a sense, as an onion, go through all of the different things that are America and get down to the center nub of what is it that we believe, what is it that people who came from Germany or Scotland or England or all of these other different countries believe; they came here together. They do not call themselves by their old name, but they call themselves Americans, and America is a unique and special place to all of us.

Now, what is the heart of what makes America? What is the central formula? Why is it that our young men and women would go and risk their lives overseas for this Nation?

I would suggest to my colleagues that the answer can be found in our birthday document, that Declaration of Independence, that document which paints a vision which goes beyond just the shores of America but touches the hearts of all freedom-loving people around this entire world. It is the sentence that says that we hold these truths to be self-evident, that all men are endowed by their creator with certain unalienable rights, and among these are life, liberty and the pursuit of happiness. The sentence goes on to say that it is the job of government to protect those rights.

Notice that that sentence is essentially a three-part formula. It says, first, that there is a God; secondly, that that God is the grantor of human rights; and among these are life, liberty, and the pursuit of happiness. And then our job in civil government is to protect those basic rights, and that, I would suggest, is something that Americans have largely agreed to down through the ages and has been something that has united us. It is also something that we have exported as we export freedom around the world.

Now, if we take the concept of God out of the equation, then our rights cannot come from God, and then the whole essence of what America is has been threatened.

Now, this concept that I am suggesting is not something that I just invented; anybody who would like to can go down to the Jefferson Memorial, and they can look at the stone where these words are inscribed and Jefferson says, the God that gave us life gave us liberty, and can the liberties of the people be secure if we remove the conviction that those liberties are the gift of God? What Jefferson was saying is people will not fight for something if they do not believe that those liberties were the gift of God.

And ironically, here on this floor, just in the last few minutes, I have heard people make the statement that they are very content to let the Supreme Court decide what our rights should be. Whatever the Supreme Court says, oh, well, that is just fine. The problem is, the Supreme Court has men and women on it, and they make mistakes, and we have three coequal branches of government to act as checks and balances on each other.

Before us today is an important matter. It is important because what we are dealing with is a question of free speech. Our Founders fought wars because we really thought that people should be able to have freedom to state a religious or a political conviction and to be free to express that opinion.

Yet, we have activist judges among us today who have the intent and who have even stated fairly clearly where they stand on this issue, that school children are not allowed to say the Pledge of Allegiance as we have said it for the last 50 years. Now, no school child is required to say the Pledge, but to tell a school child that we have been saying the Pledge this way for 50 years in America and, now, you cannot say it, is akin to censorship. That is completely turning the first amendment upside down. I do not think that it is right for the judges to do that.

I also know that I took an oath of office to uphold the Constitution, and as a member of the legislative branch, I realize that it is part of my responsibility and part of the responsibility of other Members who call themselves Congressmen to stand up for the Constitution, to stand up for free speech, to tell the judges that they are wrong to tell school kids that they cannot say the Pledge of Allegiance.

Now, there is all kinds of legal mumbo jumbo that people might want to talk about, but let us not make the issue too complicated. It is about the Pledge of Allegiance; it is about the fact that we have activist judges saying that kids cannot say the same pledge that you and I have said for the last 50 years.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume. I would ask the gentleman from Missouri to participate in a colloquy with me, if he would.

Mr. Speaker, I asked last evening what jurisdiction in the United States of America today exists where a child cannot say "under God" in the Pledge of Allegiance?

Mr. AKIN. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from Missouri.

Mr. AKIN. Well, Mr. Speaker, fortunately, because of the fact that the Supreme Court dismissed this case just based on a technicality, there are none. There were some before. At the moment, there are not. And that is why it is so important to move this bill rapidly before something gets in the pipeline again to threaten the Pledge.

Mr. HASTINGS of Florida. Mr. Speaker, reclaiming my time just for the moment, that is that same Supreme Court that the gentleman would prefer not have jurisdiction in these matters, no matter whether they rule on a technicality. The gentleman's argument is that the Supreme Court makes mistakes because it is constituted of human beings.

Well, let me tell my colleague, a whole lot of mistakes are made in this body of us, 435-plus and five territories, because we are human beings. But respect for the courts is key and critical, and to refer, for example, judges with whom I disagree, I call them strict constructionists, but I do not demean them. And I do not come down here and refer to them because I have a different point of view. I am from Florida. The United States Supreme Court made a decision that I thoroughly disagree with. But at the very same time, I respected that decision and went about my business, because it is the Supreme Court. We have three branches of government, not one that can make all of the laws.

Mr. AKIN. Mr. Speaker, if the gentleman will yield, I appreciate what the gentleman is saying, and I think that what the gentleman is saying gets to the heart of our disagreement on this point.

The gentleman said that the Supreme Court has made decisions that he strongly disagrees with, but he refused even to open his mouth hardly to refer to them other than in this context.

My sense is the three coequal branches of government means that we have a right to speak when we disagree and that we have even a responsibility to express that disagreement. And so our difference of opinion is that the gentleman really sees them as supreme, as the final decision on everything, and regardless of what they say, we have to suck it in and live with it. What I am saying is, that is alien to the thinking of our Founders. It is completely wrong.

Out of my State, I say to the gentleman, came the Dred Scott decision on slavery. I would not sit here and say, oh, I have to sit here and live with it. They are wrong, just as you and I can be wrong. We all make mistakes.

Mr. HASTINGS of Florida. Mr. Speaker, again reclaiming my time, the fact of the matter is that the Dred Scott decisions, Plessy v. Ferguson, a litany of decisions were changed over time.

One thing I would urge my colleague to really pay attention to, I will give him an illustration of two of this Nation's most prominent judges: One, Felix Frankfurter; and the other, Hugo Black. Hugo Black was a former member of the Ku Klux Klan, and Felix Frankfurter was an activist American civil libertarian. And when they went on the United States Supreme Court, they were ideological opposites. Over the course of time and events, if the gentleman will read their decisions, they changed.

My fear, as I have said, is, one day, we are no longer going to be in Congress. One day, mark my words, a different party will be in the majority. One day, conditions in the United States will be different. One day, world affairs will dictate an altered world reality. I ask my colleagues to vote against the underlying bill because if the reaction to these different scenarios goes beyond the constitutional limit, we would have already created the precedent that Congress cannot be checked and balanced by the judicial branch. That would be unfortunate.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

We had the opportunity to hear from the gentleman from Missouri to enunciate not only what was in his heart about this Pledge of Allegiance, and I believe he supported very strongly the belief of exactly why we are here today for the Flag Protection Act. I think that there are many people in the United States that simply do not like the Pledge of Allegiance and would wish and choose to change that.

We have heard the gentleman from Florida suggest that the world and this country will be much different in the future, and while I cannot argue with the gentleman that I think change is incumbent and will always happen, I think that there are some things that are worthy of keeping, that we should hold dear and important to this Nation. And one of them is the Pledge of Allegiance to the flag.

I think it is one of the reasons why, when new citizens come to this country and they become citizens, that tears stream down their eyes as they raise their hand, as a Federal judge or a Federal magistrate will administer their oath, and then they will say the Pledge of Allegiance. And people who are today fighting terrorism and represent our United States military, they stand up at attention before our flag. They understand that the United States of America is not perfect, and there may be changes in our future. But I believe that they also believe that one thing should not change, and that is the Pledge of Allegiance to the flag of the United States of America. Every day, when we open the United States Congress, we respectfully give our thanks not only to God, and certainly the words right over your head there, Mr. Speaker, "in God we trust" are stated from the podium up front, but also we say the Pledge of Allegiance to the flag.

This body has been used as an attempt to publicize and perhaps politicize the Pledge of Allegiance to the flag of the United States of America. I think that it is a right thing that we will stand up for the Flag Protection Act. I think it is the right thing to do, and I encourage all of my colleagues to not only stand up for this flag but for this wonderful legislation, for traditional American values and our Founding Fathers' intent.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

□ 1845

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

RECORD votes on postponed questions will be taken tomorrow.

PINE SPRINGS LAND EXCHANGE ACT

Mr. NEUGEBAUER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4806) to provide for a land exchange involving Federal lands in the Lincoln National Forest in the State of New Mexico, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pine Springs Land Exchange Act".

SEC. 2. LAND EXCHANGE, LINCOLN NATIONAL FOREST, NEW MEXICO.

(a) DEFINITIONS.—In this section:

(1) FEDERAL LAND.—The term "Federal land" means the three parcels of land, and any improvements thereon, comprising approximately 80 acres in the Lincoln National Forest, New Mexico, as depicted on the map entitled "Pine Springs Land Exchange" and dated May 25, 2004, and more particularly described as S1/2SE1/4NW1/4, SW1/4SW1/4, W1/2E1/2NW1/4SW1/4, and E1/2W1/2NW1/4SW1/4 of section 32 of township 17 south, range 13 east, New Mexico Principal Meridian.

(2) NON-FEDERAL LAND.—The term "non-Federal land" means the parcel of land owned by Lubbock Christian University comprising approximately 80 acres, as depicted on the map referred to in paragraph (1) and more particularly described as N1/2NW1/4 of section 24 of township 17 south, range 12 east, New Mexico Principal Meridian.

(b) LAND EXCHANGE REQUIRED.—

(1) EXCHANGE.—In exchange for the conveyance of the non-Federal land by Lubbock Christian University, the Secretary of Agriculture shall convey to Lubbock Christian University, by quit-claim deed, all right, title, and interest of the United States in and to the Federal land. The conveyance of the Federal land shall be subject to valid existing rights and such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States. To the extent practicable, and subject to paragraph (2), the Secretary shall complete the land exchange not later than one year after the date of the enactment of this Act.

(2) ACCEPTABLE TITLE.—Title to the non-Federal land shall conform with the title approval standards of the Attorney General applicable to Federal land acquisitions and shall otherwise be acceptable to the Secretary.

(3) COSTS OF IMPLEMENTING THE EXCHANGE.—The costs of implementing the land exchange shall be shared equally by the Secretary and Lubbock Christian University.

(c) TREATMENT OF MAP AND LEGAL DESCRIPTIONS.—The Secretary and Lubbock Christian University may correct any minor error in the map referred to in subsection (a)(1) or the legal descriptions of the Federal land and non-Federal land. In the event of a discrepancy between the map and legal descriptions, the map shall prevail unless the Secretary and Lubbock Christian University otherwise agree. The map shall be on file and available for inspection in the Office of the Chief of the Forest Service and the Office of the Supervisor of Lincoln National Forest.

(d) EQUAL VALUE EXCHANGES.—The fair market values of the Federal land and non-Federal land exchanged under subsection (b) shall be equal or, if they are not equal, shall be equalized in the manner provided in section 206 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1716). The fair market value of the land shall be determined by appraisals acceptable to the Secretary and Lubbock Christian University. The appraisals shall be performed in conformance with subsection (d) of such section and the Uniform Appraisal Standards for Federal Land Acquisitions.

(e) REVOCATION AND WITHDRAWAL.—

(1) REVOCATION OF ORDERS.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(2) WITHDRAWAL OF FEDERAL LAND.—Subject to valid existing rights, pending the completion of the land exchange, the Federal land is withdrawn from all forms of location, entry and patent under the public land laws, including the mining and mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(f) ADMINISTRATION OF LAND ACQUIRED BY UNITED STATES.—

(1) BOUNDARY ADJUSTMENT.—Upon acceptance of title by the Secretary of the non-Federal land, the acquired land shall become part of the Lincoln National Forest, and the boundaries of the Lincoln National Forest shall be adjusted to include the land. For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Lincoln National Forest, as adjusted pursuant to this paragraph, shall be considered to be boundaries of the Lincoln National Forest as of January 1, 1965.

(2) MANAGEMENT.—The Secretary shall manage the acquired land in accordance with the Act of March 1, 1911 (commonly known as the Weeks Act; 16 U.S.C. 480, 500, 513–519, 521, 552, 563), and in accordance with the other laws and regulations applicable to National Forest System lands.

(g) RELATION TO OTHER LAWS.—Subchapters II and III of chapter 5 of title 40, United States Code, and the Agriculture Property Management Regulations shall not apply to any action taken pursuant to this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. NEUGEBAUER) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. NEUGEBAUER).

GENERAL LEAVE

Mr. NEUGEBAUER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4806.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. NEUGEBAUER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4806 would authorize a land exchange involving Federal land in the Lincoln National Forest in the State of New Mexico.

This legislation would exchange 80 acres between the Lincoln National Forest and Lubbock Christian University for a much-needed expansion of the University's Pine Spring Camp. The camp is used in the summer for week-long camp sessions, and utilized in the winter by college groups, youth groups, and churches for retreats. In recent years, the camp has seen an increase in its visitors and will soon run out of room, forcing the camp to turn visitors away. Both the camp and Lubbock Christian University are nonprofit.

While the land exchange takes place in the gentleman from New Mexico's (Mr. PEARCE) district, LCU is in my district and approached me for assistance for this issue. I would like to thank the gentleman from New Mexico (Mr. PEARCE) for his willingness to work with me on this issue, and I thank him for cosponsorship and support of this bill. Additionally, I would like to thank and recognize Lubbock Christian University not only for providing recreation and outdoor opportunities for students, but also for its notable contributions to the community of Lubbock and the State of Texas.

I urge support of this important measure.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4806, the Pine Springs Land Exchange takes approximately 80 acres of forest lands in the Lincoln National Forest and exchanges that for private land currently owned by Lubbock Christian University.

Currently, Lubbock Christian University operates a summer camp in New Mexico on private land adjacent to Lincoln National Forest. Their summer camp program has reached its capacity and the university desires to expand onto adjacent Forest Service lands.

In exchange for approximately 80 acres of lands adjacent to their existing camp, Lubbock Christian University will provide the Forest Service with approximately 80 acres of privately owned lands surrounded by Federal forests.

Our committee has worked hard to refine language that will make this exchange fair to the U.S. taxpayer. The bill we are considering today requires that the exchange be of equal value. If the land appraisals determine that the parcels are not of equal value, the bill provides for the equalization of values through cash payments.

We appreciate that land exchanges can often be controversial. However, we have tried very hard to ensure that this package consolidates Federal ownership in some parts of the forests while enabling Lubbock Christian University to expand its summer camp.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NEUGEBAUER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. NEUGEBAUER) that the House suspend the rules and pass the bill, H.R. 4806, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING A REQUIREMENT OF CLAUSE 6(A) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM THE COMMITTEE ON RULES

Mr. LINDER (during consideration of H.R. 4045), from the Committee on Rules, submitted a privileged report (Rept. No. 108–695) on the resolution (H. Res. 785) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

MOKELUMNE RIVER FEASIBILITY STUDY

Mr. NEUGEBAUER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4045) to authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF MOKELUMNE RIVER REGIONAL WATER STORAGE AND CONJUNCTIVE USE PROJECT STUDY.

Pursuant to the Reclamation Act of 1902 (32 Stat. 388) and Acts amendatory thereof and supplemental thereto, the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") is authorized to prepare a feasibility study entitled the "Mokelumne River Regional Water Storage and Conjunctive Use Project Study" for a project to provide additional water supply and improve water management flexibility through the development of new water storage and conjunctive use programs.

SEC. 2. USE OF REPORTS AND OTHER INFORMATION.

In developing the Mokelumne River Regional Water Storage and Conjunctive Use Project Study, the Secretary shall use, as appropriate, reports and any other relevant information supplied by the Mokelumne River Water and Power Authority, the East Bay Municipal Utility District and other stakeholders.

SEC. 3. DEADLINE.

The Secretary shall complete the Mokelumne River Regional Water Storage and Conjunctive Use Project Study and provide copies of that study to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than 2 years after the date of the enactment of this Act.

SEC. 4. COST SHARES.

(a) FEDERAL SHARE.—The Federal share of the costs of the Mokelumne River Regional Water Storage and Conjunctive Use Project Study shall not exceed 50 percent of the total cost of the study.

(b) IN-KIND CONTRIBUTIONS.—The Secretary shall accept, as appropriate, such in-kind contributions of goods or services from the Mokelumne River Water and Power Authority as the Secretary determines will contribute to the conduct and completion of the Mokelumne River Regional Water Storage and Conjunctive Use Project Study. Goods and services accepted under this section shall be counted as part of the non-federal cost share for that study.

SEC. 5. WATER RIGHTS.

Nothing in this Act shall be construed to invalidate, preempt, or create any exception to State water law, State water rights, or Federal or State permitted activities or agreements.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $3,000,000 for the Federal cost share of the Mokelumne River Regional Water Storage and Conjunctive Use Project Study.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. NEUGEBAUER) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. NEUGEBAUER).

GENERAL LEAVE

Mr. NEUGEBAUER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4045.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. NEUGEBAUER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation, authored by the distinguished chairman of the Committee on Resources, the gentleman from California (Mr. POMBO), helps resolve a growing water supply problem in San Joaquin County, California. The area's water supplies are being depleted because of rapid population growth, highly significant groundwater overdraft, and saline intrusion. This situation grows worse every day.

This has prompted San Joaquin County officials to seek a more dependable and reliable water supply through extensive water development and planning studies.

H.R. 4045 authorizes limited Federal assistance to complete this effort. The project study authorized in this legislation will examine ways to capture flood flows from an area river in order to develop up to 65,000 new acre feet of water. The study will also determine whether or not the project construction is even feasible, since current water rights on the river, economic factors, and potential environmental impacts will be examined.

As passed by the Committee on Resources, this legislation also expressly protects State water law and current permits and agreements on the river.

Mr. Speaker, this bill will help provide a much needed solution to a growing water problem, and I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would authorize the Secretary of the Interior to work with local interests to study possible projects to stabilize groundwater levels in San Joaquin County in California.

I appreciate the efforts made by the chairman of the Committee on Resources and the author of this bill, the gentleman from California (Mr. POMBO), to accommodate the concerns of neighboring water users. Section 2 of the bill was amended in committees to allow the participation of the East Bay Municipal Utility District as this project goes through the planning stages.

We have no objection to passage of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NEUGEBAUER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. NEUGEBAUER) that the House suspend the rules and pass the bill, H.R. 4045, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CREATING OFFICE OF CHIEF FINANCIAL OFFICER OF THE GOVERNMENT OF THE VIRGIN ISLANDS

Mr. NEUGEBAUER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3589) to create the Office of Chief Financial Officer of the Government of the Virgin Islands, as amended.

The Clerk read as follows:

H.R. 3589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHIEF FINANCIAL OFFICER OF THE VIRGIN ISLANDS.

(a) APPOINTMENT OF CHIEF FINANCIAL OFFICER.—

(1) IN GENERAL.—The Governor of the Virgin Islands shall appoint a Chief Financial Officer, with the advice and consent of the Legislature of the Virgin Islands, from the names on the list required under section 2(d). If the Governor has nominated a person for Chief Financial Officer but the Legislature of the Virgin Islands has not confirmed a nominee within 90 days after receiving the list pursuant to section 2(d), the Governor shall appoint from such list a Chief Financial Officer on an acting basis until the Legislature consents to a Chief Financial Officer.

(2) ACTING CHIEF FINANCIAL OFFICER.—If a Chief Financial Officer has not been appointed under paragraph (1) within 180 days after the date of the enactment of this Act, the Virgin Islands Chief Financial Officer Search Commission, by majority vote, shall appoint from the names on the list submitted under section 2(d), an Acting Chief Financial Officer to serve in

that capacity until a Chief Financial Officer is appointed under the first sentence of paragraph (1). In either case, if the Acting Chief Financial Officer serves in an acting capacity for 180 consecutive days, without further action the Acting Chief Financial Officer shall become the Chief Financial Officer.

(b) TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—Upon the appointment of a Chief Financial Officer under subsection (a), the functions of the Director of the Office of Management and Budget established under the laws of the Virgin Islands shall be transferred to the Chief Financial Officer. All employees of the Office of Management and Budget become employees of the Office of the Chief Financial Officer.

(2) DOCUMENTS PROVIDED.—The heads of each department of the Government of the Virgin Islands, in particular the head of the Department of Finance of the Virgin Islands and the head of the Internal Revenue Bureau of the Virgin Islands shall provide all documents and information under the jurisdiction of that head that the Chief Financial Officer considers required to carry out his or her functions to the Chief Financial Officer.

(c) DUTIES OF CHIEF FINANCIAL OFFICER.—The duties of the Chief Financial Officer shall include the following:

(1) Assume the functions and authority of the office of the Office of Management and Budget established under the laws of the Virgin Islands as transferred under subsection (b).

(2) Develop a report on the financial status of the Government of the Virgin Islands not later than 6 months after appointment and quarterly thereafter. Such reports shall be available to the public and shall be submitted to the Committee on Resources in the House of Representatives and the Committee on Energy and Natural Resources in the Senate.

(3) Each year certify spending limits of the annual budget and whether or not the annual budget is balanced.

(4) Monitor operations of budget for compliance with spending limits, appropriations, and laws, and direct adjustments where necessary.

(5) Develop standards for financial management, including inventory and contracting, for the government of the Virgin Islands in general and for each agency in conjunction with the agency head.

(6) Oversee all aspects of the implementation of the financial management system provided pursuant to section 3 to ensure the coordination, transparency, and networking of all agencies' financial, personnel, and budget functions.

(7) Provide technical staff to the Governor and legislature of the Virgin Islands for development of a deficit reduction and financial recovery plan.

(d) DEPUTY CHIEF FINANCIAL OFFICER.—Until the date that is 5 years after the date of the enactment of this Act, the position of the Director of the Office of Management and Budget of the Virgin Islands shall—

(1) have the duties, salary (as specified in subsection (f)(3)), and other conditions of the Deputy Chief Financial Officer in lieu of the duties, salary, and other conditions of the Director of the Office of Management and Budget of the Virgin Islands as such functions existed before the appointment of the Chief Financial Officer; and

(2) assist the Chief Financial Officer in carrying out the duties of the Chief Financial Officer.

(e) CONDITIONS RELATED TO CHIEF FINANCIAL OFFICER.—

(1) TERM.—The Chief Financial Officer shall be appointed for a term of 5 years.

(2) REMOVAL.—The Chief Financial Officer shall not be removed except for cause. An Acting Chief Financial Officer may be removed for cause or by a Chief Financial Officer appointed with the advice and consent of the Legislature of the Virgin Islands.

(3) REPLACEMENT.—If the Chief Financial Officer is unable to continue acting in that capacity due to removal, illness, death, or otherwise, another Chief Financial Officer shall be selected in accordance with subsection (a).

(4) SALARY.—The Chief Financial Officer shall be paid at a salary to be determined by the Governor of the Virgin Islands, except such rate may not be less than the highest rate of pay for a cabinet officer of the Government of the Virgin Islands or a Chief Financial Officer serving in any government or semiautonomous agency.

(f) CONDITIONS RELATED TO DEPUTY CHIEF FINANCIAL OFFICER.—

(1) TERM; REMOVAL.—The Deputy Chief Financial Officer shall serve at the pleasure of the Chief Financial Officer.

(2) REPLACEMENT.—If the Deputy Chief Financial Officer is unable to continue acting in that capacity due to removal, illness, death, or otherwise, another person shall be selected by the Governor of the Virgin Islands to serve as Deputy Chief Financial Officer.

(3) SALARY.—The Deputy Chief Financial Officer shall be paid at a salary to be determined by the Chief Financial Officer, except such rate may not be less than the rate of pay of the Director of the Office of Management and Budget.

(g) RESUMPTION OF FUNCTIONS.—On the date that is 5 years after the date of the enactment of this Act, the functions of the Chief Financial Officer shall be transferred to the Director of the Office of Management and Budget of the Virgin Islands.

(h) SUNSET.—This section shall cease to have effect after the date that is 5 years after the date of the enactment of this Act.

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Virgin Islands Chief Financial Officer Search Commission".

(b) DUTY OF COMMISSION.—The Commission shall recommend to the Governor not less than 3 candidates for nomination as Chief Financial Officer of the Virgin Islands. Each candidate must have demonstrated ability in general management of, knowledge of, and extensive practical experience at the highest levels of financial management in governmental or business entities and must have experience in the development, implementation, and operation of financial management systems. Candidates shall not have served in a policy making or unclassified position of the Government of the Virgin Islands in the 10 years immediately preceding appointment as Chief Financial Officer.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members appointed not later than 30 days after the date of the enactment of this Act. Persons appointed as members must have recognized business, government, or financial expertise and experience and shall be appointed as follows:

(A) 1 individual appointed by the Governor of the Virgin Islands.

(B) 1 individual appointed by the President of the Legislature of the Virgin Islands.

(C) 1 individual, who is an employee of the Government of the Virgin Islands, appointed by the Central Labor Council of the Virgin Islands.

(D) 1 individual appointed by the Chamber of Commerce of St. Thomas-St. John.

(E) 1 individual appointed by the Chamber of Commerce of St. Croix.

(F) 1 individual appointed by the President of the University of the Virgin Islands.

(G) 1 individual appointed by the Chief Judge of the Virgin Islands Territorial Court.

(H) 1 individual, who is a resident of St. John, appointed by the At-Large Member of the Legislature of the Virgin Islands.

(I) 1 individual appointed by the Advocates for the Preservation of the Retirement System.

(2) TERMS.—

(A) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(B) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy shall be appointed for the remainder of that term.

(3) BASIC PAY.—Members shall serve without pay.

(4) QUORUM.—Five members of the Commission shall constitute a quorum.

(5) CHAIRPERSON.—The Chairperson of the Commission shall be the Chief Judge of the Territorial Court or her designee and shall serve as an ex officio member of the Commission and shall vote only in the case of a tie.

(6) MEETINGS.—The Commission shall meet at the call of the Chairperson. The Commission shall meet for the first time not later than 15 days after all members have been appointed under this subsection.

(7) GOVERNMENT EMPLOYMENT.—Members may not be current government employees, except for the member appointed under paragraph (1)(C); and

(d) REPORT; RECOMMENDATIONS.—The Commission shall transmit a report to the Governor and the Resources Committee of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than 60 days after its first meeting. The report shall name the Commission's recommendations for candidates for nomination as Chief Financial Officer of the Virgin Islands.

(e) TERMINATION.—The Commission shall terminate 210 days after its first meeting.

SEC. 3. FINANCIAL MANAGEMENT SYSTEM.

It is hereby authorized to be appropriated such sums as necessary for the installation of a Financial Management System, including appropriate computer hardware and software, to the Government of the Virgin Islands. Upon becoming available, the financial management system shall be available to the Chief Financial Officer and, after the date that is 5 years after the date of the enactment of this Act, the Director of the Office of Management and Budget of the Virgin Islands, to assist the Chief Financial Officer or the Director of the Office of Management and Budget of the Virgin Islands, as the case may be, to carry out the official duties of that office.

SEC. 4. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) CHIEF FINANCIAL OFFICER.—In sections 1 and 2, the term "Chief Financial Officer" means a Chief Financial Officer or Acting Chief Financial Officer, as the case may be, appointed under section 1(a).

(2) COMMISSION.—The term "Commission" means the Virgin Islands Chief Financial Officer Search Commission established pursuant to section 2.

(3) GOVERNOR.—The term "Governor" means the Governor of the Virgin Islands.

(4) REMOVAL FOR CAUSE.—The term "removal for cause" means removal based upon misconduct, failure to meet job requirements, or any grounds that a reasonable person would find grounds for discharge.

SEC. 5. NO ABROGATION OF POWERS.

Nothing in this Act shall be construed to permit the Governor and Legislature of the Virgin Islands to dilute, delegate, or otherwise alter or weaken the powers and authority of the Office of Management and Budget established under the laws of the Virgin Islands.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Texas (Mr. NEUGEBAUER) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. NEUGEBAUER).

GENERAL LEAVE

Mr. NEUGEBAUER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3589.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. NEUGEBAUER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) has introduced this legislation to address a potentially serious problem relating to her territory's financial future. Her legislation, H.R. 3589, will create an Office of the Chief Financial Officer for the United States Virgin Islands.

For over a decade now, multiple factors have lead to a worsening financial outlook in this territory. Natural disasters, a gradually declining tourism industry, and the resulting spending decisions by the local government have left the U.S. Virgin Islands with significant annual deficits. Further, this territory now faces a debt totaling $1 billion.

Given this economic instability and the worsening conditions, serious actions should be considered. For this reason, the Delegate has introduced 3589. This legislation uses local and Federal input to select an Office of the Chief Financial Officer. The CFO will tackle the difficult fiscal and related political decisions with regard to spending on these islands.

It is important to note that this individual and his or her staff will functionally be independent of the executive and legislative branches of the local government. This position will be temporary and will be empowered to stop wasteful spending and put this territory back on the track to more sound economic footing.

Without this legislation, one must worry that the Federal Government may have to take an even more serious action if this debt continues to increase. I am thus hopeful that the House can support the gentlewoman from the Virgin Islands' (Mrs. CHRISTENSEN) bill so that we can begin to address the dire financial situation in this territory.

Finally, I would like to point out that H.R. 3589, as amended, was passed by the Committee on Resources by voice vote on July 14, and I appreciate the bipartisan work of the committee in acting quickly on this legislation.

I hope we can act in the same bipartisan fashion. I urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to begin by thanking the gentleman from California (Mr. POMBO) and the ranking member, the gentleman from West Virginia (Mr. RAHALL), for their support in making it possible for H.R. 3589 to get through the committee and be on the floor of the House today. I am really heartened by the support I received from both sides of the leadership and the members of my committee, the hard work of the staff, as well as from the gentlewoman from the District of Columbia (Ms. NORTON), and members of the Congressional Black Caucus on this issue, which I believe to be important to the short and long term well-being of the Virgin Islands.

I want to thank the ranking member, the gentleman from West Virginia (Mr. RAHALL), for standing shoulder to shoulder with me on this issue in the face of significant opposition and insisting that my bill be a top priority of the Democratic Caucus of our committee.

Mr. Speaker, today is a day of great moment for the people of the Virgin Islands and for me because with passage of this bill we are a significant step closer to achieving a goal to put in place a mechanism to address the fiscal challenges that continue to face our territory. Many Members' districts have been in similar situations, and Members have addressed them in similar ways.

I have introduced this bill before us today, H.R. 3589, because throughout my tenure as the Representative of the people of the Virgin Islands in the House of Representatives, I have seen the territory's fiscal condition come dangerously close to collapse on several occasions.

In the absence of any similar local action being taken, I believe that the only course to reverse this trend is to create an office with the independence and the authority to help us exercise the fiscal restraint and better fiscal management of both Federal and local funds, something all of our local leadership agrees must be done.

Mr. Speaker, it has not been easy for me to watch the fiscal health of the territory steadily decline since I have been in office. Since the middle 1990s, successive administrations and legislatures have, for good reason, not been able to maintain sound fiscal management and financial policies.

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While some of the reasons for this condition have been outside of our control, such as recurrent catastrophic hurricanes and the tax cuts and credits passed by Congress, much of the blame for this condition can be traced to the unfortunate reality that the territory's managers and lawmakers have not substantively addressed the imbalance between the needs and demands of the community and its revenues.

It was not, and still is not, my intention in introducing H.R. 3589 to cast aspersions on the fiscal policies of the current administration or the legislature or past ones. However, I feel very strongly that I could not sit idly by while we continue to face fiscal crisis after fiscal crisis without offering some solution to temper or soften the difficult decisions that we ourselves, not the Federal Government, have to make to get us out of this roller-coaster approach to managing our fiscal affairs.

Nevertheless, in taking this action, I was opposed by the governor and lieutenant governor, as well as my party leadership back home, who disagreed with this approach. A resolution that went so far as to condemn my action was passed by the Members of the 25th legislature, but the people of the Virgin Islands, who have long called for accountability and transparency in our government, have supported this bill strongly from the outset.

As I reflect on what led me to this point today, I am reminded of a quote by Dr. Martin Luther King, Jr., which was brought to my attention by a local attorney, in which Dr. King said, "The ultimate measure of a man is not where he," or she, I would say, "stands in moments of comfort and convenience, but where they stand in times of challenge and controversy."

Mr. Speaker, we are indeed facing challenging and difficult times in the Virgin Islands. The actions of those of us in leadership today will have profound effects for our future.

While H.R. 3589 will not be a panacea or solve all of our problems, it will help to keep our finances in order and prevent us from sinking further into a fiscal black hole.

I urge my colleagues to support this bill, and I again want to thank the gentleman from California (Chairman POMBO) and the gentleman from West Virginia (Ranking Member RAHALL) and the staff.

Mr. Speaker, I yield back the balance of my time.

Mr. NEUGEBAUER. Mr. Speaker, I yield myself such time as I may consume.

I would just like to commend the gentlewoman for bringing this solution forward and for taking on the responsibility of representing and making sure that the folks in her island are represented correctly.

So I commend her for that and for her great work on this.

Mr. RAHALL. Mr. Speaker, in my capacity as the Ranking Democratic Member of the Resources Committee, I would like to register my strong support of H.R. 3589, to create the office of chief financial officer for the territory of the U.S. Virgin Islands. I commend the gentlelady from the U.S. Virgin Islands, DONNA CHRISTENSEN, for her tireless work in getting this legislation to the floor for our consideration.

As has been noted this evening, the financial condition of the Virgin Islands is in trouble. Skyrocketing deficits coupled with inadequate fiscal controls have left the local government struggling to provide basic services to the people of the Virgin Islands.

The potential financial insolvency of the territory did not occur overnight. Nevertheless the introduction of this measure, by the distinguished representative of the Virgin Islands, DONNA CHRISTENSEN, was still met with controversy and opposition from many local political leaders.

DONNA CHRISTENSEN has made it clear that this legislation is something that she would rather not have done, but the circumstances of her territory have made the choices for her. She is a brave woman for fighting for what she believes is in the best interest of her constituents and for her island and she should be commended.

Virgin Islands history will show that this legislation was a turning point in the fundamental approach that the territory handles its financial affairs. Indeed, this evening may one day be looked upon by the residents of the Virgin Islands as one of those rare moments when history itself seemed to hold its breath. When the voice of the people, on that beautiful Carribean island, rose louder and louder and thundered over various political obstacles and was heard, and acted upon, in this hallowed chamber that is the U.S. House of Representatives.

I have said it before, and I will say it again this evening. When the next chapter in Profiles in Courage is written, it will be about the gentlelady from the Virgin Islands, DONNA CHRISTENSEN.

I urge my colleagues to support favorable passage by this body of H.R. 3589.

Mr. NEUGEBAUER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Texas (Mr. NEUGEBAUER) that the House suspend the rules and pass the bill, H.R. 3589, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. MOORE. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Moore moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 1308 be instructed to agree, to the maximum extent possible within the scope of conference, to a conference report that—

(1) extends the tax relief provisions which expire at the end of 2004, and

(2) does not increase the federal budget deficit.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Kansas (Mr. MOORE) and the gentleman from Texas (Mr. BRADY) each will control 30 minutes.

The Chair recognizes the gentleman from Kansas (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is really a straightforward motion to instruct the tax conferees. The motion calls on Congress to extend middle-class tax relief without increasing the Federal budget deficit. There is broad, bipartisan support in Congress for extending the middle-class tax relief that expires at the end of this year, and the House will soon have a chance to vote on extension of the relief.

But, Mr. Speaker, there is also bipartisan support for the reinstatement of PAYGO rules that expired nearly 2 years ago. Extending PAYGO rules would have the effect of getting our fiscal house back in order and forcing the Federal Government to live within its means, to live within a budget.

Today, the House has an opportunity to put itself on record in support of a conference report that extends necessary tax relief in a fiscally responsible manner.

I have strongly supported middle-class tax relief in the past and will continue to support it in the future, Mr. Speaker. I support extending marriage penalty relief. I support the increased $1,000 per child tax credit. I support the expanded 10 percent tax bracket, and I also support alternative minimum tax, or AMT, tax relief. But what I find troubling is passing these tax cuts with borrowed money and leaving our children and grandchildren to pay our bills, putting a $7-plus to $10 trillion mortgage on our children's future. That is absolutely unacceptable.

Applying PAYGO rules to both mandatory spending increases and tax cuts does not, I repeat does not, prevent Congress from passing more tax cuts. It simply means, if we are going to reduce our revenues by tax cuts, we need to reduce our spending by the same amount.

This should not be about Republicans and Democrats. This should be about the future of our country and the future of our children and grandchildren.

A bipartisan group of Senators has put forth a proposal to expand the middle-class tax cuts for 1 year, offset by an extension of customs users fees and closing tax loopholes. The Blue Dog coalition has offered a similar measure in the House that makes sense now and in the future.

As of 9 a.m. this morning, Mr. Speaker, the national debt for our country stood at $7.35 trillion, trillion with a "T". That raises the share of debt for every citizen in this country to $25,000. The Treasury Department estimates that the national debt will exceed the statutory debt limit later this month or sometime next month. Over the last year alone, Mr. Speaker, our national debt has increased by $670 billion, and over the last 3 years it has increased by $1.5 trillion. The Congressional Budget Office projects that the national debt, our national debt, will exceed $10 trillion in just a little more than 4 years under our current budget policies, $10 trillion.

Just a few hours ago, by an overwhelming vote of 404 to 8, the House passed the Stenholm amendment to the Transportation, Treasury appropriations bill which would prohibit the Secretary of the Treasury from raiding government retirement funds to avoid breaching the debt limit. I hope that Congress will keep the Stenholm amendment in the Transportation, Treasury conference report and force the Federal Government to take responsibility for its fiscal policies.

As the House moves to consider an extension of tax relief, we should keep in mind that the one tax that will never go away, Mr. Speaker, is the debt tax. The debt tax is the interest we pay on our national debt, almost $1 billion a day. That is $1 billion a day. Last year, the debt tax accounted for 18 percent of all government revenues, and the interest that we pay on our national debt will only grow if we continue our present fiscal policies.

We should not pay for tax cuts by borrowing money against our children's future, in effect putting a mortgage on the future of our children and grandchildren. We are taking the tax cuts now and asking for our kids and grandkids to pay for those tax cuts later, with interest, billions and trillions of dollars of interest.

Congress should be required to sit down and figure out how to make things fit within a budget, just like families across our country do every day. Almost every weekend, Mr. Speaker, I go back to Kansas and I hear from Kansas families, Why can the people in Congress not live like American families do?

They follow three simple rules: Number 1, do not spend more money than you make; number 2, pay off your debts, common sense, Mr. Speaker; and number 3, take care of basics and the future. The basics for a family are food, shelter, education, health care, transportation, things we all write checks for every month. The basics for our Nation are national defense, the Social Security system, a retirement system for people who have worked hard all their lives and cannot work anymore and, just an example, some sort of national highway system to move goods around this country and keep this economy going.

Yet, for years, Congress has lived beyond its means by spending more money than it took in in revenues, and we need to change that course again. We need to start living like American families do and not placing a $10-plus trillion mortgage on the future of our children and grandchildren.

□ 1915

Mr. Speaker, I hope and I ask all the Members of this House of Representatives to, again, put aside partisan politics, because it is not about Democrats and Republicans, and to vote for this motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with my colleague that the national debt is an important issue that needs to be taken seriously. I know for much of my lifetime, under Democratic control of Congress, America begged legislators to balance the budget, but they went deeper and deeper in debt each year. I am grateful that when Republicans took control of the House that they worked with President Clinton to balance the budget, indeed, not just to do that but to start paying off the national debt.

It is terribly frustrating to me when I see the triple hit that America took, the attacks on 9/11 that cost us almost 2 million American jobs, when I see the recession President Bush inherited from his predecessor and when I see the collapse of our technology companies and the horrible actions of Enron and WorldCom and others that have given us such a triple hit to our economy; that made it so difficult. It took away so much of our revenue that we have been unable to balance the budget.

But let us be real clear about what this instruction does. It requires that these extensions, the child tax credit and the 10 percent bracket for people who do not make much and the marriage penalty relief to make sure we do not penalize people simply because they are married, it requires these extensions be paid for. In other words, the motion to instruct requires more than $130 billion of tax hikes or spending cuts. I know the spending cuts will not be supported by my colleagues on the other side of the aisle. This motion does not make the tough choices regarding which taxes to increase or which programs to cut.

The extension of family tax relief is already provided for in the House-passed budget resolution. That resolution would cut the deficit in half without raising taxes, and if we follow the House-passed budget resolution, this motion is not necessary. In contrast, the Democratic motion we talk about tonight is a zero sum game. It provides tax relief, on one hand, and then takes it away, takes it from families' pockets, with the other.

The House has already voted to extend this tax relief without raising taxes to pay for it. And if Congress does not act, families will face a tax increase next year. For example, next year, the $1,000 child tax credit drops to $700, which is tough on a family raising children these days. The 10 percent tax bracket, which helps folks who do not make that much money, will apply to less of a person's income. And the marriage penalty relief will provide less relief for couples.

There is a right way to tackle our spending and our national debt, and that is to abolish obsolete Federal agencies, to cut programs that duplicate themselves and to go after the fraud in Medicare and Social Security. And the wrong way to tackle our debt is to raise taxes on hardworking families and parents and small businesses.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, I thank my good friend from Kansas, my fellow Blue Dog, a member of the Blue Dog Coalition, which may very well be the last group of Members of this House left that works every single day for balanced budgets and fiscal responsibility and against indebtedness.

Mr. Speaker, I rise in support of this motion to instruct conferees because this Congress needs to start taking our children's future into account. What this motion says is, extend middle class tax relief but do not expect future generations of Americans to pay for that middle class tax relief.

Mr. Speaker, I have supported many of the President's tax cuts. I understand and I appreciate that most middle-class families, people, that their tax burdens are overwhelming. However, I believe that it is incumbent upon us to ensure that we relieve those burdens in a responsible manner and not literally pass the buck to our children and our grandchildren.

There is not a single Member of this House on either side of the aisle who would walk into a luxury car dealership and say to a sales person, I will take the most expensive car you have on the floor with the most elaborate fancy options, load it up as much as you can, and send my children the bill for that car. Not a single Member would do that. If we do not pay for these tax cuts, that is exactly what we are doing to our children. We are placing the burdens of our tax cuts on our children's shoulders.

The national debt is over $7 trillion. This year's projected budget deficit is $422 billion. The Treasury Department has estimated that the national debt will exceed the statutory authority in the next 60 days. We need to start making better decisions on a bipartisan basis now on how to manage our money.

Now, conferees have options on how to implement tax extensions at little or no cost. Conferees have options on how to proceed in a fiscally responsible manner. Conferees can help pay for these cuts by closing tax loopholes, and this motion instructs them to do so.

Mr. Speaker, everyone who pays a credit card knows that the least productive part of that credit card bill is interest payments. We are paying $1 billion a day on interest on our national indebtedness, interest on the decisions that we have made. We need to bring fiscal responsibility back to this House. America's middle-class families are spending an average of $4,400 a year on our debt. That is a death tax, and it is one that we will not be able to repeal.

Mr. Speaker, I want to close by reminding my colleagues and the American people that the middle class is being squeezed. They do not need that reminder. They know it every day. They know it because they are paying higher interest rates. They are paying more to gas up their cars. They are paying more for college tuition. They are paying more for their children's health care, more for their parents' health care. They are paying more everywhere they turn. They deserve relief now, and our children do not deserve to have the buck passed to them later.

That is why I so strongly urge my colleagues to heed the words of the gentleman from Kansas. Let us put politics aside. Let us not harp on the past but start thinking about our children's future.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the best thing we can do to pay down the debt is to make sure we are keeping revenues coming in to the Federal Government. We do that not by raising taxes on families and small businesses who can ill afford it. We do it by getting this economy growing, by reducing the amount of spending and, in fact, doing away with the obsolete Federal agencies and all the programs that duplicate each other where we waste so many of our hard-earned tax dollars in Washington and in Federal programs.

The fact of the matter is, the reason we went into deficit is that the economy took such a hard hit. And I think we fought back the right way. When you look at the attacks of 9/11, when we look at the recession President Bush inherited and when we look at the WorldComs and Enrons that hurt so many of us with jobs, what Republicans in Congress did to fight back was to provide tax relief for families and small businesses and people who live on a retirement income.

Our principle was simple: If we want to create jobs in Kansas, if we want to create jobs in Texas, if we want to create jobs in America, then leave the money in Kansas, in Texas, in America, so it can turn around in our economy and so it can be spent on Main Street and so we can help families balance their budget and get this economy growing. And it is working.

Despite the three hits that would have knocked most nations' economies to its knees, by fighting back with tax relief for families and small businesses, we have created over 1.5 million new jobs this past year, more than 100,000 in my State of Texas. We are fighting back. We are not where we would like to be yet in today's economy, but the worst thing we could do for America's families and for their children is to prolong a recession by raising taxes on families and small businesses today. And that is what this motion does.

Mr. Speaker, we know that we do not get support when we try to cut wasteful spending. And when we try to lower the cost of our appropriation bills, my Democratic colleagues, with some exceptions, rarely argue that we are spending too much. Their argument is that we need to spend more. They want higher spending, not less. So I know this motion to instruct is not about reducing the wasteful spending in Washington; it is about raising taxes on families and small businesses who can ill afford it.

In my opinion, and I would think the opinion of the American public, what we can do for tomorrow's children is to get their parents jobs today where they are paying both their income taxes and their payroll taxes into Medicare and into Social Security. Because without an economy that is strong and vibrant, we will not have a recovery. We will not balance the budget sooner rather than later, and we will not put money into Medicare and Social Security. That, ultimately, is what will cost our children a death tax, not getting this economy going and stopping wasteful Washington spending.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the comments by my friend from Texas, but the only person in this chamber tonight, in this debate, the only person in this chamber who has talked about raising taxes is the gentleman from Texas. I certainly have not, and I do not intend to, because that is not what my intention is at all, Mr. Speaker. I do not want to raise taxes. We do not want to raise taxes. What we want to do is get our budget back in balance and eliminate the death tax on the future of our children and grandchildren.

My friend from Texas, across the aisle, talks about making some hard decisions. I would challenge him to pass this motion to instruct tonight and let us sit down together, Republicans and Democrats, and put aside all talk about raising taxes and work on identifying where there is waste, fraud and abuse in our budget and eliminating that. We can do that. Again, I am more than willing to. This motion intends to extend the marriage penalty relief, the child tax credit, extend the 10 percent tax credit and AMT relief. All of those are tax cuts that we want to extend. Not raise taxes, cut taxes.

But we need to work together, Mr. Speaker, to find ways that we can eliminate this horrible mortgage, this horrible debt we are putting on the future of our children and grandchildren. The folks across the aisle act as if this is just no big deal. Just no big deal. But I am concerned that, as the baby boomers in the next 4 to 5 years start to retire, our children are going to take on the debt of providing for Social Security for the baby boomers. That is the way it has always been. That is the way the system has always worked.

In addition to the debt of the baby boomers, they are going to have the obligation of taking on this debt tax, which is a billion dollars a day now that we pay interest on the national debt, not to mention, by then, a $10 trillion to $12 trillion national debt and a deficit of who knows how much.

When my friends across the aisle talk about fiscal responsibility, we should mention that the debt this year, $7.35 trillion, the debt that stands for our country right now, the deficit, $422 billion, is the highest in our Nation's history. The highest ever. And I am not being partisan when I say that.

Again, I ask the gentleman from Texas and my friends across the aisle to come together with us, and let us sit down and figure out a way to make this work. Let us reinstitute PAYGO rules, and let us make sure that we are in a fiscally responsible and balanced budget position in the future so we do not impose this horrible burden on future generations in our country. If we do that, Mr. Speaker, we are doing a disservice to our kids, to our grandkids and to our country.

I implore the gentleman to pass this motion tonight and to sit down with me and find ways we can eliminate the waste, fraud and abuse he has talked about here tonight.

Mr. Speaker, I reserve the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I completely agree with the gentleman from Kansas that there is a shared desire to reduce this deficit, not only that but to balance the budget and start paying down the debt. The question is, how do we do it?

Do we raise taxes on small businesses and families or cut wasteful spending? My contention is, rather than raising taxes, we reduce the wasteful spending here. And I will gladly work with my colleague to do so, although there is a history against that, unfortunately, from his side of the aisle.

Mr. Speaker, I yield 6 minutes to the gentleman from Michigan (Mr. McCOTTER) who has been a strong advocate not only of cutting taxes for families but reducing the deficit and getting back to balancing the budget.

Mr. McCOTTER. Mr. Speaker, I would like to join this debate for a brief moment and, first, echo the remarks of the gentleman from Texas and commend anyone in this institution for their commitment to end waste, fraud and abuse within the Federal Government's spending practices. No one party controls a monopoly on good ideas, and so we must always be open and subject to agreeing where we should.

□ 1930

We hear about the debt tax. My wife and I live in Lavonia. We are thoroughly middle class. We have both roughly working class backgrounds. My parents were teachers. My wife came from a single-income family. We have three children, 11, 9, and 6; boy, boy, girl. And so when we hear about relief for working families, believe me, I understand it. But what I also understand, as having been an elected official for a while, is that in terms of eliminating waste, fraud, and abuse, that is something that, regardless of whatever the tax policy of the United States is, we should all be committed to doing. It is not merely a collective burden. It is a burden that individually falls on each and every single Member of this Chamber and one which, if we do not pursue, we are remiss.

My concern by linking working families' tax relief and tax relief for small businesses, many of which in my district, a manufacturing district, are tier one and tier two auto suppliers, is that in linking them to the tax relief, we run the risk of holding working families' tax relief hostage to Washington's big spending practices. In short, it amounts to the fact that no matter how much money they pay to the Federal Government, unless they stop spending even more of their money, they will get no tax relief. That is not an incentive to appropriators to stop appropriating too much of their money. That is not an incentive to go find waste, fraud, and abuse and end it in the Federal Government. That is an incentive for Washington to continue spending, because Washington will not feel the price of their largess. They will.

So I think that that is my concern in this debate, trying to link those two together because I do not believe working families should be punished. I do not believe small businesses should be punished. I do not believe anyone in the American economy should be punished for Washington appropriators' misspending or misappropriation of their funds.

In the final analysis, there is also something that we have to touch on and I have touched on as a member of the Committee on the Budget and I will continue to touched on. We hear much about the deficit. We hear much about inherited recessions. We can argue that we inherited a recession, as we heard last night; but the reality is that I think the numbers were about 9 percent of the economy was lost in one quarter, the final quarter of the Clinton administration, which I will say for the record is not a recession because it takes two quarters of negative growth to constitute a recession. Granted, no one really works that fast that they can lose 9 percent of the American economy in one quarter, but it was done, which does not constitute a recession. But as jobs follow a recovery upward, jobs follow down too in a recession, in a collapse.

In the 1990s, and I will preface this with what I have said, which is that we cannot blame the Clinton administration nor this Congress for these three things changing. I know it is hard to believe, but sometimes things are outside our control. In the 1990s we had the first rush of globalization, which was beneficial to the United States at the time. We have since seen the long-term downside of that. We then saw the rise of the Internet, which was an enormous boon to the American economy, a lot of it based on potential because we had not learned how to factor that in.

The final, and I think the most important, was the collapse of the Soviet Union because at that point in time we all thought we had a "peace dividend," and the American economic activity was spurred here and was spurred throughout the globe. What those three things have been replaced with are now the downside of the outsourcing problems that we have.

I speak as a representative from a manufacturing district. We now have the fact that not everyone is going to buy things on the Internet. We have seen a constriction of the optimism, and I think a large part of that was manifested in the dot-com boom; and, most importantly, we have seen the rise of the war on terror. These factors are as much driving the shaky economy that we have in many areas of this country as anything else because we replaced the perfect storm of economic prosperity we saw in the 1990s with these three detriments.

And every single American, especially for the war on terror, has to figure out how that is going to play into their economic outlook from their family room to their boardroom. The mistake that we would make is in claiming that somehow this recession that was passed and we are coming out of in this recovery are as normal as anything we have ever been through before. I totally disagree with that premise. And I think that as we continue to link working-family relief or small-business relief, things that are important, things that will encourage people to make investment decisions, will encourage them to come out of their shell in these difficult times both here at home economically and internationally in terms of the war on terror.

If these things are allowed to expire, the American public, which grows this economy, will have an even more difficult time figuring out how to factor in the irrational act of terrorism into their rational economic calculations they have made for years and years and years. So my concern is, and it is echoed by the gentleman from Texas, is that that is a wrong message to send.

But I would like to conclude by commending the gentleman for his commitment in trying to end waste, fraud, and abuse in the Federal Government.

Mr. BRADY of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. MOORE. Mr. Speaker, I yield myself such time as I may consume.

To the gentleman from Texas, I say that until 2002, we had in the Congress here budget rules one of which was called PAYGO, and it required that if we were going to initiate a new spending program or a new tax cut, we had to find a way to pay for it. This year we have eliminated that and changed it only if we have a new spending proposal, we have to find a way to pay for it, but not a new tax cut.

I am on the Committee on the Budget and the Committee on Financial Services, and at least twice a year I have a chance to talk to a fellow by the name of Alan Greenspan, and every time Chairman Greenspan appears, he tells us how important fiscally responsibility is, and he advocates reinstituting PAYGO rules, which expired in 2002, and that means as to new spending programs and as to tax cuts.

And when the gentleman says, and I say this respectfully, our side has always spent more money, well, to the gentleman from Texas I say our side is not in control of the House, the Senate, or the Presidency. Your side is. And you can stop new spending if you want to do that.

So I say, please, in all sincerity, join us, pass this motion, make it apply to new spending proposals as well as new tax cuts so we can get out of this horrible deficit position we are in in this country and not pass this horrible debt on to our children and grandchildren.

And Chairman Greenspan, when he testified in front of our committee for the past 6 years I have been in Congress, he has said invariably this, he says this over and over. He says one of the most important things Congress can do is live within a budget and practice fiscal responsibility. And what Chairman Greenspan says to me and to the members of the Committee on the Budget and Committee on Financial Services each year when he testifies is this: when we are in a slowdown economy, as we have been in the past couple of years, not if, but when this economy takes off, if we are not in a fiscally responsible position, we could see interest rates start to go up dramatically. In fact, yesterday we saw them go up one quarter of one point, but they could go up dramatically.

I am not suggesting it is going to happen like this, but I think some of us in this Chamber are old enough to remember the late 1970s. We had interest rates in this country of 14, 16, 17 percent, which would be absolutely devastating for the real estate industry, for business generally, and for consumer borrowing. I hope we never see that again. But if we keep on the course we are on right now of fiscal irresponsibility with the largest deficit in our Nation's history, with the largest debt in our Nation's history, we could see interest rates go up to 8, 9, 10 percent. I am afraid if that happens, that would be, again, devastating for the business economy, devastating for real estate, and devastating for consumer borrowing.

We owe our country better than that. We owe our children and future generations better than that. And I ask the gentleman, please, join us in support of this motion.

Mr. Speaker, I reserve the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Two thoughts: one, I do not think it is responsible to try to scare our citizens with 9, 10, 14, 15 percent interest rate predictions when we know that is not what Alan Greenspan said. And I think even though it is election year and people take great pleasure in trying to doom and gloom the economy and scare average voters in America, I do not think it is the right thing to do.

Secondly, I do know that we can tell some things from the past. And while I believe my friend from Kansas is sincere about wanting to address spending as the right way to reduce the deficit, the fact of the matter is that earlier this year on three different occasions, his Democratic colleagues offered motions to pass tax relief for families and a child tax credit and all that, and in each case they did not offer any spending relief. What they offered were more tax increases.

So I say that this motion tonight, much like those other motions, its goal is not to pay down the debt by limiting and targeting abusive spending. What it desires to do is raise taxes. And I think the best way we pay down the debt and get back to a balanced budget to do the things that Alan Greenspan rightly said we should do, and I agree with my friend from Kansas, is not to increase taxes on families and small businesses.

We are recovering from a recession. We are trying to move dollars through that economy. It is working. I think the quickest way we can put a stop to this economy is to tax families and small businesses at this point when we are just coming out of it, doing a good job in doing that, fighting back the way we ought to with the principle of let us leave the money in the community, because at the end of the day, this philosophy really comes down to this: Is this your money or is this Washington's money?

I have more faith in people spending the money that is so hard earned. I believe we are an overtaxed Nation. I think getting this economy going, which Republicans and Democrats should share, election year aside, should share that dream. I think cutting wasteful spending, which Republicans and Democrats should share that dream, is the fastest way we can get back to a balanced budget and to pay down the deficit, which, again, I agree completely with my colleague. I believe he makes a great point on that issue and one that we can work together on.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORE. Mr. Speaker, I yield myself such time as I may consume.

I say this with the greatest respect for the gentleman from Texas: the question that he asks, Is this your money or Washington's money? is not an honest question because when we ask that question, the honest answer is it is not our money. It is our children's money and our grandchildren's money that we are taking right now for feel-good tax cuts and for new spending programs. And if we both are sincere here, and I have the greatest confidence in the gentleman from Texas, my friend across the aisle, I believe he is sincere, we should sit down together, pass this motion, reinstitute the PAYGO rules as they existed prior to 2002 that applied to both spending and new tax cuts and go forward from there and protect the future of our country. That is the way we should legitimately proceed here.

I am not trying to prey on anybody's fear. I think we have learned a big lesson since the late 1970s when we had interest rates at 14, 16, 17 percent. I do not think that is going to happen again. But I think we could see interest rates in the upper 8, 9, or 10 percent if we are not careful here and if we do not get back to fiscal responsibility.

That is why I say the answer here is not to pose false questions such as, Is it your money or Washington's money, because it is not our money right now. We are basically charging it on a national charge card, passing the bill along to our kids and grandkids and saying, Here, you guys take care of this. That is not responsible. That is not fiscal responsibility. It is not fair to future generations in this country. We have the greatest Nation in the whole world, but we cannot be strong and free and broke.

Mr. Speaker, I yield back the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Let us make two quick points here. The interest rates did not go down because we were paying off the debt. The interest rates went down because our economy slowed after three huge hits: the attack of 9/11 that cost us almost 2 million jobs, the dot-com and the Enrons of the world that damaged our economy so much, and the recession that President Bush inherited. The interest rates came down at the behest of Alan Greenspan to spur this economy, the very same reason we traded tax relief so that we could put people back to work so that money would circulate within our economy.

And the interest rates will not go up because we are in these deficits, as hard as we are fighting to get back down to a balanced budget. They will go up because our economy is improving, and the Federal Reserve Board will seek to not overheat this economy so that we create inflationary pressures. That is the reason why interest rates change.

But I still think the gentleman from Kansas is right in raising the issue of the debt and getting back to a balanced budget. He is exactly right. The question is how we do it. And I believe that the reason we have PAYGO for spending is that if we cool this economy too soon in its recovery with more tax increases, we have damaged our children's future. If we keep the economy going and focus on wasteful spending where in Washington on average every Federal program duplicates five others, every Federal program duplicates five others. At a time of war and a time of deficits, we cannot afford that type of waste. And rather than raising taxes on families and small businesses, I think the right way to do it for our children's future and their parents who desire good jobs today is to not raise those taxes.

□ 1945

Mr. Speaker, I reserve the balance of my time.

Mr. MOORE. Mr. Speaker, I ask unanimous consent for time to close.

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. MOORE. Mr. Speaker, I appreciate the tenor of this debate and the sincere comments by my friend from Texas. I really do appreciate that sincerely. I think we have had a good debate here, and I do not think for a minute that the gentleman is insincere in the statements he made here tonight.

But I just think it is so important that, again, we lived, we thrived under these PAYGO rules until 2002, when they expired, and we should bring those PAYGO rules back across the board to apply to new spending as well as new tax cuts.

I believe the gentleman is correct: When the economy is slowed down, it is very appropriate to stimulate the economy through certain targeted tax cuts. I have voted for those before and I will vote for those again. But what we cannot do is have across-the-board tax cuts on everything, to tax cuts for middle-class taxpayers, as we have talked about here tonight, to total elimination of the estate tax and others.

We cannot afford all those tax cuts, because, again, Mr. Speaker, it is not we that pay for them; it is future generations in our country, and we are doing untold damage to our country and to the future of our kids and grandkids if we persist as we are here.

I invite the gentleman, I implore the gentleman and our colleagues across the aisle, to sit down with us to pass this motion, number one, and sit down with us and identify waste and fraud and abuse, where we can eliminate wasteful spending and continue to have the tax cuts that we have. That is the right recipe for our country, for the future. It is the right thing to do for our children and grandchildren and future generations in this great country that we all appreciate and love.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Kansas (Mr. MOORE).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MOORE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PRESIDENT PERVEZ MUSHARRAF OF PAKISTAN TO VISIT CONGRESS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, as the co-chair of the Congressional Pakistan Caucus, I would like to invite all Members of Congress tonight to meet with President Pervez Musharraf. I, along with my co-chair, the gentleman from Indiana (Mr. BURTON), will be hosting President Musharraf at a dinner reception at 6:30 tonight at the Committee on International Relations hearing room in the Rayburn building where President Musharraf will officially inaugurate the United States Congressional Pakistan Caucus.

The Congressional Pakistan Caucus was created in an effort to foster mutual respect and cooperation between the United States and Pakistan. We are also looking forward to improving and further developing long-term political and security relations between the United States and Pakistan and also within the South Asia region.

It is because of Pakistan's promise for the future that I encourage all Members to join the Pakistan caucus. President Musharraf has been one of America's staunchest allies in the war on terror. His leadership has led to the capture of nearly 500 terrorist suspects who have been handed over to the United States.

President Musharraf has coined the term "enlightened moderation" to describe his reforms in Pakistan, including his efforts to advance the educational system so that every boy and girl in Pakistan can receive a proper education that does not teach hatred of the West.

Mr. Speaker, I encourage my colleagues to join us because we want peace. Let us have peace by exchange, involvement and, of course, interaction.

As the Co-Chair of the Congressional Pakistan Caucus I would like to invite all Members of Congress tonight to meet with President Pervez Musharraf. I along with my esteemed Co-Chair Congressman DAN BURTON will be hosting President Musharraf at a dinner reception at 6:30 tonight at the International Relations Committee Hearing Room at room 2172 of Rayburn, in which President Musharraf will officially inaugurate the Pakistan Caucus.

The Congressional Pakistan Caucus was created in an effort to foster mutual respect and cooperation between the United States and the nation of Pakistan. The Caucus is also focused towards improving and further developing long-term political and security relations between the United States and Pakistan and also within the South Asia region. It is because of Pakistan's promise for the future that I encourage all Members to join the Pakistan Caucus.

As you know, President Musharraf has been one of America's staunchest allies in the War on Terror. His leadership has led to the capture of nearly 500 terrorist suspects, who have been handed over to the United States. As well, he has coined the term "enlightened moderation" to describe his reforms in Pakistan including his efforts to advance the educational system so that every boy and girl in Pakistan can receive a proper education that does not teach hatred of the West. He has also made great strides towards making peace with India by engaging in a dialogue that has produced a number of positive developments. His leadership is helping to move Pakistan towards being the moderate Islamic nation it was intended to be at its creation.

Again, I encourage all Members to come tonight at 6:30 to meet with President Musharraf at the House International Relations Committee. His visit to Washington promises to be historic in nature and is not to be missed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

DUST CLOUDS; NO RAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, much of the central and western United States has been suffering from a grinding, unending drought that continues to harm farmers and ranchers and the rural communities in which they live. Compounding these losses is every disaster imaginable: hail, frost, tornado damage, and, yes, even flooding.

For nearly half of the 8 years that I have had the opportunity to represent Kansans in Congress, much of our State has been in a severe drought. It gives me no joy to speak before my colleagues tonight and describe the difficulties that Kansas farmers and ranchers are enduring. With a resolve that finds itself in the roots of a previous generation of hardy pioneers, they are struggling to survive.

The destruction from three hurricanes on homes, farms, businesses, schools, local economies, and, most importantly, the loss of life in Florida and other Gulf Coast States cannot be overstated. The people of Kansas mourn the deaths and support the rebuilding of lives and the reconstruction of those communities.

Adverse weather conditions have no respect for State lines and, unfortunately, Kansas and other central and western areas of the United States have been greatly affected by weather as well.

Mr. Speaker, I would much rather be standing here before you with the news that the drought has broken and that the rains have returned. I would love to describe the positive effects of crop revenues working their way through the local economy. This economic activity would energize struggling small businesses and, more importantly, restore hope in the faces and the lives of farmers and ranchers. But that is not the case.

It is difficult for many to understand the severity of this continuing drought and its effect on rural America. Beside me is a picture reminiscent of the 1930's dust bowl, where producers were uprooted from their farms while their precious topsoil blew away. But this picture was not taken in the "dirty '30s," but rather in the drought of 2004.

The severity of these dust storms is evident in this picture, but there are tremendous costs elsewhere as well. Each year I travel through the counties of my district, 69 of them, and I meet with Kansans. There are many issues that threaten our way of life, including rising health care costs, the aging population and the general outmigration of farm families. The average age of a Kansas farmer is 58½ years old, and in many communities no young people are returning to farming because no money can be made.

Despite this, Kansas and other residents of the plains are resilient people who believe that hard work and persistence can overcome almost any obstacle. The people of my State take pride in being self-reliant and overcoming adversity on their own. However, assistance is needed today. By no means will these producers realize profits, but at least this assistance may allow some to stay in farming long enough to experience a good harvest. In the words of one of my farmers who contacted me, "I just need to hold on that long. It can't stay dry forever."

Talking about weather is not just polite conversation in Kansas, it is our way of life. Our farmers and ranchers risk their entire operations hoping for timely moisture. Unfortunately, many areas have not received these rains or have received them at the wrong time.

By looking at the U.S. drought monitor map we can see that much of the central plains and western region of our country have been in a severe drought. While conditions could be improving for our fall crops, the damage of multiyear drought has been done.

According to Kansas State University research, Kansas alone lost $1.1 billion to its economy in 2001 and 2002. In 2003, it is estimated that $275 million was lost by our producers; and in 2004, wheat producers lost another $150 million. The majority of those losses, $82 million, occurred in northwest Kansas, which has had a drought for a solid 5 years.

These losses do not even begin to cover the cost to local business and other community organizations. Agriculture is the foundation of each rural community, and a bad harvest affects everyone from the car dealer to the home builder to Main Street grocery stores.

This drought has not gone unnoticed by the U.S. Department of Agriculture. By the end of 2003 and for most of 2004, every county in Kansas was designated either as a primary or secondary disaster county.

During my tenure on the Committee on Agriculture, we have worked to see that farmers and ranchers are treated fairly and that the U.S. can continue to provide enough food and fiber to be self-reliant.

As the chairman of the Subcommittee on General Farm Commodities and Risk Management, I have worked to approve the availability and benefits of crop insurance, and I will continue this effort. But as of now, there is no insurance solution for multiyear losses.

I urge my colleagues in the House to support some form of disaster assistance. This funding will assist producers who have suffered yet another year of drought or other weather-related disasters. The timing of this assistance is crucial. Many producers simply will not survive one more crop disaster.

Rural America is the backbone of our country and provides many of the essential components to the economy. We have the opportunity to keep their dreams from being carried away by the Kansas winds.

HONORING THE SACRIFICE OF JUAN CALDERON, JR., TOMAS GARCES AND MARK ANTHONY ZAPATA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

Mr. HINOJOSA. Mr. Speaker, I wanted to come before the House of Representatives to pay tribute to fallen heroes. My south Texas district is again mourning the loss of three more such heroes, Sergeant Juan Calderon, Jr., Specialist Tomas Garces, and Specialist Mark Anthony Zapata.

My district has now lost six brave men. The Rio Grande Valley of south Texas as a whole has lost one soldier in Afghanistan and 10 in Iraq. This represents more than 1 percent of the total lives lost in the war in Iraq.

Sergeant Juan Calderon, Jr., was a 26-year-old rifleman in the 1st Marine Regiment, 1st Marine Division, based in Camp Pendleton, California. Although he was born and raised in Weslaco, Texas, many of his family live in the Minnesota district of my good friend, the gentleman from Minnesota (Mr. GUTKNECHT), who is joining me tonight.

Juan had been a Marine for more than 3 years and had received numerous awards and medals. An avid football player, he and his wife, Ana Maria, were anxiously awaiting the birth of their first child this month.

Juan was killed on August 2 conducting security and stability operations in Anbar Province in Iraq. He will never see his son, who will bear his name, Juan Andres Calderon.

Red, white and blue streamers still decorate the Garces family home, where only a few weeks ago Army Specialist Tomas Garces had come from Iraq for a brief visit. Tomas was a recent graduate of Weslaco High School, where he was a star wrestler.

He joined the 1836th Transportation Company of the Texas National Guard not just to serve his country, but also to help his family financially. He dreamed of one day becoming a wrestling coach to train others in the sport he loved. But, instead, on a road south of Baghdad, his convoy was ambushed by enemy forces, and Tomas became the first member of the Texas National Guard to die in combat since World War II.

This past Saturday, I joined the community of Weslaco at his funeral. Tomas has been recommended for a posthumous Bronze Star for his bravery during the ambush.

Army Specialist Mark Zapata came from a family with a strong military tradition. His father Daniel is a retired Army sergeant, and Mark lived on military bases as a child. The 27-year-old was a graduate of Edinburg North High School and loved music. He was the third soldier from this small community to lose his life in Iraq. He was a musician who liked to DJ and play the trumpet and keyboard. He was also proud to be a volunteer firefighter and loved nothing more than visiting local schools to teach children about fire safety. He even trained his dog Rollie to be a search and rescue dog.

Mark joined the Army 6 years ago and was a tank gunner stationed at Fort Hood, Texas. He was killed on August 15 in Najaf, Iraq.

When you hear the stories that friends and families tell about Juan, Tomas and Mark, you understand just how special all three of these young men were. They were role models to their peers, devoted sons, loving husbands, loyal friends and active in their communities.

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All could have chosen to use their talents in other career paths, yet they chose the path of military service.

South Texas has sent generations of its sons and daughters into military service and, in this most recent conflict, has lost a disproportionate number of its young people and its future leaders.

Yes, Juan, Tomas and Mark volunteered to defend this country and protect our freedom, all the while knowing it might cost them their lives. They are true heroes, and we owe them more than we can ever repay.

For their friends and families left behind, we offer our prayers and the comfort of knowing that the sacrifices of these young lives will not be forgotten. To those still on the front lines, we pledge our unity, our support and our prayers for their safety and speedy return back home.

SPECIAL TRIBUTE FOR AMERICAN HEROES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise with my friend from Texas tonight to pay a special tribute to some genuine American heroes and one in particular. Last week, I met with the mother, Maria, the mother of Sergeant Juan Calderon, Jr., and I must tell my colleagues, those were very, very difficult times. And they are very difficult times for her, and it was not easy for me.

In the book of John, the good shepherd says, "Greater love has no man than this, that he lay down his life for his friends." Sergeant Juan Calderon did exactly that on Monday, August 2. He died in a military hospital while fighting and doing operations in Iraq.

Sergeant Calderon was a native of Weslaco, Texas, as the gentleman just preceding me said. He was a resident of Camp Pendleton, California. I had the opportunity to meet with his mother, Maria, who lives in Alden, Minnesota. He has many friends and relatives in the Alden and Albert Lee area. His father, Juan, Sr., still resides in Texas. Calderon's wife of 3 years lives at Camp Pendleton in California and, I regret to say, is expecting their first child.

Calderon's awards include the Navy and Marine Corps Achievement Medal, Good Conduct Medal, National Defense Service Medal, the Humanitarian Service Medal and the Sea Service Deployment Ribbon.

Juan Calderon's sister said recently in an interview with the Albert Lee Tribune, "Juan, Jr., was a big comedian. He was full of life. He was excited to actually go to Iraq and serve his country. He was always proud to serve and proud of what he was doing."

Calderon's father recently received a letter, and reported in the Associated Press was an account where his son had written to him where he said, "Don't worry about me. You raised me for 19 years. Now it is time for me to do something to repay you."

I would like to repeat a story, though, because I think sometimes we need to be reminded that what we are doing there is important. Recently, in a story about an Iraqi translator, a woman whose children were taken away from her more than 6 months ago, her husband beat her. Her brother threatened her life while holding a gun to her head, and her own father contracted for her death with a $500,000 reward. All of this because she was assisting the American coalition. She said, "You, the soldiers and marines, come from America to help my country. I must help you help my people. I see these soldiers that lose their lives for Iraqis. They come into our country and die for us. We must appreciate these guys. I appreciate the Army and the Marines. I love them."

Ronald Reagan used to say, those who say that we are in a time where there are no heroes, well, they just don't know where to look. On August 2, we lost several heroes. One of them, Sergeant Juan Calderon, Jr., will be mourned. He will be missed. He will not be forgotten.

Sergeant Calderon did not die in vain. Freedom must prevail. May Almighty God have mercy on this good and faithful servant. May He continue to bless this country and all who defend her.

A PROMINENT POLITICIAN'S PLAN FOR IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. MCCOTTER) is recognized for 5 minutes.

Mr. MCCOTTER. Mr. Speaker, as my colleagues may recall, I previously asked to see a plan for the reconstruction and the future for Iraq, and that has happened. And I would like to examine what I will refer to as a prominent politician's plan for Iraq. It is a four-point plan.

The first part is that, "The President has to get the promise of international support so our men and women in uniform don't have to go it alone."

I would like to point out that this is one more insult to the 30 countries whose troops are fighting and risking their lives next to ours, including Hungary, whose speaker was here today.

The prominent politician then went on to say that the United Nations Resolution 1546, which urged other countries to come and wage the peace in Iraq, he at least then pointed out "that 3 months later, not a single country has answered that call."

My concern is that the best way he can come up with to solve that problem is to do what Washington always does. He wants to call a meeting, and he wants to invite to that meeting the major powers of the world and Iraq's neighbors to figure out how to work the security. Now, I for one do not suggest that anyone here hold their breath while we wait for France, let alone Syria and Iran, to RSVP to that meeting.

He then goes on to talk about what we have to do to get more allies is to let them "help develop the oil resources in Iraq."

Now, it seems to me odd that someone who has accused the people who are fighting with us, next to us, in Iraq are being bought, bribed, coerced, extorted, et cetera, that he now believes that, like Saddam proved in the Oil For Food scandal, that the way to the U.N.'s heart is paved with black gold because to build a new alliance, you insult our old allies, our current allies and then offer them the resources of the Iraqi people through their oil. It speaks for itself.

We also hear that somehow this multilateralism is our fault, which I find fascinating. But the reality remains that it is not our fault.

This four-point plan then goes on to talk about rebuilding Iraq's security forces and talks about how the President "must get serious about training Iraqi security forces."

Well, I have news for the prominent politician. The President is serious about rebuilding Iraq's internal security forces and its army. Unfortunately, the terrorists are just as serious about killing them before they get started. Unfortunately, nowhere does this plan reference that reality on the ground in Iraq.

It is then pointed out, something which I agree with, that the Iraqi people must feel a more palpable result of this reconstruction. I have agreed with that since last fall when I started saying that, and I have continued to say it. The problem is that the plan then goes into a top-down change in the contracting process, to emphasize "a few on a list of high-visibility, quick-impact projects" for "an Iraqi where the job is less likely to shoot at our soldiers."

My problem with this is this is not an Iraqi empowerment plan, it is a PR campaign. For the Record, the militia is not fighting for a public works project, and Zarqawi is not an Iraqi. He is a Jordanian. The true empowerment in Iraq's reconstruction must come from the grassroots, through allowing tribal leaders, through allowing town councils, through allowing the national government and religious leaders to make the decisions on what projects are important and giving them the resources to implement them and build their own stake in their free future.

Finally, there is the intriguing argument that somehow the goal in Iraq is a peaceful resolution. Now, I am a Republican; I admit that. I am happy to. My father was a Truman Democrat, and if my father were alive today, I think I would have to ask him: Dad, do you ever remember F.D.R. or Truman asking for the Nazis to have unconditional resolution? Is that what we fought for? Did Ulysses Simpson Grant? Did that stand for unconditional resolution? Is this a new outcome?

The reality in Iraq is quite simple. There are two roads. There is victory and democracy, or there is defeat and Zarqawi. To sit here and claim that multilateralism from the United Nations is going to help us is bereft of any knowledge of why the U.N. acts as it does. The former colonial powers of the United Nations and the current tyrannical regimes of the United Nations quite simply believe that an America with the ability to preemptively protect its citizens from terrorists is a graver threat to them than the terrorists themselves, including Saddam Hussein who, I point out, in the Oil For Food scandal made many multilateralists quite rich. If you do not understand what is undergirding the opposition amongst these people in the United Nations, then you do not realize that your plan to have them save us, to have them come to our aid with troops and with money and with good intentions, is quite simply confusing the United Nations Security Council with Santa Claus. It will not happen.

The reality remains. The U.N. will not ride to the rescue, and there is no peaceful resolution acceptable to the American people or the Iraqi people short of victory, which is a word we do not hear much from some quarters these days.

In the final analysis, I believe that the absence of the willingness to admit that we have to win is becoming quite a problem.

WAR MEANS SACRIFICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, as we contemplate what is happening in Iraq with the continued loss of life, the continued injuries, I would just remind my colleagues in this chamber that the only people who are being asked to sacrifice for this war are the soldiers and the people who love them. No one else is being asked to sacrifice for this war.

We are not paying for this war. The President has decided that future generations should pay for this war, so we are using borrowed money, passing the bill on to the next generation. So the taxpayer is not being asked to pay for the war at the present time. Of course, future taxpayers will pay for it.

The President is not sacrificing for this war. No one in this chamber is sacrificing for this war. No one in the Senate is sacrificing. Well, I think we may have two colleagues out of the 535 Members of both the House and the Senate who have active duty sons or daughters in the military, but most of us do not have anyone in our families that we know who are in harm's way or who have been killed or who have been seriously injured. Yet, we stand here in this chamber and the President stands and he talks in glowing terms about, we need to stay the course and we are totally committed.

I wish we were totally committed. I wish the President was totally committed in terms of paying for this war without expecting future generations to pay. I wish the President was committed enough to continue to provide the money that our Veterans' Administration needs to provide adequate care for our veterans who are coming back from this war in desperate need of VA medical care. But no, only the soldiers and their loved ones are sacrificing or are being asked to sacrifice. I think that is very troubling.

It is easy to make decisions when it involves someone else's child. Maybe the only thing that will bring common sense back to this chamber and to this administration is to have the burden shared by all of us so that all of us who have loved ones who may be subject to military service would be asked to serve. Would that make a difference in our thinking?

I believe if the people who are so supportive of our current policies in Iraq so firmly believe that the direction in which we are going is the correct direction, I think they should be willing to see their sons and their daughters join the military, take up the battle, share the risk. And those who are not willing to have their loved ones put at risk should think very, very carefully about how enthusiastic they are about our current course of action.

We voted in this chamber, 434 to 1, I believe, when we pursued the war in Afghanistan, because we all understood that was the war on terror.

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It was Afghanistan and the Taliban regime and Osama bin Laden that attacked our country. And somehow there has been a bait and switch. We have taken the attack upon our country, and we have used it to go into Iraq.

The President spoke for 63 minutes when he gave his acceptance speech at the Republican convention, and he never mentioned Osama bin Laden's name one time. All the talk there in New York about September 11, about the attack upon our country, but the man who was responsible for attacking our country was not even mentioned by the President. Saddam Hussein's name was mentioned many times, but not the one who was responsible.

Tonight, somewhere on the face of God's good Earth, Osama bin Laden is walking free, planning the next attack upon our country. And our resources were diverted from Iraq and from the Taliban and stabilizing Afghanistan to Iraq. We need to rethink our policies.

TERRORISM AROUND THE WORLD

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I would like to respond to the previous speaker's comments. My son was on active duty when I announced my run for office. He finished his tour of duty in June of 2002, shortly after I won my primary; and he signed up for the Air National Guard about 3 months later, and he continues to serve with the Guard. He is trying to complete his college. He does not know whether he will be called up or not.

So I wish the speakers on the other side would show some sensitivity. Perhaps we should circulate a notice of who has sons or daughters or wives or husbands on active duty or in the Guard, but I suspect it is more than one or two people in this House.

I was not in this House when the vote was taken to go into the country of Iraq, but I certainly support the President's efforts, and I understand what the President is trying to do. And I believe that the world will be a different place in 20 or 30 years' time because of our activities in that country than we would have had had we finished out Saddam Hussein's term and then allowed his sons to be the logical heirs to that reign of terror that he was perpetuating on his people. But I did not come here tonight to talk about that.

The previous speaker talked about how loved ones and innocent folks may be in harm's way, and that is a very real phenomenon. I want to introduce this House to a young man named Alan that I met this past weekend at the Federal Pediatric Hospital in Moscow, Russia. Alan is 11 years old and is a bright young boy.

Alan was in the hospital because he is recovering from surgery. He had surgery 2 weeks ago to remove a piece of metal from his chest, a piece of metal that sunk deep into his chest on Alan's first day of school in Beslan.

This piece of metal was placed in a mine that was created under the direction of a man named Skhmeel Masaif. Now, little Alan is healing now, but little Alan was perhaps lucky. More than 300 dead, over half of those children, were killed when those bombs went off in the gymnasium in Beslan. A quote from the newspaper that I read over the weekend from a townsperson there in Beslan said, "We bury and bury and we still have not finished the job."

More than 300 people died in that attack; but, in fact, Skhmeel Masaif is probably responsible for over 500 deaths in the past 3 or 4 weeks in Russia. Two airplanes lost simultaneously over Russian air space and a bomb attack outside a Russian metro station, not that much different than Metro stations that we have here in Washington, D.C., all under the direction of Skhmeel Masaif.

I want the House to look at the piece of metal that was removed from little Alan's chest. His mother is holding it here in her hands. And you look at it and you think, well, what is that? That is just a piece of junk. That is a little piece of metallic shrapnel that was recovered from a junk yard or a landfill or somewhere. It was placed into that bomb. Those small pieces of metal were placed into that bomb so they would have the maximum dispersal when the bomb went off. That is, they could ensure the maximum number of innocent persons could be harmed when that bomb went off.

This bomb-maker built the bomb under the direction of Skhmeel Masaif. It was designed to hurt. It was designed to kill. It was designed to inflict pain and suffering on the most innocent, the most innocent citizens on this Earth, 10, 11, 12 year olds, on their first day of school in Beslan, Russia.

Mr. Speaker, it is not wrong to identify evil when we see evil, and it is not wrong to call it by its proper name, which is evil. And whether it is the school children in Public School No. 1 in Beslan, whether it is the innocent victims on the two airplanes in Russia, the victims outside the metro station, the victims of improvised explosive devices in the country of Iraq or whether it is our victims here in 9/11, these are victims of people who hate the United States, people who are evil; and we must not rest until they are reduced to their natural subatomic particles and removed from the Earth.

UKRAINIAN PRESIDENTIAL CANDIDATE POISONED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, shortly our country will experience an extraordinarily important Presidential election, and this evening I wish to discuss another important Presidential election that is occurring very far from the United States this year as well. That is in the nation of Ukraine, one of the nations that was spun out of the collapse of the Soviet Union. And make note of the very close presidential race ongoing in that country which is struggling its way forward.

Recently in USA Today, there was a story that one of the leading candidates, Viktor Yushchenko, became ill and on September 6 was hospitalized in Austria. And the doctors there, a panel of nearly a dozen doctors, determined indeed that he had been poisoned.

Prosecutors in Ukraine said in a statement they were investigating charges of attempted murder. Attempted murder of a presidential candidate in a nation whose independence is only a little over 10 years old.

In an address to deputies in the parliament in that country this week, candidate Viktor Yushchenko appeared haggard, his face was red and swollen; it was partially paralyzed with one of his eyes constantly tearing up. And I wish to read this evening some of what he told his fellow deputies in that parliament in a emotional speech.

He said to take a good look at him to make sure that the same thing did not happen to any of them, because the problem he was bearing was not one of cuisine, not a problem of food, as some had tried to portray his plight. And he advised his colleagues, Do not be so quick to judge. I would like to ask every one of the 450 parliament members in the chamber, have you ever seen me drunk over the past 10 to 20 years? Raise your hands if you have. And no one did.

And then he pointed at all of the government-controlled media, Inter, UT1, and One Plus One, and asked them, Have you ever in your life seen me not in control of myself? Because there had been references on that television, government controlled, that his illness was caused by food poisoning or perhaps alcohol. But he said, What happened to me was not a problem of cuisine or a problem of diet, but rather as soon as you fall out of favor with the authorities of Ukraine and as soon as you start posing a tiny threat, and indeed he is tied in the polls with the current president of that country, they will throw you away like a piece of paper.

He said, Friends, we are talking about the Ukrainian political kitchen where assassinations are ordered. Remember, he said, former National Bank chairman Vadym Petrovych Hetman walking around alive in this chamber in 1998. Who killed him? President Kuchma said it was a question of honor for him, that the prosecutor-general will give an answer and tell us who the killer is. Time has passed, and there is no answer.

In 1991 right-wing leader and presidential candidate Vyacheslav Chornovil was in that chamber alive. We pretend we do not know who killed him with a Kamaz lorry. But in 2000 as well, campaigning journalist Heorhiy Gongadze was sitting in the balcony, as our press sits here in this Congress, writing political reports. Well, who cut his head off? We do not seem to know, Viktor Yushchenko said.

Although one prosecutor said once that the killer has already been found and that his surname begins with the letter K, but he was not brave enough to give us a few more letters.

Two and a half years ago, opposition parliamentarian Oleh Oleksenko was sitting in the chamber. Who poisoned him? Four weeks ago Alik Aslanov was sitting among us in that chamber. But with his last borrowed seven and a half hryvnyas, the last loan in his life, he bought a liter of petrol and burned himself. Who killed him? The alcoholic head of the district administration who represents the United Democrat Party or the arrogant head of the collective farm? Who killed him?

Do not ask who is next. Every one of us will be next. And if you ask how this fate spared me, I will say, wrong dose, wrong time and my angels awake. That is what helped me return back to the living.

Let us draw a couple of lessons here. Lesson number one, I would really like us to receive an answer. Who did it and who is the killer? But you know very well who the killer is. The government is the killer. And never will this prosecutor-general give an answer to who killed Gongadze, who killed Hetman, and who tried to kill many others.

Let us draw a political lesson and appeal to you, my dear people's deputies. Show a little heroism today for Ukraine's sake and you will see Ukraine democratic and its people free and prosperous. Do not forget this lesson or this lesson will get you.

These very compelling words are placed here, the citadel of freedom, by Viktor Yushchenko, presidential candidate in Ukraine, who is fighting, not just for his life but for the future of freedom in his nation.

The article referred to is as follows:

[From USA Today, Sept. 22, 2004]

UKRAINE CANDIDATE POISONING INVESTIGATED

KIEV, UKRAINE.—Ukrainian prosecutors opened a criminal investigation into the alleged poisoning of a leading candidate in a crucial presidential election scheduled for next month, officials said.

The candidate, Viktor Yushchenko, became sick more than two weeks ago, and his campaign charged that he was poisoned by political opponents. The allegations have roiled the already heated race to replace outgoing President Leonid Kuchma.

Yushchenko, a leading opposition figure who is running neck-in-neck with the ruling party's candidate, became ill Sept. 6 and was hospitalized in Austria. After he was discharged Saturday, doctors in Vienna said it was possible he had been poisoned but they could not confirm it.

Prosecutors said in a statement that they were investigating charges of "attempted murder of a statesman or a public figure." They offered few details and did not indicate if authorities had substantiated the poisoning charges or identified suspects.

Prosecutor General Henadiy Vasiliev later told reporters "not to make hasty conclusions" and to wait for the results of the examination. He said authorities hadn't ruled out anything in their investigation and that his office had contacted Austrian authorities.

Ukrainian lawmakers voted overwhelmingly Tuesday to set up a commission to investigate the incident.

Neither outgoing Kuchma nor Viktor Yanukovych, Yuchchenko's main opponent and Kuchma's hand-picked choice in the Oct. 31 presidential race, have commented publicly on the allegations.

However, a number of Kuchma's allies have charged that Yushchenko had merely eaten bad sushi.

In his address to deputies on Tuesday, Yushchenko accused Kuchma's administration of "being capable of brewing political assassinations." He appeared haggard, with his face red, swollen, partially paralyzed and with one eye constantly tearing up.

Voters in this ex-Soviet republic of 48 million have become increasingly disenchanted with Kuchma's decade in power. His administration had been marred by a series of scandals, rampant corruption and dozens of suspicious deaths of political opponents and opposition journalists.

Meanwhile, Ukrainian Defense Minister Yevhen Marchuk stepped down Wednesday, citing in part the June explosion at a major ordnance depot that rained rockets, shells and shrapnel over a wide area, the Interfax news agency reported.

Speaking on condition of anonymity, a spokesman for the Defense Ministry confirmed Marchuk "has asked the President to be relieved from duties," but he gave no other details.

Marchuk's resignation came after he had defended himself in parliament against allegations he illegally provided soldiers and helicopters to help fight fires in Turkey.

Marchuk's resignation was seen as another sign of upheaval in the government ahead of the Oct. 31 vote.

[From the Ukrainian Radio First Programme, Sept. 21, 2004]

VIKTOR YUSHCHENKO SAYS THE GOVERNMENT IS THE KILLER

KIEV.—Ukrainian opposition leader and presidential race favourite Viktor Yushchenko has lashed out at the authorities, accusing them of trying to poison him. In an emotional speech delivered in parliament after two weeks of treatment abroad, Yushchenko said he barely survived and compared his alleged poisoning to the killings of several Ukrainian politicians and journalists in recent years.

He said President Kuchma's order to investigate the poisoning was disingenuous, and hinted that the president himself could have been behind the murder of opposition journalist Heorhiy Gongadze. He brushed aside suggestions that his illness was caused by ordinary food poisoning and urged fellow MPs to stand up to the government so as not to become next in the list of public figures who have died a suspicious death.

The following is the text of Yushchenko's speech broadcast live by Ukrainian radio on 21 September; subheadings inserted editorially.

Mr. speaker, fellow people's deputies! I am happy to be in this chamber today. I won't take much time, but let me make some statements that concern each and every one of you. For the past two weeks, a number of Ukrainian politicians and journalists have been debating about what one should eat, or drink, in order to live in this country and not die.

Because my dignity is concerned in a number of cases, and my morality—I am part of this story—I ask you for a few minutes of your attention. It may not be entirely appropriate to say some of these things, because I will be speaking about myself, but I will say those things to establish the facts.

NOT FOOD POISONING

Look at my face. Note my articulation. [Yushchenko appeared to speak with some difficulty. Part of his face was swollen and immobile during his recent public appearances.] This is one hundredth of the problems that I've had. Take a good look, to make sure that the same thing doesn't happen to you. Because this is not the problem of cuisine, not a problem of food, as some try to portray it.

Don't be quick to judge! I would like to ask every one of the 450 parliament members in this chamber. Have you ever seen me drunk over the past 10–20 years? Raise your hands if you have!

I am asking to the journalists of Inter [privately owned pro-government TV channel] and the so-called national channel UT1. And One Plus One [another privately owned pro-government TV channel]. And to other channels. Have you ever in your life seen me not in control of myself? If there were such cases, show them on television today. But there weren't. [Apparently referring to recent reports on the three TV channels speculating that Yushchenko's illness could have been caused by food or alcohol poisoning.]

And that is why, I would like to say to everyone: I am no gourmet! I don't fancy eastern cuisine or western cuisine. I eat the same borsch, potatoes and pork fat as all of you, the 47 million people of Ukraine! And what happened to me was not a problem of cuisine or a problem of diet!

SAME FATE IN STORE FOR OTHERS

It's a pity that Oleksandr Oleksandrovych [Moroz] is not in this chamber. I would like to say to him, Oleksandr Oleksandrovych, you can eat port fat and potatoes all you want. But mark my word: as soon as you become a real opponent of this regime, and I stress, a real one, as soon as you stop dancing to Medvedchuk's fiddle [applause], potato diet will not save you! Calm down! It pains me to say this. [Referring to Moroz's reported statement that Yushchenko would have been fine had he stuck to simple food.] [Shouts of "Shame!" in the chamber]

Friends! I'd like to continue. Esteemed [pro-presidential coalition coordinator] Stepan Bohdanovych Havrysh, you are going through a rough political patch. Because something you have given up your reputation for is falling apart, the so-called pro-presidential majority is falling apart.

I would like to say that as soon as you fall out of favour with the authorities, as soon as you start posing a tiny threat, they will throw you away like a piece of paper. And your fish diet won't save you!

I would like to tell the guys in the presidential administration, who advise that one should drink 100 grams of vodka after every piece of pork fat. Guys, it doesn't matter that you are in that camp. Such are the principles and morality of that camp that they can discard you just like they have discarded [former economics minister and deputy chief of presidential administration Valeriy] Khoroshkovskyy, [President Kuchma's once-close ally Oleksandr] Volkov and dozens of others. And 100 grams with every piece of pork fat won't help.

ATTACKS KUCHMA

Friends, this is not a problem of cuisine as such. We are talking about Ukrainian political kitchen, where assassinations are ordered! This is what we are talking about. Remember [former National Bank chairman] Vadym Petrovych Hetman walking around alive in this chamber in 1998. Who killed him? President Kuchma said it was a question of honour for him, that the prosecutor-general will give an answer and tell us who the killer is. Time has passed, but there is no answer.

In 1999 [right-wing leader and presidential candidate] Vyacheslav Chornovil was here alive. We pretend we don't know who killed him with a Kamaz lorry. In 2000 [campaigning journalist] Heorhiy Gongadze was sitting on the balcony over there and writing political reports. Who cut his head off? Well we don't seem to know, although one prosecutor said once that the killer has already been found, and that his surname begins with the letter K. He wasn't brave enough to give us a few more letters.

Two and a half years ago [opposition MP] Oleh Oleksenko was sitting in this chamber. Who poisoned him? Four weeks ago Alik Aslanov was still among us. But with his last borrowed seven and a half hryvnyas, the last loan in his life, he bought a litre of petrol and burned himself. Who killed him? The alcoholic head of the district administration, who represents the United Social Democratic Party? Or the arrogant head of the collective farm? Who killed him?

"GOVERNMENT IS THE KILLER"

Don't ask who is next. Every one of us will be the next. And if you ask how this fate spared me, I'll say: wrong dose, wrong time and my angels awake. That is what helped me return back to the living!

Let us draw a couple of lessons here. Lesson number one. I would really like us to receive an answer, who did it and who is the killer. But you know very well who the killer is. The government is the killer! And never will this prosecutor-general give an answer to who killed Gongadze, who killed Hetman, who tried to kill many others.

So I was very surprised that President Kuchma ordered to launch a criminal investigation of my poisoning. I don't believe this order! I don't believe this prosecutor-general! Why, Mr. Kuchma, are you asking the question if you have no intention of answering it?

Let us draw a political lessons from here. The lesson is that Leonid Makarovych Kravchuk suggests that someone should kneel before the Ukrainian people. [Kravchuk said dozens of MPs who quit the pro-government coalition earlier this month should kneel before the people of Ukraine.] So who should kneel, Mr. Kravchuk? And for how long should they stand on their knees, so that every one of the 47 million forgave them?

But I have another proposal. An appeal to you, my dear people's deputies! Show a little heroism today for Ukraine's sake, and you will see Ukraine democratic, with its people free and prosperous! Don't forget this lesson or this lesson will get you. [Applause in the chamber]

DEFENDING FREEDOM AND DEMOCRACY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. DREIER) is recognized for 60 minutes as the designee of the majority leader.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the Special Order that I am about to give.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Speaker, having listened to the words of my good friend, the gentlewoman from Ohio (Ms. KAPTUR), I would like to say that the Special Order that I am going to be presenting this evening refers to exactly what she was talking about in the final remarks that she provided, very thoughtful remarks.

It has to do with the fact that this institution, this building, this entity is in fact the citadel of freedom. And I think and I believe it is very important for us to realize the great importance of that.

Mr. Speaker, it has been 3 years since the heinous attacks and the absolute horror that befell America on September 11 of 2001. And it was not just an attack on America. It was an attack on the free world. Citizens from many nations were murdered and maimed that day, as we all know. But perhaps more important, this was an attack on the core values of freedom and democracy that are embodied in our Nation and in all of the free people of the world.

□ 2030

While nations have cooperated in an unprecedented fashion in the fight against terrorism, unfortunately, much remains to be done.

We have just gotten the tragic news in the last 24 hours of the tragic beheadings of Messrs. Armstrong and Hensley. We saw the bombings in Spain and the recent tragedy in Russia; both underscore the need for all of us to remain vigilant in this global war on terror.

Mr. Speaker, our Nation has a special responsibility, a very special responsibility, to protect the core freedoms and liberties of democracy, for we continue, as I was saying at the outset, to be the beacon for democracy, and our Capitol, as the gentlewoman from Ohio (Ms. KAPTUR) was just saying earlier, our Capitol perhaps is the single most recognized symbol of democracy all over the world.

In fact, I remember very vividly back in 1990, I had the opportunity to bring one of the Solidarity activists from Poland for President Bush's State of the Union address. I remember very well we were walking along, and the Capitol, of course, was particularly well-lit because we all know on the night of the State of the Union the television networks put added light on the Capitol. All of the sudden, tears were coming down the face of these people who had come from Poland, and I asked what it was. They were simply looking at the Capitol dome, and that, for me, underscored how clearly this is the most recognized symbol of democracy and freedom in the world.

I believe that our responsibilities as Representatives of this democracy are twofold. First, we must employ our full legislative power to make our Nation safer, our citizens more secure and to defend our democracy against all terrorists.

Second, we must do everything in our power to ensure that our institution, the Congress itself, can continue to operate in the face of any crisis, any terrorist attack, any disaster. Again, we need to be able to see that this institution can function in any crisis, any terrorist attack, any disaster that could possibly hit us.

Mr. Speaker, since the District of Columbia became the permanent seat of our government, the United States Congress has been unable to use the Capitol for an extended period only once. That occurrence, of course, was during the War of 1812 when the Capitol was burned, as we all know. Nonetheless, the enduring threat of the last century, the Cold War, forced the Federal Government to plan for its continuity in the event of a catastrophe.

Some people assumed, however, that after the Cold War this kind of planning could stop. We all know that 3 years ago this past September 11, not only did that tragic event put that notion to rest, but it changed our thinking and our planning for the continuation of representative government, representative democracy as we know it.

Indeed, we saw smoke rising from the Pentagon and later heard of the bravery of the passengers on Flight 93 as they cried, "Let's roll." Many of us shared a feeling of having just missed a bullet, a bullet that could have hit this Capitol itself.

We share the additional responsibility for our very institutions, for our individual Members, for our staff and for the thousands of people who visit the Capitol every single day.

Following September 11 and the subsequent anthrax and ricin attacks, our continuity learning curve has been very, very steep. However, the good news is that we have worked hard and have implemented a number of measures that improve the continuity of our Congress.

Indeed, we have taken the advice of one of our great Framers of the Constitution, Alexander Hamilton, who in Federalist 59 said, "Every government ought to contain in itself the means of its own preservation." Let me say that again. "Every government ought to contain in itself the means of its own preservation." Those are Alexander Hamilton's words.

Toward that end, in the last 3 years, the Speaker has focused the United States House of Representatives on three core areas for our overall continuity: number one, upgrading the physical security of both our D.C. and our constituency offices; number two, preserving our continuity of operations here in Washington, D.C.; and number three, addressing the continuity of our form of government itself through debating how to deal with catastrophes that result in large numbers of Members being killed or incapacitated.

Mr. Speaker, let me now turn for a moment to discuss our efforts to preserve the continuity of our congressional operations.

The Speaker of the House has long recognized that if the Capitol, or if Washington itself, were to become unsuitable as a meeting place for the House, whether due to attack, contagion or other calamity, an alternative site for operations would be needed. Much thought has gone into the placement of sufficient resources, technology, staffing and accommodations for Members and key staff so that we could continue to fulfill our duties to the American people. Additionally, we have already adopted a number of very important rule changes to give the House the operational flexibility we believe it would need in a crisis.

Mr. Speaker, those include: first, authority for the Speaker to declare an emergency recess subject to the call of the Chair when notified of an imminent threat to the safety of the House; second, authority to address the constitutional requirement that the House and Senate assemble in the same place outside the seat of government; third, authority for a designee of the Speaker to act with the Senate to effect a recall of the membership; and fourth, authority for the Speaker to convene the House anywhere within the seat of government.

Now, at this point, I have a particular item I would like to enter in the RECORD.

PARLIAMENTARY STEPS TAKEN TO ENSURE CONTINUITY OF OPERATIONS

Authority to effect a joint-leadership recall from a period of adjournment to an alternate place (in concurrent resolutions of adjournment).

Authority to effect a joint-leadership recall from a period of adjournment through designees (in concurrent resolutions of adjournment).

Anticipatory consent with the Senate to assemble in an alternate place (in a putatively biennial concurrent resolution on opening day of a Congress).

Requirement that the Speaker submit to the Clerk a list of Members in the order in which each shall act as Speaker pro tempore in the case of a vacancy in the Office of Speaker (including physical inability of the Speaker to discharge his duties) until the election of a Speaker or a Speaker pro tempore, exercising such authorities of the Speaker as may be necessary and appropriate to that end (clause 8 of rule I).

Authority for the Speaker to suspend pending business of the House by declaring an emergency recess subject to the call of the Chair when notified of an imminent threat to the safety of the House (clause 12(b) of rule I).

Authority for the Speaker, during any recess or adjournment of not more than three days, in consultation with the Minority Leader, to postpone the time for reconvening or to reconvene before the time previously appointed solely to declare the House in recess, in each case within the constitutional three-day limit (clause 12(c) of rule I).

Authority for the Speaker to convene the House in an alternate place within the seat of government (clause 12(d) of rule I).

Codification of the long-standing practice that the death, resignation, expulsion, disqualification, or removal of a Member results in an adjustment of the whole number of the House, which the Speaker shall announce to the House and which shall not be subject to appeal (clause 5 of rule XX).

Establishment of a Select Committee on Homeland Security with oversight and legislative over matters relating to the Homeland Security Act of 2002 identified by the Speaker and the responsibility to make recommendations concerning future legislative jurisdiction over homeland security matters (sec. 4, H. Res. 5, 108th Cong.).

Establishment of an Appropriations Subcommittee on Homeland Security.

Mr. Speaker, as I have mentioned, we have approached continuity planning during the 108th Congress in three distinct areas. I now want to talk about what is perhaps the most difficult aspect of our planning: how we will continue to legislate if large numbers of our Members are killed or incapacitated.

Obviously, this is a horrible thought. We do not like to even contemplate or consider it, but we all know that we live in a very, very dangerous world, and it is a responsibility that we have to take very seriously. This issue necessarily requires us to contemplate that which none of us really wants to consider, that being our mortality. Mr. Speaker, this is at the heart of why I stand before the House this evening. I am deeply concerned that we need to act now to protect the House as an institution if the unthinkable were to happen.

One of the most difficult questions that we have had to consider is what we would do if large numbers of Members are so injured that they cannot fulfill their duties. This incapacitation of large numbers of Members, what we call the "mass incapacitation" of Members, poses a grave threat to the ability of the House to function in a time of crisis.

We have spent a lot of time on a nonpartisan basis discussing this issue, and I underscore that this as an institutional issue. It is not a partisan issue. In each of these discussions, Mr. Speaker, good questions have been asked by a number of Members and staff on both sides of the aisle who are committed to the survival of this institution, the greatest deliberative body known to man.

Mr. Speaker, what I would like to do now is address with answers some of the very important questions that have been posed. First of all, as we look at providing a definition of the problem, what is the so-called "quorum trap"?

As we all know, a quorum is an essential part of a legislative body. In some nations, including our allies in the United Kingdom, it is but 40 members, a very small number. However, in the United States, a quorum is set by the Constitution as a majority of Members. That is what is stated in the U.S. Constitution. Long-standing House precedent defines a majority as those Members who are chosen, sworn and living. "Chosen, sworn and living" is what determines, that is, it's the precedent for establishing a majority. The standard does not address Members who are chosen, sworn, living, but unable to carry out their duties because they are incapacitated. Thus, if Members are alive but unable to carry out their duties, they remain in the calculation of quorum.

If large numbers of Members are incapacitated and a roll call vote is needed, the House could be unable to obtain a quorum. This is what we call the "quorum trap," where so many Members would, in fact, be unable to respond to a quorum call. Let me say that again. If large numbers of Members are incapacitated, we, as an institution, could be unable to act.

The potential rule change that I will explain in a moment would go into effect if, after an attack, more than half the number of those Members remaining alive were incapacitated, again, half the number remaining alive are incapacitated. That is why we refer to this as "mass incapacitation."

Additionally, it is important to note that the quorum trap only becomes a problem for the House if a roll call vote is needed. Again, the quorum trap only becomes a problem if we have to have a roll call vote. House precedents provide that a quorum is presumed unless challenged. If the Members can agree to the business of the House being considered by unanimous consent, then the lack of a quorum would not be an issue. Nonetheless, as an institution, we cannot take the risk that we will always be able to act by unanimous consent.

The House is very limited in what it can do without a quorum. It can only do two things without a quorum, Mr. Speaker. Number one, adjourn from day-to-day; or number two, send the Sergeant-at-Arms to try and bring enough Members in to constitute a quorum. Those are the only things that we are able to do without a quorum.

Without the potential rule change to deal with the quorum trap, we could be unable to act at exactly the time that the American people expect us to do so.

Unfortunately, even after years of consideration, no one has been able to adequately define exactly what incapacitation is for every possible situation. Up in the Committee on Rules, we had a hearing. We had testimony from our attending physician, Admiral Eisold. He testified to the Congress, and he revealed that making a determination of incapacitation involves so many factors that it would be difficult, if not impossible, to have a bright-line test for exactly what is incapacitation.

Rather than trying to define incapacitation, this approach defines what constitutes the House. It is the number of Members who are not incapacitated. That is, the Members who can show up to answer the call of the House, the quorum call. That "call of the House" could be a regular roll call vote, like we have every day, or it could be done through the rule that gives the Speaker the power to recognize any Member to move a call of the House for establishing a quorum.

What types of catastrophic events would trigger these kinds of provisions? Mr. Speaker, the language of the rule is intended to cover broad possibilities, including catastrophic circumstances involving natural disaster, attack, contagion or similar calamity that render representatives incapable of attending the proceedings of the House. For example, Members could be incapacitated because they are so injured that they cannot fulfill their duties, or they may be missing and presumed dead, or they could be held hostage.

What is the solution? How would the potential rule change procedure play out? At its core, mass incapacitation presents one key problem for the House. If too many Members are incapacitated, the House is actually unable to do business for the American people during a time of crisis.

The Constitution says that a majority quorum is required for House business.

□ 2045

Another way of thinking about this majority requirement is that it is a fraction. The amount above the line is the number of Members who are physically present and can participate. The amount below the line is the number of Members who exist. Rather than trying to define incapacitation, this potential rule change uses the ability or inability of Members to show up and participate as a measure of who exists, the amount below the line.

This potential rule change, if adopted, would solve the quorum trap by requiring the following procedural steps: The rule requires that Members dispose of a motion for the Sergeant at Arms to find Members so that we can hopefully obtain a quorum without going any further than that.

Additionally, if this attempt to gather a quorum fails, the next stage of the rule requires an extremely lengthy call of the House. We would call for 72 hours, a quorum call of 72 hours, exclusive of time that the House has spent in recess, to try to gather 218 Members in order to establish a quorum.

Next, if that step fails to produce a quorum, the rule requires that the Sergeant at Arms, in conjunction with the Attending Physician to Congress and other relevant law enforcement and public safety officials, report to the Speaker, the minority leader and the majority leader on the state of the membership and whether the failure of quorum is due to catastrophic circumstances. This report would be updated daily and made available to the entire House. Members could, if they choose, disseminate the information. It would consist of the following:

(A) the number of vacancies in the House and the names of former Representatives whose seats are vacant; (B) the names of Representatives considered incapacitated; (C) the names of Representatives not incapacitated but otherwise incapable of attending the proceedings of the House; and (D) the names of Representatives unaccounted for.

Now, the next step in the rule is for the Speaker to decide whether to formally place the report of the Sergeant at Arms before the House. The Speaker could decide to delay this formal step in order to collect more information about the membership and the nature of the catastrophe. However, if the Speaker does place the report before the House formally, the next step would be to have another very lengthy quorum call, 24 hours, again exclusive of time that the House would be in recess.

Finally, if enough Members for a quorum of 218 have not shown up at this point, then the rule would allow for the establishment of a "provisional," that is, a temporary quorum of the House at this point. This "provisional quorum" would consist of a majority of those Members who could show up and fulfill their duties. Under this temporary quorum, the House could act for the American people in a time of crisis.

Now, what are the origins of this plan? Continuity discussions began in earnest during the 107th Congress. The bipartisan House leadership agreed on the formation of a task force led by my colleague, the gentleman from California (Mr. COX), and the ranking minority member of the Committee on Rules, the gentleman from Texas (Mr. FROST). This task force included a number of Members concerned about the continued operations of our institution. Many of the recommendations of the Cox-Frost group were adopted at the start of the 108th Congress. This rule change concept originated in the Cox-Frost discussions. However, an impasse was reached over how to try to define incapacitation, and the group decided to allow for more analysis of this very, very difficult question.

Mr. Speaker, the Continuity of Government Commission, sponsored by the American Enterprise Institute and the Brookings Institution, tried to consider the issue of incapacitation but, similarly, could not come to agreement over how to define incapacitation or what to do about it. As we have said, this is a very, very difficult issue.

The Committee on Rules held a hearing on H. Con. Res. 190 to create a joint House-Senate committee to address continuity issues, including incapacitation, and the House overwhelmingly passed it in June of last year. The Senate has not acted upon this proposal yet.

In the spring of this year, just a few months ago, as we all know, the House addressed what to do if large numbers of Members are killed, and this institution adopted by a bipartisan margin of 306 to 97 the Continuity of Representation Act, which I coauthored with the chairman of the Committee on the Judiciary, my friend, the gentleman from Wisconsin (Mr. SENSENBRENNER).

Additionally, the House rejected a proposed constitutional amendment to allow for the appointment of temporary "stand-in" Members who were incapacitated or killed. That was defeated on a vote of 63 to 353. So this institution has stated very firmly that we want to maintain the elective nature of this institution, as James Madison, the father of the Constitution, envisaged it.

We know very well, Mr. Speaker, that ours is the only Federal office where one must be elected to be able to serve at the Federal level. Senators can be appointed, and we all know that, by appointment, one can become the President of the United States without standing before the voters. But this institution is where everyone who has ever served has been elected. And I am happy that, by a margin of 63 to 353, the House rejected that proposed constitutional amendment.

The Committee on Rules held an original jurisdiction hearing on the mass incapacitation of Members in April of 2004. Testifying at the hearing were a number of experts on the House rules, the Constitution and the issue of incapacitation. The report of this hearing is available on the Committee on Rules Web site and has been printed by the Government Printing Office.

At the April 2004 hearing, we distributed a discussion draft of the proposed rule change. Discussions have continued on a bipartisan basis since then, and a number of improvements to the proposal have been made.

Now, why would we need a provisional quorum? Why does the House need to establish procedures to deal with the possibility of mass incapacitations?

We need to assure the American people we are doing everything we can to provide for continuity of government in the face of any catastrophic event. Rules must be in place prior to a crisis. We need to be considering this matter with a "triage" mindset, similar to that taken by health care workers and doctors during an emergency.

Mr. Speaker, if a jet plane, God forbid, hits this Capitol dome, hits this building when we are all here voting or a biological agent is released, we need to plan for how to deal with the worst problems first. We need to realize that we will not be operating in a best-case scenario and that having some plan in place is better than no plan at all.

Now, why does this proposal that we have only address mass incapacitations?

Mr. Speaker, this procedure would go into effect if large numbers of Members are incapacitated, large numbers. If individual Members are incapacitated, they are very unlikely to affect our ability to achieve a majority quorum. However, after a catastrophe, a key question will be whether it resulted in large numbers of deaths, large numbers of incapacitations or both.

If we are dealing with a full, living membership and only incapacitated Members but no deaths, we would need 218 or more Members incapacitated in order to trigger a problem with quorum. With deaths, the quorum is automatically reduced by the rules, and the number of incapacitations that could trigger a quorum trap also would drop.

To illustrate: If you had 300 fatalities, the rules now would require a quorum consisting of a majority of the remaining 135 Members. There are a total of 435 Members in the House, as we all know, Mr. Speaker. If we had 300 fatalities, the rules would require a quorum consisting of a majority of the remaining 135 Members, which would mean a quorum would be 68 Members. However, if 68 or more of the remaining Members were incapacitated, we would be in the quorum trap. The House would be unable to function.

Now, what about those living Members who are not incapacitated but otherwise unable to show up and to participate?

If, for example, a Member is stuck overseas at the time of the quorum calls and makes his or her presence and willingness to return known, then that Member's seat cannot be declared vacant through expulsion. In addition, the potential rule change would not change or in any way modify the longstanding provisions allowing a smaller number of the House to arrest and force the return of a wayward Member.

Now, the constitutionality of this proposed solution is a very, very important question. Is it constitutional? Is it constitutional? Who would have standing to sue over this provision?

Mr. Speaker, to me it is very clear. Article I, section 5, clause 2 of our constitution gives the House and the Senate authority to determine their own rules of proceeding. Professor Walter Dellinger, the great constitutional expert, testified before our committee at the April 2004 meeting, the hearing we had on incapacitation and quorums. In that hearing, in his testimony, he said the following, and I happen to agree with him. This is Professor Dellinger. "It is simply inconceivable that a constitution, established to 'provide for the common defense' and 'promote the general welfare,' would leave the nation unable to act in precisely the moment of greatest peril."

He went on to say, "No constitutional amendment is required to enact the proposed rule change because the Constitution as drafted permits the Congress to ensure the preservation of government."

Professor Dellinger continued saying, "I think there is a great advantage to adopting a rule now if we can get really widespread and bipartisan agreement on it, because you are acting now behind what one of the philosophers calls the "veil of ignorance." You don't know whose party is going to be benefitted, if we were to see mass incapacitation; whose faction is going to be burdened by this. No one knows what impact it would have on the makeup of this institution.

Now, one of the things we, of course, want to do is maintain the rights of the minority. So the question that is naturally raised is, how are the rights of the minority protected under this potential rule change?

It is important to note that the Speaker can, at any time, recognize any Member for a motion to adjourn, which, if adopted, would stop this process and force it to be completely started over, if he chooses to start it over at all.

Additionally, while the report of the Sergeant at Arms must be made available to the membership on a daily basis, the Speaker has the power to not formally announce the report of the Sergeant at Arms to the House. He has the right to not announce and, thus, can delay or stop the process from moving forward.

Now, if at any time a Member is no longer incapacitated and can show up, then he or she is automatically added back into the calculation of quorum. Once we again have 218 Members present, then the provisional quorum under this rule change ends.

Finally, the Senate would always act as a check and balance to any action of the House under a provisional quorum, as would the President, the Judiciary, the press and the public.

Now, Mr. Speaker, some have noticed that we made the Speaker's actions in deciding to announce the report of the Sergeant at Arms unappealable. Now, why is that, that we placed this responsibility solely with the Speaker?

The role of the Speaker is that of a ministerial act in dealing with this. That act of the Speaker announcing the report could only come after an extremely long quorum call, as I said, 72 hours, excluding time spent in recess. If that extremely long quorum call has not produced a quorum, then by definition you cannot appeal a ruling of the Chair if you do not have a quorum present.

To make this action appealable, you would place the procedure back into the quorum trap, and therefore, it could not be used, because if the Speaker does make a decision, the ruling could not be challenged because a quorum would not be present.

Additionally, another reason for the unappealability of the Speaker announcing the catastrophic quorum failure report is that the Speaker is not required to make the announcement. By not announcing the report, he can stop the functioning of the proposed rule so that more information can be gathered and considered.

Now, what about requiring the concurrence of the minority leader in determining who should be counted for a quorum?

The Speaker is the only constitutionally proscribed authority for the House. This type of decision should not require equal sign-off from someone in the opposite party. It politicizes a procedure that, as I said, should be a ministerial procedure. The current House rules have a rare exception on minority concurrence on timing of committee hearings but not on any question of this magnitude. And even with this exception, the chairman of a committee can, by a majority vote, decide to hold a meeting at any time, even without the concurrence of the minority.

We should not make the rules "partisan" in an attempt to appear "bipartisan."

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We should strive in a rule such as this, of such great magnitude, to be nonpartisan. This is because we do not know, nor can anyone predict, which party would be most affected by a catastrophe. It is entirely possible, Mr. Speaker, that the Speakership and control of the House could change hands following a catastrophe. There would still be the need for a quorum to elect a new Speaker no matter what party had the most Members responding.

Mr. Speaker, in a time of crisis, the House will need one leader who can act, not a committee, and should not be concerned with partisanship. Partisanship should not be an issue in a time of a catastrophe like we are contemplating here. This holds true for whichever party is in control and whoever is elected Speaker.

Mr. Speaker, we hope and pray that the circumstances never arise where such an order of the House is necessary. But at the same time if we do not address the problem of mass incapacitation, we will fail at one of our most important duties, assuring continuing representation and congressional operations for the American people during times of crises.

Finally, I would like to advise Members that we hope very much to bring these matters before the full House very soon. It is vitally important that the House have in place a procedure to deal with mass incapacitation before we complete our business for the year and recess, before the national elections, and before the counting of electoral ballots.

Mr. Speaker, as I have already done, I have asked unanimous consent, and I know the gentleman from Texas (Mr. FROST) was hoping to be able to participate here this evening, the ranking minority member of the Committee on Rules, and he had some comments that I know he plans to add into the RECORD; and I am sure there will be other Members who wish to add their comments to this very important issue, which, as I said, we do not like to contemplate, but we must take on our responsibility to do just that.

Mr. FROST. Mr. Speaker, I would like to thank the Chairman of the Rules Committee Mr. DREIER for convening this special order tonight to discuss the very important issue of how the House would survive an enemy attack that left a majority of our Members dead or unable to perform their duties. I would also like to associate myself with the comments of my Rules Committee colleague, Mr. MCGOVERN, who is the ranking member of the Rules Subcommittee on Technology and the House and has taken a keen interest in this issue.

Mr. Speaker, it has been more than 3 years since the September 11 attacks and the startling realization that the Capitol Building and Members of Congress were in imminent physical danger that morning. If not for the bravery of the passengers on Flight 93, the United States Capitol, the seat of our legislative branch, could have been destroyed by an enemy attack, killing or injuring an unknown number of Senators, Representatives, and staff. It is now clear we were wholly unprepared to deal with the aftermath of a successful attack. We had given little thought to how Congress would continue performing our duties if our chambers and offices were destroyed, and many of our Members were dead, injured, or missing.

There is no way the wise people who created our Federal Government could have ever foreseen the possibility that enemies of the United States could highjack large commercial jets and try to fly them into the seat of the Federal Government. In the summer of 1787, the Founding Fathers spent a great deal of time identifying, discussing and correcting the weaknesses in the constitutional system they were creating, but we cannot fault them for remaining silent on threats to the system they were unable to imagine.

It instead falls on our shoulders to take the necessary steps to ensure that Congress will continue to function in the face of threats that are new to our age. All Members of the 108th Congress, especially those in leadership positions, share the same responsibility that Members of the 1st through 107th Congresses bore during their times of service: to preserve the institution of Congress and the role of the legislative branch in our constitutional democracy. As I have stated many times in the various hearings and debates we have conducted over the past several years, "continuity of Congress" is above all an institutional issue. There is no issue on which partisan posturing or maneuvering is less appropriate. Our enemies seek to destroy and disrupt our democratic system; they view all of us, both Democrats and Republicans, as their common enemies.

Mr. Speaker, on the evening of September 11, we gathered on the East steps of the Capitol as Americans and as Members of Congress who had sworn to protect and defend our country and our Constitution. At that moment, our partisan divisions were meaningless. We stood hand in hand and sang "God Bless America" to show the American people that their Congress was open for business and prepared to respond to the terrorist attacks. As the former Republican majority leader, my North Texas colleague, Dick Armey commented at that time: "I cherish the fact that when our country needed us to come together, we stood on the steps of this Capitol and hand to hand we sang "God Bless America'."

Over the 3 years that have now passed since that evening, there have been moments where Members of Congress and outside experts have risen to the challenge of honestly confronting the tough questions surrounding how our three branches of government would endure a direct enemy attack. In May 2002, the Speaker and minority leader created a bipartisan "Continuity of Congress Working Group," which I co-chaired and came to be known as the "Cox-Frost Working Group." This group met eight times in the following months, consulted with outside experts, and carefully examined the current rules and statutes governing congressional, and executive succession. Late in the 107th Congress, the group unanimously recommended three House Rules changes it felt would improve the Speaker's ability to reconvene the House after an attack. The House adopted these suggestions into its rules package for the 108th Congress.

Elsewhere in Washington, Congressional scholars from two usually ideologically opposed think tanks, the Brookings Institution and the American Enterprise Institute, came together to create the Continuity of Government Commission to examine these problems. Commission members included former House Speakers Newt Gingrich and Tom Foley, respected former Members of Congress from both parties, as well as former senior officials from both Democratic and Republican administrations. After two all-day hearings and extensive consultations with former Members of Congress and scholars, the Commission released a report in May 2003 concluding that "there is a gaping hole in our constitutional fabric that would allow large numbers of vacancies in Congress to continue for a significant period of time." The Commission frankly admitted that it looked at all options short of amending the Constitution, but reluctantly concluded that amending the Constitution to clarify what would happen in the case of mass vacancies or incapacitation in Congress was "the only solution that adequately addresses the problem." The Commission wrote: "Our study of alternative approaches persuades us that no other option provides more than a partial and inadequate fix to the problem."

It has been a great disappointment to watch the spirit of honest inquiry and comity that characterized the work of the Cox-Frost group and the Continuity Commission vanish in the 108th Congress. I have been dismayed to see the House debates over continuity issues in this Congress revert back to the normal partisan lines. On several occasions this year, Republican leaders have jammed through bills and resolutions on continuity issues with little or no opportunity to offer amendments and inadequate hearings. While Rules Committee Republicans deserve credit for holding a civil and informative hearing on this proposed rules change last April, the only outside witness they called to testify was a legal scholar who would confirm their pre-determined position that the House rulemaking power allows the Speaker to adjust down the quorum number. With all due respect to the Republicans on my committee, I do not believe this single hearing confronted the constitutional and institutional complexities raised by this rules change in the serious, thoughtful way they deserved.

Although the resolution draft the committee is currently circulating is a great improvement over earlier drafts, I nevertheless oppose it. I do so because I do not feel it takes all of the steps necessary to make sure that in the wake of a catastrophic enemy attack, the surviving, able-bodied Members of the House of Representatives would be able to regroup, reorganize, and demonstrate to the American people that they have risen above their partisan divisions to preserve the House of Representatives and the indispensable role it plays in our constitutional system. It is essential that the rules we establish now to govern a future catastrophic situation give the remaining Members every possible tool to prove to the American people that all of their actions, both the reorganization and the legislation they pass afterwards, are motivated only by their duty to protect our country and our democratic form of government. I believe this resolution's failure to establish a process in which a diminished House can only organize and do business with the concurrence of party leaders will leave it vulnerable to charges of partisanship and illegitimacy.

The rules change proposed in this resolution addresses the issue of mass Member incapacitation. What would happen if terrorists managed to successfully injure, but not kill, a significant number of Members of Congress? Since the early 20th century, House precedents have defined the membership of the House for the purpose of determining a quorum as those Members "chosen, sworn, and living," which has resulted in small periodic adjustments to the quorum number as individual Members die or resign. In the case of mass incapacitation, where Members would temporarily be unable to perform their duties but were still alive, the House would not be able to conduct business because it would lack a majority of its extant Members and therefore lack a quorum.

The solution to this problem proposed in this rules change is to lower the quorum number by the number of Members who are incapacitated and temporarily unable to perform their legislative duties. In other words, in the wake of a calamitous event, the House would conduct its lawmaking and other business not with a quorum of 218 (as is now required if all apportioned 435 House seats are occupied), but with a much smaller number of Members. For example, if terrorists launched a successful anthrax attack on a meeting of the Republican Conference and temporarily debilitated the 228 current Republican Members of the House, the remaining Members could meet, declare those Republican Members incapacitated, adjust down the quorum number to 104 (the majority of living House Members still able to perform their duties), and then conduct any and all business, including declaring war and electing a Speaker. Operating under this so-called "provisional quorum," the House could pass bills with as few as 53 votes (a majority of 104 Members).

A problem the majority has ignored through this process is whether the Constitution allows the House to adjust its quorum number downwards to a figure significantly below 218 seats, a majority of the whole number of currently apportioned seats. Instead of honestly exploring this important question, the Rules Committee glossed over it. It called in one expert, the well-respected Duke Law School professor and former Solicitor General Walter Dellinger, who testified that the House rulemaking power is sufficiently robust and that the Constitution's quorum language is sufficiently vague to allow the House to adjust down the quorum number to account for Members incapacitated due to a national calamity. Professor Dellinger's argument is that a diminished House is better than no House at all in an emergency situation and that a literal reading of the Article I quorum requirement could do irreparable damage to our system of government, which the Founders could not have intended.

While Professor Dellinger is a well-regarded jurist and I accept his pragmatic reading of Article I for the purpose of this proposed rule change, I must note that other experts are less confident that lowering the quorum is constitutionally sound. These scholars argue that a plain reading of article I, sec. 5, cl. 3 of the Constitution ("a Majority of each [House] shall constitute a quorum to do Business") leads to the obvious conclusion that the House can only do business when a majority of its whole, apportioned number is present. The Founders viewed the House as the most purely republican, representative department of the Federal Government, whose Members were most directly accountable to what James Madison called the "great body of the people" of the United States. They argue that allowing a small fraction of Members to pass laws and do business violates the fundamental, constitutional function of the "People's House."

Professor Cass Sunstein of the University of Chicago Law School, for example, in testimony he submitted to Senator CORNYN and the Senate Judiciary Committee, takes the position that the House rulemaking power may extend to lowering the quorum, but concedes, "To say the least, it is awkward and uncomfortable to interpret a document in a way that violates its evidently plain meaning. In addition, the quorum provision has an important structural purpose, which is to ensure that laws are not made by a minority of the legislature, in a way that compromises the constitutional commitment to deliberative democracy. (The ability to raise quorum objections to a voice vote is an important safeguard here)."

While I personally believe the House's constitutional rulemaking power allows the House to temporarily lower its quorum number in extraordinary circumstances, we have no assurance our courts and the "great body of the people" of the United States will accept as legitimate the laws we pass with a significantly reduced quorum. In addition, Rules Committee Republicans' assurances that these proposed rules changes are non-justiciable are less than meets the eye. They are correct that under our Federal case or controversy jurisprudence, it would be almost impossible to challenge the rules themselves, especially before they are invoked. But they gloss over the fact that citizens injured by laws passed by a House with a diminished quorum would likely have justiciable claims.

Consider the following example: During a period of mass incapacitation, a Congress with a diminished House imposes a punitive commercial tariff on a foreign country Congress feels has not been sufficiently helpful in the War on Terrorism. A businessman in New York who imports goods from that country is economically damaged by the tariff. He goes to a Federal court with a claim that the tariff is invalid because the House approved the tariff without a Constitutional quorum and requests an injunction blocking enforcement of the law. This businessman would almost certainly have a justiciable claim. His facts would be identical to those of the case that resulted in the famous U.S. v. Ballin case, in which the Supreme Court held that the House's rulemaking power allows the Speaker broad latitude in determining the best way to count Members to determine that a majority of the House is present and there is a quorum to conduct business. The Ballin case did not reach the question of what the term "majority" means or whether the Speaker has the power to change it to a number other than the majority of the whole number of apportioned House seats. That would be the question the injured New York businessman asked our courts to decide and an adverse decision could cast into doubt all of the actions of a House operating with a provisional quorum.

I run through this scenario not just to illustrate that we should not presume that this rule change will survive a legal test just because the Majority has found one respected legal expert who believes it is constitutional. The actions of a House meeting with a diminished quorum will be subject not just to judicial scrutiny, but to the scrutiny of the American people. Will the American people accept as legitimate the actions of a House made up of a fraction of its 435 seats? Will the American people accept laws passed by House Members who represent only a fraction of Madison's "great body of the people" of the United States? I feel that a diminished House, especially a diminished House whose basic partisan makeup is significantly altered, could be subject to suspicions that it is acting not in the best interests of the country, but in the interests of the party that was fortunate to lose fewer of its Members in an enemy attack.

The rules change proposed in various drafts of this resolution does not reassure me that the Republican leadership is sufficiently sensitive to this concern. Under its proposed rules change, in the aftermath of a calamity, the House would first use the power it has under clause 5 of rule XX to assemble a quorum through compelling the attendance of absent Members. Under this provision, a majority of 15 Members may vote to send the Sergeant-at-Arms out to arrest those Members able to attend, and to otherwise account for absent Members. When this process is exhausted, and a quorum has not yet appeared, the House would go through a special 72–hour quorum call. During this period, the Speaker and other House officers would be working to determine the nature and extent of the crisis. At the end of this 3-day quorum call, the

Speaker could then present to the House an unappealable "catastrophic quorum failure report" concluding that a calamity has taken place, a large number of Members are incapacitated, and that, as a consequence, the House is unable to assemble a majority of its whole number to do business. After another 24-hour quorum call, the quorum number would be automatically adjusted downwards to a new "provisional" quorum number. This provisional number would be determined by excluding the Members who have died and those Members whom the report deems incapacitated, unaccounted for, or otherwise incapable of attending. With this new, smaller provisional quorum, the House would then be able to conduct any business it can currently conduct with a quorum of the whole number of the House.

I acknowledge and am grateful that Rules Committee Republicans improved on earlier drafts of this resolution by providing more detail on what information the "catastrophic failure report" should contain and by adding a requirement that the Speaker consult with the two party leaders when he or she receives and then announces the content of the report. But I must point out that the current language does not adequately address my fundamental concern that the actions of a House operating under a provisional quorum will be vulnerable to charges of illegitimacy and political manipulation.

Under the scheme set up in the draft resolution, the Speaker would still have the sole power (1) to determine that a catastrophic event contemplated by the rule has occurred and (2) to determine which Members are incapacitated and therefore unable to perform their duties. While I respect the fact that the Speaker is the constitutionally created presiding officer of the House, I would also note the obvious fact that the Speaker is the leader of the majority party in the House. I am concerned that the Speaker's unilateral decisions to designate a disaster situation and/or to declare certain Members incapacitated will be vulnerable to charges of partisanship and manipulation. Such charges, whether they are made against a Republican or a Democratic Speaker, would harm the legitimacy and the credibility of any subsequent actions the House took with a diminished quorum.

During our discussions over the wording of this rules change, I proposed language to ensure that the decision to declare a calamity or declare Members incapacitated would occur in a manner that would be most likely to garner broad support and legitimacy in the House and in a country struggling in the aftermath of an enemy attack. To have legitimacy, we must be able to show Members from both parties and the American public that our decision to operate under a reduced quorum was based solely on our solemn duty to preserve the institution of the House. I proposed simple language I felt would turn a unilateral decision-making process into a consensus-building, institutional process designed to garner the broadest possible support. My version would require the Speaker not to just consult with the majority and minority leaders, but to obtain their concurrence that a calamity has occurred, that certain Members are dead or incapacitated, and that it is necessary to trigger the process for establishing the lower provisional quorum.

The testimony of the House Attending Physician, Dr. John Eisold, during the April 2004 hearing, highlights my concerns about a process that gives the Speaker unilateral decision-making power. Dr. Eisold's testimony made it clear that determining a Member's ability to serve in the House after a calamity could become a very controversial matter. While medical professionals like Dr. Eisold could provide the Speaker with an "objective description of the state of a member's health as determined by the medical establishment," the determination of incapacitation is a subjective judgment, "made by non-medical people but based on meaningful and accurate medical input."

During Dr. Eisold's testimony, both Mr. HASTINGS of Washington and Mr. MCGOVERN discussed the dangers inherent in this determination-of-incapacity process.

They posed a very important question: How do we prevent the process from becoming one where Members are declared incapacitated based on their party rather than their medical condition? For example, what credibility would the Speaker's decision have to declare a Member of his or her own party fit to serve in the House, but to declare a Member of the other party with similar symptoms incapacitated? I believe the only way to conduct this process in a manner that promotes legitimacy is to require that not just the Speaker, but the leaders of both parties in the House, agree that a certain Member is or is not able to report for work. An incapacitation list approved by the Speaker, as well as concurred in by party leaders, would reassure Members of both parties and the public that the process has been based only on the best available medical information and the best judgment of their Congressional leaders.

Regrettably, but not surprisingly, Republican Members of this Committee have resisted my suggestion. I have argued that changing the procedure from one where the Speaker merely consults with party leaders to one where he or she must obtain their concurrence would transform a potentially politically divisive moment into a moment where Congressional leaders from both parties would be able to assure the American people that the legislative branch has survived an enemy attack and is open for business. It would foster a process that would result in a show of solidarity and strength like the one Members of Congress showed on the Capitol steps after the September 11 attacks. I believe that any Speaker, Democrat or Republican, who found her or himself in this situation, would welcome the political and moral support of senior House Members from both parties.

An objection I have heard to my concurrence language is that it improperly limits the Speaker's constitutional power to preside over the House. The Constitution and our House Rules give the Speaker extensive power to organize the House, to conduct the House's day-to-day business, and to maintain order in the House. Under my proposal, with the concurrence of the majority and minority leaders, the Speaker would retain the ministerial power to issue the calamity report, trigger the provisional quorum process, preside over a diminished House, and control the House's agenda. I must restate the obvious point, however, that this resolution is not a run-of-the-mill rules change. This resolution sets the House on a course into uncharted constitutional territory, where questions concerning the legitimacy of its actions could be very serious. The Speaker's powers to preside over the House would mean very little if the House were discredited by actions the American public broadly viewed as partisan and opportunistic.

Furthermore, I would point out that while the Speaker's powers to run the House are broad, they are finite. In a variety of ways, our standing House Rules protect Members from what Jefferson called the "caprice of the Speaker." The House can vote to remove the Speaker and can reverse the Speaker's rulings on points of order and calls to order. The rules change contemplated in this draft resolution, however, makes an extraordinary departure from the principle that the House has the right to rein in a Speaker who is abusing her or his power. The resolution makes unappealable the Speaker's decision to announce that a calamity has occurred and that certain Members are incapacitated. While I agree that the exigencies of a catastrophic situation might require that the Speaker be able to act quickly and decisively after the House has decided that a calamity has occurred, the Speaker risks losing the confidence of Members and the American public if he or she acts without the concurrence of party leaders, in a manner unhappy Members or outside critics could characterize as irresponsible or capricious.

I must also point out that any taint of illegitimacy or political opportunism generated by the House in the wake of a calamity could easily spread to the Executive Branch. Under our current Presidential succession statute, the Speaker of the House is the third in line to succeed as President and a newly elected Speaker would bump any Cabinet Secretary lower in the line of succession who has taken the office of President in accordance with the statute. In other words, a House operating under a provisional quorum in the wake of a catastrophic event that has not only killed or injured many Members of Congress, but has also killed the President, the Vice President, and the Speaker, could have the power to choose the new President through the election of a new Speaker.

Under clause 8(3) of rule 1, which we adopted at the beginning of the 108th Congress, if the Speaker perishes or is seriously injured in an attack, the Member at the top of the successor list the Speaker has delivered to the Clerk becomes Speaker pro tempore (with all of the authority of the Office of Speaker) until the House elects a new Speaker. This raises the question of whether the temporary Speaker pro tempore would be in the line of succession and therefore become President. This possibility leads to another vexing question: would the temporary Speaker pro tempore be bumped from the Presidency by the new Speaker elected by a House operating under a provisional quorum? Another troubling scenario would be one in which the Speaker and the Members he or she has named as successor Speakers pro tempore all perish or remain seriously injured in an enemy attack. As our current Parliamentarian John Sullivan testified at the April hearing, in this case, the

Clerk would take the Chair, the House would elect a new Speaker, and then reorganize in the same way the House reorganizes at the beginning of each Congress. A Speaker elected in this fashion would also be in the line of Presidential succession under current law.

These startling possibilities make me more insistent than ever that the process of declaring a calamity and conducting business in a diminished House be one that garners the broadest possible confidence and support. The aftermath of an enemy attack is the worst possible time for our country to endure a debate over whether the sitting President properly holds the office.

Finally, I find it curious that the Republicans have resisted accepting our language to include leaders from both parties in the decision to trigger the reduced quorum procedure. Their own expert, Professor Dellinger, proposed it in the testimony he submitted to the Committee. Professor Dellinger's testimony expresses the same concern we have outlined in the previous paragraphs. He said: "For the rule's invocation to have true legitimacy, there must also be some procedural guarantee that the rule is not being improperly invoked for factional reasons." Out of his concerns over legitimacy, Professor Dellinger went on to "strongly recommend that the power to invoke the rule be placed not solely in the discretion of the Speaker, but rather require as well the concurrence of one or more members of the minority party's leadership, from a list chosen ahead of time." In other words, Committee Republicans have explicitly rejected the single most important policy recommendation their star witness, Professor Dellinger, made in his testimony.

I think when he used the term "factional reasons," Professor Dellinger was choosing his words very carefully. He was no doubt referring to James Madison's famous discussion of the dangers of faction to the republican form of government in Federalist 10. One of the most persistent problems in the governments of his time, Madison wrote, was: "that the public good is disregarded in the conflicts of rival parties; and that measures are too often decided, not according to the rules of justice, and the rights of the minor party; but by the superior force of an interested and over-bearing majority."

There is no subject on which it is more important for Congressional leaders to set aside their partisan differences and their instinct to turn everything into a "factional" dispute than the Continuity of Congress. Unfortunately, I feel that House Republicans have, at least temporarily, succumbed to their partisan instincts and have produced bills and resolutions that reflect the "superior force of an interested and over-bearing majority" rather than a good faith effort to protect and preserve the House of Representatives and its indispensable role in our constitutional system. In its current form, the draft rules change lacks the tools a post-calamity House would need to preserve our beloved institution and to demonstrate to the American public it has risen above its partisan differences for the sake of our Nation. I sincerely hope that a final version of this rules change, whether it is adopted in the final days of the 108th Congress or in a future Congress, reflects the spirit of unity, patriotism, and duty to this House that this issue deserves.

Mr. McGOVERN. Mr. Speaker, our Constitutional Framers drafted a living document that, while not perfect, created a vibrant representative democracy. They crafted the Constitution as a document that could be improved over the course of history. The Framers themselves would probably agree that the Constitution, as originally drafted, would not be perfect into perpetuity. Indeed, in Federalist 43, James Madison states "that useful alterations will be suggested by experience, could not but be foreseen." The Framers improved the Constitution by amending it with the Bill of Rights. Since this important document was signed in 1789, a total of 27 amendments have been added.

As Members of Congress, we take an oath to uphold and defend that Constitution. It is our duty to take the proper actions to ensure that our democracy and our way of life are preserved for the future. The tragic attacks of September 11, 2001, and the threat of future attacks require that we ensure that there is a continuity of the government created by the Framers.

Before September 11, 2001, the United States had withstood a civil war, attacks on its soil and attacks upon Washington, DC and the Capitol itself. But the continuity of government established by the Constitution, and the ability of the Congress to fulfill its Constitutional duties, has never been more at risk from attack. Today, we live with the grim knowledge that a terrorist attack could take place again here in the United States and that terrorists may attempt to attack and destroy this Capitol Building. And it is with this understanding that the Congress must ensure that the government established by the Framers continues well into the future.

The Framers and the Congress, over the past 216 years, created a presidential line of succession in case the President is killed or dies in office. Article II, section 1, paragraph 6 establishes: the Vice President as the next in line to take over the presidency in case the President is removed from office for any reason. This same clause also gives Congress the power to establish the line of succession beyond the Vice President, and the Congress acted by creating this line of succession, as established in chapter 3, section 19 of the U.S. Code. There are safeguards in the Constitution and established by law should a President become unable to fulfill his or her constitutional duties, die, or be removed from office. Simply, there is a plan to ensure that the executive branch can continue to exist should something happen to the President.

The Constitution also established the bicameral Congress—the House of Representatives and the Senate—and established that the House is a body that can only be constituted of Members who are directly elected by citizens of the United States. The Constitution says that a vacant House seat can only be filled by direct election, and a seat can only become vacant at the end of a 2-year term established in article 1, section 2, paragraph 1 of the Constitution or with the removal of a Member of Congress either by death, resignation, declination, withdrawal, or by expulsion.

However, as I've already stated, the Framers of the Constitution never planned for an event, including an attack on this country, that could cause mass death or incapacitation of Members of Congress. After September 11th, we need to ask ourselves how we can preserve our government, as designed by the Framers, in the wake of a catastrophic event. And we need to do so with an eye looking toward the future.

A key problem created by an attack that kills or incapacitates more than half of the Members of Congress actually lies in the way a quorum of the House is defined. It may sound arcane to some, but establishing a quorum is vital to the way our government works. If the House were not able to establish a quorum, this body could not vote on legislation. In the wake of a catastrophe, the House must be able to act. However, without a quorum, the U.S. government could grind to a halt until a quorum is actually established. In other words, if this country were attacked again and the House could not establish a quorum, we could not pass important legislation like emergency appropriations, improvements to already established security laws, or even a declaration of war.

At the beginning of the 108th Congress, the House enacted an important rule change that codified a long-standing House precedent allowing the Speaker of the House to reduce the number of the quorum by one for each vacant seat in the House. This rule change took place with the adoption of H. Res. 5, the resolution adopting the Rules of the House for the 108th Congress.

The codification of this precedent is important, but it does not address the problem of incapacitation. If any number of Members of Congress were killed in a terrorist attack, this new rule change would allow the Speaker to reduce the whole number of the House that determines a quorum. But what would happen if an attack occurred in the United States and more than 218 Members were alive but not able to return to the House chamber to vote? The reasons for this could be anything from an attack that results in over 218 unconscious Members to a breakdown in the transportation system preventing Members of Congress from returning to Washington.

While this issue may not seem important compared to the issues that dominate the news these days—the continued instability and rising death toll in Iraq, the economic challenges in this country, and the presidential race, just to name a few—this is something the House of Representatives must address. Continuity of Congress, the ability to preserve the American government as established by the Framers in the Constitution, is an issue that transcends partisan politics and while we must take action to persevere the continuity of Congress, It is essential that we do so in a bipartisan way.

I strongly believe the House must act on continuity of Congress in a bipartisan fashion. There cannot be any other way for the House to act and for those actions to be considered legitimate. Simply, any rule change of this magnitude must transcend partisan politics.

But I must express my concerns with the public consideration and discussion of this issue and with the current draft that attempts to address incapacitation and a provisional quorum. I want to clarify that I am not making these statements as a Democrat or as a Member of the minority party. Rather, I am making these comments as one Member of Congress committed to defending the Constitution and protecting this institution and this country.

Mr. Speaker, I am dismayed that the Rules Committee only held one hearing on this issue. To Chairman DREIER's credit, the panel was distinguished, and the discussion was fairly comprehensive. But the reality is that one hearing on this issue is inadequate. We heard from then-Parliamentarian Charlie Johnson and members of his staff, former acting Solicitor General of the United States Walter Dellinger, and the Attending Physician of the House, Dr. John F. Eisold. While the discussion was lively, I don't believe it explored the topic of incapacitation to the fullest extent possible.

I am most concerned about Professor Dellinger's testimony. Unfortunately, the Republican majority on the Rules Committee decided to invite only one outside witness—Professor Dellinger. This witness, while well-informed and knowledgeable on this subject, was clearly brought in to validate the majority's views. No other outside witnesses were invited to testify.

Professor Dellinger is of the opinion that to address the problem of incapacitation, we only need to amend the quorum requirements in House rule XX. There are other experts, constitutional scholars and other lawyers including some congressional staff, who believe that such a change is unconstitutional and that the only way to change the quorum requirement is to amend the Constitution.

Amending the Constitution is serious business. Like Madison, I believe that amending the Constitution should be based on experience, and I strongly believe amending the Constitution should not be a knee-jerk reaction to a perceived problem. But unlike other proposed constitutional amendments that have been proposed in this Congress, the constitutional amendment to preserve the continuity of Congress, and the continuity of the American government as a whole, raises important concerns and deserves to have a thorough hearing and thoughtful discussion. Of course, the devil is in the details and the specific language of any proposed amendment is vital. But preserving this country as it was founded is one of our responsibilities as Representatives of the American people. I want to make clear that I'm not advocating for or against a constitutional amendment, but only that I believe it is a topic that deserves a fair and comprehensive hearing.

Unfortunately, it appears that the Chairman and some members of the Rules Committee and the Republican leadership have come to the conclusion—without comprehensive hearings—that a constitutional amendment is not needed and that all we need to address these challenges is a change in the quorum definition in the House Rules.

Along with my concerns that the Rules Committee only held one hearing, Professor Dellinger said something else that I fully support but, unfortunately, confirms to me that this process started off on the wrong foot. In his testimony, Professor Dellinger said that any change in the House Rules must be bipartisan and that there must be a bipartisan consensus before any change is made. Unfortunately, the Republican majority on the Rules Committee decided to share a draft of the proposed rule change with Professor Dellinger prior to the sharing it with the Democrats on the Committee. I, for one, don't think such secrecy is considered bipartisan. I, however, believe that this is water under the bridge and that we must move past such events and deal with the issue at hand, which is guaranteeing the continuity of Congress in case of a catastrophic terrorist attack. I believe we still can work together and produce a true, bipartisan rule change.

Mr. Speaker, Chairman DREIER and his staff have drafted a proposed rule change that, except for one provision, is a good proposal. I am pleased that this proposed change has language defining the circumstances under which this process can be invoked. This proposal includes time limitations on the calls of the House required to determine whether there is a real quorum in the House. Should a quorum not be attained, the Sergeant-at-Arms will compile a report documenting the status of every Member currently elected to the House. I believe these are all good provisions and I'm pleased that Chairman DREIER and the Republican leadership worked with the Democratic staff to improve these provisions over the past few months.

However, the proposed rule change, as currently drafted, allows the Speaker of the House, after he receives the catastrophic quorum failure report from the Sergeant-at-Arms, to unilaterally declare that a quorum has not been attained and begin the process to reduce the total number of Members required for a quorum under catastrophic circumstances. The latest draft shared with me requires the speaker to consult with the majority leader and the minority leader on the content of the report, but it does not require that the concurrence of the speaker, majority leader and minority leader.

Mr. Speaker, I cannot support this proposal without the inclusion of "concurrence" of the speaker, majority leader, and minority leader.

The need for concurrence of both parties in the House is not just a partisan statement made by a Member from the minority party, but a real concern made by someone who reveres and respects this institution. And I'm not the only person who believes this. I want to read directly from Professor Dellinger's prepared testimony before the Rules Committee on April 29, 2004:

> For the rule's invocation to have true legitimacy, there must also be some procedural guarantee that the rule is not being improperly invoked for factional reasons. Unlike the traditional rule, where the quorum calculation is based on strictly objective measures such as death, the reduced quorum rule for extraordinary circumstances would be based on less clear-cut circumstances, presenting a heightened danger of manipulation. This loss of objective standards may be necessary in order to deal with the special problem the rule is designed to address; but Congress should certainly take care to minimize the risk of manipulation. For that reason, I strongly recommend that the power to invoke the rule be placed not solely in the discretion of the Speaker, but rather require as well the concurrence of one or more members of the minority party's leadership, from a list chosen ahead of time. This need not be viewed as an encroachment on the Speaker's or the majority party's authority.

There is a real danger that, after an attack or other national catastrophe, any action taken by the speaker without the concurrence of the minority leader could have the perception of partisan politics. This is true no matter which party controls a majority of seats in the House.

In times of crisis, any action by the House of Representatives must be bipartisan. There cannot be any perception that the majority is using any tool as part of a partisan power grab. The American public wants to be reassured that the House is acting in the best public interest; they want partisan politics to be put aside during a national crisis. They simply want to be safe, secure, and reassured that the American government will respond to their needs.

After September 11, 2001, the House came together and acted as one unified body. We put partisan politics aside. We held joint press conferences, we received joint briefings, and we conducted joint strategy meetings. Unanimity and consensus is vital during a national crisis. The unified message and unified actions—the one voice—coming from the House of Representatives after September 11, 2001 was reassuring to the American people.

Any action taken by the speaker of the House—irrespective of that speaker's party—that is not taken with the concurrence of the minority leader could be seen as inappropriate by the American people.

Requiring the concurrence of the minority leader puts the needs of the country ahead of the threat of partisan politics, and it is a necessary protection against anyone who may want to abuse our democracy during a time of national crisis.

Mr. Speaker, although I'm disappointed that it's taken this long to act on the issue of incapacitation—it's been over 3 years since the attacks of September 11—I'm pleased that the Rules Committee is finally acting on this important issue. I hope the chairman and the Rules Committee will look to the future, and realize that concurrence is an important part of this process that it is vital to show the American people that the Congress can put partisan politics aside in the time of crisis.

I want to thank the chairman for organizing this special order tonight. I look forward to working with him on this issue, and I hope he will take my views—and those of my Democratic colleagues on the committee—into account as he finalizes this proposal.

NEW PARTNERSHIP FOR AMERICA'S FUTURE

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, earlier today a united Democratic Caucus went to the steps of the U.S. Capitol right outside these doors and unveiled our New Partnership for America's Future. This partnership reaffirms House

Democrats' commitment to six core values and serves as a road map of the priorities we would focus on if the American people voted for a Democratic majority in November.

The announcement of this new partnership was necessary today because a large majority of Americans have lost faith in Congress. Over the past decade, Republicans have controlled the people's House and have often strayed from these core American values. My Democratic colleagues and I have been fighting for these causes for many years, but this is the first time that we have unveiled a partnership with the American people, a promise, if you will, that if the American people put their trust in us and elect a Democratic majority this November, we will work with them as partners to make their lives and our government better.

Mr. Speaker, the House Democrats are united, focused, and totally committed to taking the bold steps needed to strengthen the middle class that is the heart of our democracy. It reaffirms the commitment of House Democrats to six core values: one is prosperity, two is national security, three is fairness, four is opportunity, five is community, and six is accountability.

Mr. Speaker, our New Partnership for America's Future begins with our commitment to promoting prosperity for every American, and this poster which I have which I am going to go through essentially outlines each of the six values that are part of the Democrats' New Partnership for America's Future.

The first one, prosperity, says "providing all Americans with the opportunity to succeed and to live a secure and comfortable life, including good jobs here at home, affordable health care, a growing economy with stable prices, investment in new technologies, and fiscal responsibility in government."

Mr. Speaker, in my home State of New Jersey, over 71,000 manufacturing jobs have been lost over the last 4 years, and more than 214,000 New Jerseyans are still looking for work. Yet House Republicans have missed every opportunity to jump-start our economy. Instead, House Republicans and President Bush continue to insist that our economy has turned the corner. Today, families are being squeezed by falling incomes and rising costs. The typical family's income has fallen more than $1,500 under George Bush and congressional Republicans, and the jobs that the Bush economy is creating are paying low wages, $9,000 less than the old jobs that they have replaced.

House Democrats would promote prosperity by creating new jobs, enacting middle-class tax relief, and rewarding companies that create jobs here at home. If Democrats control the House, we promise the American people that we will create 10 million new jobs over the next 4 years. Democrats want to reform the Tax Code to reward companies for creating secure jobs for Americans here in the United States. And Democrats want to assure access to capital for small businesses to create jobs and serve new markets. We also want to support fair wages with good benefits so no one goes to work every day and comes home poor and dependent on public services.

And, Mr. Speaker, the second value that House Democrats promise to focus on is our Nation's national security. And again I have the poster here that I would like to put up, Mr. Speaker, on the national security issue. And as we can see, it says, "Guaranteeing military strength second to none, stopping the spread of weapons of mass destruction, building strong diplomatic alliances to protect America's national interests, and collecting timely and reliable intelligence to keep us safe at home by preventing terrorist attacks before they occur."

Mr. Speaker, all Americans are proud of the more than 138,000 brave men and women who are serving their country in either Afghanistan or Iraq. But President Bush and House Republicans sent them into a war in Iraq without providing them with the resources and equipment they need to complete their mission successfully and come home safe. Despite all the bad news out of Iraq in the last couple of months, it is clear President Bush has no strategy for success in Iraq.

Over the past week, some of the Republican Party's most experienced Senators on national security issues, and I mention Senators MCCAIN, HAGEL, and LUGAR, have come out and told the American people that things are not going well in Iraq. Yet President Bush and Republicans here in the House of Representatives continue with their same old happy talk about how the war is going according to President Bush's plans.

The fact is the war in Iraq has made us less safe. The President has ignored more pressing dangers like the nuclear threats that have increased in Iran and North Korea. International terrorist cells expand on a daily basis, and we have divided our friends and united our enemies.

Democrats strive to continue to build an American military second to none. Along with nations around the world who are committed to freedom and security, we also guarantee that all of our military forces will possess the most effective equipment available. We will also protect the homeland by making sure that every container and ship is secure before entering an American port, by inspecting all airline cargo, and by preventing the technology of weapons of mass destruction from falling into the hands of terrorists.

Unlike House Republicans, we as Democrats also plan to honor every American veteran and their family by keeping our commitments to those who have served and sacrificed for our country. It is not fair that America's veterans put their lives on the line in battle only to return to the United States and realize the same government that sent them off to war now refuses to abide by its commitments.

That brings me to my third value. I see some of my colleagues are here, though.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, I want to at this point, since the gentleman is proposing a positive agenda for America, just to sort of put this discussion in context. If people are happy with the status quo, if they think the country is going in the right direction, if they believe that what has happened to our economy in terms of the job loss over the last 4 years, the outsourcing of American jobs, if they think that a pharmaceutical benefit based in subsidies to the pharmaceutical and insurance industries is the way to help seniors and other Americans afford prescription drugs, if they think that borrowing 600, $700 billion a year, 10 percent of our accumulated national debt in 1 year, breaking the debt limit of the United States for the third time in one Presidency, if they look at those things and think that that is a good, sane direction for this country, then they might not be interested in this alternative.

But the alternative that we are offering as Democrats today is something that, instead of benefiting that one tenth of 1 percent or maybe, to be generous, one half of 1 percent of the populace who are doing so well with these policies, then we are offering a different direction.

We do not think the United States of America is on the right path with its fiscal policy, its trade policy, its tax policy, tax fairness, with its Medicare policy and health care policy, and a whole host of education policies, things that are important to Americans. So I want the gentleman to continue to describe a positive alternative because maybe a little later in the hour I will wax a little more eloquent about how bad things really are, from my perspective, the perspective of my district in Southwest Oregon, and I think many other districts around the country. But I just kind of wanted to put the context on this discussion.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. Mr. Speaker, I just want to say, and I have tried to say this when we have come before the American public, that we are not making this up. I mean, I think it has gotten so bad and so much on the wrong track in this country that if they are just sitting at home watching a bunch of Democrats up there talking, they would think they cannot possibly be telling the truth. It cannot possibly be that bad.

Mr. DEFAZIO. Like a Dave Barry routine. Right?

Mr. RYAN of Ohio. Exactly, Mr. Speaker. It is like a bad movie or a bad novel or we are demagoging the issues. But if the American people will take the time to not only listen to what our plan is but listen to our critique, which is, I think, is okay.

Mr. DEFAZIO. Factually based.

Mr. RYAN of Ohio. Factually based in the American discourse today, in 2004, that they will find that these are facts. We are not making this up. The studies that come out, the two newspaper articles that come out that say the U.S. Department of Housing and Urban Development are cutting subsidies for poor people to live in the city of New York or in major cities or the banks have got their fingers in the student loans and they are making billions of dollars of money, we are not making this up. This is in newspapers every single day.

So the gentleman from New Jersey, as he goes on here, I just want the American people, again, to put in a little bit of context here that we are not just making this up, that it sounds terrible and it sounds terrible because it is, because we have an administration and a Congress that consistently and constantly try to appeal to the lowest common denominator. They always appeal to where they can raise the most amount of money from that industry at the expense of average people who need help. And if we all want to move forward in the 21st century, the government needs to be involved. And I think that is what the New Partnership for America's Future stands for.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, because he raised a couple of provocative issues, I did a series of Medicare prescription drug forums in my district, and I will get to the point of what the gentleman mentioned, but what was most interesting is I saw well over a thousand seniors in my district.

□ 2115

A total of six had purchased the so-called prescription drug discount card. Two had not gotten them yet, even though they purchased them in June, and this was August. Two got them and said they were worthless. One said, well, it gave him about a 10 percent discount. And then one other guy said he was doing really great. But a bunch of the other people in the audience sort of shouted at him and said, no, he was a partisan guy. Whatever. Out of 1,000 people, that is it.

But the point is, at one of those Medicare town halls an older woman came, worked until she was 70 years old, but all she has got, widowed, is her Social Security, and she is living in subsidized housing. They just raised, as the gentleman referenced about housing, they raised her share to the point where she came, and it was kind of sad, she came in a cab, which was pretty unusual, this town does not have a big cab service, it is a small city, Albany, Oregon. That was a little unusual. So I saw her and greeted her. I kind of helped her in.

She said, "This is only the second time I have been out in 3 months. I am really sick, and I am taking a lot of prescription drugs, and it is a big burden on me. Medicare does not cover them. I looked at prescription drug cards; it is not going to help." She had just gotten notice that her share, she was going to have to pay about $70 more a month for her apartment.

She said, "You know, I cannot afford that. I do not have the money now." She said, "I am basically eating into my savings and I don't have much savings left." It was just incredibly sad to see that.

So she is getting hit on both sides. She is getting hit by a phony prescription drug benefit, which is costing more than half a trillion dollars to the taxpayers in the United States that totally subsidizes the pharmaceutical and insurance industries, but delivers scant benefits to a person like her.

Yes, there are some people who benefit from it, people who are, incredibly, even poorer than she is and have very large drug costs. But very few people will get a net benefit out of it. And then to sock her, this is where we have got to raise money so we can give trickle-down tax cuts to the wealthy, is from women like her, who worked her entire life?

Mr. RYAN of Ohio. If the gentleman will yield further, that is the issue. It is the fact that over the course of the last 2 years this Congress and this President have said we need to give trillions of dollars back to people who make more than $1 million a year. We just cannot give it away.

The downside is, we are taking it away from somewhere. It almost is a zero-sum game. We are taking it away from that senior citizen in your district and thousands of others, probably millions of others across the country, who are going to suffer because of that.

So ask yourself, as a voter in the United States of America, do you want the governmental policy of your government to be, we are going to give tax cuts to people, $100,000 or $130,000, back to someone who makes $1 million a year or more? Or are we going to have them pay their fair share of taxes, they are obviously doing well, they are making $1 million a year, and use that money to make sure that people in your community or people in my community or people in the city of New York or any major city have affordable housing?

Unfortunately, we have an administration and a Congress here, they do not understand that $70 a month means a lot to some people. $100 a month means a lot to people. We are lucky. We get paid okay. We are never going to be in that position, thank God. But there are thousands and millions of people in this country that that affects their lives. They end up going to the food bank because they do not have $70 a month or $100 a month.

When are this Congress and this President going to begin to understand there are American people that need their help? And they turn their back, and they come to our communities and say, hey, the economy is doing great. It is doing great. So maybe someone can get a job in this great economy and pay for their grandmother's prescription drug, or that extra $70. They are just so out of touch, they are in fantasyland.

I just want to say, yes, there is a cost. The money comes from very, very wealthy people who have been given a break and have had a free ride over the last few years at the expense of those people. It is not for free.

Mr. DEFAZIO. If the gentleman will yield further, this is something a lot people do not realize. It is one thing to have a debate about whether we should cut taxes, pay down the debt or maybe spend more on education for our kids and other programs when we had a surplus. But this President has taken us from record surplus to record deficit in 4 short years.

So we are borrowing the money to finance tax cuts. We are borrowing every penny of the Social Security surplus this year. $160 billion more will be paid in out of taxes that fall only on wage- and salary-earning Americans who earn less than $90,000 a year.

We are giving the money they paid in for their retirement, this Congress is going to borrow it and give it substantially to those people you are talking about in much greater amounts. It will flow to the people who earn over $1 million a year. And guess what? They do not even pay the tax. If they are a investor, they do not pay a penny into Social Security. It is only people who work for wages and salary.

So we are going to borrow all that money, and we are going to borrow another $440 billion. We are going to indebt our kids and grandkids for the next 30 years to borrow $600 billion to run the government this year. Every program of the government except for the Defense Department, and almost half of that, is being run on borrowed money. We are borrowing from our future. So we are borrowing that money to invest in trickle-down tax cuts.

Mr. RYAN of Ohio. And who are we borrowing it from? We are borrowing it from banks in Japan and banks in China.

So here we have China cleaning our clock in the manufacturing sector in the United States of America, stealing all our jobs, not paying their workers anything, no environmental regulations, no human rights, no religious freedom, all the things that this Chamber and this Capitol and this Congress hold dear, that we get a lot of speeches about now, in election time, is going to China, and we are borrowing money from them.

We are paying them interest on the money that we are borrowing from them. They take the interest and they invest it back into their state-run manufacturing businesses and steal the jobs in the United States of America. What a deal for China.

And we do not have anything. We are losing on every end, which is mortgaging the future of our kids and our grandkids. We are losing our manufacturing, we are losing good paying jobs. The jobs that are replacing the jobs we have now are $7,000 or $8,000 less than the jobs we have that we are losing. And China, which is going to be the greatest economic competitor to the United States of America, is winning.

American people, we are losing. We are making bad decisions every single day in this Chamber. This President is making bad decisions. And the kicker, the kicker, is this: that we want to deal with North Korea. This gets into the war and everything else.

We want to deal with North Korea. But we cannot deal with North Korea. And we want to deal and play tough with China with their 40 percent currency manipulation, to try to put our business at a little more of an advantage in the international marketplace.

But we cannot, because we are bogged down in a war. So instead of talking tough with China, we have to go to China and say, hey, China, can you help us with North Korea, because we just have too much political capital and money and soldiers and everything invested in the Middle East.

So instead of confronting China, we are in a position of weakness, and we have to ask China to help us with North Korea. What a bad position this administration has put us in.

Mr. DEFAZIO. If the gentleman will yield further, this is an excellent point. I do want to get back to the positive agenda, but we are talking about things that people need to think about.

The control that we are giving to the Chinese and the Japanese over our economy, basically 40 percent of the $600 billion trade deficit we are going to run this year, we are borrowing from China and Japan. They are going to get unbelievable leverage over the future of the dollar and the future of the U.S. economy.

And not only that. Of course, they are stealing our technology, and many American companies are aiding and abetting them in that theft of technology, because they want to access the cheap labor and the lack of environmental constraints and other things to move their companies and operate in China.

The Republicans wanted to make a big deal about this satellite launch during the Clinton administration. Boy, that is like quaint history at this point, given the technology transfers and the theft going on today.

You know, the Bush administration has filed one trade complaint. They told us, oh, we will give China, the bloody butchers of Beijing, Castro, he is bad, we cannot even sell him medicine, but the bloody butchers of Beijing that ran over the kids with the tanks and the democracy demonstrators and all that, we are going to give to these people permanent most-favored-nation status.

We are going to pretend they are not a Communist country. We are going to do away with the laws of the United States that say, you do not extend that to Communist countries, Communist dictatorships. But they did with the rationale, oh, put them in the WTO, the World Trade Organization, then they will have to follow the rules.

Well, the Bush administration, despite the document theft I have talked about time and time again, I have a couple of companies in my district that have been cloned in China, a small entrepreneur, a small business that the other side of the aisle cares so much about, except when it comes to, well, if the Chinese are stealing your stuff, tough luck.

But they have filed one trade complaint against China, and it was with the pricing of drugs for the Pfizer Corporation. That is the only trade complaint filed against China. China, who is stealing the entire product of a small company, a beautiful American dream company in my district called Videx. A furniture manufacturing company in my district that refused to sell out to the Chinese, they cloned his entire line. Both these people have gotten calls from all over the United States saying, that happened to us too.

These are the people that care about small business? They do not care about small business. They pretend to care about small business. They care about the mega-corporations that want to relocate to China and access the cheap labor, and they are playing right into the hands of the Chinese, who are an ongoing threat to the United States of America and will be the major threat in this century.

But we are getting a little off track. This is pretty depressing. When I go to my chambers of commerce and I go around my district and I talk about this, people get a little depressed. I think if we talk a little more about the positive agenda, then we will get back to some of the problems.

Mr. RYAN of Ohio. I think it is exciting what we have to talk about here. I think we have outlined pretty much what the problems are and the problems we face. The beautiful thing about this system is, it is self-correcting. We have elections every 2 years. So the American people will now have a choice, and the choice to elect, hopefully, in this instance, a Democratic Chamber that has an agenda. I think that is going to be great for the future of the country.

I yield back to the gentleman from New Jersey to explain what our agenda is.

Mr. PALLONE. Reclaiming my time, first let me say the next point we have on our agenda, which is fairness, actually encompasses a lot of the things you mentioned in the last 10 or 15 minutes or so. So I think it is very much on point.

The point of fairness, and we have the poster up here, basically says ensuring equal opportunity for all, including affordable health care for everyone, spending Social Security funds only on Social Security, and eliminating tax loopholes so that all Americans pay their fair share.

I think the point is, the American people are not looking for special treatment. What they really want is fair treatment. Yet for the past decade, the House Republican majority has focused on the needs of the wealthiest Americans to the detriment of our Nation's middle class.

Over the past 4 years, household income has dropped by more than $1,500. Instead of helping middle-class families, Republicans forced through a tax cut that provided the wealthiest 1 percent of families with a tax cut worth almost $100,000 over 4 years.

How can congressional Republicans say that is fair? You all talked before about the Republican tax cuts and who they went to.

Democrats are saying that we would enact tax relief that is fair to the middle class, make health care affordable for every American, and provide tax incentives to assist employers in offering affordable health insurance to all employees.

The preferential treatment Republicans have shown our wealthiest Americans also unfairly affects our Nation's seniors and the millions of babyboomers that are closing in on the golden years. Four years ago, thanks to the fiscal policies of President Clinton, both Social Security and Medicare were solvent.

When Republicans finally grabbed control of the White House and Congress 4 years ago in 2001, they promised to extend the solvency of Social Security and Medicare. But as we know, instead, the Republicans have spent the entire Social Security surplus. Much of this money has gone to tax breaks for the wealthiest Americans and also caused the large deficit that you mentioned.

If you think of it, Republican policies call for spending the entire Social Security trust fund surplus every year for the next 10 years and beyond. So that is where you get into your deficit.

Republicans also were not thinking of fairness when they passed this giant $500 billion Medicare bill last year that provides huge payoffs to HMOs and the pharmaceutical companies, again, the special interests. At the same time, this Congress provided a miniscule prescription drug benefit to our Nation's seniors that forces seniors to go outside of Medicare to get prescription drug assistance.

Now we know what happened. We heard within the last few weeks about the Medicare premium is going up 17 percent, the largest increase we have had in the whole history of the Medicare program, and the majority of that is because of the Medicare prescription drug bill, or so-called prescription drug bill, which gives all of this money back to insurers, particularly the HMOs, and also to replenish the Medicare trust fund, which they borrowed from in order to pay for the tax cuts.

□ 2130

So Democrats are saying that we maintain an unqualified commitment to the preservation of retirement dignity through Medicare, Social Security and sound pensions. Unlike the Republican Medicare bill, Democrats guarantee a prescription drug benefit within the Medicare system. We would also allow access to lower-cost, reimported prescription drugs and permit the Secretary of Health and Human Services to negotiate on behalf of our Nation's 40 million seniors to substantially reduce the cost of prescription drugs.

I know the gentleman has already commented on some of this, and I yield to the gentleman.

Mr. DeFAZIO. Mr. Speaker, let us just sort of go back to those two points, because they are very important to a large number of my constituents, Social Security and Medicare.

This year, Social Security will overtax individuals who work for wages and salary and the self-employed earning less than $89,000 a year. They will pay more in taxes than necessary to support the system, under the theory that that $160 billion we are going to extract only from wage- and salary-earning people who earn less than $90,000 a year, those who are not the big beneficiaries of the tax cuts, to put into a trust fund to pay for their retirement. That would be great.

Unfortunately, this Congress is going to borrow every penny of that money, every penny, and replace it with IOUs. Some good part of it will go to pay for tax cuts, borrowing money to pay for tax cuts for people who do not pay Social Security taxes and do not ever care if they collect a cent because they are so wealthy; they may not even be eligible, because they may have never worked for salary and wages, who have been just investors their entire lives with their inheritance.

Now, remember, we voted seven times; it was before this gentleman arrived, but I believe the gentleman from New Jersey was here. Seven times we voted on a lockbox for Social Security. The Republicans were berserk about that; Lockbox, lockbox, do not spend that Social Security money. Well, I voted for it every time. Guess what? George Bush became President, the lockbox is gone, broke open the door, grabbed the money and ran. And there is no more talk of the lockbox.

So all of that money is being extracted only from people who work for wages and salary and is going to be borrowed and spent. Now, that is extraordinary. And how are we going to honor the IOUs with deficits as far as the eye can see proposed by this President and this majority? How are we going to repay those IOUs?

Mr. PALLONE. Well, I have to tell the gentleman, he talks about the past on the floor of the House. And I remember when I was first elected back in 1988, and for those first few years, through the late 1980s, early 1990s, the policy or the theme of the Republicans here was to eliminate the deficit. They kept talking about how we needed to eliminate the deficit. There was a group that used to come on the floor, and I have said this before, but I will say it again, there was a group that used to come on the floor during Special Orders every night, just like we do, here we are, and they had a clock, a digital clock that was the whole length of this podium. And they would have the pages bring it out, and they could barely carry the thing. And every night they would say, this is how much higher the Federal deficit went. But, boy, we do not see anybody on the Republican side coming down here now talking about the deficit. It is the largest deficit we have ever had.

Mr. RYAN of Ohio. Mr. Speaker, if the gentleman will yield, I was in college actually at the time of the great Contract With America, of which one of the fundamental principles was that we were going to have this balanced budget amendment. And my God, I mean, when we look at where we are today, reckless, reckless leadership, Congress spending like drunken sailors.

Mr. DeFAZIO. That is an insult, referring to drunken sailors.

Mr. RYAN of Ohio. I am sorry. That is true. I apologize to all of the sailors out there. But clearly, there is no concern for these budget deficits that we are running, putting our country in a position of weakness with some of our foreign competitors.

So I think it is important that the American people just at least see the duplicity of some of the comments that we are getting here today, a party that was clearly for fiscal responsibility.

I have to be honest with my colleagues. When I go back home, and I live in a pretty strong Democratic area in northeast Ohio, I am running into more and more Republicans that are very, very frustrated with the behavior of the Congress and the President running these deficits, because they have always been fiscally conservative. That has been a cornerstone of the Republican Party for many years, and now, they are looking and saying, wait a minute. And here we are as Democrats trying to put in the PAYGO provisions, that if you provide tax cuts or any kind of spending increases, you have to pay for them. And I think we have evolved as a Congress over the last 10 or 15 years, and we recognize how dangerous these deficits are. But a Republican House, a Republican Senate, a Republican President, $600 billion deficit, unending war in Iraq, borrowing from Social Security, borrowing from the banks in China; very, very dangerous proposition.

Mr. DeFAZIO. Mr. Speaker, we will move on to the second point the gentleman made about Medicare, and I think that that is an extraordinary point the gentleman made, the largest one-year premium increase in history, far exceeding any senior's Social Security cost-of-living adjustment. A funny thing, when they calculate cost of living, they do not include health care costs, pharmaceutical costs, it seems. They tell seniors, oh, well, your cost of living is going up 2.4, 2.6 percent. So to a senior, except perhaps wealthy seniors who own their own home; I mean there are very few people who can say, gee, my cost of living is only going up 2.4 percent a year.

The point is that with the Medicare bill that we passed, the White House hid how much it costs. I mean, there is now a former employee who has now become a very highly paid lobbyist, very common with this administration; highly paid lobbyists, go work in the administration and then become highly paid lobbyists again. This guy was head of the Health Care Financing Administration. He told a career employee who was asked by Congress, how much will this bill cost, an actuary, and he figured it out. And he was told, the career employee was told by the political appointee, who is now a million-dollar-a-year lobbyist rewarded by the pharmaceutical and insurance industry, if you tell Congress how much this will really cost, I will fire you.

Well, here is a guy who works for a living, has a family, career civil servant, and he was a little bit scared for his job, so he did not tell Congress how much it would really cost. He wrote it down, transmitted it to his boss, but he did not go to the press. He did not want to lose his job.

Well, now, the Bush appointee has moved on to his million-dollar lobbying job, a little reward that he got from the pharmaceutical industry for having lied to Congress, and we find out that it is going to cost more like half a trillion dollars, maybe six-tenths of a trillion dollars, and most seniors are going to get more cost than benefit. Some seniors will actually pay more, those who have less than $1,000 a year in drug costs will actually pay more under this plan. And seniors in the doughnut hole, well, they get the doughnut hole; we know what that is. And then, some people who have over $4,000, $5,000 a year drug costs, they will get some benefit. But that is their vision. And they prohibited Americans from reimporting less expensive, FDA-approved drugs from Canada, and they outlawed Medicare bargaining for less expensive drug costs for all Medicare recipients.

We could have had a program for nothing, not one taxpayer cent, just like we do with the VA. Everybody in Medicare has a card. Medicare goes out and bargains lower prescription drug costs. Just like I get in Blue Cross Blue Shield as a Federal employee, they negotiate discounts of 60, 70 percent. We could have provided a more meaningful benefit for no money, but guess what? It would not have made the pharmaceutical and insurance industries a huge pile of money. And they were against it and the White House nixed it, and that is now the policy of the United States of America. And there is only one way we can change that, and that is to change the presidency and to change the direction of this Congress, the House and the Senate. And then we can roll it back, and we can give a meaningful benefit at much less cost.

Mr. PALLONE. Mr. Speaker, I would like to move to the next point, because I know it particularly relates to the 30-plus group. Our colleague, the gentleman from Ohio (Mr. RYAN), has been basically out front on the issue about how we need to address the concerns of the younger generation. And this one, of course, is the value that talks about opportunity, providing Americans access to the tools to succeed as they choose, vibrant public education system accountable to the highest standards for every school and a chance for all children to reach their potential, including an affordable and accessible college education.

Now, since the Republicans have failed to provide promised funding for education reforms, millions of Americans have gone without help in reading and math and without after-school programs that boost academic achievement and keep kids safe. Republicans have underfunded education programs by $27 billion over the past 4 years nationwide. And of course, the President, as we know, several years ago heralded the No Child Left Behind program but never funded it. And unlike Republicans, Democrats would provide opportunity through high-quality, early childhood education, vibrant and accountable public schools and an affordable college education.

I have to say that the number-one issue, when I go back to my district, that people are concerned about is health care. That is the one I hear about the most. But the second, the one I hear about second is education, particularly the inability for families to finance their kids' higher education which, whether you are in public or private school, the costs keep coming up.

I know that the gentleman from Ohio has talked about this many times in the evening when he talks about the 30-plus, so I will yield to the gentleman.

Mr. RYAN of Ohio. Mr. Speaker, I appreciate the gentleman bringing this up, because I think whether we are talking about trade with China or what we are going to do, I mean, I think everyone agrees in the country on investments in education, whether it is K through 12, actually funding No Child Left Behind, which would be a nice idea, or making sure that average citizens in the United States of America have access to our colleges and universities.

I just want to share a couple of examples. Today, in one of the New York newspapers, they did an editorial. Basically, what is happening with the college students, and this just illustrates how egregious the infiltration of the money folks in this town can be, there is a provision in the Department of Education that guarantees banks a 9.5 percent return interest for a loan that they make, 9.5 percent. Well, they are now currently lending out student loans at 3.5 percent, but the government is reimbursing them for 9.5 percent. So if we do not fix this, for example, in the next 6 months, there will be $3 billion wasted that will go right to the banks. I am not making this up. This is crazy. Mr. Speaker, $3 billion that will go to the banks.

So, all we are saying on the Democratic side is that we believe that that $3 billion should be put into the Pell grants. We believe that that should be, maybe, used to actually lower the interest rates that average students would need to be paid so they would not have to pay and invest that money to increase access and opportunity for people.

How are we going to compete with China and Japan and India and all of these countries that are stealing all of our jobs if we are not willing to actually fund the education programs in the United States of America? We need more people competing. We need more entrepreneurs. We need more scientists. We need more mathematicians. We need more engineers. We need more math and science teachers. We need more people wanting to be astronauts and move the country forward in the 21st century. But if we do not invest, we are not going to see the return on that money. But we would rather give the $3 billion to the banks. Again, I am not making this up.

I do not have anything against banks. They own my house, and they own my car, so there is nothing personal here, but it is just as a policy decision, we need to spend that money in a different way, and it is the same thing with No Child Left Behind.

In Ohio alone, all of the new mandates that the No Child Left Behind Act instituted for local school districts, Ohio alone in one year, are underfunded by $1.5 billion. Now, Ohio had a provision; 75 percent of the kids needed to graduate. No Child Left Behind came in and said, you need 100 percent, so we are going to have the tutorials, the after-school programs, the summer programs, everything else; never sent the money. So, good idea, right? We want the next 25 across the finish line so that they can compete and create wealth and value in our society. Great idea. But if you do not fund the program, and you put it on the backs of the locals who do not want to vote for property tax levies as it is, where is the progress?

So, again, we are saying that, if we want to move the country forward, we have to make these kinds of investments. And to the American people who are out there, President Bush promised to increase the Pell grants when he first ran. He did not do it. He promised to fund No Child Left Behind. He did not do it. This Congress made the same kind of commitments. They did not do it. Who has flip-flopped? Who has flip-flopped?

Mr. DEFAZIO. Mr. Speaker, the point the gentleman made is little understood, and I have a whole bunch of those guaranteed student loans to get through, and what you said just really merits revisiting.

□ 2145

The Federal Government is going to guarantee banks 9.5 percent rate of return for extending loans to students to go to college to get a higher education.

Now, it is a great thing that we can help kids get a higher education. That is good. But the point is those loans are guaranteed by the Federal Government. The bank has no risk. Zero risk. I always thought interest had something to do with risk. So if the bank has no risk, how is it that they are going to get guaranteed?

Mr. RYAN of Ohio. Just to clarify, if a student defaults on a loan and takes out $10,000 worth of loans in Columbus, Ohio, or Youngstown State University, bolts town and moves to Oregon, who picks up the tab?

The government. So the bank only benefits. If they pay the loan back they make the 9.5 half percent interest when they loan it out at 3.5 and if the guy bolts town, the Government picks up the tab. Great deal.

Mr. DEFAZIO. If we took instead and said, hey, let us go back to a program that we developed in the 1950s, National Direct Student Loans, National Defense Student Loans they were originally called, and said the Government is going to make the loans to its young people, guess what? The Government always knows where to find you.

So the Government could do it without having the banks in the middle and for the difference in what the gentleman is talking about between 9.5 percent and say if the government charged 3.5 or 4 percent, the current Treasury bond rate to the students, we can give one million more Pell grants or a couple of million more loans to students. But instead, we are going to give money to the banks, the poor suffering, long suffering banks. They need the help, the subsidies.

On the other side of the aisle we hear about free market economies and socialism and all that stuff. What is this? Why is the Government subsidizing banks? The second point is made about No Child Left Behind. I have a State that we have got some real problems funding primary and secondary education. I have not seen the number as big as Ohio's, but our number in the tens of millions of dollars that No Child Left Behind is underfunded. It is an unfunded mandate.

Again, early on when the Republicans said no more unfunded mandates, I was with them. I was sincere. I said I do not think we should send down these mandates to local governments, down to schools and other communities. The Federal Government wants to send down new rules, they should pay for them. The President's signature bill. No Child Left Behind, $15 billion underfund, $15 billion being extracted from the States and local school jurisdictions that cannot afford to pay for the President's signature bill, much of which is repetitive.

National testing. We have State testing. We did not need national testing. I voted against the Clinton mandate for national testing. I thought my Republican colleagues were sincere when they joined me in that. Bush becomes President, proposes an identical national testing mandate to President Clinton's, guess what a majority of the Republicans voted for? I voted against it. I voted against a Democrat and a Republican President. It was a stupid idea. It is very expensive. They are teaching to the test. It is a new mandate, and we are not paying for it; Washington, D.C. is not paying for it.

These are the kinds of policies, the hypocrisy that we are getting out of that side of the aisle is unbelievable. The American people need to start paying a little bit of attention to what these people are really doing to them.

Mr. RYAN of Ohio. The beautiful thing, I do not know if it is beautiful or not, but the craziness that we have operating now in the United States Congress. We have a thousand kids dead in Iraq. We have thousands upon thousands of kids that we have probably all visited up at Walter Reed that are injured. We have 1.5 million kids moving into poverty. We have 5 million more people that are uninsured. We have subsidies for housing getting cut, so poor people cannot afford their rent any more. We have Medicaid going up. We have no cost controls for the prescription drugs. We have a million kids that will not, or 250,000 college eligible kids that will not, go to college because they cannot afford it. We have the Pell grant that is 40 percent of what it was when it started in the 1970s; and tomorrow we are voting on the Pledge Protection Act, to protect the pledge.

Now, we know it is the end of the session. Whether you are for it or against it, we know it is not going anywhere. The Senate is not going to take it up. It is divisive. It is a reason not to vote on anything of major policy substance in this Congress.

The Democrats have a plan that is going to move the country forward. My colleagues are out campaigning too. People are tired of the politics. The divisive issues that we bring forth today, we do not want to talk about student loans, because then we cannot raise money from the banks. We do not want to talk about Medicare costs because then we cannot raise money from the insurance companies and the pharmaceutical companies. So what do we talk about? The Pledge of Allegiance.

What is going on? If you are sitting at home and you lost your job and you cannot send your kid to school and tuition is going up and there is a local property tax on for your local school district, there is a mental health tax on, there is a tax on for your police and fire because we have cut the COPS program and the Congress is talking about the Pledge Protection Act?

How disconnected are we?

Mr. PALLONE. I agree with you. It really leads into our next point.

Mr. DEFAZIO. Let me just on that, I support the pledge as it is. I learned it that way. I think it is fine. The courts have in fact ruled many times that the use of God on our currency or our coinage or, in this case, under God in the pledge is diminimus. It is not a violation, and there is in fact no current threat.

The one case that was pending against those words in the pledge was thrown out by the courts. There is no threat from the so-called activist judiciary at this point in time because the one that had been filed was thrown out. But instead of addressing real issues for which they have no answer, here is something where there is a non-existent threat, but there is a real threat to the kids who cannot go to college. There is a real threat to the seniors that are cutting their pills in half because they cannot afford them. There is a real threat to the woman I talked about who will be thrown out of her subsidized housing in Albany having worked her whole life because she cannot afford it any more.

There are incredible threats to our troops in Iraq because of a reckless foreign policy, but they have no answer for those things. So they want to distract people with things that most of us agree on. We like the Pledge the way it is. There are a lot of things we love about our country, but they want to divide us on those issues and not deal with the real problems.

Mr. PALLONE. Both of the gentlemen commented on communities and the concerns that communities have, and that is clearly the next point that we have here, so we can just go right into it.

The fifth point of the Democrats' new Partnership for America's Future is community: essentially working together for safe communities, free of crime and drugs, supporting local businesses and groups, to keep our families safe and our neighborhoods strong, and enforcing our anti-pollution laws to keep our air and water clean and healthy with polluters paying for the damage that they cause.

Republicans have tried to cut back on support for local police officers, supporting proposals that would slash funding for the COPS program which has put thousands of cops on the street nationwide. As you know, that was a major initiative that President Clinton had, and that put a lot of police on the street in communities throughout the nation 4 or 5 years ago or even longer.

But in addition to that, the Republicans have even drained the Superfund program. One of the points that was made today when we had the press conference unveiling the new partnership was that we have about 719 sites that are under the Superfund program, hazardous waste sites that currently have the potential to endanger the families or the health of the families that live nearby. But what the Republicans have done is about 10 years ago when they first came into the majority under Speaker Gingrich, they have decided not to renew the tax on oil and chemical companies that pay for the Superfund. So there is no money left in the Superfund any more to clean up these hazardous waste sites.

Democrats would protect the safety of our communities with strong law enforcement and community policing. We would also invest in better transportation choices to fight congestion, create jobs, and improve the quality of life. And we would also restore the Superfund tax legislation that would force polluters to clean up their own mess rather than the American taxpayers.

Right now what happens is if a Superfund site needs to be cleaned up, we have to use what we call general revenue funds which are moneys that come from income taxes primarily, so the taxpayers are paying for the clean up. Whereas it used to be before the Republicans came into the majority, the oil and chemical companies would pay that tax into the Superfund and that money would be used to clean up the sites.

In addition to that, there has been every effort on the part of Bush and the Republicans to not enforce the Clean Water Act, the Safe Drinking Water Act, and the Clean Air Act. We could go on and on about their efforts to basically water down that legislation or those provisions that relate to water and air.

I do not know if the gentleman wanted to comment on any of those. I could say myself that the woman that was at our press conference today from Marlboro, New Jersey, that talked about the Superfund program is actually in my district and that was a perfect example. She did not go into the details, but the two Superfund sites she mentioned, one of them is Imperial Oil. What happens now is, because we do not have money in this trust fund from the tax and oil and chemical industries, at the end of the fiscal year which is August, September, right about now, these various States get some kind of notice from the Federal Government saying, we do not have any more money to clean up your site. We are short of money this year.

That is what happened to the Imperial Oil site. They got a notice saying they were not going to have enough money, and so we had to go back and try to get the funding and try to scrape around and see if there was money available. That never happened before when the Superfund existed because the money was there, paid for by the very companies that were creating the pollution.

Mr. DEFAZIO. I think it is a fair principle to say that the companies that are responsible for the pollution, the companies that made a profit when they created those hazardous waste and those Superfund sites should bear a substantial portion of the burden for cleaning them up. There is a new sort of vision on the other side of the aisle here, the Republicans saying, well, if you want to clean it up, clean it up yourself.

Hey, somebody made money creating that mess. That is what this is all about. They made money. So tough luck. The same thing has happened in my State. We have a major Superfund problem. We have been told, well, sorry, there is no more money to deal with those sites. Maybe you people would like to clean up. We have got to live with it, and someone else created it.

I have not noticed exactly that the oil and gas industries are hurting. Somehow I think I saw the last quarter when they were gouging the heck out of the American consumers with $2 and $2.20 a gallon of gas that they made record profits. So if they made record profits, how is it that they cannot afford a minimal continuation of the Superfund tax which would lower their profits a tiny bit, but not very much.

Mr. PALLONE. I have to tell my colleagues that we only have 4 minutes left so I want to get to our last point.

Mr. DEFAZIO. We do not want to leave accountability because there is a heck of a lot of that missing around here.

Mr. PALLONE. A lot of this relates to the deficit issue talked about before.

Our last point is accountability: holding those in power accountable for their actions, acting responsibly for our children by restoring fiscal discipline and eliminating deficit spending with pay-as-you-go budgets and requiring real consequences for CEOs and corporations who break the law at the expense of those who play by the rules.

Again, all the families nationwide have seen their share of the national debt, as my colleagues talked about earlier, increase by $52,000 and face a debt tax of $10,000 over the next 6 years. Unlike Republicans, Democrats will also refuse to cater to the Nation's special interest at the expense of the middle class, will require real consequences for CEOs and corporations that break the law.

This is the last part of our new partnership with the American people, our promise to honor these six values and the policies that they represent.

Mr. DEFAZIO. Let me ask a very simple question on that. Since every person that consumes electricity in my State is paying about 40 percent more today for the same electrons from the same plant because of the manipulation of the markets by Ken Lay and the fact that the Bush administration with Pat Wood and the Federal Energy Regulatory Commission would not do anything about it, does that mean that Ken Lay would finally go to jail?

Mr. PALLONE. I think so.

Mr. DEFAZIO. I support accountability if that is what we will get out of it.

Mr. RYAN of Ohio. I think when you talk about accountability and the future of our kids, one of the issues I want to touch on briefly is the issue of security which ties into what the gentleman was talking about before with really all of these issues, accountability, community, national security.

□ 2200

Two cops in a town that I represent, the city of Warren, Ohio, will be eliminated because of the cuts that this administration and this Congress have passed through the COPS program and through HUD, two cops in a town of 48,000 people that has four cops on patrol at midnight on a Saturday night.

Who is making us more safe? Certainly not the policies of this administration, checking one container out of every 50 that comes into the ports of the United States, which I do not have to explain to the gentleman here or the gentleman here or me, Ohio, even. What are we doing?

I mean, Senator KERRY may not have phrased it properly that we want to fight a different war or a more sensitive war, but we are not fighting World War II anymore. This is an intelligence war where you can make a bomb that fits into a briefcase that can blow up millions of people.

So the American people have to look very closely at the kind of policies that are coming out of this Congress right now, and we are not offering a very bright future, I do not think. And I am not a pessimistic person; I am probably more optimistic in most instances than I probably should be. But we are not doing things right now, and there is a critical, critical, critical election coming up here that defines that the two parties are clearly in different positions: tax cuts, spending $600 billion more than you are taking in, jeopardizing the future of the country; outsourcing jobs; and trying to say that this war in Iraq, which is the central front of the war on terrorism that we are losing is somehow making us safer; or the Democrats that are saying, let us take care of the United States of America, fund the education programs, fund cops, firefighters, port security, national security, homeland security, get these troops back home as soon as possible and make sure that we are investing in education and health care so our kids and grandkids can have a bright future to create this new economy that we do not know what it is going to be yet, but we know if we educate them everything will be okay.

That is our plan, and I want to thank the gentlewoman from California (Ms. PELOSI) and the gentleman from Maryland (Mr. HOYER) and the gentleman from New Jersey (Mr. MENENDEZ) and the gentleman from New Jersey (Mr. PALLONE) and the leadership of our caucus for providing us a message to go to the American people where they can say that Democrats get it, the Democrats have a plan.

We saw real people today in the United States Capitol that have real issues, that need our help, and the government is here to help. Maybe sometimes we do not do everything right, but we are here to help, and I hope that we can fulfill what the gentlewoman from California (Ms. PELOSI) wrote in here, that our actions are worthy of the aspirations of our children.

Mr. PALLONE. Mr. Speaker, I appreciate the gentleman's comments, and I think the thing that you said that I really want to stress the most, because we are almost done here, is the fact that this is an optimistic vision, that we are full of hope, and we have a basic vision that says that we will work with the American people as partners to make their lives and our government better.

We are optimistic about what can be done, but we also feel that it can only be done if we change the majority and if the Democrats have the opportunity to implement this partnership with America after November 2.

So I thank both gentlemen.

IRAQ WATCH

The SPEAKER pro tempore (Mr. MCCOTTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Ohio (Mr. RYAN) is recognized for 60 minutes.

Mr. RYAN of Ohio. Mr. Speaker, we are going to continue the conversation here and switch gears here just a little bit with the gentleman from Massachusetts (Mr. DELAHUNT) and continue the Iraq Watch and talk a little bit about the foreign policy issues that have been facing this Congress and facing the country for a few years now and trying to figure out a way in which we can try to correct this problem that we have gotten ourselves in.

Let me just first say that the whole Congress, Republican and Democrat Parties, Independents, House and Senate, President, we are all very much in support of the troops who are out on the front lines, their families who are making tremendous sacrifices that many of us will never ever know.

I have had the opportunity to be up to Walter Reed and visit some of these injured soldiers, and there is nothing more heartbreaking than to see a 19-, a 20-year-old kid who has lost his or her legs, an arm, and just think about all their hopes and dreams that have, in many ways, been washed away.

So we are taking this opportunity here as Democrats to talk a little bit about how we got into this position, and I want to start on an issue that I feel extremely passionate about.

When this all started after 9/11, the United States of America and an international coalition moved forward in Afghanistan, and we moved forward in Afghanistan because they were housing the Taliban and they were housing or harboring Osama bin Laden, who was the main perpetrator of 9/11 on the United States of America. So many of us are confused, myself included, why we went into Iraq in the first place.

The reason is that we have only so many resources in the United States of America, and we attacked and invaded with an international coalition into Afghanistan. We ousted the Taliban government that was harboring al Qaeda and harboring Osama bin Laden, and we sent Osama running into the Tora Bora region on the Afghan-Pakistan border. We had this international coalition, and we were going into Afghanistan and we were going to rebuild this country, and we were going to make it a thriving democracy. We were going to have a democracy in that region.

There is a great article in the Atlantic magazine this week, for those of you who are at home who want to read it and get the complete analysis and the timeline of how this happened. Then at one point, all of a sudden, all of the generals and all of the military planners in the United States of America began to shift their attention from Afghanistan to Iraq, and they took in troops. We now have 130,000 troops in Iraq. In Afghanistan, we only have 17- or 18,000.

The Special Forces were moved as well, and then even as it states in this article, the satellites that were focused on Afghanistan, that were trying to provide intelligence, were also moved, and they were shifted to Iraq. So how symbolic that we shifted our focus to Iraq and took away from what was going on in Afghanistan.

Slowly but surely, Afghanistan began to unravel. We ended up with a full-blown war in Iraq, and here we are, many, many months away from that, stuck in a quagmire in Iraq that many of us have no idea how we are going to get out of. I am glad to see that Senator KERRY has issued a plan on how we are going to get out of there.

We have to bring in an international coalition. That is the only way to do this. If we do not get troops in and support and money from the international community, the only thing left is to have a draft in the United States of America. If you ask the American people, would you rather have a draft or try to unite the international community, I think most Americans would say let us get the international community united to put troops into Iraq, but this current President cannot do that.

Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. DELAHUNT), who has been a real leader on this issue and more articulate than anyone else in this Congress on the problems and challenges in Iraq.

Mr. DELAHUNT. Mr. Speaker, we do not engage in hyperbole during the Iraq Watch hour, your generous words are a bit overstated, but I want to thank you for claiming the time this evening. I know my colleagues who are regulars on the Iraq Watch are coming. We are assembling.

We want to review again what the current status of events in Iraq and the Middle East are so that we can inform ourselves and hopefully inform our colleagues and help educate the American people.

I am sure you are aware that just recently there was what is described as a national intelligence estimate which painted a very bleak picture of the future in Iraq. The national intelligence estimate is a compilation of information drawn from the CIA and other American intelligence agencies. As I indicated, it presents a very, very bleak picture.

It is outlined that there are three different scenarios. The one that is most disturbing is the possibility that Iraq not only will be fractured, but that a full-scale civil war could break out at any time, but I guess, as a Member of Congress, what is more disturbing is that it was just, I think, yesterday when the question was posed to President Bush, what about the national intelligence estimate and the very pessimistic perspective that was presented by our own intelligence agencies, that his response was, well, they are guessing, they are guessing.

That certainly is disturbing to hear our leader, the leader of the free world, make that kind of a statement. I wonder if he reached that conclusion prior to our national tragedy of September 11 when he was presented what is called a Presidential daily briefing on August 6, 2001, that was titled "Bin Laden Determined to Strike in the United States." I wonder if he was guessing at that point in time because he had that information, and now, now we are presented again with a national intelligence estimate that presents a far different scenario than what we hear from the President, from the White House, from the Vice President.

Of course, tomorrow, the interim prime minister will be addressing this House. I think it is important to understand that this was a prime minister that was selected through a nonelective process. I am sure we are going to hear a lot of rhetoric. It will sound good, but it is not the true picture, I would suggest, of what our intelligence agencies tell us is transpiring in Iraq today.

Mr. RYAN of Ohio. Mr. Speaker, we had the same situation here when we had the President of Afghanistan here, told us how great everything was going in Afghanistan, how there was not a drug problem in Afghanistan, we were going to have elections, on and on and on.

I would be happy to yield back, but just the American people need to know that this is almost going to be a repeat performance of what we heard a few months ago.

□ 2215

Mr. DELAHUNT. Well, Mr. Speaker, the noted conservative columnist, a prominent Republican, William Buckley, recently made the statement that this administration has a dismaying capacity to believe its own PR.

Well, you know, this is not about public relations. This is about war and peace and the loss of American military lives and untold hundreds of billions of dollars of American taxpayers' money. That is what this is about. To simply say that things are rosy, and they are guessing, I think does a disservice to our intelligence agencies.

Again, to point to the article that was as recent as September 16, it was on the front page of the New York Times. It was entitled, "U.S. Intelligence Shows Pessimism on Iraq's Future": "A classified national intelligence estimate prepared for President Bush in late July spells out a dark assessment of prospects for Iraq, government officials said Wednesday. There's a significant amount of pessimism, said one government official who has read the document."

This is just unacceptable, to have the President of the United States say, in response to a question, that they are just guessing. And before we go any further, I think we should indicate that, while we happen to be Democrats, our concern is shared by many prominent Republicans, including men that serve in the United States Congress. So what I have done is I have extracted some quotes from our friends and colleagues on the other side of the aisle.

On September 19, just several days ago, Senator JOHN MCCAIN said this on Fox News, "I'd like to see more of an overall plan articulated by the President." Well, so would the American people.

Senator RICHARD LUGAR, another prominent Republican, chairman of the Senate Committee on Foreign Relations, less than a week ago, in response to a question about the slow pace of reconstruction in Iraq, had this to say, "Well, this is incompetence in the administration."

"The fact is, a crisp, sharp analysis of our policies is required. We didn't do that in Vietnam, and we saw 11 years of casualties mount to the point where we finally lost. We can't lose this. This is too important. There's no question about that. But to say, 'Well, we just must stay the course, and any of you who are questioning are just handwringers', is not very responsible. The fact is, we're in trouble. We're in deep trouble in Iraq." That is CHUCK HAGEL, respected Republican from Nebraska.

CHUCK HAGEL goes on to say, "It's beyond pitiful. It's beyond embarrassing. It is now in the zone of dangerous."

Well, again, I think we have learned that much of what we hear coming from the White House is fodder for a political campaign. But let me suggest that the President should put aside politics, not continue to paint a rosy picture when those who ought to know, know that the reality is totally different. Do not mislead the American people. The American people were misled before. They were misled when it was presented to the American people right on this floor that there were weapons of mass destruction in Iraq.

It was the American people who were misled when it was suggested that there were links between al Qaeda and Saddam Hussein. That was false, and we know it was false because the independent commission, five Republicans and five Democrats, concluded that it was inaccurate.

Mr. INSLEE. Mr. Speaker, if the gentleman will yield.

Mr. DELAHUNT. I yield to the gentleman from the State of Washington, a regular member and cochair of Iraq Watch.

Mr. INSLEE. Mr. Speaker, I want to follow up on what Republican Senator CHUCK HAGEL said, because I think it is accurate. He said, discussing the situation in Iraq, "It is beyond pitiful. It is beyond embarrassing. It is now in the zone of dangerous." And I want to reiterate that that is not just rhetoric; that is reality.

The reason I know it is reality is because we just lost a man from Lynwood, Washington, last week, Corporal Steven Rintamaki, 21 years of age, who will never be coming home, killed in action in Iraq while serving proudly and with distinction in Iraq. Yes, indeed, this is in the zone of dangerous. And this country deserves an administration who will be forthright and truthful and is not looking through this situation with rose-colored glasses.

What CHUCK HAGEL said, that we are now in the zone of dangerous, I think we can say in spades that that is the situation.

I learned something tonight, Mr. Speaker, that is so disturbing I just have to share it. Osama bin Laden, who is still at large somewhere in the world tonight, after the President told us he would get him dead or alive; he is still at large. The al Qaeda network is still functioning and now attacking our troops in Iraq. And we have been very concerned for some time that this administration, in its action in Iraq, has taken its eye off the ball of destroying the al Qaeda network and diverted resources and attention into Iraq, thereby increasing the risk that al Qaeda would remain a threat. And, indeed, Osama bin Laden is alive tonight and is a threat.

I learned something tonight. We knew about the administration moving resources from Afghanistan that could be used in the hunt for Osama bin Laden. The Predator aircraft, the drone that moves around, they moved that to Iraq before we got done looking for Osama bin Laden. We know that the administration has more people checking on people going to Cuba as tourists than they do trying to interdict monies going to al Qaeda. We know about those diversions in this prioritization.

But let me tell you about one I learned about tonight. NBC news today reported that the administration three times had the opportunity to take out terrorist Abu Musab al Zarqawi who, right now, could be associated with some of the beheadings we have seen, actually, his network. Three times the President quashed efforts to take out Zarqawi before the war in Iraq started because they did not want to diminish or undercut their argument of why they needed to go to Iraq.

Mr. STRICKLAND. Mr. Speaker, will the gentleman from Massachusetts yield to me on that point?

Mr. DELAHUNT. I yield to the gentleman from Ohio.

Mr. STRICKLAND. I just wanted to point out to my friend from Washington, Mr. Speaker, that not only is this gentleman that he is talking about responsible for some of the beheadings, the reports are that he himself, he himself has been the individual that has actually carried out the beheadings of Americans.

Mr. INSLEE. If the gentleman from Massachusetts will continue to yield.

Mr. DELAHUNT. I continue to yield to the gentleman from Washington, Mr. Speaker.

Mr. INSLEE. In June, according to NBC news, in June 2002, the Pentagon drafted plans to attack a camp Zarqawi personally was using with cruise missiles and air strikes. The plan was killed by the White House because they did not want to undercut their argument publicly that we had to go into Iraq.

Again, 4 months later, Zarqawi planned to use ricin, this deadly poison, in terrorist attacks in Europe. The Pentagon drew up a second plan to go after Zarqawi. The White House killed it again because it would interfere with the action, the public message that we had to go to Iraq.

In January 2003, the pentagon drew up still another attack plan, and for the third time, the White House killed it because "military officials insist their case for attacking Zarqawi's operation was air tight. But the administration feared destroying the terrorist's camp in Iraq could undercut its case for war against Saddam."

If this is true, this is a gross dereliction of duty. We have now seen multiple instances where this administration has moved forces that could have been used to destroy the people that killed almost 3,000 Americans on September 11 and moved them in this effort to go into Iraq under the pretense that there were weapons of mass destruction and under the pretense that al Qaeda was responsible for September 11, both of which have been shown to be false.

This bears scrutiny and investigation, and it demonstrates why we need a new fresh approach in the war against the fundamental nihilists who are still out there planning to attack this Nation.

Mr. STRICKLAND. Mr. Speaker, if the gentleman from Massachusetts will yield once again.

Mr. DELAHUNT. I yield to the gentleman from Ohio, Mr. Speaker.

Mr. STRICKLAND. Mr. Speaker, some may ask, why are these Members of the House of Representatives standing here talking about past history? Why are they not talking about what is happening today? Well, sadly, we lost three more American soldiers today. Three more today. Every day we are losing American soldiers.

But we are talking about what has happened in the past and the mistakes that were made in the past because the very people who are responsible for that terrible misjudgment or those misjudgments are the very same people who want to remain in power so that they can make decisions for the future. So, in a sense, as we talk about what happened in the past tonight, we are doing it because we are concerned about the future. We are concerned about the same people who made such terrible misjudgments, who misled the American people, want to continue to be in those positions of power.

I would agree with my friend that we have misplaced our priorities. During the Republican convention in New York, the President spoke for 63 minutes during his acceptance speech. And all during that convention there were multiple references to the tragedy of September 11, when so many Americans were killed. But it is almost beyond belief to know that the President talked for 63 minutes, and never once did he mention Osama bin Laden. There are multiple references throughout that week to Saddam Hussein, but not one reference on the part of the President to Osama bin Laden, the man who was responsible, the one who attacked our country, the one who masterminded that terrible day of September 11.

It is as though he has disappeared. We do not hear his name mentioned even by the President. He is the one the President referred to in this very chamber when he said, "He can run, but he cannot hide." The sad truth is, he ran, and he has successfully hidden. And in his hiding, he is planning the next attack upon this country. That is the sad truth.

It is almost as if we have decided that Osama bin Laden is no longer important, this one who was the major person responsible for attacking us. It is almost beyond belief that we could find ourselves in this situation at this point in time after all that has happened. I just think we should remind ourselves that we have not yet apprehended the person who attacked our country.

Sure, we have gone into Iraq. We have spent about $200 billion. We have seen about 6,000 or 7,000 of our soldiers injured. We have lost well over 1,000 American lives. Yet the man who was responsible for attacking us is a free man tonight, and he continues to be a danger to us.

Mr. DELAHUNT. Mr. Speaker, reclaiming my time, when we talk about failure, from the beginning, after our resources were diverted from the military action that was achieved in Afghanistan, the policy that has been promulgated by this administration can only be characterized as a sequence of failures and, additionally, a refusal to accept responsibility.

□ 2230

It would be so much more credible for the President to stand up and acknowledge the serious consequences that occurred as the direct result of this policy.

I thought it was interesting that the individual that he appointed to conduct the survey in Iraq to determine where at that point in time, because we were told that there were weapons of mass destruction, where they were located, called on the President and that man's name is David Kay, as many of us know, called on the President to come clean with the American people because he was concerned that if we did not do so, if the President did not do so, then the credibility of the United States would be eroded and that when another international crisis erupted and we had to seek out support from other nations, this time we would be looked at as having misled not only the American people but the rest of the world. And that is exactly what has happened.

If anyone has traveled abroad, the antipathy and the hostility that has been expressed about this President and, tragically, about our Nation because of the errors and the lack of willingness to accept responsibility has hurt our national interests and our national security, when his own appointee who was highly regarded and highly respected was the chief weapons of mass destruction inspector appointed by this President said, Mr. President, come clean, tell the American people that we were all wrong. He said that here in this building in a hearing before the Senate Foreign Relations Committee. And what does this White House do? They continue to shuffle. They reluctantly say, well, maybe that was a mistake. And then the Vice President continues to suggest that somehow there are links between Saddam Hussein and Osama bin Laden. The only link is that Osama bin Laden despised, despised and hated, Saddam Hussein, whom he considered a corrupter of Islam.

Mr. STRICKLAND. Mr. Speaker, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Ohio.

Mr. STRICKLAND. Mr. Speaker, it is true that in spite of all evidence to the contrary and in spite of the report of the bipartisan 9/11 Commission that the Vice President continues to insist that there was a connection between Iraq, al Qaeda, and the attack upon our country.

It is amazing to me that in spite of all of this evidence that the Vice President would continue to say that. I mean, it is contrary to every expert, every study, the 9/11 Commission. Even the President himself has disassociated himself from that contention. And yet the Vice President continues to make the accusation. Why did the Vice President say something like that that has been so discredited?

Mr. DELAHUNT. Mr. Speaker, reclaiming my time, let me suggest this as an answer. Because if one repeats it often enough, a large number of people, unfortunately, will accept it. That is why it is important to have in a leadership role during these very dangerous times an administration that will be forthright, that will be honest, that will admit mistakes, and that will listen to others. That is what is important.

Mr. STRICKLAND. Mr. Speaker, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Ohio.

Mr. STRICKLAND. Mr. Speaker, it takes strength and it takes confidence to be willing to admit a mistake. And, quite frankly, we have not heard the President or the Vice President admit any mistakes, any mistakes. Anytime there is bad news coming out of Iraq, and it is coming out on a daily basis, the word we get from the White House is, we expected that.

Mr. DELAHUNT. Mr. Speaker, reclaiming my time, they say that now. But they were not saying that during the course of the major combat phase. They were saying that we were going to be greeted as liberators, that people would be dancing in the streets. That is absolutely false. And yet they insist on maintaining the message. But it is not an honest message.

Mr. INSLEE. Mr. Speaker, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Washington.

Mr. INSLEE. It seems to me we are at a Y in the road; and as Yogi Berra said, when you are at a Y in the road, take it. But this administration is refusing to recognize the need for a change in policy in Iraq. Their message to the American people is more of the same. Same old, same old. We are doing just fine. It is hunky-dory in Iraq. So let us keep doing what we have done here for the last year and a half.

I want to suggest there are four things that need a major change in our Iraq policy or we will face certain failure and more deaths, as my constituent did last week.

Four things: number one, we have got to have a meaningful, timely training program to train the Iraqi forces so that they can take responsibility for their own country, which is the only way this is going to be successful.

What do we find this administration has done in regard to retraining the Iraqi Army? We are now a year and a half after the invasion of Iraq, a time period where we knew, if somebody was thinking about it, that we were going to have massive retraining needs to train about 250,000 troops. That was going to take some work to do that. One would think people would figure that out. But it is a year and a half after the invasion of Iraq, and this administration still has less than 40 percent of even the people responsible for training the Iraqis working for us to get this job done. We only have half the capability, according to an article of September 20; 230 of the 600 we knew were going to be necessary are on the job.

This administration has dropped the ball on a fundamental thing that is required for success in Iraq, which is to train their security forces. And why did they do this? I know why they did it. Because they told us we were going to be greeted with open arms, rose petals, and the Iraqi equivalent of champagne. Why would we have to train all these soldiers and police officers? It was going to be a cake walk.

Mr. DELAHUNT. And, Mr. Speaker, we would not have to pay for it.

Mr. INSLEE. And we would not have to pay for it either, Mr. Speaker. So here we are a year and a half after the invasion, this administration still has less than half the infrastructure we need to get this job done. So that is number one that needs a significant change in policy.

Second, we need an administration who will say we have got to have elections sooner rather than later. When we had a brief window where we were not getting bombed and RPG'd for about 3 months early in this campaign, we had a chance for elections. But the President sent Mr. Bremer over there, and he put the kibosh on elections. Sistani wanted elections. They would not allow them. And here we are in this pickle.

And this is why this is important. They are telling us, Mr. Allawi is going to tell us tomorrow, that we are going to have great elections on January 31 in Iraq. That is great except for one problem: there are huge swaths of Iraq today, in late September, that are not under the control of the Iraqi government. Fallujah, Ramadi. We heard about a battle a couple of miles south of Baghdad yesterday. How are they going to have elections to get this job done? They are not prepared to get it done, and the only way we are going to do this is to only have about 50 percent of the country voting.

Mr. DELAHUNT. Mr. Speaker, reclaiming my time, does the gentleman know what they call those large swaths of territory?

Mr. INSLEE. Mr. Speaker, if the gentleman would further yield, those large swaths are called no-go zones. And that means that nobody from the Iraqi government or we go to.

What is happening tonight with those no-go zones? The Iraqi insurgents are planning to kill Marines and building up their capability of doing it, and we are not going after them. I am concerned, I am concerned, that one of the reasons we have adopted these no-go zones is because this administration wants no casualties, which none of us want ever, but he particularly may not want them before November 2. We never want casualties ever, but to allow these insurgents to build their forces which they are later going to throw back in our faces and shoot at our Marines and soldiers is most troublesome.

There is a third thing that needs to change, and I want to note it. We need to get busy allowing the Iraqis to rebuild Iraq. If we listen to what these insurgents are saying, they are angry because they do not have electricity, and they blame us for it. Frankly, I do not think they should be blaming us for it. They should be blaming Saddam Hussein for it. But they do blame us. We need to get a reconstruction program that is working. And the reason it is not working, the reason we have spent less than 10 percent of the money that we voted on a bipartisan basis on a variety of occasions to apply, the reason that money has not been spent, $18 billion have been appropriated, less than $2 billion has been spent. Why have they not spent the money? For this reason: this administration has insisted that instead of hiring Iraqis to do the construction and Iraqi businesses and Iraqi employees, they want to hire their pals at Halliburton; and they insisted that American contractors, many of whom happen to be significantly connected to the administration, do this.

And the Iraqis are the ones who are unemployed. Those are the people we should be hiring to get this job done. Every Iraqi that gets a job is one less Iraqi willing to join the insurgency. But, no, this administration wanted to make sure Halliburton got the money.

Mr. STRICKLAND. Mr. Speaker, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Ohio.

Mr. STRICKLAND. Mr. Speaker, on one point, returning soldiers have told me that Halliburton is literally importing Filipinos to do much of the work in Iraq. As the gentleman said, the Iraqi people are unemployed. They have no source of support for themselves and their families. They are just unemployed with no incomes. And yet Halliburton is importing Filipinos and workers from other parts of the world who will provide cheap labor for them while the Iraqis go unemployed. That is just one example of the terrible policy that this administration is following right now.

Mr. INSLEE. Mr. Speaker, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Washington.

Mr. INSLEE. Mr. Speaker, I believe the reason that Halliburton is doing that is that they do not want to deal with the difficulty of hiring Iraqis. With all due respect, we have to get the Iraqis involved in their own economy, or they are never going to be on board in a new government. And this administration, in their lust, in their lust, to continue their relationship with Halliburton, has squandered this opportunity to get Iraqis involved in their own reconstruction. And it has hurt us big time in the insurgency that is now raging across wide swaths of Iraq.

Mr. DELAHUNT. Mr. Speaker, the gentleman means no-go zones.

Mr. INSLEE. No-go zones, Mr. Speaker. And the problem is the no-go zones are not going to be no-go zones permanently. At some point we are going to have to ask American sons and daughters to go into Fallujah, and they are going to be fired at by insurgents. And the problem is those insurgents tonight are building bunkers and recruiting and building taps and they are building car bombs. They think many of them are assembled in Fallujah and driven around the country, and we are not rousting those groups out. And we are going to have to face their guns when they are emboldened and empowered and in a tougher position. That is terrible military doctrine. It is a mistake. And it is going to cost American lives. And I think that it is one of those things that needs change.

Mr. STRICKLAND. Mr. Speaker, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Ohio.

Mr. STRICKLAND. Mr. Speaker, before the gentleman goes to his fourth point, these no-go zones are made up of the largest cities in Iraq. The largest cities in Iraq are no-go zones right now. The gentleman is right. We are not going into those cities now. But the elections are scheduled for the end of January next year. And there is every intention that we are going to go into those cities before the Iraqi elections. If they have the Iraqi elections and much of the country cannot participate, it will be considered an invalid election. People will not be able to accept it. So we know that the intention of this Pentagon, President Bush and Secretary Rumsfeld, is to go into these no-go zones before the end of January.

□ 2245

But they are not doing it now, and I think my friend has indicated why we are not doing it now. We are not doing it now because it is going to be a tough thing to do. We are 41 days in front of our elections, and so basically we are letting these no-go zones fester.

Even members of the Taliban now are moving into some of these no-go zones. So we have the terrorists, the insurgents, building up their networks within these no-go zones, and when we do go in, it is going to be terribly difficult to dislodge them, to overcome them and overtake them. But every day that passes that they have these sanctuaries, basically, they are able to increase their strength, to increase their ability to resist once we do decide to go into these areas.

Mr. DELAHUNT. Mr. Speaker, reclaiming my time, I think I would suggest this, that what we are seeing in Iraq, because of the incompetence of this White House and this administration, is a burgeoning number of safe havens for terrorism. Yet we hear that there is progress being made on the war on terror. How absolutely false that is.

Again, if I can just take 2 minutes, I do not want to leave the impression that we are speaking here in partisan tone, because so many prominent Republicans, colleagues of ours, share this view. If I may, just indulge me for a moment to read some quotes.

From the former vice chairman of the House Permanent Select Committee on Intelligence, Doug Bereuter, highly regarded and well-respected. Upon leaving here he sent a letter to his constituents. In it he said, "I have reached the conclusion now that the inadequate intelligence and faulty conclusions have been revealed; that, all things being considered, it was a mistake to launch that military action, especially without a broad and engaged international coalition. Our country's reputation around the world has never been lower and our alliances are weakened. Now we are immersed in a dangerous, costly mess, and there is no easy and quick way to end our responsibilities in Iraq without creating future problems in the region and in general in the Muslim world."

That is somebody who served on the Permanent Select Committee on Intelligence in this House.

A former advisor to Mr. Bremer, who was personally recruited by Dr. Condoleezza Rice, the National Security Advisor, had this to say about 3 weeks ago. His name is Larry Diamond. "We are significantly worse off strategically than we were before. There are really no good options." Another Republican.

Let me quote William Buckley once more. "If I knew then what I know now about what kind of situation we would be in, I would have opposed the war."

Someone who works in this building on the other side, "Our committee heard blindly optimistic people from the administration prior to the war and people outside the administration, what I call the dancing in the street crowd, that we just simply will be greeted with open arms. The nonsense of all that is apparent."

The lack of planning is apparent. What we had here was a volatile combination of the ideology, the so-called neoconservative influence in this administration, combined with a magnitude of incompetence that if it occurred in the private sector, heads would have rolled, people would have been fired and a new team would come in.

Mr. INSLEE. If the gentleman will yield, you mentioned a pretty explosive word, which is "incompetence." When we have our sons and daughters at risk for their lives, over 1,000 of whom we have lost now, it is a pretty serious charge to suggest that an administration has been incompetent in the prosecution of this mission.

So I just want to quote a Republican Senator in this regard, or two Republican Senators in regards to points two and three that I talked about in saying that we need a major change in American policy in Iraq.

On point two, the issue of rebuilding Iraq, when Senator LUGAR, Republican Senator, was asked——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCCOTTER). The Chair would remind Members to refrain from improper references to the Senate or its Members.

Mr. INSLEE. Well, Mr. Speaker, let me rephrase. When a prominent Republican individual who served in public office in a post that involves a 6-year term was asked why only $1 billion of $18 billion appropriated last year for Iraqi reconstruction, why less than 10 percent of that had actually invested in Iraq, he said, "Well, this is the incompetence of the administration."

"This is the incompetence of the administration." That is what this has been. We need someone competent running the operation in Iraq.

Point three, the point we have been saying, that our military people are going to be endangered as a result of not training people and getting into these no-go zones, another prominent Republican, who once recently ran for President and suffered grievously at the hands of a fellow Republican in South Carolina, said "it was a major error in allowing insurgents to keep control of the City of Fallujah after vowing to oust them."

The same quote: "As Napoleon said, if you say you are going to take Vienna, you will take Vienna," this unnamed prominent Republican person in a 6-year post said.

The fact of the matter is, these are major policy failures of this administration. It is costing us in lives, and we need a change.

Unfortunately, this administration has one prominent rule in Iraq, and an economic policy, for that matter: Do not bother me with the facts. I told you guys it was going to be roses. I told you we were going to be treated as liberators. Despite the fact we have this horrendous problem in Iraq, we are not going to change our policy one wit."

We need a fresh policy in Iraq, and, one way or another, we have got to get it.

Mr. STRICKLAND. If the gentleman will yield, as I am standing here listening to the two of you talk I have a chilling thought, and that thought is this: In spite of all that has gone wrong, even today it seems as if military decisions are being affected by political considerations.

Now, I understand what a serious charge that is, that military decisions would be affected or mandated or influenced by political considerations. But why would we allow these no-go zones in Iraq to remain no-go zones when we know that that cannot continue, that we have got to change that situation before the end of January, if in fact the Iraqi elections take place as planned, and the administration insists that they will take place?

That means that at some period of time between now and the elections in Iraq in January we are going to have to deal with these no-go zones. And if it is true, and I believe it is, that as each day passes the insurgents who are occupying these areas increase their strength, increase their ability to resist our Armed Forces or the Iraqi forces once they do go into those areas, then it leads me to the only conclusion that I think is rational or logical, and that is that military decisions are being influenced by political considerations, namely the November 2 election in this country, and that is terribly troubling.

I think the American people ought to understand what is going on here, because it involves the well-being of our soldiers, and I think it involves the credibility of our government as we reach out to the world for partners and partnerships.

Mr. DELAHUNT. Reclaiming my time, of course it does. The gentleman talks about our soldiers. I do not think there is any community in this country that expected the need to call upon our National Guard and our Reserves to the extent that they did, particularly when the Deputy Secretary of Defense, Mr. Wolfowitz and Secretary Rumsfeld dismissed General Shinseki, who at that point in time was the head of the United States Army, his estimate that 200,000 to 300,000 troops would be needed. They said that was a wild exaggeration.

Mr. Wolfowitz, that neoconservative who in many ways was the intellectual author of this adventure, dismissed it, because as DICK LUGAR said, we were going to be treated to flowers and the Iraqi equivalent of champagne and dancing in the streets. How long did that last?

But now, but now, oh, no, now we are calling up on a regular basis for deployment after deployment our Reserves, to the point where Lieutenant General James Helmly, who heads the U.S. Army Reserves, said just this past week that the war in Iraq is creating great stress on the Reserves, and he is concerned that they will have a tough time meeting their recruiting goals next year. He also noted that the Reservist jobs in Iraq are just as dangerous as regular troops. There is no more a secure rear area. Our truck drivers and our military police have become frontline troops, again underscoring the incompetence of the planning in terms of the military planning and the reconstruction phase of this inept administration.

Mr. STRICKLAND. If my friend will yield, just one example of the incompetence was the fact that our soldiers were sent into Iraq without body armor. We hear a lot of talk in this Chamber about body armor. We have heard a lot of accusations that somehow a particular person running for President other than the President himself is responsible for voting against body armor. But the fact is that initially, when our troops went into battle, they were sent into battle without body armor. Thousands of them were there without body armor.

I wrote Secretary Rumsfeld about that and asked him to give me a date certain when they all would be well-equipped with this armor, because I had heard from a young soldier, who happened to be a West Point graduate, one of my constituents, he said, "Congressman, my men are wondering why they don't have body armor?"

The fact is that that decision was made to send our troops into battle without body armor, and the war started months before the vote on the $87 billion that is now being used to accuse others of depriving our troops of this vital equipment. That is just one example. But we also know that they were sent there without armored Humvees and in insufficient numbers. These are examples that I would consider incompetent leadership. Incompetent leadership. It continues to this very day.

Now, the President was asked this past week how he could defend his statements about how well things were going in Iraq in light of the recent report from the intelligence community saying things were not going well.

He answered this way. He said, "Well, they laid out three possibilities: One, things would be lousy; two, things would not be so good; and things would be better."

Well, "things being better" was not one of the possible outcomes, as we heard from the intelligence community. The best that they said we could expect was just more of the same, of what we have right now, and the worst was out-and-out civil war within Iraq. There was no better scenario.

The President seems incapable of just speaking forthrightly and in a candid manner about the real situation to the American people. So we hear this happy talk, and every day, more and more and more of our soldiers are being lost.

Mr. DELAHUNT. Mr. Speaker, reclaiming my time, I think what we are saying is please, Mr. President, just give it to us straight, okay? Try a little bit of Harry Truman. Lay it out there, the good, the bad and the ugly. The American people can handle it. The American people deserve to know. Unfortunately, this particular White House has an obsession with secrecy.

□ 2300

We know that. Everybody knows that. But if I can, just for one moment, get back to that $87 billion that has emerged as an issue in this election. I voted against the $87 billion. I do not know how either of my colleagues voted; they voted against it. I dare say we voted against it because rather than providing the money to the Iraqi government as a loan, this White House, this President, insisted that we just give it away to the Iraqi government. It was a big give-away. There is no other major donor to the reconstruction effort in Iraq that did not require the monies that are donated or given to be done on a basis of a loan so that their taxpayers would be repaid.

Mr. STRICKLAND. Mr. Speaker, if the gentleman will yield, if we go back and recall the circumstances surrounding that $87 billion, remember when the President went on national television and announced to the American people he was going to ask for an additional $87 billion, his approval rating fell like a rock, because the American people were upset that the needs here at home were being so woefully neglected, and here the President was, coming, asking for an additional $87 billion.

So many of us thought that the fair thing to do was to take that portion of the $87 billion that was going to Iraq for the rebuilding of schools and clinics and roads and bridges in Iraq, and to make that available as a loan that would be paid back to this country once Iraq was stable and they had these huge oil sales which was going to make it possible for them to repay that loan. And the White House said, no, no, no. We will only make this money available as an out-and-out gift.

Mr. DELAHUNT. A give-away.

Mr. STRICKLAND. Yes, a give-away. So they went to Madrid to this so-called donors' conference and they came back and they were trying to convince us as a Congress and as the American people that all of these other countries had ponied up, had given their fair share. And what did we find out, as the gentleman from Massachusetts (Mr. DELAHUNT) has said here, all of these countries that made monies available made them available in the form of a loan. They will, in fact, at some point be repaid for whatever they give, but not the good old USA. We gave our money away, and now the President is criticizing those of us who fought to have this given as a loan, implying, I guess, that somehow we did not care about the troops. Which is, quite frankly, a little outrageous.

Mr. INSLEE. Mr. Speaker, if the gentleman will yield, there is another aspect of this $87 billion that we need to point out, of whose money the President wanted to spend. He wants to spend our grandchildren's money. Because every single one of those $87 billion he committed to Iraq, which had to be spent in some sense, but instead of us paying for it and dealing with it with taxes, he wanted, and he consciously decided to make it all deficit spending. We had a proposal to pay for it so that our grandchildren would not have that deficit spending obligation on them.

Now, why is this? I think this is symptomatic of why we need a new administration with a fresh policy. Winston Churchill said, all I have to offer you is blood, sweat, toil, and tears. This President said, you can fight this battle on the cheap. It will be sugar candy, roses, and champaign corks all the way. And as a result of that, we got $87 billion deficit spending, 1,000 dead, and a silent draft that is going on now drafting our people to serve longer times than they really did sign up for when they went into the military. That is why everybody in this chamber is hearing stories about 50-year old people who left their career for a year, came back, now have to go back for another year, and goodness knows how many years, because they have not committed the troops that are necessary to get this job done like General Shinseki told them.

This President wanted to fight this war on the cheap. It has cost us in lives, it has cost us in deficit spending, and we need a new policy. We do not say this just to be critical; we say this to get a new policy in Iraq. Unless we get that, we are heading into deep, deep trouble.

Mr. STRICKLAND. Mr. Speaker, as I said earlier this evening, the only people sacrificing for this war are the soldiers and the people who love them. They are the only ones who are sacrificing, and that is sad.

EMOTIONAL TRIP TO RUSSIA

The SPEAKER pro tempore (Mr. MCCOTTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Pennsylvania (Mr. WELDON) is recognized for the remainder of the time until midnight.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise not to refute or answer the comments that we just heard for the last several hours, but I will make a couple of comments. First of all, rather than listen to Members of Congress and this body talk about the conditions in Iraq, tomorrow the American people will have a chance to listen to the Prime Minister of Iraq himself whose life has been threatened 4 times, attempted assassinations on him. I think the American people should listen to that gentleman, Prime Minister Alawi, to have us get an understanding of how well his country is responding to our effort.

In terms of the need for the use of our Reservists, as the vice chairman of the Committee on Armed Services, I would just remind our colleagues that it was during the 1990s that our troops were deployed 38 times. None of those deployments were paid for and, as a result, we had to cut the size of our military. The Army, for instance, in almost half, cutting our armored divisions down to 20; the Navy was cut from 585 ships to 314. As a result of those significant cutbacks during the 1990s, it was necessary to go to a policy that included the use of our Guard and Reserve forces. This was clearly understood in the 1990s because we had no choice. As our military budget was cut back, we had to rely more and more on the Guard and Reserves, that is why the Guard and Reserves are being used today in Iraq. I would add, Mr. Speaker, commitments were made that our troops would be out of Bosnia before Christmas of 1996. Our troops are still in Bosnia in the fall of 2004.

So again, the rhetoric on this floor is typical rhetoric that we hear before an election, and I would just urge our colleagues and the American people to tune in tomorrow at 10 a.m., the Prime Minister of Iraq Alawi will present the case of the Iraqi people to this body in terms of how grateful they are and what level of success we are achieving.

Mr. Speaker, I rise this evening to discuss a recent trip that a delegation of Members of Congress took in delivering a resolution that passed on the Floor of this body one week ago. It was my 38th trip to this country, Mr. Speaker, the country of Russia, which I have worked hard to try to assist our government, both Democrat and Republican administrations, in turning from an arch enemy of ours during the Cold War to a partner. This 38th trip was by far and away the most sad, Mr. Speaker, and the most emotional.

Three of us traveled to Moscow and, in spite of significant concern expressed by both our government and the Russian government, we were able to travel from Moscow after visiting the North Ossetian office in downtown Moscow to express the condolences of the people of America and this Congress in particular. We traveled down to Beslan in North Ossetia. We traveled along with the President of Kalmykia, and the purpose of the trip was simple, but it was profound.

We carried with us the resolution that was passed unanimously by this body expressing the solidarity of the American people and the U.S. Congress, Democrats and Republicans, with the people of Russia in their darkest hour. It was appropriate that we do this, Mr. Speaker, because it was, in fact, President Putin that was the first President to call the President of the United States after 9–11 to express the condolences of the Russian people in our darkest hour. And I can recall very vividly the embassy in Moscow, the American embassy after the 9–11 attack, where literally hundreds and thousands of bouquets of flowers and notes, expressions of sympathy, were laid outside of our embassy by the people of Russia.

So those of us in the Congress who supported the passage of the resolution on the Floor of this body one week ago and signed by the gentleman from Illinois (Speaker HASTERT) thought it was imperative that we travel to Beslan and stand in that school and convey to the people of Russia our conviction that we were with them in the fight against terrorism.

I want to briefly outline the trip, Mr. Speaker, and then comment on the implications of both the terrorist attack in Beslan and the terrorist attacks on 2 Russian airplanes and in downtown Moscow that have been occurring on a fairly frequent and regular basis.

In arriving in Beslan in North Ossetia in the presidential plane of the President of Kalmykia, we were greeted by the Speaker of the State Parliament, or Duma, of North Ossetia. North Ossetia is an autonomous republic within Russia. They have their own President, their own parliament called the Duma, but they are, in fact, a part of the Russian Federation.

□ 2310

Therefore, the President was someone in that country we hoped and we did meet with. But the person who greeted us on our arrival at the airport in Beslan is in fact the Speaker of the Parliament of that country, equivalent to the Speaker of the House in our country. His job was to escort us through his country and explain to us in his own terms what happened at Beslan.

The Speaker of the Parliament when he arrived was certainly someone who we could relate to because he had a similar job to us in terms of his function and his job. His name is Taymuraz Mansurov. And it is interesting because he told us when we arrived that he had four children himself, two children in college and two children who in fact were attending the actual school that was attacked by the terrorists on the first day of classes just several short weeks ago. In fact, both of his children are today in hospitals in Moscow recovering from significant wounds. His 12-year-old daughter was shot in the face with a weapon as she was attempting to leave the school and she is being treated at a Moscow special medical center for that wound.

He told us that the state of trauma of his country and his city, the city of Beslan was just something that was impossible for people outside of North Ossetia to understand and appreciate. As we got off of the bus at the first stop on our way into Beslan, right next to a cemetery, we were struck by literally hundreds of graves that had recently been dug with mounds of dirt on top of each of them where the children of this school and their parents and their grandparents had been buried within the previous several days.

On each of those grave sites, and again there were probably 360 of those graves because that is how many people were killed, were flowers and items that were left by friends and other well wishers around the world.

I told our two colleagues who went with me on the trip, the gentleman from Indiana (Mr. SOUDER) and the gentleman from Arizona (Mr. FRANKS), that we would walk down the center aisle of these mounds of graves and that at some point in time we would stop, we would turn and face one grave and I would ask the gentleman from Arizona (Mr. FRANKS) to say a prayer, followed by the gentleman from Indiana (Mr. SOUDER), and then I would close.

The Russian media was filming every step that we took, and I felt it appropriate to convey at the grave site of these people the prayers of the American people. The irony was, among these hundreds of graves sites, these hundreds of mounds covered with flowers and other materials left behind, we stopped at one about two-thirds of the ways down the center aisle. We turned to our left and the three of us stood around this one particular grave.

The large floral bouquet on that grave was red, white, and blue. Now, the colors of the Russia flag are red, white, and blue as are the colors of our flag. But as we looked down and bowed our head and as the gentleman from Arizona (Mr. FRANKS) began the prayers on behalf of this delegation, on behalf of the American people, standing firm with the people of Beslan and Russia, I could not help but cast my eyes to the ribbon that was attached to this floral bouquet. And having studied Russia in both high school and college and understanding the language, I saw the Cyrillic letters which said USA.

As I looked after the prayer was over at the rest of the ribbon, I could see who that floral bouquet had come from and where it had been sent from. That floral bouquet on the grave site out of hundreds that were there that we just happened to stop at was sent by the students, the teachers, and the community of Columbine High School in Colorado. What an amazing start to our visit to Beslan, the three members of Congress would stop in the midst of this brand-new graveyard where all of these bodies of children and adults were buried, and the one grave that we had prayed over would contain the floral recognition of people from one of our own tragedies.

After we completed our prayers at the grave site, we went back to our bus with the Speaker of the Duma, and he drove us into the town of Beslan, a small community in the southern part of Russia in the Caucasus that has just been rife with terrorism. Dagestan on one side, Chechnya not far away. And in fact, the fear of the Russians is that the 32 terrorists who caused this incident were in fact, and they have stated so publicly, a part of the Chechen uprising and the Chechen terrorist operation.

As we got to the town, we stood in front of this massive brick building that in the center had been reduced to rubble. Literally thousands of floral bouquets, it was there that the Speaker of the Duma gave us a summary of what actually had occurred.

He told us on the first day of school all of the children in this school assembled in lines by grades with their parents and their grandparents. The first day of school in Russia, Mr. Speaker, is a proud day. It is a family day. It is a community day. Everyone comes together to begin the new school year. In fact, it is considered a holiday throughout Russia. And on this day the students at this particular school all lined up neatly, ranging in age from the very young, some 2, 3 and 4, some who were too young to go to school, were there with their parents and they ranged up to the teenage years.

Along with these students were the parents and grandparents who had come out to see their children off on the first day of classes. As they stood in the courtyard in front of the school, without any indication whatsoever, the terrorists surrounded the students and the faculty members and brought out their automatic weapons. And in a very deliberate and very nasty tone, ordered these 1,000 individuals inside the school building. As they threatened them with their automatic weapons and with their rifles and their pistols and threatened to harm them, the students were in a state of panic but in fact went through the only entrance into the building which led into a gymnasium area.

The Speaker of the Duma told us that when some of the younger students were not moving fast enough, they picked up the students and threw them through the windows without any regard for the well-being of these youngsters. Once assembled inside this school complex, they had them stand along the walls, and they began a process of intimidation that lasted for 3 days. They denied the students water. They denied the students and the adults food. And in fact, Mr. Speaker, the terrorists in the early hours of the siege took the youngest parents, the youngest fathers that were there with their youngsters on the first day of school and one by one they assassinated them right in front of the students. They then took their bodies and threw them out the back windows of the school so that over the course of the first day or so, all of those fathers who had gone to school with their children were wiped out by these inhumane terrorists.

As they got control of the hostages and they had reduced the level of men that were in the crowd that could provide perhaps resistance against them, the terrorists began to then focus on the mothers, the grandmothers, some of them very fragile, some of them very elderly, and the youngest children who were obviously in a state of shock and a state of fear.

And in fact, Mr. Speaker, the Speaker of the Duma told us that they on a cellular phone had his children in the school call him on the cellular phone and the terrorists had his children plead with him to come and get them and to accede to the demands of the terrorists.

What tremendous personal turmoil that the Speaker went through with his two youngest children in the school as the terrorists contained them and yet required them to talk on the cell phone to their father, using them as pawns in this unbelievable siege.

Obviously, the leaders of the republic and the law enforcement officials who were around the school would not and could not accede to the demands of the terrorists.

□ 2320

The demands were too large in scope, and they were too unreasonable in nature. So it was basically a waiting game. Day one passed, day two passed and then day three came.

Now, perhaps there is a lot of second guessing that has been going on about the effort surrounding the school and acts that should have been taken, but I can tell you, Mr. Speaker, our delegation was talking to a father who had his two children in that building when it occurred and who arrived on the scene within a matter of hours after the siege occurred.

So this was not some sanitized message being given to us by Russian authorities. This was an elected official, the Speaker of the North Ossetia parliament, but it was also the father of two young children in that school. In fact, the Speaker himself had attended that school as a child, and his two older children also attended that school.

It was on the third day, Mr. Speaker, when a sense of frustration came upon everyone, those that were trapped inside the building and those around the building, the parents outside who were urging the police officers, the military to do anything possible to end the siege, to get their children out. Fathers that were outside were screaming that something had to be done.

Then an explosion occurred. The explosion was inside this school, and while it has not been fully determined as to the origin of the explosion, the initial thought by those outside, including the Speaker of the Duma, was that the explosion occurred because there was a movement of ammunition inside. When the explosion occurred, it set off a flurry of activity. Gunshots started to ring out, and family members on the outside of the school started to rush in. They were rushing in because they saw it as an opportunity to save their child, as over 1,000 children and adults were still in this complex.

The terrorists then responded by firing automatic weapons and gunning down the adults that were trying to get in. That explosion led to additional fires, and in matter of a short period of time, the entire gymnasium and center area of the school was an inferno.

Children on the inside started running out. Young children, 6-, 7-, 8-, 10-years-old, and the terrorists who were standing at windows, who had come outside, started firing at will at the backs of these young children, hitting some in the back of their head, others in their back and their legs. Children started to fall all over the schoolyard area.

At the end of the siege, Mr. Speaker, 31 of the 32 terrorists were killed. One terrorist was captured and is currently in the control of the authorities. I am not sure whether it is in Beslan or in Moscow.

This terrible incident had come to an end. The carnage was unreal. Immediately attempts were made to take those that were most severely burned to the local hospital, which we visited and was a typical hospital servicing a small town, not capable of responding to hundreds of injuries, hundreds of rifle shots, of wounds, of burns, that were far beyond the capability of this small-town hospital. In fact, the chief medical person at the hospital, whom we met when we visited the hospital after stopping at this school, told us that they treated some 8- or 900 individuals who had serious injuries, and as soon as possible, within hours, they began flying them out to hospitals in neighboring cities and the most severely injured to hospitals as far away as Moscow where they are still located.

Mr. Speaker, as we listened to the story and saw the visual realization of what this school was and imagined what it was before this incident to a community that shared the pride of the education of its young, we just were overcome with emotion. In my case, being a teacher by profession, I could not imagine the feeling on opening day of school to have terrorists surround the building and to herd the students inside. I thought to myself, the Russians have been criticized for how they handled this, but I wonder if we would have been able to handle a situation at one of our schools, where on the opening day, a group of terrorists with automatic weapons or with rifles or pistols surrounded the schoolyard and forced those youngsters and family members inside of the building.

I think the Russian people and those in North Ossetia did the best job they could in an impossible situation. When the Speaker of the Duma finished explaining to us the details of what had occurred, we walked solemnly over to the entrance of the school.

We had prepared a special wreath, Mr. Speaker, a wreath that was red, white and blue, with a ribbon saying, "In Deepest Sympathy, from the Congress of the United States." We were carrying with us, Mr. Speaker, an American flag that we had flown over the Capitol the day before we left to present to the people of Beslan as a symbol of our friendship, as a symbol of solidarity between the American people and the Russian people in the fight against terrorism.

The three of us solemnly walked behind this floral bouquet as it was carried toward the center of the school by two local residents to be placed in the center of the building. We followed the floral bouquet in. They carefully placed it right next to a pile of literally hundreds of flowers. Mr. Speaker, in a sight that I can only describe as unbelievable, there were hundreds and thousands of bottles of water. Beslan's a poor community. Many of the family members could not afford to buy flowers, and yet all of them knew that those children and those parents and grandparents had been denied water for 3 days and food. So the people of Beslan brought bottles of water and set those bottles of water with open tops throughout the school complex and down the center corridor, interspersed with hundreds of flowers and bouquets. There were also Teddy bears and stuffed animals and the favorite toys of students who would never again be able to use them.

Following the setting down of the flowers, and again, the thoughts and prayers of the members of Congress, I opened up the American flag and asked my colleagues to join with me in presenting that flag as a symbol of the friendship of the U.S. Congress and the people of America to the people of Beslan, the people of North Ossetia and the people of Russia.

I have been to a lot of disasters, Mr. Speaker, during my 18 years in Congress and my career because, as many of my colleagues know, I have worked the issues involving disasters. In fact, before coming to this body I used to be a volunteer fire chief.

I have been to earthquakes, Hurricanes Andrew and Floyd, the wildfires in California and Oregon in the West, the Midwestern floods, the Murrah Building bombing with Chief Marrs, the World Trade Center in 1993 and the World Trade Center in 2001. They were all incidents of significant emotion, loss of life, terrible tragedy, terrible human suffering. But I can tell you in standing in this school, looking up at the basketball backboard that had been severely burned, looking at the scorched walls, seeing the evidence of where young people used to play and seeing hundreds and thousands of bottles of water placed all around this complex and still smelling this terrible smell of fire and of death, it was very difficult for us to provide remarks. In fact, all three of us had difficulty in getting through our statements.

As we spoke to the people of Beslan who had assembled there with us, in front of the TV cameras from throughout Russia who were recording our visit, but very simply, we told the story of the feelings of the American people, their anger at what had happened at this school, their frustration in dealing with terrorists, who have no regard for human life and especially the lives of innocent women, grandmothers and young children.

We told the Russians one very simple thing, Mr. Speaker, that on this day we were not Russians nor Americans. We were human beings who were standing together to tell the terrorists, the cowards that they are, that we would not stand for these kinds of actions, whether they would be in downtown Baghdad, whether they would be in the streets of Moscow, the streets of New York or Oklahoma City or the streets of a small town like Beslan. We told the Russian people that we were there expressing the sense of the United States Congress, that we shared their grief and we stand with them in solidarity.

□ 2330

I can tell you, Mr. Speaker, that there was a feeling in that school among the family members that were there of deep appreciation that the American Congress had taken the time to go to Beslan. We were the first and, to my knowledge, the only Americans that were allowed into Beslan to visit the school. Our ambassador would visit the North Ossetia office the day after we arrived in Beslan to express the condolences of the American people on behalf of our State Department. In fact, Mr. Speaker, we wondered why it had taken 2 weeks for our ambassador in Moscow to make that trip to the North Ossetia embassy.

As we left the school and reflected upon what we had seen, we boarded the bus and asked to be taken to the local hospital. And there in the hospital we heard the briefings from both the chief psychiatrist who was brought in from Moscow and the chief medical leader of this hospital in Beslan about how they attempted to deal with these overwhelming casualties.

Then we talked about the kind of treatment that the patients were currently receiving, both in that hospital, the hospitals around Russia who had taken other patients and about the offerings of support from all over the world. But I want to convey this to you, Mr. Speaker, and to our colleagues, every place we went on that trip we heard from the people of Beslan that the people of America responded in an unbelievable way.

In fact, it was the speaker of the parliament and the mayor of the city who told us that, within hours, there was a planeload of supplies coming into his community from the people of America. It included health care needs. It included equipment. It included special beds and pharmaceuticals, from a Nation that had also suffered a very significant incident, responding to the needs of the people of Russia.

As we went through the hospitals, we talked with some of the patients. We talked to the nurses. We thanked the doctors. And then we stopped in a room with youngsters who were suffering from post-traumatic stress. I told the young girl who was in the sixth grade that my first year after college I taught sixth grade, and we talked about some common issues I knew she would have with sixth graders from America. I asked her if she had access to e-mail, and she said she could through the school or the local library. I asked her to e-mail my office so I could link her up with students of a similar age back in America.

Again, the medical personnel in that hospital were working under unbelievable circumstances, and they were doing a fantastic job.

We left the medical center, and my colleagues that wanted to make a simple contribution to the medical center, not on behalf of the American people but on behalf of ourselves. Each dug into our pockets and came out with an amount of money that we each could afford to give as a donation to that hospital on the spot. And I can tell you, the doctor was extremely gratified that we had taken the time to do that.

Since coming back to Washington, I have learned that I have a group in my own State, headquartered in Bucks County, that I will provide the name of for the RECORD, Mr. Speaker, who has already raised almost $800,000 for the people and the families of Beslan. Typical of America and the American people, responding to a tragedy thousands of miles away because of people in need.

As we drove from the hospital to the airport and drove through the streets of this small town, you just could not help but have a heavy heart in seeing homes where families had been torn apart. We learned of a mother who had taken her four kids to school that day. The mother was killed and so were all four children, all buried at one grave site at that cemetery we had visited.

As we arrived at the airport, we learned the president of North Ossetia would meet us there, an older gentleman. In fact, his name is Alexander Dzasokhov, and he warmly greeted us. We had a press event with the media, and we presented to him, Mr. Speaker, the framed resolution that our colleagues in this body passed unanimously 5 days earlier. That document, in a frame, was signed by the Speaker of the House, the gentleman from Illinois (Mr. HASTERT), on behalf of all of us, Democrats and Republicans, who voted unanimously to express our solidarity in the suffering of the Russian people and those families impacted at Beslan.

We had discussions with the President about ways in which we could assist. We told him our burn foundations in America had offered assistance with burn treatment. We told him many of our people wanted to help with the monument being built at the grave site and the school.

And I might add, Mr. Speaker, what the speaker of their parliament told us was that, when that monument is completed on the 40th day of mourning, which is the official mourning period in Russia, and that monument is dedicated to the memory of the victims, that American flag that we handed them that flew over this Capitol building, will be raised with the Russian flag and the North Ossetia flag, because of their thanks and their gratitude for the friendship that we showed them, again, in their darkest hour.

We also discussed with the president other steps that we could take together as two nations fighting terrorism. We talked about the need to go after the terrorists, as President Bush and President Putin have been doing over the past several months and years. And then we followed up a dialogue we had had in Moscow with Duma Deputy Kokoshin. Chairman Kokoshin, who is a friend of mine, chairs one of the key committees in the Duma. The vice chairman of that committee is Deputy Lebedev, and we discussed with our North Ossetia leaders and the president our desire to host a conference in Moscow in the first quarter of 2005, a joint conference of Americans and Russians on the issue of homeland security and anti-terrorism.

It was somewhat ironic, Mr. Speaker, that the Monday before I left for Russia, I was in New York giving the opening speech to a homeland security conference attended by 3,000 people at the Javitz Center. That conference on homeland security also had Asa Hutchinson in attendance and scores of other people from the leadership of our own Homeland Security, on what we are doing to defend America from the threats of terrorism and the protection of our homeland.

Mr. Speaker, 260 corporations were exhibiting at that conference, which was put together by one of the largest conference organizers in America, EJ Krause. I talked to the EJ Krause folks before I left for Moscow, and they have agreed to organize the conference that we together will put on in Russia so that we can show a joint strategy, joint use of technology and a joint commitment to fight terrorism together.

Mr. Speaker, we left the president, went back to Moscow, continued our meetings and discussions, and I can tell you that every one of our colleagues in this chamber needs to know that the people of Russia were extremely pleased by the actions this Congress took. It was important for us to show solidarity with the Russian people because there has been some turmoil between our countries over the past several years.

And, Mr. Speaker, that leads to the second reason of my special order tonight and another reason why I felt it was important to make the statement that this Congress made in our resolution that passed last week.

There have been some who have been advocating that America should move away from Putin and Russia, that because President Putin, partly in response to terrorism, partly for other reasons, has clamped down on the media, has in fact recently passed new provisions that will limit the role of the people of Russia to elect their own governors of their regions, that will reduce the number of political parties from the current number to approximately two or three, similar to what we have in America; there are even those colleagues in this body, in both parties, good friends of mine who I hold in high respect, who have written to our colleagues that we should deny Russia access to the World Trade Organization, that we should punish Russia because of these anti-democracy actions.

Mr. Speaker, I am convinced that those actions would be the worst steps that we could take right now. Now is not the time for America to push Russia away from us. Sure, we are all troubled by some of the actions that President Putin has taken. I am concerned by the clamping down of the free media. I am concerned by some of the methods of intimidation. But now is not the time for us to be pushing Putin away, which would encourage more of the authoritarian efforts that we have seen rising up in Russia over the past several weeks and months.

Now is not the time for us to move Russia in another direction. Now is the time for us to bring Russia back, to give Russia perhaps what we have not given them over the past 12 years since they threw off communism.

Mr. Speaker, in looking at our relationship with Russia, I was very critical of the previous administration because I felt we did not have a consistent policy with Russia. We were talking a good game, saying all the right things, but there was not a follow-through in terms of implementation.

We had the radical nationalists in Russia back in the 1990s saying that America does not want to be our friend; you watch, they will move NATO up to our borders, and they are going to threaten us; you watch, they will abrogate the ABM Treaty; they want to dominate us.

□ 2340

Watch, they do not want us to be involved. They are going to steal our money and our assets. They want to use us. That was what the radical nationalists in Moscow said back in the early 1990s. That was what Uranovsky and that is what Zyuganov said. But many in Russia were pro-West, and they said, no, we are going to continue to move closer to America because America is the model that we want to work with.

But I think back, Mr. Speaker, over the past 12 years. We did move NATO up to Russia's borders, and I supported that. But we handled that miserably. We did not take the time to have the Russians understand that the movement of NATO to its borders was not to threaten or intimidate Russia, but rather to build a new sense of security and that one day, one day, Russia itself might be able to join NATO. And with the ABM Treaty, I was the one, Mr. Speaker, who offered the missile defense bill in 1998 that passed with a veto-proof margin, not because I wanted to dominate Russia, but when I took Don Rumsfeld and James Woolsey and Bill Schneider to Moscow the weekend before the vote on my bill, we told the Russians our concern is with North Korea, our concern is with Iran, our concern is with China, who were all developing long-range missiles that we have no defense against.

But, Mr. Speaker, from the Russian perspective in 1995 and 1996, we had one joint missile defense program with Russia called RAMOS. The Clinton administration tried to cancel it. Senator LEVIN and myself and a group of other Members in both parties and both bodies fought the administration, and we won. We kept that joint cooperative program together. But the Russians saw the handwriting on the wall: America does not want us to be partners in defending our people. They really want to dominate us. And they were convinced, and perhaps some still are, that that was our purpose in moving away from the ABM Treaty.

And then we bombed Serbia, perhaps Russia's best friend and ally, the Serbian people. We all wanted Milosevic out. But instead of using Russians to help us get Milosevic out of power, we went to NATO instead of the U.N., and we used NATO as an offensive force, invaded Serbia, and killed innocent Serbs. It was not until several months after we realized we could not get Milosevic out by bombing Serbia, by bombing innocent people, that Russia had to play a role. And it was, in fact, Russia through the special envoy of President Yeltsin and Victor Chernomyrdin that we were able to reach an agreement to end the war on the terms of the West, again with Russia's involvement at the 11th hour.

The Russians saw through all of this, and they said America does not want to be our friend. And then we had President Clinton on a number of occasions say that we should lift Russia out of the restrictions of Jackson-Vanik. President Bush has made at least ten statements over the past 4 years that Russia should not be subjected to Jackson-Vanik consideration any longer. Mr. Speaker, Jackson-Vanik restrictions were placed on the Soviet Union because back in the 1980s, the Soviet Union was persecuting Jews. The National Council of Soviet Jewry led that effort. I supported that effort because back in the Soviet era I used to meet with the Soviet Jews in Moscow who were being persecuted and harassed by the KGB and by Russia's leaders.

But in 2004, in 2000, in 1998, the persecution of Soviet Jews was largely ended. In fact, Mr. Speaker, I went to all the Jewish groups last August, and I asked will they send me a letter expressing their interest in elevating Russia out of Jackson-Vanik, and all the major Jewish groups in America did, Mr. Speaker. They sent me letters, JINSA, the National Council of Soviet Jewry, AIPAC, all saying, We no longer think that Russia should be held captive by Jackson-Vanik.

I went to the administration, and some of those people under President Bush who did not quite get his message said it is a trade issue, it is about poultry or steel. So I went to our colleagues who are Chairs of our trade committees, the gentleman from California (Mr. POMBO), the gentleman from Ohio (Mr. BOEHNER), and the gentleman from Virginia (Mr. GOODLATTE), and the three of them sent a letter to me saying that they too supported elevating Russia out of Jackson-Vanik. So, Mr. Speaker, here we had the support of leaders in this body on issues involving Soviet Jewry, on trade issues saying they support elevating Russia out. We have the President of our country demanding we do it. And we still have not done it.

So the Russians look at us and say our words are good, but there is no action. There is no follow on. And it was those same Russians during the 1990s who saw oligarchs who were put into place by Yeltsin but with the help of American consultants and American academics who ripped their country off, who stole billions of dollars from the IMF and World Bank that were supposed to help build a Russian infrastructure.

I remember very vividly back in the late 1990s, 1997, and 1998, telling the Clinton administration we have evidence that there are American companies ripping off the Russians. They did not want to hear it, did not want to talk about it. It was in the late 1990s, 2000, that we finally heard the Justice Department indict Bank of New York officials for allegedly scamming $5 billion out of Russia that should have gone for infrastructure but instead ended up in Swiss bank accounts and U.S. real estate investments.

And then we saw the technology proliferation out of Russia, individual retired generals and admirals selling technology to Iran, Iraq, Syria, Libya, North Korea. We blamed the Russians for that, the Russian Government, when, in fact, Mr. Speaker, and I remember doing speech after speech on this, we had documented 20 times we had evidence of retired Russian generals and admirals selling technology illegally, violating arms control agreements. Of those 20 times, our Nation imposed required sanctions four times. Yet we blamed the Russians for something that we ourselves should have taken action to control.

So if we look to the period from 1992 to 2004, we have to ask the question, What have we done to assist Russia in becoming our true partner? I would say, Mr. Speaker, not much. So now we criticize Russia. We criticize President Putin. We want to push him away further. President Putin and President Bush have a great personal relationship. They have met on three or four occasions. They get along very well, and they want to work together. But, Mr. Speaker, below the two Presidents there is a vacuum. The President says we want to do Jackson-Vanik elevation. He said it 10 times. The people under the President say not now, now is not the right time. They should be fired. The President sets the foreign policy of our country, but some of those serving him do not get the message. And Russia bears the consequences of our lack of action.

The President calls for joint cooperation on missile defense. He has said it five times and so has President Putin. But this year our Department of Defense and Missile Defense Agency again canceled the RAMOS program. We have no cooperation with Russia on missile defense right now.

We talk about Russian cooperation with weapons of mass destruction. But we have corruption on the Russian side, corruption on the American side. We are not being given access to those sensitive sites. And again we wonder why the Russians do not trust us.

Mr. Speaker, we need Russia. We need Russia to be a partner of ours. We need Russia to be a partner of ours for several reasons. If we look at the world's situation right now, we are certainly unhappy with some of the direction of President Putin, but we have no leverage with him to get him to understand that he is taking the wrong steps as a democratic nation. We look at the Middle East. We heard our colleagues for 2 hours talk about Iraq. Mr. Speaker, the problem in Iraq is not being caused by the people in Iraq. The people in Iraq did welcome us. They did give us flowers, and they are happy that we are there. Ask our troops. Tomorrow we will hear Prime Minister Allawi tell us the real story of the gratefulness of the Iraqi nation. The problem in Iraq is not with the Iraqi people.

Mr. Speaker, the problem with Iraq is the problem of the neighbor Iran. Iran has been involved in undermining our efforts to stabilize Iraq for the last 18 months. I remember going to CIA Director George Tenet 18 months ago when a former Member of this body, a former Democrat Member, came to me and said, I have a source that wants to work with us, a source that will tell us where bin Laden is and will give us information about Iran's involvement in Iraq.

I went down to meet with Tenet, and for the past 18 months, Mr. Speaker, on a regular basis, I have interacted with this informant based overseas in Europe. We have gotten continuous information that I have passed along to the CIA, all of which has been verified, that Iran has been behind the destabilization of Iraq on a continual basis. I told the CIA over a year ago, Mr. Speaker, that the Ayatollah Khamenei, the religious fanatic in Iran, not Hatami, the governmental leader, but the Ayatollah Khamenei was providing $70 million of funding to Sadr.

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The CIA at that time, Mr. Speaker, no one knew who al-Sader was. I told the CIA that Iran was crashing on a nuclear program. I told the CIA that my informant had even found evidence of two groups of Iranians going up through China into North Korea in an attempt to acquire their nuclear weapons materials. And I told the CIA that Ayatollah Khamenei had ordered his country to prepare for an attack on one of our nuclear powers plants, and the letters were beginning with SEA, Seabrook.

Mr. Speaker, that was in June of last year. In August of last year, the Royal Canadian Mounted Police arrested two al Qaeda-linked individuals who were flying a plane scoping out a nuclear power plant up in the Northeast near Seabrook.

Mr. Speaker, Iran has been our problem, and it does not take a rocket scientist to figure that out. On one side of

Iran you have Afghanistan, a country that now has 10 million people registered to vote in their first elections, a constitution in place, a country moving toward a democracy.

On the other side of Iran you have Iraq, stabilizing, moving toward a constitution, moving toward free elections. So on both sides of Iran you have democracy breaking out.

And right down the road, Mr. Speaker, you have Libya, where Moammar Gadhafi has voluntarily given up all of his weapons of mass destruction without us firing a single shot. I know Gadhafi's purpose, because I led both delegations to Libya earlier this year in January and March. Sitting across the tent from him in the desert in Tripoli, looking out at his house that we had bombed in 1986, he said, "Congressman WELDON, I don't want my people to suffer the fate of the Iraqi people and I don't want to be Saddam Hussein."

Mr. Speaker, the Iranians understand what is happening. The Ayatollah Khamenei understands he is not popular in Iran. When they had elections earlier this year, only 9 percent of the people eligible to vote voted. They despise radical fundamentalism, but they cannot do anything about it.

So Iran understands their days are numbered, and that is why they are crashing on a nuclear program. That is why they are attempting to undermine Iraq, because Iran does not want Iraq to succeed.

Our colleagues on the other side said we should have anticipated that. Mr. Speaker, there is no way the President could have anticipated that. We are dealing with it now.

But how do we deal with Iran, Mr. Speaker? We do not have any leverage with Iran. We do not even have discussions with Iran. One country does, Mr. Speaker, and that country is Russia.

Russia has worked with Iran over the past 10, 15 years. They have a regular entry into Moscow. They interact with the Members of the Duma and the Federation Council, and President Putin has a relationship with Iranian leaders that we need. But the problem is, Mr. Speaker, we do not have the leverage with President Putin.

Yes, President Bush and President Putin have a good personal relationship, but there is a vacuum under that in both countries. Now we tried. Back in 2001, Mr. Speaker, we gave this document to Bush and Putin, 48 pages, 108 recommendations, signed by one-third of the Congress. DICK LUGAR, CARL LEVIN, JOE BIDEN, myself, liberal Democrats, conservative Republicans, one-third of the Congress saying we are ready for a new relationship.

Unfortunately, the people under President Bush have not been listening. They were not listening when President Bush said remove Jackson-Vanik. They were not listening when President Bush said do joint programs in missile defense. Now we are paying the price for that.

Mr. Speaker, that is why I proposed to the President and that is why I am announcing tonight a new initiative, renewed commitments, strengthened relationships. This four-part strategy will give us a series of initiatives that will give President Putin and the Russian people a clear signal that finally we want to be their close friend and partners it is a simple strategy. It builds on successes of the past and deals with issues that we have talked about.

The four strategies are fairly simple, Mr. Speaker. It calls for us to terminate Jackson-Vanik limitations on Russia, as our President has called for. We can pass that resolution in this body and the other body under a suspension.

It calls for a new threat reduction initiative using a new process to get entry into President Putin that we have been working on for 2 years that will allow us to reduce the theft and corruption of American tax dollars and will give us access into sites we have never had access to before.

Last August I took two members of the other side with me to the closed city of Krasnoyarsk 26, without any help from our State Department, no help from our Defense Department, no help from our Energy Department and no help from the CIA. We went in the mountain where the Soviet Union built their three largest plutonium producing reactors.

We met in Moscow, and our Russian counterparts said if you follow this new process, you get access to any site in Russia you want.

Today, Mr. Speaker, I have proposals signed by the Russians for six new biological weapons sites that they want to open up for American joint cooperation. I handed those six initiatives in both Russian and English to John Bolton the day I left for Moscow last week. The Russians do want to work with us in a new way, a new way of trust and confidence in solving problems with weapons of mass destruction.

The third element of this plan, Mr. Speaker, calls for substantive work on joint missile defense cooperation. President Bush has called for this repeatedly, publicly. So the question is, why have we not done it? The answer is, the Defense Department told me they could not get a meeting with General Baluyevsky, who 6 months ago was the number two general in the Russian military.

I told General Kadisch at Missile Defense Agency, you cannot get a meeting with him? Send someone over with me and I will get you the meeting.

So, Mr. Speaker, two months ago I took a delegation to Moscow. From the Missile Defense Agency I took General Obering, who is now the three star general in charge of that agency. He took three other associates with him.

We arrived in Moscow and they took us to Starya Plochad, which is equivalent to our East Wing of the White House. We sat at a table across from Putin's representative to the Duma and the Federation Council, the chairman of the committee overseeing the Ministry of the Interior, Alexi Alexandrov, and in walks General Baluyevsky. General Baluyevsky, in a business suit, talked with General Obering and began a dialogue that we could not get for a year on missile defense cooperation.

Two weeks after we left Moscow, President Putin relieved the chairman of their Joint Chiefs of Staff, General Kvashnin, and replaced him with General Baluyevsky.

The fourth item in this initiative, Mr. Speaker, calls for the announcement of the U.S.-Russian free energy trade agreement. Not free trade agreement, but free energy trade agreement. We have significant energy needs. Russia has significant energy reserves. They are trying to get their energy to the marketplace, we want to use that energy and need it.

What I am calling for, Mr. Speaker, is an equivalent relationship similar to Gore-Chernomyrdrin in the previous administration between the two presidents of our countries, so that Putin and Bush appoint a joint effort of having our energy leaders, private sector and government, work together with Russia's energy leaders, so that we can help bring their energy out and use it in our marketplace. It is already happening. We simply want to expedite that process, both in terms of fossil fuel and in terms of nuclear power.

Along with this four-part position paper, Mr. Speaker, we need to work together with Russia on anti-terrorism.

I am convinced, Mr. Speaker, if we follow these actions, if the President takes the bold leadership that is outlined in this document, then we will have the leverage for President Bush to go to President Putin and say, "Vladimir, you are going too far in your actions in providing autocratic rule over your country. Allow democracy to survive, to grow and prosper. Vladimir, I need your help in allowing us to deal with Iran. Help us deal with the problem of the Bushehr nuclear power plant, because if we do not deal with that power plant, Israel will eventually try to take it out because they see it as a nuclear threat to their security.

Mr. Speaker, now is the time for us to join with Russia, to be Russia's best friend, to be Russia's partner; to hold Russia accountable, to talk about human rights. But to do it in a way that Russia understands is in our mutual interest, not a condescending approach where we look down on Russia, as we have done in the past, and tell

Russia to do what we have outlined for them.

Mr. Speaker, I am convinced nothing is more critical. The timing is right, and we must act quickly.

Mr. Speaker, I include for the RECORD these documents.

U.S.-RUSSIA PARTNERSHIP—RENEWED COMMITMENTS, STRENGTHENED RELATIONSHIPS, AUGUST 2004

INTRODUCTION

Long before Perestroika, Gorbachev and the fall of the Soviet Union, I developed a deep interest in U.S.-Russian relations. The Soviet Union, an enemy of the United States, demonstrated its strength and intent to protect its country by producing massive stockpiles of nuclear and biological weapons. The aggression between our two countries led me to major in Russian Studies, believing that one day, our relationship would change and the United States and the Soviet Union would normalize relations. As a county commissioner, I hosted my first group of young communists in Pennsylvania in 1985. This relationship, forged 19 years ago, has maintained its strength and expanded even further to include a larger circle of Russian citizens. I take great pride in my efforts to reach out and establish a solid base of understanding and cooperation to achieve stability for the people of Russia and the surrounding former Soviet republics.

For the past 10 years, I have co-chaired the Duma-Congress Study Group, the official inter-parliamentary relationship between the United States and Russia. This exchange plays a vital role in strengthening our relationship with Russia. The overriding purpose of this relationship is to demonstrate to the Duma and its leaders how an effective inter-parliamentary relationship can lead to positive changes in both our countries. Today, Members of Congress work with their counterparts in the Duma on common interests such as the environment, health care, social and economic issues. By building and strengthening a working relationship, we are then able to confront more difficult issues such as missile defense, non-proliferation, Iran and other multilateral relationships.

Three years ago, I unveiled a comprehensive plan to cooperate with Russia on eleven different issues ranging from defense and security to agriculture and healthcare. This proposal, A New Time, A New Beginning, was widely supported in the U.S. and Russia. However, recently, I have watched Russia lose confidence in the United States and move further away from the West. The start of Russian distrust in the United States began shortly after the fall of Soviet communism. Russians believed that with the break up of the Soviet Union, prosperity would soon follow. Instead, in 2001, $4.08 billion of U.S. foreign direct investment flowed into Russia while in 2001, Communist China received $10.53 billion in U.S. foreign direct investment. This was the first of many negative messages the U.S. sent to Russia.

Additionally, Russians are still bitter of our handling of the war in Kosovo. Russia believed we could have, and should have, ended that war much earlier. In fact, instead of ignoring Russia's relationship with Yugoslavia, we should have encouraged Russia to play a more aggressive role in peacefully removing Milosevic from power. It was not until one year after we began the bombing that we finally requested Russia's assistance.

Furthermore, when news of the biggest money laundering scandal broke in late 1999, the Clinton Administration ignored the theft of billions of U.S. dollars destined for Russian citizens. The Russians watched as the oligarchs, including some with close connections to President Boris Yeltsin, lined their pocketbooks. The United States downplayed the Bank of New York scandal and continued to protect the Clinton-Yeltsin relationship.

The September 2000 Speaker's Advisory Group on Russia concluded that both Russian government agencies and private entities were directly involved in at least 26 transfers of proliferation to such states as Iran and Iraq. Instead of sanctioning Russia, the Clinton Administration continued to rely on personal assurances from its small cadre of contacts in the Russian government.

The Clinton Administration's willful blindness to Russian proliferation produced immense damage to our relationship with Russia. Our policy under President Clinton was based on a personal relationship between Presidents Clinton and Yeltsin, and Vice-President Gore and Prime Minister Chernomyrdin. As long as these Russians were in power, nothing else mattered. While Russians lost faith in Yeltsin, the U.S. continued to support this failed leader.

During the Clinton Administration, tens of thousands of young Russians were outside the American embassy in Moscow throwing paint, firing weapons at our embassy and burning the American flag. In fact, the State Department had issued travel advisories to Americans traveling to Moscow because the hatred for America had grown so great in such a short period of time that the Russian people were adamantly opposed to any Americans in their country.

To repair our relationship, I have developed a new approach to improve our relationship with Russia that builds upon the recommendations in A New Time, A New Beginning. The four initiatives in this proposal are not new to U.S.–Russian relations. Rather, they are programs that could easily regain Russian support and trust in the United States if implemented in the short term. The U.S. needs Russian support not for our own security concerns, but for international stability. In that regard, I firmly believe that the key to stabilizing the situation in Iraq lies in improving our relations with Russia. It is no secret that Iran continues to fuel the bulk of terrorist activity in Iraq. However, given our cold relationship with Iran resulting from their continued pursuit of weapons of mass destruction, support of global terrorism and atrocious human rights record, there is little room for diplomatic negotiations. In contrast, Russia's deep and lucrative investments with the Islamic Republic may provide the necessary leverage to effect change in that country's activities in Iraq. Specifically, as a major supplier of arms and nuclear technology to Iran, Russia can exert significant economic pressure. In addition to its trading activity, Russia has made strategic policy agreements with Iran to keep them out of the Caucuses and has coordinated its policy in Central Asia with specific regard to Caspian oil reserves.

It is also in Russia's best interest to continue to engage Iran and improve its own bilateral relations with the Islamic Republic. Iran's military capabilities continue to threaten Russian as well as its possible support of radical separatism in Russia's turbulent "southern rim".

As such, improving our relationship with Russia would provide needed leverage to induce Russia to use its influence with Iran to help stabilize the situation in Iraq. I firmly believe that we have reached a crucial juncture in our relationship with Russia and the independent states of the former Soviet Union. By taking action in four key areas, we can dramatically improve our relationship with our former Cold War enemy for years to come. These four key areas are as follows:

Terminate Jackson-Vanik restrictions against Russia. Although not a high profile issue in the U.S., Jackson-Vanik continues to be a political hot-button for the Russian government and its citizens. Removing the restriction would send a tremendously positive message that the U.S. is serious about improving relations between our two nations.

Renew our commitment to Cooperative Threat Reduction programs. An opportunity exists for the administration to undertake a new cooperative program with Russian officials to secure biological weapons facilities that at present are poorly protected. The interagency Russian International Exchange Group (IEG) is comprised of senior military, intelligence and political officials. Operating with the support of Russian President Putin, the IEG has been established to remove bureaucratic obstacles to the implementation of U.S. funded nonproliferation programs. The IEG concept has been briefed to senior staff of the Office of the Vice President. The IEG has offered to work with the appropriate U.S. agencies—most likely DOD/DTRA—on a pilot project whose goal would be to secure five biological weapons sites.

As many as 89 additional sites could be worked through the IEG. DTRA is in the process of being briefed on this initiative. White House support for the concept would be instrumental in capitalizing on a new opportunity for the administration to demonstrate it is working with Russia in limiting the spread of weapons of mass destruction.

Improve Russian energy infrastructure. Russia and the independent states of the former Soviet Union possess vast oil and natural gas reserves. Despite their incredible natural resources, Russia continues to struggle to get these resources to the world market. Lacking the necessary capital, much of Russia's natural resources remain untapped. By assisting Russia in reforming and clarifying their tax code could result in Russia's ability to extract, transport and market its energy resources. Russian natural resources could lower skyrocketing fuel costs and dramatically improve our economy. Utilizing Russian natural resources would significantly improve our national security by lessening our dependence on Middle East oil. In exchange Russia would receive the much needed upgrade in its energy producing capabilities and gain the world's largest energy consuming market as a key customer. Continued cooperation with Russia on energy policy is also needed to improve the environment for foreign investment. Assisting Russia improve its energy infrastructure is the necessary first step towards attracting the private investment that will sustain Russia's energy industry for the future.

Improve and enhance our cooperation on missile defense. Emerging threats of missile attacks from rogue nations may confront both the U.S. and Russia over the next decade. A major objective of the Missile Defense Act was to establish cooperative projects between the two nations. With a new director at the U.S. Missile Defense Agency and changes at senior levels in the Russian military establishment, the U.S. should pursue this cooperation immediately.

With the accomplishment of these four proposals, the United States will win a major victory in Russia, and in return, Russia will be more willing to cooperate on issues significantly important to the United States. It is time the bilateral relationship go beyond the diplomatic posturing and produce real results.

TERMINATION OF JACKSON-VANIK

Thirty years ago, the Jackson-Vanik amendment was included in the Trade Act of 1974 to protect religious freedom in the former Soviet Union. The United States Congress made a courageous decision to pass the Jackson-Vanik amendment and link it to the Soviet Union's trade status and its record on Jewish emigration. Jackson-Vanik set guidelines for a string of changes in the Soviet Union and allowed for Jews to escape oppression and begin new lives. It was the right policy for the right time.

Since 1994, Russia has been in full compliance of Jackson-Vanik and Russian Jews are free to emigrate from the former Soviet Union. Major Jewish organizations—the Jewish Institute for National Security Affairs, the American Israel Public Affairs Committee and the National Conference on Soviet Jewry—that long opposed terminating Jackson-Vanik, are in agreement and on record that the United States should terminate this obsolete provision.

Although President Putin requested, and President Bush promised Russia's elevation from Jackson-Vanik two years ago, there are some in Congress and in the administration that want to change the original intent of the amendment to meet unrelated trade disputes. Two years ago, due to Russian safety concerns, President Putin blocked U.S. poultry imports causing a major disruption in the U.S. poultry industry. While I empathize with our farmers, using an emigration provision to negotiate a trade dispute undermines U.S. foreign policy. Trade disputes are natural components of an evolving trade relationship, and under current trade laws, there are effective remedies to address them. In resolving the poultry disagreement, I worked with the key Members of Congress concerned with agriculture issues. As a result of my efforts, Representatives Pombo, Boehner and Goodlatte signed a letter to Representative Bill Thomas, Chairman of the House Ways and Means Committee, which has trade jurisdiction, indicating their disagreement that the lifting of Jackson-Vanik restriction to poultry trade was inappropriate.

Additionally, using the amendment to leverage Russia's accession to the WTO, as some have suggested, would weaken U.S. credibility. WTO rules already require that every member of the working party agree before a country is granted membership. Therefore, Russia cannot accede without consent from the United States. This guarantees that U.S. negotiators have adequate authority to monitor and guide Russia's accession.

An overwhelming majority of U.S. companies active in the Russian marketplace also agree that terminating Jackson-Vanik is appropriate, especially since Russia is currently recognized as a market economy under U.S. trade law.

In addition to fulfilling the Jackson-Vanik requirements, President Putin was the first foreign leader to contact President Bush after Sept 11, 2001, to offer condolences, intelligence assistance and other support, including agreeing to the positioning of U.S. forces in Central Asia, which was a key to our military success in Afghanistan. In October 2001, Russia appeased the United States by closing their Lourdes Listening Facility in Cuba. More recently, instead of protesting NATO expansion, which brought the organization up to Russia's borders, Russia negotiated with NATO to establish a formal method of cooperation. Although Russia has shown the U.S. its willingness to cooperate and accommodate our many requests, the United States, has not sent one positive message to Russia.

Jackson-Vanik is not a high profile issue in the United States, but it continues to be a sensitive issue for the Russian government and its citizens. While the changing nature of our strategic relationship with Russia has been full of promise, it has been challenged by a growing number of domestic constituencies within Russia. Russian media reports consistently remind Russian citizens of this unfulfilled promise. This opposition can easily be resolved by granting Russia what it rightfully deserves—elevating Russia from the Jackson-Vanik amendment. This would send a positive message that the U.S. is serious about improving relations between our two nations.

NEW THREAT REDUCTION INITIATIVE: U.S.-RUSSIA COOPERATION ON SECURING BIOLOGICAL WEAPONS AND RESEARCH SITES

Since 1992, the United States and Russia have engaged in a series of cooperative threat reduction programs, commonly referred to as Nunn-Lugar programs. Primarily, this cooperation has focused resources on reducing the threat posed by the theft or diversion of nuclear weapons and materials. Some successes have been achieved, but the current programmatic approach to this daunting challenge has in some cases been bogged down in a maze of bureaucratic missteps and a flagging sense of urgency. In other cases, programmatic implementation has been slowed by bilateral disputes over taxes and liability.

This new initiative addresses a topic of heretofore—limited bilateral cooperation—programmatic work to enhance the security at Russian biological sites that hold dangerous pathogens of interest to rogue states or terrorist groups—and also proposes a new cooperative model for implementing this work. Central to the success of this initiative is the cooperation of Russian authorities that control access to these facilities. Reflecting internal concerns about the pace and scope of existing cooperative threat reduction programs with the United States, the Russians established an interagency group, supported by President Putin, senior military, security and political officials, whose goal is to find solutions to the bureaucratic obstacles that have plagued existing programmatic efforts. Known as the International Exchange Group (IEG) within Russia, as a sign of its bona fides and influence within the Russian government, IEG has presented to U.S. officials a list of 89 biological facilities as candidates for security enhancement work.

Recognizing the challenge and expense of working at such a large number of sites, the IEG has proposed a pilot project that would encompass work at six biological sites, including Biopreparat, the military's leading producer of biological pathogens. The IEG has contracted official agreements with all six facilities. These sites would have to be assessed carefully by U.S. experts to determine the appropriate amount of funding and most effective set of security enhancements required for implementing the project, but an overall initial estimate of $10 million to complete work at the six sites is required. Funding for this project could be made available through funds existing within the Department of Defense's Cooperative Threat Reduction Program.

In addition to the national security benefit of securing hazardous biological pathogens, the pilot project would have two innovative programmatic elements. The first is that the Russian side would commit its own "upfront" funding to begin the projects. The IEG would expect U.S. funding to be made available to ultimately fund the six site pilot projects, but they are prepared to cooperate in the establishment of a joint U.S.-Russian management team that would oversee the project. The management team would place U.S. funds in an escrow account, releasing those funds to the Russians only when mutually agreed upon project milestones had been achieved and verified. The second innovative element of this initiative is that unlike much of the security enhancement work currently funded that relies heavily on U.S. contractor involvement—triggering legal disputes over liability—the pilot project would be carried out by Russian contractors, working in Russia at Russian sites. In so doing, the Russians would accept all the legal liability for performed work and there also would be no Russian claim that funding should be subject to Russian taxation.

A number of independent states of the former Soviet Union have been helpful to the United States in the war on terrorism. Such states are new and struggling democracies and would benefit considerably from assistance to create sustainable jobs for their underemployed or unemployed scientists, engineers and technicians who were formerly engaged in activities to develop and produce weapons of mass destruction for the Russian Federation or other such state. The United States should establish and promote programs that prevent the proliferation from scientists, engineers and technicians of the former Soviet Union to countries with potential for proliferation, development and production of weapons of mass destruction.

The Teller-Kurchatov Alliance for Peace, as included in the National Defense Authorization Act for Fiscal Year 2005 (H.R. 4200), should immediately be enacted to award scientists employed at the Kurchatov Institute of the Russian Federation and scientists employed at Lawrence Livermore National Laboratory, international exchange fellowships in the nuclear nonproliferation sciences. This program, between the leading U.S. and Russian nuclear facilities, would promote peaceful uses of nuclear technology and provide opportunities for advancement in the field of nuclear nonproliferation to scientists who, as demonstrated by their academic or professional achievements, show particular promise of making significant contributions in that field.

Removing potential nuclear weapons materials from vulnerable sites around the world would reduce the chance that such materials would fall into the hands of groups hostile to the national security of the United States. A Task Force on Nuclear Material Removal should be established by the President appointing the Department of Energy to ensure that potential nuclear weapons materials are entirely removed from the most vulnerable sites as soon as practicable.

Armenia, Azerbaijan, the Republic of Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan, all part of the Silk Road region, would benefit from the Silk Road Initiative to develop sustainable employment opportunities between the United States and the Silk Road nations for scientists, engineers and technicians formerly engaged in activities to develop and produce weapons of mass destruction. This program will incorporate the best practices under the former Initiatives for Proliferation Prevention program and facilitate commercial partnerships between private entities in the United States and scientists, engineers and technicians in the Silk Road nations.

During the Cold War, the Soviet Union presented the U.S. with a clear and identifiable threat to our national security. For decades, the Soviet Union developed massive stockpiles of nuclear, chemical and biological weapons. With the fall of the Soviet Union, these stockpiles are largely unaccounted for and in dangerously insecure locations and facilities.

In the post-September 11th world, in which our nation faces new threats from underground terrorist organizations, it is more important than ever to work with Russia to eliminate and secure their weapons of mass destruction so that they do not fall into the wrong hands. By implementing and engaging Russia in these programs would secure our national security.

U.S.-RUSSIA COOPERATION ON MISSILE DEFENSE

Recognizing the emerging threat of missile attack from rogue nations that may confront both the U.S. and Russia over the next decade, a major objective of the Missile Defense Act was the establishment of cooperative projects between the two former rivals. With a new director at the U.S. Missile Defense Agency and changes at senior levels in the Russian military establishment, the time may be right to advance this cooperation.

Central to the development of bilateral cooperation in missile defense would be commencement of an ongoing dialogue between senior U.S. and Russian officials and their experts. In July 2004, such a meeting occurred in Berlin. Sustaining this fledgling momentum will be essential and, if supported by the administration, the Congress and its counterparts in the Russian Duma, that outcome can be achieved. Such cooperation is in the national security interest of the United States. Russian assistance in such areas as sharing data from target acquisition radars, currently unavailable to the Missile Defense Agency, would address one of the information gaps in the system's current configuration.

Comprehensive data exchanges could be the first area of possible bilateral missile defense cooperation. Under the auspices of the IEG, a series of senior working group meetings could be established with U.S. counterparts. The working group would be empowered to establish agenda topics reflecting the interests and priorities of each side. In addition, and as part of that mechanism, the sides might agree on a process where they would report to their respective political leadership, as well as representatives of the U.S. Congress and Duma, on the progress being achieved by the working group.

Currently, a government-to-government agreement must be in place to serve as a framework for any industry cooperation on missile defense. Regular meetings and discussions between officials of the two governments are ongoing and contributing to this framework agreement. These discussions should also review U.S. and Russian export control and liability policies in order to normalize the trade relationship.

Additional areas of potential missile defense cooperation that may be beneficial to the two nations include targets, radars and sensors.

Targets—Both the United States and the Russian Federation have space-based Early Warning Systems (EWS) and long histories of development therein. A major new thrust is the need for the future Ballistic Missile Defense System to detect missile launches much earlier than provided by current EWS capabilities. This is important to support the boost phase intercept element of BMDS where alert and launch of interceptors within tens of seconds of the threat missile ignition are extremely valuable to the operational concept.

Currently, an initiative exists that is ongoing within the Missile Defense Agency dealing with targets and countermeasures. Through this initiative, targets are provided for missile defense interceptor tests. Competition exists between U.S. contractors to provide targets and these awards, if appropriate could be competed to include non-U.S. entities, including Russian firms to provide realistic targets to the Missile Defense Agency.

The Russian Federation has been requested by the Missile Defense Agency to provide ballistic missile targets and launch services for radar evaluation. In the long term, this could evolve into an expanded test program to include target intercepts. Both nations will cooperate to access threat representative targets and provide more operationally realistic testing opportunities.

Radars—Early Warning Radars offer a propitious opportunity for cooperation. A cooperative effort with Russia to co-develop early warning radars, located along the Russian southern border looking toward Middle East and Southwest Asia threats, is critical to both nations. UHF technology is globally widespread and, therefore, in a category of technology considered exportable. Early warning data alerting our two governments of a Middle East threat would go to a Russian site, a U.S. site or it could go to a third site that would then pass the early warning data to both countries.

Sensors—A great deal of attention is being paid by Homeland Security and the Defense Agencies to detect the presence of Special Nuclear Material or nuclear weapons at points of entry or those assembled clandestinely here at home. However, once a nuclear weapon or a dirty bomb has been detonated or a successful disastrous attack on a nuclear reactor has been made, the important problem remains of defining the contaminated areas for evacuation and subsequent decontamination. The better and more quickly the delineation of the dangerous areas can be accomplished, the sooner the civilian population can be rescued and their fears alleviated and the more quickly the decontamination effort can proceed with protection for the clean up crews.

Present technology depends in large part on the use of detectors that are sensitive to the gamma rays emitted by the decay of radionuclides. However, these detectors require that they be used within the irradiated region that could produce possible radiation effects on the operator. This mean of free path of the gamma rays, however, is not sufficiently long enough to permit the use of a gamma sensor from remote platforms such as a helicopter or UAV that could provide a rapid assessment of the situation and mapping of the affected areas.

Little known measurements, made a number of years ago, showed that the radioactive decay products (alpha, beta and gamma rays) cause the atmosphere to fluoresce principally in the ultraviolet (UV) and to a lesser extent in other regions of the spectrum. Using this phenomenon it is possible to measure and localize the UV emission from these radiations remotely on the ground or from aircraft or a UAV.

The Russians have demonstrated expertise in ultraviolet sensors under the RAMOS program. In addition, there are ongoing activities with the Russian nuclear community for Threat Reduction. The United States and Russia should broaden and fuse these capabilities to this new program for remote sensing and mapping of radiological contaminants.

Measurements and modeling of the visible/infrared signatures (spectral, temporal, and spatial) of Russian missile plumes is a near term project that could be placed under the RAMOS program. Of particular interest are data taken on plumes of the Russian rocket motors and technologies that have been previously exported or copied by third word countries of concern. In addition to measuring the boost phase of Russian and U.S. missile launches, there is also interest in observing static tests.

The key to forging a U.S.-Russian missile defense alliance is now, before U.S.-Russian relations deteriorate further. Even the most modest proposals and programs already underway should be viewed as reforming a still adversarial relationship between Washington and Moscow. Current discussions between the Department of Defense, the Missile Defense Agency and Russian officials should continue to provide a strategy to evaluate the feasibility of increasing technical cooperation with Russian military industry on missile defense technologies such as the Russian S–400 and S–500. These cooperative opportunities would benefit Russia through a long-term relationship and direct involvement in the U.S. BMDS as well as significant Russian industry involvement and monetary benefits.

ENERGY

Russia, with its vast oil and gas resources, a growing and diverse number of private sector companies and a renewed commitment to investment by international energy companies, offers a unique opportunity to provide energy stability to an often volatile and insecure world energy market. Working with Russia, the U.S. can play a critical role in supporting energy development among the resource rich countries of the former Soviet Union. In a time of historically high crude oil and natural gas prices, the United States and Russia must establish a more effective energy partnership. Both the United States and Russia have emphasized the importance of energy in the bilateral relationship, and have sought ways to encourage trade and investment, but the results of their actions have not been sufficient. Russia's vast energy resources have not flooded the United States market.

Russia's energy sector is at full capacity, unable to export greater amounts of oil and gas. Increasing Russia's oil and gas exports will require sequenced long-term investment in exploration, production and transportation to increase total system capacity.

Large-scale direct investment by United States companies, with its major inputs of technology and management, in the Russian energy sector is vital in order for Russia to substantially increase its energy output for the benefit of both the United States and Russia. American energy company investment in the Russian energy sector will improve Russia's economic development and political stability, while at the same time supply the United States with additional oil and gas, thereby enhancing energy security by decreasing dependence on the Middle East.

While Russia's foreign direct investment has increased, it remains far below its potential. Russia's government policies, regulations and practices still make American investors wary of its uncertain business environment. United States companies require greater security and protections of their interests in order to invest further in their human, technical and financial capital in Russian energy markets. Numerous American companies have struggled with Russian entities over asset ownership and appropriate taxation.

If Russia seeks to encourage foreign investment, it must create a transparent business environment. The United States and Russian government must take action, simultaneously, so that United States companies will overcome this uncertainty and invest in Russia's energy market.

A. Asset Ownership and Taxation.—Despite financial incentives, such as the United States Export-Import Bank loan guarantees to American exporters of oil and gas equipment to Russia and Overseas Private Investment Corporation (OPIC) insurance and financing to American investors in the Russian energy sector, the United States government must provide further incentives to encourage greater investment in Russia such as relaxing the foreign tax code. Over the decades, there have been few major changes in the structure of the United States international tax system. Reducing the relative tax burden on foreign investment would increase the extent to which American companies invest abroad. Policy options include liberalizing the foreign tax credit's limitation and Subpart F's restrictions on deferral for Russian energy investment, exempting all income from Russian energy production, or at least providing a substantial reduction in the tax rate on repatriated earnings, and implementing tax sparring for Russian, and especially the former countries of the Soviet Union, energy investment.

For Russia to recognize its potential, both Russian and non-Russian investors must have confidence that, when disputes arise, a judicial system exists that will fairly and impartially enforce the rules applicable to their operations and honor their agreements. In addition, a banking system capable of providing the funds to finance this growth must exist. By creating a joint United States-Russian Energy Bank similar to the World Bank, European Development Bank or International Monetary Fund but limited to the United States, Russia and former countries of the Soviet Union, could create a positive investment environment and produce long term development of the energy sector in Russia. At least, during the appropriation process, Congress must encourage that funds appropriated to these development banks be used in energy projects in Russian and the former countries of the Soviet Union.

Russia also needs to clarify and fix either the tax scheme under which new exploration and production would be covered, or revisit a Production Sharing Agreement. United States energy companies need to be able to quantify their potential outcome prior to investing in explorations, or even seismic analysis to determine their interest in exploring a given area.

B. Improve Russia Production Capabilities.—Russia's ability to transport and export oil and gas is significantly below its production capabilities. In 2004, Russian oil exports will expand almost 12% over the 250 mm tons exported in 2003. However, in the following two years, exports will increase only 3% annually because the existing pipeline system is unable to pump greater quantities of oil. The Russian government must define the rights of investors in private pipelines so that outside investment can construct additional major pipelines to increase output. Currently, energy transportation out of Russia is controlled by the Russian government which may restrict capacity. Russia should open transportation capability to non-Russian entities so that U.S. companies investing in Russia may determine allocating capacity.

Russia should also remove the government's current requirement that a fixed percentage of new production must be sold into the Russian domestic market at a significantly lower price than the true market price. This would provide an incentive for new production, since currently an estimated 65% of all production is sold at such a discount. The Russian government could become economically indifferent when an appropriate tax scheme is defined at the outset of the agreement.

Additionally, if Russian companies aspire to become global leaders in the energy production market, the U.S. can assist Russian oil companies to develop their resources, shift their products to the United States market and help advance and solidify Russia's integration into the international energy economy. U.S. companies can offer the technical capability, the access to capital and the international expertise to Russia. Furthermore, the United States can provide Russian companies adequate storage at refineries and ports. Old U.S. military bases, which are no loner used by DoD, could provide the storage and security for energy imported from Russia.

C. Commercial Energy Dialogue.—The foundation formed by President Bush and Putin's 2002 United States-Russia Commercial Energy Dialogue must continue to be built upon, but at a faster pace. The U.S. Department of Energy and the Russian Ministry of Atomic Energy should continue to convene annually with U.S. and Russian agency officials, legislators, industry and academic institutions and identify areas of further cooperative efforts and potential areas for new collaborations.

When the President and other high level United States officials meet with their Russian counterparts, they must emphasize the great need for Russia to improve its domestic investment climate as a prerequisite for higher levels of United States investment in the energy sector.

While this dialogue is committed to pursuing new energy opportunities by fostering closer relations between educational and professional institutions and resolving current trade and administrative disputes, the commission should also review immigration policies practiced by the U.S. and Russian agencies granting visas for energy sector officials and employees. If this dialogue is to be successful, the participants of both nations should receive visas in a timely manner.

Additionally, as co-chairman of the Duma-Congress Study Group, I propose creating a task force between the two legislative branches in order to expedite legislative reforms recommended by the commercial energy dialogue. The task force should hold annual exchanges between members and staff of the energy committees.

Russia has a renewed commitment to investment by American energy companies. Recent actions by President Putin signal the importance placed on energy trade and investment with the United States. He has called for increased pipeline infrastructure development to facilitate the export of oil to Europe and the United States stating ". . . I would like relations between Russian and United States businesses to develop more actively, especially in the strategically important area of energy. . . ."

It is clear, both the United States and Russia want and need to increase Russia's exportation of energy. This is a rare and distinct opportunity where American and Russian collaboration on enemy research might be beneficial in fostering a cooperative, market-based approach to energy security, reducing dependency on the tumultuous Middle East. This can be the new model of future energy partnerships. The United States and Russia can play a critical role in supporting energy development among the energy rich countries of the former Soviet Union, further improving global energy diversity and energy security.

OMISSION FROM THE CONGRESSIONAL RECORD OF TUESDAY, SEPTEMBER 21, 2004 AT PAGE H7267

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS of Illinois (at the request of Ms. PELOSI) for today on account of a family emergency.

Mr. KLECZKA (at the request of Ms. PELOSI) for today after 5 p.m. and the balance of the week on account of personal reasons.

Mr. WICKER (at the request of Mr. DELAY) for today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HINOJOSA) to revise and extend their remarks and include extraneous material:)

Mr. HINOJOSA, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. MORAN of Kansas) to revise and extend their remarks and include extraneous material:)

Mr. MARIO DIAZ-BALART of Florida, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mr. SOUDER, for 5 minutes, today.

Mr. FRANKS of Arizona, for 5 minutes, today.

Mr. NORWOOD, for 5 minutes, September 23.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2279. An act to amend title 46, United States Code, with respect to maritime transportation security and for other purposes; to the Committee on Transportation and Infrastructure.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 265. An act to provide for an adjustment of the boundaries of Mount Rainier National Park, and for other purposes.

H.R. 1521. An act to provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania, and for other purposes.

H.R. 1616. An act to authorize the exchange of certain lands within the Martin Luther King, Junior, National Historic Site for lands owned by the City of Atlanta, Georgia, and for other purposes.

H.R. 1648. An act to authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley Water District and the Montecito Water District.

H.R. 1658. An act to amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes.

H.R. 1732. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, and for other purposes.

H.R. 2696. An act to establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West.

H.R. 3209. An act to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project.

H.R. 3249. An act to extend the term of the Forest Counties Payments Committee.

H.R. 3768. An act to expand the Timucuan Ecological and Historic Preserve, Florida.

ADJOURNMENT

Mr. WELDON of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at midnight), under its previous order, the House adjourned until tomorrow, Thursday, September 23, 2004, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9660. A letter from the Assistant Attorney General, Department of Justice, transmitting the 2003 Annual Report regarding the Department's enforcement activities under the Equal Credit Opportunity Act, pursuant to 15 U.S.C. 1691f; to the Committee on Financial Services.

9661. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackeral Lottery in Areas 542 and 543 [Docket No. 031126295-3295-01; I.D. 081104A] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9662. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9663. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9664. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9665. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9666. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9667. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9668. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Indiana Regulatory Program and Abandoned Mine Land Reclaimation Plan [Docket No. IN-155-FOR] received September 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9669. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Texas Regulatory Program [Docket No. TX-053-FOR] received September 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9670. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Maryland Regulatory Program [MD-054-FOR] received September 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9671. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Illinois Regulatory Program and Illinois Abandoned Mine Land Reclamation Plan [IL-102-FOR] received July 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9672. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; Pacific . Coast Groundfishery; Pacific Whiting; Routine Management Measure; Closure Authority [Docket No. 040726215-4215-01; I.D. 071604d] (RIN: 0648-AS48) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9673. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Fish Meal [Docket No. 040427134-4230-02; I.D.042004D] (RIN: 0648-AR64) received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9674. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery [Docket No. 040624193-4193-01; I.D. 060304A] (RIN: 0648-AS43) received July 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9675. A letter from the Deputy Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the 2004 Deep-Water Grouper Commercial Fishery [I.D. 070104K] received July 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9676. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; "Other Flatfish" in the Bering Sea and Aleutian Islands [Docket No. 031124287-4060-02; I.D. 081004F] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9677. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Zone Off Alaska; Rock Sole in the Bering Sea and Aleutian Islands [Docket No. 031124287-4060-02; I.D. 081004E] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9678. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States;

Northeast (NE) Multispecies Fishery; Implementation of the Yellowtail Flounder Landing Limit for Western and Eastern U.S./Canada Areas [Docket No. 040112010-4114-02; I.D. 081204C] Recieved August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9679. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries off the West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Pacific Whiting Primary Season for the Shore-based Sector and the Resumption of Trip Limits [Docket No. 031216314-4118-03; I.D. 081104I] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9680. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands [Docket No. 031124287-4060-02; I.D. 070804A] received July 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9681. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #7 — Adjustments of the Recreational Fishery from the Queets River, Washington to Cape Falcon, Oregon [Docket No. 040429134-4135-01; I.D. 081704C] received September 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9682. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #6 — Adjustments of the Commercial Fishery from the U.S.-Canada Border to Cape Falcon, Oregon [Docket No. 040429134-4135-01; I.D. 081604A] received September 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9683. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason #8 — Adjustments of the Commercial Salmon Fishery from Humbug Mountain, Oregon to the Oregon-California Border [Docket No. 040429134-4135-01; I.D. 081704D] received September 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9684. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Spring Commerical Red Snapper Component [I.D. 082404C] received September 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9685. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska [Docket No. 031125292-4061-02; I.D. 082704A] received September 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9686. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Aera 630 of the Gulf of Alaska [Docket No. 031125292-4061-02; I.D. 082704B] received September 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9687. A letter from the Chairman, U.S. International Trade Commission, transmitting pursuant to Section 2104(f) of the Trade Act of 2002, a report on the Commission's investigation entitled "U.S.-Central America-Dominican Republic Free Trade Agreement: Potential Economywide and Selected Sectoral Effects, Inv. No. TA-2104-13, USITC Publication 3717"; to the Committee on Ways and Means.

9688. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a two-part report to the Congress on various conditions in Bosnia and Herzegovina. Part I responds to the requirements of section 7 of Pub. L. 105-174 (1998 Supplemental Appropriations and Rescissions Act) and outlines the latest developments in our continuing efforts to achieve a sustainable peace in Bosnia and Herzegovina. Part II responds to the supplementary reporting requirements contained in section 1203(a) of Pub. L. 105-261 (Strom Thurmond National Defense Authorization Act for FY 1999), covering the period from January 1 to June 30, 2004; jointly to the Committees on International Relations, Armed Services, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARTON: Committee on Energy and Commerce. H.R. 4555. A bill to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards: with an amendment (Rept. 108–694). Referred to the Committee of the Whole House on the State of the Union.

Mr. REYNOLDS: Committee on Rules. House Resolution 785. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–695). Referred to the House Calendar

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. GREEN of Texas:

H.R. 5119. A bill to prohibit the use of remote control locomotives to carry hazardous materials, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. DOOLEY of California (for himself and Mr. Frelinghuysen):

H.R. 5120. A bill to improve the operation and utilization of the United States National Arboretum in the District of Columbia, and for other purposes; to the Committee on Agriculture.

By Mr. YOUNG of Alaska (for himself, Mr. Oberstar, Mr. Mica, and Mr. DeFazio):

H.R. 5121. A bill to further protect the United States aviation system from terrorist attacks; to the Committee on Transportation and Infrastructure, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEY (for himself and Mr. Larson of Connecticut):

H.R. 5122. A bill to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms; to the Committee on House Administration.

By Mr. BARRETT of South Carolina (for himself and Mr. Ose):

H.R. 5123. A bill to require agencies to review all major rules within 10 years after issuance, including a cost-benefit analysis using a standard government-wide methodology, and for other purposes; to the Committee on Government Reform.

By Mrs. KELLY (for herself, Mr. Royce, and Mr. Feeney):

H.R. 5124. A bill to require that certain measures be taken with respect to countries of concern regarding terrorist financing; to the Committee on Financial Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY (for herself, Mr. Shays, Mr. Weiner, Mr. Hoeffel, Mr. George Miller of California, Ms. Baldwin, Ms. DeLauro, and Mr. Oberstar):

H.R. 5125. A bill to extend the operation of the National Commission on Terrorist Attacks on the United States to serve as a resource for the President and Congress, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. NADLER (for himself, Mr. Shays, Mrs. Lowey, Mr. Ruppersberger, Mr. Filner, Ms. Baldwin, Mr. Grijalva, Mr. George Miller of California, Mr. Moran of Virginia, Mr. Serrano, Mr. Crowley, Mrs. Maloney, Mr. Olver, Mr. Abercrombie, Mr. Waxman, Mr. Kucinich, Mrs. Davis of California, Mr. McDermott, and Mr. Gordon):

H.R. 5126. A bill to amend the Federal Rules of Evidence to create an explicit privilege to preserve medical privacy; to the Committee on the Judiciary.

By Mr. SHAYS (for himself and Mr. Meehan):

H.R. 5127. A bill to amend the Federal Election Campaign Act of 1971 to define political committee and clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes; to the Committee on House Administration.

By Mr. YOUNG of Alaska:

H.R. 5128. A bill to require the Secretary of the Treasury to mint coins in commemoration of the founding of America's National Parks, and for other purposes; to the Committee on Financial Services.

By Mr. CUMMINGS (for himself, Mr. Bishop of Georgia, Mr. Butterfield, Ms. CORRINE BROWN of Florida, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLYBURN, Mr. CONYERS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. FATTAH, Mr. FORD, Mr. HASTINGS of Florida, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Ms. KILPATRICK, Ms. LEE, Mr. LEWIS of Georgia, Ms. MAJETTE, Mr. MEEK of Florida, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Ms. NORTON, Mr. OWENS, Mr. PAYNE, Mr. RANGEL, Mr. RUSH, Mr. SCOTT of Georgia, Mr. SCOTT of Virginia, Mr. THOMPSON of Mississippi, Mr. TOWNS, Ms. WATERS, Ms. WATSON, Mr. WATT, and Mr. WYNN):

H. Con. Res. 495. Concurrent resolution recommending expenditures for an appropriate visitor's center at Little Rock Central High School National Historic Site to commemorate the desegregation of Little Rock Central High School; to the Committee on Resources.

By Ms. LEE (for herself, Mr. LANTOS, Mr. RANGEL, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. BALLENGER, Mr. LEACH, Mr. DELAHUNT, Mr. PAYNE, Mrs. CHRISTENSEN, Mr. SERRANO, Ms. KILPATRICK, and Ms. WATERS):

H. Con. Res. 496. Concurrent resolution expressing the sense of Congress with regard to providing humanitarian assistance to countries of the Caribbean devastated by Hurricanes Charley, Frances, Ivan, and Jeanne; to the Committee on International Relations.

By Mr. FOLEY (for himself, Ms. GINNY BROWN-WAITE of Florida, Ms. ROS-LEHTINEN, Mr. FEENEY, Mr. MARIO DIAZ-BALART of Florida, Mr. PUTNAM, Mr. MILLER of Florida, Mr. STEARNS, Mr. WELDON of Florida, Mr. MEEK of Florida, Mr. BOYD, Mr. LINCOLN DIAZ-BALART of Florida, Mr. CRENSHAW, Mr. BILIRAKIS, Mr. MICA, Mr. SHAW, Mr. KELLER, Mr. DAVIS of Florida, Mr. YOUNG of Florida, Ms. CORRINE BROWN of Florida, Mr. GOSS, Ms. HARRIS, Mr. HASTINGS of Florida, Mr. DEUTSCH, and Mr. WEXLER):

H. Res. 784. A resolution commending the resiliency of the people of the State of Florida and the work of those individuals who have assisted with the recovery efforts after the devastation caused by Hurricanes Charley, Frances, and Ivan; to the Committee on Government Reform.

By Mr. OBEY:

H. Res. 786. A resolution providing for consideration of the bill (H.R. 4421) making appropriations for the Environmental Protection Agency for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Rules.

By Mr. OBEY:

H. Res. 787. A resolution providing for consideration of the bill (H.R. 4422) making appropriations for the Departments of Agriculture, Education, Health and Human Services, and Transportation for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Rules.

By Mr. OBEY:

H. Res. 788. A resolution providing for consideration of the bill (H.R. 4423) making appropriations for the Department of Veterans Affairs for the fiscal year ending September 30, 2004, and for other purposes; to the Committee on Rules.

By Mr. OBEY:

H. Res. 789. A resolution providing for consideration of the bill (H.R. 4424) making appropriations for military construction and family housing for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Rules.

By Mr. OBEY:

H. Res. 790. A resolution providing for consideration of the bill (H.R. 4473) making appropriations for the Department of Education for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Rules.

By Mr. HINOJOSA:

H. Res. 791. A resolution supporting the goals and ideas of Hispanic Engineering, Science, and Technology Week and recognizing the University of Texas-Pan American for its efforts to prepare Hispanic youth for careers in engineering, science, and technology; to the Committee on Education and the Workforce.

By Mr. GEORGE MILLER of California (for himself, Mrs. JONES of Ohio, Mr. MCDERMOTT, Mrs. MCCARTHY of New York, Ms. LEE, Mr. HONDA, Mrs. DAVIS of California, Mr. DAVIS of Florida, Mr. HASTINGS of Florida, Ms. CARSON of Indiana, Ms. WATSON, Mr. COOPER, Mr. JEFFERSON, Mr. DAVIS of Alabama, Mr. WICKER, Mr. MENENDEZ, Mr. HINOJOSA, Ms. JACKSON-LEE of Texas, Mr. HOLT, Mr. MEEKS of New York, Mr. MORAN of Virginia, Mr. CLYBURN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BROWN of Ohio, Mr. SERRANO, Mr. FORD, Mr. WATT, Ms. KILPATRICK, Ms. WATERS, Mr. SCOTT of Georgia, Mr. WEXLER, Mr. RUSH, Mr. RYAN of Ohio, Mr. FATTAH, Mr. VAN HOLLEN, Ms. WOOLSEY, Mr. SPRATT, Mr. CONYERS, Mr. BUTTERFIELD, Ms. MILLENDER-MCDONALD, Mr. KILDEE, Mr. BURNS, Mr. SNYDER, Mr. HOYER, Ms. PELOSI, Mr. CAPUANO, Mr. MILLER of North Carolina, and Mr. WEINER):

H. Res. 792. A resolution honoring the United Negro College Fund on the occasion of the Fund's 60th anniversary and the Fund's unflagging dedication to enhancing top quality college opportunities to millions of students; to the Committee on Education and the Workforce.

By Ms. WATSON (for herself, Mrs. CHRISTENSEN, Mr. PASCRELL, Mr. FILNER, Ms. ESHOO, Mr. DEFAZIO, Mr. HOYER, Mr. CONYERS, Mr. RANGEL, Mr. OWENS, Ms. JACKSON-LEE of Texas, Mr. HASTINGS of Florida, Mr. MCDERMOTT, Ms. SOLIS, Mrs. NAPOLITANO, Mrs. TAUSCHER, Ms. LINDA T. SÁNCHEZ of California, Mr. HONDA, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. PAYNE, Mr. JEFFERSON, Ms. NORTON, Ms. WATERS, Mr. BISHOP of Georgia, Ms. CORRINE BROWN of Florida, Mr. CLYBURN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RUSH, Mr. WATT, Mr. WYNN, Mr. DAVIS of Alabama, Ms. MAJETTE, Mr. MEEK of Florida, Mr. SCOTT of Georgia, Mr. BUTTERFIELD, Mr. THOMPSON of Mississippi, Mr. FATTAH, Mr. JACKSON of Illinois, Ms. MILLENDER-MCDONALD, Mr. CUMMINGS, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. DAVIS of Illinois, Mr. FORD, Ms. KILPATRICK, Mr. MEEKS of New York, Ms. LEE, Mrs. JONES of Ohio, and Mr. CLAY):

H. Res. 793. A resolution condemning all efforts to suppress and intimidate voters in the United States and reaffirming that the right to vote is a fundamental right of all eligible United States citizens; to the Committee on the Judiciary, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. NORWOOD introduced a bill (H.R. 5129) for the relief of Thomas W. Sikes and Wellington Trade, Inc., doing business as Containerhouse; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 104: Mr. LANTOS.
H.R. 290: Mr. GILLMOR.
H.R. 434: Mr. FOLEY and Mrs. EMERSON.
H.R. 480: Mr. BUTTERFIELD.
H.R. 677: Mr. GORDON and Mr. MCINTYRE.
H.R. 775: Mr. PAUL.
H.R. 792: Mr. MORAN of Kansas.
H.R. 832: Ms. WATERS.
H.R. 935: Mrs. LOWEY, Mr. TOWNS, and Mr. FARR.
H.R. 1155: Mrs. MCCARTHY of New York.
H.R. 1225: Mr. OLVER.
H.R. 1231: Ms. HERSETH.
H.R. 1477: Mr. LANTOS and Ms. LINDA T. SÁNCHEZ of California.
H.R. 1690: Mr. ANDREWS.
H.R. 1742: Ms. SOLIS.
H.R. 1746: Mr. VAN HOLLEN.
H.R. 2042: Mr. KENNEDY of Rhode Island and Mr. SMITH of New Jersey.
H.R. 2173: Ms. BORDALLO.
H.R. 2239: Mr. RODRIGUEZ, Mr. MOLLOHAN, Mr. BERRY, Ms. MCCARTHY of Missouri, and Ms. LORETTA SANCHEZ of California.
H.R. 2256: Mr. ANDREWS, Ms. CARSON of Indiana, Mr. VAN HOLLEN, and Mr. ACEVEDO-VILÁ.
H.R. 2509: Mr. CAMP.
H.R. 2680: Mr. EHLERS, Mr. KNOLLENBERG, and Mr. HOEKSTRA.
H.R. 2681: Mr. ENGEL and Mr. GREEN of Texas.
H.R. 2705: Mr. LARSEN of Washington.
H.R. 2711: Mr. FRANK of Massachusetts.
H.R. 2743: Mr. HAYWORTH.
H.R. 2823: Ms. HERSETH.
H.R. 2852: Mr. CUMMINGS.
H.R. 2954: Mr. MCNULTY.
H.R. 3178: Mr. HASTINGS of Florida.
H.R. 3194: Mrs. CAPPS, Mr. MORAN of Virginia, Mr. WAXMAN, and Mr. WYNN.
H.R. 3403: Mr. LINCOLN DIAZ-BALART of Florida.
H.R. 3438: Mrs. TAUSCHER, Mr. CALVERT, Mr. GREENWOOD, and Mr. PALLONE.
H.R. 3444: Mr. FATTAH.
H.R. 3473: Mr. NETHERCUTT.
H.R. 3558: Ms. MCCOLLUM, Mr. BROWN of Ohio, Mr. DEFAZIO, and Mr. HOEFFEL.
H.R. 3622: Mr. GRIJALVA
H.R. 3810: Mr. VAN HOLLEN.
H.R. 3859: Mr. FARR, Mr. WU, Mr. CLAY, Mr. MATHESON, Mr. MORAN of Virginia, Mrs. CAPPS, Mr. WYNN, Mr. CONYERS, Mr. HONDA, Mrs. JONES of Ohio, and Mr. KOLBE.
H.R. 3864: Mr. MCNULTY.
H.R. 3933: Mr. SHAYS.
H.R. 4101: Mr. ABERCROMBIE.
H.R. 4182: Mr. INSLEE.
H.R. 4192: Ms. CARSON of Indiana.

H.R. 4232: Mr. CULBERSON, Mr. DELAY, and Mr. BARTON of Texas.

H.R. 4250: Mr. RANGEL.

H.R. 4261: Mr. OBERSTAR.

H.R. 4341: Mr. SIMMONS, Mr. FERGUSON, Mr. MCNULTY, Mr. VAN HOLLEN, Ms. HARMAN, Mr. OXLEY, and Mr. ALLEN.

H.R. 4379: Mr. VAN HOLLEN.

H.R. 4390: Mr. SPRATT.

H.R. 4440: Mr. TANCREDO.

H.R. 4578: Mr. GILLMOR, Ms. SOLIS, Mr. KUCINICH, Mr. SABO, Mr. ENGLISH, Mr. LATOURETTE, Mrs. JONES of Ohio, Mr. LARSON of Connecticut, and Mr. MATSUI.

H.R. 4610: Mrs. JONES of Ohio.

H.R. 4616: Mr. OWENS.

H.R. 4620: Mr. LUCAS of Oklahoma, Mr. POMBO, Mr. STENHOLM, Mr. DOOLEY of California, Mr. POMEROY, and Mr. HERGER.

H.R. 4634: Mr. BACHUS, Mr. BRADLEY of New Hampshire, Mr. GILCHREST, and Mr. SAXTON.

H.R. 4652: Mr. KING of Iowa.

H.R. 4661: Mrs. JO ANN DAVIS of Virginia.

H.R. 4662: Mr. MCCRERY.

H.R. 4679: Mr. LEVIN.

H.R. 4680: Mr. CAMP.

H.R. 4682: Mrs. KELLY and Mr. PASCRELL.

H.R. 4730: Mr. SPRATT, Mr. HILL, Mr. ROSS, Mr. BROWN of South Carolina, Mr. BOEHLERT, Mr. BAIRD, Mr. SANDLIN, Mr. BURTON of Indiana, Mrs. CAPITO, Mr. SHIMKUS, Mr. COLLINS, and Mr. MURTHA.

H.R. 4752: Mr. ANDREWS and Mr. FATTAH.

H.R. 4772: Mr. OLVER, Mr. JOHN, and Mrs. JONES of Ohio.

H.R. 4776: Mr. GEORGE MILLER of California.

H.R. 4792: Mr. EMANUEL.

H.R. 4849: Mr. RAMSTAD.

H.R. 4853: Mr. VAN HOLLEN.

H.R. 4856: Mr. MCCOTTER.

H.R. 4863: Mr. MATSUI.

H.R. 4895: Mr. LINDER.

H.R. 4896: Ms. JACKSON-LEE of Texas, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. CARDOZA, Mr. EDWARDS, Mr. EMANUEL, Mrs. JONES of Ohio, Mr. LANTOS, Ms. MILLENDER-MCDONALD, Mr. SERRANO, Mr. MENENDEZ, and Mr. PALLONE.

H.R. 4978: Mr. EMANUEL and Ms. BORDALLO.

H.R. 4979: Mr. MCNULTY.

H.R. 4985: Mrs. MALONEY.

H.R. 4994: Ms. LINDA T. SÁNCHEZ of California, Mr. UDALL of Colorado, and Mrs. CHRISTENSEN.

H.R. 5022: Mr. GREEN of Texas.

H.R. 5038: Mr. ENGLISH, Mr. BERMAN, and Mr. BISHOP of Georgia.

H.R. 5053: Mr. WALSH, Mr. CROWLEY, Mr. BISHOP of New York, Mrs. MALONEY, Mr. ENGEL, Mr. ISRAEL, Mrs. LOWEY, Mr. ACKERMAN, Mrs. KELLY, Mr. MEEKS of New York, Mr. SWEENEY, Mr. NADLER, Mr. HINCHEY, Mr. WEINER, Mr. MCHUGH, Mr. TOWNS, Mr. BOEHLERT, Mr. OWENS, Mr. REYNOLDS, Ms. VELÁZQUEZ, Mr. QUINN, Mr. FOSSELLA, Ms. SLAUGHTER, Mr. RANGEL, Mr. HOUGHTON, and Mr. SERRANO.

H.R. 5057: Mr. PORTMAN, Mr. TOM DAVIS of Virginia, Ms. BORDALLO, Mr. ACEVEDO-VILÁ, Mr. TOWNS, Mr. BOYD, Mr. BELL, Ms. ROS-LEHTINEN, Mr. MCDERMOTT, Mr. SANDERS, Mr. SANDLIN, Mr. PALLONE, Mr. KILDEE, Ms. MCCARTHY of Missouri, Mr. MCGOVERN, Ms. DELAURO, Mr. CHANDLER, Mr. SCHIFF, Mr. LANTOS, Mrs. MCCARTHY of New York, Mr. CARDOZA, and Mr. EDWARDS.

H.R. 5061: Mr. MCNULTY, Mr. KING of Iowa, Mr. TOWNS, Mr. CUMMINGS, Ms. MCCARTHY of Missouri, Mr. BACHUS, and Mr. WALSH.

H.R. 5073: Ms. PELOSI, Mr. DOGGETT, Mr. CONYERS, Mr. STARK, and Mr. BERMAN.

H.R. 5076: Mrs. MCCARTHY of New York.

H.R. 5079: Mr. GREEN of Wisconsin.

H.R. 5080: Mr. GREEN of Wisconsin.

H.R. 5081: Mr. RYUN of Kansas, Mr. MCINNIS, and Mr. GOODE.

H.R. 5082: Mr. NADLER.

H.R. 5111: Mr. TANCREDO.

H.J. Res. 102: Mr. SNYDER and Mr. WALSH.

H.J. Res. 103: Mrs. CHRISTENSEN, Mr. FILNER, Mr. SERRANO, and Mr. MCNULTY.

H. Con. Res. 111: Mr. HINCHEY and Mr. KLECZKA.

H. Con. Res. 252: Mr. RAHALL.

H. Con. Res. 435: Mr. OLVER.

H. Con. Res. 488: Mr. BONNER.

H. Res. 144: Mr. BLUMENAUER.

H. Res. 575: Mr. EHLERS.

H. Res. 758: Mr. OBERSTAR, Mr. CHANDLER, Mr. MCDERMOTT, Ms. LEE, Mr. SERRANO, Ms. KAPTUR, Mr. MARSHALL, Mr. DOGGETT, and Mr. STARK.

H. Res. 759: Mr. ROYCE, Mr. COX, Mr. GARY G. MILLER of California, and Ms. LORETTA SANCHEZ of California.

H. Res. 772: Mr. FROST, Mr. KENNEDY of Rhode Island, and Mr. WEXLER.

H. Res. 774: Mr. BERMAN, Mr. LEVIN, Mr. HASTINGS of Florida, and Mr. PALLONE.

H. Res. 776: Mr. FILNER.

H. Res. 782: Mr. SMITH of Washington.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

105. The SPEAKER presented a petition of the Junior Order United American Mechanics, relative to Resolution No. 2 expressing support to the men and women of the armed forces of the United States of America; to the Committee on Armed Services.

106. Also, a petition of the Junior Order United American Mechanics, relative to Resolution No. 10 expressing appreciation and honoring those killed and wounded in battle, and expressing sympathy to the families of those who have given their lives in service to the United States; to the Committee on Armed Services.

107. Also, a petition of the Junior Order United American Mechanics, relative to Resolution No. 7 expressing support of the Administration's war against terrorism; to the Committee on Armed Services.

108. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 364 of 2004 petitioning the United States Senate and House of Representatives to adopt S. 1359, the International Remittances Services Enhancement and Protection Act of 2003, and S. 1344, the Money Wire Act; to the Committee on Financial Services.

109. Also, a petition of the Junior Order United American Mechanics, relative to Resolution No. 4 petitioning the Congress of the United States to provide funding to the agencies responsible for the enforcement of immigration policies and laws to attempt to eliminate illegal entry into the United States and to deport illegal aliens already in the United States; to the Committee on the Judiciary.

110. Also, a petition of the Junior Order United American Mechanics, relative to Resolution No. 4 protesting the ruling of the unconstitutionality of the phrase "One Nation, Under God," as well as any similar ruling; to the Committee on the Judiciary.

111. Also, a petition of the Junior Order United American Mechanics, relative to Resolution No. 3 petitioning the Congress of the United States to provide funding to those agencies responsible for the enforcement of immigration policies and laws to attempt to eliminate illegal entry to the United States and to deport illegal aliens already in the United States; to the Committee on the Judiciary.

112. Also, a petition of the Junior Order United American Mechanics, relative to Resolution No. 8 petitioning for the continued use of the phrase "Under God" in the Pledge of Allegiance; to the Committee on the Judiciary.

113. Also, a petition of the Junior Order United American Mechanics, relative to Resolution No. 6 expressing opposition to any procedure that would be implemented by any physician, nurse, lay person or any other individual or device that would take the life of an unborn child; to the Committee on the Judiciary.

114. Also, a petition of the Florida State Council Columbiettes, relative to Resolution No. 9 petitioning the Supreme Court of the United States to rule in favor of retaining the phrase "Under God," in our nation's Pledge of Allegiance; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

A PROCLAMATION THANKING PRIVATE FIRST CLASS RYAN A. MARTIN FOR HIS SERVICE TO OUR COUNTRY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. NEY. Mr. Speaker:

We hereby offer our heartfelt condolences to the family, friends, and community of Private First Class Ryan A. Martin upon the death of this outstanding soldier; and

Whereas, Private First Class Ryan A. Martin was a member of the 216th Engineer Battalion of the Army National Guard serving his great nation in the country of Iraq. He was a leader in his unit and is to be commended for the honor and bravery that he displayed while serving our nation in this time of war; and

Whereas, Private First Class Ryan A. Martin will be remembered for his unsurpassed sacrifice of self while protecting others. His example of strength and fortitude will be remembered by all those who knew him.

Therefore, we join with the family, friends and the citizens of our great nation in thanking Private First Class Ryan A. Martin of the United States Army for his service to our country. Your service has made us proud.

HONORING FRED HATMAKER

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. DAVIS of Tennessee. Mr. Speaker, Fred Hatmaker of LaFollette and Knoxville, TN, recently passed away at the early age of 63.

Fred was a good friend not only to me, but many within the community. He can best be characterized as one who loved to be in the middle of things. Fred was always there for a laugh, a serious discussion, a game of cards, and was more than willing to take a good humored poke at someone whenever an appropriate occasion arose.

Fred was an educator, banker, and businessman. He was as devoted to his professions as he was to his friends and family. He was restless in every venture he undertook. I think this came from his need to find his place in the world. This I can say for sure, he brought an unending amount of energy with him and will forever be remembered for his storytelling. You can rest assured that he probably never believed what he said himself.

Fred will be missed very much by all who knew him.

COMMENDING CHARLES A. COHEN, AN OUTSTANDING CITIZEN OF INDIANAPOLIS, INDIANA AND RECIPIENT OF THE NEW JERUSALEM AWARD

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Ms. CARSON of Indiana. Mr. Speaker, it is with profound pleasure and privilege that I rise to commend to the nation, Charles A. (Chuck) Cohen, an outstanding American and citizen of Indianapolis, Indiana.

Mr. Cohen will be honored October 17, with the New Jerusalem Award at the Indiana-Israel Dinner of State. Chuck is an active community leader, a prominent attorney and a longtime supporter of Israel Bonds.

State of Israel Bonds/Development Corporation for Israel is an international organization offering securities issued by the government of Israel. Since the first bond was sold in 1951, Israel Bonds has secured close to $26 billion in investment capital for the development of every aspect of Israel's economy, including agriculture, commerce and industry.

Charles Cohen was born in Greenville, KY, and graduated from Greenville High School as the salutatorian. He received a B.S. degree in Accounting in 1963 and a J.D. degree in 1966 at Indiana University-Bloomington. At school, Chuck was commissioned a 2nd Lieutenant in the U.S. Army and made the Law Review.

After completing his education, the honoree served with the U.S. Army in the Medical Service Corps. His display of leadership earned him the Bronze Star for meritorious service in a combat zone and the rank of Captain.

In 1971, Chuck moved to Indianapolis and co-founded the firm of Garelick & Cohen, (now Cohen, Garelick & Glazier). He is currently the managing partner.

Mr. Cohen is an active member of the Jewish Community Center of Indianapolis, serving as a life board member and past president. He is also active with the Jewish Federation of Greater Indianapolis and has served in numerous positions including president and campaign chairman, as well as chairman of the Benefits Committee, the Israel Emergency Campaign, and currently serves as chairman of the Long Term Endowment Campaign and the Overseas Committee.

In addition, he is a member of the board of directors of America's Voices in Israel and an intermediate cities representative on the United Jewish Communities board of trustees.

Mr. Cohen is the recipient of the L.L. Goodman Young Leadership Award, the Liebert Mossler Award, the Martin L. Larner Leadership Award, the Endowment Achievement Award, and the Hasten Hebrew Academy HAI-Life Award.

Chuck and his wife, Karen, are the parents of three children: Brad, Amy Kaissar, and Danielle Bautista.

Mr. Speaker, I ask that you and my colleagues in the People's House join in commending Charles Cohen for his life of service, civic stewardship and commitment to Indianapolis and Israel Bonds.

He has exhibited outstanding leadership qualities that deserve high praise.

PAYING TRIBUTE TO FBI DEPUTY DIRECTOR BRUCE GEBHARDT

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to Deputy Director Bruce Gebhardt for his 30 years of distinguished service to the Federal Bureau of Investigation. His breadth of knowledge and experience in national security, terrorism and intelligence issues have made America markedly safer in the wake of September 11, 2001.

Mr. Gebhardt entered on duty as a Special Agent with the Bureau on July 7, 1974, and began his career investigating organized crime and narcotics. Mr. Gebhardt was the recipient of the FBI Medal of Valor as a result of action taken during an airplane hijacking event in Denver, Colorado in 1976. More recently as a Special Agent in Charge, Mr. Gebhardt oversaw numerous operational success in organized crime, counterintelligence, counterterrorism, cyber crimes and white collar crimes. But today, more than ever, America owes a debt of gratitude to Bruce Gebhardt for his work to retool and reshape the FBI after September 11, 2001.

In August 2002, Mr. Gebhardt was appointed by Director Mueller to serve as Deputy Director for the FBI and for the last 2 years he has been responsible for restructuring the FBI into a counterterrorism and intelligence focused agency. As Deputy Director, Mr. Gebhardt has made important contributions to the national security of the United States and more fully prepared the Federal Bureau of Investigation to fight terrorism both at home and abroad.

Mr. Speaker, I would like to offer my best personal regards to Deputy Director Gebhardt on his retirement from the FBI and wish him all the best in the future. I would also like to ask my colleagues to join me in thanking him on behalf of the American people for his service and commitment to our collective security.

IN OUR THOUGHTS AND PRAYERS

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. DAVIS of Tennessee. Mr. Speaker, the 278th Armored Cavalry Regiment having been activated and mobilized as the 278th Regimental Combat Team has some of Tennessee's finest soldiers. They are currently training in Camp Shelby, Mississippi, before moving to the National Training Center in Ft. Irwin, California, for additional training. Before departing for their duty location in Northern Iraq they will return to Tennessee where they will appropriately have a sendoff on Veterans Day.

Headquartered in Knoxville, the 278th is the only enhanced Armored Cavalry Regiment in the National Guard and one of only two in the United States Army. The 278th is the largest unit in the Tennessee Army National Guard, with units stretching from one end of Tennessee to the other. A large portion of the 278th's soldiers live in the 4th Congressional District.

While visiting the 278th at Camp Shelby I talked with soldiers from across the 4th District. Every soldier I talked with expressed a devotion to family and country. Our troops have the energy and patriotism needed to encourage democracy abroad by promoting strong American values and ideals. The families should know that their loved ones are receiving world class training and equipment.

In a State that claims Sgt. Alvin York as its native son no one should be surprised that Tennessee is appropriately named the Volunteer State. This largest callup of Tennessee National Guardsmen only further demonstrates our commitment to country. I would like to ask everyone to pray for our brothers and sisters who will shortly be put in harm's way. May God look after our troops and their families.

IN MEMORY OF AIR NATIONAL GUARDSMAN FIRST LIEUTENANT JAMES O. CONWAY

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. CAPUANO. Mr. Speaker, I rise today to remember the brave actions of a hero. First Lieutenant (1/LT) James O. Conway will be memorialized this weekend in East Boston, Massachusetts where he gave his own life half a century ago to save the lives of many neighborhood residents. On October 2, 1954, 1/LT Conway, a member of the Air National Guard, 101st Fighter Interceptor Squadron, flew his jet into an embankment after it had lost power upon take-off at Logan Airport. This undaunted act of courage was done in an effort to save the neighborhood of East Boston from the trauma, damage and potential loss of life that more than likely would have resulted from the crash landing of a military jet in a densely populated residential area.

The residents of East Boston have long recognized 1/LT Conway as a hero. This Saturday, the East Boston community will formally memorialize this act of heroism in a dedication ceremony. This ceremony comes at a time when thousands of men and women in the National Guard are serving our country in its latest time of need. These modern-day heroes carry on a tradition of selflessness that was exemplified by 1/LT Conway a generation ago.

Mr. Speaker, I ask my colleagues to join me in expressing our solemn gratitude to 1/LT James O. Conway, his family and all of the men and women who have made the supreme sacrifice protecting our Nation at home and abroad.

THE HENRY FORD COMMEMORATIVE CELEBRATION

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. DINGELL. Mr. Speaker, I rise today to honor the contributions of the late Henry Ford as the "Father of Industrial Education" and to express my deep gratitude for his enormous contributions to education, particularly technical training.

Henry Ford was a strong advocate of providing educational opportunities. At Highland Park, where the Model T was produced, he organized English classes for newly hired immigrants, which assisted them in receiving their first citizenship papers. In 1930, Henry Ford announced that he would spend $100 million and devote the remainder of his life promoting and supporting educational concepts. Of the some 60 schools supported by Henry Ford, the one that brought him the greatest satisfaction and pride was the Henry Ford Trade School.

The Henry Ford Trade School, established in Highland Park in 1916 with one instructor and a class of six disadvantaged students, quickly emerged as a pioneer of the modern concept of combining vocational training with related formal classroom instruction. Upon its move to the Rouge Complex in Dearborn in 1931, the school continued to offer educational opportunities to young men through the year 1952. At its peak, there were more than 2,800 students, aged 13–17, and 135 instructors. A hot lunch was furnished without charge and for their effort, students were awarded a weekly cash scholarship and a monthly stipend to deposit in a bank savings account until they left school.

The training offered at Henry Ford Trade School took on new meaning with the advent of World War II and the technical skills of the graduates were employed and challenged in various capacities to support the war effort. Many students also served in the military.

In order to properly acknowledge the inspiration and guidance of Henry Ford, the members of the Henry Ford Trade School Alumni Association, some 400 strong, will perpetuate his memory with the unveiling of a life-size bronze statue to be displayed at the welcome center for guests touring the factory at the newly reopened Rouge Complex.

Mr. Speaker, I ask that you and all of my colleagues rise and join me in honoring the members of the Henry Ford Trade School Alumni Association on the occasion of their celebration, and to pay tribute and recognize the commitment and dedication of the late Henry Ford.

RECOGNIZING MR. GREG HALL

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Ms. SOLIS. Mr. Speaker, I rise to recognize Mr. Greg Hall for his life-long contributions to the city of El Monte. Mr. Hall has been an active and loyal employee for the city of El Monte. He has worked as a Park Caretaker for 6½ years, Water Systems Operator for 2 years, Senior Water Systems Operator for 1½ years, Maintenance Supervisor for 7 years, and held his current position as Public Works Maintenance Superintendent for 16 years.

Exemplifying the best in humanitarian leadership, Mr. Hall was awarded Volunteer of the Year for all greater Los Angeles for his contributions to build the Saint Harriet's Children's Home. He was also awarded Kiwanian of the Year in 1984, 1990, and 1992. He was also president of the Kiwanis Club from 1989–1990, secretary from 1992–1993 and lieutenant governor in 2002. Mr. Hall has also served in the U.S. Navy for 3 years and is a Vietnam veteran.

Mr. Hall has served on many committees over the years, such as Maintenance Superintendents Association for 16 years, Traffic Control Supervisors Association for 22 years, and the American Water Works Association for 26 years.

Mr. Hall's involvement with the Hazmat Drop-Off/Intake building for El Monte residents, the modernization of the Public Works Maintenance Division offices as well as the Water Department, are just some of his many accomplishments. Mr. Hall leaves behind a leadership model of teamwork. His leadership style has improved the reputation of the Maintenance Division and brought all the members of the Maintenance Yard closer together.

Please join me in wishing Mr. Greg Hall, maintenance superintendent, Public Works Maintenance Division good luck and a happy retirement.

HONORING ROBERT AND COLLEEN GOODALE, 2004 ANGELS IN ADOPTION

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. COOPER. Mr. Speaker, I have the privilege today of recognizing Robert and Colleen Goodale, an extraordinary couple from Nashville, TN, who have opened their home and their hearts to children in foster care.

I am proud to announce that the Goodales are this year's Angels in Adoption from the Fifth District of Tennessee. As many of my colleagues know, Angels in Adoption is an annual award sponsored by the Congressional

Coalition on Adoption Institute to honor families such as the Goodales who are among the nation's heroes of adoption.

The Goodales have a story that is nothing short of amazing. After raising four biological children of their own, the Goodales decided to fill their empty nest by adopting children out of foster care. The first of these children was Richard, who came to the Goodales' home at the age of 2 for what was intended to have been a 2-week stay. Richard, who is severely mentally disabled, was in the process of being institutionalized at a local facility when he came to the Goodales' home. Richard, however, never left their care, and instead became their first adopted son. Now 18, Richard is still severely developmentally delayed and cannot speak. He also suffers from emphysema, and requires round-the-clock supervision and assistance. As nurses by profession, the Goodales have provided Richard with the ideal loving home.

Shortly after Richard's adoption, the Goodales adopted two brothers, Jonathan and Christopher, who were 11 and 9 at the age of their adoption and are now 24 and 23. They then adopted another group of siblings, James, Tracy, Jerome, and Lorri. Now also grown, these children were 7, 5, 4 and 2 when they joined the Goodale family.

The Goodales, who are white, are blessed with a diverse, multiracial family. Richard is African-American, Jonathan and Christopher are white, and the remaining four are biracial. Despite their commitment and perseverance, the Goodales have had to battle skepticism from caseworkers who initially believed these diverse placements to be inappropriate. Eventually, the Goodales even moved into an all-black neighborhood to demonstrate their respect for their children's racial heritage.

The Goodales are a truly remarkable family, and I am privileged to have been witness to the strength of this family's love.

IN RECOGNITION OF THE HEROISM OF BETTY ONG

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Ms. PELOSI. Mr. Speaker, I rise today to pay tribute to Betty Ong, a native daughter of San Francisco's Chinatown and a hero for our Nation on September 11, 2001.

On that tragic day, Betty Ong was a flight attendant on American Airlines Flight 11 from Boston bound for Los Angeles. Flight 11 left Boston's Logan Airport at 7:59 a.m. with Mohammed Atta and four other terrorists on board. From the time the terrorists took over the plane until she lost contact, Betty remained calm and professional. For 23 minutes, she relayed vital information to her colleagues on the ground. The information Betty provided in that horrifying situation later allowed the FBI to discern the identity of the terrorists onboard Flight 11.

In January of this year, the 9/11 Commission heard a tape of Betty's urgent message. In its report, the Commission confirmed that Betty was indeed the first person to report the hijacking. 9/11 Commission Chairman Thomas Kean declared, "Betty Ong is a true American hero."

On September 21, 2001, a memorial service for Betty was held in San Francisco's Chinatown where Betty was born and maintained strong family and community ties. At that time Mayor Willie Brown proclaimed September 21 to be "Betty Ong Day." This year, the Chinatown Community Development Center is again honoring her.

It is with pride and sadness that I join in paying tribute to Betty's courage and her heroism. I hope it is a comfort to her family that so many people remember and honor her heroic acts.

CALLING FOR TAIWANESE REPRESENTATION AT THE UNITED NATIONS

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. DEUTSCH. Mr. Speaker, the Republic of China (Taiwan) has once again tried to return to the United Nations this fall. In recent years, Taiwan has repeatedly expressed its strong desire to participate in the United Nations and other international organizations. I am pleased that the United States has pledged to support Taiwan's bid to become an observer in the World Health Organization and to obtain OAS (Organization of American States) observership for Taiwan. Many of us in this body have long supported that. In fact, in our Taiwan Policy Review of September 1994, we declared the intent to build stronger and more active support for Taiwan's participation in appropriate international organizations. The United Nations is such an appropriate organization.

The United States has supported Taiwan's membership in the Asian Development Bank and the World Trade Organization and its admission to the Asian-Pacific Economic Cooperation Group; Supporting Taiwan's bid to return to the United Nations is the next logical step for the United States. In doing so, we will demonstrate to the world that the United States supports democracy and freedom in Taiwan. We will prove, yet again, that the United States is on the side of free and democratic people.

It is indeed grossly unfair to see Taiwan and its 23 million people excluded from the activities of the United Nations year after year. When SARS hit Taiwan in the spring of 2003, Taiwan, without United Nations membership, was denied the World Health Organization's expertise and assistance for weeks. Taiwan's doctors had difficulty obtaining information about SARS, and as a result, Taiwanese SARS patients suffered and waited.

Taiwan's immense population is also worth noting. Its 23 million people constitute a population that's larger than those of two-thirds of UN member states. Small states such as Andorra (population 54,000) and San Marino (population 23,000) have UN membership while Taiwan is denied?

Furthermore, Taiwan's exclusion from the UN clearly violates the UN principle of universality. The UN's mission is to "reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women, and of nations large and small." What of the rights of the 23 million people on Taiwan? Don't we believe that the Taiwanese populace counts?

Taiwan is a democracy. It endorses the UN's ideals of peace, human rights, and development. It has been a responsible global citizen, contributing to aid projects like relief supplies for Afghan refugees, AIDS prevention in Africa, and the dispatch of a rescue team following earthquakes to El Salvador in 2001.

If Taiwan were allowed to return to the United Nations, reconciliation and rapprochement between Taiwan and the People's Republic of China would help to stabilize the entire Asia-Pacific region for generations to come, while making the United Nations a much more representative body.

Mr. Speaker, Taiwan's exclusion from the United Nations is unjust. We must speak up for Taiwan, our friend and ally, this year and every other until this injustice is corrected.

INTRODUCTION OF THE 527 REFORM ACT

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. SHAYS. Mr. Speaker, I am pleased to join with Congressman MARTY MEEHAN and Senators JOHN MCCAIN and RUSS FEINGOLD to introduce the 527 Reform Act, which will close an election law loophole created by the Federal Election Commission's (FEC) failure to enforce the 1974 Federal Election Campaign Act (FECA).

This failure on the part of the Commission is a long-standing tradition underscored by federal judge Colleen Kollar-Kotelly's September 18 decision in Shays v. FEC, which struck down 15 poorly-drafted rules promulgated by the FEC that undermined, rather than enforced, the Bipartisan Campaign Reform Act.

Our legislation will require 527 groups to register as political committees with the FEC—as they should have been doing all along. It also establishes new, effective allocation rules to ensure groups primarily focused on impacting federal races are regulated accordingly.

For too long, the FEC has looked the other way as 527 groups have channeled soft money into federal elections, clearly violating the letter and the spirit of the campaign finance law.

The 527 Reform Act does the job the FEC has failed to do—it brings 527 groups under the same set of rules as every other political committee.

In doing so, it ensures all groups acting primarily to influence federal elections play by the rules Congress and the Supreme Court intended, rather then allowing some to exist in a parallel world of election law anarchy.

The bottom line is, groups that are in the business of influencing federal elections should be regulated by federal election law, and, by overriding the FEC's long-standing misinterpretation of the 1974 Federal Election Campaign Act, that is exactly what this legislation will accomplish.

WELCOME HOME 1175TH

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. DAVIS of Tennessee. Mr. Speaker, I am happy to welcome back the 1175th Transportation Company of the Tennessee National Guard. The soldiers, who deployed to Fort Knox, Kentucky in February 2003, had been in Kuwait and Iraq since April 2003. When they returned home in mid-May 2004 they were surrounded by loved ones who hadn't seen them in over a year.

The transportation company was involved in various aspects of transportation, convoy operations and supply missions. Within the first 96 hours of arriving in Kuwait they pulled their first mission—not an easy feat. Often, they drove Humvees mounted with .50 caliber machine guns, escorting vital equipment throughout Iraq. The unit logged some 2.3 million miles in the 13 months they were overseas.

I am very proud of the safety and performance record of the 1175th. They served with distinction by implementing the largest track vehicle movement since World War II not once, but twice in the matter of a few months, while training in the U.S. They also had the best safety record and operational readiness status of the other 15 plus transportation companies working in Iraq/Kuwait.

Iraq is hot, dry, and dusty. Sometimes temperatures reached upwards of 135 to 140 degrees. Knowing the numerous dangers and environment it surprised me to read and hear statements from soldiers such as Sergeant Tommy Adcock say, "Our Country has taken care of us, now it's payback time."

It is sad that the 1175th lost two of its own. Staff Sergeant Nathan Jerome Bailey and Staff Sergeant David Leroy Lyod lost their lives defending a country they cared so deeply about. We need to remember that our countrymen are making the ultimate sacrifice in defense of this country. These men and women have served honorably and with distinction. What makes our country so great are all of the brave Americans that step up and defend this great nation. For that I say thank you and God Bless.

PERSONAL EXPLANATION

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. BLUMENAUER, Mr. Speaker, had I been present for the following votes on Tuesday, September 21, 2004, I would have voted as follows:

Rollcall vote 457: I would have voted "yea" on the Van Hollen amendment, which prevents OMB from spending any funds to implement the A–76 rewrite changes that were finalized on May 29 regarding federal employees and contractors.

Rollcall vote 458: I would have voted "yea" on the Sanders amendment. This amendment prohibits the use of funds to assist in overturning Cooper v. IBM—on July 31, 2003, a federal court ruled that IBM's cash balance pension plan violates federal anti-age discrimination law. This amendment protects U.S. workers who have been negatively impacted by age-discrimination cash balance pension conversions.

Rollcall vote 459: I would have voted "yea" on the Norton amendment. This amendment prohibits the use of funds in the bill to enter into or renew any contract for a high deductible health plan under the federal employees health benefit plan that does not require enrollees to remain enrolled in such plan for at least 3 consecutive years from the date of initial enrollment.

Rollcall vote 460: I would have voted "yea" on the Davis (FL) amendment, which would prohibit the use of funds in the bill to enforce new restrictions on travel to Cuba for the purpose of visiting relatives.

RECOGNIZING THE ACCOMPLISHMENTS OF WOMEN ATHLETES AT THE 2004 SUMMER OLYMPICS

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Ms. SLAUGHTER. Mr. Speaker, I rise today to honor the amazing achievements of the women athletes at the 2004 Olympics in Athens, Greece. In particular, I want to celebrate the success of the United States Women's Soccer Team, who made us proud by winning a gold medal at the 2004 Olympics in Athens, Greece, beating Brazil 2–1 in overtime, on August 26, 2004.

These women have become some of the most famous athletic role models on earth. They have taught our children that if you work hard and you believe in yourself, you can accomplish anything. Indeed, these women are helping to fundamentally change perceptions about athletics. It is no surprise that our little girls look up to these strong, motivated women for inspiration. But to also see little boys wearing jerseys emblazoned with the names of their favorite women players is a wonderful sight.

I would especially like to recognize Abby Wambach, who is from my district in Rochester, New York. When she scored the goal that secured the gold medal, nowhere in the world cheered louder than Rochester. In addition, every other woman on the Olympic soccer team also deserves our recognition and congratulations: Shannon Boxx, Brandi Chastain, Joy Fawcett, Julie Foudy, Mia Hamm, Angela Hucles, Kristine Lilly, Kristin Luckenbill, Kate Markgraf, Heather Mitts, Heather O'Reilly, Cindy Parlow, Christie Rampone, Cat Reddick, Briana Scurry, Lindsay Tarpley, and Aly Wagner.

As a testament to the power of these women, their fan appreciation tour, which kicks off in Rochester, on September 25, sold out all 14,000 seats in just minutes. I have introduced a resolution in Congress, H. Res. 373, which supports the reestablishment of the Women's United Soccer Association (WUSA). Hopefully, some day the WUSA will return, to give these amazing female athletes the professional athletic opportunities in the United States they so deeply deserve.

Thank you to all the women Olympic athletes for transforming the lives and attitudes of today's young women, and for those of generations to come. We all know that girls who compete in sports perform better in school, are physically healthier and have a stronger self-esteem. Our girls have learned that sweat is sexy, brawn is beautiful and a little dirt never hurt anyone. You have truly given us all a whole lot more to celebrate, work hard for and dream about.

HONORING TOM VIOLANTE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. LEVIN. Mr. Speaker, I rise to honor Mr. Tom Violante, founder and owner of Holiday Market in Royal Oak, Michigan in a celebration of the Market's fifty years as a community landmark.

When Holiday Market opened in 1954, it was a small store up the street from its present location and in some respects it was like many other small grocers so common in those days. It sold the basics and had a meat counter with a very few employees.

But there was from the beginning a major difference: the owner, Tom Violante. He took a personal interest in every customer who walked through the door. He wanted every customer to be satisfied with service, price, and quality. Those who stopped at that small business place can remember Tom at the meat counter, friendly and eager to meet a customer's wishes. In these efforts he was actively joined by his wife Janet.

He also possessed a strong business acumen. When opportunities arose to move down the street and expand into much larger quarters, he took the leap. Today Holiday Market provides an adventure in shopping for an imaginative variety of quality products.

The next generation of his family has taken an increased interest. They have sustained the Violante touch of warm friendliness and superior service.

As busy as Tom Violante was, whether as the cog in a small operation and later as his enterprise grew, and no matter how involved he and his wife Janet were in raising their growing family, Tom and Janet have possessed a strong community and civic involvement.

Tom's community interest was exemplified in his service on the Oak Park Board of Education, the Oak Park Citizens School Finance Committee, President of the Frost Elementary School PTA, and the Oak Park Boosters Club. Many have been the beneficiaries of Tom and Janet Violante's civic interest. Their support of local charitable organizations include the Royal Oak Lions Club, the Royal Oak Boys and Girls Club, William Beaumont Hospital's Speech Therapy Program and Leader Dogs for the Blind and Hearing Impaired, among others.

Mr. Speaker, as Tom Violante is "roasted" at the celebration on September 23, in Royal Oak, Michigan, I add my personal gratitude to a remarkable man who has given so much to make his community a better place for all of us. I ask my colleagues to join in congratulating Holiday Market on its golden anniversary and in wishing Tom Violante, his wife Janet, their five children and fourteen grandchildren good health and happiness, and continued success.

75TH ANNIVERSARY TRIBUTE TO THE CALIFORNIA MARITIME ACADEMY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. GEORGE MILLER of California. Mr. Speaker, I rise today to invite my colleagues to join me in honoring the California Maritime Academy as it celebrates its 75th anniversary.

The California Maritime Academy was founded in 1929 under the name of the "California Nautical School" and was located in Tiburon, and is the third oldest active maritime academy in the United States. In 1936 the U.S. Congress passed the Merchant Marine Act, which directed the creation and maintenance of an adequate merchant marine to support U.S. international and domestic commerce and to meet the needs for national defense. Responding to this mandate, the federal government and the California state legislature began contributing matching funds in support of the school's mission. In these early days, only three-year deck and engineering programs were offered.

In 1939 the school changed its name to the California Maritime Academy. In 1940, with war looming, the academy was relocated to San Francisco. During World War II, the course of study was accelerated to 17 months and many graduates served in the war. A new permanent site for the academy was found on a 67-acre site at Morrow Cove in Vallejo; in 1943 campus construction was completed, making the site the academy's permanent home.

In 1973 Cal Maritime became the first maritime academy to enroll women in a licensed maritime program, the first of whom graduated in 1976. In 1974 the curriculum was expanded to a four-year undergraduate program, laying the groundwork for accreditation by the Western Association of Schools and Colleges. Nautical industrial technology and marine engineering technology were the four-year majors offered at this time. In the late 1980's, two new majors in mechanical engineering and business administration were added, and the nautical industrial technology program was replaced by marine transportation. Cal Maritime currently offers bachelor's degrees in business administration, facilities engineering technology, global studies and maritime affairs, marine engineering technology, marine transportation, and mechanical engineering. A program of intellectual learning, applied technology, and leadership development prepares graduates for positions of significant responsibility in the areas of maritime, business, logistics, inter-modal transportation, and engineering.

In addition to earning a bachelor's degree, students earn professional licensing in one of several areas: Third Mate or Third Assistant Engineer, U.S. Coast Guard; Certified Plant Engineer-in-Training, Association for Facilities Engineering; or professional certification in transportation, management, or international business and logistics. The curriculum further expanded during the fall of 2003, when Cal Maritime introduced a major in global studies and maritime affairs—the first new major to be accepted after the academy's full transition into the CSU system. Also in the fall of 2003, Cal Maritime dedicated its new Technology Center.

In 1995, Cal Maritime became a campus of The California State University (CSU), which opened new opportunities for educational and institutional enhancement. By 1996 Cal Maritime expanded beyond its maritime curriculum, introducing a facilities engineering technology major. A new science and engineering lab building was completed in 1999. Cal Maritime is one of only seven degree-granting maritime academies in the United States, and the only one on the West Coast.

For the last several years, Cal Maritime students have enjoyed a nearly 100% job placement rate upon graduation and starting salaries above the national average. In addition, Cal Maritime's completion and time to degree rates are some of the best of any public institution in the state. At Cal Maritime, students benefit from a small student-to-teacher ratio and small class sizes—with an average of 18 students per class. Each student at Cal Maritime has the opportunity to participate in at least one 60-day international training cruise aboard the Training Ship *Golden Bear*. While at sea, students apply the skills learned during the school year and visit domestic and international ports of call.

As Cal Maritime celebrates its 75th anniversary, the future looks bright with applications for enrollment at an all-time high. The academy's strategic plan calls for growth to 750–800 students in the next few years and Cal Maritime is well on its way to meeting that goal.

Mr. Speaker, it is appropriate that we congratulate the California Maritime Academy for its 75 years of contributions to the maritime industry of our great nation.

SALUTE TO ROBIN STONE AND THE D.C. CHILDREN'S ADVOCACY CENTER FOR COMBATING CHILD SEXUAL ABUSE

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Ms. NORTON. Mr. Speaker, I rise today to salute accomplished journalist and author Ms. Robin D. Stone for her courageous and thoughtful efforts to bring light to darkness by educating and raising public awareness about the heinous crime of child sexual abuse. I also want to acknowledge the outstanding work of my constituent Safe Shores—the D.C. Children's Advocacy Center in its front line work to support physically and sexually abused children and thank the Center for bringing Ms. Stone to the District of Columbia to give the plenary address at its second annual multidisciplinary conference: "Safe Childhoods: Strengthening D.C.'s Clinical Response to Childhood Trauma."

Safe Shores is the coordinating agency for the District of Columbia's multidisciplinary team for child abuse investigation and prosecution, which is known as the MDT. As a not-for-profit organization Safe Shores works in a unique public-private partnership with the agencies that comprise the District's MDT, which are the Metropolitan Police Department, Child and Family Services Agency, the Office of the Attorney General for the District of Columbia, the U.S. Attorney's Office for the District of Columbia, and Children's National Medical Center. Safe Shores—The D.C. Children's Advocacy Center was founded for the express purpose of reducing the trauma of child victims of abuse during the investigative and prosecutorial processes. Safe Shores operates pursuant to the children's advocacy center developed back in the late 1980's by our esteemed colleague Representative ROBERT "BUD" CRAMER of Alabama when he was a prosecutor.

As part of its work, Safe Shores provides training and education on child abuse prevention and treatment for local professionals. It is in this context that Robin Stone has brought her vital message to my hometown, Washington DC, to shine light on what some would like to keep hidden in the shadows, child sexual abuse. Bravely using her own personal history of abuse as a catalyst for her journalistic treatment of this issue, Ms. Stone is the author of No Secrets, No Lies: How Black Families Can Heal from Sexual Abuse, published by Doubleday/Broadway Books earlier this year.

Ms. Stone brings an illustrious professional history to this important cause. She is a 2004 Casey Fellow, one of 30 journalists sponsored by the Casey Journalism Center on Children and Families to attend its five-day seminar "Condition Critical: Covering Children's Health." A 2002–03 Kaiser Media Fellow, she was one of six journalists selected by the Kaiser Family Foundation to research and report on health issues. Her fellowship project was sexual abuse in Black families. Ms. Stone was founding editor in chief of essence.com, the interactive version of the premiere African-American women's magazine, Essence. She joined the magazine in September 1997 as a senior editor and ultimately was appointed executive editor. Before joining Essence, Ms. Stone was deputy editor of The Living Section at The New York Times. She came to The Times from The Boston Globe, where she was an editor in the living/arts department.

I commend Ms. Stone for the courage and eloquence she has shown in bringing this issue before the American people. We know she has performed an invaluable public service in so doing. Indeed, Dr. Alvin F. Poussaint, preeminent child psychiatrist and professor at Harvard Medical School, has commented that "No Secrets, No Lies breaks the silence about sexual abuse within the Black community . . . [and] Robin Stone makes a major contribution to the well-being of Black children and families."

Robin Stone's professional success and her personal fulfillment as a wife and mother exemplify that child sexual abuse does not have to determine the life course of those who are victims of this vile crime. Indeed, there is tremendous power, triumph and inspiration to be found in the survivor's story. So, it behooves those of us who make and shape the laws and who care about building a safer and saner society to listen, learn and heed the lessons from these survivors and the professionals who seek to help them heal and move beyond the pain. Paying attention to the issues raised in No Secrets, No Lies is our challenge and responsibility if we are to keep our promises to children, that is, to protect every child from abuse and ensure that all children—regardless of what family they are born to—have a safe, healthy and happy childhood.

IN RECOGNITION OF DAVID POLLOCK'S SERVICE AS PRESIDENT OF THE CALIFORNIA SCHOOL BOARD ASSOCIATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. GALLEGLY. Mr. Speaker, I rise to recognize David Pollock, a school board member for the Moorpark Unified School District in my district, for his service as the 2003–2004 president of the California School Boards Association.

David Pollock has served on Moorpark's board of education since 1994 and was board president in 1998–1999. He also served as president of the Ventura County School Boards Association from 1999–2002. He represented Region 11 as a member of the California School Boards Association's Delegate Assembly and served as a member and chair of the California School Boards Association's Nominating Committee from 1999–2002.

He has also served on the Legislative Committee, the Federal Issues Council, the Collective Bargaining Task Force and as a governmental relations chair and Golden Bell onsite validator. As president-elect, David Pollock served as chair of the Legislative Committee, a board member of the CCS Partnership and a delegate to the National School Boards Association.

David Pollock completed his undergraduate work at Pepperdine University and earned a master's in business administration from the University of California, Los Angeles. He holds a commercial pilot's license and is the manager of market planning for Rocketdyne, a business unit of The Boeing Company.

Mr. Speaker, I know my colleagues will thank David Pollock for his service to the Moorpark, Ventura County and California school board associations and congratulate him for his year as president of the California School Boards Association.

CONGRATULATING KIT CARSON ELEMENTARY SCHOOL

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mrs. MUSGRAVE. Mr. Speaker, today, I rise to congratulate Kit Carson R–1 Elementary School in Kit Carson, Colorado for being chosen as a No Child Left Behind Blue Ribbon School of 2004. The Blue Ribbon Schools program honors public and private K–12 schools that are academically superior in their states or have demonstrated dramatic gains in student achievement.

Schools chosen for the Blue Ribbon are meeting the mission of ensuring every child is learning and achieving. Blue Ribbon recipients are national models of excellence from which other schools can learn. I am proud of Kit Carson R–1 Elementary School for serving as a model in the great state of Colorado, and throughout the entire nation.

The Blue Ribbon Schools program requires schools to meet specific assessment criteria. It recognizes schools that have at least 40 percent of their students from disadvantaged backgrounds that dramatically improve student performance in accordance with state assessment systems. The program also rewards schools that score in the top 10 percent on state assessments.

Kit Carson's 37 students scored in the top 10 percent nationwide in math and reading. Additionally, Kit Carson Elementary is only one of 27 rural schools in the nation that received the Blue Ribbon title.

It is an honor to announce this award and it is a testament to the exceptional students of rural Colorado. It proves that a quality education is obtainable when teachers, parents, and students strive for achievement. Compared to other elementary schools around the nation, Kit Carson may be small in size, but it is prominent in its standing.

Mr. Speaker, I am pleased to offer my warmest congratulations to Kit Carson Elementary for this achievement.

IN HONOR OF THE MEMORY OF CESAR HERNANDEZ

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mrs. WILSON of New Mexico. Mr. Speaker, I rise today to honor the memory of Cesar Hernandez.

Cesar died on July 5th of this year at age 61. His contribution to New Mexico lives on. Cesar was publisher of the Spanish language newspaper, La Razon.

With a circulation of 17,000 copies, Cesar's newspaper is a major source of news and information for the substantial Spanish-speaking population of New Mexico.

This newspaper's importance to the population it serves is difficult to over-emphasize. We live in an era of news up-to-the minute and always available, but to a person who reads or understands primarily Spanish, the sources of information are often rare or incomplete. La Razon fills that gap and offers its readers valuable, practical information for their day-to-day lives.

Cesar's family will never forget the day they became New Mexicans, because it was September 11, 2001. Cesar started his newspaper one week later. Cesar logged decades of experience in radio and newspaper, and got his start in Chicago, Illinois. Today, his work goes on in New Mexico under the direction of his wife, Antoinette, and his family.

In three years, Cesar contributed much to his adopted state, New Mexico. As his daughter Leslie put it, "My father loved the newspaper." We're proud to recognize Cesar Hernandez, and we honor his memory and contribution to New Mexico.

TRIBUTE TO ORANGE "BUDDY" HAYS

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. MEEK of Florida. Mr. Speaker, it is with deep sorrow that I rise to inform my colleagues of the passing of Orange "Buddy" Hays, one of Miami-Dade County's most quietly effective and dignified patriarchs and a community leader and mentor who had the ability to transform the lives of everyone he met.

Mr. Hays death on Sunday, September 12, 2004, has cast a veil of deep sadness over our community. The funeral services to celebrate his life were held Saturday, September 18, at Mt. Olive Primitive Baptist Church in Miami, Florida.

Buddy Hays was a good and decent man who contributed greatly to our community, professionally, as a City of Miami police officer and as the District Manager of HUD for more than 30 years. But I knew him, much more closely and at a young age, as someone who was wise, and strong, and fair—a great role model.

He was like a father and mentor to me, and I've been blessed and inspired by the good words and magnificent examples of this ordinary human being who went about quietly helping youngsters in our community, simply because of his great goodness and the fact that there were youngsters out there who needed his help. My friend, State Rep. Dorothy Bendross-Mindingall described Mr. Hays as someone who ". . . will be missed by so many. He was steadfast and relentless in his mission to make this community a better place, and he did."

Buddy Hays was a delicately drawn character of quiet demeanor and dignified commitment to the well-being and growth of the neediest and most vulnerable in our community. He projected a vision of service and faith. His passing is a terrible loss, but the legacy of his caring and love lives on, and I am part of that legacy.

The world is a better place because of Orange "Buddy" Hays. It would be a high goal for anyone to set to follow the path that he blazed.

RECOGNIZING REPRESENTATIVE JAMES T. SEIGFREID

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. SKELTON. Mr. Speaker, Missouri State Representative James T. Seigfreid, a dedicated public servant, will be leaving the Missouri House of Representatives. He is retiring after eight years of serving the people of the 26th district.

After graduating from Warrensburg High School in 1963, he attended Central Missouri State University where he received Bachelor of Science in Business Administration in 1972. He served in the United States Navy from 1968 to 1974.

During his tenure, Mr. Seigfreid had many legislative accomplishments, one of which was the passage of an election reform bill. He also worked tirelessly for the improvement of Missouri's state roads.

In addition to his dedication to public service, Jim is a member of the First Christian Church of Marshall, the State Corn Husking Committee, Marshall Chamber of Commerce, Optimist Club, and Saline County Unit, American Cancer Society.

Mr. Speaker, Jim Seigfreid has served the people of the 26th District for eight years. As he prepares for the next stage in his life, I am certain that my colleagues will join me in wishing him all the best.

HONORING DR. ARIE HALACHMI, PROFESSOR AT TENNESSEE STATE UNIVERSITY'S INSTITUTE OF GOVERNMENT

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. COOPER. Mr. Speaker, I rise today to recognize the remarkable achievements of Dr. Arie Halachmi, who has earned a global reputation for his work at Tennessee State University's Institute of Government.

Over the last three decades, Dr. Halachmi has become one of the world's leading experts on public sector performance and productivity—an expertise that I know here in Congress cannot be valued too highly. During his distinguished career, Dr. Halachmi has served as a consultant to government agencies in more than a dozen countries around the world. Among the many nations that the worldwide demand for his services has taken him to are the Netherlands, China, Korea, Israel, Germany and Greece. He has received numerous national and international awards, including the Don Stone, Donato Pugliese, and Harold Lasswell awards, and is on the editorial board of nine different academic journals.

Dr. Halachmi was recently honored by his colleagues when he received a Faculty Showcase Award from TSU for his outstanding service to his institution and community. He has also received a "Goodwill Ambassador Award" from the governor of my State, Tennessee. I am proud to add my voice to the many others who have recognized the importance of Dr. Halachmi's work.

The worldwide reputation of scholars such as Dr. Halachmi is testament to the strength of Tennessee State University and to the strength of our Nation's academic institutions. We in Congress have an obligation to ensure that universities such as TSU remain adequately funded, and that our country's colleges and universities continue to lead the world in scholarship and expertise. My State is fortunate to have a wealth of leading academic institutions, including TSU, and I am proud to say that I am committed to maintaining their excellence.

On behalf of the citizens of the Fifth District of Tennessee, I congratulate Dr. Halachmi on his many contributions to American scholarship.

CELEBRATING CONSTITUTION WEEK AND CIVIC EDUCATION

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. McNULTY. Mr. Speaker, this November millions of young people will take part in one of our most cherished American traditions, a cornerstone of citizenship, when they exercise their right to vote. As we celebrate Constitution Week, I'd like to encourage the members of this body, and teachers and parents everywhere to promote quality civic education. I am particularly encouraged by one national effort that seeks to promote that very goal in our schools.

Around this time last year, the first annual Congressional Conference on Civic Education was launched, sponsored by the Alliance for Representative Democracy and co-hosted by the four leaders of this and the other body.

The conference established delegations that returned to their states to enact specific policies to restore the oft-overlooked civic mission of our schools. I commend Russell Sage College Professor Stephen Schechter, and the other members of the New York State delegation, for their leadership to improve civic education in our state.

Our state delegation has joined with the New York State Education Department to convene a series of Civics Summits to identify our most pressing needs in civic education. They have brought together a consortium of over 25 governmental and nongovernmental organizations to determine how best to meet these needs, designed an action plan focusing on the importance of teacher training, and sought out funding from the private sector to begin their important work.

Mr. Speaker, I am proud of the New York State civic education delegation and wish them continued success when they participate in the Second Annual Congressional Conference on Civic Education in December.

HONORING JOAN LYNCH ON HER 80TH BIRTHDAY

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mrs. MUSGRAVE. Mr. Speaker, when I was in fourth grade, my family moved back to Galeton, Colorado. Soon after starting school, I met a little girl named Cynthia Lynch. We quickly became best friends, and I grew to love her family as my own. I have always had a special place in my heart for her dear mother, Joan. Today, with love and gratitude, I honor Joan on the occasion of her 80th birthday.

Joan Lynch was born on October 12, 1924 in Greeley, Colorado, and is the third of five children. There was some confusion about her name. She was raised on the Colorado prairie by William and Kathryn Nelson who farmed northeast of Ault. In the depression and dustbowl days of the 1930s, her family temporarily left the prairie to find work but did eventually return to the homestead her father had settled in 1915. She has always considered the prairie her home.

She has always had a passion for books and learning, especially history. She speaks of her education in the one-room school at "North Victor" as her favorite school experience. Her sisters and she walked a mile and a half to and from school each day, across an open prairie. She later graduated from Central City Colorado High School in 1942, and attended the Teacher's College in Greeley.

Joan and "Corky" Lynch, were married in 1946 and lived on the East Coast while he was stationed there in the Navy. I've seen pictures of them in those early days. What a goodlooking couple!

They returned to Colorado in 1947 and farmed in the Milliken area before moving in 1956 to the ranch where Joan continues to live today, northeast of Ault, and only a few miles from the homestead where she grew up. As teenagers, Cindy and I would always giggle and be slightly embarrassed when Corky would leave for work and give Joan a big kiss on his way out of the house. Really, though, we loved it.

Corky passed away in 1999 from cancer. He and Joan celebrated 53 years together. I am so thankful I was able to go and see him before he passed away. I told him how much I appreciated all he and Joan had done for me growing up. We both cried. The older he got, the more tender-hearted he became. He was 75 years old when he passed away.

I love Joan and I will never forget what she has done for me. As a young girl, she gave me lunch money when I needed it, and she put up with my frequent visits to spend the night. That love and support helped me get through the tough times and I will always hold that love in my heart. The way she has lived life has been a constant inspiration to me and her Christian example has always been present for all of us to see. May God bless her today as her family and friends celebrate her birthday. I love her dearly and cherish her as a second mother to me. I am pleased to honor a precious lady on this occasion of her 80th birthday.

PROCLAMATION THANKING LIEUTENANT CHARLES L. WILKINS III FOR HIS SERVICE TO OUR COUNTRY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. NEY. Mr. Speaker:

We hereby offer our heartfelt condolences to the family, friends, and community of Lieutenant Charles L. Wilkins III upon the death of this outstanding soldier; and

Whereas, Lieutenant Charles L. Wilkins III was a member of the 216th Engineering Battalion of the Ohio National Guard serving his great nation in the country of Iraq. He was a leader in his unit and is to be commended for the honor and bravery that he displayed while serving our nation in this time of war; and

Whereas, Lieutenant Charles L. Wilkins III will be remembered for his unsurpassed sacrifice of self while protecting others. His example of strength and fortitude will be remembered by all those who knew him.

Therefore, we join with the family, friends and the citizens of our great nation in thanking Lieutenant Charles L. Wilkins III of the United States Army for his service to our country. Your service has made us proud.

COMMENDING CARL G. STOECKLIN

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. OXLEY. Mr. Speaker, I would like to commend the attention of the U.S. House of Representatives to Carl G. Stoecklin upon the completion of his term as President of the National Association of Professional Insurance Agents (PIA).

Carl Stoecklin is a pillar of the insurance community in the State of Ohio. As President of the Broze Insurance Agency of Cincinnati, he has spent his entire professional career advising consumers about obtaining the best insurance coverage for their needs.

He has been honored as Professional Agent of the year by PIA of Ohio in 1995, and was the recipient of the prestigious Dow Reichley Award from PIA of Ohio in 1985.

Carl has served in many positions of responsibility in PIA for the past quarter century, including as President of the Ohio affiliate of the PIA and for the last year as the President of the national association.

His dedication to the highest standards of professionalism as an insurance agent has earned Carl the respect of his friends, associates, and business colleagues, and of the insurance industry as a whole.

As Chairman of the House Financial Services Committee, I recognize the essential and irreplaceable function that insurance provides in our economy.

Carl G. Stoecklin deserves our commendations for his dedicated service to his consumers, profession, and community.

IN RECOGNITION OF JUDITH BERSTEIN-BAKER, A 2004 RECIPIENT OF THE MARY PHILBROOK PUBLIC INTEREST AWARD

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. ANDREWS. Mr. Speaker, I rise today to recognize and congratulate Judith Berstein-Baker as a 2004 recipient of the Mary Philbrook Public Interest Award. This award is given annually by the Women's Law Caucus and the Association for Public Interest Law, in cooperation with the Rutgers University Law School and its Alumni Association, to acknowledge gifted, dedicated individuals who contribute outstanding work on behalf of social justice and equality.

Ms. Bernstein-Baker currently serves as the Executive Director at the Hebrew Immigrant Aid Society and Council Migration Service of Philadelphia, which works to ensure the protection and fair treatment of immigrants and refugees, to assist such persons in their efforts to become productive members of society, and to educate the larger community about the positive ways in which new Americans contribute to society. She brings to this position a lifelong commitment to fighting poverty and prejudice. Born to a Jewish immigrant who had fled Poland to avoid persecution, she worked first as a social worker helping to organize communities and improve neighborhoods. Ms. Bernstein-Baker went on to graduate from Temple University Law School, as well as to serve as Counsel to the Support Center for Child Advocates and to found the nationally-known Public Service Program at the University of Pennsylvania Law School. She continues to contribute valuable leadership in the field and has done notable federal appellate work as well.

Mary Philbrook, for whom the award is named, was the first woman admitted to the New Jersey Bar and a founder of the state's first statewide legal aid society, as well as an eminent leader in the efforts for women's suffrage and the passage of the Equal Rights Amendment. It is in this tradition that the award is given each year, and it is clear that Ms. Bernstein-Baker's work has made her more than worthy of this recognition. She truly has demonstrated the difference that one person can make in the lives of others, and I offer her my congratulations and best wishes in her future endeavors.

HONORING JOHN R. OLIVAS, JR.

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mrs. MUSGRAVE. Mr. Speaker, I rise to pay tribute to the memory of John R. Olivas, Jr., an outstanding young man from Johnstown, Colorado, who tragically lost his life at a young age.

John was born Aug. 23, 1985, in Loveland to his loving parents, John R. Olivas, Sr., and Christine T. "Tina" (Quintana) Olivas.

John graduated from Roosevelt High School, where he was on the student council and he was a four-year letterman on the varsity wrestling team, and won the State Championship in 2003. He was currently attending the University of Northern Colorado in Greeley, and he was also a member of the UNC wrestling team. He was also currently working for Affordable Painting in Fort Collins.

John loved being with his family and they loved being with him. John lived a full life and he enjoyed fishing, spending time with his friends, clubs, watching movies, snowboarding, and wrestling. He had one sister, Danielle, 16, who is currently attending Roosevelt High School. She is very active in volleyball.

He was known as a "good kid" who did a lot of favors for people and he asked for no recognition. He loved to play with kids, including his cousins and young wrestlers. The younger kids that wrestled looked up to John, and saw him as a hero. It was nothing for him to stop by their house to make them feel special. John was a very selfless person and would do anything for anybody.

Wrestling was one of John's passions, and he had dreams of becoming a wrestling coach some day. Many shared that dream with him and knew he would be able to inspire many wrestlers and help them excel. John began wrestling at the young age of five. His dad used to wrestle and was a volunteer coach. His dad got him involved, taking him to wrestling matches, and he began to really like it. From that time on, wrestling was a big part of his life. John's parents were supportive of this and attended match after match and basked in their son's extraordinary talent and discipline.

Survivors are his parents, John R. and Tina Olivas of Johnstown; a sister, Danielle Olivas of Johnstown; his grandparents, Felix and Viola Quintana of Johnstown and Mary Martinez of Loveland, step-grandfather Joe Martinez of Loveland; and numerous aunts, uncles and cousins. The loss his friends and family feel is tremendous and he will be sorely missed. John will always be present in their hearts.

It is my honor to pay tribute to John Olivas, Jr.'s life on the floor of the United States House of Representatives. May God bless all those who mourn his passing. May God comfort them in the days and years to come.

PROCLAMATION RECOGNIZING DANIEL W. SWONGER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. NEY. Mr. Speaker:

Whereas, Daniel W. Swonger has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, Daniel W. Swonger has shared his time and talent with the community in which he resides; and

Whereas, Daniel W. Swonger has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Daniel W. Swonger must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award;

Therefore, I join with Troop 86 and Daniel's family and friends in congratulating Daniel W. Swonger as he receives the Eagle Scout Award.

RECOGNIZING THE PHI DELTA KAPPA INTERNATIONAL OREGON STATE TEACHER OF THE YEAR

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Ms. HOOLEY of Oregon. Mr. Speaker, it is my honor and privilege today to honor an outstanding educator from my district who was recently selected as Oregon's State Teacher of the Year by Phi Delta Kappa International.

Meg Greiner is a physical education teacher at Independence Elementary School in Independence, Oregon. Ms. Greiner has been a pioneer in innovative physical education programs that get students interested in physical activity by making them fun. Every morning, all students and staff members at Independence Elementary go to the gym to participate in Together Everyone Achieves More Time, or TEAM. Greiner leads a variety of movement exercises and dances that feature team-building activities and music. Through these daily sessions that involve exciting and novel activities, students have learned more than 50 dances and five sign language songs.

Greiner's innovative approach during TEAM Time as well as during regular PE classes creates an inviting environment in which students feel safe enough to participate and take risks, which fosters interest in a lifetime of physical activity. But these classes do much more than teaching children about being physically active. In addition to learning new physical skills and activities, students learn positive behavior and character traits such as teamwork, responsibility, respect, and problem-solving.

Ms. Greiner's excellent work and the support she has received from school officials and the community has shown that physical education can be a vital part of the educational curriculum that helps students in their physical as well as their social, mental, and academic development. Schools across the country could benefit by modeling the approach Independence Elementary has implemented with Ms. Greiner's leadership. As a former teacher, I am excited to see Ms. Greiner receive the recognition she deserves.

COMMENDING DICK STRAHM

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. OXLEY. Mr. Speaker, I would like to commend to the attention of the U.S. House of Representatives the achievements of Dick Strahm, a great football coach, civic figure, and role model for our young people.

Dick Strahm's accomplishments as the head football coach at the University of Findlay were formally recognized in August when he was inducted into the National Football Foundation College Hall of Fame in South Bend, Indiana.

Simply put, Dick Strahm is Findlay football. In his 24 years as head coach for the Findlay Oilers, he compiled a record of 183–64–5 that included four National Association of Intercollegiate Athletics (NAIA) championships. His fourth and final national title came in 1997 when the Oilers were a perfect 14–0. During one remarkable ten-year run, his teams won nine Hoosier-Buckeye Conference championships. The team's record in the 1990s was the best in the country for NAIA schools.

Dick is a 12-time NAIA District 22 Coach of the Year and four-time National Coach of the Year. With his induction into the National Football Foundation Hall of Fame, he joins such coaching legends as Woody Hayes, Knute Rockne, and Amos Alonzo Stagg.

But while my hometown of Findlay is proud of Dick Strahm's record on the football field, it has even greater respect for the influence that he has had on the lives of the young men in his program and in his community.

Because they do not receive athletic scholarships, those who attend NAIA schools truly are students first and athletes second. Dick Strahm always recognized that. He insisted that his players be as diligent in the classroom as they were on the field. By teaching the importance of commitment, discipline, and perseverance, Dick Strahm has prepared countless young men to become successful businessmen, public servants, and husbands and fathers.

Dick Strahm will be honored at a dinner at the University of Findlay on Saturday, September 25. Findlay continues to look to Coach Strahm for advice and guidance. We are glad that the nation now knows what we've known all along: our community is blessed to have such a great teacher and leader in our midst.

RECOGNIZING DR. LINDA PENDERGAST

HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. JOHN. Mr. Speaker, I rise today to recognize Dr. Linda Pendergast from Baton Rouge, Louisiana—my nominee for the 2004 Angels in Adoption Award.

Dr. Pendergast is a reunited birthmother who has devoted a large part of her life in volunteer service to the adoption community of Louisiana. As a member of the Catholic Community Services Adoption Advisory Board, she has provided prenatal education and support to pregnant teens in residence at Sanctuary House, a ministry of Catholic Services in Baton Rouge. She also has conducted behavioral/temperament assessments of infants placed for adoption through Catholic Community Services as a post-adoption strategy to foster family cohesiveness, parental satisfaction with the parenting role and optimal infant development.

Dr. Pendergast is a coordinator and facilitator of a search and support group for adult adoptees, birthparents, and adoptive parents. She also serves as an advisor to Louisiana Adoption Advocates—a legislative group dedicated to adoption reform. A member of the Louisiana Adoption Advisory Bd. Inc., Dr. Pendergast has served 4 years as Board secretary and is in her second term as Vice Chair in addition to numerous other involvements in scholarship and volunteer programs.

Her fight for Louisiana's children is a personal one. The happiness of her reunited family is a bright example of her commitment. It is individuals like Dr. Pendergast and her colleagues on the Louisiana Adoption Advisory Board who are truly making a difference in our communities.

This week the Congressional Coalition on Adoption Institute is honoring Linda and hundreds of devoted volunteers like her in ceremonies in Washington, DC. I am proud to honor Dr. Pendergast as one of Louisiana's Angels in Adoption.

HONORING HAWTHORNE POLICE CHIEF JOHN L. SHANNON, JR.

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. ROTHMAN. Mr. Speaker, I rise today to honor Police Chief John L. Shannon, Jr. of Hawthorne, New Jersey. Chief Shannon retires at the end of September, concluding a nearly 36 year career in law enforcement. In fact, Chief Shannon has spent much of his life bravely serving our country—first as a decorated soldier in the United States Air Force stationed in Vietnam and later as a committed member and leader of Hawthorne's Police Force. I commend Chief Shannon for his dedication to our nation and its ideals of justice and freedom, both at home and abroad; Chief Shannon's lifetime of service is befitting a true patriot.

Since first joining the Hawthorne Police Department in 1968, and with each position he has held between Patrolman and Police Chief, Chief Shannon has continually worked to improve the safety and quality of life for Hawthorne residents by involving them in Police Department decisions and programs. Chief Shannon was a leader in the development of the Cops in Schools program in Hawthorne to ensure that, while in school, students can concentrate on achievement and not be distracted by concerns for their safety. He established a School Emergency Response Plan, implemented a Junior Police Academy, created a traffic unit to focus on motorcycles and drunk and aggressive driving, and worked with seniors and business owners to create targeted crime prevention programs. Chief Shannon introduced the community policing concept to Hawthorne and thus encouraged residents and police to work together to improve their shared community.

Judging by the unanimous vote that allowed Chief Shannon to serve for 3 terms as the President of the Passaic County Chiefs Association, his Vice Presidency and role as State

Delegate of the Hawthorne PBA Local 200, and his membership in the New Jersey, National and International Police Chiefs Associations, Chief Shannon is clearly admired and respected by his peers. The impact of his leadership will be seen for years to come in Hawthorne and Passaic County.

Mr. Speaker, I thank Chief Shannon for his estimable service and wish him well in his much deserved retirement.

IN RECOGNITION OF CAROLE WOOD, A 2004 RECIPIENT OF THE MARY PHILBROOK PUBLIC INTEREST AWARD

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. ANDREWS. Mr. Speaker, I rise today to recognize and congratulate Carole Wood as a 2004 recipient of the Mary Philbrook Public Interest Award. This award is given annually by the Women's Law Caucus and the Association for Public Interest Law, in cooperation with the Rutgers University Law School and its Alumni Association, to acknowledge gifted, dedicated individuals who contribute outstanding work on behalf of social justice and equality.

Ms. Wood currently serves as the Immigration Coordinator at the Camden Center for Law and Social Justice. She has spent much of her career as a devoted advocate for indigent immigrants, beginning first with her work as a VISTA volunteer following her graduation from Chicago-Kent College of Law. From there, she went on to serve as supervising immigration attorney at Community Legal Services in Philadelphia, where she not only represented clients, but also trained attorneys and assisted community groups in their efforts. In addition to her current role at the Camden Center, which includes working with clients, training attorneys, and supervising students at the Rutgers Immigration Pro Bono Project, Ms. Wood is the Southern Regional Coordinator for the New Jersey Immigration Policy Network and the regional representative on statewide committees, a Lead Trainer for the Immigrant Legal Resource Center, an extremely active member in the National Catholic Legal Immigration Network, Inc. (CLINIC), and a member of the Diocese of Camden's Racial Justice Committee.

I have also had the honor and privilege of working with Ms. Wood personally. She has proved extremely responsive in the context of emergency constituent cases with which my district office has dealt and has been more than willing to share her vast knowledge of immigration law with my staff in their efforts to aid my constituents. Additionally, over the past several years, she has proved invaluable in her efforts to assist my district office with the process of restructuring our immigration casework system. She has devoted considerable time to reviewing our existing system and meeting with the relevant staff in my office to modify the casework procedures to meet the new standards of the United States Bureau of Citizenship and Immigration Services. Her suggestions and expertise were also instrumental in assisting my efforts to dramatically expand the BCIS presence in South Jersey; now, individuals needing the agency's services do not have to travel long distances to other parts of the state to have access to them. It is this dedication and assistance on the part of Ms. Wood that demonstrated to me why she was worthy of my personal nomination for this award.

Mary Philbrook, for whom the award is named, was the first woman admitted to the New Jersey Bar and a founder of the state's first statewide legal aid society, as well as an eminent leader in the efforts for women's suffrage and the passage of the Equal Rights Amendment. It is in this tradition that the award is given each year, and it is clear that Ms. Woods' work has made her more than worthy of this recognition. She truly has demonstrated the difference that one person can make in the lives of others, and I offer her my congratulations and best wishes in her future endeavors.

PROCLAMATION RECOGNIZING WILLIAM DAVID THARP

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. NEY. Mr. Speaker:

Whereas, William David Tharp has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, William David Tharp has shared his time and talent with the community in which he resides; and

Whereas, William David Tharp has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, William David Tharp must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award;

Therefore, I join with William's Boy Scout Troup and his family and friends in congratulating William David Tharp as he receives the Eagle Scout Award.

HONORING SISTER M. SAMUEL CONLAN

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Sister M. Samuel Conlan, who died July 11, 2004, at the age of 77. Sister Samuel served Dominican University of California in San Rafael in many capacities, including president, for many years. Her association with the school dates back to 1944 when she enrolled as a freshman.

Sister Samuel was born Patricia Conlan in 1927 and took the name of her father, Samuel Leo Conlan Jr., when she entered the religious life with the Dominican Sisters of San Rafael in 1949. She taught for five years while earning a master's degree in English literature from Catholic University of America, then joined the faculty as an English professor. In 1963, she earned her doctorate from Stanford University.

From 1968 to 1980 she served Dominican University as dean of students, academic dean, and eventually president. She is remembered for admitting male undergraduates to the all-girls college during her tenure, but to all who knew her, her contributions were so much greater. She inspired by bringing out the best in people, teaching by her example of faith and service. Her community work, which earned her an induction into the Marin County Women's Hall of Fame in 1995, included championing the needs of children in special education.

Retired from teaching in 1997, Sister Samuel continued to serve Dominican University in various capacities until her death, including fundraising for a new chapel to be built on the campus.

Mr. Speaker, Sister Samuel was a mentor and role model to generations of students and friends. Her guiding light will be missed in our community even as we know her spirit lives on in so many around the world.

RECOGNIZING MARILYN HURT

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. KIND. Mr. Speaker, I rise today to recognize the good works of Marilyn Hurt, who has served as supervisor of the School Nutrition Program for the school district of La Crosse, Wisconsin for 27 years. Mrs. Hurt has been dedicated to improving the lives of children and child nutrition, and I would like to thank her for all her hard work upon her retirement.

Over the years, Marilyn has been an active member on numerous community boards, including the American School Food Service Association and the Wisconsin School Food Service Association. Marilyn has found good public policy to be her passion, which she has illustrated by serving as a legislative chair on Wisconsin's executive board, six times, and, in 1984, she was appointed as regional Representative on ASFSA's public policy and legislative committee. Further, in July of 2000, Marilyn was installed as president of ASFSA. To better serve her community, she was mayor of Dakota, Minnesota for two terms, participates in rotary international, and is part of the La Crosse area hunger task force.

Her relentless commitment to improving the lives of those around her has earned Marilyn several honors. In 1994, she was the first recipient of the WSFSA Director of the year award. The Massachusetts school food service association selected Marilyn to receive the Thomas O'Hearn award, and most recently, she was the recipient of the prestigious silver plate award, bestowed by the International Food Service Manufactorers Association in 2000.

Marilyn has nourished the lives of countless children, and I am proud to have had the opportunity to have worked with such a committed and devoted person. Marilyn's dedication has satisfied more than the grumbling stomachs of young children. Her efforts have improved the food service program in numerous schools across Wisconsin.

Marilyn has played an instrumental role in the lives of children and their families and her selfless desire to improve the nutrition of children will be remembered not only by the children who walked through the lunch line everyday, but by the entire La Crosse community. She will be missed, and we are grateful for the work she has done over the past 27 years.

PILOT POINT SELECTED AS A PRESERVE AMERICA COMMUNITY

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. BURGESS. Mr. Speaker, it is my great honor to rise today to recognize the Town of Pilot Point, Texas as a Preserve America Community. Pilot Point, located in my North Texas District, was one of 26 Texas cities to receive this prestigious designation.

The Preserve America Community program recognizes communities for their dedication to protecting and celebrating America's cultural heritage; for using their historic assets for increased economic growth and community revitalization; and for promoting history education and historical tourism.

The Preserve America Community program is part of the White House's Preserve America Initiative. This initiative is dedicated to preserving our country's heritage, increasing awareness of what as well as who we are as a nation, and keeping our legacy enhanced, and intact, for future generations. Since the formation of the program, First Lady Laura Bush has recognized more than 100 communities with the Preserve America honor.

Other components of the program include a History Teacher of the Year Award, educational outreach, and grants to assist communities in preserving their cultural and natural resources.

I would like to commend Mayor Jerry Alford and the City Council, as well as all those who participated in the Main Street project, for this distinction.

PERSONAL EXPLANATION

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. HONDA. Mr. Speaker, on Tuesday September 21, I was unavoidably detained for rollcall votes that day.

Had I been present I would have voted the following:

Rollcall 457, on the Van Hollen amendment prohibiting any funds in H.R. 5025—Transportation, Treasury, and Independent Agencies Appropriations Act for FY 2005, from being used to implement the administration's "OMB Circular A–76" contracting out/privatization initiative, I would have voted "yea", rollcall 458, on the Sanders-Miller amendment prohibiting funds in H.R. 5025 from being used to overturn a 2003 judicial ruling, which held that cash-balance pension conversions violate anti-age discrimination statutes, I would have voted "yea", and on rollcall 459, on the Norton Amendment prohibiting Federal Employee Health Plans from offering high deductible plans that do not require at least a 3-year minimum enrollment, I would have voted "yea".

PROCLAMATION IN MEMORY OF STAFF SERGEANT DONALD N. DAVIS

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. NEY. Mr. Speaker, I hereby offer my heartfelt condolences to the family, friends, and community of SSG Donald N. Davis upon the death of this outstanding soldier.

SSG Davis was a member of the 660th Transportation Company, U.S. Army Reserve, Zanesville, Ohio serving our great Nation in the country of Iraq. He was a determined man and a loving husband. SSG Davis did his best to make his country a better place to live.

SSG Davis will be remembered for his unsurpassed sacrifice of self while protecting others. His example of strength and fortitude will be remembered by all those who knew him.

While words cannot express our grief during the loss of such a courageous soldier, I offer this token of profound sympathy to the family, friends, and colleagues of SSG Donald N. Davis.

HONORING STEVE McNAMARA OF MILL VALLEY, CALIFORNIA

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Steve McNamara of Mill Valley, California, for his 39 years as editor and publisher of the award-winning and innovative weekly newspaper, the Pacific Sun. Steve purchased the paper in 1966, and developed it into a newsweekly known for its quality writing, environmental advocacy, commitment to journalistic integrity, and strong relationships with the communities it serves.

The Pacific Sun, under Steve's leadership, set a national standard for how local newspapers can influence the fabric of a community. The paper told stories about local people and took positions on important social issues, fulfilling its mission "to cover events of ongoing significance with clarity, intelligence, style, and wit."

The Sun was an influential player in opposing unfortunate environmental projects such as building a nuclear power plant at Bodega Bay on the San Andreas Fault and filling in Richardson Bay for Los Angeles style marinas. Steve also promoted the creation of Point Reyes National Seashore, preserving the beautiful Marin county coast as a jewel of the national park system rather than home to thousands of commercial and residential sites. He successfully championed the building of a new civic center designed by Frank Lloyd Wright, now the pride of Mann County, and was prophetic, though unsuccessful, in encouraging development of a solar village at Hamilton Air Force Base.

Steve has always believed that the written word should be celebrated. More importantly, he has always stuck to the notion that ideas and activities should be reported on what he calls the "human scale"—focusing on small, tangible issues and activities to which people can relate. During his career at the Sun, he was passionate about reporting local events, local politics and social issues, and local people. Steve was able to bring these elements together, and by doing so, he helped make up the fabric of the community.

Prior to purchasing the Sun in 1966, Steve was the Sunday editor of the San Francisco Examiner and Chronicle. He had also been the executive sports editor of The Examiner, a writer covering Grand Prix auto racing in Europe for Car and Driver Magazine, and a reporter and editor at The Miami Herald and Winston-Salem Journal. Steve became the first president of the National Association of Alternative Newsweeklys (now AAN), which has nearly 130 member papers and was a founding president of the California Association of Alternative Newsweeklies (Cal–AAN), president of the California Society of Newspaper Editors and a member of the board of the California Newspapers Association. After 50 years in journalism, 39 of them at the Pacific Sun, Steve made his decision to sell the Pacific Sun and move on to other projects at the age of 70.

Steve is proud to have been a resident of Mill Valley for so many years. His five children, and especially his wife Kay, all had an active role in the paper at some point in their lives. With his family's help, Steve made the Pacific Sun a success, its reputation as the conscience of Marin County often contrasting with the area's daily newspaper.

Mr. Speaker, Steve McNamara's record social activism, ethical reporting, and community leadership embodies the idea of living and working on the human scale, and as a result, Steve has become an important part of so many lives in the North Bay. I have enjoyed working with Steve and wish him luck in his new endeavors.

RECOGNIZING SAN DIEGO LOCAL HEROES

HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mrs. DAVIS of California. Mr. Speaker, I rise today in honor of Hispanic Heritage Month, which commemorates the extraordinary contributions that Latinos have made to our country throughout history. During this one-month period of celebration and tribute, we honor the culture and achievements of the Hispanic community, all of which have played a historic role in our Nation.

I am proud, honored and privileged to represent California's 53rd district in Congress. My district is extraordinarily diverse and home to many citizens who are of Latino background.

To commemorate Hispanic Heritage Month 2004, I would like to highlight the remarkable accomplishments of six San Diego residents who have been named local heroes as part of the Union Bank of California and KPBS Hispanic Heritage Month Local Hero Awards, a program honoring outstanding members of the Hispanic community.

These individuals were selected for their exceptional commitment and contribution to San Diego through community activism, the arts, business, education and social services.

The 2004 honorees are Sylvia Galvez, Jovita Juarez, Beatrice Fernandez, Mario Aguilar and Beatrice Zamora Aguilar, and Lupe Ortega.

Sylvia Galvez: Sylvia Galvez opened a group home in 1995 to help troubled female teens who had no place to stay, and is now operating two six-bed, 24-hour licensed treatment facilities in San Diego. Sylvia was inspired to help these girls because she felt she could relate to them. She herself dropped out of high school when she was 16 and pregnant with her first child. By the age of 21, she had given birth to three children and was working as a painter for both the Navy Public Works Department and the painting company of Mr. Willie Davis. It was Mr. Davis who helped her return to school at the age of 28. She graduated from City College in 1991 with an A.A. in Liberal Arts and transferred to National University where she earned B.A. and M.A. degrees in Human Behavior. Recently, she and her husband purchased an eight-unit apartment complex to help foster teens after they turn 18 years old.

Jovita Juarez: Jovita Juarez is a Prevention Specialist and Community Organizer for the North City Prevention Coalition and an activist working with SAY San Diego. She uses her leadership skills to provide guidance for new prevention professionals, helping them become more productive and successful. Jovita is also the chairperson of two countywide prevention efforts: the statewide organization Latinos and Latinas for Health and Justice, where she is the Southern Chair, and the San Diego Cinco de Mayo Con Orgullo Coalition, where she has been chair for the past four years. Jovita has volunteered with many organizations throughout the years, including the National Council on Alcoholism & Drug, Hispanic Advisory Council-MADD Pass Las Llaves and Youth Access to Alcohol Policy Panel, to name a few. She is now writing a book, God's Transforming Power, which will provide a framework for early leadership development.

Bea Fernandez: Bea Fernandez has worked for San Diego City Schools for 20 years. She is currently the program coordinator for the San Diego District's San Diego Parent University, a four year program designed to help parents become involved in their children's education as academic coaches. Fernandez was also the Chair of the Board of MANA, a National Latina Organization. She began her service in 1995 in the San Diego chapter of MANA, the largest chapter in the nation, and was named MANA Member of the Year in 1995 for her activism, community service and commitment to the organization. Fernandez was born in Calexico, CA and the first in her family to graduate from college, earning a B.A. and M.A. in Education, and an administrative credential from San Diego State University.

Mario Aguilar and Beatrice Zamora-Aguilar: Mario Aguilar is Assistant Director of the Early Academic Outreach Program at University of California, San Diego. Beatrice Zamora-Aguilar is Interim Dean of the School of Counseling and Personal Development at Southwestern College. In 1975, Mario became involved with the ancient indigenous dance tradition called Danza Azteca. In 1980 he and Beatrice were married and together they formed their own dance circle, Danza Mexicayotl. Their dance circle was recognized on December 12, 1980 in Mexico City at the Basilica of Our Lady of Guadalupe at a traditional dance ceremony. Since that time, Mario and Beatrice have consistently offered free dance classes to the communities of San Ysidro and Sherman Heights. Danza Mexicayotl has gained status as a non-profit, 501(c)(3) organization and has as its mission, "To preserve and teach the indigenous traditions of Mexico and the Southwestern U.S." Danza Mexicayotl has become an active and well established dance tradition known throughout San Diego, California, the United States and in Mexico. Under the leadership of Mario and Beatrice, many other dance groups have formed throughout California and the Southwestern United States. Together, these groups help proliferate the songs, dance and spiritual movement of this ancient tradition from Mexico.

Lupe Ortega: Lupe Ortega is the Business Manager for O'Day Consultants, a civil engineering firm in North County, where she uses her bicultural background and bilingual skills as assets in her job. She is also a licensed real estate agent operating under Lupe Ortega Enterprises/PMT Companies, a public notary and member of the San Diego Association of Realtors. Ortega strongly agrees with giving back to the community and she donates her time, talents and skills by serving as a director on a number of boards and committees. She is also a skilled photographer and had some of her work published in Photographers Forum Best Photography Annual 1999.

Today, with an estimated Hispanic population of over 39 million in our country, we must also recognize that our efforts to commemorate Hispanic culture should not be limited merely to a one-month period. This is an outlook that each of the six San Diego Local Heroes embodies. These community leaders have used their skills and experiences to empower others. Their time and efforts are truly changing the lives of those around them.

I hope you, Mr. Speaker, and all of my colleagues will join me in honoring these unsung heroes and their accomplishments for the Latino community.

HONORING DIANE REHM FOR 25 YEARS OF RADIO BROADCASTING

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. STARK. Mr. Speaker, I rise to congratulate Diane Rehm, who today enters her 25th year of hosting her WAMU radio show, The Diane Rehm Show. Her show is a true public service and she deserves our thanks and recognition for her efforts.

In this era of 30-second soundbites, style over substance, and reporters interviewing other reporters, The Diane Rehm Show offers two hours per day of thoughtful, balanced examination of the issues. In fact, 1.4 million listeners on NPR and Sirius satellite radio enjoy Ms. Rehm's refuge from the typical talking head radio hosts who don't listen.

While she has hosted the biggest names in public life, some of Ms. Rehm's most fascinating conversations are with callers or guests who are being interviewed for the first time. As she says, "It's crucial we hear not only the voices of policymakers and experts, but that everyone has a chance to offer their opinions and ask questions." Topics on the show range from the war in Iraq to the art of landscape design.

Ms. Rehm is also part of a tradition of public figures who turn adversity into a public service. In 1998, her career nearly came to a halt because of a mysterious speech problem. She took a leave of absence from the show until she was diagnosed and treated for spasmodic dysphonia, a neurological disorder. Not one to be defeated, she returned to the show and made a point of bringing attention to the condition by writing a book and speaking out about her disease. Shortly after her return to radio in 2000, she interviewed President Clinton and became the first radio talk show host to interview a sitting President in the Oval Office.

I'm sure I join many of my colleagues and the American public in thanking Ms. Rehm for 25 thought-provoking years. Again, we congratulate her and we look forward to many more years of The Diane Rehm Show to come.

2004 TEXAS HONOR SCHOOL BOARD FOR LEWISVILLE

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. BURGESS. Mr. Speaker, today I would like to congratulate one of my hometown school districts for its outstanding achievements and recently being named the 2004 Texas Honor School Board by the Texas Association of School Administrators.

Among the factors that resulted in the recognition of the Lewisville School Board were its vision, commitment, and leadership as policy makers; commitment to the improvement of student performance and evidence of academic achievement; evidence of strong community support for the district; cooperation among board members and the superintendent; and evidence of successful school-business partnerships.

Congratulations to the following members of the Lewisville district school board: Mark Shaw, Fred Placke, Carol Kyer, Anita Nelson, Tom Kim, Mike McDaniel, and Tom Ferguson for the honor.

I am delighted that your award-winning performance has garnered you this recognition. Your work is greatly appreciated.

The Lewisville school district has a history of outstanding distinction throughout the state of Texas and continues to pursue educational excellence. Every member is vital to the overall goal and performance of the board.

PROCLAMATION RECOGNIZING JARED BLOOM

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. NEY. Mr. Speaker:

Whereas, Jared Bloom has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, Jared Bloom has shared his time and talent with the community in which he resides; and

Whereas, Jared Bloom has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Jared Bloom must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award.

Therefore, I join with the residents of Rayland, the entire 18th Congressional District, Jared's family and friends in congratulating Jared Bloom as he receives the Eagle Scout Award.

HONORING TYLER HAMILTON'S GOLD MEDAL IN THE MEN'S CYCLING TIME TRIALS

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise today to congratulate a constituent of my district, Tyler Hamilton, who won the gold medal in the Men's Cycling Time Trials in Athens last month. Tyler finished the time trials with a time of 57 minutes and 37.74 seconds.

Many of you in this chamber may remember Tyler in last year's Tour de France, when he finished fourth after he broke his collarbone in the first stage of the race. However, Tyler's athletic career did not begin with cycling. He began skiing competitively with the University of Colorado ski team in the early 1990s. However, after a mountain biking injury ended his ability to continue to ski competitively he turned to cycling. Within a year Tyler became the NCAA cycling champion. He has continued to compete in a series of stage and one-day races, including becoming the first American to win the Liege-Bastogne-Liege, an annual 165 mile race held in Belgium.

Tyler is also actively involved with the Tyler Hamilton Foundation which works with the National Multiples Sclerosis Society and Junior Cycling. His foundation helps to provide care management for people affected by MS as well as promotes ways for people with MS to relieve social isolation and provides tools to live a fulfilling life while living with the disease.

Tyler is also working to promote the sport of cycling in the United States so that young aspiring cyclists can make it over the many hurdles to reach success in the sport. His foundation is working to broaden exposure to the sport of cyclists and expand organized cycling for the youth of America.

Tyler has made more than just a name for himself in the cycling world; he has made a name for the sport of cycling in the United States. I am sure I join many people in our Nation as I express pride and appreciation for all Tyler has done for the sport of cycling and particularly his admirable representation of our nation in the 2004 Summer Olympics Games.

TRIBUTE IN HONOR OF GREGORY MOORE OF EMMETT TOWNSHIP, MI

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. SMITH of Michigan. Mr. Speaker, I rise today to honor the achievements of a good friend. Mr. Gregory Moore of Emmett Township, Michigan, was recently elected the Chairman of the Calhoun County, Michigan Board of Commissioners.

A Western Michigan University alumnus and graduate fellow of the prestigious Michigan Political Leadership Program, Greg has accomplished many good deeds with his extensive local, civic and political involvement. For 14 years, he worked in the Radiology Department in the Battle Creek Health System. He also co-owned and operated a small recycling business in Calhoun County. Greg is currently serving his third term on the Calhoun County Board of Commissioners and his 10th year as a member of the Emmett Township Planning Commission. He is a former neighborhood council president and George Award honoree for outstanding service to the community. Greg currently serves on a number of local boards and committees including: Character Unlimited, International Festival of Lights, Battle Creek Area International Relations Committee and the Substance Abuse Council of Greater Battle Creek, just to name a few. He has also been a Congressional District Director for five years.

He has been married for 15 years to his wonderful wife, Becky. Mr. Speaker, I am proud to call Greg Moore a great American.

MY ANGELS IN ADOPTION: ANTONIO AND MARTHA GOMEZ

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. FILNER. Mr. Speaker, I rise today to recognize two residents of my Congressional District, Antonio and Martha Gomez, who I have selected as my nominees for the sixth annual Angels in Adoption Award.

The Awards are an opportunity to honor dedicated constituents for their efforts in helping children, as well as an opportunity to raise awareness about adoption. Members of Congress are asked by the Congressional Coalition on Adoption Institute to select an individual, couple or organization from their district who has made a difference in the lives of children, either through adoption, foster care or child welfare advocacy.

I selected Antonio and Martha as my Angels in Adoption because for the past eight years, they have provided a safe and loving home to a dozen foster children, ranging in age from 2 weeks to eighteen years. Their entry into the world of foster parenting was inspired by their daughter who had a friend who was a foster child. Because of her interest, Antonio and Martha decided to become foster parents, and they have never looked back.

Two years ago, they adopted one of their foster children who is now a happy five-year old who loves and is loved by his family, including the biological children of his parents—his 16 year old brother and 23 year old sister.

Besides being a foster parent and adoptive parent, Antonio has served as President of the Imperial Valley Foster Parents Association, and he is currently serving as Facilitator, arranging weekly training meetings for the foster parents in Imperial County, California. Martha is now President of the Association which works in cooperation with Imperial Valley College and the State Department of Social Services.

A celebratory banquet is being held tomorrow evening, Thursday, September 23rd, to honor all the nominated Angels in Adoption. Attending the celebration will be actress Jane Seymour, PGA golfer Kirk Triplett, and General Manager and Senior Vice President of the Orlando Magic, Pat Williams. My Angels, Antonio and Martha, will be joining me in attending the banquet, with travel arrangements the courtesy of Southwest Airlines and Pardee Construction Company.

I am sincerely proud of Antonio and Martha, because they have given of themselves for the benefit of the lives of so many children. Through their example, they are an inspiration to other foster and adoptive parents in the community in which they live.

It is an honor to recognize their significant contributions and to designate them as my Angels in Adoption.

OAK GROVE UNION SCHOOL DISTRICT CELEBRATES 150TH ANNIVERSARY

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Ms. WOOLSEY. Mr. Speaker, I rise today to honor the Oak Grove Union School District on the occasion of its 150th anniversary. Established in 1854, the school district is the second oldest continuing school district in the state of California.

Wm. M. Rider, the first teacher FOR whom records are available, in 1857 had a daily attendance of 18 students. By 1858, attendance grew to 32 children. Currently, the district has over 650 students in grades K–8 supported by the two schools in the district: Oak Grove Elementary and Willowside School.

For one hundred and fifty years, the Oak Grove School District has educated numerous generations in Graton. This excellence would not have been possible without the support and efforts of the teachers, parents and community.

The community supports and benefits from the environmental friendly program at the Oak Grove School. The school has reduced its landfill waste by nearly 90 percent. Students enjoy fresh vegetables and fruit grown from their own classroom gardens prepared by a volunteer teacher.

The Oak Grove School District is integral to the community. The community shares in the learning experiences of the students as they test new ideas and understands that we must all work together to prepare our students to be our nation's future leaders.

Mr. Speaker, I am honored to recognize the Oak Grove School District for its commitment to extend education beyond the classroom and into the community for one hundred and fifty years.

PROCLAMATION RECOGNIZING MS. NICOLE HARDESTY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. NEY. Mr. Speaker:

Whereas, Ms. Nicole Hardesty is a student at Utica High School in Utica, Ohio; and

Whereas, Ms. Nicole Hardesty is the recipient of the Best Buy Scholarship, a nationwide program that awards students on the basis of exceptional community service and solid academic performance; and

Whereas, Ms. Nicole Hardesty must be commended for her dedication and devotion to her community and academia; and

Whereas, Ms. Nicole Hardesty has demonstrated a willingness to be a leader and a role model for the students of Utica High School.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Ms. Nicole Hardesty and the Best Buy Children's Foundation for her outstanding accomplishment.

PERSONAL EXPLANATION

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. TANCREDO. Mr. Speaker, I was out of town on official business yesterday, and missed Rollcall Vote numbers 457, 458, 459, and 460. Had I been present, I would have voted "no" on rollcall 457, "no" on rollcall 458, "no" on rollcall 459, and "no" on rollcall 460.

PERSONAL EXPLANATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. GALLEGLY. Mr. Speaker, on Wednesday, September 15, I was unable to vote on the Hefley amendment (rollcall 455) and on the Moran amendment (rollcall 456) to H.R. 5025, the Transportation, Treasury and Independent Agencies Appropriations Act for FY 2005. Had I been present, I would have voted "no" on both amendments.

HONORING DEDE BARRY SILVER MEDAL IN THE WOMEN'S CYCLING TIME TRIALS

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise today to honor one of my constituents, Dede Barry of Boulder, Colorado. Dede represented our country in the Summer Olympic Games in Greece last month. While there she won the silver medal in the Women's Cycling Time Trials, a 14.9 mile road race, with a finishing time of 31 minutes and 35.62 seconds.

Dede at a young age showed talent as an athlete not only in cycling but speed skating, which was her first sport. At the age of 13 she qualified for the Junior National Team in speed skating. As part of her cross training she began cycling in the summer and eventually competing during the summer when she was not skating. In 1989, she won the Junior World Cycling Championships.

Eventually she chose to focus strictly on cycling. Since that time she has won two gold medals at the Pan American Games, two world championship medals and six national championship titles. By winning the silver medal in Women's Cycling Time Trials she became only the fourth road cycling medal won by an American woman cyclist.

The sport of cycling has recently received increase exposure to the American public. However, most of that exposure has been in Men's cycling. Dede's silver medal win has opened doors to increase exposure to women's cycling and encouraging young girls to take up the sport.

Again, I would like to congratulate Dede on her silver medal and thank her for so proudly representing our Nation and the State of Colorado in the Olympic Games.

HONORING MR. DONALD R. MANUEL

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. WILSON of South Carolina. Mr. Speaker, Mr. Donald R. Manuel has distinguished himself by exceptionally meritorious achievements in public service to this Nation by serving the United States Army for over 39 years. After being drafted in 1964, Mr. Manuel received his commission as a Second Lieutenant, Field Artillery. Demonstrating keen expertise and artillery skills, he moved through various positions in the units at Fort Sill, Oklahoma and the US Army Engineer Supply Center, St. Louis, Missouri.

In 1968, Mr. Manuel began his superior career as a United States Army Civilian employee as Program Manager for Value Engineering, Methods and Standards, and Commercial Activities. Because of his demonstrated abilities, in 1980 he was moved to his current position as the Assistant for General Engineering in the Office of the Deputy Assistant Secretary of the Army (Installations and Housing), Assistant Secretary of the Army (Installations and Environment). Currently Mr. Manuel is the Army's primary policy person dealing with base closure and realignment actions.

Throughout his career, Mr. Manuel has provided outstanding leadership, advice, and sound professional judgment on significant issues that affected both the Army and the Congress. His actions and counsel were invaluable to Army leaders and Members of Congress as they considered the impact of important issues. Mr. Manuel's dedication to accomplishing the Army's mission has been extraordinary. He has been a truly outstanding career civil servant and will be missed by the United States Army.

HONORING RICHARD M. LEVY, PH.D.

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Ms. ESHOO. Mr. Speaker, it is a privilege to recognize Richard M. Levy, Ph.D., my constituent from the 14th Congressional District of California and Chairman, President and CEO of Varian Medical Systems, who will be awarded the AeA 2004 Medal of Achievement on October 7, 2004. Dr. Levy will join a very select group of high-tech leaders who have received this honor, including William Hewlett and David Packard of Hewlett Packard, Ross Perot of Electronic Data Systems, Thomas J. Watson, Jr. of IBM, and Gordon Moore and Andrew Grove of Intel.

The AeA Medal of Achievement is presented annually to recognize an individual who makes significant contributions to the advancement of and service to their community, the high-tech industry, and humankind. It is the highest award presented by AeA, the Nation's largest hightech trade association.

Varian Medical Systems was created in 1999 when Varian Associates, Inc., a company Dr. Levy joined in 1968, was divided into three separate companies. It provides high energy radiation machines and associated hardware and software for treating cancer, and x-ray tubes for imaging in medical, scientific and industrial applications. With over 2,500 radiotherapy systems in place delivering treatments to more than one million cancer patients per year, including over 50 percent of all cancer patients in the U.S., the company holds a clear leadership position in this technology. Varian Medical Systems also ranks as the world's largest merchant supplier of x-ray tubes, including products for use in CT scanners, mammography units, and other diagnostic systems.

Dr. Levy earned his bachelor's degree from Dartmouth College and his doctorate in Nuclear Chemistry from the University of California at Berkeley. He began his business career at the Monsanto Company where he applied his scientific background as a research specialist and project manager in both basic and applied research. Within Varian, prior to assuming management and CEO duties, he gained experience in sales, marketing, service, R&D, and various corporate functions as well as managing the corporate Quality Program. Dr. Levy served as senior vice president from 1989 to 1992, and executive vice president until 1999, when Varian Medical Systems was formed and he was named CEO.

Dr. Levy is a member of the Board of Trustees of the Palo Alto Medical Foundation and the Boards of Directors of Pharmacyclics, Inc. and the California Healthcare Institute. He is a past Chairman of the Board of Directors of AeA, and served on the Board of Directors of the Diagnostic Imaging and Therapy Systems Division of the National Electrical Manufacturers Association.

I ask my colleagues to join me in recognizing the extraordinary leadership and contributions of Dr. Richard M. Levy as he receives the AeA Medal of Achievement Award.

PROCLAMATION RECOGNIZING MS. LESLIE FEHRMAN

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. NEY. Mr. Speaker:

Whereas, Ms. Leslie Fehrman is a student at Utica High School in Utica, Ohio; and

Whereas, Ms. Leslie Fehrman is the recipient of the Best Buy Scholarship, a nationwide program that awards students on the basis of exceptional community service and solid academic performance; and

Whereas, Ms. Leslie Fehrman must be commended for her dedication and devotion to her community and academia; and

Whereas, Ms. Leslie Fehrman has demonstrated a willingness to be a leader and a role model for the students of Utica High School.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Ms. Leslie Fehrman and the Best Buy Children's Foundation for her outstanding accomplishment.

TRIBUTE TO CHILDREN'S HOSPITAL AND RESEARCH CENTER IN OAKLAND, CALIFORNIA

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Ms. LEE. Mr. Speaker, I am grateful for the opportunity today to pay tribute to the Children's Hospital & Research Center at Oakland for its outstanding research in the area of childhood obesity—a growing epidemic among children—as well as for the superior care it provides its young hospital patients.

A biomedical center of international renown, the Children's Hospital & Research Center at Oakland is Northern California's premier resource for children's health and has been a center of excellence in pediatric healthcare, research, child advocacy, and medical training since 1912.

The Children's Hospital houses the Bay area's only pediatric Emergency Unit—treating over 54,000 young patients a year, Northern California's only Pediatric Trauma Center—treating more than 6,000 critically injured children a year, as well as California's busiest pediatric Intensive Care Unit. In its dedication to address the epidemic of childhood obesity, the Children's Hospital offers weight and nutritional programs for children and their families to help promote healthy habits. The Hospital's new "Healthy Eating, Active Living" Clinic provides nutritional and physical training as well as counseling services for overweight children.

Researchers at the Hospital and Research Center have pioneered advances in the diagnosis, prevention, and treatment of childhood obesity. In the Research Center, over 300 basic and clinical investigators come together in an environment that fosters collaboration and an exchange of ideas for saving and improving lives.

I ask my colleagues in the House of Representatives/Senate to join me in paying tribute to the Children's Hospital & Research Center at Oakland for the excellent care it provides its young patients as well as for the outstanding strides it has made in the research of childhood obesity.

THE ASSAULT ON THE INDEPENDENCE OF THE FEDERAL JUDICIARY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. CONYERS. Mr. Speaker, I must inform you that Congress in general, and the House of Representatives in particular, is engaged in an unprecedented assault on the Judiciary, the crown jewel of our constitutional system.

In the last 2 years, Congress has undertaken a series of discrete, but interrelated actions that undermine our constitutional framework. By hamstringing, harassing, and weakening the Judicial Branch, these actions threaten to rob the Judiciary of its independence. The House has pushed unconstitutional legislation to prevent the courts from reviewing legislation, to take away the ability of judges to issue fair sentences in criminal cases, and to intimidate judges into following politically conservative beliefs when making rulings.

If enacted, these bills would, for the first time, prevent federal courts from reviewing the constitutionality of federal laws:

First, H.R. 3313 (Marriage Protection Act) prevents federal courts and the Supreme Court from reviewing challenges to the Defense of Marriage Act. It passed the House this past July by a vote of 233–194.

Second, H.R. 2028 (Pledge Protection Act of 2003), which prevents courts created by Congress and the Supreme Court from reviewing First Amendment challenges to the Pledge of Allegiance. This will be on the House floor on Thursday, September 23, 2004.

Finally, H.R. 3799 (Constitution Restoration Act of 2004) is a response to anger at two federal court decisions that cited foreign law and found certain governmental invocations of God to violate the First Amendment. H.R. 3799 would strip federal courts of jurisdiction to hear such cases. And here's the kicker: H.R. 3799 declares it an impeachable offense for a judge to decide that H.R. 3799 violates the Constitution. In one fell swoop, Congress would overturn the centuries-old principle that judges have the ultimate power to decide if our laws violate the Constitution.

Aside from their political attack of the judiciary, these bills are unconstitutional in that they violate separation of powers, equal protection, due process, and the supremacy clause. Congress is challenging Justice John Marshall's famous pronouncement from Marbury v. Madison that it is the province of the courts to "say what the law is."

On top of that, permitting state courts to be the final arbiters of federal constitutional law will bring disarray to the Nation, also in violation of the Constitution. The Supremacy Clause of article VI states that the Constitution shall be the supreme law of the land, but dividing our Nation into fifty different legal regimes is the antithesis of this sacred principle. Enacting these proposals would constitute an undesirable precedent and lead to further assaults on the Judiciary.

Considering that the highest court in our land has not issued a single opinion undermining the Pledge or the Defense of Marriage Act, it is inexcusable to attack the judiciary to score political points.

The irony is that the House is celebrating Justice John Marshall by authorizing a commemorative coin in his honor, at the same time that it is passing the Pledge Protection Act and the Marriage Protection Act. These bills are entirely inconsistent with Marbury v. Madison, Justice Marshall's seminal opinion. At a time when it is more important than ever that our Nation stand out as a beacon of freedom, we should not countenance bills that undermine the very protector of those freedoms—our independent judiciary.

These unprecedented court stripping bills are nothing more than modern day versions of "court packing." Just as President Franklin Roosevelt's efforts to control the outcome of the Supreme Court by packing it with loyalists was rejected by Congress in the 1930s, thereby preserving the independence of the federal judiciary, so too must this modern day effort to show the courts "who is boss" fail as well.

Last year, Congress undertook another line of attack against the Judiciary through the controversial "Feeney amendment." This misguided legislation eliminated most of the discretion judges had when making sentencing determinations.

If we have learned anything over the years, it is that mandatory minimum sentences are counterproductive. They do not reduce crime. They punish the smaller players and their families. They distract from dealing with the real problems. And they waste precious resources.

Moreover, the amendment's imposition of burdensome reporting requirements, combined with Congress's demonstrated willingness to investigate the sentencing practices of specific judges, represent a shameless attempt to intimidate judges.

Last, but not least, I am concerned that by failing to provide judges with annual cost of living adjustments over the last decade, federal judges have faced the equivalent of a $77,000 reduction in salary. In the last 30 years, while average pay has increased 12 percent for most workers, it has decreased 25 percent for judges. This has made it increasingly difficult for the judiciary to attract and retain talented lawyers to its ranks.

That is why I joined my colleagues in introducing a bill, H.R. 2118, to increase the salaries of all federal judges by 16.5 percent.

In the short history of our Republic, the political branches of government have all too frequently ridden the prevailing political breeze to constitutional excess.

An independent judiciary is all that protects our constitutionally guaranteed rights against the depredations of the political branches. If the judiciary is too cowed or disabled to protect us, each citizen will be at the mercy of the evershifting political winds.

PASTOR CARL KRUEGER CELEBRATES THREE ANNIVERSARIES ON OCTOBER 1, 2004

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. KLECZKA. Mr. Speaker, on Friday, October 1, 2004 a celebration at St. John's Lutheran Church in Cudahy, Wisconsin will be held to honor Pastor Carl Krueger. This special occasion will acknowledge three anniversaries for Pastor Krueger. The celebration will mark his 30th year of ordination in the ministry, 25 years that he has faithfully served the parishioners of St. John's Church in Cudahy and 20 years of exemplary service as Chaplain of the Wisconsin Air National Guard's 128th Refueling Wing from which he is retiring.

Reverend Krueger was born and raised in River Rouge, Michigan, in a "down river" area of Detroit. He received a B.A. degree from the University of Michigan, Ann Arbor, and a Master of Divinity Degree from Concordia Seminary, Springfield, IL. Reverend Krueger then served as a vicar at Redeemer Lutheran Church in Marquette, Michigan.

It is apparent that Reverend Krueger is a man who is revered by his church members, respected by his military associates and highly regarded by those in the community who are familiar with the volunteer work that he has done over the years in supporting issues regarding the elderly and public health.

Pastor Krueger is a family man, having been married to his wife Dianne since 1971. He and his wife have five children, including two sets of twins.

Combining parish work and chaplain work has provided diverse challenges and opportunities for Reverend Krueger. He is well loved by the many members of the church that he has served over the past 25 years and has distinguished himself in the military by receiving a number of awards including the Air Force Commendation Medal, the Air Force Achievement Medal and the Air Force Outstanding Unit Award.

Reverend Krueger, it is with great pleasure that I extend my best wishes to you on the three anniversaries that you celebrate today and send my congratulations on your lifelong achievements and contributions to your church, community and to your country.

PROCLAMATION HONORING BOBBY D. YOUNG ON HIS 80TH BIRTHDAY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. NEY. Mr. Speaker:

Whereas, Bobby D. Young was born in Perry County, Ohio on October 29, 1924;

Whereas, Bobby D. Young is celebrating his 80th Birthday; and

Whereas, Bobby D. Young has exemplified a love for his family, and must be commended for his dedicated service to the community as a family practitioner in Zanesville, and for his service with the Tenth Army Air Corp in Burma during World War II.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Bobby D. Young as he celebrates his 80th Birthday.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes.

Mr. POMEROY. Mr. Chairman, I rise today to say that I will be voting for H.R. 5006, the fiscal year 2005 Labor, Health and Human Services, Education Appropriations bill, but doing so with some reluctance. While I support many of the funding provisions in this legislation, I also believe that this bill shortchanges many important needs in education and health care.

Almost three years after the historic No Child Left Behind legislation was passed into law, I remain concerned about Congress' ongoing failure to commit the resources promised to our Nation's teachers, parents and students. While I support the intentions of the education reform promise to leave no child behind, I am also convinced that the success of this new law will be determined in part by the investment made in this historic reform effort. I am deeply disappointed that this funding plan falls more than $7.2 billion short of the resources promised for low-income and disadvantaged districts, thereby making up the vast majority of the total $9.5 billion NCLB shortfall contained in the bill.

Not only does this bill fall short on critical funding for education, but it also makes cuts to the Rural Hospital Flexibility and Outreach grant programs, important resources to North Dakota health care providers. It is my understanding that Chairman REGULA has committed to work to restore this funding in conference, and I intend to actively support those efforts.

Certainly, this bill includes many provisions that I applaud. While I was pleased that the Rural Education Achievement Program once again received funding to help rural districts manage the No Child Left Behind Act's new accountability requirements, I strongly believe this program merits an increase in funding. I was also pleased that this bill restores the federal overtime protections to six million workers who saw their overtime pay threatened by the Department of Labor's new rules.

Ultimately, I cast my vote in favor of this legislation in order to ensure that the appropriations process could move forward. I remain hopeful that the Senate will include higher funding levels for these programs and that we can work on a bipartisan basis to develop a fiscally responsible funding plan that provides adequate resources to strengthen our schools, address our public health needs, and support our Nation's workers.

COMMEMORATING THE OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

SPEECH OF

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. KENNEDY of Rhode Island. Mr. Speaker, the National Mall is home to memorials in honor of our founding fathers, our nation's veterans and leaders who have shaped the course of the United States. The Mall is also home to wonderful museums that explore subjects from our natural history here on Earth, to travels to the moon and beyond. However, even with the diverse exhibits, there was always a piece of our history missing from the Mall, and on September 21, 2004, that hole was finally filled.

It is my honor to celebrate the long awaited opening of the National Museum of the American Indian on the National Mall. This museum stands as a monument not only to the past generations of Native Americans, but to the present and the future. I am hopeful that the prominent placement of this museum will help to educate our nation on the true history of Native Americans, told by their perspective and through their eyes. The museum will be home to artifacts and exhibits, but will also serve as a classroom with live performances and demonstrations. It truly is a magnificent addition to the Mall, and I look forward to visiting the museum often.

As we celebrate this joyous occasion, and visit with the thousands of Native Americans who have traveled from across the country to join in this event, Members of Congress must not forget that our relationship with Native Americans goes far beyond the museum. Preserving the past and ensuring the future of Native Americans is celebrated in the museum, but it is only through the adequate funding of education, healthcare, and other initiatives critical to our Native American communities that illustrates our true commitment. I will continue to work with several of my colleagues to fight for essential programs to give Native Americans the resources they need.

I am proud to have the opportunity to welcome so many Native Americans to Washington, D.C. this week, and to welcome the National Museum of the American Indian.

COMMEMORATING THE OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

SPEECH OF

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. HOYER. Mr. Speaker, "with the opening of the National Museum of the American Indian today, the sun shines a bit brighter on the National Mall. This long overdue addition to the Smithsonian is both an architectural and cultural feat achieved through hard work, imagination and perseverance of Native communities across the country. With its combination of traditional materials and state-of-the-art technological exhibits the museum is a true testament to native communities' commitment to moving forward while honoring the traditions of the past.

"Potomac is Algonkin for 'where something is brought.' Therefore, it is fitting that today on the banks of the Potomac River the Native community brings our great nation the gift that is the National Museum of the American Indian. By meeting adversity with strength and a renewed commitment to the health, welfare and prosperity of their people and traditions, the Native community is an inspiration to all Americans."

"While we celebrate the opening of the museum we must also take the time to recommit ourselves, our nation and our resources to helping Native communities across the country. The challenges of providing adequate housing, health care and education in Indian Country must be met with our full dedication and vigor. We must recommit ourselves to providing full ballot access to all of Indian country in this fall's election and support the efforts of the legal teams of the Native Vote 2004: Election Protection.

"In addition to dedicating ourselves to addressing the needs of the Native community, my Democratic colleagues and I are steadfastly committed to protecting tribal sovereignty and protecting the trust rights of all in Indian Country. The government-to-government relationship between the Federal government and Indian tribes must be protected as we legislate and direct funds in Congress. We must honor our nation's responsibility to protect the land and resources of Native Americans fully and to the benefit of all in Indian Country."

"It is a brighter day in our nation and in all of Indian Country on this opening day of the National Museum of the American Indian."

COMMEMORATING THE OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. UDALL of Colorado. Mr. Speaker, I am very pleased to join in support of this resolution.

The resolution notes that the National Museum of the American Indian Act (20 U.S.C. 808 et seq.) established within the Smithsonian Institution the National Museum of the American Indian and authorized the construction of a facility to house the National Museum of the American Indian on the National Mall in the District of Columbia. It points out this will be the only national museum devoted exclusively to the history and art of cultures indigenous to the Americas, and will give all Americans the opportunity to learn of the cultural legacy, historic grandeur, and contemporary culture of Native Americans. And it officially recognizes that the new museum officially opens today.

By its passage, Congress—

(1) recognizes the important and unique contribution of Native Americans to the cultural legacy of the United States, both in the past and currently;

(2) honors the cultural achievements of all Native Americans;

(3) celebrates the official opening of the National Museum of the American Indian; and

(4) requests the President to issue a proclamation encouraging all Americans to take advantage of the resources of the National Museum of the American Indian to learn about the history and culture of Native Americans.

Mr. Speaker, this day has been a long time coming—and passage of this resolution will make clear that it is all the more welcomed by all Americans. The resolution comes to us from the Senate, where it was introduced by Colorado's senior Senator, BEN NIGHTHORSE CAMPBELL.

Senator CAMPBELL deserves our thanks, not only for this resolution but even more for his leadership in making this day a reality. He has earned the praise extended in two editorials that I am attaching for the information of our colleagues;

[From the Rocky Mountain News Sept. 21, 2004]

CAMPBELL'S LEGACY

Kudos to Sen. Ben Nighthorse Campbell for helping create the Smithsonian's spectacular new National Museum of the American Indian, which celebrates its grand opening today on the Washington Mall.

While serving in the U.S. House 15 years ago, Campbell was asked to be a prime sponsor of the bill that authorized the museum. He was more than willing, but on one condition: the Smithsonian must first agree to return the remains of about 18,500 Native Americans to their tribes for burial, and other museums nationwide must do the same.

The museums resisted, but Campbell prevailed.

He also helped procure the $214 million needed to build the museum and fill it with artifacts. He deserves the place of honor he will enjoy at today's ceremonies.

[Editorial—the Pueblo Chieftain]

A TRIBUTE TO SEN. CAMPBELL

When the Colorado Republican started off as a Democrat in the U.S. House, one of his first bills was to build a museum to honor the Native Americans who peopled the Americas long before the first Europeans arrived. A grand opening ceremony for the National Museum of the American Indian in Washington, D.C., will be held today, and it will be the capstone of Sen. Ben Nighthorse Campbell's service in Congress.

The monument to a largely ignored set of cultures sits on the last vacant spot on the National Mall, in the shadow of the U.S. Capitol, as the centerpiece of the Smithsonian Institution's 18 museums and galleries. The five-story, curvilinear building with limestone facade was designed as if the building itself were a natural formation carved by rain and snow over the centuries, as if it had always been there. Yet, it almost wasn't there at all.

This museum is Sen. Campbell's pride and joy. When the Colorado Republican started off as a Democrat in the U.S. House, one of his first bills was to build a museum to honor the Native Americas who peopled the Americas long before the first Europeans arrived.

In the years since, Sen. Campbell chaired the museum's fund-raising committee, leading the effort to raise more than $100 million in private financing to turn an idea into brick and mortar. He hopes the museum will erase the myths characterizing Indians as "savages that were raping and pillaging." The life, languages, literature, history and arts of the native people of the Western Hemisphere will be the focus of every exhibit.

Sen. Campbell, who once made his living as a designer of Indian jewelry, will showcase some of his own artwork in an opening show that will continue for six months.

When he first ran for Congress in 1986, Sen. Campbell emphasized that his political career would be about non-Indian issues as much as it would be about Indian issues. Today, the 71-year-old Cheyenne tribal chief cites numerous accomplishments that have nothing to do with that background and everything to do with making a difference, including doing his best to protect Arkansas River water from the devastating water diversions by Aurora and Colorado Springs, the funding of bullet-proof vests for the nation's police officers, pushing for a national law enforcement museum and upgrading two Colorado attractions—the Great Sand Dunes and the Black Canyon of the Gunnison—to national park status.

Today, he will stand just north of the site where the Indian Removal Act of 1830 was signed—"where the museum now sits"—and address a crowd expected to include thousands of fellow American Indians. The irony of putting the museum on the site where Congress acted to forcibly relocate Indians will make the day all the sweeter.

Sen. Campbell is retiring from Congress the end of this year. The museum he shepherded to reality will in some small measure be a tribute to this adopted Coloradan.

EXPRESSING GRAVE CONCERN OF CONGRESS REGARDING CONTINUING GROSS VIOLATIONS OF HUMAN RIGHTS AND CIVIL LIBERTIES OF SYRIAN PEOPLE BY GOVERNMENT OF SYRIAN ARAB REPUBLIC

SPEECH OF

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 2004

Mr. HASTINGS of Florida. Mr. Speaker, last fall, the Syrian Accountability Act was overwhelmingly approved. That bill required the President to impose a number of economic and diplomatic sanctions against Syria if the Syrian government failed to end its support for various terrorist organizations, refuses to eliminate its weapons of mass destruction, and fails to withdraw its troops from Lebanon. Correctly, the President invoked such sanctions earlier this summer.

Since the passage of that act, Syria continues to host terrorist headquarters in Damascus, it maintains 17,000 Syrian troops in Lebanon, it supports the terrorist organization Hezbollah, and it continues its vicious anti-American propaganda on government-controlled media.

The Syrian regime is one that not only supports and facilitates terrorist attacks against innocent civilians throughout the world, but also engages in a widespread campaign of terror against its own people.

In 2003, the United Nations Commission on Human Rights classified Syria as one of the world's most oppressive regimes.

According to Human Rights International, in 2003 the Syrian Government used its vast powers to prevent any organized political opposition, continued grave abuses including the use of torture in detention and arbitrary arrests, and allowed violence and societal discrimination against women.

Unfortunately, the gross violations of human rights are not limited to Syria's immediate borders. The repressive regime also extends into neighboring Lebanon, which Syria continues to occupy. This fact was recently acknowledged by the international community through the adoption of United Nations Security Council Resolution 1559, calling on all foreign troops to withdraw without delay from Lebanon and to stop meddling in the country's November elections.

For all these reasons, I support wholeheartedly House Concurrent Resolution 363, which condemns the continuing gross violations of human rights and civil liberties by the Syrian dictatorship.

Mr. Speaker, H. Con. Res. 363 details and condemns the persistent repression of the people of Syria and Lebanon by the dictatorial Syrian government. It articulates our support for Syria's human rights and pro-democracy activists and calls on free and democratic nations to take a unified stance and condemns the deplorable and heinous human rights record of the Syrian government. Also, it calls for the United States to assist Syrian dissidents in their efforts to help bring freedom to Syria.

I take this opportunity to speak directly to the President and urge him to take these instructions seriously. With respect to Syria, the United States must encourage greater openness, democratization, and economic reform, and to do so it must engage with civil society.

As president of the Organization for Security and Cooperation in Europe (OSCE PA) I am intimately aware of the success of the Organization in motivating the Soviet Union and Eastern European countries to sign on to progressive standards of human rights and internal goverance. The United States should use a similar strategy of encouraging civil society activists in Syria.

The people of Syria struggle daily from freedom, respect for human rights and civil liberties, democratic self-governance, and the establishment of the rule of law against an authoritarian and tyrannical regime. I support them in their great effort, and denounce the oppressive government of Syria.

Therefore, I ask my colleagues to support this important resolution.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 23, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 24

9 a.m.
Environment and Public Works
Fisheries, Wildlife, and Water Subcommittee
To hold oversight hearings to examine State and private programs for sage grouse conservation.
SD–406

9:30 a.m.
Foreign Relations
To hold hearings to examine the Protocol Amending the Convention Between the United States of America and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (including exchange of notes with attached Understanding), signed at Washington on March 8, 2004 (the "Protocol") (Treaty Doc. 108–25), and the Second Protocol Amending the Convention Between the United States of America and Barbados for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income Signed on December 31, 1984, signed at Washington on July 14, 2004; including an exchange of notes with attached Understandings (Treaty Doc. 108–26).
SD–419

SEPTEMBER 28

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine media ownership issues.
SR–253

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine policies to enforce the Bank Secrecy Act and to prevent money laundering in money services businesses and the gaming industry.
SD–538

Aging
To hold hearings to examine combating influenza in order to keep senior citizens alive.
SD–628

2:30 p.m.
Foreign Relations
To hold hearings to examine how to combat corruption in the multilateral development banks.
SD–419

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine the effectiveness of media ratings systems.
SR–253

SEPTEMBER 29

9:30 a.m.
Indian Affairs
Business meeting to consider pending calendar business; to be followed by an oversight hearing on lobbying practices involving Indian tribes.
SH–216

2 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine the controversy over embryonic stem cell research.
SR–253

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 2410, to promote wildland firefighter safety, H.R. 1651, to provide for the exchange of land within the Sierra National Forest, California, S. 2378, to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport, H.R. 2400, to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam, H.R. 3874, to convey for public purposes certain Federal lands in Riverside County, California, that have been identified for disposal, H.R. 4170, to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior, and S. Res. 387, commemorating the 40th Anniversary of the Wilderness Act.
SD–366

SEPTEMBER 30

2:30 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold oversight hearings to examine the security of Internet Root Servers and the Domain Name System (DNS).
SR–253

OCTOBER 5

9:30 a.m.
Foreign Relations
To hold hearings to examine the progress of the Millennium Challenge Corporation.
SD–419

HOUSE OF REPRESENTATIVES—*Thursday, September 23, 2004*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. KIRK).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 23, 2004.

I hereby appoint the Honorable MARK STEVEN KIRK to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Betsy Singleton, Pastor, Quapaw Quarter United Methodist Church, Little Rock, Arkansas, offered the following prayer:

God, this time of year, in this particular year, when hometown fairs are judging jams and bannered booths tout candidates with free bumper stickers, we hold our opinions fervently, our convictions with less compromise, each vote with care.

We confess that we are a people of preferences, each as unique as squares on a blue ribbon quilt stitched together by someone who favored cotton print over synthetics.

Daily, God, there are choices in this democracy, choices that lead us to debate, delay, exhaustion, hope. And then, together, we speak for the people who send us to represent them, the ones who, last weekend, got together in that small American town we call "Home"—the fireman, the teacher, the homemaker, the beauty queen, the clown, the cowboy—and held the annual parade down Main Street, because out of many, they believe we really are one.

Today, God, may we be one. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Missouri (Mr. SKELTON) come forward and lead the House in the Pledge of Allegiance.

Mr. SKELTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING THE REVEREND BETSY SINGLETON

(Mr. SNYDER asked and was given permission to address the House for 1 minute.)

Mr. SNYDER. Mr. Speaker, it is my privilege today to welcome today's guest chaplain, Reverend Betsy Singleton from the Quapaw Quarter United Methodist Church in Little Rock, Arkansas, a position she has held for the last 3 years. This is my home church and Betsy is my minister. She is also my wife.

Reverend Singleton, Betsy, welcome to the House. Thank you so much.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that during the joint meeting to hear an address by His Excellency Ayad Allawi, Interim Prime Minister of the Republic of Iraq, only the doors immediately opposite the Speaker and those on his right and left will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance that is anticipated, the Chair feels the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

The practice of reserving seats prior to the joint meeting by placard will not be allowed. Members may reserve their seats by physical presence only following the security sweep of the Chamber.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Wednesday, September 15, 2004, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 5 minutes a.m.), the House stood in recess subject to the call of the Chair.

During the recess, beginning at about 9:50 a.m., the following proceedings were had:

□ 0950

JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY HIS EXCELLENCY AYAD ALLAWI, INTERIM PRIME MINISTER OF THE REPUBLIC OF IRAQ

The Speaker of the House presided.

The Assistant to the Sergeant at Arms, Bill Sims, announced the Vice President and Members of the U.S. Senate who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort His Excellency Ayad Allawi, the Interim Prime Minister of the Republic of Iraq, into the Chamber:

The gentleman from Texas (Mr. DELAY);

The gentleman from Missouri (Mr. BLUNT);

The gentleman from California (Mr. COX);

The gentleman from Georgia (Mr. KINGSTON);

The gentleman from California (Mr. HUNTER);

The gentlewoman from Florida (Ms. ROS-LEHTINEN);

The gentlewoman from California (Ms. PELOSI);

The gentleman from Maryland (Mr. HOYER);

The gentleman from South Carolina (Mr. CLYBURN);

The gentleman from Missouri (Mr. SKELTON);

The gentleman from California (Mr. LANTOS); and

The gentlewoman from California (Ms. HARMAN).

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators as a committee on the part of the Senate to escort His Excellency Ayad Allawi, the Interim Prime Minister of the Republic of Iraq, into the House Chamber:

The Senator from Tennessee (Mr. FRIST);

The Senator from Kentucky (Mr. McCONNELL);

The Senator from Pennsylvania (Mr. SANTORUM);

The Senator from Texas (Mrs. HUTCHISON);

□This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The Senator from Arizona (Mr. KYL);
The Senator from Virginia (Mr. ALLEN);
The Senator from Indiana (Mr. LUGAR);
The Senator from Alabama (Mr. SESSIONS);
The Senator from South Dakota (Mr. DASCHLE);
The Senator from Louisiana (Mr. BREAUX);
The Senator from Michigan (Mrs. STABENOW);
The Senator from New York (Mrs. CLINTON); and
The Senator from New Jersey (Mr. CORZINE).

The Assistant to the Sergeant at Arms announced the Acting Dean of the Diplomatic Corps, His Excellency Jesse Bibiano Marehalau, Ambassador of Micronesia.

The Acting Dean of the Diplomatic Corps entered the Hall of the House of Representatives and took the seat reserved for him.

The Assistant to the Sergeant at Arms announced the Cabinet of the President of the United States.

The Members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 10 o'clock and 2 minutes a.m., the Assistant to the Sergeant at Arms announced His Excellency Ayad Allawi, Interim Prime Minister of the Republic of Iraq.

The Interim Prime Minister of the Republic of Iraq, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor and a personal pleasure to present to you His Excellency Ayad Allawi, Interim Prime Minister of the Republic of Iraq.

[Applause, the Members rising.]

ADDRESS BY HIS EXCELLENCY AYAD ALLAWI, INTERIM PRIME MINISTER OF THE REPUBLIC OF IRAQ

Prime Minister ALLAWI. Mr. Speaker, Mr. Vice President, Members of Congress, distinguished guests, it is my distinct honor and great privilege to speak to you today on behalf of Iraq's interim government and its people. It is my honor, too, to come to Congress and to thank this Nation and this people for making our cause your cause, our struggle your struggle. Before I turn to my government's plan for Iraq, I have three important messages for you today.

First, we are succeeding in Iraq. It is a tough struggle, with setbacks, but we are succeeding. I have seen some of the images that are being shown here on television. They are disturbing. They focus on the tragedies, such as the brutal and barbaric murder of two American hostages this week. My thoughts and prayers go out to their families and to all those who lost loved ones.

Yet, as we mourn these losses, we must not forget either the progress we are making or what is at stake in Iraq. We are fighting for freedom and democracy, ours and yours. Every day we strengthen the institutions that will protect our new democracy, and every day we grow in strength and determination to defeat the terrorists and their barbarism.

The second message is quite simple, and one that I would like to deliver directly from my people to yours. Thank you, America. We Iraqis know that Americans have made and continue to make enormous sacrifices to liberate Iraq, to ensure Iraq's freedom. I have come here to thank you and to promise you that your sacrifices are not in vain. The overwhelming majority of Iraqis are grateful. They are grateful to be rid of Saddam Hussein and the torture and brutality he forced upon us, grateful for the chance to build a better future for our families, our country, and our region. We Iraqis are grateful to you Americans for your leadership and your sacrifice for our liberation and our opportunity to start anew.

Third, I stand here today as the Prime Minister of a country emerging finally from the dark ages of violence, aggression, corruption, and greed. Like almost every Iraqi, I have many friends who were murdered, tortured, or raped by the regime of Saddam Hussein. Well over 1 million Iraqis were murdered or are missing. We estimate at least 300,000 are in mass graves which stand as monuments to the inhumanity of Saddam's regime. Thousands of my Kurdish brothers and sisters were gased to death by Saddam's chemical weapons. Millions more like me were driven into exile. Even in exile, as I myself can vouch, we were not safe from Saddam; and as we lived under tyranny at home, so our neighbors lived in fear of Iraq's aggression and brutality.

Reckless wars, uses of weapons of mass destruction, needless slaughter of hundreds of thousands of lives and the financing and exporting of terrorism, these were Saddam's legacy to the world. My friends, today, we are better off, you are better off, and the world is better off without Saddam Hussein.

Your decision to go to war in Iraq was not an easy one, but it was the right one. There are no words that can express the debt of gratitude that future generations of Iraqis will owe to Americans. It would have been easy to have turned your back on our plight, but this is not the tradition of this great country. Not for the first time in history you stood up with your allies for freedom and democracy.

Ladies and gentlemen, I particularly want to thank you and the United States Congress for your brave work in 2002 to authorize American men and women to go to war to liberate my country because you realized what was at stake, and I want to thank you for your continued commitment last year when you voted to grant Iraq a generous reconstruction and security funding package. I met many of you last year, and I have in Iraq accepted your commitment to our country that you have come to see firsthand the challenges, and the progress we have and we are making.

Ladies and gentlemen, the costs we know have been high. As we have lost our loved ones in this struggle, so have you. As we have mourned, so have you. This is a bitter price of combating tyranny and terror, our hardworking families, every American who has given his or her life in the cause and every American who has been wounded to help us in our struggle. Now we are determined to honor your confidence and sacrifice by putting into practice in Iraq the values of liberty and democracy which are so dear to you and which have triumphed over tyranny across our world.

Creating a democratic, prosperous, and stable nation where differences are respected, human rights protected, and which lives in peace with itself and its neighbors is our highest priority, our sternest challenge and our greatest goal. It is a vision, I assure you, shared by the vast majority of the Iraqi people, but there is the tiny minority who despise the very ideas of liberty, of peace, of tolerance and who will kill anyone, destroy anything to prevent Iraq and its people from achieving this goal.

Among them are those who nurse fantasies of the former regime returning to power. There are fanatics who seek to impose a perverse vision of Islam in which the face of Allah cannot be seen; and there are terrorists, including many from outside Iraq, who seek to make our country the main battleground against freedom, democracy, and civilization.

For the struggle in Iraq today is not about the future of Iraq only. It is about the worldwide war between those who want to live in peace and freedom and terrorists. Terrorists strike indiscriminately, at soldiers, at civilians, as they did so tragically on 9/11 in America and as they did in Spain and Indonesia, Saudi Arabia, Turkey, Russia, and my country and many others.

So in Iraq, we confront both, insurgency and the global war on terror, with their destructive forces sometimes overlapping. These killers may be just a tiny fraction of our 27 million population, but with their guns and their suicide bombs to intimidate and to frighten all the people of Iraq, I can tell you today they will not succeed. For these murderers have no political program or cause other than to push our country back into tyranny. Their agenda is no different than terrorist forces that have struck all over the world, including in your own country on September 11.

There lies the fatal weakness. The insurgency in Iraq is destructive but small, and it has not and will never resonate with the Iraqi people. The Iraqi citizens know better than anyone the horrors of dictatorship. This has passed. We will never revisit.

Ladies and gentlemen, let me turn now to our plan which we have developed to meet the real challenges which Iraq faces today, a plan that we are successfully implementing with your help. The plan has three basic parts: building democracy, defeating the insurgency, and improving the quality of life of ordinary Iraqis.

The political strategy in our plan is to isolate the terrorists from the communities in which they operate. We are working hard to involve as many people as we can in the political process to cut the ground from under the terrorists' feet. In troubled areas across the country, government representatives are meeting with local leaders. They are offering amnesty to those who realize there are other ways. They are making clear that there can be no compromise with terror; that all Iraqis have the opportunity to join the side of order and democracy and that they should use the political process to address their legitimate concerns and hopes.

I am a realist. I know that terrorism cannot be defeated with political tools only, but we can weaken it and with local support help us to tackle the enemy head on to identify, isolate, and eradicate this cancer. Let me provide you with a couple of examples of where this political plan is already working.

In Samarra, the Iraqi government has tackled the insurgents who once controlled the city. Following weeks of discussions between government officials and representatives, Coalition forces and local community leaders, regular access to the city has been restored. A new provisional council and governor have been selected and a new chief of police has been appointed. Hundreds of insurgents have been pushed out of the city by local citizens eager to get on with their lives. Today, in Samarra, the Iraqi forces are patrolling the city in close coordination with the Coalition counterparts.

In Tall Afar, a city northwest of Baghdad, the Iraqi government has reversed an effort by insurgents to wrest control away from the proper authority. Iraqi forces put down the challenge and allowed local citizens to choose a new mayor and police chief. Thousands of civilians have returned to the city; and since their return, we have launched a large program of reconstruction and humanitarian assistance.

Ladies and gentlemen, let me turn now to our military strategy. We plan to build and maintain security forces across Iraq. Ordinary Iraqis are anxious to take over entirely this role and to shoulder all the security weapons of our country as quickly as possible. For now, of course, we need the help of our American and Coalition partners, but the training of Iraqi security forces is moving forward briskly and effectively.

The Iraqi government now commands almost 50,000 armed and combat-ready Iraqis. By January, it will be some 145,000. And by the end of next year, some 250,000 Iraqis. The government has accelerated the development of Iraqi special forces and the establishment of a counterterrorist strike force to tackle specific problems caused by insurgencies. Our intelligence is getting better every day.

You have seen the successful resolution of the Najaf crisis and then the targeted attacks against insurgents in Fallujah. These new Iraqi forces are rising to the challenge. They are fighting on behalf of a sovereign Iraqi government and their performance is improving every day. Working closely with the Coalition allies, they are striking their enemies wherever they hide, disrupting operations, destroying safe houses, and removing terrorist leaders.

But in improving the everyday lives of Iraqis, tackling our economic problems is also essential to our plan. Across the country, there is a daily progress too. Oil pipelines are being repaired, basic services are being improved, homes are being rebuilt, schools and hospitals are being rebuilt, and clinics are open and reopened. There are now over 6 million children at school, many of them attending one of the 2,500 schools that have been renovated since liberation.

Last week, we completed a national polio vaccination campaign, reaching over 90 percent of all Iraqi children. We are starting work on 150 new health centers across the country. Millions of dollars in economic aid and humanitarian assistance from this country and others around the world are flowing into Iraq. For this, again, I want to thank you.

And so today, despite the setbacks and daily outrages, we can and should be hopeful for the future. In Najaf and Kufa, this plan has already brought success. In those cities, a firebrand cleric had taken over Shi'a Islam's holiest sites, in defiance of the government and the local population. Immediately, the Iraqi government ordered the Iraqi armed forces into action to use military force to create conditions for political success.

Together with the Coalition partners, Iraqi forces cleaned out insurgents from everywhere in the city, capturing hundreds and killing many more. At the same time, the government worked with political leaders and with Ayatollah Sistani to find a peaceful solution to the occupation of the shrine. We were successful. The shrine was preserved, order was restored, and Najaf and Kufa were returned to their citizens.

Today, the foreign media have lost interest and left, but millions of dollars in economic aid and humanitarian assistance are now flowing into the cities. Ordinary citizens are once again free to live and worship at these places. As we move forward, the next major milestone will be holding of the free and fair national and local elections in January next.

I know that some have speculated, even doubted, whether these stakes can be met. So let me be absolutely clear. Elections will occur in Iraq, on time in January, because Iraqis want elections on time. For the skeptics who do not understand the Iraqi people, they do not realize how decades of torture and repression fueled our desire for freedom. At every step of the political process today, the courage and resilience of the Iraqi people has proved the doubters wrong.

They said we would miss the January deadline to pass the interim constitution. We proved them wrong. They warned that there could be no successful handover of sovereignty by the end of June. We proved them wrong. A sovereign Iraqi government took over control 2 days early. They doubted whether a national conference could be staged this August. We proved them wrong. Despite humiliation and violence, over 1,400 citizens, a quarter of them women, from all regions and from every ethnic religious and political grouping in Iraq, elected a national council. And I pledge to you today, we will prove them wrong again over the elections.

Our Independent Electoral Commission is working with the United Nations and our security forces to make these elections a reality. In 15 out of our 18 Iraqi provinces, we could hold elections tomorrow. Although this is not what we see in your media, it is a fact.

Your government, our government, and the United Nations are all helping us mobilize the necessary resources to fund voter registration and information programs. We will establish up to 30,000 polling sites, 130,000 election workers, and all other complex aspects of mounting a general election in a nation of 27 million before the end of January next.

We already know that terrorist and former regime elements will do all they can to disrupt these elections. There would be no greater success for the terrorists if we delay, and no greater blow when the elections take place, as they will, on schedule.

The Iraqi elections may not be perfect. They may not be the best elections that Iraq will ever hold. They will, no doubt, be an excuse for violence from those that despise liberty, as were the first elections in Sierra Leone, South Africa, or Indonesia. But they will take place, and they will be free and fair. And though they won't be the end of the journey towards democracy, they will be a giant step forward in Iraq's political evolution. They will pave the way for a government that reflects the world and has the confidence of the Iraqi people.

Ladies and gentlemen, this is our strategy for moving Iraq steadily towards security and democracy and the prosperity our people crave. But Iraq cannot accomplish this alone. The resolve and will of the Coalition in supporting a free Iraq is vital to our success.

The Iraqi government needs the help of the international community, the help of countries that not only believe in the Iraqi people, but also believe in the fight for freedom against tyranny and terrorism everywhere.

Already, Iraq has many partners. The transition in Iraq from brutal dictatorship to freedom and democracy is not only an Iraqi endeavor, it is an international one. More than 30 countries are represented in Iraq with troops on the ground in harm's way. We Iraqis are grateful for each and every one of these courageous men and women.

United Nations Resolution 1546, passed in June 2004, endorsed the Iraqi interim government and pledged international support for Iraq's upcoming elections.

The G8, the European Union, and NATO have also issued formal statements of support. NATO is now helping with one of Iraq's most urgent needs, the training of Iraqi security forces. I am delighted by the new agreement to step up the pace and scope of this training.

The United Nations has reestablished its mission in Iraq. A new United Nations special representative has been appointed and a team of United Nations personnel is now operating in Baghdad. Many more nations have committed to Iraq's future in the form of economic aid.

We Iraqis are aware how international this effort truly is. But our opponents, the terrorists, also understand all too well that this is an international effort. And that is why they have targeted members of the Coalition.

I know the pain this causes. I know it is difficult, but the Coalition must stand firm. When governments negotiate with terrorists, everyone in the free world suffers. When political leaders sound the sirens of defeatism in the face of terrorism, it only encourages more violence. Working together, we will defeat the killers and will do this by refusing to bargain about our most fundamental principles.

Ladies and gentlemen, goodwill aside, I know that many observers around the world honestly wonder if we in Iraq really can restore our economy, be good neighbors, guarantee the democratic rule of law, and overcome the enemies who seek to tear us down.

I understand why, faced with the daily headlines, there are these doubts. I know, too, that there will be many more setbacks and obstacles to overcome. But these doubters underestimate our country, and they risk fueling the hopes of the terrorists.

Despite our problems, despite our recent history, no one should doubt that Iraq is a country of tremendous human resources and natural resources. Iraq is still a nation with an inspiring cultural tradition and an educated and civilized people. And Iraq is still a land made strong by its Islamic faith which teaches us tolerance, love, respect, and duty.

Above all, they risk underestimating the courage and determination of the Iraqi people to embrace democracy, peace and freedom, for the dreams of our families are the same as the dreams of families here in America and around the world.

There are those who want to divide our world. I appeal to you, who have done so much already to help us, to ensure they do not succeed. Do not allow them to say to Iraqis, to Arabs, to Muslims that we have only two models of government, brutal dictatorship or religious extremism. This is wrong.

Like Americans, we Iraqis want to enjoy the fruits of liberty. Half of the world's 1.5 billion Muslims already enjoy democratically elected governments. As Prime Minister Blair said to you last year when he stood here, "Any where, any time ordinary people are given the chance to choose, the choice is the same: freedom, not tyranny; democracy, not dictatorship; and the rule of law, not the rule of the secret police."

Do not let them convince others that the values of freedom, of tolerance and democracy are for you in the West but not for us. For the first time in our history, the Iraqi people can look forward to controlling our own destiny. This would not have been possible without the help and sacrifice of this country and its Coalition partners.

I thank you again from the bottom of my heart. And let me tell you as we meet our greatest challenge by building a democratic future, we the people of new Iraq will remember those who have stood by us.

As generous as you have been, we will stand with you, too. As stalwart as you have been, we will stand with you too. Neither tyranny nor terrorism has a place in our region or our world. And that is why we Iraqis will stand by you, America, in a war larger than either of our two nations: the global battle to live in freedom.

God bless you and thank you.

[Applause, the Members rising.]

At 10 o'clock and 39 minutes a.m., His Excellency Ayad Allawi, Interim Prime Minister of the Republic of Iraq, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Assistant to the Sergeant at Arms escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet;

The Acting Dean of the Diplomatic Corps.

JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses now dissolved.

Accordingly, at 10 o'clock and 45 minutes a.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will continue in recess until approximately 11:15 a.m.

☐ 1115

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHAW) at 11 o'clock and 15 minutes a.m.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. PENCE. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize 10 one-minutes on either side.

CONGRATULATIONS TO PORTER GOSS ON BECOMING NEW CIA DIRECTOR

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I come to the well today to congratulate our Florida colleague and great friend, PORTER GOSS, on becoming the new director of the Central Intelligence Agency.

PORTER is one of the most decent, kind, humble men in this building, and his task before him is enormous. Seventy-seven Senators, including our own Florida Senators BOB GRAHAM and BILL NELSON, courageously supported the man who we know is such a decent human being, who will use his utmost ability to protect and defend the people of the United States.

PORTER GOSS and his wife Mariel have been solid citizens, great Floridians and now the Nation will know the kind of dedication he has shown to the pursuit of making America safe.

We are proud of you, PORTER. We are standing by you, and we know, at the end of your tenure here in Congress, Floridians salute you and Americans will get to know a great, great humanitarian, a great leader, and a terrific Central Intelligence Director.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members should avoid improper references to the Senate.

PARTNERSHIP WITH AMERICA'S FUTURE

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, for the last 4 years, Texas has seen our manufacturing economy decline, entire industries virtually disappear, jobs outsourced abroad and communities across the State struggle against the tide to balance their budgets and maintain viability.

All families in Texas have seen their share of the national debt increase by $36,536.

Republicans have tried to cut back on support for local police officers, supporting proposals that would slash funding for the COPS program which has put 5,937 police officers on the streets in Texas. They have drained the Superfund program, despite the 30 sites that endanger the health of families in Texas.

Mr. Speaker, I think it is time to wake up and address the most important problems that we face.

Let us come together on a new economic plan for America. Working together, our New Partnership for America's Future will provide prosperity, national security, fairness, opportunity, community and accountability to the families of Texas.

MISERY INDEX LOW; PROSPERITY INDEX HIGH

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, for years, the Misery Index has measured the good or bad impact of the economy on everyday Americans. The Misery Index is the combination of the unemployment rate and the inflation rate.

President George Bush has the lowest Misery Index of any President seeking re-election in 30 years. The Misery Index under President Bush is only 7.3 percent. Over 1.7 million jobs have been created just in the last year. President Bush's initiatives have given Americans economic growth and a freer and more secure country.

Mr. Speaker, given President Bush's good record on the economy, maybe we should give him credit for a prosperity index.

NEW BLUEPRINT FOR THE FUTURE

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, yesterday, Democrats unveiled a new blueprint for the future, our New Partnership for America's Future, a plan that will move our Nation in the right direction by promoting prosperity, national security, fairness and opportunity, as well as supporting our communities and demanding accountability.

I want to focus today on national security. Nevada has the highest percentage of National Guard troops deployed in Iraq, 40 percent of Nevada's National Guard. Over 1,500 Nevada National Guard and Reserve troops have been deployed overseas. These brave men and women are our next generation of veterans.

Republicans have not kept their promises to our current veterans, and I have no confidence that we will be able to do any better for these new veterans. Republicans refuse to end the Disabled Veterans Tax. Instead, they passed a plan that fails to cover over 5,000 disabled veterans in Nevada.

Democrats will keep our promises to our veterans and will keep America safe with a strong military, sound diplomacy, resources for our first responders and heightened security for our ports.

SUCCESS IN IRAQ

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, this morning, the House heard from the prime minister of Iraq, Dr. Allawi, and I think it is important to come and underscore some of the things that he told us this morning. The overriding message that Dr. Allawi gave this House is we are succeeding in the country of Iraq.

He said he had three messages for America. He first wanted to say thank you. He secondly pointed out that the world at large was better off because of the action taken by the United States of America. And finally, he wanted the world to know that they would get it right on the ground in Iraq.

He talked about the cost of freedom. In fact, he reminded us of what Harry Truman said a couple of generations ago, "If you want peace, you better be prepared to fight for it."

He told us that they have mourned, as we have mourned here at home.

Iraq is the battleground for those who oppose freedom. It is their last chance, and they will not succeed.

He did warn us that defeatism contributes to more violence on the ground in Iraq, and I think that is a message that we all can take home with us and remember these 40 days remaining before the election.

NATIONAL SALES TAX PROPOSAL JUST ANOTHER TAX CUT FOR THE RICH

(Mr. SANDLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDLIN. Mr. Speaker, the new minority report released today by the Committee on Ways and Means shows that the latest unfair tax scheme proposed by the majority will be one of the largest tax increases on working families in American history.

The new proposed national sales tax will result in the wealthiest 1 percent of American taxpayers receiving a $225,000 tax break per year, while working families will see an average yearly tax increase of $3,200 per year. This new national sales tax will punish the middle class and working families every single day.

Mr. Speaker, $100 of groceries will cost $130. A $20,000 pickup will be $26,000. Need a new TV? Mark it up 30 percent. And health care, a visit to the doctor for your children, or how about prescription drugs? Add 30 percent, Mr. Speaker.

The truth is, the new national sales tax proposal is just another scheme to give tax cuts to those that ship our jobs overseas, leaving the rest of us stuck with a bill and stuck with a new and unwelcome tax.

KEEPING THE PROMISES OF THE CONTRACT WITH AMERICA

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, 10 years ago the American people made a choice. It was a choice between decades of a tax-and-spend Congress that believed America prospered when Washington had more of what people earn and a new Republican majority that believed that America prospers when the American people are able to keep more of what they earn.

That change has made all the difference in America today, welfare reform, the advances on traditional moral values. And every single year of the Republican majority, including again later today, this Republican majority has cut taxes on working families, small businesses and family farms.

The choice 10 years ago was clear. Another choice is just around the corner, between a party that believes that America prospers when government prospers and another party who believes that when the American people have more of what they earn to keep, that our Nation prospers as well.

Join us today as we cut taxes again and keep the promises of the Contract With America.

THE NEED TO APPOINT HOUSE CONFEREES TO DEFENSE AUTHORIZATION BILL

(Mrs. DAVIS of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, I would like to take a moment to express my concern about House and Senate conferencing on the Defense authorization bill for fiscal year 2005. I am concerned that the House has not appointed any conferees to the bill.

Mr. Speaker, the House passed the Defense Authorization Bill on May 20 of 2004, and the Senate passed their version on June 23. Fast forward 3 months to today. It is now September 23. Next week marks the end of the fiscal year, and the House will adjourn for the elections in less than a month.

I would also like to remind all of us, Mr. Speaker, that the House and Senate finished the conference report agreement on the fiscal year Defense appropriations bill in July.

The reason for my concern should be obvious to all of us. Our country is at war. Large numbers of brave men and women remain in harm's way in Iraq and Afghanistan. I recognize there are contentious issues in both of the versions of the bill, but confronting these types of issues is our job, and we are quickly running out of time.

The bill is a life-and-death matter. It impacts service members' safety, their readiness and personal and financial health. More than anyone else, they have earned the right to a government that is a responsible steward of their safety and their well-being.

215TH BIRTHDAY OF THE U.S. MARSHALS SERVICE

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today to honor the oldest Federal law enforcement agency in the United States, the U.S. Marshals Service. Tomorrow, they will be celebrating their 215th birthday.

I can tell my colleagues that the Marshals Service has enriched the history of the Third Congressional District of Arkansas. We all grew up hearing the stories of the brave marshals as they brought the most dangerous outlaws in the country to justice. We have seen the movies, read the books and all tried to copy their noble behavior.

Since 1789, they have admirably protected and carried out the orders of the Federal court system. From taming the wild West to capturing those who threaten our freedom today, the Marshals Service has consistently upheld their commitment and dedication to their country. I am honored to have the opportunity to acknowledge and thank them for their outstanding service to the United States of America.

BE AFRAID

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, today, we had hoped to hear a realistic assessment of Iraq, but unfortunately, although the voice was different, the words were the same. We just heard the administration's Iraqi administrator say what the administration says over and over again: Be afraid.

With no plan to win the peace and no grasp on the magnitude of the chaos in Iraq, the administration relies on fear and photo ops to divert attention, trying to get Americans to forget the deception, incompetence and outright failure this administration used to turn the country upside down. They cannot stop what Americans see and read, so they try to preempt it, using the two words that define this administration: Be afraid.

Be afraid is their answer to the economy, the war, the deficit, the people without health care and Iraq in complete chaos.

Be afraid is what they say, but what they mean is, be afraid of them. Do not forget to vote on November 2.

REPUBLICAN PARTY 150TH ANNIVERSARY CELEBRATORY FREEDOM CALENDAR

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, this is the 150th anniversary of the Republican Party. Over a century and a half from the abolition of slavery to the establishment of women's rights to the freeing of millions of people in the Soviet Union, Afghanistan and in Iraq, the Republican Party has been the most effective political organization in the history of the world in advancing the cause of freedom.

So that all of us can learn more about the achievements of this fundamentally American institution, the House Republican Policy Committee has published the 2005 Republican Freedom Calendar. Each day, a civil rights milestone in the history of the Republican Party is listed. Yesterday was the anniversary of the Emancipation Proclamation. President Lincoln's signing of the Emancipation Proclamation sparked howls of protests from Democrats in Congress and across the country, but it was based on legislation passed in this Congress just 2 months before. Every single Republican voted for freeing the slaves, and every single Democrat voted against it.

Mr. Speaker, this is just one of 365 civil rights firsts that can be found in the Republican Freedom Calendar available at policy.house.gov.

WIND PRODUCTION TAX CREDIT EXTENSION

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, as a long-time independent voice of the people of west Texas, I rise to urge my colleagues in Congress to move forward with meaningful reforms to our national energy policy.

Driving across the long west Texas highways, one cannot help but notice the towering wind farms that have cropped up in the area I represent.

□ 1130

Unfortunately, further wind energy development is completely halted because Congress has yet to extend the production tax credit for renewable sources of energy.

We had the opportunity to extend the credits with the 2002 energy bill and now the latest energy bill has stalled in Congress. Because of unwillingness to move back to the negotiating table, my constituents are forced to forgo further wind energy development in their counties. This means fewer jobs are created in the area. Counties and schools have to give up additional tax revenue and the U.S. is put further behind in our goal to produce more renewable energy.

Mr. Speaker, it is time for folks in Congress to get serious about energy in America and immediately pass the extension for the Wind Energy Production Tax Credit. It is the economically and environmentally responsible thing to do.

OUTRAGEOUS SALES TAX

(Mr. SHERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHERMAN. Mr. Speaker, I rise to address a bill by the gentleman from Georgia (Mr. LINDER). It is co-sponsored by the majority leader, a bill which the President has indicated he looks upon favorably. It is to abolish the income tax and impose a "23 percent sales tax on all Americans."

First, I headed the largest sales tax agency in the world for 6 years, and I am going to tell you, you cannot administer a 23 percent sales tax. That is why Europe uses a value added tax.

Second, a 23 percent tax would not replace the revenue. It would leave our troops in the field without the supplies they need.

Third, imagine a billionaire decides to travel to luxury resorts in France for an entire year. His property is protected by the American Army, his person is protected, he enjoys all the joys of being an American citizen and pays absolutely zero in tax.

Now imagine a retired couple. They have paid tax on all the money they have made. They squirreled it away. They have invested in municipal bonds. This thing passes. The muni bonds drop in value. They are receiving this income, and they are paying 23 percent on their food, 23 percent on their health care, 23 percent on their pharmaceuticals. They can no longer afford food, so they are buying dog food, and they are paying 23 percent on that. This is an outrageous bill.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2028.

The SPEAKER pro tempore (Mr. PENCE). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PLEDGE PROTECTION ACT OF 2004

The SPEAKER pro tempore. Pursuant to House Resolution 781 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2028.

□ 1133

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2028) to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance, with Mr. SHAW in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Pledge of Allegiance reads: "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stand, one Nation, under God, indivisible, with liberty and justice for all."

Two words in the Pledge, "under God," help define our national heritage as beneficiaries of a Constitution sent to the States for ratification, as the Constitution itself states, "in the Year of our Lord," 1787, by a founding generation that saw itself guided by a providential God. Those two words, and their entirely proper presence in the system of government defined by our Constitution, have been repeatedly and overwhelmingly reaffirmed by the House of Representatives, most recently twice in the 107th Congress, by votes of 416 to 3 and 401 to 5, and in this Congress by a vote of 400 to 7.

The first Congress not only acknowledged a proper role for religion in public life, but it did so at the very time it drafted the Establishment Clause of the first amendment. Just three days before Congress sent the text of the first amendment to the States for ratification, it authorized the appointment of legislative chaplains.

And on November 28, 1863, President Abraham Lincoln delivered the Gettysburg Address and declared, in words now inscribed in one of our most beloved national monuments, "we here highly resolve that these dead shall not have died in vain, that this Nation, under God, shall have a new birth of freedom."

Although the United States Supreme Court recently reversed and remanded the Ninth Circuit's latest holding striking down the Pledge as unconstitutional, the Supreme Court did so on the questionable grounds that the plaintiff lacked the legal standing to bring the case. The Supreme Court's decision not to reach the merits of the case is apparently an effort to forestall a decision adverse to the Pledge since the dissenting Justices concluded that the Court in its decision, "erected a novel prudential standing principle in order to avoid reaching the merits of the constitutional claim." That does not bode well for the Pledge of Allegiance.

To protect the Pledge from Federal court decisions that would have the effect of invalidating the Pledge across several States, or nationwide, H.R. 2028 will preserve to State courts the authority to decide whether the Pledge is valid within that State's boundaries. It will place final authority or a State's pledge policy in the hands of the States themselves.

H.R. 2028 as reported by the Committee on the Judiciary is identical to H.R. 3313, the Marriage Protection Act, which the House passed just prior to the August recess except that it addresses the Pledge rather than the Defense of Marriage Act. If different States come to different decisions regarding the constitutionality of the Pledge, the effects of such decisions will be felt only within those States. A few Federal judges sitting hundreds of miles away from your State will not be able to rewrite your State's Pledge policy.

A remedy to abuses by Federal judges has long been understood to lie, among other places, in Congress's authority to limit Federal court jurisdiction. The Constitution clearly provides that the lower Federal courts are entirely creatures of Congress as much as appellate jurisdiction of the Supreme Court excluding its only very limited, constitutional, original jurisdiction over cases involving ambassadors and cases in which the States have legal claims against each other.

As a leading treatise on Federal court jurisdiction has pointed out, "Beginning with the first Judiciary Act in 1789, Congress has never vested the Federal courts with the entire 'judicial Power' that would be permitted under Article III" of the Constitution.

Justice William Brennan, no conservative by record, writing for the Supreme Court said, "virtually all matters that might be heard in Article III Federal courts could also be left by Congress to the State courts."

As the Dean of Stanford Law School wrote recently, "The Constitution leaves room for countless political responses to an overly assertive Court: Congress can strip it of jurisdiction. The means are available and they have been used to great effect when necessary, used we should note, not by disreputable or failed leaders, but by some of the most admired Presidents and Congresses in American history."

Far from violating the separation of powers legislation that leaves State courts with jurisdiction to decide certain classes of cases would be an exercise of one of the very checks and balances provided in the Constitution. Integral to the American constitutional system is each branch of government's responsibility to use its powers to prevent overreaching by the other two branches. H.R. 2028, which has 226 cosponsors, does just that, and I urge my colleagues to join me in supporting it.

Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is not simply about the Pledge of Allegiance. I really hate to be an I-told-you-so, but the last time we considered legislation to strip the Federal courts of jurisdiction, in that case, to hear cases challenging the Defense of Marriage Act, I warned there would be no end to it.

Our former colleague, Bob Barr, whose legislation Congress was purporting to protect on that occasion said, no thanks. He wrote, "This bill will needlessly set a dangerous precedent for future Congresses that might want to protect unconstitutional legislation from judicial review. During my time in Congress I saw many bills introduced that would violate the Takings Clause, the second amendment, the tenth amendment and many other constitutional protections. The fundamental protections afforded by the Constitution would be rendered meaningless if others followed the path set by H.R. 3313."

Bob Barr was right. And it would make the Constitution like the Soviet Constitution which had plenty of guarantee of rights, but they were not worth the paper they were written on because there was no independent court system to enforce them.

Today it is the turn of the religious minorities. Once upon a time a student could be expelled from school for refusing to recite the Pledge of Allegiance. In 1943 in the middle of World War II, the Supreme Court in the Barnette case held that the children had a first amendment right not to be compelled to swear an oath against their beliefs.

Justice Jackson wrote, "If there is any fixed star in our constitutional constellation, is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion, or force citizens to confess by word or act, their faith therein."

This obviously includes a pledge of faith in God.

The Jehovah Witnesses in the Barnette case felt that it was idolatry to be forced to pledge that even they believe in God.

This legislation would of course strip those families of the right to go to court to defend their religious liberty. Schools could once again expel children for acting according to the dictates of their religious faith, and Congress will have slammed the courthouse door in their faces.

This bill is part of a more general attack on our system of government. You learned about this in school. We have an independent judiciary whose job it is to interpret the Constitution, even if their decisions are really unpopular. And what this bill does, what these bills do is to slam the courthouse door in the face of people who believe that their Constitutional rights are violated so they cannot go to court because we tell them they cannot.

As unfortunate as I find the current Supreme Court on so many issues, I understand that we cannot maintain our system of government, we cannot enforce our Bill of Rights if the independent judiciary cannot enforce those rights even if the majority does not like it.

As to the complaints about unelected judges, remember your high school civics. We have an independent judiciary precisely to rule against the wishes of a trenchant majority, especially when it comes to the rights of unpopular minorities. That is our system of government and it is a good one.

As Alexander Hamilton said in Federalist 78, "The complete independence of the courts of justice is peculiarly essential in a limited Constitution. By a limited Constitution, I understand one which contains certain specified exceptions to the legislative authority. Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all reservations of particular rights or privileges would amount to nothing."

And here we are saying that when someone believes that an Act of Congress violates their rights, they may not go to court to try to see if those rights are supreme if the legislation is unconstitutional.

We are playing with fire here. We are playing with the national unity of this country. The gentleman from Wisconsin (Mr. SENSENBRENNER) says the 50 State courts would reserve to themselves the right to declare Federal law unconstitutional. So what would be constitutional in one State would be unconstitutional in another. We would be back to the Articles of Confederation. We would be undoing 200 years of American history because we would have 50 different interpretations of the Constitution and of our State laws.

The gentleman from Wisconsin (Mr. SENSENBRENNER) says that the Judiciary Act of 1789 restricted the jurisdiction of the courts. That is true. But he fails to note that the Judiciary Act of 1789 predates the Bill of Rights, the first ten amendments to the Constitution. The fifth amendment says that no person may be deprived of life, liberty or property without due process of law.

□ 1145

All claims, all claims essentially come down to a claim that someone is being deprived of life or liberty or property without due process of law; and if you cannot go to a court to adjudicate that claim by definition, you are being denied due process of law. So this is clearly unconstitutional.

I ask my colleagues, is demagoging a case that they have won in court so far really worth destroying the enforceability of the Bill of Rights? I urge my conservative colleagues to shape up and act like conservatives for once. We live in a free society that protects unpopular minorities even if the majority hates that minority. Feel free to hate if my colleagues must, but please leave our Constitution, leave our liberties, leave our civil liberties that define this Nation and makes it what it is, leave it alone.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana (Mr. PENCE), a member of the Committee on the Judiciary.

Mr. PENCE. Mr. Chairman, I rise in strong support of the Pledge Protection Act with a particular sense of gratitude to the gentleman from Wisconsin (Chairman SENSENBRENNER), as well as the capable gentleman from Missouri (Mr. AKIN), who authored the legislation today.

The Pledge of Allegiance which we perform every day on the floor of this Congress reads: "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation under God." Two words in the pledge "under God" help in a very real way, Mr. Chairman, to define our national heritage as the beneficiaries of a Constitution that, as the gentleman from Wisconsin (Chairman SENSENBRENNER) said, was sent to the States for ratification "in the Year of our Lord" 1787.

Our Nation was established by a generation that saw itself in so many ways and by overwhelming numbers guided by a providential God who was not indifferent to the establishment of a free Nation on this continent, a Nation that would be, in John Winthrop's terms, a shining city on a hill, a Nation that both went to war and continues to fire the imagination of the world, as we heard today in the eloquent words of Iraqi Prime Minister Allawi.

Even in our own Declaration of Independence there is clear reference to the belief of our Founders that we are endowed by our creator with certain unalienable rights.

In November of 1863, President Abraham Lincoln traveled not far from here, delivering the Gettysburg Address, the dedication of a cemetery at the site of that extraordinary battle, saying that "we here highly resolve that these dead shall not have died in vain, that this Nation, under God, shall have a new birth of freedom."

What Lincoln resolved that day under God, unfortunately, today, the Federal courts have put in jeopardy in one case after another, most notably the Newdow case. There have been Federal courts that have either struck the term "under God" from our Pledge or, in the case of the Supreme Court of the United States, simply deferred the decision altogether.

This, despite the fact that the American people overwhelmingly, in survey after survey, and more importantly, through votes here on the floor of the House of Representatives, have expressed their will on this matter in deafening terms.

The Congress itself, as the gentleman from Wisconsin (Chairman SENSENBRENNER) referred, has voted not once but twice in recent days in overwhelming numbers, more than 400 of the 435 Members of Congress, reaffirming the inclusion of the words "under God" in our Pledge of Allegiance.

Today, I expect in the course of this debate we will continue to hear a great deal about constitutional theory, which as a member of the Committee on the Judiciary, as a man trained in the law, I have great and passionate interest in; but those who will come to this floor today and suggest that the Congress does not in effect possess the ability to limit the jurisdiction of the Federal courts do so in a way that virtually ignores the express language of the Constitution itself, which gives to the Congress the establishment of the jurisdiction of the courts.

Even the dean of the Stanford Law School wrote recently, "the Constitution leaves room for countless political responses to an overly assertive court. Congress can strip it of its jurisdiction. The means are available, and they have been used to great effect when necessary, used, we should note, not by disreputable or failed leaders, but by some of the most admired Presidents and Congresses in American history."

Far from violating separation of powers, legislation that leaves State courts the jurisdiction on issues of great and deep meaning to the American people is in keeping with our best tradition.

Let us say the American people will be heard, not lifetime-appointed judges, on the recognition that this is one Nation under God.

Mr. NADLER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I appreciate the gentleman yielding me time.

If this debate were really about whether "under God" was going to be in the Constitution, and that was all it was about, I would be right there. I have been reciting the Pledge of Allegiance ever since, even before I knew what it meant, and "under God" has been in it. I have had no real objection to it, even when I did not understand what it meant.

But this debate is about much, much more than that. It is really about whether there is going to be a constitutional framework in which we operate and who is going to decide ultimately what is constitutional, the United States Supreme Court and the Federal courts of our Nation or the arrogance of my colleagues here in this body. There are actually some people here who believe that they should be the ultimate arbiter of what is constitutional; and if they do not get the result that they want in any given case, they want to take jurisdiction away from whoever gave them a different result.

So that is what this is about, how do we protect a constitutional framework which historically has had the legislative body doing its job and the courts determining what is constitutional and ultimately the United States Supreme Court determining what is constitutional.

Now, the fear that they might get a result that is different than the one they want has these people here in our body saying to us that we should give that ultimate authority not to the United States Supreme Court but to State courts. So this really is not even about whether "under God" is going to be in the pledge or not, even at that level, because if a State court determines that "under God" is unconstitutional, then what are we going to do in that case?

In North Carolina, it might be constitutional. In California it may be unconstitutional. We may have 50 different standards about when we can recite "under God" in the Pledge of Allegiance under the standards that this bill would allow us to set up.

This is not about whether we retain "under God" in the Pledge of Allegiance. The court has already decided that. This is a great vehicle for the majority to be able to come out here and tell us they believe in God. I believe in God, too, but there are some citizens in this country who do not necessarily believe in a god or who believe that having to profess it publicly is idolatry. We have an obligation to protect their rights, also. They are citizens, also, in this country.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. FORBES), a member of the Committee on the Judiciary.

Mr. FORBES. Mr. Chairman, right above the Chair's head today are four words, "In God We Trust"; and time after time in this country, we have seen in times of storm or war or illness the American people have embraced those words and believed in them very strongly.

That is why 2 years ago, shortly after the release of the Ninth Circuit Court's decision that "under God" was to be struck from the Pledge of Allegiance, Newsweek published a poll finding 87 percent of Americans supported the inclusion of the phrase "under God" in the pledge.

Nevertheless, the few, but articulate, supporters of the court, waving U.S. flags and calling themselves one of the last groups in America facing unrestrained bigotry, marched on the Mall to protest what they said was increasing infringement of religion in government affairs.

Staging their first Godless Americans March on Washington, the demonstrators cheered and waved signs that expressed disapproval of religion. Their signs read: "God Is a Fairy Tale," "Keep Your Gods Out of Our Schools," and "Al Qaeda is a Faith-Based Initiative." According to the New York Times, Dr. Michael Newdow touted that he planned to "ferret out all insidious uses of religion in daily life. Why should I be made to feel like an outsider?" he asked.

Mr. Chairman, Dr. Newdow and the two judges in California were right on one thing: atheists are outsiders in America. But they are not outsiders because, as they claim, the beliefs of others are being forced upon them, but instead, because they, unlike the vast majority of Americans, are attempting to create an environment where their beliefs are paramount over the beliefs of others.

Like every other American, atheists have the right not to recite the Pledge, not to attend church, and not to engage in any other practice of which they disapprove. They do not, however, have the right to impose their atheism on the vast majority of Americans whose beliefs now and historically have defined America as a religious Nation. Indeed, the concept of the separation of church and State was not born to establish freedom from religion, but to establish freedom for religion.

Repeatedly and overwhelmingly, our legislative bodies, our civic leaders, our historical heritage and, most importantly, the people of the United States of America have affirmed the two words "under God" and their entirely proper presence in our system of government. This week, over 2 years after two judges in California imposed their will upon a Nation, I urge my colleagues to reclaim this court's abuse of power and, in passing the Pledge Protection Act, reaffirm that we are, indeed, one Nation under God, indivisible, with liberty and justice for all.

Mr. NADLER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK OF Massachusetts. Mr. Chairman, even by the standards that have sadly governed this House recently, the bill before us is bizarre. It makes a big hole in the Constitution for the first time in American history, if it were to pass and become law, to counteract a decision which has already been overruled. We should be very clear. There is no pending case even at the Federal level that deals with this.

But what I have heard people say is, well, do not worry, because there is an individual liberty here. The Supreme Court of the United States, after all, did say in 1943 in the Barnette case that no child could be forced to say the Pledge of Allegiance if it violated his own family's religious views. The Jehovah's Witnesses said saying the Pledge of Allegiance violated their views. The Supreme Court said they did not have to say it.

I have heard people say, well, do not worry because children will be protected if they find this objectionable by the Supreme Court decision. Now the bizarre aspect is that this is a bill that would prevent a Supreme Court decision, the very thing on which they are relying to justify it, but it is also the case that under this bill, if a State court should decide to disregard that Supreme Court opinion and say that saying the pledge was mandatory, even for Jehovah's Witnesses or others who might have a principled religious objection to it, that that could be overruled.

The other thing that ought to be noted is this. Once my colleagues start down this road, this is the second time the majority has done this, telling us that the Supreme Court cannot decide, they are going to create a precedent, if this ever succeeds, that will be followed in other issues.

The business community ought to follow this very closely because it will now become demanded of Members of Congress that when they pass a law they show that they really mean it by taking away Supreme Court jurisdiction. So the important desire of the business community for Federal uniformity, all of the efforts they have been making recently to try and get national laws that govern commercial transactions, will be at risk; and we will see laws in area after area, if this precedent is followed, which will mean that there is no uniform national interpretation of them.

□ 1200

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT), chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him for his leadership on this. I also want to thank and recognize the leadership of the gentleman from Missouri (Mr. AKIN) for his determination in protecting the Pledge of Allegiance in this country. I wish to also express my support, as chairman of the Subcommittee on the Constitution, for H.R. 2028, the Pledge Protection Act.

When the issue of limiting Federal Court jurisdiction was raised during the discussions of the Marriage Protection Act, the Subcommittee on the Constitution held a hearing examining Congress' authority to do this. During the hearing, testimony was heard by a number of constitutional experts. While there was mixed opinion on whether Congress should exercise its authority, there was a consensus that Congress did in fact have the authority under Article III of the Constitution to determine what issues were heard by the Supreme Court under its appellate jurisdiction and by the lower Federal courts.

This point was highlighted most recently by the Dean of Stanford Law School who wrote, "The Constitution leaves room for countless political responses to an overly assertive court. Congress can strip it of jurisdiction. The means are available, and they have been used to great effect when necessary; used, we should note, not by disreputable or failed leaders, but by some of the most admired presidents and Congresses in American history."

As we continue the debate today, I would urge each Member of Congress to recite to himself or herself the Pledge of Allegiance that we are talking about and ask yourself what it means to you. It deserves protection. It defines not only our national heritage, but unites our society each time it is recited. We cannot let rogue Federal judges redefine our country's history and the basis from which our Founding Fathers found guidance and strength when constructing our great country.

Mr. Chairman, I urge my colleagues to support H.R. 2028.

Mr. NADLER. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I come from a State with a long tradition of supporting religious freedom. The Virginia Statute For Religious Freedom, written by Thomas Jefferson preceded the first amendment to the Constitution. This bill does not protect religious freedom, and it also undermines fundamental rights of American citizens.

Mr. Chairman, most experts believe that the bill is meaningless, because whether or not the recitation of the Pledge is constitutional or not constitutional is a matter for the courts to decide. And if it is unconstitutional, that ruling cannot be changed by a statute enacted by this body.

Now, I happen to believe that the present Pledge of Allegiance is constitutional, and I agree with the dissent in the Newdow versus U.S. Congress case, the recent Ninth Circuit case involving the Pledge of Allegiance. In my judgment, the dissent accurately surmised, and I quote "Legal world abstractions and ruminations aside, when all is said and done the danger that 'under God' in our Pledge of Allegiance will tend to bring about a theocracy or suppress someone's belief is so minuscule as to be de minimis. The danger that phrase represents to our first amendment's freedoms is picayune at best."

Now, to the extent that "under God" is worthy of this excessive attention, every hearing we have and every bill we pass on this issue only serves to chip away at the de minimis argument and we have to deal with the issue as it is explained in the Christian Century, a non-denominational Protestant weekly, which stated, and I quote, "To the extent 'under God' has real religious meaning, then it is unconstitutional. The phrase is constitutional to the extent that it is religiously innocuous. Given that choice, I side with the Ninth Circuit, the government should not link religion and patriotism." Now, that is an editorial position expressed by the Christian Century.

The simple fact is we need to protect the Constitution and the rights of the court to decide whether the Pledge is constitutional or not, but the majority will not do that. H.R. 2028 is a court-stripping bill, plain and simple.

We had the same debate on the floor just 2 months ago when we debated the Marriage Protection Act of 2003. Mr. Chairman, I ask that that debate be incorporated by reference here just to save time. Because at that time many of us expressed concern about the detrimental precedent that we would be setting by passing a court-stripping bill. Today, our concerns have been validated.

This bill would strip the courts of their ability to hear cases that are clearly within Federal jurisdiction because they address fundamental constitutional rights and individual liberties guaranteed to us in the bill of rights. Furthermore, this bill is not limited to cases addressing the words "under God." The recitation of the Pledge may, in some circumstances, implicate the right to free speech, the right of free association, the right to the free exercise of religion, and the establishment clause protections, all guaranteed under the first amendment to the Constitution.

We need Federal courts to protect our rights, and this bill prohibits the courts from doing just that. This bill violates over 200 years of constitutional principle established in Marbury versus Madison that the Supreme Court can rule on the constitutionality of legislative actions.

Now, if this kind of court-stripping legislation had been passed in 1954, Congress could have prohibited the Supreme Court from hearing cases involving segregation in public schools and the courts could not have ruled in Brown v. Board of Education. Or if it had passed such language in the 1960s, we might not have had the decision issued by what some are now calling rogue, unelected, lifetime-appointed, activist judges when they ruled to overrule the will of the people of Virginia and require Virginia to recognize marriages between blacks and whites. That could not have happened unless those so-called rogue, unelected, lifetime-appointed, activist judges made the decision they made.

The truth is we rely on Federal courts to determine and enforce our civil rights. In our system of democracy, which we are touting around the world, courts are where citizens can vindicate their rights. Our government works on a system of checks and balances. That is why many organizations, legal associations, civil rights groups, and religious organizations, have written to oppose us overturning 200 years of judicial precedence.

In closing, Mr. Chairman, we should, instead, adhere to the wisdom of the Supreme Court in the Barnette case, which said "The very purpose of the bill of rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials, and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections."

Mr. Chairman, I submit for the RECORD letters from organizations in opposition to this bill.

THE CONSTITUTION PROJECT,
Washington, DC, September 20, 2004.

House of Representatives, U.S. Capitol, Washington, DC.

DEAR MEMBERS OF HOUSE OF REPRESENTATIVES: I write on behalf of the Constitution Project to urge you to oppose H.R. 2028, the "Pledge Protection Act of 2003."

The Constitution Project, based on Georgetown University's Public Policy Institute, specializes in creating bipartisan consensus on a variety of legal and governance issues, and promoting that consensus to policymakers, opinion leaders, the media, and the public. We have initiatives on the death penalty, liberty and national security, war powers, and judicial independence (our Courts Initiative), among others. Each of our initiatives is directed by a bipartisan committee of prominent and influential businesspeople, scholars, and former public officials.

Our Courts Initiative works to promote public education on the importance of our courts as protectors of Americans' essential constitutional freedoms. Its co-chairs are the Honorable Mickey Edwards, John Quincy Adams Lecturer at the John F. Kennedy School of Government at Harvard University and former chair of the House of Representatives Republican Policy Committee (R-OK), and the Honorable Lloyd Cutler, a prominent Washington lawyer and White House counsel to Presidents Carter and Clinton.

In 2000, the Courts Initiative created a bipartisan Task Force to examine and identify basic principles as to when the legislature acts unconstitutionally in setting the powers and jurisdiction of the judiciary. The Task Force was unanimous in its conclusion that some legislative acts restricting courts' powers and jurisdiction are unconstitutional. The Task Force also concluded that some legislative actions, even if constitutional, are undesirable. (The Task Force's findings and recommendations are published in Uncertain Justice: Politics and America's Courts 2000.)

Our Task Force arrived at seven bipartisan consensus recommendations, including the following, which are relevant to the legislation at hand:

1. Congress and state legislatures should heed constitutional limits when considering proposals to restrict the powers and jurisdiction of the courts.

2. Legislatures should refrain from restricting court jurisdiction in an effort to control substantive judicial decisions in a manner that violates separation of powers, due process, or other constitutional principles.

3. Legislatures should not attempt to control substantive judicial decisions by enacting legislation that restricts court jurisdiction over particular types of cases.

4. Legislatures should refrain from restricting access to the courts and should take necessary affirmative steps to ensure adequate access to the courts for all Americans.

Specifically, our Task Force was unanimous in its view that there are some constitutional limits on the authority the legislature to restrict court jurisdiction in an effort to control substantive judicial decisions. In particular, separation of powers, due process, and other constitutional provisions limit such authority. Task Force members had differing views about the scope and source of the constitutional limit on the legislature's power in this area. For instance, some believed that restrictions on jurisdiction become unconstitutional when they undermine the essential role of the Supreme Court. Others relied on a reading of the Vesting Clause of Article III, which places judicial power—the power to decide cases—in the hands of the courts alone. Nonetheless, all believed that constitutional limitations exist.

Apart from the constitutionality of laws restricting federal court jurisdiction, the Task Force was also unanimous in its view that legislative acts stripping courts of jurisdiction to hear particular types of cases in an effort to control substantive judicial decisions are undesirable and inappropriate in a democratic system with co-equal branches of government. Legislative restriction of jurisdiction in response to particular substantive decisions unduly politicizes the judicial process, and attempts by legislatures to affect substantive outcomes by curtailing judicial jurisdiction are inappropriate, even if believed constitutional. (Indeed, it was striking that members reflecting a broad ideological range—from, for example, Leonard Leo of the Federalist Society to Steven Shapiro of the American Civil Liberties Union—agreed that restrictions on jurisdiction to achieve substantive changes in the law are unwise and undesirable policy.)

The Task Force was also unanimous that legislation that restricts access to the courts and precludes individuals from using a judicial forum to enforce rights is undesirable and unconstitutional. Rights are meaningless without a forum in which they can be vindicated. Therefore, access to the courts at both the federal and state levels is essential in order for rights to have effect. Legislatures have the duty to ensure meaningful access to the courts and legislative actions that preclude this are undesirable and unconstitutional.

Our Task Force reached these conclusions and recommendations rightly. From its beginning, our system of constitutional democracy has depended on the independence of the judiciary. Judges are able to protect citizens' basic rights and decide cases fairly only if free to make decisions according to the law, without regard to political or public pressure. Similarly, the judiciary can maintain the checks and balances essential to preserving a healthy separation of powers only if able to resist overreaching by the political branches. Indeed, the cornerstone of American liberty is the power of the courts to protect individual rights from momentary excesses of political and popular majorities.

In recent years, as part of the polarization and posturing that increasingly characterize our national and state politics, threats to judicial independence have become more commonplace. Attacks on judges for unpopular decisions, even those made in good faith, have become more rampant. Politicians are responding to unpopular decisions and litigants by attempting to restrict courts' powers in certain kinds of cases. However, Americans have much to lose if we do not exercise self-restraint and instead choose short-term political gain at the expense of judicial independence. The independence of our judiciary is, as Chief Justice Rehnquist described, "one of the crown jewels of our system of government."

In conclusion, while Article III of our Constitution gives Congress the power to regulate federal court jurisdiction, this power is not unlimited, and Congress should not—and in some instances may not—use its power to restrict federal court jurisdiction in ways that infringe upon separation of powers, violate individual rights and equal protection, or offend federalism. H.R. 2028 is poised to do all three by stripping federal courts—including even the U.S. Supreme Court—of the authority to hear cases involving the Pledge of Allegiance, even when such cases involve First Amendment issues of free speech and freedom of religion. It sets the dangerous precedent of transferring questions of federal and constitutional law exclusively to state courts and preventing American citizens from seeking protection of fundamental rights in federal court, and it threatens the critical and unique role that the federal courts play in constitutional balance of powers, interpreting and enforcing constitutional law, and providing legal certainty.

For these reasons, as well as those detailed our Task Force's findings and recommendations, the Constitution Project urges you to oppose H.R. 2028. Thank you for your consideration.

Sincerely,

KATHRYN A. MONROE,
Director, Courts Initiative.

AMERICAN HUMANIST ASSOCIATION,
September 20, 2004.

Oppose H.R. 2028, the "Pledge Protection Act 2003"

DEAR REPRESENTATIVE, The American Humanist Association (AHA) stands in opposition to H.R. 2080, the "Pledge Protection Act of 2003," which would prevent all federal courts from hearing cases challenging or interpreting rights granted by the First Amendment as they relate to Pledge of Allegiance cases. We urge you to vote against this bill, which would compromise long held American legal principles of due process and separation of powers by shutting the federal courthouse doors to large numbers of Americans.

If passed, the Pledge Protection Act would set a dangerous precedent by stripping federal courts of judicial independence and paving the way to preventing federal judges from ruling on other controversial social issues from abortion and gun control to school vouchers and school prayer. As we warned with the Marriage Protection Act (H.R. 3313), attempts by Congress to strip the judiciary of their power to review the legislation are inequitable and will open the door to more of the same. If the Pledge Protection Act passes it will fuel the fires for similar bills.

Denying access to the federal court system is unacceptable to religious and Humanist minorities who have a due process right to have their cases heard.

The Pledge Protection Act presents a serious separation of powers concern. Federal courts are uniquely prepared to interpret federal constitutional concerns and to serve as a check on the constitutionality of actions of Congress and the Executive branch. That's why constitutional concerns are raised when an attempt is made to block the courts from reviewing and interpreting the constitutionality of a single act.

Congress should not disrupt the balance of power intended by our Founding Fathers. Restricting the federal courts' ability to protect First Amendment rights severely undermines the American judicial system.

Humanists are particularly concerned about this bill because it would violate judicial independence in order to undermine American citizens, in this case those of a minority faith or no religion, the right to access federal courts to challenge a piece of legislation.

In the past Congress has rejected attempts to withdraw controversial issues from the scope of federal courts and the AHA encourages you to do so again at this important juncture. We urge you to defend due process and separation of powers and vote no on the Pledge Protection Act.

Sincerely,

MEL LIPMAN,
AHA President.

UNITARIAN UNIVERSALIST ASSOCIATION OF CONGREGATIONS, WASHINGTON OFFICE FOR ADVOCACY,
WASHINGTON, DC, SEPTEMBER 20, 2004.

DEAR REPRESENTATIVE: On behalf of more than 1,050 congregations that make up the Unitarian Universalist Association, I urge you to oppose H.R. 2028, the "Pledge Protection Act of 2004." As a tradition with a deep commitment to religious pluralism, we believe that this legislation would seriously undermine the First Amendment protections of the Constitution, and particularly the rights of religious minorities, by stripping federal courts, including the Supreme Court, of jurisdiction over cases concerning the Pledge of Allegiance.

In resolutions dating back to 1961, the highest policy-making body of the Unitarian Universalist Association has repeatedly affirmed the right of all Americans to religious freedom, including the right of religious minorities in public schools to not recite the Pledge of Allegiance. The Supreme Court has agreed in the case of *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943) that the Pledge cannot be mandatory for public school students.

Despite the *Barnette* ruling, we know from experience that the practice of mandatory recitation continues. By eliminating the mechanism for religious minorities to seek relief from this practice through appeals to a federal court, H.R. 2028 would have the practical effect of all but eliminating the right itself. As a result, we believe that this legislation will seriously harm religious minorities and the constitutional free speech rights of countless parents and children, many of whom are members of Unitarian Universalist congregations and are involved in our religious education programs.

By undermining the power of federal courts to protect constitutional rights affirmed by the U.S. Supreme Court, we believe that H.R. 2028 would weaken the separation of powers in a way that we find deeply troubling.

The congregations of the Unitarian Universalist Association collectively affirm and promote the right of conscience and the use of the democratic process in society at large. We are committed to the ideals of the founders of this nation, including religious liberty and religious pluralism, as well as the balance of powers that protects such rights.

I urge you to preserve the rights of religious minorities, as well as the constitutional separation of powers, by opposing the "Pledge Protection Act of 2004."

In Faith,

ROBERT C. KEITHAN,
Director.

SEPTEMBER 20, 2004.

PROTECT SEPARATION OF POWERS AND RELIGIOUS MINORITIES' LONGSTANDING CONSTITUTIONAL RIGHTS; OPPOSE FINAL PASSAGE OF H.R. 2028

DEAR REPRESENTATIVE: We, the undersigned religious, civil rights, and civil liberties organizations, urge you to oppose H.R. 2028, the "Pledge Protection Act," misguided legislation that would strip all federal courts, including the Supreme Court, from hearing First Amendment challenges to the Pledge of Allegiance and from enforcing longstanding constitutional rights in federal court.

The signatories to this letter include organizations that supported the recent court challenge to the constitutionality of including "under God" in the Pledge of Allegiance, organizations that opposed that challenge, and organizations that took no position on the matter. We are united, however, in believing that H.R. 2028 threatens the separation of powers that is a fundamental aspect of our constitutional structure. Beyond this, while the legislation ostensibly responds to the controversy surrounding "under God" in the Pledge of Allegiance, this legislation sweeps far more broadly, with potentially severe constitutional implications for religious minorities who are adversely affected by government-mandated recitation of the Pledge.

First and foremost, we are opposed to H.R. 2028 because this legislation, by entirely stripping all federal courts, including the Supreme Court, of jurisdiction over a particular class of cases, threatens the separation of powers established by the Constitution, and undermines the unique function of the federal courts to interpret constitutional law. This legislation deprives the federal courts of the ability to hear cases involving religious and free speech rights of students, parents, and other individuals. The denial of a federal forum to plaintiffs to vindicate their constitutional rights would force plaintiffs out of federal courts, which are specifically suited for the vindication of federal interests, and into state courts, which may be hostile or unsympathetic to these federal claims, and which may lack expertise and independent safeguards provided to federal judges under Article III of the Constitution. It is in apparent recognition of this concern that no federal bill withdrawing federal jurisdiction in cases involving fundamental constitutional rights has become law since the Reconstruction period.

In addition, as drafted, the bill would deny access to the federal courts in cases to enforce existing constitutional rights for religious minorities. Over sixty years ago, the Supreme Court decided the case of *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943). In *Barnette*, the Supreme Court struck down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance. Under the West Virginia law, religious minorities faced expulsion from school and could be subject to prosecution and fined, if convicted of violating the statute's provisions. In striking down that statute, the Court reasoned: "To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds . . . If there is any fixed star in our constitutional constellation, it is that no official, high, or petty can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion." 319 U.S. at 639–40.

Moreover, just recently, a panel of the U.S. Court of Appeals for the Third Circuit held that a Pennsylvania law mandating recitation of the Pledge, even when it provided a religious exception, violated the Constitution because it violated the free speech of the students. *Circle School* v. *Pappert*, No. 03-3285 (3rd Cir. Aug. 19, 2004). In *Pappert*, the court found that: "It may be useful to note our belief that most citizens of the United States willingly recite the Pledge of Allegiance and proudly sing the national anthem. But the rights embodied in the Constitution, particularly the First Amendment, protect the minority—those persons who march to their own drummers. It is they who need the protection afforded by the Constitution and it is the responsibility of federal judges to ensure that protection." Pappert, Slip Op. at 14.

H.R. 2028 would undermine the longstanding constitutional rights of religious minorities to seek redress in the federal courts in cases involving mandatory recitation of the Pledge. As a result, this legislation will seriously harm religious minorities and the constitutional free speech rights of countless individuals.

H.R. 2028 also raises serious legal concerns about the violation of the principles of separation of powers, equal protection and due process. The bill undermines public confidence in the federal courts by expressing outright hostility toward them, threatens the legitimacy of future congressional action by removing the federal courts as a neutral arbiter, and rejects the unifying function of the federal judiciary by denying federal courts the opportunity to interpret the law. We strongly believe that this legislation as drafted will have broad, negative implications on the ability of individuals to seek enforcement of previously constitutionally protected rights concerning mandatory recitation of the Pledge. We therefore urge, in the strongest terms, your rejection of this misguided and unwise legislation.

Sincerely,

American Civil Liberties Union
American Federation of State, County and Municipal Employees (AFL–CIO)
American Humanist Association

American Jewish Committee
Americans for Democratic Action
Americans for Religious Liberty
Americans United for Separation of Church and State
Anti-Defamation League
Baptist Joint Committee
Central Conference of American Rabbis
Committee for Judicial Independence
General Board of Church and Society of the United Methodist Church
Human Rights Campaign
Jewish Reconstructionist Federation
Leadership Conference on Civil Rights
Legal Momentum (the new name of NOW Legal Defense and Education Fund)
National Council of Jewish Women
National Senior Citizen Law Center
Northwest Religious Liberty Association
People for the American Way
Sikh Mediawatch and Resource Task Force (SMART)
The Interfaith Alliance
U.S. Action
Union for Reform Judaism
Unitarian Universalist Association of Congregations

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Chairman, I thank the very distinguished chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for yielding me this time, and for his work on this legislation and his work on so many other important bills before this body.

I also want to commend the gentleman from Missouri (Mr. AKIN) for his outstanding leadership on this issue.

Mr. Chairman, in a 1952 Supreme Court case, Zorach versus Clawson, in an opinion written, I think, by Justice Douglas, it said, there is "No constitutional requirement which makes it necessary for government to be hostile to religion and throw its weight against efforts to widen the effective scope of religious influence."

Similar to that, a few years ago the great columnist for the Washington Post, William Raspberry, who I am sure most people would describe as being fairly liberal on most issues, when he was writing about an issue similar to this, he said "Is it not just possible that anti-religious bias, masquerading as religious neutrality, has cost this Nation far more than we have been willing to acknowledge?"

Mr. Chairman, I spent 7½ years as a circuit court judge or State trial judge in the State of Tennessee. For years, I have heard and read Federal judges complaining about how Congress is putting too much into the Federal courts, expanding their jurisdiction too much, and how overworked they are, and how there should be more limits on the jurisdiction of these courts and that we should stop taking so many cases away from State courts. This is a very minimal limitation on the jurisdiction of the Federal courts. Very minimal. A very reasonable limitation.

As the gentleman from Indiana (Mr. PENCE) pointed out a few moments ago, there is almost no question that it is within the scope of congressional jurisdiction, or Congressional power to limit the jurisdiction of the Federal courts.

Alexander Hamilton, writing many years ago in Federalist paper number 81 said, "To avoid all inconveniences, it will be safest to declare generally that the Supreme Court shall possess appellate jurisdiction that shall be subject to such exceptions and regulations as the national legislature may prescribe. This will enable the government to modify it in such a manner as will best answer the ends of public justice and security."

And Thomas Jefferson, in a letter written in September of 1820, said this, responding to the argument that Federal judges should be the final interpreters of the Constitution. Thomas Jefferson wrote this: "You seem to consider the Federal judges as the ultimate arbiters of all constitutional questions, a very dangerous doctrine indeed and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men and not more so. They have with others the same passions for party, for power, and the privilege of their corps. Their power is the more dangerous, as they are in office for life and not responsible as the other functionaries are to the elective control. The Constitution has erected no such single tribunal."

Mr. Chairman, I am sorry my time has run out. I urge support for this very reasonable, very minimal limitation on the Federal Courts' jurisdiction.

Mr. NADLER. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. CONYERS), the very distinguished ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding me this time.

My colleagues, we have before us a measure that is unconstitutional, that undermines the Federal Judiciary, and is totally unnecessary. The bill, of course, violates Marbury versus Madison, which has stated and been the law of the land since 1803. Never in these 201 years has any Congress ever brought a measure like this to the floor of the House.

In Marbury, Justice Harlan said, "it is emphatically the role of the court to determine what the law is." And so we violate the very basic fundamental part of the role of the Judiciary in the Constitution. It violates the separation of powers principle because it denies the Supreme Court its historical role of final authority on the constitutionality of our laws.

Who wants 50 different decisions coming from the several courts of the States? It violates freedom of speech and religion. And we have Supreme Court cases, West Virginia State Board of Education versus Barnett, and just this year the Third Circuit held in Pennsylvania that the mandated recitation of the Pledge of Allegiance was unconstitutional.

Now, I know what you are trying to accomplish by this gross distortion of constitutional history, but ultimately someone has to decide, and we have been deciding for 201 years. To make sure it is constitutional, some minds reason, we should strip the jurisdiction of the subject from the court. What is next: guns, freedom of choice, terrorism?

We cannot proceed as a democratic nation without very emphatically joining with Senator Barry Goldwater, and Robert Bork, and our former Judiciary colleague, Bob Barr.

I rise in strong opposition to H.R. 2028, the so-called "Pledge Protection Act". This bill is not only unconstitutional, it undermines our federal judiciary and is totally unnecessary.

H.R. 2028 is Unconstitutional: This bill violates just about every principle in our constitution and bill of rights. First, it violates separation of powers principles because it denies the Supreme Court its historical role as the final authority on the constitutionality of our laws. This is a doctrine that was established more than 200 years ago in the landmark Marbury v. Madison decision, and which has served as the cornerstone of our system of checks and balances.

Second, it violates Freedom of Speech and Religion. This is because it makes it far more difficult for persons who feel they are being coerced into reciting the pledge to have access to the courts. These cases are not hypothetical. Sixty years ago, the Supreme Court issued the West Virginia State Board of Education v. Barnett decision, which held that it was unlawful to expel religious minorities from school if they refused to recite the pledge of allegiance. Just this year the Third Circuit held a Pennsylvania law which mandated recitation of the Pledge of Allegiance was unconstitutional.

Third, it violates the equal protection clause. This is because it imposes an undue burden on a specific class of individuals—religious minorities—without a rational basis, other than fear of independent judges. Just read the 1996 Roemer decision, which held it unlawful to pass a law excluding gay and lesbians from legal protections.

H.R 2028 Undermines the Federal Judiciary: If H.R. 2028 is enacted, it would constitute the first and only time Congress has ever enacted legislation totally eliminating any federal court from considering the constitutionality of federal legislation—in this case, the Pledge of Allegiance.

Adoption of the bill will result in the balkanization of our judiciary and would eliminate any possibility of operating under a single uniform Supreme Court. This is inconsistent with the very words of the Pledge of Allegiance, namely that we are "one Nation under God, indivisible, with liberty and justice for all." Dividing our nation into 50 different legal regimes, where the Pledge is permitted in some jurisdictions and not in others, is the very antithesis of this sacred principle.

It is no wonder that principled conservatives like former Senator Barry Goldwater found court stripping legislation to be so repugnant. When court stripping legislation was proposed in the 1970's concerning school prayer, abortion, and busing, Senator Goldwater opposed them, warning that the "frontal assault on the independence of the Federal courts is a dangerous blow to the foundations of a free society."

Robert Bork, a former Yale Law professor and Reagan appointee for the D.C. Circuit Court of Appeals, also is strongly opposed to court-stripping measures, arguing, "[y]ou'd have 50 different constitutions running around out there, and I'm not sure even the conservatives would like the results."

Our former colleague Bob Barr has written, the principal problem with court stripping bills is "that it sets a harmful precedent for the future. Our healthy democracy depends on having three separate and independent branches of government . . . I am concerned about having a Congress or President unchecked by the independent judiciary established by the Constitution."

If we allow H.R. 2028 to pass into law, it truly could be open season on our precious rights and liberties. This was our prediction when the Majority was contemplating the Marriage Protection Act, and here we are again. Today I ask, where will this all end? Why in the world would we exempt these laws from federal judicial review and not laws concerning terrorism, or child pornography?

H.R. 2028 is unnecessary: What is most amazing to me is that we are taking up this bill at a time when the Supreme Court—which is dominated by Republican appointees—has not issued a single opinion in any way undermining the Pledge of Allegiance.

Why do we have to take up this bill now when the death toll of our men and women fighting for our right to be free from terror has reached record limits and continues to rise every single day. A recent report from the Center for American Progress shows an alarming number of suicides this year among U.S. troops serving in Iraq. Yet, at a time when our troops are working hard to answer the Nation's call, their own needs remain unmet—put at the bottom of the list of priorities.

Conclusion: Just as I opposed the ill-considered Marriage Protection Act two months ago, I must oppose this court stripping bill. These efforts to deny our citizens access to the federal courts constitute nothing less than a modern day version of "court packing." Just as President Roosevelt's efforts to control the outcome of Supreme Court decisions by packing it with loyalists was rejected by Congress in the 1930's, thereby preserving the independence of the federal judiciary, so too must this modern day effort to show the courts "who is boss" fail as well.

Mr. Chairman, I insert for the RECORD letters from organizations opposing this bill:

SEPTEMBER 20, 2004.

Oppose the "Pledge Protection Act," H.R. 2028

U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: We, the undersigned organizations dedicated to protecting women's reproductive health and rights, write to urge you to oppose H.R. 2028, the so-called "Pledge Protection Act." The implications of this bill go far beyond the context of the Pledge of Allegiance. This bill would set a dangerous precedent that would disrupt the traditional separation of powers and undermine the longstanding role of the federal judiciary in safeguarding constitutional rights, including the right of reproductive choice.

H.R. 2028 would deny all federal courts—including the U.S. Supreme Court—the jurisdiction to hear any cases concerning the interpretation or constitutionality of the Pledge of Allegiance. The bill would irreparably alter the relationship between the judicial branch and the two other branches of the federal government by depriving the federal courts of their traditional role as interpreters of the U.S. Constitution. Even more disturbing, unlike other previous versions of court-stripping legislation, H.R. 2028 deprives even the U.S. Supreme Court of jurisdiction, divesting the Court of its historical role as the final authority on the U.S. Constitution.

We are deeply concerned about legislation like H.R. 2028 that strips federal courts of their important role in safeguarding constitutional rights and freedoms. While the target today is a controversial view of the Pledge of Allegiance and the separation of church and state (a view that the Supreme Court has not endorsed), there can be no doubt that anti-choice lawmakers and their allies in Congress intend to use this strategy to achieve other policy goals that they are unable to accomplish without toppling the delicate constitutional balance of powers that has served this country for more than 200 years. Recently, House Majority Leader Tom DeLay told reporters that he plans to use "jurisdiction stripping" measures to achieve other social policy goals. While he claimed that the time is "not quite ripe" to apply this legislative tactic to the issue of abortion, in fact, anti-choice lawmakers have already made the attempt—in 2002, when considering the Federal Abortion Ban. Although that particular effort failed, passage of H.R. 2028 would set a dangerous precedent for future attempts to strip federal courts of jurisdiction to hear cases regarding reproductive choice. The federal courthouse doors should not be closed to women seeking to vindicate their right to obtain critical reproductive health services.

For these reasons, we urge you to oppose H.R. 2028.

Sincerely,
American Association of University Women
Center for Reproductive Rights
Choice USA
Feminist Majority
Legal Momentum (the new name of NOW Legal Defense and Education Fund)
NARAL Pro-Choice America
National Abortion Federation
National Council of Jewish Organizations
National Council of Women's Organizations
National Family Planning and Reproductive Health Association
Planned Parenthood Federation of America
Unitarian Universalist Association of Congregations.

HUMAN RIGHTS CAMPAIGN,
September 22, 2004.

DEAR REPRESENTATIVE: On behalf of the Human Rights Campaign, the nation's largest lesbian, gay, bisexual and transgender (LGBT) civil rights organization, and its 600,000 members nationwide, I write to express our opposition to H.R. 2028, the "Pledge Protection Act." The Human Rights Campaign (HRC) opposes this dangerous piece of legislation, as well as any other piece of legislation that would undermine the critical separation of powers that supports the elegant system of government that the framers of the United States Constitution envisioned.

H.R. 2028 would strip all federal courts, including the Supreme Court, of jurisdiction over cases involving the Pledge of Allegiance. This would preclude religious minorities from being able to have their "day in court", if their claims happen to involve the Pledge. This blocking of access to the courts is offensive to principles of both equal protection and due process. While HRC does not have an official position on the Pledge, we do have a position against hampering the ability of any branch of government to protect the rights of political minorities. The framers of the United States Constitution laid out a tripartite system of government and involved co-equal branches and a delicate system of checks and balances. This system necessarily includes the ability of the federal courts to invalidate any piece of congressional legislation that violates basic constitutional protections. H.R. 2028 does violence to this system of government and its associated guarantees of liberty and justice. Disturbingly, H.R. 2028, when seen in conjunction with H.R. 3313 (The Marriage Protection Act), appears to be a part of a larger attack on the independence of the Judiciary.

HRC urges you to vote "NO" on H.R. 2028 when it is considered by the floor of the House of Representatives. Quite simply, we believe that the very patriotism that inspired the Pledge of Allegiance would demand a defense of the ideals of equity and justice that inspired it. This patriotism is incompatible with the Pledge Protection Act.

Thank you for the opportunity to comment and for your consideration of our concerns. If you have any questions, please do not hesitate to contact Praveen Fernandes, on my staff, at 202.216.1559.

Sincerely,
WINNIE STACHELBERG,
Political Director.

LEADERSHIP CONFERENCE ON
CIVIL RIGHTS,
Washington, DC, September 21, 2004.

OPPOSE THE "PLEDGE PROTECTION ACT OF 2003" (H.R. 2028): IT THREATENS CONSTITUTIONAL PROTECTIONS AND CIVIL RIGHTS

DEAR REPRESENTATIVE: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil rights coalition representing people of color, women, children, older Americans, persons with disabilities, gays and lesbians, major religious organizations, labor unions, and civil and human rights groups, we urge you to vote against H.R. 2028, the "Pledge Protection Act of 2003." LCCR firmly believes that access to the courts must not be slammed shut—especially by laws that will block the federal courthouse doors. H.R. 2028, the so-called "Pledge Protection Act," will do exactly that—deny Constitutional rights to religious minorities by stripping the courts of jurisdiction.

LCCR strongly opposes any proposal that would eliminate access to the federal judiciary for any group of Americans. For over 50 years, the federal courts have played an indispensable role in the interpretation and enforcement of civil rights laws. When Congress has sought to prevent the courts from exercising this role, such efforts ultimately tend to do little more than enshrine discrimination in the law. Fortunately, in most instances, cooler heads prevail. In the 1970s, for example, some members of Congress unsuccessfully sought to strip the courts of jurisdiction to hear cases involving desegregation efforts such as busing—legislation that would have done nothing but preserve racial inequality. More recently, however, at the height of anti-immigrant sentiment in 1996, Congress succeeded in enacting immigration laws that stripped courts of the ability to hear appeals by legal immigrants who were challenging harsh new deportation laws—laws that were so extreme that the Supreme Court ultimately had no choice but to step in and scale them back.

The judicial branch has often been the sole protector of the rights of minority groups against the will of the popular majority. Any proposal to interfere with this role through "court-stripping" proposals would set a dangerous precedent that would harm all Americans. Allowing the courthouse doors to be closed to one minority group, as H.R. 2028 would do to religious minorities, is not only unjustified in itself, but will also set a dangerous precedent that will ultimately weaken the rights of any other groups that may be forced to turn to the courts for justice. Further, H.R. 2028 threatens the separation of powers established by the Constitution, and undermines the unique function of the federal courts to interpret Constitutional law. This legislation deprives the federal courts of the ability to hear cases involving religious and free speech rights of students, parents, and other individuals. The denial of a federal forum to plaintiffs to vindicate their Constitutional rights would force plaintiffs out of federal courts, which are specifically suited for the vindication of federal interests, and into state courts, which may be hostile or unsympathetic to these federal claims, and which may lack expertise and independent safeguards provided to federal judges under Article III of the Constitution. It is in apparent recognition of this concern that no federal bill withdrawing federal jurisdiction in cases involving fundamental Constitutional rights has become law since the Reconstruction period.

H.R. 2028 would deny access to the federal courts in cases to enforce existing constitutional rights for religious minorities. Over sixty years ago, the Supreme Court decided the case of *West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943). In Barnette*, the Supreme Court struck down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance. Under the West Virginia law, religious minorities faced expulsion from school, and could be subject to prosecution and fined, if convicted of violating the statute's provisions. In striking down that statute, the Court reasoned: "To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds . . . If there is any fixed star in our Constitutional constellation, it is that no official, high, or petty can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion." (319 U.S. at 639–40)

LCCR urges you to vote against H.R. 2028 because of the dangers to Constitutional protections and civil rights laws and enforcement posed by its enactment. If you have any questions, please feel free to contact Rob Randhava, LCCR policy analyst, at (202) 466–6058, or Nancy Zirkin, LCCR deputy director, at (202) 263–2880. Thank you for your consideration.

Sincerely,

WADE HENDERSON,
Executive Director,
NANCY ZIRKIN,
Deputy Director.

AMERICAN BAR ASSOCIATION,
Chicago, IL, September 20, 2004.

DEAR REPRESENTATIVE: We understand that efforts are underway to bring H.J. Res. 56, the Federal Marriage Amendment, to the House floor for a vote during the next few weeks. While we have taken no position either favoring or opposing laws that would allow same-sex couples to enter into civil marriages, the American Bar Association is staunchly opposed to this proposed amendment. Regardless of your personal views on same-sex marriage, we urge you to reject this attempt to use the constitutional amendment process to impose on the states a particular moral viewpoint about a controversial issue and to vote against the proposed amendment, which tramples on the traditional authority of each state to establish its own laws governing civil marriage.

The authority to regulate marriage and other family-related matters has resided with the states since the founding of our country and is rooted in principles of federalism. This has enabled states to enact diverse marriage laws that respect and reflect the unique needs and views of their residents. Our federal system also gives states the authority to adopt their own state constitutions and to interpret its provisions to accord greater protection to individual rights than are granted under similar provisions of the U.S. Constitution. Over the years, we not only have successfully tolerated the fact that state laws and judicial interpretations governing marriage are not uniform, we have benefited from it. As the late Justice Louis Brandeis famously explained many years ago:

> To stay experimentation in things social and economic is a grave responsibility. Denial of the right to experiment may be fraught with serious consequences to the Nation. It is one of the happy incidents of the federal system that a single courageous State may . . . serve as a laboratory; and try novel social experiments without risk to the rest of the country.

Variations among the state laws governing same-sex unions have provided the opportunity to examine the effect different laws have on society, increased each state's exposure to new ideas, and served as guidance to those states that seek to modify their laws. Adoption of H.J. Res. 56 would deprive the nation of these benefits.

While the proposed amendment is far too vague to ascertain its full meaning with certainty, its adoption would have sweeping consequences for the states that extend well beyond invalidating or prohibiting same-sex civil marriages. For instance, it would forever prohibit a state from adopting its own constitutional amendment to establish civil unions or extending to unmarried couples—heterosexual or gay—legal protections, such as health insurance, that the state provides to married spouses if the state constitutions so require, as in Vermont. And, despite the claims of the resolution's authors, it is unclear whether a state would be prohibited from passing laws permitting civil unions or domestic partnerships and providing state-conferred benefits to the couples involved. There is little doubt, however, that the joint resolution's lack of clarity will result in extensive litigation and that its passage and adoption will limit the future ability of states to fashion their own responses to meet the changing needs of their residents.

H.J. Res. 56 also should be opposed because a constitutional amendment is neither a necessary nor appropriate vehicle for changing our civil marriage laws. The Constitution should not be amended absent urgent and compelling circumstances, and it certainly should not be amended to call a halt to democratic debate within the states or to promote a particular ideology. As Bob Barr, former U.S. Representative from Georgia, succinctly stated in testimony before the Senate Judiciary Committee this past spring, "We meddle with the Constitution to our own peril. If we begin to treat the Constitution as our personal sandbox, in which to build and destroy castles as we please, we risk diluting the grandeur of having a Constitution in the first place."

It particularly does not make sense for the House to pursue the Family Marriage Amendment during these busy, final weeks of the 108th Congress since there is no urgent need for immediate action and, clearly, no national consensus has emerged over the legal ramifications of same-sex unions. Indeed, Congress, through enactment of the Defense of Marriage Act in 1996, has already denied same-sex couples the more than 1,000 federal benefits that extend to heterosexual married couples and relieved states of their obligation to accord full faith and credit to same-sex marriages sanctioned by other jurisdictions. Therefore, this proposed amendment would only affect state laws governing marriage and same-sex unions and attending judicial interpretations. During your deliberations over the next week, we hope you will not loose sight of the fact that, at present, 49 states grant civil marriage licenses *exclusively* to heterosexual couples. Clearly, this nation is not facing a crisis of constitutional proportions that requires a drastic and immediate solution.

The ABA Section of Family Law recently released a white paper titled An Analysis Of The Law Regarding Same-Sex Marriage, Civil Unions And Domestic Partnership, which is available on our website at: *http://www.abanet.org/family/whitepaper/fullreport.pdf.* (Printed copies may be obtained by emailing Denise Cardman, Senior Legislative Counsel in our Governmental Affairs Office, at *cardmand@staff.abanet.org.*) This thorough compilation of activity within the 50 states amply demonstrates that courts and legislatures already have enacted or issued hundreds of statutes, local ordinances and court opinions to address the myriad complex issues and ramifications arising from this relatively new public policy debate and are continuing to address the issues vigorously. We hope that the report will help you in your review of this proposed amendment.

Allowing the states to craft their own solutions in this area requires both confidence and humility: confidence in the wisdom of the people and their representatives, and humility to understand, in the words of the late Judge Learned Hand, that "[t]he spirit of liberty is the spirit that is not too sure that it is right." If the Constitution is to continue to embody the spirit of liberty for future generations, we must not seek to use it to enshrine still-evolving societal views.

Despite the fact that more than 11,000 proposed constitutional amendments have been introduced in Congress since 1789, the Constitution has been amended only 27 times in 215 years—a testament to its vitality and to Congressional restraint. We urge you to exercise the same restraint today and oppose H.J. Res. 56.

Sincerely,

ROBERT J. GREY, *Jr.*

PEOPLE FOR THE AMERICAN WAY,
Washington, DC, September 20, 2004.
House of Representatives,
Washington, DC.

DEAR MEMBER OF CONGRESS; On behalf of the more than 675,000 members and activists of People For the American Way, we write to urge you to oppose H.R. 2028, the "Pledge Protection Act of 2003." This legislation would violate the First Amendment, and would set a terrible precedent against the separation of powers embodied in our Constitution that protects the fundamental rights of all Americans.

As amended, H.R. 2028 would eliminate any role for the federal courts, including the U.S. Supreme Court, in challenges concerning the constitutionality of the Pledge of Allegiance. This would have an immediate and dramatic impact on the ability of individual Americans to be free from government-coerced speech or religious expression. For example, this legislation would bar the federal courts from enforcing the U.S. Supreme Court's 1943 decision in West Virginia State Board of Education v. Barnette which barred a local school district from forcing children to recite the Pledge of Allegiance over their religious objections.

Apart from being unwise as a matter of policy, H.R. 2028 appears to be an unconstitutional overreach of Congress' power under article III regarding the federal judiciary, particularly in light of the Fifth Amendment's due process clause and the Fourteenth Amendment's equal protection clause. Further, it would contradict common sense, and more than 200 years of constitutional history, to allow Congress to circumvent the words "Congress shall make no law" by eliminating effective enforcement of the First Amendment by the courts and the U.S. Supreme Court. We agree with U.S. Senator Barry Goldwater who stated about a similar attempt to strip federal courts of jurisdiction over fundamental rights more than twenty two years ago: "If there is on independent tribunal to check legislative or executive action all the written guarantees or rights in the world would amount to nothing."

Nor are state courts the appropriate sole and final venue for enforcement of federal constitutional rights. Indeed, H.R. 2028 raises the prospect of 50 different interpretations of the First Amendment. Guarantees of such fundamental rights as freedom of religion, freedom of speech and freedom from governmental religious coercion should not and cannot properly be relegated to such jurisprudential uncertainty. We note that the Reagan Administration, hardly an opponent of federalism, rejected historical and textual arguments for removing jurisdiction over federal constitutional questions to state courts:

"Nor does it seem likely that the [Constitutional] Convention would have developed the Exceptions Clause as a check on the Supreme Court in such a manner that an exercise of power under the Clause to remove Supreme Court appellate jurisdiction would . . . vest [the power] in the state courts. Hamilton regarded even the possibility of multiple courts of final jurisdiction as unacceptable."

In addition, H.R. 2028 expressly sets the precedent for future Congresses to completely bar U.S. citizens from raising any judicial challenge to federal action. State courts can only assert jurisdiction over the federal government if it consents to be sued. Failing that consent, individuals would be left without recourse to unconstitutional actions of the Congress or the executive branch. Unreviewable federal power to infringe on fundamental individual rights of American citizens is alien to our republic.

Finally, H.R. 2028 threatens to disrupt the framework of checks and balances on governmental power embodied in the U.S. Constitution through the separation of powers by setting the precedent for Congress to remove legislation from constitutional review by the judicial. branch. For all practical purposes, Congress could become the sole arbiter of constitutionality on any subject within its powers—or indeed outside its powers since it could legislate away any challenge to congressional interpretation of its own authority. Litigation over the meaning of article III, a necessary part of the inevitable court challenge to H.R. 2028, could in of itself result in a constitutional crisis deeply damaging to the separation of powers.

H.R. 2028 would set a terrible precedent for separation of powers and protection of individual rights. We urge you to reject the premise that Congress is above the Constitution and vote no on this legislation.

Sincerely,

RALPH G. NEAS,
President.
MARGE BAKER,
Director of Public Policy.

THE AMERICAN JEWISH COMMITTEE,
Washington, DC, September 20, 2004.

DEAR REPRESENTATIVE: I write on behalf of the American Jewish Committee, a national organization with more than 125,000 members and supporters represented by 33 chapters, to urge you to oppose H.R. 2028, the "Pledge Protection Act of 2003."

This misguided legislation—which would strip all federal courts, including the Supreme Court, of the jurisdiction to hear First Amendment challenges to the Pledge of Allegiance—threatens the separation of powers that is a fundamental aspect of our constitutional structure. Further, while H.R. 2028 ostensibly responds to the controversy surrounding inclusion of the phrase "under God" in the Pledge of Allegiance, this legislation sweeps far more broadly, with potentially severe constitutional implications for religious minorities and others who are adversely affected when the government impermissibly seeks to mandate recitation of the Pledge.

It should be emphasized that the American Jewish Committee did not take a position in the recent case in which a challenge was brought to the constitutionally of including "under God" in the Pledge of Allegiance. Whatever the merits of that case, however, we are strongly committeed to the principle that, in our constitutional system, the federal courts must be available to hear cases in which individuals challenge what they believe to be incursions on their religious and free speech rights.

It would be a terrible—and virtually unprecedented—distortion of that system for the U.S. Congress to deprive students, parents, and other individuals of their access for a specific class of cases to the branch of government crafted to vindicate constitutional claims. Moreover, such an action would undermine public confidence in the federal courts by expressing outright hostility toward them, threaten the legitimacy of future congressional action by removing the federal courts as a neutral arbiter, and reject the unifying function of the federal judiciary by denying federal courts the opportunity to interpret the law.

In addition, as drafted, the bill would seem to deny access to the federal courts—even the Supreme Court—for cases in which individuals seek redress in cases involving mandatory recitation of the Pledge. As a result, this legislation will seriously undermine constitutional guarantees of freedom of speech and religion. There is no question that coercing students to say the Pledge of Allegiance—or any portion thereof—is contrary to the very principles of freedom of conscience that are at the core of our Constitution, and for which the Pledge stands. See the U.S. Supreme court's landmark decision in West Virginia State Board of Education v. Barnett, 319 U.S. 624 (1943) (striking down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance) and, more recently, the decision of a federal appellate court in Circle School v. Pappert, No. 03-3285 (3rd Cir. Aug. 19, 2004) (holding that a Pennsylvania law mandating recitation of the Pledge, even when it provided a religious exception, violated the Constitution because it violated the free speech of the students). But, astonishingly, H.R. 2028 appears to remove from the federal courts the jurisdiction to hear these types of cases.

For all these reasons, the American Jewish Committee urges, in the strongest terms, that you vote against this misguided and unwise legislation.

Thank you for your consideration of our views on this important matter.

Respectfully,

RICHARD T. FOLTIN,
Legislative Director and Counsel.

AMERICANS UNITED FOR SEPARATION
OF CHURCH AND STATE,
Washington, DC, September 21, 2004.

Re Reject efforts to slam federal courthouse doors on religious minorities and vote "no" on H.R. 2028.

DEAR REPRESENTATIVE: Americans United for Separation of Church and State urges you to vote "No" on passage of H.R. 2028, the "Pledge Protection Act," which is expected to reach the floor of the House of Representatives later this week. Americans United represents more than 70,000 individual members throughout the fifty states and in the District of Columbia, as well as cooperating houses of worship and other religious bodies committed to the preservation of religious liberty. H.R. 2028 is an extreme and unwise proposal that will undermine the crucial separation of powers at the heart of our government and deny religious minorities from seeking enforcement of their longstanding constitutional rights in the federal courts.

H.R. 2028 would deprive all federal courts—including the U.S. Supreme Court—of their ability to hear cases involving the Pledge of Allegiance and to enforce longstanding constitutional rights against coerced recitation of the Pledge. Americans United firmly believes that the text, history and structure of the Constitution, together with important policy considerations, should lead the House of Representatives to soundly defeat this dangerous and misguided bill, as well as any other court-stripping proposal.

THE PLEDGE PROTECTION ACT IS UNCONSTITUTIONAL

Article III, Section 1 of the United States Constitution creates the Supreme Court and provides the Congress with the power to establish "such inferior Courts as the Congress may from time to time establish." Section 2 of Article III delineates sets of cases that the Federal courts may hear, provides for areas of original jurisdiction of the U.S. Supreme Court, and also provides for the appellate jurisdiction of the Supreme Court in other areas "with such Exceptions, and under such Regulations as the Congress shall make."

Under Section 2, Congress may have limited authority to limit the types of cases over which the Supreme Court may exercise its appellate jurisdiction. Although the extent of this authority is in dispute and has been the subject of academic commentary over the years, there are clear limits to the authority of Congress to limit the jurisdiction of the federal courts based on other applicable provisions of the Constitution. The Pledge Protection Act would do just that, in that it would entirely deprive every federal court from hearing any constitutional challenge to government-mandated recitation of the Pledge of Allegiance, in violation of due process and separation of powers principles.

THE PLEDGE PROTECTION ACT WOULD VIOLATE DUE PROCESS RIGHTS AND UNDERMINE THE SEPARATION OF POWERS

Basic due process demands an independent judicial forum capable of determining federal constitutional rights. This legislation deprives the federal courts of the ability to hear cases involving fundamental free exercise and free speech rights of students, parents, and other individuals. Congress' denial of a federal forum to plaintiffs in a specified class of cases would force plaintiffs out of federal courts, which are specially suited for the vindication of federal interests, and into state courts, which may be hostile or unsympathetic to federal claims, and which may lack expertise and independent safeguards provided to federal judges under Article III of the Constitution. It is in apparent recognition of this concern that no federal bill withdrawing federal jurisdiction over cases involving fundamental constitutional rights with respect to a particular substantive area has become law in decades.

Political frustration with controversial court decisions during the second half of the twentieth century provoked Congress to propose a number of court-stripping measures designed to overturn court decisions touching on a wide variety of issues, including: anti-subversive statutes, apportionment in state legislatures, "Miranda" warnings, busing, school prayer, abortion, racial integration, and composition of the armed services. All of these measures failed to pass Congress. In each instance, bipartisan concerns over threats to the American system of government and constitutional order gave way to a recognition of these court-stripping measures for what they truly were: attempts to circumvent the careful process required for amendments to the U.S. Constitution. As Professor Michael J. Gerhardt stated in his testimony regarding the "Constitution Restoration Act of 2004" before the Subcommittee on Courts on September 13, 2004: "Efforts, taken in response to or retaliation against judicial decisions, to withdraw all federal jurisdiction or even jurisdiction of inferior federal courts on questions of constitutional law are transparent attempts to influence, or displace, substantive judicial outcomes. For several decades, the Congress, for good reason, has refrained from enacting such laws." Like so many failed court-stripping measures that have come before it, the Pledge Protection Act represents yet another illegitimate short cut to amending the Constitution, is against the weight of history, and must fail.

THE PLEDGE PROTECTION ACT IS EXTREME, UNWISE AND REPRESENTS MISGUIDED POLICY

As drafted, the bill would slam the courthouse doors to religious minorities trying to gain protection for their fundamental constitutional religious and free speech rights. Over sixty years ago, the Supreme Court decided the case of *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624 (1943). In Barnette, the Supreme Court struck down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance. Under the West Virginia law, religious minorities faced expulsion from school and could be subject to prosecution and fined, if convicted of violating the statute's provisions. In striking down that statute, the Court reasoned: "To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds . . . If there is any fixed star in our constitutional constellation, it is that no official, high, or petty can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion." 319 U.S. at 639–40.

Moreover, just recently, a panel of the U.S. Court of Appeals for the Third Circuit held that a Pennsylvania law mandating recitation of the Pledge, even when it provided a religious exception, violated the Constitution because it violated the free speech of the students. *Circle School* v. *Pappert*, No. 03–3285 (3rd Cir. Aug. 19, 2004). In Pappert, the court found that: "It may be useful to note our belief that most citizens of the United States willingly recite the Pledge of Allegiance and proudly sing the national anthem. But the rights embodied in the Constitution, particularly the First Amendment, protect the minority—those persons who march to their own drummers. It is they who need the protection afforded by the Constitution and it is the responsibility of federal judges to ensure that protection." Pappert, Slip Op. at 14.

The Pledge Protection Act is an attack on our very system of government. Americans United strongly urges you to leave the independence of the federal judiciary in tact, protect longstanding constitutional rights of religious minorities in the federal courts, and respect free speech rights of countless individuals by rejecting this misguided legislation.

Sincerely,

REV. BARRY W. LYNN,
Executive Director.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, September 21, 2004.

Re Don't shut the federal courthouse doors to religious minorities; oppose passage of H.R. 2028.

DEAR REPRESENTATIVE: The American Civil Liberties Union strongly urges you to oppose H.R. 2028, "the Pledge Protection Act of 2004." H.R. 2028 is an extreme measure that would remove jurisdiction from all federal courts, including the Supreme Court, over any constitutional claim involving the Pledge of Allegiance or its recitation. This bill is expected to be on the House floor later this week.

H.R. 2028 was amended significantly in Committee and is now the same as H.R. 3313, the Marriage Protection Act, except it deals with jurisdiction over all constitutional claims related to the pledge instead of the Defense of Marriage Act. Prior to mark-up, H.R. 2028 limited the jurisdiction of lower federal courts over First Amendment claims related to the Pledge, but left intact the Supreme Court's jurisdiction.

H.R. 2028 would slam shut the federal court house doors to religious minorities, parents, schoolchildren and others who seek nothing more than to have their religious and free speech claims heard before the courts most uniquely suited to entertain such claims. Further, by entirely stripping all federal courts of jurisdiction over a particular class of cases, H.R. 2028 raises serious legal concerns, violating principles of separation of powers, equal protection and due process. The bill undermines public confidence in the federal courts by expressing outright hostility toward them, threatens the legitimacy of future congressional action by removing the federal courts as a neutral arbiter, and rejects the unifying function of the federal judiciary by denying federal courts the opportunity to interpret the law. H.R. 2028 would deny the U.S. Supreme Court its historical role as the final authority on resolving differing interpretations of federal constitutional rights. As a result, each of the 50 state supreme courts would be a final authority on these federal constitutional questions. This would potentially create a situation where we could have as many as 50 different interpretations of any relevant federal constitutional question.

It is in apparent recognition of many of these concerns that no federal bill withdrawing federal jurisdiction in cases involving fundamental constitutional rights has become law since the Reconstruction period. Federal courts were established to interpret federal law and to ensure that the states and the government did not violate the protections in the federal constitution. An effort to deny them jurisdiction over the very sort of claim they were established to hear—that government conduct violates a constitutional right—is the most extreme attack possible on the role of federal courts in our system of checks and balances. It strikes at the very purpose of the Founders in creating federal courts in the first place.

While the supporters of this bill see it as an appropriate response to recent court decisions that they dislike concerning the words "under God" in the Pledge, the impact of H.R. 2028 would NOT be limited merely to that issue. This bill would remove jurisdiction over ALL constitutional claims, related to the pledge, from ALL federal courts. This could potentially undermine decades of well-established Supreme Court precedents by denying access to the federal courts in cases brought to enforce existing constitutional rights for religious minorities. For example, over sixty years ago, the Supreme Court decided the case of *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624 (1943). In Barnette, the Supreme Court struck down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance. Under the West Virginia law, religious minorities faced expulsion from school and could be subject to prosecution and fined, if convicted of violating the statute's provisions. In striking down that statute, the Court reasoned: "To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds . . . If there is any fixed star in our constitutional constellation, it is that no official, high, or petty can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion." 319 U.S. at 639–40.

Just last month, a panel of the U.S. Court of Appeals for the Third Circuit held that a Pennsylvania law mandating recitation of the Pledge, even when it provided a religious exception, violated the Constitution because it violated the free speech rights of the students. *Circle School* v. *Pappert*, No. 03–3285 (3rd Cir. Aug. 19, 2004). In Pappert, the court found that: "It may be useful to note our belief that most citizens of the United States willingly recite the Pledge of Allegiance and proudly sing the national anthem. But the rights embodied in the Constitution, particularly the First Amendment, protect the minority—those persons who march to their own drummers. It is they who need the protection afforded by the Constitution and it is the responsibility of federal judges to ensure that protection." Pappert, Slip Op. at 14.

First comes marriage then comes the Pledge . . . Where will it end? Passage of H.R. 2028 would set a dangerous precedent for responses by Members of Congress to court decisions with which they disagree. In this session alone, Congress is considering court-stripping legislation related to the Pledge of Allegiance, religious displays/Ten Commandments, marriage and another dealing with all cases related to religion and the acknowledgement of God.

Over the years, Congress has considered legislation designed to strip court jurisdiction on the issues such as public school busing, voluntary prayer and abortion. Fortunately, none of those proposals was adopted by Congress because legislators understood that setting a precedent for stripping the courts of their jurisdiction over a particular issue might, in the future, be used by some other group of advocates, when in the majority, to establish its views as the law of the land, safely out of the reach of the courts. We urge members of this Congress to oppose passage of H.R. 2028 and not to abandon this tradition of thoughtfulness and restraint.

Sincerely,

LAURA W. MURPHY,
Director.
TERRI A. SCHROEDER,
Legislative Analyst.

THE CONSTITUTION PROJECT,
Washington, DC, September 15, 2004.

DEAR MEMBERS OF THE JUDICIARY COMMITTEE: I write on behalf of the Constitution Project to urge you to oppose committee passage of H.R. 2028, the "Pledge Protection Act of 2003."

The Constitution Project, based at Georgetown University's Public Policy Institute, specializes in creating bipartisan consensus on a variety of legal and governance issues, and promoting that consensus to policymakers, opinion leaders, the media, and the public. We have initiatives on the death penalty, liberty and national security, war powers, and judicial independence (our Courts Initiative), among others. Each of our initiatives is directed by a bipartisan committee of prominent and influential businesspeople, scholars, and former public officials.

Our Courts Initiative works to promote public education on the importance of our courts as protectors of Americans' essential constitutional freedoms. Its co-chairs are the Honorable Mickey Edwards, John Quincy Adams Lecturer at the John F. Kennedy School of Government at Harvard University and former chair of the House of Representatives Republican Policy Committee (R–OK), and the Honorable Lloyd Cutler, a prominent Washington lawyer and White House counsel to Presidents Carter and Clinton.

In 2000, the Courts Initiative created a bipartisan Task Force to examine and identify basic principles as to when the legislature acts unconstitutionally in setting the powers and jurisdiction of the courts. The Task Force was unanimous in its conclusion that some legislative acts restricting the powers and jurisdiction of the courts are unconstitutional. The Task Force also concluded that some legislative actions, even if constitutional, are undesirable. (The Task Force's findings and recommendations are published in Uncertain Justice: Politics and America's Courts 2000.)

The work of our Task Force resulted in seven consensus recommendations, including the following, which are relevant to consideration of the legislation at hand:

1. Congress and state legislatures should heed constitutional limits when considering proposals to restrict the powers and jurisdiction of the courts.

2. Legislatures should refrain from restricting court jurisdiction in an effort to control substantive judicial decisions in a manner that violates separation of powers, due process, or other constitutional principles.

3. Legislatures should not attempt to control substantive judicial decisions by enacting legislation that restricts court jurisdiction over particular types of cases.

4. Legislatures should refrain from restricting access to the courts and should take necessary affirmative steps to ensure adequate access to the courts for all Americans.

Specifically, our Task Force was unanimous in its view that there are some constitutional limits on the authority of the legislature to restrict court jurisdiction in an effort to control substantive judicial decisions. In particular, separation of powers, due process, and other constitutional provisions limit such authority. Task Force members had differing views about the scope and source of the constitutional limit on the legislature's power in this area. (For instance, some believed that restrictions on jurisdiction become unconstitutional when they destroy the essential role of the Supreme Court. Others relied on a reading of the Vesting Clause of Article III, which places judicial power—the power to decide cases—in the hands of the courts alone.) Nonetheless, all believed that constitutional limitations exists.

Apart from the constitutionality of laws restricting federal court jurisdiction, the Task Force was also unanimous in its view that legislative acts stripping courts of jurisdiction to hear particular types of cases in an effort to control substantive judicial decisions are undesirable and inappropriate in a democratic system with co-equal branches of government. Legislative restriction of jurisdiction in response to particular substantive decisions unduly politicizes the judicial process, and attempts by legislatures to control substantive outcomes by curtailing judicial jurisdiction are inappropriate, even if believed constitutional. (Indeed, it was striking that members of Citizens for Independent Courts reflecting a broad ideological range—from, for example, Leonard Leo of the Federalist Society to Steven Shapiro of the American Civil Liberties Union—agreed that restrictions on jurisdiction to achieve substantive changes in the law are unwise and undesirable policy.)

The Task Force was also unanimous that legislation that restricts access to the courts and precludes individuals from using a judicial forum to vindicate rights is undesirable and unconstitutional. Rights are meaningless without a forum in which they can be vindicated. Therefore, access to the courts at both the federal and state levels is essential in order for rights to have effect. Legislatures have the duty to ensure meaningful access to the courts and legislative actions that preclude this are undesirable and unconstitutional.

Our Task Force reached these conclusions and recommendations rightly. From its beginning, our system of constitutional democracy has depended on the independence of the judiciary. Judges are able to protect citizens' basic rights and decide cases fairly only if free to make decisions according to the law, without regard to political or public pressure. Similarly, the judiciary can maintain the checks and balances essential to preserving a healthy separation of powers only if able to resist overreaching by the political branches. Indeed, the cornerstone of American liberty is the power of the courts to protect individual rights from momentary excesses of political and popular majorities.

In recent years, as part of the polarization and posturing that increasingly characterize our national and state politics, threats to judicial independence have become more commonplace. Attacks on judges for unpopular decisions, even those made in good faith, have become more rampant. Politicians are responding to unpopular decisions and litigants by attempting to restrict courts' powers in certain kinds of cases. However, Americans have much to lose if we do not exercise self-restraint and instead choose short-term political gain at the expense of judicial independence. The independence of our judiciary is, as Chief Justice Rehnquist described, "one of the crown jewels of our system of government."

In conclusion, while Article III of our Constitution gives Congress the power to regulate federal court jurisdiction, this power is not unlimited, and Congress should not—and in some instances may not—use its power to restrict federal court jurisdiction in ways that infringe upon separation of powers, violate individual rights and equal protection, or offend federalism. H.R. 2028 is poised to do all three by stripping federal courts of the authority to hear cases involving the Pledge of Allegiance, including when such cases involve claims of free speech and religious freedom. Such jurisdiction-stripping threatens the critical and unique role that the federal courts play in constitutional balance of powers, protecting individual rights, and interpreting constitutional law.

For the reasons stated above, as well as those detailed our Task Force's findings and recommendations, we at the Constitution Project urge you to oppose H.R. 2028. Thank you for your consideration.

Sincerely,

KATHRYN A. MONROE,
Director, Courts Initiative.

BAPTIST JOINT COMMITTEE,
Washington, DC, September 14, 2004.

DEAR REPRESENTATIVE: The Baptist Joint Committee (BJC) urges you to vote No on H.R. 2028, the so-called "Pledge Protection Act." The BJC is a nearly 70-year-old organization committed to the principle that religion must be freely exerecised, neither advanced nor inhibited by government. We oppose any legislation that seeks to strip the federal courts of their fundamental role in protecting individual liberties.

The existence of an independent judiciary, free from political or public pressure, has been essential to our nation's success in protecting religious liberty for all Americans. Indeed, the role of the federal courts has long been recognized as essential in the battle for full religious liberty. As Justice Jackson stated in the case of West Virginia State Board of Education v. Barnett: "The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections." 319 U.S. 624, 639 (1943).

Moreover, the result of any particular case does not undermine the important role of the judiciary. The misnamed "Pledge Protection Act" represents a dangerous attack on our tradition of religious freedom, on the constitutional separation of powers and indeed our system of government. It represents an unwarranted attempt to restrict the power of the federal judicial system.

Whatever the motivation, there is insufficient basis to depart from a long-standing congressional custom against using jurisdiction-stripping to control the federal courts. Federal judicial review has consistently supported the proper separation of church and state so vital to all Americans, and we must trust that the courts will continue to do so. We ask you to reject H.R. 2028.

Sincerely,

J. BRENT WALKER,
Executive Director.
K. HOLLYN HOLLMAN,
General Counsel.

BOB BARR,
Atlanta, GA, July 19, 2004.

Re Upcoming vote on the Marriage Protection Act, H.R. 3313.

DEAR REPRESENTATIVE: I would like to take this opportunity to express my concerns with the Marriage Protection Act, H.R. 3313, which I understand may be on the House floor as early as this week. While I understand and appreciate the reason that supporters of this bill are trying to pass this legislation, I respectfully disagree on the need for the bill and see the potential of a bad precedent for future legislation. For these reasons, I urge that members vote against H.R. 3313.

H.R. 3313 would preclude federal courts, including the Supreme Court, from reviewing the constitutionality of the cross-state recognition section of the Defense of Marriage Act ("DOMA"). If H.R. 3313 is enacted, each of the 50 state supreme courts would be a final authority on the constitionality of DOMA, with no opportunity for either a state (as a defendant) or a plaintiff to appeal a decision to the Supreme Court.

As the principal author and lead sponsor of DOMA, I completely share the views of the supporters of H.R. 3313 who view DOMA as critical to our federalist system of government, and as integral to the proper resolution of the difficult questions raised by any state extending marriage rights to same-sex couples. DOMA is an important law that will help each state in the nation retain its own sovereignty over the fundamental state issue of who is married under its laws.

However, where I differ with the supporters of H.R. 3313 is in my confidence that the Supreme Court will not invalidate DOMA. During the lengthy consideration of DOMA, the House of Representatives heard detailed testimony on the constitionality of DOMA. A parade of legal experts—including the Justice Department—determined that DOMA is fully constitutional. Although there were a few naysayers and wishful thinkers who opined that DOMA is unconstitutional, the overwhelming weight of authority was clear that DOMA is constitutional. Based on the exhaustive review of these opinions, Congress overwhelmingly passed DOMA and it was signed into law by President Clinton.

DOMA remains good law. It has never been invalidated by any court anywhere in the country. It is a sound and valid exercise of congressional authority, pursuant to the Full Faith and Credit Clause of the Constitution.

Some supporters of H.R. 3313 point to the Supreme Court's opinion last year in Lawrence v. Texas, in which the Court invalidated a state sodomy law, as reason for concern that the Court could invalidate DOMA. However, I believe the Supreme Court justifiably would see a world of difference between a sodomy law that applied only to homosexual relations, and a federal law allowing the enforcement of nearly uniform state policies prohibiting cross-state recognition of marriages of same-sex couples. Moreover, when the Supreme Court correctly invalidated a racially discriminatory marriage law in Loving v. Virginia, it applied the highest level judicial scrutiny to the state's marriage law. The Supreme Court always applies the highest level of scrutiny to race claims, but minimal level to sexual orientation claims. Serious legal scholars do not see that changing.

Moreover, because H.R. 3313 does not strip state courts of jurisdiction to hear challenges to the cross-state recognition section of DOMA, the result will be that each of the 50 state supreme courts will be the final authority on the constitutionality of a federal law. The chaotic result could be 50 different interpretations reached by state supreme courts, with no possibility of the U.S. Supreme Court reversing any incorrect interpretation of the federal DOMA. The potential for mischief by these courts is obvious. Ironically, I fear an increased likelihood of an adverse decision on DOMA's constitutionality if H.R. 3313 becomes law.

However, the principal problem with H.R. 3313 is not just that it is protecting a wholly constitutional law that needs no additional protection, but that it sets a harmful precedent for the future. Our healthy democracy depends on having three separate and independent branches of government. I have long been concerned about a runaway judiciary, but I am also concerned about having a Congress or President unchecked by the independent judiciary established by the Constitution.

H.R. 3313 will needlessly set a dangerous precedent for future Congresses that might want to protect unconstitutional legislation from judicial review. During my time in Congress, I saw many bills introduced that would violate the Takings Clause, the Second Amendment, the Tenth Amendment, and many other constitutional protections. My main concern with H.R. 3313 is that it will lay the path for the sponsors of such unconstitutional legislation to simply add the language from H.R. 3313 to their bills. The fundamental protections afforded by the Constitution would be rendered meaningless if others follow the path set by H.R. 3313.

For these reasons, I urge you to vote against this well-intentioned, but unnecessary legislation. The Congress should keep in place the separation of powers outlined in the Constitution, rather than act hastily in fear of an outcome on DOMA that is unlikely in the first instance.

Thank you for your attention to this issue, and with warm regards, I remain.

Very truly yours,

BOB BARR,
Member of Congress, 1995–2003.

JULY 13, 2004.

Hon. JERROLD NADLER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN NADLER: I am happy to respond to your inquiry of July 9, asking for elaboration of my testimony before the Subcommittee on the Constitution of the Judiciary Committee of the House of Representatives, concerning the constitutionality of congressional power to control federal court jurisdiction on the interpretation and review of the Defense of Marriage Act.

I cannot emphasize strongly enough that while I believe that Congress's power to regulate federal court jurisdiction is broad, the Constitution places clear limits on that power which must be observed. As I believe I made clear in both my written and oral testimony, nothing in Article III provides Congress with the power to exclude from all independent judicial review the constitutionality of any governmental action, state or federal. However, as long as the state courts remain open and available for this purpose, due process would not be violated by congressional exclusion of the jurisdiction of either the lower federal courts or the Supreme Court.

I see from your inquiry, however, that I may have failed to anticipate in my testimony several other potential permutations and combinations of jurisdictional restriction related to the Defense of Marriage Act, and if so I sincerely apologize. There are conceivably two other situations which could give rise to possibly serious constitutional problems, and I write this letter in order to provide you with my views on those instances.

First, it is quite clear that Congress lacks constitutional authority to vest the federal courts with jurisdiction to apply or enforce the Defense of Marriage Act while simultaneously restricting those courts' jurisdiction either to interpret or to review the constitutionality of that legislation. As famed jurisdiction scholar Henry Hart wrote many years ago, "the difficulty involved in asserting any judicial control in the face of a total denial of jurisdiction doesn't exist if Congress gives jurisdiction but puts strings on it. . . . [I]f Congress directs an Article III court to decide a case, I can easily read into Article III a limitation on the power of Congress to tell the court how to decide it." Henry Hart, The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic, 66 Harv. L. Rev. 1362, 1372–1373 (1953) (emphasis in original). For a detailed discussion of my views on this issue, see Martin H. Redish, Federal Jurisdiction: Tensions in the Allocation of Judicial Power 47–52 (2d ed. 1990).

Second, to the extent even the total exclusion of federal court jurisdiction were imposed, there may be a constitutional problem if, in order to enforce and protect underlying constitutional rights, a reviewing court would have to directly control the actions of a federal officer through the writs of habeas corpus, mandamus or injunction. For while it has long been understood that state courts provide an adequate forum to protect and enforce federal rights, it is also well established—in a line of cases beginning in 1821—that state courts lack authority directly to control the actions of federal officers. See *McClung* v. *Silliman*, 19 U.S. (6 Wheat.) 598 (1821) (mandamus); *Tarble's Case*, 80 U.S. (13 Wall.) 397 (1871) (habeas corpus). While there exists no definitive Supreme Court decision denying state courts power to issue injunctions to federal officers, there does exist a strong line of cases in the lower federal courts to this effect. See, e.g., *Kennedy* v. *Bruce*, 298 F.2d 860 (1962). Moreover, the logic which led the Supreme Court to deny state courts the power to issue mandamus or habeas relief to federal officers logically applies with the same force to writs of injunction. Thus, if a federal right may only be enforced through issuance of a directly controlling order to a federal officer, exclusion of all federal court jurisdiction could arguably give rise to a serious constitutional problem, because the state courts would be simultaneously closed to the issuance of such relief.

While there does exist some language in Supreme Court doctrine (particularly in Tarble's Case) suggesting that state courts inherently lack such power as a constitutional matter, it is difficult to believe this conclusion would be adhered to today. In light of the Madisonian Compromise's inherent assumption that if Congress declined to exercise its discretion under Article III, section 1 to create lower federal courts state courts could perform the exact same functions, it is highly unlikely that the framers intended to impose such an absolute constitutional bar to state court power to directly control the actions of federal officers. In my scholarship, therefore, I have argued that the reasoning of Tarble's Case can be reworked "into simply an inference of congressional intent to exclude state court power in the face of congressional silence . . . because, were Congress actually to consider the question, it likely would not want state courts . . . to have the authority to impair the operation of federal programs by directly controlling the actions of federal officers." Martin H. Redish, Constitutional Limitations on Congressional Power to Control Federal Jurisdiction: A Reaction to Professor Sager, 77 Nw. U. L. Rev. 143, 158–159 (1982). Thus, under my reading of this line of cases, if Congress so desired it could revoke the limits on state court power imposed by the Tarble line of cases, simply by explicitly vesting in the state courts the power to control federal officers through the issuance of the writs previously mentioned. Absent such explicit congressional directive, however, the rule of Tarble, closing the state courts for this limited purpose, would remain intact.

The issue becomes more complicated where, as here, Congress considers excluding all federal court power to review the constitutionality of federal officer behavior. There are respected scholars—particularly Professor Paul Bator and other revisers of the Hart and Wechsler text—who believe that were Congress to automatically exclude all federal court jurisdiction to enforce constitutional rights and interests, the state court bar imposed by the Tarble line of cases would automatically be revoked. However, I do not agree. I believe that unless Congress simultaneously and expressly revokes the limit on state court authority to issue directly controlling writs to federal officers, its exclusion of federal court power to issue such writs inexorably leads to a violation of due process. For in such a situation, neither the state courts nor federal courts would be available to protect constitutional rights, and the due process right to an independent judicial forum for enforcement of constitutional rights would therefore have been violated.

It is true, of course, that normally a reviewing court will assume that Congress did not intend to violate constitutional rights. Therefore one might reason that the closing off of the federal courts should automatically be taken as an opening of the state courts. However, I believe that before Congress closes off all federal court authority to review the constitutionality of a statute and to control federal office actions in order to protect particular constitutional rights, it must be aware of certain facts. First, Congress must recognize that some adequate and independent judicial forum must be available to control federal officers in order to protect constitutional rights. Second, it must be aware that once it has closed all federal courts for this purpose, the only courts that will be available to control federal officer action through issuance of appropriate writs will be the state courts—without any opportunity for policing or unifying review in any federal court, including the Supreme Court. If Congress wishes to create such an unstable situation, I believe it has power to do so (though once again I should note that certain language in Tarble suggests that the limit imposed on state court power derives from the Constitution, rather than congressional will; if such reasoning were to be adopted today, then the issue would be taken from Congress's hands and the closing of the federal courts to the issuance of such directly controlling writs would necessarily violate due process). Absent express revocation of the limits imposed on state court jurisdiction imposed by the Tarble line of cases, I believe, Congress will not have evinced the requisite consideration of these important issues. In this sense, the rule of interpretation that I have advocated in similar to the "clear statement" rule presently invoked by the Supreme Court for congressional revocation of state sovereign immunity.

I must emphasize the uncertainty that surrounds the Tarble line of cases. First, it is unclear whether the Supreme Court there intended to erect a constitutional barrier to state court issuance of directly controlling writs to federal officers, and if so whether it would still be adhered to today. Second, assuming the barrier is not deemed to be of constitutional status, it is unclear whether congressional exclusion of federal judicial power to issue such writs would be taken automatically to revoke the Tarble restriction on state court power over federal officers. There simply is no case law on that issue. Moreover, as already mentioned, my view that express congressional revocation of the Tarble barrier is required to render the congressional exclusion of federal court power to issue the directly controlling writs of mandamus, habeas corpus and injunction constitutional has been challenged by other respected scholars. Nevertheless, the only way that Congress could be certain, at this point, that its exclusion of all federal court power directly to control federal officer behavior when constitutional rights are at stake would satisfy due process is at the same time to expressly authorize state courts to issue these writs to federal officers. Absent such an express congressional authorization, the constitutionality of the restriction on federal court review power would at the very least be in doubt, and, in my opinion, unconstitutional.

I apologize for so complex an answer to your question, but I am afraid I see no means of explaining the potential pitfalls facing Congress in any simpler manner. In any event, I hope you find this response helpful. If I can be of assistance in any other way, please do not hesitate to contact me.

Sincerely yours,

MARTIN H. REDISH,
Northwestern University School of Law.

☐ 1215

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. AKIN), the author of the bill.

Mr. AKIN. Mr. Chairman, we have heard a lot of legalese this morning, and perhaps trying to make a subject that is not very complicated a lot more complicated. The simple question is whether or not school kids are going to be able to say the Pledge of Allegiance the way we have done it for the last 50 years.

Some may say that is not that important an issue, but I would ask this question: If Members were asked, and perhaps it would be one of these big old TV cameras, and somebody came up and said, you have lived in America all these years, how would you, in the simplest form, describe what is the glue that holds us all together as Americans? What is the heart of America? If, like an onion, we peeled off the layers and got to the very center, what is it that makes America such a unique and special place? What is it that made people from all different nationalities come here and call themselves Americans? What is it that makes illegal immigrants try to come here? What is it that makes America special?

I think the answer can be found in our birthday document, our Declaration of Independence. It sets out essentially a three-part formula. It says we hold these truths to be self-evident, that all men are created equal and endowed by their creator with certain inalienable rights, and among these is life, liberty and the pursuit of happiness. And it goes on to say the job of government is to protect those rights. The three-part formula is that there is a God; God grants all people everywhere certain basic fundamental rights; and it is the job of government to protect those rights.

Now, if we allow activist judges to start creating law and say it is wrong to somehow allow school children to say "under God" in the Pledge, we have emasculated the very heart of what America has always been about.

This is quite simply a matter of judges turning the first amendment upside down. The first amendment was supposed to be about free speech, religious or political free speech, and now these judges are censoring our very Pledge of Allegiance and telling school kids they cannot say the Pledge. If we allow activist judges to go there, what is next?

Behind me, set in brass above the Speaker's desk, "In God we trust." Is this a sense of the co-equal power of the branches of government that the court can next step in here and take "In God we trust" off that? Are they going to tell us we cannot have chaplains? Are they going to go to the Jefferson Monument that has in stone that God that gave us life, gave us liberties, and can the liberties of the people be secure if we remove the conviction that those liberties are the gift of God? Is that going to be plastered over? Are we going to get rid of the Gettysburg Address? How far will we let them go?

Yet my colleagues have been arguing that anything the court says; it is unconstitutional to challenge the Supreme Court. In my State of Missouri, the Dred Scott decision was brought, and the Supreme Court said black people are not actually people. That was a dumb decision, and we need to be able to tell the Supreme Court or any other court that makes ridiculous decisions they are wrong. Yet we are hearing it is off base to try to check their authority. It is the job of the other two branches of government to draw up short the judiciary when they exceed their constitutional authority. And legislating from the bench and using the first amendment as a tool of censorship certainly qualifies that we should weigh in.

Mr. Chairman, I would close by saying that I have heard a number of assertions that there is absolutely no precedent to use article III section 2. And yet, if Members were to simply check with the congressional research people, as our office has done, they would tell Members they cannot print them all out there are so many examples. In the 107th Congress, most of us voted for the PATRIOT Act. The PATRIOT Act has article III section 2 language in it, and we have it used in all kinds and numbers of ways.

A certain prominent Senator from South Dakota made an amendment to a bill that said we are going to clear the undergrowth from the forest of the Black Hills. That, of course, is against environmental law, but the problem is that all that undergrowth was fueling forest fires. This particular gentleman made the comment and put it into law, regardless of what any Federal court says, we are going to clear the undergrowth. Another use of the limitation of the appellate jurisdiction of the courts. There are numerous cases to that regard. Certainly, these charges are completely and factually inaccurate.

Mr. NADLER. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER), the Democratic whip of the House.

Mr. HOYER. Mr. Chairman, 2 minutes is obviously not sufficient time to respond to simplistic arguments. The previous speaker said he has heard simple legal arguments. He talked about why people came to America.

I chaired the Commission on Security and Cooperation in Europe, the Helsinki Commission, and I went to numerous countries in which the judiciary was not independent, where it was dictated to by the legislature and the executive departments if the judiciary did not do what the legislature and the executive wanted them to do. That is the perverseness of this legislation. That is the demagoguery of this legislation. This is the simplistic approach that this legislation takes.

Let me say, I believe that "under God" in the Pledge of Allegiance is absolutely appropriately there. It is constitutional, and it ought to be there. And frankly, if the Supreme Court ruled it was unconstitutional, I would vote for a constitutional amendment to ensure its presence.

The gentleman is correct; Thomas Jefferson intoned those compelling words that we get our rights not from the legislature, not from the executive, not even from the majority. Those basic rights are within us as children of God. That is the difference between this country. That is what Marbury v. Madison meant. It meant a legislature, irrespective of its animus, irrespective of the prejudice that it wanted to include, not in this instance but in other instances, could be overseen by the courts of this United States.

The gentleman mentioned the Dred Scott decision. It was not the legislature that overturned that decision or the majority of Americans that overturned that decision; it was the Supreme Court of the United States ultimately that said that is wrong. The gentleman is absolutely correct; the Supreme Court said separate is not equal. But had they been precluded from having the jurisdiction over that case, we would still have segregated schools. We would still have separate but equal, but it was the courts that stepped in and made sure that the dream of America was the reality of America.

Defeat this legislation. There is no case pending. It has been dismissed by the Supreme Court.

No court in this Nation has precluded. Every child in America now stands and proudly stands, as we do in this chamber, and pledges allegiance to our flag and to this Nation under God, indivisible with liberty and justice for all. But we have found through the centuries that justice, justice, justice is protected by our independent judiciary. Let us keep it that way for all Americans. Defeat this legislation.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I rise today in proud support of H.R. 2028, the Pledge Protection Act, introduced by the gentleman from Missouri (Mr. AKIN). We are here today because, once again, activist judges have taken it upon themselves to dictate law in this country, believing they know better than all Americans, they know better than the State legislatures or the Federal legislature, and they know better than the Founding Fathers themselves, they think.

The Pledge Protection Act defends the constitutionality of reciting the Pledge of Allegiance by simply restricting the jurisdictions of some lower Federal courts. This body here is more than within our bounds to limit the role of Federal court jurisdiction.

The power of Congress is granted in article III of the Constitution. The clause states, "The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish."

Accordingly, the Constitution provides that the lower courts are entirely creatures of Congress, as is the jurisdiction of the Supreme Court.

Just as this Congress is checked every so often by the power of the Presidential veto, and we are checked every 2 years by re-elections, we in turn have the ability to check or rein in abusive and out-of-line courts.

The Pledge closely reflects the noblest intentions of our Founding Fathers and the inspiration that has led to the creation of this great Nation, and that is why I can confidently say that nothing in the reciting of the Pledge discriminates against any religious minorities or abuses any rights.

The phrase "under God" simply acknowledges that our Founding Fathers, who were leaders in the fight for our independence and the authors of our Nation's framework, did so with the inspiration and their belief in a divine being.

We all know this House starts each morning with the Pledge as we begin our business, and I believe that right should not be taken away from the children of this country as well.

Mr. NADLER. Mr. Chairman, I yield for the purpose of a making a unanimous consent request to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I include my statement for the RECORD supporting the Watt amendment, and also supporting the original Protect the Pledge Act.

Mr. Chairman, I rise today in support of the Watt amendment to H.R. 2028, the Protect the Pledge Act. This amendment is plain and simple; it would restore H.R. 2028 to its original language.

I strongly support the Pledge of Allegiance. In fact, in the last Congress I introduced H.J. Res. 103, an amendment to the Constitution that would affirm that the Pledge of Allegiance in no way violates the First Amendment. Unfortunately, Congress did not pass the resolution before it adjourned for the 107th Congress. As an original cosponsor of H.R. 2028, I had hoped that it would protect the Pledge of Allegiance from unnecessary court battles without infringing on the rights of the people. However, with H.R. 2028 in its current form Congress has lost its balance between our constitutional rights and the law.

The Pledge of Allegiance is an important symbol of the privileges and rights that our founding fathers fought so desperately to preserve. Although the major controversy surrounding the pledge rests on the words "under God," H.R. 2028 blatantly ignores the words "with liberty and justice for all."

Every citizen has the right to due process under the law. By stripping the Supreme Court of jurisdiction to hear cases pertaining to the Pledge, we take away the basic right for everyone to have their case heard before the highest court in the land. Article III of the Constitution states that Congress has the power to define the jurisdiction of the Federal district and appellate courts, but we do not have the power to decide which cases the Supreme Court can and cannot hear.

The Watt amendment restores the Protect the Pledge Act to its original language. I urge my colleagues to support this amendment and protect our constitutional rights.

Mr. NADLER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, obviously, I stand here today formerly a second-class citizen in America, and if it had not been for the courts of the United States of America, article III courts and the United States Supreme Court, I would still be in a place with nowhere to be able to seek redress of my grievances.

Let me make it clear that I voted to retain the language "under God" in the Pledge of Allegiance, and I did so because I believe it is protected by the first amendment. That amendment allows us to exercise our freedom of religion, but this is at best political chicanery. This is a joke, and the reason is, I would ask my colleagues on the other side of the aisle why they did not put this kind of legislation to eliminate the right of the Federal courts and the Supreme Court to engage in the oversight of election laws? The reason, because they got the decision they wanted in 2000.

This is a bill that destroys the Constitution as we know it. Article III of the U.S. Constitution vests the judicial power of the United States in one Supreme Court. How can we eliminate the appellate jurisdiction of the Article III courts and the Supreme Court that leaves all of America a lack of opportunity to address their grievances no matter who they are?

I pledge allegiance to the flag. I respect the language "under God," but it is the right of the American people to at least go into the courts to address their grievances.

And what about religion? If one has a religion that gives them the instruction to not recite that kind of language, that individual has the right, as an expression of their right of religious freedom, to do so or to seek redress of grievances in the courts. Again, this is political opportunity, but I would join my colleagues in eliminating the rights of the Federal courts and the Supreme Court to decide any election case so we will not have the biased decision that was rendered in the Bush v. Gore decision of 2000. If they join me on that, maybe we will have a sense of fairness. Today, we do not.

I stand with the Constitution which says we have a right to be able to address our grievances in the courts of the United States of America. We have the right to freedom of religion. We should vote down this bill as one that puts a stain on the Constitution of the United States of America. Remember—our history—that of minorities in this country—was only made better many times by the decisions of the Federal courts.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I beg to disagree with the gentlewoman from Texas (Ms. JACKSON-LEE). It was not the Supreme Court that gave her and her ancestors their freedom; it was the 600,000 people who died during the Civil War that did that and allowed the Congress to pass three constitutional amendments which guaranteed freedom for former slaves and their descendants.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

☐ 1230

Mr. STEARNS. Mr. Chairman, I would say to the 30-second speech by the chairman of the Committee on the Judiciary, Amen to what he just said.

Let me give a hypothetical example to the people on this side of the aisle who are predominately against this amendment. Let us say that it turned out that the Supreme Court wanted to take the words "In God We Trust" off the marble slab that stands on top of the flag in the Speaker's rostrum. At what point would you as a Member of Congress get up and say enough is enough for the Supreme Court to do this? I mean, at what point does your side have to be so upset to get involved to really exercise what the Constitution allows?

It has been repeated many times under article III, section 2 of the Constitution, we in this body have the right, and some would say we have the duty, to limit the jurisdiction of Federal courts. I certainly would hope if they tried to strip "In God We Trust" off the Speaker's rostrum that they on that side of the aisle would stand up and say enough is enough and agree that we would allow Congress to exercise its prerogative under article III, section 2 of the Constitution.

Also, I brought this up before, all of those on this side of the aisle know that TOM DASCHLE, the minority leader, inserted a provision in legislation to prohibit the courts from hearing cases about brush clearings in South Dakota.

POINT OF ORDER

Ms. PELOSI. Mr. Chairman, I make a point of order.

Mr. Chairman, the gentleman was referencing activities as far as the other body is concerned, naming a Senator by name. Is that not out of order by this body?

Mr. SENSENBRENNER. Mr. Chairman, on the point of order, the gentleman from Florida was referencing a provision in a conference report that was adopted by this body as well as by the other body and became law.

The CHAIRMAN pro tempore. All Members should refrain from improper references to Members of the other body.

Mr. STEARNS. Mr. Chairman, I did mention in my speech about a provision in legislation that was inserted; so I thought that was important.

In July we passed the Marriage Protection Act, removing the Federal courts' jurisdiction from questions arising under the Defense of Marriage Act. Frankly, is marriage not more important than the forests that I mentioned previously that was inserted in legislation?

So I am honored to support this bill and to protect the Pledge of Allegiance from further judicial interference.

I will include my entire statement in the RECORD.

Mr. Chairman, for decades, activist judges have been free to impose their own beliefs on the American people with impunity.

We have had to endure egregious decisions about abortion, obscenity, school prayer and homosexual "marriage," to name but a few issues.

On each of these issues, the vast majority of the American people took the exact opposite position as the federal court.

This was especially true when the 9th Circuit Court of Appeals declared that the words "under God" in the Pledge of Allegiance are unconstitutional.

But I am glad to note that Congress has recently been exercising its constitutional prerogative to limit the federal courts.

Under Article III, Section 2 of the Constitution, we have the right—some would say the duty—to limit the jurisdiction of the federal courts.

It is not like it hasn't been done before.

In the 1868 landmark case of Ex parte McCardle, the U.S. Supreme Court agreed that Congress had the constitutional right to remove jurisdiction from the court in a pending case.

More recently, Senate Minority Leader TOM DASCHLE inserted a provision in legislation to prohibit the courts from hearing cases about brush clearing in South Dakota.

And in July, we passed the "Marriage Protection Act," removing the federal court's jurisdiction from questions arising under the Defense of Marriage Act.

Frankly, isn't marriage and the Pledge more important than forests?

I am honored to support this bill and to protect the Pledge of Allegiance from further judicial interference.

Mr. Chairman, for years the Federal Courts have been taking jurisdiction away from Congress. It is only proper that we exercise our constitutional right to limit their jurisdiction.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

The reference to Senator DASCHLE was not true. We rebutted it in the debate last time. I will reference something for the RECORD so we do not waste time on this untruth anymore now.

> Brush Clearing Rider: Most notably, the Majority claims that a rider to the 2002 Supplemental Appropriations Act authored by the senior senator from South Dakota approving logging and clearance measures by the Forest Service in the Black Hills of South Dakota serves as a precedent for the enactment of these types of court-stripping measures.
>
> The problem with this argument is that, while the rider restricted "judicial review" of "any [logging or clearance] action" by the Forest Service, it did not restrict federal judicial review of the rider itself or its constitutionality. Indeed, the federal courts did review the validity of the rider, and explicitly found that the "challenged legislation's jurisdictional bar did not apply to preclude Court of Appeals' review as to the legislation's validity"

Mr Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, if anyone had told me that coming to the Congress of the United States of America, representing my district, I would have to be on the floor of Congress defending the constitutional rights of the Supreme Court to make constitutional rulings, I would have told them they are crazy. This is absolutely outrageous. The gentleman just asked when do we get so angry that we agree to strip the Court of its constitutional responsibility.

Mr. Chairman, I have disagreed with any number of decisions of the Supreme Court. I disagree with the fact that the Dred Scott decision said separate was all right, separate but equal. And in the last 2002 election, I disagreed with the fact that the Supreme Court gave the Presidency to George W. Bush. But my colleagues did not see me and others coming in here and talking about stripping them of their ability to make constitutional decisions.

The court-stripping proposed in this bill would destroy the Supreme Court's historical function as the interpreter and ultimate arbiter of what the Constitution requires. This misguided legislation to strip the Supreme Court of its appellate jurisdiction also would have seriously damaging implications for the relationships among our three branches of government. This bill and other court-stripping bills proposed by the Republicans would be laughable if the results of enacting this bill were not so tragic and not so threatening to the constitutional rights of our people and the independence of the Federal judiciary.

If H.R. 2028 were passed into law, it would constitute the first and only time Congress has enacted legislation totally eliminating any Federal court from considering the constitutionality of Federal legislation, in this case the Pledge of Allegiance.

Mr. SENSENBRENNER. Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, yes, we are one Nation under God, and we are one Nation under the Constitution, until today.

I voted some time ago to keep the words "under God" in the Pledge, and I will vote today to keep the Supreme Court in its constitutional business of enforcing the Bill of Rights. The Republican Party today intends to treat the Bill of Rights the way the Soviet Union operated during their long tyranny. Because in the Soviet Union, one could go next to Lenin's grave and see their beautiful bill of rights nicely illuminated, looked fine. But the Soviet Union lacked one thing: they stripped their courts of the ability to enforce their own bill of rights. And today the Republican Party intends to do the same thing in America.

In America we should not abandon what we learned as kids in school, that checks and balances are necessary to our fundamental liberties. And sometimes the Supreme Court gets it wrong, but heaven help the day that one trusts liberty to Congress, where the day that Congress is in session, their life and liberty is in danger. We have got to depend on the U.S. Supreme Court.

Mr. NADLER. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), Democratic leader.

Ms. PELOSI. Mr. Chairman, with our troops in harm's way and a deteriorating situation in Iraq and with our country facing the clear and present danger of terrorism, there are grave and great issues that Congress must address.

But what are we doing here today? Are we debating the 9/11 Commission recommendations to secure our Nation? Are we providing health insurance to millions of Americans who have lost their insurance under this President, providing jobs to the millions of unemployed Americans and fully funding our schools?

No, Mr. Chairman. Instead, we are gathering here to once again debate undermining the Constitution of the United States and dishonoring the oath of office that we take to protect and defend the Constitution.

The bill before us claims to protect the Pledge of Allegiance. But protect the Pledge from what? Our Supreme Court has not undermined the constitutionality of the Pledge.

With the reversal of the Newdow case, there is only one major appeals court decision that has addressed the constitutionality of the Pledge; and that court, the seventh circuit, has upheld the Pledge.

This is a piece of legislation in search of a solution for a problem that does not exist.

Millions of Americans daily and proudly pledge "one Nation under God, indivisible, with liberty and justice for all." Let me be clear. I defer to no one in my defense of the voluntary recitation of the Pledge. I strongly believe that the phrase "under God" and the Pledge itself is an uplifting expression of support for the United States. I love the Pledge.

The distinguished chairman of the Committee on the Judiciary referenced the Civil War in response to a statement made by the gentlewoman from Texas (Ms. JACKSON-LEE) and said it was not the Supreme Court that increased freedom in our country for all Americans; it was the Civil War and the amendments that followed it. That certainly was an important part of it. But absent the Brown v. The Board of Education decision, we would not be enjoying the freedoms we have for all Americans today.

But since the gentleman referenced the Civil War, I want to call to our colleagues' attention a quote that is familiar to all of them. It is from Lincoln's second inaugural address: "With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive to finish the work we are in, to bind up our Nation's wounds." President Lincoln called upon God.

Another of my favorite inaugural addresses is that of President Kennedy and his inaugural address. He said: "With good conscience our only reward, with history the final judge of our deeds, let us go forth to lead the land we love, asking His blessing and His help and knowing that here on Earth God's work must truly be our own."

So evoking God's will and calling upon Him to guide us in our work is something that is very important to all Members of Congress on both sides of the aisle. I resent the comments made by some that there is anything less than that commitment on both sides of the aisle.

This bill not only does not protect the Pledge; it violates the spirit of the Pledge by professing a lack of faith in the constitutional framework. It has been a settled principle since Chief Justice John Marshall's opinion in 1803 in Marbury v. Madison that "it is emphatically the province and the duty of the judicial department to say what the law is." The Federalist Papers, subsequent decisions of the Court, and the judicial branch's role as a co-equal branch all strongly suggest that Congress cannot prohibit courts from determining constitutional questions.

There is no question that this bill does not pass constitutional muster. But that does not deter the bill's proponents. The gentleman from Indiana, the author of the last court-stripping bill and a key advocate for this bill, has even outdone his statement 2 months ago that 200 years of precedent in Marbury v. Madison establishing judicial review was "wrongly decided." The gentleman from Indiana (Mr. HOSTETTLER) amazingly asserted in the markup of the bill last week that "the notion of an independent judiciary is a flawed notion . . . the notion of an independent judiciary does not bear out actually in the Constitution."

The notion of an independent judiciary is not contained in our Constitution? This is a principle that we as a power of example of our country try to convey to emerging democracies that central to democracy is an independent judiciary. And advocates for this legislation say that that is not contained in our Constitution.

Is this what the leadership of this House and the chairman of the Committee on the Judiciary really believe? I suggest that they read James Madison and Alexander Hamilton's writings in the Federalist Papers. This radical concept is completely counter to our history and our values.

Two months ago, some assured us that the court-stripping efforts would stop once they got their wanted Defense of Marriage Act. But as the gentleman from Michigan (Mr. DINGELL), distinguished dean of the House, so eloquently warned us in July, "We should expect to see this dangerous approach repeated on a wide range of other legislation."

□ 1245

Today his prediction has come true, and there is no pretense that this will end. What is next? Voting rights? Laws that prohibit racial discrimination? Civil liberties? Our rights to privacy?

As we consider this bill, we must remember our history and protect our Constitution to ensure our liberty. We must protect the ability of the Federal judiciary to safeguard our freedoms and ensure access to the courts by all.

This bill is an assault on our cherished Constitution and the independent judiciary for its part for partisan purposes, and it is an attempt to distract the American people from the Republicans' record of failure.

Mr. Chairman, let us honor the pledge by keeping faith with its spirit. Let us pledge to be one Nation under God, indivisible, with liberty and justice for all.

This bill has been brought to the floor to embarrass some Members, so I respect whatever decisions they have to make in light of the motivation behind it. I just want the record to show why I so strongly oppose this legislation.

Mr. NADLER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, 1,800 years ago, Christians were persecuted because they would not worship the Roman emperor as a god; 450 years ago St. Thomas Moore lost his head because he would not swear an oath that king and parliament commanded that violated his Catholic belief.

But the United States is different. Our Constitution prohibits test oaths. Our Constitution protects the rights of Jehovah's Witnesses' children to refuse to recite a pledge that we hold dear but that violates the tenets of their faith.

Or at least the United States was different. This bill would leave to the States, as the gentleman from Wisconsin (Mr. SENSENBRENNER) says, the decision whether that religious liberty would be protected or not.

The issue, Mr. Chairman, in this bill is not the Pledge of Allegiance. The issue in this bill is whether we strip the courts of the power to protect our liberties against perhaps transient majorities and legislative bodies. The issue is whether we eliminate the only final protection of our liberties, of our religious and other liberties, that we have evolved. If we pass this bill and go in this direction, the United States will be a very different and a much, much less free country.

I urge the defeat of this bill.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore (Mr. LATHAM). The gentleman is recognized for 3 minutes.

Mr. SENSENBRENNER. Mr. Chairman, on September 17, 1937, President Franklin D. Roosevelt gave a Constitution day address, and in that speech President Roosevelt said in part, "Lay rank and file can take cheer from the historic fact that every effort to construe the Constitution as a lawyer's contract rather than a layman's charter has ultimately failed. Whenever legalistic interpretation has clashed with contemporary sense on great questions of broad national policy, ultimately the people and the Congress have had their way."

This was a statement that was made by what is conceded on both sides of the aisle as the greatest Democratic President in the history of this country.

In the last Congress, both the House and the Senate passed and the President signed public law 107-206. Section 706(j) of that law says, "Any action authorized by this section shall not be subject to judicial review by any court of the United States."

Now, where were all of the Members who are complaining about this bill when that legislation came up, because it took away the right of the Federal courts to review legal issues relating to trees in South Dakota. If Congress can deny all the Federal courts the authority to hear a class of cases to protect trees, it certainly can do so to protect the States' policy regarding the Pledge of Allegiance. That is why this bill ought to be passed.

Mr. ALLEN. Mr. Chairman, I rise in strong opposition to H.R. 2028, the so-called Pledge Protection Act.

I believe that the phrase "under God" should remain as part of the Pledge of Allegiance, and I believe that the statute that fixed that phrase as part of the Pledge is constitutional. But I cannot support this misguided congressional power grab that would prevent the federal courts from interpreting a law passed by Congress, or deciding its constitutionality.

In the name of custom, our Republican colleagues disregard 200 years of legal and constitutional customs and precedent just to score political points in an election year.

Despite its name, this legislation does not protect the Pledge of Allegiance. It does, however, undermine the very foundation of our system of government.

We teach our children to respect the work of the Founders and the Constitution's system of checks and balances. Judicial review is a vital component of that system. Unfortunately, the so-called conservative Republican majority shows no respect today for the traditional role of our federal courts.

The bizarre effect of this bill would be to allow fifty different state courts to interpret the United States Constitution in fifty different ways. Never in our history has a state court had the final say on interpreting the U.S. Constitution. That is the role and duty of the federal judiciary by history, custom and law.

But for the Majority, there is no tradition, no custom, no practice, no matter how broadly accepted, that is immune from Republican assault.

The Framers, our original revolutionaries, were wiser and more tolerant. Reject this election year stunt.

Mr. BLUMENAUER. Mr. Chairman, this resolution represents the third time in as many years that the House has brought needless legislation to the floor to "protect" the Pledge of Allegiance. At a time when we should be discussing issues of great consequence, like the genocide occurring in Sudan, the implementation of the recommendations of the 9/11 Commission, and the use of our federal surface transportation dollars, the House leadership has again decided to bring up this stale topic. This time, however, the legislation is not simply frivolous; it is downright dangerous..

This bill, which will purportedly protect the Pledge of Allegiance, is the continuation of a reckless and destructive pattern to strip courts of their ability to determine the constitutionally of the Pledge of Allegiance. This is an outrageous assault on our fundamental constitutional framework. Personally, I do not think individual liberties are threatened by the words "under God" in the Pledge of Allegiance. Regardless, this remains a decision that should be made in federal courts—not here in Congress. The very notion of this legislation is unconstitutional. It should be fundamentally and decisively rejected today.

Mr. DINGELL. Mr. Chairman, I rise in strong opposition to H.R. 2028. Here we are again considering needless court-stripping legislation that would destroy our constitutional system of checks and balances. This time we wrap it in the flag and call it the Pledge Protection Act.

This is another extraordinary piece of arrogance on the part of the House of Representatives to pass legislation which would strip American citizens of their right to access the federal courthouse. Can you imagine anything more shameful than telling an American citizen you cannot go into court to have your concerns addressed regarding Constitutional rights, or to have those rights heard by the courts of your Nation?

I do not believe that we should strip the federal courts of jurisdiction when it comes to issues related to the Equal Protection Clause of the Constitution. It drastically interferes with the separation of powers between the three branches of our government.

While I will always defend the autonomy and the power of the legislative branch, the principle of judicial review that Chief Justice John Marshall set out in the 1803 decision Marbury v. Madison is law. This landmark case established that the Supreme Court has the right to pass on the constitutionality of an act of Congress. To whittle away one of the bedrock powers of the judicial branch is wrong for the Union and wrong for our citizenry.

Tinkering with the foundation of our judicial branch could come back to haunt us. You can be almost certain with the passage of this legislation that there are interests out there deciding what other rights can be stripped of American citizens because we disagree with them. Maybe a future Congress will want to strip court challenges to gun control legislation by gun owners or sportsmen.

Mr. Chairman, we live in one nation, under God, with liberty and justice for all. If we pass this bill, we begin to hollow out the true meaning of the pledge, the Constitution and what it means to live in this great nation.

I strongly oppose this legislation and urge my colleagues to do the same.

Mr. STARK. Mr. Chairman, I rise in opposition to H.R. 2028, the So-Called "Pledge Protection Act." This potentially unconstitutional piece of legislation speaks volumes about the uncontrollable extremism of the Republican Party and its desperation to look "conservative" in the face of $400 billion deficits and nation-building in Iraq.

The fact that the Supreme Court already threw out the decision striking "Under God" from the Pledge of Allegiance makes this bill irrelevant with regard to the Pledge, and all the more frightening with regard to the true intentions of the Republicans. In the interest of politics, they would unravel our system of checks and balances and close the courthouse doors to religious minorities. They would set a new, disastrous precedent of letting 50 different state courts be the final arbiters of our laws. They prefer that state judges, rather than federal judges confirmed by the Senate, make Constitutional law.

If the right wing had been in control of the Republican Party in the 1960s, we wouldn't have desegregation or Miranda warnings, as there were court-stripping proposals on those subjects, too.

Mr. Chairman, everyone here realizes that if Congress could just pass whatever laws it wanted and throw in a line to keep them from being held unconstitutional, our Constitution and Separation of Powers would be rendered meaningless. So let's just admit what this is really about: rallying the base and attacking defenseless Americans.

Shame on any Member of this body who will trample on our Constitution just to score a few political points. If the Oath we all took to "support and defend the Constitution of the United States" means anything to you, you will vote "no" on this election-year ploy.

Mr. HOLT. Mr. Chairman, I rise in opposition to H.R. 2028, which would prevent federal courts and the Supreme Court from hearing any claim that the recitation of the Pledge of Allegiance violates the first amendment of the Constitution.

The Constitution—perhaps the greatest invention in history—has been the source of our freedom in this great country for more than two centuries. The framework of government it established has allowed our diverse people to live together, to balance our various interests, and to thrive. It has provided each citizen with broad, basic rights.

The judiciary was designed to be the one branch of the federal government that is not influenced or guided by political forces. This independent nature enables the judiciary to thoughtfully and objectively review laws enacted by the legislative branch to ensure that federal law is in line with the Constitution. Throughout the development of our nation, this check has been vital to protecting the rights of minorities.

Although the Constitution gives Congress the power to limit the jurisdiction of the federal judiciary and the appellate jurisdiction of the Supreme Court, I am certain that the founding fathers did not intend for Congress to use this power to shape the jurisdiction of the courts along ideological lines. This legislation will set a dangerous precedent by allowing Congress to insulate itself from judicial review so that it can pass legislation that it thinks may be unconstitutional. This is a clear misuse of Congressional authority and it is a cynical attempt to question the patriotism of Members of this institution.

Like every member of this body, I am proud to recite the Pledge of Allegiance as a way to express my loyalty to this Nation and its founding principles. I share the view of many Members that the current text of the Pledge of Allegiance is constitutional including the phrase "under God". I expressed my support for the Pledge in its current form when I joined many of my colleagues in voting for a resolution that expressed the opinion of Congress that the Ninth Circuit's decision in Newdow v. U.S. Congress was erroneous, This was an appropriate forum for me, as a Member of Congress, to express my belief in the constitutionality of the Pledge of Allegiance.

Unfortunately, those who support this legislation do seek to alter our delicate system of checks and balances and make their own decisions infallible. They are attempting to alter the intended framework of our government, which has met the needs of a diverse population and allowed us to remain indivisible in times of crisis for more than 200 years. They ignore the fact that we are a political institution guided by public opinion that is constantly fluctuating and believe that this institution is better equipped than the judiciary to evaluate what laws violate the Constitution.

It is unclear to me where the supporters of this legislation will end in restricting an individual's ability to seek redress. In July, we passed legislation that denied individuals the ability to question the constitutionality of the Defense of Marriage Act. Today we are debating legislation that limits an individual's ability to bring a claim regarding the Pledge of Allegiance. What law will the Majority party choose next to put above the process of judicial review? At what point will the Majority party stop adding exceptions to the right to due process?

A vote against this bill signifies a desire to make the words of the Pledge of Allegiance a living reality and not a hollow promise. A vote for this legislation is a vote against the values that are embedded in our Constitution. I urge my colleagues to oppose this legislation.

Ms. LEE. Mr. Chairman, I rise in strong opposition to H.R. 2028, the Pledge Protection Act.

I am outraged that my colleagues on the other side of the aisle would give serious consideration to this legislation that infringes on the First Amendment, and blurs the Separation of Powers.

This bill is just another misguided election year ploy designed to score political points.

H.R. 2028 threatens a fundamental aspect of our constitutional structure and would set a dangerous precedent by stripping federal courts of judicial independence and pave the way to preventing federal judges from ruling on other controversial social issues.

It is unacceptable and unconstitutional to propose stripping powers from the judicial branch every time we disagree with a decision they make.

Regardless of race or creed, we should all have the right to access the federal courts to challenge a particular policy or piece of legislation. By denying this right, this bill is both bigoted and backwards.

By bringing this legislation to the Floor, the Republican Leadership has demonstrated again that they are more concerned with making political headlines than making headway on substantial legislation—like the VA–HUD appropriations bill or the National Affordable Housing Trust Fund.

My constituents who have serious needs—like housing, jobs, education, and affordable heath care. How can I explain the Republican's misplaced priorities?

And I must explain how the Leadership of this body decided to waste another legislative day on political legislation like this bill.

We need to get back to the people's business and deal with some of the real pressing issues that face our country.

I urge my colleagues to oppose this unnecessary legislation and vote against H.R. 2028.

Mr. SULLIVAN. Mr. Chairman, I rise in strong support of H.R. 2028, the Pledge Protection Act of 2004. H.R. 2028 is a commonsense piece of legislation that reserves to the state courts the authority to decide whether the Pledge of Allegiance is valid within each state's boundaries. It will place final authority over a state's pledge policy in the hands of the states themselves, where it belongs.

The role of Congress has always been clear on the limitation of jurisdiction of the federal judiciary. Integral to our American Constitutional system is each branch of government's responsibility to use its powers to prevent overreaching by the other branches. Passage of H.R. 2028, will send a strong signal to the federal judiciary that the will of the people will prevail against judicial activism on the Pledge of Allegiance.

In a Nation where the vast majority of Americans believe in a divine power, it is un-American to place our pledge in the hands of the Federal Judiciary. I believe that reciting the Pledge of Allegiance is not only a right, but also a responsibility. While no one is forced to recite it, neither should anyone be prohibited from pledging allegiance to our great country.

It is wrong for any court to impose its will on whether the overwhelming majority of Americans can publicly express a fundamental belief. The people have spoken through their elected representatives on both the federal and state levels on this issue.

I urge passage of this legislation to send a strong message of judicial restraint, and of empowerment of the people in their own government, to protect the Pledge of Allegiance for all Americans.

Mr. UDALL of Colorado. Mr. Chairman, this bill seeks to prevent any federal court—including the Supreme Court—from considering "any question pertaining to the interpretation of, or the validity under the Constitution of, the Pledge of Allegiance . . . or its recitation."

As we all know, introduction of the bill was prompted by the 2002 decision of the Court of Appeals for the Ninth Circuit in what is known as the "Newdon" case. That decision held that the 1954 legislation adding "under God" to the pledge and a California school district's policy of daily recitation of the pledge with those words were both unconstitutional. (That court later modified the decision to apply only to the school district's recitation policy.)

The school district and the United States both appealed to the Supreme Court—and on June 14th the Supreme Court reversed the decision, on the grounds that the plaintiff did not have legal standing to challenge the school district's policy.

But the Republican leadership of the House evidently is afraid that somebody else might bring a similar lawsuit—and that prospect that is so alarming to them that they have brought forward this bill, which would prevent any federal court from hearing a lawsuit like that.

I cannot support such legislation. It may or may not be constitutional—on that I defer to those with more legal expertise than I can claim. But I think it clearly is not just unnecessary but misguided and destructive.

I have no objection to the current wording of the Pledge of Allegiance. After the court of appeals announced its decision in the Newdon case I voted for a resolution—approved by the House by a vote of 416 to 3—affirming that "the Pledge of Allegiance and similar expressions are not unconstitutional expressions of religious belief" and calling for the case to be reheard.

But this bill is a different matter.

The bill may be called the "Pledge Protection Act," but that is not accurate. In reality, it not only fails to protect the pledge but also would undercut the very thing to which those who recite the pledge are expressing allegiance.

The bill fails to protect the pledge because even if it becomes law people who don't like the way the pledge is worded would still be able to bring lawsuits in state courts—and the Supreme Court could not review how state's courts ruled on those suits.

So, while Colorado's courts might uphold the current wording, the courts of other states might reach a different conclusion—meaning there would no longer be a single Pledge of Allegiance, but different pledges for different states, and the First Amendment's meaning would vary based on state lines.

And that would be directly contrary to the very idea of the United States as "one nation" that should remain "indivisible" and whose defining characteristics are devotion to "liberty and justice for all"—that is, to the very Republic (symbolized by the American flag) to which we pledge allegiance when we recite the pledge this bill pretends to "protect."

How ironic—and how pathetic. As national legislators, as Untied States Representatives, we can and should do better. We should reject this bill.

Mr. OSE. Mr. Chairman, I rise today to reluctantly voice my opposition to H.R. 2028, the Pledge Protection Act.

As a cosponsor of the original legislation, I am disheartened to see changes that have removed necessary civil rights protections. In the course of a Committee mark up, the original Pledge Protection Act was stripped and rewritten to exclude the Supreme Court from jurisdiction from hearing cases surrounding the Pledge of Allegiance.

I strongly believe that if a citizen of the United States has a grievance of a federal nature, that individual deserves his or her day in federal court. By removing the Supreme Court from jurisdiction to hear Pledge cases, the Pledge Protection Act effectively removed a citizen's day in federal court. As such, I can not support this legislation in its current form.

Mr. POMEROY. Mr. Chairman, I rise in opposition to H.R. 2028, the Pledge Protection Act.

I strongly believe that the Pledge of Allegiance, including the phrase, "under God" is a constitutional expression of patriotism. I recall reciting the Pledge of Allegiance in school as a child growing up in Valley City, North Dakota, and I believe that it plays an important role in unifying our country and celebrating our national identity.

Like my colleagues, I was outraged by past court decisions that erroneously declared the Pledge of Allegiance unconstitutional. That is why on March 20, 2003, I voted in favor of H. Res. 132, which urged the Supreme Court "to correct the constitutionally infirm and incorrect holding" by the 9th Circuit Court of Appeals in its revised decision on the Newdow v. U.S. Congress case. This resolution also expressed the sense of the House of Representatives that the recitation of the Pledge is a "patriotic" act rather than a religious one, that phrase "One Nation, under God" should remain in the Pledge and that the practice of voluntarily reciting the Pledge in public school classrooms should be encouraged by the policies of Congress. Furthermore, on July 22, 2003, I voted in favor of the amendment offered by Rep. HOSTETTLER to H.R. 2799, the Commerce, Justice and State and Related Agencies Appropriations bill, which barred the use of any of the funds appropriated by the bill to "enforce the judgment" in the Newdow v. U.S. Congress.

During the 107th Congress, I also voted in favor of H. Res. 459, which expressed the view of the House of Representatives that the 9th Circuit Court of Appeals' original decision in Newdow v. U.S. Congress to strike the words "under God" from the Pledga of Allegiance was incorrectly decided. Similarly, I strongly supported S. 2690, legislation that reaffirms the language of the Pledge of Allegiance, including the phrase "one Nation under God."

I am concerned that the passage of H.R. 2028 would deny the Supreme Court its historical role as the final authority on the constitutionality of federal laws and nullify the separation of powers set forth in the United States Constitution. Furthermore, H.R. 2028 sets a dangerous precedent for future Congresses. By adding language from H.R. 2028 to unconstitutional legislation, a future Congress could enact laws that are clearly contrary to key tenets of the Constitution while preventing the Supreme Court from ever considering their validity. Given these considerable problems with H.R. 2028, I intend on voting against this measure.

Mr. PAUL. Mr. Chairman, I am pleased to support, and cosponsor, the Pledge Protection Act (H.R. 2028), which restricts federal court jurisdiction over the question of whether the phrase "under God" should be included in the pledge of allegiance. Local schools should determine for themselves whether or not students should say "under God" in the pledge. The case finding it is a violation of the First Amendment to include the words "under God" in the pledge is yet another example of federal judges abusing their power by usurping state and local governments' authority over matters such as education. Congress has the constitutional authority to rein in the federal court's jurisdiction and the duty to preserve the states' republican forms of governments. Since government by the federal judiciary undermines the states' republican governments, Congress has a duty to rein in rogue federal judges. I am pleased to see Congress exercise its authority to protect the states from an out-of-control judiciary.

Many of my colleagues base their votes on issues regarding federalism on whether or not they agree with the particular state policy at issue. However, under the federalist system as protected by the Tenth Amendment to the United States Constitution, states have the authority to legislate in ways that most members of Congress, and even the majority of he citizens of other states, disapprove. Consistently upholding state autonomy does not mean approving of all actions taken by state governments; it simply means acknowledging that the constitutional limits on federal power require Congress to respect the wishes of the states even when the states act unwisely. I would remind my colleagues that an unwise state law, by definition, only affects the people of one state. Therefore, it does far less damage than a national law that affects all Americans.

While I will support this bill even if the language removing the United States Supreme Court's jurisdiction over cases regarding the pledge is eliminated, I am troubled that some of my colleagues question whether Congress has the authority to limit Supreme Court jurisdiction in this case. Both the clear language of the United States Constitution and a long line of legal precedents make it clear that Congress has the authority to limit the Supreme Court's jurisdiction. The Framers intended Congress to use the power to limit jurisdiction as a check on all federal judges, including Supreme Court judges, who, after all, have lifetime tenure and are thus unaccountable to the people.

Ironically, the author of the pledge of allegiance might disagree with our commitment to preserving the prerogatives of state and local governments. Francis Bellamy, the author of the pledge, was a self-described socialist who wished to replace the Founders' constitutional republic with a strong, centralized welfare state. Bellamy wrote the pledge as part of his efforts to ensure that children put their allegiance to the central government before their allegiance to their families, local communities, state governments, and even their creator! In fact, the atheist Bellamy did not include the words "under God" in his original version of the pledge. That phrase was added to the pledge in the 1950s.

Today, most Americans who support the pledge reject Bellamy's vision and view the pledge as a reaffirmation of their loyalty to the Framers' vision of a limited, federal republic that recognizes that rights come from the creator, not from the state. In order to help preserve the Framers' system of a limited federal government and checks and balances, I am pleased to support H.R. 2028, the Pledge Protection Act. I urge my colleague to do the same.

Mr. SHAYS. Mr. Chairman, I voted against H.R. 2028, the Pledge Protection Act.

The phrase "under God" belongs in our Pledge of Allegiance to the Flag of the United States of America and the words "In God We Trust" belong on our currency. The Ninth Circuit Court of Appeals made a serious error in Newdow v. U.S. Congress when they declared our Pledge unconstitutional.

When the phrase "under God" was added to the Pledge of Allegiance in 1954, I was in elementary school and remember feeling the phrase belonged there. It appropriately reflects the fact that a belief in God motivated the founding and development of our great Nation.

The Declaration of Independence states, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights . . ." Our forefathers understood it was not they, but He, who had bestowed upon all of us those most cherished rights to life, liberty and the pursuit of happiness upon which our model of government is based.

At Gettysburg, President Abraham Lincoln acknowledged we were a Nation under God and, during his Second Inaugural Address, he mentioned our Creator 13 times.

Those historic speeches, the Pledge of Allegiance, our currency and the Declaration of Independence are not prayers or parts of a religious service. They are a statement of our commitment as citizens to our great Nation and the role God plays in it.

Our founders envisioned a government that would allow, not discourage or punish, the free exercise of religion and we are living their dream.

I voted against the Pledge Protection Act because I have faith in our Constitution and do not believe we should preclude judges from hearing issues of social relevance, simply because we may disagree with their ultimate decisions.

The tactic of restricting courts' jurisdiction is spiraling out of control. In July, I voted against a bill that would block the courts from hearing Constitutional challenges to the Defense of Marriage Act and again today we considered legislation to tie the courts' hands. What's next?

While the courts may, from time to time, produce a ruling we question, the principle of judicial review is essential to maintaining the integrity of our system of checks and balances and I fear the path we appear to be on. We are a Nation under God, and in Him we trust.

Mr. WELDON of Florida. Mr. Chairman, I rise in strong support of the Pledge Protection Act because it upholds the rights of the overwhelming majority of American people who support the phrase "under God" in the Pledge of Allegiance.

H.R. 2028, of which I am a cosponsor, removes from the jurisdiction of the Federal courts questions regarding the constitutionality of the Pledge of Allegiance. It does so utilizing the powers of Congress clearly expressed in article III of the Constitution. Article III reserves for the Congress the power to regulate or completely eliminate the Supreme Court's appellate jurisdiction over a class of cases.

Chief Justice Rehnquist of the U.S. Supreme Court stated that the court has already erected "a novel prudential principle in order to avoid reaching the merits of the constitutional claim" that the phrase "under God" violates the Establishment Clause. It is clear from this precedent that the U.S. Supreme Court is most likely to rule the phrase "under God" unconstitutional should a case reach the high court.

Liberal activist judges are consistently working to remove the mention of "God" from the public realm. As a Nation that affirms in its own Declaration of Independence that God is the source of our rights, it is absolutely appropriate for Congress to act on this important issue.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pledge Protection Act of 2004".

SEC. 2. LIMITATION ON JURISDICTION.

(a) IN GENERAL.—Chapter 99 of title 28, United States Code, is amended by adding at the end the following:

"§ 1632. Limitation on jurisdiction

"No court created by Act of Congress shall have any jurisdiction, and the Supreme Court shall have no appellate jurisdiction, to hear or decide any question pertaining to the interpretation of, or the validity under the Constitution of, the Pledge of Allegiance, as defined in section 4 of title 4, or its recitation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 99 of title 28, United States Code, is amended by adding at the end the following new item:

"1632. Limitation on jurisdiction.".

The CHAIRMAN pro tempore. No amendment to the committee amendment is in order except those printed in House Report 108–693.

Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108–693.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SENSENBRENNER:

In section 1632 of title 28, United States Code, as added by section 2(a) of the bill, insert the following after "or its recitation.": "The limitation in this section shall not apply to the Superior Court of the District of Columbia or the District of Columbia Court of Appeals.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 781, the gentleman from Wisconsin (Mr. SENSENBRENNER) and a Member opposed each will control 5 minutes.

Mr. NADLER. Mr. Chairman, I ask unanimous consent to control the time in opposition, though I do not oppose the amendment.

The CHAIRMAN pro tempore. Without objection, the gentleman from New York (Mr. NADLER) will be recognized for 5 minutes.

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is simple. Currently the bill prevents

Federal courts, including courts created by an act of Congress, from striking down "under God" in the Pledge, while reserving to the State courts the authority to hear cases involving the Pledge.

The District of Columbia, however, due to its unique constitutional position, does not have State courts. Instead, its courts that are the equivalent of State courts are created by an act of Congress.

So, to preserve a judicial forum for District residents regarding challenges to the Pledge, this amendment simply adds the following section to the bill: "The limitation in this section shall not apply to the Superior Court of the District of Columbia or the District of Columbia Court of Appeals."

This sentence preserves the authority of the District's courts to hear cases involving the Pledge. I urge its adoption.

Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on this side of the aisle we do not oppose the amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, I applaud the chairman of the committee for offering the manager's amendment that grants to the D.C. residents the same rights that apply to residents of the 50 States under this bill, that is, the right to have some recourse in a local, non-Federal court. However, the manager's amendment still does nothing to address the same problem with respect to U.S. citizens who are residents of the U.S. Virgin Islands, Northern Mariana Islands, and Guam.

This amendment just goes to show that the majority was so busy stripping the courts of jurisdiction that it inadvertently stripped jurisdiction from all the courts, just as they did last week in a tort reform bill allowing foreign corporations to escape all liability for injuries to American citizens because the bill, in some cases, provided no United States jurisdiction in which the case could be brought.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the reason that this amendment does not include the local courts in Puerto Rico and the territories is that those courts are not created by Act of Congress, so residents of Puerto Rico and the territories will be able to file suits regarding the Pledge in the courts that have been created by their respective legislatures pursuant to the organic Act that Congress has previously passed.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I would say to the chairman, I think I agree with him on Puerto Rico, but disagree with regard to the Virgin Islands and others. If we could agree that the legislative intent is to make sure there will be some recourse, we could have that fixed in conference.

Mr. SENSENBRENNER. Mr. Chairman, reclaiming my time, I agree with the comments made by the gentleman from Virginia (Mr. SCOTT).

Mr. Chairman, I yield back the balance of my time.

Mr. NADLER. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, the amendment is fine, but it does not fix the problem with the bill. Marbury versus Madison, 1803, was when the great decision was made that the judicial branch would interpret the law. Since that time, we have had, like we all learned in 8th grade, the three branches of government, and it served us pretty darn well for the last 200 years. We have a free country that lives under law.

This bill actually would try to remove the judicial branch from its job of interpreting the law, and, most importantly, making sure that the laws that the Congress passes and the actions that the executive takes meet up with the standards in the Constitution of the United States.

Now, I have been listening to the debate of the proponents of this bill with some concern. Some of the things that have been said, I wonder, can they be that dumb, or are they being venal, or is it both? Absolutely we know there is a difference between passing a statute and having that statute interpreted to see whether the statute meets constitutional muster.

Clearly, Congress has the ability to do all kinds of things with the courts. We can set statutes of limitation, we can provide for direct appeal to the Supreme Court. What we cannot do is say that the Federal courts, that the Supreme Court, cannot review what we do to see whether it meets the requirements of the Federal Constitution. That is what we are trying to do today.

Now, if we succeed, if we pass this, we will either change fundamentally the free country that we enjoy, or else we will promote a constitutional crisis. Maybe we could get a Marbury-II.

But I think there is another reason for this bill today. I think we are here today for political purposes. We are here so that certain Members of this House who try and protect the Constitution will be subject to 30-second political ads. I think that is a misuse of our processes here. Either radicals have taken over the Congress, or venality has hit a new low, and we would trash our system of government for political purposes. I think either is a disgrace.

Mr. NADLER. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, first of all, I know the author of the bill came to the floor a few moments ago, the gentleman from Missouri, and said we are trying to confuse this issue with legality.

I am actually confused by a couple of things. One, those of us who want "God" in the Pledge of Allegiance, we won. You would think from this debate that this morning when we took the Pledge of Allegiance, we did not say "God." You would think that that crazy court in California that came up with the wrong decision was not reversed. We won that case.

The second thing I am curious about, what is it about bills and issues that you do not strip review from that you like less than this? How come when you say that there should be no abortions for women in this country, that you do not strip the review of that? How come when you do your budget, you do not strip your review of that? How come when you do all of the other bills around, do not you love them as much? Are they not equally as important to you?

I am shocked there is any legislation you bring to this floor that you do not strip the review of the courts, because, frankly, by your interpretation of the Constitution, the court has no role there.

The final question I have, and I hate to vex my opponents on the other side with talk of legality, but if not the courts are interpreting the Constitution of the United States, who is going to do it? What is your suggestion? Are we going to have like a reality show, where maybe we let 12 people on an island come up with the decision? And what if you do not have Federal courts doing it, you just have the State courts?

Maybe I guess then the 14th Amendment is a bit troublesome. I guess there are no uniform constitutional rights in this country, no uniform right to bear arms, no uniform right to speech and to practice religion.

If anyone can answer any of those three points, I will gladly vote for this bill.

Mr. CONYERS. Mr. Chairman, while I commend Chairman SENSENBRENNER for heeding the advice of Representative BOBBY SCOTT and offering an amendment that will allow DC residents to have their day in court, I am concerned that the amendment does not grant similar protections to residents of U.S. territories.

This is because the local courts in the U.S. Virgin Islands (codified at 48 U.S.C. § 1611, population 110,000 residents); the Northern Mariana Islands (codified at 48 U.S.C. § 1821, population 78,000); and Guam (codified at 48 U.S.C. § 1424, population 160,000); were all created by acts of Congress, not the local legislatures.

Since this bill provides that "[n]o court created by an Act of Congress" shall have any jurisdiction to hear cases concerning the constitutionality of the Pledge of Allegiance, the net result is that under H.R. 2028, no judicial review would be available for Pledge of Allegiance cases for the nearly 350,000 combined residents of these territories.

As the majority's own witness, Martin Redish, concluded at the Committee's hearing on court stripping legislation:

> . . . as long as the state courts remain available and adequate forums to adjudicate federal law and protect federal rights, it is difficult to see how the Due Process Clause would restrict congressional power to exclude federal judicial authority to adjudicate a category of cases, even one that is substantively based.

Unfortunately, under the Chairman's amendment, such a local court review would not be possible in Guam, the Virgin Islands, and the Northern Mariana Islands. As a result, the bill would continue to be unconstitutional with regard to these territories.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

□ 1300

The CHAIRMAN pro tempore (Mr. LATHAM). It is now in order to consider amendment No. 2 printed in House Report 108–693.

AMENDMENT NO. 2 OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment No. 2 offered by Mr. WATT:
>
> In section 1632 of title 28, United States Code, as added by section 2(a) of the bill, strike ", and the Supreme Court shall have no appellate jurisdiction,".

The CHAIRMAN pro tempore. Pursuant to House Resolution 781, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, my amendment would restore the bill to its original form. The original bill that was introduced, H.R. 2028, actually stripped only the lower courts, not the Supreme Court, of jurisdiction to hear these cases. My colleague, the gentlewoman from Illinois (Mrs. BIGGERT), who was an original supporter and sponsor of the original bill, both of us submitted amendments to the Committee on Rules asking the Committee on Rules to restore the bill to its original intention, and the Committee on Rules decided it would make my amendment in order, I guess so that it would not send a signal to the Republicans that this is a bipartisan amendment.

So I want to offer this amendment to restore the jurisdiction of the United States Supreme Court to determine constitutionality.

Mr. AKIN. Mr. Chairman, I claim the time in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, the reason why we should vote against this amendment is fairly basic and pretty simple mathematics, and that is, in the last decision, when the Newdow case was thrown out on standing, that decision made it clear that there are only three chief justices who support the Pledge of Allegiance, and three is not enough to keep "under God" in the pledge.

Now, what this amendment is going to do is it is going to allow the Supreme Court to hear additional or any future challenges to the Pledge of Allegiance. And when the current court hears that challenge, we are struck with that simple mathematics, that there are only three votes on the Supreme Court that would keep "under God" in the Pledge.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in support of the Watt amendment which would restore the Supreme Court's jurisdiction over questions relating to the Pledge of Allegiance, changing the bill back to the way it read when I and 224 other Members cosponsored it.

Congress clearly has the authority under article III of the Constitution to define the jurisdiction of the Federal district and appellate courts, and the original H.R. 2028 was perfectly supportable on this point. But this new bill strips the Supreme Court jurisdiction, and I cannot support that.

Mr. Chairman, in our more than 200-year history as a Nation, there is no direct court precedent in which the Supreme Court is cut off entirely from review of a constitutional issue. Congress wisely has chosen not to test its power to deny Supreme Court review of laws Congress has passed; that is until H.R. 3313 and this amended version of H.R. 2028.

I know that the gentleman from Wisconsin (Chairman SENSENBRENNER) cited Ex Parte McCardle as authority under article III to make exceptions to the appellate jurisdiction of the Supreme Court. But in McCardle, the court recognized that other avenues and at least some level of review were available on a constitutional challenge.

I would caution my colleagues to think twice before tampering with authorities clearly granted in the Constitution. The issue today may be the Pledge, but what if the issue tomorrow is second amendment rights, civil rights, environmental protection or a host of other issues that Members may hold dear. I would ask my colleagues, do we really need 50 different versions of the Pledge of Allegiance? I certainly do not think so.

I believe that "under God" are two of the most important words in the Pledge. I also believe that the Supreme Court should be the final arbiter of all Federal questions. That is why I urge my colleagues to support the Watt amendment to the Pledge Protection Act.

Mr. AKIN. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, exactly what we are talking about is limiting the appellate jurisdiction of the Supreme Court, and let me just read my colleagues a couple of things. According to constitutional experts, under article III of the Constitution, Congress clearly has the ability to limit the appellate jurisdiction of the Supreme Court to review certain cases. Now, this is satisfied by constitutional experts, and who are these constitutional experts? Well, justices of the Supreme Court.

In the decision Wiscart v. Dauchy, the Court ruled, "If Congress has provided no rule to regulate our proceedings, we cannot exercise appellate jurisdiction; and if the rule is provided, we cannot depart from it."

Let me read another decision, Martin v. Hunters' Lessee. The Court ruled, "Congress is able to regulate and restrain appellate jurisdiction of the U.S. Supreme Court as public necessity requires."

And one last decision, United States v. Bitty. The Court ruled, "Congress holds the wisdom and authority to establish exceptions and regulations concerning the court's appellate jurisdiction."

What we are doing here, I say to my colleagues, is letting our State courts take a look at this and not Federal activist judges.

Let us leave these decisions up to our State courts and not our Federal court system. Let us not gut the Sensenbrenner amendment, and I urge Members to vote no against the Watt amendment.

Mr. WATT. Mr. Chairman, I yield 1½ minutes to the gentleman from New Hampshire (Mr. BASS).

Mr. BASS. Mr. Chairman, I thank the gentleman for yielding me this time. I thank my colleague, the gentlewoman from Illinois, for joining him in offering what I consider to be a bipartisan amendment.

I would only point out that Newdow on its face was based on a procedural issue of standing, and the math might be quite different if the decision was based upon substance rather than standing.

I rise in support of this amendment offered by my friend, the gentleman from North Carolina (Mr. WATT). I sponsored H.R. 2028, along with 225 or so other Members of Congress, because I believe that we should have "under God" in the Pledge of Allegiance, and I voted on three other occasions in the same fashion.

There are two other issues involved here. The first is whether or not we want to make sure that we have "under God" in the Pledge of Allegiance, and the second issue is, do we want to take on a fundamental issue that has been debated in this country for over 200 years? And that is whether or not the Supreme Court has standing in appellate jurisdiction for issues that may be unconstitutional.

I come down on the side of the precedent that we have had in this country for the last 200 years. I support the Watt amendment because I support passage of the bill and the signing of the bill by the President of the United States. I want "under God" in the Pledge of Allegiance. I want to make policy. As a colleague of mine on the Republican side said yesterday, let us make policy, not make statements.

Vote for the Watt amendment and pass the bill.

Mr. AKIN. Mr. Chairman, I yield 4 minutes to my distinguished colleague, the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in opposition to the gentleman's amendment from North Carolina and in support of the base bill that is being considered.

As I listen to the debate on this bill, I cannot help but remember the note written in the margin of the pastor's sermon where he reminds himself during a particularly questionable part of theology where he says, "pound pulpit hard here; argument weak." And that is what we see here from the other side, a very weak argument, because the suggestion that is being made by several of the folks on the other side is something we are trying to do is unconstitutional.

In the markup of this bill in the Committee on the Judiciary, I was intrigued by the attempt by the other side to continue to ask Americans to leave the Constitution alone. A colleague of mine on the other side of the aisle repeatedly said, leave the Constitution alone. What he meant by that was, stop reading the Constitution. Because if you read the Constitution, you will find that in article III section 2 of the Constitution, you find the basis for the legislation, the policy that the gentleman from Missouri seeks to put into law.

In article III section 2, after referring to all of the types of cases that shall come under the jurisdiction of the Federal judiciary, it says, "In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all of the other cases before mentioned," all the other cases before mentioned, "the Supreme Court shall have appellate jurisdiction both as to law, in fact, with such expects and under such regulations as the Congress shall make."

The notion of an independent judiciary, and it has been quoted by several folks here, my statement in the markup, the notion of an independent judiciary fails the Constitution test. The simple fact is, the framers of the Constitution did not want an unelected, unaccountable, life-tenured body, namely, the judiciary, to be able to, by writ large, enact policy across the country when the people themselves would not have an obligation or an ability to reverse it. But they gave that authority in the Constitution to the people's representatives in the Congress.

The gentlewoman from California, the minority leader, requested that Members of the House of Representatives read the Federalist Papers, and especially Hamilton, to understand the importance of the Congress' role vis-a-vis the judiciary. And as she said that I was inspired to do just that thing, and I pulled out from Alexander Hamilton, Federalist No.78, "Whoever attentively considers the different departments of power must perceive that in a government in which they are separated from each other, the judiciary is beyond comparison the weakest of the three departments of power. It has no influence over either the sword or the purse, no direction either of the strength or of the wealth of the society and can take no active resolution whatever. It may truly be said to have neither force nor will but merely judgment and must ultimately depend upon the aid of the executive arm, even for the efficacy of its judgments. That is, from the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed or influenced by its coordinate branches."

Now, does that sound like an independent judiciary? I am not sure how radical, I have heard the word "radical" today, radical Alexander Hamilton was. But we do know that what Hamilton, Madison, Jefferson, Washington, all of the founders, all of the framers of the Constitution wanted was to have these very important decisions, fundamental decisions about inculcating in our children the values of our families as being Americans, that they gave this opportunity, this ability to the people through their elected representatives.

Mr. WATT. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, the author of the base bill, the gentleman from Missouri, is a friend of mine, but apparently there is a second Congressman AKIN around here somewhere. Perhaps he was the one who wrote the bill.

The original version of the bill says, with respect to the jurisdiction of Federal courts inferior to the Supreme Court, and says that the Supreme Court shall be able to hear these cases. That was what the author of the bill said.

Now, the reason the author originally included that language, although he is now opposed to having it reinserted, the reason he put it in is because we do need someone to be the final arbiter of the interpretation of free speech, freedom of religion cases, of all cases, among the different States.

Imagine if we had a United States of America envisioned by the gentleman from Indiana, where every State court was free to kind of come up with their own interpretation of the Constitution of the United States. What incentive would there be on the parts of folks in Missouri, for example, or the folks in New York to have consistent constitutional values in this country?

Now, I have heard again and again, let us refer to the Constitution of the United States. I will freely confess one thing. Nowhere is judicial review in the Constitution. It was the creation of a great man that all of us went on record paying tribute to just last month. When John Marshall came up with this concept, it has been sacrosanct throughout jurisprudence since then.

But I ask my colleagues again and again, if not judicial review, then what? Who is it that guarantees me as a member of the minority, someone who is one person who believes he has a right to stand up for gun rights, let us say, who guarantees my constitutional right to speak if not the court?

□ 1315

This is the body where the majority has its say. We do it every day. The courts are where the minority, even the tiniest of minorities, go to have their day in court. For those of you who are concerned about the Pledge of Allegiance, we won that case. We won.

We lost the case, by the way on my side, when the Supreme Court overturned precedent and appointed a President. But if we were Republicans what would we do? Strip the Supreme Court from any right to decide and let all 50 States decide who the President is?

I would conclude with a question. That is, do you believe that reproductive rights legislation should be protected from judicial review? If so, include it in your bill. Do you believe that tax should be subject to judicial review? If so, then strip the courts in those cases.

I would say to the gentleman from Indiana (Mr. HOSTETTLER) since he is on his feet, does he believe that a woman's right to choose, or your position, restricting abortion, is important of principle, that we in this Congress should strip judicial review? Yes or no.

The CHAIRMAN pro tempore (Mr. LATHAM). The gentleman's time has expired.

Mr. AKIN. Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, who has the right to close?

The CHAIRMAN pro tempore. The gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I reserve the balance of my time.

Mr. AKIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is interesting. I have heard a number of people here professing that they think the words "under God" in the Pledge are a good thing to have. I have even heard that developed even further in references to Jefferson and to the second inaugural address of Lincoln which made references to God. And there seems to be a pretty good consensus that we want to leave the Pledge as it is.

But the interesting thing is that this amendment would clearly not leave the Pledge as it is. But I guess my question is, and we are getting to a very fundamental kind of question about what our job is as legislators here, and the question is, is it our responsibility to be a co-equal branch of government. If we really believe in the words "under God" in the Pledge, do we assert ourselves or do we roll over if the court decides they want to take something out that has been there for 50 years.

I guess it goes down to the very first day when we come down here to serve in this body and we put our hands up and we take an oath that says that we will uphold the Constitution. And that means that we are one of three coequal branches of government. And yet today, what I hear people saying is with their lips, I like the words "under God," but I will not lift a finger, in fact, I will vote for an amendment to make sure that under God gets stripped out the next time this thing takes a trip to the Supreme Court.

I guess my question is, how bad does it have to get before we assert our authority? I mean, how far does some activist judge have to go? You just use your imagination, is not there some point when we say enough already? The fact is historically, the fact that we have a right to recognize that is long recognized. There was a number of references to Marbury versus Madison, of course that was coming out of Marshall's court. It is just interesting to note that Chief Justice Marshall recognized our constitutional right to limit the appellate jurisdiction of the Supreme Court in Druso versus the U.S.

So this is clear-cut. It is something that has always been, but we do not want to somehow do our job. We do not want to exercise the authority the Constitution gives us.

There are repeated cases, others that have not been mentioned, Barry versus Merson. This is one that says the Supreme Court ruled that its appellate power was limited because Congress had neither expressly nor implicitly given the appellate jurisdiction in a class of cases involving the writ of habeas corpus in child custody. Then we have the other one, Wiskert versus Douchey where it says, if Congress has provided no rule to regulate our proceedings, we cannot exercise appellate jurisdiction, and if the rule is provided we cannot depart from it.

I had a couple of things I wanted to say in closing. That is, there is a certain point where the courts go too far. We know where the votes are on the Supreme Court. In the last decision when Newdow was struck down, it is clear, the fact remains that there are only three votes that are going to uphold "under God" in the Pledge of Allegiance. If you support "under God" in the Pledge of Allegiance, you will have to vote this amendment down because what this amendment does is it opens a hole that the Supreme Court can take this case out of State courts.

The CHAIRMAN pro tempore. The gentleman's time has expired.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I am a strong supporter of the Pledge of Allegiance. I believe "under God" should be in the Pledge of Allegiance. But what I cannot support today is legislation that basically tells the third branch of our government, go home, no thanks, we do not need you any more.

Judicial review has been a part of our democracy in this constitutional government for over 200 years. And now with the fancy language embodied in this legislation and other pieces of legislation that have been pending, they are trying to disrupt that delicate balance of power, the checks and balances that exist that allows the Federal courts from time to time to take a look at the work that we are doing in this Congress to see whether or not we are complying with the highest law of the land, the United States Constitution. That is what judicial review is all about.

What is so ironic about today's debate is that the courts have already weighed in and said that the Pledge is okay, "under God" is okay. So what are we doing here when we have anemic economic job growth in the country, rising health care costs and tuition that is placing college out of the reach of students. We can do better by the American people.

Mr. WATT. Mr. Chairman, how much time remains?

The CHAIRMAN pro tempore. The gentleman from North Carolina (Mr. WATT) has 2 minutes remaining. The gentleman from Missouri's time has expired.

Mr. WATT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, when I was in law school, one of the first things I learned is that if you win a debate, you sit down and quit arguing about it.

The other side has asked us several times, well, how far does the Supreme Court have to go, how far does the court have to go before we step in?

You have won the lawsuit. Newdow has been reversed.

Get a grip. You have won and you are here asking me, how far the Supreme Court has got to go?

Imagine this, no Supreme Court, no jurisdiction in the Supreme Court, and the State of South Carolina or New York strips out "under God." Who would have decided the case? Who would have decided the case? Nobody would have been there to reverse Newdow. Fifty different States, 50 different rules under your bill.

What happened to the word "indivisible" under God? Indivisible. Does indivisible not count anymore? Fifty different rules, is that indivisibility?

What have we got to do? You won the case.

This bill is not about the Pledge of Allegiance. This is an assault on the judiciary and on the right of the American people to a uniform interpretation of what the law is. It is not the Pledge that is in need of protection. It is our constitutionally established system of government. As long as you are in control in asserting it, every time you get a result that you do not like you will be back here.

Mr. CONYERS. Mr. Chairman, I rise in support of this amendment, which would preserve Supreme Court review of appeals related to the constitutionality of the Pledge of Allegiance.

As presently drafted the legislation precludes any federal judicial review, either by a lower federal court or the Supreme Court, of any constitutional challenge to the Pledge of Allegiance.

Aside from the obvious constitutional flaws inherent in the bill, the idea of Congress unilaterally cutting off constitutional review by the Supreme Court constitutes both a poor and dangerous legal precedent. As presently drafted, the legislation not only degrades the independence of the federal judiciary and the Supreme Court, but eliminates any possibility of developing a single uniform policy with regard to the recitation of the Pledge from the 50 state supreme courts.

Since H.R. 2028 strips the Supreme Court of the ability to review state court decisions, including those involving federal questions, a lack of uniformity in the law is an imminent threat. One's federal rights would depend on the vagaries of location. Ultimately, coercing children to recite the Pledge may be permitted in one state and not in another. This is why it is so important that we pass the Watt amendment.

The complete, unprecedented, and unnecessary stripping of Supreme Court jurisdiction inherent in the current bill would be totally at odds with the policy of checks and balances envisioned by the Nation's founders. As a matter of fact, the legislation would bring us far closer to the balkanized scenario envisioned by the Articles of Confederation, than the unified nation brought forth by the Constitution.

It is ironic that in the very same year that Congress celebrated Justice John Marshall by authorizing a commemorative coin in his honor, the Judiciary Committee would disparage him by passing legislation such as the bill that is totally inconsistent with Marshall's seminal legal opinion, Marbury v. Madison.

We should not use the issue of the constitutionality of the Pledge of Allegiance to permanently damage our courts, our constitution, and Congress. At a time when it is more important that ever that our nation stand out as a beacon of freedom, I cannot support a bill which undermines the very protector of those freedoms—our independent federal judiciary.

I urge my colleagues to vote "yes" on this important amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WATT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from North Carolina (Mr. WATT) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 3 printed in House Report 108–693.

AMENDMENT NO. 3 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. JACKSON-LEE of Texas:

In section 1632 of title 28, United States Code, as added by section 2(a) of the bill, insert after "recitation" the following: ", except in a case in which the claim involved alleges coerced or mandatory recitation of the Pledge of Allegiance, including coercion in violation of the protection of the free exercise of religion, such as that held to be in violation of the First Amendment in West Virginia State Board of Education v. Barnett, 319 U.S. 624, 638 (1943) and Circle School v. Pappert (No. 03-3285; 3rd Circuit, August 19, 2004)".

The CHAIRMAN pro tempore. Pursuant to House Resolution 781, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is very simple, it leaves the door open to acknowledge a very sacred and well-believed amendment of the Constitution. My amendment seeks to protect that amendment and that is the first amendment, that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Now, many of us have risen to this floor and wanted to make sure that all who heard us knew that we stood with the Pledge of Allegiance as it is now written. And we have recited it all of our lives and accepted the language "under God."

That acceptance by me as an individual or my colleagues does not, in any way, give comfort to those who because of their religious faith have chosen to express.

Let me tell of a girl called Hazel who sat along side of me in my elementary school classroom. As we rose every morning to pledge allegiance to the United States of America, little Hazel sat in her seat. She was not a terrorist. She was not a radical from the left. She was not one trying to overthrow the United States of America. She was practicing her faith as her mommy and her daddy asked her to do.

It was a lonely place. Most of us looked at Hazel long and hard every day. But we were grateful that there was a teacher and a Constitution that respected Hazel's right to freedom of religion.

This law as it is presently written now says to the American people, you cannot practice your faith and you can not seek the cases by going into the courthouse, the appellate courts and the Supreme Court of the United States of America.

It is well known that the courts are given to us on the basis of judicial review. It is also well-known that many times this body has risen because they have decided that there is some kind of frivolous idea or something that we disagree with, and there have been thoughts about limiting the courts. Many times legislators have sometimes been tempted to yank controversial matters from the court's jurisdiction, as The Washington Post has indicated this morning, but cooler heads have prevailed.

We would hope that cooler heads will prevail now. Whether the Pledge violates the first amendment separation from church and State is a legal question. Congress has no business obstructing the courts from answering it. Is it not a shame that under Marbury versus Madison, we now want to egregiously rip away the rights of petitioners in the United States to go into the court.

Is it not an outrage that we would stand here as those listening to the Interim Prime Minister of Iraq this morning who cried out for justice and democracy and free courts and today, moments after he spoke, we are now stripping away the courts of the United States.

Let me just say one other thing, Mr. Chairman. Let me correct one who decides to offer my history to this body. For I live in my skin and I cannot change it. And I came to this Nation as a slave. And it may have been those who fought in the Civil War that opened the doors, but let me tell you that Jim Crow rose his ugly legal head, and for 50 years or more into the 20th century, Jim Crow's ugly laws kept me as a second class citizen. I could not vote. I could not go into accommodations. I could not go to schools that closed their doors.

Racism was here in this country and it was not until Brown versus Topeka Board of Education that the Supreme Court allowed me the opportunity to be free in this Nation.

I dare anyone to challenge that history. Slavery may have ended in its name, but it did not end in its practice. And it was the courts of the United States, the Federal courts that gave me this freedom.

Mr. Chairman, I rise to offer an amendment to the bill before us today, H.R. 2028, the Pledge Protection Act of 2003. The operative language of H.R. 2028 is contained in a single provision in section 2(a):

> [n]o court created by an Act of Congress shall have any jurisdiction, and the Supreme Court shall have no appellate jurisdiction, to hear or decide any question pertaining to the interpretation of, or the validity under the Constitution of, the Pledge of Allegiance, as defined in section 4 of title 4, or its recitation.

The bill precludes any Federal judicial review of any constitutional challenge to recitation of the Pledge of Allegiance—whether it be in the lower Federal courts or in the highest court in the land, the U.S. Supreme Court. Effectively, if passed, this extremely vague legislation will relegate all claimants to State courts to review an challenges to the pledge. This possibility will lead to different constitutional constructions in each of the 50 States.

The Jackson-Lee amendment provides for an exception to the bill's preclusion for that involves allegations of coerced or mandatory recitation of the Pledge of Allegiance, including coercion in violation of the first amendment.

Closing the doors of the Federal courthouse doors to claimants will actually amount to a coercion of individuals to recite the pledge and its "under God" reference in violation of West Virginia State Board of Education v. Barnette.

In Barnette, the Supreme Court struck down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance. Under the West Virginia law, religious minorities faced expulsion from school and could be subject to prosecution and fined, if convicted of violating the statute's provisions. In striking down that statute, Justice Jackson wrote for the Court:

> To believe in patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds . . . If there is any fixed star in our constitutional constellation, it is that no official, high, or petty can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

This legislation would strip the parents of those children of the right to go to court and defend their children's religious liberty. If this legislation is passed schools could expel children for acting according to the dictates of their faith and Congress will have slammed the courthouse door shut in their faces. When I was a child, I always wondered why when the rest of the class recited the Pledge of Allegiance, she always sat quietly. Today, I understand that it was because she was of the 7th Day Adventist faith and therefore reciting the "under God" provision would force her to frustrate her religious faith. If H.R. 2028 were law back then, the school administrators could have forced her to say the pledge and she would have no recourse in the Federal courts.

The Jackson-Lee amendment protects religious minorities, Mr. Speaker.

Recently, a panel of the U.S. Court of Appeals for the Third Circuit held that a Pennsylvania law requiring recitation of the pledge, even when it provided a religious exception, violated the Constitution because it violated the free speech of the students.

In Circle School v. Pappert, the court found that:

> It may be useful to note our belief that most citizens of the United States willingly recite the Pledge of Allegiance and proudly sing the national anthem. But the rights embodied in the Constitution, particularly the first Amendment, protect the minority—those persons who march to their own drummers. It is they who need the protection afforded by the Constitution and it is the responsibility of federal judges to ensure that protection.

Again, under H.R. 2028, such a coercive speech case could never reach the Federal courts.

Article III of the U.S. Constitution vests "the Judicial Power of the United States . . . in one supreme court." The laundry list of areas which the Federal courts have the power to hear and decide under section 2 of article III, establishes the doctrine of the "separation of powers." For over 50 years, the Federal courts have played a central role in the interpretation and enforcement of civil rights laws. Bills such as H.R. 2028 and H.R. 3313, the Marriage Protection Act—bills to prevent the courts from exercising their article III functions only mask discrimination. We cannot allow bad legislation such as this to pass in the House. In the 1970s, some Members of Congress unsuccessfully sought to strip the courts of jurisdiction to hear desegregation efforts such as busing, which would have perpetuated racial inequality.

H.R. 2028, as drafted, insulates the Pledge of Allegiance as set forth in section 4 of title 4 of the United States Code from constitutional challenge in the Federal court.

However, the statute and the pledge are subject to change by future legislative bodies. This means that if some future Congress decides to insert some religiously offensive or discriminatory language in the pledge, the matter would be immune to constitutional challenge in the Federal courts. I also support the Watt amendment to restore Supreme Court Jurisdiction to this matter.

Mr. Speaker, I ask that my colleagues vote to protect the religious minorities—vote to protect judicial review—vote to protect separation of powers—vote to protect access to the Federal courts. I yield back.

Mr. Chairman, I reserve the balance of my time.

□ 1330

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment was defeated in committee, and it should be defeated here today because it guts the bill.

First, nothing in H.R. 2028 would allow State courts to deviate from Supreme Court precedent prohibiting the coerced recitation of the Pledge of Allegiance. Even when Federal courts are denied jurisdiction to hear certain classes of cases, and those classes of cases are thereby reserved to the State courts, the previously existing Supreme Court precedents still govern State court determinations. This is required by the Supremacy Clause of the Constitution; and in West Virginia Board of Education v. Barnette, the Supreme Court held it is unconstitutional to require individuals to salute the flag.

In that case, the Supreme Court held, "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." Under H.R. 2028 as written, that decision will preclude State courts from allowing coerced recitations of the Pledge.

State courts are not second-class courts, and they are equally capable of deciding Federal constitutional questions. The Supreme Court has clearly rejected claims that State courts are less competent to decide Federal constitutional issues than Federal courts. Even Justice William Brennan wrote in Northern Pipeline Construction Company v. Marathon Pipe Line Company that "virtually all matters that might be heard in article III courts could also be left by Congress to State courts." Justice Brennan was joined in that decision by Justices Marshall, Blackmun, and Stevens.

Now what, then, could be the harm of adopting this amendment? Plenty. If we carve out an exception for cases in which coercion, for example, is involved, we will open the flood gates to expansive interpretations by the Federal courts that will gut the purpose of the bill. Carving out a coercion exemption will invite the Federal courts, including the very liberal Ninth Circuit Court of Appeals, to hold that excessive coercion exists to pressure a student to recite the Pledge simply when a majority of school children choose to recite it, but one or a few students do not want to. The inevitable claim will be that in the school environment, there is no such thing as free will whenever the majority of students are reciting the Pledge, because those that do not want to recite it will feel pressured to recite it simply because other students are reciting it. Yet again, the courts will strike a blow to the concept of free will and the concept of personal responsibility if we let them. The amendment should be defeated.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, may I ask how much time is remaining.

The CHAIRMAN pro tempore (Mr. LATHAM). The gentlewoman from Texas (Ms. JACKSON-LEE) has 30 seconds remaining.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me first say that this amendment was made in order by the Committee on Rules, and I think that is extremely important for this body to know.

Mr. Chairman, I yield 25 seconds to the distinguished gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, I thank the gentlewoman for the time.

I guess what it comes down to is a person's view of where an individual who is in the minority on an issue, even an issue that is protected in the Constitution, where does that person go to have their rights protected? What if 435 of us believe one way about the Constitution, where does that one lone individual go?

If we do not allow them access to the court, and one highest court, to mediate disputes between the various States, we simply do not have the system that we have today, and that should be the lesson of this effort. Every school child in America who had forgotten what the courts were supposed to be should be reminded of that by this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I will just repeat myself. The issue is settled law. There cannot be a coerced or forced recitation of the Pledge. This bill does not change that. The amendment allows the courts to determine what coercion shall be. That has far-reaching consequences. I think that the best vote to prevent unintended consequences from occurring is "no" on this amendment. I urge that it be defeated.

Mr. CONYERS. Mr. Chairman, the Jackson-Lee amendment is needed to make sure that the bill does not prevent religious minorities who are coerced into reciting the Pledge, in violation of their religious beliefs from having access to the Federal courts.

As presently drafted, the bill would prevent not only persons who believe that voluntary recitation of the Pledge is unconstitutional from seeking relief in Federal courts, but also those persons who assert that they are being forced into recitation of the Pledge in violation of their religious beliefs.

Cases of this nature are not infrequent. For example, in the landmark Supreme Court decision of West Virginia State Board of Education v. Barnett; the Supreme Court struck down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance. Under the West Virginia law, religious minorities faced expulsion from school and could be subject to prosecution and fined, if convicted of violating the statute's provisions. In striking down that statute, Justice Jackson wrote for the Court:

> If there is any fixed star in our constitutional constellation, it is that no official, high, or petty can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

To argue that the State courts would still be bound by this precedent as the Chairman asserts, misses the point. Unless the State courts know the Supreme court can and will enforce its precedent, the State courts are free to ignore it. And there will be no further appeal.

Moreover, just this year, in striking down a Pennsylvania law mandating recitation of the Pledge as violating free speech the Third circuit in Circle School v. Pappert court found:

> The rights embodied in the Constitution, particularly the First Amendment, protect the minority—those persons who march to their own drummers. It is they who need the protection afforded by the Constitution and it is the responsibility of federal judges to ensure that protection.

As presently drafted, the bill would strip the parents of those children of the right to go to court and defend their children's religious liberty. If this legislation is passed, schools could expel children for acting according to the dictates of their faith and Congress will have slammed the courthouse door shut in their faces. We need this amendment to make sure religious minorities continue to have access to the Federal courts in cases of religious coercion.

For these reasons I urge my colleagues to vote "yes" on this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was rejected.

AMENDMENT NO. 2 OFFERED BY MR. WATT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina (Mr. WATT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 217, not voting 14, as follows:

[Roll No. 466]

AYES—202

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bass
Becerra
Bell
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Bono
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Dreier
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Ford
Fossella
Frank (MA)
Frost
Gephardt
Gilchrest
Gonzalez
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Pryce (OH)
Rangel
Reyes
Rodriguez
Rohrabacher
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Simpson
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—217

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carson (OK)
Carter
Chabot
Chandler
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Duncan
Dunn
Edwards
Ehlers
Emerson
Everett
Feeney
Ferguson
Flake
Forbes
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—14

Bishop (GA)
Bonner
Cannon
Goss
Graves
Kleczka
Lucas (KY)
Miller (FL)
Nethercutt
Quinn
Smith (WA)
Tauzin
Thompson (MS)
Vitter

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. LATHAM) (during the vote). There are 2 minutes remaining in this vote.

☐ 1401

Mr. HOLDEN and Mr. GERLACH changed their vote from "aye" to "no."

Ms. DEGETTE and Mr. ROHRABACHER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. THORNBERRY) having assumed the chair, Mr. LATHAM, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2028) to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies regarding the Pledge of Allegiance, pursuant to House Resolution 781, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage of H.R. 2028 will be followed by a 5-minute vote on the motion to suspend the rules and pass H.R. 1057.

The vote was taken by electronic device, and there were—yeas 247, nays 173, not voting 13, as follows:

[Roll No. 467]

YEAS—247

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite,
  Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carson (OK)
Carter
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
LaHood
Lampson
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—173

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Clay
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gephardt
Gilchrest
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
  (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kolbe
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-
  McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Rohrabacher
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda
  T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOT VOTING—13

Bishop (GA)
Bonner
Cannon
Goss
Graves
Kleczka
Lucas (KY)
Miller (FL)
Quinn
Smith (WA)
Tauzin
Thompson (MS)
Vitter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1420

Messrs. REYES, BUTTERFIELD, CUMMINGS, ROHRABACHER, and GUTIERREZ changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts over certain cases and controversies involving the Pledge of Allegiance.".

A motion to reconsider was laid on the table.

THE ADOPTION TAX RELIEF GUARANTEE ACT

The SPEAKER pro tempore (Mr. LATHAM). The unfinished business is the question of suspending the rules and passing the bill, H.R. 1057.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CAMP) that the House suspend the rules and pass the bill, H.R. 1057, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 19, as follows:

[Roll No. 468]

YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—19

Bishop (GA)
Bonner
Cannon
Deal (GA)
English
Gephardt
Goss
Graves
Kleczka
Lucas (KY)
Miller (FL)
Quinn
Rogers (MI)
Smith (WA)
Tauzin
Thompson (MS)
Tiahrt
Vitter
Weldon (PA)

□ 1432

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. TIAHRT. Mr. Speaker, on rollcall No. 468 I was inadvertently delayed. Had I been here I would have voted "yea."

CONFERENCE REPORT ON H.R. 1308, WORKING FAMILIES TAX RELIEF ACT OF 2004

Mr. THOMAS submitted the following conference report and statement on the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes:

CONFERENCE REPORT (H. REPT. 108–696)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House to the amendments of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Working Families Tax Relief Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—EXTENSION OF FAMILY TAX PROVISIONS

Sec. 101. Repeal of scheduled reductions in child tax credit, marriage penalty relief, and 10-percent rate bracket.
Sec. 102. Acceleration of increase in refundability of the child tax credit.
Sec. 103. 1-year extension of minimum tax relief to individuals.
Sec. 104. Earned income includes combat pay.
Sec. 105. Application of EGTRRA sunset to this title.

TITLE II—UNIFORM DEFINITION OF CHILD

Sec. 201. Uniform definition of child, etc.
Sec. 202. Modifications of definition of head of household.
Sec. 203. Modifications of dependent care credit.
Sec. 204. Modifications of child tax credit.
Sec. 205. Modifications of earned income credit.
Sec. 206. Modifications of deduction for personal exemption for dependents.
Sec. 207. Technical and conforming amendments.
Sec. 208. Effective date.

TITLE III—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Sec. 301. Research credit.
Sec. 302. Parity in the application of certain limits to mental health benefits.
Sec. 303. Work opportunity credit and welfare-to-work credit.
Sec. 304. Qualified zone academy bonds.
Sec. 305. Cover over of tax on distilled spirits.
Sec. 306. Deduction for corporate donations of scientific property and computer technology.
Sec. 307. Deduction for certain expenses of school teachers.
Sec. 308. Expensing of environmental remediation costs.
Sec. 309. Certain New York Liberty Zone benefits.
Sec. 310. Tax incentives for investment in the District of Columbia.
Sec. 311. Disclosure of tax information to facilitate combined employment tax reporting.

Sec. 312. Allowance of nonrefundable personal credits against regular and minimum tax liability.
Sec. 313. Credit for electricity produced from certain renewable resources.
Sec. 314. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
Sec. 315. Indian employment tax credit.
Sec. 316. Accelerated depreciation for business property on Indian reservation.
Sec. 317. Disclosure of return information relating to student loans.
Sec. 318. Elimination of phaseout of credit for qualified electric vehicles for 2004 and 2005.
Sec. 319. Elimination of phaseout for deduction for clean-fuel vehicle property for 2004 and 2005.
Sec. 320. Disclosures relating to terrorist activities.
Sec. 321. Joint review of strategic plans and budget for the Internal Revenue Service.
Sec. 322. Availability of medical savings accounts.
TITLE IV—TAX TECHNICAL CORRECTIONS
Sec. 401. Amendments related to Medicare Prescription Drug, Improvement, and Modernization Act of 2003.
Sec. 402. Amendments related to Jobs and Growth Tax Relief Reconciliation Act of 2003.
Sec. 403. Amendments related to Job Creation and Worker Assistance Act of 2002.
Sec. 404. Amendments related to Economic Growth and Tax Relief Reconciliation Act of 2001.
Sec. 405. Amendments related to Community Renewal Tax Relief Act of 2000.
Sec. 406. Amendments related to Taxpayer Relief Act of 1997.
Sec. 407. Amendments related to Small Business Job Protection Act of 1996.
Sec. 408. Clerical amendments.

TITLE I—EXTENSION OF FAMILY TAX PROVISIONS

SEC. 101. REPEAL OF SCHEDULED REDUCTIONS IN CHILD TAX CREDIT, MARRIAGE PENALTY RELIEF, AND 10-PERCENT RATE BRACKET.

(a) CHILD TAX CREDIT.—Subsection (a) of section 24 (relating to child tax credit) is amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualifying child of the taxpayer an amount equal to $1,000.".

(b) MARRIAGE PENALTY RELIEF IN STANDARD DEDUCTION.—

(1) IN GENERAL.—Paragraph (2) of section 63(c) (relating to basic standard deduction) is amended to read as follows:

"(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

"(A) 200 percent of the dollar amount in effect under subparagraph (C) for the taxable year in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $4,400 in the case of a head of household (as defined in section 2(b)), or

"(C) $3,000 in any other case.".

(2) CONFORMING AMENDMENTS.—

(A) Section 63(c)(4) is amended by striking "(2)(D)" each place it occurs and inserting "(2)(C)".

(B) Section 63(c) is amended by striking paragraph (7).

(c) MARRIAGE PENALTY RELIEF IN 15-PERCENT INCOME TAX BRACKET.—Paragraph (8) of section 1(f) is amended to read as follows:

"(8) ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—With respect to taxable years beginning after December 31, 2003, in prescribing the tables under paragraph (1)—

"(A) the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (a) (and the minimum taxable income in the next higher taxable income bracket in such table) shall be 200 percent of the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (c) (after any other adjustment under this subsection), and

"(B) the comparable taxable income amounts in the table contained in subsection (d) shall be ½ of the amounts determined under subparagraph (A).".

(d) 10-PERCENT RATE BRACKET.—

(1) IN GENERAL.—Clause (i) of section 1(i)(1)(B) is amended by striking "($12,000 in the case of taxable years beginning after December 31, 2004, and before January 1, 2008)".

(2) INFLATION ADJUSTMENT.—Subparagraph (C) of section 1(i)(1) is amended to read as follows:

"(C) INFLATION ADJUSTMENT.—In prescribing the tables under subsection (f) which apply with respect to taxable years beginning in calendar years after 2003—

"(i) the cost-of-living adjustment shall be determined under subsection (f)(3) by substituting '2002' for '1992' in subparagraph (B) thereof, and

"(ii) the adjustments under clause (i) shall not apply to the amount referred to in subparagraph (B)(iii).

If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 102. ACCELERATION OF INCREASE IN REFUNDABILITY OF THE CHILD TAX CREDIT.

(a) ACCELERATION OF REFUNDABILITY.—Section 24(d)(1)(B)(i) (relating to portion of credit refundable) is amended by striking "(10 percent in the case of taxable years beginning before January 1, 2005)".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 103. EXTENSION OF MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 55(d)(1) of the Internal Revenue Code of 1986 (relating to exemption amount for taxpayers other than corporations) are each amended by striking "2003 and 2004" and inserting "2003, 2004, and 2005".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 104. EARNED INCOME INCLUDES COMBAT PAY.

(a) CHILD TAX CREDIT.—Section 24(d)(1) (relating to portion of credit refundable) is amended by adding at the end the following new sentence: "For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.".

(b) EARNED INCOME CREDIT.—Subparagraph (B) of section 32(c)(2) (relating to earned income) is amended—

(1) by striking "and" at the end of clause (iv),

(2) by striking the period at the end of clause (v) and inserting ", and", and

(3) by adding at the end the following:

"(vi) in the case of any taxable year ending—

"(I) after the date of the enactment of this clause, and

"(II) before January 1, 2006,

a taxpayer may elect to treat amounts excluded from gross income by reason of section 112 as earned income.".

(c) EFFECTIVE DATE.—

(1) CHILD TAX CREDIT.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

(2) EARNED INCOME CREDIT.—The amendments made by subsection (b) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 105. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE II—UNIFORM DEFINITION OF CHILD

SEC. 201. UNIFORM DEFINITION OF CHILD, ETC.

Section 152 is amended to read as follows:

"SEC. 152. DEPENDENT DEFINED.

"(a) IN GENERAL.—For purposes of this subtitle, the term 'dependent' means—

"(1) a qualifying child, or

"(2) a qualifying relative.

"(b) EXCEPTIONS.—For purposes of this section—

"(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

"(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

"(A) IN GENERAL.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

"(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

"(i) for the taxable year of the taxpayer, the child has the same principal place of abode as the taxpayer and is a member of the taxpayer's household, and

"(ii) the taxpayer is a citizen or national of the United States.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(C) who meets the age requirements of paragraph (3), and

"(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

"(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

"(A) a child of the taxpayer or a descendant of such a child, or

"(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

"(3) AGE REQUIREMENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

"(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

"(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

"(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

"(i) a parent of the individual, or

"(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

"(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

"(i) the parent with whom the child resided for the longest period of time during the taxable year, or

"(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

"(d) QUALIFYING RELATIVE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

"(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

"(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

"(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

"(A) A child or a descendant of a child.

"(B) A brother, sister, stepbrother, or stepsister.

"(C) The father or mother, or an ancestor of either.

"(D) A stepfather or stepmother.

"(E) A son or daughter of a brother or sister of the taxpayer.

"(F) A brother or sister of the father or mother of the taxpayer.

"(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

"(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

"(A) no one person contributed over one-half of such support,

"(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

"(C) the taxpayer contributed over 10 percent of such support, and

"(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

"(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

"(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

"(ii) the income arises solely from activities at such workshop which are incident to such medical care.

"(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

"(i) which provides special instruction or training designed to alleviate the disability of the individual, and

"(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

"(5) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

"(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent, and

"(B) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

"(e) SPECIAL RULE FOR DIVORCED PARENTS.—

"(1) IN GENERAL.—Notwithstanding subsection (c)(1)(B), (c)(4), or (d)(1)(C), if—

"(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

"(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

"(ii) who are separated under a written separation agreement, or

"(iii) who live apart at all times during the last 6 months of the calendar year, and

"(B) such child is in the custody of 1 or both of the child's parents for more than one-half of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

"(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

"(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

"(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

"(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, or

"(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of subparagraph (B), amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

"(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

"(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

"(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

"(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

"(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) CHILD DEFINED.—

"(A) IN GENERAL.—The term 'child' means an individual who is—

"(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

"(ii) an eligible foster child of the taxpayer.

"(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer, shall be treated as a child of such individual by blood.

"(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

"(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

"(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

"(3) DETERMINATION OF HOUSEHOLD STATUS.—An individual shall not be treated as a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

"(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

"(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of subsections (c)(1)(D)

and (d)(1)(C), in the case of an individual who is—

"(A) a child of the taxpayer, and

"(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account.

"(6) TREATMENT OF MISSING CHILDREN.—

"(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the child is kidnapped.

"(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

"(i) the deduction under section 151(c),

"(ii) the credit under section 24 (relating to child tax credit),

"(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

"(iv) the earned income credit under section 32.

"(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

"(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

"(7) CROSS REFERENCES.—

"For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).".

SEC. 202. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) is amended to read as follows:

"(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

"(I) is married at the close of the taxpayer's taxable year, and

"(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)(3), or both, or".

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) are amended to read as follows:

"(i) subparagraph (H) of section 152(d)(2), or

"(ii) paragraph (3) of section 152(d).".

SEC. 203. MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Section 21(a)(1) is amended by striking "In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))" and inserting "In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual".

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) is amended to read as follows:

"(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

"(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

"(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

"(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.".

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) is amended to read as follows:

"(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.".

SEC. 204. MODIFICATIONS OF CHILD TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 24(c) is amended to read as follows:

"(1) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.".

(b) CONFORMING AMENDMENT.—Section 24(c)(2) is amended by striking "the first sentence of section 152(b)(3)" and inserting "subparagraph (A) of section 152(b)(3)".

SEC. 205. MODIFICATIONS OF EARNED INCOME CREDIT.

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) is amended to read as follows:

"(3) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

"(B) MARRIED INDIVIDUAL.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

"(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

"(D) IDENTIFICATION REQUIREMENTS.—

"(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

"(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).".

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) is amended by striking "(3)(E)" and inserting "(3)(C)".

(3) Section 32(m) is amended by striking "subsections (c)(1)(F)" and inserting "subsections (c)(1)(E)".

SEC. 206. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.

Subsection (c) of section 151 is amended to read as follows:

"(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.".

SEC. 207. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 2(a)(1)(B)(i) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(2) Section 21(e)(5) is amended—

(A) by striking "paragraph (2) or (4) of" in subparagraph (A), and

(B) by striking "within the meaning of section 152(e)(1)" and inserting "as defined in section 152(e)(3)(A)".

(3) Section 21(e)(6)(B) is amended by striking "section 151(c)(3)" and inserting "section 152(f)(1)".

(4) Section 25B(c)(2)(B) is amended by striking "151(c)(4)" and inserting "152(f)(2)".

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) are each amended by striking "paragraphs (1) through (8) of section 152(a)" both places it appears and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(B) Section 51(i)(1)(C) is amended by striking "152(a)(9)" and inserting "152(d)(2)(H)".

(6) Section 72(t)(2)(D)(i)(III) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(7) Section 72(t)(7)(A)(iii) is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(8) Section 42(i)(3)(D)(ii)(I) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(9) Subsections (b) and (c)(1) of section 105 are amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(10) Section 120(d)(4) is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(11) Section 125(e)(1)(D) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(12) Section 129(c)(2) is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(13) The first sentence of section 132(h)(2)(B) is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(14) Section 153 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(16) Section 170(g)(3) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(17) Section 213(a) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(18) The second sentence of section 213(d)(11) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(19) Section 220(d)(2)(A) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(20) Section 221(d)(4) is amended by inserting “(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)” after “section 152”.

(21) Section 529(e)(2)(B) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(22) Section 2032A(c)(7)(D) is amended by striking “section 151(c)(4)” and inserting “section 152(f)(2)”.

(23) Section 2057(d)(2)(B) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(24) Section 7701(a)(17) is amended by striking “152(b)(4), 682,” and inserting “682”.

(25) Section 7702B(f)(2)(C)(iii) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(26) Section 7703(b)(1) is amended—

(A) by striking “151(c)(3)” and inserting “152(f)(1)”, and

(B) by striking “paragraph (2) or (4) of”.

SEC. 208. EFFECTIVE DATE.

The amendments made by this title shall apply to taxable years beginning after December 31, 2004.

TITLE III—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

SEC. 301. RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) (relating to termination) is amended by striking “June 30, 2004” and inserting “December 31, 2005”.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking “June 30, 2004” and inserting “December 31, 2005”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 2004.

SEC. 302. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Section 9812(f) is amended—

(1) by striking “and” at the end of paragraph (1), and

(2) by striking paragraph (2) and inserting the following new paragraphs:

“(2) on or after January 1, 2004, and before the date of the enactment of the Working Families Tax Relief Act of 2004, and

“(3) after December 31, 2005.”.

(b) ERISA.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking “on or after December 31, 2004” and inserting “after December 31, 2005”.

(c) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by striking “on or after December 31, 2004” and inserting “after December 31, 2005”.

(d) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 303. WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) EXTENSION OF CREDIT.—

(1) IN GENERAL.—Section 51(c)(4) is amended by striking “December 31, 2003” and inserting “December 31, 2005”.

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51A(f) is amended by striking “December 31, 2003” and inserting “December 31, 2005”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2003.

SEC. 304. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking “and 2003” and inserting “2003, 2004, and 2005”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after December 31, 2003.

SEC. 305. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking “January 1, 2004” and inserting “January 1, 2006”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to articles brought into the United States after December 31, 2003.

SEC. 306. DEDUCTION FOR CORPORATE DONATIONS OF SCIENTIFIC PROPERTY AND COMPUTER TECHNOLOGY.

(a) IN GENERAL.—Section 170(e)(6)(G) is amended by striking “2003” and inserting “2005”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2003.

SEC. 307. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking “or 2003” and inserting “, 2003, 2004, or 2005”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid or incurred in taxable years beginning after December 31, 2003.

SEC. 308. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) EXTENSION OF TERMINATION DATE.—Subsection (h) of section 198 is amended by striking “December 31, 2003” and inserting “December 31, 2005”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 2003.

SEC. 309. CERTAIN NEW YORK LIBERTY ZONE BENEFITS.

(a) EXTENSION OF TAX-EXEMPT BOND FINANCING.—Subparagraph (D) of section 1400L(d)(2) is amended by striking “2005” and inserting “2010”.

(b) EXTENSION OF ADVANCE REFUNDINGS.—Section 1400L(e)(1) is amended by striking “2005” and inserting “2006”.

(c) CLARIFICATION OF BONDS ELIGIBLE FOR ADVANCE REFUNDING.—Section 1400L(e)(2)(B) (relating to bonds described) is amended by striking “, or” and inserting “or the Municipal Assistance Corporation, or”.

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002.

SEC. 310. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF ZONE.—Subsection (f) of section 1400 is amended by striking “December 31, 2003” both places it appears and inserting “December 31, 2005”.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—Subsection (b) of section 1400A is amended by striking “December 31, 2003” and inserting “December 31, 2005”.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking “January 1, 2004” each place it appears and inserting “January 1, 2006”.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking “December 31, 2008” and inserting “December 31, 2010”, and

(ii) by striking “2008” in the heading and inserting “2010”.

(B) Section 1400B(g)(2) is amended by striking “December 31, 2008” and inserting “December 31, 2010”.

(C) Section 1400F(d) is amended by striking “December 31, 2008” and inserting “December 31, 2010”.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking “January 1, 2004” and inserting “January 1, 2006”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 2004.

(2) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—The amendment made by subsection (b) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 311. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

(a) IN GENERAL.—Paragraph (5) of section 6103(d) (relating to disclosure to State tax officials and State and local law enforcement agencies) is amended to read as follows:

“(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—

“(A) IN GENERAL.—The Secretary may disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.

“(B) TERMINATION.—The Secretary may not make any disclosure under this paragraph after December 31, 2005.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 312. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking “RULE FOR 2000, 2001, 2002, AND 2003.—” and inserting “RULE FOR TAXABLE YEARS 2000 THROUGH 2005.—”, and

(2) by striking “or 2003” and inserting “2003, 2004, or 2005”.

(b) CONFORMING PROVISIONS.—

(1) Section 904(h) is amended by striking “or 2003” and inserting “2003, 2004, or 2005”.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004 or 2005.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 313. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking “January 1, 2004” and inserting “January 1, 2006”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2003.

SEC. 314. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking “January 1, 2004” and inserting “January 1, 2006”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. 315. INDIAN EMPLOYMENT TAX CREDIT.

Section 45A(f) (relating to termination) is amended by striking “December 31, 2004” and inserting “December 31, 2005”.

SEC. 316. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

Section 168(j)(8) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 317. DISCLOSURE OF RETURN INFORMATION RELATING TO STUDENT LOANS.

Section 6103(l)(13)(D) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 318. ELIMINATION OF PHASEOUT OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES FOR 2004 AND 2005.

(a) IN GENERAL.—Paragraph (2) of section 30(b) is amended to read as follows:

"(2) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2005, the credit otherwise allowable under subsection (a) (determined after the application of paragraph (1)) shall be reduced by 75 percent.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2003.

SEC. 319. ELIMINATION OF PHASEOUT FOR DEDUCTION FOR CLEAN-FUEL VEHICLE PROPERTY FOR 2004 AND 2005.

(a) IN GENERAL.—Subparagraph (B) of section 179A(b)(1) is amended to read as follows:

"(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2005, the limit otherwise allowable under subparagraph (A) shall be reduced by 75 percent.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 2003.

SEC. 320. DISCLOSURES RELATING TO TERRORIST ACTIVITIES.

(a) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) and subparagraph (E) of section 6103(i)(7) are both amended by striking "December 31, 2003" and inserting "December 31, 2005".

(b) DISCLOSURE OF TAXPAYER IDENTITY TO LAW ENFORCEMENT AGENCIES INVESTIGATING TERRORISM.—Subparagraph (A) of section 6103(i)(7) is amended by adding at the end the following new clause:

"(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to disclosures on or after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

SEC. 321. JOINT REVIEW OF STRATEGIC PLANS AND BUDGET FOR THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Paragraph (2) of section 8021(f) (relating to joint reviews) is amended by striking "2004" and inserting "2005".

(b) REPORT.—Subparagraph (C) of section 8022(3) (regarding reports) is amended—

(1) by striking "2004" and inserting "2005", and

(2) by striking "with respect to—" and all that follows and inserting "with respect to the matters addressed in the joint review referred to in section 8021(f)(2).".

(c) TIME FOR JOINT REVIEW.—The joint review required by section 8021(f)(2) of the Internal Revenue Code of 1986 to be made before June 1, 2004, shall be treated as timely if made before June 1, 2005.

SEC. 322. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking "2003" each place it appears in the text and headings and inserting "2005".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended—

(A) in the text by striking "or 2002" each place it appears and inserting "2002, or 2004", and

(B) in the heading by striking "OR 2002" and inserting "2002, OR 2004".

(2) Subparagraph (A) of section 220(j)(4) is amended by striking "and 2002" and inserting "2002, and 2004".

(3) Subparagraph (C) of section 220(j)(2) is amended to read as follows:

"(C) NO LIMITATION FOR 2000 OR 2003.—The numerical limitation shall not apply for 2000 or 2003.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

(d) TIME FOR FILING REPORTS, ETC.—

(1) The report required by section 220(j)(4) of the Internal Revenue Code of 1986 to be made on August 1, 2004, shall be treated as timely if made before the close of the 90-day period beginning on the date of the enactment of this Act.

(2) The determination and publication required by section 220(j)(5) of such Code with respect to calendar year 2004 shall be treated as timely if made before the close of the 120-day period beginning on the date of the enactment of this Act. If the determination under the preceding sentence is that 2004 is a cut-off year under section 220(i) of such Code, the cut-off date under such section 220(i) shall be the last day of such 120-day period.

TITLE IV—TAX TECHNICAL CORRECTIONS

SEC. 401. AMENDMENTS RELATED TO MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003.

(a) AMENDMENTS RELATED TO SECTION 1201 OF THE ACT.—

(1) Paragraph (2) of section 26(b) is amended by striking "and" at the end of subparagraph (Q), by striking the period at the end of subparagraph (R) and inserting ", and", and by adding at the end the following new subparagraph:

"(S) section 223(f)(4) (relating to additional tax on health savings account distributions not used for qualified medical expenses).

(2) Paragraph (3) of section 35(g) is amended to read as follows:

"(3) MEDICAL AND HEALTH SAVINGS ACCOUNTS.—Amounts distributed from an Archer MSA (as defined in section 220(d)) or from a health savings account (as defined in section 223(d)) shall not be taken into account under subsection (a).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

SEC. 402. AMENDMENTS RELATED TO JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003.

(a) AMENDMENTS RELATED TO SECTION 302 OF THE ACT.—

(1) Clause (i) of section 1(h)(1)(D) is amended by inserting "(determined without regard to paragraph (11))" after "net capital gain".

(2) Subclause (I) of section 1(h)(11)(B)(iii) is amended—

(A) by striking "section 246(c)(1)" and inserting "section 246(c)",

(B) by striking "120-day period" and inserting "121-day period", and

(C) by striking "90-day period" and inserting "91-day period".

(3) Clause (ii) of section 1(h)(11)(D) is amended by striking "an individual" and inserting "a taxpayer to whom this section applies".

(4) Paragraph (4) of section 691(c) is amended by striking "of any gain".

(5)(A) Subparagraph (B) of section 854(b)(1) is amended—

(i) by striking clauses (iii) and (iv), and

(ii) by amending clause (i) to read as follows:

"(i) IN GENERAL.—In any case in which—

"(I) a dividend is received from a regulated investment company (other than a dividend to which subsection (a) applies),

"(II) such investment company meets the requirements of section 852(a) for the taxable year during which it paid such dividend, and

"(III) the qualified dividend income of such investment company for such taxable year is less than 95 percent of its gross income,

then, in computing qualified dividend income, there shall be taken into account only that portion of such dividend designated by the regulated investment company.".

(B) Subparagraph (C) of section 854(b)(1) is amended to read as follows:

"(C) LIMITATIONS.—

"(i) SUBPARAGRAPH (A).—The aggregate amount which may be designated as dividends under subparagraph (A) shall not exceed the aggregate dividends received by the company for the taxable year.

"(ii) SUBPARAGRAPH (B).—The aggregate amount which may be designated as qualified dividend income under subparagraph (B) shall not exceed the sum of—

"(I) the qualified dividend income of the company for the taxable year, and

"(II) the amount of any earnings and profits which were distributed by the company for such taxable year and accumulated in a taxable year with respect to which this part did not apply.".

(C) Paragraph (2) of section 854(b) is amended by striking "as a dividend for purposes of the maximum rate under section 1(h)(11) and" and inserting "as qualified dividend income for purposes of section 1(h)(11) and as dividends for purposes of".

(D) Paragraph (5) of section 854(b) is amended to read as follows:

"(5) QUALIFIED DIVIDEND INCOME.—For purposes of this subsection, the term 'qualified dividend income' has the meaning given such term by section 1(h)(11)(B).".

(E) Paragraph (2) of section 857(c) is amended to read as follows:

"(2) SECTION (1)(h)(11).—

"(A) IN GENERAL.—In any case in which—

"(i) a dividend is received from a real estate investment trust (other than a capital gain dividend), and

"(ii) such trust meets the requirements of section 856(a) for the taxable year during which it paid such dividend,

then, in computing qualified dividend income, there shall be taken into account only that portion of such dividend designated by the real estate investment trust.

"(B) LIMITATION.—The aggregate amount which may be designated as qualified dividend income under subparagraph (A) shall not exceed the sum of—

"(i) the qualified dividend income of the trust for the taxable year,

"(ii) the excess of—

"(I) the sum of the real estate investment trust taxable income computed under section 857(b)(2) for the preceding taxable year and the income subject to tax by reason of the application of the regulations under section 337(d) for such preceding taxable year, over

"(II) the sum of the taxes imposed on the trust for such preceding taxable year under section 857(b)(1) and by reason of the application of such regulations, and

"(iii) the amount of any earnings and profits which were distributed by the trust for such taxable year and accumulated in a taxable year with respect to which this part did not apply.

"(C) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as qualified dividend income shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 60 days after the close of its taxable year.

"(D) QUALIFIED DIVIDEND INCOME.—For purposes of this paragraph, the term 'qualified dividend income' has the meaning given such term by section 1(h)(11)(B).".

(F) With respect to any taxable year of a regulated investment company or real estate investment trust ending on or before November 30, 2003, the period for providing notice of the qualified dividend amount to shareholders under sections 854(b)(2) and 857(c)(2)(C) of the Internal Revenue Code of 1986, as amended by this section, shall not expire before the date on which the statement under section 6042(c) of such Code is required to be furnished with respect to the last calendar year beginning in such taxable year.

(6) Paragraph (2) of section 302(f) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended to read as follows:

"(2) PASS-THRU ENTITIES.—In the case of a pass-thru entity described in subparagraph (A), (B), (C), (D), (E), or (F) of section 1(h)(10) of the Internal Revenue Code of 1986, as amended by this Act, the amendments made by this section shall apply to taxable years ending after December 31, 2002; except that dividends received by such an entity on or before such date shall not be treated as qualified dividend income (as defined in section 1(h)(11)(B) of such Code, as added by this Act).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in section 302 of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

SEC. 403. AMENDMENTS RELATED TO JOB CREATION AND WORKER ASSISTANCE ACT OF 2002.

(a) AMENDMENTS RELATED TO SECTION 101 OF THE ACT.—

(1) Clause (i) of section 168(k)(2)(B) is amended to read as follows:

"(i) IN GENERAL.—The term 'qualified property' includes any property if such property—

"(I) meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

"(II) has a recovery period of at least 10 years or is transportation property,

"(III) is subject to section 263A, and

"(IV) meets the requirements of clause (ii) or (iii) of section 263A(f)(1)(B) (determined as if such clauses also apply to property which has a long useful life (within the meaning of section 263A(f))).".

(2)(A) Subparagraph (D) of section 168(k)(2) is amended by adding at the end the following new clauses:

"(iii) SYNDICATION.—For purposes of subparagraph (A)(ii), if—

"(I) property is originally placed in service after September 10, 2001, by the lessor of such property,

"(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date such property was originally placed in service, and

"(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date of such last sale.

"(iv) LIMITATIONS RELATED TO USERS AND RELATED PARTIES.—The term 'qualified property' shall not include any property if—

"(I) the user of such property (as of the date on which such property is originally placed in service) or a person which is related (within the meaning of section 267(b) or 707(b)) to such user or to the taxpayer had a written binding contract in effect for the acquisition of such property at any time on or before September 10, 2001, or

"(II) in the case of property manufactured, constructed, or produced for such user's or person's own use, the manufacture, construction, or production of such property began at any time on or before September 10, 2001.".

(B) Clause (ii) of section 168(k)(2)(D) is amended by inserting "clause (iii) and" before "subparagraph (A)(ii)".

(b) AMENDMENTS RELATED TO SECTION 102 OF THE ACT.—

(1) Subparagraph (H) of section 172(b)(1) is amended by striking "a taxpayer which has".

(2) In the case of a net operating loss for a taxable year ending during 2001 or 2002—

(A) an application under section 6411(a) of the Internal Revenue Code of 1986 with respect to such loss shall not fail to be treated as timely filed if filed before November 1, 2002,

(B) any election made under section 172(b)(3) of such Code may (notwithstanding such section) be revoked before November 1, 2002, and

(C) any election made under section 172(j) of such Code shall (notwithstanding such section) be treated as timely made if made before November 1, 2002.

(3) Section 102(c)(2) of the Job Creation and Worker Assistance Act of 2002 (Public Law 107–147) is amended by striking "before January 1, 2003" and inserting "after December 31, 1990".

(4)(A) Subclause (I) of section 56(d)(1)(A)(i) is amended by striking "attributable to carryovers".

(B) Subclause (I) of section 56(d)(1)(A)(ii) is amended—

(i) by striking "for taxable years" and inserting "from taxable years", and

(ii) by striking "carryforwards" and inserting "carryovers".

(c) AMENDMENTS RELATED TO SECTION 301 OF THE ACT.—

(1) Subparagraph (D) of section 1400L(a)(2) is amended—

(A) by striking "subchapter B" and inserting "subchapter A", and

(B) in clause (ii), by striking "subparagraph (B)" and inserting "this paragraph".

(2) Subparagraph (D) of section 1400L(b)(2) is amended by inserting ", and clause (iv) thereof shall be applied by substituting 'qualified New York Liberty Zone property' for 'qualified property'" before the period at the end.

(3) Subsection (c) of section 1400L is amended by adding at the end the following new paragraph:

"(5) ELECTION OUT.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(C)(iii) shall apply.".

(4) Paragraph (2) of section 1400L(f) is amended by inserting before the period ", determined without regard to subparagraph (C)(i) thereof".

(d) AMENDMENT RELATED TO SECTION 405 OF THE ACT.—The last sentence of section 4006(a)(3)(E)(iii)(IV) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)(iii)(IV)) is amended—

(1) by inserting "or this subparagraph" after "this clause" both places it appears, and

(2) by inserting "(other than sections 4005, 4010, 4011, and 4043)" after "subsections".

(e) AMENDMENT RELATED TO SECTION 411 OF THE ACT.—Subparagraph (B) of section 411(c)(2) of the Job Creation and Worker Assistance Act of 2002 is amended by striking "Paragraph (2)" and inserting "Paragraph (1)".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Job Creation and Worker Assistance Act of 2002 to which they relate.

SEC. 404. AMENDMENTS RELATED TO ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.

(a) AMENDMENT RELATED TO SECTION 401 OF THE ACT.—Clause (i) of section 530(d)(2)(C) is amended by striking "higher" after "qualified".

(b) AMENDMENTS RELATED TO SECTION 611 OF THE ACT.—

(1) Paragraph (3) of section 45A(c) is amended by inserting ", except that the base period taken into account for purposes of such adjustment shall be the calendar quarter beginning October 1, 1993" before the period at the end.

(2) Subparagraph (A) of section 415(d)(4) is amended by adding at the end the following new sentence: "This subparagraph shall also apply for purposes of any provision of this title that provides for adjustments in accordance with the method contained in this subsection, except to the extent provided in such provision.".

(c) AMENDMENT RELATED TO SECTION 614 OF THE ACT.—Clause (ii) of section 4972(c)(6)(A) is amended to read as follows:

"(ii) the amount of contributions described in section 401(m)(4)(A), or".

(d) AMENDMENT RELATED TO SECTION 637 OF THE ACT.—Clause (i) of section 408(p)(6)(A) is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, amounts described in section 6051(a)(3) shall be determined without regard to section 3401(a)(3).".

(e) AMENDMENT RELATED TO SECTION 641 OF THE ACT.—Subparagraph (B) of section 403(a)(4) is amended to read as follows:

"(B) CERTAIN RULES MADE APPLICABLE.—The rules of paragraphs (2) through (7) and (9) of section 402(c) and section 402(f) shall apply for purposes of subparagraph (A).".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate.

SEC. 405. AMENDMENTS RELATED TO COMMUNITY RENEWAL TAX RELIEF ACT OF 2000.

(a) AMENDMENTS RELATED TO SECTION 401 OF THE ACT.—

(1) Subsection (c) of section 1234B is amended by adding at the end the following new sentence: "The Secretary may prescribe regulations regarding the status of contracts the values of which are determined directly or indirectly by reference to any index which becomes (or ceases to be) a narrow-based security index (as defined for purposes of section 1256(g)(6)).".

(2) Paragraph (6) of section 1256(g) is amended by adding at the end the following new sentence: "The Secretary may prescribe regulations regarding the status of options the values of which are determined directly or indirectly by reference to any index which becomes (or ceases to be) a narrow-based security index (as so defined).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in section 401 of the Community Renewal Tax Relief Act of 2000.

SEC. 406. AMENDMENTS RELATED TO TAXPAYER RELIEF ACT OF 1997.

(a) AMENDMENT RELATED TO SECTION 211 OF THE ACT.—Subparagraph (B) of section 529(c)(5) is amended to read as follows:

"(B) TREATMENT OF DESIGNATION OF NEW BENEFICIARY.—The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) unless the new beneficiary is—

"(i) assigned to the same generation as (or a higher generation than) the old beneficiary (determined in accordance with section 2651), and

"(ii) a member of the family of the old beneficiary.".

(b) AMENDMENT RELATED TO SECTION 213 OF THE ACT.—Clause (iii) of section 530(d)(4)(B) is amended by striking "account holder" and inserting "designated beneficiary".

(c) AMENDMENT RELATED TO SECTION 226 OF THE ACT.—Section 1397E is amended by adding at the end the following new subsection:

"(i) S CORPORATIONS.—In the case of a qualified zone academy bond held by an S corporation which is an eligible taxpayer—

"(1) each shareholder shall take into account such shareholder's pro rata share of the credit, and

"(2) no basis adjustments to the stock of the corporation shall be made under section 1367 on account of this section.".

(d) AMENDMENT RELATED TO SECTION 311 OF THE ACT.—Subparagraph (B) of section 55(b)(3) is amended by striking "the amount on which a tax is determined under" and inserting "an amount equal to the excess described in".

(e) AMENDMENTS RELATED TO SECTION 1001 OF THE ACT.—

(1) Paragraph (2) of section 1259(c) is amended by striking "The term 'constructive sale' shall not include any contract" and inserting "A taxpayer shall not be treated as having made a constructive sale solely because the taxpayer enters into a contract".

(2) Subparagraphs (A) and (B)(i) of section 1259(c)(3) are each amended by striking "be treated as a constructive sale" and inserting "cause a constructive sale".

(3) Clause (i) of section 1259(c)(3)(A) is amended by striking "before the end of" and inserting "on or before".

(4) Clause (ii) of section 1259(c)(3)(B) is amended by striking "substantially similar".

(5) Subclause (I) of section 1259(c)(3)(B)(ii) is amended to read as follows:

"(I) which would (but for this subparagraph) cause the requirement of subparagraph (A)(iii) not to be met with respect to the transaction described in clause (i) of this subparagraph,".

(6) Subclause (II) of such section is amended by inserting "on or" before "before the 30th day".

(7) The heading for subparagraph (B) of section 1259(c)(3) is amended by striking "POSITIONS WHICH ARE REESTABLISHED" and inserting "CERTAIN CLOSED TRANSACTIONS WHERE RISK OF LOSS ON APPRECIATED FINANCIAL POSITION DIMINISHED".

(f) AMENDMENTS RELATED TO SECTION 1015 OF THE ACT.—

(1) Section 246(c)(1)(A) is amended by striking "90-day period" and inserting "91-day period".

(2) Section 246(c)(2)(B) is amended—

(A) by striking "180-day period" and inserting "181-day period", and

(B) by striking "90-day period" and inserting "91-day period".

(g) AMENDMENTS RELATED TO SECTION 1053 OF THE ACT.—

(1) Section 901(k)(1)(A)(i) is amended by striking "30-day period" and inserting "31-day period".

(2) Section 901(k)(3)(B) is amended—

(A) by striking "90-day period" and inserting "91-day period", and

(B) by striking "30-day period" and inserting "31-day period".

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

SEC. 407. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.

(a) AMENDMENT RELATED TO SECTION 1307 OF THE ACT.—Subsection (b) of section 1377 (relating to post-termination transition period) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES FOR AUDIT RELATED POST-TERMINATION TRANSITION PERIODS.—

"(A) NO APPLICATION TO CARRYOVERS.—Paragraph (1)(B) shall not apply for purposes of section 1366(d)(3).

"(B) LIMITATION ON APPLICATION TO DISTRIBUTIONS.—Paragraph (1)(B) shall apply to a distribution described in section 1371(e) only to the extent that the amount of such distribution does not exceed the aggregate increase (if any) in the accumulated adjustments account (within the meaning of section 1368(e)) by reason of the adjustments referred to in such paragraph.".

(b) AMENDMENTS RELATED TO SECTION 1432 OF THE ACT.—Paragraph (26) of section 401(a) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) through (I) as subparagraphs (C) through (H), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 to which they relate.

SEC. 408. CLERICAL AMENDMENTS.

(a) INTERNAL REVENUE CODE OF 1986.—

(1) Subclause (II) of section 1(g)(7)(B)(ii) is amended by striking "10 percent." and inserting "10 percent".

(2) Clause (ii) of section 1(h)(6)(A) is amended—

(A) in subclause (I), by striking "(5)(B)" and inserting "(4)(B)", and

(B) in subclause (II), by striking "(5)(A)" and inserting "(4)(A)".

(3) Subclause (I) of section 42(d)(2)(D)(iii) is amended by striking "section 179(b)(7)" and inserting "section 179(d)(7)".

(4) Subsection (f) of section 72 is amended by striking "Economic Growth and Tax Relief Reconciliation Act of 2001" and inserting "Economic Growth and Tax Relief Reconciliation Act of 2001)".

(5)(A) Section 138 and paragraph (2) of section 26(b) are each amended by striking "Medicare+Choice MSA" each place it appears in the text and inserting "Medicare Advantage MSA".

(B) The heading for section 138 is amended to read as follows:

"SEC. 138. MEDICARE ADVANTAGE MSA.".

(C) The heading for subsection (b) of section 138 is amended by striking "MEDICARE+CHOICE MSA" and inserting "MEDICARE ADVANTAGE MSA".

(D) The heading for paragraph (2) of section 138(c) is amended by striking "MEDICARE+CHOICE MSA" and inserting "MEDICARE ADVANTAGE MSA".

(E) Clause (i) of section 138(c)(2)(C) is amended by striking "Medicare+Choice MSAs" and inserting "Medicare Advantage MSAs".

(F) Subsection (f) of section 138 is amended by striking "Medicare+Choice MSA's" and inserting "Medicare Advantage MSAs".

(G) The item relating to section 138 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

"Sec. 138. Medicare Advantage MSA.".

(6) Clause (ii) of section 168(k)(2)(D) is amended—

(A) by inserting "is" after "if property", and

(B) by striking "is" in subclause (I).

(7) Each of the following provisions is amended by inserting "Robert T. Stafford" before "Disaster Relief and Emergency Assistance Act":

(A) Section 165(i)(1).

(B) Section 165(k).

(C) Section 1033(h)(3).

(D) Section 5064(b)(3).

(E) Section 5708(a).

(8) The heading for subparagraph (F) of section 168(k)(2) is amended by striking "MINIUMUM" and inserting "MINIMUM".

(9) Paragraph (1) of section 246A(b) is amended by striking "section 243(c)(4)" and inserting "section 243(d)(4)".

(10) Clause (ii) of section 263(g)(2)(B) is amended by striking "1278" and inserting "1276".

(11) Clause (ii) of section 403(b)(7)(A) is amended by striking "section 3121(a)(1)(D)" and inserting "section 3121(a)(5)(D)".

(12) Paragraph (1) of section 408(a) is amended by striking "457(e)(16)" and inserting "457(e)(16),".

(13) Paragraph (2) of section 408(n) is amended by striking "section 101(6)" and inserting "paragraph (6) or (7) of section 101".

(14) The table contained in section 411(a)(12)(B) is amended by striking the last line and inserting the following:

"6 or more 100.".

(15) Paragraph (7) of section 414(q) is amended by striking "section" and inserting "subsection".

(16) Subparagraph (A) of section 416(i)(1) is amended in the matter following clause (iii) by striking "in the case of plan years" and inserting "In the case of plan years".

(17) Subparagraph (C) of section 415(c)(7) is amended by striking "subparagraph (D)" and inserting "subparagraph (B)".

(18) The item relating to section 1234B in the table of sections for part IV of subchapter P of chapter 1 is amended to read as follows:

"Sec. 1234B. Gains or losses from securities futures contracts.".

(19) Subsection (h) of section 1296 is amended by striking "paragraphs (2) and (3) of section 851(b)" and inserting "section 851(b)(2)".

(20) The table of sections for part II of subchapter A of chapter 11 is amended by inserting after the item relating to section 2010 the following new item:

"Sec. 2011. Credit for State death taxes.".

(21) The table of sections for subchapter A of chapter 13 is amended by inserting after the item relating to section 2603 the following new item:

"Sec. 2604. Credit for certain State taxes.".

(22) Subsection (c) of section 4973 is amended by striking "subsection (a)(2)" and inserting "subsection (a)(3)".

(23) Paragraph (2) of section 4978(a) is amended by striking "60 percent" and inserting "(60 percent".

(24) Paragraph (4) of section 6103(p) is amended by striking "subsection (l)(16) or (17)" each place it appears and inserting "subsection (l)(16) or (18)".

(b) OTHER LAWS.—

(1) Subsection (c) of section 156 of the Community Renewal Tax Relief Act of 2000 (114 Stat. 2763A–623) is amended in the first sentence by inserting "than" after "not later".

(2) Paragraph (6) of section 1(a) of Public Law 107–22 shall be applied by substituting "part VIII" for "part VII" in such paragraph.

(3) Subparagraph (A) of section 1(b)(3) of Public Law 107–22 shall be applied by substituting "EDUCATIONAL" for "EDUCATION" in the matter preceding subparagraph (A) in such section.

(4) Paragraph (1) of section 204(e) of the Railroad Retirement and Survivors' Improvement Act of 2001 shall be applied by substituting "Section 24(d)(2)(A)(iii)" for "Section 24(d)(3)(A)(iii)" in such paragraph.

(5) Paragraph (2) of section 412(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by substituting "Section 221(f)(1)" for "Section 221(g)(1)" in such paragraph.

(6) Subsection (b) of section 531 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by substituting "section" for "subsection" in such subsection.

(7) Paragraph (3) of section 619(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by substituting "after the item relating to section 45D" for "at the end" in such paragraph.

(8) The table contained in section 203(a)(4)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(4)(B)) is amended by striking the last line and inserting the following:

"6 or more 100.".

(9) Paragraph (3) of section 652(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by inserting "each place it appears" before "in the next to last sentence" in such paragraph.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: "An Act to amend the Internal Revenue Code of 1986 to provide tax relief for working families, and for other purposes.".

And the House agree to the same.

For consideration of the House amendment and the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
TOM DELAY,
Managers on the Part of the House.

CHUCK GRASSLEY,
DON NICKLES,
TRENT LOTT,
MAX BAUCUS,
BLANCHE L. LINCOLN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the amendments of the Senate to the bill (H.R. 1308), to amend the Internal Revenue Code of 1986 to provide tax relief and simplification, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck out all of the Senate amendment after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

I. EXTENSION OF CERTAIN EXPIRING PROVISIONS

A. EXTENSION OF THE CHILD TAX CREDIT, ACCELERATION OF REFUNDABILITY OF THE CHILD TAX CREDIT AND TREATMENT OF COMBAT PAY AS EARNED INCOME FOR PURPOSES OF THE CHILD TAX CREDIT AND EARNED INCOME CREDIT

(Secs. 101–104 of the conference agreement, sec. 101 of the House bill, secs. 101–103 of the Senate amendment, and sec. 24 and 32 of the Code)

PRESENT LAW

In general

For 2004, an individual may claim a $1,000 tax credit for each qualifying child under the age of 17. In general, a qualifying child is an individual for whom the taxpayer can claim a dependency exemption and who is the taxpayer's son or daughter (or descendent of either), stepson or stepdaughter (or descendent of either), or eligible foster child.

The child tax credit is scheduled to revert to $700 in 2005, and then, over several years, increase to $1,000.

Table 1, below, shows the scheduled amount of the child tax credit.

TABLE 1.—SCHEDULED AMOUNT OF THE CHILD TAX CREDIT

Taxable year	Credit amount per child
2003–2004	$1,000
2005–2008	700
2009	800
2010[1]	1,000

[1] The credit reverts to $500 in taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA (the "Economic Growth and Tax Relief Reconciliation Act of 2001," Pub. L. No. 107–16).

The child tax credit is phased out for individuals with income over certain thresholds. Specifically, the otherwise allowable child tax credit is reduced by $50 for each $1,000 (or fraction thereof) of modified adjusted gross income over $75,000 for single individuals or heads of households, $110,000 for married individuals filing joint returns, and $55,000 for married individuals filing separate returns.[1] The length of the phase-out range depends on the number of qualifying children. For example, the phase-out range for a single individual with one qualifying child is between $75,000 and $95,000 of modified adjusted gross income. The phase-out range for a single individual with two qualifying children is between $75,000 and $115,000.

The amount of the tax credit and the phase-out ranges are not adjusted annually for inflation.

Refundability

For 2004, the child credit is refundable to the extent of 10 percent of the taxpayer's taxable earned income (which is taken into account in determining taxable income) in excess of $10,750.[2] The percentage is increased to 15 percent for taxable years 2005 and thereafter. Families with three or more children are allowed a refundable credit for the amount by which the taxpayer's social security taxes exceed the taxpayer's earned income credit, if that amount is greater than the refundable credit based on the taxpayer's taxable earned income in excess of $10,750 (for 2004). The refundable portion of the child credit does not constitute income and is not treated as resources for purposes of determining eligibility or the amount or nature of benefits or assistance under any Federal program or any State or local program financed with Federal funds. For taxable years beginning after December 31, 2010, the sunset provision of EGTRRA applies to the 15-percent rule for allowing refundable child credits.

Alternative minimum tax liability

The child credit is allowed against the individual's regular income tax and alternative minimum tax. For taxable years beginning after December 31, 2010, the sunset provision of EGTRRA applies to the rules allowing the child credit against the alternative minimum tax.

HOUSE BILL

The bill increases the credit to $1,000 for taxable years 2005–2009. Therefore, the maximum child credit is $1,000 per child for taxable years 2003–2010.[3] The bill also accelerates to 2003 the increase in refundability of the child credit to 15 percent of the taxpayer's earned income in excess of $10,500 (with indexing). Finally, the bill provides that the beginning point of the phase-out range for the child credit is $150,000 for married individuals filing joint returns ($75,000 for unmarried individuals and married individuals filing separately) for taxable years beginning after December 31, 2002, and before January 1, 2011. All modifications to the child credit under the bill are subject to the sunset provision of EGTRRA.

Effective date.—Taxable years beginning after December 31, 2002.

SENATE AMENDMENT

The Senate amendment accelerates to 2003 the increase in refundability of the child credit to 15 percent of the taxpayer's earned income in excess of $10,500 (with indexing). The Senate amendment also provides that taxpayers eligible for such additional refundable child credit amount will receive this additional amount as an advance payment. No advance payments may be made after December 31, 2003. Also, the Senate amendment provides that the beginning point of the phase-out range for the credit for married individuals filing joint returns is increased to $115,000 in 2008 and 2009 and $150,000 in 2010. It also provides that the beginning point for such phase-out range in the case of unmarried individuals and married individuals filing separately will be one-half of the beginning point of the phase-out range for married individuals filing joint returns for taxable years beginning in 2008 through 2010. Finally, the Senate amendment provides that any amount excluded from gross income under section 112 of the Code (relating to certain combat zone compensation) is treated as earned income for purposes of the calculation of the child tax credit. All modifications to the child credit under the Senate amendment are subject to the sunset provision of EGTRRA.

Effective date.—The provision is effective for taxable years beginning after December 31, 2002.

CONFERENCE AGREEMENT

In general

The conference agreement increases the child credit to $1,000 for taxable years 2005-2009. Therefore, the maximum child tax credit is $1,000 per child for taxable years 2005–

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[1] Modified adjusted gross income is the taxpayer's total gross income plus certain amounts excluded from gross income (i.e., excluded income of U.S. citizens or residents living abroad (sec. 911); residents of Guam, American Samoa, and the Northern Mariana Islands (sec. 931); and residents of Puerto Rico (sec. 933)).

[2] The $10,750 amount is indexed for inflation.

[3] The credit reverts to $500 in taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

2010. All modifications to the child credit under the conference agreement are subject to the sunset provision of EGTRRA.[4]

Refundability

The conference agreement accelerates to 2004 the increase in refundability of the child credit to 15 percent of the taxpayer's earned income in excess of $10,750 (with indexing).

Combat pay treated as earned income

The conference agreement provides that combat pay that is otherwise excluded from gross income under section 112 is treated as earned income which is taken into account in computing taxable income for purposes of calculating the refundable portion of the child credit.

The conference agreement provides that any taxpayer may elect to treat combat pay that is otherwise excluded from gross income under section 112 as earned income for purposes of the earned income credit. This election is available with respect to any taxable year ending after the date of enactment and before January 1, 2006.

Effective dates

The provision generally applies to taxable years beginning after December 31, 2004. The provision relating to the acceleration of the refundability of the child credit applies to taxable years beginning after December 31, 2003. The provision relating to the treatment of combat pay as earned income for purposes of the child credit is effective for taxable years beginning after December 31, 2003. The earned income credit election is effective for taxable years ending after the date of enactment and before January 1, 2006.

B. EXTEND MARRIAGE PENALTY RELIEF

(Sec. 101 of the conference agreement and secs. 1 and 63 of the Code)

1. Standard deduction marriage penalty relief (sec. 63 of the Code)

PRESENT LAW

Marriage penalty

A married couple generally is treated as one tax unit that must pay tax on the couple's total taxable income. Although married couples may elect to file separate returns, the rate schedules and other provisions are structured so that filing separate returns usually results in a higher tax than filing a joint return. Other rate schedules apply to single persons and to single heads of households.

A "marriage penalty" exists when the combined tax liability of a married couple filing a joint return is greater than the sum of the tax liabilities of each individual computed as if they were not married. A "marriage bonus" exists when the combined tax liability of a married couple filing a joint return is less than the sum of the tax liabilities of each individual computed as if they were not married.

Basic standard deduction

Taxpayers who do not itemize deductions may choose the basic standard deduction (and additional standard deductions, if applicable),[5] which is subtracted from adjusted gross income ("AGI") in arriving at taxable income. The size of the basic standard deduction varies according to filing status and is adjusted annually for inflation.[6] In general, two unmarried individuals have standard deductions whose sum exceeds the standard deduction for a married couple filing a joint return. EGTRRA increased the basic standard deduction for a married couple filing a joint return, providing for a phase-in of the increase until the basic standard deduction for a married couple filing a joint return equaled twice the basic standard deduction for an unmarried individual filing a single return by 2009.[7] The Jobs and Growth Tax Relief Reconciliation Act of 2003 ("JGTRRA") accelerated the phase-in, providing that the basic standard deduction for a married couple filing a joint return equaled twice the basic standard deduction for an unmarried individual filing a single return for 2003 and 2004, reverting to the phase-in schedule provided by EGTRAA for 2005–2009.

Table 2, below, shows the standard deduction for married couples filing a joint return as a percentage of the standard deduction for single individuals during the phase-in period.

TABLE 2.—SCHEDULED AMOUNT OF THE BASIC STANDARD DEDUCTION FOR MARRIED COUPLES FILING JOINT RETURNS

Taxable year	Standard deduction
2005	174
2006	184
2007	187
2008	190
2009 and 2010[1]	200

[1] The basic standard deduction increases are repealed for taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement increases the basic standard deduction amount for joint returns to twice the basic standard deduction amount for single returns effective for 2005-2008. Therefore, the basic standard deduction for joint returns is twice the basic standard deduction for single returns for taxable years 2005–2010. All modifications to the basic standard deduction under the conference agreement are subject to the sunset provision of EGTRRA.

Effective date.—The conference agreement provision is effective for taxable years beginning after December 31, 2004.

2. Increase the size of the 15-percent rate bracket for married couples filing joint returns (sec. 1 of the Code)

PRESENT LAW

In general

Under the Federal individual income tax system, an individual who is a citizen or resident of the United States generally is subject to tax on worldwide taxable income. Taxable income is total gross income less certain exclusions, exemptions, and deductions. An individual may claim either a standard deduction or itemized deductions.

An individual's income tax liability is determined by computing his or her regular income tax liability and, if applicable, alternative minimum tax liability.

Regular income tax liability

Regular income tax liability is determined by applying the regular income tax rate schedules (or tax tables) to the individual's taxable income and then is reduced by any applicable tax credits. The regular income tax rate schedules are divided into several ranges of income, known as income brackets, and the marginal tax rate increases as the individual's income increases. The income bracket amounts are adjusted annually for inflation. Separate rate schedules apply based on filing status: single individuals (other than heads of households and surviving spouses), heads of households, married individuals filing joint returns (including surviving spouses), married individuals filing separate returns, and estates and trusts. Lower rates may apply to capital gains.

In general, the bracket breakpoints for single individuals are approximately 60 percent of the rate bracket breakpoints for married couples filing joint returns.[8] The rate bracket breakpoints for married individuals filing separate returns are exactly one-half of the rate brackets for married individuals filing joint returns. A separate, compressed rate schedule applies to estates and trusts.

15-percent regular income tax rate bracket

EGTRRA increased the size of the 15-percent regular income tax rate bracket for a married couple filing a joint return to twice the size of the corresponding rate bracket for a single individual filing a single return, phasing in the increase over four years, beginning in 2005. JGTRRA accelerated these increases, making the size of the 15-percent regular income tax rate bracket for a married couple filing a joint return equal to twice the size of the corresponding rate bracket for a single individual filing a single return for taxable years beginning in 2003 and 2004. For taxable years beginning after 2004, the applicable percentages will revert to those provided by EGTRRA. Table 3, below, shows the size of the 15-percent bracket during the phase-in period.

TABLE 3.—SCHEDULED SIZE OF THE 15-PERCENT RATE BRACKET FOR MARRIED COUPLES FILING JOINT RETURNS

Taxable year	End point of 15-percent rate bracket for married couples filing joint returns as percentage of end point of 15-percent rate bracket for unmarried individuals
2005	180
2006	187
2007	193
2008 through 2010[1]	200

[1] The increases in the 15-percent rate bracket for married couples filing a joint return are repealed for taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement increases the size of the 15-percent rate bracket for joint returns to twice the size of the corresponding rate bracket for single returns effective for 2005–2007. Therefore, the size of the 15-percent rate bracket for joint returns is twice the size of the corresponding rate bracket for single returns for taxable years 2005–2010. The modification to the 15-percent rate bracket under the conference agreement is subject to the sunset provision of EGTRRA.

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[4] The credit reverts to $500 in taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

[5] Additional standard deductions are allowed with respect to any individual who is elderly (age 65 or over) or blind.

[6] For 2004 the basic standard deduction amounts are: (1) $4,850 for unmarried individuals; (2) $9,700 for married individuals filing a joint return; (3) $7,150 for heads of households; and (4) $4,850 for married individuals filing separately.

[7] The basic standard deduction for a married taxpayer filing separately will continue to equal one-half of the basic standard deduction for a married couple filing jointly; thus, the basic standard deduction for unmarried individuals filing a single return and for married couples filing separately will be the same after the phase-in period.

[8] Under present law, the rate bracket breakpoint for the 35-percent marginal tax rate is the same for single individuals and married couples filing joint returns.

Effective date.—The conference agreement provision is effective for taxable years beginning after December 31, 2004.

C. EXTEND SIZE OF 10-PERCENT RATE BRACKET FOR INDIVIDUALS

(Sec. 101 of the conference agreement and sec. 1 of the Code)

PRESENT LAW

In general

Under the Federal individual income tax system, an individual who is a citizen or a resident of the United States generally is subject to tax on worldwide taxable income. Taxable income is total gross income less certain exclusions, exemptions, and deductions. An individual may claim either a standard deduction or itemized deductions.

An individual's income tax liability is determined by computing his or her regular income tax liability and, if applicable, alternative minimum tax liability.

Regular income tax liability

Regular income tax liability is determined by applying the regular income tax rate schedules (or tax tables) to the individual's taxable income. This tax liability is then reduced by any applicable tax credits. The regular income tax rate schedules are divided into several ranges of income, known as income brackets, and the marginal tax rate increases as the individual's income increases. The income bracket amounts are adjusted annually for inflation. Separate rate schedules apply based on filing status: single individuals (other than heads of households and surviving spouses), heads of households, married individuals filing joint returns (including surviving spouses), married individuals filing separate returns, and estates and trusts. Lower rates may apply to capital gains.

Ten-percent regular income tax rate

EGTRRA created a new 10-percent rate that applied to the first $6,000 of taxable income for single individuals, $10,000 of taxable income for heads of households, and $12,000 for married couples filing joint returns, and provided a scheduled increase effective beginning in 2008 under which the $6,000 amount would increase to $7,000 and the $12,000 amount would increase to $14,000, with such amounts adjusted annually for inflation for taxable years beginning after December 31, 2008. JGTRRA accelerated the scheduled increases to 2003 and 2004 (with indexing). For 2004, the size of the 10-percent bracket for single individuals is $7,150 ($14,300 for married individuals filing a joint return). For 2005–2010, the size of the 10-percent bracket reverts to the levels provided under EGTRRA. Thus the amounts drop to $6,000 for single individuals, $10,000 for heads of households and $12,000 for married individuals filing a joint return) for 2005–2007. In 2008, the amounts will increase to $7,000 ($14,000 for married individuals filing a joint return). These amounts ($7,000 for single individuals, $10,000 for heads of households and $14,000 for married individuals) are adjusted annually for inflation for taxable years beginning after December 31, 2008. The 10-percent rate bracket will expire for taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the size of the 10-percent rate bracket through 2010. Specifically, the size of the 10-percent rate bracket for 2005 through 2010 is set at the 2003 level ($7,000 for single individuals, $10,000 for heads of households and $14,000 for married individuals) with annual indexing from 2003. The modifications to the 10-percent rate bracket under the conference agreement are subject to the sunset provision of EGTRRA.

Effective date.—The conference agreement provision is effective for taxable years beginning after December 31, 2004.

D. EXTEND ALTERNATIVE MINIMUM TAX EXEMPTION FOR INDIVIDUALS

(Sec. 103 of the conference agreement and sec. 55 of the Code)

PRESENT LAW

The alternative minimum tax is the amount by which the tentative minimum tax exceeds the regular income tax. An individual's tentative minimum tax is the sum of (1) 26 percent of so much of the taxable excess as does not exceed $175,000 ($87,500 in the case of a married individual filing a separate return) and (2) 28 percent of the remaining taxable excess. The taxable excess is so much of the alternative minimum taxable income ("AMTI") as exceeds the exemption amount. The maximum tax rates on net capital gain and dividends used in computing the regular tax are used in computing the tentative minimum tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments.

The exemption amount is: (1) $45,000 ($58,000 for taxable years beginning before 2005) in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 ($40,250 for taxable years beginning before 2005) in the case of other unmarried individuals; (3) $22,500 ($29,000 for taxable years beginning before 2005) in the case of married individuals filing a separate return; and (4) $22,500 in the case of an estate or trust. The exemption amount is phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns, an estate, or a trust. These amounts are not indexed for inflation.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the increased alternative minimum tax exemption amounts to taxable years beginning in 2005.

Effective date.—The provision applies to taxable years beginning after December 31, 2004.

II. PROVISIONS RELATING TO THE MILITARY

A. EXCLUSION OF GAIN ON SALE OF A PRINCIPAL RESIDENCE BY A MEMBER OF THE UNIFORMED SERVICES OR THE FOREIGN SERVICE

(Sec. 201 of the House bill and sec. 121 of the Code)

PRESENT LAW[9]

Under present law, an individual taxpayer may exclude up to $250,000 ($500,000 if married filing a joint return) of gain realized on the sale or exchange of a principal residence. To be eligible for the exclusion, the taxpayer must have owned and used the residence as a principal residence for at least two of the five years ending on the sale or exchange. A taxpayer who fails to meet these requirements by reason of a change of place of employment, health, or, to the extent provided under regulations, unforeseen circumstances is able to exclude an amount equal to the fraction of the $250,000 ($500,000 if married filing a joint return) that is equal to the fraction of the two years that the ownership and use requirements are met. There are no special rules relating to members of the uniformed services or the Foreign Service of the United States.

HOUSE BILL

Under the bill, an individual may elect to suspend for a maximum of five years the five-year test period for ownership and use during certain absences due to service in the uniformed services or the Foreign Service of the United States. The uniformed services include: (1) the Armed Forces (the Army, Navy, Air Force, Marine Corps, and Coast Guard); (2) the commissioned corps of the National Oceanic and Atmospheric Administration; and (3) the commissioned corps of the Public Health Service. If the election is made, the five-year period ending on the date of the sale or exchange of a principal residence does not include any period up to five years during which the taxpayer or the taxpayer's spouse is on qualified official extended duty as a member of the uniformed services or in the Foreign Service of the United States. For these purposes, qualified official extended duty is any period of extended duty while serving at a place of duty at least 150 miles away from the taxpayer's principal residence or under orders compelling residence in Government furnished quarters. Extended duty is defined as any period of duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period. The election may be made with respect to only one property for a suspension period.

Effective date.—The provision is effective for sales or exchanges after May 6, 1997.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[10]

B. EXCLUSION FROM GROSS INCOME OF CERTAIN DEATH GRATUITY PAYMENTS

(Sec. 202 of the House bill and sec. 134 of the Code)

PRESENT LAW[11]

Present law provides that qualified military benefits are not included in gross income. Generally, a qualified military benefit is any allowance or in-kind benefit (other than personal use of a vehicle) which: (1) is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member's status or service as a member of such uniformed services; and (2) was excludable from gross income on September 9, 1986, under any provision of law, regulation, or administrative practice which was in effect on such date. Generally, other than certain cost of living adjustments, no modification or adjustment of any qualified military benefit after September 9, 1986, is taken into account for purposes of this exclusion from gross income. Qualified military benefits include certain death gratuities. The amount of the military death gratuity benefit has been increased since September 9, 1986 to $6,000 pursuant to Chapter 75 of Title 10 of the United States Code. However, the amount of the exclusion from gross income was not increased to take into account this change.

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[9] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[10] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[11] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

HOUSE BILL

The bill extends the exclusion from gross income for military benefits to any adjustment to the amount of the death gratuity payable under Chapter 75 of Title 10 of the United States Code that is pursuant to a provision of law enacted before December 31, 1991, with respect to the death of certain members of the Armed services on active duty, inactive duty training, or engaged in authorized travel.

Effective date.—The provision is effective with respect to deaths occurring after September 10, 2001.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[12]

C. Exclusion for Amounts Received Under Department of Defense Homeowners Assistance Program

(Sec. 203 of the House bill and sec. 132 of the Code)

PRESENT LAW[13]

Homeowners Assistance Program payment

The Department of Defense Homeowners Assistance Program ("HAP") provides payments to certain employees and members of the Armed Forces to offset the adverse effects on housing values that result from a military base realignment or closure.[14]

In general, under HAP, eligible individuals receive either: (1) a cash payment as compensation for losses that may be or have been sustained in a private sale, in an amount not to exceed the difference between (a) 95 percent of the fair market value of their property prior to public announcement of intention to close all or part of the military base or installation and (b) the fair market value of such property at the time of the sale; or (2) as the purchase price for their property, an amount not to exceed 90 percent of the prior fair market value as determined by the Secretary of Defense, or the amount of the outstanding mortgages.

Tax treatment

Unless specifically excluded, gross income for Federal income tax purposes includes all income from whatever source derived. Amounts received under HAP are received in connection with the performance of services. These amounts are includible in gross income as compensation for services to the extent such payments exceed the fair market value of the property relinquished in exchange for such payments. Additionally, such payments are wages for Federal Insurance Contributions Act ("FICA") tax purposes (including Medicare).

HOUSE BILL

The bill generally exempts from gross income amounts received under the HAP (as in effect on the date of enactment of this bill). Amounts received under the program also are not considered wages for FICA tax purposes (including Medicare). The excludable amount is limited to the reduction in the fair market value of property.

Effective date.—The provision is effective for payments made after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[15]

D. Expansion of Combat Zone Filing Rules to Contingency Operations

(Sec. 204 of the House bill and sec. 7508 of the Code)

PRESENT LAW[16]

General time limits for filing tax returns

Individuals generally must file their Federal income tax returns by April 15 of the year following the close of a taxable year. The Secretary may grant reasonable extensions of time for filing such returns. Treasury regulations provide an additional automatic two-month extension (until June 15 for calendar-year individuals) for United States citizens and residents in military or naval service on duty on April 15 of the following year (the otherwise applicable due date of the return) outside the United States. No action is necessary to apply for this extension, but taxpayers must indicate on their returns (when filed) that they are claiming this extension. Unlike most extensions of time to file, this extension applies to both filing returns and paying the tax due.

Treasury regulations also provide, upon application on the proper form, an automatic four-month extension (until August 15 for calendar-year individuals) for any individual timely filing that form and paying the amount of tax estimated to be due.

In general, individuals must make quarterly estimated tax payments by April 15, June 15, September 15, and January 15 of the following taxable year. Wage withholding is considered to be a payment of estimated taxes.

Suspension of time periods

In general, the period of time for performing various acts under the Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, is suspended for any individual serving in the Armed Forces of the United States in an area designated as a "combat zone" during the period of combatant activities. An individual who becomes a prisoner of war is considered to continue in active service and is therefore also eligible for these suspension of time provisions. The suspension of time also applies to an individual serving in support of such Armed Forces in the combat zone, such as Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the Armed Forces in support of those Forces. The designation of a combat zone must be made by the President in an Executive Order. The President must also designate the period of combatant activities in the combat zone (the starting date and the termination date of combat).

The suspension of time encompasses the period of service in the combat zone during the period of combatant activities in the zone, as well as (1) any time of continuous qualified hospitalization resulting from injury received in the combat zone[17] or (2) time in missing in action status, plus the next 180 days.

The suspension of time applies to the following acts:

(1) Filing any return of income, estate, or gift tax (except employment and withholding taxes);

(2) Payment of any income, estate, or gift tax (except employment and withholding taxes);

(3) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;

(4) Allowance of a credit or refund of any tax;

(5) Filing a claim for credit or refund of any tax;

(6) Bringing suit upon any such claim for credit or refund;

(7) Assessment of any tax;

(8) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;

(9) Collection of the amount of any liability in respect of any tax;

(10) Bringing suit by the United States in respect of any liability in respect of any tax; and

(11) Any other act required or permitted under the internal revenue laws specified by the Secretary of the Treasury.

Individuals may, if they choose, perform any of these acts during the period of suspension. Spouses of qualifying individuals are entitled to the same suspension of time, except that the spouse is ineligible for this suspension for any taxable year beginning more than two years after the date of termination of combatant activities in the combat zone.

HOUSE BILL

The bill applies the special suspension of time period rules to persons deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation or that becomes a contingency operation. A contingency operation is defined[18] as a military operation that is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the

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[12] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[13] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[14] The payments are authorized under the provisions of 42 U.S.C. section 3374.

[15] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[16] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[17] Two special rules apply to continuous hospitalization inside the United States. First, the suspension of time provisions based on continuous hospitalization inside the United States are applicable only to the hospitalized individual; they are not applicable to the spouse of such individual. Second, in no event do the suspension of time provisions based on continuous hospitalization inside the United States extend beyond five years from the date the individual returns to the United States. These two special rules do not apply to continuous hospitalization outside the United States.

[18] The definition is by cross-reference to 10 U.S.C. 101.

United States or against an opposing military force, or results in the call or order to (or retention of) active duty of members of the uniformed services during a war or a national emergency declared by the President or Congress.

Effective date.—The provision applies to any period for performing an act that has not expired before the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[19]

E. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS

(Sec. 205 of the House bill and sec. 501(c)(19) of the Code)

PRESENT LAW[20]

Under present law, a veterans' organization as described in section 501(c)(19) of the Code generally is exempt from taxation. The Code defines such an organization as a post or organization of past or present members of the Armed Forces of the United States: (1) that is organized in the United States or any of its possessions; (2) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and (3) that meets certain membership requirements. The membership requirements are that (1) at least 75 percent of the organization's members are past or present members of the Armed Forces of the United States, and (2) substantially all of the remaining members are cadets or are spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets. No more than 2.5 percent of an organization's total members may consist of individuals who are not veterans, cadets, or spouses, widows, or widowers of such individuals.

Contributions to an organization described in section 501(c)(19) may be deductible for Federal income or gift tax purposes if the organization is a post or organization of war veterans.

HOUSE BILL

The bill permits ancestors or lineal descendants of past or present members of the Armed Forces of the United States or of cadets to qualify as members for purposes of the "substantially all" test. The bill does not change the requirement that 75 percent of the organization's members must be past or present members of the Armed Forces of the United States.

Effective date.—The provision is effective for taxable years beginning after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[21]

F. CLARIFICATION OF TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS PROVIDED TO MEMBERS OF THE UNIFORMED SERVICES OF THE UNITED STATES

(Sec. 206 of the House bill and sec. 134 of the Code)

PRESENT LAW[22]

Present law provides that qualified military benefits are not included in gross income. Generally, a qualified military benefit is any allowance or in-kind benefit (other than personal use of a vehicle) which: (1) is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member's status or service as a member of such uniformed services; and (2) was excludable from gross income on September 9, 1986, under any provision of law, regulation, or administrative practice which was in effect on such date. Generally, other than certain cost of living adjustments, no modification or adjustment of any qualified military benefit after September 9, 1986, is taken into account for purposes of this exclusion from gross income.

HOUSE BILL

The bill clarifies that dependent care assistance provided under a dependent care assistance program (as in effect on the date of enactment of this bill) for a member of the uniformed services by reason of such member's status or service as a member of the uniformed services is excludable from gross income as a qualified military benefit subject to the present-law rules. The uniformed services include: (1) the Armed Forces (the Army, Navy, Air Force, Marine Corps, and Coast Guard); (2) the commissioned corps of the National Oceanic and Atmospheric Administration; and (3) the commissioned corps of the Public Health Service. Amounts received under the program also are not considered wages for Federal Insurance Contributions Act tax purposes (including Medicare).

Effective date.—The provision is effective for taxable years beginning after December 31, 2002. No inference is intended as to the tax treatment of such amounts for prior taxable years.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[23]

G. TREATMENT OF SERVICE ACADEMY APPOINTMENTS AS SCHOLARSHIPS FOR PURPOSES OF QUALIFIED TUITION PROGRAMS AND COVERDELL EDUCATION SAVINGS ACCOUNTS

(Sec. 207 of the House bill and secs. 529 and 530 of the Code)

PRESENT LAW[24]

The Code provides tax-exempt status to qualified tuition programs, meaning programs established and maintained by a State or agency or instrumentality thereof or by one or more eligible educational institutions under which a person (1) may purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of qualified higher education expenses of the beneficiary, or (2) in the case of a program established by and maintained by a State or agency or instrumentality thereof, may make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account. Contributions to qualified tuition programs may be made only in cash. Qualified tuition programs must have adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of amounts necessary to provide for the qualified higher education expenses of the beneficiary.

The Code provides tax-exempt status to Coverdell education savings accounts ("ESAs"), meaning certain trusts or custodial accounts which are created or organized in the United States exclusively for the purpose of paying the qualified education expenses of a designated beneficiary. Contributions to ESAs may be made only in cash. Annual contributions to ESAs may not exceed $2,000 per beneficiary (except in cases involving certain tax-free rollovers) and may not be made after the designated beneficiary reaches age 18.

Earnings on contributions to an ESA or a qualified tuition program generally are subject to tax when withdrawn. However, distributions from an ESA or qualified tuition program are excludable from the gross income of the distributee to the extent that the total distribution does not exceed the qualified education expenses incurred by the beneficiary during the year the distribution is made.

If the qualified education expenses of the beneficiary for the year are less than the total amount of the distribution from an ESA or qualified tuition program, then the qualified education expenses are deemed to be paid from a pro-rata share of both the principal and earnings components of the distribution. In such a case, only a portion of the earnings is excludable (i.e., the portion of the earnings based on the ratio that the qualified education expenses bear to the total amount of the distribution) and the remaining portion of the earnings is includible in the beneficiary's gross income.

The earnings portion of a distribution from an ESA or a qualified tuition program that is includible in income is generally subject to an additional 10 percent tax. The 10 percent additional tax does not apply if a distribution is made on account of the death or disability of the designated beneficiary, or on account of a scholarship received by the designated beneficiary (to the extent it does not exceed the amount of the scholarship).

Service obligations are required of recipients of appointments to the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy. Because of these service obligations, appointments to the Academies are not considered scholarships for purposes of the waiver of the additional 10 percent tax on withdrawals from ESAs and qualified tuition programs that are not used for qualified education purposes.

HOUSE BILL

The bill permits penalty-free withdrawals from Coverdell education savings accounts and qualified tuition programs made on account of the attendance of the beneficiary at the United States Military Academy, the

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[19] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108-121).

[20] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108-121.

[21] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108-121).

[22] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108-121.

[23] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108-121).

[24] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108-121.

United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy.

The amount of funds that can be withdrawn penalty free is limited to the costs of advanced education as defined in 10 U.S.C. section 2005(e)(3) (as in effect on the date of the enactment of the bill) at such Academies.

Effective date.—The provision applies to taxable years beginning after December 31, 2002.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[25]

H. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS

(Sec. 208 of the House bill and sec. 162 of the Code)

PRESENT LAW[26]

National Guard and Reserve members may claim itemized deductions for their nonreimbursable expenses for transportation, meals, and lodging when they must travel away from home (and stay overnight) to attend National Guard and Reserve meetings. These overnight travel expenses are combined with other miscellaneous itemized deductions on Schedule A of the individual's income tax return and are deductible only to the extent that the aggregate of these deductions exceeds two percent of the taxpayer's adjusted gross income. No deduction is generally permitted for commuting expenses to and from drill meetings.

HOUSE BILL

The bill provides an above-the-line deduction for the overnight transportation, meals, and lodging expenses of National Guard and Reserve members who must travel away from home more than 100 miles (and stay overnight) to attend National Guard and Reserve meetings. Accordingly, these individuals incurring these expenses can deduct them from gross income regardless of whether they itemize their deductions. The amount of the expenses that may be deducted may not exceed $1,500 per taxable year and is only available for any period during which the individual is more than 100 miles from home in connection with such services.

Effective date.—The provision is effective with respect to amounts paid or incurred in taxable years beginning after December 31, 2002.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[27]

I. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS

(Sec. 301 of the House bill and sec. 501 of the Code)

PRESENT LAW[28]

Under present law, the Internal Revenue Service generally issues a letter revoking recognition of an organization's tax-exempt status only after (1) conducting an examination of the organization, (2) issuing a letter to the organization proposing revocation, and (3) allowing the organization to exhaust the administrative appeal rights that follow the issuance of the proposed revocation letter. In the case of an organization described in section 501(c)(3), the revocation letter immediately is subject to judicial review under the declaratory judgment procedures of section 7428. To sustain a revocation of tax-exempt status under section 7428, the IRS must demonstrate that the organization is no longer entitled to exemption. There is no procedure under current law for the IRS to suspend the tax-exempt status of an organization.

To combat terrorism, the Federal government has designated a number of organizations as terrorist organizations or supporters of terrorism under the Immigration and Nationality Act, the International Emergency Economic Powers Act, and the United Nations Participation Act of 1945.

HOUSE BILL

The bill suspends the tax-exempt status of an organization that is exempt from tax under section 501(a) for any period during which the organization is designated or identified by U.S. Federal authorities as a terrorist organization or supporter of terrorism. The bill also makes such an organization ineligible to apply for tax exemption under section 501(a). The period of suspension runs from the date the organization is first designated or identified (or from the date of enactment of the bill, whichever is later) to the date when all designations or identifications with respect to the organization have been rescinded pursuant to the law or Executive order under which the designation or identification was made.

The bill describes a terrorist organization as an organization that has been designated or otherwise individually identified (1) as a terrorist organization or foreign terrorist organization under the authority of section 212(a)(3)(B)(vi)(II) or section 219 of the Immigration and Nationality Act; (2) in or pursuant to an Executive order that is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act for the purpose of imposing on such organization an economic or other sanction; or (3) in or pursuant to an Executive order that refers to the provision and is issued under the authority of any Federal law if the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989). During the period of suspension, no deduction for any contribution to a terrorist organization is allowed under the Code, including under sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522.

No organization or other person may challenge, under section 7428 or any other provision of law, in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person, the suspension of tax-exemption, the ineligibility to apply for tax-exemption, a designation or identification described above, the timing of the period of suspension, or a denial of deduction described above. The suspended organization may maintain other suits or administrative actions against the agency or agencies that designated or identified the organization, for the purpose of challenging such designation or identification (but not the suspension of tax-exempt status under this provision).

If the tax-exemption of an organization is suspended and each designation and identification that has been made with respect to the organization is determined to be erroneous pursuant to the law or Executive order making the designation or identification, and such erroneous designation results in an overpayment of income tax for any taxable year with respect to such organization, a credit or refund (with interest) with respect to such overpayment shall be made. If the operation of any law or rule of law (including res judicata) prevents the credit or refund at any time, the credit or refund may nevertheless be allowed or made if the claim for such credit or refund is filed before the close of the one-year period beginning on the date that the last remaining designation or identification with respect to the organization is determined to be erroneous.

The bill directs the IRS to update the listings of tax-exempt organizations to take account of organizations that have had their exemption suspended and to publish notice to taxpayers of the suspension of an organization's tax-exemption and the fact that contributions to such organization are not deductible during the period of suspension.

Effective date.—The provision is effective for designations made before, on, or after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[29]

J. EXTENSION OF CERTAIN TAX RELIEF PROVISIONS TO ASTRONAUTS

(Sec. 401 of the House bill and secs. 101, 692, and 2201 of the Code)

PRESENT LAW[30]

In general

The Victims of Terrorism Tax Relief Act of 2001 (the "Victims Act") provided certain income and estate tax relief to individuals who die from wounds or injury incurred as a result of the terrorist attacks against the United States on September 11, 2001, and April 19, 1995 (the bombing of the Alfred P. Murrah Federal Building in Oklahoma City) or as a result of illness incurred due to an attack involving anthrax that occurred on or after September 11, 2001, and before January 1, 2002.

Income tax relief

The Victims Act extended relief similar to the present-law treatment of military or civilian employees of the United States who die as a result of terrorist or military activity outside the United States to individuals who die as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, and individuals who die as a result of illness incurred due to an attack involving anthrax that occurs on or after September 11, 2001, and before January 1, 2002. Under the Victims Act, such individuals generally are exempt from income tax for the year of death and for prior taxable years beginning with the taxable year prior to the taxable year in which the wounds or injury occurred.[31] The exemption applies to these individuals whether killed in an attack (e.g., in the case of the September 11, 2001, attack in one of the four airplanes or on the ground) or in rescue or recovery operations.

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[25] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[26] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[27] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[28] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[29] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[30] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

Present law provides tax relief of at least $10,000 to each eligible individual regardless of the income tax liability of the individual for the eligible tax years. If an eligible individual's income tax for years eligible for the exclusion under the provision is less than $10,000, the individual is treated as having made a tax payment for such individual's last taxable year in an amount equal to the excess of $10,000 over the amount of tax not imposed under the provision.

Subject to rules prescribed by the Secretary, the exemption from tax does not apply to the tax attributable to (1) deferred compensation which would have been payable after death if the individual had died other than as a specified terrorist victim, or (2) amounts payable in the taxable year which would not have been payable in such taxable year but for an action taken after September 11, 2001. Thus, for example, the exemption does not apply to amounts payable from a qualified plan or individual retirement arrangement to the beneficiary or estate of the individual. Similarly, amounts payable only as death or survivor's benefits pursuant to deferred compensation preexisting arrangements that would have been paid if the death had occurred for another reason are not covered by the exemption. In addition, if the individual's employer makes adjustments to a plan or arrangement to accelerate the vesting of restricted property or the payment of nonqualified deferred compensation after the date of the particular attack, the exemption does not apply to income received as a result of that action.[32] Also, if the individual's beneficiary cashed in savings bonds of the decedent, the exemption does not apply. On the other hand, the exemption does apply, for example, to a final paycheck of the individual or dividends on stock held by the individual when paid to another person or the individual's estate after the date of death but before the end of the taxable year of the decedent (determined without regard to the death). The exemption also applies to payments of an individual's accrued vacation and accrued sick leave.

The tax relief does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative of such individual.

Exclusion of death benefits

The Victims Act generally provides an exclusion from gross income for amounts received if such amounts are paid by an employer (whether in a single sum or otherwise[33]) by reason of the death of an employee who dies as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, or as a result of illness incurred due to an attack involving anthrax that occurred on or after September 11, 2001, and before January 1, 2002. Subject to rules prescribed by the Secretary, the exclusion does not apply to amounts that would have been payable if the individual had died for a reason other than the attack. The exclusion does apply, however, to death benefits provided under a qualified plan that satisfy the incidental benefit rule.

For purposes of the exclusion, self-employed individuals are treated as employees. Thus, for example, payments by a partnership to the surviving spouse of a partner who died as a result of the September 11, 2001, attacks may be excludable under the provision.

The tax relief does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative of such individual.

Estate tax relief

Present law provides a reduction in Federal estate tax for taxable estates of U.S. citizens or residents who are active members of the U.S. Armed Forces and who are killed in action while serving in a combat zone (sec. 2201). This provision also applies to active service members who die as a result of wounds, disease, or injury suffered while serving in a combat zone by reason of a hazard to which the service member was subjected as an incident of such service.

In general, the effect of section 2201 is to replace the Federal estate tax that would otherwise be imposed with a Federal estate tax equal to 125 percent of the maximum State death tax credit determined under section 2011(b). Credits against the tax, including the unified credit of section 2010 and the State death tax credit of section 2011, then apply to reduce (or eliminate) the amount of the estate tax payable.

Generally, the reduction in Federal estate taxes under section 2201 is equal in amount to the "additional estate tax." The additional estate tax is the difference between the Federal estate tax imposed by section 2001 and 125 percent of the maximum State death tax credit determined under section 2011(b) as in effect prior to its repeal by EGTRRA.

The Victims Act generally treats individuals who die from wounds or injury incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, or as a result of illness incurred due to an attack involving anthrax that occurred on or after September 11, 2001, and before January 1, 2002, in the same manner as if they were active members of the U.S. Armed Forces killed in action while serving in a combat zone or dying as a result of wounds or injury suffered while serving in a combat zone for purposes of section 2201. Consequently, the estates of these individuals are eligible for the reduction in Federal estate tax provided by section 2201. The tax relief does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative of such individual.

The Victims Act also changed the general operation of section 2201, as it applies to both the estates of service members who qualify for special estate tax treatment under present and prior law and to the estates of individuals who qualify for the special treatment only under the Act. Under the Victims Act, the Federal estate tax is determined in the same manner for all estates that are eligible for Federal estate tax reduction under section 2201. In addition, the executor of an estate that is eligible for special estate tax treatment under section 2201 may elect not to have section 2201 apply to the estate. Thus, in the event that an estate may receive more favorable treatment without the application of section 2201 in the year of death than it would under section 2201, the executor may elect not to apply the provisions of section 2201, and the estate tax owed (if any) would be determined pursuant to the generally applicable rules.

Under the Victims Act, section 2201 no longer reduces Federal estate tax by the amount of the additional estate tax. Instead, the Victims Act provides that the Federal estate tax liability of eligible estates is determined under section 2001 (or section 2101, in the case of decedents who were neither residents nor citizens of the United States), using a rate schedule that is equal to 125 percent of the pre-EGTRRA maximum State death tax credit amount. This rate schedule is used to compute the tax under section 2001(b) or section 2101(b) (i.e., both the tentative tax under section 2001(b)(1) and section 2101(b), and the hypothetical gift tax under section 2001(b)(2) are computed using this rate schedule). As a result of this provision, the estate tax is unified with the gift tax for purposes of section 2201 so that a single graduated (but reduced) rate schedule applies to transfers made by the individual at death, based upon the cumulative taxable transfers made both during lifetime and at death.

In addition, while the Victims Act provides an alternative reduced rate table for purposes of determining the tax under section 2001(b) or section 2101(b), the amount of the unified credit nevertheless is determined as if section 2201 did not apply, based upon the unified credit as in effect on the date of death. For example, in the case of victims of the September 11, 2001, terrorist attack, the applicable unified credit amount under section 2010(c) would be determined by reference to the actual section 2001(c) rate table.

HOUSE BILL

The bill extends the exclusion from income tax, the exclusion for death benefits, and the estate tax relief available under the Victims of Terrorism Tax Relief Act of 2001 to astronauts who lose their lives on a space mission (including the individuals who lost their lives in the space shuttle Columbia disaster).

Effective date.—The provision is generally effective for qualified individuals whose lives are lost on a space mission after December 31, 2002.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[34]

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[31] Present law does not provide relief from self-employment tax liability.

[32] Such amounts may, however, be excludable from gross income under the death benefit exclusion provided in section 102 of the Victims Act.

[33] Thus, for example, payments made over a period of years could qualify for the exclusion.

[34] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108-121).

III. OTHER PROVISIONS

A. Establish Uniform Definition of a Qualifying Child

(Secs. 201–208 of the conference agreement, and secs. 2, 21, 24, 32, 151, and 152 of the Code)

PRESENT LAW

In general

Present law contains five commonly used provisions that provide benefits to taxpayers with children: (1) the dependency exemption; (2) the child credit; (3) the earned income credit; (4) the dependent care credit; and (5) head of household filing status. Each provision has separate criteria for determining whether the taxpayer qualifies for the applicable tax benefit with respect to a particular child. The separate criteria include factors such as the relationship (if any) the child must bear to the taxpayer, the age of the child, and whether the child must live with the taxpayer. Thus, with respect to the same individual, a taxpayer is required to determine eligibility for each benefit separately, and an individual who qualifies a taxpayer for one provision does not automatically qualify the taxpayer for another provision.

Dependency exemption[35]

In general

Taxpayers are entitled to a personal exemption deduction for the taxpayer, his or her spouse, and each dependent. For 2004, the amount deductible for each personal exemption is $3,100. The deduction for personal exemptions is phased out for taxpayers with incomes above certain thresholds.[36]

In general, a taxpayer is entitled to a dependency exemption for an individual if the individual: (1) satisfies a relationship test or is a member of the taxpayer's household for the entire taxable year; (2) satisfies a support test; (3) satisfies a gross income test or is a child of the taxpayer under a certain age; (4) is a citizen or resident of the U.S. or resident of Canada or Mexico;[37] and (5) did not file a joint return with his or her spouse for the year.[38] In addition, the taxpayer identification number of the individual must be included on the taxpayer's return.

Relationship or member of household test

Relationship test.—The relationship test is satisfied if an individual is the taxpayer's (1) son or daughter or a descendant of either (e.g., grandchild or great-grandchild); (2) stepson or stepdaughter; (3) brother or sister (including half brother, half sister, stepbrother, or stepsister); (4) parent, grandparent, or other direct ancestor (but not foster parent); (5) stepfather or stepmother; (6) brother or sister of the taxpayer's father or mother; (7) son or daughter of the taxpayer's brother or sister; or (8) the taxpayer's father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

An adopted child (or a child who is a member of the taxpayer's household and who has been placed with the taxpayer for adoption) is treated as a child of the taxpayer. A foster child is treated as a child of the taxpayer if the foster child is a member of the taxpayer's household for the entire taxable year.

Member of household test.—If the relationship test is not satisfied, then the individual may be considered the dependent of the taxpayer if the individual is a member of the taxpayer's household for the entire year. Thus, a taxpayer may be eligible to claim a dependency exemption with respect to an unrelated child who lives with the taxpayer for the entire year.

For the member of household test to be satisfied, the taxpayer must both maintain the household and occupy the household with the individual.[39] A taxpayer or other individual does not fail to be considered a member of a household because of "temporary" absences due to special circumstances, including absences due to illness, education, business, vacation, and military service.[40] Similarly, an individual does not fail to be considered a member of the taxpayer's household due to a custody agreement under which the individual is absent for less than six months.[41] Indefinite absences that last for more than the taxable year may be considered "temporary." For example, the IRS has ruled that an elderly woman who was indefinitely confined to a nursing home was temporarily absent from a taxpayer's household. Under the facts of the ruling, the woman had been an occupant of the household before being confined to a nursing home, the confinement had extended for several years, and it was possible that the woman would die before becoming well enough to return to the taxpayer's household. There was no intent on the part of the taxpayer or the woman to change her principal place of abode.[42]

Support test

In general.—The support test is satisfied if the taxpayer provides over one half of the support of the individual for the taxable year. To determine whether a taxpayer has provided more than one half of an individual's support, the amount the taxpayer contributed to the individual's support is compared with the entire amount of support the individual received from all sources, including the individual's own funds.[43] Governmental payments and subsidies (e.g., Temporary Assistance to Needy Families, food stamps, and housing) generally are treated as support provided by a third party. Expenses that are not directly related to any one member of a household, such as the cost of food for the household, must be divided among the members of the household. If any person furnishes support in kind (e.g., in the form of housing), then the fair market value of that support must be determined.

Multiple support agreements.—In some cases, no one taxpayer provides more than one half of the support of an individual. Instead, two or more taxpayers, each of whom would be able to claim a dependency exemption but for the support test, together provide more than one half of the individual's support. If this occurs, the taxpayers may agree to designate that one of the taxpayers who individually provides more than 10 percent of the individual's support can claim a dependency exemption for the child. Each of the others must sign a written statement agreeing not to claim the exemption for that year. The statements must be filed with the income tax return of the taxpayer who claims the exemption.

Special rules for divorced or legally separated parents.—Special rules apply in the case of a child of divorced or legally separated parents (or parents who live apart at all times during the last six months of the year) who provide over one half the child's support during the calendar year.[44] If such a child is in the custody of one or both of the parents for more than one half of the year, then the parent having custody for the greater portion of the year is deemed to satisfy the support test; however, the custodial parent may release the dependency exemption to the noncustodial parent by filing a written declaration with the IRS.[45]

Gross income test

In general, an individual may not be claimed as a dependent of a taxpayer if the individual has gross income that is at least equal to the personal exemption amount for the taxable year.[46] If the individual is the child of the taxpayer and under age 19 (or under age 24, if a full-time student), the gross income test does not apply.[47] For purposes of this rule, a "child" means a son, daughter, stepson, or stepdaughter (including an adopted child of the taxpayer, a foster child who resides with the taxpayer for the entire year, or a child placed with the taxpayer for adoption by an authorized adoption agency).

Earned income credit[48]

In general

In general, the earned income credit is a refundable credit for low-income workers. The amount of the credit depends on the earned income of the taxpayer and whether the taxpayer has one, more than one, or no "qualifying children." In order to be a qualifying child for the earned income credit, an individual must satisfy a relationship test, a residency test, and an age test. In addition, the name, age, and taxpayer identification number of the qualifying child must be included on the return.

Relationship test

An individual satisfies the relationship test under the earned income credit if the individual is the taxpayer's: (1) son, daughter, stepson, or stepdaughter, or a descendant of any such individual;[49] (2) brother, sister, stepbrother, or stepsister, or a descendant of any such individual, who the taxpayer cares for as the taxpayer's own child; or (3) eligible foster child.

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[35] Secs. 151 and 152. Under the statutory structure, section 151 provides for the deduction for personal exemptions with respect to "dependents." The term "dependent" is defined in section 152. Most of the requirements regarding dependents are contained in section 152; section 151 contains additional requirements that must be satisfied in order to obtain a dependency exemption with respect to a dependent (as so defined). In particular, section 151 contains the gross income test, the rules relating to married dependents filing a joint return, and the requirement for a taxpayer identification number. The other rules discussed here are contained in section 151.

[36] Sec. 151(d)(3).

[37] A legally adopted child who does not satisfy the residency or citizenship requirement may nevertheless qualify as a dependent (provided other applicable requirements are met) if (1) the child's principal place of abode is the taxpayer's home and (2) the taxpayer is a citizen or national of the United States. Sec. 152(b)(3).

[38] This restriction does not apply if the return was filed solely to obtain a refund and no tax liability would exist for either spouse if they filed separate returns. Rev. Rul. 54-567, 1954–2 C.B. 108.

[39] Treas. Reg. sec. 1.152–1(b).

[40] Id.

[41] Id.

[42] Rev. Rul. 66–28, 1966–1 C.B. 31.

[43] In the case of a son, daughter, stepson, or stepdaughter of the taxpayer who is a full-time student, scholarships are not taken into account for purpose of the support test. Sec. 152(d).

[44] For purposes of this rule, a "child" means a son, daughter, stepson, or stepdaughter (including an adopted child or foster child, or child placed with the taxpayer for adoption). Sec. 152(e)(1)(A).

[45] Special support rules also apply in the case of certain pre-1985 agreements between divorced or legally separated parents. Sec. 152(e)(4).

[46] Certain income from sheltered workshops is not taken into account in determining the gross income of permanently and totally disabled individuals. Sec. 151(c)(5).

[47] Sec. 151(c). The IRS has issued guidance stating that for purposes of the dependency exemption, an individual attains a specified age on the anniversary of the date that the child was born (e.g., a child born on January 1, 1987, attains the age of 17 on January 1, 2004). Rev. Rul. 2003–72, 2003–33 I.R.B. 346.

[48] Sec. 32.

[49] A child who is legally adopted or placed with the taxpayer for adoption by an authorized adoption

An eligible foster child is an individual (1) who is placed with the taxpayer by an authorized placement agency, and (2) who the taxpayer cares for as her or his own child. A married child of the taxpayer is not treated as meeting the relationship test unless the taxpayer is entitled to a dependency exemption with respect to the married child (e.g., the support test is satisfied) or would be entitled to the exemption if the taxpayer had not waived the exemption to the noncustodial parent.[50]

Residency test

The residency test is satisfied if the individual has the same principal place of abode as the taxpayer for more than one half of the taxable year. The residence must be in the United States.[51] As under the dependency exemption (and head of household filing status), temporary absences due to special circumstances, including absences due to illness, education, business, vacation, and military service are not treated as absences for purposes of determining whether the residency test is satisfied.[52] Under the earned income credit, there is no requirement that the taxpayer maintain the household in which the taxpayer and the qualifying individual reside.

Age test

In general, the age test is satisfied if the individual has not attained age 19 as of the close of the calendar year.[53] In the case of a full-time student, the age test is satisfied if the individual has not attained age 24 as of the close of the calendar year. In the case of an individual who is permanently and totally disabled, no age limit applies.

Child credit[54]

Taxpayers with incomes below certain amounts are eligible for a child credit for each qualifying child of the taxpayer. The amount of the child credit is up to $1,000, in the case of taxable years beginning in 2003 or 2004. The child credit reverts to $700 for taxable years beginning in 2005 through 2008, $800 for taxable years beginning in 2009, and $1,000 for taxable years beginning in 2010. The credit declines to $500 in taxable year 2011.[55] For purposes of this credit, a qualifying child is an individual: (1) with respect to whom the taxpayer is entitled to a dependency exemption for the year; (2) who satisfies the same relationship test applicable to the earned income credit; and (3) who has not attained age 17 as of the close of the calendar year.[56] In addition, the child must be a citizen or resident of the United States.[57] A portion of the child credit is refundable under certain circumstances.[58]

Dependent care credit[59]

The dependent care credit may be claimed by a taxpayer who maintains a household that includes one or more qualifying individuals and who has employment-related expenses. A qualifying individual means (1) a dependent of the taxpayer under age 13 for whom the taxpayer is entitled to a dependency exemption,[60] (2) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself,[61] or (3) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself. In addition, a taxpayer identification number for the qualifying individual must be included on the return.

A taxpayer is considered to maintain a household for a period if over one half the cost of maintaining the household for the period is furnished by the taxpayer (or, if married, the taxpayer and his or her spouse). Costs of maintaining the household include expenses such as rent, mortgage interest (but not principal), real estate taxes, insurance on the home, repairs (but not home improvements), utilities, and food eaten in the home.

A special rule applies in the case of a child who is under age 13 or is physically or mentally incapable of caring for himself or herself if the custodial parent has waived his or her dependency exemption to the noncustodial parent.[62] For the dependent care credit, the child is treated as a qualifying individual with respect to the custodial parent, not the parent entitled to claim the dependency exemption.

Head of household filing status[63]

A taxpayer may claim head of household filing status if the taxpayer is unmarried (and not a surviving spouse) and pays more than one half of the cost of maintaining as his or her home a household which is the principal place of abode for more than one half of the year of (1) an unmarried son, daughter, stepson or stepdaughter of the taxpayer or an unmarried descendant of the taxpayer's son or daughter, (2) an individual described in (1) who is married, if the taxpayer may claim a dependency exemption with respect to the individual (or could claim the exemption if the taxpayer had not waived the exemption to the noncustodial parent), or (3) a relative with respect to whom the taxpayer may claim a dependency exemption.[64] If certain other requirements are satisfied, head of household filing status also may be claimed if the taxpayer is entitled to a dependency exemption with respect to one of the taxpayer's parents.

HOUSE BILL

No provision.

SENATE AMENDMENT

In general

In general

The Senate amendment establishes a uniform definition of qualifying child for purposes of the dependency exemption, the child credit, the earned income credit, the dependent care credit, and head of household filing status. A taxpayer generally may claim an individual who does not meet the uniform definition of qualifying child (with respect to any taxpayer) as a dependent if the present-law dependency requirements are satisfied. The Senate amendment generally does not modify other parameters of each tax benefit (e.g., the earned income requirements of the earned income credit) or the rules for determining whether individuals other than children of the taxpayer qualify for each tax benefit.

Under the uniform definition, in general, a child is a qualifying child of a taxpayer if the child satisfies each of three tests: (1) the child has the same principal place of abode as the taxpayer for more than one half the taxable year; (2) the child has a specified relationship to the taxpayer; and (3) the child has not yet attained a specified age. A tie-breaking rule applies if more than one taxpayer claims a child as a qualifying child.

Under the Senate amendment, the present-law support and gross income tests for determining whether an individual is a dependent generally do not apply to a child who meets the requirements of the uniform definition of qualifying child.

Residency test

Under the uniform definition's residency test, a child must have the same principal place of abode as the taxpayer for more than one half of the taxable year. It is intended that, as is the case under present law, temporary absences due to special circumstances, including absences due to illness, education, business, vacation, or military service, are not treated as absences.

Relationship test

In order to be a qualifying child under the Senate amendment, the child must be the taxpayer's son, daughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, or a descendant of any such individual. An individual legally adopted by the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, is treated as a child of such taxpayer by blood. A foster child who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction is treated as the taxpayer's child.[65]

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agency is treated as the taxpayer's own child. Sec. 32(c)(3)(B)(iv).

[50] Sec. 32(c)(3)(B)(ii).

[51] The principal place of abode of a member of the Armed Services is treated as in the United States during any period during which the individual is stationed outside the United States on active duty. Sec. 32(c)(4).

[52] IRS Publication 596, Earned Income Credit (EIC), at 14. H. Rep. 101–964 (October 27, 1990), at 1037.

[53] The IRS has issued guidance stating that for purposes of the earned income credit, an individual attains a specified age on the anniversary of the date that the child was born (e.g., a child born on January 1, 1987, attains the age of 17 on January 1, 2004). Rev. Rul. 2003–72, 2003–33 I.R.B. 346.

[54] Sec. 24.

[55] EGTRRA, Pub. L. No. 107–16, sec. 901(a) (2001).

[56] The IRS has issued guidance stating that for purposes of the child credit, an individual attains a specified age on the anniversary of the date that the child was born (e.g., a child born on January 1, 1987, attains the age of 17 on January 1, 2004). Rev. Rul. 2003–72, 2003–33 I.R.B. 346.

[57] The child credit does not apply with respect to a child who is a resident of Canada or Mexico and is not a U.S. citizen, even if a dependency exemption is available with respect to the child. Sec. 24(c)(2). The child credit is, however, available with respect to a child dependent who is not a resident or citizen of the United States if: (1) the child has been legally adopted by the taxpayer; (2) the child's principal place of abode is the taxpayer's home; and (3) the taxpayer is a U.S. citizen or national. See sec. 24(c)(2) and sec. 152(b)(3).

[58] Sec. 24(d).

[59] Sec. 21.

[60] The IRS has issued guidance stating that for purposes of the dependent care credit, an individual attains a specified age on the anniversary of the date that the child was born (e.g., a child born on January 1, 1987, attains the age of 17 on January 1, 2004). Rev. Rul. 2003–72, 2003–33 I.R.B. 346.

[61] Although such an individual must be a dependent of the taxpayer as defined in section 152, it is not required that the taxpayer be entitled to a dependency exemption with respect to the individual under section 151. Thus, such an individual may be a qualifying individual for purposes of the dependent care credit, even though the taxpayer is not entitled to a dependency exemption because the individual does not meet the gross income test.

[62] Sec. 21(e)(5).

[63] Sec. 2(b).

[64] Sec. 2(b)(1)(A)(ii), as qualified by sec. 2(b)(3)(B). An individual for whom the taxpayer is entitled to claim a dependency exemption by reason of a multiple support agreement does not qualify the taxpayer for head of household filing status.

[65] The provision eliminates the present-law rule requiring that if a child is the taxpayer's sibling or stepsibling or a descendant of any such individual, the taxpayer must care for the child as if the child were his or her own child.

Age test

Under the Senate amendment, the age test varies depending upon the tax benefit involved. In general, a child must be under age 19 (or under age 24 in the case of a full-time student) in order to be a qualifying child.[66] In general, no age limit applies with respect to individuals who are totally and permanently disabled within the meaning of section 22(e)(3) at any time during the calendar year. The Senate amendment retains the present-law requirements that a child must be under age 13 (if he or she is not disabled) for purposes of the dependent care credit, and under age 17 (whether or not disabled) for purposes of the child credit.

Children who support themselves

Under the Senate amendment, a child who provides over one half of his or her own support generally is not considered a qualifying child of another taxpayer. The Senate amendment retains the present-law rule, however, that a child who provides over one half of his or her own support may constitute a qualifying child of another taxpayer for purposes of the earned income credit.

Tie-breaking rules

If a child would be a qualifying child with respect to more than one individual (e.g., a child lives with his or her mother and grandmother in the same residence) and more than one person claims a benefit with respect to that child, then the following "tie-breaking" rules apply. First, if only one of the individuals claiming the child as a qualifying child is the child's parent, the child is deemed the qualifying child of the parent. Second, if both parents claim the child and the parents do not file a joint return, then the child is deemed a qualifying child first with respect to the parent with whom the child resides for the longest period of time, and second with respect to the parent with the highest adjusted gross income. Third, if the child's parents do not claim the child, then the child is deemed a qualifying child with respect to the claimant with the highest adjusted gross income.

Interaction with present-law rules

Taxpayers generally may claim an individual who does not meet the uniform definition of qualifying child with respect to any taxpayer as a dependent if the present-law dependency requirements (including the gross income and support tests) are satisfied.[67] Thus, for example, as under present law, a taxpayer may claim a parent as a dependent if the taxpayer provides more than one half of the support of the parent and the parent's gross income is less than the exemption amount. As another example, under the Senate amendment a grandparent may claim a dependency exemption with respect to a grandson who does not reside with any taxpayer for over one half the year, if the grandparent provides more than one half of the support of the grandson and the grandson's gross income is less than the exemption amount.

Citizenship and residency

Children who are U.S. citizens living abroad or non-U.S. citizens living in Canada or Mexico may qualify as a qualifying child, as is the case under the present-law dependency tests. A legally adopted child who does not satisfy the residency or citizenship requirement may nevertheless qualify as a qualifying child (provided other applicable requirements are met) if (1) the child's principal place of abode is the taxpayer's home and (2) the taxpayer is a citizen or national of the United States.

Children of divorced or legally separated parents

The Senate amendment retains the present-law rule that allows a custodial parent to release the claim to a dependency exemption (and, therefore, the child credit) to a noncustodial parent. Thus, under the Senate amendment, custodial waivers that are in place and effective on the date of enactment will continue to be effective after the date of enactment if they continue to satisfy the waiver rule. In addition, the Senate amendment retains the custodial waiver rule for purposes of the dependency exemption (and, therefore, the child credit) for decrees of divorce or separate maintenance or written separation agreements that become effective after the date of enactment. Under the Senate amendment, as under present law, the custodial waiver rules do not affect eligibility with respect to children of divorced or legally separated parents for purposes of the earned income credit, the dependent care credit, and head of household filing status.

While retaining the substantive effect of the present-law waiver provisions, the Senate amendment modifies the mechanical structure of the rules. Under present law, a waiver may be made with respect to the dependency exemption. The waiver then automatically carries over to the child credit, because in order to claim the child credit, the taxpayer must be allowed the dependency exemption with respect to the child. Thus, if the dependency exemption is waived, the child credit applies to the taxpayer who is allowed the dependency exemption under the waiver.

The Senate amendment obtains the same result, but through a slightly modified statutory structure. Under the Senate amendment, if a waiver is made, the waiver applies for purposes of determining whether a child meets the definition of a qualifying child or a qualifying relative under section 152(c) or 152(d) as amended by the provision. While the definition of qualifying child is generally uniform, for purposes of the earned income credit, head of household status, and the dependent care credit, the definition of qualifying child is made without regard to the waiver provision.[68] Thus, as under present law, a waiver that applies for the dependency exemption will also apply for the child credit, and the waiver will not apply for purposes of the other provisions.

Other provisions

The Senate amendment retains the applicable present-law requirements that a taxpayer identification number for a child be provided on the taxpayer's return. For purposes of the earned income credit, a qualifying child is required to have a social security number that is valid for employment in the United States (that is, the child must be a U.S. citizen, permanent resident, or have a certain type of temporary visa).

Effect of Senate amendment on particular tax benefits

Dependency exemption

For purposes of the dependency exemption, the Senate amendment defines a dependent as a qualifying child or a qualifying relative. The qualifying child test eliminates the support test (other than in the case of a child who provides more than one half of his or her own support), and replaces it with the residency requirement described above. Further, the present-law gross income test does not apply to a qualifying child. The rules relating to multiple support agreements do not apply with respect to qualifying children because the support test does not apply to them. Special tie-breaking rules (described above) apply if more than one taxpayer claims a qualifying child under the Senate amendment. These tie-breaking rules do not apply if a child constitutes a qualifying child with respect to multiple taxpayers, but only one eligible taxpayer actually claims the qualifying child.

The Senate amendment generally permits taxpayers to continue to apply the present-law dependency exemption rules to claim a dependency exemption for a qualifying relative who does not satisfy the qualifying child definition. In such cases, the present-law gross income and support tests, including the special rules for multiple support agreements, the special rules relating to income of handicapped dependents, and the special support test in case of students, continue to apply for purposes of the dependency exemption.

As is the case under present law, a child who provides over half of his or her own support is not considered a dependent of another taxpayer under the Senate amendment. Further, an individual shall not be treated as a dependent of any taxpayer if such individual has filed a joint return with the individual's spouse for the taxable year.

Earned income credit

In general, the Senate amendment adopts a definition of qualifying child that is similar to the present-law definition under the earned income credit. The present-law requirement that a foster child and certain other children be cared for as the taxpayer's own child is eliminated. The present-law tie-breaker rule applicable to the earned income credit is used for purposes of the uniform definition of qualifying child. The Senate amendment retains the present-law requirement that the taxpayer's principal place of abode must be in the United States.

Child credit

The present-law child credit generally uses the same relationships to define an eligible child as the uniform definition. The present-law requirement that a foster child and certain other children be cared for as the taxpayer's own child is eliminated. The age limitation under the Senate amendment retains the present-law requirement that the child must be under age 17, regardless of whether the child is disabled.

Dependent care credit

The present-law requirement that a taxpayer maintain a household in order to claim the dependent care credit is eliminated. Thus, if other applicable requirements are satisfied, a taxpayer may claim the dependent care credit with respect to a child who lives with the taxpayer for more than one half the year, even if the taxpayer does not provide more than one half of the cost of maintaining the household.

The rules for determining eligibility for the credit with respect to an individual who is physically or mentally incapable of caring for himself or herself are amended to include a requirement that the taxpayer and the dependent have the same principal place of abode for more than one half the taxable year.

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[66] The provision retains the present-law definition of full-time student set forth in section 151(c)(4).

[67] Individuals who satisfy the present-law dependency tests and who are not qualifying children are referred to as "qualifying relatives" under the provision.

[68] See secs. 2(b)(1)(A)(i) and 32(c)(3)(A) as amended by the provision, and sec. 21(e)(5).

Head of household filing status

Under the Senate amendment, a taxpayer is eligible for head of household filing status only with respect to a qualifying child or an individual for whom the taxpayer is entitled to a dependency exemption. Under the Senate amendment, a taxpayer may claim head of household filing status if the taxpayer is unmarried (and not a surviving spouse) and pays more than one half of the cost of maintaining as his or her home a household which is the principal place of abode for more than one half the year of (1) a qualifying child, or (2) an individual for whom the taxpayer may claim a dependency exemption. As under present law, a taxpayer may claim head of household status with respect to a parent for whom the taxpayer may claim a dependency exemption and who does not live with the taxpayer, if certain requirements are satisfied.

Effective date.—The provision is effective for taxable years beginning after December 31, 2003.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision with the following modifications. The conference agreement modifies the definition of adopted child, for purposes of determining whether an adopted child is treated as a child by blood, to mean an individual who is legally adopted by the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer.

Effective date.—The provision is effective for taxable years beginning after December 31, 2004.

IV. REVENUE PROVISIONS

A. EXTENSION OF CUSTOMS USER FEES

(Sec. 301 of the Senate amendment)

PRESENT LAW

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (Pub. L. No. 99–272), authorized the Secretary of the Treasury to collect certain service fees. Section 412 (Pub. L. No. 107–296) of the Homeland Security Act of 2002 authorized the Secretary of the Treasury to delegate such authority to the Secretary of Homeland Security. Provided for under 19 U.S.C. 58c, these fees include: processing fees for air and sea passengers, commercial trucks, rail cars, private aircraft and vessels, commercial vessels, dutiable mail packages, barges and bulk carriers, merchandise, and Customs broker permits. COBRA was amended on several occasions but most recently by Pub. L. No. 108–121, which extended authorization for the collection of these fees through March 1, 2005.[69]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends the fees authorized under the Consolidated Omnibus Budget Reconciliation Act of 1985 through March 31, 2010.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

V. OTHER PROVISIONS

A. EXTENSION OF THE RESEARCH CREDIT

(Sec. 301 of the conference agreement and sec. 41 of the Code)

PRESENT LAW

Section 41 provided a research tax credited equal to 20 percent of the amount by which a taxpayer's qualified research expenses for a taxable year exceeded its base amount for that year. Taxpayers were permitted to elect an alternative incremental research credit regime in which the taxpayer was assigned a three-tiered fixed-base percentage and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 2.65 percent applied to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of one percent but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 3.2 percent applied to the extent that a taxpayer's current-year research expenses exceeded a base amount computed by using a fixed-base percentage of 1.5 percent but did not exceed a base amount computed by using a fixed-base percentage of two percent. A credit rate of 3.75 percent applied to the extent that a taxpayer's current-year research expenses exceeded a base amount computed by using a fixed-base percentage of two percent.

A 20-percent research tax credit also applied to the excess of (1) 100 percent of corporate cash expenses (including grants or contributions) paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation.

The research tax credit expired and generally does not apply to amounts paid or incurred after June 30, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the present-law research credit to qualified amounts paid or incurred before January 1, 2006.

Effective date.—Effective for amounts paid or incurred after June 30, 2004.

B. EXTENSION OF PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS

(Sec. 302 of the conference agreement, sec. 9812 of the Code, sec. 712 of ERISA, and section 2705 of the PHSA)

PRESENT LAW

The Mental Health Parity Act of 1996 amended the Employee Retirement Income Security Act of 1974 ("ERISA") and the Public Health Service Act ("PHSA") to provide that group health plans that provide both medical and surgical benefits and mental health benefits cannot impose aggregate lifetime or annual dollar limits on mental health benefits that are not imposed on substantially all medical and surgical benefits. The provisions of the Mental Health Parity Act were initially effective with respect to plan years beginning on or after January 1, 1998, for a temporary period. Since enactment, the mental health parity requirements in ERISA and the PHSA have been extended on more than one occasion and currently are scheduled to expire with respect to benefits for services furnished on or after December 31, 2004.

The Taxpayer Relief Act of 1997 added to the Code the requirements imposed under the Mental Health Parity Act, and imposed an excise tax on group health plans that fail to meet the requirements. The excise tax is equal to $100 per day during the period of noncompliance and is generally imposed on the employer sponsoring the plan if the plan fails to meet the requirements. The maximum tax that can be imposed during a taxable year cannot exceed the lesser of 10 percent of the employer's group health plan expenses for the prior year or $500,000. No tax is imposed if the Secretary determines that the employer did not know, and exercising reasonable diligence would not have known, that the failure existed.

The Code provisions were initially effective with respect to plan years beginning on or after January 1, 1998, for a temporary period.[70] The Code provisions have been extended on a number of occasions, and expired with respect to benefits for services furnished after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the ERISA and PHSA provisions relating to mental health parity to benefits for services furnished before January 1, 2006. The conference agreement also extends the Code provisions relating to mental health parity to benefits for services furnished on or after the date of enactment and before January 1, 2006. Thus, the excise tax on failures to meet the requirements imposed by the Code provisions does not apply after December 31, 2003, and before the date of enactment.

Effective date.—The provision is effective on the date of enactment.

C. EXTENSION OF THE WORK OPPORTUNITY TAX CREDIT

(Sec. 303 of the conference agreement and sec. 51 of the Code)

PRESENT LAW

Work opportunity tax credit

Targeted groups eligible for the credit

The work opportunity tax credit is available on an elective basis for employers hiring individuals from one or more of eight targeted groups. The eight targeted groups are: (1) certain families eligible to receive benefits under the Temporary Assistance for Needy Families Program; (2) high-risk youth; (3) qualified ex-felons; (4) vocational rehabilitation referrals; (5) qualified summer youth employees; (6) qualified veterans; (7) families receiving food stamps; and (8) persons receiving certain Supplemental Security Income (SSI) benefits.

A qualified ex-felon is an individual certified as: (1) having been convicted of a felony under State or Federal law; (2) being a member of an economically disadvantaged family; and (3) having a hiring date within one year of release from prison or conviction.

Qualified wages

Generally, qualified wages are defined as cash wages paid by the employer to a member of a targeted group. The employer's deduction for wages is reduced by the amount of the credit.

Calculation of the credit

The credit equals 40 percent (25 percent for employment of 400 hours or less) of qualified first-year wages. Generally, qualified first-year wages are qualified wages (not in excess of $6,000) attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer. Therefore, the maximum credit per employee is $2,400 (40 percent of the first $6,000 of qualified first-year wages). With respect to qualified summer youth employees, the maximum credit is $1,200 (40 percent of the first $3,000 of qualified first-year wages).

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[69] Sec. 201; 117 Stat. 1335.

[70] The excise tax does not apply to benefits for services furnished on or after September 30, 2001, and before January 10, 2002.

Minimum employment period

No credit is allowed for qualified wages paid to employees who work less than 120 hours in the first year of employment.

Coordination of the work opportunity tax credit and the welfare-to-work tax credit

An employer cannot claim the work opportunity tax credit with respect to wages of any employee on which the employer claims the welfare-to-work tax credit.

Other rules

The work opportunity tax credit is not allowed for wages paid to a relative or dependent of the taxpayer. Similarly wages paid to replacement workers during a strike or lockout are not eligible for the work opportunity tax credit. Wages paid to any employee during any period for which the employer received on-the-job training program payments with respect to that employee are not eligible for the work opportunity tax credit. The work opportunity tax credit generally is not allowed for wages paid to individuals who had previously been employed by the employer. In addition, many other technical rules apply.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the work opportunity tax credit for two years (through December 31, 2005).

Effective date.—The extension of the work opportunity tax credit is effective for wages paid or incurred for individuals beginning work after December 31, 2003.

D. EXTENSION OF THE WELFARE-TO-WORK TAX CREDIT

(Sec. 303 of the conference agreement and sec. 51A of the Code)

PRESENT LAW

Welfare-to-work tax credit

Targeted group eligible for the credit

The welfare-to-work tax credit is available on an elective basis to employers of qualified long-term family assistance recipients. Qualified long-term family assistance recipients are: (1) members of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) members of a family that has received such family assistance for a total of at least 18 months (whether or not consecutive) after August 5, 1997 (the date of enactment of the welfare-to-work tax credit) if they are hired within 2 years after the date that the 18-month total is reached; and (3) members of a family who are no longer eligible for family assistance because of either Federal or State time limits, if they are hired within 2 years after the Federal or State time limits made the family ineligible for family assistance.

Qualified wages

Qualified wages for purposes of the welfare-to-work tax credit are defined more broadly than the work opportunity tax credit. Unlike the definition of wages for the work opportunity tax credit which includes simply cash wages, the definition of wages for the welfare-to-work tax credit includes cash wages paid to an employee plus amounts paid by the employer for: (1) educational assistance excludable under a section 127 program (or that would be excludable but for the expiration of sec. 127); (2) health plan coverage for the employee, but not more than the applicable premium defined under section 4980B(f)(4); and (3) dependent care assistance excludable under section 129. The employer's deduction for wages is reduced by the amount of the credit.

Calculation of the credit

The welfare-to-work tax credit is available on an elective basis to employers of qualified long-term family assistance recipients during the first two years of employment. The maximum credit is 35 percent of the first $10,000 of qualified first-year wages and 50 percent of the first $10,000 of qualified second-year wages. Qualified first-year wages are defined as qualified wages (not in excess of $10,000) attributable to service rendered by a member of the targeted group during the one-year period beginning with the day the individual began work for the employer. Qualified second-year wages are defined as qualified wages (not in excess of $10,000) attributable to service rendered by a member of the targeted group during the one-year period beginning immediately after the first year of that individual's employment for the employer. The maximum credit is $8,500 per qualified employee.

Minimum employment period

No credit is allowed for qualified wages paid to a member of the targeted group unless they work at least 400 hours or 180 days in the first year of employment.

Coordination of the work opportunity tax credit and the welfare-to-work tax credit

An employer cannot claim the work opportunity tax credit with respect to wages of any employee on which the employer claims the welfare-to-work tax credit.

Other rules

The welfare-to-work tax credit incorporates directly or by reference many of these other rules contained on the work opportunity tax credit.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the welfare-to-work tax credit for two years (through December 31, 2005).

Effective date.—The extension of the welfare-to-work tax credit is effective for wages paid or incurred for individuals beginning work after December 31, 2003.

E. QUALIFIED ZONE ACADEMY BONDS

(Sec. 304 of the conference agreement and sec. 1397E of the Code)

PRESENT LAW

Generally, "qualified zone academy bonds" are bonds issued by a State or local government, provided that at least 95 percent of the proceeds are used for one or more qualified purposes with respect to a "qualified zone academy" and private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds. Qualified purposes with respect to any qualified zone academy are (1) rehabilitating or repairing the public school facility in which the academy is established, (2) providing equipment for use at such academy, (3) developing course materials for education at such academy, and (4) training teachers and other school personnel. A total of $400 million of qualified zone academy bonds was authorized to be issued annually in calendar years 1998 through 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the authority to issue qualified zone academy bonds through 2005.

Effective date.—The authority to issue qualified zone academy bonds is effective for obligations issued after December 31, 2003.

F. EXTENSION OF COVER OVER OF EXCISE TAX ON DISTILLED SPIRITS TO PUERTO RICO AND VIRGIN ISLANDS

(Sec. 305 of the conference agreement and sec. 7652 of the Code)

PRESENT LAW

A $13.50 per proof gallon (a proof gallon is a liquid gallon consisting of 50 percent alcohol) excise tax is imposed on distilled spirits produced in or imported into the United States.

The Code provides for cover over (payment) to Puerto Rico and the Virgin Islands of the excise tax imposed on rum imported into the United States, without regard to the country of origin. The amount of the cover over is limited under section 7652(f) to $10.50 per proof gallon ($13.25 per proof gallon during the period July 1, 1999 through December 31, 2003).

Thus, tax amounts attributable to rum produced in Puerto Rico are covered over to Puerto Rico. Tax amounts attributable to rum produced in the Virgin Islands are covered over to the Virgin Islands. Tax amounts attributable to rum produced in neither Puerto Rico nor the Virgin Islands are divided and covered over to the two possessions under a formula. All of the amounts covered over are subject to the limitation.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement temporarily suspends the $10.50 per proof gallon limitation on the amount of excise taxes on rum covered over to Puerto Rico and the Virgin Islands. Under the conference agreement, the cover over amount of $13.25 per proof gallon is extended for rum brought into the United States after December 31, 2003 and before January 1, 2006. After December 31, 2005, the cover over amount reverts to $10.50 per proof gallon.

Effective date.—The provision is effective for articles brought into the United States after December 31, 2003.

G. CHARITABLE CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES

(Sec. 306 of the conference agreement and sec. 170 of the Code)

PRESENT LAW

A deduction by a corporation for charitable contributions of computer technology and equipment generally is limited to the corporation's basis in the property. However, certain corporations may claim a deduction in excess of basis for a qualified computer contribution. Such enhanced deduction for qualified computer contributions expired for contributions made during any taxable year beginning after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the enhanced deduction for qualified computer contributions to contributions made during any taxable year beginning before January 1, 2006.

Effective date.—Taxable years beginning after December 31, 2003.

H. CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS

(Sec. 307 of the conference agreement and sec. 62 of the Code)

PRESENT LAW

In general, ordinary and necessary business expenses are deductible (sec. 162). However, in general, unreimbursed employee business expenses are deductible only as an itemized deduction and only to the extent that the individual's total miscellaneous deductions (including employee business expenses) exceed two percent of adjusted gross income. An individual's otherwise allowable itemized deductions may be further limited by the overall limitation on itemized deductions, which reduces itemized deductions for taxpayers with adjusted gross income in excess of $142,700 (for 2004). In addition, miscellaneous itemized deductions are not allowable under the alternative minimum tax.

Certain expenses of eligible educators are allowed an above-the-line deduction. Specifically, for taxable years beginning in 2002 and 2003, an above-the-line deduction is allowed for up to $250 annually of expenses paid or incurred by an eligible educator for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom. To be eligible for this deduction, the expenses must be otherwise deductible under 162 as a trade or business expense. A deduction is allowed only to the extent the amount of expenses exceeds the amount excludable from income under section 135 (relating to education savings bonds), 529(c)(1) (relating to qualified tuition programs), and section 530(d)(2) (relating to Coverdell education savings accounts).

An eligible educator is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year. A school means any school which provides elementary education or secondary education, as determined under State law.

The above-the-line deduction for eligible educators is not allowed for taxable years beginning after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the above-the-line deduction for two years, i.e., for taxable years beginning in 2004 and 2005.

Effective date.—The conference agreement is effective for taxable years beginning in 2004 and 2005.

I. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS

(Sec. 308 of the conference agreement and sec. 198 of the Code)

PRESENT LAW

Taxpayers can elect to treat certain environmental remediation expenditures that would otherwise be chargeable to capital account as deductible in the year paid or incurred (sec. 198). The deduction applies for both regular and alternative minimum tax purposes. The expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

A "qualified contaminated site" generally is any property that (1) is held for use in a trade or business, for the production of income, or as inventory and (2) is at a site on which there has been a release (or threat of release) or disposal of certain hazardous substances as certified by the appropriate State environmental agency (so called "brownfields"). However, sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 cannot qualify as targeted areas.

Eligible expenditures were those paid or incurred before January 1, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the present law expensing provision for two years (through December 31, 2005).

Effective date.—Effective for expenses paid or incurred after December 31, 2003.

J. NEW YORK LIBERTY ZONE PROVISIONS

(Sec. 309 of the conference agreement and sec. 1400L of the Code)

PRESENT LAW

An aggregate of $8 billion in tax-exempt private activity bonds is authorized for the purpose of financing the construction and repair of infrastructure in New York City ("Liberty Zone bonds"). The bonds must be issued before January 1, 2005.

Certain bonds used to fund facilities located in New York City are permitted one additional advance refunding before January 1, 2005 ("advance refunding bonds"). In addition to satisfying other requirements, the bond refunded must be (1) a State or local bond that is a general obligation of New York City, (2) a State or local bond issued by the New York Municipal Water Finance Authority or Metropolitan Transportation Authority of the City of New York, or (3) a qualified 501(c)(3) bond which is a qualified hospital bond issued by or on behalf of the State of New York or the City of New York. The maximum amount of advance refunding bonds is $9 billion.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends authority to issue Liberty Zone bonds through December 31, 2009. The conference agreement also extends the additional advance refunding authority through December 31, 2005. In addition, the conference agreement provides that bonds of the Municipal Assistance Corporation are eligible for advance refunding.

The purpose in extending the New York Liberty Bond program through December 31, 2009, is to facilitate the full designation of New York Liberty Bond authority. Congress could consider a further extension of the New York Liberty Bond program beyond 2009 if circumstances justify such an extension.

Effective date.—The Liberty Zone bonds and general additional advance refunding provisions are effective on the date of enactment. The provision relating to the advance refunding of bonds of the Municipal Assistance Corporation is effective as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002.

K. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA

(Sec. 310 of the conference agreement and secs. 1400, 1400A, 1400B, 1400C, and 1400F of the Code)

PRESENT LAW

Certain economically depressed census tracts within the District of Columbia are designated as the District of Columbia Enterprise Zone (the "D.C. Zone") within which businesses and individual residents are eligible for special tax incentives. The designation expired on December 31, 2003.

First-time homebuyers of a principal residence in the District of Columbia are eligible for a nonrefundable tax credit of up to $5,000 of the amount of the purchase price. The credit expired for property purchased after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the D.C. Zone designation and related tax incentives for two years. The conference agreement extends the first-time homebuyer credit for two years.

Effective date.—The extension of the D.C. Zone designation and related tax incentives is generally effective on January 1, 2004, except that the provision relating to tax-exempt financing incentives applies to obligations issued after the date of enactment.

L. COMBINED EMPLOYMENT TAX REPORTING

(Sec. 311 of the conference agreement and sec. 6103 of the Code)

PRESENT LAW

Traditionally, Federal tax forms are filed with the Federal government and State tax forms are filed with individual States. This necessitates duplication of items common to both returns.

The Taxpayer Relief Act of 1997 permitted implementation of a limited demonstration project to assess the feasibility and desirability of expanding combined Federal and State reporting. First, it was limited to the sharing of information between the State of Montana and the IRS. Second, it was limited to employment tax reporting. Third, it was limited to disclosure of the name, address, TIN, and signature of the taxpayer, which is information common to both the Montana and Federal portions of the combined form. Fourth, it was limited to a period of five years (expiring August 5, 2002).

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement provides authority through December 31, 2005, for any State to participate in a combined Federal and State employment tax reporting program, provided that the program has been approved by the Secretary.

Effective date.—The provision takes effect on the date of enactment.

M. NONREFUNDABLE PERSONAL CREDITS ALLOWED AGAINST THE ALTERNATIVE MINIMUM TAX

(Sec. 312 of the conference agreement and sec. 26 of the Code)

PRESENT LAW

Present law provides for certain nonrefundable personal tax credits (i.e., the dependent care credit, the credit for the elderly and disabled, the adoption credit, the child tax credit,[71] the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, the credit for savers, and the D.C. first-time homebuyer credit).

For taxable years beginning in 2003, all the nonrefundable personal credits are allowed to the extent of the full amount of the individual's regular tax and alternative minimum tax.

For taxable years beginning after 2003, the credits (other than the adoption credit, child credit and credit for savers) are allowed only to the extent that the individual's regular income tax liability exceeds the individual's tentative minimum tax, determined without regard to the minimum tax foreign tax credit. The adoption credit, child credit, and IRA credit are allowed to the full extent of the individual's regular tax and alternative minimum tax.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the provision allowing the nonrefundable personal credits to the full extent of the regular tax and the alternative minimum tax for taxable years beginning in 2004 and 2005.

Effective date.—Taxable years beginning after December 31, 2003.

N. EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES

(Sec. 313 of the conference agreement and sec. 45 of the Code)

PRESENT LAW

An income tax credit is allowed for the production of electricity from either qualified wind energy, qualified "closed-loop" biomass, or qualified poultry waste facilities. The amount of the credit is 1.8 cents per kilowatt hour for 2004. The credit amount is indexed for inflation.

The credit applies to electricity produced by a wind energy facility placed in service after December 31, 1993, and before January 1, 2004, to electricity produced by a closed-loop biomass facility placed in service after December 31, 1992, and before January 1, 2004, and to a poultry waste facility placed in service after December 31, 1999, and before January 1, 2004. The credit is allowable for production during the 10-year period after a facility is originally placed in service.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the placed in service date for wind energy facilities, "closed-loop" biomass facilities, and poultry waste facilities to include facilities placed in service prior to January 1, 2006.

Effective date.—Effective for facilities placed in service after December 31, 2003.

O. SUSPENSION OF 100-PERCENT-OF-NET-INCOME LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS

(Sec. 314 of the conference agreement and sec. 613A of the Code)

PRESENT LAW

Percentage depletion method for oil and gas properties applies to independent producers and royalty owners. Generally, under the percentage depletion method, 15 percent of the taxpayer's gross income from an oil- or gas-producing property is allowed as a deduction in each taxable year. The amount deducted generally may not exceed 100 percent of the net income from the property in any year (the "net-income limitation"). The 100-percent net-income limitation for marginal wells is suspended for taxable years beginning after December 31, 1997, and before January 1, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the suspension of the net-income limitation for marginal wells for taxable years beginning before January 1, 2006.

Effective date.—The provision is effective for taxable years beginning after December 31, 2003.

P. INDIAN EMPLOYMENT TAX CREDIT

(Sec. 315 of the conference agreement and sec. 45A of the Code)

PRESENT LAW

In general, a credit against income tax liability is allowed to employers for the first $20,000 of qualified wages and qualified employee health insurance costs paid or incurred by the employer with respect to certain employees (sec. 45A). The credit is equal to 20 percent of the excess of eligible employee qualified wages and health insurance costs during the current year over the amount of such wages and costs incurred by the employer during 1993. The credit is an incremental credit, such that an employer's current-year qualified wages and qualified employee health insurance costs (up to $20,000 per employee) are eligible for the credit only to the extent that the sum of such costs exceeds the sum of comparable costs paid during 1993. No deduction is allowed for the portion of the wages equal to the amount of the credit.

The wage credit is available for wages paid or incurred on or after January 1, 1994, in taxable years that begin before January 1, 2005.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the Indian employment credit incentive for one year (to taxable years beginning before January 1, 2006).

Effective date.—The provision is effective on the date of enactment.

Q. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATIONS

(Sec. 316 of the conference agreement and sec. 168(j) of the Code)

PRESENT LAW

With respect to certain property used in connection with the conduct of a trade or business within an Indian reservation, depreciation deductions under section 168(j) will be determined using the following recovery periods:

3-year property	2
5-year property	3
7-year property	4
10-year property	6
15-year property	9
20-year property	12
Nonresidential real property	22

"Qualified Indian reservation property" eligible for accelerated depreciation includes property which is (1) used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation, (2) not used or located outside the reservation on a regular basis, (3) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)), and (4) described in the recovery-period table above. In addition, property is not "qualified Indian reservation property" if it is placed in service for purposes of conducting gaming activities. Certain "qualified infrastructure property" may be eligible for the accelerated depreciation even if located outside an Indian reservation, provided that the purpose of such property is to connect with qualified infrastructure property located within the reservation (e.g., roads, power lines, water systems, railroad spurs, and communications facilities).

The depreciation deduction allowed for regular tax purposes is also allowed for purposes of the alternative minimum tax. The accelerated depreciation for Indian reservations is available with respect to property placed in service on or after January 1, 1994, and before January 1, 2005.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends eligibility for the special depreciation periods to property placed in service before January 1, 2006.

Effective date.—The provision is effective on the date of enactment.

R. DISCLOSURE OF RETURN INFORMATION RELATING TO STUDENT LOANS

(Sec. 317 of the conference agreement and sec. 6103(l)(13) of the Code)

PRESENT LAW

An exception to the general rule prohibiting disclosure is provided for disclosure to the Department of Education (but not to contractors thereof) to establish an appropriate repayment amount for an applicable student loan. The Department of Education disclosure authority is scheduled to expire after December 31, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the disclosure authority relating to the disclosure of return information to carry out income-contingent repayment of student loans. Under the conference agreement, no disclosures can be made after December 31, 2005.

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[71] A portion of the child credit may be refundable.

Effective date.—The provision is effective on the date of enactment.

S. CREDIT FOR QUALIFIED ELECTRIC VEHICLES

(Sec. 318 of the conference agreement and sec. 30 of the Code)

PRESENT LAW

A 10-percent tax credit is provided for the cost of a qualified electric vehicle, up to a maximum credit of $4,000. A qualified electric vehicle generally is a motor vehicle that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current. The full amount of the credit is available for purchases prior to 2004. The credit phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006. Under the phase down, the credit for 2004 is 75 percent of the otherwise allowable credit.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Repeals the phase down of the allowable tax credit for electric vehicles in 2004 and 2005. Thus, a taxpayer who purchases a qualifying vehicle may claim 100 percent of the otherwise allowable credit for vehicles purchased in 2004 and 2005. For vehicles purchased in 2006 the credit remains at 25 percent of the otherwise allowable amount as under present law.

Effective date.—Effective for vehicles placed in service after December 31, 2003.

T. DEDUCTION FOR QUALIFIED CLEAN-FUEL VEHICLE PROPERTY

(Sec. 319 of the conference agreement and sec. 179A of the Code)

PRESENT LAW

Certain costs of qualified clean-fuel vehicle may be expensed and deducted when such property is placed in service. Qualified clean-fuel vehicle property includes motor vehicles that use certain clean-burning fuels (natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol or ether). The maximum amount of the deduction is $50,000 for a truck or van with a gross vehicle weight over 26,000 pounds or a bus with seating capacities of at least 20 adults; $5,000 in the case of a truck or van with a gross vehicle weight between 10,000 and 26,000 pounds; and $2,000 in the case of any other motor vehicle. The deduction phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006. Under the phase down, the deduction permitted for 2004 is 75 percent of the otherwise allowable amount.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Repeals the phase down of the allowable deduction for clean-fuel vehicles in 2004 and 2005. Thus, a taxpayer who purchases a qualifying vehicle may claim 100 percent of the otherwise allowable deduction for vehicles purchased in 2004 and 2005. For vehicles purchased in 2006 the deduction remains at 25 percent of the otherwise allowable amount as under present law.

Effective date.—Effective for vehicles placed in service after December 31, 2003.

U. DISCLOSURES RELATING TO TERRORIST ACTIVITIES

(Sec. 320 of the conference agreement and sec. 6103 of the Code)

PRESENT LAW

In connection with terrorist activities, the IRS was permitted to disclose return information, other than taxpayer return information, to officers and employees of Federal law enforcement upon a written request. The Code required the request to be made by the head of the Federal law enforcement agency (or his delegate) involved in the response to or investigation of terrorist incidents, threats, or activities, and set forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity. Disclosure of the information was permitted to officers and employees of the Federal law enforcement agency who were personally and directly involved in the response to or investigation of terrorist incidents, threats, or activities. The information was to be used by such officers and employees solely for such response or investigation.[72]

The Code permitted the head of the Federal law enforcement agency to redisclose the information to officers and employees of State and local law enforcement personally and directly engaged in the response to or investigation of the terrorist incident, threat, or activity. The State or local law enforcement agency was required to be part of an investigative or response team with the Federal law enforcement agency for these disclosures to be made.[73]

Return information includes a taxpayer's identity.[74] If a taxpayer's identity is taken from a return or other information filed with or furnished to the IRS by or on behalf of the taxpayer, it is taxpayer return information. Since taxpayer return information was not covered by this disclosure authorization, taxpayer identity so obtained could not be disclosed under this authority and thus associated with the other information being provided.

The Code also allowed the IRS to disclose return information (other than taxpayer return information) upon the written request of an officer or employee of the Department of Justice or Treasury who is appointed by the President with the advice and consent of the Senate, or who is the Director of the U.S. Secret Service, if such individual is responsible for the collection and analysis of intelligence and counterintelligence concerning any terrorist incident, threat, or activity.[75] Taxpayer identity information for this purpose was not considered taxpayer return information. Such written request was required to set forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity. Disclosures under this authority were permitted to be made to those officers and employees of the Department of Justice, Treasury, and Federal intelligence agencies who were personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. Such disclosures were permitted solely for the use of such officers and employees in such investigation, collection, or analysis.

The IRS, on its own initiative, was permitted to disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate investigating Federal law enforcement agency.[76] Taxpayer identity information for this purpose was not considered taxpayer return information. The head of the agency was permitted to redisclose such information to officers and employees of such agency to the extent necessary to investigate or respond to the terrorist incident, threat, or activity.

If taxpayer return information was sought, the disclosure was required to be made pursuant to the ex parte order of a Federal district court judge or magistrate.

No disclosures may be made under these provisions after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the disclosure authority relating to terrorist activities. Under the conference agreement, no disclosures can be made after December 31, 2005.

The conference agreement also makes a technical change to clarify that a taxpayer's identity is not treated as taxpayer return information for purposes of disclosures to law enforcement agencies regarding terrorist activities.

Effective date.—The provision extending authority is effective for disclosures made on or after the date of enactment. The technical change is effective as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

V. EXTENSION OF ARCHER MEDICAL SAVINGS ACCOUNTS ("MSAs")

(Sec. 322 of the conference agreement and sec. 220 of the Code)

PRESENT LAW

In general

Within limits, contributions to an Archer MSA are deductible in determining adjusted gross income if made by an eligible individual and are excludable from gross income and wages for employment tax purposes if made by the employer of an eligible individual. Earnings on amounts in an Archer MSA are not currently taxable. Distributions from an Archer MSA for medical expenses are not includible in gross income. Distributions not used for medical expenses are includible in gross income. In addition, distributions not used for medical expenses are subject to an additional 15-percent tax unless the distribution is made after age 65, death, or disability.

Eligible individuals

Archer MSAs are available to employees covered under an employer-sponsored high deductible plan of a small employer and self-employed individuals covered under a high deductible health plan.[77] An employer is a small employer if it employed, on average, no more than 50 employees on business days during either the preceding or the second preceding year. An individual is not eligible for an Archer MSA if he or she is covered under any other health plan in addition to the high deductible plan.

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[72] Sec. 6103(i)(7)(A).

[73] Sec. 6103(i)(7)(A)(ii).

[74] Sec. 6103(b)(2)(A).

[75] Sec. 6103(i)(7)(B).

[76] Sec. 6103(i)(3)(C).

[77] Self-employed individuals include more than two-percent shareholders of S corporations who are treated as partners for purposes of fringe benefit rules pursuant to section 1372.

Tax treatment of and limits on contributions

Individual contributions to an Archer MSA are deductible (within limits) in determining adjusted gross income (i.e., "above-the-line"). In addition, employer contributions are excludable from gross income and wages for employment tax purposes (within the same limits), except that this exclusion does not apply to contributions made through a cafeteria plan. In the case of an employee, contributions can be made to an Archer MSA either by the individual or by the individual's employer.

The maximum annual contribution that can be made to an Archer MSA for a year is 65 percent of the deductible under the high deductible plan in the case of individual coverage and 75 percent of the deductible in the case of family coverage.

Definition of high deductible plan

A high deductible plan is a health plan with an annual deductible of at least $1,700 and no more than $2,600 in the case of individual coverage and at least $3,450 and no more than $5,150 in the case of family coverage. In addition, the maximum out-of-pocket expenses with respect to allowed costs (including the deductible) must be no more than $3,450 in the case of individual coverage and no more than $6,300 in the case of family coverage.[78] A plan does not fail to qualify as a high deductible plan merely because it does not have a deductible for preventive care as required by State law. A plan does not qualify as a high deductible health plan if substantially all of the coverage under the plan is for permitted coverage (as described above). In the case of a self-insured plan, the plan must in fact be insurance (e.g., there must be appropriate risk shifting) and not merely a reimbursement arrangement.

Cap on taxpayers utilizing Archer MSAs and expiration of pilot program

The number of taxpayers benefiting annually from an Archer MSA contribution is limited to a threshold level (generally 750,000 taxpayers). The number of Archer MSAs established has not exceeded the threshold level.

After 2003, no new contributions may be made to Archer MSAs except by or on behalf of individuals who previously had Archer MSA contributions and employees who are employed by a participating employer.

Trustees of Archer MSAs are generally required to make reports to the Treasury by August 1 regarding Archer MSAs established by July 1 of that year. If any year is a cut-off year, the Secretary is required to make and publish such determination by October 1 of such year.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends Archer MSAs through December 31, 2005. The conference agreement also provides that the reports required by MSA trustees for 2004 are treated as timely if made within 90 days after the date of enactment. In addition, the determination of whether 2004 is a cut-off year and the publication of such determination is to be made within 120 days of the date of enactment. If 2004 is a cut-off year, the cut-off date will be the last day of such 120–day period.

Effective date.—The provision is generally effective on January 1, 2004. The provisions relating to reports and the determination by the Secretary are effective on the date of enactment.

W. EXTENSION OF JOINT REVIEW OF STRATEGIC PLANS AND BUDGET FOR THE INTERNAL REVENUE SERVICE

(Sec. 321 of the conference agreement and secs. 8021 and 8022 of the Code)

PRESENT LAW

The Code required the Joint Committee on Taxation to conduct a joint review[79] of the strategic plans and budget of the IRS from 1999 through 2003.[80] The Code also required the Joint Committee to provide an annual report[81] from 1999 through 2003 with respect to:

Strategic and business plans for the IRS;

Progress of the IRS in meeting its objectives;

The budget for the IRS and whether it supports its objectives;

Progress of the IRS in improving taxpayer service and compliance;

Progress of the IRS on technology modernization; and

The annual filing season.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement requires that the Joint Committee conduct a joint review before June 1, 2005. The conference agreement also requires that the Joint Committee provide an annual report with respect to such joint review, and specifies that the content of the annual report is the matters addressed in the joint review.[82]

Effective date.—The conference agreement is effective on the date of enactment.

VI. TAX TECHNICAL CORRECTIONS

(Secs. 401–408 of the conference agreement)

PRESENT LAW

Certain recently enacted tax legislation needs technical, conforming, and clerical amendments in order properly to carry out the intention of the Congress.[83]

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes technical corrections to recently enacted tax legislation. Except as otherwise provided, the amendments made by the technical corrections contained in the conference agreement take effect as if included in the original legislation to which each amendment relates. The following is a description of the provisions contained in the technical corrections title:

Amendments related to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003

Additional tax relating to health savings accounts.—Under present law, section 26(b) provides that "regular tax liability" does not include certain "additional taxes" and similar amounts. Under present law, regular tax liability does not include the additional tax on Archer MSA distributions not used for qualified medical expenses (sec. 220(f)(4)). The provision adds to the list of such amounts the additional tax on distributions not used for qualified medical expenses (sec. 223(f)(4)) under the rules relating to health savings accounts.

Health coverage tax credit.—Under present law, section 35(g)(3) provides that any amount distributed from an Archer MSA will not be taken into account for purposes of determining the amount of health coverage tax credit ("HCTC") an individual is eligible to receive. Under the provision, section 35(g)(3) is amended to provide that amounts distributed from health savings accounts are not to be taken into account for purposes of determining the amount of HCTC an individual is entitled to receive.

Amendments related to the Jobs and Growth Tax Relief Reconciliation Act of 2003

Dividends taxed at capital gain rates.—Section 302 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 ("JGTRRA") generally provides that qualified dividend income of taxpayers other than corporations is taxed at the same tax rates as the net capital gain. The conference agreement makes the following amendments to the provisions adopted by that section:[84]

The provision clarifies that the determination of net capital gain, for purposes of determining the amount taxed at the 25–percent rate (section 1(h)(1)(D)(i)), is made without regard to qualified dividend income.

Under present law, the deduction for estate taxes paid on gain that is income in respect of a decedent reduces the amount of gain otherwise taken into account in computing the amount eligible for the lower tax rates on net capital gain (sec. 691(c)(4)). Since it is not entirely clear under present law whether this provision also applies to qualified dividends eligible for the lower tax rates on net capital gain, the conference agreement clarifies that the provision does so apply.

The provision clarifies that the extraordinary dividend rule applies to trusts and estates as well as individuals.

The provision rewrites portions of the provisions relating to the treatment of dividends received from a regulated investment company ("RIC") or a real estate investment trust ("REIT") to set forth the rules directly rather than be reference to rules applicable to dividends received by corporate shareholders.

The provision provides that all distributions by a RIC or REIT of the earnings and profits from C corporation years can be treated as qualifying dividends eligible for the lower rate.

The provision extends the 60–day period for notifying shareholders of the amount of the qualified dividend income distributed by a RIC or REIT for taxable years ending on or before November 30, 2003, to the date the 1099–DIV for 2003 is required.

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[78] These dollar amounts are for 2004. These amounts are indexed for inflation, rounded to the nearest $50.

[79] The joint review was required to include two members of the majority and one member of the minority of the Senate Committees on Finance, Appropriations, and Governmental Affairs, and of the House Committees on Ways and Means, Appropriations, and Government Reform and Oversight.

[80] Sec. 8021(f).

[81] Sec. 8022(3)(C).

[82] Accordingly, the provision deletes the specific list of matters required to be covered in the annual report.

[83] Tax technical corrections legislation, the "Tax Technical Corrections Act of 2003," was introduced in the House of Representatives (H.R. 3654) on December 8, 2003, and in the Senate (S. 1984) on December 9, 2003.

[84] IR-2004-22 (Feb. 19, 2004) announced that the IRS agreed to make the technical correction provisions relating to dividends contained in the Technical Corrections Act of 2003, as introduced, available to taxpayers in advance of their passage.

The provision provides that, in the case of partnerships, S corporations, common trust funds, trusts, and estates, section 302 of JGTRRA applies to taxable years ending after December 31, 2002, except that dividends received by the entity prior to January 1, 2003, are not treated as qualified dividend income. JGTRRA provided a similar rule in the case of RICs and REITs.

Satisfaction of certain holding period requirements if stock is acquired on the day before ex-dividend date.—Under several similar holding period requirements relating to the tax consequences of receiving dividends, a taxpayer who acquires stock the day before the ex-dividend date cannot satisfy these holding period requirements with respect to the dividend. The conference agreement modifies the stock holding period requirements to permit taxpayers to satisfy the requirements when they acquire stock on the day before the ex-dividend date of the stock. Specifically, the conference agreement modifies the holding period requirement for the dividends-received deduction under section 246(c) (as modified by section 1015 of the Taxpayer Relief Act of 1997) by changing from 90 days to 91 days (and from 180 days to 181 days in the case of certain dividends on preferred stock) the period within which a taxpayer may satisfy the requirement. In addition, the conference agreement modifies the holding period requirement for foreign tax credits with respect to dividends under section 901(k) (enacted in section 1053 of the Taxpayer Relief Act of 1997) by changing from 30 days to 31 days (and from 90 days to 91 days in the case of certain dividends on preferred stock) the period within which a taxpayer may satisfy the requirement. The conference agreement modifies the holding period requirement for dividends to be taxed at the tax rates applicable to net capital gain under section 1(h)(11) (enacted in section 302 of JGTRRA) by changing from 120 days to 121 days (and from 180 days to 181 days in the case of certain dividends on preferred stock) the period within which a taxpayer may satisfy the requirement.

Amendments related to the Job Creation and Worker Assistance Act of 2002

Bonus depreciation.—Section 101 of the Job Creation and Worker Assistance Act of 2002 ("JCWA") provides generally for 30–percent additional first-year depreciation for qualifying property. Qualifying property is defined to include certain property subject to the capitalization rules of section 263A by reason of having an estimated production period exceeding 2 years or an estimated production period exceeding 1 year and a cost exceeding $1 million (secs. 168(k)(2)(B)(i)(III) and 263A(f)(1)(B)(ii) or (iii)). An unintended interpretation of this rule could preclude property from qualifying for bonus depreciation if it meets this description but is subject to the capitalization rules of section 263A by reason of section 263A(f)(1)(B)(i) (having a long useful life). The provision clarifies that qualifying property includes such property that is subject to the capitalization rules of section 263A and is described in the provisions requiring an estimated production period exceeding 2 years or an estimated production period exceeding 1 year and a cost exceeding $1 million.

Section 101 of JCWA provides a binding contract rule in determining property that qualifies for it. The requirements that must be satisfied in order for property to qualify include that (1) the original use of the property must commence with the taxpayer on or after September 11, 2001, (2) the taxpayer must purchase the property after September 10, 2001, and before September 11, 2004, and (3) no binding written contract for the acquisition of the property is in effect before September 11, 2001 (or, in the case of self-constructed property, manufacture, construction, or production of the property does not begin before September 11, 2001). In addition, JCWA provides a special rule in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was placed in service, the property is treated as originally placed in service by the taxpayer not earlier than the date that the property is used under the leaseback. JCWA did not specifically address the syndication of a lease by the lessor.

The provision clarifies that property qualifying for additional first-year depreciation does not include any property if the user or a related party to the user or owner of such property had a written binding contract in effect for the acquisition of the property at any time on or before September 10, 2001 (or, in the case of self-constructed property, the manufacture, construction, or production of the property began on or before September 10, 2001). For example, if a taxpayer sells to a related party property that was under construction on or prior to September 10, 2001, the property does not qualify for the additional first-year depreciation deduction. Similarly, if a taxpayer sells to a related party property that was subject to a binding written contract on or prior to September 10, 2001, the property does not qualify for the additional first-year depreciation deduction. As a further example, if a taxpayer sells property and leases the property back in a sale-leaseback arrangement, and the lessee had a binding written contract in effect for the acquisition of such property on or prior to September 10, 2001, then the lessor is not entitled to the additional first-year depreciation deduction.

In addition, the provision provides that if property is originally placed in service by a lessor (including by operation of section Code 168(k)(2)(D)(i)), such property is sold within three months after the date that the property was placed in service, and the user of such property does not change, then the property is treated as originally placed in service by the taxpayer not earlier than the date of such sale.

Five-year carryback of net operating losses ("NOLs").—Section 102 of JCWA temporarily extends the NOL carryback period to five years (from two years, or three years in certain cases) for NOLs arising in taxable years ending in 2001 and 2002. The Act was enacted in March 2002, after some taxpayers had filed returns for 2001.

The provision (1) clarifies that only the NOLs arising in taxable years ending in 2001 and 2002 qualify for the 5-year period, and (2) provides that any election to forego any carrybacks of NOLs arising in 2001 or 2002 can be revoked prior to November 1, 2002. The provision also allows taxpayers until November 1, 2002, to use the tentative carryback adjustment procedures of section 6411 for NOLs arising in 2001 and 2002 (without regard to the 12-month limitation in section 6411). In addition, the provision clarifies that an election to disregard the 5-year carryback for certain NOLs is treated as timely made if made before November 1, 2002 (notwithstanding that section 172(j) requires the election to be made by the due date (including extensions) for filing the taxpayer's return for the year of the loss).[85]

The provision also makes several clerical changes to the NOL provisions relating to the alternative minimum tax.

New York Liberty Zone bonus depreciation.—Section 301 of JCWA provides tax benefits for the area of New York City damaged in terrorist attacks on September 11, 2001 (an area defined in the provision and named the New York Liberty Zone). Under these rules, an additional first-year depreciation deduction is allowed equal to 30 percent of the adjusted basis of qualified New York Liberty Zone ("Liberty Zone") property. A taxpayer is allowed to elect out of the additional first-year depreciation for any class of property for any taxable year. In addition, the Act provides a special rule in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was placed in service, the property would be treated as originally placed in service by the taxpayer not earlier than the date that the property is used under the leaseback. JCWA did not specifically address the syndication of a lease by the lessor.

The provision clarifies that property qualifying for additional first-year depreciation does not include any property if the user or a related party to the user or owner of such property had a written binding contract in effect for the acquisition of the property at any time before September 11, 2001 (or in the case of self constructed property the manufacture, construction, or production of the property began before September 11, 2001). In addition, the provision provides that if property is originally placed in service by a lessor (including by operation of section 168(k)(2)(D)(i)), such property is sold within three months after the date that the property was placed in service, and the user of such property does not change, then the property is treated as originally placed in service by the taxpayer not earlier than the date of such sale.

New York Liberty Zone expensing.—Section 301 of JCWA increases the amount a taxpayer may expense under section 179 to the lesser of $35,000 or the amount of Liberty Zone property placed in service for the year. In addition, section 301(a) of the Act states that if property qualifies for both the general additional first-year depreciation and Liberty Zone additional first-year depreciation, it is deemed to be eligible for the general additional first-year depreciation and is not considered Liberty Zone property (i.e., only one 30-percent additional first-year depreciation deduction is allowed). Because only Liberty Zone property is eligible for the increased section 179 expensing amount, this rule has the unintended consequence of denying the increased section 179 expensing to Liberty Zone property. The provision corrects this unintended result (such that qualifying Liberty Zone property qualifies for both the 30-percent additional first-year depreciation and the additional section 179 expensing).

Provide election out of Liberty Zone five-year depreciation for leasehold improvements.—Section 1400L(c), as added by section 301 of JCWA, provides for a 5-year recovery period for depreciation of qualified New York Liberty Zone leasehold improvement property that is placed in service after September 10, 2001, and before January 1, 2007 (and meets certain other requirements). Unlike the rules relating to bonus depreciation and to Liberty Zone bonus depreciation property (see Code sections 168(k)(2)(C)(iii) and 1400L(b)(2)(C)(iv)), which permit a taxpayer to elect out, this 5-year depreciation rule is not elective. The provision adds a rule permitting taxpayers to elect out of the 5-year recovery period.

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[85] The corrections are consistent with the guidance issued by the IRS (Rev. Proc. 2002-40, 2002–1 C. B. 1096).

Interest rate for defined benefit plan funding requirements.—Section 405(c) of JCWA increases the interest rate used in determining the amount of unfunded vested benefits for PBGC variable rate premium purposes for plan years beginning in 2002 or 2003 from 85 percent to 100 percent of the interest rate on 30-year Treasury securities for the month preceding the month in which the applicable plan year begins. The provision makes conforming changes so that this rule applies for purposes of notices and reporting required under Title IV of ERISA with respect to underfunded plans.

Exclusion for employer-provided adoption assistance.—The provision corrects an incorrect reference in a technical correction to a provision relating to the exclusion for employer-provided adoption assistance.

Amendments related to the Economic Growth and Tax Relief Reconciliation Act of 2001

Coverdell education savings accounts.—The provision corrects the application of a conforming change to the rule coordinating Coverdell education savings accounts with Hope and Lifetime Learning credits and qualified tuition programs. The conforming change was made in connection with the expansion of Coverdell education savings accounts to elementary and secondary education expenses in section 401 of the Economic Growth and Tax Relief Reconciliation Act of 2001 "(EGTRRA").

Base period for cost-of-living adjustments to Indian employment credit rule.—The Indian employment credit is not available with respect to an employee whose wages exceed $30,000 (sec. 45A). For years after 1994, this $30,000 amount is adjusted for cost-of-living increases at the same time, and in the same manner, as cost-of-living adjustments to the dollar limits on qualified retirement plan benefits and contributions under section 415. Section 611 of EGTRAA increases the dollar limits under section 415 and adds a new base period for making cost-of-living adjustments. The provision clarifies that the pre-existing base period applies for purposes of the Indian employment credit.

Rounding rule for retirement plan benefit and contribution limits.—Section 611 of EGTRRA increases the dollar limits on qualified retirement plan benefits and contributions under Code section 415, and adds a new rounding rule for cost-of-living adjustments to the dollar limit on annual additions to defined contribution plans. This new rounding rule is in addition to a pre-existing rounding rule that applies to benefits payable under defined benefit plans. The provision clarifies that the pre-existing rounding rule applies for purposes of other Code provisions that refer to Code section 415 and do not contain a specific rounding rule.

Excise tax on nondeductible contributions.—Under section 614 of EGTRRA, the limits on deductions for employer contributions to qualified retirement plans do not apply to elective deferrals, and elective deferrals are not taken into account in applying the deduction limits to other contributions. The provision makes a conforming change to the Code provision that applies an excise tax to nondeductible contributions.

SIMPLE plan contributions for domestic or similar workers.—Section 637 of EGTRRA provides an exception to the application of the excise tax on nondeductible retirement plan contributions in the case of contributions to a SIMPLE IRA or SIMPLE section 401(k) plan that are nondeductible solely because they are not made in connection with a trade or business of the employer (e.g., contributions on behalf of a domestic worker). Section 637 of EGTRRA did not specifically modify the present-law requirement that compensation for purposes of determining contributions to a SIMPLE plan must be wages subject to income tax withholding, even though wages paid to domestic workers are not subject to income tax withholding. The provision revises the definition of compensation for purposes of determining contributions to a SIMPLE plan to include wages paid to domestic workers, even though such amounts are not subject to income tax withholding.

Rollovers among various types of retirement plans.—Section 641 of EGTRRA expanded the rollover rules to allow rollovers among various types of tax-favored retirement plans. The provision makes a conforming change to the cross-reference to the rollovers rules in the Code provision relating to qualified retirement annuities.

Amendment related to the Community Renewal Tax Relief Act of 2000

Tax treatment of options and securities futures contracts.—The provision clarifies that the Secretary of the Treasury has the authority to prescribe regulations regarding the status of an option or a contract the value of which is determined directly or indirectly by reference to an index which becomes (or ceases to be) a narrow-based security index (as defined in section 1256(g)(6)). This authority includes, but is not limited to, regulations that provide for preserving the status of such an option or contract as appropriate.

Amendments related to the Taxpayer Relief Act of 1997

Qualified tuition programs.—Section 211 of the Taxpayer Relief Act of 1997 modified section 529(c)(5), relating to gift tax rules for qualified tuition programs, but did not include in the statutory language the requirement that, upon a change in the designated beneficiary of the program, the new beneficiary must be a member of the family of the old beneficiary for gift taxes not to apply. The legislative history for the provision stated that the new beneficiary had to be of the same generation as the old beneficiary and a member of the family of the old beneficiary for gift taxes not to apply. The provision clarifies that the gift taxes apply unless the new beneficiary is of the same (or higher) generation than the old beneficiary and is a member of the family of the old beneficiary.

Coverdell education savings accounts.—The provision corrects section 530(d)(4)(B)(iii), relating to Coverdell education savings accounts, by substituting for the undefined term "account holder" the defined term "designated beneficiary."

Constructive sale exception.—Section 1001(a) of the Taxpayer Relief Act of 1997 provides an exception from constructive sale treatment for any transaction that is closed before the end of the thirtieth day after the close of the taxable year in which the transaction was entered into, provided certain requirements are met after closing the transaction (section 1259(c)(3)). In the case of positions that are reestablished following a closed transaction but prior to satisfying the requirements for the exception from constructive sale treatment, the exception applies in a similar manner if the reestablished position itself is closed and similar requirements are met after closing the reestablished position. The provision clarifies that the exception applies in the same manner to all closed transactions, including reestablished positions that are closed.

Basis adjustments for QZAB held by S corporation.—Under present law, a shareholder of an S corporation that is an eligible financial institution may claim a credit with respect to a qualified zone academy bond ("QZAB") held by the S corporation. The amount of the credit is included in gross income of the shareholder. An unintended interpretation of these rules would be that the shareholder's basis in the stock of the S corporation is increased by the amount of the income inclusion, notwithstanding that the benefit of the credit flows directly to the shareholder rather than to the corporation, and the corporation has no additional assets to support the basis increase. The provision clarifies that the basis of stock in an S corporation is not affected by the QZAB credit.

Capital gains and AMT.—The provision provides that the maximum amount of adjusted net capital gain eligible for the five-percent rate under the alternative minimum tax is the excess of the maximum amount of taxable income that may be taxed at a rate of less than 25 percent under the regular tax (for example, $56,800 for a joint return in 2003) over the taxable income reduced by the adjusted net capital gain.

The provision may be illustrated by the following example:

For example, assume that a married couple with no dependents in 2003 has $32,100 of salary, $82,000 of long-term capital gain from the sale of stock, $73,000 of itemized deductions consisting entirely of state and local taxes and allowable miscellaneous itemized deductions. For purposes of the regular tax, the taxable income is $35,000 ($32,100 plus $82,000 minus $73,000 minus $6,100 deduction for personal exemptions). For purposes of the alternative minimum tax, the taxable excess is $56,100 ($32,100 plus $82,000 less the $58,000 exemption amount).

Under present law, the amount taxed under the regular tax at five percent is $35,000 (the lesser of (i) taxable income ($35,000), (ii) adjusted net capital gain ($82,000), or (iii) the excess of the maximum amount taxed at the 10- and 15-percent rates ($56,800 in 2003) over the ordinary taxable income (zero)). Thus, the regular tax is $1,750.

Under present law, $35,000 is taxed at five percent in computing the alternative minimum tax (the lesser of (i) amount of the adjusted net capital gain which is taxed at the five percent under the regular tax ($35,000), or (ii) the taxable excess ($56,100)). The remaining $21,100 of taxable excess is taxed at 15 percent, for a total tentative minimum tax of $4,915.

Under the provision, in computing the alternative minimum tax, $56,100 is taxed at five percent (the lesser of (i) the taxable excess ($56,100), (ii) the adjusted net capital gain ($82,000), or (iii) the excess of the maximum amount taxed at the 10- and 15-percent rates under the regular tax ($56,800) over the ordinary taxable income (zero)). The tentative minimum tax is $2,805.

Amendment related to the Small Business Job Protection Act of 1996

S corporation post-termination transition period.—Shareholders of an S corporation whose status as an S corporation terminates are allowed a period of time after the termination (the post-termination transition period ("PTTP")) to utilize certain of the benefits of S corporation status. The shareholders may claim losses and deductions previously suspended due to lack of stock or debt basis up to the amount of the stock basis as of the last day of the PTTP (sec. 1366(d)). Also, shareholders may receive cash distributions from the corporation during the PTTP that are treated as returns of capital to the extent of any balance in the S corporation's accumulated adjustments account ("AAA") (sec. 1371(e)).

The PTTP generally begins on the day after the last day of the corporation's last tax year as an S corporation and ends on the later of the day which is one year after such last day or the due date for filing the return for such last year as an S corporation (including extensions). Section 1307 of the Small Business Job Protection Act of 1996 added a new 120-day PTTP following an audit of the corporation that adjusts an S corporation item of income, loss, or deduction arising during the most recent period while the corporation was an S corporation. This provision was enacted to allow the tax-free distribution of any additional income determined in the audit.

As a result of the 1996 legislation, an S corporation shareholder might take the position that an audit adjustment allows the shareholder to utilize suspended losses and deductions in excess of the amount of the audit deficiency. For example, assume that, at the end of the one-year PTTP following the termination of a corporation's S corporation status, a shareholder has $1 million of suspended losses in the corporation. Later, the shareholder purchases additional stock in the corporation for $1 million. The corporation's audit determines a $25,000 increase in the S corporation's income. Although the $25,000 increase in income would allow $25,000 of suspended losses to be allowed, the shareholder might take the position that the entire $1,000,000 of suspended losses could be utilized during the 120-day PTTP following the end of the audit. Similarly, an S corporation that had failed to distribute the entire amount in its AAA during the one-year PTTP following the loss of S corporation status might argue that it could distribute that amount, in addition to the amount determined in the audit, during the 120-day period following the audit.

The provision provides that the 120-day PTTP added by the 1996 Act does not apply for purposes of allowing suspended losses to be deducted (since the increased income determined in the audit can be offset with the losses), and allows tax-free distributions of money by the corporation during the 120-day period only to the extent of any increase in the AAA by reason of adjustments from the audit.

Defined contribution plans.—The Small Business Job Protection Act of 1996 amended section 401(a)(26) (generally requiring that a qualified retirement plan benefit the lesser of 50 employees or 40 percent of the employer's workforce) so that it no longer applies to defined contribution plans. Section 401(a)(26)(C) (which treats employees as benefiting in certain circumstances) was not repealed even though it relates only to defined contribution plans. The provision repeals section 401(a)(26)(C).

Clerical amendments

The conference agreement makes a number of clerical and typographical amendments.

VII. TAX COMPLEXITY ANALYSIS

The following tax complexity analysis is provided pursuant to section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998, which requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service ("IRS") and the Treasury Department) to provide a complexity analysis of tax legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or a Conference Report containing tax provisions. The complexity analysis is required to report on the complexity and administrative issues raised by provisions that directly or indirectly amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses. For each such provision identified by the staff of the Joint Committee on Taxation, a summary description of the provision is provided along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

1. Modifications to the child tax credit and earned income credit (secs. 101, 102, 103, and 104 of the conference agreement)

Summary description of provision

The amount of the child credit is increased to $1,000 for 2005–2009. The conference agreement also accelerates to 2004 the increase in refundability of the child credit to 15 percent of the taxpayer's earned income in excess of $10,750.

The conference agreement provides that combat pay that is otherwise excluded from gross income under section 112 is treated as earned income which is taken into account in computing taxable income for purposes of calculating the refundable portion of the child credit.

The conference agreement provides that any taxpayer may elect to treat combat pay that is otherwise excluded from gross income under section 112 as earned income for purposes of the earned income credit. This election is available with respect to any taxable year ending after the date of enactment and before January 1, 2006.

All modifications to the child credit and earned income credit under the conference agreement are subject to the sunset provision of EGTRRA.

Number of affected taxpayers

It is estimated that the provisions will affect approximately 28 million individual tax returns.

Discussion

Individuals should not have to keep additional records due to this provision, nor will additional regulatory guidance be necessary to implement this provision.

2. Standard deduction tax relief (sec. 101 of the conference agreement)

Summary description of provision

The conference agreement accelerates the increase in the basic standard deduction amount for joint returns to twice the basic standard deduction amount for unmarried individual returns effective for 2005–2008. All modifications to the basic standard deduction under the conference agreement are subject to the sunset provision of EGTRRA.

Number of affected taxpayers

It is estimated that the provision will affect approximately 22 million individual returns.

Discussion

It is not anticipated that individuals will need to keep additional records due to this provision. The higher basic standard deduction should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision. In addition, the provision should not increase individuals' tax preparation costs.

Some taxpayers who currently itemize deductions may respond to the provision by claiming the increased standard deduction in lieu of itemizing. According to estimates by the staff of the Joint Committee on Taxation, approximately three million individual tax returns will realize greater tax savings from the increased standard deduction than from itemizing their deductions. In addition to the tax savings, such taxpayers will no longer have to file Schedule A to Form 1040 and a significant number of them will no longer need to engage in the record keeping inherent in itemizing below-the-line deductions. Moreover, by claiming the standard deduction, such taxpayers may qualify to use simpler versions of the Form 1040 (i.e., Form 1040EZ or Form 1040A) that are not available to individuals who itemize their deductions. These forms simplify the return preparation process by eliminating from the Form 1040 those items that do not apply to particular taxpayers.

This reduction in complexity and record keeping also may result in a decline in the number of individuals using a tax preparation service or a decline in the cost of using such a service. Furthermore, if the provision results in a taxpayer qualifying to use one of the simpler versions of the Form 1040, the taxpayer may be eligible to file a paperless Federal tax return by telephone. The provision also should reduce the number of disputes between taxpayers and the IRS regarding substantiation of itemized deductions.

3. Expansion of the 15-percent rate bracket (sec. 101 of the conference agreement)

Summary description of provision

The bill accelerates the increase of the size of the 15–percent regular income tax rate bracket for married individuals filing joint returns to twice the width of the 15–percent regular income tax rate bracket for unmarried individual returns effective for 2005–2007. All modifications to the 15–percent rate bracket under the conference agreement are subject to the sunset provision of EGTRRA.

Number of affected taxpayers

It is estimated that the provision will affect approximately 19 million individual tax returns.

Discussion

It is not anticipated that individuals will need to keep additional records due to this provision. The increased size of the 15-percent regular income tax rate bracket for married individuals filing joint returns should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision.

4. Ten-percent income tax rate for individuals (sec. 101 of the conference agreement)

Summary description of provision

The conference agreement extends the size of the 10-percent rate bracket through 2010. Specifically, the size of the 10-percent rate bracket for 2005 through 2010 is set at the 2003 level ($7,000 for single individuals, $10,000 for heads of households and $14,000 for married individuals) with annual indexing from 2003. The modifications to the 10-percent rate bracket under the conference agreement are subject to the sunset provision of EGTRRA.

Number of affected taxpayers

It is estimated that the provision will affect approximately 73 million individual tax returns.

Discussion

It is not anticipated that individuals will need to keep additional records due to this provision. It should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision. In addition, the provision should not increase the tax preparation costs for most individuals. Reductions in the regular income tax as a result of these rate reductions will cause some taxpayers to become subject to the alternative minimum tax.

5. Uniform definition of qualifying child (secs. 201-207 of the conference agreement)

Summary description of provision

The bill creates a uniform definition of qualifying child for purposes of the dependency exemption, child credit, earned income credit, dependent care credit, and head of household filing status. The bill is effective for taxable years beginning after December 31, 2004.

Number of affected taxpayers

It is estimated that the provisions will affect over 40 million individual tax returns.

Discussion

Adopting a uniform definition of qualifying child will make it easier for taxpayers to determine whether they qualify for various tax benefits for children and reduce inadvertent errors arising from confusion due to different definitions of qualifying child. The use of a residency test for the uniform definition should be easier to apply than a support test.

The bill will provide simplification to substantial numbers of taxpayers. However, the transition from the present-law system to a uniform definition of child will add temporary complexity from the tax administration perspective. The IRS will be required to modify forms and instructions to implement the uniform definition of child, and taxpayers will be required to learn a new set of rules. There may be confusion for taxpayers who may no longer be eligible to claim a child for certain purposes under the Code. These changes could lead to increased taxpayer errors in filing. In the long run, these effects will be mitigated and the benefits of making the uniform definition will result in less complexity and better tax administration.

ESTIMATED REVENUE EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1308, THE "WORKING FAMILIES TAX RELIEF ACT OF 2004"

Fiscal Years 2005 - 2014

[Millions of Dollars]

Provision	Effective	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005-09	2005-14
Tax Reduction Provisions													
1. Extension of Family Tax Provisions:													
a. Extend $1,000 child tax credit through 12/31/09	tyba 12/31/04	-2,638	-13,193	-13,198	-13,227	-12,376	-6,942	---	---	---	---	-54,632	-61,574
b. Extend marriage penalty relief through 12/31/08	tyba 12/31/04	-5,415	-5,412	-3,050	-1,493	-323	---	---	---	---	---	-15,693	-15,693
c. Extend 10% bracket through 12/31/10	tyba 12/31/04	-4,262	-6,423	-6,796	-4,330	-3,229	-3,315	-1,006	---	---	---	-25,040	-29,361
2. Accelerate refundability of child credit to 2004	tyba 12/31/03	-1,993	---	---	---	---	---	---	---	---	---	-1,993	-1,993
3. Extend individual AMT relief through 12/31/05	tyba 12/31/04	-9,031	-13,546	---	---	---	---	---	---	---	---	-22,577	-22,577
4. Inclusion of combat pay in earned income for purposes of the child tax credit and for purposes of earned income credit at taxpayer's election	[1]	-49	-50	-24	-21	-18	-19	-17	---	---	---	-162	-199
Total of Tax Reduction Provisions		**-23,388**	**-38,624**	**-23,068**	**-19,071**	**-15,946**	**-10,276**	**-1,023**	**0**	**0**	**0**	**-120,097**	**-131,397**
Uniform Definition of a Qualifying Child for the Dependency Exemption, the Child Credit, the EIC, the Dependent Care Credit, and Head-of-Household Filing Status	**tyba 12/31/04**	**-84**	**-206**	**-209**	**-218**	**-225**	**-229**	**-183**	**-75**	**-75**	**-76**	**-942**	**-1,579**
Extension of Certain Expiring Provisions													
1. Extension of the R&E credit (sunset 12/31/05)	epoia 6/30/04	-3,480	-1,986	-936	-678	-390	-90	---	---	---	---	-7,470	-7,560
2. Parity in the application of certain limits to mental health benefits (sunset 12/31/05) [2]	DOE	-4	-43	-10	---	---	---	---	---	---	---	-57	-57
3. Work opportunity tax credit (sunset 12/31/05)	wpoifibwa 12/31/03	-278	-181	-81	-39	-23	-9	-1	---	---	---	-603	-614
4. Welfare-to-work tax credit (sunset 12/31/05)	wpoifibwa 12/31/03	-35	-39	-28	-14	-7	-4	-1	[3]	---	---	-122	-127
5. Qualified zone academy bonds (sunset 12/31/05)	oia 12/31/03	-3	-10	-20	-27	-28	-28	-28	-28	-28	-28	-89	-231
6. Increase in limit on cover over of rum excise tax revenues (from $10.50 to $13.25 per proof gallon) to Puerto Rico and the Virgin Islands (sunset 12/31/05)	abiUSa 12/31/03	-151	-18	---	---	---	---	---	---	---	---	-169	-169
7. Extension of enhanced deduction for qualified computer contributions (sunset for taxable years beginning after 12/31/05)	cmd tyba 12/31/03	-198	-62	---	---	---	---	---	---	---	---	-260	-260
8. Above-the-line deduction for teacher classroom expenses capped at $250 annually (sunset 12/31/05)	tyba 12/31/03	-227	-192	---	---	---	---	---	---	---	---	-419	-419
9. Expensing of "Brownfields" environmental remediation costs (sunset 12/31/05)	epoia 12/31/03	-409	-93	32	38	39	34	30	26	22	20	-394	-261

Page 2

Provision	Effective	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005-09	2005-14
10. New York Liberty Zone bond provisions [4]:													
a. Extend authority to issue Liberty Zone bonds (sunset 12/31/09); add municipal assistance corporation to eligible advance refunding bonds	generally 1/1/05	-4	-18	-34	-47	-58	-65	-65	-65	-65	-65	-162	-486
b. Extend authority to issue advance refunding bonds (sunset 12/31/05)	1/1/05	-6	-15	-16	-15	-12	-10	-8	-6	-4	-2	-64	-93
11. Tax incentives for investment in the District of Columbia (sunset 12/31/05)	[5]	-161	-56	-18	-12	-17	-62	-74	-42	-42	-37	-264	-522
12. Combined employment tax reporting (sunset 12/31/05)	do/a DOE	No Revenue Effect											
13. Treatment of nonrefundable personal credits under the individual alternative minimum tax (sunset 12/31/05) [6]	tyba 12/31/03	-332	-260	—	—	—	—	—	—	—	—	-592	-592
14. Tax credit for electricity production from wind, closed-loop biomass, and poultry litter -- facilities placed in service date (sunset 12/31/05)	fpisa 12/31/03	-44	-75	-97	-111	-127	-139	-144	-149	-151	-126	-454	-1,163
15. Extension of suspension of 100% of taxable income limit with respect to marginal production (through 12/31/05)	tyba 12/31/03	-78	-16	—	—	—	—	—	—	—	—	-94	-94
16. Indian employment tax credit (sunset 12/31/05)	1/1/05	-25	-34	-10	—	—	—	—	—	—	—	-68	-68
17. Accelerated depreciation for business property on Indian reservation (sunset 12/31/05)	1/1/05	-150	-261	-97	21	71	111	90	48	5	-10	-418	-173
18. Disclosure of tax return information to carry out administration of income contingent repayment of student loans (sunset 12/31/05) [7]	1/1/05	No Revenue Effect											
19. Tax credit for qualified electric vehicles (100% benefit through 12/31/05)	ppisa 12/31/03	-5	-1	[8]	[8]	[8]	[8]	[8]	[8]	—	—	-5	-5
20. Deduction for clean-fuel vehicles (100% benefit through 12/31/05)	ppisa 12/31/03	-119	-16	25	16	12	7	2	—	—	—	-81	-72
21. Disclosures relating to terrorist activities (sunset 12/31/05):													
a. Extension of authority to make disclosures regarding terrorist activities	dmo/a DOE	No Revenue Effect											
b. Technical correction regarding disclosure of taxpayer identity to law enforcement officials investigating terrorist activities	[9]	No Revenue Effect											
22. Availability of Archer medical savings accounts (sunset 12/31/05)	1/1/04	Negligible Revenue Effect											
23. Joint Committee on Taxation report and joint hearing on IRS strategic plans (sunset 12/31/05)	DOE	No Revenue Effect											
Total of Extension of Certain Expiring Provisions		**-5,709**	**-3,376**	**-1,290**	**-868**	**-540**	**-255**	**-199**	**-216**	**-263**	**-248**	**-11,785**	**-12,966**
Technical Correction Provisions	**DOE**	**No Revenue Effect**											
NET TOTAL [10]		**-29,181**	**-42,206**	**-24,567**	**-20,157**	**-16,711**	**-10,760**	**-1,405**	**-291**	**-338**	**-324**	**-132,824**	**-145,942**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. Date of enactment is assumed to be October 1, 2004.

[Legend and Footnotes for Table appear on the following page]

Legend and Footnotes for Table:

Legend for "Effective" column:

abiUSa = articles brought into the United States after
cmd = contributions made during
do/a = disclosures on or after
dmo/a = disclosures made on or after
DOE = date of enactment
epoia = expenditures paid or incurred after
fpisa = facilities placed in service after
oia = obligations issued after
ppisa = property placed in service after
tyba = taxable years beginning after
wpoifibwa = wages paid or incurred for individuals beginning work after

[1] For purposes of the child tax credit, effective for taxable years beginning after December 31, 2003; for purposes of earned income credit at taxpayer's election, effective for taxable years ending after the date of enactment and before January 1, 2006.

[2] This provision will have a negligible effect on penalty excise tax receipts. However it will have an indirect effect on income tax receipts through increases in employer-contributions for health insurance and corresponding decreases in cash wages. The table shows this indirect revenue effect, which was estimated by the Congressional Budget Office.

[3] Loss of less than $500,000.

[4] The New York City Liberty Zone is defined as all business addresses located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan, New York, NY.

[5] Generally effective January 1, 2004, except for the bond provision which is effective for obligations issued after the date of enactment.

[6] The "Economic Growth and Tax Relief Reconciliation Act of 2001" provides that the child tax credit and adoption tax credit are allowed for purposes of the alternative minimum tax for 2002 through 2010.

[7] Estimate provided by the Congressional Budget Office.

[8] Gain of less than $500,000.

[9] Effective as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

		2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005-09	2005-14
HIDE Family tax provisions	—	—	4,784	4,468	4,472	4,464	2,842	133	—	—	—	18,188	21,163
HIDE Refundability acceleration	—	1,929	—	—	—	—	—	—	—	—	—	1,929	1,929
HIDE Combat pay	—	46	47	24	21	18	19	17	—	—	—	157	193
HIDE UDQC	—	—	38	39	40	43	44	45	25	26	26	159	325
HIDE Rum cover	—	151	18	—	—	—	—	—	—	—	—	169	169
[10] Includes the following change in outlays		2,126	4,887	4,531	4,533	4,525	2,905	195	25	26	26	20,602	23,779

For consideration of the House amendment and the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
TOM DELAY,
Managers on the Part of the House.

CHUCK GRASSLEY,
DON NICKLES,
TRENT LOTT,
MAX BAUCUS,
BLANCHE L. LINCOLN,
Managers on the Part of the Senate.

VITIATION OF MOTION TO INSTRUCT CONFEREES ON H.R. 1308, WORKING FAMILIES TAX RELIEF ACT OF 2004

The SPEAKER pro tempore. Under clause 8 of rule XX, the filing of the conference report on H.R. 1308 has vitiated the motion to instruct offered by the gentleman from Kansas (Mr. MOORE), which was debated yesterday and on which further proceedings were postponed.

PRIVILEGED REPORT ON RESOLUTION OF INQUIRY REQUESTING PRESIDENT TO PROVIDE CERTAIN INFORMATION TO HOUSE OF REPRESENTATIVES RESPECTING NATIONAL ENERGY POLICY DEVELOPMENT GROUP

Mr. BARTON of Texas, from the Committee on Energy and Commerce, submitted a privileged report (Rept. No. 108–697) on the resolution (H. Res. 745) of inquiry, requesting the President of the United States to provide certain information to the House of Representatives respecting the National Energy Policy Development Group, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Mr. BECERRA. Mr. Speaker, yesterday, September 22, during the final series of votes, I did not record a floor vote on rollcall No. 462, the Olver amendment to H.R. 5025, the Transportation and Related Agencies Appropriations Act for fiscal year 2005.

Mr. Speaker, had I recorded a vote on the Olver amendment, I would have unequivocally voted aye on rollcall vote No. 462, and wish to be recorded as such.

PROVIDING FOR CONSIDERATION OF H. RES. 785, WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 785 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 785

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of September 23, 2004, providing for consideration or disposition of a conference report to accompany the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my neighbor, the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 785 is a same day rule that waives clause 6(a) of rule XIII requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules.

The rule applies the waiver to a special rule reported on the legislative day September 23, 2004, providing for consideration or disposition of a conference report to accompany the bill H.R. 1308, the Working Families Tax Relief Act.

This rule today is the first step to permit the House to consider a conference report that will infuse our economy with job creating tax relief, investment incentives and overall economic growth.

For well over a year, this body has been debating the relief provided by the Working Families Tax Relief Act and, with today's action, we once again display our continued commitment to strong economic growth. We also demonstrate to American workers, businesses and families that this Congress will protect their stability.

Mr. Speaker, through a series of tax cuts, this Congress has acted to create jobs and protect American families. Our strong leadership has resulted in the shortest and shallowest recession in our Nation's history. A delay in the consideration of this conference report for the Working Families Tax Relief Act will put American jobs and families and the strength of our economy at risk.

Mr. Speaker, I strongly urge my colleagues to support this rule so we may proceed with debate on this time sensitive tax relief package.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my neighbor for yielding me time.

Mr. Speaker, we have before us a rule that allows for same day consideration of a conference report for H.R. 1308, a bill to extend the middle-class tax provisions in the 2001 tax bill.

Mr. Speaker, I strongly believe that any time the body chooses to stray from the regular order of business, it had better be for a darn good reason. It had better be to respond to some catastrophic or emergency situation.

Things are dire out there for the 2.7 million Americans who have lost their good-paying manufacturing jobs since 2001. These workers live in a constant state of emergency and face the catastrophic prospect of losing their homes or sending their children to bed with empty stomachs. The fact the body has failed to extend unemployment insurance for nearly a year is a catastrophic failure, not a catastrophic success.

Mr. Speaker, there are a number of other bills languishing in conference committees that certainly warrant emergency consideration. What about the transportation bill? Immediate consideration of this bill could bring millions of Americans a step closer to getting back to work, because it is a job creation bill.

And what about addressing the WTO tariffs on American exports? Should we not take immediate action to clear the path for more of our manufacturers to export their goods?

Mr. Speaker, as you can see, there is no shortage of bills that could be justifiably brought to the House floor under martial law, but, unfortunately, the bill we have before us today fails to meet that standard.

Although I think everyone here in the House supports extending the middle class tax cuts, I do not like running roughshod over the rules of the House. What is this emergency? The earliest that any of these provisions would expire is December 31.

Mr. Speaker, the majority has not made its case for taking this extraordinary action. The conference report was filed late this afternoon. In fact, we do not have any paper on it at all. So that makes it impossible for us to even continue with the bill. But for a bill that is going to cost nearly $150 billion, the majority owes it to us to provide us the time to read it.

For these reasons, I cannot support the use of a martial law rule.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are some points well taken, except we have been working 18 months on this legislation in bipartisan fashion in both bodies and we now have a conclusion. I also think we have certainly got strong opinions as we complete this of Members that will support this and Members that will not. I believe it will pass with some bipartisan support.

But also it is important that we have the opportunity that we can get our work done today, because otherwise my belief is that many would ask that we vote tomorrow, which, if we complete our work today, would keep an orderly fashion of having our work done and Members also back into their districts.

So, as we move forward, it is my hope that we have a vote on the rule, and that the body will consider that we move forward with the opportunity of reviewing the conference report that was put together in a bipartisan fashion in both the other body and this body.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank my friend from New York for yielding me this time.

Mr. Speaker, this is an extraordinary process that we use when we consider a bill the same day it is reported out. One of the concerns I have about the process is that I want to make sure the Members understand exactly what is in the bill that they are asking to be considered and the process that it went through.

I think it is important to point out that the underlying bill that we are talking about contains many important changes in the Tax Code that are supported on both sides of the aisle. There is no question that Democrats support an extension of the 10 percent bracket provision, child credits and marriage penalty relief, and certainly Alternative Minimum Tax relief, where more and more of our constituents are falling within the Alternative Minimum Tax, and extension of the so-called extenders, the research and others that would otherwise expire. That is without question. And there has been bipartisan efforts to try to make sure that those provisions in the Code are extended or made permanent.

But this is where the bipartisanship ends, because there has not been an effort made to do this in a way that is in the best interests of the taxpayers of this country.

Our only opportunity to raise these issues will be on the rules that are going to be presented today. My friend from New York will explain later the previous question votes we are going to ask to be taken, because that is going to be our only opportunity to raise the faults that are in the underlying bill, because, as I said, the substantive provisions are provisions that are supported by both Democrats and Republicans.

The first problem is that these are just temporary changes. We do not make them permanent. As my friend from New York pointed out, we have until the end of this year on most of these provisions. Some of the provisions are extended for a year, some for 2 years, some for a little bit longer, but none of them are made permanent. So, once again, we are not really confronting the issue of making this predictable for the taxpayers of this country.

But the more serious faults that will be raised by the previous questions deal with the fact that despite the efforts that we have made in a bipartisan opportunity to pay for these tax cuts so we do not add to the $400 billion annual deficit, we have offered ways to pay for these tax changes. The underlying bill is scored to add another $150 billion to the deficit of this country. Where does this end?

Give us an opportunity to give proposals to offset the cost so that we are not adding to the red ink of the Nation. We should have that opportunity, and I think we could do that with a strong bipartisan vote in this body.

The second problem, Mr. Speaker, quite frankly, is that we did not correct a major problem with the Earned Income Tax Credit and to a certain degree with the refundable child credit, and that is we are not treating our military fairly.

We all talk in our districts and here on the floor about the tremendous sacrifices being made by the men and women who are in harm's way serving our military in Iraq and Afghanistan. They put their lives on the line for us every day, and we are thankful. But we should show it by deeds. We have pointed out that because of the tax treatment of military pay, our men and women who are in harm's way will not get the full relief provided under this bill. That is wrong.

The conferees from the other body made a suggestion that would have fixed this, one which is supported by the Democrats in this body. It is hard to believe that you get a more favorable tax treatment in the military if you serve in the United States than if you serve in Iraq. That is just wrong, and we should fix it.

But instead of accepting the reasonable offer made by the Members from the other body, because of the House position of the Republicans, we have a very small, temporary fix for 1 year that will not provide the full relief to our military, which is kind of complicated, quite frankly, adding to the complexity of the Code without fixing the problem.

That is wrong, and we should take care of that now. If there is an urgency, the urgency should be with our military and to make sure we do not discriminate against them.

So, Mr. Speaker, I take this opportunity to point out to my colleagues, yes, we will not have a lot of time to consider this bill. It was just reported out today. There are a lot of good provisions in this bill. But, once again, it is a missed opportunity. It is a missed opportunity for fiscal responsibility, it is a missed opportunity to correct a problem with our military pay, and I hope that you will support the request made by the gentlewoman from New York in regards to the previous questions so we can fix these errors.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know that it is not a missed opportunity for those millions of taxpayers who are going to be assisted by this. While I respect my colleague from Maryland, I think there is a couple of things we need to look at to set the record straight. I was prepared to do it as we do the rule on the legislation, but maybe now is a good time.

This bill provides nearly $200 million in assistance for our military. This bill has 23 annual extenders for tax provisions that we have worked on in the past. It is going to address child tax credit that we have passed overwhelmingly in this House in a bipartisan provision. It is going to address the marriage penalty, which this House has, again, done in overwhelming provisions in past votes.

We have a 10 percent bracket, which is there. Without passage of the legislation, the bracket would start to fade until it is totally removed from the Tax Code, and that would affect 73 million families who will be paying higher income taxes next year. Over the next 10 years, these families will pay out a total of $2,400 more in taxes. That is a bill that this House has passed in previous times.

When we look at the AMT relief which was created more than 30 years ago as a way to prevent high income taxpayers from avoiding income tax payments, something happened, and the failure to index AMT for inflation has resulted in millions of Americans paying for this onerous double tax.

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As a result, by 2010, one in three American taxpayers will be hid in the shadow of the AMT tax. Both in the 2001 and 2003 growth packages, Congress worked to ensure the new tax cuts would not force more taxpayers into the AMT trap. Yet, the provisions preventing millions of middle-class Americans from being hit with the AMT will expire at the end of this year. This is why the legislation is so critical, to prevent these Americans from being hit with the unsuspected tax.

So when we look at this legislation, when the House is scheduled to adjourn on October 1, and we look at this House that may extend itself a few days in closing, we need to also keep on track moving legislation that is ready for the body to consider.

I would also say that when we look at this, which was provided for, the paying of this, in the House-crafted budget that was adopted by this body, the extension of family tax relief is already provided for in the House-passed budget resolution. That resolution would cut the deficit in half over 5 years without raising taxes, so this bill is paid for.

The second aspect is the Democrats have agreed to extending the child tax credit, the 10 percent bracket, and the marriage penalty relief. However, to accomplish the offsets, they want means of more than $130 billion in either tax hikes or spending cuts. The Democrats are not prepared to make the tough choices regarding which taxes to increase or which programs to cut. We are going to talk about a procedural provision of whether we adopt this rule to consider same-day or not versus the aspect of an alternative, which I welcome as they bring their legislation before the House.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, to my distinguished friend from New York, I was at the tax conference last night, and I would just like to yield him enough time to respond. Did he say that this $147 billion bill is paid for? No, I do not think so. I do not think he said that.

Mr. REYNOLDS. Mr. Speaker, is the gentleman asking me if I would yield on his time?

Mr. RANGEL. Mr. Speaker, I want to ask the gentleman whether or not he said to this body that this bill, this tax cut bill, which he gave all the virtues of what it does for the middle class and all of the corporations with the extenders, did he imply that this does not throw us $147 billion further into deficit?

Mr. REYNOLDS. No, I will give the gentleman exactly what I said, if the gentleman will yield.

Mr. RANGEL. I yield to the gentleman from New York (Mr. REYNOLDS.)

Mr. REYNOLDS. Mr. Speaker, I said the extension of the family tax relief is already provided for in the House-passed budget resolution. That resolution would cut the deficit in half over 5 years without raising taxes. I believe that the previous speaker on the minority side, the gentleman from Maryland, made a statement that he felt that it was not paid for.

Mr. RANGEL. Well, reclaiming my time, I thank the gentleman, but let me join in with the gentleman from Maryland because, clearly, those of us that work on the committee know that there are a lot of virtues in this bill. True, we have a couple of poison pills in there that relate to unfair treatment of the young people who are married, who have kids, who are doing combat duty, and also by having the index on who is eligible for the refundable tax credit, having it move from 10,000 to 70,000; we exclude some 9.2 million children. Those are the poison pills that I think that a lot of Members are willing to swallow for the good that is in the bill.

But one of the most important things that Americans are missing and the majority does not hear about is who pays for these tax cuts. All tax cuts for working individuals have merit, but this bill, according to the Joint Committee on Taxation, will cost us $149 billion. We tried as Democrats in the conference to take the loopholes, to bring the tax savings and to bring the revenues to make this revenue-neutral so that we could have the benefits without the deficit. But what happened last night was that the Republicans said they wanted to save these revenue raises. They want to save these corporate loopholes for the next tax bill, which they call the jobs bill, which I call the offshore jobs bill, but the next bill, some call the FSC bill, but whatever they call this bill, they want to have that paid for as opposed to this bill.

So what I am saying is that it is close to election, and everybody wants to vote for a tax cut. The Republicans have so carefully and cynically, on the eve of an election, planned several tax cuts and make other tax cuts permanent in order to try to get the Democrats to vote no, not because we are against the tax cuts but because we have some sense of responsibility as citizens and legislators to believe in what Republicans used to believe in, and that is a balanced budget. I am too old to think it would happen in my lifetime, but as the Republicans put raising the debt ceiling on the back burner, as they put the size of the deficit spending on the back burner, all Americans should know that, as we enjoy this day of tax cuts that the gentleman from New York talked about, that our children will be paying for these for decades to come.

So I will suggest to my colleagues, it has to stop somewhere. We have a responsibility as legislators to try to leave a world better than the one that we inherited. We cannot do this with a $200 billion war. We cannot do this by denying benefits to those low-income people who are fighting this war, who are in combat, and we cannot do it by leaving a legacy to our children and our grandchildren that they will have to pay.

I thank the gentleman from New York for responding. He may think we have paid for this in a big budget, but they sure did not pay for it last night.

Mr. REYNOLDS. Mr. Speaker, upon reflection and in listening to the distinguished gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means and one who is the senior member of the New York delegation, I agree with him that we should phase out and change the AMT tax, and I have watched him advocate a lot of other things. A few times I have not seen him want to pay for it except for raising taxes.

But the thing I heard most out of the debate was not about helping the American family put more money back into their pockets, not about the middle class, which some of the politicians outside this body would talk about middle-class warfare and all of the other type of class war discussion.

Today, if we are allowed to start the debate on this bill, we will begin to help the middle class because, otherwise, if the Congress does not act, families will face a tax increase next year. For example, next year, the $1,000 child tax credit drops to $700 per child. The 10 percent bracket will apply to less than an individual's income, and the marriage penalty provision will provide less relief for couples.

I did not hear the aspect of a debate over how we get it done out of the distinguished ranking member. What I heard was the Democrats may look bad however they vote versus a decision of whether you are going to help the middle class today with a tax cut or whether you are going to raise taxes by not getting the job done. I hope we will pass this same-day rule so we can bring the legislation to the floor.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, I thank the gentlewoman for yielding me this time.

This is a sad day for this body, and a sad day for the country in many ways, I think. The gentleman from New York (Mr. RANGEL) and others have touched on it. I have not spoken on the floor in a long time on very much, but I heard the gentleman from New York (Mr. REYNOLDS) talk about tax increases.

What we are afraid to say today is that we are actually raising taxes on people who earn less than $11,000 a year. As hard as it is to believe that Republicans, who tout themselves as tax-cutters over and over and over and over again to the point that they would even call some of us to accept a round of tax cuts, fully aware that they will increase the budget deficit by $150 billion; they could not find it in their hearts to find $4.3 billion over 5 years to 9.2 million of the poorest children in this country whose parents, I might add, work every day. They do not sit around waiting on a check, I say to my colleagues; they work just like you and I do, and all they ask is for the same ability to avoid a tax increase.

So I would say to the gentleman from New York (Mr. REYNOLDS) and his friends, you are raising taxes as you would accuse us of doing, on people who earn $11,000 a year or less.

But I say to my Democratic colleagues, we should not be so saddened by this, because you will remember that the President has had a change of opinion on a variety of issues. When Enron and WorldCom collapsed, the President initially opposed any changes to ensure that the big corporate cheaters who robbed pensionholders and shareholders and workers of their savings, he initially said no to reform. And then he flip-flopped; he said yes.

When the Homeland Security Department was offered as an idea, Mr. Speaker, the President initially opposed that, and then he flip-flopped in favor of the right thing to do and decided to support it. When the 9/11 Commission idea was offered by many Members, including Tim Roemer, as an idea to help America atone and reconcile, he said, no way, and then he flip-flopped and said we should create one. When the 9/11 Commission made recommendations about how to change the intelligence structure in this country, the President said no way will we have a central director of intelligence or one with budgetary authority, and thank God, he flip-flopped.

So I say to my friend, and I would ask my friend, and he is a friend of the President, give us one more flip-flop. There is still an opportunity to not raise taxes on people earning $11,000 a year or less, Mr. Speaker, 9.2 million children, $4.3 billion over 5 years.

If all of us just decide to give up one project in our districts from all the pork we pass in this Congress, we can probably accommodate it.

Mr. Speaker, one more flip-flop is all we ask for: $4.3 billion over 5 years. You have my support, and I promise you I will not call you a flip-flopper on this one if you will just do it for the kids.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I hope my colleague will take the opportunity to brief himself on the income tax savings for middle-income families, a Joint Economic Committee study done by the gentleman from New Jersey (Vice Chairman SAXTON) of the Joint Economic Committee of the Congress; possibly that will provide him some assistance on some of the points that he has made.

The impending tax increases, unless Congress takes action, the following tax increases will automatically occur. I want all of my colleagues from all walks of life to look at what actually is at risk here if this legislation is not passed before we adjourn. The impending tax increases, unless Congress takes action, the following increases will automatically occur: In 2005, the child tax credit will decrease from $1,000 to $700.

The standard deduction for couples as a percentage of the standard deduction for singles will decrease from 200 percent to 174 percent, reinstating the marriage penalty. The top end of the 15 percent marginal income tax bracket for couples as a percentage of the top end for singles will decrease from 200 percent to 174 percent, reinstating the marriage penalty.

The 10 percent marginal income tax bracket will contract from covering the first $7,000 of income for singles and $14,000 for joint filers to covering only the first $6,000 of income for singles and $12,000 for joint filers.

The bonus depreciation will decrease from 50 percent to 30 percent.

The exemption of the alternative minimum tax will decrease from $40,250 to $33,750, Mr. Speaker, for single filers, and from $58,000 to $45,000 for married couples filing jointly.

In 2006, the section 179 small business expensing cap will decrease from $100,000 to $25,000, and the definition of small business will decrease from $400,000 to $200,000.

In 2009, the personal capital gains rate will increase from 15 percent to 20 percent. Dividends will no longer be taxed on the personal capital gains rate, thereby increasing the double taxation of dividends by as much as 62 percent.

In 2011, the marginal income tax rates will increase as follows: 35 percent bracket will increase to 39.6 percent; 33 percent bracket will increase to 36 percent; 28 percent bracket will increase to 31 percent; the 25 percent bracket will increase to 28 percent; and the 10 percent bracket will increase to 15 percent.

The child tax credit will decrease from $1,000 to $500. The annual education IRA contribution limit will decrease from $2,000 to $500.

The standard deduction for couples as a percentage of the standard deduction for singles will decrease from 200 percent to 167 percent, reinstating the marriage penalty. The top end of the 15 percent marginal income tax bracket for couples as a percentage of the top end for singles will decrease from 200 percent to 167 percent, reinstating the marriage penalty.

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The estate tax using the stepped-up basis will return with a 60 percent maximum rate, including surtax, and a $1 million exemption after years of decreasing estate tax rates, increasing exemptions, and one year using the more fair carry-over basis to calculate the tax due. The annual IRA contribution limit will decrease from 5,000 to a post-2008 inflation of 2,000.

So we can see that if Congress takes action, we will help all taxpayers that are paying taxes to put money back in their pocket versus having it in the government. As we consider whether we have a same-day, I again urge the adoption of this rule so we can consider the underlying legislation in the next rule.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, I enjoyed the answer of the gentleman, and I just want to engage him in a brief colloquy. That was an answer to a question I did not ask.

I simply asked the question, why are we raising taxes on families earning $11,000 a year or less? When given the opportunity to cut taxes for them in the form of a child tax credit beginning in 2005, you chose and your side chose not to extend the tax cuts to them, $4.3 billion over 5 years. I am using only your language. In essence, you are raising taxes on people who earn $11,000 a year or less.

Now, if the gentleman would answer that question, I am probably going to vote for the bill. I just do not know why we cannot add an additional $4.3 billion. What is $4.3 billion amongst friends when you are spending all that you are spending for everybody else? The poorest families in the country, 9.2 million children, it is $4.3 billion over 5 years. My understanding, I was not there, but every press report says that the Republican leadership in the House did not support the Republican chairman of the finance committee in the Senate.

All of this is big talk to the people at home. What it means is we are raising taxes on people who earn $11,000. So if you are watching, if you can afford a TV or you know somebody that earns $11,000 a year, they are raising taxes on you this afternoon.

I would yield to my friend, I would ask him why are you raising taxes on people who earn $11,000 a year or less in this country?

I would not want to answer it either. So I say to my friend, I hope in light of the litany of things I mentioned with my friend, the President, we need one more flip-flop. One more flip-flop can save monies for families earning $11,000 a year or less. I am blessed. I am not in that category. Those of you who support things we have supported in the Congress and friends we have outside of it, we are not in that category. But for those who are, we are raising taxes this evening in this Congress on behalf of people who earn $11,000 a year or less who work day in and day out.

I would not want to defend it either. And the gentleman from New York (Mr. REYNOLDS) is my friend. I do not blame him. I would not want to defend it either.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I look forward to this gentleman and any others coming to the Committee on Rules if we get consideration of the same-day so we can hear any amendments that they would like to discuss. But as we well know, a conference report is not amendable, so it will be an up or down vote.

I do not know many taxpayers that are $11,000 that have to pay an income tax that we are considering. I thought the earned income tax credit is a refundable tax credit offered by the Federal Government; I know New York has its own EITC, and that rate is 27.5 of a qualifying taxpayer's Federal EITC in the tax year 2002 and that the Federal and State EITC or for the working people that earn low or moderate income. So I certainly will continue to listen to my colleague, as I always do on his thoughts, both on this as an individual, Member to Member, but also anything he would like to bring on the floor of the debate when the distinguished Committee on Ways and Means will continue in what I believe will be a proper debate.

Mr. FORD. Mr. Speaker, will the gentleman yield?

Mr. REYNOLDS. I yield to the gentleman from Tennessee.

Mr. FORD. Folks who are enjoying part of this tax credit today, in 2005 will see that tax cut decrease or eliminated all together. Which, if I understand the definition of a tax increase, that indeed is a tax increase on people earning $11,000 a year or less.

So can we at least agree that this is a tax increase on people who earn $11,000 a year, on people who work and earn $11,000 a year or less in this country?

I might add, I invite the gentleman to my district, and anyone else who may choose to come, and we can hold a town hall meeting, and I will amass, unfortunately, a decent-sized group who are affected negatively by this.

I yield back to my colleague for an answer. I used his time, so I thank him for the time.

Mr. REYNOLDS. I will bring this debate to a closure.

Mr. FORD. Mr. Speaker, I just want to know if it is a tax increase.

Mr. REYNOLDS. Then I will not yield so I can complete my question on my time. If the gentleman gets time from his ranking member of this debate, we will certainly continue.

Mr. FORD. I apologize to the gentleman.

Mr. REYNOLDS. Mr. Speaker, in consultation with the Committee on Ways and Means and, of course, this is more appropriate on the underlying legislation, or I suppose even we could request them on the next rule, EIC has been expanded dramatically in this legislation which is going to assist in a number of fashions. I am not exactly sure as the gentleman from Tennessee (Mr. FORD) has outlined a particular part that he has talked about on 11,000; but the EIC is expanded just on the aspect of making sure that we capture helping low income wage earners so that they are not caught in this.

As I said, in my State, the EITC has been extensively of assistance to our poor and low income family wage earners.

I would hope that we can move forward to a closure of this rule on same-day, take a vote on it, see if the body will consider then the rule on the underlying legislation, to consider this legislation so that all Members will have an opportunity to participate in the debate, and then we can have consideration of whether we pass this conference report, which has been 18 months in the making. Most of these are extenders and legislation that all Members are well aware of.

We have had strong bipartisan support for this legislation as has been considered in this body in the past. Otherwise, as I understand it, if we are not able to take this legislation up today, it will cause us to be continuing our work tomorrow if we cannot complete our work today.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time. May I inquire if the gentleman does.

Mr. REYNOLDS. Mr. Speaker, I have no further speakers, and I am prepared to close.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield back my time, I will be asking for a "no" vote on the previous question; and if the previous question is defeated, I would offer an amendment that upon its adoption of the rule, the Enrolling Clerk is instructed to add language to the conference report that does two things:

First, it directs the Secretary of the Treasury to pay for the cost of the bill by rolling back part of the tax breaks for those with incomes exceeding a million dollars annually. These millionaires will still receive a substantial portion of their tax cuts, but this modest rollback covers the cost of this bill for middle-income American families.

Second, it fixes a serious flaw in the conference report that negatively affects our military families. Because combat pay is exempt from taxation, many low-income military families with children are ineligible for the low-income tax credits or the child care tax credits. Democrats would change this so that soldiers would be able to count combat pay as income when applying for both the child tax credits and the earned income tax credit over the next 5 years.

The majority only wants to provide a 2-year extension of the EITC provision. Mr. Speaker, I think most Members want to see the tax breaks in this bill extended, particularly the child tax credit. However, many of us are very concerned about the legislation's substantial price tag, and I think this is a fair and a reasonable way to address that cost.

I want to stress that a "no" vote on the previous question will not stop consideration of the conference report for the tax bill. But a "no" vote will simply allow the House to amend the rule to make the changes necessary to pay for the tax cuts and not increase our already bloated deficit. However, a "yes" vote on the previous question will not allow these changes to be made, will drive up our debt to the tune of $149 billion.

I urge a "no" vote on the previous question so we can fix the conference report and provide tax relief to those who need it most.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, again, I urge a "no" vote on the previous question, and I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is important for the record as this has had substantial debate on the underlying bill of future consideration of the next rule. There is only one change to the EIC in this bill which is an expansion for military families, in contradiction to some of the debate before.

The bill allows military families to include combat pay in the EIC and child credits, and that provision is in the legislation that will be considered later if this bill is now passed as a rule before us.

So to get back to where we are, we have a rule that is requesting consideration of this body of a same-day rule that if we pass it today, we will continue in being able to do our work on a conference report rule to consider the legislation, the underlying bill today. If not, it would seem to me, as I understand it from previous briefings before coming to the floor, if we are not allowed to continue our work today, we will then find ourselves working tomorrow on this legislation because we were not able to complete it today.

So the resolution before us today and the rule is for same-day consideration of the legislation that will be the underlying legislation rule next. I would hope that we could pass this legislation and vote for the previous question so that we can move forward.

Mr. REYNOLDS. Mr. Speaker, when I was responding to Mr. FORD's remarks about those earning under $11,000 per year, I inadvertently referred to the EIC, when I meant to refer to the refundable portion of the child credit. It is important to note that the bill does not increase taxes on anyone and actually increases the refundability of the child credit for low-income families.

The material previously referred to by Ms. SLAUGHTER is as follows:

PREVIOUS QUESTION FOR H. RES. 785 RULE WAIVING 2/3RDS ON SEPTEMBER 23, 2004 FOR RULE PROVIDING CONSIDERATION OF H.R. 1308 CHILD TAX CREDIT CONFERENCE REPORT

At the end of the resolution add the following new section:

Sec. 2.(a) A concurrent resolution specified in subsection (b) is hereby adopted.

(b) The concurrent resolution referred to in subsection (a) is a concurrent resolution—

(1) which has no preamble;

(2) the title of which is as follows: "Providing for Corrections to the Enrollment of the Conference Report on the Bill H.R. 1308"; and

(3) the text of which is as follows:

CONCURRENT RESOLUTION

Directing the Clerk of the House of Representatives to take certain actions in the enrollment of H.R. 1308.

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill, H.R. 1308, the Clerk of the House of Representatives shall—strike the language in the bill that terminates the provision in the bill relating to the treatment of combat pay under the earned income tax credit, so as to make that provision permanent.

Mr. REYNOLDS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 12 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1554

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 3 o'clock and 54 minutes p.m.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1308, WORKING FAMILIES TAX RELIEF ACT OF 2004

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–699) on the resolution (H. Res. 794) waiving points of order against the conference report to accompany the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H. RES. 785, WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

The SPEAKER pro tempore. The pending business is the question on ordering the previous question on H. Res. 785 on which further proceedings were postponed earlier today.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question on which the yeas and nays are ordered.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 211, nays 196, not voting 26, as follows:

[Roll No. 469]

YEAS—211

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Nussle
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—196

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—26

Bishop (GA)
Bonner
Cannon
Deal (GA)
Fattah
Garrett (NJ)
Gephardt
Graves
Herseth

Istook
Kleczka
Lucas (KY)
Manzullo
Miller (FL)
Myrick
Norwood
Nunes
Osborne
Quinn
Smith (WA)
Stark
Tauzin
Thompson (MS)
Turner (OH)
Udall (CO)
Vitter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1618

Messrs. OBERSTAR, FORD and POMEROY changed their vote from "yea" to "nay."

Mr. BALLENGER and Mr. WALSH changed their vote from "nay" to "yea."

Stated for:

Mr. TURNER of Ohio. Mr. Speaker, on rollcall No. 469 I was unavoidably detained. Had I been present, I would have voted "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 1308, WORKING FAMILIES TAX RELIEF ACT OF 2004

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 794 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 794

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to accelerate the increase in refundability of the child tax credit, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 794 is a customary rule providing for consideration of the conference report on H.R. 1308, the Working Families Tax Relief Act of 2004. The rule waives all points of order against the conference report and against its consideration. The rule also provides the conference report will be considered as read.

Mr. Speaker, as we prepare to head home to our districts for the weekend, there are two things that I look forward to telling my constituents that this Congress accomplished today: Cutting taxes and creating jobs. They are two of the most important things we can do for the hard-working people who sent us here to represent them.

We all know the unfortunate hits America's economy has suffered over the past several years. But through the strength of this administration and the will of this Congress, we have made great strides in recovering from horrific terrorist attacks, corporate scandals and a recession.

Time and time again, this Congress has responded to adversity with sound economic policies that continue to grow our economy. Thanks to the Economic Growth and Tax Relief Act and the Jobs and Growth Tax Relief Act, we have given taxpayers in my district and all across America greater control over their hard-earned dollars.

Not only does this provide greater motivation for savings and investment, but it also protects and creates jobs. The Working Families Tax Relief Act before us today is yet another step in our plan to create a fair and reasonable tax system for hard-working Americans and continue the path of new job creation.

In March of 2003, this House passed our original version of the bill by a voice vote under suspension of the rules. In June of that same year we passed the bill for a second time.

Mr. Speaker, in the 18 months that we have been debating this bill, our constituents have waited patiently for the tax relief they deserve. Today, that long wait ends.

The underlying conference report includes much of the previous House passed language, providing more and longer lasting benefits for families of all income levels.

It extends the child tax credit of $1,000 per eligible child that is currently scheduled to sunset in 2005. The conference report makes this a meaningful credit available through 2010.

Important tax relief for married couples is also extended in the conference report. The House voted overwhelmingly in April of this year to make marriage penalty relief permanent, and we have yet another opportunity today to do the right thing.

Mr. Speaker, the conference report also expands the 10 percent bracket originally created in the Economic Growth and Tax Relief Reconciliation Act of 2001, and which overwhelmingly passed this House once again just over 4 months ago. This provision means substantial tax relief for low-income workers by taxing the first $14,000 of earnings for married couples and the first $7,000 for single taxpayers at a 10 percent rate instead of a 15 percent rate.

Without extensions of the child tax credit, marriage penalty relief and the expansion of the 10 percent bracket, working families would face a $109 billion tax increase over the next 10 years. This House simply cannot delay and must pass this measure in order to remove these excess tax burdens from our hard-working families.

Mr. Speaker, the report additionally provides the middle class with relief from the Alternative Minimum Tax, the AMT. While the calculation for the AMT is quite complicated, the negative result is simple to understand: It is an extra tax some have to pay on top of their regular income tax.

Originally conceived to prevent those with a very higher income from abusing tax benefits to unfairly reduce or eliminate their tax liability, the AMT has unintentionally ensnared millions of middle-class taxpayers. In May of this year, the AMT tax exemption was widely supported in this House on a bipartisan basis. Without this much needed extension, more middle income families will be pushed into the AMT, resulting in a tax hike of $23 billion in the next 10 years.

The conference report also continues to honor our servicemen and women in combat zones with nearly $200 million in tax assistance through the inclusion of tax-free combat pay when calculating their refundable child credit and an increase in the Earned Income Credit.

Our brave men and women in uniform continue to defend the freedoms this Nation holds dear, and every day they work to protect us from those who would do us harm. They do not just deserve our thanks and appreciation, they deserve this sensible assistance for their hard work and sacrifice.

The conference report further provides that the tax-exempt status of an organization is automatically suspended during any period in which the organization is designated as a terrorist organization or is listed in or designated by an executive order as supporting terrorism.

Mr. Speaker, also included in the underlying conference report is a 1-year extension of over 20 various expiring tax provisions, including the research and development tax credit, which is so important to business across the country.

In all, $13 billion of needed tax relief is provided for with these extensions.

Of particular importance to my home State of New York is the expansion of authority to issue advance refunding of Liberty Zone bonds through 2009. The Liberty Zone bond financing was intended to encourage the commercial revitalization of Lower Manhattan, and in particular, the World Trade Center site following the devastating attacks of September 11.

Currently scheduled to expire this December, I am pleased this conference report recognized the importance of the program and has included this much-needed extension.

Mr. Speaker, a yes vote today seizes on the momentum we have created towards a strong economy and job creation and sends a clear message that this Congress supports putting real dollars back where they belong, into the hands of hard-working men and women. A no vote simply prevents us this needed relief from becoming reality and denies our constituency the assistance they deserve.

I urge my colleagues to join me in supporting the rule and the underlying conference report.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I will include for the RECORD the revenue effects of the bill we are discussing. Up at the top here it says "very preliminary." Given what we went through with the Medicare bill and the fact that we are still now getting revised estimates on what that cost, I thought that was a very interesting thing, and I have not seen that before. So I will put that in the RECORD.

Mr. Speaker, I rise in opposition to this rule. It provides the House with only an hour to debate a tax package that was rushed in so fast that we are not sure the ink is dry.

The conference report before us contains many provisions that have broad bipartisan support. Members on both sides of the aisle strongly support the $1,000 per child credit and the new larger 10 percent bracket, and they provide real tax relief for working families. Additionally, the research and development tax credit, work opportunity tax credits and tax incentives for Qualified Zone Academy Bonds all have a great deal of support.

Further, we all probably can agree on the importance of the bill's alternative minimum tax relief provisions. The AMT has increasingly become a major source of headaches for middle-class taxpayers. Last year alone, 3.3 million taxpayers unwittingly found themselves subject to this onerous tax because of the 2001 tax bill. Without further congressional action, the number of Americans who will have to deal with it will grow over 30 million by 2010. While I am pleased that the conference addresses the AMT, it is only a Band-Aid. Providing a permanent remedy to this egregious problem will be costly, but it must be done.

As you can see, Mr. Speaker, there is little fault to find in what the conferees chose to include in their final tax package, except the cost, which, as I said, is very preliminary. I only hope that the conference report for the pork-laden, Christmas-tree-like corporate tax bill that this body passed in June is as reasonable.

That said, the critical question for our Members to ask about this $150 billion bill is who is going to bear the cost? Our children? Our grandchildren? Both?

The House leadership may not have qualms about putting off questions about the fiscal consequences, but, as a mother and grandmother, I certainly do. We could have paid for it by simply taking back a portion of the recent tax reductions enjoyed by taxpayers who earn over $1 million a year. Unfortunately, the majority refused to consider this approach, choosing instead to push us further into debt by $150 billion.

□ 1630

I do not understand this tactic. It is irresponsible and indefensible, especially given what the Congressional Budget Office told us 2 short weeks ago. The 2004 deficit will be our largest in history, $422 billion, surpassing last year's record by $47 billion. At this rate, how on earth do we ever stand a chance of bringing the budget back to balance?

We can do better, and we must do better. And I also have no confidence in what we are being told, as I have said, about the cost of the bill. In the past 4 years, my experience has certainly taught me to question the cost estimates that were provided.

Back in 2000, the majority went to great pains to deliver a package that would be scored at $350 billion, and they devised a scheme of phase-ins and phase-outs to arrive at that number. Now, we know the tax cuts have an actual cost of about $620 billion, according to the administration's own office.

In addition to putting the true cost of the tax cut at nearly double the initial estimate, OMB attributed $290 billion of our deficit to the 2001 tax bill, and yet this House refuses to recognize that. Then, let me say again, there is a medicare bill. In June 2003, Congress was told the bill would cost no more than $400 billion over 10 years. Then, we learned about the coercive tactics used to arrive at that magic number and that the actual number of $134 billion more was kept from us.

Today, we understand that there is more to come and that the actual cost now of the medicare bill is $576 billion over 10 years, $176 billion more than we voted on just a few months ago. So keep your eyes open on this one, because if you blink, you may miss millions more added to the price tag.

Mr. Speaker, given the record, how can we trust the cost of this bill?

For all of these reasons and despite my support for middle-class tax cuts, I oppose this rule because we are not allowed to do anything, not only about the extraordinary cost but for the children of our soldiers who are left out of this bill completely and lose their tax credit.

Mr. Speaker, I will insert for the RECORD at this time the material I referred to earlier.

23-Sep-04 12:27PM

#04-2 155
VERY PRELIMINARY
23-Sep-04

ESTIMATED REVENUE EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1308,
THE "WORKING FAMILIES TAX RELIEF ACT OF 2004"

Fiscal Years 2005 - 2014

[Millions of Dollars]

Provision	Effective	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005-09	2005-14
Tax Reduction Provisions													
1. Extension of Family Tax Provisions:													
a. Extend $1,000 child tax credit through 12/31/09	tyba 12/31/04	-2,638	-13,193	-13,198	-13,227	-12,376	-6,942	—	—	—	—	-54,632	-61,574
b. Extend marriage penalty relief through 12/31/08	tyba 12/31/04	-5,415	-5,412	-3,050	-1,493	-323	—	—	—	—	—	-15,693	-15,693
c. Extend 10% bracket through 12/31/10	tyba 12/31/04	-4,262	-6,423	-6,796	-4,330	-3,229	-3,315	-1,006	—	—	—	-25,040	-29,361
2. Accelerate refundability of child credit to 2004	tyba 12/31/03	-1,993	—	—	—	—	—	—	—	—	—	-1,993	-1,993
3. Extend individual AMT relief through12/31/05	tyba 12/31/04	-9,031	-13,546	—	—	—	—	—	—	—	—	-22,577	-22,577
4. Inclusion of combat pay in earned income for purposes of the child tax credit and for purposes of earned income credit at taxpayer's election	[1]	-49	-50	-24	-21	-18	-19	-17	—	—	—	-162	-199
Total of Tax Reduction Provisions		**-23,388**	**-38,624**	**-23,068**	**-19,071**	**-15,946**	**-10,276**	**-1,023**	**0**	**0**	**0**	**-120,097**	**-131,397**
Uniform Definition of a Qualifying Child for the Dependency Exemption, the Child Credit, the EIC, the Dependent Care Credit, and Head-of-Household Filing Status	**tyba 12/31/04**	**-84**	**-206**	**-209**	**-218**	**-225**	**-229**	**-183**	-75	-75	-76	**-942**	**-1,579**
Extension of Certain Expiring Provisions													
1. Extension of the R&E credit (sunset 12/31/05)	epoia 6/30/04	-3,480	-1,986	-936	-678	-390	-90	—	—	—	—	-7,470	-7,560
2. Parity in the application of certain limits to mental health benefits (sunset 12/31/05) [2]	DOE	-4	-43	-10	—	—	—	—	—	—	—	-57	-57
3. Work opportunity tax credit (sunset 12/31/05)	wpoifibwa 12/31/03	-278	-181	-81	-39	-23	-9	-1	—	—	—	-603	-614
4. Welfare-to-work tax credit (sunset 12/31/05)	wpoifibwa 12/31/03	-35	-39	-28	-14	-7	-4	-1	[3]	—	—	-122	-127
5. Qualified zone academy bonds (sunset 12/31/05)	oia 12/31/03	-3	-10	-20	-27	-28	-28	-28	-28	-28	-28	-89	-231
6. Increase in limit on cover over of rum excise tax revenues (from $10.50 to $13.25 per proof gallon) to Puerto Rico and the Virgin Islands (sunset 12/31/05)	abiUSa 12/31/03	-151	-18	—	—	—	—	—	—	—	—	-169	-169
7. Extension of enhanced deduction for qualified computer contributions (sunset for taxable years beginning after 12/31/05)	cmd tyba 12/31/03	-198	-62	—	—	—	—	—	—	—	—	-260	-260
8. Above-the-line deduction for teacher classroom expenses capped at $250 annually (sunset 12/31/05)	tyba 12/31/03	-227	-192	—	—	—	—	—	—	—	—	-419	-419
9. Expensing of "Brownfields" environmental remediation costs (sunset 12/31/05)	epoia 12/31/03	-409	-93	32	38	39	34	30	26	22	20	-394	-261

Page 2

Provision	Effective	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005-09	2005-14
10. New York Liberty Zone bond provisions [4]:													
a. Extend authority to issue Liberty Zone bonds (sunset 12/31/09); add municipal assistance corporation to eligible advance refunding bonds	generally 1/1/05	-4	-18	-34	-47	-58	-65	-65	-65	-65	-65	-162	-486
b. Extend authority to issue advance refunding bonds (sunset 12/31/05)	1/1/05	-6	-15	-16	-15	-12	-10	-8	-6	-4	-2	-64	-93
11. Tax incentives for investment in the District of Columbia (sunset 12/31/05)	[5]	-161	-56	-18	-12	-17	-62	-74	-42	-42	-37	-264	-522
12. Combined employment tax reporting (sunset 12/31/05)	do/a DOE	No Revenue Effect											
13. Treatment of nonrefundable personal credits under the individual alternative minimum tax (sunset 12/31/05) [6]	tyba 12/31/03	-332	-260	—	—	—	—	—	—	—	—	-592	-592
14. Tax credit for electricity production from wind, closed-loop biomass, and poultry litter – facilities placed in service date (sunset 12/31/05)	fpisa 12/31/03	-44	-75	-97	-111	-127	-139	-144	-149	-151	-126	-454	-1,163
15. Extension of suspension of 100% of taxable income limit with respect to marginal production (through 12/31/05)	tyba 12/31/03	-78	-16	—	—	—	—	—	—	—	—	-94	-94
16. Indian employment tax credit (sunset 12/31/05)	1/1/05	-25	-34	-10	—	—	—	—	—	—	—	-68	-68
17. Accelerated depreciation for business property on Indian reservation (sunset 12/31/05)	1/1/05	-150	-261	-97	21	71	111	90	48	5	-10	-418	-173
18. Disclosure of tax return information to carry out administration of income contingent repayment of student loans (sunset 12/31/05) [7]	1/1/05	No Revenue Effect											
19. Tax credit for qualified electric vehicles (100% benefit through 12/31/05)	ppisa 12/31/03	-5	-1	[8]	[8]	[8]	[8]	[8]	[8]	—	—	-5	-5
20. Deduction for clean-fuel vehicles (100% benefit through 12/31/05)	ppisa 12/31/03	-119	-16	25	16	12	7	2	—	—	—	-81	-72
21. Disclosures relating to terrorist activities (sunset 12/31/05):													
a. Extension of authority to make disclosures regarding terrorist activities	dmo/a DOE	No Revenue Effect											
b. Technical correction regarding disclosure of taxpayer identity to law enforcement officials investigating terrorist activities	[9]	No Revenue Effect											
22. Availability of Archer medical savings accounts (sunset 12/31/05)	1/1/04	Negligible Revenue Effect											
23. Joint Committee on Taxation report and joint hearing on IRS strategic plans (sunset 12/31/05)	DOE	No Revenue Effect											
Total of Extension of Certain Expiring Provisions		-5,709	-3,376	-1,290	-868	-540	-255	-199	-216	-263	-248	-11,785	-12,966
Technical Correction Provisions	DOE	No Revenue Effect											
NET TOTAL [10]		-29,181	-42,206	-24,567	-20,157	-16,711	-10,760	-1,405	-291	-338	-324	-132,824	-145,942

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. Date of enactment is assumed to be October 1, 2004.

[Legend and Footnotes for Table #04-2 155 appear on the following page]

Legend and Footnotes for Table #04-2 155:

Legend for "Effective" column:

abiUSa = articles brought into the United States after
cmd = contributions made during
do/a = disclosures on or after
dmo/a = disclosures made on or after
DOE = date of enactment
epoia = expenditures paid or incurred after
fpisa = facilities placed in service after
oia = obligations issued after
ppisa = property placed in service after
tyba = taxable years beginning after
wpoifibwa = wages paid or incurred for individuals beginning work after

[1] For purposes of the child tax credit, effective for taxable years beginning after December 31, 2003; for purposes of earned income credit at taxpayer's election, effective for taxable years ending after the date of enactment and before January 1, 2006.

[2] This provision will have a negligible effect on penalty excise tax receipts. However it will have an indirect effect on income tax receipts through increases in employer-contributions for health insurance and corresponding decreases in cash wages. The table shows this indirect revenue effect, which was estimated by the Congressional Budget Office.

[3] Loss of less than $500,000.

[4] The New York City Liberty Zone is defined as all business addresses located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan, New York, NY.

[5] Generally effective January 1, 2004, except for the bond provision which is effective for obligations issued after the date of enactment.

[6] The "Economic Growth and Tax Relief Reconciliation Act of 2001" provides that the child tax credit and adoption tax credit are allowed for purposes of the alternative minimum tax for 2002 through 2010.

[7] Estimate provided by the Congressional Budget Office.

[8] Gain of less than $500,000.

[9] Effective as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005-09	2005-14
[10] Includes the following change in outlays	2,126	4,887	4,531	4,533	4,525	2,905	195	25	26	26	20,602	23,779

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

First, in listening to the gentlewoman's remarks on the general preliminary estimates that were there, as I understand it, that is what is published before the legislation is passed. Also, for the RECORD, I would like to have the final, which was prepared by the Joint Committee on Taxation, which is on their website for the Members who may not be in the chamber now if they choose to use it, but I would like to have this inserted into the RECORD as the final numbers.

Also, as I have listened to some of the aspects about this bill, both in the previous rule and now, that it is not paid for, I think there are a couple of things that also need to be on record. This bill prevents a tax increase on families, and it is very clear, if we do nothing, that taxes will go up, and so, actually, we are preventing that. Secondly, the relief that is provided for in the President's budget which holds the line on spending, it cuts the deficit in half over 5 years. The recent data from the Treasury Department show we are on track to meeting the President's budget goals. Finally, the Treasury data shows that tax receipts are increasing, despite the President's tax relief, proof that tax relief leads to economic growth.

JOINT COMMITTEE ON TAXATION
September 23, 2004
JCX-60-04

ESTIMATED REVENUE EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1308, THE "WORKING FAMILIES TAX RELIEF ACT OF 2004"

Fiscal Years 2005 - 2014

[Millions of Dollars]

Provision	Effective	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005-09	2005-14
Tax Reduction Provisions													
1. Extension of Family Tax Provisions:													
a. Extend $1,000 child tax credit through 12/31/09	tyba 12/31/04	-2,638	-13,193	-13,198	-13,227	-12,376	-6,942	---	---	---	---	-54,632	-61,574
b. Extend marriage penalty relief through 12/31/08	tyba 12/31/04	-5,415	-5,412	-3,050	-1,493	-323	---	---	---	---	---	-15,693	-15,693
c. Extend 10% bracket through 12/31/10	tyba 12/31/04	-4,262	-6,423	-6,796	-4,330	-3,229	-3,315	-1,006	---	---	---	-25,040	-29,361
2. Accelerate refundability of child credit to 2004	tyba 12/31/03	-1,993	---	---	---	---	---	---	---	---	---	-1,993	-1,993
3. Extend individual AMT relief through12/31/05	tyba 12/31/04	-9,031	-13,546	---	---	---	---	---	---	---	---	-22,577	-22,577
4. Inclusion of combat pay in earned income for purposes of the child tax credit and for purposes of earned income credit at taxpayer's election	[1]	-49	-50	-24	-21	-18	-19	-17	---	---	---	-162	-199
Total of Tax Reduction Provisions		**-23,388**	**-38,624**	**-23,068**	**-19,071**	**-15,946**	**-10,276**	**-1,023**	**---**	**---**	**---**	**-120,097**	**-131,397**
Uniform Definition of a Qualifying Child for the Dependency Exemption, the Child Credit, the EIC, the Dependent Care Credit, and Head-of-Household Filing Status	**tyba 12/31/04**	**-84**	**-206**	**-209**	**-218**	**-225**	**-229**	**-183**	**-75**	**-75**	**-76**	**-942**	**-1,579**
Extension of Certain Expiring Provisions													
1. Extension of the R&E credit (sunset 12/31/05)	epoia 6/30/04	-3,480	-1,986	-936	-678	-390	-90	---	---	---	---	-7,470	-7,560
2. Parity in the application of certain limits to mental health benefits (sunset 12/31/05) [2]	DOE	-4	-43	-10	---	---	---	---	---	---	---	-57	-57
3. Work opportunity tax credit (sunset 12/31/05)	wpoifibwa 12/31/03	-278	-181	-81	-39	-23	-9	-1	---	---	---	-603	-614
4. Welfare-to-work tax credit (sunset 12/31/05)	wpoifibwa 12/31/03	-35	-39	-28	-14	-7	-4	-1	[3]	---	---	-122	-127
5. Qualified zone academy bonds (sunset 12/31/05)	oia 12/31/03	-3	-10	-20	-27	-28	-28	-28	-28	-28	-28	-89	-231
6. Increase in limit on cover over of rum excise tax revenues (from $10.50 to $13.25 per proof gallon) to Puerto Rico and the Virgin Islands (sunset 12/31/05)	abiUSa 12/31/03	-151	-18	---	---	---	---	---	---	---	---	-169	-169
7. Extension of enhanced deduction for qualified computer contributions (sunset for taxable years beginning after 12/31/05)	cmd tyba 12/31/03	-198	-62	---	---	---	---	---	---	---	---	-260	-260
8. Above-the-line deduction for teacher classroom expenses capped at $250 annually (sunset 12/31/05)	tyba 12/31/03	-227	-192	---	---	---	---	---	---	---	---	-419	-419
9. Expensing of "Brownfields" environmental remediation costs (sunset 12/31/05)	epoia 12/31/03	-409	-93	32	38	39	34	30	26	22	20	-394	-261

Provision	Effective	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005-09	2005-14
10. New York Liberty Zone bond provisions [4]:													
a. Extend authority to issue Liberty Zone bonds (sunset 12/31/09); add municipal assistance corporation to eligible advance refunding bonds	generally 1/1/05	-4	-18	-34	-47	-58	-65	-65	-65	-65	-65	-162	-486
b. Extend authority to issue advance refunding bonds (sunset 12/31/05)	1/1/05	-6	-15	-16	-15	-12	-10	-8	-6	-4	-2	-64	-93
11. Tax incentives for investment in the District of Columbia (sunset 12/31/05)	[5]	-161	-56	-18	-12	-17	-62	-74	-42	-42	-37	-264	-522
12. Combined employment tax reporting (sunset 12/31/05)	do/a DOE	No Revenue Effect											
13. Treatment of nonrefundable personal credits under the individual alternative minimum tax (sunset 12/31/05) [6]	tyba 12/31/03	-332	-260	---	---	---	---	---	---	---	---	-592	-592
14. Tax credit for electricity production from wind, closed-loop biomass, and poultry litter -- facilities placed in service date (sunset 12/31/05)	fpisa 12/31/03	-44	-75	-97	-111	-127	-139	-144	-149	-151	-126	-454	-1,163
15. Extension of suspension of 100% of taxable income limit with respect to marginal production (through 12/31/05)	tyba 12/31/03	-78	-16	---	---	---	---	---	---	---	---	-94	-94
16. Indian employment tax credit (sunset 12/31/05)	1/1/05	-25	-34	-10	---	---	---	---	---	---	---	-68	-68
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18. Disclosure of tax return information to carry out administration of income contingent repayment of student loans (sunset 12/31/05) [7]	1/1/05	No Revenue Effect											
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20. Deduction for clean-fuel vehicles (100% benefit through 12/31/05)	ppisa 12/31/03	-119	-16	25	16	12	7	2	---	---	---	-81	-72
21. Disclosures relating to terrorist activities (sunset 12/31/05):													
a. Extension of authority to make disclosures regarding terrorist activities	dmo/a DOE	No Revenue Effect											
b. Technical correction regarding disclosure of taxpayer identity to law enforcement officials investigating terrorist activities	[9]	No Revenue Effect											
22. Availability of Archer medical savings accounts (sunset 12/31/05)	1/1/04	Negligible Revenue Effect											
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Joint Committee on Taxation

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[8] Gain of less than $500,000.

[9] Effective as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

[10] Includes the following change in outlays

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005-09	2005-14
[10] Includes the following change in outlays	2,126	4,887	4,531	4,533	4,525	2,905	195	25	26	26	20,602	23,779

Mr. Speaker, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I thank the gentleman from New York for yielding me this time to speak on this issue. There are so many important tax issues involved in the legislation that this rule would allow that we cannot cover them all in the time allotted, but I think it is important that we address several that are extremely important.

First of all, this administration inherited a recession. Our goal was to bring us out of the recession. A number of these tax cuts and adjustments, tax credits, helped bring our Nation out of a recession. If we allow those tax cuts to be removed, meaning increased taxes, we do not help our economy and certainly will do the opposite and, in fact, will put a number of families in a difficult situation as well as a number of businesses.

I am interested in a number of the provisions that will help our employers, especially the research and development tax credit. In my district, the companies creating new jobs are the ones that have benefited from the R&D tax credit. In fact, one just this week held a job fair to fill 150 new positions. They have benefited significantly from the R&D tax credit. A number of those savings are being used to hire new folks. That is important to us.

Another issue to help employers is the work opportunity tax credit, not only to help employers, but to help those who are involved in getting off welfare. It is a credit for those who hire people who are getting off welfare. That encourages employers to employ those who are getting off welfare. Why would we want that to end?

Also, the expensing of brownfield remediation costs: Throughout the Northeast and the Midwest, we have brownfields that are being redeveloped and the remediation costs are very expensive. Allowing the expensing of some of those remediation costs is encouraging employers again to take over those properties, develop them and create new jobs in communities that desperately need them.

The tax credit for electricity produced from renewable sources, from what I understand, both sides of this aisle are very interested in finding better renewable energy resources. Well, if we remove that tax credit for developing those resources, we are not going to see as much activity. We all know that, if you want less of something, tax it.

What we have done is cut taxes and encouraged growth. We have created tax credits to encourage research and encourage employment. We need to extend the tax cuts, extend the tax credits and make sure we are not, in effect, going to increase taxes on Americans and job creators.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 5½ minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, this morning in the Wall Street Journal, former Republican Congressman Joe Scarborough wrote, and this is a conservative, a Republican former member from Florida: "Ten years ago, Republican congressional candidates like me were running as Washington outsiders, promising to balance the budget and pay off the debt," but, Joe Scarborough added, bluntly, "we lied."

That is what Joe Scarborough said, referring to "we" being Republicans running as outsiders for the Congress of the United States. Joe Scarborough, "We lied."

Mr. Speaker, that is Joe Scarborough, former member of your Republican Conference, issuing that indictment. Not STENY HOYER, not the gentlewoman from California (Ms. PELOSI), not even my friend, the gentleman from Washington (Mr. MCDERMOTT), but Joe Scarborough: "We lied."

Last year's record budget deficits of $375 billion will be eclipsed by a projected deficit of $422 billion this year and deficits totaling nearly $2.3 trillion in the next 10 years. That is the result of "we lied." And because of the Republican Party's fiscal mismanagement, this Congress is on the verge of increasing the ceiling on the national debt for the third time in 3 years to $8.1 trillion, but it lacks the courage to do so on an up-or-down vote before the November elections. The gentleman from Texas (Mr. STENHOLM) has tried to have us do that.

Very frankly, if that is the issue, I vote aye. I am not for America welching on its debts. I am not for doing it secretly. I am not for doing it in the dead of night. I am not for hypocrisy which said, when we were in charge, oh, you cannot do that, and when you are in charge, hiding it under the rug.

Now, Mr. Speaker, I join virtually every Member of this body on both sides of the aisle in supporting the extension of middle-class tax cuts, the child tax credit, marriage penalty relief and expansion of the 10 percent income tax bracket. But we cannot continue to disregard fiscal reality. It is very nice to say that we are going to give everybody a tax cut and have the gentlewoman from Pennsylvania come up here and say, the extensions will help. They will; we agree with her. But deep deficits will not help our economy in the years ahead. We cannot ignore the historical turnaround from budget surpluses to record deficits and exploding debt during the last 4 years.

We conservatives are offended by going deeply into debt. Fiscal irresponsibility is radical, is not conservative. It puts our country at risk. We cannot continue to pretend the tax cuts have no effect on our Nation's ability to invest in homeland security, invest in education, veterans and health care, and we must not ignore this generation's responsibility to our children and grandchildren.

I have three children and three grandchildren, and we are putting them very deeply into debt. That is wrong. Saddling them with deeper debt and a diminished future is nothing less than fiscal child abuse. Hear me: fiscal child abuse.

I urge my colleagues to vote conservatively, to make sure that we do not plunge this country deeper into debt. Let us extend these tax cuts, but let us pay for them. That is what this generation has a responsibility to do for the next generation.

Let me continue to read from what I know my colleagues want to hear from their conservative colleague, Mr. Scarborough: "Mr. Bush, like most Republicans these days, only pays lip service to smaller government and balanced budgets. He is, after all, a President who inherited a $155 billion surplus and turned it into a $442 billion deficit." Mr. Scarborough, our conservative former colleague said, "It is ironic that we Republicans took control of Congress in 1994 by attacking Bill Clinton for his free-spending ways. But spending grew annually under Mr. Clinton at a 3.4 percent rate, while exploding under President Bush at a 10.4 percent clip. Republicans taking credit for restraining Mr. Clinton need to explain why they did not hold their own President to the same standards."

How ironic it is that my Republican friends claim credit for restraining the government when we had the presidency, but they cannot do it when their own President is in charge. Can anybody believe that representation?

I am going to vote no on this tax bill. I urge others to. The individual items in this bill are good, but the overall policy is disastrous, and Joe Scarborough told the truth.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

We are getting into some of the theatrics of politics 40 days before an election. I accept that. But I also want to say that before Joe Scarborough was elected in 1994, in the time he served, it was the failed liberal policies of 40 years that knew tax and spend, in this House and allowed the policy that started in 1995 which was to stop a train wreck, and also begin to move forward in recovering from the largest tax increase in American history in 1993.

Now, what I also find ironic, the Democratic leadership of the House never listened to Joe Scarborough when he was a Member but might choose to now that he is a pundit and an author.

But the fact is, as we look at this legislation on the underlying bill, as we consider this rule today, this rule prevents a tax increase on families, middle-class American families that the politics of America has been addressing day in and day out while the 2004 election is underway. If you do not vote for it, you begin to threaten the aspect that middle America will have a tax increase.

This relief is provided for in the President's budget, which holds the line on spending and cuts the deficit in half over 5 years. Recent data from the Treasury Department shows we can and we are on track in meeting the President's budget goals. The Treasury data shows that tax receipts are increasing, despite the President's tax relief, proof that tax relief leads to economic growth.

Finally, Mr. Speaker, if you look at the Joint Economic Committee United States Congress Report, in their summary it clearly says in there that raising taxes to cover budget deficits is usually a bad idea because it reduces incentives to work, save and invest.

Mr. Speaker, I reserve the balance of my time.

□ 1645

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, the comments of my friend from New York, I feel compelled to remind everyone of the words of the late Will Rogers when he said, "It ain't people's ignorance that bothers me so much. It's them knowing so much that ain't so that is the problem."

We can talk about this all that we want to, and I rise in strong opposition to this rule, but any Member who has ever stood on this floor and talked about fiscal responsibility should vote no on this rule. All Members who care about the future integrity of the Social Security system should vote no on this rule. All Members who care about the legacy that we will leave for future generations should vote against this rule, and you know it in your heart.

Now, I too strongly support middle class tax relief. I support extending the marriage penalty relief. I support continuing the $1,000 per child tax credit and the expanded 10 percent tax credit. I have been a strong advocate for extending the wind energy tax credit.

The question is whether or not we will provide tax relief to middle income families. The debate is not whether we should do so with borrowed money, adding more debt on top of our $7.3 trillion national debt. We should not pay for tax cuts by borrowing money against our children's future. That is the argument we make today.

Congress should be required to sit down and figure out how to make things fit within a budget just like families across the country do every day as I hear from my friends on this side all the time, except when it counts. Unfortunately, the leadership of the House seems to have forgotten that common-sense principle. Instead of figuring out how to make these tax cuts fit within our budget, the majority has decided to avoid making tough choices. Every dime of these tax cuts will be added to the debt we will leave for our children and grandchildren, and you know it.

In the next couple of weeks, we will have to vote to raise the debt ceiling unless we hide it. Last year foreign interests financed more than 70 percent of our $374 billion deficit. More than $1.8 trillion of this debt we now talk about, well, we do not talk about it on this side of the aisle, is held by foreign investors.

I find it particularly ironic that we are considering legislation that would add $146 billion to that debt on the same day the House Committee on the Judiciary has scheduled to act on a balanced budget amendment to the Constitution. If a balanced budget amendment were already in the Constitution, we would not be able to continue following the budget policies being advocated by the majority. It seems only fair that those who support the amendment, as I do, be willing to budget accordingly by paying, rather than borrowing, for the policies they advocate.

The legislation before us is a perfect example of why we need a balanced budget constitutional amendment, to protect the rights of future generations who are not represented in our political system, but will bear the burden of our decisions today. It is easy for politicians to vote for tax cuts or spending increases that will benefit current voters and leave the bill to our children and grandchildren who do not have a vote.

Passing legislation cutting taxes or increasing spending without offsets today will increase the debt tax that must be paid by future generations and can never be repealed. The debt tax will consume 40 percent of all individual income taxes paid this year and will keep growing as long as we continue to pass legislation putting our Nation deeper into debt.

Continuing to run up the national debt will ensure that we and our children and grandchildren will be overtaxed for the rest of our lives. We should defeat this rule so the conferees can go back and put together a package that provides tax relief to working men and women without increasing taxes on our children and grandchildren.

To my friend from New York (Mr. REYNOLDS), let me remind him, it took our country 204 years to borrow the first $1 trillion, 204 years. We are borrowing $1 trillion every year and a half under the policies that you have got the guts to stand up here and say we ought to keep following.

Then vote for increasing the debt ceiling and tell the American people before November 2 this is the result of the policies. We are borrowing the money to have the policies that we are giving to you. Vote for us. Forget our grandchildren.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Well, there they go again. Let us have a plan where we will sell a loaf of bread that says we will cut middle class taxes, but then again, I do not really have a plan on how to do it.

I have been in the majority before getting here and serving in the majority since the day I got here, but that majority of the previous 40 years has nicely gotten trenched into the minority because they have a lot of rhetoric but they have not put forth a plan as to how to get the job done.

So when you look at this, the Democrats have agreed to extending child tax credit, the 10 percent tax bracket, the marriage penalty relief, however, to accomplish the offsets they want, it means they have to come up with $130 billion of either tax hikes or spending cuts. The Democrats are not prepared to make that tough choice regarding which taxes to increase or which programs to cut. They want to come up and say, I am for cutting the middle class tax, but then again, I do not see this, I do not see that, BBA, debt, but there is never a solution.

So the Democrats' plan is a zero sum game here, it provides tax relief with one hand and takes it away with the other. So the Members who should vote no on this rule are the ones not interested in helping millions of American families that deserve tax relief.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Speaker, I thank the gentleman for yielding me time.

This debate is about one basic thing. Do you think the money coming into the Federal Government is the people's money or the government's money?

Number one, what are we talking about today? What we are talking about is whether we should keep taxes at the levels they are today. Should we keep the child tax credit where it is? Should we keep the marriage penalty relief where it is by and large? And what they are saying on the other side is, okay, if we want to keep these taxes from going up, we got to raise more taxes.

So what we are looking at here is an emphasis. Is it the people's money or is it the government's money? We believe this is the people's money. We believe most importantly that people ought to be able to keep more of their paycheck in their pockets. And what we get from the other side is, to pay for this, let us raise taxes. So we are saying, to prevent these taxes from going up, we will raise taxes over here.

What we are trying to do, Mr. Speaker, is accelerate the policies and keep the policies that have been working. Letting people keep more of their own hard earned money has been good for the economy and good for the individuals and good for the families of America. Just take a look at the fact that over the last year where we have had lower tax rates we have brought in more revenues. That is right. We have got $56 billion in higher revenues this year, the deficit has gone down, under the lower tax rates that we are paying today, than a year ago under higher tax rates.

Why? Because we have better economic growth, because we have more jobs being produced in this economy, because more people are paying taxes because they have a job to pay taxes in.

So why would we want to go down the road of raising taxes to keep these tax levels where they are, to kill the goose that is laying the golden egg that is giving us this economic recovery that is now underway. Point number one.

Point number two, this is already in the President's budget. The President's budget, which is to slash the deficit in half within 5 years, accommodates this policy. I wish we had a budget resolution in full force which is what we passed in the House which froze domestic spending, met our priorities overseas in fighting the war on terrorism, in protecting the homeland and froze domestic spending. Unfortunately, the other body failed to do this.

So the question before us on this rule is do you think that the middle class families ought to be able to keep more of their own money? Do you think that these tax extenders which would go away and raise taxes on the economy and raise taxes on businesses should come into law or not? Or should we keep these tax increases from hitting the economy? Should we have keep these taxes from being raised on families, and is the only way to do that to just raise taxes on someone else?

No. Let us put the emphasis where it ought to be, on spending. Let us put the emphasis on where it ought to be, on letting people keep more hard earned money in their paychecks, in their wallets. Let us not put the emphasis on continuing to raise taxes.

There is a fundamental, philosophical difference between the two parties. You are seeing it on display here on the House floor. We just fundamentally disagree. We believe that people ought to be able to keep more of their own hard-earned money. It is a belief we have. And that belief has translated time and time again, under Jack Kennedy, under Calvin Coolidge, under Ronald Reagan, and, yes, now under this current President, to produce better economic growth, better economic policy and, yes, more revenues. That is what is happening today.

Let us keep the taxes low. Let us prevent the families have having tax increases. Let us not raise taxes. Let us keep them low. I urge adoption of this rule.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

If I could say to the previous speaker, the idea of it being the people's money, obviously, all taxes are the people's money. It is also the people's debt that we are running up. They might want us to have some consideration for that.

Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, today we prepare to pass what this majority has called "The All American Tax Relief Act." But that name masks the fact that the Republicans are, in fact, increasing the taxes on 4 million working Americans. If I could make reference to the prior speaker, these are 4 million people who are getting their taxes increased. Because the House Republican leadership refused to lower the income threshold for the child tax credit, 9 million children are being deliberately left out of the tax relief that is included in this legislation. This is the story.

The eligibility level for the child tax credit will rise to $11,000 next year. So a family making $10,000, that qualifies now will be in for a rude awakening on April 15. They will not qualify. And because household income has actually declined by more than $1,500 under this administration, many families whose income taxes have gone down in the last 4 years will see their child tax credit shrink or even disappear next year because of this bill. So much for no new taxes.

And the Republican leadership has demonstrated the depth of their disdain for these families, saying that the child tax credit is not intended to serve as a "welfare program." But these families are not on welfare. They work hard. They earn the minimum wage. And I would challenge any Member of this body to raise a family earning the minimum wage. It is just about impossible. As a matter of fact, this body voted itself a raise in salary just not a week ago.

Righting this injustice would cost about $4.3 billion, a little more than a third of the cost of the $12 billion in tax breaks for big businesses in this bill.

This very morning, The Wall Street Journal, the article on page 2, some top companies avoided Federal income tax under Bush. So much for the people being able to get a break. It would appear that the friends of the administration, the large corporations are getting a break. Eighty-two of the country's largest profitable corporations have paid no Federal income tax in at least one of the last 3 years. Yet this Republican leadership saw fit to give them more tax breaks while raising taxes on minimum wage families and middle class families.

What this administration does is reward wealth and it taxes wages. So this is the All American Tax Relief. Eighty-two of our most profitable corporations, companies like Enron, pay nothing in income tax. Twelve billion dollars in tax breaks at the last minute for businesses. Nine million children are left out in the cold.

I want to remind this majority, those children are every bit as American as the rest. They deserve better than this tax.

Mr. REYNOLDS. Mr. Speaker, as I said earlier, we are getting down into election year, and I am so used to the other side of the aisle using class warfare, more importantly, I guess the American people are, that it is totally false, the information coming out here.

The information is false. The bill does not increase taxes on anyone. It actually increases the refundability of the child tax credit for low income families; $23 billion comes back to low income working families to help them, and they do not pay income tax in the category that is the outlay.

So, in other words, low income families who pay no income tax at all still will receive an additional $23 billion in the bill.

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As I said, Mr. Speaker, it is an election year. Prior to 2001, the child credit was refundable only for those families with three or more children. This President, under 2001 tax relief, made all families with children eligible for the refundable child credit.

The size of the refundable credit is based on the family's earned income in excess of $10,000, which is indexed for inflation; and what I am seeing from the other side of the aisle is argument that the $10,000 limit should not be indexed for inflation so that families can receive a bigger check from the government. Ironically, they did not make this argument in 2001 when the refund was created in the first place.

It is very important that our colleagues understand $23 billion of outlays are going to help people who do not pay income tax in the low-income levels of our society.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I will enter into the RECORD at this point an article from the Boston Globe entitled "Sticking it to working families," that shows how this Congress is raising taxes on 4 million low-income families which support 9 million children.

[From the Boston Globe, Sept. 21, 2004]

STICKING IT TO WORKING FAMILIES

(By Thomas Oliphant)

WASHINGTON.—Only in George Bush's privileged America could the following outrage occur:

Despite the president's supposed theological objection to tax increases, that is exactly what about 4 million families with roughly 9 million children are about to experience, with Bush's cynical support.

The outrage is actually worse, because the shiv is about to be stuck in these hand-working families under the guise of an effort to help them.

Congress is about to pass a catch-all measure allegedly designed to deal with several problems affecting middle-income and lower-income working families arising from the tax cuts of recent years. The problems are a graphic illustration of how shoddy legislation written by people who mostly focus on big-shot lobbyists can cause ordinary Americans to plummet through the cracks. At issue is the child tax credit—which first appeared in tax law in the late 1990s in a budget deal between the Clinton administration and the Republican Congress. This provision permits a deduction from income taxes due for each child under the age of 17 in a household. In 2001, the value of the credit was set to gradually increase to $1,000 per child, but in the package of additional tax cuts enacted two years later, the phase-in was eliminated and the full, $1,000 figure was made immediately effective.

The problem arises because parts of the law governing the child tax credit are "indexed" to remove the effects of inflation and parts are not. The value of the credit itself, for example, is not indexed; neither are the income amounts above which the value of the credit begins to phase out ($75,000 for a head of household, $110,000 for a married couple).

On the other hand, the income thresholds above which a working person can claim a "refundable" child tax credit—a check from the government if income tax liability is so low to begin with that the person would not get his full credit—are indexed for inflation. The original legislation permitted a refundable child tax credit for families worth up to 10 percent of their earnings above $10,000. That indexed earnings amount is now $10,750.

And there's the rub. An analysis by the Urban Institute and the University of Wisconsin offers the example of a married couple with two children who work at the federal minimum wage of a puny $5.15 an hour. Three years ago, their income of $20,6000 would have produced a child tax credit refund of $1,060. With a higher threshold two years later, the credit's value drops 5 percent to $1,010.

But that's just the tip of the iceberg. As ordinary Americans know too well, incomes downscale in the United States have been worse than stagnant in this decade. Not only has the minimum wage not budged in seven years, but family incomes above that have also suffered severely since 2000, and the suffering has been proportionately greater the lower you go on the income scale.

Moreover, this decline in earnings (even before inflation in cases like workers with less than a high school education or single parents) has been accompanied by large increases in the cost of necessities—including everything from gasoline to health insurance for those low-income workers lucky enough to have any. In the expert analysis—Leonard Burman of the Urban Institute and John Karl Scholz of the University of Wisconsin—a single parent who got a $109 credit in 2001 would have received nothing last year even though her earnings fell.

Looking ahead to next year and beyond, it is helpful that the refund rate will rise to 15 from 10 percent, but it will largely ignore the working families with the lowest incomes. As the analysis sums up: "The higher phase-in rate will do nothing to abate the underlying problem that arises from stagnant income growth at the bottom of the earnings distribution. Low-income households with earnings that grow slower than inflation will see their child tax credit erode in real terms every year, and at a rate that is even faster than their decline in real earnings."

Bush and his Republican Congress buddies could fix all this substantially, by simply restoring the original $10,000 threshold. The cost to the government would have been $4.3 billion over five years.

The fact that they did nothing is eloquent testimony to the status of working families in today's political culture. The next time Bush trumpets his opposition to tax increases, John Kerry should say something about the 4 million families Bush prefers not to count.

Mr. Speaker, low- and middle-income Americans need help. They need help paying for college, health care, and things that every family needs. When I heard the House is going to do this, I thought, oh, boy, I better get my rubber stamp and get out and help the President do it. It sounded like a good idea. The middle class has been pummeled in the last years.

Between 1979 and the year 2000, the income of the top 5 percent in this country has increased 200 percent. During the same period, the income of the middle class grew by 12 percent, and low-income families have seen their income actually drop. Roughly during the same period, the top 5 percent saw their income tax rates sliced in half and enjoyed a precipitous decline in taxation of their investment income. Meanwhile, Social Security and Medicare taxes, a burden carried primarily by the low- and middle-class taxpayers, grew 82 percent faster than their incomes did.

Mr. Speaker, when President Bush came in, income inequality got worse. The Bush tax cuts increased the after-tax income of the top 5 percent by 8 percent, while our middle class watched their incomes decline during the same period.

We have to do something to help the middle class; but after reading this bill, I learned that my colleagues are asking us to play charades today.

This bill gives the average middle-class household $169 of tax relief, but guess what, it gives the top 5 percent $2,000 worth of tax cuts. So for every dollar that my colleagues provide in tax relief to the middle income, they provide $10 additional for the top 5 percent of income earners, which happens to include ourselves. Where is the fairness? Where are our priorities if we vote for this thing?

New data from the U.S. Labor Department indicates that since Bush took office at least 670,000 manufacturing jobs have been lost to foreign trade. The CRS, the Congressional Research Service, recently estimated that 860,000 service sector jobs were shifted offshore in 2003 and 2004.

Mr. Bush went to Harvard Law School or went to business school, I guess; but I do not think it had much effect on him. He has not asked the Congress to do anything to address our competitiveness problem. He just asked us to pass tax cuts for the richest among us. Mr. Speaker, he may have gone to grad school or business school, but it really has done nothing for him.

The bill before us is going to add $146 billion to our budget deficit. Where are we going to get that from? We are going to borrow it. We are going to go to the Chinese and say, hey, we have got some notes we want to sell you; would you like to buy some of our notes? How about you, Japanese; would you like to buy some of our notes? That is where this tax cut is coming from. The gentleman says it is coming from our money; it is not. It is coming out of the Japanese if they buy the bonds.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Half of the cost of this bill is child credit, which has an income limit. High-income people do not qualify. So I want to make sure that is on the record after my colleague just spoke.

My colleague is right, though, that low-income families do need help, and that is just exactly what this conference report does. It provides $23 billion in outlays. In other words, low-income families who pay no income taxes at all will receive an additional $23 billion from the government under this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, for those of my colleagues who follow the debates on the House floor, they know in the past month they have heard a lot of talk about morals, about patriotism, and sound economic policy. I do not see how adding $146 billion to our Nation's debt makes any of them better. As a matter of fact, I would like the gentleman from New York (Mr. REYNOLDS) to look me in the eye because I am going to tell him that I think it is immoral that the Republican-led Congress has added $1,712,281,371,000 worth of debt to our Nation, to our children; and I would like the gentleman from Illinois (Mr. HYDE) to please look at me, because to our Nation's unborn children he has stuck them with that bill.

I will tell my colleagues that it is immoral that this Republican-led Congress since May 9, 2001, has stolen, and please listen to my words, stolen $521 billion from the Social Security trust fund. When my colleagues take money that people paid into Social Security and use it to the pay for someone else's tax break, they have stolen it. It is not there and they have no plan to pay it back.

I will say it is unpatriotic that in the 10 years that my colleagues have controlled this House that they have increased the national debt by $2,557,432,000,000; and by the way, one-third of all of the debt accumulated in this country in over 225 years, one-third of it has been accumulated in less than 10 years by a Republican House of Representatives.

Lastly, I want to hear someone tell me how it is sound economic policy for a Nation to borrow $3 for every $1 given back in tax breaks, and please check the Treasury figures. My colleagues have added $1,857,747,000,000 to the debt in order to give people $620 billion back.

So I will question my colleagues' morality for sticking my kids with their bills. I will question their patriotism because I think they are bankrupting this country; and lastly, I will question their so-called sound economic policy that has gone out and borrowed three bucks for every buck they gave back in tax breaks. This is not what is good for our country. It is not what is good for our kids, and it is not what is good for America.

I urge my colleagues to defeat this rule. I urge my colleagues, for once, let us draw the line and start thinking of the future of this country instead of seeing how many cute things they can do in the 40 days before the election that will get them a few more campaign contributions at the expense of trillions of dollars in debt.

The folks who said we are borrowing this money from the Chinese, every word of that is true. We now owe the Communist Chinese $300 billion. Tell me how that is good for our country.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Just as I listened carefully, I thought I understood that the Republicans since being in the control of the majority have brought about a third of the country's debt in policy decisions. I guess that would mean two-thirds of the debt would be borne by the Democratic minority party.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I find this debate to be extremely interesting. The gentleman on the opposite side of the aisle asks why are we listening to Joe Scarborough. Well, not only are we listening to him, I am listening to Pat Buchanan. Pat Buchanan said my colleagues are a bunch of fake conservatives, they have run up this deficit, and I have to remind my colleagues when Bill Clinton left office we had a reserve. We had money in the bank, and since they have been in power, the Republicans have been in power, this administration, they have been spending like drunken sailors.

My colleagues have created a $7.3 trillion tax debt. Buchanan says my colleagues are not true conservatives; and at the same time that they created this debt and it keeps growing, they had the audacity to come into the Committee on the Judiciary and pretend to attempt to pass a balanced budget amendment. We know that that was just a political act. As a matter of fact, one of my colleagues reminded my colleagues that they are in charge of the House, they have the majority in the Senate, they have the White House. They could work to balance this budget anytime they want to. They do not need to have a balanced budget amendment, but they cannot do that because they are in the political mode in an election year, and they come back with the most outrageous public policy to extend tax cuts.

It does not take a Harvard scholar to know that we cannot keep spending, spending, spending and at the same time reduce the amount of money that is coming in. My colleagues are mismanaging $4 billion a month, and they cannot win with the $4 billion. $4 billion a month, no post-war planning, we cannot even take Fallujah and Najaf. The soldiers do not have all of their equipment, and my colleagues are coming back for more money.

Well, on top of that, when we look at what is happening domestically, 44 million Americans with no health insurance, a housing crisis, veterans crying, and my colleagues are going to come in here and give a tax cut to the richest corporations and Americans in this country. It is outrageous. It does not make good sense. They ought to be ashamed of themselves.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

It just is something, I would almost like to look at that particular time transcript before 1994, when I think of the failed liberal spending policies of the previous majority; but we are here today and we have to reflect that in the 21st century we have faced 9/11, a recession, corporate scandal, reinvestment into the types of things that we have had to do in order to get the economy moving again, create jobs, open opportunity, but also to make sure that we are moving again and moving strong on homeland security and our national defense, which was all but beaten up pretty well in the nineties.

As we move forward, we have also done it with the aspect of a President outlining in this budget, which I hope this Congress, both sides of the aisle, might hold the line on the spending and cuts so that we can achieve the deficit reduction by cutting it in half over 5 years as the President outlined, and then how the House Republican majority put forth in its budget this year as well, the plan to do that.

But I will also say that while I have enjoyed listening to comments from the sidelines about the aspect of tax cuts or how to help middle-class Americans not see a tax increase or low-income Americans not see a tax increase or expanding $23 billion of outlays to low-income Americans who would be benefited by this legislation today, I have not seen any plan that is even on the table from the other side of the aisle that will make the tough choices we have with this legislation and the underlying bill or they have a proposal of raising taxes or cutting programs, some other solution than this.

But I do know this, Mr. Speaker, if my colleagues vote "no" on this, they are voting to raise middle America and the low-income families of this country's taxes, and if my colleagues vote "yes" for this rule, and they vote "yes" for the underlying legislation, they are going to keep millions of Americans from having to pay more in taxes.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

I am going to be asking for a "no" vote on the previous question. If the previous question is defeated, I will offer an amendment that directs the enrolling Clerk to add language to the conference report that pays for this bill. The previous question directs the Secretary of the Treasury to pay for the costs of the bill by rolling back part of the tax breaks of those incomes exceeding $1 million annually.

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These millionaires will still receive a substantial portion of their tax cuts, but a modest rollback will offset the cost of this bill for middle-income American families.

Mr. Speaker, I think many Members of this body want to see the tax breaks in this bill extended. I know I do, particularly the child tax credit. However, many of us are very concerned about the legislation's substantial price tag, and I think this is a fair and reasonable way to address that cost.

I want to stress that a "no" vote on the previous question will not stop consideration of the conference report for the tax bill. A "no" vote will allow the House to amend the rule to make the changes necessary for this conference report to pay for these tax cuts, and not increase our already-bloated and record-breaking deficit. However, a "yes" vote on the previous question will not allow the changes to be made and will drive up our debt to the tune of $146 billion. I urge a "no" vote on the previous question so we can fix this conference report.

Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I thank the gentlewoman from New York for yielding me this time. I cannot think of a more disturbing situation than we face today. I hear my colleagues on the other side of the aisle talk about this great prosperity that we are enjoying. We all know that is not true. We all know that the average family in this country, at least in the First Congressional District of Arkansas, the average family has lost $1,500 a year in income. The cost of gasoline has doubled. The cost of health care is so high they just simply cannot afford it anymore, yet we are presented with this idea.

If we do this ridiculous thing, and we continue on this path of reducing taxes on the very wealthiest people in this country, and allow working people to be taken advantage of in the way that is happening today, it is going to destroy this country. I agree with the gentleman from Mississippi (Mr. TAYLOR), this is immoral.

It is wrong to continue to add debt on top of debt on top of debt on our children and grandchildren. No right-thinking person in the world would do that, and yet the Republicans all continue to want to do that. And then my colleagues on the other side of the aisle talk about how prosperous we are.

My goodness alive, if we are doing so good, how did we go from a $5 trillion surplus to $3 trillion in additional debt? That is impossible if we are doing well. You do not have to be all broken out with brains to figure this out. My colleagues do not want to do this to their children and grandchildren, and I do not either.

Ms. SLAUGHTER. Mr. Speaker, I ask unanimous consent that the text of the amendment I referred to earlier be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, I urge a "no" vote on the previous question, and I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself the balance of my time, and in my closing remarks, I just want to remind my colleagues that this rule gives us the opportunity to have the debate on the Working Families Tax Relief Act of 2004. It extends family tax provisions through 2010, it provides assistance to military families in combat zones, it provides and extends relief from the alternative minimum tax, or AMT, through 2005, it creates a uniform definition of a child for tax purposes, and it extends 23 expiring tax provisions that end this year unless they are authorized in extension.

Mr. Speaker, a "yes" vote today seizes on the momentum we have created towards a strong economy and sends a clear message that this Congress supports putting real dollars back where they belong, in the hands of hardworking men and women. A "no" vote simply prevents this needed relief from becoming a reality and denies our constituents the assistance they have earned. In other words, will provide a tax increase on them if this bill is not passed.

Mr. Speaker, I urge my colleagues to join me in supporting the rule and the underlying conference report.

Mr. REYNOLDS. Mr. Speaker, I was incorrect when I mentioned in my opening remarks that the conference report included a provision suspending tax-exempt status of designated terrorist organizations. While it was included in an earlier version of the bill, that provision has already been signed into law under the Military Family Tax Relief Act and it was therefore unnecessary to include it in the Working Families Tax Relief Act.

The text of the amendment previously referred to by Ms. SLAUGHTER is as follows:

PREVIOUS QUESTION OF H. RES. RULE ON H.R. 1308—CHILD TAX CREDIT CONFERENCE REPORT

Strike all after the resolved clause and insert:

"That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

SEC. 2. (a) A concurrent resolution specified in subsection (b) is hereby adopted.

(b) The concurrent resolution referred to in subsection (a) is a concurrent resolution

(1) which has no preamble;

(2) the title of which is as follows: "Providing for Corrections to the Enrollment of the Conference Report on the bill H.R. 1308"; and

(3) the text of which is as follows:

CONCURRENT RESOLUTION

Directing the Clerk of the House of Representatives to take certain actions in the enrollment of H.R. 1308.

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill, H.R. 1308, the Clerk of the House of Representatives shall add at the end of the bill the following (and conform the table of contents accordingly):

SEC. . BENEFITS EXTENSION NOT TO INCREASE FEDERAL BUDGET DEFICIT.

(a) IN GENERAL.—Section 1 is amended by adding at the end the following new subsection:

"(j) ADDITIONAL TAX ON HIGH INCOME TAXPAYERS.—

"(1) IN GENERAL.—The amount determined under subsection (a), (b), (c), (d) or (e), as the case may be, shall be increased by the applicable percentage of so much of adjusted gross income as exceeds $1,000,000 in the case of individuals to whom subsection (a) applies ($500,000 in any other case).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is the percentage determined by the Secretary to be necessary for the Working Families Tax Relief Act of 2004 to be revenue neutral over the 10-fiscal year period beginning with fiscal year 2005.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

Mr. REYNOLDS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Without objection, and notwithstanding any intervening debate, the Chair will reduce to 5 minutes the minimum time for any electric vote on the question of adopting the resolution.

There was no objection.

The vote was taken by electronic device, and there were—yeas 212, nays 193, not voting 28, as follows:

[Roll No. 470]

YEAS—212

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham

LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nussle
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—28

Bishop (GA)
Bonner
Cannon
Collins
Deal (GA)
Delahunt
Garrett (NJ)
Gephardt
Graves
Green (TX)
Herseth
Istook
Kleczka
Lipinski
Lucas (KY)
Majette
McCarthy (MO)
Miller (FL)
Myrick
Nunes
Osborne
Quinn
Smith (WA)
Tancredo
Tauzin
Thompson (MS)
Udall (CO)
Vitter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1744

Mr. EMANUEL changed his vote from "yea" to "nay."

Mrs. MILLER of Michigan and Mr. TERRY changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Ms. McCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 470, the previous question, I was unavoidably detained. Had I been present, I would have voted "no."

(Mr. HASTERT asked and was given permission to speak out of order and to revise and extend his remarks.)

CONGRATULATING PORTER GOSS

Mr. HASTERT. Mr. Speaker, I want to take this moment to inform the House that one of our most distinguished Members is leaving us and will resign as of midnight tonight.

Yesterday, the other body did something good. They confirmed our colleague, PORTER GOSS, as the next director of Central Intelligence. I have known PORTER GOSS for a long time. He has been a person that I have relied on for a variety of issues. He has great judgment, an abundance of common sense and a real ability to bring people together to get good things done for the American people. PORTER has been chairman of the Permanent Select Committee on Intelligence for 8 years. He knows the CIA inside out, and he has good ideas on how to make sure our intelligence agencies are the best in the world.

PORTER, we are going to miss you, but we know you will be doing your best to make this Nation, America, more secure. Thank you, and God bless you.

□ 1745

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. REYNOLDS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 235, noes 167, not voting 31, as follows:

[Roll No. 471]

AYES—235

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berkley
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (OK)
Maloney
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (MI)
Miller, Gary
Moore
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nussle
Ortiz
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—167

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berman

Berry
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Clay
Clyburn
Conyers
Cooper
Costello
Cummings
Davis (AL)
Davis (FL)
Davis (IL)
DeGette
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lynch
Majette
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—31

Bishop (GA)
Bonner
Cannon
Capps
Collins
Deal (GA)
DeFazio
Delahunt
Doggett
Garrett (NJ)
Gephardt
Gordon
Graves
Green (TX)
Herseth
Istook
Kleczka
Lipinski
Lucas (KY)
McCarthy (MO)
Miller (FL)
Myrick
Nunes
Osborne
Paul
Quinn
Smith (WA)
Tauzin
Thompson (MS)
Udall (CO)
Vitter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1757

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. McCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 471, on agreeing to H. Res. 794, I was unavoidably detained. Had I been present, I would have voted "no."

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 794, I call up the conference report on the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

The SPEAKER pro tempore. Pursuant to House Resolution 794, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present the conference report for H.R. 1308, the Working Families Tax Relief Act of 2004. It is, I think, a significant and timely agreement. It will prevent tax increases on millions of Americans and their families. We will renew the current law tax extenders like the R and E tax credit and take a major step towards simplifying the Tax Code by implementing the uniform definition of a child provision supported by the administration, the Senate and the House. This conference report builds upon the President's 2001 and 2003 tax relief initiatives.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

The chairman of the committee is correct, this is timely. It is on the eve of an election. So, therefore, Republicans believe that all tax cuts should be held back, especially the child credit, until election time. And I assume that they believe that we will not notice that they are running us deeper and deeper and deeper into deficit. But since they have no awareness or do not care about it, then once again we have a political issue that is brought to us on the floor.

How long has it been since the Republicans were talking about a balanced budget amendment? How long has it been since it was supposed to be Democrats who just tax and spend, but they were the ones who were concerned about the future of our children and our children's children?

So now they have brought a very popular bill that they are not going to get much problem from the Democrats in terms as to whether or not the middle income this time should enjoy some of the benefits that in the past they just lavished on the very wealthy. And so if we are going to extend the tax credits for children, a child tax credit, if we are going to make certain that we give some relief for married couples, if we expand the 10 percent tax bracket, who would contest these types of things?

It is true that in the conference there did not appear to be that much concern about working parents that were at the poverty line. As most of the Members know, the present legislation index, the threshold at $10,000, because of inflation it is now up to $10,750. As a result of that, some 4 million working people will be denied the tax credit, which comes to over 9 million children would be denied.

☐ 1800

In the conference when the question was raised, why can you not make provisions to take care of the children of those people that work every day and live in an inflationary society and not have them cut off, the prevailing view was this was a tax bill and not a welfare bill.

Then we had some controversy where we were able to get the majority to adjust to make certain that those young people that were fighting in combat and not having to pay taxes on their combat pay, that adjustments would be made that they still could be eligible for the Earned Income Tax Credit. But somehow they only thought that they could do it for 2 years.

The President says he does not even know whether we can win the war, and then the majority said that they would be glad to do it, except that the Internal Revenue Service would have difficulty because it is so complex. Then some Members said it was abuse. Having said that, I do not think you have to be a rocket genius to figure out how many poor infantrymen we have in Iraq and how many of them have children and how many of them are poor and how many of them we should say, hey, you are fighting for this country, and we got to give you the same benefits as we give anyone else.

So the reason given that we would not make this benefit permanent was because it was too complicated for the Internal Revenue Service to handle and we would like to see how this works.

Well, these are the poison pills that are put into a piece of legislation, that the majority is just hoping that they will be able to say that Democrats voted against the provisions to provide tax benefits for the middle class.

But one day someone is going to have to answer to these young people and their kids. One day history is going to ask us, where were we when this deficit was mounting? Where were we when we turned the moneys that we are borrowing over to the Chinese and the Japanese? Where were we when the interest on the debt exceeded that of discretionary spending? Where were those responsible. Republicans when they decided to do the political thing, rather than the right thing?

Well, I, for one, am just as political as they are, and even though they did not pay for this bill, they are saying there were savings, there were loopholes, there were things they could have done. But because they are so anxious to get the jobs bill, this is the newly-labeled jobs bill, you know, this was the bill that it turned out that the World Trade Organization said we had about $4 billion liability, so they waited for years to get us deeper and deeper in trouble, for tariffs to be against our exporters, and then say why not do what we always wanted to do, reduce taxes for corporations?

Some of us, the gentleman from Illinois (Mr. CRANE) and I, thought that was a great idea. How little did we know on that bill they only meant corporations that were moving their jobs overseas. But that is another bill for another day, and that is a political issue.

But here we are again, and I hope no one has to say that I voted yes and I voted no on this one, because they are driving the deficit, and we do not think that the people who deserve a tax benefit should pay the penalty, when deficits mean nothing for the $1.4 trillion tax cut they gave to the very wealthy.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York once again has painted primarily a conspiracy that this was done somehow in a clandestine way. What I really want to do is make people understand that on the conference there were five Senators, three Republicans, two Democrats; and from the House there were three House Members, two Republicans, one Democrat. This provision was voted seven ayes and one no. It should not take you much time to figure out who the "no" was.

You also need to know that the Senator from Arkansas, Ms. BLANCHE LINCOLN, had she had her way, based upon the amendments she offered to the conference committee which were not accepted, would have raised the price of this bill by almost $100 billion. For those people, those families, those struggling lower income people who the gentleman from New York describes as though they are getting nothing out of this bill, it is just a total cliche to say this is another tax cut for the rich as it involves $23 billion in outlays for those very same people that the gentleman from New York says were left out of the bill.

It was a bipartisan agreement. We were able to hold down the exuberance of the Democrats in the Senate. I know I am not supposed to mention the Senate, but I want everybody to remember it was the other body that would have had this bill $100 billion higher. It is not because of the fiscal restraint on the part of the majority in putting this package together.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would remind Members that references to Senators should be confined to their sponsorship of actual measures, avoiding characterizations.

Mr. THOMAS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. SHAW), the chairman of the Subcommittee on Social Security.

Mr. SHAW. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I hear my friend from New York talking about deficits. There is one deficit that he did not talk about, and that is family deficits, the deficit where so many families are struggling and trying to do the right thing, go to work, come home, take care of their kids, and this bill addresses that.

I am sure that there are thousands or tens of thousands in the gentleman's district that are going to profit greatly from this bill, and maybe live a little better because of what is in this bill.

I think that we need to have a good debate over the issues and not sarcasm. When you get sarcasm involved and talking in broad terms, you are covering over what is in this bill. I would like to go down a few of the provisions in there.

It extends family tax relief provisions through 2010. What does that mean? Well, the marriage penalty relief. Everybody is for the marriage penalty relief. I would hope so.

The expanded 10 percent income tax bracket. If this does not pass, those brackets are going to go back up, and those are the lowest income tax brackets that we have.

The $1,000 tax credit for children. This is tremendously important for working young families.

It provides assistance for military families in combat. I have talked to the gentleman from New York (Mr. RANGEL) about this very issue and he is very much aware of it and very much in favor of it. Because of the technicality of combat pay not being included in income, they lose out on tax credits of this nature, and we correct that for them. No person should be penalized because they are in a combat zone, for God's sake.

I would like to talk too about extending relief on the alternative minimum tax. I know my friend from New York is very concerned about the Alternate Minimum Tax. He, as I, would like to do away with the whole thing. I think it is a huge mess. We do take care of it, and provide that people with $58,000 in income a year are exempt from the amount if they are a married couple or $40,250 for a single individual. These are tremendously important.

There are other provisions in the bill, such as, of course, the extension of the expiring provisions, which there are some 23 of them listed, and these are available right here at the desk if anybody wants to look at them. I can tell you that almost all of them have great bipartisan support.

I do not know of anything in this bill that can be described as a Republican provision. It is a good provision, it is a working provision, and, yes, it is a jobs bill, and it is for hard-working people.

There is nothing in here for high income people of any great extent other than the fact that it will help preserve capital, which is something we all should want to do.

So I would tell all the Members on both sides of the aisle, before you vote on this, take a close look at it. I would hate to go out and say that I voted to do away with the provision that was extinguishing the marriage penalty. I would hate to go out and say that I was doing away with the $1,000 child credit. These are important to all people.

So I urge all my colleagues on both sides of the aisle to vote yes on this bill.

Mr. RANGEL. Mr. Speaker, with great pleasure, I yield 2½ minutes to the distinguished gentleman from California (Mr. STARK), an outstanding member of the Committee on Ways and Means.

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I will not be sarcastic. I might be somewhat morally indignant. And I really think it is up to individual Members how they choose to vote on this bill. But I do think the bill clearly defines the Republican Party and it clearly defines the difference, and it defines compassion and conservatism as the Republicans understand it.

One might say there is some fascism in the bill and there is some socialism. That is okay too. But let us look at what the gentleman from New York (Mr. RANGEL) talked about earlier.

4.3 million families in this bill, because of the Republican refusal to freeze the $10,000 cap on income, 4.3 million families below $10,750 a year will have a tax increase. That means 9.2 million children living in those families will have less money while their parents' income has stayed the same or gone up slightly. To fix that would cost $4.3 billion. There is not enough compassion on the Republican side of the aisle to find $4.3 billion over 5 years to help those 9 million of the poorest children in this country.

That is your Republican compassion. That is indecent, it is un-Christian and it is immoral.

Now, this same Republican Party has countenanced a Tax Code on the other side. Eighty-two of the Fortune 500 companies, the most profitable companies in the country, paid no taxes over 3 years, and those 82 companies received $12.6 billion in refunds. So the Republicans are willing to give 82 rich, biggest corporations $12.6 billion.

That is conservatism. But they do not have the compassion to let $4.3 billion be spent on the 9 million poorest children. There you have it. The Republicans will help 82 of the richest corporations with three times as much money as it would take to have helped the 9 million poorest children in this country.

So whatever you vote on this bill, it does not make any difference, but know the difference between the Republicans and the Democrats.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if we are trying to draw a line between Democrats and Republicans, then I think we really ought to understand that prior to the 2001 tax bill, the provision that my friend from California is getting exorcised over, allowed that refundability only for families with three or more children. That is how generous they were. President Bush, the Republican House and a Republican Senate extended that provision to all families.

They were in power for 40 years and thought it was appropriate and fair to provide refundability only to families with three or more children. We said that did not make sense. We said it should be provided to all families. Yet you just heard the diatribe about what we do or do not do. That is actually what we did.

In addition to that, it just seems to me that a Senator from Arkansas and a Senator from Montana would differ with the gentleman from California about their party affiliation. All of the Senators, Democrat and Republican, supported the conference report.

Mr. Speaker, I yield 3½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), the chair of the Subcommittee on Health.

□ 1815

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman for yielding me this time.

I rise in strong and enthusiastic support of H.R. 1308. We made a promise in 2001 to provide income tax relief to every working American. And indeed, extending the marriage penalty relief, extending the $1,000 tax credit per child, leaving families with more disposable income to meet the needs of their children, and extending the 10 percent bracket are important to the well-being of our families and working people in America.

But I particularly congratulate the chairman on extending crucial provisions in the Tax Code that have recently or are about to expire. Allowing the expensing of cleanup costs associated with brownfields, old, polluted, industrial sites, helps jobs to be created in our cities and is absolutely crucial to the future of economic opportunity to our city folks and to the tax base of our urban areas. Extending the work opportunities tax credit and the welfare-to-work tax credit means hard-to-employ people, people who have spent time in jail, people who have very little education, get the work opportunity that they deserve with the training that they need. In addition, extending the R&D tax credit allows American companies to invest in risky innovations. R&D is a gamble, even for the largest companies, but it is a gamble that often results in tremendous economic reward, and it is a gamble that must be taken for any nation that hopes to have a strong economy.

Other nations have long recognized the benefits of subsidizing research and development. In a global economy where research and scientific experimentation can occur anywhere, the U.S. can ill afford to stand idle while France, Germany and other countries in Europe provide strong incentives for companies who do R&D on their soil. Indeed, other nations use tax dollars to subsidize their companies. Our European trading partners, for example, funnel billions of dollars, direct and generous loans, to their companies to develop products that compete directly with American goods. The R&D credit is about competitiveness. It is about jobs in every community across America, and it helps small and medium-sized companies as well.

According to a recent Ernst & Young report, more than 4,500 firms with assets of less than $1 million claim the credit. That is 25 percent of all firms. For the smallest firms in the study, the value of the credit, on average, was about 9.4 percent of their assets.

The R&D tax credit has a long history of bipartisan support, and while I am disappointed that the credit was not enhanced, and I will continue to press that issue to make it more accessible to start-up firms, I urge strong support for the bill.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Let me make it clear and try to set the direction in which this debate is going. We do not find Democrats disputing the merits of the tax cuts. We are not even challenging the fact that Republicans have decided to do this on the eve of the election. All we are saying is that you could have given our combat people a better deal by making their extension permanent, and you certainly could have given the working poor an opportunity to enjoy this even though they make $10,750.

The problem we have with this is the fact that you are running us $149 billion back into the deficit when you know, and it will go unchallenged, that in the committee, in the conference, we did have the loopholes to repair this and to bring to this floor a bill that would have been paid for, that would have passed with all Democrats and all Republican votes.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN), a Member whose career has been spent trying to protect all Americans, especially those who are struggling to become part of the mainstream.

Mr. CARDIN. Mr. Speaker, I always enjoy my distinguished chairman comparing the records of the Democrats and Republicans on major issues. Let me try to complete that a little bit more, if I might. It was the Democratic administration under President Clinton that brought our budget into balance, and it was the Republican administration that undid all of that good work.

Mr. Speaker, the Democrats support responsible tax legislation. The tax provisions in this legislation are well-targeted to extend important tax provisions that help most Americans and help our economy.

But there are two glaring flaws in the bill before us. The gentleman from California (Mr. STARK) and the gentleman from New York (Mr. RANGEL) have already talked about the limited impact on low-wage families, particularly on military families. We did not do what was right as it related to the child credit for those groups of people. It certainly was not treated with equity as to what we did with the other provisions on extensions.

The second major flaw is that bill adds $150 billion to our national debt, on top of the $422 billion deficit we have in this one year.

I listened to my distinguished chairman talk about what happened in conference, the efforts made by some of my democratic colleagues to increase the extent of this bill and increase the cost of this bill. But what my distinguished chairman did not say is that the Democrats also offered in conference ways to offset some of the costs, and that was rejected by our Republican friends.

We believe that this bill should be paid for. The gentleman from California (Mr. STARK) has already given us one example of how we could pay for this bill. The Wall Street Journal today reported 82 companies, all which have benefited from these tax cuts, pay no taxes at all. We could have them pay some of these taxes.

Mr. Speaker, if we could just revisit the tax changes for the wealthiest 1 percent of Americans, we could not only pay for the entire cost of this bill, we could also help reduce our national debt and deficit.

So, Mr. Speaker, our objection is that we should be fiscally responsible. We should have paid for this bill. The underlying provisions are good and should be enacted.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have to tell my friend, the gentleman from Maryland, that the statement that the minority from the Senate offered offsets for the provisions that they offered simply is not true. They did not offer offsets. There were provisions that were offered that did not cover it. There were offers for particular portions of the bill, and there were offers to simply cut the bill in the tax credit areas to cover the cost of the new items added, and on the largest amendment offered by the minority, there was not coverage for the cost.

So the gentleman's statement that they provided offsets for the entire bill, including the amendments that they offered, if that was the intent of the gentleman's statement, simply is not accurate.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, I was under the impression that the gentleman from New York (Mr. RANGEL) offered in conference to revisit the tax breaks on the upper 1 percent, and it is my understanding that that would pay for the entire cost of the bill. That is the reason why I stated that.

Mr. THOMAS. Mr. Speaker, reclaiming my time, I understand the gentleman's statement, and that was with respect to the underlying bill, but there were amendments offered which were not offset. The gentleman indicated that yes, there were increases offered, but offsets were provided as well. That statement simply is not factual.

Certainly, the gentleman from New York, who voted against the bill, provided a method which would take money away from individuals, increase their taxes, to distribute their income taxes, to distribute money to people who do not pay income taxes, but that was not on the portions that were offered by the Senators on the amendments that they offered.

I will certainly concede the underlying bill was covered by making people pay more in income tax so money could be distributed to those who do not pay income tax, but the statement that all of the amendments that were offered that increased the cost were offset is simply not a factual statement. That is the only point.

Mr. CARDIN. Mr. Speaker, if the gentleman would just yield for further clarification, I appreciate that statement, and the point is that the amendment offered by the gentleman from New York (Mr. RANGEL) would have covered all of those costs. I appreciate the gentleman yielding.

Mr. THOMAS. Mr. Speaker, the gentleman from Maryland also knows that, under the United States Constitution, the purse strings are controlled by Congress under article I, not the President under article II. The reason we were able to balance the budget after all of those years was that, notwithstanding the fact that the Democrats captured the White House, which does not control the purse strings, the Republicans captured the Congress, House and Senate. Those who control the purse strings control the spending. The budget was balanced because of a Republican Congress, not a Democrat President.

I would also have to tell my friends, as they review with indignation the combat pay provision included in the earned income credit, it used to be that way. But President Clinton in his administration recommended that in 2001 it be dropped. We accepted the Clinton administration recommendation, and it was dropped. We are now reinstating it. And what people need to understand is, the reason President Clinton asked us to drop it is because it was just too complex. We have figured out a way, through election, to resolve that problem. Yet, when people voted to remove it, we did not hear all of the criticism. When we decide to put it back in, in an effective way, we get criticized. It just is interesting, the process here. Even when we are trying to help people in need, we get criticized.

Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Louisiana (Mr. MCCRERY), a member of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, much of the substance of this bill has been repeated here on the Floor today, and I am not going to do that, but there are a couple of areas that I want to emphasize.

Before I do that, though, I want to underscore what the chairman just said about balancing the budget under President Clinton. Another way of putting it, without referring specifically to articles in the Constitution, is to say that the President proposes, the Congress disposes. That is to say, the President can recommend things to the Congress, but it is the Congress that actually votes and passes budgets and passes appropriations bills and entitlement programs and the like.

Prior to Republicans taking over the House and the Senate, President Clinton was saying that he could see deficits as far as the eye could see, over the horizon. It was only when Republicans took control of the purse strings, as the chairman put it, that we started enacting policies that increased revenues by cutting taxes and controlling spending and balancing the budget for the first time since the late 1960s. It was the Republican Congress that did that, not President Clinton. And as the chairman said, the Constitution provides that it is the Congress that disposes.

Now, the two areas that I want to emphasize in the bill, number one, the extension of expiring provisions in the Tax Code. In other words, there are some provisions in the Tax Code that have expired. They are no longer in effect, or they will expire this year. The gentlewoman from Connecticut (Mrs. JOHNSON) mentioned a few of those. Let me mention a few more. A deduction for computer donations, a $250 deduction for teacher classroom expenses, a tax credit for electric produced from renewable sources, such as wind energy, a very promising technology for renewable energy production. A tax credit for electric vehicles, a deduction for clean fuel vehicles; those kinds of provisions that are in the Tax Code to encourage the development of renewable sources of energy, to encourage the efficiency of energy in this country, in the use of energy in this country, would be expiring if it were not for the passage of this bill.

The second thing I want to emphasize, Mr. Speaker, is that anyone who votes no on this bill today is voting for a tax increase on the American people and on the middle class in this country, because almost all of these tax provisions go to the middle class. And if you vote no on this bill, you are saying, we are not going to renew these tax breaks for the middle class; we are going to increase taxes on the middle class. That is the bottom line on this bill.

So let us be clear: If you vote for this bill, you are voting to allow taxes on the middle class to remain low. If you vote against this bill, you are voting to increase taxes on the middle class in this country. That is it, plain as day.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

I would just like to note, I have had this lesson in civics, and the gentleman is correct, the Congress does dispose. And in the tenure of the current chair of the Committee on Ways and Means, he has disposed of a $5.6 trillion surplus, and he now has us a $3 trillion deficit. He is throwing away $8 trillion, in his Republican leadership of the Committee on Ways and Means, and that is not so bad.

Mr. Speaker, I yield 2½ minutes to the gentleman from Washington (Mr. MCDERMOTT), a gentleman who has seen the inside of a military uniform.

□ 1830

Mr. MCDERMOTT. Mr. Speaker, here we are again with one of these election-year bills. I can imagine that there are people out there watching and listening to this debate and trying to make head or tail of what is going on here today, and I intend to vote "no." I was asked by one of the press, why are you going to vote "no"? And I think that is a really good thing to discuss, because it would certainly be easy to vote "yes." Everybody wants to give tax breaks.

Who in the world in an election year, 40 days before election, would not want to give away all of this money and do all of these kinds of things? But I am a child psychiatrist and one of the things you learn in raising children is that sometimes you have to say, no, we cannot do that. We cannot buy that. We cannot have that. And this Republican majority in the House and Senate really does not seem to be able to ever say no. They do not believe that you cannot spend on a credit card forever.

A credit card, I have got them in my pocket like everybody else does; you have to pay it back some time. Now, the United States right now, and the reason I do not want to borrow another $149 billion is because this is borrowed money. This is not money that anybody has paid in taxes. This is money that we are borrowing from the Chinese and the Japanese and the Saudis. We go out there selling these Treasury notes. Now, when that lapses, who controls the United States? Us or those to whom we are in debt?

If they decide to pull that money out, we go down like a rock. And you think the Chinese are really on our side? Do you think they are really friendly? You think they would not do that to us economically? We are putting ourselves in danger. The Republican majority, if they were trying to destroy this economy, could not have done a better job than they have done in the last 2 years. We thought 350 or whatever it was last year was bad. Now we have got $420 billion. That is over $700 billion that we have gone in debt, we have borrowed from the Chinese, from the Saudis, from the Europeans.

We just go and say, Please, we need money. We are the richest country in the world. We have got the biggest army and all that kind of stuff, but we need money. Please give us money so we can keep our economy going. That is not the America that I want. I think we have to have some fiscal discipline in this House, and it has to start in things like this.

Mr. THOMAS. Mr. Speaker, I yield 2½ minutes to the gentleman from Arizona (Mr. HAYWORTH), a member of Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank the chairman of the committee for yielding me time.

Mr. Speaker, I listened with interest to my friend from Washington State not really discussing the merits of the bill, but discuss atmosphere and perception, and that is fine, as if families struggling to make ends meet are spoiled children to be indulged; as if somehow at this point in time, with 2-year terms, allowing Americans to keep more of their money is somehow ill advised or worse still, a political stunt.

Mr. Speaker, our Founders, very exceptional people, gave us 2-year terms. This is overdue, to extend opportunities. Indeed, devoid from this debate until this point, Mr. Speaker, is the acknowledgement of the fact that this country was suddenly, violently and brutally attacked on September 11, 2001. Indeed, I hear laughter from the other side, Mr. Speaker. Laughter about an attack that killed 3,000 Americans. I mention this not to wave the bloody shirt, but to talk, in essence, of what we do in this legislation.

I am sorry my friend, the ranking member, is not here who apparently is against the bill. We have authority to issue New York Liberty Zone Bonds, extend that to 2009 to rebuild Ground Zero to bring back the New York economy. We advance refunding the Liberty Zone Bonds. We have tax incentive for the District of Columbia.

We have already chronicled out, we reached out with the earned income credit for families of our combat soldiers in harm's way. And yet we hear bemused chuckles and poor analogies somehow claiming that American families keeping more of their own money are spoiled children. The contrast could not be clearer.

It is sad when those for whatever reason want to launch into diatribe or to somehow compare hard-working Americans to spoiled children, but the fact is nobody has talked about what the bill does. So apart from the election-year rhetoric and the endless class warfare diatribes and the cynical chuckles about people dying in the wake of terrorists attack, there is merit to this legislation.

Mr. Speaker, I recommend a "yes" vote.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

I guess that there are people in the hall who are hearing things. Maybe they have receptors in their teeth. I heard no chuckles, but there are people who do get messages that are from strange sources; and they are certainly not in this hall.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me time. As we come here to debate this, I think we should make it clear, Mr. Speaker, to everyone in this Chamber and everyone throughout America who might be watching that most of us want to see an expansion of the 10 percent tax bracket credit for all of our families because that is a tax cut that would go to all families including our lowest- or modest-income earning families. We would like to see an extension of the $1,000 family credit for those with children.

There are other tax proposals here that offer relief to American families which we support. That is not the issue. The issue is that today in America, America's families face a $7.384 trillion debt; and it grows by a billion a day in interest payments that we make. And so the difficulty here is that we are on a crash course to abomination.

We are not being fiscally prudent in what we propose, even though it sounds very good. I am going to borrow some information that our colleague, someone who is a fiscal hawk and someone who has been watching this for some time has said and that is the gentleman from Mississippi (Mr. TAYLOR). The debt is about $7.8 trillion. That debt increased $568 billion in the last 11 months of fiscal year 2004. It has increased $1.7 trillion in the 40 months since Congress passed President Bush's first budget plan on May 9, 2001. The President's own budget expects the debt to pass $8 trillion in 2005.

The debt will surpass $9 trillion in 2007. It will surpass $10 trillion in 2009. That will have to be paid by the 280 million Americans who live in this country.

Our Nation owes close to $2 trillion of that debt to foreigners including more than $680 billion owed to Japan, more than $217 billion owed to China and Hong Kong; and the government borrowed $427 billion dollars from foreign governments and investors in just the past 12 months.

All of this is actually worse than what it sounds because what I have not mentioned is every year for the last several years the Social Security system has been collecting more money than it has had to pay out to those who are beneficiaries in retirement. And that is what we consider all or know all as the Social Security trust fund surplus. Unfortunately, every single cent of the Social Security trust fund surplus has been expended, not for Social Security, not to be prepared in the future for Social Security, but for other matters.

So, Mr. Speaker, I say to my colleagues and to all Americans who might be watching, while we all wish to continue to reduce the tax burden on Americans, it should not be done at the expense of increasing the tax burden of our American families and children into the future.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, "crash course to abomination?" I mean, I understand getting carried away with rhetoric, and I agree we have to be concerned when the Federal Government spends more than it takes in. We did not do that during World War II because it was a time during which we needed to win the war. We are in the wartime situation. Prior to getting into that wartime situation, we were in surplus.

"Crash course to abomination?" The gentleman ran off some numbers about how big the current national deficit is, or the debt. This economy earns more than $11 trillion a year. If you made an analogy to a family, the entire deficit is less than what the family makes in earnings in a year. That does not even begin to examine the assets that the family holds, usually equity in a home. Begin thinking about all the physical assets that the society owns through the government.

Do we need to worry about debt? Yes. You worry about it most often as a personal relationship to your income or productivity for countries. Today, that debt is about 3.8 percent. Back in the 1980s and 1990s when the gentleman's party was in control, it went over 6 percent. We were better than two-thirds of that percentage when the gentleman's party was in power. I didn't hear "crash course to abomination" then.

There is nothing wrong with pointing out the fact that you need to have a debt that is manageable. The best way to view the debt is not in the absolute numbers, but in a percentage of your ability to pay. Today that debt is about 3.8 percent. In the recent past it has been as high as 6. Do we need to be concerned about it? Yes.

Chairman Greenspan has said repeatedly in front of congressional committees, the way you control a growing debt is to reduce spending. That is the long-term procedure for getting imbalance back into balance.

The other thing that you need to remember is the gentleman from California (Mr. STARK) said that when we cut people's taxes, we just throw the money away. If you ever wanted to get a mental set of how people approach the revenues raised by government it is that when we cut taxes, we gave people back their own money. When they look at what we did, giving people back their own money, they see it as throwing money away.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCHROCK).

Mr. SCHROCK. Mr. Speaker, I thank the chairman for yielding me time.

I rise today in support of H.R. 1308, the Working Family Tax Relief Act. We must act today to preserve the relief plan that has created record-breaking economic growth and has spurred the creation of over 1.7 million jobs alone in the last year. Failure to act today will result in 93 million Americans and their families paying on average $565 more on their taxes next year.

☐ 1845

As my colleagues heard the gentleman from Florida (Mr. SHAW) say, many of these families will be our military families, with a parent fighting somewhere in the global war on terror. Our military families are paying Uncle Sam enough just with their honorable service, and we should do everything we can to allow them to keep more of their hard-earned money.

This tax extension has important economic impacts for all of our military families. This bill provides an additional $199 million of assistance to military families in combat zones, and my colleagues heard the gentleman from Florida (Mr. SHAW) say this bill increases the child credit for military families by allowing them to include tax-free combat pay when calculating their refundable child credit.

He also said, and as we heard the chairman say, this bill increases the earned income credit for military families in 2004 and 2005 by giving them the option to include combat pay in calculating that tax credit.

Congress must pass this bill and help extend tax relief to our very important military families.

Mr. STARK. Mr. Speaker, could I inquire as to how much time remains.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from California (Mr. STARK) has 11 minutes remaining. The gentleman from California (Mr. THOMAS) has 5½ minutes remaining.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS) for whom the complexities of a tax credit for the military would not exceed his intellect, as it obviously does the leader at the White House and the leader of the Committee on Ways and Means.

Mr. ANDREWS. Mr. Speaker, I thank my friend for yielding me time.

I rise in opposition to the conference report. A few minutes ago, my friend from Arizona said we should talk about what the bill does. Here is what the bill does.

It does some very desirable and popular things for taxes for families in the country, which is good; and it pays for those tax reductions by borrowing $146 billion from the Social Security trust fund and from creditors who will collect those debts from our children in the future.

Now, there was another way to do this. The other way to do this would have been to make a modest reduction in the tax cut that the people at the very top of the income scale would have gotten. We had an amendment that would have said let us just marginally reduce, somewhat reduce, the tax cut that the people at the top 2 percent or so get and let us pay for the tax cut that way and not reduce the deficit. We were not permitted a vote on that idea.

So the choice is, deliver these popular tax benefits by borrowing the money to pay for them or not deliver them. It is a difficult choice. I come down on the side of saying we cannot deliver them by borrowing the money.

I hear my friends talk about restraint of spending. Earlier this year we had an omnibus appropriations bill that spent more than $800 billion. Only 83 Members voted "no." I was one of the 83 Members. That was a bad political vote because the bill had lots of things in it that people liked; but because I did not want us to borrow the money, I voted "no."

Tonight, we have a choice where there are all kinds of popular tax breaks for people. It is a bad political vote to vote "no." I am going to vote "no" because we should not borrow the money to do this. People do not trust American government anymore. This is why, because we tell people that they can have everything and not pay for it. Stand for integrity and vote "no."

Mr. STARK. Mr. Speaker, I yield myself 30 seconds to speak on behalf of the gentleman from New York (Ranking Member RANGEL).

I think somebody on the majority side misinterpreted the gentleman from New York's (Mr. RANGEL) position. I am aware that the gentleman from New York (Mr. RANGEL) intends to vote for this bill. He is unhappy with the fact that it is not paid for and that it mistreats our military and our very lowest income people, but he does intend to vote for it. I think to suggest that he is opposing the bill is a misstatement of his position, and he has asked me to set the record straight.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I am always interested when people comment that we are returning money to people who pay the taxes. I guarantee my colleagues that the 60,000 people in Cleveland who have lost jobs since President Bush took office and the 230,000 people in Ohio who have lost jobs since President Bush took office would love to be in a position to pay taxes. In fact, they would love to be in a position where they were not just making minimum wage in exchange for some of the jobs that they have received.

It is interesting that there is always a commentary about 1 million jobs having been created since President Bush took office. If we do the math, then we understand that he is still behind maybe 1.7 million jobs.

Be that as it may, some of the provisions of this legislation are pretty good. Some of the provisions provide for research and development, and small business in Ohio and across this country would like to have those dollars.

It has some parity about mental health, and that is wonderful because people believe that parity ought to be granted to people who have insurance costs arising in mental health.

In fact, the people in my congressional district and across the country would love to be making more than $5.25 an hour so that they could pay more taxes.

I am disappointed that in this bill there was rejected a proposal that would have ensured that low-income families, the most in need, would have been eligible for a child tax credit. The 2001 law stipulated that the $10,000 threshold would rise with inflation. The problem with indexing the credit with inflation is that wages are not keeping up with inflation; and as a result, there will be lower-income families that will not be eligible for the credit next year. It is also very interesting that as a result of that, 4.3 million families will not benefit under this proposal, and there will be 9.2 million children who will not benefit under this child tax credit.

I am disappointed that the majority was not able to extend these middle-class provisions in a revenue neutral fashion. The estimated cost is $146 billion over 10 years, adding already to the $422 billion deficit. Fiscal responsibility is gone out the window, but according to the leadership, that is okay.

I just wish that we would be as fiscally irresponsible when it came time to pay for health care, as fiscally irresponsible when it came time to help pay for education, as fiscally irresponsible when it came time to pay for seniors' prescription drug benefit, as fiscally irresponsible when we start to talk about what we might do on behalf of college students.

I rise in support of these child tax credits, but I think we ought to call it like we see it, and this is what I have done.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

I am pleased that the gentleman from California has announced apparently on behalf of the gentleman from New York that he has Presidential aspirations. What I said was that the gentleman from New York (Mr. RANGEL) voted "no" on the conference report. The gentleman from California stood up and said, lest there be any misunderstanding, the gentleman from New York (Mr. RANGEL) proposes to vote "yes" on the measure, and so it is pretty obvious he has got Presidential ambitions.

The point is he voted "no" before he voted "yes." Perhaps my colleague should have said the gentleman from New York (Mr. RANGEL) will do the usual.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

It was the gentleman from Arizona, not the gentleman from California, who suggested that the gentleman from New York (Mr. RANGEL) opposed the bill, and that was the misunderstanding that I wanted to correct. The chairman is correct, he did not suggest that the gentleman from New York (Mr. RANGEL) was not in favor of the bill, and that was my point, to set that part of it straight.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, we are at the point where this administration has tried to finance three wars with three tax cuts, which has resulted in $450 billion in annual deficits and $3 trillion in additional debt. There is a right way to cut taxes and meet our obligations, both here at home and abroad; and then there is a wrong way.

I have strongly supported responsible tax cuts for middle-class families, but that is not what we have here. I have worked in the past on two budgets, both in 1993 and 1997 when we balanced the budget, reduced the national debt and met our obligations in the areas of education, health care, the environment, while we secured the peace in the Balkans; opposite of everything that is being done today. We can do it if we make the right choices and have a good strategy. We are not doing that here.

I find it ironic that we are handing out another $13 billion in a corporate giveaway on the very day that the New York Times and the Wall Street Journal cited studies and found that 82 of our largest and most profitable companies paid no Federal income taxes in at least one of the last three years and that corporate taxes were at their lowest sustained levels since World War II. In fact, corporate taxes have financed only 6 percent of the government expenses during the last two fiscal years at the very time that we have been sending people over to fight the war on terrorism. When we have a war going on, everybody has skin in the game. They cannot take a walk from this country and enjoy the privileges that they have to be an American.

What set of values lead my colleagues to give corporations an additional $13 billion in new giveaways at the expense of middle-class families trying to do right by their kids?

In America today, corporate balance sheets are enjoying their strongest position ever, but middle-class families are struggling with flat wages and rising health care and education costs. Yet we are providing tax breaks to the very corporations that pay no Federal income tax. Everybody must have some skin in the game when we have a war going on.

What kind of value systems say this is a good thing for corporations to avoid paying income taxes while enjoying the fruits of this country?

Mr. Speaker, the leadership is about making choices. As President Kennedy once said, to govern is to choose. My colleagues today have reflected the choices they have made on behalf of corporate America at the expense of our middle-class families.

Mr. STARK. Mr. Speaker, is the gentleman ready to close?

Mr. THOMAS. I have several speakers, but the Speaker announced the time differential.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) has 4½ minutes remaining. The gentleman from California (Mr. STARK) has 3 minutes remaining.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I sit on the Committee on Appropriations; and of the 13 appropriations bills, on average there is an increase of $1.5 trillion on each of those appropriations bills. We came out with a budget, and the Democrats whine it is not enough. The President limits spending to 4 percent, and the Democrats say it is not enough. It is ironic they stand up here and talk about "the debt."

I have got friends on the Subcommittee on Defense, Committee on Appropriations, the gentleman from Pennsylvania (Mr. MURTHA) and the gentleman from Washington (Mr. DICKS), and I have got guys like the gentleman from Missouri (Mr. SKELTON) and many others that support defense, but the other point for those that say, oh, defense is an issue here, well, I think for many of the people, I hope they have time to explain themselves before they die so the rest of us do not die laughing.

When my colleagues talk about the support for defense, look at the Presidential candidate that has voted across the board to cut defense and look at the progressive caucus and the rest of it. In 1993 my colleagues cut their COLAs and veterans COLAs and took every dime out.

□ 1900

Mr. STARK. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think it is clear, or at least I might respond, that the Presidential candidate that I am going to support never ducked out of his military duty or had his daddy buy him a soft berth to avoid combat.

We are talking now about a tax bill that I suspect will pass comfortably in the next few minutes, but I think it is important again to remember that the most vulnerable of our citizens are being disadvantaged. And I am talking about those in the military.

I might add that when President Clinton did the tax credit for the military change, we had no military in Iraq.

We also are disadvantaged, hurting, raising the taxes, if you will, on 9 million of the poorest children. On the one hand, we are giving $14 billion worth of tax breaks to corporations, when it would have only taken $4 billion of that to help the 9 million poorest children.

I do not see how any Christian or anybody with any compassion can square their conscience, can go home to dinner tonight and tell their family or their children, I just voted to harm 9 million of the poorest children in this country and I gave away $14 billion to the richest corporations in this country. That does not wash with compassion. That is underhanded and immoral and obscene, and it is part of this bill, written by the Republican chairman of the Committee on Ways and Means. And that is a fact.

There is no excuse for continuing to raise the deficit, which has been done under the leadership of the current Committee on Ways and Means, so that we have gone from a $5 trillion surplus to a $3 trillion debt. That is $8 trillion thrown away by the Republican leadership of the Committee on Ways and Means and this House, and countenanced and supported by the White House.

It is a shame that our leadership in the White House is so intellectually challenged that it cannot understand a tax credit. That in itself ought to be reason enough to change that leadership. Because by lacking the intellectual capability of understanding the Tax Code, they are harming our military.

Vote as you will, but understand the difference, Mr. Speaker, between Republican compassion and conservative giveaways to the very rich.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN), a very valued member of the Committee on Ways and Means, for a brief period of rationality.

Mr. PORTMAN. Mr. Speaker, that is a lot of pressure.

Mr. Speaker, I thank the gentleman for yielding me this time, and I am pleased to respond to my friend, the gentleman from California (Mr. STARK), who just told us that he is predicting this will be a comfortable victory for this bill. And it will be, because it is great policy.

He talked about the fact that military families do not get help. It is just the opposite. Military families do get help under this bill. That is the whole point of the legislation, something the gentleman from New York (Mr. RANGEL) has supported forever. It provides $199 million to our military families to allow them to include combat pay so they get more of an earned income tax credit; to allow them to have more help for their children. These are the people of modest income in our military who get help from this bill.

The gentleman talked about children not getting help. Well, I can certainly say that the effect on low-income families is dramatic here. We are talking about $23 billion in this bill of outlays. What does that mean? That means it goes to families who do not pay Federal income taxes, do not pay Federal income taxes at all, but yet they get an additional $23 billion through the refundable, yes, refundable, fully refundable tax credit. That is in this legislation.

Finally, the gentleman talked about the budget and deficits, and the fact we need to watch out for our deficits. Mr. Speaker, when I was first running for Congress in 1992, the deficit was 4.7 percent of our economy, which is what all economists think is critical. What is the percentage of our economy; can we pay it back or not?

Back in the 1980s, when Democrats controlled this place, about two-thirds of the way through their 40-year reign, it was about 6.2 percent. Now it is about 3.8 percent. We just heard from CBO a few weeks ago we will actually be reducing the projection for this year by $56 billion. OMB says it is $76 billion. The point is, despite the tax cuts from last year, there are more taxes being paid right now to the Federal Government, not less. Receipts are actually up.

Why? Because the tax cuts worked and the economy is growing. We have had the fastest growth in the last year that we have had in 20 years; not since 1984. And, yes, to my friend from Ohio, we have added 1.7, not 1, 1.7 million jobs just in the last year. This means that the tax relief works. Keeping spending under control and allowing the economy to grow is the key. This bill does it, and I strongly urge that we do have a strong vote for this bill.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. OSE).

Mr. OSE. Mr. Speaker, I thank the gentleman for yielding me this time.

When I came to Congress, I came to Congress to lower taxes. I came to Congress to lower taxes because it benefits the Americans who pay taxes, and this bill goes a significant distance towards reinforcing that message.

But even if you are still inclined to vote against this bill, let me remind you that the tax rates we are setting as we deliberate on this legislation are minimums. In other words, it is a minimum rate.

Now, if you are uncomfortable with paying that minimum rate, I would encourage you to take your hard-earned cash and make a charitable contribution to the point where you are comfortable with your tax rate. And then you can turn around to your constituents as a role model and say, look what I did.

You have the opportunity, through the charitable provisions in the Tax Code, to pay as much as you wish to the United States Federal Government. We are trying to minimize it. That is what this debate is about.

Mr. THOMAS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, it is often said that talk is cheap. I do hope, as we close this debate, that people listen to what people have said, but, more importantly, watch what they do when they vote. It has been announced that the ranking member of the Committee on Ways and Means voted "no" in conference and plans to vote "yes" on the floor.

We have heard a number of people criticize this bill. I would suggest that you watch their vote. What they say does not necessarily reflect what they are going to do. One is rhetoric, the other is voting.

Please vote "yes" on the conference report.

Mr. BLUMENAUER. Mr. Speaker, the Republican leadership in this House continues to play games with the budget. This bill contains only short-term extensions of many important tax breaks because Congress refuses to face the long-term consequences of its actions. I support middle-income tax relief, but families will only be better off in the long-term if we act responsibly now.

The last 2 years have brought the largest budget deficits in our history and H.R. 1308 will add another $146 billion. New projections from the Congressional Budget Office show that the Bush administration's policies will lead to annual budget deficits in excess of $300 billion every year for the next 10 years. In other words, under the Bush administration, record deficits are here to stay.

We can do better for families and those in need by acting responsibly. Cutting taxes while at war is questionable at best. Tax cuts for the most privileged and comfortable while shortchanging education, healthcare, and our Nation's infrastructure is not responsible. Providing short-term extensions so the long-range cost of policies is hidden is not responsible. Continuing to put off a permanent fix of the Alternative Minimum Tax, which poses the most serious tax threat to middle-income families, is shameful. I oppose this legislation.

Mr. HOLT. Mr. Speaker, I rise today to express my concern about H.R. 1308. The bill before the House today extends many of the tax cuts and tax credits that have wide margins of bipartisan support here in Congress. This includes a 5-year extension of the existing $1,000 family tax credit, marriage penalty relief, and an increase in the size of the 10 percent bracket. This bill also would provide for a 1-year extension of the current Alternative Minimum Tax exemption for married couples. I support all of these credits and extensions for individuals.

There are other good provisions contained within this bill. For example, the bill extends the tax credit for electric vehicles, extends deductions for clean-fuel vehicles, and extends the Research and Development tax credit extension—which I strongly believe should be made. These targeted tax credits would help to make our air cleaner and help our nation's innovative industries achieve advances in both applied and basic research.

However, the total cost of all of this is $146 billion over 10 years and it is paid for with borrowed money. In other words it's money we do not have. What this means is that we are paying for this with money taken out of Social Security and Medicare Trust Fund.

It is disappointing that the Republican majority in this House is not willing to offset the cost of these broadly supported tax benefits. Failure to offset their cost now only means that we will borrow the money necessary and our children and grandchildren will pay for them later.

The Republican majority in this House seems capable only of passing tax reductions, not dealing with the consequences of its irresponsible fiscal policy. We could have paid for this conference report quite easily by taking back a portion of the recent tax reductions enjoyed by couples who earn more than $1 million per year—$500,000 for single individuals. Had we done that, we could have passed this tax cut and still given those at the top of the income ladder a tax cut.

Mr. Speaker, governing is about making choices. Our constituents all across America sent us to Congress to make the tough decisions. They did not send us here so we can pass those decisions on to our children, and they certainly did not send us here to pass the cost of our decisions on to our children.

Mr. Speaker, today the national debt is the largest in history. Americans now collectively owe more than $7 trillion. That is more than

$25,000 for every man, woman, and child. Yet rather than paying down this debt and getting our fiscal house in order, this bill would add an additional $146 billion to the debt.

Americans cannot run their own household budgets like this, and Congress is letting them down by its failure to manage money responsibly.

The national debt is not just paper. That debt is owned by other countries. Due to the failed fiscal management of the majority, Americans currently owe about $4 trillion to foreign countries. We owe Japan $607 billion; China—including Hong Kong—$205 billion; the U.K. $137 billion; Taiwan, $50 billion; Germany, $45 billion; OPEC countries, $43 billion; Switzerland, $41 billion; Korea, $37 billion; Mexico, $32 billion; Luxembourg, $26 billion; Canada, $25 billion—the list goes on and on.

More tax cuts without offsets will not only jeopardize critical public services now, but they will also hurt Americans well into the future. Massive deficits crowd out investments in education, healthcare and homeland security. These deep deficits result in increased interest rates that make it expensive for all Americans to buy homes, pay back loans, and raise capital for small businesses.

I believe Chairman Greenspan's comments are appropriate: "Our fiscal prospects are, in my judgment, a significant obstacle to long-term stability because the budget deficit is not readily subject to correction by market forces that stabilize other imbalances. The free lunch has still to be invented." Just this week, the Federal Reserve raised interest rates. This is proof positive that it already considers that deficit out of control.

Mr. Speaker, there has never been, and there never will be, a nation in the world that has been strong, free, and bankrupt. We need to restore fiscal sanity in our decision making process. We need to make the hard choices that our constituents sent us here to make. And most of all we need to protect the Social Security and Medicare Trust Fund, not spend them and send the check to future generations.

Ms. KILPATRICK. Mr. Speaker, I rise today in opposition to H.R. 1308. My opposition is based on principle and facts. The principle that is important to me is that the majority through this bill, will exacerbate an already enormous budget deficit by $150 billion. I am outraged and dismayed that once again, my Republican colleagues have opted to offer legislation under the guise that it will provide tax relief. In reality, this bill is really nothing more than corporate welfare.

According to recent reports, 82 of the country's largest corporations paid no Federal income taxes for at least 1 year of the Bush administration's first 3 years. In this bill, we are offering these same corporations with over $5 billion in corporate refunds.

This bill, when passed, will increase the tax burden for 4.3 million families whose combined income is less than $10,750. It will have a negative impact on 9.2 million poor children. In effect this bill either has limited positive impact or profound negative impact on low wage and military families.

At the end of the day, this bill will increase the Federal deficit by an additional $150 billion on top of the current $423 billion deficit for FY 2005. H.R. 1308 will further burden my children and grandchildren with debt that they will be forced to pay for years to come.

I will vote no on this bill, and urge my colleagues to do likewise.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise in support of the Working Families Tax Relief Act. When President Bush signs it into law, we will have accomplished another round of tax cuts—this one worth $146 billion—with more than $130 billion directed to families.

Hard working American families will be able to spend or save this money based on their priorities rather than the U.S. Government spending it.

This new law will keep thousands of families from falling into the Alternative Minimum Tax system. The AMT exemption will remain at $58,000 for married couples for 1 more year. This modest AMT relief is scored at a whopping $23 billion to extend for just 1 more year.

This huge revenue effect, for just a 1-year "hold harmless," is a good indication of the looming problem of the AMT. In 2008, the AMT is going to begin collecting more than the underlying income tax system. This means that in 2008 it will be cheaper for Congress to repeal the entire Tax Code than it will be to repeal the AMT.

We will either achieve fundamental tax reform during the 109th Congress or it will be done to us when AMT imposes its version of the "flat tax reform" at 28 percent on millions of American families. I look forward to this debate on fundamental tax reform.

I am also pleased that we are able to take care of one additional piece of legislative "housekeeping" by extending some very important expiring provisions. In particular, I am glad that we are providing a seamless extension of the research and experiment tax credit and the tax rules regarding Archer Medical Saving Accounts.

It is important for American competitiveness, and particularly for my high-tech home State of Texas, that the research and experiment credit is extended. Foreign governments give generous outright subsidies to businesses for locating these high-valued-added jobs in their countries. We need to provide this modest tax break to businesses for them to remain competitive in global markets and to encourage them to keep these jobs here in America.

I urge my colleagues to support this important legislation.

Mr. GARRETT of New Jersey. Mr. Speaker, in an effort to obtain a first-hand perspective on the conditions is the newly liberated nation of Iraq, to visit with and pay tribute to our Nation's uniformed sons and daughters serving there and to share insight with officials of the newly established government, I will be leaving for Iraq tonight as part of a bipartisan congressional visit.

If I had been able to cast my vote, I would have been a proud supporter of the H.R. 1308 conference report, the All-American Tax Relief Act of 2003.

This bill will extend important tax provisions including the $1,000 per child tax credit, marriage tax relief, the expanded 10-percent income tax bracket and one year of additional relief from the alternative minimum tax (AMT).

I urge all my colleagues to support this legislation in order to prevent a tax increase on hard-working American families.

Mr. CRANE. Mr. Speaker, I rise today to give my support for H.R. 1308, the Working Families Tax Relief Act of 2004. As a member of the Ways and Means Committee, it has been my privilege to work on the development of this legislation, and I look forward to its passage today.

Mr. Speaker, if we do not pass this legislation, hard-working families will have to face tax increases over the next 10 years, totaling $109 billion. If we do not pass H.R. 1308, it will most certainly harm the economic recovery we are now enjoying in this Nation.

H.R. 1308 will further eliminate the marriage penalty for American families. Before tax relief was implemented in 2001 and 2003, the marriage penalty tax was a burden to millions of Americans being taxed more than other citizens simply because they were married.

Under our legislation, the $1,000 child tax credit rate will also be extended. If this legislation is not passed, working families will have to pay $300 more per child in taxes than they did in 2003 and 2004. Without our legislation, military families will suffer as the per-child credit for military families will be increased by allowing these families to include tax-free combat pay when calculating their refundable child credit.

President Bush's 2001 and 2003 tax relief bills also increased the Alternative Minimum Tax, AMT, exemption amounts from $45,000 to $58,000 for married couples and from $33,750 to $40,250 for single men and women. These increases ensure that the AMT does not hit middle-income families as a result of the tax relief provided in the 2001 and 2003 tax reduction laws. However, if we do not act now this relief will expire at the end of this year.

Mr. Speaker, it is important to remember that it is private citizens, not the Federal Government, that create this Nation's wealth and pay this Nation's taxes. If we do not act on this legislation, millions of America's middle-class taxpayers will suffer as a result. That is unconscionable, therefore I urge my colleagues to support this legislation.

Mr. OSBORNE. Mr. Speaker, I have supported several tax reducing measures since coming to Congress, including the Economic Growth and Tax Relief Reconciliation Act of 2001 and Jobs and Growth Tax Relief Act of 2003. These two bills, along with a number of other measures, decreased the marriage penalty, increased the child tax credit, and delivered immediate relief to all taxpayers. Without H.R. 1308, the tax burden on a family of four earning $40,000 would increase by $915 in 2005. This legislation ensures that families will continue to enjoy the tax relief passed in 2001 and 2003 for years to come.

Unfortunately, I was not able to vote on the conference report for H.R. 1308, the All-American Tax Relief Act. Along with a number of my colleagues, I had previously scheduled a congressional delegation trip to the Middle East and Iraq. If I could have voted on H.R. 1308, I would have voted "yea." However, I felt confident that my colleagues in the House share my support for extending these family-friendly provisions, preventing a tax increase of $109 billion on America's families.

Ms. HERSETH. Mr. Speaker, later today, the House will consider H.R. 1308, the Tax

Relief, Simplification, and Equity Act. As you know, H.R. 1308 extends the child tax credit, provides relief from the marriage penalty and expands the 10-percent bracket for many families in South Dakota. Importantly, it also extends recent changes in the Alternative Minimum Tax. I also support provisions such as the extension of the research and development tax credit and the welfare-to-work and work opportunity tax credit.

I am leaving today with a number of my colleagues on a delegation trip to Iraq. We have attempted to schedule this trip in a way that minimizes the activity in the House that we will miss. As you know, however, getting to and from Iraq is not easy, and, unfortunately, it appears that I will miss this vote today. I want the RECORD to be clear that I support H.R. 1308, I would have voted for the bill, and I urge my colleagues to do the same.

As I prepare to meet with our Nation's soldiers serving in the region, it is important to note that H.R. 1308 also extends for 5 years the fix for military families for the Child Tax Credit, and a 2-year fix for families of soldiers earning combat pay, regarding the Earned Income Tax Credit. Our men and women in uniform are risking their lives under our country's flag. And it is fitting that we can provide this assistance to them. These fixes make passage of H.R. 1308 even more important, and again, I urge my colleagues to pass this important piece of legislation.

Mr. GREEN of Texas. Mr. Speaker, I rise in support of this bill because of the tax relief that it provides our middle class and the incentives it provides for additional research and development.

Without hesitation, I support marriage penalty relief, the expansion of the 10-percent bracket and the extension of the AMT exemption.

I also am pleased that the conference approved extensions of the work opportunity tax credit and the welfare-to-work tax credit.

If I had my druthers, those tax credits would be permanent, but I will certainly support their extension.

While I wholeheartedly support the middle-class tax relief in this particular bill, I cannot cast my vote without also speaking out against the lopsided tax cuts that this Congress has enacted.

What convenient timing for this Congress to finally consider tax cuts for the wage earners right before the people are heading to the polls.

Any other time of the year, however, this Congress seems to be focused on giving tax relief not to the middle class, but to the corporations that seem to be doing just fine at avoiding their tax liabilities.

In fact, of the 275 largest companies that were profitable in the last 3 years, 82 of them paid no income tax during at least 1 of those years.

That's no income tax on a total of $102 billion in profits.

Not only did these companies avoid their tax liability, they siphoned even more resources from the Treasury—in the form of $12.6 billion in tax rebates.

In total, these companies benefited from $175 billion in tax breaks over the past 3 years.

Make no mistake about it, I'm glad we're giving the middle class the tax relief they need.

I just wish they didn't have to wait in line while this Congress gave away the farm to the corporations.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STARK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 339, noes 65, not voting 30, as follows:

[Roll No. 472]

AYES—339

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Berman
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (OK)
Lynch
Majette
Manzullo
Marshall
Matheson
Matsui
McCarthy (NY)
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Nadler
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nussle
Ortiz
Ose
Otter
Oxley
Pascrell
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tauscher
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Walden (OR)
Walsh
Wamp
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—65

Andrews
Becerra
Berry
Blumenauer
Brady (PA)
Brown, Corrine
Capps
Capuano
Clay
Conyers
Cooper
Davis (IL)
DeGette
DeLauro
Dicks
Doyle
Emanuel
Frank (MA)
Gutierrez
Harman
Hastings (FL)
Hill
Holt
Hoyer
Inslee
Jackson (IL)
Kanjorski
Kilpatrick
Larsen (WA)
Larson (CT)
Lee
Lewis (GA)
Markey
McCollum
McDermott
Meehan
Menendez
Millender-McDonald
Miller, George
Mollohan
Murtha
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Rush
Sabo
Schakowsky
Scott (VA)
Stark
Tanner
Taylor (MS)
Thompson (CA)
Tierney
Towns
Visclosky
Waters
Watson
Waxman
Woolsey

NOT VOTING—30

Bishop (GA)
Bonner
Cannon
Collins
Deal (GA)
Delahunt
Doggett
Fattah
Garrett (NJ)
Goss
Graves
Green (TX)
Herseth
Istook
Kleczka
Lipinski
Lucas (KY)
Maloney
McCarthy (MO)
Miller (FL)
Myrick
Nunes
Osborne
Quinn
Rodriguez
Smith (WA)
Tauzin
Thompson (MS)
Udall (CO)
Vitter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1929

Mr. TOWNS changed his vote from "aye" to "no."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. McCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 472, H.R. 1308, Extension of Tax Cuts Conference Report, Final Passage, I was unavoidably detained. Had I been present, I would have voted "aye."

Mrs. MALONEY. Mr. Speaker, on rollcall No. 472, I was unavoidably detained. Had I been present, I would have voted "aye."

Mr. ISTOOK. Mr. Speaker, I was unavoidably absent from voting on the Conference Report on H.R. 1308, the All-American Tax Relief Act of 2003. This bill represents important tax savings to our hard working American citizens. Had I been present, I would have voted "aye" on this bill.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the conference report just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise to inquire of the majority leader the schedule for the coming week.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, next week the House will convene on Tuesday at 12:30 p.m. for morning hour debates and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to the Members' offices by the end of this week.

□ 1930

Any votes on these measures will be rolled until 6:30 p.m.

On Wednesday and the balance of the week, we expect to consider additional legislation under suspension of the rules. Next week we also expect to consider two bills under a rule: H.R. 3193, the District of Columbia Personal Protection Act; and H.J. Res. 106, the Marriage Protection Amendment.

I thank the gentleman for yielding to me. I would be glad to answer any questions he may have.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his response.

The gentleman has cited the marriage constitutional amendment. Mr. Speaker, this bill, as I understand it, has not been marked up in committee at this point in time. Is it the gentleman's expectation that this will come to the floor, the constitutional amendment, without being marked up in the committee?

I yield to the gentleman.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding to me.

The committee has held four hearings on this bill, and I do anticipate bringing it to the floor without being marked up by the committee, under a rule.

Mr. HOYER. I am sorry? He does expect it to be brought to the floor without being marked up, but under a rule?

Mr. DELAY. That is correct, Mr. Speaker.

Mr. HOYER. Mr. Speaker, I have not spoken to the gentleman from Michigan (Mr. CONYERS) about that, but obviously, because it is a constitutional amendment, I understand there have been four hearings. Presumably those four hearings were an attempt to elicit some information about the merits of the constitutional amendment and any changes that may or may not be necessary, which could obviously be perfected by an amendment in the committee.

Does he expect any amendments to be considered in the Committee on Rules?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding to me.

I do not want to prejudice the action of the Committee on Rules, and I have no idea and I am not advised as to what considerations the Committee on Rules may or may not do as far as amendments are concerned.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his answer.

Next Friday is the beginning of the new fiscal year, as the majority leader knows; and we only passed, as he knows, one fiscal year 2005 appropriation which has been signed by the President, and that, of course, is the Defense bill. Assuming we will have a CR, can the leader give us an idea for what time period that CR may be?

I further yield to the gentleman.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding to me.

There are ongoing discussions. There will be more discussions about that. Our tentative plan is to move a short-term continuing resolution that would fund government programs through October 8. This would give us an additional week to complete appropriations conference reports before we make decisions about how to best complete all the fiscal 2005 bills.

Appropriations, both in the House and the Senate, are having many discussions. Generally, both Democrats and Republicans are wishing to get the appropriations process done before we leave for the elections. How we do that is speculative; and, frankly, the date of the CR is speculative. It could be October 8. It could be October 15. It could be November 20. All of this is tied together with the understanding that we are trying to get the appropriations bills all finalized and done before we leave here for the elections.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that range of possibilities.

Does the gentleman anticipate having another supplemental appropriation before we either adjourn or recess for the election?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding to me.

Within the last 2 weeks, the White House has submitted a request for emergency supplemental funds to deal with the damage caused by Hurricane Frances. The gentleman from Florida (Chairman YOUNG) advises me that a revised request is on its way from the White House to account for Hurricane Ivan. Once we receive that request and complete assessing those needs, it is possible to move forward with a supplemental. Whether that be freestanding or included in some omnibus bill, I think, is too early to tell.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his answer.

Another piece of business that has not been completed but is in the works or at least pending is the transportation reauthorization. Can the leader tell me whether or not there is an expectation of passing that bill or a relatively short-term extension prior to our leaving on whatever date we may leave?

I yield to the gentleman.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding to me.

I will start by saying the House has not given up. We want to get this bill done. We have been working to get it done, and we hope to have a conference report for the Members before we adjourn. In the interim, we may have another short-term extension of the highway programs, and hopefully we will have a decision by the first of next week. In order to get the full 6-year highway bill done, I think a decision will have to be made by the first of next week as to how we would proceed.

Mr. HOYER. Mr. Speaker, I thank the gentleman. The gentleman had to leave early. I think he had a plane to catch. And the gentleman from Missouri (Mr. BLUNT) and I had a colloquy on this. I will inform the leader that I think I am safe in speaking for my side of the aisle with reference to the transportation reauthorization. We believe, and I am sure the gentleman shares the view, that this is a very important piece of legislation to pass. We would have hoped it would have passed by last September when the authorization expired. This is a bill, as the gentleman knows, that for every billion dollars we spend, we get 42,000 American jobs.

My observation, Mr. Speaker, is that I believe on our side of the aisle we would support the number that passed, as we overwhelmingly did. We would vote for a compromise between what the House passed and what the Senate passed, or we would support the Senate-passed number. So I tell my friend that for his planning's sake, I believe my side of the aisle will support anything at the level that we passed at a compromise between the two or at the Senate-passed level. We would hope this bill would move, and we want to be cooperative in accomplishing that objective.

Mr. DELAY. Mr. Speaker, if the gentleman would further yield, I totally agree with the gentleman. And as his side has been part of the negotiations and the other body has been in intense negotiations, I think the gentleman knows that a number has been agreed on by at least the principles, Democrat and Republican; and I do not want to cast aspersions on anyone, but the trouble with the bill is not in this House. The trouble with the bill is over in the other body, and they are going to have to come to some sort of understanding amongst themselves in order to get this bill.

Mr. HOYER. Mr. Speaker, reclaiming my time, I would partially agree with my friend, the leader, which is better than most times. I would partially agree that the problem is not in this House; but it is my observation that the problem is in another house, not the other side of the aisle.

Mr. DELAY. Mr. Speaker, is there a particular color of that house?

Mr. HOYER. White would be the color of the house. And I say that somewhat facetiously; but, frankly, as I said to the gentleman from Missouri (Mr. BLUNT), I think this independent branch of government pretty much has a consensus on what we ought to do. We ought to do it, and if the other branch of government disagrees with us, under our system, he can send it back, and we will deal with it as we will deal with it. But we have been holding it, frankly, from our observation, Mr. Speaker, for a long period of time, not based upon real subsequent disagreements between the two Houses, we could accommodate those, but between the disagreement between this branch and the other branch; and we think that is unfortunate.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I just have to slightly disagree with the gentleman in that the house that is colored white, I cannot say they have agreed to the number of the bill, but I do know that they played a significant part in holding down the spending on the bill and particularly spending that would add to the deficit. And I must say, without getting into a lot of detail, that has been set aside. The other body is just having problems coming to some agreement amongst themselves. We are ready to move on our side. I serve on the conference committee. We are ready to move in the House. Unfortunately, the other body is not ready.

Mr. HOYER. Mr. Speaker, reclaiming my time, and I appreciate the information, of course I do not have the specifics on what the house colored white agreed to in terms of a number; but I might inquire, is that number that they are keeping down the deficit more or less than the deficit we would add by the tax bill we passed just minutes ago?

Mr. DELAY. Mr. Speaker, if the gentleman would further yield, actually it would be much less because, as we all know and history has proven, as we give tax relief and tax cuts, revenues go up as a result of those tax cuts. So our tax cuts are more than covered by revenues that are gained.

Mr. HOYER. Mr. Speaker, reclaiming my time, that is what happened in 2001?

Mr. DELAY. Yes, it certainly did. If the gentleman would further yield, it happened in 1981, it happened in 1986, it happened in 2001, it happened in 1997, it happened over the last 3 years.

Mr. HOYER. It even happened after 1993, as I recall. The gentleman did not mention that. It happened in 1994 or, that is to say, after 1993.

Mr. DELAY. Mr. Speaker, if the gentleman would yield, I do not remember too many tax cuts in 1993. I remember a lot of tax increases, without Republican votes.

Mr. HOYER. But, Mr. Speaker, revenue went up after they occurred, and we balanced the budget 4 years in a row.

Mr. Speaker, reclaiming my time, on the intelligence legislation, obviously there has been a lot of discussion about that. We have been very concerned about passing that legislation in a bipartisan fashion. The 9/11 Commission report has now been on our desks for many weeks now.

Can the leader inform us of where that legislation currently stands?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding to me. The committees have been working, and many committees have been working in a bipartisan way. I think a bill will be introduced in the next day or two, possibly tomorrow; and the committees have been instructed to mark up that bill, and I think that bill covers 12 different committees. Next week, and we hope to have the final product ready to come to the floor either by the end of next week or the following.

Mr. HOYER. Mr. Speaker, I thank the gentleman for the information.

I have not talked to the gentlewoman from California (Ms. HARMAN) or the gentleman from Missouri (Mr. SKELTON), and I see the gentleman from California (Mr. HUNTER) is on the floor, about the substance of the proposal; but I will certainly discuss it with them. I hope they have been included in these deliberations of a bill that may be introduced because if they have, I think it would make it easier for us to get it passed in a bipartisan fashion in a very efficient and speedy way.

Mr. Speaker, I have no further inquiries as to the schedule, and I appreciate the leader's engaging in somewhat the colloquy about the transportation bill, which we feel very keenly about. I hope that we can speed that bill as quickly as possible. I thank the leader for his comments.

HOUR OF MEETING ON FRIDAY, SEPTEMBER 24, 2004, AND ADJOURNMENT FROM FRIDAY, SEPTEMBER 24, 2004, TO TUESDAY, SEPTEMBER 28, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. tomorrow; and, further, that when the House adjourns on that day, it adjourn to meet at 12:30 on Tuesday, September 28, 2004, for morning hour debates.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. DELAY. Mr. Speaker, I offer a resolution (H. Res. 795) and I ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 795

Resolved, That the following Members be and are hereby elected to the following standing committees of the House of Representatives:

Committee on Financial Services: Mr. Gerlach.

Committee on Government Reform: Mr. Burgess.

The SPEAKER pro tempore. Is there objection to request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1501

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1501.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore laid before the House the following resignation from the House of Representatives:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 23, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House,
House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have had the great privilege and honor of representing the people of the 14th Congressional District of Florida through eight elections. My service in the U.S. Congress has been a truly rewarding experience, and I thank my constituents for putting their trust and faith in me. The relationships I have developed over the years in the House will be ones I will treasure as I move to a new stage in my career.

Tomorrow I will be sworn in by the President of the United States as Director of Central Intelligence. It will definitely be a challenging job and I look forward to continue to working with you on the Intelligence issues facing our country.

Effective close of business today, September 23, 2004, I will resign my seat as the Representative of the 14th district of Florida in the U.S. House of Representatives. I have written to the Governor of Florida to advise him of my decision.

Kindest regards,

PORTER GOSS,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 23, 2004.

Hon. JEB BUSH,
Governor, State of Florida,
The Capitol, Tallahassee, FL.

DEAR GOVERNOR: I have had the great privilege and honor of representing the people of the 14th Congressional District of Florida through eight elections. My service in the U.S. Congress has been a truly rewarding experience, and I thank my constituents for putting their trust and faith in me. The relationships I have developed over the years serving Florida will be ones I will treasure as I move to a new stage in my career.

Tomorrow I will be sworn in by the President of the United States as Director of Central Intelligence. It will definitely be a challenge and I am truly honored the President has faith in me to do the job.

Please accept this letter as my resignation from the office of Representative of the 14th District of Florida to be effective close of business today, September 23, 2004. At the time of my resignation, the Clerk of the House will take over the offices of the 14th Congressional District. The Clerk will retain my staff so the constituents will continue to be served until the end of my term.

Kindest regards,

PORTER GOSS,
Member of Congress.

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APPOINT HOUSE DEFENSE CONFEREES

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, I have a concern, it is a deep concern, dealing with the conference between the House and the Senate on the defense bill. You see, immediately upon passage of the bill in the Senate, the conferees were appointed. We passed our bill here in the House a good number of months ago, and, as of yet, we have had no official conferees appointed to meet with the Senate.

Despite that, we are holding informal panel discussions with the Senate trying to resolve a number of issues, but it would certainly help for us to be legal and have the conferees appointed so we can stand in the shoes of the House of Representatives properly.

I have had no explanation from anyone regarding this. It is something I do not understand, and I am not by myself. Others do not understand it.

I would like very much for the appointment of the conferees to come just as quick as possible, so we can officially act and officially make decisions on behalf of the House regarding national security.

STICKING IT TO WORKING FAMILIES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the columnist Tom Oliphant wrote yesterday in the Boston Globe a column entitled "Sticking It to Working Families," which is exactly what the All American Tax Relief Act, which was just past in this House, has done.

Why do I say that? That is because what both the White House and the Republican House leadership refused to do was to reduce the income threshold for the child tax credit to $10,000. That level has gone up to $11,000. It means that people who are making $10,000 a year will no longer be eligible for a child tax credit. That is 4.3 million families. It is 9 million children who will be denied the child tax credit. These are working families.

The House Republican leadership has said this is a welfare program. That is the kind of disdain that they show for working families.

What is going to happen to these families is their taxes, yes, are going to increase, all under the guise of an All American Tax Relief Act. It is wrong. These families, these children, deserve better. That is what this House should be about.

HELPING AMERICAN FAMILIES

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, the Democrats' Partnership for a New America is a lot about helping American families. There is no better way to help working American families than to support them as they struggle to balance work and family life, because workers need help addressing how to be both a good parent and a good employee, how to give their family the time they need without compromising their job or their career.

The Partnership with America will improve the lives of working families by encouraging debate on legislation like the Balancing Act. This Balancing Act will provide paid family leave for new parents, improve the quality and availability of child care, in-school nutrition programs, after school assistance, fund voluntary universal preschool and assist employers in establishing a family-friendly workplace.

I urge my colleagues to join me in addressing the needs of all families, thus having a true partnership with Americans.

NEED TO WORK IN A BIPARTISAN MANNER

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, what a better day it would be if we could work in a bipartisan manner. We just debated a tax bill that could have been made much better for our constituents across this Nation.

I believe in giving some relief to middle-class and working Americans, and in fact, included in this tax bill was the child tax credit, but, more importantly, to extend and to help with poor children in terms of the refundability of a child credit that so many working families need.

This is an ugly bill from the perspective of increasing tax relief for those who do not need it, but I could not overlook the importance of helping our military families and particularly those men and women in combat to get the kind of relief on their earned income tax. We do it only for 2 years, unfortunately. The Democrats, we wanted more, 5 years.

But it is a start. Today we did not make tax cuts permanent. I hope we will not see another tax bill that does not treat working men and women more fair and the middle-class more fair and responds to the economic needs of this country. I do think, however, we needed more dollars for research, and this does so.

But it is ugly when we do not work together. This is an ugly tax bill, but it gives some relief to middle-class Americans.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SIMPSON). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SMART SECURITY AND ENERGY AND WATER APPROPRIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, in June of this year, the Committee on Appropriations Subcommittee on Energy and Water bravely stood up to the Bush White House by reducing, or flat out rejecting all of the administration's requests for nuclear weapons funding in its fiscal year 2005 appropriations bill. This subcommittee's move, under the sensible leadership of the gentleman from Ohio (Mr. HOBSON) is one of the only bipartisan instances of Members of Congress standing up to the heavy-handed Bush administration since this President took office in January of 2001.

The Subcommittee on Energy and Water wisely rejected White House requests of nearly $70 million for research and development of new nuclear weapons. Specifically, the White House requested $28 million for research on the Robust Nuclear Earth Penetrator, otherwise known as the Bunker Buster; $30 million for planning a modern pit facility to produce new plutonium triggers; and $9 million for a new nuclear weapons initiative.

Moreover, the new energy and water appropriations bill in its current form would reduce the administration's request for the Cruise Missile warhead by $40 million and limit funds for all nuclear stockpile activities. In total, the subcommittee's changes would save American taxpayers over $150 million.

The gentleman from Ohio (Chairman HOBSON) said the Bush administration's requests, quoting the chairman here, "were technically questionable and frankly unnecessarily provocative in the international arena." He went on to say, "They also cost a bunch of money." "Unnecessarily provocative" are the key words here.

Despite the unnecessarily provocative nature of these requests for new nuclear weapons, the Bush administration is trying to force the funding through anyway.

Defense Secretary Donald Rumsfeld and Energy Secretary Spencer Abraham outlined their concerns about the lack of funding for new nuclear weapons in a recent letter to the Republican House leadership in an attempt to dismiss entirely the tried and true appropriations process. Of course, they did not send this letter to the gentleman from Ohio (Chairman HOBSON) or his counterpart, Senator PETE DOMENICI, unless the letters got lost in the mail. To me, it seems like the Bush administration is up to its usual tricks.

Mr. Speaker, this White House has demonstrated nothing but callous disregard for the Congress and the congressional process. President Bush and his cohorts have given no pause when it comes to freezing out anyone who will not toe the line on their fiscally unsound, budget-busting spending plans.

When it comes to nuclear weapons in particular, President Bush just does not get it. Instead of investing in programs that will truly secure America, like nonproliferation initiatives and vigorous inspection regimes whenever possible, President Bush has spent America's money on more and bigger weapons, in an attempt, I believe, to be tough and also to avoid working with other nations.

Sometimes it seems like the Oval Office is run by a third grade bully. How many nuclear weapons can the United States possibly need? We already possess 9,000 strategic warheads. Do we really need to spend another $150 million to develop new weapons systems?

Mr. Speaker, there has to be a better way, because investing in new nuclear weapons does not prevent America from being attacked. In fact, it encourages a nuclear attack, because such investments incite our enemies and encourage other nations, like Iran, to develop nuclear weapons of their own.

That is why I have introduced H. Con. Res. 392, a Smart Security Platform For America's future. SMART stands for Sensible Multilateral American Response to Terrorism. Instead of a renewed buildup of nuclear weapons, SMART security calls for aggressive diplomacy, a commitment to nuclear nonproliferation, strong regional security arrangements and inspection regimes. Being smart about national security requires the United States to set an example for young democracies so that they can follow.

The U.S. must renounce first use of nuclear weapons and the development of new nuclear weapons. The Bush doctrine of arrogant nuclear proliferation has been tried and it has failed. Instead of engaging in a nuclear arms race for the 21st century, the United States must engage in a SMART security strategy for the 21st century.

THE CONSTITUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, the U.S. Constitution is the most unique and best contract ever drawn up between a people and their government throughout history. Though flawed from the beginning, because all men are flawed, it nevertheless has served us well and set an example for the entire world.

Yet no matter how hard the authors tried, the inevitable corrupting influence of power was not thwarted by the Constitution. The notion of separate States and local governments championed by the followers of Jefferson was challenged by the Hamiltonians almost immediately following ratification of the Constitution.

Early on the supporters of strong centralized government promoted central banking, easy credit, protectionism, mercantilism and subsidies for corporate interests.

Although the 19th century generally was kind to the intent of the constitution, namely limiting government power, a major setback occurred with the Civil War and the severe undermining of the principle of sovereign States.

□ 2000

The Civil War will finally change the balance of power in our federalist system, paving the way for centralized big government.

Although the basic principle underlying the constitutional republic we were given was compromised in the post Civil War period, it was not until the 20th century that steady and significant erosion of the Constitution restraints placed on the central government occurred. This erosion adversely affected not only economic and civil liberties but foreign affairs as well.

We now have persistent abuse of the Constitution by the executive, legislative and the judicial branches. Our legislative leaders in Washington demonstrate little concern for the rule of law, liberty and our republican form of government.

Today, the pragmatism of the politicians, as they spend more than $2 trillion annually, create legislative chaos.

The vultures consume the carcass of liberty without remorse. On the contrary, we hear politicians brag incessantly about their ability to deliver benefits to their district, thus qualifying themselves for automatic reelection.

The real purpose of the Constitution was the preservation of liberty, but our government ignores this while spending endlessly, taxing and regulating. The complacent electorate who are led to believe their interests and needs are best served by a huge bureaucratic welfare state convince themselves that enormous Federal deficits and destructive inflation can be dealt with on another day.

The answer to the dilemma of unconstitutional government and runaway spending is simple: restore a burning conviction in the hearts and minds of the people that freedom works and government largesse is a fraud. When the people once again regain their confidence in the benefits of liberty and demand it from their elected leaders, Congress will act appropriately.

The response of honorable men and women who represent us should be simply to take their oaths of office seriously, vote accordingly and return our Nation to its proper republican origins. The result would be economic prosperity, greater personal liberty, honest money, abolition of the Internal Revenue Service and a world made more peaceful when we abandon the futile policy of building and policing an American empire. No longer would we yield our sovereignty to international organizations that act outside of the restraints placed on the government by the Constitution.

The Constitution and those who have sworn to uphold it are not perfect, and it is understandable that abuse occurs, but it should not be acceptable. Without meticulous adherence to the principle of the rule of law, minor infractions become commonplace, and the Constitution loses all meaning. Unfortunately, that is where we are today.

The nonsense that the Constitution is a living, flexible document taught as gospel in most public schools must be challenged. The Founders were astute enough to recognize the Constitution was not perfect and wisely permitted amendments to the document, but they correctly made the process tedious and difficult. Without a renewed love for liberty and confidence in its results, it would be difficult, if not impossible, to restore once again the rule of law under the Constitution.

I have heard throughout my life how each upcoming election is the most important election ever and how the very future of our country is at stake. Those fears have always been grossly overstated. The real question is not who will achieve the next partisan victory; the real question is whether or not we will once again accept the clear restraints placed in the power of the national government by the Constitution. Obviously, the jury is still out on this issue. However, what we choose to do about this constitutional crisis is the most important "election" of our times, and the results will determine the kind of society our children will inherit. I believe it is worthwhile for all of us to tirelessly pursue the preservation of the elegant constitution with which we have been so blessed.

ORDER OF BUSINESS

Mr. MILLER of North Carolina. Mr. Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PATENTS AND NANOTECHNOLOGY

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from North Carolina (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of North Carolina. Mr. Speaker, the current political debate on the economy is usually over the most recent economic statistics, but our economic future depends upon our remaining the most innovative economy in the world. The policies of this current administration and of this Congress are cheating Americans of our economic future, of the economic future that we deserve.

I rise tonight to speak specifically about the need for adequate funding for the United States Patent and Trademark Office and about the need to help get nanotechnology from the lab to the market.

Patents and trademarks are critical to the promotion and development of the American economy. In an increasingly competitive global market, it is essential that the administration and we in Congress do everything we can to maintain America's role as the leader in the creation of innovative technologies and of new products.

Innovation and competitiveness depend upon the effectiveness and efficiency of the United States Patent and Trademark Office, the USPTO. Our biotechnology, electronic, pharmaceutical and nanotechnology industries rely on the United States patent system. But because of record innovation and growth beginning in the 1990s, the USPTO is overburdened to the breaking point.

The Under Secretary of Commerce For Intellectual Property, Jon Dudas, testified that the USPTO may be facing the greatest workload and operational crisis in more than 200 years; in other words, in the USPTO's history. The backlog is now 475,000 patent applications. By comparison, the backlog in 1981 was 190,000 applications. By 2008, the backlog is expected to grow to more than 1 million applications. That is 1 million ideas, 1 million innovations, 1 million potential money makers and job creators that will sit on the shelf until patent examiners clear the backlog of cases in front of it and consider that application. Once an application reaches its way to the front of the line, the time a patent application takes to be approved is also increasing dramatically, from 22 months in 1981 to more than 3 years for many of our critical technologies. By 2008, the average pendency is expected to grow to 6 to 8 years.

The House has already passed a bill that would alleviate the backlog. H.R. 1561 would raise patent fees and allow the USPTO to use the revenues to reduce the backlog and patent pendency delays.

I urge my colleagues in this House, as well as the members of the Senate and the administration, to meet the needs of an innovative economy by allowing the USPTO to collect the increased patent fees, to improve their work.

Mr. Speaker, our most innovative technologies, our research intensive technologies, the very folks who will be paying the increased fees, are desperate to pay those fees and to improve the effectiveness of the USPTO in processing patent applications. The status quo is just unacceptable. We must have an efficient, cost effective patent and trademark system to remain the leader in today's global economy.

Mr. Speaker, as to the next nanotechnology industry, the administration's preference for partisan dogma over investment guarantees that most of the nanotechnology industry will develop in other countries, regardless of how much we spend here in the United States on research. The administration did support H.R. 766 which authorized funding for more nanotechnology research and development, but every amendment to that bill that would have increased the competence by our industry in nanotechnology-related manufacturing jobs was defeated in the Committee on Science along party lines. My colleague, the gentleman from California (Mr. HONDA), offered an amendment that would have authorized money specifically to enhance the advanced technology program efforts in nanotechnology. Again, that amendment was defeated on a party line vote.

The ATP, the Advanced Technology Program, is the only source of patient capital for many high-tech, small companies in areas like nanotechnology, and there is usually nowhere else to turn in the United States for a company that is 3 to 5 years from the market and 2 to 4 years from interesting venture capitalists in their ideas. To the administration, though, the ATP is just a corporate welfare program that should be abolished.

Mr. Speaker, highly-skilled, well-paid jobs are going to exist in the nanotechnology industry whether or not we support those companies, that is true, but they are not going to exist here.

Mr. Speaker, the triumph of dogma over practicality and over our economic future is unacceptable.

EXCHANGE OF SPECIAL ORDER TIME

Mr. MCCOTTER. Mr. Speaker, I rise to claim the time of the gentleman from Indiana (Mr. BURTON).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ACCEPTING THE TRUTH OF INTERNATIONAL ALLIANCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. MCCOTTER) is recognized for 5 minutes.

Mr. MCCOTTER. Mr. Speaker, the basis of international alliances rests not upon ephemeral, nebulous sentimentality, but upon concrete national interests. To willfully ignore this truth and instead wallow in the wistful mists of melancholy and nostalgia is injurious for a nation at peace and lethal to a nation at war. To prove the point, I cite the Democratic presidential nominee's recent New York speech in which he said, "In the dark days of the Cuban Missile Crisis, President Kennedy sent former Secretary of State Dean Acheson to Europe to build support. Acheson explained the situation to the French President de Gaulle, and then he offered to show him highly classified satellite photos as proof. De Gaulle waved the photos away saying, the word of the President of the United States is good enough for me.

It is a fine story, but what proves the point about changes in world circumstance I think is a story from 1966 about the Johnson administration's experience.

In 1966, upon being told that President Charles de Gaulle had taken France out of NATO and that all U.S. troops must be evacuated off of French soil, President Johnson mentioned to Secretary of State Dean Rusk that he should ask de Gaulle a rather pointed question. Dean implied in his answer that de Gaulle really should not be asked that in a meeting, but LBJ, a Texan, insisted.

During his meeting with de Gaulle, the Secretary of State did ask if his order to remove all U.S. troops from French soil also included the 60,000-plus soldiers buried in France from World War I to World War II. President de Gaulle did not respond.

Mr. Speaker, September 11 was a defining moment in the life of our country and, indeed, all the world. In such perilous times we must accept the hard truth of international alliances. While we regret the state of our erstwhile alliances, we must always strive to honor and expand the valorous new alliances that we have forged that are fighting for freedom throughout the world.

NATION HEADED IN WRONG DIRECTION FOR JOBS AND ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, our Nation is headed in the wrong direction on jobs and our economy. And one-party control in the White House, in the Congress, in the House and in the other body, the Senate, has made for a plundering of our national wealth. We have not seen the type of actions that have been going on in this Capital since the time of the 1920s in the last century: extravagant borrowing, historic debt levels, a rising gap between the rich and the poor and a sluggish job market, real softness, even with the new term being invented, "jobless recovery."

Now, the President says that the reason this is happening is because we are at war. Well, Mr. Speaker, this is the first administration since the time of Roosevelt that has not been able to create jobs during war. In fact, if you look, after World War II, we have had job creation by every U.S. President, Democrat or Republican, until now. War always leads to job creation, but not under this President, because the fundamental economic policies are all out of whack.

This week, in the business pages of the New York Times, the chief of the International Monetary Fund talked about the hazards to the international economy as well as to the U.S. economy because of our budget and fiscal policies. He says that the United States is going to have to tackle its growing indebtedness to avoid a threat to the entire world economy. He says that our deficit remaining well over 4 percent of gross domestic product for years to come is a risk not just for the United States but, indeed, for the entire world.

He talks about the rising budget deficit, which this President supports at $420 billion more this year, and references the extraordinary trade imbalance, now at a half a trillion dollars, the highest in American history, and he says, these deficits could set off a sudden fall in the dollar and reverse any chance of global recovery.

And others say that these conditions of a high-budget deficit and an extraordinary trade deficit will result in the quiet erosion of American dominance of the world economy.

Similarly, an economist with the New York Times had an article this week, the title of which is U.S. and Trade Partners Maintain Unhealthy Long-term Relationship, and the Institute of International Economics, a center of expertise in this field, says, America's constantly rising deficits, our budget deficit and trade deficit, are a disaster in the making. No one could say it more clearly.

□ 2015

He says, this substitute for Americans, the positive side of the equation is they get to consume more than they produce. And maybe that works for a short time. But the down side of the United States is that most of their imports are purchased on credit extended by trading partners. And that indebtedness is now over $4.4 trillion, nearly twice what it was just 4 years ago and an increasingly costly arrangement for Americans and a potentially risky one of the Nation's foreign creditors, which means that another institute has agreed with what the head of the international monetary funds as said.

Experts are saying that they are alarmed that this set of arrangements could unravel abruptly with the dollar falling in value and the dollar rising and with inflation rising. The dollar falling, inflation rising, that happened during the Great Depression in the last century.

The United States, this article goes on to say, is caught in a gradual, almost imperceptible deterioration brought on by the yawning deficit in trade and other international transactions and the deterioration is going to continue for a long time. No one knows how this situation will unwind, but it certainly will.

The current account deficit was equal to 5.7 percent of domestic activity in the second quarter and this was a record and unusually rapid rise from the last quarter. In fact, the trade deficit has risen to a level of $477 billion, a 10-percent rise just over last year. Again, this article says the dollar in response would have to fall in value, forcing prices to rise in the United States.

Mr. Speaker, I know my time has expired, but let me say that the U.S. is headed in the wrong direction. We need a fundamental change. That change can take place on November 2. Let us put adults in charge.

The SPEAKER pro tempore (Mr. MCCOTTER). Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

(Mr. NORWOOD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Georgia (Mr. NORWOOD).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

FISCAL DANGER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, the administration has America leading with its chin. You heard the last speaker talk about it, and I am going to talk about the same thing. We are going to get hurt.

This administration has America going hat in hand from country to country looking for money and they intend to just keep on doing it. They cannot make manufacturing jobs, but they have manufactured the largest trade deficit in history. They cannot engineer an economic recovery, but they have engineered the largest budget deficit in history.

They cannot extend the lifeline to unemployed workers but they can expand the number of workers who have exhausted their unemployment benefits to the highest level in 60 years.

It is just 40 days until the election, and the President needs a big win to try to make America forget about Iraq. So instead of setting policy, we are masking massive problems. A lot of Americans here talk about a trade deficit and do not see the connection to their own lives. The administration has run up the largest trade deficit in history and it exports money and it exports jobs right out of the United States economy. It is not called outsourcing. It is called out of control.

The mess this administration has made in foreign trade has claimed 670,000 U.S. jobs in manufacturing, farming and fishing, another 860,000 U.S. jobs in service industries have shifted offshore just in the last 2 years. One and a half million jobs is bad enough, but the story gets worse.

The administration refused to solve its foreign trade issues. So U.S. exports are being hit by tariffs by the European Union and these penalties will rise 13 percent in the next month. The administration knows what is wrong but it will not act to fix it. Canada, Brazil and other nations have won cases in court about our foreign trade practices. But like so much else, this administration remains in denial and U.S. products could be hammered by another $3 billion in tariffs.

These penalties can be avoided, but not by an administration that governs by press release. Instead, the administration's failure to act will make U.S. products more expensive and the U.S. economy less competitive in the world market. That is a formula for losing more U.S. jobs.

A new study shows American multinational corporations booked a record $149 billion worth of profits off shore in countries known to be tax havens. Do not blame the corporations. The U.S. Tax Code rewards U.S. companies for exporting their balance sheets, in effect. The administration knows. The Republican majority knows. They do nothing about it. We need a national policy that puts America first, but we do not have it and we will not get it under this administration. Instead, the administration gives us rhetoric, pledging allegiance to the middle class, but a reality that rewards the wealthy and ignores the consequences.

The administration holds up the middle class when talking about massive tax giveaways passed. "Hold up" is the right term. The Republicans gave away another $149 billion today. There is no money to pay for it, but they did it anyway. The average middle class household will get a tenth of what the wealthy are getting. It is $169 for average Americans compared to $2,000 for the wealthy; $169 will not make college more affordable for middle class Americans. It will not make a gallon of gasoline less expensive. And $169 will not provide the business with resources to expand or re-training dollars to inspire Americans to embrace a changing global economy.

This is another bait and switch tax giveaway. It will reward the rich and mortgage America's future.

The administration has America on target to be $10 trillion in debt in the next 10 years. Nations that are not democratic and never will be are buying huge chunks of America's debt. Do not doubt for a moment that nations that do not share our values cannot exert enormous pressure over America when it hold trillions of dollars of our debt. They can and they will.

The book "After The Empire" by Emmanuel Todd is like a crisis call for emergency action. Every modern nation has three foundation blocks, military, political and economic. Lots of countries have big and well-armed armies. We certainly do. Lots of countries have established and effected political structures, democratic or otherwise.

Only America has had an unequaled economic foundation. It is at risk from the crushing debt burden this administration has pursued with abandon. Ten trillion dollars of debt in the next 10 years. What kind of a military can you afford with a $10 trillion debt when you have to borrow across the water to pay for your military? What kind of Social Security can we afford with a $10 trillion debt? What kind of domestic policy?

The administration is charting a course that will be the end of us if we do not have a regime change on the second of November.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. WICKER) is recognized for 5 minutes.

Mr. WICKER. Mr. Speaker, on rollcall vote Nos. 457–465, I was unavoidably absent. Had I been present, I would have voted as follows: On Nos. 457–461, "no"; on Nos. 462–463, "yea"; on No. 464, "no"; on No. 465, "yea."

EXCHANGE OF SPECIAL ORDER TIME

Mr. BURGESS. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Mississippi (Mr. WICKER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

WORLDWIDE TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, just a few hours ago in this House, we were addressed by the Prime Minister of the country of Iraq, Dr. Allawi. Dr. Allawi came to this body to speak to us here. He wanted to deliver a message. He wanted to deliver a message of success that we are indeed succeeding in the country of Iraq. He came here to enumerate three principles.

He wanted to tell America thank you, thank you for giving us our country back. He wanted us to know that Iraqis knew that the world indeed is better off with the regime change that occurred in Iraq and that America did the right thing.

He also wanted us to know that they were working and would continue to work to make certain that they, the government of Iraq, got it right on the ground in Iraq. It has not been easy. It has not been without a price; and Dr. Allawi allowed that as America has mourned its losses, they have mourned their losses in Iraq as well. But this is the cost of freedom.

As Harry Truman once said, If you want peace, you better be ready to fight for it.

Mr. Speaker, Dr. Allawi also talked about elements of defeatism that creep into conversation and how pernicious that defeatism is. He pointed out that within the past year's time, within the country of Iraq a Constitution has been adopted, a Constitution that provides for majority rule but respects the rights of the minority. He pointed out how the handover occurred at the end of June as it was scheduled to. It, in fact, occurred 2 days early and sovereignty was returned to the country of Iraq.

He also pointed out that the Iraqi assembly met in that country and over 25 percent of the participants of that assembly were women, an event that was unprecedented prior. He pointed out that the elections will be held in January of next year, and with that, the completion, the turnover to sovereignty will be complete.

Mr. Speaker, he also pointed out that indeed, Iraq currently is the battlegrounds for those who are opposed to freedom. But, of course, Iraq is not the only battleground as we know all too well in this country.

Mr. Speaker, this past weekend I had the opportunity to travel to Moscow. The purpose of that visit with some other Members of Congress to visit with the children in the Federal Pediatric Hospital in Moscow. Children who had been present in the Beslan School Number One on the first day of school of this year.

This is Alan standing here with me. Alan is 11 years old and attended school that day only to find that there were people in the world who were capable of such an astonishing degree of hatred and cruelty that it left the rest of the world speechless. In fact, it is not known how many died in the gymnasium that day in Beslan, Russia, 300, perhaps more, over half of them children. And that has not been the only story in the country of Russia during this past month.

They have lost two planes and they had the bombing of a metro station in downtown Moscow. All in all, 500 deaths or more in the last 4 weeks in the country of Russia.

But, Mr. Speaker, what really moved me, what really tore at me was, again, the astonishing cruelty of these people who would direct their hatred towards an innocent individual like young Alan.

Mr. Speaker, Alan's mother called me back into his hospitals room after we took this picture and said, I want you to see what they pulled out of my son's chest. And here, Mr. Speaker, is a piece of metal that Alan had surgically removed after he came to the hospital in Moscow. It is of junk. It is a piece of metal that came from a landfill or a junkyard, but it is a small piece of metal as you can see. And these mines were packed full of metal this size so they would get maximum dispersion and cause maximum injury, inflict maximum pain on the most innocent members of society.

Mr. Speaker, let us not forget what we are up against. Let us not forget what the cost is in this global war that we are engaged in at this time. Let us not forget what we are fighting for. We are fighting for the innocents. The innocent in Iraq. The innocents in this country and, indeed, the innocents in Russia.

MEDICARE PREMIUMS INCREASE FINANCES TO HMOS AND DRUG COMPANIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the Bush administration recently announced that America's seniors will pay 17.4 percent more for Medicare coverage next year. It is no accident that they announced this piece of information late in the afternoon on Friday of Labor Day weekend. They simply hoped nobody would notice. But the largest premium hike in Medicare's history, the largest premium hike in the 38 years of Medicare is the sort of news you just cannot suppress. One senior advocate called it a hidden tax on seniors.

That hidden tax on seniors is a multi-billion dollar tax at that. That is big news and it is bad news for President Bush. But when faced with bad news, the Republican spin machine does what it always does. It tries to shift the blame. It is the Democrats, they said. President Bush rolled out his ad plan knowing this would happen, it is the Democrats that are responsible for the premium hike, even though the Republicans control the House, the Senate and the White House. But because that did not jibe with the facts, no one bought it then and no one buys it now.

Before the Bush Medicare bill became law, the nonpartisan Medicare trustees estimated that Medicare monthly premium would increase $2 in 2005. After the Bush Medicare bill became law, the premium jumped to $11.60.

□ 2030

Hence, the 17.4 percent increase. Those are the facts. No amount of sweet talk, misdirection, or spin from the Bush team can change those facts; but rather than take responsibility, the Bush team just changed its spin again. This time they said the premium, the record-setting 17.4 percent increase, the Bush administration says was a good deal for America's seniors because it financed new preventive benefits. Again, there are a few things the Bush administration did not tell us.

They forgot to say that the preventive benefits account for less than one-fourth of 1 percent of the premium increase. In other words, virtually nothing in the premium increase really went into prevention benefits. Here is where the money went.

They neglected to mention that the Bush Medicare law creates a $23 billion slush fund for the HMOs. These are bonus payments for an industry, the HMO industry, which already saw their profits go up 50 percent last year. They can use these bonuses to lure seniors out of Medicare's reliable, equitable, traditional program.

Interestingly, the benefits do not take effect until 2006. Seniors actually cannot get the Medicare benefit until 2006, but the payout to the insurance industry to pay back for the contributions the insurance industry frankly made to my colleagues on this side of the aisle and to the White House began in March of 2004. In other words, the insurance industry as a whole got checks from the Federal Government totaling $290 million in March, $290 million in April, $290 million in May, $290 million in June, all the way through this year, all the way through next year, $290 million a month. The benefit is not available to seniors until the following year.

They also forgot to tell us, in addition to this slush fund the insurance industry paid for out of seniors' premium increases, they forgot to tell us that the Bush Medicare law actually goes out of its way to prohibit the Federal Government from negotiating with the drug industry for fair prices to bring the cost of prescription drugs down, which go up at double-digit increases every year.

They did not tell us that the Bush Medicare law will increase drug industry profits, already the highest industry profits of any industry in America, they will increase industry profits, not gross income but industry profits, by $180 billion, that is with a B, $180 billion over the next 10 years.

So that insurance industry got huge subsidies, the drug industry got record profits, the Bush administration got huge campaign contributions, tens of millions of dollars from the drug and insurance industries, and seniors were stuck with a 17.4 percent premium increase. It is wrong. The increase was five times larger than it should have been. That is an outrage.

ORDER OF BUSINESS

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask to speak out of order and to address the House for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

FOLLOW-UP TO REMARKS GIVEN TO CONGRESS BY IRAQI INTERIM PRIME MINISTER AYAD ALLAWI: QUESTION TO THE ADMINISTRATION—WHERE IS THE PLAN?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to acknowledge the remarks and the message of Interim Prime Minister Allawi, and in fact, as someone who opposed this war as being misdirected and procedurally and constitutionally unsound, inasmuch as the

Congress did not follow the Constitution and declare war, this resolution simply authorized the President to look at the option of militaries as one option.

But even in spite of my opposition to the initial beginnings of this war, I welcomed the remarks of Prime Minister Allawi and certainly welcomed his optimism and his desire to tell the American people that there is an end, there is a future in Iraq.

The whole idea of beginning to work with this process of rebuilding Iraq is clearly a circumstance that requires telling the American people the truth, and even though I think that the Prime Minister was eager to engage us in the optimism of Iraq, the one thing that he could not answer for us is simply where is the plan. Where is the plan of this administration, and what do we say to the men and women who are now on the frontlines of Iraq who wear the American uniform?

I just mention and show this gentleman who happens to be a face that has been utilized by one of my colleagues, and I am sharing that with my colleagues tonight, but it reminds us of the Americans who are on the frontline, reminds us of the families who are longing for them to return, reminds us of those troops that I visited in Afghanistan and Iraq who are committed to their duty. But they want to know when they can return home, what is the ultimate plan and agenda for the survival of Iraq.

Prime Minister Allawi told us that things were getting better, that schools were opening, clinics were opening; but, frankly, I believe that in the backdrop of all of that, the violence is raging.

Let me cite for my colleagues words from Jessica Mathews who just returned from Iraq. She made this statement in an op-ed in the Thursday Washington Post: "To visit Iraq today is to be forcibly reminded of the obvious: there is no military solution to politically inspired violence by locals against foreigners. What was true for the French in Algeria, the British in Northern Ireland, the Russians in Chechnya and the Israelis in the West Bank is proving true for the Coalition Provisional Authority in Iraq. Notwithstanding a huge and impressive military effort, the security situation, at least for now, is worsening."

She said this over a year ago, and it is now true today. Since that time, some 700 Americans and probably at least 10 times as many Iraqis have died, and every single day they are dying. So although I rise to thank the Prime Minister for his carefully stated words, might I say to my colleagues that we still are languishing without direction.

So I ask the President to stand before the American people, present to us a plan of survival and existence and progress. Present to us a step-by-step methodical progress of being able to return our troops and honor the increasing utilization of Iraqi law enforcement and military and begin to answer the questions of some of those who we will hear in just a moment.

Maybe it should be Senator LUGAR, who, when asked the question over the weekend, why has a great part of Iraq not been rebuilt, he simply said without any qualms, and I guess he said it before he heard it, because the administration is incompetent. So we can see that statements are being made by a number of those on the other side of the aisle that are now coming together as Americans, pleading for some direction by the administration.

My words simply tonight as I close, Mr. Speaker, are this. We can hear from the leadership, the interim leadership, that elections may be coming, that we may be making this work; but the violence says something different. We are failing the Iraqi people, and we are failing the United States military because we do not have a plan.

We in Congress are grateful to His Excellency the Interim Prime Minister Allawi for his inspiring remarks on the floor. He very articulately laid out the important issues that are now attendant and that lie ahead for Iraq—they include "Military Strategy," "Iraqi Elections," "International Help," and "Freedom."

He spoke of the positive aspects of these issues; however, we in the United States must realize that there are very pressing issues to be addressed by this administration within our own borders as well as on the battlefield for our troops. To that end, I ask the question: "Where is the plan Mr. President?"

I was privileged to visit some of our troops when I traveled to CENTCOM in April. I learned of their experiences in Iraq and I heard the challenges that they faced. I continue to be impressed by how well those young men and women in uniform represent the United States. They perform their duties and meet the demands of their positions every day despite the tough conditions and sometimes inadequate supplies.

The troops are fulfilling their duties, now it is time that the administration fulfills its duty by creating a real plan to create and keep the peace in Iraq. The administration must also jumpstart the process of rebuilding in Iraq. Clearly, the situation cannot continue. We are losing soldiers daily and families are being left heartbroken because peace has not prevailed in Iraq, not even in Baghdad where the administration said the United States military had a stronghold.

Worse yet, our allies are backing away from their commitments to join the effort to secure Iraq. Turkey has decided not to send troops to Iraq. Japan will not be sending personnel and it is providing less money for rebuilding than it once offered. Even South Korea has said that the lack of security in Iraq makes the idea of sending South Korean troops untenable. Where now is the joint effort that the President promised? How will the administration secure the assistance that is clearly needed in Iraq? The number of casualties is increasing at an alarming rate; when will it stop?

I believe that the administration must embrace a multilateral peace process to bring lasting peace to Iraq and to create an environment in which rebuilding can safely occur. A multilateral process is needed not only to develop and maintain peace within Iraq but also throughout the Middle East region.

Therefore, in addition to creating a plan in Iraq the President needs to create a plan to truly engage our allies. That is how the United States will be successful not just in the short term but for years to come. That is how we can responsibly follow up the inspiring words of His Excellency Prime Minister Allawi.

NATIONAL AFFORDABLE HOUSING CONSTRUCTION PROGRAM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. LEE) is recognized for 60 minutes as the designee of the minority leader.

Ms. LEE. Mr. Speaker, I would like to talk tonight about the Lee-Capuano-Sanders discharge petition which is H. Res. 748. This resolution requests immediate consideration of H.R. 1102, which is the National Affordable Housing Construction Program, a trust fund, which targets funding and resources to States and localities to assist people in the most desperate need for affordable housing.

Mr. Speaker, today, many of us recognize that we do live in two Americas, one for the wealthy and one for those who are struggling to just make ends meet. We have families living in dilapidated rental units, clutching to potentially meaningless section 8 vouchers, facing the harsh realities of high-cost housing or homelessness; but we have an opportunity here to make a real difference in the lives of people who need just a bit of our help, people, families, children, men and women.

We have an opportunity to help support families in their desire to build intergenerational wealth for the future. At a time of State budget crunches and shortfalls, we have an opportunity here to support our States who want to build safer, more affordable quality communities for our most vulnerable constituents.

Discharging H.R. 1102 under an open rule to the House floor would at least allow us to debate the need for more affordable housing and show where our national priorities really are. I know that our constituents want us to authorize a national affordable housing trust fund because it would construct 1.5 million affordable housing units over the next decades.

The Center For Community Change estimates that a national affordable housing trust fund would create 1.8 million, that is 1.8 million, new jobs. That is nearly $50 billion in wages, good-paying jobs; and with our economy the way it is right now, with people on the brink, with so many layoffs, you cannot tell me that 1.8 million new jobs will not make a difference in the lives of millions of people.

Mr. Speaker, just think of it, if this Congress invested a mere 5, $5.1 billion, that is $5 billion, that is peanuts really, $5 billion into affordable housing, of course instead of this never-ending war in Iraq, if we did this, I mean, the war in Iraq now is upwards of $200 billion. If we just invested $5 billion into this trust fund, we could commit at least $37 to $40 million to each State for housing, $200 billion again, Mr. Speaker, for Iraq. We should not even worry about $5 billion. We should be supporting this bill. We should move it forward in this House. $5 billion, again as compared to $200 billion, that is very minimal in terms of resources.

So this does not make any sense to me, why this bill has not come to the floor for a debate, why we do not have a national housing trust fund. Signing this discharge petition will help this tripartisan bill. We have over 215 Members with the gentleman from Vermont (Mr. SANDERS), myself, the gentlewoman from California (Ms. WATERS), the gentleman from Massachusetts (Mr. FRANK), the gentleman from New York (Mr. CAPUANO), and many, many cosponsors on both sides of the aisle, and the gentleman from Vermont (Mr. SANDERS), tripartisan.

If, in fact, we discharge this petition, we would really overcome whatever political obstacles there are that have prevented this realistic, sensible and targeted, affordable housing legislation from coming before this Chamber.

It is my understanding that former Secretary Mel Martinez just said he did not want it to come to this body, and that is what has happened. 214 cosponsors, I do not think it makes sense for us to allow a former Secretary of HUD to dictate the legislation that comes to the body of this House. This program can and will make a considerable difference in the lives of our constituents.

Let me just tell my colleagues, over 5,000 organizations, unions, working men and women, nonprofits, faith-based organizations, individuals have endorsed this bill and are organizing grass-roots support to really call their Members and ask them for their support and why they are not supporting it, if they are not.

We recognize the cost and the hesitation that many Members had in regard to using the FHA surplus, which was the way the bill was initially written. So that is why, in order to garner additional bipartisan support, we have revised the funding mechanism and asked that the capable appropriators find the necessary $5 billion wherever they deem appropriate. We have negotiated in good faith on this bill, and it makes no sense for us now to be here pushing this discharge petition as we are because of the fact that it has gone through committee and that it should be debated on this floor.

□ 2045

It should be authorized because it will provide housing to all, which many of us feel, I know some may not believe this, but I believe that housing should be a basic human right, and because of that, it outweighs all of its cost.

So I encourage all Members to sign their names to the Lee-Sanders-Capuano discharge petition, because together, we can build affordable futures for families and thousands of children across this country. If we work together for passage of this bill, we can prevent thousands of our elderly and low-income families from choosing between food and shelter. And in many instances, that is what is going on. If we work together for passage of this bill, we can build safe havens through affordable supportive housing instead of homeless shelters for women fleeing domestic violence. If we work together for passage of this bill, we can build more opportunities for home ownership and mixed-income communities in rural and urban America.

Investing in H. Res. 748 means investing in a national affordable housing trust fund and providing a greater chance to realize the American Dream for all Americans. Together, we can bridge those two Americas into one prosperous land for all.

So I ask my colleagues, I plead with my colleagues, because we only have about a week left here, to come to the House floor and sign this petition. I am asking all of them to make a decision that reflects the need for more affordable housing opportunities, for more jobs, and for more State and local choices for housing and community development.

Mr. Speaker, I now wish to yield to the gentlewoman from Texas (Ms. JACKSON-LEE), who is a consistent fighter for children and families and who also believes basic housing should be a human right for all.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentlewoman for yielding to me and for her work and the work of her colleagues on this important initiative. I am delighted to be an early cosponsor of this legislation because it follows the needs of my constituents in the Eighteenth Congressional District in Houston. We have confronted in that district a number of housing dilemmas and housing concerns.

The first one that comes to mind, of course, is the year-long work that we had to participate in in order to overcome some obstacles in restoring what we call the senior home repair program. There is not much, probably, that sometimes Members have not seen because of their travel to war zones and dealing with some of the conditions of their constituents. We see tragedies of great moment because we are expected as elected officials to be able to respond to those needs. But going into inner-city areas and even to rural areas and sometimes seeing the conditions that senior citizens live in, people who have worked their whole lives but maybe as they have worked their income has not met their ability to survive, with their health needs, their food needs and their housing needs.

I spoke earlier today of constituents who live in burned-out homes; half the home literally burned down because there were no public resources to either repair the home or replace the home. The same with homes that were in such bad condition that bucketloads of water would come in when it rained. The wiring was in poor condition. There was no ability to have air-conditioning. These are homes that people live in.

And, Mr. Speaker, what about the thousands of persons that are living with family members or others? They call those individuals transients, those who are living from place to place. These are individuals with families. In fact, in our school district, we had a name for those children that wound up either in different schools in the same school year because their family had to move from place to place, or maybe were living in a car and the car then fell upon disrepair and so they had no place to go.

It is interesting that even in the richest country in the world that we have this dilemma in housing. So the national housing trust fund legislation is really long overdue, with 214 cosponsors. This is a bill that we wanted to do in regular order, the Committee on Financial Services, the members of that committee, the leaders of that committee, the names we have called out. I believe the gentlewoman mentioned the gentleman from Vermont (Mr. SANDERS), the gentlewoman from California (Ms. LEE), leading this special order this evening, the gentlewoman from California (Ms. WATERS), and I saw the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Massachusetts (Mr. CAPUANO). Those of us who joined eagerly to be cosponsors really realize this is an opportunity that has been lost.

Even today, those that I know to be long-standing supporters across party lines, such as Jack Kemp, who was with me in Houston a few months ago, where we went to a complex of Habitat for Humanity and we were able to build in Houston hundreds of homes. Homeowners contributed to it. And we are very grateful for Habitat for Humanity and projects like that, but that is not the total answer. We participated in that project. It was related to the Super Bowl. And we are glad that we did some constructive things that the NFL does, and we continue to work with Habitat for Humanity and a number of other self-help programs, but we cannot self-help ourselves across America in the enormous deterioration of public housing in America.

There is an eagerness of those living in public housing to own their own homes. And the HOME program, where we were giving equity and giving down payments, is really on the ropes. The home repair program for senior citizens is on the ropes. Why is it on the ropes? Because we are not able to fund it the way we need to fund it. So today Jack Kemp, and I might add Henry Cisneros, stood up to support the concept of a national housing trust fund.

I believe that this really plays into the whole desire of every American to have a better quality of life. We always go back to the opening words of the Declaration of Independence because it was the framework by which the Founding Fathers drafted our Constitution. It is words we use very often. I do not know how they managed to capture such brilliant language that fits all centuries, all years; that we all are created equal. I always do a caveat that as they wrote it, they obviously left out a large portion of those in America, claiming that slaves were less than one person.

But the words were beautiful, they were meaningful, and they can be carried and applicable to all. We are all created equal with certain inalienable rights of life and liberty and the pursuit of happiness.

Mr. Speaker, in this Nation, the pursuit of happiness, I believe, encompasses education, health care, and housing. A national housing trust fund would construct, rehabilitate and preserve rental housing for people with the very lowest incomes, as well as provide rental housing and homeownership opportunities for those with incomes of up to 80 percent of area median income. This is important.

But besides the homeless, Mr. Speaker, there are some 25,000 people on the waiting list in Houston for Section 8 housing. It is atrocious, that list. They just stay on and on and on and on. The list does not move. Throughout everyone's districts many people ask how they get on the list, or why are they on the list so long; or how can they get housing. The trust fund would use a dedicated source of revenue to produce and rehabilitate and preserve 1.5 million homes over the next 10 years.

Mr. Speaker, these would not be Republican homes, independent homes, Democratic homes, or only urban homes, big city homes, or only central city homes. These would be homes across the Nation. And when you travel to districts that are rural, you can be assured that people need places to live.

The trust fund will provide much-needed stimulus to our economy, creating jobs and adding to the revenues of States and localities. An investment of $5 billion in a national housing trust fund will result in 1.8 million new jobs and $50 billion in wages.

One of the things I think we never think about when we think about housing, like when we got Federal funds to help rehabilitate my public housing, housing developments as the residents there like to call it, I added an amendment that year for Houston and other public housing projects to use the residents of public housing to work on the rehabilitation project; to use them to be carpenters and plumbers and electricians, those who lived inside those housing developments. Because they would be getting skills and getting income.

This is a clear win-win situation. New jobs and $50 billion in wages. Who knows, those people working on this housing could then elevate themselves to the middle class and then buy their housing. This is a positive, positive, positive stroke of genius.

The lack of adequate housing hurts children now and in the future. Poor housing circumstances have been linked to poor educational performance and poor health. Children with unstable housing situations have unstable schooling. A review of the research on high-classroom turnover shows the highly detrimental effects of changing schools on educational outcomes. Other research shows that children living in substandard housing have increased chances of lead poisoning and asthma, while high-housing costs leads to child malnutrition as families choose between food and rent.

When I worked with Fannie Mae and Freddie Mac in my district, but particularly Fannie Mae, where we have an office, to see the looks on the faces of those who were getting homes, and when we had the ribbon-cutting ceremonies and the children went into their own bedrooms, what a difference their own bedroom made. That is why the national housing trust fund is so very important. It helps people with the lowest income face the greatest difficulty, which is finding housing that is available and affordable. For people across the income spectrum who are experiencing housing affordability deficits, this is what this is all about.

Mr. Speaker, I cannot imagine that we would want to keep 4.8 million low- to moderate-income working families earning between the full-time minimum wage and 120 percent of area median income without housing. There is a critical housing shortage for them.

The lack of affordable housing hurts elderly people and people with disabilities. The national vacancy rate does not capture the market failure in affordable housing. Because we do not have the affordable housing units, we lose out on the people who are able to buy those houses.

It is ridiculous, Mr. Speaker. A $150,000 or $200,000 home may seem affordable to those who are working for dollars way above that of individuals needing to get the kind of housing that is affordable. In light of the Nation's housing crisis, the national housing trust fund is a moral imperative and national resources should be used to combat this.

Let me just say that I spoke earlier today on the floor asking for a plan in order to help us move swiftly in rebuilding Iraq and returning our soldiers home with valor and ceasing the violence. We are spending $5 billion a month in Iraq, a billion dollars a month and more in Afghanistan, and already we have spent $200 billion. I want the gentlewoman to know that I cannot imagine that this Congress, with all of the cosponsors that she has, would not give us the opportunity before we shut down to go home and be able to pass this legislation, and, frankly, to save lives in America. There are homeless people, with ruined lives, and we need to be able to protect them and provide them opportunities.

Mr. Speaker, I thank the gentlewoman for giving me this opportunity not only to speak about the needs across the Nation, but to speak about the needs in Houston. We have lived this and we have seen it. I have gone out to homes. While I speak there are people living in conditions that are shameful. We need more money in Houston, but I know we need more money across the Nation for housing.

So I hope we will see the passage of this bill. Let us do everything we can. I cannot thank the gentlewoman enough for the leadership that she has provided, and she has my commitment that we will work together on this very important issue.

The House version of the National Housing Trust Fund legislation now has an impressive 214 cosponsors. But the leadership of the Financial Services Committee, which has jurisdiction over the bill, has not taken up the bill.

So in late July, my colleagues Representatives BARBARA LEE, MICHAEL CAPUANO and BERNIE SANDERS filed a discharge petition in an effort to move the National Housing Trust Fund forward. The petition would "discharge" the committee of its responsibility in considering the bill. If a majority of the Members, 218, sign the petition, the bill could come directly to the House floor for debate and a vote.

A National Housing Trust Fund would construct, rehabilitate, and preserve rental housing for people with the very lowest incomes, as well as provide rental housing and homeownership opportunities for some people with incomes up to 80 percent of the area median income. The Trust Fund would use a dedicated source of revenue to produce, rehabilitate and preserve 1.5 million homes over the next 10 years.

The Trust Fund will provide much needed stimulus to our economy, creating jobs and adding to the revenues of states and localities. An investment of $5 billion in a National Housing Trust Fund will result in 1.8 million new jobs and $50 billion in wages.

The lack of adequate housing hurts children now and into the future. Poor housing circumstances have been linked to poor educational performance and poor health.

Children with unstable housing situation have unstable schooling. A review of the research on high classroom turnover shows the highly detrimental effects of changing schools on educational outcomes. Other research shows that children living in substandard housing have increased chances of lead poisoning and asthma, while high housing costs lead to child malnutrition, as families choose between food and rent.

While people with the lowest incomes face the greatest difficulty in finding housing that is available and affordable, people across the income spectrum are experiencing housing affordability problems. There is nearly a two million unit gap in the housing available and affordable for the lowest income people and the number of people needing housing.

There is no jurisdiction, urban, suburban or rural, where wages from a full-time minimum wage job can pay the rent on a modest two-bedroom home and in many places, the equivalent of at least two or three full-time minimum wage salaries are needed. In addition, a recent study found that 4.8 million low- to moderate-income working families—families earning between the full-time minimum wage and 120 percent of the area median income—had critical housing needs in 2001, spending more than half of their income on rent or living in substandard housing.

The lack of affordable housing hurts elderly people and people with disabilities. On average, people with disabilities who receive SSI would need to use their entire SSI check each month to pay the rent on a modest one-bedroom apartment. Six times as many seniors needed housing assistance than were receiving assistance and 324,000 existing subsidized and affordable housing units are at risk of being lost to the private market.

The national vacancy rate does not capture the market failure in affordable housing. The 2001 national vacancy rate of 8.4 percent does not mean that those vacant units are uniformly available around the country, nor that those vacant units are affordable to people with low incomes. Recent housing development has been focused on luxury rentals, out of reach of people earning low wages. In contrast, over the 1990s, 14 percent of the rental housing affordable to the poorest people has disappeared from the housing stock. Indeed, in many places, affordable housing has been demolished to make room for luxury housing.

In light of the nation's housing crisis, the National Housing Trust Fund is a moral imperative and national resources should be used to combat this. To date, nearly 4,000 organizations, religious leaders, businesses, newspaper editorials and others have said that our country needs a National Housing Trust Fund by becoming Trust Fund endorsers. New endorsers of the Trust Fund are added every day. In the 107th Congress, the endorsers were joined by 200 members of the House of Representatives and 29 members of the Senate who cosponsored Trust Fund legislation. Given the extent of housing needs, the federal government should make it a priority to provide sufficient resources for the construction, preservation and rehabilitation of housing for the poorest people.

Ms. LEE. Mr. Speaker, let me thank the gentlewoman from Texas for that very powerful, eloquent, and comprehensive statement, and also for reminding us of the types of cuts and what is on the chopping block this year as we try to push forward a bill to create 1.5 million affordable housing units.

The gentlewoman reminds us of what we are faced with and what we are fighting just to protect. Let me give some numbers here, Mr. Speaker.

First of all, by HUD's own admission, this year's budget cuts $1.63 billion out of Section 8. That is outrageous. Public housing funding is being cut by $180 million. The gentlewoman talked about public housing in her district. What are people going to do? What are people going to do? We zeroed out $149 million for last year's HOPE VI. Outrageous. Outrageous.

For Community Development Block Grants, the funding is what we call flat, which means really that it has fallen by about 9 percent. The budget actually eliminates brownfields, it eliminates rural housing and economic development, it eliminates empowerment zones and Community Development Block Grants. It rescinds about $675 million of contract amendments for our section 236 projects, which provide prepayments for assisted housing projects.

□ 2100

The request of $139 million represents a cut of $35 million for lead paint grants. I could go on and on. Serving as a member of the Subcommittee on Housing and Community Opportunity, we have fought these battles this year and will continue to fight against these cuts.

As we attempt to get a debate on the National Housing Trust Fund, what we see are efforts to cut what is left. We need to not only restore these cuts that are in the existing budget, but we need to fight for more funding for section 8, more funding for community block grants and more funding to get rid of lead in our children's homes. We need more money, not cuts. This affordable housing trust fund at least puts us stepping in the right direction.

Mr. Speaker, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE) to comment on these cuts as they relate to her district. I know the gentlewoman's district is similar to my district in terms of the struggles that people mount every day. This is an important issue that needs to be made a national priority.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding to me.

First of all, these are shocking numbers to know that our appropriations that are moving to the floor are going to literally put a dagger in the needs of Americans all over.

One thing I would say is housing is not political. It is not partisan. It should not be. I want to just read a column from David Broder, Washington Post, "Help At Home." He mentions Henry Cisneros and Jack Kemp. He mentions that they were right in contending that housing is every bit as important a measure of American values as any of those other concerns. The quote is, "We are a Nation that understands and asserts the promise of individual opportunity, and we recognize that decent housing is a precursor to its realization." Then they say their agenda includes programs to end chronic homelessness.

When we take away section 8 and the equity program and the public housing program, we increase homelessness. It is chronic homelessness for people who cannot just pull themselves up. They want to revive and expand public housing, increase the use of housing vouchers, encourage employee-assisted housing, eliminate regulatory barriers to affordable housing and crack down on predatory lending and overt discrimination.

Obviously, that is an expanded concept, but then they endorse the establishment of a national housing trust fund. This is an idea which is gathering increasing support in Congress to provide the capital needed to produce affordable housing.

One other comment, I say housing is not partisan; Secretary Jackson was in Texas, but even his review of the situation when he was in the home of a senior citizen, Mrs. Waddle, Secretary Alphonso Jackson examined the crumbling wallboard, cracked ceiling and sagging foundation in Earnestine Waddle's northwest Houston home. She is 73 years old. She brought the whole group of us to an emotional standstill. We are waiting to have her home repaired. She is an example of what the gentlewoman is talking about.

I would simply say the national housing trust is long overdue. Here we have bipartisan affirmation that we need to do more for housing, and here we have Earnestine Waddles's home as a symbol of homes across the Nation. We want to be in the business of helping people across the Nation.

Mr. Speaker, I include for the RECORD the article about Secretary Jackson's visit to Earnestine Waddle's home.

[From the Houston Chronicle, June 30, 2004]

WAIT FOR HOUSE REPAIRS ENDING

(By Mike Snyder)

A member of President Bush's Cabinet draped his arm around a 73-year-old Houston widow Wednesday and promised that her long wait for badly needed home repairs would soon end.

Alphonso Jackson, the U.S. secretary of Housing and Urban Development, examined the crumbling wallboard, cracked ceiling and sagging foundation in Earnestine Waddle's northwest Houston home. Waddle will be the first homeowner to get help under a revamped city program to repair the homes of low-income elderly and disabled people, Jackson said.

"I'm somewhat emotional, because I think this is wrong, that Mrs. Waddle has to live like this," Jackson said.

HUD suspended Houston's home-repair program in November after finding evidence that some contractors had been overpaid or performed shoddy work. The city resumed the service on a limited basis in April, but the guidelines were so restrictive that fewer than a dozen households qualified for assistance.

Jackson said Wednesday that work should begin this month on an expanded program that will include major rehabilitation and reconstruction of houses as well as the short-term emergency repairs being made now. His announcement prompted applause and a chorus of "amen" from a crowd gathered to hear him at the Acres Homes Multi-Service Center.

Mayor Bill White, who joined Jackson and U.S. Rep. Sheila Jackson Lee for the announcement, said new guidelines worked out by the city and HUD will ensure problems that led the federal agency to shut down the program would not recur.

"We are going to do what it takes to get qualified people to do these home repairs," White said. "We will be accountable for what we do."

If the City Council approves, the city will budget $2 million for the program, and HUD will reimburse the city after approving the completed work.

In the past, the city has delegated the selection of contractors and oversight of their work to nonprofit agencies such as the Houston Area Urban League. Under the revised guidelines, city employees will perform these functions, said Kevin Davis, spokesman for the city's Housing and Community Development Department.

A limit of $5,000 per house is being eliminated, Davis said, because officials determined this was not enough to address the needs of many eligible households. Officials haven't decided whether to apply a new cap, he said.

The home reconstruction component is new to the program and reflects a recognition that many houses are in such poor condition that repairs are not feasible.

Jackson said he came to Houston at the urging of Jackson Lee, a Democrat whose 18th Congressional District includes many poor Houston neighborhoods where repairs are badly needed. Jackson Lee has spent months working with local and federal officials to get the program started again.

"In her tenacious style, she brought (the problem) to my attention and kept insisting that I come and look at what was happening," Jackson said. "She emphasized why the program was so important."

Waddle, who said she has lived in the house in Acres Homes for almost 40 years, said she was grateful for Jackson's help.

Ms. LEE. Mr. Speaker, I am glad the gentlewoman brought to our attention the visit of the Secretary of HUD. I was quite disappointed when he came to our subcommittee when we were talking about housing. He indicated that poverty was a state of mind and had nothing much to do with the economics or discrimination or the environment or the state of condition in terms of one's circumstances. Perhaps he was sensitized by this visit. Let us hope so.

Mr. Speaker, I yield to the gentlewoman from Florida (Ms. CORRINE BROWN), a great leader, who is fighting on many fronts.

Ms. CORRINE BROWN of Florida. Mr. Speaker, first of all, let me commend the gentlewoman from California (Ms. LEE) and the gentlewoman from Texas (Ms. JACKSON-LEE). I have visited both of your districts, and I know we have similar problems as far as HUD is concerned and housing and homeownership.

I personally had one of the largest town hall meeting workshops on homeownership where we brought in all of our partners, and we are working together to try to improve housing for all Americans.

The Congressional Black Caucus's goal is to have a million new homeowners. I am proud to be a part of that.

But I have to say that this administration, the Bush administration, has almost wiped out the housing program. In the memo that was uncovered that, if George W. Bush is reelected, they are going to cut every single domestic program, and there are not a lot of advocates, unfortunately, for housing in this Congress.

On the vote tonight is another demonstration of "we do not really care about the people who need the hands up." This administration practices what I call reverse Robin Hood. When I was coming up, my favorite program was Robin Hood. These people practice robbing from the poor and working people to give tax breaks to the rich. Of course, it happened again today.

I certainly agree that we need middle class tax cuts, but we also need breaks for the working poor, people who work every day but cannot make it because they do not have health insurance, they do not have decent housing for their children.

I was listening to the report on 9/11 where they were talking about what was not available for the young people in Iraq, decent housing, training, education. I said to myself, we need a little of that in my district, and I am sure in the gentlewoman's.

The homeless have been mentioned. I have been on the Committee on Veterans Affairs for over 12 years. One-third of the homeless people are veterans, one-third. It is criminal that we do not provide the support system that they need. They are out there because they do not have the proper medication, the proper assistance. When one walks around and sees the homeless, most people try to have a blind eye. One-third of them have lost a lot defending us.

Ms. LEE. Mr. Speaker, with regard to the homeless, I failed to mention the budget numbers with regard to programs for the homeless, a $50 million cut.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I want to mention $50 million, but the Hope Six program is slated to be completely eliminated. That is the only program that goes into the community and not only replaces housing but has other kinds of programs that will assist the people that live in public housing to help them with job training, education, after-school programs; and of course, the Drug Elimination Program is completely wiped out.

I have to say Under Secretary Mel Martinez and George W. Bush, they have destroyed the housing program. It is just not a priority for the administration.

Hope Six in Florida received three grants, but it may be the last round of assistance that people in public housing will receive if this administration is reelected.

The Drug Elimination Program, Members can see that this program and programs which assist, help with after-school programs and tutoring programs; it was the program that actually brought in the cops into the community, working with the young people so they would not get involved in the world of crime; completely eliminated under this administration. The list goes on.

Certainly housing has not been a priority. But what was interesting to me was I have received visits from the realtors and the home builders because they are concerned about the new homeownership programs that have worked so well with the public-private partnerships. Those programs have been on the chopping block in Florida and throughout the country.

I know the gentlewoman has received some of the same complaints. Why would programs be cut which actually help people become homeowners?

Mr. Speaker, let me say to the gentlewoman, I am very excited about her program, and I am very pleased to be a cosponsor, but can the gentlewoman explain where we are going to get the funds from?

Ms. LEE. Mr. Speaker, I thank the gentlewoman for laying it out there and telling it like it is.

Initially, when we introduced this legislation a couple of years ago, the funding would come from the FHA reserves. There is enough money in the FHA reserve account to fund this $5 billion and keep our reserve account solvent.

However, in the spirit of bipartisanship, tripartisanship with the gentleman from Vermont (Mr. SANDERS), we agreed that we would amend out the specific designation of the FHA reserve fund as the $5 billion contributor to the trust fund and indicated we would provide the opportunity for our very capable appropriators to determine where this $5 billion could come from.

Mr. Speaker, there are many accounts which this $5 billion could come from where it would not even be missed. Here, we could create 1.6 million new jobs, $50 billion in wages. Our economy could get going again. We would have good-paying jobs in the construction industry, and we would provide affordable housing for millions of people.

Ms. CORRINE BROWN of Florida. Mr. Speaker, what a wonderful program.

Just one other point I want to make. Recently, the present Secretary of HUD was on Mr. O'Reilly's program, and I want to get a copy of the transcript and submit it for the record because it was horrifying that someone, an African-American, could talk about the fact that you are in an awful condition because this is what you want to be in. He would not have been in the position of Secretary if it were not for affirmative action, a program that this administration; President George W. Bush, on Martin Luther King's birthday announced we should not have any affirmative action.

Ms. LEE. Mr. Speaker, I mentioned earlier when the gentlewoman from Texas indicated that the Secretary had visited her district and visited an individual who was living in a dilapidated house, and I said I hoped he had become a little more sensitive to what we were talking about because in the subcommittee hearing, he talked about poverty in terms of it being a state of mind, not a state of condition, not a function of circumstances or unemployment or living in substandard housing in communities which had very little resources. I am not sure if he became more sensitized about the issues of poverty. I am shocked that he continued with that argument on television.

Ms. CORRINE BROWN of Florida. Mr. Speaker, all we need to do is look at the substandard conditions in many of our public housing complexes.

□ 2115

That is not a state of mind. That is a state of circumstances, and no one wants to be in those circumstances. But if we look at the dismal record of this administration as far as job creation, African Americans are at almost 10 percent unemployment. So if we look at where we are as far as employment opportunities, training, it is interesting to talk about what they are going to do in the future, but I would like the people to look at their present record. Judge people on the work I have done. I love that spiritual: "Let the work I have done speak for me." We look at the record of this administration when it comes to housing, and it is dismal. When it comes to training, dismal. When it comes to education, dismal. And all of this goes together to change that state of mind, to give people that opportunity to get a heads up, and that is what we are supposed to be about.

It is a real honor to serve in the House of Representatives. It is really an honor because we have an opportunity to help people that need a little helping hand. It is not a state of mind. We visit people who try all they can, and they have run out of their employment, and the training program is not there. And they have trained people to go into other jobs, and then they have sent those jobs overseas, and they have no job.

Ms. LEE. Mr. Speaker, reclaiming my time, let me just say I am glad the gentlewoman from Florida (Ms. CORRINE BROWN) highlighted what the real issues are right now in this country. Talking about jobs and unemployment, for example, in my district the average cost of a house, a two-bedroom house, it is about $450,000, and the unemployment rate in the African American community and the Latino community is double digit. Also, the average income is 45, 35, $50,000. How in the world can a family of four afford a two-bedroom $450,000 house on an income of 45 to $50,000, if that? The American Dream is a nightmare. It is a nightmare for many Americans.

This affordable housing trust fund would help bring us back home. It would help allow for the American Dream to be realized even by those who have not had those opportunities that some of us have had, and that is what this is about.

Ms. CORRINE BROWN of Florida. Mr. Speaker, will the gentlewoman yield?

Ms. LEE. I yield to the gentlewoman from Florida.

Ms. CORRINE BROWN of Florida. That is, Mr. Speaker, I think the most important thing, to have a trust fund. So once we have a trust fund, then we have a dedicated source of revenue, and that is certainly what housing needs because it is not a priority. A lot of people that are in housing, they do not vote. They do not have any rich lobbyists up here. So, therefore, they are not included. They are not on the agenda. No one cares about them. So that is part of the problem.

So I really want to commend the gentlewoman for coming up with a mechanism that we can have a dedicated source of revenue. And then, of course, we will have to continue to fight because, just like in transportation, the reason why we cannot pass a transportation bill, and the money is also there in the trust fund, is this administration for some reason does not want to invest in the infrastructure in this country. In Iraq, yes. But not in this country. Because for transportation every billion dollars creates 44,000 jobs, and that is what the people need.

Once they have a job, then they can have housing. But until that time, they have to have affordable housing because people just cannot afford it. And the gentlewoman said $44,000 or $45,000 or $50,000. What happens when people have nothing, they have no source of income? They have lost their job, they paid into the fund, but yet this administration will not even entertain extending it so that people can get some assistance.

Ms. LEE. Mr. Speaker, reclaiming my time, let me say I am glad the gentlewoman called to the public's attention the special interest political nature of housing. And she is right. The homeless do not have lots of money to put a lobbyist here in Washington, D.C. to pound the pavement all the time. But we are really very fortunate that 5,000 organizations have come on board for the National Housing Trust Fund Campaign led by the National Low-Income Housing Coalition. So I am just very proud of them that they have stepped up to the plate and have filled that void, and that is why it is unbelievable that after we passed the bill out of committee, we cannot even get it to the floor to debate.

Ms. CORRINE BROWN of Florida. Mr. Speaker, if the gentlewoman will continue to yield, it is not not believable because it is not a priority of this administration. I have served for 23 years, 10 years in the Florida House, and I have been here for over 12 years. I have never seen an administration that dictates what comes before the House of Representatives, the people's House. I mean, if they do not want the bill to pass, it does not pass. Just like with the gun bill, they do not want the bill to come up, regardless of what they have said, because it did not come up. So people do not understand what has happened in this country and in the people's House.

I love being here because it was 129 years before the first African American got elected to Congress; so I feel that it is very important that we speak up for the people who do not have lobbyists here in Washington, who do not have people that are going to fight to make sure that we have decent, safe, and affordable housing. And we have a Secretary who does not understand that, a Secretary of Housing, who just happens to be an African American.

Ms. LEE. Mr. Speaker, reclaiming my time, I think this is a good example of how the democratic process over and over and over has been thwarted in this House. Here we have 5,000 organizations, we have sponsored a bill that is tripartisan, the bill passed out of the committee, so regular order has prevailed. And where is the bill? We cannot even have a debate, and that is all this discharge petition requires is a debate. We have 214 cosponsors. That is a lot of people. That represents millions of Americans, those 214. How in the world their voices are allowed to be stifled in a debate as important as this one is beyond me. I thought democracy was real in America, but this is another example, and in this instance it is my understanding the former Secretary of HUD just called to say, We do not want it to come to the floor. I do not know what his reasons are. He is now running for the senate out in the gentlewoman's State, Mel Martinez, but he did not want it to come; so it is not here.

Ms. CORRINE BROWN of Florida. Mr. Speaker, if the gentlewoman will continue to yield. I know him very well. He is a nice person. But I can tell the gentlewoman he was the worst Secretary we ever had. Because for this administration, it is just not a priority, and they do not want to spend the dollars. It is mind boggling how if a person is not one of the rich, companies, I mean, the gentlewoman talks about people that really need a helping hand. That is not a priority of this administration. It is not a priority of the former Secretary. It is just not when they cut the programs that they cut. It does not matter what one says. I say that all the time. Actions speak louder than words. I can say "I love you" all I want to. I can say "I support you" all I want to. But if I cut the programs that make people whole, then I do not care anything about them.

They can show them better than they can tell them. And this administration consistently has cut not only housing but veterans housing programs, consistently cut them. And, therefore, if we do not have affordable housing, then people end up homeless in the streets. And that is a sad state of affairs when we have veterans in the streets that today they are our soldiers, they are our heroes: tomorrow there is no safety net for them.

Ms. LEE. Mr. Speaker, reclaiming my time, during the Congressional Black Caucus weekend, we provide breakfast for the homeless. And I have the privilege, it is a real honor, to be able to just be there with the homeless and serve breakfast 1 day in Washington, D.C. Each and every year in the last 3 years, that line has grown and grown and grown. And I am appalled at the number of homeless veterans who come out for a meal on that morning.

So when I come back here to Congress on the subcommittee and fight for the $50 million, to restore those cuts, fight for additional funding for the homeless and for Hope VI, I cannot help but wonder who is out of touch with reality in this administration and in this Congress and why in the world that would just cost $5 billion would not be allowed to get to the floor to be discussed. Is there a problem there?

Ms. CORRINE BROWN of Florida. Mr. Speaker, the problem, in my opinion, is that if this administration does not support it, then it cannot come to the floor. We cannot have a debate over it. In fact, if we look at the Medicare bill, which is just so important to so many people, they would not even allow a Democrat in the House of Representatives to be on conference. They have the votes, but they do not even want to discuss ideas that are not their ideas. Even though they can just vote it down, they do not even want a discussion. And that is the same thing with the gentlewoman's bill. They do not even want the bill on the floor for discussion.

Ms. LEE. Mr. Speaker, reclaiming my time, it does not, again, make any sense from a financial institution standpoint to not allow this bill to come forward for discussion because financial institutions will benefit from this economic stimulus initiative. Some of the organizations that have supported the trust fund, let me just share this with the gentlewoman: the National Cooperative Bank Community Development Corporation, the Congress for Community and Economic Development, National Neighborhood Coalition, the National Credit Union Foundation, the National Community Building Network. I could go on and on about the financial institutions that have supported this.

Ms. CORRINE BROWN of Florida. If the gentlewoman will continue to yield, Mr. Speaker, how will they partner? For example, I heard the gentlewoman say the credit union, and I have spent time discussing with them and talking with them about their being more involved with housing and helping in homeownership.

Ms. LEE. Mr. Speaker, the financing that the financial institutions, which private lenders would do, would be matched by the trust fund two to one.

Ms. CORRINE BROWN of Florida. So that would expand the dollars, and so they would be able to serve more people?

Ms. LEE. That is right, Mr. Speaker. And we are talking, again, about a public/private partnership. We are not talking about a handout. We are not talking about a subsidy that is going to rip off the Federal Treasury.

Ms. CORRINE BROWN of Florida. So that $5 billion could be leveraged?

Ms. LEE. It could be leveraged up to 20, $30 billion. And that is the problem. I would just say it is a drop in the bucket in terms of what is possible under this type of arrangement with regard to a trust fund. Several States have trust funds that have funds that have been established. This would put 35 to 40 million in each State into a trust fund. That would actually help trust funds that have been established or start new trust funds, and the Federal Government would be a major player in that and should be proud of what it would do for its people.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I want to once again commend the gentlewoman on working on this initiative, on her AIDS initiative. She has certainly been a bright star in Congress since she has been here and her leadership in the area of housing and the work that she has done as far as HIV and getting funding.

This administration went to Africa and committed $15 billion. I do not think we have $1 billion yet. Photo-ops are one thing. But that is, once again, how we talk the talk, but we do not walk the walk. And the world community had expected some assistance and some leadership from the United States in this area, and none has come so far.

I just need to know what kind of dollars have been put up for the AIDS that the gentlewoman worked so hard on.

Ms. LEE. Mr. Speaker, I thank the gentlewoman for bringing that to our attention.

□ 2130

Ms. LEE. That was a $15 billion, 5-year initiative. It should have been $3 billion for each year. We still have not gotten to the $3 billion for the first year yet. We are fighting very hard to increase the appropriations. The trust fund was supposed to be up to $1 billion a year. So far the administration has put up maybe $200 million a year. We bumped it up a little bit on this side and are hoping the Senate will bump it up, but we still have not gotten to $1 billion a year for the trust fund.

I share that because the trust fund again has the ability to leverage $8 billion to $9 billion worldwide for people living with HIV and AIDS, for prevention, for care and treatment, for orphans, for young men and women, for families, and we still cannot get the type of funding that is required for the whole HIV-AIDS initiative. It is shameful.

Ms. CORRINE BROWN of Florida. Mr. Speaker, if the gentlewoman will yield further, I guess, once again, it is not a priority. It is back to Robin Hood. They do not have the big-time lobbyists up here, although the world community is looking to the United States for leadership in this area, and it is just has not been a priority.

I really want to commend the gentlewoman. I am going to let her close. I want to thank her so much for her leadership in the housing area, in what she has done as far as HIV, just stressing the importance of having a dedicated source of revenue for housing, because, as I said, the memo went around where this administration indicated if reelected, every single domestic, domestic, program, would be cut.

Ms. LEE. I want to thank the gentlewoman.

Ms. CORRINE BROWN of Florida. Elections have consequences.

Ms. LEE. I thank the gentlewoman for joining us this evening and for her steady hard work and leadership on housing and so many issues, especially with regard to our veterans, our children, senior citizens and all of those that she so forcefully and eloquently speak on behalf of. Hopefully, after tonight, maybe the bell will alarm, maybe the drum has been beat a bit louder because of her very powerful statement tonight.

Mr. Speaker, let me just close by saying how important this discussion is and how many of us feel that housing is a basic human right, and until we realize that and establish policies that indicate that, the American dream will continue to be a nightmare for millions of Americans.

Our country does not have a housing policy. We need a national housing policy. We need a national housing agenda that speaks to the housing needs of the low income, the poor, the working poor, the middle income, the upper income, all of those who care about housing and the homeless.

Until we provide those basics, such as food and shelter, for the least of these, I do not believe we are living up to our commitment in terms of our faith, in terms of those who we care about, in terms of making sure that liberty and justice for all is the order of the day.

I just urge all Members of this House to please help us move our housing initiative forward by signing the Lee-Sanders-Capuano discharge commitment. Please sign it next week before we leave, because the people of America need to know that housing and the economic security of families and children is not a partisan issue; that Democrats, Republicans, independents, all care about it, and we want this American dream to be real for each and every American.

Mr. SANDERS. Mr. Speaker, from Vermont to California, there is an affordable housing crisis in this country and it is only getting worse. Millions of Americans who are working 40 hours a week, senior citizens, and persons with disabilities are paying over 50 percent of their limited incomes on housing. For families living paycheck to paycheck, one unforeseen circumstance—a sick child, a lost job, a medical emergency—can send them into homelessness. These life-shattering events happen every day in America and it is a national disgrace.

Mr. Speaker, if you don't believe us, just ask the half-million veterans who put their lives on the line defending this country or the more than one million children who will experience homelessness this year if they believe there is an affordable housing crisis. Ask moms and dads who are working 40 hours a week that have to sleep in their cars or out on the street because they can't pay the rent, if there's an affordable housing crisis in this country.

Mr. Speaker, the sad reality is that there is not a single place in America today where a full-time minimum wage worker can afford an average 2 bedroom apartment. Not a single place in America.

Legislation that I have introduced to establish a National Affordable Housing Trust Fund (H.R. 1102) will begin to put an end to this crisis once and for all. It will give states and localities the resources they need to build at least one and a half million affordable housing rental units in this country leading to the creation of 1.8 million new jobs and nearly $50 billion in wages. In other words, the National Affordable Housing Trust Fund is a win-win that will put people back to work and into affordable housing.

Unfortunately, despite over 200 tri-partisan co-sponsors; despite the support of over 5,000 organizations representing organized labor, big business, environmentalists, banks, religious leaders, and affordable housing advocates, a vote has not been scheduled for this bill. For over 3 years, the Administration has opposed this legislation, while its policies have made the affordable housing crisis even worse. While Congress has provided hundreds of billions of dollars in tax breaks to the wealthiest one percent over the past 3 years, we are forcing our nation's low-income senior citizens, veterans, and families with children to pay the price.

Well, in less than 48 hours, over 100 Members of Congress have signed a discharge petition to force a vote on the National Affordable Housing Trust Fund Act immediately.

Mr. Speaker, while 218 signatures are required in order to succeed, I hope you don't make us wait that long. I hope that we can convince you that this bill is needed now more than ever.

Mr. Speaker, I know that is a tough decision for you to make. But, quite frankly, people all over this country are making much tougher choices.

This evening a mom and dad will be at the kitchen table staring at their bills. They will have to make a choice. Do we pay the rent; or do we feed our children.

Tomorrow morning a senior citizen who worked hard and played by the rules all of her adult life will have to make a choice. Will she pay the rent; or will she pay for her life saving prescription drugs.

Mr. Speaker, it doesn't have to be this way. In the richest country on earth, families should not have to make these unacceptable choices. That's what the National Affordable Housing Trust Fund campaign is all about.

And, just today, Jack Kemp and Henry Cisneros, former HUD Secretaries under President George H.W. Bush and Bill Clinton, respectively have endorsed the National Affordable Housing Trust Fund.

David Broder, wrote in the Washington Post this morning that the Kemp-Cisneros "Recommendations strike me as practical and specific—not tilted to the left or the right. . . . They endorse the establishment of a National Housing Trust Fund, an idea that has gathered increasing support in Congress, to provide the capital needed to produce, preserve or rehabilitate at least 1.5 million affordable housing units over the next 10 years."

And, according to the bipartisan National Millennial Housing Commission, created by Congress, and co-chaired by our former colleague Susan Molinari, "The addition of 150,000 [affordable housing rental] units annually would make substantial progress toward meeting the housing needs of extremely low income households, but it would take annual production of more than 250,000 units for more than 20 years to close the gap."

Mr. Speaker, the National Affordable Housing Trust Fund Act will close this serious affordable housing gap. In fact, if H.R. 1102 was signed into law, we could more than triple affordable housing construction next year and provide accommodations to more than 100,000 families. In short, the establishment of a National Affordable Housing Trust Fund is needed now more than ever. I urge my colleagues to sign the Discharge Petition. By doing this today, we can mark the beginning of the end of the affordable housing crisis.

Ms. LEE. Mr. Speaker, I yield back the remainder of my time.

GENERAL LEAVE

Ms. LEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. McCOTTER). Is there objection to the request of the gentlewoman from California?

There was no objection.

THE FAIR TAX

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Georgia (Mr. LINDER) is recognized for 60 minutes as the designee of the majority leader.

Mr. LINDER. Mr. Speaker, in the last 5 or 6 weeks, a bill that I introduced, H.R. 25, the FAIR Tax, has been getting a great deal of interest in the national press, part of it because the Speaker mentioned it in the book he recently published, and part because the President took a look at it just prior to the Republican convention.

A lot of it is because the last 2 days the Democrats have taken a keen interest in it and have found unusual forums in which to trash it, including a 27-page critique that the House Minority leader put out today. I will say some of those criticisms are interesting, and some are even true.

But, in any case, what they failed to do in the 27 pages was to discuss the problems we are facing precisely because of our current system. They can spend all the rest of the next year or two defending the current IRS system, saying it is a good system, and ignoring the problems, but we cannot ignore them much longer.

Americans spend between 6 and 7 billion man-hours each year just filling out IRS forms. We spend that much time calculating the tax implications of a business decision. We lose 18 percent of our economy to making tax decisions instead of economic decisions.

The current director of the Congressional Budget Office informally in a conversation told me he believes we spend upwards of $400 to $500 billion a year to comply with the Code and remit $2 trillion. This is hardly an efficient way to raise taxes.

Studies show that it costs the average small business $724 to collect, comply with the Code and remit $100 to the

Federal Government. And who pays all those compliance costs? Who pays all those payroll taxes that get embedded into the costs of goods at retail? Who pays the income taxes?

It is not the business. There simply is not a mechanism for a business to pay a bill other than through price, and our customers pay them all. In fact, the only taxpayer in the world is a consumer, who finally consumes the product and all the embedded costs, we have it.

The study we had commissioned out of at Harvard 5 or 6 years ago argues that 22 percent of what we spend at retail represents the imbedded cost to the IRS. Anybody who is working and spending 100 percent of the income to live is losing 22 percent of their purchasing power to the current system.

But it also causes us to ship goods and services into a global economy with a 22 percent tax component in the price system, making us less and less competitive in a world economy and causing jobs to move overseas, where the embedded tax component in the price system is considerably less, particularly in those nations that have a value-added tax that is rebated at the borders.

We also drive offshore, because of our Tax Code, capital. There is today 5 to $6 trillion in overseas accounts because it is cheaper to borrow at 6 percent interest than to repatriate dollars at 35 percent tax. So they are protected overseas, and in some cases, able to be spent over there. Not to mention wealthy individuals who keep money offshore to protect it from a confiscatory tax system.

We drive underground elicit activity because of our Tax Code. It is estimated that pornography, illicit drugs and illegal labor constitute a $1 trillion economy that is untaxed. Under a consumption economy, if they wanted to buy something, they would at least pay their fair share to the government.

The Alternative Minimum Tax was passed in 1969 to ensure that wealthy people who have no tax liability due to their legal use of deductions and credits would still have to pay some taxes. In 6 years, 35 million Americans will be subject to the Alternative Minimum Tax.

We spend over $30 billion a year on Earned Income Tax Credit designed to rebate to low-income workers the cost of the payroll tax burden, the tax that pays for Social Security and Medicare. It is estimated that 25 to 30 percent of that is fraud.

Then the big issue, the big issue is Social Security and Medicare. The current dollar 75-year unfunded liability in Social Security and Medicare is $51 trillion. Trillion. To put that in perspective, if you started a business on the day Jesus Christ was born and lost $1 million a day through yesterday, it would take you another 720 years to lose $1 trillion. We are looking at 75 years of costing us $51 trillion.

How do we solve this? We abolish the income tax and repeal all taxes on income and get rid of the IRS; get rid of personal and corporate income taxes, self-employment taxes, capital gains taxes, the gift tax, the death tax. All would be replaced by a single tax on personal consumption.

Yes, we would get rid of the payroll tax. It was said on the floor yesterday that our bill did not deal with the payroll tax. I would be willing to have these debates, but I want to have them with people who have read the bill, because the bill is the only one that has ever been introduced that totally abolishes the payroll tax, and the payroll tax is the highest tax that 75 percent of America pays.

If you would get rid of the IRS and get rid of all tax on income and let competition drive the tax component out of the tax system and replace it with a one-time, single consumption tax, out of every dollar you spend on personal use, 23 cents goes to the government, the rest stays with the merchant, we would fund the government at the current level, but everybody would keep, get to keep their whole check and become a voluntary taxpayer.

Now, that number has been criticized as being rather high. I will repeat you are currently paying 22 cents, but just do not know it. But today, if you earn $1, 36 cents goes to the government and 64 cents is left to spend. Would you not rather pay 23 cents out of every dollar you spend, rather than 36 cents out of every dollar you earn?

But, more importantly, the FAIR Tax is fair because it contains a rebate for every household in America which would totally rebate the tax consequences of spending up to the poverty line.

Currently people who spend all of their income lose 22 percent of the purchasing power to the embedded cost. Under our system, that rebate would totally untax them up to the poverty line. Poverty level spending, by definition, is that necessary for a given size household to buy their essentials. For my mother, it is $9,500 year. For a family of four, it is about $25,000. For a family of six, it is $30,000. Their spending in a year up to that amount would be totally untaxed, plus they would not pay the embedded costs. It would be gone.

The FAIR Tax is a volunteer system. Every citizen becomes a voluntary taxpayer, paying as much as they choose, when they choose, on how they choose to spend. And I mentioned before that it would drive that 22 cents out of the system.

The FAIR Tax is border neutral. Under the FAIR Tax, imports to our shores when bought at retail for personal use would be taxed at exactly the same level as our domestic competition, something that has never happened before.

Lastly, it would solve our Social Security and Medicare problem. In the Democrat's report, 27 pages today, they have a study that said Medicare would run out of money in 8 or 9 years instead of 10 or 15 years under my system. I do not know how they could come up with that, because today Medicare is funded by the workers, 138.5 million people working to pay for Medicare for all the retirees.

We are going to increase the number of retirees in the next 30 years by 100 percent. We are going to increase the number of workers by 15 percent. I do not know how you can sustain that system.

Our system, the tax on consumption, would increase the number of payers from 138.5 million workers to about 300 million citizens every time something was purchased and 40 million visitors to our shores. We would nearly triple the number of people paying in, and, indeed, we would double the revenues to Social Security and Medicare in just 15 years by doubling the size of the economy. That is an estimate of many economists who have looked at this. And the FAIR Tax would raise somewhere around $200 billion a year from the underground economy.

Beyond these arguments, what will this new paradigm do for our economy? First of all, we have $400 or $500 billion dollars saved every year from compliance costs. That would be less moneys we would have to pay at consumption.

The money saved on compliance costs would be put to an efficient and profitable use and create jobs. Our gross domestic product would increase by $180 billion per year because we no longer would have to make tax decisions.

Eliminating the income tax would bring down long-term tax rates by 30 percent, and with no tax on capital or labor, and this is key, with no tax on capital or labor, nobody could compete with us in a world economy. We would be selling goods and services in a global economy with a zero tax component in our price system, and to compete with us, every foreign-owned corporation would have to build its next plant in America.

An informal study quoted several times by the former chairman of the Ways and Means, Bill Archer, said that a study done of about 400 or 500 European and Japanese firms, they were asked what would you do in terms of your long-term planning if the United States abolished all taxes on capital and labor and taxed only personal consumption? Eighty percent said they would build their next plant in the United States. In fact, we do know that Daimler-Chrysler wanted to be Chrysler-Daimler and wanted to be in New York City.

□ 2145

They are in Stuttgart, because of the tax system. Deficits spooked the markets; our markets are down because of deficits. Instead of a 20 percent decline in revenues over the last 3 years or last 4 years, had we been on our system, we would have increased revenues in 14 of the last 15 quarters. Add this to a huge increase in capital investment, making workers more productive and giving them larger take-home pay.

We are going to hear a lot on this bill over the next several years, and I believe it will pass because of the economic forces that are coming to bear. I urge my colleagues to read the bill. It is 132 pages, replacing 55,000 pages of statute and regulation. It is not all that complicated. Sooner or later, those who are criticizing might even pick it up and take a look at it. I will enjoy the debate.

Mr. Speaker, I yield to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, I want to thank the gentleman from Georgia for having this Special Order, and I want to thank him for his leadership on this issue.

I wonder if he would step back to podium, because I am not sure if my colleagues who have been listening in their offices really understand what we are talking about tonight. The gentleman is talking about getting rid of the income tax system as we have it in America today.

Mr. LINDER. Mr. Speaker, I want a system where nobody in the government knows how much you make or how you make it or how you spend it. I want a system that funds us at the current level, consistently, but does not keep track of us and will give you the privilege of anonymity in a free society.

Mr. GUTKNECHT. So the gentleman thinks that the Federal Government should not know at least as much as my spouse how much I give to charity. That is none of the government's business.

Mr. LINDER. That is correct.

Mr. GUTKNECHT. And the gentleman thinks that what I do for a living and how I make my money is none of the government's business.

Mr. LINDER. That is correct.

Mr. GUTKNECHT. The gentleman thinks that I ought to be taxed based on how I spend my money rather than whether I want to save it, invest it or spend it on different things.

Mr. LINDER. Whatever you choose to do, it is your money. You made it, and you spend it, and you can spend it anonymously without having to go to the government.

Mr. GUTKNECHT. This is really remarkable. In fact, I think that if the Founders knew that we had this tax system here in America today, Mr. Speaker, I think the Founders would be rolling in their graves. The idea that we have a Federal agency who keeps track of how we spend our money, who wants to know more; every year, they want to know more about how we spend our money, where the money comes from, where it goes. In some respects, it is almost un-American, the system we have today.

I want to talk just a few minutes tonight about all of the regulations, about all of the rules. I understand there are 90,000 pages of the IRS regulations that every American one way or another has to comply with. That is just outrageous. And, more importantly, I think the other issue we want to talk about tonight is how every American knows somehow, down in their bones, that there is something almost immoral about a system where we have this enormous amount of regulation, this enormous amount of bureaucracy, all of these rules and regulations just to pay our taxes. And I wonder if the gentleman would talk a little bit about how long it takes the average American just to fill out their tax forms and then, more importantly, what it means to business in terms of all of the regulations, the accountants, the lawyers, the rules and all that goes with it, just so that the average small businessperson can just simply pay their Federal taxes.

Those are issues that we need to talk about, and ultimately, those are issues that affect how we live in America and ultimately whether or not we can compete in a world marketplace.

I wonder if the gentleman would just talk a little bit about all of those pages of rules and regulations in the IRS codes.

Mr. LINDER. Mr. Speaker, there have been a variety of numbers, I know it is huge. I got all of the regulations at one time in my office and stacked them on the floor up to here, and it was huge. However, it is so complicated that no one understands it. It is correct that, under the law, you have to abide by it, but it is also correct that nobody knows what it is.

Money Magazine sent 49 different professional tax preparers the same economic data from a family and asked them to do the tax return and got back 49 different tax returns, none of which was correct. If you call the IRS help line today and ask for help in filling out your own tax return, over half the answers you get will be incorrect.

Now, the gentleman mentioned our Founding Fathers rolling over. Just imagine a system where, in 1912 or 1911, they are discussing the income tax, and somebody says, I have an idea, let us punish people for working and saving. Let us tax everybody. Let us make sure that nobody escapes. Let us make sure it is about 36 percent of what they earn. They would never have made it this far. They would never have gotten this far and they would have been laughed out of town.

Mr. GUTKNECHT. Mr. Speaker, if I could just say, the Senate has just informed the House that we have reformed the IRS code. Now, is that not wonderful? Now, we have reformed or amended the IRS code 6,000 times.

Mr. LINDER. Since 1986.

Mr. GUTKNECHT. Since 1986, and now we are going to do it again. And every time we talk about reforming the Tax Code, what, in effect, we do is we make it more complicated.

Now, in some respects, I do have a vested interest, because my daughter and my son-in-law are both CPAs. So, in some respects, if I want full employment for my daughter and son-in-law, we want to make this Tax Code even more complicated. But the interesting thing is when I talk to them, they say, make the Tax Code simpler. And the truth of the matter is, the best thing we could do is eliminate the income tax system all together and make it a consumption tax.

Mr. Speaker, there is an old adage that if you want more of something, you should subsidize it. If you want less of something, you should tax it. And what do we do in America? We tax income. We tax investment. We tax savings. We tax productivity. We tax all the things we want more of, and yet we subsidize consumption, indirectly. What we are really talking about is something very revolutionary. It is about a whole new concept. It is about changing the whole paradigm in the way the Federal Government raises revenue, and saying, wait a second, why do we want to tax the things we want more of? We ought to tax the things that may, in fact, drag down our economy.

So this is so important. I want to compliment the gentleman on one very important thing he said earlier. When the gentleman talks about manufacturing, and we have all heard, we have heard from our friends on the left, and we have heard from the media, and we have heard from all kinds of people that America is not doing as well as it should do relative to creating more manufacturing jobs here in the United States. Well, one of the things we have to do is change the Tax Code.

I think the gentleman made the point, and we need to talk about that a lot, in terms of changing the Tax Code to make it more productive or more profitable for people to create manufacturing jobs in the United States. The gentleman talked about, one of the things he mentioned, and I think a lot of people may have missed this point, and that is that in every product that we produce here in the United States there is embedded in that product anywhere from 22 to 30 percent taxes. And one of the things the gentleman wants to change is to say, that ought to be taken out. And all of a sudden, everything we produce here in the United States would be anywhere from 22 to 30 percent less expensive on the world market. If we did that, it seems to me, if everything we made in the United States was 22 to 30 percent less expensive on the world market, it would seem to me we would be very competitive and all of a sudden, a lot of companies would want to produce those products right here in the United States.

I wonder if the gentleman could talk about that just for a minute.

Mr. LINDER. Companies are leaving our shores not because they hate America, not because they are mean-spirited; they are leaving our shores because they are being driven off. They are being driven off by the tax system that embeds so much into the price that they cannot compete in the world market.

So some years ago we had a big debate here about people leaving, wanting to leave their citizenship here and move to another nation that had lower tax on the death tax, and half this House thought, well, it is shameful if they do that, let us get their money before they leave, and the people said, fix the Tax Code and they will be here. If we eliminate tax on capital and labor, we will be the world's most attractive tax haven, and the $6 trillion would quickly rush to our shores to be invested in our stocks, our bonds, lower interest rates, create jobs that cost about $100,000 to create one job in this country.

But in addition to the $6 trillion in the dollar market that would come, how many tens of trillions would come from foreign countries in our markets because we have the best markets in the world. We have the most productive workers in the world. They would rather build in Michigan to service the car industry in Michigan than to build offshore and have to ship it in. If you get the tax component out of that system, they would be there in a second, and they have said that.

Mr. GUTKNECHT. Mr. Speaker, let me just come back to that number. The gentleman said $6 trillion. Now, around this place, we throw around big numbers, but $6 trillion is a huge number.

Can the gentleman put that in some kind of perspective?

Mr. LINDER. Well, I do not know where the numbers come from. The IRS admits it is $5 trillion. The people who are in the offshore financial centers say it is $6 trillion. But we just did some minor research. We know that the high-tech industry itself in California has about $150 billion offshore. It is too expensive to repatriate. We know that Pfizer has $59 billion offshore. They sell in the French market for francs and in the Japanese market for yen and the German market for marks, and then they convert that into euro dollars and they hold it offshore. All of that money would be back in our markets creating jobs and bidding companies. We do not know how much Japanese money is floating around that would come here, but just imagine what would happen to our stock markets if all the world's investors could invest in our stocks with no tax consequences. We have had two money managers, whose names would be familiar to you, who would say, I do not know what the market would be at as days pass, but in 2 years, it will have doubled.

There is no question that we will be the attraction, we will be the attractors of capital, and when you bring capital in, you create jobs. And this country needs job creation.

Mr. GUTKNECHT. Mr. Speaker, if I could just say, we have talked about capital, and we have talked about big business, and we have talked about investors and manufacturing, but I am told that when we talk about small business, it is where we really see the benefits. Because I am told that a small business can pay over $700, if we look at all of their costs of complying with the current Tax Code, to pay $100 in taxes.

Mr. LINDER. That is right. So the consumer of that small business not only pays the $100 plus the payroll tax, it also pays the $724.

Mr. GUTKNECHT. So that cost is over $800 for the Federal Government to raise $100.

Mr. LINDER. That is correct. This is hardly an efficient way to raise taxes.

Mr. GUTKNECHT. It is almost unbelievable. If we could get Americans to just think about this, because we all pay the taxes. I mean Paul Harvey often says that businesses do not pay taxes; people do. If you could get people to just think about this, that the system we have today is so incredibly inefficient that we all pay a lot more just to collect the revenues that the Federal Government needs.

Now, we all agree that the Federal Government, whether it is for national security or domestic security or for roads or for prisons and all of the other things we need, we need some revenue, right?

Mr. LINDER. That is correct.

Mr. GUTKNECHT. And we are not talking about cutting the amount of revenue to the Federal Government; we are talking about creating that revenue in a new and more efficient way.

Mr. LINDER. Mr. Speaker, we precisely made the decision in the drafting of this bill not to fight the battle over increasing or decreasing revenues; we would lose votes on that issue alone, not to eliminate all the excise taxes, we would lose 150 votes in this House just on tobacco; not to reform any programs; we wanted to just change one paradigm, collecting revenues on income, to another, collecting revenues on consumption, so that it would be neutral. Let us just admit that the United States consumers would save tons of money if they just were voluntary taxpayers and paid taxes when they chose to pay taxes, and then, later, we will worry about the size of the government.

But I want to tell my colleague one thing about the size of government if we pass this. Nobody knows how much we spend here. But if my mother saw every time she bought a loaf of bread how much went to Federal taxes, she would start showing the interest. We right now have a huge bias in favor of more government and more taxes because most of us do not pay the income taxes, but we pay the consumption tax currently embedded in the goods and services that we buy, and that is what we have to convince America of. You are already paying this tax. It is the same tax.

□ 2200

But how would you like to pay the same taxes and have the same standard of living, but if you are making $60,000 a year, instead of taking home $3,800 for your house payment and your groceries, you are taking home $5,000? You get everything you earned, nothing taken out. Your net pay and your gross pay are the same.

Mr. GUTKNECHT. This is an idea we think we know about, but we do not really understand. That is, every time we buy a product, embedded in the cost of that product are the cost of taxes. We do not think about that, but it is there nonetheless. If we buy a refrigerator, there is a certain amount of tax that is included in that. And there have been some people who have attempted to quantify how much that tax is. And so if I buy a refrigerator for $500, embedded in the cost of that refrigerator may be 22 percent or more in taxes. More important than that, it is not just the taxes. It is how much that that company had to pay the auditors, the accountants, the lawyers and so forth to keep all of those records. So the cost may well be 30 percent of just taxes.

Now, if you take that many out and you put a 22 percent sales tax on that item, the net cost of that refrigerator, instead of being $500 might be $490 or something like that number. Will the gentleman talk a little bit about what the real net cost would be to the average consumer.

Mr. LINDER. I want to make it clear that the consumption tax about which we are speaking is not to be treated the same as the State sales tax which is an exclusive tax on top of what you spend. This is included in what you spend.

The reason we did it that way, an inclusive tax, is because the tax we are seeking to replace is inclusive of what you earn. If you were going to treat this as a State sales tax on top of what you spent it would be 30 percent. But to compare that with the income tax on top of what you have left to spend, the current income tax is effectively a 56 percent tax rate. Either one, the sales tax is better.

If you go to the store and buy that $500 refrigerator, that may include the tax within it, but the price of the refrigerator will have fallen because the embedded cost would no longer be there.

It is easier for me to do this on something I looked a lot at because the real estate people talk a lot about this. The real estate people say, how can I sell homes if I do not get to deduct the mortgage interest deduction on a home. I say, if you really think that sells your home, double your interest rate and you will sell twice as many homes.

The current embedded cost in the home of the current system is 28 percent. Under our system, it would be 23 percent. The home will be less expensive, the same house. If a person is making $60,000 a year, he is currently bringing home $3,800 a month to make that house payment. He will bring home $5,000 a month under this system. But more importantly because of all the tax complications that come out of the interest rate system, interest rates will decline by 30 percent. So the house is less. The take-home pay is more. The payment is less. We think we will sell lots more houses.

Mr. GUTKNECHT. So on April 15, the average American would say what?

Mr. LINDER. Another nice spring day.

Mr. GUTKNECHT. Another nice spring day in Minnesota or Georgia or Iowa. That is an amazing thing because many Americans dread the idea of April 15 coming around. They dread it for a lot of reasons. Not only the amount of money they have to spend, but they worry they might make a mistake in filling out all these forms and they may have not added correctly and they did not do this right or whatever and they did not go back three spaces and they ignored line 1-A or 15-A or 15-B. All of this would go away. The average American would not have to worry about April 15.

Mr. LINDER. They would not have to keep a receipt.

Mr. GUTKNECHT. Would not have to keep a receipt, would not have to worry how much they paid the dentist, how much they paid the doctor, how much they gave to their church. All of those things would simply go away. I know a lot of people, and the gentleman mentioned the Realtors and they are worried about this because at the end of the day this would affect whether or not Americans would buy homes and particularly new homes. But the bottom line is, that new home would, probably on a net-net basis be less expensive than it is today.

Mr. LINDER. That is correct.

Mr. GUTKNECHT. And we have got to get people to think beyond the first thing that they see and they say, oh, my gosh, you mean I would have to pay a 23 percent sales tax on everything I buy?

Well, stop and think about it. What would happen is at every payday you would get to keep everything you earn.

Mr. LINDER. I can tell the gentleman how much that would be.

Mr. GUTKNECHT. And it would be a real number.

Mr. LINDER. The average income earner pays a 28 percent withholding tax and 7.65 percent, their share of the payroll tax. Their increase in take-home pay would be about 55 percent the next day.

Mr. GUTKNECHT. So that average family when they go out to buy a home would be able to buy more home. And when you take away the cost of all the accountants and everything that goes with the IRS system today, that home would actually be less expensive.

Mr. LINDER. That is correct.

Mr. GUTKNECHT. Now, the other argument that we hear sometimes is from people who buy expensive machinery and, frankly, we have a lot of those people in my district. They are called farmers. Every so often they go out and buy a new tractor, and that new tractor today may be $150,000. They say, oh, my gosh. You mean I am going to have to pay a 22 or 23 percent sales tax on a $150,000 tractor? I cannot afford that.

Mr. LINDER. Let us remind them that no business inputs are taxed. No tractor will be taxed. No barn will be taxed. Anything used in the business is tax free. No seeds will be taxed.

I tell the farmers if you buy a tractor to work your land, there is no tax on it. If you buy a hat to wear on your head, there is. Personal consumption. No business inputs are taxed whatsoever, so farmers are universally in favor of this because it also gets rid of the death tax for them which is a huge issue.

We said on the floor yesterday that agriculture would go to bills. The important thing is for us to continue to repeat to farmers and other people who buy equipment that, number one, there is no tax on it, but, number two, the cost of the equipment will go down 20 to 25 percent. So you will buy the same tractor for far less money, and there will be no tax on it whatsoever.

Now, one farmer did raise an interesting question for me. If the value of my equipment declines, how can I borrow as much on it? I said, well, things change all the time in the farm business, but you can buy the new one a whole lot less expensive.

Mr. GUTKNECHT. So in other words, a farmer that goes down to buy another tractor that today is $150,000, embedded in the cost of the tractor is maybe 22 percent tax or 25 percent tax. So in other words, if you take that out of the price of that tractor, they are actually going to buy that tractor for $110,000 and they will pay no tax on it.

Mr. LINDER. That is correct.

Mr. GUTKNECHT. I agree with you. If we can get people to just think in those terms, all of sudden they are going to be say, well, let us have this right now. Why have we waited. Why do we have this unbelievable system that I have to go down to my accountant and I have to worry about this and I have to worry about that.

All of the sudden we have a very simple system that is only about how much I really consume. Not how much I spend to produce a product, how much I spend to produce a crop, how much I invest to produce a new job or a new business or a new product or whatever. This is consumption. And if we can get people to talk about consumption taxes, all of the sudden this whole debate becomes very, very simple. And people say, well, this makes perfect sense.

We have been joined by my friend from the State of Iowa, and I hope that the gentleman will jump into this debate and talk a little bit about what it means to him and more importantly how it affected his last election and how he became a proponent of this thing.

Mr. KING of Iowa. I appreciate the gentleman yielding to me.

A couple of subject matters do pop to mind on that. One of them is the politics of this and people say, what are the prospects of getting this passed? Far greater than they were even 2 or 3 months ago. But the politics of it back in a district where you have to raise the subject matter, you have to educate the public, you have to be willing to stand up for what you believe in and face down the criticism. Some of them not solid criticism; some of it simply politically motivated.

I ran against a certified public accountant two years ago who should have had a maximum amount of credibility on finances and economics, and he came out in favor of the IRS. I came out in favor of eliminating the IRS. I am here. He is not. Sixty-three percent was the margin, and we did not spend a lot of money to get that done.

The public understood quickly, they learned quickly if you can get the money you earned in your paycheck every Friday, when you punch that time clock Monday morning at 8 a.m. or whatever the time is and if the government no longer is standing there with their hand out, the first lien on everybody's labor in America, the freedom that comes back from getting the IRS off their back and the burden, that was I think the most influential piece of this entire race that went on.

If I could, I would like to address another subject matter, and I do not know if it has been raised here, as I missed the first 10 minutes or so of the conversation. It was very interesting to me, I did not even get up for that reason because I am fascinated to watch both of you add to this knowledge base that we have on this subject, but my memory goes back to 1992 when Bill Clinton took office as President of the United States.

He came to this Congress and he was elected on a failed economy, a recession, so to speak; and he came to this Congress and he requested a $30 billion economic incentive plan. Now that $30 billion was to be borrowed because we were in deficit; and it was going to be spent on make-work projects, projects where you would hire people to go out into the streets and do things, pay them a wage, and they would spend that money. And that would stimulate the economy, $30 billion worth of borrowed money.

About that same time, 1992, Daniel Pilla published his book, "Fire The IRS." And in that book I believe the economist he quotes is a Harvard economist, Dale Jorgenson.

Mr. LINDER. Who, by the way, did a lot of the studies for our bill

Mr. KING of Iowa. On the same analysis. When those numbers were added up at the cost of the IRS, the cost of funding the IRS, the cost of enforcing IRS tax law, the cost of paying the people to prepare the taxes, paying the people to collect the data that you hand to your tax person, paying yourself $10 an hour to sit up all night on April 14, which hopefully we will not have very many of those nights again, but added to that disincentive when people decide that I am not going to punch that time clock for any more overtime or pick up that phone for that extra sales call or extend that production line in my plant or my factory because the tax burden is too high, it is not worth the risk, it is not worth the work.

You add all those up and that number in Daniel Pilla's book was $700 billion a year, with a B.

Now, $30 billion in Bill Clinton's economic incentive plan of borrowed money, $700 billion, same year published, Daniel Pilla's book, when you add in of those disincentives. That does not include what happens to our economy when we take these several hundreds thousand people that are working in the regulatory sector of this economy for the IRS, enforcing the IRS, filling out paperwork and tax forms for the IRS, those are all bright people that are very productive people but they are working in the nonproductive sector of the economy. We take them out, put them into the productive sector of the economy, we add that to that $700 billion and then we adjust it to for inflation for the last 12 years, you are over a trillion dollars a year is the size of the anchor that the IRS, which is the anchor, and our economy is dragging that trillion dollar anchor across the bottom, and think how it sails free if we just cut the chain on that anchor, get rid of that almost 10 percent of our $11.4 trillion gross domestic product.

But it is not just an anchor. We are dragging it but when we cut the chain, we get to put that trillion dollars in the productive sector of economy. And it adds to this economy and no one can calculate what that does.

We all believe this economy doubles in 10 to 15 years, but I do not think we have calculated when those nonproductive people go to work in the productive sector of the economy. So that is the piece that really moves me, when we have that kind of waste in government, to be able to release that waste. Get rid of it. Cut the chain on the anchor and put that trillion dollars' worth of capital in the productive sector of the economy, and those people that are not producing today, that are regulators into the productive sector of the economy.

And then on top of that, there are those folks out there that are not participating in helping to fund this government. And I am talking about the drug dealers, the prostitutes, the pornographers, the tourists.

Mr. LINDER. The illegal labor.

Mr. KING of Iowa. Black market labor. Add those things up; I do not know the numbers on some of those.

Mr. LINDER. I do.

Mr. KING of Iowa. I would be glad to know that.

Mr. LINDER. It is over a trillion dollars right there in the underground economy. Just three portions of it in a recent book published by an economy, pornography, illicit drugs and illegal labor constitute a trillion dollar economy.

When I speak to groups, I always ask if there is a banker in the room. If a banker raises his or her hand, I say everybody follow her to her bank on Friday afternoon at 4 o'clock in the afternoon you will see it. And they always just smile and grin because the contractor is coming out paying off subs in cash. It happens outside of every bank in America that does retail banking. It is huge.

We do not want to find new places to tax. We think everybody ought to be paying fairly.

□ 2215

Government's principal role ought to be neutral, not pick winners and losers. That is why we tax services, as well as goods. We tax Internet sales, as well as catalog sales, as well as local sales. We do not believe that the guy down the street who builds a building, hires their kids, goes to a church, votes at our elections should be put at a 7 percent disadvantage same as a dot-com. So we say this bill is drafted with the first principle, that government's role is neutral, not picking winners and losers.

Mr. GUTKNECHT. Mr. Speaker, if the gentleman would yield, I want to thank both of my colleagues, and particularly the gentleman from Iowa (Mr. KING) because he has really been an educator for me.

I want to come back to an issue that we have not talked about yet because I think it deserves to be talked about, and we hear about it from our friends on the left. That is called the alternative minimum tax, and frankly, it is interesting because it was created back in 1969 to make certain that everybody paid some taxes, right, and we created all these loopholes for the "wealthy." All of the sudden they discovered that some of these people were actually taking advantage of these programs so that they paid very little or no taxes.

They created this whole second tax system, the alternative minimum tax, that says even if you qualify under all the rules, you play by the rules as some people say, you wind up paying no tax, but you have to recalculate your taxes. Now, all of the sudden, we are talking about millions of Americans who are finding out, well, listen, I did the right thing, I followed the forms, I played by the rules, I did everything right, but now the IRS says, oh, oh, oh, wait a minute, you have to recalculate your taxes; and under the AMT, you owe another $3,000 or $5,000 or $10,000 or in some cases literally hundreds of thousands of dollars in taxes.

Let me give you an example. One of my constituents is a wonderful person, and he had made some incredibly lucky or smart investments, depending on your perspective and had become relatively, well, some people would say a very wealthy, man. He wanted to give his alma mater $1 million. He could afford to do that. So what he did is he sold some stock, and he gave his college a $1 million donation. That is a wonderful thing to do, right? Well, the IRS came back the next year and said you have got to recalculate your taxes; and for being a generous benefactor of his college, under AMT, the IRS said you owe us another $340,000 in taxes.

Now that was bad tax planning, and he did not spend enough time with his auditors and his CPAs and lawyers and so forth, but that is one example, but it happens every day.

Mr. LINDER. My daughter at 35, she is now 37, called me and she said what in the world is AMT. She has got four little boys and the deductions and a fairly decent income gets them into the AMT. When it was set in 1969, it captured 90,000 taxpayers. In 6 years, it will capture 35 million.

Mr. GUTKNECHT. Mr. Speaker, 35 million Americans, and this is the point I want to make. Anybody who has ever been bit by the AMT will never forget this.

One of the most beautiful things about what you are talking about, and I want to thank both of you, is that under your plan they never have to worry again about having to recalculate their taxes after they have already paid what they think is their fair share.

Mr. KING of Iowa. Mr. Speaker, if the gentleman will yield, I will just say that this tax policy, H.R. 25, the fair tax is about freedom. There is so much freedom that we do not realize we have lost over the last 91 or 92 years that we have had this Tax Code because we get used to the IRS coming into our homes and into our offices, auditing us. I was shut down once for 4 days while the IRS was going through all my paperwork, and the frustration of having them dig through my paperwork, pass Monday morning quarterback decisions upon the ethical decisions that I made day by day by day, and to know that my business decisions were contingent upon the tax implications, I had kind of gotten immune to that a little bit. You get conditioned to it, and you forget that your mind can be freed of that, and it can be focused on productivity, how do you build a product or provide a service for the most competitive price and the highest quality to turn the best profit that you can. That is why you go to work every day. It has turned us into a Nation of tax preparers and tax avoiders.

So about a year and a half ago, my 28 years in the construction business, I got myself in a position here in this Congress where it behooved me to sell that business, and the most likely person was my oldest son. We did get that transaction done, but it took a long time and it was very complicated. The tax implications were so great that I almost lined everything up and just sold it, paid the taxes, washed my hands because it was too hard to avoid all of the liabilities that accrued with capital gains and the other taxes that came along.

To think, to eliminate inheritance tax, interest income, pension income, capital gains, of course income personal and corporate, add all of that up. Think about what happens when you have a whole different structure here and you cease to punish productivity and you let people amass all the capital they choose to amass. And on the good side of this, this capital that you talked about, the cheaper industry, the more available capital, the $6 trillion coming back from overseas, the new capital that will be attracted ends up here in the best place it can in our economy because that capital will go for research and development, higher education, technological investments, capital investments. All of these things improve the productivity of the most productive workers of the world.

While we are doing that, we are able to take out an average 22 percent or maybe more out of the cost of everything we sell in this country and abroad, and so our balance of trade today, which is about a minus $503 billion with a B, goes to a plus number. That plus number helps us a lot because every year foreign investors are owning another half a trillion dollars' worth of U.S. assets at the rate we are going with this negative balance of trade. It fixes the balance of trade.

As soon as somebody south of the border or in China or Africa or wherever can get the capital together to buy a punch press or a lathe or a brake, then they train their workers to run that; and we will never get that job back again. But if we can discount the product we are selling an average of 22 percent, that is the same as the neon sign that says gas $1.80 out here on the street here today. We get to sell ours for $1.40. We are going to come here to our shores till we cannot produce at that price anymore. That means we hang on to the low-skilled jobs here in this country. Some of them come back to this country, but certainly we keep many of them far longer because we are more competitive; and while we are doing that, we are enhancing the high-tech jobs, the higher paid jobs where the future of America is.

We always have to be the fastest people on the economic treadmill, the ones at the head of the curve. This tax plan puts the capital in place, the incentives in place so that we can do that for a long, long time to come.

Mr. LINDER. Mr. Speaker, the folks on the other side of the aisle will worry about people getting too rich and who is going to benefit from this and how you are going to hurt the poor. Let us just deal with that for a second.

We are going to totally untax the poor. Today, people who are living at or below the poverty level are losing 22 percent of the purchasing power for the current system, and we are going to tax accumulated wealth. For that couple that paid taxes all the money they earned over the years, paid capital gains and then sold the business, paying taxes on the interest they are earning today, we are going to tax them one more time and they spend it. To those people I say, you are already paying this, but what do you think about the freedom that the gentleman from Iowa just talked about, to do what you want with that money and not have to deal with that?

We are going to make people pay taxes when they choose to pay it by how they choose to live, and everybody's free to do that.

The gentleman had another point on trade that I would like him to expand what the rest of the world would do, because we talked about this a couple of years ago.

Mr. KING of Iowa. Yes. By the way, I remember the first time we met and that I approached and introduced myself. I asked a question of the gentleman and that was, what does it do to psychology, to the politics of America if every time Johnny or Sally, when they go to buy their baseball cards or their Barbie doll clothes, they would have to reach in their pocket, pull out a couple of dimes for Uncle Sam and put them up on the counter? After that happens millions and millions and millions of times across this country, for a generation or so, my belief is that this that new generation of Americans steps up and accepts personal responsibility, makes fewer demands on government, which means then it slows the growth of government and makes us all more responsible but also more free.

Now, a more free Nation of the United States of America, one with this capital that is amassed that is being invested in higher ed and in technology and in research and development makes this robust economy here in the United States so strong, so robust that, for example, the European Union is a good example. Their tax rates run up to 70 percent in some of those countries. Ireland leveled it down, and there are 560 companies right now domiciled in Ireland because they lowered their corporate taxes. But the continent of Europe would have to adopt some form of our tax policy to even hope to compete with us in the world market, or their capital will escape that continent and come here where the jobs will come and the productivity will come and our industrial base will come back again, as well as our technological base.

So when that happens, if the tax policy in this country promotes a more personal responsibility, less demands on government, moves us away from this socialist trend that we are moving towards, that will happen in this country. It will also happen wherever our tax policy is put into place, implemented; and that means when Europe begins to some place down the road adopt a fair tax in the same way, they will also see more freedom, more personal responsibility, less demand on government. That means the entire planet eventually becomes more free because we take the lead here in this country.

Mr. GUTKNECHT. There is a connecting point there that I want to expand upon, and that is, once we do this, they will have no choice because all of the sudden the rest of the world will turn to America and say, look, if we can invest there and not be taxed, we are going to invest even more of our resources in the United States. All of the sudden, Europe, the former Soviet Union, Iraq, anywhere else in the world, they are going to have to adopt tax policies similar to ours, where we say to people, you can earn as much as you want, you can invest as much as you want, you can risk as much as you want. We are only going to tax you on your consumption.

Now I want to come back, though, to a question that sometimes our liberal friends say, and the gentleman from Georgia (Mr. LINDER) sort of touched on this a few minutes ago, and that is, wait a second, poor people spend more of their disposable income on things that they need, and therefore, they will have to pay a lot more taxes than somebody who makes $1 million a year and only has to spend 100,000 of it on the things that they want or need just to live and so forth. How do you respond to that?

Mr. LINDER. I respond to it that people do not put money under the mattress anymore. Wealthy people spend more than poor people. They will pay a higher share of the total cost of government; but to the extent that they do not spend that money, they are going to put into banks or into businesses and create jobs.

If they accumulate a great deal of wealth, I can tell you what they are going to do with that, too. They are going to do what every great wealthy family has done in the history of this country. They are going to give it away. Another question raises charitable contributions. People do not give money away because they can deduct it. They give money away when they have more to give away. The more they have to give away, they more they give away. The great fortunes that have been given away in the history of this country were given away before the Tax Code was ever in place. So they accumulate fortunes. They will invest it. They will create jobs, grow companies, and then give it away.

Mr. GUTKNECHT. So there are only four things that people can do with their money if you think about it. They can either spend it, they can save it, they can pay taxes, or they can give it away. Those are the only four things they can do.

Mr. LINDER. I would say they can create jobs with it because people borrow it.

Mr. GUTKNECHT. Exactly, and when they save it and invest it, it creates more jobs, more economic opportunity for the people at the lower end of the spectrum. Right?

Mr. LINDER. Which creates more revenues to the Federal Government.

Mr. GUTKNECHT. Bingo.

Mr. LINDER. It has always been the case.

Mr. GUTKNECHT. But some of our friends think that we have to have these people pay lots of taxes because that is a good thing. What we are sort of saying is, well, we have to pay a certain amount of taxes, but at the end of the day if they pay more in taxes, it means they have less to invest or give away.

Mr. LINDER. And grow the economy with that investment.

Mr. GUTKNECHT. Bingo.

Mr. LINDER. It is really simple.

Mr. GUTKNECHT. Mr. Speaker, of all the things that people can do with their money, the least efficient thing in terms of growing the economy is to give it to the Federal Government because we know that the Federal Government will spend it less efficiently than they will, and that is a philosophical debate; and I understand that.

At the end of the day, we can create a system that is just as fair or fairer than the system we have today because when people think about it, you think about the average poor person. Everything that they buy has embedded in it anywhere from 22 to 30 percent taxes.

□ 2230

So they are paying the taxes. Businesses do not pay them. And in some respects even wealthy people do not pay the taxes. It is the poor people who pay them.

Mr. LINDER. Wealthy people pay taxes on personal consumption, and wealth has no meaning unless it is spent on personal consumption.

If I had $100 million and lived in a $20,000 home and drove a used car, that $100 million would mean nothing to me. So somebody would be borrowing it, building their business with it, and creating jobs with it. Wealth has value only when spent personally, and that is when it will be taxed.

Mr. GUTKNECHT. So if I buy a $100,000 automobile, I pay a lot more taxes than if I buy a $20,000 automobile. That is the way the whole system works.

Mr. Speaker, we have to do a better job of explaining this to everybody. Because I think, in the end, and I want to thank both my colleagues, particularly the gentleman from Iowa (Mr. KING), because he has been helpful to me in beginning to understand.

Let me close for my part of this with two very important points made by one of my favorite people from the United Kingdom, Winston Churchill observed this about the American people: First of all, he said Americans always do the right thing, once we have exhausted every other possibility.

And I think we have really reached a point, when you look at the Tax Code, that we have exhausted every other possibility. And it really is time for us to do the right thing.

The other thing that he said is that the difference between someone who is convinced of something—no, I am going to forget the story. Have you got the story?

Mr. LINDER. You told it to me once. It is the difference between someone who is a big believer and a fanatic.

Mr. GUTKNECHT. A fan. Yes, that is it.

The difference between a fan and a fanatic is that a fanatic cannot change their mind and will not change the subject.

I have almost become a fanatic on this issue because this is something that, if you think it through, begins to change the entire paradigm. As the gentleman from Iowa said, it not only changes the way we see government but it changes the way we react to government. In the end, it says to Suzie and Johnny when they go in to buy something at the store, wait a second, every time I buy something, it is 22 cents or 23 cents, or whatever the number is. And all of a sudden they begin to see government as a real cost to them.

Mr. LINDER. That is correct.

Mr. GUTKNECHT. And they demand less of the government. So this is an issue whose time has come.

It seems to me that we have a responsibility as Members of Congress to go out and tell this story. And if we do our job of telling the story, as Jefferson said, give the people the truth and the republic will be saved. If we give the people the truth on this subject, then it seems to me that ultimately they will demand that Congress do something like this.

Mr. LINDER. Mr. Speaker, I will yield to the gentleman from Iowa for any closing remarks he might have.

Mr. KING of Iowa. I thank the gentleman, Mr. Speaker, for yielding to me once again, because there are a couple of things I would like to say too at the end of this discussion.

When we talk about how many people are not paying taxes today, everybody is paying taxes in the embedded cost of everything they buy, and they do not realize that. But about 44 percent of the public does not pay income tax in an income tax form. Forty-four percent. When they get to the point where they are at 51 percent, they can simply come to the government and make demands on the government to extract the rest of the sweat from the brow of the people who are making a living and earning.

So we are very close to that tipping point where we could lose the center of this country. If it ever tipped over from 44 percent to 51, then I think you would see the real slide towards the socialistic state. We have been stalling it off here, but it has been incrementally going in that direction. So I think it is important that everybody buy in. And going to the fair tax does that. Everybody consumes. Everybody buys into that policy.

For me, I started working on this in 1980. I was audited for 1979 and it was in 1980 that they did so, and it was the second time. Too close together. And with the frustration of that, I started with the principle of let us eliminate the IRS. Now, what do we do to replace the revenue?

I would sit at work every day and think my way through this. And it did not take long for me to reject the other proposals on how we might be able to replace the revenue. This is the only way to eliminate the IRS and replace the revenue, and it is revenue neutral.

I kept turning this Rubik's cube around over and over again. What are the unintended consequences? What happens to black market? What happens if people reduce their consumption? And every time I turned that cube around and looked at it another way, there was an answer to it. The answer is actually better than you anticipate in the beginning, and the picture got better and better and better.

I do not think it is an overstatement to say that if you have a tax policy that can solve problems, this tax policy solves virtually every one that a tax policy can solve.

Mr. LINDER. Mr. Speaker, I thank both my colleagues for their help. This has been an illuminating discussion and we need to do it again.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1308) entitled "An Act to amend the Internal Revenue Code of 1986 to provide tax relief for working families, and for other purposes".

ELECTIONS: THE U.S. AND IRAQ

The SPEAKER pro tempore (Mr. McCOTTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. MEEK) is recognized for half the time until midnight, which is approximately 42½ minutes.

Mr. MEEK of Florida. Mr. Speaker, once again it is an honor to come before the U.S. House of Representatives to be able to share a few things with the American people.

Mr. Speaker, I think it is important that we reflect on this period as we stand as a country. A lot has happened today and a lot will happen in the future, and I think it is important that we reflect on what happened today and the direction our country needs to go in and should go in.

We all know that there are 40 days and some hours, just about to be 39 days before the national election on November 2. I think it is also important for us to reflect on the responsibility that every American has to participate in that process. I would like to share with the American people that for a couple of weeks, we have not had an opportunity to have a 30-something hour, but I think it is important for us to address some of those issues that are affecting young people in this country.

I want to commend those organizations that are out there supplying information to voters between the ages of 18 and 30 to make sure that they participate in this election. What has been happening for the last 4 years, and what is going to happen in the next 4 years is very, very important for the future of our country and also for the future of our families.

I want to thank Rock the Vote and also the WWE Association, and many other individuals that are out there, like Mr. Russell Simmons, what the NAACP is doing, what the people for the American Way are doing, and also thank what Puff Daddy and other folks out there are doing in making sure that people have good information. Voter suppression is very real, Mr. Speaker, and I think it is important for parents or grandparents or even Members of Congress listening tonight that we share with them that their loved ones who might be in school do have the opportunity to register to vote.

In the beginning of October, that clock is going to run out throughout the country, so we need to make sure they know they can register. We did have some supervisors of elections or those election officials in those local communities that were telling them they could not. Now we are getting that information out. I believe there is a 1975 Supreme Court decision that said that if one is in school and registered in school, they can be from another State, but they can register to vote there, because nine times out of ten during the early voting periods and the election period in early November, they will be there at that location.

Mr. Speaker, I have my friend and colleague, the gentlewoman from Cleveland, Ohio (Mrs. JONES), joining me here tonight, but I first just want to take a moment, since we are talking about democracy, to reflect on a country that we are saying that we want to institute democracy in. I think we should be very careful in being the promoters and also the hood ornament for democracy in the world. We are promoting elections in Iraq at a time when we know that it is very unsafe, not only for U.N. workers but for our U.S. troops and the very limited coalition that we have in Iraq right now.

On the floor here today, Mr. Speaker, we had the interim prime minister of Iraq addressing the U.S. Congress. He also went over to the White House and was with the President in a Rose Garden ceremony. It is one thing to be able to say that we have to be there for the long haul. As a member of the Committee on Armed Services, I support the effort of making sure that we achieve our goals in Iraq. I may not support how we got there, which I do not, that being the preemptive strike, which is something this country has never engaged in before. There is no "may" about it, I do not. But I think it is important we reflect on where we are right now.

We have had the arguments, hours of arguments on this floor, of how we got there. I think the American people are fully aware of who made the decision and who decided that we should take a preemptive strike in Iraq, without a real plan that provided for a good measured outcome. The people who made the decision to go with the willing I think is something that we are going to remember in the future as it relates to the art of war and in taking a move like we did several months ago.

I could not help but reflect on the prime minister's comments today, and I also could not help but reflect on what was said at the Rose Garden about the fact that we are ready for elections in January. Now, this is not the Kendrick Meek report, this is the report of many news articles I am holding here in my hand from the events of today. This is not only the reports of these news organizations but also of anyone turning on the television and looking at cable or at network television. Guess what, things in Iraq are not going as well as we are being told here around the beltway and in Washington, D.C.

Mr. Speaker, I think it goes beyond my obligation and the obligation of all the Members here in the House, be they Republican or Democrat, to level with the American people about the realities of Iraq, the realities of taking on an effort in the Middle East where we have had terrorism for years and years and years.

Fact: Saddam Hussein. Yes, he was a bad guy and he needed to go. But at what cost? Fact: Al-Qaeda and other terrorist groups were not running the streets of Iraq prior to the preemptive strike. That is a fact. That is not fiction. That is not the Kendrick Meek report, that is reality.

The President today said, well, we have to continue to fight the war in Iraq, because if we leave, then the terrorists will have a hub to be able to carry out terror on other democracies on the face of the earth. Well, Mr. Speaker, I cannot help but to reflect and to comment on that remark. Who set that stage for that mecca or hub of terrorism?

Now, I am not here to point fingers, I am just here to say that the world community knows the reason why we have all the terror in Iraq right now, that could and would be and is a part of global terrorism at this particular time. And I think it is important if we are going to build a broader coalition now, and I want to make sure, because Secretary Rumsfeld today, I must add, was over in the Senate and he said, well, what is wrong with the elections? We can have elections in January, but what is wrong with having elections in some places and in other places where we cannot have them, it is not a perfect world, so let us just move on with the elections.

Mr. Speaker, I am sorry, but I beg to differ with the Secretary, in all due respect. That is not the way a democracy operates. Next thing you know, here in the United States, and thank God for the U.S. Constitution and some people of goodwill who would stand up against such an action, if it were said that, well, we can have an election in Georgia, Alabama, or Mississippi, but in other places we cannot have it, so whatever the results are from those States, then so be it. Those are the elected officials that will represent that legislative body or those cities in those areas or this country.

Mr. Speaker, we need to watch what we say. Just because we can say it, does not mean that it is right. It is very, very unfortunate that the Secretary of Defense feels that he can make those comments. And I wanted to make sure that I came to this floor tonight to share not only with Members of Congress but also with the American people that we should disabuse ourselves of such statements made off the cuff when we are trying to create a democracy.

The coalition in Iraq is not expanding with individuals or countries that are there to be able to help us in our mission and our goals. The coalition is getting smaller. I think it is important if we are going to build a true coalition, then we have to make sure that we have strong leadership. Mr. Speaker, 1,041 American lives have been taken. We honor and respect them. As a Member of this Congress and as an American, I respect their contributions to our country.

I think it is important that Americans not only reflect on their contributions and their sacrifices, but we need to also make sure that when we hear something here in Washington, D.C. by individuals that are being driven around in cars with tinted windows, who have prepared comments to be able to draw an audience and who believe what they say should be law, we beg to differ. It is our responsibility and our resolve and our commitment to this country and to the lives of those troops and their families goes beyond that.

So whether it be an independent, a Republican, or a Democrat, we have the responsibility to stand up and say that is not so, Mr. President, the administration, or whoever it may be; these individuals who would sit here and give the American people the Potomac two-step that everything is okay. It is not okay. We have 7,032 troops injured, and we are at 96 percent of the cost in Iraq. We do not have a coalition, as the administration will share with you that they are running the costs and they are taking on the casualties.

Yes, Mr. Speaker, we are trying to train the Iraqi army, but this argument goes beyond partisan politics. This goes to the very fiber of every veteran that has served this country, every veteran that allowed us to be able to breathe and celebrate the very democracy that we live in today. Their memory, their honor, their sacrifice is on the line right now in the world community.

□ 2245

The boldness of some folks here in Washington, D.C., to be able to say that something is going on in Iraq that the American people cannot see. I want to share a few facts here. Security failures in Iraq, we need to get down to what it is worth. I mentioned the casualties, and I mentioned the injured. Our forces are coming under attack 90 times a day. That is a twofold increase since winter.

Also, when we look at the new al Qaeda terrorism generated throughout the world, we are at a cost of $145 billion, and 41 percent of our debt is handled by foreign countries right now. That is 96 percent of the bill.

I think it is unacceptable for people to talk about things are going so well. We need to tell the truth. The truth is no weapons of mass destruction, no link between Saddam Hussein and al Qaeda. This is not the report of the gentleman from Florida (Mr. MEEK); this is what the President said in the Roosevelt Room when questioned about it. The facts show there was no link. The mission is not accomplished. The transition is not a peaceful and stable one that is happening right now. The attacks on the troops are increasing, not decreasing. Terrorist opportunities are growing in that region. The fact that the failures of this administration to come to grips with the reality with what is happening in Iraq right now is detrimental to our mission.

Mr. Speaker, I yield to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time. It is a privilege and a pleasure to be a Member of the House of Representatives. I represent the great State of Ohio, 11th Congressional District, city of Cleveland.

The first constituent whose family I stood with after his death was Brandon Sloan. Brandon was 19 years old. When I had an opportunity to talk with his dad, Reverend Tandy Sloan, he was miffed by the fact that his young son, 19 years old, over in Iraq as a part of the 507th Maintenance Group was there without equipment at the end of a long line of some 600 vehicles, without an artillery group around him and was required to try and hold onto a truck that he was driving. Young Brandon was killed at 19, at the height of his life, having graduated from Bedford High School. The list goes on.

There was a Sergeant Robert Toudy, part of the 507th Maintenance Group over there, trying to speak on behalf of the people of America, fighting for his country, over there trying to work for the freedom of the Iraqi people. The reality is, here we stand in September 2004 with so many young men and women. Disproportionately represented among this group are minorities and low-income folks who went into the National Guard, who went into the service hoping to get a college education, being required to give full-time service to our country in an Army, in a war that really they cannot figure out why they are over there.

As we stand here this evening as Members of Congress saying to the American people, why are we there? What is it that put all of us in harm's way? What is it that put 1,000 young American men and women in a war that we still cannot figure out; no weapons of mass destruction, no real reason to be over there. The whole couching of the terms of a war on terrorism is not what should have been said, but that we are there. What do we do now? How do we protect the young men and women in the Armed Services?

They are fighting, and they will say, we are fighting for America. We are there fighting for freedom, but behind all of that, and we know they are standing up and I am so proud of the young men and women I have met over there doing what they believe our country wants, but the reality is, it is time for a wake-up call. It is time for the people of America to say, is this the best thing we can do? Do we have an exit strategy?

Even more interesting is the people who are working over there for private companies who are being kidnapped, beheaded. Why does this President not have a way for us to get out and for us to get out without feeling like we have deserted the people of Iraq? The people of America need to ask the right questions, make this administration tell us what is the resolve for us to get out of Iraq.

Earlier today, on another note, we voted on another tax cut. I admit I voted for the tax cut, but I was concerned about the people of Ohio, some 60,000 who have lost their jobs since President Bush took office in the city of Cleveland alone. In East Cleveland, there is a 14.3 percent unemployment rate while the national rate is 5.7 percent. Jobs are going overseas. What are we doing in the tax relief bill to help the working poor making less than $10,000 who are working for a minimum wage of $5.25 that keeps them in the poverty range?

What are Members of Congress doing? What is Congress doing to help those who work every day with no health care and with children in poverty? My own city was recently named as the number one city of poverty in the United States of America. It is time for a wake-up call for the people of America to say, in this election, what are we going to do?

I know people are saying, I cannot make the connection. My vote does not count. There are many who want to suppress our votes and say, like our Secretary of State, Kenneth Blackwell, who issued a ruling this past week saying to the people of Ohio, I am going to have a more restrictive ruling on how voters can use a provisional ballot than I had in the primary. It is voter suppression.

I am pleased to join my colleague, the gentleman from Florida (Mr. MEEK) to say to the people of America, join the family plan. What family plan? Not a health care plan. Not a dental benefit plan. But a plan to get all of your family out to vote on election day. Make sure everyone is registered. Make sure everyone has an absentee ballot who cannot be in town. Make sure everyone gets out on election day. This is the most important election of our lifetime.

This election is going to impact what happens with children in Head Start, in public schools and private schools. It is going to impact Pell Grants, a diminishing number of dollars available to college students. What is going to happen to the children who decide not to go to college? Are there training opportunities for people who decide not to go to college? What about mothers on welfare who want to go to work but do not have the income and the type of job that allows them to be in a position to pay taxes?

I am asking all those who are listening to say this is the most important election and our vote is our voice. It is time to step up and speak up and say to the people of America and the people of the world that we are going to be heard. Our voices are not going to be silenced. Our voices are not going to be suppressed. We are going to voice our concern about what is happening in the world.

We have 435 elected Members. Americans have an opportunity to be heard in November. Do not sit back and say, I am not going to be heard. My voice is going to be heard. I am going to let the people of America and the people of the world understand that I wanted to be a part of this. I am America. My face is America. I am part of this whole effort that is going on in this Nation, and I want to be heard.

Mr. MEEK of Florida. Mr. Speaker, I want to let the gentlewoman know how excited I am, not about the prospect but about the reality of the number of individuals who will vote this election. The stakes are high. This election is beyond personalities. It is personal. It is about families and their future.

I once said on the floor that the goal of every grandparent and parent is to make sure that their children and grandchildren have better opportunities than they had. That fits everyone, Democrats, Republicans and Independents. The American people are going to have an opportunity to have a new direction. There are 45 million Americans without health care. These are working Americans without health care. We have the highest deficit in the history of the Republic. We are knocking on the bank door of China saying, please help us with our debt because we cannot manage our own money. At the same time, we are in a war with no real end.

I will repeat again, I support making sure that we reach our objectives in Iraq, but what I do not support is for us to continue to carry 96 percent of the costs and 96-plus percent of the casualties without being able to go to the world community to build a real coalition in Iraq. It is not good thinking to be able to say we are going to hang in there and go from a shooting-from-the-hip way of doing things; we cannot do that. We have the moral authority in the world so we cannot behave like others. We cannot afford to behave like others.

The rest of the world is looking at this election to see what the American people do about the future of the world. People talk about a global war on terror, yes, a number of countries are involved in the global war on terror, but the real issue is who is involved in Iraq.

Just for a moment, what happened to Osama bin Laden? We had efforts on Osama bin Laden and also in North Korea and making sure that we kept the pressure on Iraq as relates to their nuclear programs; maybe we will be securing the world more. Maybe, just maybe, we will not have the kind of terror incubator that we have in Iraq now. This is not the Meek report. The CIA report said either civil war or a lack of not being able to accomplish our goals that we set out to do in Iraq, one of the two.

When you follow Secretary Rumsfeld saying we can only have elections in three-quarters of the country, the rest of the country, we will get around them, it is not a perfect world; you want to talk about a prescription for civil war, that is one. That is why it is important that the American people understand their responsibility in this upcoming election season.

I am encouraged by the 18- to 30-year-olds who are registering to vote. I am encouraged by the grandparents and the veterans who are saying, young person, make sure you carry out your vote. To those individuals and seniors who are cutting pills in half because they do not have a prescription drug benefit, they have an opportunity to voice their opinion.

Mrs. JONES of Ohio. Mr. Speaker, the Louis Stoke's Veteran Facility is right around the corner from my house in my congressional district. I was over there the other day talking with the administrator about the new programs that are going to go into this veterans' facility.

□ 2300

But the reality is we have not treated our veterans like they ought to be treated. We have not given them the benefits that they deserve. We have not given them the health care that they deserve. We have not given them the opportunity to engage in a new business when they come out. We have not given their families the kind of support that they deserve.

And I am thinking back, my dad, Andrew Tubbs, 84 years old, served back in World War II. And my son Mervyn had an opportunity to interview my father about his service. And my dad told him things that he had never even discussed with me. And I said, Dad, why did you not tell me about this? He said, Because it hurt. Every time I talked about it, it hurt me. I did not want to talk about it. I did not want to tell you about it, but there came a time in life when I was much more comfortable.

Today, my dad has got dementia, is suffering from Parkinson's, and I think about what are we going to do for veterans who have come after him. Are we going to give the benefit to the Vietnam veterans who have posttraumatic stress syndrome, who suffer from Agent Orange? And we are talking about young people across this country about how we want them to join up with the service. What I am worried about is what is going to happen to the young people right now. Are we going to have a draft that is not an official draft? Are they going to be forced to go into war in Iraq, as the President, as has said, that after the November elections, should he be successful, he is going to call them up? He is going to call more troops to go into Iraq and to possibly lose their lives.

The people of America need to understand that. They need to know the possibility of that fact. They need to know that the National Guard, who are overtaxed, overworked, are working very hard, doing double duty on behalf of America, when they really never anticipated that they would be any more than a part-time armed services.

And what about the people that are in full-time service? I have a cousin who told me, Stephanie, we are working 48 hours, not 24 hours in a day; 48 hours.

So I am just saying to the American people it is time to wake up. Remember that old song, "Wake up, everybody, no more sleepin' in bed, no time for backward thinkin', time for thinkin' ahead"? The world has changed so very much from what it used to be. There is much more hate and war and poverty. So we need to understand the dynamics that are coming to play in these next 40 days and be ready to step up to the plate and voice our opinion about what is happening.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, this election is going to be about who votes and who does not vote. This election is going to be about the future of every American family. We know that every election is supposed to be about that, but this one is for real.

The President of the United States said today to the interim prime minister of Iraq, do not worry, the American people will be with him all the way to help him accomplish the goals that the Iraqi people want to accomplish. Well, I am not one to hang my hat on polls, but I will tell the gentlewoman this: the Iraqi people see us as occupiers instead of liberators. And that is not a reflection on the job that the troops are doing on the ground.

I want to make sure that Members of Congress understand that there are a lot of proud men and women who are laying it down right now. I pray for them every day. I make sure that their families understand that we appreciate their service to our country. But at the same time, it is our obligation as leaders here in Washington, D.C. We are citizens elected to this Congress to make sure that we run this country in a way that it should be operated and that we make sure that our troops have what they need and when they need it and we make sure that we make sound decisions based on what the situation is today and what the situation will be in the future; and that is the reason why I am sharing tonight with all of the people that can hear my voice that it is important that they look at it for what it is.

There is a term out there that a lot of young people use: it is what it is. And right now, if I were, hypothetically speaking, the President of the United States and I am looking at what is going on and I am getting the CIA reports and I am hearing things that the American people are not hearing right now and I am turning on the news and I see what is going on and I am picking up the paper and I am reading the articles and I am getting all this good information but, better yet, I am still going to hold on to the fact that we are going to have elections in January, that lets the world's community know that we are putting, I believe, politics over principle and over sound thinking.

And the great thing about our democracy is we have the opportunity to come here and voice our opinion and to be able to share it with the people who live in our democracy for them to act appropriately, and acting appropriately would be to think about the facts. A commercial over here and a commercial over there. That is fine. Some of it is true, and some of it is fiction. But the bottom line is when we speak from the White House and when we speak here on this floor, we have to speak the truth. There is not a lot of time for us to play around and start talking about, well, I am going to just sway over here and I am going to embellish a little bit.

The American people deserve better. Congresses before our Congress, the 108th Congress, knew and hoped that this democracy would move as it relates to truth, honesty, and dignity. And it is important that we do not even reflect that. With all due respect, we do not even want to brush up against that. I am not saying that that is not the case now. But I am saying we do not brush against that honor that has been laid out. When I talk about veterans that have served this country, those that are in Arlington Cemetery right now, resting in peace, we appreciate their contributions. Every time I go to the airport, I see Arlington; and I swell up about their contribution. We would not be in Congress if it were not for them. So when we look at that, it goes deeper than the politics that we are hearing right now.

So the American people have an opportunity, Mr. Speaker, those who are voting for the first time and those who have voted 100 times, to be able to make the right decision based on the facts. If their voter registration card says Green Party, Reform Party, Republican, Democrat, Libertarian, Independent, whatever their party may be, they have an obligation on behalf of their family. Family, that is personal. So we have to make sure we reflect on that.

I am excited. I am just going to let the gentlewoman know I am in no way feeling that woe is this country because I have faith in the American people. I know they will make the right decision. We have got to give them the facts about what is happening, what is really going on, and let them make their decision.

Mrs. JONES of Ohio. Mr. Speaker, if the gentleman will continue to yield, the interesting thing is this whole discussion about security right here in the United States and what has this administration done to secure us. I would ask the people of the United States of America to contemplate this: the COPS program, we were supposed to give money to cities to increase the number of police officers available in cities, first responders. That amount of money has been reduced. I think about the first responders, the law enforcement, the firefighters, the EMS. The money that was supposed to go to cities across this country is locked up in State capitals across this country, not going into the neighborhoods where they deserve it.

We are still trying to figure out about what do we do about the tankers or the freighters coming over into our country that are not being perused. We are still thinking about the number of things that are on the planes. The other day I was flying from Cleveland into D.C. I mean, the woman frisked me, totally frisked me. The TSA person. They were trying to be in place because of what happened with the Russians. But what about all the things we are not doing? And this President talks about securing America, and people are talking about how this President has done all these things to make sure we are safer.

I bring to the American people the reality that those things are not happening right here in the United States of America. There are so many things that have not been funded by this administration that would make us more secure. So we should not get fooled by believing that this President has done enough to see that we are secure at home.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, I will just say, since our time is drawing near to the end, that the American people have an opportunity to vote and they will. There are record numbers of new registrants out there in this country, and they are registering to do something. And they have an opportunity once again to vote for a new direction as it relates to health care; education; environment; energy; security for our country, making sure that we have more containers that are being checked, coming into this country, which has been found to be one of our greatest terrorist threats.

□ 2310

They have an opportunity to make sure that there are sound decisions, and a real opportunity for the world community to feel that they can come to the United States and we can build a real coalition in Iraq; to be able to make sure that we put on a real hunt for bin Laden; to make sure that individuals that were responsible for 9/11, that they are not only brought to justice, but shut down.

So they have that opportunity, and I believe very strongly they are going to take that opportunity and they are going to swell that vote, and they are going to vote early, and they are going to make sure that every member of their family votes, because this election, I believe, this election, I say it again, is the greatest opportunity that Americans have had who are able to cast their vote in a very, very, very long time.

So, I am glad that the gentlewoman from California (Ms. PELOSI) has led us in the direction of the New Partnership with the American people, and that we are going to do the things that are going to be able to help not only working Americans, but those Americans that have contributed to our country.

If you are on Social Security, you have a place in our partnership. If you are looking for a job, you have a place in our partnership. If you are a mother that is trying to make ends meet, you have a place in our partnership. If you are a veteran that wants to go to the VA and get assistance within 6 months, you are in our partnership beyond 6 months. That is the situation right now, if you want to see the eye doctor or whatever the case may be.

If you want to make sure that we build a sound America with sound education funding and policy and making sure that students that are crushed by student loans right now, that they get the opportunity to attain a graduate education so they can compete with the rest of the world, you are in our partnership.

If you do not want to have to train someone to perform your job overseas, you are in our Partnership with America to bring about change.

So I am excited about our leadership here under the gentlewoman from California (Ms. PELOSI) and the gentleman from Maryland (Mr. HOYER) and so many others that are out there, along with our Democratic Caucus, but I think it is important that we make sure that American people understand the opportunity they have.

Mrs. JONES of Ohio. Mr. Speaker, if the gentleman will yield further, I want to say this, that I am so excited and privileged to serve in the House of Representatives with this fine young man, the gentleman from Florida (Mr. MEEK). He comes from great stock, my former colleague, Carrie Meek, serving on the Committee on Armed Services, serving on the Committee on Homeland Security, and he is talking about what he knows. He is not just speculating. He has the opportunity to be on the committees that know about all of these issues about Iraq, about all these issues about National Guard, . the Armed Services.

I am just so pleased and proud to be able to stand with the 30-Something Group here on the floor of the House, having celebrated my double nickel birthday just last Friday of 55. I am pleased and privileged to stand here, to be a part of the House, to have an opportunity to be heard.

I just want to salute the gentleman from Florida (Mr. MEEK) for all the great work that you are doing. I am just pleased to be in your aura.

Mr. MEEK of Florida. Mr. Speaker, I will try to live up to that as we move on. It is a great pleasure to serve with the gentlewoman from Ohio, with all of the trials and tribulations that her constituents and the people of Ohio with the loss of jobs.

As we know, in Florida when we talk about health care, 240,000 people in Florida lost their health care that are working under this administration. We have an opportunity to turn that around. I am very proud of the opportunity that we have.

Once again, it is an honor to serve in this House. It is also a greater honor to be here, to be about the solution.

I will tell you, it is not just Democrats. There are people of good will in this House that want to do the right thing. It all comes down to the leadership. It is like our troops in the field. Who does not support the troops? That is what I want to know. We all support the troops. We speak in our vote, we speak in our support on the floor, we speak in our prayers for the troops.

But it is important that we are not blinded by bipartisanship and about the fact that, oh, well, I have to do this because the leader of my party or the leader in the White House says that I have to do it, and we have to stand in solidarity with him or her or whoever it may be.

We stand in solidarity with the American people, and the American people have an opportunity through the partnership that we have built here in this House with our leader, the gentlewoman from California (Ms. PELOSI), about what we should do and what we have to do, given the opportunity.

I must say, it has been 10 years since this House has been controlled by Democrats, and I think it is important with Democrats and some goodwill Republicans that we put this country on the right track.

With that, I want to thank the gentlewoman for joining us here tonight.

SUPPORT OUR COMMANDER IN CHIEF AND TROOPS

The SPEAKER pro tempore (Mr. MCCOTTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Iowa (Mr. KING) is recognized for the remaining time until midnight.

Mr. KING of Iowa. Mr. Speaker, I appreciate the opportunity to come to the floor of the United States House of Representatives and have the opportunity to speak my peace to the American people.

I think as I have listened to this discussion over the last 2 or 3 hours here, and particularly over the last 40 minutes or so, I would start backwards and work my way through there.

The question was posed just before the gentleman from Florida yielded the floor, who does not support the troops? I recall a resolution on the floor of this Congress within a week or two of the time the liberation troops entered Iraq. The resolution was to honor our troops. It included, of course, honoring our commander-in-chief.

There was a long, contentious debate on the floor of this House that lasted until 2:15 in the morning, and Member after Member went down to the well and spoke, and spoke against honoring our President because he was in the resolution to honor the troops. This went on until 2:15 in the morning.

Some of them said, "Bring them home, Mr. President. This is a failed mission." We were only 2 weeks into this operation. By the way, this operation is likely and it certainly will go down in history among the most successful military operations in all of history.

Our troops entered Iraq and crossed the desert with armor faster than any column had ever done so before; they invaded and occupied the largest city ever in the history of the world to be invaded and occupied, invaded and liberated subsequently. That all happened in about 22 days. The population of Baghdad is twice as large as now the second largest city ever to be invaded, which was Berlin. It was a tremendous, magnificent military performance. And that mission to liberate Iraq was accomplished, and it was celebrated. And, by the way, it was not at the President's request that that banner was hung on the Abraham Lincoln, that was the people on the Abraham Lincoln that made that selection.

Who does not support the troops? The people that voted against the resolution, 14 of them, and many others who spoke against it. Some of those people that said "bring them home, Mr. President," that went out and did press conferences and talked about it and declared it to be a quagmire, another Vietnam, a failed mission, ran down the efforts of our United States military, some of those same people that spoke against the resolution honoring our troops and supporting our troops, those people spoke against the mission.

They went down and stood in front of the television cameras when we honored our troops in Statuary Hall here in the United States Capitol building, and they stood there holding an American flag right in front of the podium and cameras demonstrating their patriotism after they voted against the resolution honoring our troops.

I think if you pray for the troops, you also pray for our Commander-in-Chief. If you honor our troops, you also honor our Commander-in-Chief. We are all in this together, from the Commander-in-Chief down to every soldier and the people that support them and their families and neighbors and friends and employers and the people that pray for them to come back home, those that keep their jobs open. Those are the support group and the support team. That is how you honor our troops.

You go over there and visit them. If you do that and look those soldiers in the eye and talk to them and if you listen, you will find out that they will not accept the idea that you can support the troops and oppose the war, or you can honor the troops and oppose the mission.

As a Marine major told me on one of my trips to Iraq, he said a soldier is trained to do that which is unnatural, and that is to kill. You send them in on a mission to do that, to kill or be killed. You cannot tell them that their cause is unjust. They must believe that they are fighting for a just cause. When their lives are on the line and when it is kill or be killed, it has got to be for a just cause.

The debate in this country can go on and rage, but when our troops go into harm's way, we need to come together. When we have a presidential election in a Nation at war, those disagreements need to stop at the water's edge.

I believe this is the first time in history we have had this kind of contentious presidential election that carried this argument overseas and where the debate and the discourse has encouraged our enemies.

□ 2320

I made these statements months ago, and they are true again today. When the people who are viewed as quasi foreign policy leaders, those voices from the other body, those voices from this body that speak out publicly and claim that it is a failed mission, it cannot be won, those people are undermining our mission.

So, when there is an insurgent sitting in their concrete hut over in Baghdad or Fallujah or wherever it might be, and they are building improvised explosive devices or planning their next attack on coalition forces, and they are watching their new satellite dish TV, of which at least two-thirds of the people over there now have access to satellite TV; it was illegal just a year-and-a-half ago, now I counted them from the air, two-thirds of them at least in the city of Mosul, last fall. When they are watching their satellite TV and they are making bombs to blow up coalition forces, and most time American forces, and they see the face of the presidential candidate declaring it to be a failed mission, declaring that he wants to bring the troops home, and when that is going on and they see the Arabic subtitle and they hear the English voice of that person whom they view to be quasi foreign policy, and in fact they are, you tell me, America, do they build more bombs or less? Are they encouraged by that discussion? Does it give them hope? Is it the same impact on the people fighting us that it was with the antiwar protesters in the Vietnam era that finally talked us out of a war that we never lost a single tactical engagement in? And, by the way, we have won every single tactical engagement in Iraq from the platoon level on up, and it is very likely to say that way. We are at no tactical risk.

The casualties, every one, even one is too many. By the same token, there is a comparison that can be made to a number of other important military operations.

But the part that is forgotten is the one that nobody talks about, and it is forgotten the most, and that was, what was the price to be ready? Do we ever lose soldiers in training maneuvers, military operations, on-base accidents, training accidents, other kinds of incidents where it costs lives? And that answer is yes. Yes, we do. And I began to wonder about this when I heard the noise here on the Floor for the first casualties, sad as it is, and they are in my prayers too, and their families are in my prayers, as is the commander in chief, I began to look at this from a different perspective, and I asked myself, what is the price to be ready? How many lost their lives in those training accidents, on-duty accidents, on-duty fatalities, because we have to have a military that is ready to go at a moment's notice, that has to be highly trained, needs to be highly skilled, needs to have the best equipment available, nothing too good for them; when you have men and women and machines and logistics and all of that is moving around, things happen. People get hurt and they get killed, just like people get killed in car accidents for the same reasons.

So I had them put together some numbers for me and the question was, how many then died in the line of duty, nonhostile, from the period of time of the end of Desert Storm to the beginning of Operation Iraqi Freedom. And that number came back to be an average of 505 per year, 505 per year.

Now, we have been in Iraq about a year-and-a-half, and in that period of time, we have lost a little more than 1,000 soldiers. But in peacetime, on the average, for the previous decade, in that period of time, we would have lost statistically about 750 just as a price to be ready. Planes crash, choppers crash, Humvees roll over, people get run over and crushed, those kinds of things just happen and cannot be avoided, Mr. Speaker. We reduce it as much as we can, but it cannot be avoided entirely. So that price to be ready is about 505 a year. About 5,000 Americans gave their lives so that our military will be ready to step up and defend the United States, defend freedom, and defend liberty.

If these casualties, now that do run about 5 killed a week, and it is a pretty steady number, and the steadiness of it does disturb me, because it is not the only indicator, but that as an indicator does not show the trend that I am hoping for. But regardless, 5 a week killed in Iraq, and the point was made yesterday that 248 were murdered here in Washington, D.C. in the last year alone. This is a population of about 500,000 in this region, Iraq is a population of about 27 million. So if you do the math and you divide the 500,000 into the 27 million and you multiply it times 248, that same proportion would be about 12,500 Iraqis, or 12,500 killed in Iraq in a year. So in a year-and-a-half, it is about 18,000, and we are looking at, of American soldiers, about 1,000.

So for wartime, as tragic as it is, these are not a great number of casualties. This is a very noble endeavor, to provide an opportunity for freedom for the Iraqi people. And we heard Prime Minister Alawi speak today on this very floor of this Congress. I took some notes on some of what he had to say and his notes would have rebutted the previous speakers here on the Floor. I think it is important to repeat those to the American people.

He said, we intend to shoulder all of the security for our country eventually. Mr. Speaker, 250,000 security will be in uniform and trained and up and ready to go in operation by the end of the year of 2005, should be by the end of next year. Elections will occur on time in Iraq. That is a bold statement. They will stand by it. He said, we will prove them wrong again. They said we could not establish a civilian government, they said we could not write a Constitution. He named a list of milestones that had been declared not possible to meet, but he said we met them all and we will prove them wrong again. He said, there could be no greater blow to the terrorists than elections, and elections will take place.

He said, Iraq has many partners, over 30 nations in Iraq helping militarily, logistically, economically. But he said, I understand why faced with the headlines you are seeing over here why you might have some doubt. The United States news media is discouraging 282 million people while 27 million people struggle for freedom and liberty.

His strongest message was, thank you, America. Thank you, America. I got that message from the Iraqi people when I was there. He said, the overwhelming majority of Iraqis are grateful for our liberation. He used the term "liberation" several times in his speech. The Iraqi people have been liberated by American soldiers. And he pointed out that at least 300,000 are in mass graves because of Saddam. Millions have gone into exile. He did not mention how many Iraqis are alive today because of the intervention of the coalition forces. But if you take that 300,000, and some of those numbers go to 400,000 or even 500,000, and you divide it by the period of time that Saddam had to kill his own people, because that is certainly what put them in the mass grave, you get a number somewhere between 182 a day and 300 people a day that were being killed by Saddam's regime.

So if you take the 182 a day and multiply it times the days the liberation troops have been in Iraq and stopped that wanton murder by Saddam Hussein, that means about 88,000 people are alive in Iraq today that would not be alive if Saddam had remained in power, and maybe that number runs to 60,000 or 70,000 or 80,000 people even that could be alive today in Iraq because of this noble venture on the part of the United States and the coalition forces.

He also said, we are determined to honor your sacrifice by putting in place a democracy. Determined to honor your sacrifice. And he also at the end of his speech pledged to stand with the United States because we have stood with them in many, many different areas.

Mr. Speaker, I did not come to the Floor to talk about this tonight, but as I sat on the Floor and listened to the rhetoric that flowed out here prior to my time before this microphone, I felt compelled to address the subject matter because it is important that we do speak the truth, as the gentleman from Florida said.

There was another statement made that those casualties in Iraq disproportionately represented minorities and low-income groups. That statement has been a statement that we have heard since the Vietnam war. No statistics uphold that statement. They have not in my lifetime. It has been essentially proportional to the minorities in the population, those casualties. So our troops have been representative of the American people, and this is a volunteer armed forces. So when people volunteer, they do put their lives on the line for their patriotism, and when things happen, they happen in proportion to their membership within the military.

So I am proud of these soldiers. I look them in the eye. And over and over again they said to me, why do we have to fight the United States news media too. We will fight for you over here in Iraq while you go back to the States and fight for us. That message was a consistent message that came.

But really, Mr. Speaker, I came to the Floor here to speak about another subject matter, a subject matter that is maybe deeper and broader than the one in Iraq. This issue came up last week as we had a debate on the Floor about the matricula consular card.

□ 2330

The issue was, will the United States Federal bank honor matricula consular cards. Now, for the benefit of those who do not have that term in their vernacular, a matricula consular card is a card that is issued by the Mexican consul to an expatriate citizen of Mexico, I assume someone who is not likely to have paperwork to be legally here in the United States. It is a card they claim requires a birth certificate in order to get the card, but we had people picked up that had 30 different cards in their possession.

The people who believe that we should honor those cards in our national banks are the ones that opened the subject and said that, just by the virtue of carrying a matricula consular card, it was likely you were an illegal alien because you would have no reason for a card like that. If you were legal, you would have a green card or other documents that would demonstrate the legalities of your presence here or the ability for you to work in this country.

So the matricula consular cards go often to illegal immigrants. There are at least a million of them out there. They are not verifiable or reliable.

The other side will argue that there are any number of banks that honor them, any number of States that honor them. And I will say yes, and that is the problem. But there are not many banks in Mexico that honor them. It is not a very reliable document south of the border, and we should not be making it a legitimate document here on this side of the border, because the matricula consular card being in one's possession gives one a false identity that can be used in some States to get a driver's license. That may be all you need then to open up credit, to register to vote. Yes, I know you are supposed to say you are a citizen. Nobody verifies that. And so this matricula consular card becomes the entry into the mainstream of the United States for illegals.

So I raise the issue that those who were defending the utilization of the matricula consular card and certifying it to be recognized by the national banks, there are two different arguments here. On one side, over on this side of the aisle to my left, Mr. Speaker, were the people who believe in an open border under almost all circumstances. The people that say, let us bring that flow in. Let us take that 8 million, 10 million, 11 million, 14 million. Let them flow in here. Let them vote and give them all of the benefits we can, give them fast track to citizenship.

They have a motive for that. And the motive is, and it is clear, they believe that a significant majority of those who come into their country will vote for the liberals, and I believe they are right. I think maybe they are right on two out of three, as the statistics that I see. So their motivation is political power. On the other side of the aisle, we had people that argued that it was all right that we ought to honor the matricula consular card and we should do that because, that way, we would be able to keep track of these people that are here.

I could not ever quite follow that. You would let somebody have an unreliable document, call it identification, let them use it to access the financial world and maybe the drivers license world and flow through the society here. I do not know how that helps us identify them. And I do not know what they would propose we could do if we could identify them because they are the people that are heading up the multinational corporations, the people who want a steady supply of cheap labor, the people who figured out they can transfer capital around the world with a click of the mouse and are frustrated they cannot transfer cheap labor around the world with a click of the mouse.

I am in favor of immigration. I am in favor of a logical immigration policy. I am in favor of one that is designed to enhance the economic, cultural, society well-being of the United States of America. It is simple. Every nation's immigration policy should be a selfish policy that looks out and says, we can use certain people in this economy, certain people with certain skills, certain people that maybe even come with capital, language skills, technological skills, maybe doctors, probably not lawyers, but people who have skills that can enhance this economy. We can use all kind of people in this economy.

But we do not have an immigration policy that reflects any selfish interest in the United States, not even a logical humanitarian interest in the United States. We have an immigration policy that is fraught with selfish interests of political gain, economic gain. And the point that I made was there is a vast majority of us in the middle here between the liberal left open-border, fast track to citizenship, and over here, another libertarian open border, cheap labor right, this vast majority of us believe in something I call cultural continuity and the rule of law.

Cultural continuity is the issue that brings me to the floor here tonight, Mr. Speaker, because an issue was raised that night, the following day and all throughout the weekend up until just the day before yesterday. The press has been pounding on my door, wanting me to explain cultural continuity. They have already defined it. It was defined by a caucus on the other side of the aisle, and they held their press conference, put out their press releases. And a couple of those sent the press over with their television cameras to ask me some questions. They had declared it to be a racist statement and that the use of the term cultural continuity took them back to 1932 and Nuremberg.

Those are some pretty heavy charges to level against anyone on the assumption that you understand what it was that I said. And I will say this, anybody who believes that the use of the term "cultural continuity" is racist or anyone who believes that it brings back memories of I will say historical memory because none of them are old enough to remember Nuremberg in 1932, if that reflects back to them, they need someone to help interpret this English language for them, someone to interpret this American culture for them.

But the problem is not that there is anything wrong with cultural continuity. It is our understanding of who we are as a people. Well, so the answer to everything is all on a Google search. So I went back and typed in "cultural continuity." Where are they getting their interpretation for the English language? Where are they getting their interpretation for the culture that is here? So, Mr. Speaker, I found this.

"Destroying Cultural Continuity, The Leftist War on Social Cohesion."

Well, I began to read through this document, just the headline pretty well filled me in, and I began to understand the motive. There was another time in my life or two when I inadvertently made a statement that was sound, and it was logical, and it was ridiculed because it had thrown a dart into the heart of the argument on the other side of the aisle.

I believe in cultural continuity. I believe that there exists a greater American culture, a greater American experience. I believe it is all based and founded in the Declaration of Independence and in the Constitution. I believe, like the President does, and I believe like our founding fathers did, that our rights come from God, and they are identified and ratified by the Declaration of Independence, put into our Constitution, and they flow to us. And I believe that the Bible was written with divine inspiration. And I believe that the Declaration of Independence was written with divine guidance, as was our Constitution, including our Bill of Rights. And I believe these rights that come from God are established in this Constitution as a sacred covenant with Him, a gift from Him through our Founding Fathers.

It is our obligation to stand and defend the Constitution, defend the concept and the Declaration of Independence and recognize that this greater American culture, this cultural continuity that we have, this great American civilization that we have is a civilization that flows from those foundational documents, but the spirit that established them needs to remain. So America is a greater culture.

As I first went into the Iowa Senate, I was reading through the Iowa law, and I came through the section on education. Now, this is about the time that I began to give up on the idea that diversity and multiculturalism were going to be the answer to anything unless you were trying to establish division and chaos in a country. I did believe when multiculturalism flowed out into our discussion, that it was a good thing, that it gave us an opportunity to identify and honor different people from different civilizations and allow us to respect the differences between us but still be able to bind ourselves together in this giant melting pot.

Over time, I began to see it differently, that diversity's root word is divide. That is what it has been doing is dividing us. Multiculturalism has been, rather than celebrating the good things about individual cultures, it has been driving wedges between us all. Multiculturalism and diversity deny the existence of a greater American culture. It denies the existence of the American culture altogether.

They claim, no, we are this beautiful multicultural mosaic. No one culture is better than the other. Some are different but none the more superior than the other. No matter what people come with whatever values, they have as much value as any other people come with any other values.

□ 2340

I will tell you, if that is the case, then why did not every other country in the world grow into the strongest economy in the world, the strongest military in the world and the most powerful culture and civilization the world has ever seen? I will tell you it is because we have been rooted in these values, these values that are in the Constitution.

So as I read through that chapter in the code of Iowa, the education chapter, and no one should really ever tackle something like reading a law book because it is dry and you do not often find substance, but something called me to that page. As I read into the education chapter, it said each child in Iowa shall receive a multicultural, nonsexist, global education. Well, those are code words for we are going to teach politically correct and we are going to teach multiculturalism, diversity; we are going to each these children that the United States is not as great as they would like to think it is, that we are simply this hodgepodge of multicultural mosaic.

So I recognized those code words were there, and I knew what they were teaching because I looked at the curriculum and my wife has taught school all her life. I got out a document to draft a bill draft. I thought, I am going to strike that stuff all out of there. I drafted up the bill to eliminate each child in Iowa shall receive a multicultural, nonsexist, global education, struck that out and I sat there, and I realized but if I just strike that out I will be accused of being negative. I need to be for something. I need to be for something that is positive.

So I looked at the ceiling with the pencil and I began to write: each child in Iowa shall be taught that the United States of America, of which Iowa is a vital constituent part, is the unchallenged greatest Nation in the world and we derive our strength from free enterprise capitalism, biblical values, and Western Civilization.

Simple, unarguable, filed the bill. Next day, things erupted on the floor, like they do here some nights, Mr. Speaker; and after about an hour and 20 minutes of being called every kind of name, I had my chance to rebut, but nobody spoke to the substance. I have been there before. Nobody spoke to the substance.

Nobody could explain why it was that the term "cultural continuity" was offensive to anyone until I did the Google search and I find out that there are people that are opposed to cultural continuity because they want to divide. There are people that are opposed because they do not want to buy into the value system that has made this country great, so they want to tear the value system down, tear the value system down and replace it with nothing or something. They are not in agreement on what that might be.

When you begin to ask why is this, how does it unfold this way, what motivates these people to do this, why do they not think like I do, while I say that I think that our Constitution is a sacred covenant with God, they tell me the Founding Fathers were a bunch of deists and they just got dumb lucky and they did a lot of bad things, too. Certainly they were mortal, but they were mortals with an insight that has held true for over 2 centuries.

The value system is different. One is, if you believe you are a created human being, if you believe that you are created in God's image and that there is a life after this life and that it is our job to do everything we can to leave this world a better place and have confidence that there is a better world for our children and a better place for us in the next life, if you believe that, you have an entirely different world view than if you are someone who does not.

So I began to read some of the works of Antonio Gramsci, Herbert Marcuse. Gramsci was an early 20th century Italian Marxist philosopher; and he is the one, along with Marcuse, who established this philosophy of multiculturalism. The idea was that the people in power at that time are the ones that believed in moral values, the strong families, essence of hard work. These are all American values, by the way; and they are all things that have made this Nation strong and made this Nation great.

But they came to the conclusion that they did not want to really play on that field by those rules. They did not want to live that moral life. They did not want to tie together that father and a mother and a home and holy matrimony, raising children, teaching their religious values, moral values, work ethic. They did not want to play on that field. Maybe they could not compete on that field.

So they argued that all of these values that I believe go together to make this a great Nation, they argued that moral values were no more moral than the antithesis of moral values. Immoral values had as much value as moral values to them because they said that all of our moral values were simply a social construct; that it is all put together by the people in power to keep themselves in power and expand their power. That is why we go to church; that is why we believe there is a difference between right and wrong; and that there is a bright line between virtue and sin; and that we treat our neighbor as ourselves, the 10 Commandments, the foundation for our laws in this country, all were argued to be simply a moral construct.

So Gramsci argued and Marcuse argued that they wanted to tear down all of this moral fabric, not just in America but around the world. Every time they could find an institution that was part of our civilization, a part of our culture, they began to attack it, tear it to shreds, rip the curtains of our institutions apart piece by piece by piece, and in doing so, maybe replace them with the antithesis of moral values, set up multicultural groups, establish group rights as opposed to individual rights.

I went to Iowa State to speak and debate on campus there some time back. Before I went on campus there in Ames, I went to their Web page, and I typed into the search engine "multiculturalism," and hit search. It came up with 59 different multicultural groups registered on Iowa State's campus, this conservative, engineering, land grant college, middle America, 59 different multicultural groups, every one a victims' group. It starts with Asians and ends with Zeitgeist, and it is everybody in between.

So you can arrive on that campus or any campus in America a freshman, with not having any idea that you are really born a victim, and there figuratively at least in Iowa State there will be 59 card tables set up with 50 recruiters for 59 multicultural organizations, all of them victims' groups, all of them set up so you can find a victim's group or two or three or four or five for you. There you can demonstrate and you can have special rights, and you can have more access to the benefits of government because there is virtue in being a victim.

That is the message that is been taught across this country. That is the message that has penetrated into the minds of our little ones, and they are growing into adulthood, not believing in individual responsibility, not believing in individual rights but believing in group rights and believing in the virtue of victimhood.

If there is anything that is self-defeating, it is the idea that you are a victim and the reason that you do not succeed is because someone else has kept you down, because of your skin color, your race, your ethnicity, whatever it might be.

I will tell you I know the people in this country. I have a district that is Middle America, and we have got significant diversity from an ethnic standpoint. I know what the people in my district think. I will tell you what I believe and they believe the same, and that is, we are all created in God's image. When He created us in His image, He did not draw distinctions between us, man to woman, one color to another, one ethnicity to another. God does not draw distinctions between His creatures, His creation. So if He draws no distinction, who in the world are we? Who are we to discriminate against anyone? Who in the world are we to give special rights to anyone?

That is the question this Nation needs to ask. It needs to ask consistently and needs to ask continually.

When we establish affirmative action policies, those are distinctions between people, special rights. We do not need that. We need to get over that. We have to make sure everybody has an equal opportunity, and there are some things we need to do for equal opportunity, especially at the lower level of education, and as the President said, the soft bigotry of low expectations, we have got to get rid of that. We have got to challenge people to do their best.

You have got to look people in the eye, get to understand them as individuals, respect and appreciate them for the people that they are; but we need to be tied together with this cultural continuity, tied together with this language, tied together with this culture, tied together with a common sense in our history, our patriotism, the sacrifice that has been made.

Three times in the last week I have had people from the Middle West come out here to Washington, D.C., and after they have gone through the trip to the National Archives to view the Declaration of Independence and the Constitution; out to Arlington where there are 275,000 graves of brave, patriotic Americans; watched the changing of the guard of the Tomb of the Unknown Soldier; and gone through the monument tour from FDR's to Lincoln's to the Vietnam wall to the Korean and the World War II memorials, all the way across this great city and the Washington Monument, the Capitol building, the White House, three different people in the last week have told me they underwent a life-changing experience in this city.

□ 2350

At some point they got this feeling that there was a reason why everybody fought so hard and so long and sacrificed so much. You cannot avoid that feeling standing at Arlington, at the changing of the guard, at the tomb of the unknown soldier, or standing with your back or face to the eternal flame at Kennedy's grave.

When I face Kennedy's eternal flame, I then turn, with my back to that and look down across the Potomac River, and there you can see the back of the Lincoln Memorial, you know where the Vietnam Wall is, you can see the reflecting pool, the Washington monument, the Capitol building; and in the wintertime, if you know where to look, you can see the top of the White House. There, in your view, is framed the symbols of the greatness of this Nation. It is a moving experience to live and work here. It is more moving to come for the first time and visit and absorb the symbols of this Nation.

Those three different people told me that now they understand. Now they understand why so much has been sacrificed; what has been built based upon the Declaration of Independence, the freedoms that we have, and that they are worth fighting for.

One man came from New Zealand. He did not know our history or the history of Washington, Lincoln, the Civil War, and the Revolutionary War. That was all not taught in the history books in New Zealand. So for the first time, when he walked up the steps of the Lincoln Memorial, he stepped up to Lincoln's statue, turned to the left and read the Gettysburg Address on the wall inside the monument. And he sat down on that floor to contemplate the profound nature of those profound words. They meant that much to a stranger from New Zealand, who, thankfully, today, is a citizen of the United States. And they mean that much to us.

I would say also we have, Mr. Speaker, one other challenge in front of us, and that other challenge is how do we maintain the continuity of our civilization, the cornerstone of our civilization?

We have an activist court today, an activist court that is shaping this country against the will of the people, without the people having a voice. It is up to us in this Congress to draw a bright line of separation between the Judiciary and the legislative branch of government. The Constitution, of which I have a copy here, and is seldom very far from me, gives the Congress a tremendous amount of power and authority over the courts. In fact, aside from the Supreme Court, all Federal courts are entirely creatures of Congress.

The Congress has established all inferior courts. And inferior is a term that is used in this Constitution. Congress establishes those inferior courts, all of the circuit courts, and the appellate courts. All are created by this Congress. And the jurisdiction of those courts is also granted by this Congress. Whatever Congress gives, we can take away. We can remove the jurisdiction incrementally or totally from individual circuits. We can eliminate entire circuits if we chose. We could eliminate all inferior courts if we chose. The only Federal court required by this Constitution is the Supreme Court.

And the Constitution does not require there be nine judges or seven or five or three. It just requires there be a Supreme Court. That would require one, a chief justice. So if we decided that we wanted to shrink the size of the Supreme Court, we could do that. And if we decided that we wanted to eliminate all appellate jurisdictions for the Supreme Court, we could do that. And we would leave the Supreme Court maybe with only a chief justice ruling on disputes between the States, ambassadorships and treaties. That is pretty much as prescribed here in the Constitution.

I do not propose we do that. I want to stop a little short of that and do some logical things. I think we need to do some things like, for example, remove the jurisdiction so that the courts are not interfering with "under God" in our Pledge, which we did here on the floor in this Congress today. And I am grateful we did. That is a strong message to the courts.

We have a bigger issue in front of us, and this bigger issue is this cornerstone of civilization.

This is a little prepared piece, Mr. Speaker, and it goes like this:

I want to say this about families, there is only one institution that is as old as Adam and Eve. There is only one human relationship that is sanctified by God. There is only one institution that we know is right for having children. There is one institution that is best to teach our children our values of faith. Only one institution has proven best to teach fundamental moral values. Only one proven institution to transfer our work ethic to the next generation. There is only one institution that transfers all that we are as a people to our children and grandchildren. Only one relationship between people that ensures the survival and prosperity of the human race. All of human experience points to one relationship as the core building block for a wholesome, successful civilization. All of human history, all that we were, all that we are, and all that we are ever going to be is built upon and based upon one institution, the cornerstone of civilization, and that institution, Mr. Speaker, is marriage.

My colleagues, we owe too much to our Creator, too much to posterity, and too much to our children to throw away marriage or redefine marriage for no more reason than to demonstrate tolerance. The active effort on the part of four unelected Massachusetts judges to impose gay marriage on all of America without the consent of the people is judicial tyranny.

If we believe in ourselves, and we do, if we believe in God's word, and we do, if we believe that the Constitution is our sacred covenant with God that provides the best hope for all of humanity, then we have no other alternative but to amend the Constitution to protect our posterity from those who would forever alter or abolish our way of life.

Without thought given to the price that will be paid by future generations. Without thought given to the consequences and without thought for the fact that, once same-sex marriage is institutionalized, there is no turning back. You cannot put the Genie or the Gina or the Jimmy or the Joey back in the bottle. If gay marriage were something that was an experiment that, if it did not pan out, we could simply change it back to the way it was, I would not be so emphatic, Mr. Speaker.

But, my colleagues, we will not get a "do over." We will not get a second chance to get it right again. Not in this country. Not in this civilization. Not in this generation of man. Our legacy would be that we failed the clearest lessons from the Bible and from all of human experience.

For these reasons that I have said, for many more reasons that we all know, I am in strong support of the constitutional amendment to preserve and protect marriage.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GREEN of Texas (at the request of Ms. PELOSI) for today after 5:30 p.m. on account of official business in the district.

Ms. HERSETH (at the request of Ms. PELOSI) for today after 3:00 p.m. and the balance of the week on account of official business.

Mr. THOMPSON of Mississippi (at the request of Ms. PELOSI) for today after 2:00 p.m. and the balance of the week on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. SCHIFF, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Mr. MILLER of North Carolina, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. EDWARDS, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. ETHERIDGE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. BURGESS) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. PAUL, for 5 minutes, today.

Mr. NORWOOD, for 5 minutes, today.

Mr. WICKER, for 5 minutes, today.

Mr. MCCOTTER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BURGESS, for 5 minutes, today.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, September 24, 2004, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9689. A letter from the Architect of the Capitol, transmitting a report of expenditures of appropriations during the period October 1, 2003 through March 31, 2004, pursuant to 40 U.S.C. 162b; to the Committee on Appropriations.

9690. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting a report on the consolidation of the storage of the National Defense Stockpile (NDS) mercury in accordance with Section 113 of Division H of the Consolidated Appropriations Act, 2004, Pub. L. 108-199; to the Committee on Armed Services.

9691. A letter from the Secretary, Department of Agriculture, transmitting a draft bill "To allow the guarantee fee to be included in the single family housing guaranteed loan"; to the Committee on Financial Services.

9692. A letter from the Director, Child Nutrition Division, Department of Agriculture, transmitting the Department's final rule — Child and Adult Care Food Program Improving Management and Program Integrity (RIN: 0584-AC24) received September 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9693. A letter from the Under Secretary for International Trade, Department of Commerce, transmitting the sixth and final annual report mandated by the International Anti- Bribery and Fair Competition Act of 1998 (IAFCA); to the Committee on Energy and Commerce.

9694. A letter from the Chairman, National Committee on Vital and Health Statistics, transmitting the Sixth Annual Report to Congress on the Implementation of the Administrative Simplification Provisions of the Health Insurance Portability and Accountability Act (HIPAA), pursuant to Public Law 104–191, section 263 (110 Stat. 2033); to the Committee on Energy and Commerce.

9695. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9696. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C.

112b(a); to the Committee on International Relations.

9697. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

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9699. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9700. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9701. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9702. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9703. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9704. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9705. A letter from the CFO & Plan Administrator, First South Retirement Committee, First South Farm Credit, transmitting the annual pension plan report for the plan for the year ending December 31, 2003, for the First South Farm Credit Retirement Plan, as well as a copy of the audited financial statements; to the Committee on Government Reform.

9706. A letter from the Managing Director, Strategic Issues, General Accounting Office, transmitting a copy of the report entitled "No Fear Act: Methods the Justice Department Says It Could Use to Account for Its Costs Per Case under the Act," as required by Section 206(b)(1) of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR); to the Committee on Government Reform.

9707. A letter from the Chairman, Vice-Chair, and Commissioners, Election Assistance Commission, transmitting a copy of the report entitled "Best Practices in Administration, Management and Security in Voting Systems and Provisional Voting: A Tool Kit for Election Administrators and Stakeholders"; to the Committee on House Administration.

9708. A letter from the Librarian, Library of Congress, transmitting the Annual Report of the Library of Congress for the fiscal year 2003, pursuant to 2 U.S.C. 139; to the Committee on House Administration.

9709. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2004-05 Early Season (RIN: 1018-AT53) received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9710. A letter from the Acting Assistant for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Migratory Bird Hunting; Early Seasons and Bag and Posession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands (RIN: 1018-AT53) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9711. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — 2004-2005 Refuge-Specific Hunting and Sport Fishing Regulations (RIN: 1018-AT40) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9712. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a report on the activities of the Community Relations Service for Fiscal Year 2003, pursuant to 42 U.S.C. 2000g–3; to the Committee on the Judiciary.

9713. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting a report of the Chief of Engineers dated July 26, 2000, describing the construction of a hurricane and storm damage reduction project for the area from Barnegat Inlet to Little Egg Inlet, on Long Beach Island, New Jersey, as authorized in Section 101(a)(1) of the Water Resources Development Act of 2000; to the Committee on Transportation and Infrastructure.

9714. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model EC155B and B1 Helicopters [Docket No. 2003-SW-40-AD; Amendment 39-13745; AD 2004-15-11] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9715. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34-3A1 and -3B1 Series Turbofan Engines [Docket No. FAA-2004-18648; Directorate Identifier 2004-NE-26-AD; Amendment 39-13737; AD 2004-15-03] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9716. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Fuel Tank Safety Compliance Extension (Final Rule) and Aging Airplane Program Update (Request for Comments) [Docket No. FAA-2004-17681; Amendment No. 91-283, 121-305, 125-46, 129-39] (RIN: 2120-AI20) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9717. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330, A340-200, and A340-300 Series Airplanes [Docket No. FAA-2004-18669; Directorate Identifier 2004-NM-83-AD; Amendment 39-13757; AD 2004-16-01] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9718. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airwothiness Directives; Sikorsky Aircraft Corporation Model S-61L, S-61N, S-61-NM, and S-61R Heliocopters [Docket No. 2003-SW-35-AD; Amendment 39-13756; AD 2004-15-22] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9719. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ Series Airplanes [Docket No. 2003-NM-172-AD; Amendment 39-13739; AD 2004-15-05] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9720. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-93), and DC-9-87 (MD-87) Airplanes; Model MD-88 Airplanes; and Model MD-90-30 Airplanes [Docket No. 2003-NM-122-AD; Amendment 39-13497; AD 2004-05-03] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9721. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211 Series Turbofan Engines; Correction [Docket No. 2003-NE-12-AD; Amendment 39-13434; AD 2004-01-20] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9722. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319-131, -132, and -133; A320-231, -232, and -232; and A321-131 and -231 Series Airplanes [Docket NO. FAA-2004-18681; Directorate Identifier 2004-NM-56-AD; Amendment 39-13748; AD 2004-15-14] (RIN: 2120-AA64) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9723. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Certification of Airports; Correction [Docket No. FAA-2000-7479; Amendment Nos. 121-304, 139-26] (RIN: 2120-AG96) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9724. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Certification of Airports [Docket No. FAA-2000-7479; Amendment Nos. 121-304, 135-94] (RIN: 2120-AG96) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9725. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Noise Certification Regulations for Helicopters [Docket No. FAA-2000-7958; Amendment No. 36-25] (RIN: 2120-AH10) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9726. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Design Standards for Fuselage Doors on Transport Category Airplanes [Docket No. FAA-2003-14193; Amdt. No. 25-114] (RIN: 2120-AH34) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9727. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Aircraft Assembly Placard Requirements [Docket No. FAA-2004-18477] (RIN: 2120-AI24) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9728. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Prohibition Against Certain Flights By Syrian Air Carriers to the United States [Docket No. FAA-2004-17763; Special Federal Aviation Regulation (SFAR) No. 104] (RIN: 2120-AI34) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9729. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Miscellaneous Flight Requirements; Powerplant Installation Requirements; Public Address System; Trim Systems and Protective Breathing Equipment; and, Powerplant Controls [Docket Nos. FAA-2002-13859, FAA-2002-11272, FAA-2002-11271, FAA-2002-13438, FAA-2002-12244; Amendment No. 25-115] (RIN: 2120-AI35) received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9730. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Prohibition Against Certain Flights Within the Territory and Airspace of Iraq; Approval Process for Requests for Authorization to Operate in Iraqi Airspace [Docket No. FAA-2003-14766; SFAR 77] received July 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9731. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — IFR Altitudes; Miscellaneous Amendment [Docket No. 30422; Amdt. No. 450] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9732. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30421; Amdt. No. 3103] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9733. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification fo Class E Airspace; Fairbury, NE. [Docket No. FAA-2004-18014; Airspace Docket No. 04-ACE-43] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9734. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Columbus, NE [Docket No. FAA-2004-18013; Airspace Docket No. 04-ACE-42] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9735. A letter from the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, transmitting the FY 2003 annual report on the Federal Government's participation in the development and use of voluntary consensus standards, pursuant to Public Law 104–113, section 12(d)(3) (110 Stat. 783); to the Committee on Science.

9736. A letter from the Commissioner, U.S. Customs and Border Protection, Department of Homeland Security, transmitting a report entitled "Import Trade Trends: FY 2004 Mid-Year Report (October-March)"; to the Committee on Ways and Means.

9737. A letter from the Chair, IRS Oversight Board, transmitting a copy of the Board's 2004 annual report that discusses the IRS's performance over the past year; to the Committee on Ways and Means.

9738. A letter from the Chairman, United States International Trade Commission, transmitting the Commission's report entitled, "The Year in Trade 2003: Operation of the Trade Agreements Program," prepared in conformity with Section 163(c) of the Trade Act of 1974; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4341. A bill to reform the postal laws of the United States; with an amendment (Rept. 108–672 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee of Conference. Conference report on H.R. 1308. A bill to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes (Rept. 108–696). Ordered to be printed.

Mr. BARTON: Committee on Energy and Commerce. H. Res. 745. A resolution of inquiry requesting the President of the United States to provide certain information to the House of Representatives respecting the National Energy Policy Development Group; adversely (Rept. 108–697). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4661. A bill to amend title 18, United States Code, to discourage spyware, and for other purposes; with an amendment (Rept. 108–698). Referred to the Committee of the Whole House on the State of the Union.

Mr. REYNOLDS: Committee on Rules. House Resolution 794. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes (Rept. 108–699). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TURNER of Texas (for himself, Mr. Reyes, Ms. Slaughter, Mr. Lampson, Mr. Sandlin, Mrs. Davis of California, Mr. Rodriguez, Mr. Ortiz, Mr. Bell, Mr. Gonzalez, Mr. Hinojosa, Mr. Dicks, Ms. McCarthy of Missouri, Ms. Norton, Ms. Jackson-Lee of Texas, Mr. Pascrell, Mrs. Christensen, Mr. Langevin, Mr. Frost, and Mr. Green of Texas):

H.R. 5130. A bill to secure the borders of the United States, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Transportation and Infrastructure, Ways and Means, and Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUNT (for himself, Mr. Hoyer, Mr. Cantor, Ms. DeLauro, Mr. Latham, Mr. Kennedy of Rhode Island, Mrs. McCarthy of New York, Mr. George Miller of California, Mr. Regula, Mr. Serrano, Mr. Smith of New Jersey, Mr. Weldon of Florida, and Mr. Ehlers):

H.R. 5131. A bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on International Relations, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MENENDEZ (for himself, Mr. Pascrell, Mr. Holt, Mr. Payne, Mr. Andrews, Mr. Pallone, and Mr. Rothman):

H.R. 5132. A bill to provide increased rail and public transportation security; to the Committee on Transportation and Infrastructure.

By Mr. MORAN of Virginia (for himself, Mr. Tom Davis of Virginia, Mr. Cantor, Mrs. Jo Ann Davis of Virginia, Mr. Forbes, Mr. Goode, Mr. Wolf, Mr. Boucher, Mr. Hoyer, Mr. Scott of Virginia, Mr. Goodlatte, and Mr. Schrock):

H.R. 5133. A bill to designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the "Martha Pennino Post Office Building"; to the Committee on Government Reform.

By Mr. POMBO:

H.R. 5134. A bill to require the prompt review by the Secretary of the Interior of the long-standing petitions for Federal recognition of certain Indian tribes, and for other purposes; to the Committee on Resources.

By Mr. POMBO (for himself, Mr. Rahall, Mr. Flake, Mr. Young of Alaska, Mr. Burton of Indiana, Mr. Walden of Oregon, Mr. Cole, Ms. Bordallo, Mr. Rehberg, and Mr. Abercrombie):

H.R. 5135. A bill to provide for a nonvoting delegate to the House of Representatives to represent the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Resources.

By Mr. BERMAN (for himself, Ms. Lofgren, and Mr. Smith of Texas):

H.R. 5136. A bill to amend section 108 of title 17, United States Code, relating to reproduction of works by libraries and archives; to the Committee on the Judiciary.

By Mr. ABERCROMBIE (for himself, Mr. Evans, and Mr. Filner):

H.R. 5137. A bill to amend title 38, United States Code, to revise the eligibility criteria for presumption of service-connection of certain diseases and disabilities for veterans exposed to ionizing radiation during military service; to the Committee on Veterans' Affairs.

By Mr. BELL:

H.R. 5138. A bill to amend the Truth in Lending Act to establish an equitable ceiling on credit card interest rates, and for other purposes; to the Committee on Financial Services.

By Ms. HERSETH:

H.R. 5139. A bill to enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program; to the Committee on Resources.

By Mr. HINCHEY:

H.R. 5140. A bill to prohibit the importation, manufacture, distribution, or storage of detonable nitrate fertilizers without a license, and for other purposes; to the Committee on the Judiciary.

By Ms. LOFGREN:

H.R. 5141. A bill to amend the Internal Revenue Code of 1986 to repeal the alternative minimum tax treatment of incentive stock options, thereby changing the taxable event from the exercise of the stock option to the sale of stock; to the Committee on Ways and Means.

By Mr. McINNIS:

H.R. 5142. A bill to authorize and direct the exchange of certain lands in the State of Colorado, and for other purposes; to the Committee on Resources.

By Ms. MILLENDER-McDONALD:

H.R. 5143. A bill to amend title 46, United States Code, to direct the Secretary of Homeland Security to carry out an empty shipping container sealing pilot program to encourage shipping container handlers to seal empty shipping containers after they have unpacked them, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. NORWOOD (for himself, Mrs. Capps, Mr. Burns, Mr. Burton of Indiana, Mr. Frank of Massachusetts, Mr. Frost, Mr. Hall, Mr. Hoeffel, Mr. Owens, Mr. Sandlin, Mr. Terry, Mr. Walsh, and Mr. Weldon of Florida):

H.R. 5144. A bill to amend title XVIII of the Social Security Act to preserve access to cancer care under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself Mr. Gilchrest, Mr. Pickering, Mr. Shaw, Mr. Greenwood, Mr. Towns, Mr. Ehlers, Ms. Bordallo, Mr. McDermott, Mr. Blumenauer, Ms. Millender-McDonald, Mr. Grijalva, Mr. Kucinich, Mr. English, Mr. Udall of Colorado, Mr. Farr, Mr. Bell, Ms. McCarthy of Missouri, Mr. Sandlin, Mr. Ford, Mr. Rodriguez, Mr. Kind, and Mrs. Christensen):

H.R. 5145. A bill to provide fellowships for graduate and postgraduate level students engaged in advanced degree programs concerning freshwater and anadromous fish, wildlife, or conservation biology, or related natural resource management, to provide expertise and to gain policy experience in Federal executive agencies or the Congress; to the Committee on Resources.

By Mr. RUPPERSBERGER (for himself and Mr. Gilchrest):

H.R. 5146. A bill to amend the Internal Revenue Code of 1986 to provide incentives for alternative fuels and alternative fuel vehicles; to the Committee on Ways and Means.

By Mrs. MUSGRAVE:

H.J. Res. 106. A joint resolution proposing an amendment to the Constitution of the United States relating to marriage; to the Committee on the Judiciary.

By Mr. PRICE of North Carolina:

H. Con. Res. 497. Concurrent resolution supporting the designation, during spring 2005, of National Horticultural Therapy Week in order to improve the quality of life for all and increase opportunities for each individual to positively connect with the natural world; to the Committee on Government Reform.

By Mr. RYAN of Ohio:

H. Con. Res. 498. Concurrent resolution urging the President to take immediate steps to establish a plan to adopt the recommendations of the United States-China Economic and Security Review Commission in its 2004 Report to the Congress in order to correct the current imbalance in the bilateral trade and economic relationship between the United States and the People's Republic of China; to the Committee on Ways and Means.

By Mr. UDALL of Colorado (for himself, Ms. DeGette, Mr. Grijalva, Mr. Serrano, Mr. Hinojosa, and Mr. Rodriguez):

H. Con. Res. 499. Concurrent resolution recognizing the 40th anniversary of the Latin American Research and Service Agency and commending the directors and staff of that organization for addressing the needs and concerns of Latino and Hispanic Americans; to the Committee on Government Reform.

By Mr. DeLAY:

H. Res. 795. A resolution electing Members to certain standing committees of the House of Representatives; considered and agreed to.

By Mr. HALL (for himself, Mr. Ross, Mr. Crenshaw, Mr. Gutierrez, Mr. Shays, Ms. Kilpatrick, and Mr. Cooper):

H. Res. 796. A resolution recognizing and supporting all efforts to promote greater civic awareness among the people of the United States; to the Committee on House Administration.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Ms. Lee, Mr. Cummings, Ms. Corrine Brown of Florida, Mr. Owens, and Mr. Lantos):

H. Res. 797. A resolution recognizing the importance of implementing any and all measures necessary to ensure a democratic, transparent, and fair election process for the 2004 Presidential election; to the Committee on House Administration.

By Mr. LEWIS of Georgia (for himself, Mr. Bishop of Georgia, Mr. Scott of Georgia, Ms. Majette, and Mr. Marshall):

H. Res. 798. A resolution honoring former President James Earl (Jimmy) Carter on the occasion of his 80th birthday; to the Committee on Government Reform.

By Mr. MEEHAN (for himself and Mr. Weldon of Pennsylvania):

H. Res. 799. A resolution urging the interim Government of Iraq to ensure that the charges brought against Saddam Hussein include charges for the crimes his government committed against the people of Iran during the Iran-Iraq war from 1980 to 1988; to the Committee on International Relations.

By Mr. MILLER of North Carolina:

H. Res. 800. A resolution providing for consideration of the bill (H.R. 2802) to reauthorize the Small Business Act and the Small Business Investment Act of 1958, and for other purposes; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 466: Mrs. Christensen.

H.R. 918: Mr. Bishop of Utah, Mr. Shays, Mr. Vitter, Mr. Carson of Oklahoma, Mr. Wynn, and Ms. Herseth.

H.R. 962: Ms. Eddie Bernice Johnson of Texas and Mr. Miller of North Carolina.

H.R. 1336: Mr. King of Iowa and Mr. Ehlers.

H.R. 1477: Mr. Wolf.

H.R. 1523: Mr. Istook, Mr. Sandlin, Ms. McCarthy of Missouri, Mr. Ford, Mr. Boozman, Mrs. Emerson, Ms. Linda T. Sánchez of California, Mr. Doolittle, Mr. Regula, Mr. Burns, Mr. Lucas of Oklahoma, and Mr. Hastings of Florida.

H.R. 1563: Mr. Gutierrez, Mrs. Napolitano, Mr. Langevin, and Mr. Larsen of Washington.

H.R. 1631: Mr. Issa.

H.R. 1684: Mr. Butterfield and Mr. Lynch.

H.R. 1796: Mr. Clyburn.

H.R. 1824: Mr. Ryan of Ohio.

H.R. 1873: Mr. Stenholm.

H.R. 2034: Mr. Larsen of Washington.

H.R. 2173: Mr. Olver and Mr. Gordon.

H.R. 2174: Mr. Reyes.

H.R. 2237: Mrs. Maloney.

H.R. 2440: Mr. Olver, Mr. Issa, Mr. Case, and Mr. Reyes.

H.R. 2490: Mr. Kennedy of Rhode Island.

H.R. 2510: Mr. Radanovich.

H.R. 2519: Mr. Payne.

H.R. 2527: Mr. Smith of Washington.

H.R. 2540: Mr. Graves.

H.R. 2699: Mr. Duncan, Mr. Goodlatte, Mrs. Biggert, Mr. Pence, and Mr. Davis of Illinois.

H.R. 2727: Mr. Smith of Washington.

H.R. 2787: Mr. Capuano.

H.R. 2823: Ms. Baldwin.

H.R. 2839: Mr. Shays.

H.R. 2852: Mrs. Christensen.

H.R. 2950: Mr. Bonilla and Mr. Kennedy of Minnesota.

H.R. 2967: Mr. Frost.

H.R. 2980: Mr. Olver.

H.R. 3069: Mr. Kline.

H.R. 3111: Ms. Carson of Indiana, Mrs. Myrick, and Mr. Ortiz.

H.R. 3142: Mr. Crowley.

H.R. 3194: Mr. Paul.

H.R. 3242: Mr. Peterson of Pennsylvania and Mr. Doolittle.

H.R. 3360: Ms. Schakowsky.

H.R. 3361: Mr. Levin.

H.R. 3455: Mr. Delahunt, Ms. Ros-Lehtinen, Mrs. Jones of Ohio, and Mr. Owens.

H.R. 3634: Mr. Waxman and Mr. Frost.

H.R. 3763: Mr. Gutknecht.

H.R. 3799: Mr. McIntyre and Mr. Hayworth.

H.R. 3834: Mrs. Napolitano.

H.R. 3859: Mr. Larson of Connecticut, Mr. Dingell, Mr. Kind, Ms. Woolsey, Mr. Cardin, Ms. Roybal-Allard, Mr. Pastor, Mr. Case, and Mrs. Tauscher.

H.R. 3965: Mr. Emanuel.

H.R. 4026: Mr. Boehlert.

H.R. 4033: Mr. Butterfield.

H.R. 4057: Mr. Peterson of Minnesota.

H.R. 4067: Mr. Towns.

H.R. 4113: Mr. Weller and Mr. Ryan of Wisconsin.

H.R. 4169: Mr. GRIJALVA, Ms. WOOLSEY, Mrs. CAPITO, and Ms. WATSON.

H.R. 4243: Mrs. JONES of Ohio.

H.R. 4249: Mr. FILNER, Ms. WATERS, Mr. CARDOZA, Mr. FARR, Mr. BECERRA, AND MR. RYAN of Ohio.

H.R. 4264: Mr. SCOTT of Virginia.

H.R. 4366: Mr. SIMMONS.

H.R. 4367: Mrs. WILSON of New Mexico, Mr. RAHALL, and Mr. OWENS.

H.R. 4383: Mr. WHITFIELD.

H.R. 4420: Mr. FLAKE, Mr. DEAL of Georgia, Mr. GREEN of Wisconsin, Mr. BROWN of South Carolina, Mr. SHUSTER, Mr. FEENEY, Mr. PETERSON of Pennsylvania, Mr. KLINE, Mr. LATHAM, Mr. OXLEY, Mr. PEARCE, Mr. PUTNAM, Mr. LINDER, and Mr. RYAN of Wisconsin.

H.R. 4433: Mr. MCINNIS, Mr. MCDERMOTT, Mrs. CAPPS, Mrs. CHRISTENSEN, Mr. FOLEY, Mr. WYNN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. BEAUPREZ, Mr. SHERMAN, Ms. LORETTA SANCHEZ of California, Mr. SHAW, Mrs. JONES of Ohio, and Mr. QUINN.

H.R. 4463: Mr. HINCHEY.

H.R. 4468: Mr. GONZALEZ.

H.R. 4491: Mr. NEY, Mr. HOEFFEL, Mr. LARSON of Connecticut, Mr. SIMMONS, Mr. NEUGEBAUER, Mr. LANGEVIN, Mr. BOEHNER, Mr. ALLEN, Ms. DELAURO, Mrs. JO ANN DAVIS of Virginia, Mr. STENHOLM, and Mr. HALL.

H.R. 4616: Ms. MILLENDER-MCDONALD.

H.R. 4620: Mr. DOOLITTLE and Mr. CARDOZA.

H.R. 4628: Mr. MILLER of North Carolina and Mr. OLVER.

H.R. 4634: Mr. BILIRAKIS, Mrs. BIGGERT, Mr. FOSSELLA, and Mr. CANNON.

H.R. 4685: Mr. BASS, Mr. RYAN of Ohio, Mr. GORDON, Mr. ENGLISH, Mr. KENNEDY of Minnesota, Mr. HALL, Mr. WALSH, and Mr. GREEN of Wisconsin.

H.R. 4730: Mr. HAYES.

H.R. 4776: Mr. GRIJALVA.

H.R. 4796: Mrs. JO ANN DAVIS of Virginia and Mr. MANZULLO.

H.R. 4824: Mr. FRANK of Massachusetts and Ms. SCHAKOWSKY.

H.R. 4826: Mr. SPRATT.

H.R. 4866: Mr. KLINE, Mr. PETERSON of Minnesota, and Mr. WOLF.

H.R. 4875: Mr. JONES of North Carolina.

H.R. 4889: Mr. JEFFERSON.

H.R. 4910: Mr. ABERCROMBIE, Mr. PALLONE, Ms. DELAURO, and Mr. TIERNEY.

H.R. 4936: Mr. MARKEY, Mr. CUMMINGS, Ms. CARSON of Indiana, Mr. BOEHLERT, Mr. GOODE, and Mr. FATTAH.

H.R. 4945: Mr. BURR, Mr. JONES of North Carolina, and Mrs. MYRICK.

H.R. 5022: Mr. FROST.

H.R. 5040: Mr. OWENS, Mr. SCHIFF, Ms. MILLENDER-MCDONALD, and Mr. OLVER.

H.R. 5043: Mr. OWENS.

H.R. 5055: Mr. STENHOLM, Ms. MCCARTHY of Missouri, Mr. KUCINICH, Ms. DELAURO, Mr. BORDALLO, Mrs. MALONEY, Ms. MAJETTE, Mr. RODRIGUEZ, Mr. OXLEY, Mr. MICHAUD, Mr. MATHESON, Mr. PETERSON of Minnesota, Mr. WU, Mr. VAN HOLLEN, Mr. CHANDLER, Ms. VELÁZQUEZ, Mr. TERRY, Mr. HYDE, Mr. CLYBURN, Mr. POMEROY, Ms. HARMAN, Mr. BOYD, Mr. TURNER of Texas, Mr. ROGERS of Alabama, Mr. RAHALL, Mr. GUTIERREZ, Mr. SHERMAN, Mr. BILIRAKIS, Mr. PALLONE, Mr. RUSH, Mr. OLVER, Mr. FRANKS of Arizona, Mr. SHIMKUS, and Mr. MCDERMOTT.

H.R. 5057: Mr. TAYLOR of Mississippi, Mr. OWENS, Mr. FRANK of Massachusetts, Mr. OSBORNE, Mr. VAN HOLLEN, Mrs. WILSON of New Mexico, Mr. SIMMONS, Ms. KILPATRICK, Mr. BISHOP of Utah, Mr. LYNCH, Mr. BAIRD, Ms. MILLENDER-MCDONALD, and Mrs. CHRISTENSEN.

H.R. 5061: Mr. OWENS, Mr. LEWIS of Georgia, Mr. FROST, Mr. JEFFERSON, Ms. NORTON, Ms. WATERS, Ms. CORRINE BROWN of Florida, Mr. CLYBURN, Mr. HASTINGS of Florida, Mr. RUSH, Mr. SCOTT of Virginia, Mr. WATT, Mr. WYNN, Mr. THOMPSON of Mississippi, Ms. JACKSON-LEE of Texas, Mrs. CHRISTENSEN, Ms. KILPATRICK, Mr. CLAY, Ms. WATSON, Ms. MAJETTE, Mr. SCOTT of Georgia, Mr. BUTTERFIELD, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 5068: Mr. FROST and Mr. ANDREWS.

H.R. 5069: Mr. FROST and Ms. BERKLEY.

H.R. 5079: Mr. OSBORNE.

H.R. 5090: Mr. CARSON of Oklahoma.

H.R. 5115: Mr. TOM DAVIS of Virginia.

H.J. Res. 102: Mr. HOUGHTON.

H. Con. Res. 111: Mr. CLAY.

H. Con. Res. 306: Mr. FALEOMAVAEGA.

H. Con. Res. 366: Mr. ORTIZ.

H. Con. Res. 492: Mr. TOM DAVIS of Virginia and Mr. MCNULTY.

H. Con. Res. 496: Ms. CARSON of Indiana, Mrs. JONES of Ohio, Mr. CONYERS, Mr. RUSH, Mr. TOWNS, Mr. OWENS, Mr. ENGEL, Mr. FRANK of Massachusetts, Mr. MCNULTY, and Ms. MILLENDER-MCDONALD.

H. Res. 632: Mr. VAN HOLLEN.

H. Res. 747: Mr. CLAY.

H. Res. 751: Mr. MCCOTTER, Mr. BLUMENAUER, and Mr. PENCE.

H. Res. 752: Mr. COX and Mr. DOGGETT.

H. Res. 758: Mr. ABERCROMBIE, Ms. SLAUGHTER, Mr. DEFAZIO, Ms. BALDWIN, Mr. ALLEN, Mr. GREEN of Texas, Mr. BERRY, Mr. NADLER, Mr. FROST, and Mrs. EMERSON.

H. Res. 774: Mr. FROST and Mr. CAPUANO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1501: Mr. HUNTER.

SENATE—*Thursday, September 23, 2004*

The Senate met at 11 a.m. and was called to order by the Honorable JOHN ENSIGN, a Senator from the State of Nevada.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, You are our hiding place. You alone are our mighty rock and fortress. Thank You for providing us with shelter from life's storms and for making us Your children. Teach us to serve and honor You.

Strengthen our Senators and give them inward peace. Infuse them with the wisdom that strives for faithfulness. Let that faithfulness so energize them that harmony will overcome discord. May the effects of this unity be felt in our Nation, inspiring people to seek for common ground.

Bless and protect America. Make it a land that provides freedom's lamp to our world. Sustain our military and provide for its needs, according to Your glorious riches and power. We pray this in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN ENSIGN led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, September 23, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN ENSIGN, a Senator from the State of Nevada, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. ENSIGN thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, the Senate will conduct a period of morning business for up to 30 minutes, with the first 15 minutes under the control of the majority and the following 15 minutes under the control of the Democratic leader or his designee. Following morning business, we hope to begin consideration of the Foreign Operations appropriations bill under a limited agreement on amendments. It is very important we address that bill. We have made good progress this week on the appropriations bills. As we set out last week, for this week the focus needed to be to address as many of the appropriations bills as possible. It is my hope that following morning business we can go directly to the Foreign Operations appropriations bill, deal with those amendments today, and vote on that bill today.

We are also waiting to receive the family friendly tax cut conference report from the House of Representatives later today. We will complete action on that measure before we adjourn for the Yom Kippur holiday, which begins tomorrow evening.

I know both of these issues are issues people have been addressing and have thought about, and I am confident we can do those over the course of the day and/or tomorrow morning. I do want, because I know people have travel plans for tomorrow afternoon, to be able to complete that either this afternoon or tonight or tomorrow. Again, I think we can do them both today. I just want all of our Senators to work together and talk to the managers of both bills, if people have concerns, over the course of the morning.

SPEECH OF PRIME MINISTER ALLAWI OF IRAQ

We have just completed a wonderful and, I should add, inspiring joint meeting of Congress with Prime Minister Allawi, just 15 or 20 minutes ago. Indeed, he laid out both the great progress that has been made but his absolute commitment to free and fair elections in January in Iraq, making the statement that he understands that, because of the intent of terrorists to disrupt those elections, it is going to be very tough.

He looked at it very realistically. He said the elections will be fair and free, recognizing that in other great countries today, when they had their first elections, as they moved toward democracy, it was challenging. He recognizes those challenges. But again and again, to standing rounds of applause, he expressed his commitment to those elections in January.

Mr. President, I will close by saying Members can expect a busy afternoon with votes throughout the day. If we are to finish those bills, and we cannot do them over the course of the afternoon, we might well stay into this evening. So I encourage people to keep their schedules flexible. If we finish our business today, of course, we would not have to vote tomorrow morning. But these are two important pieces of legislation that we need to address.

Next week—and the reason there is this time sensitivity—we will have an issue which really rises above all others; that is, the safety and security of the American people. We have been addressing appropriate intelligence reform, addressing it in committee very satisfactorily in a very productive way over the course of this week. That intelligence reform is now out of committee and ready to be brought to the floor, or will be shortly after the appropriate paperwork and processing is done. The intent would be to go to that Monday as the next order of business. That is why we really need, as leadership from both sides of the aisle, to have people focused on the immediate business before us, in an orderly, systematic way, so we can turn our attention on the floor to the report that has come out of the Governmental Affairs Committee as it deals with intelligence.

With that, Mr. President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, I ask unanimous consent that when we move to morning business Senator KENNEDY have the first 15 minutes of the time allotted to the Democratic caucus.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SPEECH OF PRIME MINISTER ALLAWI

Mr. DASCHLE. Mr. President, I share the view of the majority leader that we have just experienced a historic moment. Prime Minister Allawi spoke for all of us as he expressed the hope and vision for democracy in his country. His speech was eloquent, and I believe it was a stirring reminder of the importance that we all must place on the ongoing effort to ensure that the people

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

of Iraq have an opportunity to experience democracy for the first time in their history.

I ask unanimous consent that the speech be made a part of the RECORD.

(The speech is printed in today's RECORD of the House Proceedings at page H7446.)

COMPLETING SENATE BUSINESS

Mr. DASCHLE. Mr. President, I also note the interest of leadership on both sides in following through with what the majority leader has just described. I think it is important for us to complete the work on the tax bill this morning, or this afternoon at the latest. I have no indication there is an objection to bringing up the conference report. I hope we could have a short period for deliberation and a vote.

We would be prepared to move to the Foreign Operations bill with or without an agreement. There is no opposition to moving to the bill on our side. Again, it provides an opportunity to complete yet one more appropriations bill this week.

So I am hopeful we can complete our work on time. I would hope we could do so this afternoon. I do think that in respect for the Jewish holiday it is important for us to complete our work to allow Senators the opportunity to travel tomorrow.

Next week, we look forward to the debate on the legislation passed out of the Governmental Affairs Committee regarding recommendations from the 9/11 Commission. Again, as I have said several times this week, I think that our two leaders, Senators COLLINS and LIEBERMAN, have done an outstanding job. I would hope that the spirit of bipartisanship that was so clearly on display during those deliberations could be achieved in equal form here on the Senate floor next week and, I might say, as we go to conference.

I heard some disconcerting news this morning that there are some in the House of Representatives who may want to insert in this legislation extremely divisive and counterproductive language having to do with expansion of the PATRIOT Act. Whether we ought to expand the PATRIOT Act is certainly a matter for debate, but if we are going to maintain that kind of bipartisan spirit, provisions such as those could be extraordinarily counterproductive. I think we need to be very concerned as we complete our work that we do so in as broad a bipartisan fashion as was demonstrated in the Governmental Affairs Committee.

NEED TO VOTE ON REIMPORTATION

Mr. DASCHLE. Mr. President, we have just two short weeks before the Senate is scheduled to adjourn. Regrettably, this Congress seems on track to be remembered for all the different challenges it failed to confront.

Forty-five million Americans lack health insurance, and this Congress has done nothing to lower the cost of health care. Medicare premiums are set to rise 17 percent next year, and yet this Congress has done nothing to keep these increases from eating into seniors' Social Security benefits. Eight million Americans are out of work, and we have let a jobs bill that would stop the flow of American jobs overseas languish on the shelf.

America deserves better.

Today I want to talk specifically about an issue that has strong bipartisan support, is vitally important to millions of Americans, and one that we felt the majority leader was committed to considering. I am talking, of course, about the price of prescription drugs.

Each year, the cost of prescription drugs outpaces inflation and moves further out of reach for far too many Americans. This is particularly tough on seniors, many of whom are living on fixed incomes. The AARP revealed last week that during the first quarter of 2004, drug prices rose more than three-and-a-half times the rate of inflation, and there is no end in sight.

The typical senior will pay $191 more for their drugs this year than they did in 2003. This has sent a lot of seniors looking for solutions, and many are looking to Canada.

Recently, a man in the town of Mitchell, SD contacted my office with a question: Was the prescription drug card he was considering better than the savings he was getting in Canada? The answer is that it wasn't. He and his wife were saving 50 percent when they got their drugs from Canada, much more of a benefit than they would get from the drug card.

His doctor told him what he was doing was safe; his wife's quilting group was very excited about the savings they could get. There was only one problem: they were afraid what they were doing was illegal. Technically, what they wanted to do—purchase in Canada the same, safe, doctor-prescribed and FDA approved drugs that they would get in America—is illegal. And the only reason that it is illegal is because there are those who would put the profits of drug companies over the needs of America's seniors. That needs to change.

The drug companies and their friends in Congress have tried to stop straightforward reforms by making the issue of health care appear complicated or even dangerous. The White House tells us that reimportation wouldn't be safe. But just the other day, an executive from Pfizer said it was "outright derogatory" to suggest that reimportation wasn't safe. These are the same drugs, manufactured to the same safety standards.

What is not safe is when seniors skip doses or split pills because they can't afford their full prescription. That is the real safety issue.

There is not mystery to bringing down drug costs. You don't need a PhD in economics. You just need common sense. If two stores offer the exact same product, you save money if you buy it from the store that is selling it for less.

It works the same for medicine. Drug companies charge American consumers the highest prices in the world. Some medicines cost American patients five times more than they cost patients in other countries.

By giving Americans the freedom to find the best price, we can lower the cost of prescription drugs for all Americans. This isn't a Republican solution or a Democratic solution. It is a common-sense solution.

What doesn't make sense is why we haven't done this already. In March, the Republican leader said that we would begin a process of "developing proposals to allow for the safe re-importation of FDA-approved prescription drugs." But, the Republican leader was quoted as saying it was doubtful that we would have the opportunity to vote on prescription drug reimportation legislation.

A number of us have sent a letter asking the Republican Leader to reconsider his position and allow us to vote on our legislation legalizing reimportation before the Senate adjourns.

This problem isn't going to go away if we ignore it. It has gotten worse for the past decade, and it will keep getting worse until we act. Tomorrow, hundreds of seniors will gather outside the Capitol to make their voices heard on this issue. Those voices must also be heard inside the Capitol as well.

It is time we make the statement that the pocketbooks of Americans are more important than the profits of big drug companies. It is time the Senate got a chance to provide seniors real, meaningful relief from high drug costs.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 30 minutes, with the first 15 minutes under the control of the Democratic leader or his designee, and the final 15 minutes under the control of the majority leader or his designee.

The Senator from Massachusetts.

WELCOMING PRIME MINISTER ALLAWI

Mr. KENNEDY. Mr. President, if the Chair would let me know when 13 minutes have expired, I would appreciate it.

First, I want to join with others in expressing a welcome for the comments of Prime Minister Allawi which we just heard in the House Chamber in the joint meeting. His challenge in governing and stabilizing Iraq is enormous. I believe that challenge has been made far more difficult by the continuing mistakes and persistent miscalculations of the Bush administration. Our policies are failing. We need to correct our course in order to stay the course, guarantee success, and bring our troops home with dignity and honor.

HEALTH CARE

Mr. KENNEDY. Few if any issues are more important to American families than health care—and in few areas has this Administration failed more dismally. Its record is marked by inattention, incompetence, and outright deception. And because its record is so weak, its campaign strategy is based on false attacks on JOHN KERRY's plan.

The Administration's failures have been especially damaging for senior citizens and Medicare. Today's seniors built our country. They stood by it through World War II and the Cold War, through good economic times and bad. Medicare is a commitment to stand by them, to guarantee the affordable health care they need in their retirement.

As George Bush said in his acceptance speech to the Republican convention on September 2, "we have a moral responsibility to honor America's seniors." He's right about that—but senior citizens know that on Medicare, George Bush may say the right words, but he constantly does the wrong things.

The Medicare crisis gets worse every day for our seniors. The Administration's Medicare bill was passed by Congress, but only after the Administration concealed its true cost—and broke the law in the process. Now they are at it again. As the Washington Post reported last Sunday, the Administration concealed internal estimates showing that the cost of the bill is even higher—$42 billion higher—than they admitted in January.

Last week we learned that the Administration has suppressed estimates showing that Medicare cost sharing and premiums will eat up more than 40 percent of the total Social Security benefit of the typical 85 year old. Three weeks ago, the Bush Administration announced the highest premium increase in Medicare's entire history.

That's the Bush doubletalk in action. Pledge to honor our senior citizens on September 2, impose the highest Medicare premium increase in history on September 3, hide the truth about the erosion of Medicare on September 14, and suppress yet another estimate of the cost of the Medicare bill on September 19. And that's just in the last three weeks. If George Bush gets four more years, senior citizens will fare even worse.

The basic problem with George Bush on Medicare is that he puts the interests of drug companies and HMOs first and the needs of senior citizens last. The Medicare bill forces 15 million senior citizens to pay more for their prescription drugs than they do today. It causes 3 million retirees to lose their good retirement coverage. It forces 6 million of the poorest of the poor—the elderly and disabled under Medicaid—to pay more out of pocket for their prescription drugs. It requires 6 million senior citizens to pay more in premiums than they will get back in benefits. Its high deductibles, high premiums and huge coverage gaps leave large numbers of senior citizens unable to pay their drug bills.

The Administration's Medicare bill also prohibits safe drug imports from Canada, so that drug companies can continue to gouge Americans, while citizens of Canada are able to buy the same drugs at half the price. The bill prohibits Medicare from negotiating drug discounts so that senior citizens can get fairer prices. The bill gives drug companies $139 billion in windfall profits. It gives HMO's $46 billion in unfair subsidies, instead of using those funds for a decent drug benefit or to keep premiums at affordable levels.

Every major company and every major health plan in America negotiates prices for drugs. The Veterans Administration does it to see that veterans pay fair prices for the drugs they take. But when it comes to using the negotiating power of Medicare, the Bush Medicare bill says, "Oh, no—not for senior citizens."

George Bush must think the CEOs of the drug companies need senior citizens' money more than senior citizens do. Senior citizens are living on fixed incomes—and his Medicare bill is a fix to give away millions to drug industry CEOs.

Not only does the Bush Medicare bill block imports of drugs at fair prices, the Bush Administration and the Republican Congress won't even allow a vote on bipartisan legislation to give senior citizens and all other Americans safe access to affordable imported drugs.

President Bush said in Muskegon, Michigan, two weeks ago that he opposed drug imports because he wants to make sure the drugs were safe. Our GOP Senate Majority Leader says he won't allow a vote on the issue in the Senate, because he wants to protect Americans from unsafe drugs.

The safe drug argument is a sham. Our bipartisan bill guarantees safety. The only drugs that can be imported are drugs approved by the FDA and manufactured in FDA approved plants. The fact is that George Bush and the Republican leadership won't allow a Senate debate because they're afraid to defend their position before the full Senate, afraid of the accountability that a Senate vote gives the American people. The real safety issue for George Bush is the safety of the profits of the big drug companies, not the safety of American patients.

According to another revelation in the very last paragraph of last Sunday's Washington Post article, of all the money that the Bush Medicare drug bill lavishes on HMOs, only about 5 percent goes for increased benefits to patients. The rest goes for HMO profits and excess costs.

This Administration has been touting all the wonderful extra benefits for senior citizens who give up their regular Medicare and join a Medicare HMO. That's no justification for the $1,000 in overpayments that the Medicare trust fund gives to HMOs. If those extra benefits are needed, they should be available to every senior citizen—not just those who join an HMO. But it turns out that the vast majority of that overpayment—according to the Bush Administration's own estimate—doesn't benefit senior citizens at all. It benefits HMO profits.

For this President, when he says "honor senior citizens," he really means honor big drug companies and big HMOs.

President Bush also said this month that health care needs to be modernized to "reflect the world in which we live." In the world he lives in, it's OK for drug companies to make billions, while seniors have to choose between the pills they need and putting food on the table. In the world President Bush lives in, the Medicare seniors know and trust will be turned over to the tender mercies of HMOs. In the world he lives in, he abandons the guarantee of Social Security and risks savings by seniors on the whims of the stock market. But that's not the world senior citizens live in—and it's not the way to honor senior citizens.

The health care record of the Administration isn't just a failure for senior citizens. It's a failure for every American family.

Health care costs are out of control. Annual spending on health care has increased from $1.3 trillion when the Administration took office to $1.8 trillion today. That's an increase of half a trillion dollars in just four years.

American families are being pushed to the wall by those cost increases. Health insurance premiums have increased 59 percent in the past four years. The cost of insurance for a family has increased by almost $3,000. This year, premiums for family insurance will climb to $10,000.

Drug costs are out of control. According to the most current data, they increased 52 percent in the first three years of the Administration. The President not only hasn't done anything to cut drug costs, he opposes any steps that would do something. He won't support anything that threatens the swollen profits of his friends in the pharmaceutical industry.

The crisis of the uninsured is also out of control. Under this Administration, the number of the uninsured has soared by more than a million a year, to 45 million Americans today. Last year, one in three Americans—82 million—were without coverage for an extended period. No American family is more than one pink slip or one employer decision to drop coverage away from being uninsured.

Whether the issue is health costs, or the number of uninsured, or Medicare, President Bush knows he can't run in his record. Instead, he tries to divert attention from what he's done by invoking the same tired old charges that the right wing always trots out against progressive health care solutions—the same charges they made against Medicare. In 1964 and 1965, when the Medicare debate was at its height, Republicans said Medicare was "socialized medicine." They called it a "crackpot scheme." They said it was a "government invasion" of health care.

Fast forward forty years. Here's President Bush on JOHN KERRY's plan: "A government takeover of health care." It's a new century but it's the same old GOP line.

The Kerry plan will give all Americans the same access to the same affordable, private health coverage that is available to every member of Congress and the President, too. Is that a government take-over of health care—or is it just plain fair?

The Kerry plan provides tax credits to help small employers pay for private health insurance for their employees. Is that a government take-over—or is that just common sense?

The Kerry plan authorizes people 50 to 64 with serious health problems and no access to affordable insurance to buy into Medicare. Is that a government take-over—or is that just compassion for people in need?

The Kerry plan helps unemployed workers pay the cost of extending their private, on-the-job insurance coverage if they're laid off. Government takeover? Let's get serious.

The Kerry plan expands Medicaid and CHIP for low income adults and children so that people whose employer doesn't provide health insurance and who can't afford it on their own can get the coverage they need. Is health insurance for every American child a government take-over—or is it just the right thing to do?"

The Kerry plan reduces private health premiums for everyone by 10 percent, by helping private insurance pay for the most costly illnesses. Is that a government takeover—or is that a creative idea to deal with the explosion in costs?

The Kerry plan cuts health care costs by reducing sky-high administrative costs and paperwork, and by helping doctors and hospitals provide better quality care. Is that a government take-over—or just following the advice of the best medical experts?

The bottom line is that the Kerry plan will provide quality health insurance for two-thirds of the uninsured—27 million people. It will lower costs for every American. It will improve quality. It's a good idea.

George Bush knows he can't win the argument if he talks about JOHN KERRY's actual proposals, so he resorts to attacks that deceive and frighten. The Bush record: failure. The Bush response: fear and smear.

President Bush knows he can't run on his record, so he's offering the old right-wing proposals dressed up in shiny new clothes. They're proposals he's had four years to enact, and couldn't, because too many Republicans appose them too. They're proposals that won't help working families, even if they're enacted. They're nothing more than thinly disguised giveaways to special interests.

It offers refundable tax credits for the uninsured, but the priority it places on these credits is so low that it funds them only if unidentified, offsetting cuts are made in programs like Medicare and Medicaid. The credits are too small to do any good anyway, even if they're funded.

They propose Association Health Plans, but that program has little to do with expanding insurance coverage for small businesses and everything to do with giveaways to Republican trade associations. The Congressional Budget Office says the proposal will actually raise premiums for 20 million Americans working for small businesses.

The Bush plan proposes new tax breaks for the wealthy by squandering even more scarce federal funds on Health Savings Accounts. Those accounts will cost taxpayers $41 billion over the next 10 years—and they will raise premiums 60% or more for people who need conventional insurance. Health Savings Accounts say to American families: You don't pay enough for health care. You're wasteful. You should spend $3,000 out of your own savings before health insurance helps you pay your costs. That's Alice-in-Wonderland logic—and hard-pressed American families won't buy it.

The President also touts caps on malpractice insurance premiums as an answer to rising health care costs. JOHN KERRY has tort reform proposals to help doctors faced with excessive premiums. But the idea that capping medical malpractice awards will solve the health care crisis can't pass the laugh test. Malpractice premiums account for less than 2 percent of health care costs, and the Congressional Budget Office says that capping awards will produce minimal savings.

A million and a half low income Americans—500,000 of them children—have already lost health insurance coverage under Medicaid and CHIP because states struggling with budget shortfalls created by the Bush recession have cut back on the program. But instead of offering relief to states, the Bush budget proposed another $24 billion in Medicaid cuts. You don't hear the President talking about that.

The President said in his acceptance speech that "America's children must also have a healthy start in life." He then had the gall to say that in his next term "We will lead an aggressive effort to enroll millions of poor children who are eligible but not signed up for the government's health insurance programs." I have news for the President. There are $1 billion in CHIP funds that are now available to provide health insurance for children, but that will revert to the Treasury at the end of this week. If that happens, 200,000 low and moderate income children will lose their coverage. A bipartisan bill is now pending to restore those funds, as we have done in the past. But it's not even in the President's budget. Who in the world does George Bush think he is fooling?

To control health costs, the Bush Administration would have to take on its big contributors in the insurance industry and pharmaceutical industry. It won't do that—so it has nothing to offer. To help Americans afford health insurance, the President would have to put higher priority on health care for working families than on tax breaks for the wealthy. He won't do that—so he has nothing to offer.

President Bush doesn't understand that American families are tired of just talk. They want action. He's done nothing for four years to help, and now he wants another chance. He doesn't deserve it. JOHN KERRY offers real solutions, not excuses and empty promises. It's time for a change.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I have spoken with the two leaders. I ask unanimous consent that following the 15 minutes in morning business for the Republicans, which has already been allotted, there be a half hour of additional morning business equally divided between both sides. There will be no who is first. It will be whoever gets the floor during that time. An additional half hour, and each side will get 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Oklahoma.

"ILLEGAL" WAR AND THE RULE OF LAW

Mr. INHOFE. Mr. President, I had the opportunity to watch Kofi Annan, the United Nations Secretary General, address the U.N. delegates. I wish he had seen what we all witnessed a few minutes ago when the great Prime Minister Allawi from Iraq gave one of the best messages I have ever heard to a joint meeting.

Much has been made about the Secretary General's remarks in an interview last week in which he called the war in Iraq "illegal." Several of my colleagues, including Senator COLEMAN, have addressed this issue on the Senate floor, so I will not belabor the point. It is not an illegal war.

I would like to reemphasize that the liberation of Iraq was carried out to enforce Security Council resolutions. These were the serious consequences with which Saddam was threatened if he continued his illegal acts—his illegal acts.

Secretary General Annan's remarks seem to be based on the idea that without explicit Security Council permission, any military action is illegal under international law.

I remind my colleagues that in 1999, NATO forces had been conducting air operations in Kosovo for 72 days before the U.N. Security Council passed a resolution granting its blessings. I have not heard any condemnation of the NATO's action as being illegal.

Secretary General Annan's address centered on the rule of law. I want to read a brief excerpt of what he said. He said:

> Yet today the rule of law is at risk around the world. Again and again, we see fundamental laws shamelessly disregarded—those that ordain respect for innocent life, for civilians, for the vulnerable—especially children.
>
> To mention only a few flagrant and topical examples: In Iraq, we see civilians massacred in cold blood, while relief workers, journalists and other noncombatants are taken hostage and put to death in the most barbarous fashion. At the same time, we have seen Iraqi prisoners disgracefully abused.

That is what the Secretary General said.

I am not going to suggest that the abuses of Abu Ghraib prison were not wrong. They were wrong. I will say more about that in a minute.

My point is the Secretary General, by lumping these two things together, has put terrorists and insurgents on the same level as America. This is a fundamental difference between a nation that recognizes the rule of law and punishes its own citizens if they violate it, and groups of outlaws whose charter is written in blood and whose tactics solely rely on violations of the rule of law. The people of the United States should know this, and so should the Secretary General.

The instances of prisoner abuse that have received so much media attention during the past few months were violations of these standards. A handful of the violators were already being punished. It was already taking place long before the media frenzy took place.

America had to deal with Americans violating the rule of law, and it has done so head on. But I suggest the United Nations itself is not above the rule of law. We are just now beginning to learn how the United Nations allowed the U.N. Oil for Food Program to degenerate into little more than another source of income for Saddam Hussein's bloody regime.

The U.N. response to allegations of wrongdoing has been half-hearted at best. Is this the rule of law trumpeted by the Secretary General? Let's be clear. A country's adhering to the rule of law does not mean that its citizens will not do bad things. We must do everything we can to prevent such occurrences, but despite our best efforts or the best efforts in any country, it is not going to be totally successful.

People are, well, only human. We know that. The rule of law is borne out in identifying, condemning, and punishing those who violate the standards on which we all agree. This is exactly what we do in America.

The U.N. states a commitment to the rule of law. We will continue to work with other nations in this international forum to effect change for the better. But I and many of my colleagues share skepticism as to whether the U.N. can effectively realize its noble goals. If the past is any indication, we can expect a lot of talk and very little action.

In Iraq, we are fulfilling, to quote the Secretary General, "our responsibility to protect innocent civilians from genocide, crimes against humanity, and war crimes." If this is not the rule of law, I would like to know what it is.

All the criticisms the Secretary General was aiming at the United States were refuted directly or indirectly by Iraqi Prime Minister Allawi when he spoke to our joint meeting. I am overwhelmed by it, and certainly hope the Secretary General also heard his greatly, profound remarks.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. TALENT. Mr. President, I have a brief inquiry. My understanding is that with the unanimous consent agreement, I will now have longer than 10 minutes, if I need it, to speak in morning business.

The ACTING PRESIDENT pro tempore. The Senator is correct.

AMERICA HAS A STRONG ALLY IN IRAQ

Mr. TALENT. Mr. President, I thank my friend for his comments. I want to talk about several issues, but let me say with regard to the whole question of illegal status of the freedom we are winning, along with the Iraqi people, in Iraq, there are many people in the international community for whom the definition of "international legality" is quite flexible, depending upon what it is they happen to want at any particular moment.

I was serving in the Congress, albeit on the other side of the Capitol, in the 1990s and remember when, at the urgent request of the Europeans, particularly the western Europeans, the United States assembled a coalition and used its military power to prevent genocide in southeastern Europe, to protect the Kosovars from genocide that was being conducted by Milosevic and the Serbs at the time.

The nations that wanted to do that asked the Security Council for a resolution of support and were denied it because, if you will recall, Mr. President, the Russians threatened to veto it, just as the French indicated 2 years ago they would veto any resolution of support for our action in Iraq.

Now you would think that to be consistent with the position they are now taking, some of the Western European countries, in particular the French and Germans, would have said at the time, If you can't get a Security Council resolution, then we don't want to intervene in Kosovo and prevent genocide there. But that was not the position they took at all. They insisted, they urgently pleaded with the United States to lead a coalition of nations to intervene for humanitarian reasons at that point, notwithstanding the fact they could not get a Security Council resolution because they recognized then what we have been consistent in recognizing all along: That we always seek the support of international alliances, and we have support of an international coalition in Iraq. We always seek to operate within international bodies and get the support of the U.N. when possible, but we protect our freedom with or without the support of that body in any given circumstance.

That is what we did in Kosovo when we prevented genocide, and that is what we are now doing in Iraq.

I want to add a few more words along those lines and then talk some about health care. Let me say how moved I was by the eloquence of Prime Minister Allawi and the way in which he represented the aspirations of freedom and free people everywhere.

I think of two statements in particular, one in which he quoted Prime Minister Blair in saying that whenever people are given a choice, they choose freedom over tyranny, democracy over dictatorship, and the rule of law over the rule of the secret police. It does not matter whether the people who are being asked to choose are of the Islamic faith or the Christian faith or the Jewish faith or any other faith; it does not matter where they live or the circumstances under which they are raised; there is a universal desire placed in the human heart by our Creator for freedom. We are seeing that desire in Iraq, and we saw it with Prime Minister Allawi today.

I was tremendously impressed by his courage. He probably has the biggest target on his back of anybody in the free world, and yet he stood there and said not only do the Iraqi people want freedom—and I made a note of this comment—as you have stood with us, we will stand with you in the ongoing battle against terrorism.

I think this is a vindication of the underlying strategy that the United States is following with its allies and the coalition in freeing Iraq.

There were two strategic goals in going into Iraq. One of them was to remove a regime and a person who even if there had never been a 9/11 was on his own a serious organic threat to the security of the region and the freedom of the United States.

We saw this and lived it in the 1990s. We saw him attack his neighbors twice. We saw him plow missiles into his neighbors. He developed weapons of mass destruction. He had stockpiles of sarin gas and other chemical and biological weapons. He showed he was willing to use them on his own people and on his neighbors.

We had tens of thousands of American personnel, American airplanes and warplanes in the region specifically designed to contain him year after year. I could see the Clinton administration building up toward a policy that would end this threat to American interests and American freedom and the stability of the region, and it was necessary to remove him. That was part one.

Part two, necessitated by 9/11, was to replace Saddam Hussein, in corroboration with the Iraqi people, with a democracy that respected human dignity, stood for human rights, would fight for human rights and be an ally with us in the war against terrorism. We heard from Prime Minister Allawi today the determination of the Iraqi people to do that and to be an ally.

I was greatly encouraged that this man, who represents a nation that is in some turmoil, that is coming out of decades of totalitarian rule and terror and is in a weakened condition, stood defiantly against the terrorists with courage. Many others, who are in stable countries and have much more power, are trying to appease them. The Iraqis know the danger of tyranny and terrorism. They have lived it, and they are going to stand with us in fighting it in the future.

The existence of this new democracy in Iraq will be a standing rebuke to the vision of the terrorists of a Pan-Islamic world dominated by terrorism, totalitarianism, and twisted religious extremism. Prime Minister Allawi made that point clearly and made it without apology to anybody, and he made it again and again. And have we not seen several of those from the dais on the other side of the Capitol in this Congress? I thought it was an inspiring and brilliant speech. We owe it to ourselves, to our own freedom, to our allies and our own courageous people to see this through and to win this in Iraq.

I was also tremendously encouraged by his statement that we are succeeding there. Anybody who looks at the facts in an unbiased way can see that. Most of the country is stable. We are constantly seeking new ways to stabilize the rest of it, in part through the application of military power on our own or with our allies, in part through negotiations with people who are not yet committed completely to the terrorists on the other side. He made that very clear. They are using a combination of political and military tools to stabilize the country in anticipation of the elections in January. Hearing him, I have full confidence those elections will go forward.

I am proud of what we have done there and proud of the resolution of the American people. I want my constituents in Missouri and constituents around the country to take satisfaction in what we have done through their resolution and through the sacrifice of the men and women in the American military.

HEALTH CARE IN AMERICA

Mr. TALENT. Mr. President, I will take also a few minutes, putting on a little different hat because I had not intended to talk about health care today, but my friend from Massachusetts spoke with his usual vigor and eloquence on this subject and I thought perhaps a few words in response were warranted.

I agree with my friend about one thing—there certainly is a very big difference between the approach of the President to resolving the problem of the uninsured and costs in health care and the approach of my friend and his colleague from Massachusetts, Senator KERRY. There is no question that there is a problem in this country because too many people do not have health insurance. I have been leading a fight on this issue for at least 7 or 8 years. There are about 45 million people who at any given time are uninsured. The interesting thing is that most of those people are working people, and they are working on farms or for small businesses.

There is a reason why a disproportionate number of the people who are uninsured are working for small business. It is because health insurance costs more to purchase for small groups. The administrative costs to small businesspeople of buying health insurance for their employees is about three times the administrative costs of buying it for national pools, for the employees of big companies.

It is interesting to note that if one looks at the people in the country who have health insurance, everybody, except the employees of small business, gets their health insurance through some kind of national pool, public or private. They are either employees of big national companies, they have it through a big labor union plan, they work for the Federal Government, or they are participants in Medicare or Medicaid. Everybody else is part of a big national pool because of the efficiencies and the lower costs that are available if one does that except the employees of small business and farmers who are relegated to trying to buy health insurance to cover 5-, 6-, 8- or 10- people units. It costs more. They do not get as much health insurance for it. In many cases it becomes unaffordable, so the small business does not provide health insurance at all to their employees.

How many more minutes do I have? I do not want my eloquence to consume all of my time.

The PRESIDING OFFICER (Mr. INHOFE). The first half hour of morning business has expired. We are now into the second half hour, and we are at the beginning of the majority's 15 minutes.

Mr. TALENT. So approximately 15 minutes remaining. I thank the Chair.

I have talked literally to hundreds of small businesspeople who are suffering with this problem. They want to provide health insurance to their employees. They would like to because, of course, in almost all cases the owner is an employee of the corporation, like my brother is, for example. He runs a little restaurant in Missouri. He is an employee of the corporation. He would love to get health insurance for the whole company. Then he would be able to get it, too, at better rates than buying it on the individual market. He cannot because it costs too much for small businesspeople.

What is the President's solution? It happens to be a solution I have been working for for a number of years, so naturally I think the President is right. His solution is to allow small businesspeople to pool through their national trade associations to buy health insurance. For example, the President wants to pass authorizing legislation which would allow the National Restaurant Association, to take an example, to contract with insurance companies nationally, and then any restaurant that joined the National Restaurant Association would become like the little division of a big company. If we had that in place, my brother could join the National Restaurant Association and his employees would get health insurance on the same terms and same conditions as if they were employees of, let us say, Anheuser-Busch, a fine company headquartered in St. Louis, or Hallmark, a great company headquartered in Kansas City.

Why should they not be able to do it? It would reduce the cost of health insurance to small businesses, conservatively speaking, 10 to 20 percent. It would make it available to millions of small businesspeople who currently have no insurance at all, and millions of others would get better health insurance because the costs would go down and the quality would go up. It would create competition in the small group market that currently does not exist.

Here is another thing that working people in small businesses or big businesses will be pleased about, and it does not cost anything because it is not a Government program. It is empowering small businesspeople and farmers to do the same as their colleagues who work for big companies already can do.

The President has strongly supported this measure. It has passed in the House by a huge bipartisan vote. We pushed it further than ever before in the Senate. I think next year we are going to get it, and we will reduce the number of uninsured by getting more people good quality private health insurance which reflects what they want in health insurance instead of what the Government condescends to give them. It is not going to cost the taxpayers anything. Or we could pursue Senator KERRY's plan, which will cost the taxpayer, by two different estimates, one $1.5 trillion and the other $1.25 trillion. It will not even insure everybody who is uninsured. It is basically a vast expansion of Medicaid.

I have supported expanding Medicaid to cover people who are unemployed or people who cannot get insurance any other way. I believe that is our responsibility as a society. But if we can help people get health insurance on their own, why should we not do it? That is the President's approach.

Something else the President wants to do is he wants to reduce the costs that are driving health care by passing reasonable liability insurance reform to prevent frivolous or abusive lawsuits. I hear about nothing more often in Missouri than the whole question of liability reform, reforming our liability system so we can prevent the frivolous or abusive lawsuits that are driving up costs all over my State and States across the country.

I was in Chillicothe, MO, a couple of weeks ago. The last OB/GYN shut down, moved. You can't get a baby delivered anymore in Chillicothe because of the rising cost of malpractice insurance that we all pay.

I was visited the other day by a group that is involved in providing services in building facilities for seniors—assisted living and skilled nursing facilities. They were complaining because the cost—from the time they decided to build until the time they are building, the cost of their liability insurance went up, I think it was from $200,000 to $1.5 million a year.

The people of Missouri know who is paying those costs. It is getting passed on to them. We see it in the cost of health insurance premiums. We see it in the pressure on the Medicare and Medicaid budget.

We can have a reasonable reform that prevents that. It doesn't have to be all or nothing at all. It doesn't have to be a system where either we allow abusive and frivolous lawsuits that are driving up costs or we don't allow recovery at all. We can do what we did for hundreds of years, which is have a system that fully allows recovery for people who are injured through negligence to the extent of their injury but doesn't allow actions that drive up costs on behalf of frivolous lawsuits or huge awards or settlements that are out of relation to any damage that is actually done.

The President wants reform of that. So do the people of Missouri. They are aware of this issue. It got filibustered. The President supports reform and Senator KERRY supported the filibuster.

Let me just say, there are a lot of things we can do on a commonsense, bipartisan basis to reduce the costs of health care in this country. The more you reduce the cost of health care without affecting quality or access, the more people will be able to get health insurance, the more people will be able to get health care. That is what we have to do.

It is time to stop treating this as if, depending on which side of the aisle you are on, you either want or do not want people to have health care. I have never met a serious political leader in either party who did not want the people of this country to have health care. The question is how we are going to go about it.

One of the things I like about the President's proposal is he has decided to get away from deeply ideological solutions and to do what makes common sense, to take steps each of which will substantially improve the situation and put us in a better position and then open up options for other things we can do. It is what we need to do. I am convinced if we set politics aside, and we can once we get past this election and pursue those measures for reform, we will pass them and not only pass them but pass them with bipartisan majorities.

With regard to the bill for national insurance pools for small businesses, small business health plans, that bill has repeatedly passed the House with a bipartisan majority and it can here as well. I am hopeful that it will, after the elections this fall.

We live in interesting times. There are a lot of key issues we are confronting. I continue to be optimistic. This war in Iraq is difficult. Wars are always difficult—the sacrifices, the heroism of the people of this country and their resolve, and then the men and women in the America's military who are a model for us all. They are writing another glorious chapter in the story of freedom that really is the story of the American fighting man and woman. The spread of freedom in the 20th century was the story of the American soldier all over the world making a reality, for other people as well as for this country, the ideals on which this Nation is based.

We saw another example of the power of those ideals today in the House of Representatives. It was an honor to be there and a pleasure to take a few minutes to recall what we all heard.

I thank the Senate for its indulgence, and I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

The senior Senator from Nevada has a question.

Mr. REID. Mr. President, will the Senator withhold just for a brief unanimous consent request?

Mr. President, morning business expires in how much more time?

The PRESIDING OFFICER. There is 7½ minutes.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I am wondering if we should extend the time until 12:30. I ask unanimous consent that be the agreement, and that it not be evenly split. Whoever comes here should be able to speak.

The PRESIDING OFFICER. Is there objection to extending morning business until 12:30?

Without objection, it is so ordered.

ORDER FOR RECESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate stand in recess from 12:30 until 2 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAYING THE COURSE IN IRAQ

Mr. ENSIGN. Mr. President, I wish to speak just for a few minutes this morning, especially in light of the wonderful speech we heard from the interim Prime Minister of Iraq, Mr. Allawi.

I had the tremendous privilege, back in June, to meet with Mr. Allawi.

I found him to be very articulate and a true visionary for his country. This is a man who has a target marked on his chest and on his back wherever he will go in the world. It is critical that we do everything we can, along with the Iraqi security forces, to protect him and other leaders there. They are truly in the line of fire. There are many who would want to assassinate Mr. Allawi because they do not want to see freedom and democracy progress in Iraq.

The speech Prime Minister Allawi gave this morning was heartfelt. You could tell he appreciated what America and Americans families, along with our coalition partners, have sacrificed for the liberation of Iraq. Mr. Allawi made reference to a few things which I believe, as a country, we need to acknowledge. The only way for the terrorists and the insurgents to win is if America loses its way and loses its will.

Terrorists look for ways to disrupt and to win over public opinion because they know they cannot win militarily. We have not lost a single battle or military engagement in the last 3 years in Iraq or Afghanistan. Our military is so superior that the battles are not even close. We win every single one. So the terrorists know that the only way they can win is if they succeed in shifting public opinion back here at home. That is what the purpose of the terrorist attacks in Spain. They wanted to shift public opinion far enough to incite change, which they succeeded at doing. It decided the Spanish election and prompted Spain to pull out of Iraq.

We have to send a strong signal. Whether you are Republican or Democrat, whether you are for the war or against the war, it is critical that we as Americans stand together and send a message overseas, the way our foreign policy to do. We used to stand together as Republicans and Democrats and say partisanship stopped at the water's edge. We once again need to assert that ideal. We need to say to those who would come against us who would rise against the spread of freedom, the opportunity for people to live and worship how they want to and have the freedoms that we enjoy in many parts of the world—we need to say very clearly that we will not allow them to win. We will not allow this radical form of Islam to take over the world.

There is a battle of cultures. We must realize that. The radicals, the ones who want to win the hearts and minds of most of the Muslims around the world, are a small percentage. But we cannot allow them to win at this point. It is critical that we stay strong. We must send a message that our resolve is not going to waiver. We are not going to allow this to affect our elections. We are not going to allow terrorists to win here in the United States.

There are people—and they are good Americans, solid Americans—who are against this war, who have been against it since the beginning. I plead with those in our country to look at the message that division in our country sends to those who would attack us, who would come against us. The old saying "united we stand, divided we fall" is as true today as it has always been. The more we show that we are united in this global war on terrorism, the less likelihood that the terrorists will continue. The terrorists must see that public opinion cannot be shifted because of the latest bombing or the latest beheading or any other horrific acts they may try to inflict on us. The more apparent our unity, the stronger our resolve, the less chance they will have to recruit new, young volunteers as suicide bombers. The less money they will be able to recruit from wealthy people around the world who are financing some of these activities.

We are in the middle of a Presidential election. We realize that. It important that we have strong, steady leadership, leadership that I believe we have in President Bush. It is at a time of criticality to our country and our foreign policy that our leadership carry us through the next few years and send a message to the rest of the world that we are going to stand strong, that we are going to stay the course.

Let me conclude with this: There are naysayers who believe democracy cannot work in the Middle East, that the only type of governments they can have over there are either dictatorships or some type of a religious theocracy. Prime Minister Allawi clearly addressed that today and spoke on behalf of the Iraqi people hungering for freedom and democracy. We must be successful in helping them to achieve that. Staying the course, whatever it takes, is critical not only for Iraq but for the larger global war on terrorism and to our own security here at home.

If we weren't fighting in Iraq, I can guarantee you, we would be fighting here against terrorists on our own soil. Our military is much more prepared for that battle than our civilians are. We are in a dangerous, different world today. We must realize that.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2 p.m.

Thereupon, the Senate, at 12:29 p.m., recessed until 2 p.m. and reassembled when called to order by the Presiding Officer (Mr. ALEXANDER).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Tennessee, I suggest the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. I ask unanimous consent that I be permitted to speak for 7 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HURRICANE DAMAGE IN FLORIDA

Mr. NELSON of Florida. Mr. President, if it were not bad enough that Florida has been hit by three hurricanes in a row—my family has lived in Florida for 175 years, and I cannot remember where two huge hurricanes hit the State back to back, much less do I think that the history books would record that three major hurricanes have hit any State in succession. But if that were not enough, there is now a hurricane out in the Atlantic named Jeanne that has killed already well over 1,000 people in the nation of Haiti, when it was only a tropical storm. It took a northward turn into the Atlantic, has looped around, and is now taking a westward path directly for the peninsula of Florida.

If this hurricane continues at 100 miles an hour, albeit in terms of what we have already experienced with the first one—Hurricane Charley was 145 miles an hour coming right off the Gulf of Mexico up Charlotte Harbor to ground zero at Punta Gorda, and we know what the magnitude of those winds can do, nevertheless a hurricane at 100 miles an hour coming back on to the coast of Florida, which has already been racked by two other hurricanes, from the southwest, Charley, and from the southeast, Frances, one can imagine the additional misery that our people are going to suffer.

So this leads me to my point. Last week we were on the Department of Homeland Security appropriations bill. I battled to get recognition for what had not been requested by the White House, which was for Florida agriculture to be compensated. Thanks to the chairman of the committee, he finally accepted my amendment for $70 million for the Red Cross. The Red Cross has been doing a marvelous job, as has the Salvation Army, but the Red Cross ran out of money. They had to go out and borrow $10 million. So we still have that working in the conference committee on homeland security before we can bring it to final passage, but we are going to have to have plenty more funds.

I just received a shocking report on the destruction to the Pensacola Naval Air Station by Hurricane Ivan that was not only hit with winds sustained at 138 miles an hour coming off the Gulf of Mexico but also a tidal surge. We have all seen those pictures on TV. The tidal surge went way up Pensacola Bay and was so high and so fierce that it lifted up sections of Interstate 10 off of pilings and dropped them into Pensacola Bay.

That same kind of storm surge and high winds has wreaked considerable havoc on the Pensacola Naval Air Station. The first reports from the Department of Defense—and I am going right now to our Senate Armed Services Committee to talk to the Secretary of Defense about this—the first estimate is the damage just to structures at Pensacola Naval Air Station is well over half a billion dollars. That does not include all the equipment.

Yet to show how the U.S. Navy can respond and recoup, they are starting pilot training at Pensacola NAS tomorrow, despite all of that devastation and destruction around them.

This voice from Florida is going to continue to ring out, calling for action and pleading for help. I hope the President will request it. In these closing weeks of the session before we adjourn before the election, we cannot let any of these needs go unmet for the sake of our people and for the sake of the Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate is currently in morning business for 1 more minute.

Mr. DODD. Mr. President, I ask unanimous consent that I may be allowed to address the Senate in morning business for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MIGUEL ANGEL RODRIGUEZ, NEW OAS SECRETARY GENERAL

Mr. DODD Mr. President, I had the privilege and pleasure this morning of attending the induction of Miguel Angel Rodriguez as the new Secretary General of the Organization of American States. Unfortunately, the only once every 5 or 6 years induction of the Secretary General of the OAS occurred almost at the same time we had a joint session of Congress with the acting Prime Minister of Iraq. It is unfortunate these events could not have been better coordinated, because I know there are many of my colleagues who would have enjoyed attending this very important ceremony that includes our hemisphere yet also felt the need to be at the joint session this morning.

I also regret that our own President was unable to be at this induction ceremony. We had Presidents from Costa Rica, from Suriname, Guatemala, Honduras, El Salvador, Haiti, Peru, Dominica, the Vice Presidents of Colombia and Panama, Foreign Ministers, and Ambassadors representing our neighbors in this hemisphere in a very important induction. It is about 300 yards from the Oval Office to the building of the Organization of American States. I know the President is busy and had other matters on his mind, maybe, this morning.

I forgot to mention, by the way, the President of Nicaragua and the Prime Minister of Antigua and Barbuda, and the Prime Minister of Saint Vincent and the Grenadines were there as well.

It was an excellent speech that Miguel Angel Rodriguez, the former President of Costa Rica, gave this morning, talking about the importance of democracy and freedom and liberty, and the efforts being made in Latin America to secure greater democracy and greater freedoms for the millions of people who call the Americas their home.

It has not been an easy time for many of these Presidents, with the difficulties they have faced economically and with the natural disasters. We just heard the eloquent comments of my friend and colleague from Florida about the recent devastation of his home State of Florida, with three hurricanes hitting his home State.

Many of these small countries in Latin America and the Caribbean have faced similar problems. We know in Granada, 90 percent of the homes were destroyed in this country by the hurricane that passed over it. We know the devastation that occurred in Jamaica and the Bahamas. In Haiti, 650 people died just last week as a result of the hurricane hitting in that country. Central America, El Salvador, and Nicaragua are still trying to recover from the devastations that have hit them over the last number of years.

We know about the economic difficulties in Argentina and the problems that exist in Peru. The difficulties in Colombia are ongoing.

This is an important area of the world. I know we are preoccupied for all the obvious reasons with events in Iraq and Afghanistan, but Latin America is our neighbor. These are nations that are our closest neighbors, some of which have been stalwart friends of ours during difficult times.

The new Secretary General spoke eloquently this morning about the importance of democracy and the importance of freedom in the Americas, and how important it is that we do everything we can to support these efforts, recognizing the future of these nations will depend upon strengthening democratic institutions in these countries.

Democracy does not depend upon the support of the powerful. In fact, quite the contrary. Dictatorships, to survive, depend upon the support of the powerful. Democracies and freedom depend upon the support of those who are weaker, those who are fragile. If they fail to support democracy, then it doesn't make it.

At a time such as this, it is important that we pay attention to the words of our friends and neighbors in this hemisphere, particularly the words this morning so eloquently delivered by Miguel Angel Rodriguez at his induction as the new Secretary General of the Organization of American States. I know several of our House colleagues were there. My colleague from Minnesota was there, the chairman of the subcommittee on Latin American affairs, which is the Subcommittee on Western Hemisphere, Peace Corps, and Narcotics Affairs. I thank him for being there. So we had some representation from both the House and this body for this induction ceremony.

Mr. President, I ask unanimous consent that the eloquent speech given by Miguel Angel Rodriguez be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE AMERICA OF FREEDOM

His Excellency Abel Pacheco de la Espriella, President of the Republic of Costa Rica;

His Excellency Runaldo Ronald Venetiaan, President of the Republic of Suriname;

His Excellency Oscar Berger, President of the Republic of Guatemala;

His Excellency Ricardo Maduro, President of the Republic of Honduras;

His Excellency Elías Antonio Saca, President of the Republic of El Salvador;

His Excellency Boniface Alexandre, President of the Republic of Haiti;

His Excellency Baldwin Spencer, Prime Minister of Antigua and Barbuda;

His Excellency Enrique Bolaños, President of the Republic of Nicaragua;

His Excellency Ralph E. Gonsalves, Prime Minister of Saint Vincent and the Grenadines;

His Excellency Alejandro Toledo, President of the Republic of Peru;

His Excellency Roosevelt Skerrit, Prime Minister of Dominica;

His Excellency Francisco Santos, Vice President of Colombia;

His Excellency Samuel Lewis Navarro, Vice President of Panama;

Ministers of Foreign Affairs and members of official delegations;

Ambassador Carmen Marina Gutiérrez, Chair of the Permanent Council;

Mr. Assistant Secretary General;

Ambassadors, Permanent Representatives;

Ambassadors;

Dignitaries that honor us with your presence;

Distinguished First Ladies;

Distinguished guests;

Ladies and Gentlemen:

The long journey of men and women in search of freedom led them to the promised land of the Americas. Here the ideals of thinkers and poets, the worries of farmers and artisans, the hopes of young and old caused nations to flourish, gave rise to constitutions and the proclamation of rights, and forged progress. Independence came with the smell, color, and shape of freedom. Battles were waged against a system that allowed slavery and control over land and Indians, against segregation and male chauvinism, exclusion and privilege. The seeds of freedom, justice, and solidarity were sown, irrigated with blood and fertilized with intelligence and the tenacity of women and men, farmers and professionals, youth and adults of all races and origins.

We have learned along the way that freedom is forged and dignity exercised through concrete works. And step by step, through trial and error, and by taking up where we left off, we have gradually built our democracies.

We have come so far that we feel encouraged to continue our journey. The fact that so much remains to be achieved morally obliges us to do our utmost.

In this twenty-first century, inspired by the values we share, imbued with the ideals of our forefathers, and outraged by the pain of poverty, inequity, and exclusion, we women and men of the Americas must redouble our efforts to expedite the achievement and full exercise of human freedom and dignity.

Day after day we see the world changing at an amazing pace. Our Hemisphere, now as never before, is part of the dizzying and unsuspected challenges emerging from the globalization that has come to stay, with all the hopes it harbors for freedom and now no longer isolated development opportunities, as well as with its challenges and difficulties.

Since inertia is not a fitting response, we must have the courage to take up, with creativity and responsibility based on our common values and the abundance of cultural diversity that is the hallmark of the Americas, the challenge of transforming globalization into a great leveler of the inequalities among peoples.

The leveling needed must be economic and social so as to distribute the benefits of development more equally among and within countries. It must also be political, in order to deepen democracy. To bring about transparent governments and enterprises. To punish the corrupt. To respect indigenous cultures. To ensure gender equality. To guarantee unqualified respect for human rights.

As the ultimate expression of our freedom and dignity, human rights must not only be recognized and declared. They need to be effectively protected. For that, it is essential to respect the rule of law at the national level and to strengthen that guarantee which transcends national borders, namely the inter-American human rights system. Its success and the favorable impact it has had on behalf of citizens are eloquently manifested in the demand it has generated among the women and men of the Americas. We urgently need to expand its capacity to meet that demand and to promote its autonomy; to find ways to finance it as a full-time instrument, to achieve its universal acceptance, better coordination among its organs, and resolute political support for compliance with the decisions those organs take in their respective spheres of competence.

The political organization of freedom is democracy. Through intelligent debate and free and tolerant participation, it enables us make public decisions based on a majority view and to freely elect our governors, with checks and balances to protect the rights of all. In that manner, in peace and with the humility that comes from acknowledging our ignorance, democracy allows us to feel our way, correct mistakes, and continue making headway, combining our efforts to find the compromises that bring us closer to more just conditions.

Democracy is always fragile, because it does not rely on the strength of the powerful. It is based on legitimacy, which comes from respecting the rules of the game, and on the opportunity for change to come about peacefully, because democracy allows today's political minorities to become majorities tomorrow. Because we wish to live in freedom, our Inter-American Democratic Charter has made living in a democracy a human right for all women and men in the Americas. Our challenge is to achieve the equilibrium needed for the OAS to guarantee this right without prejudice to the right of peoples to self-determination and nonintervention. National sovereignty, a value we proudly share, rests upon those foundations, which, in today's world, require the existence of full democracies.

Nourishing, stimulating, and protecting democracy poses numerous demands. We need strong and transparent political parties that allow different interest groups to join together in building national positions and that engage in open dialogue with individuals, other parties, and institutions of civil society. Means of communication free to investigate, inform, and debate. Honest, accountable governments, with as few discretionary powers as possible, bound by the Constitution and the law, and subject to review by the courts. Governments which respect the separation of powers, the assignment of spheres of competence, and the existence of local political authorities and organized social groups. We need citizens who actively participate in public life. Politicians who regard public office as an opportunity to serve, not as a pretext for perks.

The Organization and the member states have made considerable headway toward consolidating fundamental democratic values, as we have seen in recent months. While respecting self-determination and sovereignty and engaging in constructive multilateral dialogue, we will continue acting to ensure that the lights of liberty and democracy shine throughout the Hemisphere. The Organization's activities in this key area need to be institutionalized in order for it to coordinate, preserve, and further enrich the experience it has acquired, which is why we have already proceeded to create the Department of Democratic and Political Affairs and the Office of Political Affairs, Ethics, and Transparency.

We take heart at the consensus now emerging about democracy. Parties differ today not about democracy or autocracy, liberty or communism. In almost all America that debate has been superseded. Today's political debate focuses on other issues. How best to provide public services. The most appropriate economic and social policies. Where best to raise and spend public funds. This new emphasis in political discourse, focusing on the quality of a family's evening meal, education and health, peace in communities, the decency of work and of wages, and the opportunities for savings, investment, and enterprise—in short, the everyday ingredients of citizens' lives—represents an enormously important change that must be reflected in a strengthening of the democratic system.

With the emphasis now squarely placed on citizens' well-being, with democratic freedom and with responsible ongoing action, today the foremost challenge for the peoples of the Americas is to rid ourselves of the shackles of poverty, inequity, and exclusion.

Em cada naçáo estamos chamados i cràção de riqueza e bem-estar. A Organizçao interamericana náo pode ser indiferente ante a pobreza e o subdesenvolvimento.

History teaches us that freedom is the best tool for construction and progress. Free exchanges, incentives to create wealth, property rights respected by all, freedom to enter into contracts and partnerships, and the enforcement of contractual agreements are essential for creativity, competitiveness, and increases in output.

We know that, to generate the wealth needed to overcome poverty, we require institutions and prudent fiscal, monetary, credit, exchange-rate, and foreign-trade policies that promote macroeconomic stability, productivity, competition, and the liberalization of our economies. We also need to improve infrastructure, promote access to science and technology, and protect the environment.

For this free creativity to succeed in bringing benefits for all, for economic growth to be shared, we need free markets; we need to prevent, by means of the rule of law, the misuse of power and privilege; and we need governments that guarantee competition, promote competitiveness, and provide training and support for the most vulnerable so that they can avail themselves of opportunities. Thus we need strong and efficient governments, collecting, by fair means, sufficient taxes to finance their tasks and establishing an economic and social order that eliminates poverty, inequity, and exclusion.

Irrespective of its theological or philosophical underpinnings for individuals or countries, in America we have chosen to make solidarity an essential value of our life in society—but it urgently needs to materialize. For the sake of that solidarity, it is important to promote the training of human capital through efficient social policies, with no place for corruption or patronage. This is where policies of a universal nature, such as health and the priority that must be given to education as the principal instrument for individual advancement, social equity, and civilized coexistence, combine with policies of a specific nature, targeting families needing special attention to help them take advantage of opportunities.

Hemispheric cooperation must include designing economic and social policies that promote integral development. Trade and integration, cooperation and partnership among peoples, and the sharing of best practices in government policies and services are tasks that the Summits of the Americas have brought to the OAS, and for which we need to strengthen coordination among all the international agencies working in these fields in the Hemisphere. I am deeply grateful to the heads of the Inter-American Development Bank, the Inter-American Institute for Cooperation on Agriculture, and the Pan American Health Organization, as well as the Economic Commission for Latin America and the Caribbean and the United Nations Development Programme, for the profound conviction and commitment they have shown with respect to this proposal. As a result, we have already met on two occasions to join forces in this task, which we hope in the future to extend to other international entities whose presence here testifies to their commitment to the well-being of the women and men of the Americas.

A Hemisphere united in the quest for shared growth that will enable us to be rid of poverty, inequity, and exclusion, a Hemisphere that aspires to transform globalization into a politically, economically, and socially equalizing factor, cannot leave behind zones, regions, or countries. We must therefore evaluate the implementation of mechanisms of solidarity that enable us to foster greater cohesion and integral, shared development.

Only thus, bound together in our shared determination, will we be able to meet our moral obligation to tackle poverty. Two hundred years ago, one of our fellow nations rose up as a pioneer for liberty and against inequality, poverty, and discrimination. Today, the people that inspired Toussaint Louverture poses a gigantic challenge to the moral conscience of the Americas. In Haiti the pain of poverty is manifest in all its unmitigated cruelty. The OAS must be the conscience that reminds us all of the vast and prolonged effort Haiti requires. Cette nation qui nous est chère a besoin de la solidarité des Amériques. Et un Continent américain solidaire avec Haïti avancera vers une croissance dans la solidarité.

The full exercise of freedom is curtailed by threats to security and personal, family, and collective peace. The multifaceted nature of human life means that threats lurk in numerous areas. That is why we in the Americas have opted for a multidimensional concept of security that the Caribbean states have promoted.

This is the defense of life, security, and peace, not only, as in the past, vis-à-vis the eventuality of a conflict between states, but also in the face of terrorism, drug smuggling, international crime, epidemics, and natural disasters that jeopardize the very existence of small states, such as the hurricanes whose painful toll in human and material loss is now faced—with a courage, dignity, and efficiency we admire—by Grenada, Saint Vincent and the Grenadines, Saint Lucia, Jamaica, Barbados, The Bahamas, and Haiti, with the solidarity and support of CARICOM, and by the Dominican Republic and Florida and several southern states in the United States of America. To those peoples and their governments, we extend our solidarity.

A vision of the Americas as a land free from terrorism, violence, and crime, from epidemics and the preventable effects of natural disasters, is a dream that unites us in this twenty-first century. It is a dream that requires us to develop national and inter-American policies that are effective and mindful of human rights. A vision that demands that we share knowledge and that our nations cooperate with one another in matters related to intelligence gathering, improvements in our police forces, and judicial, financial, health, and civil-defense systems. Current and future generations demand that we move resolutely ahead to make this dream a reality, and we have therefore immediately proceeded to adapt our organizational structure in line with that task The part the OAS has played in these endeavors for over a century must be consolidated in the structure of its General Secretariat. To that end, we have created the Department of Multidimensional Security and the Office on Threats to Civil Society, in order to achieve an appropriate grasp and institutional memory of those activities.

Our vocation is to create an America at peace. Peace among the nations that comprise it, peace for its people, and peace with the environment.

To ensure that it lives up to the most noble cause it serves of democracy, human rights, security, and integral and shared development, this General Secretariat needs to be streamlined in its organization and procedures. For that it needs to focus on those priorities, to have a clear vision of where it wants to go, efficient management by objectives, accountability, team spirit, and teamwork. It also means that the helmsman must pursue the course charted by the member states, which in turn requires that the General Secretariat provide timely and efficient support to facilitate, in the Permanent Council and General Assembly, the development of a far-sighted hemispheric approach. These tasks are made easier by the considerable progress achieved by the OAS over the past ten years under the apt guidance of its Secretary General, former President of Colombia César Gaviria.

From the bottom of my heart, as a student and patriot of the Americas, I thank Their Excellencies, the Heads of State and Government, the Ministers of Foreign Affairs, First Ladies, Former Presidents, Ministers, and Members of the Legislature and Judiciary, and High Officials who are with us here today for the extraordinary support they lend to the OAS by generously honoring us with their presence.

I realize that the burden is heavy and the challenge enormous. I shall devote myself to this task, asking God's guidance, to the utmost of my ability and conviction, as a token of gratitude to the peoples and governments that have honored me with their trust. Yet I place my trust in the goodness of Providence, the values that guide the governments of America, the abilities of my colleagues in the Organization, and the courage and dedication of the women and men of the Americas.

With our common values and tireless effort, together we will be equal to the challenge. Able to move from disillusionment to enjoyment of democracy. From frustration to hope for human development. From magical realism to idealistic pragmatism, in policies and specific programs. From the pursuit of freedom to the use of it as a tool for forging happiness, progress, and solidarity.

Building that vision, helping it to materialize, converting it into reality is the great task that, with all humility, I invite the OAS to accomplish. With the solidarity of us all, we will be able to build the America of freedom: the freedom and creativity that provide grounds for rational optimism, realistic hope, and a dream that can come true.

Mr. DODD. On behalf of all of us, I am sure my colleagues will agree when they read his remarks, we thank him for his leadership and look forward to working with him to strengthen the OAS, to make it a more viable and important organization as these wonderful friends and neighbors of ours grapple with the economic and natural disasters they face and as they do everything in their power to strengthen democracy and freedom throughout this hemisphere.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, may I ask the Chair what the status is of our schedule right now?

The PRESIDING OFFICER. The Senate is currently in morning business.

NEWS CONFERENCE WITH PRESIDENT BUSH AND PRIME MINISTER ALLAWI

Mr. LAUTENBERG. I thank the Chair. I will take the opportunity to speak in morning business.

Mr. President, in the last couple of hours, a news conference was held with President Bush and Prime Minister Allawi, the interim Prime Minister from Iraq, in an attempt to clarify our Iraq policy. It was held in the Rose Garden.

What we heard was a peculiar use of words, when a reporter asked President Bush to explain some comments he made on Tuesday. Those comments are on this chart. President Bush—this was on September 21 at the Waldorf-Astoria. The quotation is that of the President when he says:

> The CIA laid out a—several scenarios that said, life could be lousy, life could be OK, life could be better. And they were just guessing as to what the conditions might be like.

That is talking about Iraq. The reporter further asked President Bush why, after faithfully relying on CIA intelligence estimates to justify invading Iraq, he now calls CIA intelligence "just guessing." Once again I quote President Bush:

> I used an unfortunate word, "guess"; I should have used "estimate."

An unfortunate word? It was unfortunate, all right, because many of us in the Congress are taking the quality of our Nation's intelligence very seriously. It was unfortunate because the American people are trying to understand what has taken place, what took place on 9/11, what took place in the review of 9/11 with the 9/11 Commission. The demand is that we take intelligence seriously after the failures of 9/11.

Yesterday, we approved the appointment of a new CIA Director, Mr. PORTER GOSS. Although I challenged that appointment, the fact is he won the confidence of this body and, without any possible interruption, is going to be the head of the CIA. I think that is pretty darn important. There were hours of debate in the Senate, covered on TV channels, in newspapers, you name it; everybody must have thought it was pretty important. But President Bush said something else. President Bush said he was trusting the word of a foreign leader, and the statement is made like this:

> And the CIA came—

Once again, he is talking about the situation in Iraq—

> and said, "this is a possibility, this is a possibility, and this is a possibility." But what's important for the American people to hear is reality. And the reality is right here in the form of Prime Minister Allawi. And he is explaining what is happening on the ground. That's the best report.

Are we hearing that President Bush is dismissing the word of the CIA, the comments of the CIA, to say they are just guessing or that might be a guesstimate, and what is really happening, the reality is right here in the form of the Prime Minister? Are we going to trust the Prime Minister of a foreign country to supply intelligence that is more reliable than the CIA? Lord willing, I hope not.

First the President says our intelligence data is just guessing, and then he says the word of a foreign leader is more valuable than U.S. intelligence. The entire purpose of our intelligence program is so we do not have to rely on the word of a foreign government for information. Would we take the word of a Prime Minister of a country to say I think this is the condition in a territory, that is the condition in that territory, and use that information to declare war and send over 1,000 people to their death? I hope not.

The President has finally admitted he uses unfortunate words. He certainly has. I remember some words that shocked me. I was a soldier once, a long time ago, and I never heard a commander, whether it was a lieutenant in charge of my platoon or the general of the army, Dwight D. Eisenhower, or any other world leader say, "Bring 'em on," when they were talking about the enemy. The last thing I wanted to see was a German soldier, I can tell you.

But when President Bush said "Bring 'em on," it was unfortunate. There were tragic consequences. And now since we lost four more people than when I talked yesterday, the number is up to 1,041 troops killed and so many more injured.

On May 1, 2003, President Bush made another unfortunate statement. He said: "Mission accomplished." It was a grand presentation on the deck of an aircraft carrier with proud American sailors standing behind him, flags waving all over the place. He said: "Mission accomplished." That premature statement gave false hope to our troops and the families back home who were waiting for them now that it was all done, all wrapped up.

"Mission accomplished" says: Job well done, finished. This was not a job well done, not at all. Yes, our troops fought hard. Yes, there is plenty of bravery. Yes, there is plenty of courage out there. But for the Commander in Chief to say "mission accomplished," he could have said: "Pack your duffel bags; you are going home."

When I heard "mission accomplished" in World War II, I was on a ship headed for Japan, having served in Europe first. When President Roosevelt and President Truman at the time said, "mission accomplished," we came home. When it was said here, May 1, 2003, roughly 18 months ago, "mission accomplished," the mission was not at all accomplished. Ask the families of the 1,041 who perished in Iraq. Ask those families, more than 800 since the President declared "mission accomplished," ask them whether they think the job is done.

Then the President flip-flopped on whether we can win the war on terror, which is what he said. One day, he told Matt Lauer from NBC on national television:

> I don't think you can win the war on terror.

The next day he said:

> We will win the war on terror.

President Bush is speaking more and more unfortunate words, and flip-flopping on fundamental issues. I think that is what they accuse JOHN KERRY of, flip-flops. Maybe we ought to put up a chart that shows who did more flip-flops than the other. We can prove President Bush's flip-flops were accompanied by pain and grievous losses.

There was a "Hardball" interview last night by Chris Matthews. Bush supporters on that program, a man by the name of Ed Rogers, said Senator KERRY is like George McGovern. Anybody who served in this body understands that George McGovern fought in World War II heroically, and there is not anybody who served with George McGovern or who knows anything about him who is not proud of his accomplishments and his commitment to the well-being of America. So that is a sarcastic way of saying something is wrong with those two men—JOHN KERRY was awarded the Bronze Star, Silver Star, and three Purple Hearts. George McGovern served in Europe during World War II—and that there is something sinister about their character.

Bush supporters say KERRY is like George McGovern. The real analogy that ought to be made is perhaps President George W. Bush is like Richard Nixon, campaign dirty tricks, misleading the American public. Maybe that is the right comparison.

We can continue to criticize and assassinate character, which seems to be the thrust of the Bush-Cheney campaign. This chart was shown on the floor by another Senator about JOHN KERRY's record. JOHN KERRY's record is three Purple Hearts. Those are awards for being wounded, confirmed by medical personnel. You cannot get a Purple Heart by writing a letter and saying: I am hurt here and hurt there. And you cannot get a Silver Star without the Secretary of a service signing on or you cannot get a Bronze Star without certification by someone of very high rank in the military.

Instead, we ought to look at a chart such as this: Bush rhetoric, and the reality in Iraq.

If the measure of your performance is to be the interim Prime Minister of Iraq, brave man though he may be, who insists Iraq is going to be ready to take over in January with an election and they will have 145,000 people in uniform ready to fight, and a year later up to 200,000—I hope that is not wishful thinking because if it is, it could turn into a nightmare.

No, we have to do better than that. We have to be able to tell the American people the truth. We have to be able to look at the record of both people. I know this: If I were being called into battle, I would sure as heck follow JOHN KERRY in because I know if I fall in the water he is going to turn around and pull me out. But I would not be able to find George W. Bush because he was not there in the unit to take up his part. No, he was absent, I think the record has established, and I am not getting into CBS's authenticity.

We have other records that say he did not show up for his physical and, thusly, could not qualify to fly any longer.

So I think it has to stop. When we look at the reality of the Bush-Cheney campaign and we see what Halliburton, a familiar tie to Vice President CHENEY in an earlier period, has done to defraud the American Government, the American people of their funds, overcharging here, bribery there, a Vice President with a financial interest in this company that is held up for such disregard, that is the record at which we have to look: what was their performance, not what were their words.

An irate, angry Senator spoke at the Republican convention. He said one thing you have to remember; it is not what people say, it is what they do that counts. Let us judge Senator KERRY by what he did that counts. Let us judge President George W. Bush on where we stand in this conflict: 1,041 dead, thousands more wounded, many of them very seriously.

I visited some of them at Walter Reed Hospital.

Mr. REID. Will the Senator yield for a question?

Mr. LAUTENBERG. I would, indeed.

Mr. REID. Is the Senator from New Jersey aware that in the month of August alone more than 1,100 American soldiers were injured, wounded?

Mr. LAUTENBERG. I thank the Senator from Nevada. No, I did not know that, but I am not surprised. I am not surprised because there are several thousand wounded and we know that in war the wounded is a multiple of those who are killed.

When we look at what is happening, we talk about mission accomplished and we see a picture in the paper of the latest beheading—how dreadful, how horrible, how savage is our enemy—there is nothing I would rather do than to salute President Bush for ending the misery, for ending the war, for bringing the troops home. There is nothing I would rather do, but I do not see that in the picture, no, not if I look at the record, not if I look at what has been done, not what has been said. I do not see that. So I think we must be very careful.

In World War II, they had an expression that was kind of basic which talked about what we had to do to protect our troops. There were 16 million of us in uniform. They used to say "loose lips sink ships." They asked people not to talk about things. They asked other things of people, too, during World War II. I remember hearing President Roosevelt's broadcast about sacrifice, about turning out the lights in places so we could not be seen by an enemy bomber, a ship—sacrifice. I have not heard President Bush talk about sacrifice to the American people.

I have heard a lot of bragging about what has been done. I have yet to witness the accomplishments that accompany those boastful comments.

I hope it will not be too long before the thousands of people who we have in harm's way, those who are doing their best to fight the battle, will be able to come home and rejoin their families. There is terrible upset in the homes of reservists in particular across the country, a lot from my home State of New Jersey, where daddy is not there, where mom has to take care of the kids. In some cases, mom is away and dad is taking care of the kids, still trying to earn an income, saddled by indebtedness, mortgages, health care needs for parents or grandparents. They want those people home, and we all do. It does not have to be a Democrat or a Republican or otherwise who would not want to see a smiling face come walking through the door.

So let us not hear any more talk about mission accomplished. Let us hear the truth about where we are. If it is a painful truth, as someone who has to go in for surgery has to know at times so they can get better, let us hear the truth, let us hear when it is that we are going to bring our troops home. Let us hear when it is that the fighting is going to end. Let us hear when it is that there is confidence to be restored in the Presidency. Above all, let us stop assailing the character of those who would challenge the positions that we are in, because I think that is the essential working of a democracy: Challenge, ask questions, instead of snide criticism that says they are unpatriotic if a question is asked about an appropriations bill or something such as that. Do not do that.

We have JOHN KERRY who served honorably, bravely, in Vietnam and had the courage to say: I disagreed with the policy but I had the courage, the guts, the backbone to go do what I had to do. Let his record speak for itself and do not try to color it with innuendo and insult.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. GREGG. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are.

Mr. GREGG. Mr. President, I ask unanimous consent to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. GREGG. Mr. President, those of us who listened to Prime Minister Allawi today could not help being overwhelmingly impressed by the courage and the strength of this individual, as he outlined the hopes and dreams of his nation, which he is leading as an interim Prime Minister, and which nation is obviously going through tremendous strain and stress.

I heard the Senator from New Jersey just recently on the floor. I hope the Senator from New Jersey listened to Prime Minister Allawi, but maybe he had not, because much of what the Senator from New Jersey was saying about Iraq was starkly different than what Prime Minister Allawi said.

The points the Prime Minister made which I thought were so telling were, first, that the people of Iraq do want independence and they do want liberty and they do want freedom, that they will hold elections, and that they have overcome great odds, 30 years of despotism of the most horrifying kind—tens of thousands, hundreds of thousands, potentially millions of their citizenry being savagely treated and killed by Saddam Hussein. They have come through that. They have moved toward democracy, and they intend to hold elections in January. That is a statement of extraordinary strength.

Secondly, he made the point, which I think is a telling and appropriate point, that Iraq has become the frontline of the fight against terrorists. The way he phrased it is: It is the place where the forces of hope are fighting the forces of fear. There can be no question about that.

He made the third point, which I believe is critical: That to pursue a course of defeatism in Iraq will lead to an emboldening attitude amongst terrorists throughout the world and will cause us to face many more years of fierce, intense, and brutal attacks from terrorists, which might otherwise be undermined to some degree, hopefully, if we are able to set up a functioning free state of Iraq where liberty rules, where women have rights, where the strength of law exists. That sort of course is what we are on and what we should pursue there.

The personal courage of this individual cannot be understated. There can be no question but that the interim Prime Minister of Iraq, because he speaks for freedom and he speaks for democracy, is the No. 1 target of the terrorists within his nation, of which there are, obviously, a fair number functioning.

But the point he makes is that they represent the distinct minority of his people, and to a large extent they come from outside his nation, and the hangover from the Baathist Party which ran such a despot government which was so authoritarian and so destructive to human life and freedom, and that the vast majority of the Iraqi citizens seek freedom and seek liberty, and that right now, today, significant progress has been made. He made the point that 15 of the 18 provinces could today hold an election and will hold an election in January, obviously—a huge stride forward.

I was also interested to see the response of the candidate for President from the other side of the aisle, Senator KERRY, to the statements by Prime Minister Allawi.

When he was specifically asked how he reacted, he said: The President is saying one thing and being contradicted by the Prime Minister. Then he went on to say that things are disastrous in Iraq.

He had said earlier this week that Iraq is in chaos and that actually Saddam Hussein's administration was better than the chaos. I am paraphrasing him here, but essentially that was the purpose of his statement, that the way Saddam Hussein was replaced, the chaos which has succeeded him is worse than Saddam Hussein—a statement which I think and I hope he regrets making, and certainly which is, according to the Prime Minister, not credible because, as the Prime Minister pointed out today, the people of Iraq are seeking and pursuing freedom and moving toward elections. And they have a government that has been formed through a constitutional process.

So it is really not the President and the Prime Minister who are speaking in opposite terms; it is Senator KERRY and the Prime Minister who are speaking in opposite terms. They, obviously, have significantly different views of what is happening in Iraq. The Prime Minister of Iraq maybe does not know as much about Iraq as the Senator from Massachusetts. But if he does know as much about Iraq as the Senator from Massachusetts, and I suspect he does, his view of Iraq is starkly different than basically the attitude of defeatism which is being pursued or presented by the Senator from Massachusetts.

It is also ironic that in his response at this press conference to what Mr. Allawi said, he basically said Mr. Allawi was wrong, that the "reports are pretty devastating," is the term Senator KERRY used, that "we are losing the peace," is a term Senator

KERRY used, that "we are not getting the reconstruction aid out," and that "we are not training the Iraqi personnel to defend themselves."

Prime Minister Allawi disagrees with him on all those points. He thinks we are moving toward a policy of peace that is going to lead toward freedom for his people. He recognizes we are in a difficult time, and he said that very openly, and that there are those in his nation who, unfortunately, will use the horrific and barbarous tactics of beheading and car bombing and cowardly attacks on children and women as a way to try to disrupt the movement toward freedom.

He recognizes that, but he also says progress is being made, dramatic progress. In fact, as is pointed out today, 15 of 18 provinces could hold an election today. That is progress toward peace, which Senator KERRY says does not exist there. He says that the reconstruction money is not going out. That is not what Prime Minister Allawi said. Prime Minister Allawi went through a litany, a long list of schools that have opened, hospitals that have opened, books that have been supplied, businesses that have begun as a result of reconstruction aid. More is on the way, and it is in the pipeline. He talked about the excitement, really, of his nation coming back to being a nation of commerce.

When Senator KERRY says the troops are not being trained—and Senator KERRY mocked in this press conference Secretary Rumsfeld who got numbers incorrect on the issue of how many troops were being trained. It was a mistake, no question about it. The Secretary admitted to that. But as far as Senator KERRY was concerned that mistake, once admitted to, was still a mistake that deserved to be mocked. But the mistake Senator KERRY makes is that he is saying the number is 5,000—5,000 troops. That is not what the Prime Minister said. The Prime Minister said 100,000, and growing, and that people are seeking to participate in the security forces of Iraq.

Furthermore, what he said was he did not want any more American troops, that he recognizes the responsibility of protecting Iraq should fall and will fall to a free Iraq Government and Iraqi security forces which answers to that government. He expects them to be able to accomplish that. He made it very clear that Senator KERRY may have a different view but that he thinks, from his experience in Iraq, that is not the case.

If you listened to Senator KERRY in his press conference, in response to Prime Minister Allawi's statement to the joint meeting of Congress, you almost sense that he hopes things are not going well. He, of course, gives the token statements: Oh, I really do want peace there. I really do want to win there. But with every token statement, there is a followup statement of how disastrous things are, how much chaos there is—a follow-on to his statement that replacing Saddam Hussein was a mistake because chaos followed.

It is an attitude which cannot possibly assist the Iraqi people as they reach for freedom, as they reach for liberty, to have a major candidate running for President of the United States basically saying they will not succeed and that it is time to take drastically different action. It is an attitude which I also suspect must have some impact on our own troops there who are looking for consistency from our leaders in their support for their efforts in that very difficult situation.

In this press conference, Senator KERRY went on to say that he has told the President, and he used the words: I have stood in Fulton, MO, and I gave the President advice about what he needed to do, and he did not take it. I stood at Georgetown University a year and a half ago and I gave the President advice about what he needed to do, and he did not take it. I stood on the floor of the Senate and I gave the President advice about what he needed to do, and he did not take it. I stood up last week in New York City and gave the President advice, and he did not take it.

The problem is, of course, he kept changing his advice. In every one of those speeches, the proposals he laid out as to what we should do in Iraq were different. He went from being for the war to being against the war. He went from being for giving the President authority to move forward to saying the President moved forward inappropriately with the authority. He went from saying that Saddam Hussein should absolutely be removed—and in his words; I paraphrase again but fairly accurately—that anybody who did not understand the necessity of removing Saddam Hussein should not be elected President because they did not understand the significance and the importance of removing Saddam Hussein and how significant that was—he went from that position to saying Saddam Hussein should not have been removed because it would create chaos. He may have given the President advice. He has advice every week.

The fact is, there have been such different positions in all these periods when he gave advice that we would have looked like a windmill or like a weather vane on top of a barn in the middle of a hurricane. Had we been following that advice, we would have been shifting positions so often.

The point is the President has said: We will stay with the Iraqi people as they seek peace and freedom. And if we are successful in creating a democracy which functions in Iraq—and Prime Minister Allawi made clear that is exactly what they intend to do, and they are well down the road toward accomplishing that, with 15 of 18 provinces being ready for elections now, and they intend to pursue elections in January—where liberty reigns and where law reigns and where women have rights, we will fundamentally undermine the capacity of fundamentally Islamic movements, the terrorist groups of this world, to recruit within the Muslim world, because the Muslim people will understand that freedom and democracy and rights and women having rights works to the benefit of their society and gives them a better life.

The Senator from Massachusetts has been quick to run down the statements made by Prime Minister Allawi. That is unfortunate. When Prime Minister Allawi said the only thing that could harm them would be forces of defeatism, he was speaking for his people. They want hope. They want the opportunity to succeed. And they need our support to accomplish that.

I have watched the evolution or the mutation or the development of Senator KERRY's position relative to Iraq. He spent a lot of time in New Hampshire campaigning in the primary. We had a chance to observe it there. At that time he was quite aggressively supportive of pursuing the efforts in Iraq. He was confronting, of course, an individual who took a much different position, Howard Dean, who said we should not be there. We should get out of there and peace at any price.

After that, he moved back to more of an attitude: We are making mistakes, and we should not be there under the context that we are there.

Then he moved to Saddam Hussein should have survived. It is better than the chaos that exists there today. And then he has moved to, we have made so many mistakes, I disagree absolutely with everything this administration has done relative to Iraq, which leaves the alternative: what would he do. Obviously, he would not have put Iraq on a course to peace, on the course to independence, on the course to freedom, on the course to democracy, on the course to liberty, on the course to giving women rights they didn't have before. That is what the President has pursued. He would have abandoned—and it appears he would still—Prime Minister Allawi who has come forward so courageously and has stated so distinctly the basic essence of what this war is about, which is that it is about people seeking freedom.

He quoted Prime Minister Blair and he said: Prime Minister Blair said that this was a battle between people who are seeking freedom and those who wish to overwhelm freedom and that the basic impetus of all people is to want to be free; it doesn't matter whether they are Christian or Muslim, people want to be free. Prime Minister Allawi is trying to accomplish that for his people, with his people in Iraq. Yet we have a press conference here by the leading candidate of the other party, Senator KERRY, who basically contradicts all of what the Prime Minister has said, both as to the substance of what is happening on the ground and as to the purposes of what his goals are. That is terribly unfortunate. It is a fundamental shift in where Senator KERRY was when he was campaigning in New Hampshire, at least. It is almost as if he has decided to step into the shoes of Howard Dean and pursue that course as the new policy of the Democratic Party in this Presidential campaign.

That is unfortunate because Howard Dean, as decent and as honorable a person as he is—and I had the great privilege to serve with him as Governor; we became Governors of neighboring States about the same time; we had many very good experiences—the fact is, Governor Dean's policies were the wrong policies. And they were rejected by the party in the nominating process. It is unfortunate that Senator KERRY has sort of morphed into that position as he has evolved in this campaign.

This is a period of considerable need for consistency and determination on the part of our Nation, if we are to be successful in supporting a heroic and strong effort on the part of Prime Minister Allawi and his nation to obtain freedom and democracy and the rule of law which comes with it. I certainly hope we will not be abandoning that cause.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

FOREIGN OPERATIONS AMENDMENTS

Mr. LEAHY. Mr. President, for the advice of my colleagues, I have been notified that the majority leader wishes to go soon to the Foreign Operations appropriations bill. The floor manager for the majority will be Senator MCCONNELL of Kentucky. I will floor manage for the Democratic side. Obviously, it will be up to the distinguished majority leader when the bill will actually be laid down. I just wanted to notify colleagues, I have been informed we are about to go to it. I would hope as most of the issues on it have been worked out on a bipartisan fashion that we could move quickly. I know Senators may have amendments, but if we do soon go on this bill and allow Members to bring forward their amendments on this side, I would urge them to let us know what, if any, there are so we could seek time agreements once the bill is laid down.

I see the distinguished senior Senator from Ohio on the floor.

I wanted to make the observation that once the leader turns to this bill, I would hope Members, certainly on our side of the aisle—I would use the privilege of having been here 30 years to urge Members of the other side of the aisle—would speak to the appropriate leaders if they have amendments and see if there are things that can be worked out without a rollcall or can be worked out with a time agreement.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, as my friend and colleague Senator LEAHY has just said, in a few minutes we will be moving to the Foreign Operations bill. I thought I would take a few minutes in anticipation of that to talk a little bit about that bill.

Let me begin by thanking Chairman MCCONNELL and Ranking Member LEAHY for their great work. In a very tight budgeting year, they did a remarkable, bipartisan job. I also personally thank their staff, Paul Grove, Tim Rieser, and Mark Lippert. Their tireless efforts are greatly appreciated.

The staff has done a fabulous job, as have the two Senators. They have a great team.

I want to highlight several items. I know my colleagues will be outlining the bill in detail, but I want to talk about several things that I am particularly grateful that they were able to include in this bill, and I think they deserve our thanks.

First, this bill provides lifesaving humanitarian assistance to the Darfur region of Sudan. With the support of Chairman MCCONNELL and Ranking Member LEAHY, we were able to add $150 million in emergency humanitarian relief.

I also want to recognize specific language that we were able to secure in the bill relating to child survival in HIV/AIDS. Specifically, I again thank the chairman and Senator LEAHY for their inclusion of language addressing the continued need for mother-to-child transmission programs, as well as the importance of AIDS pediatric treatment.

In addition, I am pleased the bill includes specific language about how to protect the transfer of land and property rights to AIDS orphans. These are individuals who cannot be forgotten, and making sure that we protect their rights is so very important.

The bill also has an additional $15 million for the child survival primary causes line item. Also, the bill includes the provision of Senators DURBIN and BROWNBACK that increases funding to the Global Fund by $150 million, with half of that money dedicated to the treatment and prevention of malaria, a disease that kills over a million people a year, at least 700,000 of them African children. I commend both of my colleagues for that, and I commend, again, Senator LEAHY and Senator MCCONNELL for their help on that amendment.

Finally, I thank the chairman and ranking member and their staffs for the tremendous attention they have paid to Haiti. Because of their support, the Senate bill provides over $82.5 million, excluding any assistance for food. That represents a 230-percent increase over the administration's original request. As my colleagues know, our assistance to Haiti is critical in helping our neighbor, a nation less than 800 miles from our shores, get back on its feet.

The committee included much needed report language in the bill outlining key priorities that should form the basis of our U.S. assistance strategy in Haiti and provides a reporting requirement to ensure that this strategy is developed in a multiyear, long-term fashion. Haiti's needs are immense. We simply cannot afford to turn our backs.

Mr. President, the commitment of the chairman and the ranking member to Haiti is clear. The committee's commitment to Haiti is clear and made more so by the support of the amendment we are offering today, a resolution calling for increased international assistance to Haiti. I know my colleague will talk about that shortly.

Specifically, the resolution focuses on two principal deficiencies we are facing in Haiti—funding and security, which are challenges that have been even further exacerbated these past few days. Haiti has been hard hit, as we have all read, by Tropical Storm Jeanne. The death toll so far is estimated at over a thousand. But, frankly, we believe that figure is going to climb as more bodies are found.

At least 1,200 to 1,300 Haitians are missing, presumably washed out to sea or buried in thick heavy mud.

On a personal note, I spoke this morning to my friend, Father Tom Hagan, from the organization Hands Together. Father Tom lives in Haiti and has lived there for many years. I talked to him on a cell phone this morning. He was back in Port-au-Prince. Yesterday, he traveled north to the city of Gonaives, and he also passed through the village of Brunette. He described for me on the phone the devastation he saw. What he told me was just unbelievable, shocking, absolutely tragic.

As father Tom moved up north and approached Gonaives, that village, about a mile outside of the city, was covered in water—2, 3, 4 feet of water. He said it was a huge lake, that in some places the water was up to the windows of his truck. He had a terrible time, frankly, getting up there.

I have a couple of photographs from Gonaives I want to show my colleagues. This picture was an AP photo taken in Gonaives. The second aerial photo was taken, again, in the city of Gonaives.

As Father Tom said, in the city most of the houses have been destroyed. The mud huts and concrete shacks crumbled, leaving standing only the houses made of stone. Anyone who has traveled in Haiti knows that most of the houses are made of mud—mud huts. Very few are made of stone. Very few are really made of anything substantial.

Father Tom told me the stench was overwhelming. Dead bodies were littering the roads and floating in the putrid standing water that remains. Dead animals abound and disease, of course, will soon be rampant.

Father Tom told me people were wandering about aimlessly in a state of confusion and desperation. He said that you can literally see the fear on people's faces. Mothers could be seen holding dead babies in their arms and walking around. Other mothers were carrying their young children above their heads, trying helplessly to keep them out of the flood water.

Father Tom said that even the animals seemed confused and didn't know where to go. Thousands of people have been displaced, with no food, no good water, and no shelter. Father Tom told me that the U.N. troops were visible on the ground, but even their compound is underwater. He saw aid workers from the Pan American Development Foundation. He saw some of their trucks and saw that they were trying to get aid to the people. Some of the trucks did get through to Gonaives, but others were turned over and stuck in the mud.

The village of Brunette, which lies very near Gonaives, has also become a lake. In January, 2003, Senator DURBIN, Senator NELSON, Senator NELSON's wife Grace, and my wife Fran, and I all traveled to Brunette. We visited the village and met with village leaders and schoolchildren. This is a picture of Brunette, the village we visited on that day. This was one of Father Tom's water development projects. As I said, we met with the village leaders and schoolchildren. It was a very happy day.

Senator DURBIN and Senator NELSON will recall that the bumpy ride we took, going up from Port-au-Prince, was 50 miles or so. It took about 4 hours to get up there because it was such a rough road. We did get there and saw this village. These are some of the pictures that we took on that day. The village that you see here is now gone, according to Father Tom. It is a lake, totally covered. You cannot see anything. All you can see there is water. It looks like a total lake. Father Tom assumes that the people just went to higher ground. That is the life these people are going to have to try to go back to and try to put together.

I ask my colleagues to try to imagine this village we see in this picture completely submerged in water, completely covered in fetid, disease-ridden floodwater. Father Tom said you can no longer see the houses above the water. All you can see is part of a cistern from the water project we visited that day.

Clearly, the people of Haiti need our help, now more than ever. This bill today is taking a number of steps that will aid the Haitian people. I congratulate Senator MCCONNELL and Senator LEAHY, the chairman and ranking member, for their great work.

With this recent disaster, the needs of the people of Haiti—food, water, and medicine—will even be greater.

I thank all my colleagues who have been so supportive of the efforts to help bring Haiti back to its feet. I ask them today for their continued support. I ask everyone for their prayers as well. This is a very difficult situation that the people of Haiti face today. The situation Father Tom described is clearly one that necessitates the United States and the international community to become even more involved, to get food in there, to get good water in there, and then be involved in helping to rebuild, in helping these people put their lives back together.

OHIO FLOODING

Mr. DEWINE. Mr. President, I want to also add that while there is a great deal of misery and suffering going on in Haiti right now because of the flooding, my home State of Ohio is also hurting. Several large regions of our State—the southern part, the eastern part—have also been very hard hit.

At least seven people we know of have died as a result of flooding since August. The hurricane has hit Ohio and has caused quite a toll. I will be traveling in some of that region in Ohio tomorrow to take a look myself. My representative Karen Sloan has been on the scene. She represents me out of my Marietta office, but she has been traveling throughout that region for a number of days and has been reporting back to me daily.

The people on the ground have been doing a great job, a courageous job. I congratulate them. It is going to take a lot of time to get things back up and running in a number of communities that have been hardest hit. I commend Governor Taft. I commend the Ohio Emergency Management Agency. I commend the men and women of the Ohio National Guard. I also commend the local officials who have worked so tirelessly, but also the countless volunteers and organizations who have worked to try to help the people who have been put out of their homes, people who have lost property, and people who have lost their loved ones. I congratulate them and thank them for the great work they have done. A lot of work still remains to be done in Ohio, as I know there does in many other States as well.

HONORING OUR ARMED FORCES

ARMY STAFF SERGEANT PAUL MARDIS

Mr. DEWINE. Mr. President, I have come to the floor this afternoon to pay tribute to a man who gave his life in service to our Nation fighting to protect his family, his fellow soldiers, and the Iraqi people. He was a brave young man who was mature certainly beyond his years.

Army SSG Paul Mardis served in the Army's 3rd Battalion, 5th Special Forces Group based out of Fort Campbell, KY. He was seriously injured in May when he was in northern Iraq and a bomb exploded next to his Humvee. Paul was transferred to Walter Reed Army Medical Center to recuperate. Although he fought valiantly to regain his strength, he came down with pneumonia and, tragically, his body was too weak to fight back. He passed away on July 15, 2004. He was only 25 years old.

Since his death, I have learned a lot about Paul Mardis. Perhaps most inspiring is that in his all too brief 25 years on this Earth, Paul lived life to the fullest. He accomplished many things of which people twice his age could only dream.

Paul was not someone who had things handed to him, either. His life was not always easy. He faced adversity early in his life, and even as a child he learned to cope better than most adults ever could. Paul's parents died when he was growing up. He was 10 when he lost his father and 14 when he lost his mother. If dealt that hand, many people might have become withdrawn and bitter, perhaps, but certainly not Paul. He continued to work hard at school, excel as a football player, and developed a level of maturity uncommon at any age.

Following the death of his parents, Paul went to live with his sister Sherri and her husband Tollison. Paul left the life he knew in Coshocton, OH, and moved to Florida. He finished high school there, graduating from Palmetto High in 1997. Though initially he did not want to make the move to Florida—I guess that is understandable with someone his age—Paul made the best of the situation and kept in touch with his friends in Coshocton, especially a young woman named Kacey, whom he would eventually marry in October of 2002.

After graduation, Paul attended Manatee Community College for a time. He knew he needed to earn more money to complete his college degree, so he decided to join the Army. Paul enlisted in September 1998 as an indirect fire infantryman, but he aspired to join the Special Operations Forces. He reached this goal when he became a Green Beret in 2001. SFC Don Kabrich, who served with Paul, once said that "Special Forces put our group through an assessment selection process. It's 3 weeks of circumstances and situations that take the cover off an individual, and you see who's inside. They found the best of the best in Paul."

One of the most impressive things about Paul was that if anyone had a right to boast about his skills and accomplishments, it was certainly Paul

Mardis. But he never did. He did not brag. He did not boast. He quietly went about his job—and doing it well, I might add.

Unbeknownst to his family, Paul had earned several awards in the short time he had been in the Army. He was awarded two Bronze Stars for Valor in Combat, the Army Commendation Medal, the Army Achievement Medal, the National Defense Service Medal, a Purple Heart, and had successfully completed all the schools of the elite forces, including graduating with honors from basic airborne school. Despite the accolades, Paul remained modest. When a nurse called him a hero as he lay recovering in the hospital, Paul insisted that he was nothing special, that he was just doing his job. But, Mr. President, we know better.

Paul touched the lives of all those with whom he came in contact, including Iraqis whom he barely knew. When Baghdad fell, Paul was part of a Special Forces liaison to the emerging political parties. At age 24—24—he was actively working to restructure a foreign government, an amazing accomplishment for anyone, but particularly someone his age.

Although he had many professional successes, Paul cultivated personal relationships in the Army that were very dear to him. Paul's Army buddies fondly remember him. They liked to joke that he was an "organizational fanatic." After finding old receipts tucked away in a filing cabinet, Paul took it upon himself to reinvent his unit's filing system. SSG Mark Conant, Paul's comrade, commented:

> I believe Paul has entered the pearly Gates of Heaven and relieved St. Peter of his duties to get people through the gates more efficiently.

Conant and others also described Paul as an asset to the team and as a great friend.

I had the privilege of meeting Paul's family and some of his friends. His sister Sherri remembered that Paul never did anything halfway. He always went above and beyond what was expected. This is undeniable. Paul answered our Nation's call to serve and did whatever was needed.

It is impossible to honor Paul the way he deserves. The nature of his sacrifice will not allow it. I know that my words must fall short and my words must be inadequate. With that in mind, though, I would like to conclude with the words of Paul's wife Kacey. She said this about her beloved husband:

> Paul was a brave individual who put his life on the line so that we could be free. He loved his country, fellow soldiers, and believed in what he was doing. We can go to sleep at night knowing that the world is a safer place because of people like Paul who were willing to make the ultimate sacrifice for our country. He was a true American hero.

Though Paul Mardis never wanted to call himself a hero, he could not be more deserving of the title.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTELLIGENCE REFORM

Mr. GRAHAM of Florida. Mr. President, this is the fourth floor statement I have made on the subject of intelligence reform. I have spoken previously about the history of our intelligence community, how did we get to where we are today. I have talked about the failures of the intelligence community to adapt after the end of the Cold War. And I have talked about the unfortunate lethargy with which both the current administration and, I must say, the Congress, have responded to the needs for much-needed reform of our intelligence agencies.

I must also express my gratitude for the excellent work of the independent 9/11 Commission. This Commission has built upon other sets of recommendations going back to the mid-1990s for the overhauling of our intelligence structure.

Today, I would like to spend a few minutes discussing the shape that I believe the organizational reform should take, and I would like to begin by briefly recalling the history of our modern Department of Defense.

The Defense Department evolution can be divided into three historic phases: first, pre-1947; second, 1947 through 1986; and, finally, 1986 until today.

In the first phase, the pre-1947 phase, practically going back to the birth of our Nation, we had independent services which had little coordination one with the other. The Navy had its own Cabinet level Secretary. The Army had its own Cabinet level Secretary.

The Army Air Corps, which was a product largely of the Second World War, was about to be spun off from the Army and almost certainly would have had its own bureaucratic structure. What avoided that from occurring was that Congress, at the insistence of President Harry Truman, stepped in, in 1947, with the National Security Act. This act created, among other things, the Department of Defense with a single civilian at the top and service chiefs reporting to that single Secretary at the top. That action did not end all rivalries and competition for budget dollars and prestige, but it helped.

However, there were dramatic instances of operational failures, including the botched attempt to rescue hostages in Iran and the bombing of the Marine barracks in Lebanon and the problems which plagued the invasion of Grenada. All of these in their own way pointed to weaknesses in the structure that existed in the period from 1947 to 1986.

By 1986, Congress moved to address these concerns, the concerns that the services were not communicating well together or coordinating their activities toward common missions.

The Goldwater-Nichols Act of 1986 decentralized the military establishment and created joint operation commands based upon geography. The Joint Chiefs of Staff were given responsibility for planning and advising the civilian command structure on strategy. The joint commands have become very familiar to us all, and I might say, I am proud to say that three of these are based in my home State of Florida: the Southern Command in Miami, the Central Command, and the Special Operations Command in Tampa.

Goldwater-Nichols gave our Nation a much more effective mission-oriented warfighting machine. It is well recognized that this could not have happened had it been conducted under the centralized form of 1947.

The challenge today is, it took 39 years for the military to evolve from the centralized system of 1947 to the decentralized system of 1986. Using this analogy of our military command structure, I would suggest that our current intelligence community, the community of 2004, is in the pre-1947 state. I would further suggest that if this is the year to be "the 1947 for intelligence," we cannot wait 39 years to get it right with our intelligence community, that we cannot centralize the leadership of intelligence agencies under a new director of national intelligence and then wait for decades until we enact the equivalent of Goldwater-Nichols legislation for the decentralization of intelligence.

Given the threats we face around the world, it is urgent that in the same act that brings the intelligence agencies together—which are defined around functions—under a new director of national intelligence, that in that same legislation we need to lay out the plan for the most effective management of intelligence and collection and analysis in order to achieve the missions responding to the threats we have today.

At the very least, we should plant the seeds for the next necessary step—decentralization, jointness of effort among our intelligence agencies and personnel, and a mission-based orientation.

I would propose, as has the 9/11 Commission, that we empower the director of national intelligence to establish centers which are built not around regions of the world, as are our military commands, but around the threats to which our intelligence community must better understand and equip us to respond.

The 9/11 Commission recommended one such center, a center on counterterrorism. In the legislation that is currently being considered by the relevant committees in the Senate, there is a statutorily directed counterterrorism center. I am pleased that President Bush has now begun to provide, belatedly as it is, the creation of such a center by statute.

Other centers which should be authorized in this legislation but not specifically identified are those that focus on other challenges, challenges that we face today, challenges that we may face in the future.

For instance, I do not believe anyone in this Chamber would question the fact that we need to have a national intelligence center which focuses on how we are going to counter and combat the proliferation of weapons of mass destruction. We will probably also find that we need to have a center which focuses on financing, the financing of rogue states, the financing of terrorist organizations.

It is entirely possible that we will need to create centers to respond to threats that are defined by national boundaries or regions, such as the specific dangers posed by regimes in North Korea and Iran.

But most of the threats we now face do not lend themselves to geographic definitions. Just look at how al-Qaida has rejuvenated itself into so many decentralized parts of the world with such a flexible, nimble organizational structure, that we failed to wipe it out in Afghanistan, diverted our attention to Iraq, and have now allowed the enemy to become much more violent and effective.

The analogy that I have used is to that of a puddle of mercury. If you slam your fist into the mercury, it does not disappear. It becomes a thousand tiny blobs scattered over the tabletop. That is essentially what we have done to al-Qaida. We have slammed our fist into the puddle of mercury and now we are faced with literally hundreds of droplets around the world.

The key to this mission-based decentralization of intelligence, in my opinion, is that we must give the director of national intelligence the statutory authority to manage the community with flexibility and nimbleness so he or she can quickly establish new centers or modify existing centers as future threats emerge, just as Goldwater-Nichols has given that authority to the Secretary of Defense.

Again, there is an analogy in the Defense Department since Goldwater-Nichols. Originally, the countries of Syria and Lebanon were assigned to European Command because they were thought to be more relevant to European defense issues than the Middle East.

Recently, there has been a reorganization for those two countries, recognizing the fact of the threat they pose through such things as providing sanctuary to some of the major international terrorist groups, that it would be more appropriate to assign them to Central Command which has responsibility for the Middle East and Central Asia. I am very pleased that such an approach has a growing number of advocates within the intelligence community.

As an example, Flynt Leverett, a former senior analyst at the CIA and later Senior Director for Middle Eastern Affairs at the National Security Council from 2002 to 2003, is now a visiting fellow at the Brookings Institution. He wrote an opinion piece for the New York Times in July of this year. In that article, Mr. Leverett said the following:

> Clearly, structural reform needs to go beyond the creation of a freestanding intelligence "czar" who would oversee the entire American spy network. We need to develop a model of "jointness" for the intelligence community, analogous to that which Goldwater-Nichols Act did for the uniform military 18 years ago . . .
>
> Before Goldwater-Nichols, too many modern military missions were characterized by disaster . . .
>
> Since Goldwater-Nichols required the armed services to collaborate, we have seen the successes of Panama, Operation Desert Storm, and the outstanding battle performance of our forces in Afghanistan and Iraq.
>
> This model should be applied to American intelligence.
>
> This means moving away from the current organizational structure, [which is] defined primarily along disciplinary and agency lines . . .
>
> Instead, we should organize and deploy our resources against high priority targets, including terrorism, weapons of mass destruction, China, and the problem states in the Middle East.
>
> Focused on a particular target, each group would draw on people and resources from across the intelligence community. . . . Existing agencies would function primarily as providers of personnel and resources, much as the individual military services function in relationship to the combatant commands.
>
> It is clear that our intelligence agencies cannot move towards partnership on their own. The post-9/11 battles among the counterterrorist center, the new Terrorism Threat Integration Center, the F.B.I., and the Department of Homeland Security over primacy in assessing the terrorist threat strongly suggest that we have regressed in our efforts to integrate . . .
>
> It is going to require strong presidential and Congressional leadership to achieve genuine reform.

I ask unanimous consent that Mr. Leverett's entire article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 9, 2004]

FORCE SPIES TO WORK TOGETHER

(By Flynt Leverett)

WASHINGTON.—Today, the Senate Intelligence Committee is expected to release its report on the prewar intelligence on Iraq. The document is likely to make clear that America's intelligence network, particularly the Central Intelligence Agency, badly needs repair.

The Senate report will also show that America's intelligence shortcomings aren't going to be addressed simply by changing C.I.A. directors. As the report should make clear, our spy services both failed to do a thorough enough job watching Iraq's weapons programs and played down evidence that challenged the prevailing assumptions that the programs were active. In addition, analysts did not critically evaluate their sources of information; instead, they marshaled the available evidence to paint the picture that policymakers wanted to see.

And how will President Bush and his administration respond to these findings? It's unlikely that they will do much of anything. After all, every independent panel that examined American post-cold-war intelligence—including President Bush's own Scowcroft commission—recognized that fundamental structural changes were needed in our intelligence services. Yet, the White House has remained steadfastly passive as critical problems have gone unaddressed. Meanwhile, administration loyalists have argued repeatedly that structural change is not needed to improve the community's performance, providing a politically comfortable rationale for the White House's inaction.

In theory, the argument against radical reform might seem plausible. The director of Central Intelligence today has sufficient authority on paper to address many of the issues that will be identified in the Senate report, like the failure of collectors and analysts to share information about sources.

But in practice, the C.I.A. has had a hard time breaking free from its culture of mediocrity. During my years in government at the C.I.A. and elsewhere, I was repeatedly told that the problems now publicly identified in the Senate report were going to be fixed. I remember years of discussion about the desirability of "co-locating" analysts and operations officers working on the same target—seeing to it that they had the equal access to information about their sources. But in the end, nothing was done to change old ways of doing business, setting the stage for the Iraq fiasco.

The story, it seems, hasn't changed much. In February, for example, Jami Miscik, the agency's deputy director of intelligence, told C.I.A. analysts in a speech that the problems with information-sharing would be fixed within 30 days. It's July, and nothing has happened.

Clearly, structural reform needs to go beyond the creation of a freestanding intelligence "czar" who would oversee the entire American spy network. We need to develop a model of "jointness" for the intelligence community, analogous to what the Goldwater-Nichols Act did for the uniformed military 18 years ago. That legislation made the chairman of the Joint Chiefs of Staff the principal military adviser to the president. It also mandated cross-service commands, defined regionally and functionally, as the operational chains of command for American military forces.

This change produced real improvement in military performance. Before Goldwater-

Nichols, too many modern military missions were characterized by disaster: the botched attempt to rescue hostages in Iran, the bombing of the Marine barracks in Lebanon, the operational problems that plagued the invasion of Grenada.

Since Goldwater-Nichols required the armed services to collaborate, we have seen the successes of Panama, Operation Desert Storm and the outstanding battlefield performance of our forces in Afghanistan and Iraq.

This model should be applied to American intelligence. This means moving away from the current organizational structure, defined primarily along disciplinary and agency lines. (The C.I.A.'s directorate of intelligence, for example, is responsible for all-source analysis; the directorate of operations is responsible for human intelligence collection; the National Security Agency is responsible for communications intelligence. Turf is sacred.)

Instead, we should organize and deploy our resources against high-priority targets, including terrorism, weapons of mass destruction, China and problem states in the Middle East. Focused on a particular target, each group would draw on people and resources from across the intelligence community. These new target-based centers would report to a new national intelligence director, not to heads of individual agencies. Existing agencies would function primarily as providers of personnel and resources, much as the individual military services function in relation to the combatant commands.

Certainly, there have been some tentative steps toward collaboration. The Counterterrorist Center and the Weapons Intelligence, Proliferation and Arms Control Center, both of which report to the director of Central Intelligence, reflect some of the logic of such cooperation. While the counterterrorist center wasn't inclusive enough to bring together information that might have stopped the 9/11 attacks, at least its analysts and operators are focused, in an integrated way, on their target.

Still, it is clear that our intelligence agencies cannot move toward partnership on their own. The post–9/11 battles among the counterterrorist center, the new Terrorist Threat Integration Center, the F.B.I., and the Department of Homeland Security over primacy in assessing the terrorist threat strongly suggest that we have regressed in the effort to integrate. For its part, the arms control center was not independent enough of C.I.A. views to avoid being led toward a flawed analysis of the Iraqi arsenal.

It is going to require strong presidential and Congressional leadership to achieve genuine reform. Thoughtful members on both sides of the aisle in both houses of Congress are already working on serious reform proposals, though nobody has yet had the courage to devise a Goldwater-Nichols Act for our spy agencies. In this context, the Bush administration's lack of initiative is inexplicable and unconscionable.

There are those who argue that intelligence reform should not be taken up during a political season. They are wrong. This kind of reform can take place only in a political moment. We need a thorough discussion of the issue in the context of the current presidential campaign so that whoever is inaugurated in January has a mandate to break organizational pottery in order to save American lives.

Mr. GRAHAM of Florida. The broad goal of ensuring that the Goldwater-Nichols model is applied to the intelligence community should be the top priority as we shape the organizational reforms in our pending legislation. It is my intention next week to speak to some specific organizational reforms which should be included in order to achieve this broader objective of a decentralized, joint, and nimble intelligence community, capable of responding to our emerging threats.

Let me repeat Flynt Leverett's conclusion: It is going to require strong Presidential and congressional leadership to achieve genuine reform.

That is our challenge. Next week, we will be tested as to whether we will be able and worthy to meet that challenge.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMARKS OF SENATOR DANIEL K. INOUYE

Mr. STEVENS. Mr. President, there are times when one reads a speech that has been given by another Senator and reaches a conclusion and says: I could have given that speech.

Today I was given a copy of the statement made by my Senate brother from Hawaii, Senator INOUYE, at the David Sarnoff Award Banquet last night. I came to the floor to commend that speech to Members of the Senate. I do think if Senators read it, some of them at least might change their position on some of the issues that are going to come before us next week.

This is a very thoughtful speech that Senator INOUYE made. This David Sarnoff Award, as we all know, is named after the founder of the Association of Communications, Electronics, Intelligence and Information Systems Professionals, a group of people who have devoted their lives to improving the technology for our people who are engaged in the intelligence-gathering system of the United States.

This is an award that has been given to many distinguished people in the past—former Secretary Bill Perry, Secretary of State Colin Powell, former Senator and Vice President Al Gore, our current Vice President, DICK CHENEY. It is an award anyone would be proud to receive, but as a practical matter, I bet those people did not expect the speech of the type they heard. It is one that I think, as I said at the beginning, demonstrates what we say from time to time: That the two of us think alike and speak alike.

I commend this speech to Members of the Senate and hope Members will read it and understand it. I ask unanimous consent that Senator INOUYE's speech be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DANIEL K. INOUYE AT THE DAVID SARNOFF AWARD BANQUET, SEPTEMBER 22, 2004

Admiral Browne, General Renzi, distinguished guests, I want to thank you for bestowing this great honor upon me. I am pleased to accept the David Sarnoff Award, named after your founder of the Association of Communications, Electronics, Intelligence and Information Systems Professionals.

Moreover, I am humbled to be included with such notables as Bill Perry, Colin Powell, Al Gore, and Dick Cheney in receiving this award.

David Sarnoff was a visionary who provided so much to the communications industry.

Rising from humble beginnings to become a powerhouse in the radio and television business, he is indicative of the American success story. As one who has served in government most of my adult life, I especially admire Mr. Sarnoff for his goal of fostering a partnership between government and industry.

This partnership between the communications, electronics and information technology business has been critical to our Nation's security and to the advances in our defense and intelligence capabilities. So, I thank you most sincerely for this award.

My friends, we live in interesting and very dangerous times. Many felt with the collapse of the Soviet Union we had entered into a new era of global peace. Today however, we recognize that we face a new enemy, one that knows no borders and operates beyond the norms of civilized society.

Much of what you in the AFCEA Association do helps to fight this new threat and we thank you for that. Your hard work pays great dividends for our Nation's security every day. Through your efforts we have made tremendous improvements in command and control and communications and in information technology. These improvements are so critical to our Nation's defense and its intelligence capabilities.

I often remark that we have the greatest military in the world, perhaps in the history of mankind. Our young men and women who put on the uniform of this country serve us all magnificently.

Let me remind you that it is only one percent of our citizens who serve in our armed forces to protect the remaining 99 percent of us. We are truly in their debt.

It is for them that I strongly encourage our leaders to approve a robust budget to strengthen defense every year.

Your members also help to strengthen our defenses by improving electronics, communications and information technology programs. Your work helps every day to protect these young men and women and enable them to perform their mission more efficiently and effectively.

I would like to note tonight, in addition to our military, our Nation is lucky to be served by the men and women in our intelligence community. They truly represent the best in public service. And your work means a great deal to their success.

Today in Washington we are focused on intelligence, specifically on the intelligence community and the need for further improvement. The tragedy of 9–11 and the faulty intelligence which had many believing that Iraq had weapons of mass destruction led the 9–11 Commission and many others to call for reforming intelligence.

The Commission contends that we had an intelligence failure, that it was a systemic problem as opposed to several mistakes being made by our intelligence community. They blame it on a failure to connect the dots and a lack of imagination.

In their analysis, they note that several terrorists met in Malaysia and that a few proceeded from there to the United States and took part in the attack on 9–11. They conclude that the CIA should have recognized that these terrorists were linked to the bombing of the USS *Cole* and should have informed the FBI and the State Department about the meeting.

It is this type of error which they say necessitates an overhaul of our intelligence infrastructure.

We all wish that our analysts would have been prescient enough to recognize the relationship among these terrorists, and their connection to the *Cole* bombing, and the importance of the Malaysian meeting.

We all wish that these same analysts would have made that information available to the FBI and State Department where there exists a possibility that it would have triggered an investigation of their movements here. But I for one believe it would have taken a lot of luck for that to have happened—more than simply connecting the dots or having better imagination.

Consider this point. It has been 3 years and 11 days since the attack on our Nation. In that time, we have devoted billions of dollars and we have sacrificed many young lives in the war on terrorism, but as far as we know, Osama Bin Laden remains hidden from view directing the far flung al Qaeda network.

Would anyone seriously claim that we have not worked hard enough to connect the dots?

Let's assume we capture Osama soon, somewhere in Pakistan. When we then learn how he escaped from Tora Bora and made his way to Pakistan will we blame faulty intelligence for letting him slip through our grasp?

I fear in today's environment some will offer that critique.

Ladies and gentlemen, intelligence is a tough business. Many of you, perhaps most of you have been involved as providers or users of intelligence in your distinguished careers. I am not telling you something new.

You have witnessed and in some cases taken part in the advances in communications and in command and control which have revolutionized intelligence. You know the incredible progress we have made through information technology. But, with all the highly sophisticated tools in our arsenal we still can't find Osama.

So I ask you, is then a failure of our intelligence system? I think most, if not all of you would agree it is not.

As you know, as ranking member of the Defense Appropriations Subcommittee, I have access to virtually all of our Nation's secrets, including those in the Defense Department and in intelligence programs as well.

I am well aware of what happens day to day in our intelligence business.

But, because of the necessary secrecy of intelligence, most Americans never hear about the success in intelligence.

If the CIA breaks up an al Qaeda cell in southern Europe or western Africa, it is not reported.

If a ship transporting raw materials for the construction of weapons of mass destruction is stopped in port before it reaches its destination, the world is unaware. You know, sometimes I just shake my head when I hear those in the media and even some of my colleagues criticize our intelligence capabilities because all they can see are the failures.

Over the past 3 years my committee has been informed of multiple threats most of which have never been publicized. The intelligence community must treat each warning with utmost care. They must research and investigate each one to determine its veracity, and then respond appropriately to those incidents which are deemed credible.

In many cases what some call connecting the dots is really like searching for a needle in a haystack. And, just to make it more difficult, there are many haystacks to examine and in some cases the needle looks exactly like hay. Sure the needles are there and theoretically they could be found, but should we really expect our analysts to find them every time?

My friends, intelligence is tough business. Our experts are working round the clock on these issues.

Furthermore, I want everyone to realize that we are not standing still. The intelligence community has come a long way in improving intelligence cooperation.

We created the terrorist threat integration center to bring analysts from various parts of the community to work together. The enactment of the PATRIOT Act brought down a wall which had previously blocked information sharing between various parts of the intelligence community and the FBI.

Our leaders have successfully worked to break stovepipes and to ensure that information sharing is working.

The American communication and electronics business has been instrumental in assisting this effort. You have provided the technology to allow us to share information across agencies.

You have invented new ways to protect certain sensitive issues while still allowing many analysts to see essential data. Certainly more improvements are needed in intelligence cooperation and in new technology to improve information sharing. Together that partnership that David Sarnoff talked about a half century ago can help make this work. With your assistance I am confident we will succeed.

Ladies and gentlemen, our Nation has the finest national security apparatus—defense and intelligence—in the world. It's not perfect and it never will be. Some areas can be improved. But it is a critical capability. Our warfighters—our young men and women who, as we speak, are serving in harm's way—depend on seamless intelligence. Many of you help provide that capability to them. It is our solemn duty to ensure that we can continue to provide them the best.

You who represent the providers of these systems, you who are responsible for the revolution in information technology, I offer you my most heartfelt thanks for what you do. I say this because you provide the tools that protect our military.

You provide the tools to our first responders and homeland security managers that will help them hopefully deny and certainly defeat any additional terrorist activity. We are grateful for all you have done to improve our Nation's security.

And to those that want to rush to change our intelligence system and congressional oversight I urge caution. I would urge all to remember the old medical adage, first do no harm.

Again, I thank you for inviting me here to join you this evening and to receive the David Sarnoff Award. I wish you all the best. Thank you.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALTERNATIVE ENERGY TAX CREDITS

Mr. REID. Mr. President, we are going to soon be dealing with a tax conference report, and I am satisfied with what it does for the middle class—it is important and good—but I am disappointed with what it does not do for alternative energy.

It does have a provision in it dealing with wind, and I think that is important, but the United States needs a new strategy, a new vision to meet our energy needs. We cannot meet the demands for oil in this country by producing our way out of the problem. America controls less than 3 percent of the oil reserves in the world, including what is in ANWR. So we must look elsewhere for other sources of energy like renewable energy.

This Nation is rich in renewable energy resources—the heat within the Earth, the warmth of the Sun, and the force of the wind. We have always been blessed with these resources. Now we have the technology to harness them efficiently.

The Senate is already on record supporting the development of renewable energy. We know that renewable energy can provide a steady supply of electricity that is made in the USA. We know it can create thousands of jobs. We know it can protect our environment and reduce global warming, and we know it can help reduce our dependence on oil from the Middle East. That is why the Senate has voted repeatedly to include strong incentives for the development of renewable energy in comprehensive energy bills. In fact, 54 Senators signed a letter last fall supporting a national goal of renewable energy or a renewable portfolio standard that would have required 10 percent of all electricity produced in this country by 2020 be generated from renewable sources.

Nevada has set some of the highest goals in the Nation for developing renewable energy. We are going to steadily increase our electricity generated from renewable sources with a goal of 15 percent by the year 2013. The Senate has also voted in its energy bills to expand and extend the section 45 production tax credit for renewable resources. In the last week, thirty-six Senators signed a letter urging that an extension and expansion of the section 45 production tax credit for renewable energy resources be included in the FSC/ETI bill, known as FSC.

The existing production tax credit only covers wind energy, closed-loop biomass, and poultry waste. We must extend and expand the production tax credit to include other renewable energy resources, such as geothermal, solar, and open-loop biomass. This is what the Senate has repeatedly supported.

We know the production tax credit will spur the production of solar and geothermal power because it has already worked for wind power.

There are farmers in the Midwest who make more money producing electricity from the windmills than they do from growing soybeans, wheat, and corn.

Because of the existing credit, combined with new technology, the development of wind energy has exploded in the past few years. By extending and expanding that incentive, the section 45 production tax credit would spur billions of dollars worth of economic development and create tens of thousands of jobs, especially in rural areas. But we may not be able to act on the FSC/ETI bill this year, so I was hopeful that the Senate and House committees that met to finalize a bill on tax cuts for families would act to extend and expand section 45 production tax credits. They did not do that, and I am disappointed.

This legislation, which we will get later this evening, will only extend the production tax credit for a few renewable energy resources—wind, closed-loop biomass, and poultry waste—and they have enjoyed that credit for more than 10 years. So our job certainly is not done, and that is an understatement.

We are not on the road to diversifying the Nation's energy supply by increasing our use of renewable energy resources.

Wind will help us in Nevada, there is no question about that, but we would do well with solar and geothermal. We are the Saudi Arabia of geothermal energy. I like wind energy, but it is an intermittent energy supply that must be supplemented by geothermal, solar, open-loop biomass, and other renewables. Wind is stronger when it is part of a balanced renewable energy portfolio.

It is my understanding that the House will shortly announce conferees finally—finally—to the FSC bill so a conference can be convened. Let's do that so we can extend the production tax credit for eligible facilities from date of enactment through at least December 1, 2006. Eligible resources need to be expanded from wind and closed loop to include geothermal, solar, biomass, and other renewables.

It is important to include tradable credits to public power utilities and rural electric cooperatives, which serve 25 percent of the Nation's power customers, by allowing them to transfer their credits to taxable entities.

We all know that a reliable, clean supply of energy is a key to our Nation's success this century. We all appreciate the United States has been blessed with abundant resources of clean, renewable energy, and we all realize that the section 45 production tax credit has successfully spurred the development of wind power.

Now that tax incentive has expired. We must extend it and expand it, which we are going to do tonight for wind energy only, at least that is my understanding. So this is the first step toward the kind of energy policy our Nation needs, a policy that looks toward the future and makes our Nation stronger.

I repeat, I am quite certain that in this conference report coming to the floor this evening, there will be an extension of the wind energy production tax credit. We so badly need it in the other areas. This wind energy production tax credit is going to work and it is going to work well, but it would work a lot better if it had its companions, sun and geothermal.

I ask unanimous consent to print a letter from the Geothermal Energy Association in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GEOTHERMAL ENERGY ASSOCIATION,
Washington, DC, September 23, 2004.

Hon. HARRY REID,
U.S. Senate,
Washington, DC.

DEAR SENATOR REID: Thank you for your clear and cogent remarks this afternoon on the Senate floor regarding a renewable energy production tax credit. Like you, we are disappointed that the Conference Committee on H.R. 1308 has extended this powerful incentive only for wind energy projects. As you said today in the Senate, "We must extend and expand the production tax credit to include other renewable energy resources like geothermal energy, solar energy, and open-loop biomass. This is what the Senate has repeatedly supported."

The Board of Directors of the Geothermal Energy Association has approved the following statement on this matter:

For the past twelve years, the PTC has been effectively a single technology incentive and it's time for that to end. Providing the PTC incentive to some renewable technologies while withholding it from others is detrimental to the latter, precludes balanced renewable industry growth, impedes utilization of valuable energy resources, and interferes with the natural operation of market forces. For these reasons, the present situation is not in the public interest. Congress should seek to encourage growth in all renewable technologies and expand the PTC to include all renewable technologies.

All renewable technologies should be treated fairly; either all should receive the benefit of the PTC to spur their growth, or none should receive it. At least in this manner all renewables would be competing on an equivalent basis. It is our hope that before Congress adjourns it will enact law provisions passed by the House and Senate that would expand the PTC to include geothermal energy and other renewable technologies.

We share your hope that the Conference Committee meeting to consider the FSC–ETI bill will take the next step and expand the Section 45 credit to all renewable technologies.

Sincerely,

KARL GAWELL,
Executive Director.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGH ENERGY PRICES AND THE STRATEGIC PETROLEUM RESERVE

Mr. BINGAMAN. Mr. President, I have come to the Senate floor to speak briefly, again, about the impact high energy prices are having on consumers and the increasingly misguided filling of the Strategic Petroleum Reserve. This is not a new topic for discussion on the Senate floor. Rather, it is one we keep coming back to. Given the increase in oil prices we have seen this year, many of us have been contemplating the administration's decision to continue to fill the Strategic Petroleum Reserve in this high-priced environment and have been criticizing the administration's decision in that regard.

Yesterday, oil prices hit $48.35 a barrel. Today, oil futures hit $49 a barrel, just 40 cents under the all-time high of $49.40 a barrel that was reached on August 30.

Market analysts attribute yesterday's sharp increase in prices to trader reactions to the Energy Information Administration's weekly inventory report. U.S. crude inventories dropped by 9.1 million barrels. More surprising was the decrease observed in petroleum product inventories, in particular in heating oil. Distillate inventories plunged by 1.5 million barrels. This may not sound like a lot, but given that this is the season in which stocks are normally built in anticipation of winter heating, it is a significant decline.

In a season in which we should be building stocks, we see national commercial crude stocks at the lowest level since February, and we see draws on the heating oil inventory we have. Heating oil prices have hit all-time highs on the NYMEX this past week, and the crude price, as I mentioned before, is once again near its all-time high.

Curiously, the administration is seeking to remove some 5 million barrels of crude oil from the market in October to continue with the filling of the

Strategic Petroleum Reserve. This does not make good economic sense. The direct effect of removing that 5 million barrels from the market is to add more pressure to what we already know is a very tight market. It is to create even higher energy prices for consumers, and these are the same consumers who have been faced with record energy prices for the entire past year.

According to a recent analysis by the Energy Information Administration, the prices consumers pay for heating oil and natural gas and propane have increased 46 percent since 2000 when the current administration took office. Gasoline prices increased more than 30 percent this year alone. When can we hope that this administration will do something to help consumers fight these high energy costs? How high do prices have to go before we see some action?

Yesterday, rumors began circulating that the administration was contemplating a release of Strategic Petroleum Reserve in response to the disruptions by Hurricane Ivan to U.S. offshore production and oil imports. Reports in this morning's newspapers claim there are two companies that have requested permission to defer their Strategic Petroleum Reserve deliveries. They have requested that authority from the Department of Energy.

This afternoon, the Department of Energy announced that it intends to enter into negotiations with refiners for a loan of oil from the Strategic Petroleum Reserve. The press release notes that the Secretary has authorized those negotiations concerning that loan. I hope this announcement signals that the administration will start to take a more realistic approach to the current situation in oil markets.

For several months, I have advocated that we should suspend delivery of oil to the Strategic Petroleum Reserve until prices come down to a more reasonable level. Suspending the fill of the Strategic Petroleum Reserve during times of high oil prices makes good economic sense. Diverting high-priced Federal oil into the Strategic Petroleum Reserve does not make good economic sense.

By filling the Strategic Petroleum Reserve in this high-priced environment, we are effectively paying more for oil now than we would if we waited until prices came down. Filling the Strategic Petroleum Reserve when oil prices are high costs American taxpayers unnecessarily. Buy high, sell low is not a good strategy. It puts more pressure on already tight fuel markets and keeps oil prices higher for a longer period.

The royalty-in-kind oil program—that is the program being used to fill the Strategic Petroleum Reserve—was first envisioned in a low-price environment. The Government took oil from domestic producers on Federal lands when prices were low to absorb some of the excess oil. The royalty-in-kind program was used to keep domestic oil prices from falling even further. At that time, we were talking about $14 per barrel of oil. Now we are talking about $50 per barrel of oil. The royalty-in-kind program was not established to help high oil prices stay high, but by taking oil off the market in a high-priced environment, we essentially do that.

Suspending the filling of the Strategic Petroleum Reserve does not hurt our energy security. The Reserve already has 96 percent of its capacity. It has 670 million barrels that are now in storage—the highest level we have ever had. It currently covers 67 days of import capacity at a level of 10 million barrels per day of imports.

I do not know how this administration can justify its current plan of taking 5 million additional barrels off the market in October at the same time we are talking about granting loans of oil from the Strategic Petroleum Reserve, effectively releasing oil to refiners from the Strategic Petroleum Reserve. I hope the administration will rationalize its position and stop the filling of the Strategic Petroleum Reserve for the time being.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 4818

Mr. McCONNELL. Mr. President, I ask unanimous consent that following consideration of the tax conference report, the Appropriations Committee be discharged from further consideration of H.R. 4818, the Foreign Operations appropriations bill, and the Senate now proceed to its consideration; provided that all after the enacting clause be stricken and the text of S. 2812, the Senate Foreign Operations appropriations bill, be inserted in lieu thereof; the amendment be considered as original text for the purpose of further amendment with no points of order waived; provided that the only first-degree amendments in order be managers' amendments agreed upon by both managers and the following list that I send to the desk; provided that the amendments listed as "relevant" be considered as related to the bill or the subject of foreign affairs.

I further ask that all listed first-degree amendments be subject to second-degree amendments that are relevant to the first-degree amendments to which they are offered.

I ask consent that following the disposition of amendments, the bill, as amended, be read a third time, and the Senate proceed to a vote on passage, without intervening action or debate; in addition, I ask consent that following passage, the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on behalf of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list of amendments is as follows:

ForOps Amendments

Grassley, Export Bank Funding; Grassley, VISA; Domenici, Relevant; Chafee, Relevant; Ensign, Relevant; Ensign, Relevant; Ensign, Relevant; Lugar, Sudan; Lugar, Relevant; Kyl, U.S. Policy of WMD.

Coleman, Israel; Frist, Relevant to any on list; Frist, Relevant to any on list; Frist, Relevant to any on list; Frist, Relevant to any on list; McConnell, Relevant to any on list; McConnell, Relevant to any on list; McConnell, Relevant to any on list; McConnell, Relevant to any on list; Smith, Israel.

Bayh, Relevant; Biden, Relevant; Biden, Relevant; Biden, Relevant; Bingaman, Relevant; Boxer, Relevant; Boxer, Relevant; Byrd, Relevant; Byrd, Relevant; Byrd, Relevant to list.

Cantwell, Middle East Broadcasting; Cantwell, Global Hunger and National Security; Corzine, Relevant; Daschle, Relevant; Daschle, Related; Daschle, Relevant to list; Daschle, Religious Freedom; Dayton, Afghanistan; Dodd, Relevant; Dodd, Relevant.

Durbin, AIDS; Feinstein, Relevant; Harkin, Ex-Im Bank; Lautenberg, Family Members at Dover AFB; Leahy, Managers amendments; Leahy, Relevant; Leahy, Relevant to list.

Schumer, Diplomatic Property Tax; Schumer, Saudi Arabia; Schumer, Saudi Arabia; Schumer, Relevant; Schumer, Relevant; Schumer, Relevant; Schumer, Relevant; Schumer, Relevant.

WORKING FAMILIES TAX RELIEF ACT OF 2004—CONFERENCE REPORT

Mr. McCONNELL. Mr. President, I ask unanimous consent that following the granting of this request, the official Senate copy of the conference report to accompany H.R. 1308, the Relief for Working Families Tax Act, having been presented to the desk, the Senate proceed to 2 hours for debate, with 2 hours equally divided between the chairman and ranking member of the committee; provided that following that time, the Senate proceed to a vote on adoption of the conference report with no intervening action or debate and points of order waived; provided further that when the Senate receives the official papers from the House, the vote on passage appear at the appropriate place in the RECORD following the receipt of those papers; and finally, this agreement is null and void if the House does not agree to the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 1308), to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes, having met, have agreed that the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the text of the bill, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

Mr. McCONNELL. Mr. President, momentarily we expect to turn to the family-friendly tax package. I understand the chairman of the Finance Committee is on the way. Pending his arrival, I suggest the absence of a quorum.

Mr. REID. I would amend that by asking that the time run on the 2 hours even though we are in a quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent to deliver my remarks as in morning business.

Mr. GRASSLEY. I yield 5 minutes to the Senator from Utah for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah is recognized.

(The remarks of Mr. HATCH are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I yield myself such time as I might consume.

The conference on H.R. 1308 brings to the Senate for consideration the Working Families Tax Relief Act of 2004. This is a product of the cooperative efforts that Senator BAUCUS and I have had on a lot of legislation, and even though there were some differences of opinion within the conference, for the most part, many parts of this bill are things on which we mutually agree. There are some parts included that we might not agree on, but it doesn't keep us from getting it to finality.

I thank Senator BAUCUS for his cooperation as the leader of the Democrats on the Finance Committee and helping us get this bill to where it is.

First, we are here in a great part as well due to a determination of the President of the United States and his enunciation of a very clear tax policy that goes back to the year 2001. In fact, it goes back to probably before he was sworn in as President of the United States. This President saw that the economy was in an economic free fall in 2000. As you recall, in March of 2000, the NASDAQ started to lose half of its value, which it did. You also will remember that during that year, the manufacturing sector started a 44-month slide.

The President knew these things were going on, so even before he was sworn in as President of the United States, he had a tax policy that was ready to go to stimulate the economy. So we passed that in 2001.

We added to it and sped it up a little bit in 2003 to bring about the rejuvenation of the economy that we now have. As an example, we have had 13 months of economic growth in employment, with 1.7 million new jobs created, and I think it will go on. So we are seeing the impact of the President's tax policies going back to that particular time.

What we are dealing with here is a conference committee report that will ensure that the tax reductions made in 2001 and 2003 stay as tax cuts, and that the benefit that working men and women get from that and the benefit that the economy has gotten from that by being rejuvenated with enhanced employment will not turn sour and our working men and women have to pay higher taxes starting next year because provisions of the Tax Code sunset.

Under that scenario, a sunset of tax legislation means there would otherwise be a big increase in taxes to working men and women starting automatically on January 1 of next year, hence, this legislation, to make sure those sunsets do not occur, and we do not have automatic increases without a vote of Congress on the working men and women.

Those tax increases would be an unacceptable position to take, plus there is the injustice to working men and women, and we might be pulling the plug on the revival of the economy that the tax reductions of 2001 and 2003 brought to the economy.

Raising a family is always a struggle, and the last thing they need to do is to send more money to Washington. That money can certainly be better spent by mothers and fathers closer to home for lots of purposes. It could be helping educate a child, buying a better health insurance program, or allowing a parent to spend more time with their son or daughter at home instead of having to work an extra shift.

This basic package from the conference contains several key elements. One is extending the child tax credit and the marriage penalty relief for the 10-percent and 15-percent bracket. These provisions will now be in effect through the year 2010, accelerating the 15-percent refundability for low-income families starting this tax year. This is of particular importance to low-income families. Without doing this, there would be some disincentive to work.

Our policy in this country since 1996 has been to move people from welfare to work because people on welfare are in a lifetime of poverty, and the only way to move them from that situation is to encourage them into the world of work, and being in the world of work, they have an opportunity to move up the economic ladder. But there are some tax policies that discriminate against that. One of those is the regressivity of the payroll tax and even the hindrance of childcare, as an example.

What we do is reduce, not eliminate, the regressivity of the payroll tax so that is not a disincentive for people to go to work; that they know if they go to work, they are going to have more in the world of work than they may in some other lifestyle.

We also do an important simplification in the administration of the uniform definition of a child. Prior to this conference report, the Tax Code would have several different definitions of a child. Not only doesn't that make good legal and public sense, but it is also complicated. We bring uniformity to public policy, but we also bring some simplification to the Tax Code.

Then we also expand the earned-income tax credit and the child credit benefits for military serving in combat zones. We provide alternative minimum tax relief for millions of Americans in the year 2005. These are people who would be hit by the AMT who were never intended to be affected by the AMT. In fact, already there are more people hit by the alternative minimum tax than was ever intended when it was instituted in 1969.

Remember, in 1969, it was instituted to make sure that some Americans, high-income Americans, and maybe also wealthy Americans who took advantage of every tax loophole they could take advantage of to wipe out any payment of any tax whatsoever, would make some contribution based on their success to the Federal Treasury so that everybody in our society was manning an oar in this effort to make our economy and our Government go.

Mr. President, do you know what is happening with AMT because it was not indexed back in 1969? It is beginning to hit a lot more wealthy people than it was ever intended to hit, hitting people who do not take advantage of every tax loophole and are still paying a lot of tax and being hit by the alternative minimum tax.

We are not doing a heck of a lot to help those people who have already been hit, but we are setting up a situation so that situation does not get worse. But to some extent we are putting off the inevitable. If we do not do something about this—and I take some responsibility for not doing enough, although I do remind people who are watching, and my colleagues, that in 1998, I did vote for a bill that did away with the alternative minimum tax totally. It went to President Clinton, and President Clinton vetoed the bill.

At that time, it would have been the ideal time to take care of it. But soon, instead of hitting 3 or 4 million Americans, it is going to be hitting 20 to 30 million Americans, and pretty soon it is going to be hitting the middle class, and it is going to be punitive to the middle class. Somewhere along the line, we have to adopt a policy that realizes that the consequences of our tax policies are hurting people we never intended to hurt, and if we want a stable society, we never want to hurt the middle class.

I know there are a lot of people in this body who believe if we make any changes in tax policy whatsoever, we have to offset it dollar for dollar. For every reduction we make, there is a $1 increase in somebody else's taxes to make it up.

It is almost impossible to do that with the alternative minimum tax. We ought to decide sometime that something has gone wrong and correct the wrong, save the middle class, and not worry about offsets because people who will be paying the tax were never intended to pay the tax, and it does not make sense to tax them. But that is happening through the alternative minimum tax.

What do we do in this bill? We delay for 1 year finding a permanent fix to this situation. By doing it, we are not hurting any more people at least.

Finally, there is a provision in this bill to extend current law on several expiring tax provisions. In regard to these retiring tax provisions, I know there is frustration for some of my colleagues, particularly in the area of expanding the R&D tax credit. In order to reach agreement, my counterparts on the Ways and Means Committee and I agreed that these extenders should be a clean 1-year extension. This had the solution of making no one happy, either in the Congress or in the economic sectors that are impacted by these tax provisions.

The House of Representatives had to accept extenders they did not want, as did we in this body, but it resolved the issue and allowed us to go forward.

I want my colleagues to know that I am committed to working with them on this issue and on other extender-related issues in the JOBS bill that hopefully now will go to conference.

We are going to be able to turn our full attention to the issue of the JOBS bill, which passed this body 3 or 4 months ago by 92 to 5. With the conclusion of this legislation, we are going to be able to work on that and hopefully complete it prior to leaving this October.

This bill provides great tax relief to millions of working families, and I commend President Bush for his leadership in making these proposals a reality.

One thing I need to explain to my colleagues, the President was hoping to get this done in July. Way back in the early winter, I decided the best time to take up this tax bill was now in September. I thought it would be easier to do, and I think the way it is working out it is easier to do.

I tried to respond to the President's inquiries to me about moving this in July, and I came up at that point not with a 5-year extension but with a 2-year extension because at that point we could get bipartisan movement and move it through. The White House did not want just a 2-year; they wanted the 5-year. I could not get the 5-year in July. So we dropped everything and then went home for our summer break during August and the two political party conventions and now we are back doing this.

Senator FRIST and I were called down to the White House in July to visit with the President about this issue. We had a meeting with the President, the Vice President, the chief of staff, and the chief congressional liaison. We discussed all these issues, and I presented the view to the President that I wanted to do this in September. He made the point he wanted to do it in July. I said I will try to do it in July, but, I said: Mr. President, there is also another issue connected as well, and that other issue is the JOBS bill. The JOBS bill is to create jobs in manufacturing. It also corrects a decision that the World Trade Organization made about our export tax laws. Everybody understands we have to do this.

I was presenting to the President at that particular meeting in July the necessity of getting this bill passed and how important it was, but that we had not heard a whole lot out of the White House about the JOBS bill. The President told me in July: Get this extension for me and then we will concentrate on the JOBS bill. We referred to it as FSC/ETI and he referred to it as FSC/ETI as well.

So I hope now that we are delivering on this bill the President asked for, albeit 2 months late, that the President will keep his commitment to me to get the White House behind our JOBS bill, the FSC/ETI bill. That is what I heard him say. I think the President will keep his word to me and we will maybe now hear from the White House on the importance of the JOBS bill.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I am pleased to be a part of this effort to improve significant tax relief for America's working families. I very much want to thank my good friend and colleague Chairman CHUCK GRASSLEY. As usual, he did a great job in the conference. He conducted an open and transparent conference at all times. He was very decent, very courteous, very fair. Sometimes it was difficult.

Senator LINCOLN and I were able to present some amendments and some ideas in an effort to improve the legislation. There was no resistance at all from the chairman. He was, again, gracious, top notch, transparent, very helpful, and I commend him.

Mr. GRASSLEY. I am sorry. I was not paying any attention.

Mr. BAUCUS. I sing the chairman's praises so often he is probably getting used to it, but I was telling everyone what a great job the chairman did last night.

Mr. GRASSLEY. I thank the Senator. I think we did what conference committees are supposed to do. If the Senator would let me interrupt, I think we do what conference committees are supposed to do. They conference and every idea people wanted to bring up was presented and debated.

Mr. BAUCUS. Mr. President, I totally agree. He said it much more directly, as he customarily does. I was a little more oblique and indirect, as I sometimes am. CHUCK GRASSLEY is basic good CHUCK GRASSLEY representing the State of Iowa in a very thoughtful and great way.

Mr. President, I will say a few words about this bill. First, it provides meaningful tax relief. It will clearly benefit millions of middle-income Americans. It largely is made up of extensions, basically provisions, for which I and many of our colleagues worked hard when Congress enacted them in the first place.

The package we consider today is also far better targeted than the package Congress enacted last year. What we are passing today includes provisions that are very important, more specifically to everyday people, to Montanans and to Minnesotans, to people all across the country.

That is not to say that this legislation, in my judgment, is perfect. It is not. I think it has some quite significant shortcomings, but we are here today and this is a vote on the conference report. It is all or nothing and I frankly believe that the good in this bill significantly outweighs the bad. If I were drafting it, it would be quite a bit different than this legislation. But this is America, this is the legislative process, and it is a step forward and I will urge my colleagues to support it.

The legislation the Senate passed to begin this conference provided refundable child tax credits to low-income working families. That was the original bill. This was a $3 billion to $4 billion problem. Last June, the Senate responded and paid for it. This week, 15 months later, the conference committee produced a $150 billion solution for that $3 billion problem and the conference committee chose not to pay for that $150 billion.

I am concerned. The Congress appears incapable of enacting reasonable tax cuts without adding to the deficit. Higher deficits will hurt the very families whom we have set out to help. They are the ones acutely harmed by higher interest rates that huge deficits cause. It will be the children of middle-income American families, those we are directly helping today, who will pay for that deficit with higher taxes throughout their lifetime. That is the underlying problem with this legislation.

Using this conference on a narrow, $3 billion problem to move a broad $150 billion tax bill is also an abuse of the Senate rules. Rule 28—and this may be a little bit inside baseball but it is very important to achieve comity and to get legislation passed here—is a rule which may still appear in the printed rule book but the conference report makes clear that for all intents and purposes rule 28 regarding the scope of conference is now dead. The majority plainly observes rule 28 only in the breach.

Let me take a moment to recount the history of this bill. It all started last year when the 2003 tax bill left out additional child tax credit payments for most low-income families with children. Last year's increase in the child tax credit left out fully one-quarter of Montana's children. It must be proportionately true in other parts of the country.

In the weeks that followed passage of that bill, Senators LINCOLN and SNOWE championed efforts to provide relief for these hard-working families. Today, more than a year too late, we finally followed through on their efforts to provide additional child tax credit relief to those families who were left out. Again, a quarter of the children in my State were left out, and I bet that is about true around the country.

Families who could only get a 10-percent refund can now get a 15-percent refund, as we have accelerated the increased child tax credit in this bill.

The conference agreement makes another significant change benefiting families of military personnel serving in harm's way. Under current law, pay earned by our military in a combat zone does not count for purposes of calculating the earned income tax credit or the child tax credit. That is obviously an imperfection, to say the least, in the law. It is wrong. Our service men and women who are in harm's way should clearly not be discriminated against just because they happen to be fighting a war on our behalf. That is the case in the law and this bill partially but not entirely addresses it. It is the part that it does not fix that I will address later which I have a particular problem with.

Last year, I joined my friend Senator PRYOR in requesting a study to detail how this oversight affects our men and women in the military who are serving in some of the most dangerous locations in the world. What did the GAO find? It found that as many as 10,000 military personnel in combat zones will see a reduction or elimination of their child credit or earned-income tax credit. Why? Simply because they are serving abroad, in harm's way. I joined Senator PRYOR in introducing legislation which is part of the agreement today essentially to correct that inequity.

Unfortunately, the proposal today will still allow military families with combat pay to receive the earned-income tax credit for only 2 years, and then it goes away. Why? Why should that not be permanent? We tried last night to make it permanent, but unfortunately the conference would not agree.

During conference negotiations—and I take my hat off to Senator LINCOLN of Arkansas—Senator LINCOLN offered an amendment with my support to make this provision permanent. Again, the conference committee rejected it on a party-line vote. I don't know why the conference committee chose to penalize those military personnel who are serving in Afghanistan, serving in Iraq, in other dangerous parts of the world. We should make sure they are not discriminated against. I do not understand it. It is the least, the very least we could do for them. We should correct this entirely, and we should take care of those soldiers and sailors who are taking care of us.

I think we also all agree on our support for extending tax relief for middle-income taxpayers. That is clear. That is the basic reason I support the bill. The conference report does extend those tax provisions to the end of the decade. Basically there are three popular tax cuts on which many American families have come to rely: the $1,000 child tax credit, marriage penalty relief, and the 10-percent income tax bracket.

The conference report also, I might add, extends for another year protection from the heinous alternative minimum tax, otherwise known as AMT. What is it? It is basically the provision in the Code that says after you go through all your calculations and it turns out that you pay a very low income tax, American taxpayers—corporate taxpayers, too—have to go through another set of calculations that are a bit more onerous. Under the second, if the tax charge is higher than it would be in the regular calculations, they have to pay the higher amount. That is the AMT. It is beginning to kick in, as many Americans are beginning to realize, and it is going to be a much more difficult burden in the next couple or 3 years.

Not next year, however. This bill extends relief from the AMT for next year. Without this, millions of middle-income taxpayers who thought they would be recipients of the benefits of these tax cuts would lose them. Why? Because of the AMT. We give with one hand tax relief in the 10-percent bracket and from the marriage penalty, but it would be taken away with the imposition of the AMT. So we say let's not let AMT do that for another year.

Many of my colleagues also agree with me that we should not borrow to pay for these tax cuts, especially when other more fiscally responsible options are available. What are those? We now have a $300 billion tax gap based on 2001 figures. That is the latest date for which the IRS has made an honest, responsible calculation. What is the tax gap? That is the $311 billion in money that American taxpayers owe. It is due, but they are not paying it—$300 billion. That is the tax gap. It is huge. Just think how much easier it would be for this country to pay its bills, provide for the wars in Afghanistan and Iraq, homeland security, education, if every American paid his or her legitimate taxes that are owed and due.

The IRS, unfortunately, does not have the personnel to solve this. There are lots of provisions in the law which allow, regrettably, taxpayers to take advantage of the Code. Clearly we should do something about that. I must say, I pressed the IRS in the committee, and I hope we finally get something done in the next couple of years. However, we have passed provisions several times which do address this tax gap. What are they? Anti tax shelter provisions. These are provisions suggested to the committee by the Joint Tax Committee on a bipartisan basis. They say, particularly to corporate taxpayers, if you do certain transactions, itemize these transactions, you have to list them on your return. You have to tell us you are doing these kinds of transactions so they are flagged and the IRS can better look at them.

In addition, we say there should be an economic substance doctrine. That should be enacted. What is that? That is basically the doctrine that says to a judge, if you look at this, if the IRS looks at this and if a taxpayer, corporate taxpayer, is being hypertechnical following the law, but still it is clear there is no economic substance here, the IRS can then find the taxpayer should pay taxes on that transaction.

There are certain Enron related tax provisions that this Senate has also passed. I asked those to be on this bill because they can pay for part of the extension of the middle-income tax cuts. They are good in their own right. These are loophole closers. These are provisions to close corporate loopholes, to somewhat significantly reduce that $300 billion tax gap. Yet that amendment was rejected by the conference committee, and I have no understanding why. I do not know why. I have just been told it can't be done. There is no legitimate reason. I challenged the committee for legitimate reasons. There were none. Yet we in the Congress today are adding to the deficit, we are adding to the debt with the passage of this legislation when we could have been at the same time enacting provisions to close corporate tax loopholes, loopholes that everybody agrees are loopholes. Joint Tax says it is a loophole. All commentators who look at this say it is a loophole. Yet this conference committee would not do something that is clearly the right thing to do.

We should close those loopholes, reduce that tax gap, and reduce the deficit. This conference committee doesn't do that. It says: Oh, no, we should not close corporate loopholes. It says: Oh, no, we should not reduce the deficit. It says: Oh, no. Why? Don't know. There were no reasons given. Clearly, it is the wrong thing to do to not enact the provisions. I suggested that have already passed this Senate. They have already passed this Senate by a large margin, and still the conference says: No, we are not going to close corporate loopholes. That is wrong.

I might add a further part of what I believe is good about this conference report. There is a simplification provision here that does simplify provisions of the Code. I don't have to tell you just how complicated the Code is. We all know. How does it simplify the Code? I will give one idea. It creates a uniform definition of a child in the Code. Today there are five separate definitions of a child in the Tax Code. They are all different. It just makes eminent sense that there will be one provision.

It is a start. I am not standing here to say that we have significantly simplified the Tax Code. We are making a start here with a single, uniform definition of a child. If we could take a step forward, even—no pun intended; maybe a "minor" pun—even if it is a baby step forward, certainly we should take it.

Another provision here, we also were able to continue certain provisions of the Tax Code which would otherwise expire. In the parlance here, they are called extenders. But for those who don't know what extenders are who may be listening, there are certain provisions in the Code which would expire, and most people agree they should not expire. So we say, OK, we are going to continue them. One of the most popular is the R&D tax credit. Frankly, it is foolish to extend that. I think it should be permanent. We should not be back year after year revisiting this issue. It is nuts. It is ridiculous.

I also offered an amendment for a more expanded, a more realistic, a more honest research and development tax credit. What is that? Basically the provision we are extending is dated. It is based on data from 10 or 15 years ago. So companies today which have increased revenues but, say, 10 or 15 years ago were at a certain level of R&D expenditures now can't get the benefit of the R&D tax credit even if their sales are going up because their credit is based on the R&D they performed many years earlier.

I am saying let's bring it up today so American companies can perform the research and invest in the research we need to do to compete with countries around the world. It could be a modest increase in this bill. It is very small—I think it is about $1 billion—not much at all, over 10 years, but that, too, was rejected for basically no reason. I didn't hear a reason. We have an obligation to start and continue to make America even more competitive. So many other countries give such a break to their companies for research and development in their own countries.

Canada, for example, has a 20-percent credit. Other countries have much more than we have. We are just kind of sitting here as a Congress and not really getting off the dime, getting off the ball to address this issue. I am sorry that was not added in the conference report.

Finally, the conference report does take what are called the technical corrections. Those are a long-overdue set of provisions. They are what they are described to be, dotting the i's and crossing the t's to correct minor mistakes, to simplify the Code by enacting corrections.

Finally, I want to say I support the bill. It will make life better for millions of hard-working American families. That is the bottom line. But, also, I might add it continues to ignore our continuing and dire budget deficit. We may turn a blind eye to that problem today, but that deficit is going to haunt us in years to come. Mark my words.

I urge my colleagues to support the bill. But I also strongly urge my colleagues to renew our resolve to address the budget failure that threatens our Nation. That is a challenge we can no longer simply avoid.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield the Senator from Texas 5 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman and ranking member of the Finance Committee for getting this bill through. These family tax breaks are very important. The most time I have spent on anything in my time in the Senate has been for family tax relief, and particularly marriage penalty relief.

The first bill I introduced on this subject was several years ago to try to stop the penalty that people get when there are two working individuals and they get married because then they go into a higher tax bracket, and they get taxed more than if they had stayed single. That is the worst thing we could do in our society because, of course, we know that marriage is very helpful to family stability. It has been shown that children in families where there is a husband and a wife are less likely to suffer child abuse and more likely to do well in school. It has been shown time and time again that families do better in the area of raising their children when there are two parents in the household. But we have had a Tax Code that has discriminated against marriage. That is absolutely ludicrous.

Last year, with my colleagues and President Bush, we passed a $350 billion tax cut. This is an economic growth package that is working. We have seen the fruits of our labor. The economy is coming back. The stock market has stabilized. Jobs are being created. So we have freed the economic engines of our economy by keeping more money in small business and more money in the pocketbooks of families.

One of the most important provisions provided immediate marriage penalty relief, making the standard deduction double that of single people and enlarging the 15-percent tax bracket for married joint filers to twice that of single filers. This provision saved 52 million married couples, 3.6 million of whom are in Texas, up to $600 on their 2003 tax bills.

Enacting the marriage penalty relief was a giant step toward tax fairness. But the bill before us tonight is necessary to keep those tax cuts in place. Since the size of the bill was restricted to $350 billion last year, the marriage penalty relief provision is only effective for 2 years. So if we do not act on the bill tonight, and pass it, marriage could be a taxable event once again in 2005. Without relief, 48 percent of married couples would lose the tax relief they have gained in the last 2 years.

Besides lower taxes, the other thing that is so important for our Tax Code is to have predictable taxes so a family can plan on what they are going to have in their budgets. That is why I hope eventually we will be able to make these tax cuts permanent. But at least today we are going to take a major step in the right direction for predictability of the tax cuts.

Marriage penalty relief will now be able to be counted on from today through 2010, if we pass the bill before us tonight. I think that is a major step in the right direction. Hopefully, between now and 2010 Congress will see fit, working with President Bush, to make this relief permanent. Then our families will know exactly what they are going to have to spend, and they will have more in their pocketbooks as well.

I think it is very important to say this is not something that was easy. We know it was not. There are people who wanted to take the tax cuts away, so acting was very necessary to keep the child tax credit, to keep marriage penalty relief, and to give the overall relief to families in our country. But you can tell it has taken until the last month of this session to do it because many people wanted to put these tax cuts into other spending priorities.

I cannot think of anything better than having the money go back in the pocketbooks of those who earn it so they can spend it for their families the way they want to.

Mr. President, I know my time is expiring, but I just urge my colleagues to pass this bill. I thank the distinguished chairman and ranking member for making sure that marriage penalty relief is in the bill before us tonight so that we can count on now through 2010 that this will be available for people getting married in our country, to raise their families in the way they choose to do it.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana.

Mr. BAUCUS. Mr. President, before I yield to my very good friend from Arkansas, Senator LINCOLN, I would like to tell the Senate and those listening what a great job she has done, particularly in standing up for our military personnel overseas who have children and who are working men and women but whose incomes might not be as high as some others.

She is a tiger. She is a stalwart. She is there. And because of her efforts, this bill is a lot further along in a way that does help military personnel, maybe not as much as we would like yet, but she is to be highly commended for her work.

Mr. President, I yield 15 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Thank you, Mr. President, and a special thanks to my colleague, Senator BAUCUS, who has been a great mentor and great friend to me on the Senate Finance Committee, and a special thanks to our chairman, Senator GRASSLEY, for his transparency and his willingness to work with us always. We are very grateful for that. I think the conference we held under his leadership was certainly a conference where people were able to offer their ideas, bring their ideas and their passions to the table and express them. There are a few we were disappointed in not being able to succeed with, but I know the chairman knows I will be back at that another day, as I usually am, to try and see if we cannot move some of those things along. But I appreciate his graciousness and certainly his willingness to work with all of us. And, again, I thank Senator BAUCUS for all of his hard work and gracious support of me.

I rise today in support of the Working Families Tax Relief Act that is before the Senate today because it does provide tax relief to low- and middle-income families who are struggling to make ends meet by making this child tax credit fully refundable beginning this year. If there is anything I noticed in the time I spent in Arkansas, in my home State, over the month of August, it was the unbelievable stress that working families in this great country find themselves under.

Workers are concerned about their job, whether they are going to keep their job. Maybe they have lost their job. Workers are certainly looking at what they are responsible for, such as can they pay for what their children's needs are, the taxes, the cost of gasoline, the expensive cost of health care. They are concerned about the availability of health care, access to it. They are looking at all of those concerns, including the unbelievable increase they have seen in higher education. Are their children going to be able to go to college? Can they put aside enough money for that? Will there be the resources they need?

Our working families are under unbelievable stress. If we want to strengthen families and, in turn, strengthen the fabric of our Nation, we have to work together to relieve some of that stress through the Tax Code, through lowering the tax responsibility of low- and middle-income working people and giving them the same ability to utilize the Tax Code for the benefit of supporting their families. We see a lot of upper income people who can use the Tax Code for that purpose, whether it is mortgage deductions or the fact they have more expendable income that they can set aside in an IRA or a 401(k), or using that Tax Code to help them support their families and the dreams they have for their families and their children. Giving that same capability to low- and middle-income working people is essential for all Americans to reach their potential and to at least have a shot at the American dream.

This bill is a huge step in bringing relief to working families who are putting so much of their resources into the economy. As my colleagues may recall, the conference report we are debating today is the byproduct of legislation I spearheaded in the Senate over a year ago. I compliment my colleague Senator OLYMPIA SNOWE. OLYMPIA and I worked very hard together on this issue, along with Senator BAUCUS and Chairman GRASSLEY. It was approved by an overwhelming vote in the Senate, 94 to 2. The Senate believed it was important enough to provide for low-income working families to take care of their children. Yet it has taken us this long to get to this point.

I don't want to sound ungrateful because I am tremendously grateful that we are here today to address this issue. But I hope as we look at the issues still before us, the ones we did not address in this bill, that it won't take us that long again to make the commonsense decisions that are required to reinforce the heartland of America and the working families who make up this great Nation.

We introduced back then and pushed passage of that proposal to ensure that working parents who were left out of the 2003 tax bill were able to fully benefit from tax provisions Congress had enacted to help families meet the demands of raising children. I have a Cub Scout meeting in about an hour and a half. I may not make it. But there are multiple demands on working families. Whether it is time, resources, our ability to give our children all of the things that we know, both as parents and having been children ourselves, they are critical in making the kind of people we want to be the leaders of tomorrow. And a huge part of that is having the resources to provide to your children just the basics.

Specifically, the tax package before us will restore provisions that were stripped from the 2003 bill that I had fought to include to allow working families to fully benefit from a $400 increase in the child tax credit. This legislation will also extend critical tax provisions set to expire for married couples, which Senator HUTCHISON has talked about, and for all taxpayers who will benefit from the 10-percent bracket—again, putting resources back into the working families who are the stability of this country.

I stress that low-income working parents who benefit from the refundable child tax credit included in this bill must have earned income to qualify. This is not welfare. You sit down at the kitchen table with any of these families who are working and let me tell you, if you are working 5 days a week, 52 weeks out of the year, and you are making the minimum wage, you are making a little over $10,000, you are working hard. This is not welfare. It is your Government and your Nation reinforcing who you are and what you stand for; that is, that you would use whatever your talents happen to be. They may not be as much as somebody else's, but you have talents, too. And you are using those talents to put back into this Nation and back into this economy.

It is so important for our colleagues to understand, because some of our colleagues have suggested that we should not expand eligibility for the child tax credit for lower income workers because they don't pay Federal income tax. These individuals work hard, and they do pay taxes. They pay sales taxes. They pay excise taxes. They pay property taxes, gas taxes, and payroll taxes on every one of those dollars they earn. They should benefit from the tax relief that we pass in Congress because they suffer from all of the taxes that continue to increase, but they hardly ever benefit from the tax cuts that we produce here in Washington.

Are these families any different? They also struggle to meet the demands of providing for their children, just as others do—more than most, actually. I am confident this is the right thing to do for our Nation and its children.

As I said, we are talking about families who work hard and play by the rules. When they buy their blue jeans for school and their tennis shoes, their tires, their washing powder, it doesn't cost them any less than it costs us. Think about it, a family making $20,000 a year doesn't get a special bargain at the store anymore so than the family making $100,000.

While this tax relief package achieves fairness for millions of families with children who would otherwise be left behind, it doesn't include everything that I fought for during the negotiations in the conference committee this week.

Once again, I appreciate the chairman allowing me to offer my amendments and come before the conference committee and express my desires.

First, I believe we can and should have paid for this bill by eliminating tax shelters and loopholes. Why would we wait until tomorrow to do something constructive that we could do today? Why wouldn't we pay off part of our note today instead of continuing to accrue the interest on the debt that is about to swallow us up? For the life of me, I don't understand why some of my colleagues think that it is important to pay for the JOBS bill we hope to complete this year—I certainly do; it affects my State as much, if not more than any—but not this bill. Why is this bill not important to pay for? I think we should pay for both of them.

I supported an amendment in conference that was offered by my good friend and colleague Senator BAUCUS to pay for the tax provisions we are debating today. Unfortunately, it was defeated on party lines. Even though we were not successful in that attempt, I will renew my efforts to restore fiscal discipline next year by working with like-minded Members in a new Congress and hopefully with an administration that will take deficits seriously as well as their serious effect on our children.

It is critical that we look at the good policy of closing these loopholes and make certain the confidence of the American people in the economy of this country and the way we deal with those who choose to abuse the Tax Code.

Another issue I don't think we resolved appropriately involves the tax treatment of military families. Senator BAUCUS mentioned it. Last night, I offered an amendment to make sure that we take care of the men and women in the military who we depend on to take care of us. These are people who put their families on hold. They put their life in harm's way.

You might think there are not a lot of people out there who fall into this category, in the low-income category, of needing the ability to choose where to put their combat pay for the purposes of calculating EITC. But there are more than 10,000. These are infantrymen, troops, members of our Armed Forces who could benefit greatly if given the opportunity as to whether they want to choose to put their combat pay into their taxable income for the purposes of EITC.

The conference report, in effect, imposes a tax increase on military personnel in the year 2006 and beyond because it only excludes combat pay in the calculation of the earned-income tax credit for low-income soldiers for only 2 years, 2004 and 2005.

These brave men and women who risk their lives to defend our freedom are the last people we should burden with uncertainty in the Tax Code. My colleague from Texas talked about the uncertainty and what it does to families if they cannot depend on the Tax Code to give them the relief and continue to do that. How do they plan? It is unbelievable to me that in 2006—and we don't know where we will be in our conflict in Iraq in 2006—we would give certainty to every other category in here. Yet we would not give that certainty to the military men and women serving this country. I think it is wrong, and I will be working very hard with Senators PRYOR and BAUCUS and others on legislation that will fix it, and fix it in a timely way.

I also offered an amendment to address an inequity in the refundable portion of the child tax credit. Under current law, the threshold to be eligible for the child tax credit is $10,750, and it increases annually based on inflation. Unfortunately, for many low-income families, wages and income are not increasing. They are not keeping pace with inflation, and they will be unfairly denied tax relief under this approach in the years ahead.

Again, you might think this is just a small number of people, but the fact is that it is 4 million low-income people. Thirty million get the child tax credit in this country—30 million families. Eleven million of those are refundable. So 4 million of those 11 million families will not be able to access the full benefit of this child tax credit because we have not adjusted what we set into place.

My amendment would have returned the eligibility threshold to $10,000, which is where it started when originally enacted in 2001 and would have removed the annual inflationary increase. What we have seen is that we have indexed that base, and we continue to see it increase so those who make below that are not eligible for that full benefit. Why would we not want to take it back to the original $10,000 and take away that index and give the benefit to the very families who are working hard, who are not seeing any increase in their wages or in their income, to make sure they have that same ability to take care of their children?

The taxpayers who are most at risk of losing this benefit are the very ones who need it the most. I hope we will reconsider this issue in the near future.

Even though this bill doesn't include everything, I think it should and I would like to amend certain provisions. I believe, on balance, it is an achievement for low- and middle-income families who need economic relief today. We made several attempts to try to make better those provisions that we were offering.

I also offered an amendment of the President's EITC simplification, which was in the President's budget, hoping that maybe that, coupled with what we were asking, would make Members feel comfortable that we, too, wanted to eliminate the fraud and abuse that existed to make sure we could reassure the American people that those who are working hard to earn their income would see the benefits that their Government could provide them, just as the higher income people could use that Tax Code to help them care for their families.

We also worked hard and I was pleased to see included the simplification or uniform definition of a child. I worked with Senator HATCH in committee very early on with that. We wanted to see more simplification of the Tax Code. It is amazing to think a child could be designated six or seven different ways under the Tax Code. Here, we realize that a child is a child, and I think that simplification was very important.

I am grateful for all the work that has gone into it. I thank again Chairman GRASSLEY, Senator BAUCUS, Senator SNOWE, and others for working with me to advance the provisions that I have fought for throughout my term in the Senate to strengthen families and children in Arkansas and across this Nation.

Before I yield the floor, I would be remiss if I didn't also thank my tax counsel, Mac Campbell, for his invaluable assistance, as well as the wonderful staff of both the minority and the majority of the Senate Finance Committee. These are unbelievably brilliant people who work hard day in and day out. I am appreciative of the hard work they put in and grateful for their help. I am grateful for this day and that we have come to the point where we can provide relief for working families.

I strongly believe that as we move forward in strengthening our Nation, we must begin with the fabric of our families and giving our families the means to strengthen themselves, looking at ways we can relieve the stress that they find themselves under every day. This bill will go a long way toward doing that.

I yield the floor.

Mr. GRASSLEY. Mr. President, I yield the Senator from Arizona 10 minutes.

Mr. MCCAIN. Mr. President, today we will be voting on a conference report to extend several very important middle class tax provisions through 2010.

Throughout the Senate's budget debates this year, I have consistently supported the extension of the marriage penalty relief and the child tax credit, and expansion of the 10 percent income tax bracket. The conference report before us extends these family tax relief provisions through 2010, and I will vote to support its passage. But I cannot cast this vote without also expressing my grave concerns over the very serious financial situation facing our country. We have got to start making some tough choices around here.

The cost of the measure before us today is estimated to be $146 billion and it is not offset. Again, I support extending this tax relief to American families, but we have got to wake up and take a long hard look at how we are going to pay for all of this. As the saying goes, the future is now. We face a $422 billion deficit, yet we continue to approve legislation containing billions and billions of dollars in unrequested and unauthorized pork barrel projects. In fact, according to the Congressional Research Service, the number of congressional earmarks found in the 13 annual appropriations bills only continue to grow. In 1994, the year the Republicans gained control of Congress, there were 4,126 earmarks. In 2004, there were 14,040! How can we defend that track record to the taxpayer?

It is unfortunate, although not surprising, that this conference report includes a number of special interest tax provisions. We would be doing a far better service to the American taxpayers if we were simply acting on the three family tax provisions I mentioned earlier.

Let me briefly discuss just one of these ad-ons. Nestled within this conference report is a provision to continue one of the most ironic and bizarre U.S. policies to be considered, not to mention enacted. Under the false guise of exploring environmentally-friendly alternative energy sources, this conference report extends a subsidy offered to facilities that burn animal droppings—or as it is coined in this report, "poultry litter." We have all heard of "litter bugs" and now we have "litter chickens." I raised similar objections to a related provision when it was included in the FSC/ETC bill debated earlier this year.

I don't want to go into the poultry manure and by-product of droppings, but the fact is that no less green an organization than "Friends of the Earth" opposes burning these droppings as an energy source because the process, and I quote, "cause[s] serious environmental and community health problems." Moreover, EPA studies have suggested that these facilities have the potential to cause more air pollution than a coal plant. On top of all this, these facilities drive up prices on natural fertilizers used on American farms, actually detracting from an environmentally-friendly farming process that requires no government subsidy.

Why on earth are we wasting valuable money on such a subsidy, especially when such dire financial and energy needs are facing this country today? We have limited resources to devote to serious renewable energy sources such as solar, wind, geothermal, and sound biomass renewables. Subsidizing the burning of animal droppings does a disservice to worthy renewable energy programs.

Again, we must not continue to view spending in a vacuum or as piecemeal. The effects of our spending are cumulative, and the day is fast approaching when we will be forced to reap what we have sown. Earlier this year, we passed a so-called jobs bill estimated to cost $180 billion, chock full of billions of dollars in tax breaks for wealthy oil and gas companies and other special interests.

On top of all this, last year we expanded Medicare, an already ailing entitlement program, by adding a costly prescription drug benefit. At the time, I spoke at length about my concerns that such an expansion would be detrimental to the future solvency of our Nation and leave future generations with a reckless and unjust financial burden.

Sure enough, that law's price tag grew from an estimated $400 billion when it was passed by Congress to $534 billion just 3 months later. Not surprisingly, this past Sunday, the Washington Post reported that the program is estimated to cost an additional $42 billion, bringing it to a total of $576 billion. I wonder what the next estimate will bring.

The prescription drug benefit represented the single largest expansion of Medicare since its creation, offering enormous profits and protections for a few of the country's most powerful interest groups: the pharmaceutical companies. That is who made out on this bill, Mr. President, not our seniors who do not understand it and do not get it. But the pharmaceutical companies did just fine.

When will we begin to make wiser and more fiscally responsible policy decisions? What is the result of all this? Everything has consequences. In March, it was reported that Medicare will face insolvency by 2019—by 2019. Because of the swelling cost of the program associated with the prescription drug benefit, Medicare will become insolvent 7 years sooner than previous estimates. An August 17 editorial in the Washington Post stated that "in 2004, the combined cost of Medicare and the Federal portion of Medicaid comes to 3.8 percent of GDP; by 2040, it will be 10.1 percent . . . the projected increase in health spending is nearly three times bigger than the projected increase in Social Security costs." What will it take to give Congress the wakeup call it needs? Again, we have to start addressing the serious fiscal realities of our future. We have to make some tough decisions.

Let's not forget we are at war. To date, we spent over $100 billion for our operations in Iraq alone. That cost will escalate. I know—I don't guess—I know we are going to be in Iraq for a long time, and it is going to be very expensive. I will continue to support whatever is necessary to ensure that our brave men and women defending freedom around the world have everything they need to succeed and to come home safely. It appears that our commitments in Iraq and Afghanistan will last well into the future.

While doing these things, we need to be thinking about the future of America and the future generations that are going to be paying the tab for our outrageous, continued spending. It is not fiscally responsible for us to continue to spend and spend and spend without cutting spending elsewhere. We have had ample opportunities to tighten our belts in this town in recent years, and we have taken a pass each and every time.

According to the GAO, the unfunded Federal financial burden, such as public debt, future Social Security, Medicare, and Medicaid payments, totals more than $40 trillion, or $140,000 per man, woman, and child. To put this in perspective, the average mortgage, which is often a family's largest liability, is only $124,000.

In a joint statement, the Committee for Economic Development, the Concord Coalition, and the Center on Budget and Policy Priorities stated:

> Without a change in current (fiscal) policies, the Federal Government can expect to run a cumulative deficit of $5 trillion over the next 10 years.

These figures are shameful and frightening. We are supposed to be helping out middle-income and low-income people with this tax cut today. Who suffers the most when interest rates go up and inflation goes up? People on fixed income and middle-income Americans.

We are mortgaging our children's and our grandchildren's futures. Did anybody have an idea that maybe we could cut some spending somewhere to maybe make up for a little bit of this generous tax cut? I never saw it proposed.

The Congressional Budget Office has issued warnings about the dangers that lie ahead if we continue to spend in this manner. In a report issued at the beginning of the year, CBO stated that because of rising health care costs and an aging population, "spending on entitlement programs—especially Medicare, Medicaid, and Social Security—will claim a sharply increasing share of the Nation's economic output over the coming decades."

The report went on to say:

> Unless taxation reaches levels that are unprecedented in the United States, current spending policies will probably be financially unsustainable over the next 50 years. An ever-growing burden of Federal debt held by the public would have a corrosive effect on the economy.

Additionally, CBO has projected a 10-year deficit of $4.4 trillion.

Who are we hurting here by this continued spending that is going on? We are hurting our kids and our grandkids. I will probably be OK. We have a very generous retirement plan for Members of Congress, probably the most generous in the world. I would like to know what we are expecting to do for our kids and grandkids every time we add several billions of dollars.

One additional point, Mr. President. We added $2.9 billion for drought conditions to a hurricane disaster bill. I see the Senator from South Dakota on the floor. I supported it. Did we try to offset it with any cut in spending anywhere? Maybe the chicken litter program, maybe the $2 million we are spending this year to study the DNA of bears in Montana? No, we do not do any of that.

Our earmarks have gone up to 14,000 earmarks in the last 10 years, from 4,000. We are doing bad things, and we better stop doing it.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Democratic leader.

Mr. DASCHLE. Mr. President, I commend the Senator from Arizona for his strong and powerful statement with regard to fiscal responsibility. We need to find offsets. Many of us have shared the sentiment expressed by the Senator from Arizona on several occasions, and he is absolutely right. I am very concerned, as he has expressed, about the repercussions this is going to have not for this year but for years in the future.

We hear a lot about taxes. I think we ought to be concerned about what I call the birth tax. The birth tax is the tax every child pays or at least is responsible for when he or she is born. It is now $26,000. Every child in America has a birth tax of $26,000. That is his or her share of the Federal debt. And unless we address it, it is going to get worse. We ought to be embarrassed by the irresponsibility of doing things that are not properly offset and paid for.

This bill presents a dilemma for many of us because we have expressed great need for this Congress and this Senate in particular to address tax cuts with offsets. We have proposed, as the Senator from Arizona has noted, on several occasions ways to have done that. This bill could have been offset as well. It is not, and that is regrettable, but it is also a bill which recognizes that it is imperative that we continue to find ways with which to deal with the pressures, economically and financially, the middle-class families are feeling today.

Over the course of the last 4 years, the income for a typical American family has actually been reduced by $1,500 in purchasing power, and yet the prices families today experience have gone up dramatically. Health costs have now exceeded 50 percent in those 4 years. Tuition costs have exceeded 28 percent. Gasoline prices have gone up 21 percent. Grocery prices overall have gone up 18 percent.

So while middle income has declined, the prices those middle-income families are feeling has gone up. And that is why this middle-class squeeze becomes more and more of a concern to families. Household incomes are down and expenses families face go up.

People I talk to in South Dakota are determined to try to find a way to make a better tomorrow for themselves and their families. As they continue to be frustrated by their inability to make ends meet, it is matters such as this that can make a difference.

That is why we are on the verge of doing right by these families by providing for tax relief that for a typical family could mean $700 in savings. Yes, I wish it were offset. Yes, we should have done the responsible thing and found ways with which to ensure these cuts are paid for.

We have been trying to find ways to provide that middle-class relief now for years. Many of us were hoping we could have done it earlier this year, but because the administration balked at finding ways to resolve the differences that existed months ago, we find ourselves today in a situation where we finally can address what has been an unsatisfactory solution to the offsets but a widespread recognition that we have to address these tax cuts in a meaningful way before the end of this Congress.

So this bill first provides, as others have said, the child tax credit, which is designed to make it easier for families to make ends meet, to pay those bills, to recognize their income has declined. The tax credit was scheduled to fall to a maximum of $700. With this legislation, 70,000 families in South Dakota will benefit from this $1,000-per-child tax credit.

I am particularly proud that this group includes 15,000 South Dakota families, including many military families we had fought to include in the initial tax cut in 2001 who had received no tax credit under the initial plan that was produced as we considered this legislation now a couple of years ago.

We also ensure that getting married does not mean paying higher taxes. The marriage penalty relief is a matter of fairness for about 90,000 married couples in South Dakota, and we extend, of course, the 10-percent tax bracket that would have expired had this legislation not been agreed to. That ensures that 245,000 South Dakotans continue to benefit from the full 10-percent bracket.

For a typical South Dakota family of four making $30,000, this legislation delivers a tax cut of more than $725. That is real money. It can make a real difference in the lives of families I have talked to, and it is exactly the kind of tax cut we ought to be supporting more regularly, not those at the very top who with billions of dollars do not need the tax relief, but families who need the help, who cannot make ends meet, who are having trouble paying their bills. They will welcome this relief. I am very pleased that, at long last, we can provide it.

There are other components of the bill that are also good for America and good for places like South Dakota. It extends the tax credit to encourage investments in wind energy. South Dakota has the potential to become a national leader in the production of wind-generated facilities. In fact, in both North and South Dakota alone, they could supply over two-thirds of the entire electricity needed for our Nation if we fully develop capacity to generate power from this renewable resource.

The conference report provides energy companies with a 1.8-cent tax credit for every kilowatt hour of electricity produced by wind energy. The extension of the producers tax credit which expired at the end of 2003 will guarantee investment in this industry and will hopefully lead not just to greater energy independence but jobs and economic growth as well.

The bill also includes two important provisions affecting Native Americans. The Indian employment tax credit encourages businesses to hire Native Americans by providing a tax credit to those providing employment, and the accelerated appreciation for business property on Indian reservations provides for faster tax writeoffs on certain business property on reservations. This encourages much needed investment.

For obvious reasons, this bill is far from where it ought to be. We had bipartisan support for a proposal sponsored by Senator McCAIN to crack down on corporate tax cheaters as a way to help offset the cost of this legislation. Unfortunately, some in the Republican leadership opposed outlawing those tax shelters. I wish we had been able to make this bill a win/win by providing tax relief for middle-class families while cracking down on corporate tax cheaters. Had we done that, we would have significantly reduced the cost of this bill to the deficit. But I do not believe it would be fair to penalize middle-class families simply because someone blocked this provision to prevent corporations from cheating on their taxes.

We have not given up on this effort to close those loopholes, nor have we given up on the effort to correct an error in the Tax Code that actually penalizes soldiers in combat by making it harder for them to receive the earned-income tax credit. Senator PRYOR has long advanced this idea. Senators LINCOLN and BAUCUS proposed this change in the conference committee and were rebuffed. For the life of me, I cannot understand why anyone would want to penalize our soldiers. If there is one group in America we should be doing all we can do to help, it is our soldiers fighting in combat.

In the final analysis, this is the kind of tax cut that will help America, that rewards work and not wealth, that strengthens the middle class and provides America with so much of its strength. In spite of its flaws, it deserves our support, and I am hopeful that we will pass it this evening.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am going to assume the Senator from Iowa is going to yield me 10 minutes.

Mr. GRASSLEY. Ten minutes, yes.

Mr. NICKLES. I want to compliment my colleague, Senator GRASSLEY from Iowa, and also Senator BAUCUS from Montana. I want to thank them for their leadership. I also want to thank every Senator who voted for the 2001 tax cut and for the 2003 tax cut.

I especially want to thank and acknowledge the work of my colleague and friend who is retiring from the Senate, Senator ZELL MILLER, because if he had not been courageous, particularly in 2003 when he cosponsored the bill we are extending today, we would not be here and families would not have had the tax relief.

I also want to compliment President Bush because he pushed for it and he got it. He pushed for it in 2001. We got part of it in 2001 but not much of it. We basically completed it in 2003, and American families got real tax relief. Now we are extending it.

I heard one of my colleagues just say: Well, this is worth $600 for an average American family. Let me just give the facts. For a family who has taxable income of $58,000, this is real relief. If they have $58,000 and most of it is taxable income—most of us consider that middle income—and I have heard a lot of rhetoric: Well, those Bush tax cuts are only for the wealthy, they only benefited the fat cats. Let me just give the facts. I love facts.

If they have taxable income of $58,000, if they have two kids, the bill we are going to pass tonight will save them $600 because the $1,000 tax credit which we passed in 2001, accelerated in 2003, would revert back to $700, a difference of $300 per child. So that is $300 per child they will save. The $1,000 tax credit per child happened because we passed the tax bill in 2001 and in 2003. The marriage penalty relief for the couple who has taxable income of $58,000 will save $911. Why is that? Because we basically take the 15-percent bracket for individuals and we double that amount for couples. That means a couple who makes $58,000 will still be paying 15 percent. Above that amount, their taxable income, they pay 25 percent. If we do not pass this bill today, that amount they pay the higher bracket on is much lower. It is actually anything above $49,000. The delta of that is $9,000, a difference of 10 percent. So that is over $900 in marriage penalty relief for middle-income families.

The 10-percent expansion expires, and we continue that. That is $100. If that is added together for the family of four, middle-income America, making $58,000 of taxable income, this bill will save them $1,611, to be exact. That is a big savings. That is a 26-percent tax increase if we do not pass this bill. We will save them $1,600 by passing this bill.

Basically, by passing this bill we are confirming that the bill we passed last year worked and middle-income Americans do quite well by it. I hope a lot of our colleagues who voted against the bill in 2001 or against the bill in 2003 will vote for the bill tonight because this confirms we are helping middle-income Americans. We are helping them a lot, not a couple of hundred dollars. I have heard some people say what we did for middle income was nothing, it was peanuts. This is not peanuts.

This is $1,600 for a lot of families all across America. So I compliment President Bush, especially because I think that without his leadership, it would not have happened.

I thank those colleagues of ours, Democrats and Republicans, who passed this bill in 2001. And particularly I want to thank Zell Miller because he was helpful in 2003 in passing this bill we are extending tonight. We passed that bill, if my colleagues will remember, with the Vice President breaking the tie. It was a very contentious, very difficult challenge. The President asked me to sponsor the bill and I was happy to do so. We did some other good things in that bill, such as reducing the tax on capital gains to 15 percent, reducing the tax on distributions from corporations to 15 percent because we taxed distributions from corporations higher than any other country in the world. We tied Japan with the highest ranking. We partially eliminated double taxation and made it much more reasonable and responsible, so that was positive.

Incidentally, I might say when we introduced that bill in early 2003, the Dow Jones was 7700. Today the Dow Jones is over 10,000. The NASDAQ is up over 40 percent from when we started pushing this tax bill last year, so the tax bill has worked. There have been 1½ million new jobs created since we passed that bill. So we have had some positive, good signs.

This is a positive, good bill. Some people have complained and said we didn't do enough. Oh, we shortchanged the military combat personnel.

That is not correct. Some people want to greatly expand earned-income tax credits or expand refundability so the Government will write more checks. The earned-income tax program is a program that is one of the most error-prone programs in the Federal Government. It is over a $30 billion program where we are writing checks—not a tax credit, we are writing checks in almost all cases—and there is a 30-percent error rate. Some people wanted to expand that and make more people eligible for more money, more refundability. That is, not only are we going to take care and make sure you get a credit so you pay less taxes, but we are going to write you a check for taxes you didn't pay.

I don't agree with that. I oppose that. I don't think we should use the Tax Code for a welfare program. We have now a situation with the EIC where a person can get the Federal Government writing them a check for 40 percent of the money they are earning. To expand upon that and build that even more I think is irresponsible, when you have an error rate in the program of 30 percent. So that is the reason why there are some objections. I just mention that. The complicated—anyway, I don't need to go too much further.

I am pleased we are here tonight. I am pleased we are passing this package. I think this confirms that what we did in 2001 and 2003 has worked. We have helped American families.

One final comment. I have heard many comments that I wish we would pay for this program. I have heard several people say that. We are continuing the tax relief we gave last year. If we don't do that, there is going to be a tax increase. How many times do you hear the same colleagues say, when we want to continue to spend, Oh, wait a minute, we want to pay for that? Pay for the same amount of spending? For new spending? Never. As a matter of fact, we stopped $1.7 trillion in new spending. Most of the people saying we have to pay for these tax cuts never want to pay for that new spending. They voted against amendments to stop that new spending, or they voted against budget points of order that did stop new spending.

I find it kind of interesting they only want to pay for anything that is called tax cuts, but they never want to pay for spending increases. It is a little ironic, a little interesting. I happen to have the facts and the votes and I am happy to share that. I have votes on every Member, every vote people have cast on spending provisions over the last several years.

The budget actually has worked. The budget we passed enabled us to have the tax cuts that enabled American families to keep more of their own money.

I might say we do have good news on the budget. The deficit figures are coming down by over $100 billion, just by the last estimate. So we have made good progress. The economy is starting to work. I heard some people say incomes are down. Frankly, incomes are up. Jobs are up.

Receipts are up. CBO has been underestimating revenues.

Before, they were making mistakes where they were overestimating for a couple of years. Now they have been underestimating because the economy is growing faster. Corporate receipts are exceeding expectations. So the changes we made by reducing capital gains and dividend taxes are helping the economy grow.

These family-friendly tax cuts are helping American families. We are giving tax relief to taxpayers and that is what we should be doing in this bill. We are also giving continued assistance for people who do not pay taxes. We still have a very extensive refundability portion in this bill as well.

I urge our colleagues to vote for this bill. It is good news for taxpayers. It means for the American family which has taxable income of $58,000, they are going to save $1,600 on their tax bill for next year. That is positive, good news for American families and American taxpayers.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to yield to the Senator from Arkansas, Mr. PRYOR. He is a real leader in protecting our Armed Services personnel. In fact, it was he who asked for a GAO report a year or two ago that would highlight and identify the problem which has led to some constructive provisions in this bill. It is a great honor to yield 5 minutes to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank my colleague for those very kind words. Also, I would like to thank Senator GRASSLEY. He knows I am a fan of his. We appreciate the good working relationship we have.

It is time that we care for those who take care of us. What I am talking about here is, in the conference yesterday there was a provision that was separated out that deals with our men and women not just in uniform but in combat. They are not receiving, in my view, fair treatment under this tax proposal.

Let me say, I am for this middle-class tax bill. I think it is a good piece of legislation. I commend the Finance Committee. They worked very hard on this. I appreciate all of their leadership. But when it comes time for the earned-income tax credit, I need to talk about that for a second because last year, in fact it was last March, I was in the Armed Services Committee and we were talking about the various benefit packages our men and women in uniform receive and it dawned on me that I am not sure anyone in our Government is connecting all the dots. So I approached Senator GRASSLEY and Senator BAUCUS and asked them to ask the GAO to do a review of military tax issues.

Sure enough, the GAO found a glitch, an oversight, an unintended consequence, as they call it, in the Tax Code, where if soldiers are trying to claim an earned-income tax credit and are also receiving combat pay, they actually get penalized under the Tax Code.

I know Congress never intended this, but it is the way it is. There are about 10,000 of our men and women in uniform today who are actually losing money on their taxes because of this unintended consequence. The amount of tax dollars they are losing is anywhere from $335 per taxpayer to $4,534 per taxpayer.

As I said, this affects around 10,000 of our soldiers. We focus on the ones in Iraq, and certainly our prayers go out for those brave men and women, those heroes, but this also impacts people in Afghanistan and Bosnia and Herzegovina and other places around the globe. The way I feel about it is that so far we have lost 1,039 soldiers in Iraq. In fact, there have been more than 4,000 who have been so injured that they will be unable to return to combat. They are in harm's way for us every single day. They are putting their lives on the line, and I feel strongly that while they are over there fighting for us, we in the Congress need to be here fighting for them and for their families.

Also, when you look at this and you run the GAO numbers, this is peanuts in the grand scheme of things. It is only about $30 million—that is million with an "m." We don't talk about millions very much when we talk about the Tax Code. We usually talk about billions. This is not very much money to the Federal Government, but this is real money to these people.

I believe strongly that they are in harm's way every single day, and the last thing they need to worry about is getting gypped on their taxes and having an unintended consequence like this.

Now that Congress is aware of this through the GAO report, I think we need to address it. I am very disappointed that in the conference yesterday they only extended it by 2 years instead of 5 years. I think this should receive the exact same treatment everything else does and be extended to 5 years.

Regardless of that, I still believe that is a good piece of legislation. I thank my colleague from Arkansas, Senator LINCOLN. She has been a great leader on the Finance Committee. She has done so many great things. Certainly, Senator BAUCUS and all of the members, Senator GRASSLEY and all these members of the Finance Committee have done great work.

I yield the floor.

Mr. NICKLES. Mr. President, will the Senator from Iowa yield 1 minute?

Mr. GRASSLEY. I yield 1 minute to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I have heard some statements where people are insinuating that American combat personnel are getting gypped by this bill. That is false. We are giving them a benefit they didn't have before. We are saying they can use combat pay in computing their earned-income tax credit, or not. If it is to their advantage to use it, they can. If it is to their advantage not to use it, they can pass. This is a new provision. This is something they didn't have in the past. They have it now for 2 years.

The Treasury advised against this because it is very complicated, very confusing, hard to monitor. I have already complained on the floor tonight about how complicated the EIT program is. It already has a 30-percent error rate, and that is without this confusion. This was done previously. The Clinton administration said not to do it. We repealed it at their request. We are putting it back for 2 years. We are trying to see if we can make it work and be factually accurate in computing taxes. This is a new benefit for combat pay which, incidentally, is not taxed. It is a good deal for American soldiers. It is not a bad deal.

I resent the statement implying that they are coming up short. This is a good new benefit for them, and we will see if it works.

I thank my colleague from Iowa.

Mr. BUNNING. Mr. President, I rise today to support the American family and extend important tax relief provisions. This is one of the most important bills we will consider this year on the floor of the Senate. If we do not pass this bill, the Americans that need tax relief the most will instead face a huge tax increase next year.

I have consistently supported continuing the child tax credit, eliminating the marriage penalty, expanding the 10-percent tax bracket for the benefit of low- and middle-income taxpayers, and continuing alternative minimum tax relief. I introduced a bill with Senator Miller 5 months ago, The Working Family Tax Relief Act of 2004, which made permanent most of these important provisions. I am pleased that my colleagues on the conference committee were able to find a vehicle to bring an extension of the important provisions found in the Bunning-Miller tax bill before the entire Congress today.

Tax relief has played a central role in fostering economic growth throughout our economy. The President's tax cuts and our votes here in the Senate helped to revive an economy that was stalling in 2000 and shocked by the tragedies of September 11, 2001. The Senate adopted a tax strategy in 2001 to help America's working families and our economy. In 2003, we voted to accelerate the effective date of some of this family tax relief in order to give these families help as quickly as possible. And as a result, every American family who paid any income taxes during 2003 saw a reduction in their taxes, including well over one million Kentuckians. These Kentuckians will enjoy those lower taxes for this year as well. However, if we fail to act this year, America's working families will face a tax increase next year. We cannot allow that to happen. We cannot take back these tax cuts and threaten the financial security of American families just as they are recovering from the turbulence of the last few years.

Let me explain what is at stake here: If we do nothing, the child tax credit will be cut by 30 percent in 2005. Rather than let the credit revert to the old $700 level, this legislation will extend the credit at $1,000 for the next 5 years. There are over 350,000 taxpayers in Kentucky who count on the $1,000 child tax credit to help them provide for their families and I mean to do all I can to make sure they continue to receive it.

The lowest-income Americans have benefited dramatically from the new 10 percent tax bracket. The conference report before us today will extend this bracket through 2010. Today, thanks to this new bracket, working Americans are keeping more of their hard-earned paychecks. If we fail to pass this Conference Report, taxpayers with as little as $7,000 in taxable income could face a tax increase next year. I will not go home to the 1.2 million taxpayers in my state who benefit from the lowered 10 percent bracket without doing all I can do to help them avoid this tax increase.

The accelerated marriage penalty relief will also lapse unless the Senate acts. I have worked for a long, long time to get rid of these stupid provisions of the tax law which discourage marriage. I was thrilled when we were finally able to fix this problem and it is vital to the future of almost one-half million Kentucky families that we do not allow this important legislation to backslide.

There are many other important provisions in this bill. The bill contains fixes to make sure that military families with loved ones working abroad to protect us here at home are eligible to receive the child tax credit. It also continues a provision to assist America's teachers when they pay for classroom supplies out of their own pockets.

This is vital legislation. Without it, we are telling the working families of America that we are no longer behind them and that we no longer want to stimulate economic expansion. The economy and job creation are both on an upswing, but we cannot become complacent. The people who benefit from these vital tax provisions are the backbone of our country and our economy. We cannot withdraw the support we promised working families in 2001 and again in 2003. I urge my colleagues to support this important legislation.

Mr. WARNER. Mr. President, today, as part of the Working Families Tax Relief Act, the Senate will pass legislation that I authored to extend for another 2 years an important tax relief provision aimed at America's teachers. The teacher tax relief benefit in this legislation will provide almost a half a billion dollars worth of tax relief targeted directly at our Nation's teachers.

Why do teachers need this kind of specific tax relief? It is estimated that the average teacher, who is already underpaid, is spending $521 out of their own pocket each year on classroom materials—materials such as pens, pencils and books. First-year teachers, who typically earn less than the average teacher, spend even more, averaging $701 a year on classroom expenses.

Why do they do this? Simply because school budgets are not adequate to meet the costs of education. Our teachers are picking up the slack.

The Teacher Tax Relief Act is a small, yet important sign of recognition by the Federal Government of the many sacrifices that our teachers make. Originally signed into law in 2002 by President Bush, this legislation, which was authored by Senator COLLINS and myself, allowed teachers to take up to a $250 above the line Federal deduction for classroom expenses. The deduction is available when teachers reach into their own pockets and take money out to buy simple things like pencils, erasers and books to help their students succeed in their education.

As passed in 2002, the Teacher Tax Relief Act was a 2-year tax relief provision. Accordingly, without the extension provided in the Working Families Tax Relief Act, teachers would soon have faced a higher tax bill. With passage of today's legislation, teachers are guaranteed that they will be able to utilize this important tax benefit for at least the next 2 years. I remain committed to working to expand the Teacher Tax Relief Act and to make this important legislation a permanent part of our Tax Code.

Mrs. FEINSTEIN. Mr. President, I rise today to offer my support for tax cuts for the American middle class.

This bill will do the following: extend the $1,000 per child tax credit through 2010; eliminate the marriage penalty through 2010; extend the expanded 10 percent income tax bracket through 2010; provide one additional year of protection against the alternative minimum tax; and extend through 2005 business tax credits that recently expired or will soon expire.

Although I am disappointed that we could not provide tax incentives to additional energy related industries, such as open-loop biomass, many of these expiring business tax credits will benefit California companies; such as the research and development tax credit and the tax credit for electricity produced from wind energy.

But, the primary reason I support this bill is that it provides tax relief to the average American. These are the people who need the most relief. They are the ones most likely to spend their tax savings. And it is these expenditures that will assist in getting this economy off the ground.

I am supporting this conference report with a mixture of relief—that we recognize that the middle class deserves continued tax relief—and with concern as well, since we are in effect borrowing the money from our children and grandchildren to provide the tax breaks.

For the past 3 years this Government has gone on a fiscal spending spree of unprecedented proportions—cutting taxes and increasing spending at such a rate that we now see the largest deficits in this Nation's history.

This year alone we are expecting a budget deficit of more than $420 billion and a cumulative deficit of more than $2.3 trillion over the next ten years.

In contrast, President Clinton left office with a $236 billion surplus and a projected cumulative surplus of $5.7 trillion from 2001–2010. This year's deficit represents a $658 billion turnaround from 2000.

Last year, I introduced a bill that would rollback the President's 2001 tax cut for those who earn more than $311,000. By rolling back the top income tax rate from 35 percent to 38.6 percent on income, capital gains and dividends, we would generate $107 billion over the next 5 years according to the Joint Committee on Taxation. And if we had adopted my proposal as an amendment to this legislation we would pay for more than 73 percent of this tax break.

It is particularly distressing to me that this proposal, and others like it, have been defeated every time they have been offered.

This Congress and President must restore fiscal sanity to our budget and that includes the need for every citizen to share the burden.

Recent reports from the Congressional Budget Office, the Brookings Institute, and the Center on Budget and Policy Priorities have all described the bleak long-term budget outlook—one that this Congress cannot solve without taking decisive action to reduce our long term deficits.

In a recent study from the Congressional Budget Office, the agency warns that the burden of the Federal debt will have a corrosive effect on the economy. The debt will slow the economy and is unlikely to bring the Nation's long-term fiscal position into balance.

While I support this tax cut bill because it provides similar tax relief to the middle class that the President gave to the wealthiest American families in 2003, we need to take a very hard look at whether we can afford any additional tax cuts that are not supported by offsets.

As we all know, for every dollar we borrow, we incur interest and last year we paid a lot of interest. In fiscal year 2003 we spent more than $318 billion in interest on the National debt. Every dollar spent to pay for interest is a dollar not spent to pay for education, defense, infrastructure improvements, job development, or homeland security.

Additionally, the President's 2004 deficit will place us even further away from the important goal of addressing the looming crises in both Social Security and Medicare. And when the baby boomers begin to retire in 2010, we will be facing even more difficult fiscal times.

In 2003, we spent $1.2 trillion on Medicare, Social Security, and other entitlement programs. By 2009, we will be spending $1.6 trillion, 57 percent of the budget. And in 2014, we will be spending $2.1 trillion or 59 percent.

We have all heard Federal Reserve Chairman Alan Greenspan call on Congress to restrain the growth of the Federal budget deficit by adopting budget controls that would apply to new taxes as well as new spending. Mr. Greenspan has told the Senate Budget Committee that imposing such controls is "an essential element to restoring fiscal sanity."

Let us remember, that in 1998, following nearly 30 years of deficits and a 17-fold increase in Federal debt from $365.8 billion to $6.4 trillion, bipartisan cooperation brought the budget back into balance once again. For the first time in more than a generation, some of the funds which would have gone to pay interest on the debt were instead spent actually paying down the debt.

Now, deficits and interest costs are growing once again.

Finally, while I am supporting the tax cut legislation now before us because it recognizes the importance of helping the middle class, I believe it is critical that Congress restore fiscal discipline by paying for future spending increases and tax cuts.

Mr. HARKIN. Mr. President, the tax conference report before us is a purposeful mix of good and bad. On one side we have the content of the bill that is broadly supported on both sides of the aisle. There are few who disagree with the considerable majority of the conference report's provisions. Increasing the child credit, reducing marriage penalty provisions and the extension of the child credit do help the middle class and those of modest means.

I do think it was unfortunate that the measure did not adjust the child credit so more modest income working families could benefit more fully from the provision.

We do need to fix the alternative minimum tax. This bill kicks the ball down the street for another year. The 2001 tax bill effectively doubled the number of taxpayers impacted by the tax once a short term band-aid expired. So, here we have another 1-year band-aid. This is a growing problem with growing cost estimates to fix it.

The measure extends the R&D credit, the work opportunity tax credit, the wind and biomass credit, all of which I support. Clearly, these credits should be extended for longer periods of time. With this bill, they are only effective for another 14 months, until the end of next year. That is hardly good tax policy. Year after year, the Congress extends these provisions for a short time, not providing a longer term, which would allow business to plan.

However, the biggest problem with this conference report is that it is not paid for: $146 billion in additional spending with no offsetting of that cost.

This bill comes to the Senate in an abusive fashion. The majority decided to use a very narrow measure in conference and hijacked it to avoid the Senate floor on this far larger package of tax provisions. The majority knew that the provisions were very popular and would pass. But they also knew that there might be a majority in the Senate that would like to see the provisions paid for.

By not paying for them, by using this conference mechanism, we add to the government's skyrocketing debt. This year we have a record $422 billion deficit.

The one word that describes the Bush tax policy of never wanting to offset the cost of tax cuts is reckless. When President Bush came into office we were on track to completely eliminate the publicly held debt by 2009. Now, by 2009, we expect—and I am using OMB's own figures—to pay the equivalent of about $1,000 in interest on the debt for every man, women and child in America. It is weakening America. It is making us less able to meet the needs of our growing elderly population and our children.

Under a new CBO document released today, we see projections of deficits of more than $300 billion every year if we follow President Bush's policies, and we see deficits above the current levels a decade from now. Going into the future, with the retirement of the baby boomers, things only get worse.

What we are seeing is a growing debt tax. The interest on those bonds must always be paid, paid by our children and grandchildren.

One solution, I think we must consider is hard and fast paygo rules that were in effect through the 1990s that helped us to reduce the deficits. That is, simply, that if we lower taxes we need to pay for it by raising other taxes or cut spending. If we increase mandatory spending, we must cut other spending or raise taxes.

If we do not have serious, enforceable paygo rules, given the abuse of the conference process we have just seen, we should not allow future Finance Committee measures to go to conference. The only exception should be where clear public agreements are reached that a conference report will be fully paid for.

Mr. ROCKEFELLER. Mr. President, today the Senate is taking important action to protect working Americans from a tax increase at the end of the year. I am pleased to join my colleagues in voting for this bill and supporting middle class families. Of all the tax cuts enacted in recent years, these are the tax cuts that are most valuable and important for working families in West Virginia. These tax cuts should never have been set to expire at the end of the year, and I am relieved that we are putting to rest any worries about taxes increasing next year.

The Working Families Tax Relief Act extends three critical tax cuts that Congress enacted last year. First, it will keep the child tax credit at $1,000. Second, this bill maintains the expanded 10 percent tax bracket, covering just over $7,000 in income for individuals or $14,000 for married couples. And third, it will provide marriage penalty relief. These provisions provide a benefit to virtually every American who pays income tax, and I have always believed that they ought to be the cornerstone of our tax relief efforts. I objected last year when Congress passed tax relief that provided middle class tax cuts for only 2 years while providing $150 billion worth of tax cuts for dividends and capital gains over four years. I opposed last year's bill, because tax relief for families was shortchanged to provide more benefits to wealthy investors. The legislation I am supporting today is an important step toward fixing the bad bill passed last year.

The legislation we will pass today also includes a critical increase in the child tax credit for low-income families. I have fought for a long time to increase the amount of the credit that could be refunded to families earning between about $10,000 and $25,000. These families are struggling to provide clothes, school supplies, and other necessities for their children. Today, Congress is recognizing how hard they work and increasing the value of the refundable child tax credit for them by as much as 50 percent. More than 55,000 West Virginia children will benefit from this improvement.

I would also like to send word to all of our forces fighting in Afghanistan and Iraq that we appreciate the work they are doing and today we are fixing the tax code to be sure that it does not punish them for serving in a combat zone. Because combat pay is not subject to regular federal income tax, some service personnel have found themselves ineligible for the child tax credit or the earned income tax credit, EITC. This was certainly never the intent of making combat pay tax exempt. This legislation rectifies the situation, so that combat pay will be counted as earned income for purposes of calculating both the child credit and the EITC. I daresay that if any American anywhere is earning their income, it is the soldiers, sailors, airmen, and marines who are fighting in some of the most dangerous places on Earth.

Unfortunately, this legislation still has some serious shortcomings. Perhaps the most appalling is that the provision to ensure that service personnel are able to count combat pay toward the earned income credit is set to expire after 2 years. As much as I would like to think that Americans will not be fighting in combat zones two years from now, I am not that naive, and the tax code should be fixed permanently. I am also disappointed that the child tax credit income threshold was not adjusted to protect some of our poorest working families. We know that low wages are not keeping pace with inflation, and because the child tax credit threshold increases with inflation more and more families will lose their child credit every year. I will continue to fight for those families.

I also believe that this legislation irresponsibly and unnecessarily increases the federal deficit. Tax relief to working families should not be passed down as a bill to our children. But much to my disappointment the leaders on the other side of the aisle have rejected efforts to offset the cost of this legislation, at least in part by closing indefensible corporate tax loopholes. I will continue to fight to eliminate abusive tax shelters, and I hope that all of my colleagues will come to appreciate the need to do so.

Mr. President, this is certainly not a perfect bill. But I have been in the Senate long enough to know how unlikely a perfect bill ever is. The Working Families Tax Relief Act will protect West Virginians from facing higher taxes next year, and I look forward to casting my vote in favor of it.

Mr. FEINGOLD. Mr. President, I will support this conference report. I regret that the important tax cut extensions included in this measure have been used as a political device by the White House and Congressional leadership. We could have had a more fiscally responsible, fully offset package of middle class tax cuts, but the White House and Congressional leadership have blocked that.

Instead, we are forced to choose between two bad options: failing to extend these needed tax breaks, and adding still more to the mountain of debt that has been piled up in the last 4 years.

Let me note that the reason we must extend these important tax cuts, the reason they were not simply made a permanent part of tax law, was because of the choice made in 2001 and 2003 to use the reconciliation process to jam through a partisan tax agenda. Had leadership pursued the usual procedure for tax bills, bringing legislation to the floor subject to the normal amendment process, we would still have enacted significant tax relief, but they would have been permanent.

But, the leadership chose to abuse the special reconciliation process, which was intended not to shelter a tax cut from amendment but to protect the difficult work of enacting deficit reduction packages. Reconciliation was used in order to push through a tax agenda that was skewed. And because they chose that process, they were forced to sunset the tax cuts. So instead of a sensible, and sustainable tax policy, we have this herky-jerky off-again on-again set of tax cuts. That's why we have to come back and extend them. It is why we have this bizarre estate tax policy which phases down the estate tax over several years, then eliminates it completely for a year, and then fully reinstates it back to pre-2001 levels.

This is no way to craft tax policy, Mr. President. We should have reinstated the PAYGO rule earlier this year, as a bipartisan majority of this body went on record supporting. The PAYGO rule was instrumental in helping to reduce and finally eliminate annual budget deficits during the last decade. We need to bring it back.

Mr. President, Congress could have fully offset the cost of this measure, but it was prevented from doing so for political reasons. I hope the next Congress will stop this nonsense, find sufficient offsets for this tax bill so that our children and grandchildren won't get stuck with the tab, and then reinstate the PAYGO rule that helped us reduce and finally eliminate annual budget deficits just a few years ago.

Mr. KENNEDY. Mr. President, the legislation we are considering today should not be necessary. It is necessary only because the Republican leadership ignored the need of middle class families for meaningful tax relief when they were enacting $330 billion in new tax breaks that primarily benefit the wealthy last year. If you want to know whose side President Bush and Congressional Republicans are really on, you should look at their record.

Just last year, the Republicans passed a major tax bill. In that bill, they dramatically cut the tax rate on dividend and capital gains income at a cost of $150 billion. They decided that the tax rate on a worker's hard-earned paycheck should be nearly double the tax rate on a wealthy person's investments. They considered tax breaks for wealthy investors to be a much higher priority than middle class tax relief.

In that same legislation, they spent billions more making sure that upper income taxpayers would benefit from lower rates every year through 2010. And the rate to be paid by the richest 1 percent of taxpayers was reduced the most, with little regard to the cost.

However, when it came to tax relief for middle class families—the $1,000 child credit, marriage penalty relief, and expansion of the 10 percent tax bracket—the Republicans were far less generous. They voted to terminate the middle class tax benefits contained in the bill at the end of this year. Under the Republican plan passed last year, at the end of 2004—just 3 months from now—the child tax credit will shrink, the marriage penalty will return, and working families will pay higher taxes on their wages. Their Cinderella tax relief for the middle class will vanish at the stroke of midnight on New Year's Eve. What a farce!

The Republican claim of concern for the middle class is laughable. Don't believe what they say. Look at what they do. When they had to choose between real tax relief for hard working families—relief that would not disappear overnight—and new tax boondoggles for their wealthy friends, President Bush and his allies in Congress chose their wealthy friends.

Only now, 6 weeks before the election, when voters have figured out this Republican scam, do we see the President and the leaders of his party scurrying to extend the middle class tax cuts beyond the end of this year. Hard pressed working families deserve to be the first people whose needs are addressed, not the last.

There is a fundamental difference between the way Democrats and Republicans view tax fairness. Democrats believe in providing tax relief from the bottom up, and Republicans dispense tax breaks from the top down. The record of President Bush and Congressional Republicans shows their indifference to the needs of struggling middle class families. For them, middle class tax relief is nothing more than an election year afterthought.

Even now, as Congress prepares to extend the $1,000 child credit beyond this year, the Republicans are once more refusing to help those families most in need of relief. Many families struggling to survive on the income from a minimum wage job will not get the benefit of the larger child credit. In fact, some may be denied any child credit at all.

The earnings threshold for the child tax credit is indexed to inflation. Each year, the amount of income a family needs to qualify for the credit goes up. Unfortunately, we all know that the wages of low income workers have not been going up, not keeping pace with the cost of living. Even though minimum wage workers have not received an increase for 7 years, the Republican leadership has repeatedly refused to consider legislation giving them a raise. A full-time, year-round minimum wage worker makes about $10,700 annually. By next year, that will not be enough to qualify for the child tax credit.

What could be more unfair? Congress increases the child tax credit to help working families, but denies the credit to those low-income working families who need help the most.

It is truly outrageous! If Congress does not correct this injustice, more than four million families with nine million children will see their child credit shrink or disappear entirely next year. These are families that are already struggling to survive. How would you survive as a single parent trying to raise two kids on $10,700 a year?

Congress could easily correct this arbitrary cut-off. All we need to do is maintain the threshold at $10,000 rather than automatically increasing it every year. However, when Senator Lincoln offered an amendment to make that simple fix, all but one of the Republican conferees voted no—killing her amendment. And President Bush, by his silence, is an accomplice to this outrage. Nine million children in low-income families get left behind—again.

Once more, this Republican Congress has turned a deaf ear to those most in need. First, they refuse to increase the minimum wage for working families. Then, they cut overtime pay for millions of workers. And now, they deny those families the benefit of the child tax credit because their wages have not kept pace with the cost-of-living.

The American people are a fair and compassionate people. They will be as outraged as I am when they learn of this injustice. They will have an opportunity to voice their outrage in just 6 weeks.

Mr. LEVIN. Mr. President, I will vote for this conference report because in this sluggish economy, average American families need all the help they can get. Just a few weeks ago the Census Bureau released new national figures showing that for the third year in a row poverty has risen and incomes have fallen. In fact, the typical family has seen its income fall by more than $1,500. Employer-sponsored health insurance coverage has continued its decline and there are a whopping 45 million Americans who are uninsured. Extending these tax cuts that are aimed at helping families by expanding the child tax credit and the 10 percent income tax bracket in addition to marriage penalty and AMT relief is an important part of any economic plan.

I would have much preferred to vote for a conference report that paid for the extension of these cuts. They could and should have been paid for. Continuing to deepen our extraordinary deficit ditch will ultimately hurt the very same lower and middle class families that this legislation aims to help.

Earlier this year I supported, and the Senate passed, PAYGO, which would have required that in addition to paying for all spending, we would have to pay for all tax cuts as well. This concept is common sense for most families, who work to live within their means by balancing what goes out with what comes in. Unfortunately, PAYGO was rejected by the House Republican leadership, so we do not have to offset the cost of these or any tax cuts. Now that these cuts are going to be extended through 2010, I hope there will be a renewed support for PAYGO.

But PAYGO or not, there was no good reason for those who put together this conference report not to offset these tax cuts. The estimated 10-year cost of these extensions is $146 billion. There are a number of possible offsets available. In May the Senate passed the FSC/ETI bill with $170 billion worth of them. Numerous times now the Senate has passed legislation that raises revenue by curbing tax abuses. Unfortunately, each time the House Republican leadership has blocked these provisions, so they have not yet become law. There is no good reason to let tax dodgers continue to abuse the system while our deficit skyrockets. If the drafters of this conference report could not find acceptable ways to pay for a lengthy extension, then the extension should have been shorter. It is too bad that the pay-for proposals Senator BAUCUS made in the conference committee were defeated.

As Alan Greenspan has said, "You should not be borrowing for your tax cuts." I am concerned that over the long term, many middle-class families will end up worse off from the fiscally irresponsible tax cuts this Congress has enacted since 2001. That is because paying for the debt we are racking up will eventually require either massive tax increases or program cuts, or likely both. We all know that our fiscal outlook is grim. The Federal Government is expected to borrow about one of every five dollars it spends this year. CBO projects the deficit this year will be $422 billion. Most analysts agree the budget picture will worsen considerably within the coming decade, as the huge baby-boom generation will begin relying increasingly on Social Security and Medicare, driving those programs' costs upward.

In addition to raising the likelihood of cuts in important domestic programs, a bigger deficit makes it more likely we will face rising long-term interest rates. That would mean it will be more expensive to buy a house, pay for college or pay off credit card debt. As Senators CONRAD and DODD said on the floor yesterday, our enormous and growing debt means average consumers could see interest rate hikes that will dwarf any tax cut they may get. Especially when so many Americans have variable-rate mortgages, car loans and other debts, the rising interest rates that are predicted to accompany swelling deficits will have a very real and immediate impact on many American families. That's not what Americans need.

I also want to express my disappointment that the conferees rejected Senator LINCOLN's worthy amendments to prevent the refundable child tax credit floor of $10,000 from being indexed to $11,000. This means a full-time minimum wage earning parent will receive no benefit from the tax credit because her income of $10,300 falls short of the $11,000 floor. If the purpose of this bill is truly to help those in the lower and middle income ranges, this should have been one of the first items to be included. It would have helped 9.2 million children in 4.3 million families gain an increased portion of the credit.

This conference report also plays games with the timing of one of its most important pieces. Under a glitch in current law, many men and women in our armed services are denied their earned income tax credit and child tax credit because combat pay is excluded from the definition of earned income for the purpose of calculating these tax provisions. This conference report fixes the glitch with respect to the child tax credit, but only fixes the EITC glitch for two years. So in 2006, taxes will be raised on thousands of the men and women in our military who put their lives on the line for our nation.

I think it is of the utmost importance that our service members are adequately compensated for their duties, and that we offer them a quality of life that will enable them to continue to serve and to live comfortably.

Service families deserve a quality of life comparable to that of their civilian counterparts. Quality of life for our service members is particularly important now when the extensive commitments of our military forces are pushing our military families to the limit.

Yet as this legislation extends tax breaks for millions of American families through 2010, it takes away tax benefits during that same time for service members and their families who have the lowest levels of income. There is no reason why a reservist who would otherwise get the full EITC should be forced to lose part of it if he or she is called up and sent into a combat zone. But that is what this legislation will do.

Making this provision permanent would have been a very small part of the cost of this $146 billion bill. I understand it is approximately $30 million over 10 years. Yet it was not done that way, despite the direct effect on those service members who we have sent to the most dangerous corners of the world Iraq and Afghanistan for example. These brave soldiers do not deserve to have their tax benefits taken away. But that is exactly what today's conference report does.

I wish this conference report didn't create this problem, but I am hopeful that with the leadership of Senators PRYOR and LINCOLN, who have put lots of hard work into this issue already, we can soon fix this timing issue and end the glitch permanently. It is the least we can do for those who put their lives on the line for our country.

Ms. SNOWE. Mr. President, I rise today regarding the tax bill before the Senate that would extend certain tax provisions set to expire this year.

Let me say that I support the policy underlying the tax measures contained in this conference report. What I find regrettable, however, is that we are even at this juncture where we are faced essentially with a choice between these tax reductions and fiscal responsibility—when, in fact, we could have achieved both.

Instead, we have before us a tax package that will directly add $146 billion to the Federal deficit. Why? Because the 2003 tax package sunset after one year rightfully popular measures of benefit to middle-class and lower income Americans—that also provided short term economic stimulus—this year, in order to pay for other tax reductions over 5 years that are not geared toward short-term stimulus. As a result, here we are, about to enact 5 years of $146 billion in tax reductions over and above the $350 billion we passed last year—when we could have provided for 5 years of these same, worthy tax cut measures with last year's $350 billion package.

I supported the $1.35 trillion, 10-year tax relief plan of 2001 because, at that time, the tax burden was the highest it had been since World War II—and also to provide an "insurance policy," to paraphrase Chairman Greenspan, against a more prolonged economic recession that we now know began six months before President Bush took office.

Then, in 2003, an effort was made to accelerate some of the tax relief from the 2001 bill—specifically, lower marginal tax rates, marriage penalty relief, and the $1,000 child tax credit. Indeed, over a year ago, Senator LINCOLN and I—along with others on the Senate Finance Committee—worked to correct a glaring flaw in the 2003 tax bill.

Specifically, while the 2003 tax bill accelerated the phase-in of lower marginal rates, the $1,000 child tax credit and other provisions, it did not accelerate a scheduled increase in the percentage amount of the child tax credit that is refundable for lower-income workers. The motivating force behind the vehicle before us was to accelerate an increase in the portion of the child tax credit for lower-income families that were left behind in the final 2003 tax bill.

I would very much have preferred to have been able to vote to have those accelerations in place without a sunset in last year's tax package conference report. And, again, I would very much like to vote this year to extend these three tax cuts as prescribed by this conference report.

Indeed, last year during Finance Committee markup of the bill, I developed a means by which we could pass these tax cut accelerations through 2010 while limiting the total impact to the amount agreed to in the budget resolution. Regrettably, however, while we were successful last year in the Finance Committee in passing these three tax reductions as part of the $350 billion package I supported in committee, the responsible path was ultimately not taken in the conference report.

Unfortunately, the final 2003 tax bill scaled back the tax relief for working families by imposing a sunset on the most popular tax cuts, forcing them to expire at the end of this year. Moreover, the 1-year sunset of these incentives was done solely to allow for a larger tax cut on dividend income within the $350 billion cost of the package. I said at the time that the action Congress inevitably will take on the popular tax cuts after that year elapses will result in a true cost of the 2003 tax bill far in excess of $350 billion and closer to an estimated trillion dollars. Today, Congress is in fact about to increasse that cost to $496 billion.

It could have been otherwise—and indeed, I have offered several alternatives this year. In July, I joined a bipartisan group of Senators in putting forward a plan to extend these middle-class tax provisions with no net cost to the Government. The revenue offsets that we put forward are ones that both the Senate and the House have passed previously. Regrettably, that approach has been rejected in favor of the view that any provision that increases revenues, even if it improves the efficiency of the Tax Code, cannot be acceptable.

Fiscal responsibility and reducing taxes do not have to be mutually exclusive goals. Yet, unfortunately, what is before us today is a $146 billion bill—none of which is paid for. Again, I support these tax provisions, but I cannot vote for a proposal that rejects the available, responsible alternatives.

I yield the floor.

Ms. MIKULSKI. Mr. President, I rise today in support of the Working Families Tax Relief Act of 2004.

Working families deserve tax relief because the middle class is being squeezed from all directions. Our middle-class families are stressed and stretched. Families in my State of Maryland are worried. They are worried about their jobs. They are terrified of losing their healthcare, as health care costs keep ballooning. Many are holding down more than one job to make ends meet. They are racing from carpools to work and back again. And they want to know what we in the Senate are doing to help them.

That is why I support a family friendly tax code. A tax code that helps families send their children to college. A tax code that helps families to care for their loved ones and helps small businesses provide health care for their employees. That is what I am going to keep standing up for in the U.S. Senate.

The criteria I use for evaluating tax cuts is simple. Tax cuts should be targeted, temporary, and do not add to the deficit.

This bill meets some of my criteria. It is targeted to the middle-class and that is why I will vote for it. It is temporary. This bill gives the middle-class immediate help, but only extends the middle-class tax cuts through 2010. I hope that when we come back to these tax cuts, we find a way to pay for them.

This bill would provide much needed tax relief to working American families caught in the middle-class squeeze. There are three provisions to this bill that will most help alleviate the stress and strain on the middle class.

This bill would extend the $1,000 per child tax credit for 5 years. If the child tax credit is not extended, families will only receive a credit of $700 per child in 2005, and the credit would not reach $1,000 again until 2010.

Next, this bill would extend the marriage penalty relief passed in 2003 by making the standard deduction for married couples double the amount for individuals. That just makes sense. This bill also expands the 10 percent and 15 percent tax brackets, so that married couples can make more money and not be penalized with higher taxes. Unless the marriage penalty relief is extended, married couples could see their tax bill rise by as much as $1,165 in 2005. When so many Americans are feeling stretched and stressed, I think that is wrong.

Lastly, this bill would extend the expanded 10 percent bracket which provides tax relief to millions of taxpayers. The 10 percent tax bracket was increased temporarily to give people a short term economic stimulus, but, if the middle class tax cuts are not extended, taxes for many will increase taxes by $50 per year for singles, and $100 for couples.

But this bill also has major problems.

This bill fails our military families by raising taxes in 2006 on active duty military, reservists, and National Guardsmen who have been deployed in combat. This bill provides tax cuts for middle class families for the next 5 years and I support that. But this bill only provides 2 years of tax relief for our lowest paid combat military personnel. Just as the War on Terror is ongoing, so must our support be for our troops. This bill only fixes this problem for two years. I support fixing this problem permanently. That is why I will work with my colleagues on a bill to fix this problem.

This bill also fails one of my criteria for tax cuts. This bill would add nearly $150 billion to the deficit. We can have strong economic growth, low inflation, and low unemployment, but we must do so in a fiscally responsible way. I hope that next time we consider tax provisions to help our working families we get it right and find a way to pay for them.

I will vote for this bill, but I do so with warning lights. I am concerned about the effect deficits will have on our ability to meet the promises of Social Security and Medicare. I am concerned about its impact on military families.

The job of Congress is not only to provide tax relief for working families, but also to make sure that we pay for those tax cuts. Through fiscal responsibility, Congress can take care of working families today and in the future when they retire.

Mr. HATCH. Mr. President, I rise to express my support for the conference report now before the Senate, which will save millions of American taxpayers from suffering a tax increase on New Years Day 2005.

I want to congratulate Chairman GRASSLEY, who chaired this conference, as well as the other Senate and House conferees, for their perseverance in finishing this tax bill, which has presented challenges.

The individual tax cuts Congress passed in 2001 and 2003 have been instrumental in the turnaround of our economy from stagnation to healthy growth. For various reasons, when passing these bills we were not able to make the provisions of those tax cuts permanent, and some key elements of them are scheduled to expire on the last day of this year. The conference report before us extends three of these provisions for 5 years: the marriage penalty relief in the standard deduction and in the 15 percent bracket; the new 10 percent bracket; and the $1,000 per child tax credit. In addition, the legislation extends the higher thresholds for the individual alternative minimum tax for another year.

This last provision is very important to an increasing number of families in my home State of Utah, who are unfairly being thrown into the AMT regime simply because they have large families. And while this provision does not permanently fix the AMT problem, it does give temporary relief for millions of Americans who would otherwise be joining the unlucky ranks of alternative minimum tax filers.

While I would prefer to see these provisions, along with all the other parts of the 2001 and 2003 tax cuts made permanent, a five-year extension is a very good step. The provisions being extended by this legislation will now be set to expire at the same time the remainder of the tax cuts run out, December 31, 2010. Thus, they can hopefully all be made permanent at the same time, which would ideally be well before that time.

I am particularly pleased to see that the conferees decided to include in the conference report the extension of a set of very important expiring business tax provisions, along with the individual ones. These include the research credit, of which I have long been an advocate. This tax credit expired on this past June 30.

As I think most of my colleagues will agree, tax provisions that are temporary add confusion, complexity, and uncertainty to our tax system. These problems are made worse when worthy provisions, such as the research credit, are allowed to expire and are then later reinstated. A permanent research credit would have been greatly preferred to our bad habit of routinely allowing vitally important tax provisions to expire and then reinstating them, sometimes months after their expiration. Such actions are often done in the name of revenue savings to the Treasury, but this is a false argument. A series of shorter-term extensions of these provisions costs no more than does a permanent extension. What this practice does, however, is contribute to the lack of confidence that taxpayers feel in our tax system, so it a corrosive thing to do.

Moreover, I am disappointed that the legislation before us does not include the Senate language that expands the research credit. The Senate version of the research credit was based on a bill authored by the Senator from Montana, Mr. BAUCUS, and this senator, which would have dealt with a very serious shortcoming with the current research credit. Essentially, this shortcoming prevents thousands of research-intensive firms, many in my home State of Utah, from being able to take full advantage of the incentive the research credit is supposed to provide.

Nevertheless, it is a very positive thing to have this conference report include the extension of the research credit and several other provisions that are important to American businesses and their employees and customers. This includes the work opportunity tax credit and the welfare to work credit, both of which make a difference in hiring disadvantaged workers.

I am also very pleased to see the inclusion of provisions to help military families. These brave men and women and their families who are sacrificing so much deserve to have tax provisions that at least do not penalize them for their service.

This conference report deserves the support of all of our colleagues. Is it the best tax bill we could pass? Of course not. But, given the difficulties of passing any legislation this late in the congressional session in an election year, it is quite an achievement. I again congratulate the conferees for their hard work, and I especially commend the chairman and ranking Democrat on the Finance Committee for their leadership.

Mr. BYRD. Mr. President, Plato began "Book Three" of The Republic by posing the following question: Have we come here looking for genuine discourse or fool's gold?

It is hard to believe Senators are here today looking for genuine discourse.

The legislation before the Senate was packaged into a conference report to prevent Senators from offering amendments, even though the Senate never considered legislation to extend these tax cuts. The Senate Finance Committee never reported legislation to extend these tax cuts. This legislation has been rushed to the Senate floor, prohibiting any kind of meaningful debate.

I don't deny the allure of tax cuts. A $1,000 child credit for a family of four can provide some benefit for families. Likewise, the elimination of marriage tax penalties can serve a valuable social purpose. I have cosponsored legislation both to eliminate marriage penalties and to expand the child credit.

But to promise tax cuts to a worker whose job has been lost overseas, to promise tax cuts to a family that is without health insurance, to promise tax cuts to retirees whose pensions have been lost, and to pretend that a tax cut will address the plight of these working Americans, is to promise fool's gold.

The Bush administration has exhausted trillions of dollars on a failed fiscal policy that advocates tax cuts for wealthy above everything else—tax cuts before jobs, tax cuts before health care, tax cuts before pensions, tax cuts before securing out homeland, tax cuts before the needs of working American families.

American workers continue to wait for the return of the 3 million jobs lost during the Bush presidency. Unemployed workers whose jobs have been lost overseas are forced to accept low-wage positions without benefits.

Today, 45 million Americans lack health insurance. Health care costs have spiraled to prohibitive levels, and those lacking insurance are forced to do without adequate medical care. Even those with insurance are seeing their health care costs increase as employers shift the burden of higher insurance premiums to their employees.

Today, workers and retirees counting on the pension benefits promised by their employer must watch helplessly as those promised benefits are cut.

These are real issues, and, while a tax cut may put some extra money in taxpayers' pockets, it won't replace a job lost overseas, it won't replace the loss of health insurance, it won't make America safer, and it won't protect against the loss of a pension.

Nevertheless, I recognize that, while doing little to address these underlying economic concerns, it will, at least, provide some relief to working American families. Further, it will preserve scarce resources for working families and prevent those resources from being siphoned away to finance tax cuts for the wealthiest Americans.

I will vote for this legislation, but I caution workers not to be fooled by the rhetoric that will accompany its passage.

This administration, this Congress is no friend of the working man.

Whatever dollars you receive from these tax cuts, they will not offset the wages that this administration has taken from you by denying you overtime pay, by blocking an increase in the minimum wage, and by refusing unemployment benefits for jobless workers.

The Bush administration's fiscal policies have squandered the limited opportunities available to help American families find work, to provide American families with health care, to protect the pensions of retirees.

This legislation is throwing a bone to the middle-class after 3 years of tax cuts for the wealthiest Americans. It is something, but it is far, far less than what is needed and suggests only the callous indifference of this President and this Congress to the needs of working American families.

Mr. DODD. Mr. President, I rise today to talk about the extension of the middle-class tax cuts that the Senate will pass shortly.

While the conference report to accompany H.R. 1308, the Working Families Tax Relief Act of 2004, is not perfect, I do plan to support this initiative because I feel strongly that we should provide tax relief to working families.

These are families that work hard and play by the rules. Over the past 3½ years, they are also families who, as a group, have suffered the most from the economic slowdown. In general, they are working harder, earning less, and paying more for the necessities of life. The least we can do for these families is provide them with some measure of tax relief to make their financial burden a bit lighter. Tax bills enacted in the previous 3½ years primarily benefitted the very most affluent. The conference agreement we consider today benefits those who truly need tax relief.

This conference report extends four important middle-class tax cuts that are set to expire at the end of this year. These are: first, the $1,000 child tax credit, which has been scheduled to fall to $700 next year; second, the current 10-percent income tax bracket; third, a set of tax measures to offset the marriage penalty; and fourth relief from the alternative minimum tax, which without action, would unfairly force more middle income families into paying higher taxes totaling $23 billion over the next 10 years.

The conference report also provides assistance to military families in combat zones by increasing the Earned Income Tax Credit, EITC, and the child credit for military families in 2004 and 2005 by giving them the option to include combat pay in their calculations. This provides an additional $199 million of assistance to military families in combat zones since under current law many soldiers are denied their rightful EITC and child credit because combat pay is excluded. While this is just a two-year fix, I look forward to working with my colleagues to ensure that Congress take action to permanently fix this glitch in the law.

I was pleased that the conference report also includes several provisions that are vital to education, environmental protection, and job growth. These include the teacher expense deduction, which allows teachers to deduct up to $250 annually for their classroom expenses; expensing of brownfields environmental remediation costs; tax credits for electricity produced from certain renewable resources; and the extension of the research and development tax credit, which has done much to create jobs and enhance our Nation's competitiveness.

However, while I will support this conference report, it is at best incomplete legislation for two reasons. First, because it fails to pay for the more than $145 billion in tax cuts that it contains.

I am very concerned with the shocking deterioration in fiscal discipline by the administration and congressional leadership. When President Bush took office in January 2001, the Congressional Budget Office projected a Federal budget surplus of $5.6 trillion by 2011. Today, that projected record surplus has turned into a record deficit that is expected to total $4.4 trillion over the next 10 years.

Regrettably, efforts to make this package a more fiscally responsible one has been blocked and rebuffed by the leaders of this Congress, including the efforts by members of the leadership's own party. Just 2 months ago, several Members from both sides of the aisle proposed a package which would have ensured that not a penny would have been added to the deficit. But the proposal was rejected by the administration and Republican congressional leadership.

According to an address this week by Rodrigo de Rato, the President of the International Monetary Fund, budget and trade deficits in the United States are a large and growing threat. He stated, "We believe that such a large imbalance is a risk not only to the United States economy, but to the world economy."

We know only too well from past instances that if deficits are left unchecked, they will exert an enormous upward pressure on interest rates and in so doing will increase the cost of homes, cars, higher education, and establishing and running a small business. These increased costs have the potential to dwarf any relief provided by a bill such as the one now before the Senate.

I also find it lamentable that the Senate was not provided with an opportunity to consider this legislation in its entirety since what has been brought before us is a conference report most of whose provisions were never brought before the Senate for full consideration. Had it been fully debated in the Senate under normal procedures, Senators might have been able to make this legislation more fiscally responsible. But because of the procedural tactics of Republican Congressional leadership, Senators never had a chance to do that.

The second reason why this legislation is at best incomplete is that it fails to lower the income threshold for the refundable child tax credit. By not including this important provision, 4.3 million hard-working families will see the value of their child tax credit significantly diminished. That is unfair to those men and women working to lift themselves up economically and provide a decent life for their children.

And so while I am going to support this legislation, I would like to make it very clear to this body that I do not think that our efforts to help working families are adequately discharged by this legislation.

There is much work to be done to give poor and working people meaningful opportunity to achieve secure lives for themselves and their children now and for generations to come.

I yield the floor.

Mr. FRIST. Mr. President, in 1969, Congress passed the alternative minimum tax. It had come to light that a small group of wealthy individuals were using exemptions in the tax code to evade paying any taxes at all. Congress passed the minimum tax law so that high income earners would be obligated to pay a minimum amount in taxes no matter what.

That was then.

Today, the minimum tax has grown to penalize middle class families and small business owners. There are a number of reasons. One is that the alternative tax brackets have never been indexed to inflation. We all know that a dollar in 1969 went a lot further than it does today. But the minimum tax doesn't take this into account. And today's middle class families are getting hit with higher tax bills.

Consider if you are married, filing a joint return, and your family makes more than $58,000 a year, you may be liable under the alternative minimum tax to owe additional Federal income tax.

If you are a single mother who makes $35,000 a year and gets a little over $5,000 in alimony payments, you could owe more taxes.

Standard deductions that the Congress has passed to help support families, encourage homeownership, allow for taxable State and local refunds, can actually force middle class families to pay more in Federal taxes.

The national taxpayer advocate, the person responsible inside the IRS to look after the taxpayer's interests, says the alternative minimum tax is the number one problem facing American taxpayers. A law that was only supposed to apply to 155 super wealthy taxpayers in 1969 will hit more than 30 million taxpayers by 2010.

Clearly that is not what Congress intended. And clearly it is not fair. Middle class families should not be punished by a law that was never intended for folks at their actual income level.

That is why we must take a serious look at repealing the minimum tax law for individuals. Some people call the AMT the Government's ATM. It collects billions of dollars for the Government coffers. And some people do not want to let that money go. But that money is the taxpayer's money. Rather than resist reform, we should look at the overall tax code and consider options for fundamental tax reform.

In 1986, under President Reagan's leadership, we dramatically simplified the tax code. Ever since then, and especially in the 1990s, we have layered the tax code with all sorts of special exclusions that have very little to do with making taxes fairer, simpler and more equitable. Ask any family trying to fill out their tax forms each year: we have reached a point where the code is becoming complicated than it was in 1985.

I urge my colleagues to look at this issue closely. It's a matter of fairness, and for millions of American families, a matter of money, money that could be sued to ease the grocery bill, buy a new washing machine, or take the family on a weekend road trip.

While I am talking about tax reform, I had like to highlight some of the tax reforms we are working on right now. We are extending a number of crucial family tax breaks which expired at the end of last year. For example, we are working to extend the welfare-to-work credit, the work opportunity tax credit and many other important expired measures.

These provisions have already passed the house and the Senate as a part of the FSC/ETI JOBS bill.

By moving this package of extenders, which include middle class tax relief, we will facilitate a speedy conclusion to the JOBS bill which is critical to growing jobs in the manufacturing sector.

Reforming the minimum tax, extending child tax credits, all of these initiatives are to help hard working Americans meet their needs and obligations.

Thanks to the President's 2001 and 2003 tax relief, 14 million low income families will receive tax refunds under the refundable child credit in 2004, compared to only 1.6 million had the President's tax relief not been enacted.

Combined with the earned income tax credit, 24 million low-income families will receive direct assistance this year through the tax code.

The legislation before the House and Senate will benefit 6.8 million low-income families by increasing their tax refunds in 2004.

For example, a single mother in Tennessee with two children who earns $20,000 would get a refund of $1,388 in this year, $463 more than under current law, and $1,388 more than pre-2001 law.

This refund is entirely due to tax relief signed into law by the President since 2001, and is in addition to the $3,025 refund she gets under the EITC. Her total refund in 2004 will be $4,413.

As I have said, and many of my colleagues have said time and again, our job is to put more money back into the budgets of America's families. They know better than the Government how to spend their hard-earned dollars.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. DAYTON. Mr. President, I am delighted to rise in support of the tax bill which I believe will pass on an overwhelmingly bipartisan basis. I commend the chairman of the Finance Committee and the ranking member for a bill that I will be proud to vote for and one that I, frankly, wish had passed in 2001, 2002, and 2003—the kind of bill that I voted for back then as a substitute amendment that didn't pass. This bill is truly targeted toward middle-income taxpayers, largely and predominantly so.

As my colleague from Arkansas pointed out, there are some provisions that I wish were included, and I am sure others as well.

But overall, this is a very good, targeted middle-income tax cut bill that will put money into the pockets of working families, working single individuals. It ought to be our policy in the future to keep our tax measures targeted toward those who pay the bills and those who are in greatest need of earned-income tax relief.

I point out if we had kept the focus on this kind of tax relief in the past, we wouldn't have the kind of deficits we face today. We wouldn't be passing on the new bills to our children and grandchildren who are going to have to face up to it eventually.

But I support those who have said tonight that regardless of that situation, this is much needed and it will be well used and, hopefully, we will continue the recovery from the serious recession that we suffered over the last few years.

I am a little leery of those who say these tax measures are the cure-all for what has occurred because they continually refer back to points in time that are rather selective. If we go back to the beginning of the Bush administration, we are looking at a serious jobs deficit. We are still suffering a loss of over 3 million manufacturing jobs since that time.

I wish these tax measures and those that preceded them were the cures for the economic ills. I fear they are not in isolation.

I commend the architects of this measure, and I urge my colleagues to join with me in supporting and passing it tonight.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume. I will take a few minutes in closing this debate to thank some folks who made this tax relief possible.

First of all, as I said in my opening remarks, President Bush made middle-income tax relief a priority. He pursued this package with focus, with determination, and with good humor.

The bottom line is, we wouldn't be here today without the leadership of our President.

Next, I would like to thank our majority leader, Senator FRIST. Like the President, Leader FRIST made this bill a priority. His patience and dedication in backing me as we moved through the conference process was very important.

Then I would like to thank for the second time, and not too many times can I do that because not enough times make up for the cooperation I have received, my friend and colleague, Senator BAUCUS, the ranking member on the Democratic side in the Finance Committee. We didn't agree on all points, as he stated, but we agreed on most of the substance of the bill and the direction of the policy. Senator BAUCUS and other conferees, including Senators LOTT, NICKLES, and LINCOLN—each of the conferees brought strong views to the process. Sometimes those views differed sharply.

For instance, as you have seen in tonight's debate, Senator LINCOLN and Senator NICKLES also do not agree on refundable tax credits. Both of them made principled reasons for their views. They are passionate.

The conference agreement reflects a fair balance of those sharply divided positions.

This bill would not have come to the floor without the work of staff. I thank them very much. I would like to thank Senate Finance Republican staff, Kolan Davis, staff director; Mark Prater, chief tax counsel; Ed McClennan; Elizabeth Paris Dean Zerbe, whom we also refer to around here on the floor as "the white tornado." We also thank Christy Mistr. She happens to be a brandnew mom. She came back early to help us get this bill worked out. We thank also John O'Neill, a new addition to our staff; Adam Freed, graduate of the fine school known as the University of Northern Iowa where I graduated; also, our press team of Jill Kozeny and Jim Gerber. They helped our committee get the word out.

Then, on the Senate Democratic staff, obviously, very good staff, very professional: Russ Sullivan, staff director; Bill Dauster; Patrick Heck; Melissa Mueller; Matt Jones; Anita Horn Rizek; Jon Selib; Judy Miller; Matt Grenasci; Matt Stokes; and Ryan Abraham; Senate legislative counsel: Jim Fransen, Mark Mathiesen, and Mark McMonagle.

And then we have on the Joint Tax Committee: George Yin, Tom Barthold, and their entire crew.

And then we have the GOP leadership staff: Lee Rawls, Eric Ueland, and Rohit Kumar all helping.

With Senator LINCOLN's staff, Mac Campbell; Senator NICKLES' staff: Rachel Jones, and Hazen Marshall.

Mr. President, I would like to sum up what this bill is all about.

As the bill title says, it is about America's families. It is about providing tax relief to hard-working men and women in America. When I think about it, I consider the families on the farms back home. In the fields of Iowa, folks are starting the harvest. In the factories of Davenport, IA, and in the offices in Des Moines, great insurance companies, people are working hard to raise their kids, and this bill will help them.

Let me take some time here to correct what have been very troubling statements about the Working Families Tax Relief Act and its benefits for low-income working families.

Let's be clear—this bill provides enormous benefits to working families and especially to low-income families.

Let me remind my colleagues of where we have been on this bill. The Senate passed legislation in 2003 that called for accelerating the refundability of the child credit from 10 percent to 15 percent, providing for a uniform definition of a child, and including combat pay for purposes of calculating the child tax credit. That was what the Senate passed in 2003. At the same time, the other body passed legislation that also accelerated the refundability but the other body did not include the uniform definition of a child and did not include the combat pay provisions as it relates to the child tax credit.

We then went to conference and thanks to President Bush's leadership we have been successful in reaching an agreement.

What does our conference bill do in regards to the Senate-passed legislation affecting low-income families? The conference report agrees with every single one of them. Let me repeat that, the conference report accepted every single provision in the Senate-passed bill that was directed to helping low-income families.

The conference made the uniform definition of a child permanent. This is an extremely important simplification effort that creates a uniform definition of a child for the dependency exemption, child credit, the Earned Income Credit, the dependent care credit, and head-of-household filing status. This long-overdue simplification makes many more taxpayers—especially low-income taxpayers—eligible for a child-related benefit. This is at a cost of over $1.5 billion over 10 years and is the only substantive tax provision in this bill that is made permanent.

The conference agreed to accelerate refundability and also the combat pay provisions in the Senate-passed legislation. These two provisions provide over $2 billion in benefits.

So again, as people wring their hands, lets remember that the conference agreed to every single tax provision in the Senate-passed bill targeted for low-income families. In fact, there was only one provision in the Senate bill that was targeted to help families making over $100,000—the elimination of the marriage penalty of the child credit. What happened that provision? It was dropped in conference.

But the conference did not stop with just accepting all the Senate provisions that help low-income families. The conference added to the provisions that will help low-income families.

First, the conference provided expanded benefits for our men and women in uniform receiving combat pay. They will now also be able to get expanded benefits under the earned income credit. While combat pay is excluded for income purposes, our soldiers, sailors and airmen can elect to include combat pay if it will assist them in getting an increase in the earned income credit.

This is a new provision that helps low-income military families. It was not included in the Senate proposal. This, combined with other provisions in the bill means that targeted relief for low-income military families receiving combat pay is increased in this conference report by nearly six times over what was provided in the Senate proposal. Let me repeat that, the conference report provides almost six times greater targeted relief for military families receiving combat pay then was included in the Senate proposal.

Turning to the other items that assist low-income families: Second, the conference increases the child credit to $1,000 and extends it through 2010. This will benefit low and middle-income families.

Third, we extend the lowest tax-bracket, the 10 percent tax bracket, which at its core benefits low-income families.

Fourth, we extend marriage penalty relief which helps low-income taxpayers along with all taxpayers.

There is over $23 billion in outlays contained in this bill—that reflects primarily the extension of the child credit, the lowering of the rates and refundability portions. Thus, of a $145 billion tax cut, over $23 billion of it is targeted to low-income families who have little to no federal income tax liability.

So lets put this to rest. The conference report is better then what the Senate proposed for low-income families and better then what the Senate proposed to help military families.

Now, let me turn to another chestnut that has been put out. That chestnut is that the tax laws will harm 4 million low-income families. This is a bait and switch focusing on one issue and ignores the overall tax code and all the tax legislation contained in this bill.

The threshold for the refundable child tax credit—included in the 2001 bill—is that for those who do not pay taxes should still benefit from the child tax credit beginning at $10,000 in income—and that was indexed for inflation. This was agreed to by the supporters of this provision in 2001 and eliminating the index was not included in the Senate proposal last year.

Unfortunately we are now hearing from those who don't want to be reminded of these facts.

I am saddened by those who want to muddy all the tremendous work we have accomplished for working families in this bill. To argue that we are raising taxes on those making less than $11,000 or less is completely and utterly wrong. First, it is current law that requires indexing, there is nothing in this bill that requires indexing. Second, these are families who do not have a federal income tax liability. They pay no taxes. So it is wrong to say that they are having an increase in taxes.

Third, the naysayers completely ignore the benefits being provided in this bill when they pull numbers from thin air. For example, the indexing of the $10,000 next year provided in the 2001 bill will mean that a family making $18,000 with a child will lose approximately $40 in child credit benefits, but that same family—because of this bill—will see their child credit benefit increase by $300 because of the accelerated refundability and making the child credit $1000.

The naysayers want to just pick and choose the provisions and not look at the whole package. When you look at the overall package the vast majority of the families they talk about being harmed by the 2001 agreement to index the refundable credit will actually be benefiting from the overall package.

And finally for those families—far, far fewer than the number of 4 million thrown around—that may see no child credit because of indexing, we must bear in mind the EIC benefits that are also indexed. Indexing of the refundable child tax credit must be understood in conjunction with the EIC benefit, and cannot be looked at in a vacuum.

For example, in 2001 a single parent making $10,500 and with two children had no federal income tax liability and received the maximum earned income credit of $4008. In 2003, that same parent, still making $10,500, will now receive a nearly $200 increase in her earned income credit and receive a check for $4,204.

It is accurate that because of indexing the family will not receive the $50 previously provided under the refundable child credit, but it is important to understand it in the context of the overall benefits provided in the tax code.

I recognize that for a low-income family even $50 is important and that is why in conference I supported an amendment to end indexing inflation of the refundable portion. But I encourage Senators to keep their feet on the ground when discussing this and instead reflect on the enormous benefits this bill provides to low-income families who do not have a federal income tax liability—nearly $24 billion—and to also keep in mind the other very beneficial provisions that are in the tax code already that assist low income families.

We have done very right by low-income families and especially military families in this bill and in the overall tax code.

I know as Senators and the American people examine this matter closely they will see the enormous good that is in this bill and not be swayed by the naysayers.

This bill will provide great benefit to low-income families and military families and that is a credit to President Bush and Senators on both sides of the aisle, and it is why we will see this legislation receive overwhelmingly support in the Senate.

Just to be clear, what we are talking about here is not whether to provide a certain EIC benefit but whether or not to review administration of that tax benefit in two years as we do with other expiring tax provisions. There are several administrative reasons why that may be appropriate in this circumstance.

In general, changes to the earned income credit should be studied carefully in light of the current error rate in the program's administration which exceeds 30 percent and results in nearly $10 billion of erroneous payments annually. Many are working to reform these problems and we don't want to work against their efforts.

With respect to the combat zone proposal itself, the IRS has indicated that the proposal—which allows taxpayers to elect into the provision—will increase complexity of the EIC and make administration of the provision harder.

For these reasons, we should review the effectiveness of the provision in two years and make any necessary adjustments to the provision at that time.

In addition, the preponderance of the bill benefits working families including military families.

With the exception of a clean extension of expiring tax provisions and certain technical corrections, this bill focuses 100 percent on providing tax relief to working families including those serving in the military.

In particular, the bill ensures that parents serving in the military receive an income tax credit of $1,000 per child each year. For military families at the lowest levels of income, the refundability provisions of the child tax credit have also been enhanced beginning in 2004.

This legislation further provides that military wages earned by parents in a combat zone will be treated as earned income for purposes of the child credit. This ensures that families whose only income consists of combat zone wages will be eligible for the refundable child credit.

One very important provision of the bill may provide economic and mental relief to working families. For the most part, we have provided a single definition of a "child" for tax purposes. For some, this will mean additional family tax benefits; for everyone, the bill gives needed simplification for working families filing the most basic of tax returns.

Finally, the bill provides permanent tax relief to the first $14,000 of all dual family taxable wages.

In conclusion, this legislation would ensure that a single mom in the military with 2 kids making $25,000 would save 5 percent on the entire amount of her first $14,000 of wages. It would ensure that she gets two child tax credits of $1,000 per child so that her federal income tax liability, to the extent she has any, would be reduced dollar-for-dollar by that $2,000 credit amount. If she does not have any federal income tax liability already—which is very possible—further enhancements to the refundability provisions of the bill ensure that she could receive a check for the full amount of her child credits totaling $2,000. Finally, if she works in a designated "combat zone," the bill treats her combat zone wages as earned income to give her the full benefit of the child credit and the combat zone exclusion.

So you see, this bill provides significant tax relief to military families.

Let me make one more critical point about the issue of earned income credit and combat pay. We should all remember that at one time we did have combat pay included for purposes of the earned income credit. Then in the 2001 budget proposal, the Clinton administration requested the Congress to exclude from the EIC calculations all income excluded from gross income—including combat pay—for the purposes of determining the EIC. This request was made because of concerns of simplification and administration.

So it was the Clinton administration that proposed this change regarding exclusion of combat pay from EIC—a change that this bill today reverses.

I make this point not to cast a shadow over the Clinton administration's proposal but to highlight—as Senators raise their voices about the EIC combat provision being only a two year proposal—that it was the Clinton administration itself that first raised the concerns about the difficulty of administering combat pay and EIC benefits and asked that the code be changed.

We need to get this right. A confusing and unworkable tax provision will do more harm than good as military families unnecessarily find themselves crossways of the IRS.

We need to ensure that we are giving our military families a tax benefit that will do the job right.

Senator MCCAIN criticized the extension of section 45. It is a renewable energy production credit. It is current law. The bottom line is the expiring tax provisions were treated similarly. All expiring tax provisions were extended through December 31, 2005.

Everyone agrees we need to reduce America's dependence on imported oil.

The renewable energy production credit is one incentive that will help move America to energy independence. To let this incentive lapse would be to send the wrong signal to America's alternative energy producers. More dependence on Middle East oil is the wrong answer.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this legislation would not have been possible without the help of many.

I appreciate the cooperation we received from the Republican staff, especially Kolan Davis, Mark Prater, Dean Zerbe, Ed McClellan, Elizabeth Paris, Christy Mistr, John O'Neill and Adam Freed.

I thank the staff of the Joint Committee on Taxation for their service.

I also thank my staff for their tireless effort and dedication, including Russ Sullivan, Patrick Heck, Bill Dauster, Matt Stokes, Matt Jones, Melissa Mueller, Matt Genasci, Anita Horn Rizek, Judy Miller, Jonathan Selib, Ryan Abraham and Wendy Carey. I also thank our dedicated fellows, Cuong Huynh, Scott Landes and Jeremy Sylestine.

Finally, I thank our hardworking interns: Kelsie Eggensperger, Paige Lester, Priya Mahanti, Brittney McClary, Audrey Schultz and Mary Tuckerman.

Mr. President, the real thanks here, frankly, goes to a lot of Montanans who I have consulted with on this bill, CPAs and tax practitioners with whom I have been talking, acting as a sounding board as to which provisions should be changed, for example, to make them work better. They have been invaluable assistants to me. I am very appreciative to know I can just pick up the phone and ask, What do you think of this? What do you think of that? Montana business men and women, other taxpayers and practitioners, I very much thank them for their great help.

Real thanks really to the working men and women in my State and across the Nation. It is through their work and determination that our Nation has prospered. Of course, the group includes the wonderful men and women who serve in the military because they are the people who put their lives on the line. I am very grateful to them and am very humbled to be working for them.

Mr. President, I yield back the remainder of my time and ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority whip.

Mr. McCONNELL. Mr. President, let me just indicate for all of our Members that we are going to the Foreign Operations bill after this. We believe we are down to just a couple of amendments, and we are working on making them go away. Our goal is to pass it tonight. If we have the kind of cooperation we anticipate having, that will be possible. If not, we will have to stack the amendments and vote in the morning.

But I urge everyone to cooperate, and let's try to finish this up tonight. That is what the majority leader would like to do. That is where we will go next.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 3, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—92

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Jeffords
Johnson
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—3

Chafee
Hollings
Snowe

NOT VOTING—5

Akaka
Edwards
Inouye
Kennedy
Kerry

The conference report was agreed to.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the Appropriations Committee is discharged from further consideration of and the Senate will proceed to the consideration of H.R. 4818, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes.

The PRESIDING OFFICER. All after the enacting clause is stricken, and the text of S. 2812, the Senate Foreign Operations appropriations bill, is inserted in lieu thereof. The amendment is considered as original text, with no points of order waived.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, we have had a long day already, but we made real progress. Again, over the course of the day, people do not see all the activity that has gone on. The managers of the bill and myself have actually spent most of the day on the bill we just went to, and that is the Foreign Operations bill. I say that because a lot of work has been done, a lot of negotiations and a lot of discussion, and our intention is we are on the bill to complete the bill tonight.

There are still discussions about amendments, and we want to make sure they are appropriately considered. But the intent is to finish debate and voting on whatever amendments there might be and passage tonight. It means it may well be a late night—it is already fairly late—or we could finish in a fairly expeditious way.

In the event that we do not complete the bill tonight, we will be voting tomorrow morning. We will have to stack the votes for tomorrow morning. That is not what the majority of Senators have expressed over the course of the day and the last few hours; thus, it is our intention to be voting tonight, and we will be voting tonight, and to complete the bill tonight.

I would like the Democratic leader to comment. The reason we feel it is important to finish tonight is the Jewish holiday is tomorrow. A lot of people have travel plans over the course of the day; thus, it is critical we finish.

Next week, we will be going directly to the intelligence reform issue. We need to be focusing on the safety and security of the American people. That does mean an appropriate response to the 9/11 Commission recommendations. Thus, with so few days left before October 8, it is absolutely critical we complete this bill tonight or very early in the morning. Our intention is to complete it tonight.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I agree wholeheartedly with the majority leader. We have a window of about 24 hours. A number of colleagues have indicated to us that they would prefer that we not have any votes at all tomorrow, and that would be our first choice. But we also have Senators who have expressed an interest in offering amendments. We know if the hour gets too late, we will have no choice but, of course, to put these amendments over until tomorrow morning, but we will finish this bill either tonight or tomorrow morning. It will be up to Senators.

So I ask Senators on this side of the aisle if they have amendments to speak to me immediately so that we know just how much time they are going to need and how many amendments they intend to offer. It would be our hope that we could have a finite list of amendments certainly within the next 10 minutes.

This should not be a surprise to anyone.

We have talked about this all day long. I think the two managers of the bill have done an outstanding job and we ought to be prepared to go immediately to the bill and finish our work shortly, but please, if Senators have amendments, let me know immediately so we know exactly what our circumstances will be.

Mrs. BOXER. Will my colleague yield for a comment?

Mr. DASCHLE. I would be happy to yield to the Senator from California.

Mrs. BOXER. I urge us all, if we can possibly finish this tonight, as many of my colleagues know, it is a very important holiday for some of us tomorrow. I have to travel all across country, and others do as well, and it becomes tough to get it all in with families if we are not able to leave by 10 in the morning. So I hope my friends would offer amendments and vote on them tonight.

Mr. DASCHLE. I yield the floor.

The PRESIDING OFFICER. The minority whip.

Mr. McCONNELL. Mr. President, I report to the majority leader and the Democratic leader, as far as this side is concerned, we believe we only have one amendment that may require a rollcall vote and we are working on that one. So we are down to one and I hope we will soon be down to none, but one that we know of at the moment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the senior Senator from Kentucky and I have been working very closely for the last week to get rid of as many amendments as we could. I think we have done a lot of that. As I said on the floor earlier this afternoon, if people have amendments, come and let me know. We have one, possibly two, and we are working diligently on those.

I say to the distinguished leaders, the best they can do might be to go forward. I am willing to move quickly. I would be delighted to go to final passage in the next 5 minutes, but we do not want to preclude Senators from offering amendments. So if Senators are not serious about an amendment, then they should make that clear.

Senator McCONNELL and I have tried to reflect the interests of both parties. As I recall, we passed this bill out from the Appropriations Committee unanimously. Republicans and Democrats alike strongly supported it. So this is very carefully crafted legislation.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. I will simply close by expressing my appreciation to our colleagues for working together. It has been a long day as we have worked toward the consideration of this bill. Again, I am confident if we continue to work together over the next few minutes, we will be able to have a very good game plan to finish the bill tonight. If we do not, we are going to be voting tomorrow morning. To me, that gives us a real incentive to work expeditiously over the next few minutes to bring this bill up, debate it, and then bring it to appropriate closure.

The PRESIDING OFFICER. The majority whip.

Mr. McCONNELL. Mr. President, the fiscal year 2005 Foreign Operations appropriations bill totals $19.386 billion in discretionary spending, $42.5 million in mandatory spending, and $150 million in emergency spending for HIV/AIDS. The discretionary amount is $1.9 billion below the President's request.

The bill provides significant counterterrorism and counternarcotics resources, including full funding under the Economic Support Fund, ESF, and Foreign Military Financing, FMF, accounts for Israel, Egypt, Afghanistan, Pakistan, and Jordan. There is $329 million provided under the International Narcotics Control and Law Enforcement account, $30 million below the request but $89 million above last year's level. The Andean Counterdrug Initiative is fully funded at $731 million. Peacekeeping programs are fully funded at $104 million.

The bill provides a total of $2.4 billion for HIV/AIDS, TB and malaria from all accounts in the bill, including $1.45 billion under the Global HIV/AIDS Initiative account. There is $400 million made available for a contribution to the Global Fund, of which $150 million is designated as emergency spending. When combined with funding in the Labor-HHS appropriations bill, the total for HIV/AIDS, TB and malaria exceeds $3 billion, which is the amount authorized by Congress in Public Law 108–25.

The bill fully funds or increases funding above the request in the following accounts: development assistance, international disaster and famine assistance, assistance for Eastern Europe and the Baltic states, assistance for the independent states of the former Soviet Union, and international military education and training.

Reductions had to be made and we spread these out between the Export-Import Bank, transition initiatives, USAID operating expenses, economic support fund, Peace Corps, debt restructuring, foreign military financing, the Multilateral Development Banks, and the Millennium Challenge Corporation.

On the latter, let me be clear that the bill contains $1.12 billion, an increase of $120 million above last year's enacted level. There is strong support for this program on both sides of aisle.

Let me address refugee assistance and Sudan. We significantly increased assistance above the request under the Migration and Refugee Assistance account and the Emergency Refugee and Migration Assistance Fund, by $45 million and $30 million, respectively. While we intend a portion of these funds to be used to address the horrific crisis in Darfur, a provision was included to provide an additional $150 million for Sudan, Darfur and the region from funds previously appropriated for Iraq in Public Law 108–106. Should the President not use these funds within 30 days after enactment of this act, they will be returned to the Iraq account.

Many long hours went into the preparation of this bill, and I want to recognize the efforts and input of Senator LEAHY and his staff, Tim Rieser and Mark Lippert. On my staff, Paul Grove and LaShawnda Smith deserve thanks for their hard work.

I also want to express my appreciation to Reb Brownell, a State Department detailee who helped put the bill together, and Bob Lester, whose continued counsel from his seat at USAID has been invaluable over the years. Finally, this bill would not exist if Richard Larson and his capable crew didn't assemble and print it. I want to thank Richard for his superb support of the Foreign Operations Subcommittee.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I want to echo what my friend from Kentucky has just said. This is a good bill. Our subcommittee allocation is below the President's request, so we had to make some tough choices, but we did the best we could with what we had.

I want to thank Senator McCONNELL for working in the best spirit of the Senate to produce a bipartisan bill and accommodate the overwhelming majority of requests from Senators. Chairman STEVENS and Senator BYRD also deserve a great deal of credit for this year's Foreign Operations bill.

Senator McCONNELL went over the details of the bill so I will highlight just a few items:

The bill contains much-needed increases in refugee assistance that goes to some of the most vulnerable people in the world.

The bill rolls back proposed cuts to the Child Survival and Health and the Development Assistance accounts. This is important because most of the requests we received from Senators on both sides of the aisle were for projects or activities funded in these accounts.

The bill provides a total of $2.4 billion to combat AIDS, TB and Malaria, including $150 million in emergency money for the global fund that we added by Senators DURBIN and BROWNBACK during the committee markup.

When combined with the funds in the Labor-HHS bill, this brings the Senate total for AIDS prevention and treatment to $3.1 billion, including $550 million for the global fund.

The bill added $150 million in emergency funds to address the crisis in Darfur. There are hundreds of millions of dollars in additional disaster and food assistance for Sudan in this bill and in the Agriculture appropriations bill.

The bill includes several other important provisions dealing with accountability at the multilateral development banks, human rights in Colombia, corruption in Nicaragua and Guatemala, the interim government in Haiti, environmental conservation, international family planning, and assistance for Afghan women and girls, to name a few.

This is a good, balanced bill. We are on a fast track to get this done, so I hope Senators will come to the floor to offer their amendments. We want to move to third reading as soon as possible.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 3671

Mr. CORZINE. I call up amendment No. 3671 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from New Jersey [Mr. CORZINE] for himself, Mr. DEWINE, Mr. BIDEN, Mr. DURBIN, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. FEINGOLD, and Mr. LEAHY, proposes an amendment numbered 3671.

The amendment is as follows:

> (Purpose: To make available to the Department of State for the purpose of providing support for the rapid expansion of the African Union mission in Darfur, Sudan, $75,000,000, to be designated as an emergency requirement)
>
> On page 183, after line 23, add the following:
>
> SUPPORT FOR AFRICAN UNION MISSION IN DARFUR, SUDAN
>
> SEC. 599F. (a) In addition, $75,000,000 is appropriated to the Department of State to carry out the provisions of section 551 of the Foreign Assistance Act of 1961 for the purpose of providing equipment, logistical, financial, material, and other resources necessary to support the rapid expansion of the African Union mission in Darfur, Sudan.
>
> (b) The entire amount in subsection (a) is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, I direct a question through the Chair to the distinguished Senator from New Jersey. It is my understanding that Senator DEWINE is going to be a cosponsor of this amendment; is that right?

Mr. CORZINE. Absolutely.

Mr. REID. The manager of the bill is checking with Senator DEWINE to see how much time he is going to take. Does the Senator from New Jersey have an idea how much time he could get by with?

Mr. CORZINE. Fifteen minutes or less.

Mr. REID. I ask unanimous consent that Senator CORZINE be recognized for up to 15 minutes on this amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Jersey.

Mr. CORZINE. I ask unanimous consent that the following Senators be added as cosponsors: Senators BIDEN, DURBIN, LAUTENBERG, LIEBERMAN, LANDRIEU, FEINGOLD, and LEAHY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORZINE. Mr. President, this amendment simply adds $75 million in support of an expanded African union mission in Darfur, Sudan, moneys critically needed to stop the genocide that we all agree, voted on on this floor, is occurring. Hundreds of thousands of lives are at stake. We have heard estimates north of 300,000 to as many as a million.

Actually, the life of the whole country is at stake. The facts on the ground are well known. There have been 1.2 million people violently displaced. So-called Janjaweed or the militia supported by the government of Sudan have deliberately and systematically destroyed villages, foodstocks, poisoned water supplies, murdered and raped civilians, and an estimated 50,000 civilians have died.

There is no dispute in this country about what is happening. We heard a declaration a week ago from Secretary Powell that the rightful term with regard to what is going on in Darfur is "genocide." The question now is, what do we do about it? Are we responsible to give voice and meaning and money to do something to stop it?

It is terrific and it is very positive how the United States has reacted with regard to humanitarian assistance. It is critical if we hope to save lives, and it has made a huge difference. I know the majority leader, Senator BROWNBACK, myself, and others have visited. The humanitarian aid is making a difference. Is that enough?

The real challenge is to make sure we stop the genocide, not just feed the hungry. We need to do everything we can to bring security to the people of Darfur.

During my 3-day visit, I spoke with an incredible number of displaced people from all over that area of Darfur, which is roughly the size of France, who described rape, murder, starvation, hundreds of thousands of people displaced, families broken up. It is time to act.

Even after people have been able to move into camps, they have described how the Janjaweed will come in after dark and continue harassing, hurting, and challenging the actual viability of the people in the camps.

The camps keep growing. There are more displaced people all the time who are attacked and forced from their homes. International humanitarian organizations are struggling to assist these folks. Our humanitarian aid has made a difference, as a number of us have seen, but it goes on and on. It is estimated that from illnesses, starvation, and other means, somewhere between 6,000 and 10,000 people die a month. There is fear that it could accelerate if an epidemic were to take hold in one of these camps or in a number of them.

There is also a security problem. Poor humanitarian conditions within those camps are creating anger among the displaced people, which might be quite obvious to anyone. If my colleagues could have seen one of these places, people are living in hovels and without any kind of quality water considerations, even if they have rations and food. This anger that is building in the camps is fueling this revolution that is going on between the Government of Sudan and the Darfur rebels. It is inciting even more of it.

Given the complete lack of security and stability in the region, a seemingly endless crisis involving displaced people which will go on for years if there is not something done about both the security situation and the political situation, we are going to end up spending $500 million for as far as the eye can see to maintain people staying and living in these camps.

That does not make sense. Remember, if we build up the anger in those camps, what have we created? We have created a breeding ground for further violence and also the fomenting of terrorism. Remember, Sudan 8 years ago was the home to Osama bin Laden and the terrorist groups—al-Qaida.

We can help stop the genocide, bring security to Darfur, start to stabilize the region, and create the conditions for peace. What is more, there is at this brief critical moment a real consensus. You hear it in the Foreign Relations Committee. You read it in the newspapers. You see it from the people who are sponsoring the efforts on genocide.

This is something we can deal with today if we are prepared to allow in this bill the resources that will allow the United States to help the African Union fund the kinds of peacekeeping troops on the ground that will make a difference.

Right now there are currently 125 African Union monitors in Darfur and an additional 305 monitors, watchers, protective forces for the monitors who are looking at this area that is the size of France. It is kind of ridiculous on the surface of it, as a peacekeeping force.

There is an opportunity. The African Union wants to provide the troops. It doesn't have the money. It doesn't have the logistical support. But it has the ability to put the troops on the ground.

We should not send American troops. Nobody is asking to send American troops. What we are trying to do is get the resources so we can stop this genocide by putting a legitimate peacekeeping force on the ground.

It is an incredible tradeoff. Are we going to continue to spend $500 million a year on humanitarian aid to keep people in camps or are we going to try to create a secure situation where people can go back to the villages, start their lives, and maintain some safety in their world? To me, this is an easy expenditure. It is a cost-benefit analysis that we should be able to understand. It brings an opportunity for people to have security in the villages, in and around the camps, and change the terms and conditions of security which is the precondition to get on with a political settlement between the Darfurian rebels and the central government—which, by the way, was also locked with the whole issue of how the southern Sudanese rebels and the central government were working together, which we as a nation have put so much effort to bring about. But this is standing in the way of that moving forward.

I do not understand why we would not want to make an investment that will work on the security, that will lay the pathway to have us get to a political settlement that will make a difference and save incredible amounts. This is being supported, endorsed, and embraced by African leaders across the continent. They just don't have the resources to deal with it. It is being led by Nigerian President Olusegun Obasanjo, who currently heads the AU. He has done everything he can to get the rebels and the central government to negotiate a political settlement, but as long as there is continuing violence and anger building up in these camps, we are not going to get to that answer. We are not going to get to it, and we need to make sure we invest in something that will bring change, bring security as well as the humanitarian aid so we can get on with that political settlement.

There are very few times when you can say, if we invest $75 million now, over a longer period of time we will save having to bring all this humanitarian aid. People really care deeply about trying to prevent the kind of loss of life that is estimated by officials from all parts of the world. This is something that is clear and present and should be dealt with. This is where the United States ought to show the moral courage to stand up and act because there is something that is going to happen that is very clear in people's eyes if we do not.

I encourage my colleagues to say this is $75 million; it is going to be above the budget resolution. If I am not mistaken, we just approved $146 billion worth of overage, over-budget resolutions, without any paying for it. Here we are talking about $75 million that can start us on the pathway to peace and protection of as many as 1.2 million individuals.

I hope we will be reasonable, particularly in light of how we dealt with the budget resolution on tax cuts. We ought to think about the cost-benefit that will be very obvious. It will make a real difference in human life and it is something we can all be proud of because we are making a statement that we want to stand with humanity on straightening out a very serious problem.

To reiterate, this amendment would add $75 million to support an expanded African Union mission in Darfur, Sudan. This money is critically needed to stop the genocide that we all agree is occurring there. Hundreds of thousands of lives are at stake, as is the future of an entire country.

The facts on the ground are now well known. There are 1.2 million people who have been violently displaced. The Janjaweed militia, supported by the Government of Sudan, have deliberately and systematically destroyed villages and food stocks, poisoned water supplies, murdered and raped civilians. An estimated 50,000 civilians have died.

There now is no dispute in this country about what is happening. On July 22, both houses of Congress spoke, calling the atrocities in Darfur by their rightful name: "genocide." On September 9, Secretary of State Colin Powell made the same declaration. The question now is what do we do about it?

Humanitarian assistance is critical if we hope to save lives, and I have and will continue to push for the maximum amount of U.S. and international aid. The crisis in Darfur requires more than a half a billion dollars this year, and we are still hundreds of million of dollars short.

But we also must do everything we can to begin to bring security to Darfur. During my recent trip, I spoke with internally displaced people who described for me the attacks that forced them from their villages. I asked one man when he expected to return. He told me, "maybe 30 years." Other displaced people told me how they can't venture outside the camps and how women are at constant risk of rape. They even described how the Janjaweed ride through the camps at night, terrorizing those who recently fled their attacks.

Meanwhile the camps are growing, as more and more displaced people are attacked and forced from their homes. As a result, the international humanitarian organizations are struggling to assist the new displaced people. When I was in Krinding camp, in Geneina, I saw newly arrived displaced people without shelter, huddling under makeshift lean-tos of sticks and pieces of burlap and other materials they had found. These conditions persist in the midst of the rainy season and are fueling the current death toll, which is estimated at between 6,000 and 10,000 a month.

The security problems and the poor humanitarian conditions in the camps are creating increasing anger among the displaced people. This rage risks spinning out of control and fueling the civil war currently being waged between the Government of Sudan and the rebels. Given the complete lack of security and stability in Darfur and the seemingly endless crisis involving displaced people, we can anticipate years of crisis—costing the international community half a billion dollars a year, eliminating any possibility of stability or economic growth in Sudan, and possibly leading to the kind of failed state that breeds chronic violence and terrorism.

We can help stop the genocide, bring security to Darfur, start to stabilize the region and create the conditions for peace. What's more, there is—at this brief and critical moment—real consensus, here in America and among our allies about what to do.

Our option—our only option at this time—is to support the mission of the African Union. There are currently 125 AU monitors in Darfur, sent following the cease fire signed between the Government of Sudan and the rebels on April 8 in Chad. There are also 305 Rwandan and Nigerian troops deployed as protection forces for the monitors. I visited the monitoring teams when I was in Darfur. Their efforts to investigate and document violations of the cease fire are critical to establishing accountability, and their presence and the presence of the troops are the only hope for deterring attacks by the warring parties and the Janjaweed.

But the small AU contingent is, by all accounts, insufficient. Darfur is the size of France, and much of it is not easily accessible. To really address the security crisis in Darfur, we need more monitoring teams, deployed throughout the region. And we need thousands of troops with an expanded mission, to protect civilians and bring security to the region. The monitors and troops need meaningful support—air lift, vehicles, communications equipment, and other resources. This support is not insignificant—the United Nations has estimated that a 4,200-person force will cost $228 million per year. But, when we are considering an indefinite humanitarian crisis costing half a billion a year, how can we fail to spend less than half that amount for the only possibility of stabilizing Darfur and eventually resolving what is, in the end, a political and military crisis.

As for the U.S. contribution, my amendment would make available $75 million for an expanded AU force, one third of the UN estimate. Clearly, we need to engage with the EU and our other allies, with Arab and Muslim countries, and with other member states of the UN so that support for the AU is truly an international endeavor. But we can provide real leadership by demonstrating America's commitment to ending this genocide, not just in words but in a real contribution to peace and security.

This particular moment is made even more critical by the fact that the African Union has stepped up. The AU's leadership, whom I met in Addis Ababa, Ethiopia, has demonstrated initiative and courage in standing up to the Government of Sudan and insisting on a real and effective mission in Darfur. Almost 2 months ago, on July 27, 2004, the AU Peace and Security Council called for a "comprehensive plan" to enhance the effectiveness of the mission, including, "the possibility of turning the mission into a full-fledged peacekeeping mission, with the requisite mandate and size," a mission that would emphasize, "the disarmament and neutralization of the Janjaweed militia, the protection of the civilian population and the facilitation of the delivery of the humanitarian assistance." Then, on August 4, the AU as a whole stated its interest in expanding its force in Darfur to several thousand troops.

This vision has been pushed by visionary African leaders such as Nigerian President Obasanjo who currently heads the AU. President Obasanjo has not only supported an expanded role in Darfur, but pushed in his own country for more troops.

This will not be easy. The AU is a new institution and, despite its strong leadership, does not have meaningful experience, as a bureaucracy, with peacekeeping. Darfur is, in every sense, a real test of the AU. But it is also a test for us. African leaders are taking bold initiatives to confront a crisis on the continent, and we have expressed our support. But they need real help to succeed. If we merely support the AU in theory, but don't put resources where our mouth is, the tragedy will be almost beyond comprehension. Even beyond the genocide in Darfur, we will have set up the AU for failure at precisely the moment when it could really succeed. We will have crippled the AU, when it stands ready to help bring peace to this and other parts of Africa.

An expanded AU mission in Darfur has bipartisan support in Congress. The administration has also said, and begun to do, the right things. On September 9, Secretary Powell said:

> The most practical contribution we can make to the security of Darfur, in the short-term, is to do everything we can to increase the number of Union monitors.

He also stated that the expansion of the AU force:

> Will be first priority for our efforts in the days ahead.

We are currently providing $6.8 million to the tiny AU force now deployed in Darfur, and I was pleased that Secretary Powell came before the Senate Foreign Relations Committee and identified another $20.5 million. But, as Secretary Powell acknowledged, the expansion of the African Union force will require money, assets, planes, logistics support and current funding levels are simply not enough.

Finally, a word about the international support for an expanded AU mission. Last Saturday, the UN Security Council passed Resolution 1564 which supported:

> The intention of the African Union to enhance and augment its monitoring mission in the Darfur region of Sudan.

The Resolution also urged member states to support the AU by providing all:

> Equipment, logistical, financial, material, and other resources necessary to support the rapid expansion of the African Union Mission.

This is precisely what this amendment would do—it would support the AU and send a powerful message to the rest of the world that America will provide real, tangible leadership on this issue.

There is one sticking point, and that is the Government of Sudan, whose leadership has stated that it does not oppose the expansion of the AU force, but has hardly been welcoming. The Government of Sudan has also resisted any AU force with an explicit peacekeeping mandate. We must bring the full weight of the international community and use all available leverage, including the explicit threat of sanctions to get this expanded AU force on the ground. The Security Council resolution alluded to this threat, stating that if the Government of Sudan fails to cooperate fully with the expansion and extension of the AU mission, it would, quote, "consider taking additional measures."

While the resolution also made reference to Sudan's petroleum sector and measures against the Government of Sudan or individual members of the Government of Sudan, it could have been, and should have been much stronger and more specific. But, last week's Security Council action at least puts the international community on record. Now we need to treat this situation with the urgency it demands. We need to make it perfectly clear to the Government of Sudan that there will be multilateral sanctions if it does not cooperate with an expanded AU mission. This threat must be real. We cannot allow it to be watered down in the Security Council. Khartoum either allows the mission in, or it doesn't. The Council has said there will be consequences for not cooperating. Those consequences should be immediate; there should be no extensions.

And we should signal our seriousness to the Government of Sudan, to our allies and to the AU by putting in place everything that an expanded AU mission in Darfur will need. We have the resources to do this. There are practical ways for us to stop this genocide. We can, if we have the will, do this now.

Mr. President, I ask unanimous consent to add Senator MIKULSKI and my friend from Michigan, Senator STABENOW, as well, as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. I thank the Senator.

Mr. CORZINE. Mr. President, I am not certain but I think Senator DEWINE wanted to speak. I don't know how much time we have left.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, I wish to express through you to the senior Senator from New Jersey the appreciation of the whole Senate. Everyone knows it is late at night and there are a lot of significant things to do tomorrow, including a religious holiday.

Those of us in the Senate know how passionately he feels about many issues, not the least of which is the terrible situation we have in Darfur. I want him to know that we appreciate his eloquence. He certainly very eloquently made the point. I, among others, am confident we will vote for this amendment. It is really important, and I appreciate the cooperation of the Senator from New Jersey, as usual.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I will be equally brief to commend my colleague from New Jersey, Senator CORZINE, for his extraordinary leadership on this bipartisan amendment. Senator DEWINE of Ohio is a cosponsor of it. It is clearly an issue we all share feeling on, on both sides of the aisle.

We learned our lesson in Rwanda. President Clinton has said that of all the things in foreign policy during his Presidency, he regrets the most that he didn't act and act quickly to confront the genocide in Rwanda. I commend not only Senator CORZINE and Senator DEWINE, and add my name as a cosponsor, but I also commend Secretary of State Colin Powell who has said clearly:

> We concluded that genocide has been committed in Darfur and that the government of Sudan and the Janjaweed bear responsibility and genocide may still be occurring.

That word, "genocide," used by Secretary Powell, is historic. It is historic because it then places a burden on every civilized nation, including the United States, as signatories to the antigenocide treaty, to do something.

What Senator CORZINE and Senator DEWINE suggest, increasing the African Union monitors, is going to be critical. That is what we are doing here today. We are putting more monitors in the field, in the field where men are still being murdered, women are still being raped and murdered. The least, I really mean the least, we can do is give the African Union the tools to try to halt this genocide. I am happy to join in cosponsorship of this amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I rise to add my strong support to the efforts of the Senator from New Jersey. The situation in Sudan has been plaguing the civilized world for years. Despite the best efforts of those who have attempted to broker some kind of resolution, including our Secretary of State, the Secretary General of the United Nations, other people of good will, the Sudanese Government—which is largely a terrorist regime—continues to thumb its nose at the civilized world and continues to support and engage in the terrorism that afflicts the Darfur region.

We have to do something. What the Senator from New Jersey proposes, to declare a contingent emergency, to ask the administration to continue its best efforts to look for a way to bring even greater pressure on the Sudanese, is exactly what we should do.

Many of my colleagues have been to Sudan. They have returned to report and to validate the stories we read in the press. The Janjaweed are, obviously, a tool of the Sudanese Government. The regime in Khartoum is attempting to obliterate, to commit genocide against the people of Darfur.

Once again, for the rest of the world, including the United States, to stand by and watch this happen, engage in diplomatic, political, and United Nations Security Council negotiations, but the murdering continues, the raping continues, the extraordinary hardship continues, it is just unacceptable.

There have been a lot of books written in the last couple of years about how could we let Rwanda happen? Why did we wait so long before we went into Bosnia and Kosovo? I don't know the answer to all of that. But I know that we face right now another situation of genocide.

I commend the Senator from New Jersey, who has been to Sudan, who has seen firsthand the effect of these genocidal policies carried out by the Sudanese Government, and I hope we will support his efforts. The Senate should be on the side of protecting people who are attempting to live their lives and go about their daily business.

We are expending tens of billions of dollars to bring democracy and freedom to Iraq. We should be doing all we can with moral authority and financial support and with logistical support to try to end the genocide in Darfur.

I hope our colleague will support this very important amendment by the Senator from New Jersey and stand with the people who are oppressed, who are left behind, largely women and children who are totally under the thumb, the heel, the boot of these Janjaweed marauders who are fully supported by the Sudanese Government, and do what we can to go on record in this Foreign Operations appropriations to make it clear that we will do whatever we can to stand with people who are being subjected to genocide.

I hope our colleagues on both sides of the aisle will support the amendment of the Senator from New Jersey.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside for the purpose of Senator DAYTON offering an amendment. It is my understanding that he only wishes up to 7½ minutes to speak for his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, if the assistant minority whip will yield for a moment, I am able to announce that there are no more amendments on this side that will require rollcall votes.

Mr. REID. We are prepared to announce on this side, following the conclusion of the Corzine amendment and the Dayton amendment, that we have no more rollcall votes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Minnesota.

AMENDMENT NO. 3672

Mr. DAYTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 3672.

Mr. DAYTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide an additional $500,000,000 for economic development in Afghanistan)

On page 183, after line 23, add the following:

ADDITIONAL ECONOMIC ASSISTANCE FOR AFGHANISTAN

SEC. 599F. The total amount appropriated by title II for other bilateral economic assistance under the heading "ECONOMIC SUPPORT FUND" is hereby increased by $500,000,000. Of such total amount, as so increased, $500,000,000 shall be available for assistance for Afghanistan.

Mr. DAYTON. Mr. President, I ask unanimous consent that Senator REID of Nevada be added as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. Mr. President, this amendment would increase the funding for economic development assistance aid to Afghanistan by $500 million. The bill before us provides only $225 million in economic development assistance through the Economic Security Fund and then some portion of $172 million identified for development and health.

Last year, in fiscal year 2004, the Congress appropriated $900 million in economic development aid and $172 million for development in health through the regular and the supplemental appropriations bills. Those combined categories in total appropriations under this bill will drop from $1.71 billion from the current fiscal year, to $397 million for 2005. That is a cut in funding of 63 percent from one year to the next.

My amendment will increase next year's Afghanistan development aid to $897 million, which is still 15 percent less than it is in the current fiscal year.

What kind of message does this bill send to Afghanistan President Karzai and to his Government—one of their leaders was almost assassinated last week—and to the people of Afghanistan just before they hold their elections?

This is probably not the intent of the bill, but there was a 60-percent cut in economic development assistance that was too little before.

Afghanistan is not a wealthy country like Iraq. It will be when its oil reserves can be developed. Afghanistan, right now, is poverty and poppies—opium. The more poverty they have, the more poppies they will grow.

Just 3 months ago, President Karzai made a strong appeal to all of us in a joint session of Congress for more aid. That was following the necessary war which this Senate supported unanimously in September of 2001, for which I voted along with all of us who were present at that time. Our courageous Armed Forces succeeded in 10 weeks and accomplished what the former Soviet Union could not achieve in 10 years. Our Armed Forces routed the Taliban and al-Qaida but left political, social, and economic vacuums that have not been filled—at least not by the right elements.

President Karzai stated eloquently and emphatically 3 months ago the need for more aid. He said, and I quote in part:

> We must build a partnership that will consolidate our achievements and enhance stability, prosperity and democracy in Afghanistan and in the region. This requires sustaining and accelerating the reconstruction of Afghanistan through long-term commitments.

That is what President Karzai said to six of us in January of 2002 in Kabul in a bipartisan delegation that was led by our Democratic leader, Senator DASCHLE.

Yet the Bush response to that plea has been tepid.

The world response has been cold. This bill would ice the effort with a 60-percent economic development aid cut. In fact, the entire bill's total military and nonmilitary aid to Afghanistan combined is less than half of the fiscal 2004 appropriation—less than half.

Mr. President, today's New York Times has an editorial entitled "A Chance of Success Slips Away," by J Alexander Thier, a fellow at the Hoover Institution in California. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DAYTON. I would like to read a few portions of Mr. Thier's analysis:

> President Bush describes Afghanistan, the first front on the war on terrorism, as a success. In comparison to Iraq, perhaps it is. But if you look at Afghanistan on its own merits, the lack of progress is disheartening. In 2002, President Bush promised a "Marshall Plan" for the country, with the goal of turning Afghanistan into a stable, democratic state. . . .Yet in nearly three years we have failed to create security, stability, prosperity or the rule of law in Afghanistan.
>
> . . . .Our efforts in Afghanistan are underfinanced and undermanned, and our attention is waning.
>
> The root of the problem is that we invaded Afghanistan to destroy something—the Taliban and Al Qaeda—but we didn't think much about what would grow in its place. . . . Afghanistan has become a collection of warlord-run fiefs fueled by a multibillion-dollar opium economy.

Continuing with Mr. Thier's editorial remarks:

> Our Army continues to hunt insurgents in the mountains, but we have refused to take the steps necessary to secure the rest of the country, and it shows. More coalition and Afghan government soldiers and aid workers have died this year than in each of the previous two. This summer, Doctors Without Borders, which has worked in the most desperate and dangerous conditions around the world, pulled out of Afghanistan after 24 years. In other words, the group felt safer in Afghanistan during the Soviet occupation and the civil war that followed than it did three years after the United States-led coalition toppled the Taliban.

He concludes by stating:

> Our experience demonstrates that you can't fight wars, or do nation-building, on the cheap. Afghanistan should be a critical election issue this year, but Iraq looms much larger in the public mind. Unless the next administration steps up to the plate, it may well be an issue in four years, when we start asking, "Who lost Afghanistan?"

I submit that tonight is our opportunity in this Senate to step to the plate, not to let this become a failed opportunity, not to allow the blood that has been shed by American soldiers to do what we originally said was the thrust of the war against terrorism—to go after al-Qaida, to drive them out of that country, to deny them safe havens and sanctuaries there, to rout the Taliban government, to install a democracy—and yet we have largely missed that opportunity along with the other wealthy nations of the world.

The failure of an adequate response to assist that country economically and in its rehabilitation has been just astonishing to me. What a missed opportunity. What an opportunity it is to showcase to the world our way of life, our generosity, to transform a country in a short period of time and show the rest of the Islamic world what our way of life, what our economic system can do, and why it is so vastly superior to anything else, to take the horns of misperception off of the way those people incorrectly perceive this country. But many millions of them do. What an opportunity we have, and here we are cutting economic development aid to Afghanistan in this bill by over 60 percent.

I thank the Senator from Nevada for his cosponsorship. He has been a champion of this concern before I started here tonight. He has brought it up on the floor numerous times. Even though there is not an offset in this amendment, I think it would be penny-wise and pound very, very unwise for us not to raise the level of funding in this bill for Afghanistan for economic development aid to help move that country forward and to save American lives this year and years to come, both here and around the world.

Thank you, Mr. President. I yield the floor.

EXHIBIT 1

[From the New York Times, Sept. 23, 2004]

A CHANCE OF SUCCESS SLIPS AWAY

(By J. Alexander Thier)

STANFORD, CALIF.—President Bush describes Afghanistan, the first front on the war on terrorism, as a success. In comparison to Iraq, perhaps it is. But if you look at Afghanistan on its own merits, the lack of progress is disheartening. In 2002, President Bush promised a "Marshall Plan" for the country, with the goal of turning Afghanistan into a stable, democratic state. On Tuesday, before the United Nations General Assembly, the president said that "the Afghan people are on the path to democracy and freedom." Yet in nearly three years we have failed to create security, stability, prosperity or the rule of law in Afghanistan.

These failings are not just a reflection of the great difficulties of nation-building in places like Afghanistan, they are also the direct result of the Bush administration's policy decisions. Our efforts in Afghanistan are underfinanced and undermanned, and our attention is waning.

The root of the problem is that we invaded Afghanistan to destroy something—the Taliban and Al Qaeda—but we didn't think much about what would grow in its place. While we focused on fighting the terrorist (and even there our effectiveness has been questionable), Afghanistan has become a collection of warlord-run fiefs fueled by a multibillion-dollar opium economy. We armed and financed warlord armies with records of drug-running and human rights abuses stretching back two decades. Then we blocked the expansion of an international security force meant to rein in the militias. These decisions were made for short-term battlefield gain—with disregard for the long-term implications for the mission there.

Our Army continues to hunt insurgents in the mountains, but we have refused to take the steps necessary to secure the rest of the country, and it shows. More coalition and Afghan government soldiers and aid workers have died this year than in each of the previous two. This summer, Doctors Without Borders, which has worked in the most desperate and dangerous conditions around the world, pulled out of Afghanistan after 24 years. In other words, the group felt safer in Afghanistan during the Soviet occupation and the civil war that followed than it did three years after the United States-led coalition toppled the Taliban.

Last month, after a United Nations-backed voter registration office was bombed, the vice president of the United Nations Staff Union urged Secretary General Kofi Annan to pull employees out of Afghanistan. The opium trade is also out of control, fueling lawlessness and financing terrorists. Last year, the trade brought in $2.3 billion; this year, opium production is expected to increase 50 to 100 percent.

Amid terrorist attacks and fighting among regional warlords, the country is preparing for presidential elections on Oct. 9. A recent United Nations report warned that warlords were intimidating voters and candidates. This month, the Organization for Security and Cooperation in Europe, which has monitored post-conflict elections in trouble spots like Bosnia and Kosovo, declared that Afghanistan was too dangerous for its election monitors (it is sending a small "election support team" instead). President Hamid Karzai narrowly escaped assassination last week on his first campaign trip outside Kabul, and eight other presidential candidates have called for elections to be delayed, saying it's been too dangerous for them to campaign.

Many of these problems flow from early mistakes. Rather than moving quickly to establish security and then gradually turning over control to a legitimate domestic authority, we have done the opposite. As fighting among warlord militias in the countryside intensifies, we are slowly expanding our presence and being dragged into conflicts. The American "advisers" in Afghan Army units, the ubiquitous heavily armed "private" security forces and the fortress-like American Embassy are garnering comparisons to the day of the Soviets.

In Kabul, the effort to build a stable, capable government has also lagged dangerously. President Karzai has begun to show great fortitude in challenging warlords. But his factious cabinet, born of political compromise, has collapsed under the pressure of the country's hurried presidential elections. Outside Kabul, his control remains tenuous in some places, nonexistent in others. Kabul's Supreme Court, the only other branch of government, is controlled by Islamic fundamentalists unconcerned with the dictates of Afghanistan's new Constitution. On Sept. 1, without any case before the court, the chief justice ordered that Latif Pedram, a presidential candidate, be barred from the elections and investigated for blasphemy. His crime? Mr. Pedram had suggested that polygamy was unfair to women. These clerics are trying to establish a system like that in Iran, using Islam as a bludgeon against democracy.

It's true that there have been several important accomplishments in these three years: the Taliban and Al Qaeda no longer sit in Kabul's Presidential Palace; girls are back in school in many parts of the country; some roads and buildings have been rebuilt; and more than 10 million Afghans have registered to vote for the presidential elections. Thousands of international aid workers have been working with the Afghans, often at great risk, to make things better. Despite the slow progress, most Afghans are more hopeful about their future than they have been in years.

But many people working there are left with the nagging feeling that much more could have been done both to help Afghanistan and fight terrorism over the last three years. Our experience demonstrates that you can't fight wars, or do nation-building, on the cheap. Afghanistan should be a critical election issue this year, but Iraq looms much larger in the public mind. Unless the next administration steps up to the plate, it may well be an issue in four years, when we start asking, "Who lost Afghanistan?"

The PRESIDING OFFICER. The minority whip.

Mr. REID. Mr. President, the Senator from Minnesota and I acknowledge we tonight do not have the votes for this amendment. That is not to take away from the severity and the importance of this amendment. The people of Afghanistan deserve this. All the attention is focused on Iraq, a little bit on Afghanistan. But you look at the numbers here, with what was given last year, plus the supplemental to Afghanistan, this is only about half as much money as they got last year.

Afghanistan is a place where Pat Tillman gave his life and about 35 or 40 other Americans. I think it is wrong that we are not reaching out to this country we abandoned on a previous occasion. I would hope that everyone here recognizes that the Senator from Minnesota and I will be back on this issue. This is an issue that is important to our country, to maintain the dignity of our country, to show that we do not give up on our friends. And Afghanistan is our friend.

I compliment and applaud the Senator from Minnesota for being the kind of person he is, to care about people who need caring about. If there were ever a society that needs help, it is the people of Afghanistan. This is not money for more guns and tanks and airplanes. It is money to help build that country up from the grassroots, so to speak, to help them become more than what they now are. And that is what they deserve.

AMENDMENT NO. 3672 WITHDRAWN

It is my understanding, Mr. President, the Senator from Minnesota and I are—is it appropriate I ask consent this amendment be withdrawn?

Mr. DAYTON. Reluctantly so, I say to the Senator, and with the request or plea to those who will take this bill to conference that they seek ways—the House has an increase in funding by $48 million over the administration's request. I plead that the conferees look for ways to increase this funding. It would be money very well spent. But, yes, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 3671, AS MODIFIED

Mr. DEWINE. Mr. President, I ask unanimous consent to amend the Corzine-DeWine amendment that is currently at the desk.

The PRESIDING OFFICER. Is there objection to modifying the amendment? Without objection, the amendment is modified.

The amendment, as modified, is as follows:

On page 183, after line 23, add the following:

SUPPORT FOR AFRICAN UNION MISSION IN DARFUR, SUDAN

SEC. 599F. (a) In addition, $75,000,000 is appropriated to the Department of State to carry out the provisions of section 551 of the Foreign Assistance Act of 1961 for the purpose of providing equipment, logistical, financial, material, and other resources necessary to support the rapid expansion of the African Union mission in Darfur, Sudan.

(b) The entire amount in subsection (a) is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

(c) That such amount shall be available only to the extent that an official budget request for $75,000,000 that includes designation of the amount as an emergency requirement, as defined in S. Con. Res. 95 (108th Congress), as made applicable to the Senate by section 14007 of Public Law 108-287, is transmitted by the President to the Congress.

Mr. DEWINE. Mr. President, I rise to support the Corzine-DeWine amendment. I will be very brief.

This bill, as I said earlier today, already contains additional money to assist the humanitarian mission in Darfur, in the Sudan. I think everyone in this Chamber knows why this money is necessary. This amendment, that is currently pending that my colleague Senator CORZINE and I have submitted, would provide an additional $75 million to be used to support the African Union's mission in Darfur. It would help support these troops. This would be our share of that support. Their mission is necessary. As my colleague said earlier, spending this money now would certainly save us spending money in the future.

But it is the right thing to do. Anyone who has seen the pictures of what is going on in Darfur, anyone who has read about this genocide, understands the need to have the African Union troops in there as monitors and for other purposes. They need to be in there. This will contribute and make this money available. So I ask my colleagues to support this as the right thing to do.

I thank the Chair.

Mr. LEAHY. Mr. President, I strongly support the amendment offered by the Senator from New Jersey to address the crisis in Darfur, Sudan.

This amendment appropriates $95 million to support the African Union mission that will help to provide desperately needed security in Darfur.

We simply must act: What is happening there is genocide. The Congress has said it. The Secretary of State has said it. The world knows it. People are dying at a staggering rate, and it will only get worse.

After we appropriate this money, there is one other important piece of the puzzle—the administration must spend it. I will be working with the Senator from New Jersey and the Senator from Ohio to ensure that the President does the right thing and spends this money.

I thank the Senator from New Jersey for his strong leadership on this issue.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 3671), as modified, was agreed to.

Mr. MCCONNELL. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I wanted to speak for a minute and thank the managers of this bill, if I may. I thank the chairman and ranking member. They have done an outstanding job on a broad set of topical issues, from Sudan to Darfur to the Global Fund to HIV, malaria issues, food aid programs that we have been able to plus up in a tight budget. This is a bill people can be quite proud of, on which people have done good work.

They have done it well within the resources that were available to us.

There will be things we will continue to work on in conference that are important, but I think they have done an outstanding job. It is something this Nation can be proud of, that we are investing in other people who are in difficult circumstances in a lot of places around the world. There are not many votes there from this country, but there are a lot of hearts and souls that need to be touched.

The chairman and ranking member have done an outstanding job. I wanted to recognize them. This is certainly a vote I will be pleased to make at this time.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Kentucky.

Mr. MCCONNELL. Madam President, I thank the Senator from Kansas for his kind remarks and the important contributions he has made to this bill, both in committee and on the floor. I thank him very much.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I also commend the Senator from Kansas. We have had long discussions on some of these efforts. He knows the Senator from Kentucky and I have been trying to work out as nonpartisan a bill as possible on these issues. His sense of morality and concern—I say it in the best sense of the word—has been very helpful. All 100 of us live a comfortable life. None of us go hungry except by choice. Some of us do that off and on for whatever reason. But it is only by choice. We have people in parts of the world we have been talking about who cannot even be fed by choice. They starve to death. They have no choice.

On these amendments, what the Senator from Kansas and the Senator from Kentucky and I, the Senator from New Jersey, the Senator from Ohio, and others have tried to do is let them know in this country, the wealthiest, most powerful Nation on earth, there are people who know they are starving, they know they are dying, they know this goes beyond a question of politics. This is a question of morality, deepest moral sense of human beings to make sure we feed them. I commend him for his work.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Let me indicate that we are near the end of the road here. I hope to be able to announce in a few moments that our business will be completed entirely on rollcall votes. I can't announce that quite yet, but we are close. We should know momentarily whether we can complete all of the remaining amendments and final passage on voice vote.

Mr. LEAHY. Madam President, there is a rock group that I have been reputed to have spent time with and listened to. One of their songs is "Keep on Trucking." I might say, a long strange trip it has been. But if we keep on trucking, at least those of us with a touch of gray will complete this.

I will at this point, while the distinguished Senator from Kentucky tries to maintain his composure, stop going through the song, the playbook of the Grateful Dead.

Mr. MCCONNELL. Madam President, I am relieved that the senior Senator from Vermont is not going to break into song. We have had a feeling between us over the years in doing this bill that each year we wanted to finish it in less time than we did the year before. And I might say to my friend from Vermont, I think this year may be our record. We are on the verge of the shortest time for passage in our history together.

Mr. LEAHY. Madam President, a lot of people watch and don't fully understand what goes on. We have quorum calls during the day. They are watching on TV. They can see different huddles of Senators. We are oftentimes getting a lot of work done. I once joked that more laws get passed in the Senators' dining room or the Senators' gym than on the floor. That is where Senators get together. The Senator from Kentucky and I, based on our years and years of personal friendship, along with the distinguished Senator from Alaska, the chairman, and the distinguished Senator from West Virginia, the ranking member, know how to work these things out. We have done this. We keep our word to each other. We do it the old-fashioned way, sort of the way we called a law being passed when I first came here 30 years ago. That is why we are at this point on a bill that used to take sometimes 2 or 3 weeks.

I like the working relationship with the Senator from Kentucky, and I think we are very close to setting a record.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I am pleased to announce to our colleagues there will be no further rollcall votes tonight.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, a number of us during the quorum call were complimenting each other on both sides of the aisle for working through a complex piece of legislation on which we still have some paperwork to do, but it will pass this body unanimously. If any piece of legislation should, it is this one. I alluded to the fact that our responsibility in other parts of the world goes beyond just a sense of altruism. Obviously, to the extent that we alleviate hunger, suffering, and disease in parts of the world, we make those parts of the world able to have stability and become less of a threat to themselves, their neighbors, and also to the United States.

We also have to ask ourselves this question as Americans: When you live in the wealthiest, most powerful Nation history has ever known, with a standard of living for most Americans so substantially above that of billions of other people, when you look at nations where they don't even list the birth of babies until they make sure they survive for a year, or get the kind of normal things my grandchildren get, such as inoculations, vaccinations, and so on, it is almost unheard of—there is either no money for it or no way to bring it to them. And people starve by the thousands in some countries, every month, suffering genocide, slaughter, and some of the worst conditions that exist.

We have a moral responsibility, to the extent that this country can help. Obviously, I am not suggesting America can solve every problem throughout the world. We cannot. But there are areas where we can help—medical help, fighting AIDS, combating polio, measles, diphtheria, dysentery, diseases that kill thousands of people. If every one of us were handed a picture and it said this child is going to starve or die of an easily preventable disease, would you pay 6 cents, or 7 cents, or a dime, or 20 cents to make sure they don't have those childhood diseases, we would say, of course; in fact, we can do that for hundreds more if it would help.

Basically, that is what we are talking about here. The foreign aid budget is a fraction of 1 percent of our total budget—a fraction of 1 percent. A lot of countries give a much larger percentage of their budget. But in many parts of the world, people say America is their hope because we have helped.

That is why I commend those on both sides of the aisle who have joined us in carrying that out, because it is not a political issue, it is not a military issue, it is not a partisan issue; it is a truly moral issue. If we are truly people of God, if we care, this is what we will do. So I commend those Senators who are making it possible.

I ask my friend from Kentucky, are we close to having the final agreement on the managers' package?

Mr. MCCONNELL. Mr. President, I believe our staffs are working on that right now.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Madam President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3680 THROUGH 3701, EN BLOC

Mr. McCONNELL. Madam President, I have a managers' package here that has been approved on both sides. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. McCONNELL) proposes amendments numbered 3680 through 3701, en bloc.

The PRESIDING OFFICER. Without objection, the reading will be dispensed with.

Mr. McCONNELL. I ask unanimous consent that the amendments be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 3680

(Purpose: Technical amendment)

On page 96, line 10 of the bill, insert "central" before "government".

AMENDMENT NO. 3681

(Purpose: Technical amendment)

On page 9, line 21, strike "a program of".

AMENDMENT NO. 3682

(Purpose: Regarding USAID operating expenses)

On page 17, line 26, strike "$600,000,000" and insert in lieu thereof "$618,000,000";

On page 58, line 16, strike "$69,691,000" and insert in lieu thereof "$59,691,000"; and

On page 59, line 6, strike "$75,000,000" and insert in lieu thereof "$67,000,000".

AMENDMENT NO. 3683

On page 105, line 12, after the period, insert the following:

(p) Affordable Housing.—Section 607(b)(3)(B) of Title VI of Division D of the Consolidated Appropriations Act of 2004, P.L. 108–199, January 23, 2004, is amended by striking "and" under subparagraph (A), and inserting before the period in subparagraph (B): "; and (C) provide decent, affordable housing."

AMENDMENT NO. 3684

(Purpose: Regarding assistance for Liberia)

On page 24, line 11, after "Kenya:", insert the following: "*Provided further*, That of the funds appropriated under this heading, not less than $25,000,000 should be made available for assistance for Liberia:".

AMENDMENT NO. 3685

(Purpose: To limit the extension of certain credit, and for other purposes)

On page 3, line 25, strike the period and insert the following: ": *Provided further*, That not later than 30 days after the date of enactment of this Act, the Export-Import Bank shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, containing an analysis of the economic impact on United States producers of ethanol of the extension of credit and financial guarantees for the development of an ethanol dehydration plant in Trinidad and Tobago, including a determination of whether such extension will cause substantial injury to such producers, as defined in section 2(e)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(4)): *Provided further*, That the Export-Import Bank shall consult with the Committees on Appropriations and the Senate Committee on Finance prior to extending direct credit or financial guarantee to establish or expand the production of indigenous products for export by a beneficiary country pursuant to section 423 of the Tax Reform Act of 1986 (19 U.S.C. 2703 note).".

AMENDMENT NO. 3686

(Purpose: To express the sense of the Senate on the need for international support for the interim government of Haiti)

At the appropriate place in the bill, insert the following:

IMPROVING SECURITY IN HAITI

Sec. . (a) Congress makes the following findings:

(1) Haiti is important to the national security interests of the United States.

(2) The United States has contributed significant assistance to support the political, economic and social development of Haiti with limited and uneven results.

(3) The Haitian people are currently suffering from extreme poverty, threats from armed groups who control large areas of the country, and violations of human rights, including kidnappings.

(4) As of September 22, 2004, Tropical Storm Jeanne killed more than 1,000 people, with many hundreds remaining missing, in Gonaives and other areas of Haiti, and caused severe destruction of property.

(5) The Interim Government of Haiti under Prime Minister Gerard Latortue is attempting to initiate much needed reforms and bring political stability to the country prior to the reintroduction of anticipated democratically-elected governance in 2005.

(6) On July 19–20, 2004, the international community pledged $1,085,000,000 in assistance for Haiti, including $230,000,000 from the United States.

(7) The immediate challenges facing Haiti are (a) addressing the insecurity and instability caused by armed groups who are undermining the ability of the Interim Government of Haiti to combat poverty and create the conditions for free and fair elections; (b) establishing the rule of law; and (c) economic reactivation and job creation.

(8) On April 30, 2004, the United Nations Security Council authorized the United Nations Stabilization Mission in Haiti (MINUSTAH) 6,700 military personnel and 1,622 civilian police personnel, but as of July 31, 2004, only 2,259 military personnel and 224 civilian police personnel had been deployed.

(9) MINUSTAH is essential to efforts to restore stability and security, including countering the activities of rebels, ex-combatants and other armed groups.

(b) Congress—

(1) appreciates the contributions of military and civilian police personnel to MINUSTAH by Brazil and other nations;

(2) calls upon the Secretary of State to redouble his efforts to encourage contributions of additional personnel to MINUSTAH;

(3) calls upon MINUSTAH to assertively fulfill its mandate under Chapter VII of the United Nations Charter to "ensure a secure and stable environment within which the constitutional and political process in Haiti can take place", by confronting and resolving security threats to the Interim Government of Haiti and the people of Haiti;

(4) calls upon the United States and the international community, including the United Nations and the Organization of American States, to expedite the disbursement of sufficient assistance to enable the Interim Government of Haiti to—

(a) address Haiti's urgent humanitarian needs, including to assist Haitians affected by Tropical Storm Jeanne;

(b) increase employment and promote economic development; and

(c) carry out democratic elections in 2005;

(5) calls upon the Interim Government of Haiti to make every effort to ensure that all political parties can participate fully and freely in the electoral process; and

(6) notes that the failure to establish a secure and stable environment and to conduct credible and inclusive elections will likely result in Haiti's complete transition from a failed state to a criminal state.

AMENDMENT NO. 3687

(Purpose: Regarding medically accurate information on condom use)

On page 12, line 12, strike "nothing" and everything thereafter through "1961" on line 15 and insert in lieu thereof: "information provided about the use of condoms as part of projects or activities that are funded from amounts appropriated by this Act shall be medically accurate and shall include the public health benefits and failure rates of such use".

AMENDMENT NO. 3688

(Purpose: Regarding assistance for Greece)

On page 51, line 16, after the colon, insert: "*Provided further*, That of the funds appropriated under this heading, not less than $2,000,000 shall be made available for assistance for Greece:".

AMENDMENT NO. 3689

On page 38, strike line 23 through "treaties" on page 39, line 1, and insert in lieu thereof the following: "of civilians forcibly displaced by such groups; and (4) the Government of Colombia has not enacted legislation inconsistent with its obligations under the United States-Colombian treaty on extradition, and has committed to the United States that it will continue to extradite Colombian citizens to the United States, including members of such illegal armed groups, in accordance with that treaty".

AMENDMENT NO. 3690

At the appropriate place in the bill insert:

REPORT ON GLOBAL POVERTY AND NATIONAL SECURITY

Sec. . Not later than 180 days after the date of the enactment of this Act, the Secretary of State, in consultation with other relevant federal agencies, shall submit a report to Congress on the impact of global poverty on the national security of the United States, which shall include: (1) an evaluation of the effects of global poverty on United States efforts to promote democracy, equitable economic development, and the rule of law in developing countries; (2) a description of the relationship between global poverty and political instability, civil conflict, and international terrorism; and (3) recommendations for improving the ability of the United States Government to effectively address the problems in (1) and (2) by combating global poverty, including possible organizational changes within the Federal government.

AMENDMENT NO. 3691

(Purpose: Regarding assistance for Nepal)

On page 169, line 20, after the period insert:

(d) Funds made available for assistance for Nepal pursuant to subsection (a) may be made available if the Secretary of State reports to the Committees on Appropriations that the Government of Nepal is: (1) complying promptly with habeas corpus orders issued by the Supreme Court of Nepal, including all outstanding orders; (2) cooperating with the National Human Rights Commission of Nepal to resolve all cases of disappearances; and (3) granting the National Human Rights Commission of Nepal unimpeded access to places of detention: Provided, That the Secretary of State may waive the requirements of this subsection if he determines and reports to the Committees on Appropriations that to do so is in the security interests of the United States.

AMENDMENT NO. 3692

(Purpose: To provide that $10,000,000 should be made available to reduce the threat that man-portable air defense systems could be acquired by terrorists or by state sponsors of terrorism)

On page 45, line 21, strike "funds." and insert "funds: *Provided further*, That of the funds appropriated under this heading, $10,000,000 should be made available to reduce the threat that man-portable air defense systems ('MANPADS') could be acquired by terrorists or by state sponsors of terrorism.".

AMENDMENT NO. 3693

(Purpose: To provide $10 million in election related assistance to Haiti through the OAS)

On page 118, strike lines 9–11 and insert in lieu thereof the following:

"(3) 35,000,000 from "Economic Support Fund", $25,000,000 of which shall be made available or judicial reform programs, and $20,000,000 of which shall be made available for to the Organization of American States for expenses related to the organization and holding of free and fair elections in Haiti in 2005; and".

AMENDMENT NO. 3694

(Purpose: to require a report on reform of the education sector in Pakistan)

On page 183, after line 23, insert the following new section.

REPORT ON EDUCATION REFORM IN PAKISTAN.

(a) Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees

(1) describing the strategy of the Government of Pakistan to implement education reform in Pakistan, and the strategy of the Government of the United States to assist Pakistan to achieve that objective;

(2) providing information on the amount of funding—

(A) obligated and expended by the Government of Pakistan and the Government of the United States, respectively, for education reform in Pakistan, since January 1, 2002;

(B) expected to be provided by the Government of Pakistan and Government of the United States, respectively, for education reform in Pakistan, including any assistance to be provided by the United States pursuant to the commitment of President Bush to provide $3,000,000,000 in assistance to Pakistan during fiscal year 2005 through fiscal year 2009; and

(3) discussing progress made in achieving education reform in Pakistan since January 1, 2002.

(b) Definitions.—In this section—

(1) the term "appropriate congressional committees" means—

(A) the Committees on Appropriations and International Relations of the House of Representatives; and

(B) the Committees on Appropriations and Foreign Relations of the Senate;

(2) the term "education reform" includes efforts to expand and improve the secular education system in Pakistan, and to develop and utilize a moderate curriculum for private religious schools in Pakistan.

AMENDMENT NO. 3695

On page 128, line 19, after "shall" insert the following: "consult with the appropriate congressional committees,".

AMENDMENT NO. 3696

(Purpose: To urge the President, the United States Permanent Representative to the United Nations, and other appropriate United States officials to work to dissuade member states of the United Nations from supporting resolutions that unfairly castigate Israel and to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East)

On page 183, after line 23, add the following:

UNITED NATIONS RESOLUTIONS ON ISRAEL

Sec. 599F. (a) The Senate makes the following findings:

(1) The United Nations General Assembly and United Nations Security Council have over a period of many years engaged in a pattern of enacting measures and resolutions castigating and condemning the state of Israel.

(2) Despite the myriad of challenges facing the world community, the United Nations General Assembly has devoted a disproportionate amount of time and resources to castigating Israel;

(3) During the fifty-seventh session of the United Nations General Assembly, the General Assembly adopted a total of 80 resolutions by roll call vote, 23 of which related to Israel and were opposed by the United States.

(4) The United States has a responsibility to promote fair and equitable treatment of all nations in the context of international organizations, including the United Nations.

(b) It is the sense of the Senate that the President, the United States Permanent Representative to the United Nations, and other appropriate United States officials should—

(1) work to dissuade member states of the United Nations from voting in support of United Nations General Assembly resolutions that unfairly castigate Israel; and

(2) promote within the United Nations General Assembly more balanced and constructive approaches to resolving the conflict in the Middle East.

(c) Section 406(b)(4) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 22 U.S.C. 2414a(b)(4)) is amended by inserting after "United States" the following: ", including a separate listing of all plenary votes cast by member countries of the United Nations in the General Assembly on resolutions specifically related to Israel that are opposed by the United States".

AMENDMENT NO. 3697

(Purpose: To express the sense of Congress on actions of the President to address violations of religious freedom in Saudi Arabia)

On page 183, after line 23, add the following:

SENSE OF THE SENATE ON VIOLATIONS OF RELIGIOUS FREEDOM IN SAUDI ARABIA

Sec. 599F. It is the sense of Senate that, in light of the designation of Saudi Arabia as a country of particular concern under section 402(b)(1)(A) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)(1)(A)) because the Government of Saudi Arabia has engaged in or tolerated particularly severe violations of religious freedom, the President should—

(1) under the authority in section 402(c)(2) and 405(c) of such Act, negotiate a binding agreement with the Government of Saudi Arabia that requires such Government to phase out any program, policy, or practice that contributes to the violations of religious freedom occurring or being tolerated in Saudi Arabia; or

(2) take an action described in one of the paragraphs (9) through (15) of 405(a) of such Act or a commensurate action under the authority in section 402(c)(1)(B) of such Act with respect to Saudi Arabia that the President determines is appropriate after consideration of the recommendations for United States policy made by the United States Commission on International Religious Freedom.

AMENDMENT NO. 3698

On page 139, line 22, after "conflict" insert: , respond to disasters,

AMENDMENT NO. 3699

On page 112, line 4, after "FINES", insert: "AND REAL PROPERTY TAXES"

On page 112, line 10, after "penalties", insert: "and unpaid property taxes"

On page 112, line 15, after "penalties", insert: "and unpaid property taxes"

On page 112, line 24, after "penalties", insert: "and unpaid property taxes"

On page 113, line 1, after "(d)", insert: "(1)"

On page 113, line 2, after "(a)", insert: "with respect to parking fines and penalties"

On page 113, line 6, after "so.", insert: "(2) The Secretary of State may waive the requirements set forth in subsection (a) with respect to the unpaid property taxes if the Secretary of State determines that it is in the national interests of the United States to do so."

On page 113, line 13, after "penalties", insert: "and unpaid property taxes and interest"

On page 114, line 12, after "2004", insert: "(4) The term 'unpaid property taxes' means the amount of unpaid taxes and interest on such taxes that have accrued on real property in the District of Columbia or New York, New York under applicable law."

AMENDMENT NO. 3700

(Purpose: To express support for the sovereignty, territorial integrity, and political independence of Lebanon)

On page 183, after line 23, add the following:

SUPPORT FOR THE POLITICAL INDEPENDENCE OF LEBANON

Sec. 599F. (a) The Senate makes the following findings:

(1) The United States has long supported the sovereignty, territorial integrity, and political independence of Lebanon and the sole and exclusive exercise by the Government of Lebanon of national governmental authority throughout that country.

(2) The continued presence in Lebanon of nongovernmental armed groups and militias, including Hizbollah, prevents the Government of Lebanon from exercising its full sovereignty over all territory in that country.

(3) The Government of Syria has had a military presence in Lebanon since 1976, and maintains approximately 20,000 troops in Lebanon.

(4) The Government of Syria continues to violate United Nations Security Council Resolution 520, adopted in 1982, which demands that "all non-Lebanese forces" leave Lebanon.

(5) Syria has, since 1979, been labeled by the Department of State as a state sponsor of terrorism.

(6) President George W. Bush signed an Executive order on May 11, 2004, that implements sanctions against the Government of Syria pursuant to the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Public Law 108–175; 22 U.S.C. 2151 note), demonstrating the resolve of the United States to address both the continued military presence of Syria in Lebanon and the support of the Government of Syria for terrorism.

(7) United Nations Security Resolution 1559, approved on September 2, 2004, expressed support for a free and fair electoral process in the upcoming presidential election in Lebanon conducted according to constitutional rules adopted in Lebanon without foreign interference or influence.

(8) On September 3, 2004, the Government of Syria, according to numerous reports, exerted undue influence upon government officials in Lebanon to amend the constitution to extend the term of the President of Lebanon, Emile Lahoud, who is supported by the Government of Syria.

(b) Congress—

(1) commends President George W. Bush for implementing sanctions on the Government of Syria pursuant to the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003;

(2) urges the United Nations to seek a firm, negotiated schedule for the complete withdrawal from Lebanon of Syria armed forces in order to facilitate the restoration of the sovereignty, territorial integrity, and political independence of Lebanon;

(3) calls upon the Government of Syria to immediately withdraw its troops from Lebanon in accordance with United Nations resolutions;

(4) demands that the Government of Syria—

(A) cease its support and armament of terror groups such as Hizbollah; and

(B) facilitate efforts by the legitimate national government and armed forces of Lebanon to disarm all nongovernmental armed groups and militias located in Lebanon and to extend central government authority throughout Lebanon; and

(5) condemns all efforts to derail the democratic process in Lebanon and to interfere with the legitimate election process in that country.

AMENDMENT NO. 3701

On page 134, line 16, after the period insert:

(e) AVAILABILITY AND USE OF FUNDS.—Funds appropriated under the heading "International Organizations and Programs" that are not made available for UNFPA because of the operation of any provision of law shall remain available until September 30, 2006: *Provided*, That funds made available pursuant to this section may not be used for any other purpose, notwithstanding the authority contained in sections 451, 610 and 614 of the Foreign Assistance Act of 1961, or any other provision of law unless specifically authorized in subsequent legislation.

AMENDMENT NO. 3685

Mr. GRASSLEY. Madame President, my amendment serves two purposes. First, to ensure that credit guarantees extended by the Export-Import Bank to help build an ethanol dehydration plant in Trinidad and Tobago did not violate the Bank's charter. And, second, to ensure that Congress has prior notification before similar credit is extended by the Bank in the future.

Much to my dismay, I recently learned that the Export-Import Bank approved approximately $9.6 million in taxpayer guaranteed credit insurance to help Angostura Limited finance the construction of an ethanol dehydration plant in Trinidad and Tobago. The purpose of this credit insurance was to enable Angostura Limited to purchase equipment which will be used to dehydrate up to 100 million gallons of ethanol annually from Brazil and re-export the ethanol to the United States duty-free under the current Caribbean Basin Initiative trade preference program. I am deeply concerned that the extension of this credit may have violated the letter and spirit of the Export-Import Bank's own authorizing statutes.

Section 635(e) of the authorizing statute states that the Bank is not to provide credit or financial guarantees to expand production of commodities for export to the United States if the resulting production capacity is expected to compete with U.S. production of the same commodity and that the extension of such credit will cause substantial injury to U.S. producers of the same commodity. The statute further provides that "the extension of any credit or guarantee by the Bank will cause substantial injury if the amount of the capacity for production established, or the amount of the increase in such capacity expanded, by such credit or guarantee equals or exceeds 1 percent of United States production." The total 100 million gallon capacity of the facility in question is nearly four percent of U.S. production. Thus, the capacity of this plant clearly exceeds the one percent threshold for causing substantial injury to the U.S. ethanol industry outlined in the authorizing statute. This raises serious questions as to whether it was within the Bank's authority to issue credit for the construction of the Angostura Limited facility.

Because the amount financed by the Export-Import Bank was less than $10 million dollars no detailed economic impact analysis was conducted by the Bank. Thus, the Export-Import Bank never conducted an analysis to determine whether this plant will cause substantial injury to ethanol facilities in the United States. Let's be clear—the potential economic impact of financing this facility is significant. This new facility will be able to dehydrate up to 100 million gallons of Brazilian ethanol per year for duty-free export to the United States. The capacity of this single facility far exceeds total annual U.S. imports of ethanol from the entire Caribbean region, which have never exceeded about 60 million gallons in any one year. This fact alone should have raised concerns within the Export-Import Bank as to whether it was appropriate to provide financing for this project.

It is now time to get all the facts from the Export-Import Bank. This amendment requires that the Bank conduct an economic impact analysis on this project and report within 30 days after the enactment of this bill on whether or not this facility will cause substantial injury to U.S. and Iowa producers of ethanol. If so, the Export-Import Bank may have violated its own statutory authority. If that is the case, we will evaluate what further actions to take at that time.

I also want to note that no public notice was provided in the Federal Register during the Bank's consideration of whether to provide credit financing for this project, and no written report was issued setting out the basis for the Bank's decision. I am confident that public notice and greater transparency throughout this process would have provided interested parties such as myself an opportunity to comment on this proposal. I want to make sure the general public and I have an opportunity to comment on proposals for similar projects in the future. Thus, my amendment will also require consultation with the appropriate committees before credit is extended for similar purposes.

Recently I introduced S. 2762 which would prohibit ethanol from getting duty-free access through the Caribbean Basin Initiative trade preference program unless the ethanol is produced substantially with inputs from the Caribbean Basin nations. The purpose of this legislation is to close the loophole in the Caribbean Basin Initiative which enables companies such as Angostura Limited to transship Brazilian ethanol to the United States duty-free. Sadly, the extension of credit for the facility in Trinidad and Tobago flies in the face of this goal. Instead of helping to close the loophole, the Export-Import Bank's actions actually help foreign companies exploit it. These actions seem to violate common sense. I intend to do all I can to try to determine how the Export-Import Bank came to this decision and, hopefully, to make sure the Bank does not make similar decisions in the future.

I appreciate the willingness of Chairman MCCONNELL and Ranking Member LEAHY in working with me to include my amendment as part of this legislation. Their understanding of the importance of this issue to my home state of Iowa and many others in the United States is appreciated. I also appreciate their understanding of the importance of making sure that taxpayer money is being used appropriately and that the Export-Import Bank is operating within the confines, and spirit, of its statutory authority.

AMENDMENT NO. 3693

Mr. DODD. Madam President, as I noted earlier today on the Senate floor, I had the privilege of attending the inaugural ceremony of His Excellency

Miguel Angel Rodriguez to be the next Secretary General of the Organization of American States. It was an honor to be present for that event. I was inspired by the words of the Secretary General as he assumed his new office.

Earlier today, I put the entire speech in the CONGRESSIONAL RECORD so that our colleagues would have an opportunity to review it. One paragraph in particular caught my attention because it is so relevant to what we are attempting to do with the programs we fund in the legislation before us:

> In this twenty-first century, inspired by the values we share, imbued with the ideals of our forefathers, and outraged by the pain of poverty, inequity and exclusion, we women and men of the Americas must redouble our efforts, to expedite the achievement and full exercise of human freedom and dignity.

These words are especially relevant to the abysmal state of affairs in Haiti. We truly should be outraged by the poverty, inequity and exclusion that most of the 8 million Haitians live with everyday.

Two-thirds of Haiti's 8 million people live in poverty. Twenty-five percent of Haitian children under the age of five are chronically malnourished. The average life expectancy is 53 years. The infant mortality rate is 80 per 1000 births—an extraordinarily high percentage. HIV/AID affects more than 5 percent of the Haitian population—the highest infection rate in the Western Hemisphere and comparable to rates being experienced in Sub Saharan Africa.

And if an ordinary day in Haiti was not bad enough, natural disasters had made recent days even more unspeakable. Over the last 4 months these natural disasters have made an already vulnerable population more endangered. Four months ago, flooding took the lives of 1,700 Haitians. More recently, Tropical Storm Jeanne has already been responsible for the deaths of at least 1,000 people—we will probably never know the full extent of lives lost as many bodies swept out to sea during the torrential rains will never be recovered.

As if that were not enough, insecurity prevails through most of the country with armed gangs threatening to kill individuals for their political views or affiliations.

Secretary General Rodriguez is absolutely right: We truly must redouble our efforts so that every Haitian can live in freedom with dignity, rather than in abject poverty and pervasive insecurity.

In that regard, I appreciate the attention that the chairman and ranking member of the subcommittee have paid to Haiti's plight in the bill before us. Even though the overall allocation in the fiscal year 2005 budget for foreign assistance programs is very limited, the bill before us contains approximately $80 million in assistance for Haiti: $20 million in Child Survival and Health programs; $25 million in development assistance to support agricultural and environmental and other development related programs; $25 million in Economic Support funds for judicial reform programs, and $10 million of International Narcotics and Law Enforcement Control monies for police training.

I certainly support all of those allocations. But given the challenges confronting Haiti today, it isn't nearly enough.

More importantly, it neglects a very critical and immediate need confronting Haiti now, namely planning and organizing elections so that the interim, unelected regime can be replaced by a government chosen by the Haitian people in free and fair elections.

Past experience makes it patently obvious that without the assistance of the international community, Haitian authorities will be unable to conduct municipal, parliamentary and presidential elections next year. Some steps have been taken to begin the electoral process. The new Provisional Electoral Council, CEP, has been formed, but it has yet to agree on a calendar for the elections or on the measures necessary to ensure their success. But the CEP alone will not be able to conduct these elections without money and technical assistance from the international community.

The United Nations has already asked the Organization of American States to assist the CEP with the first steps toward holding elections, namely creating a voter registration list. Further down the road the OAS will be asked to assist with other aspects of the elections. The OAS is willing and committed to assisting Haiti with its electoral process, but it cannot do it without adequate funding. The amendment I have proposed to the pending legislation would contribute $10 million for that effort.

Mr. President, $10 million won't cover the entire costs of Haiti's elections, but it is an important signal that the US is prepared to be a partner in that effort. It should also position the OAS to solicit additional funds from other interested OAS members.

The United States has committed itself and our resources to assisting Iraq and Afghanistan conduct elections over the next 6 months. Surely we can do as much for a small country in our own hemisphere. Are the people of Haiti any less worthy to live in freedom and democracy than those in Iraq or Afghanistan? I do not believe they are—I hope my colleagues don't either. And for that reason I would urge that they support this amendment.

AMENDMENT NO. 3694

Mr. BIDEN. Mr. President, I propose this amendment in the hope that it will help Congress to assess the progress that is being made in reforming Pakistan's secular and religious educational system. This objective, shared by the Governments of Pakistan and the United States, must be addressed. If the next generation of Pakistani youth is denied the benefits of a sound, modern, ideologically moderate education, the results could be tragic for both of our nations.

The President has committed the United States to a 5-year, $3 billion package of assistance to Pakistan, a key ally in the South Asia region in the war against al-Qaida, but also a place where radical fundamentalism has taken root. One important element of this U.S. aid package to Pakistan is assistance for educational reform.

Because of the many problems plaguing Pakistan's education system, many parents in that country turn to the vast, unregulated system of madrassas, or religious academies. These madrassas range from well-run schools teaching both Western and Islamic subjects side-by-side, to a far larger number of institutions that provide only the very most rudimentary education, in either religious or secular topics. Of greatest concern—to U.S. and Pakistani interests alike—are a small but significant number of madrassas that indoctrinate their students with radical, violent ideology, and sometimes serve as training camps and recruitment offices for militant organizations and terrorist groups.

When President Musharraf was our guest in the Senate in June 2003, he specifically highlighted the urgent need for educational reform as a key priority, and one for which he requested U.S. assistance. With regard to the madrassa system, President Musharraf has already laid out what should be done—the task now is to stop strategizing and start doing it. First, all madrassas should be registered with the government. Second, a uniform basic curriculum should be promulgated: this curriculum should include instruction in subjects like math, science and other non-religious topics, so that religious education is a part of the course at these academies, but not the totality. Third, instruction at madrassas should not foster extremist or violent ideology, and should not include military or paramilitary training.

For the past 3 years, various officials of the U.S. government have been stating that progress was right around the corner. For years, we have been told that if we provide Pakistan with debt relief, Islamabad will use the savings in debt service to undertake serious educational reform. Yet it is not clear that much has been done.

The reporting requirement set forth in this amendment will ensure that the Congress has adequate information about the amount of funding provided for educational reform and the strategy for undertaking such reform. We should have a clear strategy—and the means by which to evaluate the progress of educational reform in Pakistan.

DESERT LOCUSTS

Ms. LANDRIEU. Madam President, I would like to commend Chairman McCONNELL and ranking member LEAHY for drafting a Foreign Operations Appropriations bill that provides a generous amount of foreign assistance to help vulnerable people around the world. Their bi-partisan efforts have resulted in a strong bill that addresses many of the needs that exist across our globe.

I would like to discuss a crisis that is growing in West Africa and that is the crop destruction occurring from a rampant outbreak of desert locusts during harvest season. When we talk of improving living conditions in Africa, we must first look at whether Africa has enough food to sustain its needs. Regrettably, civil wars, poor agricultural practices, poor weather conditions, or pests and vermin leave Africa on the brink of hunger all too often. Today, the United Nation's Food and Agriculture Organization reports the Sahel in West Africa is under invasion from desert locusts. Locust swarms have infested nearly four million hectares. Wide-spread crop damage has been reported, and the FAO fears West Africa's food supplies and food security may be in jeopardy. If action is not taken, millions of people could face famine and starvation.

The international community is only now beginning to realize the gravity of this crisis. Donor nations have pledged $37 million to the FAO's efforts to eradicate the desert locust in West Africa. The United States has committed $4 million in Fiscal Year 2004 pledges, and I am grateful for this contribution. However, the FAO says these pledges fall short of the $100 million necessary to stem this locust infestation. So much more needs to be done.

As we move the FY 2005 Foreign Operations bill to conference, I would hope that Congress and the Executive branch would take a further look at the gravity of the situation is in West Africa. Senator LEAHY, I know how committed you are to the economic development of Africa. I hope you would join me in calling on the State Department and the U.S. Agency for International Development to make an even greater contribution to the FAO or direct contributions to nations suffering from locust infestations. Moreover, can we agree to work together in conference to identify FY 2005 funds to ameliorate the crisis in West Africa? Without significant action by the U.S. and the world community, the locusts will only continue wreak havoc in West Africa. After all, FAO predicts locusts hatches will continue through the Fall and spike, once again, in the Spring.

Mr. LEAHY. Mr. President, I concur about the seriousness of these locust swarms. Hunger and famine increase the susceptibility to malaria and other dangerous diseases, and we must help our friends in West Africa fight the spread of locusts. I will call on the USAID Administrator to do more to address this crisis.

Ms. LANDRIEU. Thank you Senator LEAHY for your consideration of my requests.

Ms. LANDRIEU. Madam President, I would like to commend Chairman McCONNELL and ranking member LEAHY for drafting a Foreign Operations Appropriations bill that provides a generous amount of foreign assistance to help vulnerable people around the world. Their bi-partisan efforts have resulted in a strong bill that addresses many of the needs that exist across our globe. I would like to take this opportunity to present two items that I respectfully request our committee address in conference negotiations of this bill with the House. These items refer to allocations for the United Nations Development Fund for Women UNIFEM.

UNIFEM works in more than 100 countries to invest in women to reduce poverty, end violence against women, combat HIV/AIDS, and support women's roles in conflict prevention and reconstruction. This investment in women contributes to a more stable world for all countries.

Despite our contributions for UNIFEM's work and mission, the United States has yet to step forward and provide adequate core support to UNIFEM. Our current contribution is $1 million annually, less than countries like Belgium, whose size and population are less than some of our states. In fact, our total support for UNIFEM is 6 percent of their budget, a considerable distance from the average of 22 percent that the United States contributes to other UN agencies. Additionally, the UNIFEM Trust Fund in Support of Actions to Eliminate Violence Against Women—a key support mechanism for local groups fighting violence—has never received a US government contribution.

As you know, the House has passed a Foreign Operations Appropriations bill that includes greater funding for UNIFEM than is included in the proposed Senate bill. Specifically, the House report says, "The Committee supports a total of $3,000,000 for the United Nations Development Fund for Women (UNIFEM) including a $2,000,000 contribution to the Fund and a $1,000,000 first time contribution to the Trust Fund in Support of Actions to Eliminate Violence Against Women. This level is $2,000,000 above the request and $2,006,000 above the level provided in the 2004 act."

I respectfully request that the Senate work to adopt the House recommended support levels for the United Nations Development Fund for Women—UNIFEM—and the UNIFEM Trust Fund in Support of Actions to Eliminate Violence Against Women. Specifically, in conference, I hope the Senate will favorably consider the addition of $500,000 to the $1.5 million that is presently allocated to UNIFEM, for a total of $2.0 million. Second, I respectfully ask that the Senate conferees consider the addition of $1 million as a first time contribution to the UNIFEM Trust Fund in Support of Actions to Eliminate Violence Against Women. Again, these additions would reflect the sums allocated in the House Foreign Operations Appropriations bill and provide critical assistance to women throughout the developing world.

I hope that Senator LEAHY will work in conference to take actions that are necessary to ensure that the House recommendations are adopted in the final passage of this law.

Mr. LEAHY. Mr. President, I concur about the importance of this funding and will try to address these concerns in our continued deliberation of the Foreign Operations Appropriations legislation.

Ms. LANDRIEU. I thank Senator LEAHY for his consideration of my requests.

Mr. ENSIGN. Madam President, the last few years have seen an enormous amount of change in the make up of the Middle East. Thanks to the will of President Bush and the skill and sacrifice of our men and women in uniform, Afghanistan and Iraq have been freed from the shackles of oppressive dictatorships. Democracy is taking root, with free elections on the way.

Tragically, there are some countries which choose to oppress rather than liberate the spirit of the people. Syria is one of these countries.

On September 2, U.N. Security Resolution 1559 expressed support for a free and fair electoral process in Lebanon's upcoming presidential election conducted according to Lebanese constitutional rules devised without foreign interference or influence. On September 3, according to numerous reports, the Government of Syria exerted undue influence upon Lebanese government officials to amend the constitution to extend the term of Syrian-backed President Emile Lahoud.

That was wrong, but hardly surprising given the role of Syria in Lebanon. In 1976 Syrian armed forces entered Lebanon to help prevent a Muslim attack on local Christians. But when the threat of attack subsided, Syrian troops remained. Today 20,000 of them continue their stranglehold on Lebanon.

The time has come for Syria to release her grip on Lebanon. Lebanon is a sovereign nation. It should be allowed to exercise control over its territory—all of its territory—and not be hampered by the continued presence of Syrian military forces.

The United States has long supported the political independence of Lebanon, as has the international community. Syria has been in violation of U.N. Security Council Resolution 520, demanding that "all non-Lebanese forces" leave Lebanon since September 17, 1982.

That is why I believe it is particularly important that President Bush for implemented sanctions on Syria pursuant to the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003, demonstrating U.S. resolve to address the Syria's continued military presence in Lebanon and its support for terrorism.

I implore my colleagues to recognize the importance of keeping pressure on Syria. This resolution urges the United Nations to seek a firm, negotiated timetable for complete withdrawal of Syrian armed forces from Lebanon, in order to facilitate the restoration of Lebanon's sovereignty, territorial integrity, and political independence. It calls upon the Government of Syria to immediately withdraw its troops from Lebanon in accordance with United Nations resolutions. It demands that the Government of Syria cease its support and armament of terror groups such as Hezbollah and facilitate efforts by the legitimate government and armed forces of Lebanon to disarm all nongovernmental armed groups and militias located in Lebanon and extend central government authority throughout that country. And it condemns all efforts to derail the democratic process and interfere with the legitimate election process in Lebanon.

Like all nations, Lebanon deserves the right to chart its own destiny, to have free and fair elections, and to be free of foreign occupation.

Mr. FEINGOLD. Mr. President, I am pleased to support the fiscal year 2005 Foreign Operations Appropriations bill.

Recently, the release of the 9/11 Commission report gave us all reason to redouble our efforts to focus on the importance of the foreign policy and foreign assistance priorities that are addressed in this bill. The commission's intelligence reform proposals have been the focus of most of the media attention surrounding the 9/11 report, but the commission's call for more focused, effective ways to attack the terrorists and their organizations, and, critically, to prevent the continued growth of Islamist terrorism, deserve equally intense examination and certainly deserve action. If we are to leave our children a safer world, we must take the long view in this struggle, and we must find ways to regain the kind of international support and resolve that emerged in the aftermath of the 9/11 attacks. That support—so critical to any effort to deny terrorists sanctuary, to unravel their financial networks, and to effectively piece together the intelligence picture that can reveal their plans and weaknesses—has dipped dramatically in recent years, and we have sustained terrible losses of an extraordinarily valuable type of American power: our power to persuade, to lead, and to inspire. Throwing our support behind citizens fighting corruption abroad, helping to strengthen networks committed to fighting international crime, investing in the future by supporting child survival and health initiatives—all of these efforts, if pursued wisely, can help create a more secure world for the next generation.

In this context, it is important to note that the entire Foreign Operations Appropriations bill amounts to less than the amount that the U.S. has already appropriated for reconstruction projects in just one country: Iraq. When I reflect on this disparity, and then reflect on the fact that resources in this bill are in many cases stretched very thin—for example, the appropriators, who I know strongly support the Peace Corps, were unable to meet the administration's requested funding level for that important program—I am concerned about the balance and focus of U.S. policy in the midst of what is a truly global struggle against the terrorists who attacked this country.

I strongly support the provisions in this bill that provide resources for the fight against HIV/AIDS, and believe that the U.S. must continue to ramp up assistance—and to ensure that this assistance is effective—to honor the commitments that the President has made to the millions around the world struggling with this horrific pandemic.

I am pleased that this bill fully funds the President's request for assistance for Israel, as well as requests for Egypt, Jordan, Afghanistan and Pakistan. While the U.S. relationship with each of these important countries is complex, there can be no question that continued U.S. investment in the future of these states makes good sense.

I continue to have concerns about the assistance provided to Colombia under the Andean Counterdrug Initiative because of ongoing reports of human rights violations by armed groups in Colombia and links between paramilitary groups and the Colombian Armed Forces. I hope that the administration will take seriously the provisions in this bill conditioning the obligation of much of this assistance on whether human rights, alternative development, and fumigation requirements are met.

I am pleased that an amendment I cosponsored, expressing the need for international support for the people of Haiti, was included in this bill. The latest disaster in Haiti, in which over 1,000 were killed in severe flooding caused by Tropical Storm Jeanne, has only intensified the suffering Haitians face on a daily basis from political insecurity and extreme poverty. This tragedy underscores the need for the international community to make a serious and sustained commitment to the future of Haiti.

As the ranking member of the Senate Foreign Relations Committee's Subcommittee on African Affairs, I am especially pleased that this bill provides $5 million to establish pilot programs in the Democratic Republic of the Congo, Uganda, Burundi, and Liberia to address sexual and gender-based violence. My office worked with the appropriators on this important provisions.

I also strongly support provisions in the bill calling for improvements in the human rights situation in Uganda, and particularly calling for greater efforts devoted to civilian protection and child protection in the North. These provisions dovetail with the Northern Uganda Crisis Response Act, a bill I authored which was passed by the Senate and House and signed into law this summer.

Mr. McCAIN. Madam President, I support passage of the Foreign Operations Appropriations Act for fiscal year 2005. This important legislation funds the international development and assistance portion of our national budget. By passing this bill, we acknowledge the importance of these programs on a global scale. Supporting foreign aid, military assistance, development funds, democracy programs and other programs should be a matter of course—something that America does as part of its responsibilities as the global superpower.

I commend Senator McCONNELL, Chairman of the Foreign Operations Subcommittee, and Senator LEAHY, ranking member of the subcommittee, on developing an appropriations measure that is generally free of earmarks. This year's bill provides $1.96 billion to carry out our many foreign operations programs. I note, however, that the bill falls nearly $2 billion short of the administration's budget request. In these difficult times, we cannot afford to shortchange programs or misdirect resources that comprise a critical instrument of America's international influence.

In addition, of the total appropriated in this bill, $64.1 million can be identified as unrequested or unauthorized spending. Let me be clear. Many of the earmarks in this legislation may be worthy projects in and themselves, but they have not gone through the proper legislative process which should be followed if they are to receive U.S. taxpayer funding. In addition, while I may agree with many of the policy positions included in the bill, they should instead be included in authorizing legislation. Policy changes simply do not belong in appropriations legislation, and such inclusions usurp the jurisdiction of the authorizors.

I note with regret that, once again, the Senate has failed to pass an authorization bill prior to considering this legislation. Again, the responsibilities of authorizors and appropriators are expected to be distinct. The Senate Foreign Relations Committee has the responsibility for laying out a blueprint for the policies and funding levels of USAID and the Department of State and their programs. But because that committee has not been able to move its bill on the Senate floor, we do not have the benefit of its recommendations, which is unfortunate.

The Senate as a whole must place as much emphasis on passing authorization bills and conducting proper oversight as it does on passing appropriations measures. Until we do so, we will continue to fund authorized programs and marginalize many of our committees.

With this said, I must once again convey my gratitude to the members of the subcommittee. Their attention and commitment to supporting vital programs has provided a sound bill with which to fund our foreign operations for the coming fiscal year.

Mr. NICKLES. Madam President, the pending Foreign Operations appropriations bill for Fiscal Year 2005, S. 2674, as reported by the Senate Committee on Appropriations, provides $19.386 billion in discretionary budget authority and $26.728 billion discretionary outlays in Fiscal Year 2005. The bill also includes an additional $43 million in mandatory spending.

The discretionary totals are $1.933 billion in budget authority and $250 million in outlays below the President's request.

The discretionary budget authority provided in the bill matches the 302(b) allocation adopted by the Senate Appropriations Committee as well as the amount provided in the House-passed bill. The discretionary outlays provided in the bill are $57 million less than the 302(b) allocation and $29 million above the House-passed bill.

Section 595 of the bill includes $360 million in 2005 budget authority for Iraqi debt relief and Section 599D of the bill includes $150 million for humanitarian needs in Darfur, Sudan. These amounts are designated emergencies and are paired with a rescission of like amounts of budget authority from the Iraq Relief and Reconstruction Fund, which has an emergency designation. Section 599E of the bill includes an additional $150 million in emergency budget authority for the Global Fund to Fight AIDS, Tuberculosis, and Malaria. There is no transfer or rescission associated with this provision. All three sections are subject to a Budget Act point of order. While I will not raise a point of order on these provisions I do ask the conferees to hold the line on spending in the bill so that it does not exceed 302(b) allocation and to include appropriate offsets for any provisions with emergency designations.

I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2812, 2005 FOREIGN OPERATIONS APPROPRIATIONS

[SPENDING COMPARISONS—Senate-reported bill (Fiscal Year 2005, $ millions)]

	General purpose	Mandatory	Total
Senate reported bill:[1]			
Budget authority	19,386	43	19,429
Outlays	26,728	43	26,771
Senate Committee allocation:			
Budget authority	19,386	43	19,429
Outlays	26,785	43	26,828
2004 Enacted:			
Budget authority	38,776	44	38,820
Outlays	24,651	44	24,695
President's request:			
Budget authority	21,319	43	21,362
Outlays	26,978	43	27,021
House-passed bill:			
Budget authority	19,386	43	19,429
Outlays	26,699	43	26,742
SENATE-REPORTED BILL COMPARED TO:			
Senate 302(b) allocation:			
Budget authority	....	....	....
Outlays	−57	....	−57
2004 Enacted:			
Budget authority	−19,390	−1	−19,391
Outlays	2,077	−1	2,076
President's request:			
Budget authority	−1,933	....	−1,933
Outlays	−250	....	−250
House-passed bill:			
Budget authority	....	....	....
Outlays	29	....	29

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

[1] In addition to the amounts shown above, the bill includes $510 million in 2005 budget authority for emergencies that is paired with a rescission of a like amount of budget authority from the Iraq Relief and Reconstruction Fund, which was an emergency. An additional $150 million in emergency budget authority for the Global Fund to Fight AIDS, Tuberculosis, and Malaria is also provided, but no transfer or rescission is associated with it.

Mr. LEAHY. Madam President, I want to, once again, thank Senator MCCONNELL for his hard work to pass a very good Foreign Operations bill. I also thank Chairman STEVENS and Senator BYRD.

I want to thank the staff—Paul Groove and LaShawnda Smith for the Majority. Paul worked countless hours to put this bill together. His patience, high standards, meticulous attention to detail, and unwavering good humor are appreciated by all of us. LaShawnda Smith literally kept the office going.

I want to thank Reb Brownell, a detailee from the State Department, who was extremely helpful at every turn. Reb represents the very best that the State Department has to offer.

And finally, I want to thank Bob Lester of USAID's Office of General Counsel. We literally could not write this bill without Bob. His knowledge of the Foreign Assistance Act and his drafting skills are unequaled. Although Bob talks of retiring, I don't see any way that we can get along without him. None of us are indispensable, but Bob Lester certainly comes as close as humanly possible.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 4818), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. MCCONNELL. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment and requests a conference with the House.

The Presiding Officer (Ms. MURKOWSKI) appointed Senators MCCONNELL, SPECTER, GREGG, SHELBY, BENNETT, CAMPBELL, BOND, DEWINE, STEVENS, LEAHY, INOUYE, HARKIN, MIKULSKI, DURBIN, JOHNSON, LANDRIEU, and BYRD conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Madam President, have we now completed both the bill and the appointment of conferees?

The PRESIDING OFFICER. The Senator is correct, yes.

Mr. MCCONNELL. I thank both the majority and minority staff for their excellent work on this and commend my friend and colleague, Senator LEAHY, for his important contribution again this year as usual.

Mr. LEAHY. Madam President, I thank both the distinguished Democratic leader, Mr. REID, and the distinguished chairman of the Appropriations Subcommittee, Mr. MCCONNELL. They were able to finish up the bill. I say again—as I said in my statement complimenting the Senator from Kentucky and his able staff and also my able staff—we have set an all-time record on a very complex piece of legislation in getting it through. I compliment the Senator.

Mr. MCCONNELL. I compliment my friend from Vermont. Maybe we can break our record next year.

I extend my thanks to Paul Grove, the majority staff director, for his fine work on this bill; Tim Rieser, as well, on the Democratic side. It is always a pleasure to work with them. They are great professionals who have done a marvelous job in smoothing the passage that we have achieved tonight on voice vote.

TRIBUTE TO ALVIN SEYMOUR MERRILL

Mr. HATCH. Madam President, I am grateful for the opportunity today to pay tribute to a wonderful man, loving husband, father, and grandfather, and a true hero—Mr. Alvin Seymour Merrill. Al recently passed away after living a lifetime of dedicated service to his family, community, and to our country. Al was my brother-in-law and a person whom I truly admired and respected for the love and devotion he displayed not only to my sister and their children and grandchildren, but to the ideals of freedom America represents.

Al was born and raised in a rural Utah farming community. He was the seventh of nine children, raised by a widowed mother. His work on the farm led him to a life of service in the United States Marine Corps, USMC. It was while he was waiting for some farm machinery to be repaired in Salt Lake City that he was approached by a recruiter for the USMC and asked to join the service. He signed the paper, and was shortly on his way to boot camp. This fortuitous day led to long and distinguished 20 years of active duty as a Marine. He loved the Marines and gladly answered their call of duty in many places throughout the world.

Al rose through the ranks in the USMC and became a First Sergeant a position only entrusted to the best and bravest. He served in the Korean and Vietnam Wars and received two Purple Hearts and a Bronze Star for extraordinary valor and heroism. He was also a survivor of the historic Korean Battle of the Chosin Reservoir. In fact, his name is forever etched on a monument at Utah's Hill Air Force Base honoring the men who survived this battle.

Al's respect and love for the Marines didn't end with his active duty. He took great pride in escorting war dead after the Korean War and arranging proper burials for his fellow Marines. He also served as a drill instructor and trained many new recruits entering the Marine Corps. His dedication to this training was extraordinary—he wanted all Marines to have the best training possible in case they might also face combat.

It was Al's service in combat which led to his death many years later. During service in Vietnam, Al was exposed to Agent Orange. He didn't realize this had happened until 30 years later when it began to attack his body and slowly rob him of his life. When asked if he was bitter about this exposure he replied, "No, I knew the risks when I signed up." In addition to this exposure, Al carried shrapnel in his body as a result of injuries sustained in fighting for our country.

I cannot even begin to express what his quiet bravery and dignity has meant to his family and to all those who knew him. He was a true war hero and an example of someone who was willing to give the ultimate sacrifice in defense of our country and the freedom we cherish.

Al was also an ROTC Instructor at the University of Utah, and South and Cottonwood High Schools in Utah. He retired from an honorable career with the Utah Transit Authority. In addition, he was also politically active and always found time to help candidates running for office get elected. Al was elected himself to serve one term in the Utah House of Representatives.

Al chose to live his life in service to his fellow men, not only in the Marines but also in his community and his church. He served three full-time missions for the Church of Jesus Christ of Latter-day Saints, spreading his message of Christ's love and hope to people throughout our Nation.

Al was fortunate to marry a wonderful, devoted woman, my sister, Frances Hatch Merrill, who stood by his side for 47 years. Her devotion to him and his life was an inspiration to all as we watched her help Al with serious health challenges and remain a steadfast partner until the end. Al and Frances were blessed with eight children and 12 grandchildren whom they love very much.

Mr. President, Al Merrill's life was dedicated to service and it is this legacy of faith and strength that he will leave to his family.

We just buried him recently in Arlington National Cemetery in a wonderful plot right near the administration building. We are so grateful to the Marine Corps for what they have done to help us in the memorialization of this wonderful man. We are so grateful for the Marine Corps members who showed up to represent him at the cemetery. We are so grateful to the Marine Corps person who played taps for my brother-in-law.

Al Merrill was a wonderful man and a true American hero. I never heard him once brag about his service, and he was in both wars. Everybody who knew him knew what a wonderful man he was. I will be eternally grateful for the example he set for all of us to follow. Al Merrill was truly a giant among men.

I have been reading a history of the Marine Corps and he is mentioned prominently throughout this history, what he meant as an example of morality and decency to other young recruits through the years and as he grew older in the corps. He told my sister one time: Fran, you have to know that the Marine Corps comes first.

That was nice for him to say; we knew his family and his wife came first, but the Marine Corps came an equal first, no question about it.

Thank you for this opportunity to honor Alvin C. Merrill and the life he lived in service to his family, his community, and to our great country of America.

WORLD HEART DAY

Mr. FRIST. Madam President, heart disease is the world's No. 1 killer. Heart disease is responsible for one in every three deaths. It afflicts men, women, and children. It crosses all geographic and economic lines.

That is why on September 26, 2004, the World Heart Federation, working with cardiovascular associations in the United States and 100 other countries, will recognize the fifth annual World Heart Day.

World Heart Day is a day devoted to heart disease prevention. This year's theme is "Children, Adolescents and Heart Disease." But before we think it is a problem confined to children in poor countries, we need to look in our own backyard.

According to the Centers for Disease Control and Prevention: an estimated 15 percent of children and adolescents ages 6 to 19 years are overweight; approximately 22 percent of high school students smoke; and one-third of high school students did not meet sufficient standards for physical activity. These are troubling numbers and they are all contributing factors to heart disease.

Heart disease continues to claim more lives in the United States than any other illness. The seriousness of these statistics cannot be ignored and I encourage every American family to take steps now to prevent disease in the future. Through education and prevention measures, we can greatly reduce the incidence of chronic conditions brought about by poor health choices for a whole generation.

We are working to do our part at the national level.

Thanks to the Red Dress campaign this year and the involvement of First Lady Laura Bush, the National Heart Lung and Blood Institute, the American Heart Association and other organizations, we have educated millions of women about their risk for heart disease. Now we must expand our efforts to include the entire family.

The American College of Cardiology has already committed to a community outreach campaign beginning in 2005 on heart disease awareness for children and adolescents patients. I hope other health organizations will choose to do the same. The lessons of World Heart Day should be shared with the public not just on September 26, but year-round.

I commend the World Heart Federation for organizing this annual event and I ask my congressional colleagues to remind their constituents about the importance of healthy eating and regular exercise to preventing heart disease.

PRIME MINISTER AYAD ALLAWI'S SPEECH

Mr. FRIST. Madam President, earlier today the Prime Minister of Iraq, Dr. Ayad Allawi, made a very powerful speech before a Joint Session of Congress. He was joined by several members of his cabinet.

The Prime Minister is a very strong and capable leader. He is a man of vision and principle. He is committed to combating terrorism, and to leading Iraq down the path toward democracy.

I first met the Prime Minister nearly three months ago, just after he was selected to be Prime Minister. His actions over the last few months have confirmed my opinion of him then—that this man has what it takes to bring peace, stability, and freedom to Iraq.

This morning, the Prime Minister spoke and made the following points:

> We are succeeding in Iraq.
>
> Our struggle is your struggle; our cause is your cause.
>
> The fight against terrorists in Iraq today is the world's fight.
>
> The terrorists will not succeed. We will not compromise with terror.

The Prime Minister also said that his three goals are: defeat the terrorists; improve quality of life for Iraqis; bring democracy to Iraq. These are also the United States goals. They should be the international community's goals.

I was heartened and inspired by Prime Minister Allawi's remarks. His commitment to values we hold dear is apparent as he leads his country through these difficult times.

He and his government are doing well. They are exercising their sovereignty, taking on the insurgents and terrorists, and pursuing reconstruction and development. Maybe most importantly, they are determined to lead their country toward democracy.

The key to Iraq's success, however, is bringing stability and security to the country. Iraq continues to build its military and police forces, but in the meantime, Prime Minister Allawi and his government will require the assistance of U.S. forces.

The last few weeks have been difficult in Iraq, for Americans and Iraqis alike. We mourn the deaths of our young service men and women who are the frontlines of this global war on terrorism.

But we know that they have sacrificed for our own security, because a free, democratic Iraq won't provide a sanctuary or safe have for terrorists and their ilk.

The Iraqi people have also paid a heavy toll, especially those Iraqis who have volunteered to join their country's security forces in an effort to protect their country from the terrorists. In fact, over the last several months, more Iraqis have been killed than non-Iraqis.

We should not be surprised by these attacks, however. We know they would increase. The terrorists will do everything they can do disrupt the political process that is evolving and carrying us forward to elections in January.

But they have not been successful! In the last few weeks, Iraq has organized a conference to select an interim national council that will serve a legislative and oversight role over Iraq's executive branch.

In fact, I recently had the opportunity to call and speak with the Chairman of the Council, my counterpart. He told me how committed he and his colleagues were to defeating the terrorists and bringing democracy and freedom to Iraq.

Prime Minister Allawi has also been clear and resolute in his determination to fighting the terrorists. He has also made clear that Iraqis need to take the lead in combating this threat. He has also made clear that Iraq must stick to the electoral timetable that has been established.

The Prime Minister is correct. We must stick to the January date for national elections. Iraq was able to elect its interim national council in September. Iraq can elect its national assembly in January.

We can win the war against terrorism and extremism militarily, but we must also win politically, with the people.

We must not be dissuaded by the naysayers, many of whom also said that the interim Iraqi government—Prime Minister Allawi and his cabinet—should not have assumed sovereignty on June 1, that it should have been delayed because of the terrorists. History has proven them wrong.

To not hold elections in January would be to give the terrorists what they want, and to deny the majority of Iraqis that which they want most.

Second, we can help Iraq gain control of the security situation, and put an Iraqi face on the solution, by improving and accelerating the training of Iraqi military and police forces.

We can do this by getting NATO on the ground immediately to help expand the training infrastructure and expedite the training.

The third key to moving forward on the path of democracy is to improve the daily lives of Iraqis. The U.S. can help in this by accelerating and making more efficient the reconstruction and development monies the Congress has made available to Iraq.

We need to get Iraqis back to work for the future of Iraq; we need to get them invested, so that rather than blowing up pipelines they are fixing them, and rather than shutting down market places, they are working in them.

Finally, we need greater involvement by the international community. The U.S. already has over 30 coalition partners on the ground with military forces, in harms way, in Iraq. They are doing a superb job. But we also need other countries to do their share: by relieving Iraq's heavy debt burden, by increasing economic and other reconstruction assistance, by providing security forces and other resources to help train Iraqi security forces, by urging Iraq's neighbors to better control the borders to prevent terrorists and others from crossing into Iraq.

It is clear to me that the frontlines on the Global War on Terrorism are being fought in Iraq.

We must and will defeat the terrorists. Doing so would have a major impact on their capabilities and resolve.

As the President has said over and over, this is a long fight, and that it is better to fight terrorists overseas, than in our own country.

We cannot afford—no country can—to suffer the attacks that the Russian people have seen in the last few weeks.

The attacks on the school in Russia, where hundreds of children were slaughtered, makes that terribly clear.

No American mother should have to visit the "small graves" that so many Russian mothers are mourning over.

The United States can, must, and will win the war on terrorism. I am confident in our military, I am confident in this administration, and I am confident in the American people.

A key element to winning the war on terrorism is overhauling our intelligence community. We can't afford to wait, to study this issue further, to delay.

Intelligence reform has been studied for years by a number of commissions. The 9/11 Commission is just the latest, and they studied it for many months, with scores of staff, and conducted hundreds of interviews and dozens of hearings.

The time for study is over; the time for action is overdue.

It is true that we may make a misstep, that we may get something wrong, but we can always go back and fix that. Overall, I believe the improvements the Senate will consider on the Floor next week will exceed any deficiencies.

We must capitalize on the great work done by the 9/11 Commission, and on the will of the American people, and do all that we can to improve our Nation's intelligence community, our homeland security, and our ability to defeat terrorists.

NATIONAL MUSEUM OF THE AMERICAN INDIAN

Mr. REID. Madam President, I rise today to recognize the grand opening of the National Museum of the American Indian. The museum has been two decades in the making, and it can now take its place as our only national museum dedicated to the history and culture of the indigenous peoples of the Americans.

More than 50,000 people visited the Mall this week for the dedication ceremonies. Twenty thousand Native Americans, representing hundreds of tribes from around the country, have come to Washington to celebrate the Museum's opening. The enthusiasm of so many people for the Museum is a fitting testament to the hard work and dedication of the many individuals who helped realize this project.

I would like to take a moment to recognize two of those individuals, my colleagues Senator BEN NIGHTHORSE

CAMPBELL and Senator DANIEL INOUYE. Their commitment to this endeavor over the last two decades is truly commendable. Their work has resulted in one of the Nation's premier cultural institutions, a museum that will provide the opportunity for millions of Americans to learn about the history and culture of Native Americans.

The museum also represents one of the most ambitious architectural endeavors ever undertaken by the Smithsonian Institution. Its design is certainly pleasing to behold, but it is intended to do far more than that. The museum's landscape features a diverse array of environments—wetlands, an upland hardwood forest, meadowlands, and traditional crops—that recall the vast and varied environs that Native Americans have inhabited. This will help visitors connect with the experience of Native Americans, by highlighting their reverence for their natural environment and their belief that all of us, as human beings, are but parts of a larger living universe.

Native Americans have made unique and enduring contributions to my home State of Nevada. One of those individuals is Sarah Winnemucca. The first native women to publish a personal history, she embarked on a nationwide lecture series in 1879 to teach people about Native American culture and the difficult life her people experienced on reservations. An artist is now creating a statue of her, and when finished it will become Nevada's second memorial in the Capitol's National Statuary Hall Collection.

Sarah Winnemucca was a Paiute, thousands of whom continue to live in Nevada to this day. The Paiute along with the Shoshone, Washoe, and all of Nevada's native peoples have made unique contributions to our heritage and history.

I am pleased that those contributions and those of all Native Americans will now be honored in the heart of our Nation's Capital in the National Museum of the American Indian.

STENNIS FELLOWS PROGRAM

Mr. REID. Madam President, over the years, the Congress has created a number of programs to focus attention on important issues.

Today I call attention to one of those programs, which is a testament to the life and career of the late Senator John C. Stennis.

In 1988, Congress created the John C. Stennis Center for Public Service. The mission of the Center from its inception to the present has been to promote and strengthen public service leadership in America. The center accomplishes its goals through conferences, seminars, special projects and leadership development programs, one of which is the Stennis Congressional Staff Fellows Program.

In each Congress, a bipartisan, bicameral group of senior congressional staff are each nominated by a Member and selected to participate in the fellows program. The fellows explore topics which address ways to improve the effectiveness of Congress.

The 108th Fellows selected the topic that I think is quite appropriate: "Building Greater Trust and Civility."

Over the course of the last 15 months, these fellows have heard from past Members of Congress, journalists and historians in their quest to fully explore this subject and suggest initiatives to restore some level of trust and civility—which appears to have deteriorated over the past several years.

The work of the 108th Fellows is contained in a report which I would ask unanimous consent to have printed in the RECORD.

Mr. President, I urge all Members and their staff to take a look at the report, and perhaps we can return to a Chamber where there is more bipartisanship and collegiality.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUILDING GREATER TRUST AND CIVILITY

A level of trust and civility is necessary for democracy to work well and for governance to be effective. Without a basic shared framework of mutual understanding, trust and civility, legitimate public action is very difficult to initiate or sustain. The 108th Congress Stennis Congressional Staff Fellows—senior staff leaders drawn from both chambers and from both sides of the aisle—worked together to explore the core question: how to build greater trust and civility both within Congress and across society?

Successive groups of Stennis Fellows, beginning in the 103rd Congress ten years ago, have underlined that the challenge of building trust and civility is becoming both more important and more difficult in the face of 21st century realities that include:

The increasing fragmentation of our society, and growing gaps between rich and poor, leading to a multiplication of groups with very different values, assumptions and worldviews, and too little life experience in common;

A proliferation of single interest organizations advocating narrow viewpoints;

The burgeoning role of the media with its tendency to accentuate conflict;

Greater partisanship and polarization within Congress and other governing institutions;

The effects of a cascade of corporate scandals that undermine confidence;

A rising tide of public cynicism and mistrust of institutions of all sorts (business, religious, charitable and media as well as political);

Increases in disrespect and rudeness, and a decline in common courtesy that Americans report in their dealings with government, business and each other; and

A greater sense of insecurity and uncertainty in the aftermath of 9/11 and in the midst of a war on terrorism that may continue for a long time.

As Stennis Fellows of the 108th Congress, we set and pursued our own learning agenda within this broad theme, looking ahead to the next ten years and focusing on ways to build greater trust and civility both within Congress and across society.

LEARNING JOURNEY

We were drawn in roughly equal numbers from the House and the Senate and from both sides of the aisle, and represented a diverse range of backgrounds and political perspectives. Despite these very different starting points, Fellows quickly found we could work together effectively and find common ground, building on our shared respect and concern for the institution of Congress. That common ground grew throughout the period of Fellowship. In the words of one Fellow, "It's rejuvenating to find other people who actually care about working across the aisle on big issues." Another Fellow said, "The Stennis Fellows are different people from different backgrounds . . . yet so close in their beliefs and feelings about the institution. If staff can bridge the gap of trust and civility, so can Members."

To explore how best to build greater trust and civility both within Congress and across society, we examined four specific topics through a series of retreats, small group meetings and roundtables with leading outside experts:

Using dialogue to build trust;

The historical context of trust and civility;

Rules of engagement that impact trust and civility; and

External influences on Congressional trust and civility.

USING DIALOGUE

Throughout the Fellowship we experimented with using dialogue, which the 107th Congress Stennis Fellows had recommended as one powerful way to build trust and civility both within Congress and more broadly. We found that the best way to understand dialogue is by contrasting it with its opposite—debate or advocacy.

Advocacy/debate	Dialogue
Assuming that there is one right answer (and you have it).	Assuming that others have pieces of the answer
Combative: attempting to prove the other side wrong.	Collaborative: attempting to find common understanding
About winning	About finding common ground
Listening to find flaws and make counter-arguments.	Listening to understand and find a basis for agreement
Defending your assumptions	Bringing up your assumptions for inspection and discussion
Criticizing the other side's point of view.	Re-examining all points of view
Defending one's views against others	Admitting that others' thinking can improve one's own
Searching for weaknesses and flaws in the other position.	Searching for strengths and value in the other position
Seeking an outcome that agrees with your position.	Discovering new possibilities and opportunities

A key to using dialogue effectively is to recognize that it does not replace debate, advocacy, negotiation or decision-making; it precedes them. Dialogue creates the shared language and framework, the mutual trust and understanding that enable subsequent debate, negotiation and decisionmaking to be more productive. Dialogue, in other words, is a step that can be added where appropriate to create greater trust and civility, better debate and better decision-making.

We tried to practice dialogue during all sessions of the Fellowship. In addition, many of us undertook experiments, trying to apply dialogue on the job and then reporting the results to other Fellows. Generally we found that dialogue helped in a wide variety of practical circumstances, especially when it could be applied before the debate or negotiation had been fully engaged. It is a valuable tool that we plan to use more widely and hope that others will try.

KEY TRENDS AFFECTING TRUST AND CIVILITY

In the course of the Fellowship we identified a number of key trends and changes over the last several years that have had a significant impact on trust and civility both in Congress and society.

1. The growing influence of the media, in particular the 24-hour news cycle, leading to:

An oversimplification of complex issues into sound bites;

An emphasis on conflict and confrontation;

The demand for instant response with little time for reflection; and

The proliferation of news outlets with a partial viewpoint—and, as more citizens rely only on those news outlets whose perspective agrees with their own, a further fragmentation in the understanding of issues across society.

2. Greater social and cultural fragmentation ("Me The People"), including:

A decline in the perceived importance of the "greater good" and of community;

The growing power of special interests;

The weakening or loss of mediating institutions; and

The breakdown of shared standards of behavior and civility.

3. A political culture of winning at any cost, characterized by:

Misuse of information to score political points;

Using procedural rules to block majority rule and to stifle minority views;

Demonizing the opposition;

Violations of unwritten rules, norms and traditions;

Greater concentration of power in the hands of the leadership;

A weakening of the committee process;

Less bipartisanship;

A lack of genuine debate;

Redistricting to create safe seats, where incumbents can win by playing to their base and have little incentive (and some real disincentives) to reach across the aisle; and

The weakening of social bonds and trust between members of different parties.

4. Related to this divisive political culture is the subordination of governing to what amounts to a permanent campaign, which gives rise to:

Greater emphasis on politics over policy substance;

Growing reliance on polls;

The effects of almost continuous campaign fundraising;

The growth and influence of the political consulting industry;

Increases in the number and influence of special interests; and

All of which are reinforced by the close political margins in both chambers.

As a result of these trends and many more, Congress is becoming less relevant, respected and trusted. Moreover, as we looked ahead ten years and tried to imagine what the situation would be like if we remain on this course; we saw a future that few of us would want, characterized by:

Greater polarization and a disappearance of the more moderate middle of the political spectrum;

Less focus on policy, more on politics and "PR";

Even greater influence of money;

More disconnected voters as public perception of Congress deteriorates;

Increased power of special interests;

More segmented media playing to ever smaller sub-groups, reinforcing social fragmentation and making a truly national conversation ever more difficult; and

Greater difficulty in attracting good people to serve in Congress either as Members or as staff.

A BETTER FUTURE

Senator Stennis had a plaque on his desk inscribed with the words, "Look Ahead." It has become a motto both for the Stennis Center and for the Fellows program. As the Fellows began to "Look Ahead" to define the kind of future we would like to see, we found much common ground that transcends the boundaries of party and chamber. In particular, we would like to see a future of strengthened trust and civility, in which there would be:

1. A more deliberative and bipartisan legislative process, characterized by:

Greater emphasis on policy over politics;

Clearer separation between campaigning and governing;

New and strengthened non-partisan oversight mechanisms;

A stronger role for individual Members of Congress;

Strengthened committees and subcommittees where substantive deliberation can more easily occur,

A more consistent committee work schedule (setting aside consistent times when Members of Congress are in town to do committee business);

Increased efforts to develop and retain professional staff;

More social interaction both among Members of Congress and among staff across chamber and party lines;

Developing the norm that bipartisan and bicameral legislating is the desired process, with special recognition and rewards for efforts that increase bipartisanship, trust and civility.

2. Enhanced public participation and a more engaged and informed electorate:

Encouraging voters to be more involved;

Developing/re-empowering political parties at the grassroots level;

Making greater use of field hearings and other mechanisms designed to foster more direct interaction with the public outside of Washington.

3. A stricter lobbying code of conduct with better disclosure and assistance for groups who cannot afford lobbyists;

4. Better and more balanced media reporting;

5. An end to the most extreme forms of negative campaigning (campaigning that goes far beyond what is required to point out distinctions between candidates);

6. And generally better exchange, broader participation and better dialogue, creating a legislative process that produces better outcomes for the country and brings with it greater respect for Members and for Congress.

NEXT STEPS

Moving toward a future with more trust and greater civility will require:

Increasing public engagement and participation;

Strengthening deliberation within Congress; and

Providing recognition and rewards for efforts that increase trust and civility.

The Fellows identified a number of practical steps that we and others can take to advance these three goals (unless otherwise indicated, we propose that each of these steps be taken during first session of the 109th Congress if not before).

INCREASING PUBLIC ENGAGEMENT AND PARTICIPATION

1. Congress should designate October as Civic Awareness Month (this designation should be made before the end of the 108th Congress), which would include:

Members visiting schools to talk about the election and governance process;

Schools organizing mock elections;

Sponsoring student essay contests in each Congressional District, with the winning entries to be inserted into the Congressional Record;

Developing a "Junior Civic Leader" program to encourage school-age children to become more aware of civic responsibilities;

Activities by celebrities and the media to increase awareness of civic responsibilities;

Coordinated activities with state government; and

Encouraging popular TV shows to do special episodes on civic awareness.

2. Create a bipartisan National Council on Voter/Citizen Participation.

The Council would provide an annual report to Congress on ways to increase participation;

Members would include the Congressional Leadership, chairmen and ranking members of relevant committees, representatives from the States, academics and other experts;

Issues to examine include:

Who is not participating and why?

Does it make sense and would it help to adopt more non partisan forms of redistricting, like the current process in Iowa?

How can or should new technologies, including the Internet, be used to facilitate voting and participation?

What kinds of awareness programs are most likely to help (for example, a "take your child or friend to vote" campaign)?

Should the voting age be changed to 17, so students can have their first voting experience (with their friends) before they graduate from high school?

Explore possible changes in the electoral calendar, for example:

Should the early voting period be longer and should absentee or mail ballots be used more?

Would it be helpful to change Election Day to the weekend (as Louisiana does now)?

Should the dates and the sequence of primary elections be changed to increase voter interest (for example, rotating which primaries come first)?

Does it make sense to stagger poll opening and closing hours in each time zone so that most polls open and close simultaneously (as Canada has done recently), and/or to limit or ban exit polls and the calling of elections before polls have closed across the country?

What are the best practices from other democracies, and other ways to enhance citizen engagement from which we can learn? Given the central responsibility of the States for many of these questions, one product of the Council might be a uniform election code that would then be submitted to the States to consider.

3. Authorize the Federal Election Commission to administer challenge grants for the best efforts by different states to increase participation.

The FEC would submit a report on grants 180 days after the election both to Congress and to the National Council on Voter/Citizen Participation,

The challenge grants program should be authorized from 2005 to 2010 and then reevaluated.

4. Bring government to the people.

Increase the use of field hearings, with local witnesses and targeted outreach (starting in a non-election year).

Develop an improved and consolidated web page for access to all government information and services.

5. Explore other means to increase citizen engagement and improve dialogue with the public.

STRENGTHENING DELIBERATION WITHIN CONGRESS

1. Conduct bicameral, bipartisan legislative policy retreats for Members of Congress and staff.

The Congressional Research Service should be designated to provide support on organization, design, briefing papers, experts, and logistics, with direction from the leadership (CRS already runs programs for new Members).

The norm should be established that all Members spend some time at these retreats.

Members' accounts would have an allocation for attendance at legislative policy retreats that could not be used for other purposes. If not used for a retreat these funds would be returned to the Treasury.

It will be essential to educate the media on the purpose and value of these retreats.

2. Make structural and procedural changes within Congress to foster greater trust, civility and deliberation (begin in the 109th Congress with full implementation by the 111th).

The Congressional leadership should form a special task force of senior Members of Congress and Parliamentarians to review all House and Senate rules and protocols to better protect both the rights of the minority to have a voice and the rights of the majority to govern, and to encourage greater deliberation, trust and civility.

The special task force should also be asked to examine ways to strengthen the role of committees as forums for deliberation. For example:

Should there be a requirement that no floor action be taken until 5–10 days after a bill has been reported?

Should one day each week be designated for committee work only—no floor action on that day?

Should attendance at committee meetings be reported publicly, and should the press be encouraged to scrutinize committee transcripts for attendance and votes?

At the same time, the task force and the leadership should encourage existing committees to promote greater trust and civility:

The focus would be on five committees—House and Senate Rules Committees, House and Senate Ethics Committees, and the House Administration Committee.

Look for opportunities for these committees to work together to improve overall trust and civility.

The leadership should establish a priority legislative plan at the beginning of each Congress listing the priority items to be taken up in the first session and in the second session (as the Senate generally does already). This plan would be updated periodically as required to provide a shared understanding of the leadership's legislative priorities.

3. Encourage C–SPAN to provide more coverage of committee hearings including field hearings (possibly even establish a C–SPAN 4 for that purpose). Coverage should include in-depth presentations by chairmen and ranking Members of committees, followed by questions from experts and the public.

4. Create more opportunities for relationship building among Members of Congress and also among staff across the boundaries of chamber and party.

Hold more bipartisan field hearings and fact finding trips that engage the public at the grassroots level—and find better ways to ensure the press understands the value of these efforts;

Create more opportunities for Members of Congress and their families to get to know each other and to build relationships;

Provide incentives to attract and retain professional staff (for example, more professional development opportunities); and

Develop more programs like the Stennis Congressional Staff Fellows, and explore the possibility of comparable programs for Members of Congress.

5. Establish a bipartisan blue ribbon commission to examine ways to reduce the negative impact of the permanent campaign and of campaign fundraising, and to recommend legislative and structural changes that would reduce the influence of the campaign in the legislative function. The commission would be composed of former Members of Congress, parliamentarians, former heads of Congressional campaigns, the media, and others with relevant experience and expertise.

The questions to be examined include:

How can we ensure federal election law is fairly implemented and fully enforced, and improve the efficacy, efficiency and reliability of the Federal Election Commission?

Should there be and can there be restrictions on fundraising during the legislative session?

Should there be further restrictions on the degree to which staff can be engaged in fundraising, and should the Hatch Act be extended to Congressional employees?

Are there other indirect ways to reduce the influence of campaign funding.

For example:

Can the media help to reduce the importance of money, through reporting on contributions and through provision of airtime free or at reduced cost?

Can greater citizen engagement be used to counter balance the influence of money?

To what degree can stricter and more immediate disclosure of donations help?

Should the tax credit for small contributions be reinstated as a way to reduce the influence of large donors?

What lessons can be learned from the ways in which other democracies control the influence of campaign fundraising, and separate campaigning and governing?

PROVIDING RECOGNITION FOR EFFORTS THAT INCREASE TRUST AND CIVILITY

1. Create prestigious awards to recognize efforts that promote greater trust and civility in Congress.

Create a selection panel composed of outstanding former Members of Congress.

Seek the cooperation of existing outside groups that might co-sponsor awards.

Engage the media in the process, possibly establishing a Committee of Correspondents to participate in selection and in raising the profile of the awards.

The Stennis Center and Stennis Senior Fellows could provide support in creating and administering these awards.

Awards could be made to Members of Congress, committees, subcommittees and staff.

Multiple awards should be given in both the first and second sessions of each Congress.

2. Develop and implement a civility scorecard.

Encourage an independent group such as the Congressional Quarterly or National Journal to develop the scorecard.

Encourage a major foundation to fund grassroots organizations to promote greater civility, and possibly to fund the scorecard.

CONCLUSIONS

The steps toward greater civility and trust outlined in this report are not meant to be comprehensive and, by themselves, cannot resolve the challenge of building greater trust and civility. It is important to be clear on these limitations, because they also point to areas where others can contribute much.

As a practical matter we decided to focus our efforts on changes within Congress, which is where we thought we could make the biggest difference. As we have learned, though, lack of trust and civility in Congress is closely related to declining trust and civility in society, and both will need to be addressed if we are to make lasting improvements.

Even within Congress, there are critical issues we did not have the time or resources to address in the depth they require. Foremost among these is the role of the permanent campaign and the negative effects of campaign fundraising. These questions require much greater attention, and it is important to find ways to do this without triggering more partisan acrimony.

In the end, as many of the experts with whom we met emphasized, the levels of trust and civility within Congress depend on the Members—in the words of one: "We end up with the kind of Congress the Members give us." Making changes will depend ultimately on Members' determination that this is an area where change is required.

Nonetheless, we believe that the steps outlined in this report can make a real difference, and we plan to work together, following our period of Fellowship, to advance as many of those ideas as we can. We have learned in carrying out our day-to-day responsibilities that trust and civility are more than nice things to have; they make a real difference in what we can accomplish together. Moreover, if changes are not made soon, we believe it will become more and more difficult to find good people to serve on Capitol Hill either as Members of Congress or as staff, further undermining the ability of the institution to do its essential job in our democracy.

We came from both chambers, from both sides of the aisle and from very different backgrounds, but in the course of our Fellowship we found that our shared commitment to the institution of Congress and its critical role in our democracy far outweighed our differences. The Stennis Fellowship provided an all too rare opportunity for us to step outside of our normal roles, share experiences, explore new ideas and learn from each other. It provided a space for dialogue, within which we were able to build, in microcosm, the kind of trust and civility we hope will grow more widely both in Congress and across society. We also found that maintaining the dialogue requires real work and attention—it is easy to slip back into familiar patterns—but that the increased trust, civility, insight and ability to work together that result more than justify this effort.

In the end, perhaps the best way to understand dialogue is to experience it. We hope that many others in Congress can have the sort of experience we have had during our period of Fellowship, and that this sort of dialogue also can take place more regularly not just in Congress, but in other parts of our society and between Congress and the public. The need is urgent to find ways to strengthen trust and civility both within Congress and across society. To make a difference we need to start from where we are. We each can make a contribution from any starting point. We invite you to consider what you can do to help address this challenge, starting from where you are.

MEETINGS OF THE 108TH CONGRESSIONAL STAFF FELLOWS PROGRAM

1. Fellows met first in July 2003 to get acquainted and to define their Learning Agenda.

2. To set the stage for exploring their Learning Agenda, Fellows participated in a November workshop on "Dialogue Essentials" led by Steven Rosell and Mark Gerzon from Viewpoint Learning.

3. The Fellows pursued their Learning Agenda in four roundtables with outstanding resource persons:

Historical Context: Changes in Trust and Civility (December 2003)

Dr. Richard A. Baker, Senate Historian.

Dr. Patrick Towell, Center for Strategic and Budgetary Assessments.

Rules of Engagement that Foster Trust and Civility (February 2004)

Brian Lamb, Chairman and CEO, C–SPAN

Burdett Loomis, Chair, Political Science Department, University of Kansas.

External Influences on Congressional Trust and Civility (March 2004)

The Honorable David Skaggs Executive Director, Center for Democracy and Citizenship Program, Council for Excellence in Government.

Ruth Wooden, President, Public Agenda.

Rules of Engagement that Impact Trust and Civility (March 2004)

The Honorable Dale Bumpers, Arent, Fox, Kintner, Plotkin and Kahn, PLLC.

The Honorable Bob Michel, Hogan and Hartson, LLP.

4. Fellows visited the USS *John C. Stennis* aircraft carrier at sea in November 2003 and March 2004.

5. Fellows worked together first in small groups in May of 2004 and then at a two-day retreat and subsequent half-day session in The Capitol in June to synthesize what they had learned and to produce this report.

108TH CONGRESS STENNIS FELLOWS

Richard A. Arenberg, Legislative Director & Deputy Chief of Staff, Office of U.S. Senator Carl Levin.

John M. Ariale, Chief of Staff, Office of U.S. Representative Ander Crenshaw.

Winfield Boerckel, Jr., Administrative Assistant/Legislative Director, Office of U.S. Representative Gerald D. Kleczka.

David Cavicke, Chief Counsel, Subcommittee on Commerce, Trade, and Consumer Protection, House Committee on Energy and Commerce.

Jo-Ellen Darcy, Senior Policy Advisor, Senate Committee on Environment and Public Works.

Lula Johnson Davis, Assistant Secretary for the Minority, Office of the Secretary for the Minority.

Don DeArmon, Associate Staff for Appropriations, Office of U.S. Representative Lucille Roybal-Allard.

Bruce M. Evans, Staff Director, Subcommittee on Interior and Related Agencies, Senate Committee on Appropriations.

Beverly Ann Fields, Chief of Staff, Office of U.S. Representative Eddie Bernice Johnson.

Gene T. Fisher, Legislative Director/Special Assistant for Appropriations, Office of U.S. Representative Carolyn C. Kilpatrick.

Monique P Frazier, Legislative Director, Office of U.S. Representative Mike Ross.

Jennice Fuentes, Chief of Staff, Office of U.S. Representative Luis Gutierrez.

Christina Langelier Hamilton, Administrative Assistant, Office of U.S. Representative David Obey.

Elisabeth Wright Hawkings, Chief of Staff, Office of U.S. Representative Christopher Shays.

Clayton Heil, Legislative Director, Office of U.S. Senator Thad Cochran.

Robert Gregory Hinote, Chief of Staff, Office of U.S. Representative Jim Cooper.

Robert Holste, Administrative Assistant, Office of U.S. Representative Phil English.

Stacey Leavandosky, Legislative Director, Office of U.S. Representative Lynn Woolsey.

Evan Liddiard, Senior Tax Policy Advisor, Office of U.S. Senator Orrin Hatch.

Stephanie J. Monroe, Chief Counsel, Senate Committee on Health, Labor and Pensions.

Sue A. Nelson, Minority Deputy Staff Director, Senate Committee on Budget.

Janet Perry Poppleton, Chief of Staff, Office of U.S. Representative Ralph M. Hall.

Judy Schneider, Specialist on the Congress, Congressional Research Service, Library of Congress.

Russell Sullivan, Minority Chief Tax Counsel, Senate Committee on Finance.

Kristine Svinicki, Senior Policy Advisor, Office of U.S. Senator Larry Craig.

Alison Taylor, Minority Chief Counsel, Senate Committee on Environment and Public Works.

Paul Unger, Counsel and Legislative Director, Office of U.S. Senator George Allen.

Mark S. Wellman, Chief of Staff, Office of U.S. Representative Paul E. Gillmor.

STENNIS CONGRESSIONAL STAFF FELLOWS PROGRAM

The Stennis Congressional Staff Fellows Program, sponsored by the Stennis Center for Public Service, is a practical, bipartisan leadership development experience for senior-level staff of the United States Congress. Established in the 103rd Congress (1993–1994), the Stennis Fellows Program brings together chiefs of staff, committee staff directors, legislative directors, and others to explore ways to improve the effectiveness of the institution of Congress. A new class of 24 to 28 Stennis Fellows is selected competitively from each Congress. A Member of Congress must nominate each Fellow. The Fellows class is balanced with nearly equal numbers from both political parties and both chambers.

The Stennis Fellows Program focuses on the future challenges of Congress as an institution and the leadership role played by senior Congressional staff in meeting those challenges. Stennis Fellows meet periodically over a fifteen-month period, and examine issues of their own choosing. The program invites nationally and internationally renowned experts to meet and dialogue with the Stennis Fellows. While learning from these outside authorities is a unique opportunity, a primary benefit of the program is the learning and relationship building that takes place among the Stennis Fellows themselves.

STENNIS CENTER FOR PUBLIC SERVICE

The Stennis Center for Public Service was created by Congress in 1988 to promote and strengthen public service leadership in America. The Stennis Center is headquartered in Starkville, Mississippi, with an office in Washington, DC Programs of the Stennis Center are funded through an endowment plus private contributions.

The Stennis Center's mandate is to provide development and training for leaders in public service, including Congressional staff, and to attract young people to careers in public service leadership. The Stennis Center accomplishes its mission through conferences, seminars, special projects and leadership development programs.

NOMINATION OF THE HONORABLE PORTER GOSS TO BE DIRECTOR OF CENTRAL INTELLIGENCE

Mr. SANTORUM. Madam President, I regret that I was unable to vote yesterday afternoon on the nomination of PORTER GOSS to be Director of the Central Intelligence Agency. Yesterday, I was surveying the significant flood damage in Pennsylvania with President Bush. As my colleagues know, the remnants of Hurricane Ivan wreaked havoc in my home State. Parts of Allegheny County received eight inches of rain in a 24-hour period. A member of my Pittsburgh staff lost everything he owned in the flood. A total of 41 counties in Pennsylvania have now been declared Federal disaster areas. I was pleased that President Bush took the time to visit with my constituents and bring a message of hope and aid to Western Pennsylvania.

On the nomination of PORTER GOSS, I would like to add my voice to the others that have expressed confidence in his abilities to lead the CIA in these difficult times. Congressman GOSS' experience as a former Army intelligence officer and as a CIA field officer will serve him well as we undertake the awesome responsibility of guiding and improving the CIA.

The need for a coordinated and comprehensive intelligence system for this country is imperative. I am pleased that President Bush has nominated a capable candidate to take on the difficult challenge of improving not only our level of human intelligence, but also the ability of our intelligence community to provide our policy makers with better intelligence products.

I ask that the RECORD reflect that, had I been here, I would have voted in favor of the nomination of PORTER GOSS to be Director of the Central Intelligence Agency.

STEM CELL RESEARCH

Mr. LEVIN. Madam President, I would like to discuss the issue of federally funded stem cell research. On August 9, 2001, President Bush outlined the policy of his administration regarding federally funded research using only existing stem cell lines. He indicated that he felt this would allow for Federal research dollars to be used on about 60 lines of stem cells. In actuality, over 3 years later, there are indications that Federal research has been done on only as many as 24 lines and as few as 5.

Yet, the administration continues to state this policy is appropriate. As recently as Monday, President Bush stated on a campaign stop in Derry, NH, that his stem cell policy "balanced good science with good ethics." I disagree. We must use modern medical technology to its fullest capability to use stem cells to develop cures for debilitating diseases such as Alzheimer's, Parkinson's, diabetes, cancer and ALS, commonly referred to as Lou Gehrig's disease. The Federal Government should not restrict our policy to only existing stem cells but expand the policy to include newly discovered stem cell lines as well as unused cells that would otherwise be discarded from in vitro clinics. This is the position of the majority of the American people and it is the position of former First Lady Nancy Reagan.

On a personal note, a dear friend of mine, William Kooistra, of Grand Rapids, MI, was recently diagnosed with ALS. Bill Kooistra founded Project in Rehabilitation in 1968, seeing the need for the medical community to become involved in treating the problems of drug addiction. Project Rehab is now one of the largest and longest running substance abuse programs in my home State. There is hope that stem cell research can one day cure diseases such as ALS. Although that cure may come too late for my friend Bill, I hope and I know that he hopes that a cure can be found one day so that the generations to come won't have to worry that they are genetically predisposed to contract ALS. I ask unanimous consent a September 12, 2004, letter from Bill Kooistra to the Grand Rapids Press on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Grand Rapids Press]

BUSH TOO RESTRICTIVE ON STEM-CELL RESEARCH

Historian Arthur M. Schlesinger, Jr., recently wrote that President Harry Truman's famous sign—The Buck Stops Here—"tells only half the story. Citizens cannot escape the ultimate responsibility. It is in the voting booth, not on the presidential desk, that the buck finally stops."

Hopefully, all American voters will look at all the issues before casting their personal directive for good government.

One issue is new on the American political scene: the issue of how best to direct the use of embryonic stem cell research.

The science of healing was politicized by President George W. Bush in August, 2001, when he placed severe restrictive limits on embryonic stem cell research.

As a Christian, I believe that all disease is part of God's long-range plan. I also believe that all remedies and cures for disease are God-given and medical science is the means by which these remedies are achieved. Effective medical science cannot be restricted.

Within realistic financial boundaries, medical science must be free to explore all avenues, including dead-end routes, in order to achieve its miracles.

It is also important to recognize that the elderly person who currently has the disease is not the only beneficiary of medical research, but also that the person's children and grandchildren who have the genetic predisposition for that disease will benefit.

As an individual recently diagnosed with ALS (Lou Gehrig's disease), I have no clue as to whether embryonic stem cell research could provide a "medical miracle" for me or my descendants, but I resent it when a politician blocks God's plan for a medical remedy.

Fortunately, Bush's unwise decision can be overcome on Nov. 2 because his opponent, John Kerry, supports the unfettered use of embryonic stem cell research.

Obviously, humane guidelines will have to be established to lead this scientific quest, but the current political limits to find God-ordained remedies and cures to disease are totally unacceptable.

WILLIAM H. KOOISTRA,
East Grand Rapids.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Madam President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On April 12, 2000, Edgar Mora was sentenced to 2 years in prison for a hate crime in connection with the March 1998 murder of a gay man.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

COMMEMORATING THE 249TH BIRTHDAY OF JOHN MARSHALL

Mr. ALLEN. Madam President, I rise today to honor the birth of one of Virginia's and America's true citizen soldiers, statesmen, and most importantly jurists, the former Chief Justice of the United States Supreme Court, John Marshall.

John Marshall's legacy as a Federalist is truly remarkable, but what many people fail to address is his true love for a young America and the desire to see our country succeed and persevere for generations to come.

A native Virginian, from Germantown, he grew up with his parents Thomas and Mary Randolph Keith. His devotion to our Nation was ever present when the Revolutionary War began with the firing of the historic shots at Lexington and Concord. Like so many of his great countrymen, Marshall did not waver in spirit or succumb to fear; Marshall picked up arms against the tyrannical oppressive British Crown and defended the freedom and liberty that he envisioned for Virginians and other colonies.

At the young age of 20, Marshall joined the Culpeper Minute Men. He was chosen a lieutenant. Marshall proceeded to nobly fight in the battle of Great Bridge. In fact, while enduring the cold winter at Valley Forge, Marshall was General George Washington's chief legal officer and by the end of his military service, John Marshall was a brigadier general for the Second Brigade in the Virginia Militia.

After his valiant war service, Marshall returned to Virginia to study law under George Wythe at the College of William and Mary. He was admitted to Phi Beta Kappa and the Virginia Bar. Marshall's desire to practice in the courts and the Court of Appeals led him to the great capital city of Richmond. It is in Richmond where Marshall's political and judicial life began to flourish.

John Marshall became one of the leading attorneys defending Virginians in the United States District Court of Virginia, and as a consequence, he was selected to be the lead counsel in arguing the landmark case, Ware v. Hylton, in the 1796 term of the United States Supreme Court. This case would be the only case that John Marshall would argue before the Nation's highest court. John Marshall lost this case when the Court held that a treaty between the United States and Great Britain terminating the war requiring Americans to pay the debts they owed to British creditors not in State currency, but in the equivalent of gold.

Like his legal career, Marshall saw success in politics. He held legislative office as a member of the Virginia House of Delegates, a member of the Governor's Council of State, and finally as a member of the United States House of Representatives. But one of his most important, but overlooked roles is his election to the Virginia convention that ratified the Federal Constitution. Marshall rose and delivered a very poignant speech on the role of the judiciary. This speech dispelled many of the fears of a Federal court system and truly defined his views on the proper function of government.

However, John Marshall was not a boisterous individual. He refused many attempts by President Adams to appoint him to Federal office. But he accepted and served as a diplomatic envoy to France for President Adams as well as Adams' Secretary of State. It was with his dedicated service as Secretary of State that led President Adams to appoint Marshall to the United States Supreme Court, where his legacy would endure.

We all know the landmark cases that John Marshall decided. From McCulloch v. Maryland to Gibbons v. Ogden, Marshall's contribution to the American judiciary system is ever present. But the case that truly enshrines his legacy is his ruling in Marbury v. Madison. In fact, what made this more impressive was that Marbury was the first case that the Supreme Court and John Marshall heard after Marshall became Chief Justice of the United States.

Marshall's ruling in Marbury v. Madison has defined the role of the Supreme Court and its pivotal place in our system of checks and balances. Although the decision limited the power of the Supreme Court, it also served to establish the Court's authority to review the constitutionality of acts of

Congress. The doctrine of judicial review became a fundamental principle of Constitutional law.

While I am a Jeffersonian who wishes to limit the reach and meddling of the Federal Government into the rights and prerogatives of the people and the States, I do believe these foundational Constitutional questions, debates, and decisions are noteworthy for the education of our present leaders and students. Such attention to historic figures such as John Marshall will help our young people better understand what it means to be an American.

It is with great honor that I stand here today and celebrate the birthday of one of our great citizen soldiers, statesmen, and Chief Justices. We should celebrate John Marshall's contribution to our country. His steadfast commitment to federalism helped define the role of the courts and may have ultimately preserved the delicate equilibrium of our Government. But what trumped his loyalty to the federalist way of life, was his love for his Nation and his desire to see America flourish into the great country that it is today.

I would like to take this opportunity to wish a happy 249th birthday to Chief Justice John Marshall, and I look forward to the festivities that are being planned to honor Chief Justice Marshall's 250th birthday next year.

DISASTER ASSISTANCE

Mr. DODD. Madam President, as all Americans, especially those in Florida, Mississippi, Alabama, and Louisiana well know, this hurricane season is proving terribly destructive and it is not over yet. Many of my colleagues have risen before this body to describe the damage caused by Hurricanes Charley, Francis, and Ivan. I want to commend them for their efforts and commend this body for the speed with which it passed $2 billion worth of aid to help Florida recover from the devastation. I understand additional aid packages are also under consideration, and I urge my colleagues to move as swiftly as possible to provide all necessary aid to help those who were affected by these storms.

At the same time, I want to call attention to another region which was also hard-hit by these storms. To date, Hurricanes Charley, Francis, and Ivan, as well as Tropical Storm Jeanne have claimed the lives of well over 1,000 people and caused extensive damage throughout the Caribbean, especially in Haiti, Grenada, and Jamaica.

Just this past week, Tropical Storm Jeanne made landfall on the Island of Hispaniola. Rain, mud slides and flooding have made it the season's deadliest storm, claiming at least 1,070 lives in the impoverished nation of Haiti, 19 in the Dominican Republic and 7 in Puerto Rico. As of September 21, 50 percent of the city of Gonaives, in northern Haiti, remained under water, and the loss of lives and infrastructure to the people of Gonaives are enormous and likely to increase.

Tropical Storm Jeanne is only the latest in what has been a deadly hurricane season. Two weeks ago, Hurricane Ivan cut a swath of destruction across much of the Caribbean. Keith Mitchell, the Prime Minister of Grenada, called the damages to his island, "beyond imagination," and with good reason. Over 90 percent of the buildings in Grenada were damaged by the storm. Two thirds of the population, approximately 60,000 out of a total of 95,000 residents, are now homeless. Power is out across the island, and the Grenadan people are in desperate need of food, water, and shelter. The Hurricane even destroyed a 17th century stone prison, allowing a number of inmates to escape.

I am pleased that the United States has already provided nearly $1 million in direct assistance to Grenada, $700,000 to Jamaica, $300,000 to the Bahamas, and $60,000 to Haiti. The Office of Foreign Disaster Assistance, moreover, currently has teams on the ground throughout the Caribbean, assessing what steps the United States should take to bring additional aid to this devastated region.

But the Caribbean remains in desperate need. United Nations Disaster Assessment and Coordination teams have estimated that more than 50,000 people require urgent water and sanitation services in Jamaica. In the Gonaives region of Haiti, at least 20,000 are homeless, and 80 percent of the population was severely affected by the storm. Indeed, our immediate goal has to be providing basic necessities: food, water, shelter.

But while we must focus on these requirements, we cannot forget that rebuilding lost infrastructure in these countries will require a much more significant and sustained commitment of aid. It is always difficult to estimate total damages so soon after such a devastating storm, but one thing is certain—the cost of recovery will be immense. The World Bank estimates the rebuilding costs in Grenada alone are likely to rise to several billion dollars. The United States and the international community must rise to this challenge.

Many countries and organizations have already made some important contributions. CARICOM nations, in particular, have stepped forward to provide assistance. Trinidad and Tobago has pledged $1.7 million to Grenada and Jamaica, and around 200 troops from CARICOM countries have helped restore order in St. George's, the capital of Grenada, where looting was rampant in the immediate aftermath of the storm.

These storms, however, did more than just knock out power and telephone lines. They damaged schools and hospitals. They destroyed agriculture and industry critical to the long-term economic future of the region. In Grenada, the nutmeg crop, which is critical to the Grenadan economy, suffered extensive damages, and these crops will take years to recover, since Nutmeg trees take as many as 20 years to grow to their full potential. The year's banana crop was almost entirely lost, and the tourist industry was also badly damaged. National Public Radio quoted an advisor to Prime Minister Mitchell as saying, "Grenada has no economy. The economy is dead."

Flooding, meanwhile, has destroyed homes and crops throughout Haiti, particularly in the northern region of Gonaives. Most of the agricultural land outside that city has been flooded, and at least 20,000 are without homes. The poorest nation in the Americas, Haiti has already suffered from political turmoil as well as flooding, which four months ago claimed the lives of at least 1,700 people. As I mentioned earlier, this time, more than 1,070 have lost their lives.

Mr. President, Louis Telesford, a 27 year old Grenadan, had his wooden home destroyed by Hurricane Ivan. According to the Associated Press, he is now living along with 15 other people in his neighbor's concrete house. "It's going to be a long, long time before we recover," said Mr. Telesford. "We need help." I urge the administration to ensure that we provide this critical assistance.

ADDITIONAL STATEMENTS

HONORING THE MEN AND WOMEN OF THE BOISE AIRPORT TRAFFIC CONTROL TOWER

• Mr. CRAPO. Mr. President, today I offer my congratulations to the men and women who operate the Boise Airport Traffic Control Tower, ATCT, on its being named the Regional Facility of the Year for 2003 by the FAA.

The Boise ATCT was rated outstanding and best among five other level-8 facilities with the FAA Northwest mountain region. Each facility was evaluated in the categories of operational excellence, communications, employee development, external relations, resource management, human relations, professionalism, employee morale and customer service. Boise's outstanding facility handled 163,022 operations in 2003 with consistent, dedicated and superior service.

I am proud of these highly capable men and women, and proud to have them representing our State. I wish each of them continued success in serving the great State of Idaho, its citizens and the citizens of the Nation.•

POLISH HERITAGE ASSOCIATION

• Ms. MIKULSKI. Madam President, I rise today to salute the Polish Heritage Association of Maryland on the occasion of their thirtieth anniversary.

In 1974, a hearty band of Polish-Americans in Maryland decided to make a difference by founding the Polish Heritage Association of Maryland. Founders, like Stan Ciesielski, came together to make outstanding contributions to America, future generations and Poland. The Polish Heritage Association shows that in America, it is possible to be both Polish and American; by promoting the rich legacy of our past and enriching our community for the future.

The Polish Heritage Association does this through scholarships for young people: over $160,000 supporting more than 150 of Maryland's best and brightest students of Polish ancestry. The Polish Heritage Association has also been tireless in their humanitarian support for Poland. As the Polish people suffered under martial law, they created and organized Maryland Action for Poland, raising thousands of dollars and sending thousands of food packages to Poland. In 1995, the Polish Heritage Association raised over $300,000 to send medical supplies to Lodz, where Communist mismanagement had led to severe supply shortages.

The Polish Heritage Association has forwarded Polish life with cultural and educational programs, such as lectures, concerts and exhibits. The Polish Heritage Association has shown that by organizing and cooperating with each other, we can make a real difference.

I am proud to be the first Polish-American woman in Senate. Growing up in East Baltimore, I learned about our proud history. Poland's history is marked by strong, achieving women, from Queen Jadwiga, ushering in Poland's "golden age," to Marie Sklodowski Curie, the first woman to win a Nobel Prize. I learned about Polish heroes like Copernicus, Chopin and General Pulaski and General Kosciuszko. I also learned that the history of Poland has been a sometimes melancholy one. Every king, Kaiser, czar or comrade who ever wanted to have a war in Europe always started by invading Poland. But while Poland was sometimes occupied, the heart and soul of the Polish nation was never occupied.

In 1980, an obscure electrician, working in the Gdansk shipyard jumped over a wall proclaiming the Solidarity movement. He took the Polish people and the whole world with him to bring down the Iron Curtain.

I grew up with the values that our Polish community holds so dear. Values like patriotism, social justice, respect for others, hard work and loyalty. These are the values I carry with me on the floor of the Senate.

I am proud of my record of standing up for Poland: from solidarity to the Senate floor. I fought to enlarge NATO and I am so proud that Poland is now a full, contributing member, playing an important role in every NATO action. Poland has stood with our American troops in Iraq, fighting alongside from day one.

We know that Poland faces many challenges: its economy, growing international commitments and the pains from moving to a free market democracy. But I will continue to stand up for Poland, and so will the Polish Heritage Association.

Just this week, I introduced legislation to extend the United States Visa Waiver Program to Poland. I joined with Lech Walesa to stand up for Polish citizens who want to travel to the U.S. for business or tourism so they can stay for up to 60 days without needing to stand in line to get a visa. I am fighting to remove barriers so the Pulaskis and Kosciuszkos and Marie Curies of today can visit our country, to keep the doors of friendship open. Immigrants built this country; we can't close the door behind us.

I am proud to celebrate the thirtieth anniversary of the Polish Heritage Association of Maryland, and salute this organization on the floor of the United States Senate. So many things to celebrate: a thriving Polish Community in Baltimore and 30 years of contributions to family, country, and heritage.•

TRIBUTE TO ADMIRAL JEROME L. JOHNSON

• Mr. MCCAIN. Mr. President, today I honor an exceptional leader and true patriot. After a lifetime of service to our Nation, Jerome L. Johnson is retiring from his current position as chairman of the Military Officers Association of America, effective October 14, 2004. On this occasion, it is fitting to also recognize his 38 years of commissioned service as a naval officer and exemplary leadership as president and chief operating officer of the Navy-Marine Corps Relief Society. Admiral Johnson's career illustrates a lifelong commitment to service with honor and dedication to causes than his own self-interest.

A native Texan, he graduated from Texas A&M University, completed the Naval Aviation Cadet Program, and was commissioned as an ensign in the U.S. Navy in 1956. As a naval aviator, he served with distinction in a wide range of combat, command, and staff assignments. Admiral Johnson's distinguished naval career culminated with tours of duty as commander Second Fleet, commander of NATO's Striking Fleet Atlantic, and finally as the vice chief of Naval Operations. He retired from military service in 1994 as the senior naval aviator on active duty, receiving the prestigious honorary title of the Navy's "Gray Eagle."

Admiral Johnson's selfless devotion to service and quest for excellence continued long after he left active duty. For 10 years, he served as president and chief executive officer of the Navy-Marine Corps Relief Society, which provides financial, educational, and other assistance to active-duty and retired sailors, marines, and their family members. He also was elected to the board of directors of the Retired Officers Association in 1998, became the chairman of the board, and oversaw the organization's successful transformation into the Military Officers Association of America. Through his responsible stewardship, MOAA continues to support Congress by advocating legislative initiatives that improve readiness and quality of life for all current and retired members of our services, as well as their families.

We are grateful to Admiral Johnson for his outstanding leadership in uniform and in private life by supporting members of the Armed Forces, the military coalition, and all veterans. We offer Admiral Johnson a sharp salute, and wish him "fair winds and following seas."•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 11:31 a.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the Speaker of the House of Representatives has signed the following enrolled bills:

H.R. 265. An act to provide for an adjustment of the boundaries of Mount Rainier National Park, and for other purposes.

H.R. 1521. An act to provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania, and for other purposes.

H.R. 1616. An act to authorize the exchange of certain lands within the Martin Luther King, Junior, National Historic Site for lands owned by the City of Atlanta, Georgia, and for other purposes.

H.R. 1648. An act to authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley Water District and the Montecito Water District.

H.R. 1658. An act to amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes.

H.R. 1732. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, and for other purposes.

H.R. 2696. An act to establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West.

H.R. 3209. An act to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project.

H.R. 3249. An act to extend the term of the Forest Counties Payments Committee.

H.R. 3768. An act to expand the Timucuan Ecological and Historic Preserve, Florida.

The enrolled bills were subsequently signed by the President pro tempore (Mr. STEVENS).

At 2:08 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution:

S. Con. Res. 137. Concurrent resolution calling for the suspension of Sudan's membership on the United Nations Commission on Human Rights.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2449. An act to establish a commission to commemorate the sesquicentennial of the American Civil War.

H.R. 2528. An act to establish the Hudson-Fulton-Champlain 400th Commemoration Commission, and for other purposes.

H.R. 3589. An act to create the Office of Chief Financial Officer of the Government of the Virgin Islands.

H.R. 3734. An act to designate the Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, as the "Joe Skeen Federal Building".

H.R. 4045. An act to authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River, and for other purposes.

H.R. 4806. An act to provide for a land exchange involving Federal lands in the Lincoln National Forest in the State of New Mexico, and for other purposes.

H.R. 5039. An act to designate the facility of the United States Postal Service located at United States Route 1 in Ridgeway, North Carolina, as the "Eva Holtzman Post Office".

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 161. Concurrent resolution recognizing the outstanding efforts of the individuals and communities who volunteered or donated items to the North Platte Canteen in North Platte, Nebraska, during World War II from December 25, 1941, to April 1, 1946.

H. Con. Res. 473. Concurrent resolution expressing the sense of Congress that it is appropriate to annually observe Patriot Day, September 11, with voluntary acts of service and compassion.

H. Con. Res. 488. Concurrent resolution commending the National Oceanic and Atmospheric Administration and its employees for its dedication and hard work during Hurricanes Charley, Frances, and Ivan.

H. Con. Res. 489. Concurrent resolutions supporting the goals and ideals of National Preparedness Month.

H. Con. Res. 494. Concurrent resolution supporting the goals and purposes of National Farm Safety and Health Week and applauding the men and women who provide a stable supply of food and fiber for the United States and the world.

At 7:39 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1308) entitled "An Act to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes".

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2449. An act to establish a commission to commemorate the sesquicentennial of the American Civil War; to the Committee on Energy and Natural Resources.

H.R. 2528. An act to establish the Hudson-Fulton-Champlain 400th Commemoration Commission, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3589. An act to create the Office of Chief Financial Officer of the Government of the Virgin Islands; to the Committee on Energy and Natural Resources.

H.R. 4045. An act to authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4806. An act to provide for a land exchange involving Federal lands in the Lincoln National Forest in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5039. An act to designate the facility of the United States Postal Service located at United States Route 1 in Ridgeway, North Carolina, as the "Eva Holtzman Post Office"; to the Committee on Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 473. Concurrent resolution expressing the sense of Congress that the President should designate September 11 as a national day of voluntary service, charity, and compassion; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 488. Concurrent resolution commending the National Oceanic and Atmospheric Administration and its employees for its dedication and hard work during Hurricanes Charley and Frances; to the Committee on Commerce, Science, and Transportation.

H. Con. Res. 489. Concurrent resolution supporting the goals and ideals of Natural Preparedness Month; to the Committee on Governmental Affairs.

H. Con. Res. 494. Concurrent resolution supporting the goals and purposes of National Farm Safety and Health Week and applauding the men and women who provide a stable supply of food and fiber for the United States and the world; to the Committee on Agriculture, Nutrition, and Forestry.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2830. A bill to amend part A of title IV of the Social Security Act to promote healthy marriages and responsible fatherhood, and for other purposes.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 2844. A bill to designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act.

S. 2845. A bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–9401. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney Canada PW206A and PW206E Turboshaft Engines Doc. No. 2003–NE–25" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9402. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Mcdonnell Douglass Model DC 10 Series Airplanes; Model MD 10 Series Airplanes, and MD 11 Series Airplanes Doc. No. 2004–NM–127" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9403. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Grob Werke Gmbh and Co KY Models G102 Club Astir III, G102 Club Astir IIIb, and G102 Standard Astir III Sailplanes; Doc. No. 2004–CE–10" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9404. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Aircraft Company 65, 90, 99, 100, 200,, 300, and 1900 Series Airplanes" (RIN2120–

AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9405. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CT7–2D1 Turbo Engines; Doc. No. 2004–NE–24" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9406. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF34–3A1 and 3B1 Series Turbofan Engines; Doc. No. 2004–NE–26" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9407. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cessna Aircraft Company Models 172R, 172S, 182S, 182T, T182T, 206H, and T206H Airplanes Doc. No. 2004–CE–03" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9408. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS265N2, AS365Ne, EC155B, EC155B1, SA365AN and N1, and SA 366G1 Helicopters Doc. No. 2004–SW–19" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9409. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767–200, 300, and 300f Series Airplanes Doc. NO. 2002–NM–186" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9410. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727 Series Airplanes Modified in Accordance with Supplemental Type Certificate SA 1767AO or SA1768SO; Doc. No. 97–NM–235 Correction" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9411. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cessna Aircraft Company Models 208 and 20B Airplanes Doc. No 2002–CE–23" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9412. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 9 81, 82, 83, 87, and Model MD 88 Airplanes" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9413. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F28 Mark AN0070 and 0100 Series Airplanes Doc. No. 2002–NM–280" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9414. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model 4101 Airplanes Doc. No. 2001–NM–270" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9415. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A310 Series Airplanes Doc. No. 2002–NM–344" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9416. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker F27, Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes Doc. No. 2002–NM–302" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9417. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: The New Piper Aircraft, Inc. Model PA 46 500TP Airplanes Doc. No. 2003–CE–52" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9418. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A330–202, 203, 223, and 243 Airplanes and A330–300 Series Airplanes Doc. No. 2003–NM–272" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9419. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Models A310 Series Airplanes Doc. No. 2003–NM–279" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9420. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC 8 101, 102, 103, 106, 201, 202, 301, 311, and 315 Airplanes Doc. No. 2003–NM–285" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9421. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Air Tractor Inc. Models AT 401, 401B, 402A, 402B, 501, 502, 502A, 502B, 503A, 602, 802, and AT802A Airplanes Doc. No. 2004–CE–05" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9422. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Saab Model SAAB SF3401A Series Airplanes Doc. No. 2002–NM–319" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9423. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc RB211 Trent 800 Series Turbofan Engines Doc. No. 2003–NE–38" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9424. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–200, 200C, 300, 400, and 500 Series Airplanes Doc. No. 99–NM–78" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9425. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica SW and 145 Series Airplanes Doc. No. 2004–NM–47" (RIN2120–AA64) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9426. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Columbus, NE Correction; Doc. No. 04–ACE–42" (RIN2120–AA66) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9427. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Fairbury, NE Doc. No. 04–ACE–43" (RIN2120–AA66) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9428. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Northwood, ND Doc. No. 04–AGL–03" (RIN2120–AA66) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9429. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; California City, CA Doc. No. 03–AWP–15" (RIN2120–AA66) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9430. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach

Procedures; Miscellaneous Amendments (22); Amdt No 3101" (RIN2120–AA66) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9431. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Final Rule: Fuel Tank Safety Compliance Extension and Aging Airplane Program Update (Request for Comments) Extension of Comment Period" (RIN2120–AI20) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9432. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Certification of Aircraft and Airman for the Operation of Light-Sport Aircraft Doc. No. FAA–2001–11133" (RIN2120–AH19) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9433. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; La Junta, CO Doc. No. 03–ANM–08" (RIN2120–AA66) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9434. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Wayne, NE Doc. No. 04–ACE–38" (RIN2120–AA66) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9435. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of R 5802C, D, and E, Fort Indiantown Gap, PA Doc. No. 02–AEA–19" (RIN2120–AA66) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9436. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (33); Amdt. No. 3103" (RIN2120–AA66) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9437. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "IFR Altitudes; Miscellaneous Amendments (8); Amdt. No. 450" (RIN2120–AA66) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9438. A communication from the Attorney, Office of Aviation Enforcement and Proceedings, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Passenger Baggage Liability" (RIN2105–AD42) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9439. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Power-Operated Windows: Roof Panels" (RIN2127–AF83) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9440. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Power Window Safety Switches" (RIN2127–AG36) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9441. A communication from the Attorney, Office of the Chief Counsel, Transportation Security Administration, transmitting, pursuant to law, the report of a rule entitled "Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees" (RIN1652–AA35) received on September 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9442. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Wood Packaging Material" (Doc. No. 02–032–3) received on September 23, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9443. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Kiwifruit Grown in California; Decreased Assessment Rate" (Doc. No. FV04–920–2) received on September 23, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9444. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Dimethenamid; Pesticide Tolerance" (FRL#7680–1) received on September 23, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9445. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Lactofen; Pesticide Tolerance" (FRL#7680–2) received on September 23, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9446. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Carfentazone-ethly; Pesticide Tolerance" (FRL#7678–9) received on September 23, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9447. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Citrate Esters; Exemption from the Requirement of a Tolerance" (FRL#7677–6) received on September 23, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9448. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Penoxsulam, 2-(2 ,2-diflouroethoxy)-N-(5,8-dimethoxyl[1,2,4]triazolo[1 ,5-c]pyrimidin-2-yl)-6-(triflourmethyl)benzensulfonamide; Pesticide Tolerance" (FRL#7678–6) received on September 23, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9449. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tebufenozide; Pesticide Tolerance" (FRL#7680–9) received on September 23, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2005" (Rept. No. 108–356).

By Mr. SPECTER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2484. A bill to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists, to authorize alternate work schedules and executive pay for nurses (Rept. No. 108–357).

By Ms. COLLINS, from the Committee on Governmental Affairs, without amendment:

S. 2840. An original bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. JOHNSON:

S. 2832. A bill to amend the Social Security act and the Internal Revenue Code of 1986 to exempt certain employment as a member of a local governing board from social security coverage; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Mrs. Boxer):

S. 2833. A bill to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California; to the Committee on Energy and Natural Resources.

By Ms. SNOWE:

S. 2834. A bill to enhance compliance assistance for small business; to the Committee on Small Business and Entrepreneurship.

By Mr. GRAHAM of Florida (for himself and Mr. Nelson of Florida):

S. 2835. A bill to amend the internal Revenue Code of 1986 to allow penalty free withdrawals from retirement plans for victims of federally declared disasters; to the Committee on Finance.

By Mr. VOINOVICH (for himself, Mr. Lautenberg, Mr. Corzine, Mr. Chafee, and Mr. Kennedy):

S. 2836. A bill to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself, Mr. Lautenberg, Mrs. Clinton, and Mr. Schumer):

S. 2837. A bill to extend the period for COBRA coverage for victims of the terrorist attacks of September 11, 2001; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself and Mr. Schumer):

S. 2838. A bill to designate the facility of the United States Postal Service located at 10 West Prospect Street in Nanuet , New York, as the "Anthony I. Lombardi Memorial Post Office Building"; to the Committee on Governmental Affairs.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2839. A bill to designate the facility of the United States Postal Service located at 555 West 180th Street in New York , New York, as the "Sergeant Riayan A. Tejeda Post Office"; to the Committee on Governmental Affairs.

By Ms. COLLINS:

S. 2840. An original bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; from the Committee on Governmental Affairs; placed on the calendar.

By Ms. CANTWELL (for herself, Mr. CRAIG, Mrs. MURRAY, Mr. SMITH, and Mr. WYDEN):

S. 2841. A bill to designate the Ice Age Floods National Geologic Trail, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself, Mrs. FEINSTEIN, and Mr. JEFFORDS):

S. 2842. A bill to amend title 49, United States Code, to require motor carriers to comply with vehicle emission performance standards established by the Environmental Protection Agency, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CAMPBELL:

S. 2843. A bill to make technical corrections to laws relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

By Mr. SANTORUM (for himself and Ms. MIKULSKI):

S. 2844. A bill to designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act; read the first time.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 2845. A bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG (for himself and Mr. CRAIG):

S. Res. 433. A resolution commemorating the 215th anniversary of the United States Marshals Service; considered and agreed to.

By Mr. LEVIN (for himself, Mr. COCHRAN, Mr. LEAHY, Mr. ALLEN, Mr. JEFFORDS, Mr. REID, Mr. BAUCUS, Mrs. BOXER, Mr. LAUTENBERG, Mr. CRAIG, Mr. KENNEDY, Mr. KOHL, Mr. BIDEN, Mr. DASCHLE, Mr. WYDEN, Mr. AKAKA, and Mr. DAYTON):

S. Res. 434. A resolution recognizing and supporting all efforts to promote greater civic awareness among the people of the United States; considered and agreed to.

ADDITIONAL COSPONSORS

S. 363

At the request of Ms. MIKULSKI, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

S. 556

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 556, a bill to amend the Indian Health Care Improvement Act to revise and extend that Act.

S. 847

At the request of Mr. SMITH, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 939

At the request of Mr. HAGEL, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1925

At the request of Mr. KENNEDY, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1925, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

S. 1968

At the request of Mr. ENZI, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1968, a bill to amend the Higher Education Act of 1965 to enhance literacy in finance and economics, and for other purposes.

S. 2393

At the request of Mr. ROCKEFELLER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2393, a bill to improve aviation security.

S. 2468

At the request of Ms. COLLINS, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2468, a bill to reform the postal laws of the United States.

S. 2526

At the request of Mr. BOND, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2526, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 2614

At the request of Mr. CONRAD, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2614, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 2686

At the request of Mr. ENZI, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2686, a bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act.

S. 2734

At the request of Mr. CAMPBELL, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2734, a bill to implement the recommendations of the Inspector General of the Department of the Interior regarding Indian Tribal detention facilities.

S. 2759

At the request of Mr. ROCKEFELLER, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 2759, a bill to amend title XXI of the Social Security Act to modify the rules relating to the availability and method of redistribution of unexpended SCHIP allotments, and for other purposes.

S. 2764

At the request of Mr. DODD, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 2764, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 2781

At the request of Mr. LUGAR, the names of the Senator from Oregon (Mr.

WYDEN) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 2781, a bill to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes.

S. 2815

At the request of Mr. DEWINE, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2815, a bill to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

S. 2827

At the request of Mrs. CLINTON, the names of the Senator from California (Mrs. BOXER), the Senator from Vermont (Mr. JEFFORDS), the Senator from Maryland (Ms. MIKULSKI), the Senator from Oregon (Mr. WYDEN), the Senator from New Jersey (Mr. CORZINE) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 2827, a bill to amend the Federal Rules of Evidence to create an explicit privilege to preserve medical privacy.

S. CON. RES. 136

At the request of Mr. CONRAD, the names of the Senator from Florida (Mr. NELSON), the Senator from California (Mrs. BOXER), the Senator from Nevada (Mr. REID), the Senator from Indiana (Mr. BAYH), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Iowa (Mr. HARKIN), the Senator from Wisconsin (Mr. KOHL) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 430

At the request of Mr. HATCH, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. Res. 430, a resolution designating November 2004 as "National Runaway Prevention Month".

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 2833. A bill to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Angel Island Immigration Station Restoration and Preservation Act, with Senator BOXER as cosponsor.

This legislation authorizes the use of up to $15 million in Federal funds for ongoing efforts to restore the Angel Island Immigration Station located on Angel Island within the San Francisco Bay.

I offer this as companion legislation to H.R. 4469 which has been introduced by Congresswoman Lynn Woolsey and to date has 45 cosponsors. Last week this bill was reported out of the House Resources Committee by unanimous consent.

The Angel Island Immigration Station is an important piece of American history, especially to our Nation's Asian American and immigrant communities.

In the mid 19th Century millions of people, including ancestors of my own staff, came to America in pursuit of the American dream. Most people are familiar with Ellis Island and the stories of immigrants coming to America and seeing the Statue of Liberty in New York Harbor, but often forgotten are the experiences of those who made it to America by way of Angel Island. Just like those who came to New York City, there are many stories of triumph and tribulation associated with Angel Island.

However, for the Chinese and those from other Asian countries the story goes a bit further.

The economic downturn in the 1870s brought political pressures to deal with the increasing population of Chinese who were coming through the Golden Gate in search of a better life. Amongst the harshest of measures taken was the passage of the Chinese Exclusion Act of 1882.

The passage of this law and its subsequent implementation led to the creation of a national system to regulate the immigration of the Chinese.

Part of this process included opening the Angel Island Immigration Station in 1910 on Angel Island. The purpose of this new facility was to isolate Chinese immigrants from the City of San Francisco and the rest of the Bay Area.

After a difficult journey across the Pacific Ocean, potential immigrants were brought to the Station where they faced separation from their family, embarrassing medical examinations, grueling interrogations and long detainments that lasted months, even years, in living conditions that were considered deplorable.

Testaments to these experiences can be found today on the wooden walls of the barracks. Many of the detainees told their stories through poems that they carved on the barrack walls.

Using allegories and historical references, they described their aspirations for coming to America as well as expressed their anger and sadness at the treatment they received.

Concerns about the safety of the Station were realized when part of the Administration Building burned down in 1940 and all those being held were moved to a mainland facility.

Three years later Congress repealed the Chinese Exclusion Act. For the next 20 years the Station remained mostly unused except for a short term during World War II, when it was used as a prisoner of war camp.

In 1963, Angel Island became a State park and the California Department of Parks and Recreation assumed stewardship of the Immigration Station.

In 1997, the Station was a declared a National Historic Landmark and in 1999, Save America's Treasures named the Angel Island Immigration Station one of its Official Projects and provided $500,000 for the preservation of poems carved into the walls.

The Station is supported by the people of California as well as numerous private interests. The voters of California voted in 2000 to set aside $15 million for restoration of the Station through Proposition 12 and in addition approximately $1.1 million in private funds has been raised so far.

The amount authorized by this bill and the committed State resources will raise about half the amount needed to restore the Station. The remaining money will be raised through private means making this a true public-private partnership.

Today, approximately 200,000 visits are made each year to Angel Island by ferry from San Francisco, Tiburon and Alameda. In addition, 60,000 visits are made to the Immigration Station, about half of which are students are on guided tours.

The resources secured so far have set in motion designing and planning efforts to restore the Station.

The bill I am introducing today will allow the State park to accept Federal funding to complete the restoration of the Angel Island Immigration Station, so that the stories of immigration on Angel Island will be preserved for future generations.

By Ms. SNOWE:

S. 2834. A bill to enhance compliance assistance for small business; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, in 1996, over eight years ago, the Senate passed without opposition the Small Business Regulatory Enforcement Fairness Act (SBREFA) to make the Regulatory Flexibility Act more effective in curtailing the impact of regulations on small businesses. One of the most important provisions of SBREFA is a requirement that agencies produce compliance assistance materials to help small businesses meet the requirements of their regulations. Unfortunately, over the years, agencies have done a poor job of meeting this requirement. Consequently, small businesses have been forced to figure out on their own how to comply with these regulations. This makes compliance that much more difficult to achieve, and therefore reduces the effectiveness of the regulation.

The GAO found that agencies have ignored this requirement or failed miserably in their attempts to satisfy it.

GAO also found that the language of SBREFA is unclear in some places about what is actually required. That is why today I am introducing the Small Business Compliance Assistance Enhancement Act of 2004 to close those loopholes and make it clear that we were serious when we first told agencies we want them to produce quality compliance assistance materials to help small businesses understand how to deal with regulations.

My bill is drawn directly from the GAO recommendations and is intended only to clarify an already existing requirement—not to add anything new. Similarly, the compliance guides that the agencies will produce will be suggestion about how to meet a regulations requirements, not further requirements, or subject to enforcement. Nor does this bill, in any way, interfere or undercut an agency's ability to enforce its regulations to the full extent they currently enjoy. Bad actors must be brought to justice, but if the only trigger for compliance is the threat of enforcement, then agencies will never achieve the impact their regulations must have to be effective.

The key to helping small businesses comply is to provide assistance—show them what is necessary and how they will be able to tell when they have met their obligations. Too often, small businesses do not maintain the staff, or have the resources to figure out the answers to these questions. This puts them at a disadvantage compared to larger businesses, and reduces the effectiveness of the agency's regulations. SBA's Office of Advocacy has determined that compliance with regulations cost small businesses with less than 20 employees almost $7,000 per employee, compared to almost $4,500 for companies with more than 500 employees. If an agency cannot describe how to comply with its regulation, how can we expect a small business to figure it out? This was the reason the requirement to provide compliance assistance was included in SBREFA originally, and this reason is just as valid today as it was in 1996.

Specifically, my bill would do the following: Clarify when a guide is required: To clarify when an agency must prepare a compliance guide section 212 of SBREFA would be amended to require a guide whenever the agency does not certify the rule under section 605(b) of title 5, United States Code (i.e. whenever an agency determines that a rule will have "a significant economic impact on a substantial number of small entities"). This would avoid confusion about whether the agency should produce a compliance guide when the agency produces a Final Regulatory Flexibility Analysis voluntarily (i.e. even though the agency certified that the regulation would not have "a significant economic impact on a substantial number of small entities").

Clarify how a guide shall be designated: Section 212 currently says that agencies must "designate" the publications prepared under the section as small entity compliance guides. However, the form in which those designations should occur is not clear. This term would be changed to "entitle." Consistent use of the phrase "Small Entity Compliance Guide" in the title could make it easier for small entities to locate the guides that the agencies develop. This would also aid in using online searches—a technology that was not widely used when SBREFA was passed. Thus, agencies would be directed to publish guides entitled "Small Entity Compliance Guide."

Clarify how a guide shall be published: Section 212 currently says agencies "shall publish" the guides, but does not indicate where or how they should be published. At least one agency has published the guides as part of the preamble to the subject rule, thereby requiring affected small entities to read the Federal Register to obtain the guides. Agencies would be directed, at a minimum, to make their compliance guides available through their websites in an easily accessed way. In addition, agencies would be directed to forward their compliance guides to known industry contacts such as small businesses or associations with small business members that will be affected by the regulation.

Clarify when a guide shall be published: Section 212 does not indicate when the compliance guides should be published. This means that even if an agency was required to produce a compliance guide, they can claim that they have not violated that requirement since there is no deadline established for when they had to produce that guide. Agencies would be instructed to publish the compliance guides coincident with, or as soon as possible after, the final rule is published, provided that the guides must be published no later than the effective date of the rule's compliance requirements.

Clarify the term "compliance requirements": The term "compliance requirements" also needs to be clarified. At a minimum, this term means what a small business has to do to satisfy the regulation, and when they will know they have met these requirements. This should include a description of the procedures a small business might use to meet the requirements. If, as is the case with many OSHA and EPA regulations, testing is required, the agency should explain how that testing would be conducted. The bill makes clear that the procedural description should be merely suggestive—an agency would not be able to enforce this procedure if a small business was able to satisfy the requirements through a different approach.

It is time we got serious about making sure small businesses have the assistance they need to deal with the maze of federal regulations we expect them to handle on a daily basis. The Small Business Compliance Assistance Enhancement Act will make a significant contribution to that effort.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Compliance Assistance Enhancement Act of 2004".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds the following:

(1) Small businesses represent 99.7 percent of all employers, employ half of all private sector employees, and pay 44.3 percent of total United States private payroll.

(2) Small businesses generate 60 to 80 percent of net new jobs annually over the last decade.

(3) Very small firms with fewer than 20 employees spend 60 percent more per employee than larger firms to comply with Federal regulations. Small firms spend twice as much on tax compliance as their larger counterparts. Based on an analysis in 2001, firms employing fewer than 20 employees face an annual regulatory burden of nearly $7,000 per employee, compared to a burden of almost $4,500 per employee for a firm with over 500 employees.

(4) Section 212 of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 601 note) requires agencies to produce small entity compliance guides for each rule or group of rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code.

(5) The Government Accountability Office has found that agencies have rarely attempted to comply with section 212 of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 601 note). When agencies did try to comply with that requirement, they generally did not produce adequate compliance assistance materials.

(6) The Government Accountability Office also found that section 212 of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 601 note) and other sections of that Act need clarification to be effective.

(b) Purposes.—The purposes of this Act are the following:

(1) To clarify the requirement contained in section 212 of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 601 note) for agencies to produce small entity compliance guides.

(2) To clarify other terms relating to the requirement in section 212 of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 601 note).

(3) To ensure that agencies produce adequate and useful compliance assistance materials to help small businesses meet the obligations imposed by regulations affecting such small businesses, and thereby to increase compliance with these regulations.

SEC. 3. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) In General.—Section 212 of the Small Business Regulatory Enforcement Fairness

Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

"(a) COMPLIANCE GUIDE.—

"(1) IN GENERAL.—For each rule for which an agency head does not make a certification under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule, and shall entitle such publications 'small entity compliance guides'.

"(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

"(A) the posting of the guide in an easily identified location on the website of the agency; and

"(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

"(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

"(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

"(B) not later than the date on which the requirements of that rule become effective.

"(4) COMPLIANCE ACTIONS.—

"(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

"(B) EXPLANATION.—The explanation under subparagraph (A)—

"(i) shall include a description of actions needed to meet requirements to enable a small entity to know when such requirements are met; and

"(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that assist a small entity in meeting such requirements.

"(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

"(i) shall be suggestions to assist small entities; and

"(ii) shall not be additional requirements relating to the rule.

"(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting "and entitled" after "designated".

By Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida):

S. 2835. A bill to amend the internal Revenue Code of 1986 to allow penalty free withdrawals from retirement plans for victims of federally declared disasters; to the Committee on Finance.

Mr. GRAHAM of Florida. Mr. President, by now everyone is well aware of the destruction Florida has endured over the past 45 days. First, Tropical Storm Bonnie struck the panhandle. Then Hurricane Charley crashed into Florida's west coast. That was followed by Hurricane Frances, which wreaked havoc throughout the State. And last week Hurricane Ivan tore through the panhandle. As a result of these storms, today 61 of the State's 67 counties have been declared disaster areas.

Floridians are grateful for the Senate's quick action in providing the initial $2 billion in relief funds. They also look forward to the Senate's quick consideration of the President's supplemental request for additional assistance. As important as this Federal assistance is, however, it represents only a fraction of the money needed for Florida's families to rebuild.

The Insurance Information Institute estimates that insurance companies will pay out more than the $15.5 billion in insurance claims paid as a result of Hurricane Andrew. Of course, that amount is not the entirety of losses Floridians have suffered. In fact, as a result of the magnitude of the claims incurred from Hurricane Andrew Floridians will be responsible for a larger share of the losses from these storms than they incurred in 1992.

Many Floridians will face thousands of dollars in out-of-pocket costs as a result of these storms. Those families with money in a retirement account, e.g. 401(k) or IRA, are quite likely to be forced to look to that money to rebuild their homes and their lives. Doing so, however, will come at a significant cost. First, any funds withdrawn are subject to the income tax. That's appropriate, since these funds have not been taxed previously.

In addition to the income tax due on these withdrawals, taxpayers under age 59½ will face a 10 percent penalty for early withdrawal. Under normal circumstances this penalty serves a very worthwhile purpose. It encourages workers to leave funds in their retirement accounts for their intended purposes. The situation in Florida is far from normal, however, and in this instance the penalty serves as a "ransom" imposed by the Federal government on workers access to funds in times of desperation.

The bill I am introducing today with Senator NELSON is a small but important step that we can take to help Floridians help themselves. It waives the 10 percent penalty for families that have suffered a loss as a result of a disaster. Although it was inspired by the storms that have ravaged our State, it is not exclusive to the victims of these storms.

The penalty waiver is available to any taxpayer who suffered a loss as a result of a major disaster declared under the Robert T. Stafford Disaster Relief Act. To qualify for this relief the taxpayer must have sustained a loss that has not been compensated by insurance or otherwise. The bill also gives taxpayers a five-year window within which they can reinvest these funds for their retirement.

By Mr. KENNEDY (for himself, Mr. LAUTENBERG, Mrs. CLINTON, and Mr. SCHUMER):

S. 2837. A bill to extend the period for COBRA coverage for victims of the terrorist attacks of September 11, 2001; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, one of the greatest domestic challenges facing our country today is the soaring cost of health care. It's a serious problem for millions of families. But when the chief income earner in a family suddenly becomes unemployed, the problem can be critical, and we give a helping hand. We give them the opportunity to continue their coverage through their employer for a reasonable period. Families who lost loved ones on September 11, deserve the same opportunity until they can land on their feet again.

The Continuing Care for Recovering Families Act I am introducing today with Senator LAUTENBERG and Senator CLINTON recognizes that many of the September 11 families are still struggling to recover and we have an obligation to assist them.

Some of the families have found ways to cover their health costs by purchasing private insurance or obtaining grant assistance on their own. For others, employers have agreed to provide coverage. For still other families, however, the safety net is about to fall apart, because their coverage is about to expire under COBRA—the temporary low—cost continuation of coverage available under current Federal law for those who change their job, lose their job or for families that lose their chief income earner through death.

The Continuing Care for Recovering Families Act will give spouses and children of victims of September 11 the ability to purchase or continue to purchase coverage under COBRA indefinitely, as long as they enroll within 120 days after passage of the Act or 120 days after they lose their COBRA coverage. Eligibility for the program would expire only if they enroll in a private insurance plan or become eligible for Medicare.

The families of September 11 have shown great courage and extraordinary resilience. But we still have much more to do to help them on their long and arduous road to recovery, and I hope very much that we can pass this legislation this year. It will only affect a small number of families. But for them, it will make a world of a difference.

By Ms. COLLINS:

S. 2840. An original bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; from the Committee on Governmental Affairs; placed on the calendar.

Ms. COLLINS. Mr. President, I ask unanimous consent that the National Intelligence Reform Act of 2004, which the Committee on Governmental Affairs is reporting today, be printed in the RECORD.

There being no objection the bill was ordered to be printed in the RECORD, as follows:

S. 2840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Intelligence Reform Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—NATIONAL INTELLIGENCE AUTHORITY

Subtitle A—National Intelligence Authority

Sec. 101. National Intelligence Authority.
Sec. 102. National Intelligence Director.

Subtitle B—Responsibilities and Authorities of National Intelligence Director

Sec. 111. Provision of national intelligence.
Sec. 112. Responsibilities of National Intelligence Director.
Sec. 113. Authorities of National Intelligence Director.
Sec. 114. Enhanced personnel management.
Sec. 115. Security clearances.
Sec. 116. National Intelligence Reserve Corps.
Sec. 117. Appointment and termination of certain officials responsible for intelligence-related activities.
Sec. 118. Reserve for Contingencies of the National Intelligence Director.

Subtitle C—Office of the National Intelligence Director

Sec. 121. Office of the National Intelligence Director.
Sec. 122. Deputy national intelligence directors.
Sec. 123. National Intelligence Council.
Sec. 124. General Counsel of the National Intelligence Authority.
Sec. 125. Intelligence Comptroller.
Sec. 126. Officer for Civil Rights and Civil Liberties of the National Intelligence Authority.
Sec. 127. Privacy Officer of the National Intelligence Authority.
Sec. 128. Chief Information Officer of the National Intelligence Authority.
Sec. 129. Chief Human Capital Officer of the National Intelligence Authority.
Sec. 130. Chief Financial Officer of the National Intelligence Authority.
Sec. 131. National Counterintelligence Executive.

Subtitle D—Additional Elements of National Intelligence Authority

Sec. 141. Inspector General of the National Intelligence Authority.
Sec. 142. Ombudsman of the National Intelligence Authority.
Sec. 143. National Counterterrorism Center.
Sec. 144. National intelligence centers.

Subtitle E—Education and Training of Intelligence Community Personnel

Sec. 151. Framework for cross-disciplinary education and training.
Sec. 152. Intelligence Community Scholarship Program.

Subtitle F—Additional Authorities of National Intelligence Authority

Sec. 161. Use of appropriated funds.
Sec. 162. Acquisition and fiscal authorities.
Sec. 163. Personnel matters.
Sec. 164. Ethics matters.

TITLE II—OTHER IMPROVEMENTS OF INTELLIGENCE ACTIVITIES

Subtitle A—Improvements of Intelligence Activities

Sec. 201. Availability to public of certain intelligence funding information.
Sec. 202. Merger of Homeland Security Council into National Security Council.
Sec. 203. Joint Intelligence Community Council.
Sec. 204. Improvement of intelligence capabilities of the Federal Bureau of Investigation.
Sec. 205. Federal Bureau of Investigation Intelligence Career Service.
Sec. 206. Information sharing.

Subtitle B—Privacy and Civil Liberties

Sec. 211. Privacy and Civil Liberties Oversight Board.
Sec. 212. Privacy and civil liberties officers.

Subtitle C—Independence of Intelligence Agencies

Sec. 221. Independence of National Intelligence Director.
Sec. 222. Independence of intelligence.
Sec. 223. Independence of National Counterterrorism Center.
Sec. 224. Access of congressional committees to national intelligence.
Sec. 225. Communications with Congress.

TITLE III—MODIFICATIONS OF LAWS RELATING TO INTELLIGENCE COMMUNITY MANAGEMENT

Subtitle A—Conforming and Other Amendments

Sec. 301. Restatement and modification of basic authority on the Central Intelligence Agency.
Sec. 302. Conforming amendments relating to roles of National Intelligence Director and Director of the Central Intelligence Agency.
Sec. 303. Other conforming amendments
Sec. 304. Modifications of foreign intelligence and counterintelligence under National Security Act of 1947.
Sec. 305. Elements of intelligence community under National Security Act of 1947.
Sec. 306. Redesignation of National Foreign Intelligence Program as National Intelligence Program.
Sec. 307. Conforming amendment on coordination of budgets of elements of the intelligence community within the Department of Defense.
Sec. 308. Repeal of superseded authorities.
Sec. 309. Clerical amendments to National Security Act of 1947.
Sec. 310. Modification of authorities relating to National Counterintelligence Executive.
Sec. 311. Conforming amendment to Inspector General Act of 1978.
Sec. 312. Conforming amendment relating to Chief Financial Officer of the National Intelligence Authority.

Subtitle B—Transfers and Terminations

Sec. 321. Transfer of Office of Deputy Director of Central Intelligence for Community Management.
Sec. 322. Transfer of National Counterterrorism Executive.
Sec. 323. Transfer of Terrorist Threat Integration Center.
Sec. 324. Termination of certain positions within the Central Intelligence Agency.

Subtitle C—Other Transition Matters

Sec. 331. Executive Schedule matters.
Sec. 332. Preservation of intelligence capabilities.
Sec. 333. Reorganization.
Sec. 334. National Intelligence Director report on implementation of intelligence community reform.
Sec. 335. Comptroller General reports on implementation of intelligence community reform.
Sec. 336. General references.

Subtitle D—Effective Date

Sec. 341. Effective date.

Subtitle E—Other Matters

Sec. 351. Severability.
Sec. 352. Authorization of appropriations.

SEC. 2. DEFINITIONS.

In this Act:

(1) The term "intelligence" includes foreign intelligence and counterintelligence.

(2) The term "foreign intelligence" means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, foreign persons, or international terrorists.

(3) The term "counterintelligence" means information gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, foreign persons, or international terrorists.

(4) The term "intelligence community" includes the following:

(A) The National Intelligence Authority.

(B) The Central Intelligence Agency.

(C) The National Security Agency.

(D) The Defense Intelligence Agency.

(E) The National Geospatial-Intelligence Agency.

(F) The National Reconnaissance Office.

(G) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs.

(H) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, and the Department of Energy.

(I) The Bureau of Intelligence and Research of the Department of State.

(J) The Office of Intelligence and Analysis of the Department of the Treasury.

(K) The elements of the Department of Homeland Security concerned with the analysis of intelligence information, including the Office of Intelligence of the Coast Guard.

(L) Such other elements of any department or agency as may be designated by the President, or designated jointly by the National Intelligence Director and the head of the department or agency concerned, as an element of the intelligence community.

(5) The terms "national intelligence" and "intelligence related to the national security"—

(A) each refer to intelligence which pertains to the interests of more than one department or agency of the Government; and

(B) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the National Intelligence Director and the Attorney General, or otherwise as expressly provided for in this title.

(6) The term "National Intelligence Program"—

(A)(i) refers to all national intelligence programs, projects, and activities of the elements of the intelligence community;

(ii) includes all programs, projects, and activities (whether or not pertaining to national intelligence) of the National Intelligence Authority, the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, the Office of Intelligence of the Federal Bureau of Investigation, and the Office of Information Analysis of the Department of Homeland Security; and

(iii) includes any other program, project, or activity of a department, agency, or element of the United States Government relating to national intelligence unless the National Intelligence Director and the head of the department, agency, or element concerned determine otherwise; but

(B) except as provided in subparagraph (A)(ii), does not refer to any program, project, or activity of the military departments, including any program, project, or activity of the Defense Intelligence Agency that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act, to acquire intelligence principally for the planning and conduct of joint or tactical military operations by the United States Armed Forces.

(7) The term "congressional intelligence committees" means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE I—NATIONAL INTELLIGENCE AUTHORITY

Subtitle A—National Intelligence Authority

SEC. 101. NATIONAL INTELLIGENCE AUTHORITY.

(a) INDEPENDENT ESTABLISHMENT.—There is hereby established as an independent establishment in the executive branch of government the National Intelligence Authority.

(b) COMPOSITION.—The National Intelligence Authority is composed of the following:

(1) The Office of the National Intelligence Director.

(2) The elements specified in subtitle D.

(3) Such other elements, offices, agencies, and activities as may be established by law or by the President or the National Intelligence Director.

(c) PRIMARY MISSIONS.—The primary missions of the National Intelligence Authority are as follows:

(1) To unify and strengthen the efforts of the intelligence community of the United States Government.

(2) To ensure the organization of the efforts of the intelligence community of the United States Government in a joint manner relating to intelligence missions rather than through intelligence collection disciplines.

(3) To provide for the operation of the National Counterterrorism Center and national intelligence centers under subtitle D.

(4) To eliminate barriers that impede coordination of the counterterrorism activities of the United States Government between foreign intelligence activities located abroad and foreign intelligence activities located domestically while ensuring the protection of civil liberties.

(5) To establish clear responsibility and accountability for counterterrorism and other intelligence matters relating to the national security of the United States.

(d) SEAL.—The National Intelligence Director shall have a seal for the National Intelligence Authority. The design of the seal is subject to the approval of the President. Judicial notice shall be taken of the seal.

SEC. 102. NATIONAL INTELLIGENCE DIRECTOR.

(a) NATIONAL INTELLIGENCE DIRECTOR.—There is a National Intelligence Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) INDIVIDUALS ELIGIBLE FOR NOMINATION.—Any individual nominated for appointment as National Intelligence Director shall have extensive national security expertise.

(c) PROHIBITION ON SIMULTANEOUS SERVICE IN OTHER CAPACITY IN INTELLIGENCE COMMUNITY.—The individual serving as National Intelligence Director may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as National Intelligence Director does so in an acting capacity.

(d) PRINCIPAL DUTIES AND RESPONSIBILITIES.—The National Intelligence Director shall—

(1) serve as head of the intelligence community in accordance with the provisions of this Act, the National Security Act of 1947 (50 U.S.C. 401 et seq.), and other applicable provisions of law;

(2) act as a principal adviser to the President for intelligence related to the national security;

(3) serve as the head of the National Intelligence Authority; and

(4) direct and oversee the National Intelligence Program.

(e) GENERAL RESPONSIBILITIES AND AUTHORITIES.—In carrying out the duties and responsibilities set forth in subsection (c), the National Intelligence Director shall have the responsibilities set forth in section 112 and the authorities set forth in section 113 and other applicable provisions of law.

Subtitle B—Responsibilities and Authorities of National Intelligence Director

SEC. 111. PROVISION OF NATIONAL INTELLIGENCE.

(a) IN GENERAL.—The National Intelligence Director shall be responsible for providing national intelligence—

(1) to the President;

(2) to the heads of other departments and agencies of the executive branch;

(3) to the Chairman of the Joint Chiefs of Staff and senior military commanders;

(4) to the Senate and House of Representatives and the committees thereof; and

(5) to such other persons or entities as the President shall direct.

(b) NATIONAL INTELLIGENCE.—Such national intelligence shall be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community.

SEC. 112. RESPONSIBILITIES OF NATIONAL INTELLIGENCE DIRECTOR.

(a) IN GENERAL.—The National Intelligence Director shall—

(1) determine the annual budget for the intelligence and intelligence-related activities of the United States by—

(A) providing to the heads of the departments containing agencies or elements within the intelligence community and that have one or more programs, projects, or activities within the National Intelligence program, and to the heads of such agencies and elements, guidance for development the National Intelligence Program budget pertaining to such agencies or elements;

(B) developing and presenting to the President an annual budget for the National Intelligence Program after consultation with the heads of agencies or elements, and the heads of their respective departments, under subparagraph (A);

(C) providing budget guidance to each element of the intelligence community that does not have one or more program, project, or activity within the National Intelligence Program regarding the intelligence and intelligence-related activities of such element; and

(D) participating in the development by the Secretary of Defense of the annual budgets for the military intelligence programs, projects, and activities not included in the National Intelligence Program;

(2) manage and oversee the National Intelligence Program, including—

(A) the execution of funds within the National Intelligence Program;

(B) the reprogramming of funds appropriated or otherwise made available to the National Intelligence Program; and

(C) the transfer of funds and personnel under the National Intelligence Program;

(3) establish the requirements and priorities to govern the collection, analysis, and dissemination of national intelligence by elements of the intelligence community;

(4) establish collection and analysis requirements for the intelligence community, determine collection and analysis priorities, issue and manage collection and analysis tasking, and resolve conflicts in the tasking of elements of the intelligence community within the National Intelligence Program, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President;

(5) provide advisory tasking on the collection of intelligence to elements of the United States Government having information collection capabilities that are not elements of the intelligence community;

(6) manage and oversee the National Counterterrorism Center under section 143, and establish, manage, and oversee national intelligence centers under section 144;

(7) establish requirements and priorities for foreign intelligence information to be collected under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), and provide assistance to the Attorney General to ensure that information derived from electronic surveillance or physical searches under that Act is disseminated so it may be used efficiently and effectively for foreign intelligence purposes, except that the Director shall have no authority to direct, manage, or undertake electronic surveillance or physical search operations pursuant to that Act unless otherwise authorized by statute or Executive order;

(8) develop and implement, in consultation with the heads of other agencies or elements of the intelligence community, and the heads of their respective departments, personnel policies and programs applicable to the intelligence community that—

(A) encourage and facilitate assignments and details of personnel to the National Counterterrorism Center under section 143, to national intelligence centers under section 144, and between elements of the intelligence community;

(B) set standards for education, training, and career development of personnel of the intelligence community;

(C) encourage and facilitate the recruitment and retention by the intelligence community of highly qualified individuals for the effective conduct of intelligence activities;

(D) ensure that the personnel of the intelligence community is sufficiently diverse for purposes of the collection and analysis of intelligence through the recruitment and training of women, minorities, and individuals with diverse ethnic, cultural, and linguistic backgrounds;

(E) make service in more than one element of the intelligence community a condition of promotion to such positions within the intelligence community as the Director shall specify;

(F) ensure the effective management of intelligence community personnel who are responsible for intelligence community-wide matters;

(G) provide for the effective management of human capital within the intelligence community, including—

(i) the alignment of human resource policies and programs of the elements of the intelligence community with the missions, goals, and organizational objectives of such elements and of the intelligence community overall;

(ii) the assessment of workforce characteristics and future needs and the establishment of workforce development strategies to meet those needs based on relevant organizational missions and strategic plans;

(iii) the sustainment of a culture that encourages and allows for the development of a high performing workforce; and

(iv) the alignment of expectations for personnel performance with relevant organizational missions and strategic plans;

(H) are consistent with the public employment principles of merit and fitness set forth under section 2301 of title 5, United States Code; and

(I) include the enhancements required under section 114;

(9) promote and evaluate the utility of national intelligence to consumers within the United States Government;

(10) ensure that appropriate officials of the United States Government and other appropriate individuals have access to a variety of intelligence assessments and analytical views;

(11) protect intelligence sources and methods from unauthorized disclosure;

(12) establish requirements and procedures for the classification of intelligence information and for access to classified intelligence information;

(13) establish requirements and procedures for the dissemination of classified information by elements of the intelligence community;

(14) establish intelligence reporting guidelines that maximize the dissemination of information while protecting intelligence sources and methods;

(15) develop, in consultation with the heads of appropriate departments and agencies of the United States Government, an integrated communications network that provides interoperable communications capabilities among all elements of the intelligence community and such other entities and persons as the Director considers appropriate;

(16) establish standards for information technology and communications for the intelligence community;

(17) ensure that the intelligence community makes efficient and effective use of open-source information and analysis;

(18) ensure compliance by elements of the intelligence community with the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States applicable to the intelligence and intelligence-related activities of the United States Government, including the provisions of the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States applicable to the protection of the privacy and civil liberties of United States persons;

(19) eliminate waste and unnecessary duplication within the intelligence community; and

(20) perform such other functions as the President may direct.

(b) UNIFORM PROCEDURES FOR SENSITIVE COMPARTMENTED INFORMATION.—The President, acting through the National Intelligence Director, shall establish uniform standards and procedures for the grant to sensitive compartmented information in accordance with section 115.

(c) PERFORMANCE OF COMMON SERVICES.—(1) The National Intelligence Director shall, in consultation with the heads of departments and agencies of the United States Government containing elements within the intelligence community and with the Director of the Central Intelligence Agency, direct and coordinate the performance by the elements of the intelligence community within the National Intelligence Program of such services as are of common concern to the intelligence community, which services the National Intelligence Director determines can be more efficiently accomplished in a consolidated manner.

(2) The services performed under paragraph (1) shall include research and development on technology for use in national intelligence missions.

(d) REGULATIONS.—The National Intelligence Director may prescribe regulations relating to the discharge and enforcement of the responsibilities of the Director under this section.

SEC. 113. AUTHORITIES OF NATIONAL INTELLIGENCE DIRECTOR.

(a) ACCESS TO INTELLIGENCE.—Unless otherwise directed by the President, the National Intelligence Director shall have access to all intelligence related to the national security which is collected by any department, agency, or other element of the United States Government.

(b) DETERMINATION OF BUDGETS FOR NIP AND OTHER INTELLIGENCE ACTIVITIES.—The National Intelligence Director shall determine the annual budget for the intelligence and intelligence-related activities of the United States Government under section 112(a)(1) by—

(1) providing to the heads of the departments containing agencies or elements within the intelligence community and that have one or more programs, projects, or activities within the National Intelligence program, and to the heads of such agencies and elements, guidance for development the National Intelligence Program budget pertaining to such agencies or elements;

(2) developing and presenting to the President an annual budget for the National Intelligence Program after consultation with the heads of agencies or elements, and the heads of their respective departments, under paragraph (1), including, in furtherance of such budget, the review, modification, and approval of budgets of the agencies or elements of the intelligence community with one or more programs, projects, or activities within the National Intelligence Program utilizing the budget authorities in subsection (c)(1);

(3) providing guidance on the development of annual budgets for each element of the intelligence community that does not have any program, project, or activity within the National Intelligence Program utilizing the budget authorities in subsection (c)(2);

(4) participating in the development by the Secretary of Defense of the annual budget for military intelligence programs and activities outside the National Intelligence Program;

(5) receiving the appropriations for the National Intelligence Program as specified in subsection (d) and allotting and allocating funds to agencies and elements of the intelligence community; and

(6) managing and overseeing the execution by the agencies or elements of the intelligence community, and, if necessary, the modification of the annual budget for the National Intelligence Program, including directing the reprogramming and transfer of funds, and the transfer of personnel, among and between elements of the intelligence community within the National Intelligence Program utilizing the authorities in subsections (f) and (g).

(c) BUDGET AUTHORITIES.—(1)(A) In developing and presenting an annual budget for the elements of the intelligence community within the National Intelligence Program under subsection (b)(1), the National Intelligence Director shall coordinate, prepare, and present to the President the annual budgets of those elements, in consultation with the heads of those elements.

(B) If any portion of the budget for an element of the intelligence community within the National Intelligence Program is prepared outside the Office of the National Intelligence Director, the Director—

(i) shall approve such budget before submission to the President; and

(ii) may require modifications of such budget to meet the requirements and priorities of the Director before approving such budget under clause (i).

(C) The budget of an agency or element of the intelligence community with one or more programs, projects, or activities within the National Intelligence Program may not be provided to the President unless the Director has first approved such budget.

(2)(A) The Director shall provide guidance for the development of the annual budgets for each agency or element of the intelligence community that does not have any program, project, or activity within the National Intelligence Program.

(B) The heads of the agencies or elements of the intelligence community, and the heads of their respective departments, referred to in subparagraph (A) shall coordinate closely with the Director in the development of the budgets of such agencies or elements, before the submission of their recommendations on such budgets to the President.

(d) JURISDICTION OF FUNDS UNDER NIP.—(1) Notwithstanding any other provision of law and consistent with section 504 of the National Security Act of 1947 (50 U.S.C. 414), any amounts appropriated or otherwise made available for the National Intelligence Program shall be appropriated to the National Intelligence Authority and, pursuant to subsection (e), under the direct jurisdiction of the National Intelligence Director.

(2) The Director shall manage and oversee the execution by each element of the intelligence community of any amounts appropriated or otherwise made available to such element under the National Intelligence Program.

(e) ACCOUNTS FOR ADMINISTRATION OF NIP FUNDS.—(1) The Secretary of the Treasury shall, in consultation with the National Intelligence Director, establish accounts for the funds under the jurisdiction of the Director under subsection (d) for purposes of carrying out the responsibilities and authorities of the Director under this Act with respect to the National Intelligence Program.

(2) The National Intelligence Director shall—

(A) control and manage the accounts established under paragraph (1); and

(B) with the concurrence of the Director of the Office of Management and Budget, establish procedures governing the use (including transfers and reprogrammings) of funds in such accounts.

(3)(A) To the extent authorized by law, a certifying official shall follow the procedures established under paragraph (2)(B) with regard to each account established under paragraph (1). Disbursements from any such account shall only be made against a valid obligation of such account.

(B) In this paragraph, the term "certifying official', with respect to an element of the intelligence community, means an employee of the element who has responsibilities specified in section 3528(a) of title 31, United States Code.

(4) The National Intelligence Director shall allot funds deposited in an account established under paragraph (1) directly to the head of the elements of the intelligence community concerned in accordance with the procedures established under paragraph (2)(B).

(5) Each account established under paragraph (1) shall be subject to chapters 13 and 15 of title 31, United States Code, other than sections 1503 and 1556 of that title.

(6) Nothing in this subsection shall be construed to impair or otherwise affect the authority granted by subsection (g)(3) or by section 5 or 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f, 403j).

(f) Role in Reprogramming or Transfer of NIP Funds by Elements of Intelligence Community.—(1) No funds made available under the National Intelligence Program may be reprogrammed or transferred by any agency or element of the intelligence community without the prior approval of the National Intelligence Director except in accordance with procedures issued by the Director.

(2) The head of the department concerned shall consult with the Director before reprogramming or transferring funds appropriated or otherwise made available to an agency or element of the intelligence community that does not have any program, project, or activity within the National Intelligence Program.

(3) The Director shall, before reprogramming funds appropriated or otherwise made available for an element of the intelligence community within the National Intelligence Program, consult with the head of the department or agency having jurisdiction over such element regarding such reprogramming.

(4)(A) The Director shall consult with the appropriate committees of Congress regarding modifications of existing procedures to expedite the reprogramming of funds within the National Intelligence Program.

(B) Any modification of procedures under subparagraph (A) shall include procedures for the notification of the appropriate committees of Congress of any objection raised by the head of a department or agency to a reprogramming proposed by the Director as a result of consultations under paragraph (3).

(g) Transfer or Reprogramming of Funds and Transfer of Personnel Within NIP.—(1) In addition to any other authorities available under law for such purposes, the National Intelligence Director, with the approval of the Director of the Office of Management and Budget and after consultation with the heads of the departments containing agencies or elements within the intelligence community to the extent their subordinate agencies or elements are affected, with the heads of such subordinate agencies or elements, and with the Director of the Central Intelligence Agency to the extent the Central Intelligence Agency is affected, may—

(A) transfer or reprogram funds appropriated for a program within the National Intelligence Program to another such program;

(B) review, and approve or disapprove, any proposal to transfer or reprogram funds from appropriations that are not for the National Intelligence Program to appropriations for the National Intelligence Program;

(C) in accordance with procedures to be developed by the National Intelligence Director, transfer personnel of the intelligence community funded through the National Intelligence Program from one element of the intelligence community to another element of the intelligence community; and

(D) in accordance with procedures to be developed by the National Intelligence Director and the heads of the departments and agencies concerned, transfer personnel of the intelligence community not funded through the National Intelligence Program from one element of the intelligence community to another element of the intelligence community.

(2) A transfer of funds or personnel may be made under this subsection only if—

(A) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

(B) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the National Intelligence Director; or

(C) the transfer does not exceed applicable ceilings established in law for such transfers.

(3) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

(4) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of October 24, 1992.

(5)(A) The National Intelligence Director shall promptly submit to the appropriate committees of Congress a report on any transfer of personnel made pursuant to this subsection. The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

(B) In this paragraph, the term "appropriate committees of Congress" means—

(i)(I) the Committee on Appropriations and the Select Committee on Intelligence of the Senate; and

(II) the Committee on Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives;

(ii) in the case of a transfer of personnel to or from the Department of Defense—

(I) the committees and select committees referred to in clause (i);

(II) the Committee on Armed Services of the Senate; and

(III) the Committee on Armed Services of the House of Representatives;

(iii) in the case of a transfer of personnel to or from the Federal Bureau of Investigation—

(I) the committees and select committees referred to in clause (i);

(II) the Committee on the Judiciary of the Senate; and

(III) the Committee on the Judiciary of the House of Representatives; and

(iv) in the case of a transfer of personnel to or from the Department of Homeland Security—

(I) the committees and select committees referred to in clause (i);

(II) the Committee on Governmental Affairs of the Senate; and

(III) the Select Committee on Homeland Security of the House of Representatives.

(h) Information Technology and Communications.—(1) In conforming with section 205, in carrying out section 112(a)(16), the National Intelligence Director shall—

(A) establish standards for information technology and communications across the intelligence community;

(B) develop an integrated information technology network and enterprise architecture for the intelligence community, including interface standards for interoperability to enable automated information-sharing among elements of the intelligence community;

(C) maintain an inventory of critical information technology and communications systems, and eliminate unnecessary or duplicative systems;

(D) establish contingency plans for the intelligence community regarding information technology and communications; and

(E) establish policies, doctrine, training, and other measures necessary to ensure that the intelligence community develops an integrated information technology and communications network that ensures information-sharing.

(2) Consistent with section 205, the Director shall take any action necessary, including the setting of standards for information technology and communications across the intelligence community, to develop an integrated information technology and communications network that ensures information-sharing across the intelligence community.

(i) Coordination With Foreign Governments.—In a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the National Intelligence Director shall oversee and direct the Director of the Central Intelligence Agency in coordinating, under section 103(f) of the National Security Act of 1947, the relationships between elements of the intelligence community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

(j) Open Source Information Collection.—The National Intelligence Director shall establish and maintain within the intelligence community an effective and efficient open-source information collection capability.

(k) Access to Information.—Except as otherwise directed by the President, the head of each element of the intelligence community shall promptly provide the National Intelligence Director such information in the possession or under the control of such element as the Director may request in order to facilitate the exercise of the authorities and responsibilities of the Director under this Act.

SEC. 114. ENHANCED PERSONNEL MANAGEMENT.

(a) REWARDS FOR SERVICE IN CERTAIN POSITIONS.—(1) The National Intelligence Director shall prescribe regulations to provide incentives for service on the staff of the national intelligence centers, on the staff of the National Counterterrorism Center, and in other positions in support of the intelligence community management functions of the Director.

(2) Incentives under paragraph (1) may include financial incentives, bonuses, and such other awards and incentives as the Director considers appropriate.

(b) ENHANCED PROMOTION FOR SERVICE UNDER NID.—Notwithstanding any other provision of law, the National Intelligence Director shall ensure that personnel of an element of the intelligence community who are assigned or detailed to service under the National Intelligence Director shall be promoted at rates equivalent to or better than personnel of such element who are not so assigned or detailed.

(c) JOINT CAREER MATTERS.—(1) In carrying out section 112(a)(8), the National Intelligence Director shall prescribe mechanisms to facilitate the rotation of personnel of the intelligence community through various elements of the intelligence community in the course of their careers in order to facilitate the widest possible understanding by such personnel of the variety of intelligence requirements, methods, and disciplines.

(2) The mechanisms prescribed under paragraph (1) may include the following:

(A) The establishment of special occupational categories involving service, over the course of a career, in more than one element of the intelligence community.

(B) The provision of rewards for service in positions undertaking analysis and planning of operations involving two or more elements of the intelligence community.

(C) The establishment of requirements for education, training, service, and evaluation that involve service in more than one element of the intelligence community.

(3) It is the sense of Congress that the mechanisms prescribed under this subsection should, to the extent practical, seek to duplicate within the intelligence community the joint officer management policies established by the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433) and the amendments on joint officer management made by that Act.

SEC. 115. SECURITY CLEARANCES.

(a) IN GENERAL.—The President, in consultation with the National Intelligence Director, the department, agency, or element selected under (b), and other appropriate officials shall—

(1) establish uniform standards and procedures for the grant of access to classified information for employees and contractor personnel of the United States Government who require access to such information;

(2) ensure the consistent implementation of the standards and procedures established under paragraph (1) throughout the departments, agencies, and elements of the United States Government and under contracts entered into by such departments, agencies, and elements;

(3) ensure that an individual who is granted or continued eligibility for access to classified information is treated by each department, agency, or element of the executive branch as eligible for access to classified information at that level for all purposes of each such department, agency, or element, regardless of which department, agency, or element of the executive branch granted or continued the eligibility of such individual for access to classified information;

(4) establish uniform requirements and standards, including for security questionnaires, financial disclosure requirements, and standards for administering polygraph examinations, to be utilized for the performance of security clearance investigations, including by the contractors conducting such investigations; and

(5) ensure that the database established under subsection (b)(2)(B) meets the needs of the intelligence community.

(b) PERFORMANCE OF SECURITY CLEARANCE INVESTIGATIONS.—(1) Not later than 45 days after the date of the enactment of this Act, the President shall select a single department, agency, or element of the executive branch to conduct all security clearance investigations of employees and contractor personnel of the United States Government who require access to classified information and to provide and maintain all security clearances of such employees and contractor personnel.

(2) The department, agency, or element selected under paragraph (1) shall—

(A) take all necessary actions to carry out the requirements of this section, including entering into a memorandum of understanding with any agency carrying out responsibilities relating to security clearances or security clearance investigations before the date of the enactment of this Act;

(B) as soon as practicable, establish and maintain a single database for tracking security clearance applications, security clearance investigations, and determinations of eligibility for security clearances, which database shall incorporate applicable elements of similar databases in existence on the date of the enactment of this Act; and

(C) ensure that security clearance investigations are conducted in accordance with uniform standards and requirements established under subsection (a)(4), including uniform security questionnaires and financial disclosure requirements.

(c) ADJUDICATION AND GRANT OF SECURITY CLEARANCES.—(1) Each agency that adjudicates and grants security clearances as of the date of the enactment of this Act may continue to adjudicate and grant security clearances after that date.

(2) Each agency that adjudicates and grants security clearances shall specify to the department, agency, or element selected under subsection (b) the level of security clearance investigation required for an individual under its jurisdiction.

(3) Upon granting or continuing eligibility for access to classified information to an individual under its jurisdiction, an agency that adjudicates and grants security clearances shall submit to the department, agency, or element selected under subsection (b) notice of that action, including the level of access to classified information granted.

(d) UTILIZATION OF PERSONNEL.—There shall be transferred to the department, agency, or element selected under subsection (b) any personnel of any executive agency whose sole function as of the date of the enactment of this Act is the performance of security clearance investigations.

(e) TRANSITION.—The President shall take appropriate actions to ensure that the performance of security clearance investigations under this section commences not later than one year after the date of the enactment of this Act.

SEC. 116. NATIONAL INTELLIGENCE RESERVE CORPS.

(a) ESTABLISHMENT.—The National Intelligence Director may provide for the establishment and training of a National Intelligence Reserve Corps (in this section referred to as "National Intelligence Reserve Corps") for the temporary reemployment on a voluntary basis of former employees of elements of the intelligence community during periods of emergency, as determined by the Director.

(b) ELIGIBLE INDIVIDUALS.—An individual may participate in the National Intelligence Reserve Corps only if the individual previously served as a full time employee of an element of the intelligence community.

(c) LIMITATION ON MEMBERSHIP.—The total number of individuals who are members of the National Intelligence Reserve Corps at any given time may not exceed 200 individuals.

(d) TERMS OF PARTICIPATION.—The National Intelligence Director shall prescribe the terms and conditions under which eligible individuals may participate in the National Intelligence Reserve Corps.

(e) EXPENSES.—The National Intelligence Director may provide members of the National Intelligence Reserve Corps transportation and per diem in lieu of subsistence for purposes of participating in any training that relates to service as a member of the Reserve Corps.

(f) TREATMENT OF ANNUITANTS.—(1) If an annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes temporarily reemployed pursuant to this section, such annuity shall not be discontinued thereby.

(2) An annuitant so reemployed shall not be considered an employee for the purposes of chapter 83 or 84 of title 5, United States Code.

(g) TREATMENT UNDER NATIONAL INTELLIGENCE AUTHORITY PERSONNEL CEILING.—A member of the National Intelligence Reserve Corps who is reemployed on a temporary basis pursuant to this section shall not count against any personnel ceiling applicable to the National Intelligence Authority.

SEC. 117. APPOINTMENT AND TERMINATION OF CERTAIN OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES.

(a) RECOMMENDATION OF NID IN CERTAIN APPOINTMENT.—In the event of a vacancy in the position of Director of the Central Intelligence Agency, the National Intelligence Director shall recommend to the President an individual for nomination to fill the vacancy.

(b) CONCURRENCE OF SECRETARY OF DEFENSE IN CERTAIN APPOINTMENTS RECOMMENDED BY NID.—(1) In the event of a vacancy in a position referred to in paragraph (2), the National Intelligence Director shall obtain the concurrence of the Secretary of Defense before recommending to the President an individual for nomination to fill such vacancy. If the Secretary does not concur in the recommendation, the Director may make the recommendation to the President without the concurrence of the Secretary, but shall include in the recommendation a statement that the Secretary does not concur in the recommendation.

(2) Paragraph (1) applies to the following positions:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(c) Concurrence of NID in Certain Appointments.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the National Intelligence Director before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in appointment or recommendation (as the case may be).

(2) Paragraph (1) applies to the following positions:

(A) The Under Secretary of Defense for Intelligence.

(B) The Assistant Secretary of Homeland Security for Information Analysis.

(C) The Director of the Defense Intelligence Agency.

(D) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

(d) Recommendation of NID on Termination of Service.—(1) The National Intelligence Director may recommend to the President or the head of the department or agency concerned the termination of service of any individual serving in any position covered by this section.

(2) In the event the Director intends to recommend to the President the termination of service of an individual under paragraph (1), the Director shall seek the concurrence of the head of the department or agency concerned. If the head of the department or agency concerned does not concur in the recommendation, the Director may make the recommendation to the President without the concurrence of the head of the department or agency concerned, but shall notify the President that the head of the department or agency concerned does not concur in the recommendation.

SEC. 118. RESERVE FOR CONTINGENCIES OF THE NATIONAL INTELLIGENCE DIRECTOR.

(a) Establishment.—There is hereby established on the books of the Treasury an account to be known as the Reserve for Contingencies of the National Intelligence Director.

(b) Elements.—The Reserve shall consist of the following elements:

(1) Amounts authorized to be appropriated to the Reserve.

(2) Any amounts authorized to be transferred to or deposited in the Reserve by law.

(c) Availability.—Amounts in the Reserve shall be available for such purposes as are provided by law.

(d) Transfer of Funds of Reserve for Contingencies of CIA.—There shall be transferred to the Reserve for Contingencies of the National Intelligence Director all unobligated balances of the Reserve for Contingencies of the Central Intelligence Agency as of the date of the enactment of this Act.

Subtitle C—Office of the National Intelligence Director

SEC. 121. OFFICE OF THE NATIONAL INTELLIGENCE DIRECTOR.

(a) Office of National Intelligence Director.—There is within the National Intelligence Authority an Office of the National Intelligence Director.

(b) Function.—The function of the Office of the National Intelligence Director is to assist the National Intelligence Director in carrying out the duties and responsibilities of the Director under this Act, the National Security Act of 1947 (50 U.S.C. 401 et seq.), and other applicable provisions of law, and to carry out such other duties as may be prescribed by the President or by law.

(c) Composition.—The Office of the National Intelligence Director is composed of the following:

(1) The Principal Deputy National Intelligence Director.

(2) Any Deputy National Intelligence Director appointed under section 122(b).

(3) The National Intelligence Council.

(4) The General Counsel of the National Intelligence Authority.

(5) The Intelligence Comptroller.

(6) The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority.

(7) The Privacy Officer of the National Intelligence Authority.

(8) The Chief Information Officer of the National Intelligence Authority.

(9) The Chief Human Capital Officer of the National Intelligence Authority.

(10) The Chief Financial Officer of the National Intelligence Authority.

(11) The National Counterintelligence Executive (including the Office of the National Counterintelligence Executive).

(12) Such other offices and officials as may be established by law or the Director may establish or designate in the Office.

(d) Staff.—(1) To assist the National Intelligence Director in fulfilling the duties and responsibilities of the Director, the Director shall employ and utilize in the Office of the National Intelligence Director a professional staff having an expertise in matters relating to such duties and responsibilities, and may establish permanent positions and appropriate rates of pay with respect to that staff.

(2) The staff of the Office of the National Intelligence Director under paragraph (1) shall include the staff of the Office of the Deputy Director of Central Intelligence for Community Management that is transferred to the Office of the National Intelligence Director under section 321.

(e) Prohibition on Co-Location With Other Elements of Intelligence Community.—Commencing as of October 1, 2006, the Office of the National Intelligence Director may not be co-located with any other element of the intelligence community.

SEC. 122. DEPUTY NATIONAL INTELLIGENCE DIRECTORS.

(a) Principal Deputy National Intelligence Director.—(1) There is a Principal Deputy National Intelligence Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) In the event of a vacancy in the position of Principal Deputy National Intelligence Director, the National Intelligence Director shall recommend to the President an individual for appointment as Principal Deputy National Intelligence Director.

(3) Any individual nominated for appointment as Principal Deputy National Intelligence Director shall have extensive national security experience and management expertise.

(4) The individual serving as Principal Deputy National Intelligence Director may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as Principal Deputy National Intelligence Director is doing so in an acting capacity.

(5) The Principal Deputy National Intelligence Director shall assist the National Intelligence Director in carrying out the duties and responsibilities of the Director.

(6) The Principal Deputy National Intelligence Director shall act for, and exercise the powers of, the National Intelligence Director during the absence or disability of the National Intelligence Director or during a vacancy in the position of National Director of Intelligence.

(b) Deputy National Intelligence Directors.—(1) There may be not more than four Deputy National Intelligence Directors who shall be appointed by the President.

(2) In the event of a vacancy in any position of Deputy National Intelligence Director established under this subsection, the National Intelligence Director shall recommend to the President an individual for appointment to such position.

(3) Each Deputy National Intelligence Director appointed under this subsection shall have such duties, responsibilities, and authorities as the National Intelligence Director may assign or are specified by law.

SEC. 123. NATIONAL INTELLIGENCE COUNCIL.

(a) National Intelligence Council.—There is a National Intelligence Council.

(b) Composition.—(1) The National Intelligence Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the National Intelligence Director.

(2) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council, or as contractors of the Council or employees of such contractors, to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

(c) Duties and Responsibilities.—(1) The National Intelligence Council shall—

(A) produce national intelligence estimates for the United States Government, including alternative views held by elements of the intelligence community and other information as specified in paragraph (2);

(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and

(C) otherwise assist the National Intelligence Director in carrying out the responsibilities of the Director under section 111.

(2) The National Intelligence Director shall ensure that the Council satisfies the needs of policymakers and other consumers of intelligence by ensuring that each national intelligence estimate under paragraph (1)—

(A) states separately, and distinguishes between, the intelligence underlying such estimate and the assumptions and judgments of analysts with respect to such intelligence and such estimate;

(B) describes the quality and reliability of the intelligence underlying such estimate;

(C) presents and explains alternative conclusions, if any, with respect to the intelligence underlying such estimate and such estimate; and

(D) characterizes the uncertainties, if any, and confidence in such estimate.

(d) Service as Senior Intelligence Advisers.—Within their respective areas of expertise and under the direction of the National Intelligence Director, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.

(e) AUTHORITY TO CONTRACT.—Subject to the direction and control of the National Intelligence Director, the National Intelligence Council may carry out its responsibilities under this section by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this section.

(f) STAFF.—The National Intelligence Director shall make available to the National Intelligence Council such staff as may be necessary to permit the Council to carry out its responsibilities under this section.

(g) AVAILABILITY OF COUNCIL AND STAFF.—(1) The National Intelligence Director shall take appropriate measures to ensure that the National Intelligence Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

(2) The Council shall be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.

(h) SUPPORT.—The heads of the elements of the intelligence community shall, as appropriate, furnish such support to the National Intelligence Council, including the preparation of intelligence analyses, as may be required by the National Intelligence Director.

SEC. 124. GENERAL COUNSEL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) GENERAL COUNSEL OF NATIONAL INTELLIGENCE AUTHORITY.—There is a General Counsel of the National Intelligence Authority who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) PROHIBITION ON DUAL SERVICE AS GENERAL COUNSEL OF ANOTHER AGENCY.—The individual serving in the position of General Counsel of the National Intelligence Authority may not, while so serving, also serve as the General Counsel of any other department, agency, or element of the United States Government.

(c) SCOPE OF POSITION.—The General Counsel of the National Intelligence Authority is the chief legal officer of the National Intelligence Authority.

(d) FUNCTIONS.—The General Counsel of the National Intelligence Authority shall perform such functions as the National Intelligence Director may prescribe.

SEC. 125. INTELLIGENCE COMPTROLLER.

(a) INTELLIGENCE COMPTROLLER.—There is an Intelligence Comptroller who shall be appointed from civilian life by the National Intelligence Director.

(b) SUPERVISION.—The Intelligence Comptroller shall report directly to the National Intelligence Director.

(c) DUTIES.—The Intelligence Comptroller shall—

(1) assist the National Intelligence Director in the preparation and execution of the budget of the elements of the intelligence community within the National Intelligence Program;

(2) assist the Director in participating in the development by the Secretary of Defense of the annual budget for military intelligence programs and activities outside the National Intelligence Program;

(3) provide unfettered access to the Director to financial information under the National Intelligence Program;

(4) perform such other duties as may be prescribed by the Director or specified by law.

SEC. 126. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF NATIONAL INTELLIGENCE AUTHORITY.—There is an Officer for Civil Rights and Civil Liberties of the National Intelligence Authority who shall be appointed by the President.

(b) SUPERVISION.—The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority shall report directly to the National Intelligence Director.

(c) DUTIES.—The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in ensuring that the protection of civil rights and civil liberties, as provided in the Constitution, laws, regulations, and Executive orders of the United States, is appropriately incorporated in—

(A) the policies and procedures developed for and implemented by the National Intelligence Authority;

(B) the policies and procedures regarding the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the policies and procedures regarding the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) oversee compliance by the Authority, and in the relationships described in paragraph (1), with requirements under the Constitution and all laws, regulations, Executive orders, and implementing guidelines relating to civil rights and civil liberties;

(3) review, investigate, and assess complaints and other information indicating possible abuses of civil rights or civil liberties, as provided in the Constitution, laws, regulations, and Executive orders of the United States, in the administration of the programs and operations of the Authority, and in the relationships described in paragraph (1), unless, in the determination of the Inspector General of the National Intelligence Authority, the review, investigation, or assessment of a particular complaint or information can better be conducted by the Inspector General;

(4) coordinate with the Privacy Officer of the National Intelligence Authority to ensure that programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

(5) perform such other duties as may be prescribed by the Director or specified by law.

SEC. 127. PRIVACY OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) PRIVACY OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Privacy Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—(1) The Privacy Officer of the National Intelligence Authority shall have primary responsibility for the privacy policy of the National Intelligence Authority (including in the relationships among the elements of the intelligence community within the National Intelligence Program and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community).

(2) In discharging the responsibility under paragraph (1), the Privacy Officer shall—

(A) assure that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(B) assure that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974;

(C) conduct privacy impact assessments when appropriate or as required by law; and

(D) coordinate with the Officer for Civil Rights and Civil Liberties of the National Intelligence Authority to ensure that programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner.

SEC. 128. CHIEF INFORMATION OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF INFORMATION OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Information Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Information Officer of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in implementing the responsibilities and executing the authorities related to information technology under paragraphs (15) and (16) of section 112(a) and section 113(h); and

(2) perform such other duties as may be prescribed by the Director or specified by law.

SEC. 129. CHIEF HUMAN CAPITAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF HUMAN CAPITAL OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Human Capital Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Human Capital Officer of the National Intelligence Authority shall—

(1) have the functions and authorities provided for Chief Human Capital Officers under sections 1401 and 1402 of title 5, United States Code, with respect to the National Intelligence Authority; and

(2) advise and assist the National Intelligence Director in exercising the authorities and responsibilities of the Director with respect to the workforce of the intelligence community as a whole.

SEC. 130. CHIEF FINANCIAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF FINANCIAL OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Financial Officer of the National Intelligence Authority who shall be designated by the President, in consultation with the National Intelligence Director.

(b) DESIGNATION REQUIREMENTS.—The designation of an individual as Chief Financial Officer of the National Intelligence Authority shall be subject to applicable provisions of section 901(a) of title 31, United States Code.

(c) AUTHORITIES AND FUNCTIONS.—The Chief Financial Officer of the National Intelligence Authority shall have such authorities, and carry out such functions, with respect to the National Intelligence Authority as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law.

(d) COORDINATION WITH NIA COMPTROLLER.—(1) The Chief Financial Officer of the National Intelligence Authority shall coordinate with the Comptroller of the National Intelligence Authority in exercising the authorities and performing the functions provided for the Chief Financial Officer under this section.

(2) The National Intelligence Director shall take such actions as are necessary to prevent duplication of effort by the Chief Financial Officer of the National Intelligence Authority and the Comptroller of the National Intelligence Authority.

(e) INTEGRATION OF FINANCIAL SYSTEMS.—Subject to the supervision, direction, and control of the National Intelligence Director, the Chief Financial Officer of the National Intelligence Authority shall take appropriate actions to ensure the timely and effective integration of the financial systems of the National Intelligence Authority (including any elements or components transferred to the Authority by this Act), and of the financial systems of the Authority with applicable portions of the financial systems of the other elements of the intelligence community, as soon as possible after the date of the enactment of this Act.

(f) PROTECTION OF ANNUAL FINANCIAL STATEMENT FROM DISCLOSURE.—The annual financial statement of the National Intelligence Authority required under section 3515 of title 31, United States Code—

(1) shall be submitted in classified form; and

(2) notwithstanding any other provision of law, shall be withheld from public disclosure.

SEC. 131. NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—The National Counterintelligence Executive under section 902 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402b et seq.), as amended by section 309 of this Act, is a component of the Office of the National Intelligence Director.

(b) DUTIES.—The National Counterintelligence Executive shall perform the duties provided in the Counterintelligence Enhancement Act of 2002, as so amended, and such other duties as may be prescribed by the National Intelligence Director or specified by law.

Subtitle D—Additional Elements of National Intelligence Authority

SEC. 141. INSPECTOR GENERAL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) OFFICE OF INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—There is within the National Intelligence Authority an Office of the Inspector General of the National Intelligence Authority.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the National Intelligence Authority is to—

(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently investigations, inspections, and audits relating to—

(A) the programs and operations of the National Intelligence Authority;

(B) the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) recommend policies designed—

(A) to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and in such relationships; and

(B) to prevent and detect fraud and abuse in such programs, operations, and relationships;

(3) provide a means for keeping the National Intelligence Director fully and currently informed about—

(A) problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(C) the necessity for, and the progress of, corrective actions; and

(4) in the manner prescribed by this section, ensure that the congressional intelligence committees are kept similarly informed of—

(A) significant problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions.

(c) INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—(1) There is an Inspector General of the National Intelligence Authority, who shall be the head of the Office of the Inspector General of the National Intelligence Authority, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The nomination of an individual for appointment as Inspector General shall be made—

(A) without regard to political affiliation;

(B) solely on the basis of integrity, compliance with the security standards of the National Intelligence Authority, and prior experience in the field of intelligence or national security; and

(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or auditing.

(3) The Inspector General shall report directly to and be under the general supervision of the National Intelligence Director.

(4) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the congressional intelligence committees the reasons for the removal of any individual from the position of Inspector General.

(d) DUTIES AND RESPONSIBILITIES.—It shall be the duty and responsibility of the Inspector General of the National Intelligence Authority—

(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, and audits relating to the programs and operations of the National Intelligence Authority, the relationships among the elements of the intelligence community within the National Intelligence Program, and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) to keep the National Intelligence Director fully and currently informed concerning violations of law and regulations, violations of civil liberties and privacy, and fraud and other serious problems, abuses, and deficiencies that may occur in such programs and operations, and in such relationships, and to report the progress made in implementing corrective action;

(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

(4) in the execution of the duties and responsibilities under this section, to comply with generally accepted government auditing standards.

(e) LIMITATIONS ON ACTIVITIES.—(1) The National Intelligence Director may prohibit the Inspector General of the National Intelligence Authority from initiating, carrying out, or completing any investigation, inspection, or audit if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

(2) If the Director exercises the authority under paragraph (1), the Director shall submit an appropriately classified statement of the reasons for the exercise of such authority within seven days to the congressional intelligence committees.

(3) The Director shall advise the Inspector General at the time a report under paragraph (1) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such report.

(4) The Inspector General may submit to the congressional intelligence committees any comments on a report of which the Inspector General has notice under paragraph (3) that the Inspector General considers appropriate.

(f) AUTHORITIES.—(1) The Inspector General of the National Intelligence Authority shall have direct and prompt access to the National Intelligence Director when necessary for any purpose pertaining to the performance of the duties of the Inspector General.

(2)(A) The Inspector General shall have access to any employee, or any employee of a contractor, of the National Intelligence Authority, and of any other element of the intelligence community within the National Intelligence Program, whose testimony is needed for the performance of the duties of the Inspector General.

(B) The Inspector General shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this section.

(C) The level of classification or compartmentation of information shall not, in and of itself, provide a sufficient rationale for denying the Inspector General access to any materials under subparagraph (B).

(D) Failure on the part of any employee or contractor of the National Intelligence Authority to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director, including loss of employment or the termination of an existing contractual relationship.

(3) The Inspector General is authorized to receive and investigate complaints or information from any person concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the Federal government—

(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken; and

(B) no action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(4) The Inspector General shall have authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the duties of the Inspector General, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of the Inspector General of the National Intelligence Authority designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal.

(5)(A) Except as provided in subparagraph (B), the Inspector General is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

(B) In the case of departments, agencies, and other elements of the United States Government, the Inspector General shall obtain information, documents, reports, answers, records, accounts, papers, and other data and evidence for the purpose specified in subparagraph (A) using procedures other than by subpoenas.

(C) The Inspector General may not issue a subpoena for or on behalf of any other element or component of the Authority.

(D) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, the subpoena shall be enforceable by order of any appropriate district court of the United States.

(g) STAFF AND OTHER SUPPORT.—(1) The Inspector General of the National Intelligence Authority shall be provided with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

(2)(A) Subject to applicable law and the policies of the National Intelligence Director, the Inspector General shall select, appoint and employ such officers and employees as may be necessary to carry out the functions of the Inspector General.

(B) In making selections under subparagraph (A), the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable the Inspector General to carry out the duties of the Inspector General effectively.

(C) In meeting the requirements of this paragraph, the Inspector General shall create within the Office of the Inspector General of the National Intelligence Authority a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

(3)(A) Subject to the concurrence of the Director, the Inspector General may request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Inspector General from any department, agency, or other element of the United States Government.

(B) Upon request of the Inspector General for information or assistance under subparagraph (A), the head of the department, agency, or element concerned shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the department, agency, or element, furnish to the Inspector General, or to an authorized designee, such information or assistance.

(h) REPORTS.—(1)(A) The Inspector General of the National Intelligence Authority shall, not later than January 31 and July 31 of each year, prepare and submit to the National Intelligence Director a classified semiannual report summarizing the activities of the Office of the Inspector General of the National Intelligence Authority during the immediately preceding six-month periods ending December 31 (of the preceding year) and June 30, respectively.

(B) Each report under this paragraph shall include, at a minimum, the following:

(i) A list of the title or subject of each investigation, inspection, or audit conducted during the period covered by such report.

(ii) A description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the National Intelligence Authority identified by the Inspector General during the period covered by such report.

(iii) A description of the recommendations for corrective action made by the Inspector General during the period covered by such report with respect to significant problems, abuses, or deficiencies identified in clause (ii).

(iv) A statement whether or not corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action.

(v) An assessment of the effectiveness of all measures in place in the Authority for the protection of civil liberties and privacy of United States persons.

(vi) A certification whether or not the Inspector General has had full and direct access to all information relevant to the performance of the functions of the Inspector General.

(vii) A description of the exercise of the subpoena authority under subsection (f)(5) by the Inspector General during the period covered by such report.

(viii) Such recommendations as the Inspector General considers appropriate for legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Authority, and to detect and eliminate fraud and abuse in such programs and operations.

(C) Not later than the 30 days after the date of receipt of a report under subparagraph (A), the Director shall transmit the report to the congressional intelligence committees together with any comments the Director considers appropriate.

(2)(A) The Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations of the Authority, a relationship between the elements of the intelligence community within the National Intelligence Program, or a relationship between an element of the intelligence community within the National Intelligence Program and another element of the intelligence community.

(B) The Director shall transmit to the congressional intelligence committees each report under subparagraph (A) within seven calendar days of receipt of such report, together with such comments as the Director considers appropriate.

(3) In the event that—

(A) the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General;

(B) an investigation, inspection, or audit carried out by the Inspector General should focus on any current or former Authority official who holds or held a position in the Authority that is subject to appointment by the President, by and with the advice and consent of the Senate, including such a position held on an acting basis;

(C) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former official described in subparagraph (B);

(D) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any current or former official described in subparagraph (B); or

(E) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit,

the Inspector General shall immediately notify and submit a report on such matter to the congressional intelligence committees.

(4) Pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), the Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, or audit conducted by the office which has been requested by the Chairman or Ranking Minority Member of either committee.

(5)(A) An employee of the Authority, an employee of an entity other than the Authority who is assigned or detailed to the Authority, or an employee of a contractor to the Authority who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

(B) Not later than the end of the 14-calendar day period beginning on the date of receipt from an employee of a complaint or information under subparagraph (A), the Inspector General shall determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the Director a notice of that determination, together with the complaint or information.

(C) Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within seven calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate.

(D)(i) If the Inspector General does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting either or both of the congressional intelligence committees directly.

(ii) An employee may contact the intelligence committees directly as described in clause (i) only if the employee—

(I) before making such a contact, furnishes to the Director, through the Inspector General, a statement of the employee's complaint or information and notice of the employee's intent to contact the congressional intelligence committees directly; and

(II) obtains and follows from the Director, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.

(iii) A member or employee of one of the congressional intelligence committees who receives a complaint or information under clause (i) does so in that member or employee's official capacity as a member or employee of such committee.

(E) The Inspector General shall notify an employee who reports a complaint or information to the Inspector General under this paragraph of each action taken under this paragraph with respect to the complaint or information. Such notice shall be provided not later than three days after any such action is taken.

(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

(G) In this paragraph, the term "urgent concern" means any of the following:

(i) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operations of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.

(ii) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

(iii) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (f)(3)(B) of this section in response to an employee's reporting an urgent concern in accordance with this paragraph.

(H) In support of this paragraph, Congress makes the findings set forth in paragraphs (1) through (6) of section 701(b) of the Intelligence Community Whistleblower Protection Act of 1998 (title VII of Public Law 105–272; 5 U.S.C. App. 8H note).

(6) In accordance with section 535 of title 28, United States Code, the Inspector General shall report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involve a program or operation of the Authority, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of each such report shall be furnished to the Director.

(i) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of Inspector General of the National Intelligence Authority.

SEC. 142. OMBUDSMAN OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) OMBUDSMAN OF NATIONAL INTELLIGENCE AUTHORITY.—There is within the National Intelligence Authority an Ombudsman of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Ombudsman of the National Intelligence Authority shall—

(1) counsel, arbitrate, or offer recommendations on, and have the authority to initiate inquiries into, real or perceived problems of politicization, biased reporting, or lack of objective analysis within the National Intelligence Authority, or any element of the intelligence community within the National Intelligence Program, or regarding any analysis of national intelligence by any element of the intelligence community;

(2) monitor the effectiveness of measures taken to deal with real or perceived politicization, biased reporting, or lack of objective analysis within the Authority, or any element of the intelligence community within the National Intelligence Program, or regarding any analysis of national intelligence by any element of the intelligence community; and

(3) conduct reviews of the analytic product or products of the Authority, or any element of the intelligence community within the National Intelligence Program, or of any analysis of national intelligence by any element of the intelligence community, with such reviews to be conducted so as to ensure that analysis is timely, objective, independent of political considerations, and based upon all sources available to the intelligence community.

(c) ANALYTIC REVIEW UNIT.—(1) There is within the Office of the Ombudsman of the National Intelligence Authority an Analytic Review Unit.

(2) The Analytic Review Unit shall assist the Ombudsman of the National Intelligence Authority in performing the duties and responsibilities of the Ombudsman set forth in subsection (b)(3).

(3) The Ombudsman shall provide the Analytic Review Unit a staff who possess expertise in intelligence analysis that is appropriate for the function of the Unit.

(4) In assisting the Ombudsman, the Analytic Review Unit shall, subject to the direction and control of the Ombudsman, conduct detailed evaluations of intelligence analysis by the following:

(A) The National Intelligence Council.

(B) The elements of the intelligence community within the National Intelligence Program.

(C) To the extent involving the analysis of national intelligence, other elements of the intelligence community.

(D) The divisions, offices, programs, officers, and employees of the elements specified in subparagraphs (B) and (C).

(5) The results of the evaluations under paragraph (4) shall be provided to the congressional intelligence committees and, upon request, to appropriate heads of other departments, agencies, and elements of the executive branch.

(d) ACCESS TO INFORMATION.—In order to carry out the duties specified in subsection (c), the Ombudsman of the National Intelligence Authority shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community, and to any reports or other material of an Inspector General, that might be pertinent to a matter under consideration by the Ombudsman.

(e) ANNUAL REPORTS.—The Ombudsman of the National Intelligence Authority shall submit to the National Intelligence Director and the congressional intelligence committees on an annual basis a report that includes—

(1) the assessment of the Ombudsman of the current level of politicization, biased reporting, or lack of objective analysis within the National Intelligence Authority, or any element of the intelligence community within the National Intelligence Program, or regarding any analysis of national intelligence by any element of the intelligence community;

(2) such recommendations for remedial measures as the Ombudsman considers appropriate; and

(3) an assessment of the effectiveness of remedial measures previously taken within the intelligence community on matters addressed by the Ombudsman.

(f) REFERRAL OF CERTAIN MATTERS FOR INVESTIGATION.—In addition to carrying out activities under this section, the Ombudsman of the National Intelligence Authority may refer serious cases of misconduct related to politicization of intelligence information, biased reporting, or lack of objective analysis within the intelligence community to the Inspector General of the National Intelligence Authority for investigation.

SEC. 143. NATIONAL COUNTERTERRORISM CENTER.

(a) NATIONAL COUNTERTERRORISM CENTER.—There is within the National Intelligence Authority a National Counterterrorism Center.

(b) DIRECTOR OF NATIONAL COUNTERTERRORISM CENTER.—(1) There is a Director of the National Counterterrorism Center, who shall be the head of the National Counterterrorism Center, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as the Director of the National Counterterrorism Center shall have significant expertise in matters relating to the national security of the United States and matters relating to terrorism that threatens the national security of the United States.

(3) The individual serving as the Director of the National Counterterrorism Center may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as Director of the National Counterterrorism Center is doing so in an acting capacity.

(c) SUPERVISION.—(1) The Director of the National Counterterrorism Center shall report to the National Intelligence Director on—

(A) the budget and programs of the National Counterterrorism Center; and

(B) the activities of the Directorate of Intelligence of the National Counterterrorism Center under subsection (g).

(2) The Director of the National Counterterrorism Center shall report to the President and the National Intelligence Director on the planning and progress of joint counterterrorism operations.

(d) PRIMARY MISSIONS.—The primary missions of the National Counterterrorism Center shall be as follows:

(1) To develop and unify strategy for the civilian and military counterterrorism efforts of the United States Government.

(2) To integrate counterterrorism intelligence activities of the United States Government, both inside and outside the United States.

(3) To develop interagency counterterrorism plans, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agency operational activities, recommendations for operational plans, and assignment of departmental or agency responsibilities.

(4) To ensure that the collection of counterterrorism intelligence, and the conduct of counterterrorism operations, by the

United States Government are informed by the analysis of all-source intelligence.

(e) Duties and Responsibilities of Director of National Counterterrorism Center.—Notwithstanding any other provision of law, at the direction of the President, the National Security Council, and the National Intelligence Director, the Director of the National Counterterrorism Center shall—

(1) serve as the principal adviser to the President and the National Intelligence Director on joint operations relating to counterterrorism;

(2) provide unified strategic direction for the civilian and military counterterrorism efforts of the United States Government and for the effective integration and deconfliction of counterterrorism intelligence and operations across agency boundaries, both inside and outside the United States;

(3) advise the President and the National Intelligence Director on the extent to which the counterterrorism program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the priorities established by the President and the National Security Council;

(4) in accordance with subsection (f), concur in, or advise the President on, the selections of personnel to head the operating entities of the United States Government with principal missions relating to counterterrorism; and

(5) perform such other duties as the National Intelligence Director may prescribe or are prescribed by law.

(f) Role of Director of National Counterterrorism Center in Certain Appointments.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of the National Counterterrorism Center before appointing an individual to fill the vacancy or recommending to the President an individual for nomination to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in the appointment or recommendation (as the case may be).

(2) Paragraph (1) applies to the following positions:

(A) The Director of the Central Intelligence Agency's Counterterrorist Center.

(B) The Assistant Director of the Federal Bureau of Investigation in charge of the Counterterrorism Division.

(C) The Coordinator for Counterterrorism of the Department of State.

(D) The head of such other operating entities of the United States Government having principal missions relating to counterterrorism as the President may designate for purposes of this subsection.

(3) The President shall notify Congress of the designation of an operating entity of the United States Government under paragraph (2)*D) not later than 30 days after the date of such designation.

(g) Directorate of Intelligence.—(1) The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Intelligence.

(2) The Directorate shall utilize the capabilities of the Terrorist Threat Integration Center (TTIC) transferred to the Directorate by section 323 and such other capabilities as the Director of the National Counterterrorism Center considers appropriate.

(3) The Directorate shall have primary responsibility within the United States Government for analysis of terrorism and terrorist organizations from all sources of intelligence, whether collected inside or outside the United States.

(4) The Directorate shall—

(A) be the principal repository within the United States Government for all-source information on suspected terrorists, their organizations, and their capabilities;

(B) propose intelligence collection requirements for action by elements of the intelligence community inside and outside the United States;

(C) have primary responsibility within the United States Government for net assessments and warnings about terrorist threats, which assessments and warnings shall be based on a comparison of terrorist intentions and capabilities with assessed national vulnerabilities and countermeasures; and

(D) perform such other duties and functions as the Director of the National Counterterrorism Center may prescribe.

(h) Directorate of Planning.—(1) The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Planning.

(2) The Directorate shall have primary responsibility for developing interagency counterterrorism plans, as described in subsection (d)(3).

(3) The Directorate shall—

(A) provide guidance, and develop strategy and interagency plans, to counter terrorist activities based on policy objectives and priorities established by the National Security Council;

(B) develop interagency plans under subparagraph (A) utilizing input from personnel in other departments, agencies, and elements of the United States Government who have expertise in the priorities, functions, assets, programs, capabilities, and operations of such departments, agencies, and elements with respect to counterterrorism;

(C) assign responsibilities for counterterrorism operations to the departments and agencies of the United States Government (including the Department of Defense, the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Homeland Security, and other departments and agencies of the United States Government), consistent with the authorities of such departments and agencies;

(D) monitor the implementation of operations assigned under subparagraph (C) and update interagency plans for such operations as necessary;

(E) report to the President and the National Intelligence Director on the compliance of the departments, agencies, and elements of the United States with the plans developed under subparagraph (A); and

(F) perform such other duties and functions as the Director of the National Counterterrorism Center may prescribe.

(4) The Directorate may not direct the execution of operations assigned under paragraph (3).

(i) Staff.—(1) The National Intelligence Director may appoint deputy directors of the National Counterterrorism Center to oversee such portions of the operations of the Center as the National Intelligence Director considers appropriate.

(2) To assist the Director of the National Counterterrorism Center in fulfilling the duties and responsibilities of the Director of the National Counterterrorism Center under this section, the National Intelligence Director shall employ in the National Counterterrorism Center a professional staff having an expertise in matters relating to such duties and responsibilities.

(3) In providing for a professional staff for the National Counterterrorism Center under paragraph (2), the National Intelligence Director may establish as positions in the excepted service such positions in the Center as the National Intelligence Director considers appropriate.

(4) The National Intelligence Director shall ensure that the analytical staff of the National Counterterrorism Center is comprised primarily of experts from elements in the intelligence community and from such other personnel in the United States Government as the National Intelligence Director considers appropriate.

(5)(A) In order to meet the requirements in paragraph (4), the National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of personnel funded within the National Intelligence Program to the National Counterterrorism Center from any other element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of personnel from a department, agency, or element of the United States Government and not funded within the National Intelligence Program, request the transfer, assignment, or detail of such personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effect any transfer, assignment, or detail of personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(6) Personnel employed in or assigned or detailed to the National Counterterrorism Center under this subsection shall be under the authority, direction, and control of the Director of the National Counterterrorism Center on all matters for which the Center has been assigned responsibility and for all matters related to the accomplishment of the missions of the Center.

(7) Performance evaluations of personnel assigned or detailed to the National Counterterrorism Center under this subsection shall be undertaken by the supervisors of such personnel at the Center.

(8) The supervisors of the staff of the National Counterterrorism Center may, with the approval of the National Intelligence Director, reward the staff of the Center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(9) The National Intelligence Director may delegate to the Director of the National Counterterrorism Center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (8).

(10) The National Intelligence Director shall ensure that the staff of the National Counterterrorism Center has access to all databases maintained by the elements of the intelligence community that are relevant to the duties of the Center.

(j) Support and Cooperation of Other Agencies.—(1) The elements of the intelligence community and the other departments, agencies, and elements of the United States Government shall support, assist, and cooperate with the National Counterterrorism Center in carrying out its missions under this section.

(2) The support, assistance, and cooperation of a department, agency, or element of the United States Government under this subsection shall include, but not be limited to—

(A) the implementation of interagency plans for operations, whether foreign or domestic, that are developed by the National Counterterrorism Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (h)(4);

(B) cooperative work with the Director of the National Counterterrorism Center to ensure that ongoing operations of such department, agency, or element do not conflict with joint operations planned by the Center;

(C) reports, upon request, to the Director of the National Counterterrorism Center on the progress of such department, agency, or element in implementing responsibilities assigned to such department, agency, or element through joint operations plans; and

(D) the provision to the analysts of the National Counterterrorism Center electronic access in real time to information and intelligence collected by such department, agency, or element that is relevant to the missions of the Center.

(3) In the event of a disagreement between the National Intelligence Director and the head of a department, agency, or element of the United States Government on a plan developed or responsibility assigned by the National Counterterrorism Center under this subsection, the National Intelligence Director may either accede to the head of the department, agency, or element concerned or notify the President of the necessity of resolving the disagreement.

SEC. 144. NATIONAL INTELLIGENCE CENTERS.

(a) National Intelligence Centers.—(1) The National Intelligence Director may establish within the National Intelligence Authority one or more centers (to be known as "national intelligence centers") to address intelligence priorities established by the National Security Council.

(2) Each national intelligence center established under this section shall be assigned an area of intelligence responsibility.

(3) National intelligence centers shall be established at the direction of the President, as prescribed by law, or upon the initiative of the National Intelligence Director.

(b) Establishment of Centers.—(1) In establishing a national intelligence center, the National Intelligence Director shall assign lead responsibility for administrative support for such center to an element of the intelligence community selected by the Director for that purpose.

(2) The Director shall determine the structure and size of each national intelligence center.

(3) The Director shall notify Congress of the establishment of each national intelligence center before the date of the establishment of such center.

(c) Directors of Centers.—(1) Each national intelligence center shall have as its head a Director who shall be appointed by the National Intelligence Director for that purpose.

(2) The Director of a national intelligence center shall serve as the principal adviser to the National Intelligence Director on intelligence matters with respect to the area of intelligence responsibility assigned to the center.

(3) In carrying out duties under paragraph (2), the Director of a national intelligence center shall—

(A) manage the operations of the center;

(B) coordinate the provision of administration and support by the element of the intelligence community with lead responsibility for the center under subsection (b)(1);

(C) submit budget and personnel requests for the center to the National Intelligence Director;

(D) seek such assistance from other departments, agencies, and elements of the United States Government as is needed to fulfill the mission of the center; and

(E) advise the National Intelligence Director of the information technology, personnel, and other requirements of the center for the performance of its mission.

(4) The National Intelligence Director shall ensure that the Director of a national intelligence center has sufficient authority, direction, and control to effectively accomplish the mission of the center.

(d) Mission of Centers.—Pursuant to the direction of the National Intelligence Director, each national intelligence center shall, in the area of intelligence responsibility assigned to the center by the Director pursuant to intelligence priorities established by the National Security Council—

(1) have primary responsibility for providing all-source analysis of intelligence based upon foreign intelligence gathered both abroad and domestically;

(2) have primary responsibility for identifying and proposing to the National Intelligence Director intelligence collection and analysis requirements;

(3) have primary responsibility for net assessments and warnings;

(4) ensure that appropriate officials of the United States Government and other appropriate officials have access to a variety of intelligence assessments and analytical views; and

(5) perform such other duties as the National Intelligence Director shall specify.

(e) Information Sharing.—(1) The National Intelligence Director shall ensure that the Directors of the national intelligence centers and the other elements of the intelligence community undertake appropriate sharing of intelligence analysis and plans for operations in order to facilitate the activities of the centers.

(2) In order to facilitate information sharing under paragraph (1), the Directors of the national intelligence centers shall—

(A) report directly to the National Intelligence Director regarding their activities under this section; and

(B) coordinate with the Principal Deputy National Intelligence Director regarding such activities.

(f) Staff.—(1) In providing for a professional staff for a national intelligence center, the National Intelligence Director may establish as positions in the excepted service such positions in the center as the National Intelligence Director considers appropriate.

(2)(A) The National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of personnel funded within the National Intelligence Program to a national intelligence center from any other element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of personnel from a department, agency, or element of the United States Government not funded within the National Intelligence Program, request the transfer, assignment, or detail of such personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effect any transfer, assignment, or detail of personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(3) Personnel employed in or assigned or detailed to a national intelligence center under this subsection shall be under the authority, direction, and control of the Director of the center on all matters for which the center has been assigned responsibility and for all matters related to the accomplishment of the mission of the center.

(4) Performance evaluations of personnel assigned or detailed to a national intelligence center under this subsection shall be undertaken by the supervisors of such personnel at the center.

(5) The supervisors of the staff of a national center may, with the approval of the National Intelligence Director, reward the staff of the center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(6) The National Intelligence Director may delegate to the Director of a national intelligence center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (6).

(7) The Director of a national intelligence center may recommend to the National Intelligence Director the reassignment to the home element concerned of any personnel previously assigned or detailed to the center from another element of the intelligence community.

(g) Termination.—(1) The National Intelligence Director may terminate a national intelligence center if the National Intelligence Director determines that the center is no longer required to meet an intelligence priority established by the National Security Council.

(2) The National Intelligence Director shall notify Congress of any determination made under paragraph (1) before carrying out such determination.

Subtitle E—Education and Training of Intelligence Community Personnel

SEC. 151. FRAMEWORK FOR CROSS-DISCIPLINARY EDUCATION AND TRAINING.

The National Intelligence Director shall establish an integrated framework that brings together the educational components of the intelligence community in order to promote a more effective and productive intelligence community through cross-disciplinary education and joint training.

SEC. 152. INTELLIGENCE COMMUNITY SCHOLARSHIP PROGRAM.

(a) Definitions.—In this section:

(1) Agency.—The term "agency" means each element of the intelligence community as determined by the National Intelligence Director.

(2) Institution of higher education.—The term "institution of higher education" has the meaning given that term under section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(3) Program.—The term "Program" means the Intelligence Community Scholarship Program established under subsection (b).

(b) Establishment.—

(1) In general.—The National Intelligence Director, in consultation with the head of each agency, shall establish a scholarship program (to be known as the "Intelligence Community Scholarship Program") to award scholarships to individuals that is designed to recruit and prepare students for civilian careers in the intelligence community to meet the critical needs of the intelligence community agencies.

(2) Selection of recipients.—

(A) Merit and agency needs.—Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit and the needs of the agency.

(B) Demonstrated commitment.—Individuals selected under this section shall have a demonstrated commitment to the field of study for which the scholarship is awarded.

(3) Contractual agreements.—To carry out the Program the head of each agency shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the agency, for the period described in subsection (h)(1), in positions needed by the agency and for which the individuals are qualified, in exchange for receiving a scholarship.

(c) Eligibility.—In order to be eligible to participate in the Program, an individual shall—

(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education and be pursuing or intend to pursue undergraduate or graduate education in an academic field or discipline described in the list made available under subsection (e);

(2) be a United States citizen; and

(3) at the time of the initial scholarship award, not be an employee (as defined under section 2105 of title 5, United States Code).

(d) Application.— An individual seeking a scholarship under this section shall submit an application to the National Intelligence Director at such time, in such manner, and containing such information, agreements, or assurances as the Director may require.

(e) Programs and Fields of Study.—The National Intelligence Director shall—

(1) make publicly available a list of academic programs and fields of study for which scholarships under the Program may be used; and

(2) update the list as necessary.

(f) Scholarships.—

(1) In general.—The National Intelligence Director may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Director, as part of the application required under subsection (d), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (e).

(2) Limitation on years.—An individual may not receive a scholarship under this section for more than 4 academic years, unless the National Intelligence Director grants a waiver.

(3) Student responsibilities.—Scholarship recipients shall maintain satisfactory academic progress.

(4) Amount.—The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the National Intelligence Director, but shall in no case exceed the cost of tuition, fees, and other authorized expenses as established by the Director.

(5) Use of scholarships.—A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the National Intelligence Director by regulation.

(6) Payment to institution of higher education.—The National Intelligence Director may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

(g) Special Consideration for Current Employees.—

(1) Set aside of scholarships.—Notwithstanding paragraphs (1) and (3) of subsection (c), 10 percent of the scholarships awarded under this section shall be set aside for individuals who are employees of agencies on the date of enactment of this section to enhance the education of such employees in areas of critical needs of agencies.

(2) Full- or part-time education.—Employees who are awarded scholarships under paragraph (1) shall be permitted to pursue undergraduate or graduate education under the scholarship on a full-time or part-time basis.

(h) Employee Service.—

(1) Period of service.—Except as provided in subsection (j)(2), the period of service for which an individual shall be obligated to serve as an employee of the agency is 24 months for each academic year for which a scholarship under this section is provided. Under no circumstances shall the total period of obligated service be more than 8 years.

(2) Beginning of service.—

(A) In general.—Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

(B) Deferral.—In accordance with regulations established by the National Intelligence Director, the Director or designee may defer the obligation of an individual to provide a period of service under paragraph (1) if the Director or designee determines that such a deferral is appropriate.

(i) Repayment.—

(1) In general.—Scholarship recipients who fail to maintain a high level of academic standing, as defined by the National Intelligence Director, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (j)(2). The repayment period may be extended by the Director when determined to be necessary, as established by regulation.

(2) Liability.—Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the National Intelligence Director under subsection (h)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

(A) the total amount of scholarships received by such individual under this section; and

(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States, multiplied by 3.

(j) Cancellation, Waiver, or Suspension of Obligation.—

(1) Cancellation.—Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

(2) Waiver or suspension.—The National Intelligence Director shall prescribe regulations to provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

(k) Regulations.—The National Intelligence Director shall prescribe regulations necessary to carry out this section.

Subtitle F—Additional Authorities of National Intelligence Authority

SEC. 161. USE OF APPROPRIATED FUNDS.

(a) Disposal of Property.—(1) If specifically authorized to dispose of real property of the National Intelligence Authority under any law enacted after the date of the enactment of this Act, the National Intelligence Director shall, subject to paragraph (2), exercise such authority in strict compliance with subchapter IV of chapter 5 of title 40, United States Code.

(2) The Director shall deposit the proceeds of any disposal of property of the National Intelligence Authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(b) Gifts.—Gifts or donations of services or property of or for the National Intelligence Authority may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

SEC. 162. ACQUISITION AND FISCAL AUTHORITIES.

(a) Acquisitions of Major Systems.—(1) For each intelligence program for the acquisition of a major system, the National Intelligence Director shall—

(A) require the development and implementation of a program management plan that includes cost, schedule, and performance goals and program milestone criteria;

(B) subject to paragraph (4), serve as the exclusive milestone decision authority; and

(C) periodically—

(i) review and assess the progress made toward the achievement of the goals and milestones established in such plan; and

(ii) submit to Congress a report on the results of such review and assessment.

(2) The National Intelligence Director shall prescribe guidance for the development and implementation of program management plans under this subsection. In prescribing such guidance, the Director shall review Department of Defense guidance on program

management plans for Department of Defense programs for the acquisition of major systems and, to the extent feasible, incorporate the principles of the Department of Defense guidance into the Director's guidance under this subsection.

(3) Nothing in this subsection may be construed to limit the authority of the National Intelligence Director to delegate to any other official any authority to perform the responsibilities of the Director under this subsection.

(4)(A) The authority conferred by paragraph (1)(B) shall not apply to Department of Defense programs until the National Intelligence Director, in consultation with the Secretary of Defense, determines that the National Intelligence Authority has the personnel and capability to fully and effectively carry out such authority.

(B) The National Intelligence Director may assign any authority under this subsection to the Secretary of Defense. The assignment of such authority shall be made pursuant to a memorandum of understanding between the Director and the Secretary.

(5) In this subsection:

(A) The term "intelligence program", with respect to the acquisition of a major system, means a program that—

(i) is carried out to acquire such major system for an element of the intelligence community; and

(ii) is funded in whole out of amounts available for the National Intelligence Program.

(B) The term "major system" has the meaning given such term in section 4(9) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 403(9)).

(b) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law (other than the provisions of this Act), sums appropriated or otherwise made available to the National Intelligence Authority may be expended for purposes necessary to carry out its functions, including any function performed by the National Intelligence Authority that is described in section 8(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(a)).

(c) RELATIONSHIP OF DIRECTOR'S AUTHORITY TO OTHER LAWS ON ACQUISITION AND MANAGEMENT OF PROPERTY AND SERVICES.—Section 113(e) of title 40, United States Code, is amended—

(A) by striking "or" at the end of paragraph (18);

(B) by striking the period at the end of paragraph (19) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(20) the National Intelligence Director.".

(d) NATIONAL INTELLIGENCE DIRECTOR REPORT ON ENHANCEMENT OF NSA AND NGIA ACQUISITION AUTHORITIES.—Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall—

(1) review—

(A) the acquisition authority of the Director of the National Security Agency; and

(B) the acquisition authority of the Director of the National Geospatial-Intelligence Agency; and

(2) submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report setting forth any recommended enhancements of the acquisition authorities of the Director of the National Security Agency and the Director of the National Geospatial-Intelligence Agency that the National Intelligence Director considers necessary.

(e) COMPTROLLER GENERAL REPORT ON ACQUISITION POLICIES AND PROCEDURES.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the extent to which the policies and procedures adopted for managing the acquisition of major systems for national intelligence purposes, as identified by the National Intelligence Director, are likely to result in successful cost, schedule, and performance outcomes.

SEC. 163. PERSONNEL MATTERS.

(a) IN GENERAL.—In addition to the authorities provided in section 114, the National Intelligence Director may exercise with respect to the personnel of the National Intelligence Authority any authority of the Director of the Central Intelligence Agency with respect to the personnel of the Central Intelligence Agency under the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), and other applicable provisions of law, as of the date of the enactment of this Act to the same extent, and subject to the same conditions and limitations, that the Director of the Central Intelligence Agency may exercise such authority with respect to personnel of the Central Intelligence Agency.

(b) RIGHTS AND PROTECTIONS OF EMPLOYEES AND APPLICANTS.—Employees and applicants for employment of the National Intelligence Authority shall have the same rights and protections under the Authority as employees of the Central Intelligence Agency have under the Central Intelligence Agency Act of 1949, and other applicable provisions of law, as of the date of the enactment of this Act.

SEC. 164. ETHICS MATTERS.

(a) POLITICAL SERVICE OF PERSONNEL.—Section 7323(b)(2)(B)(i) of title 5, United States Code, is amended—

(1) in subclause (XII), by striking "or" at the end; and

(2) by inserting after subclause (XIII) the following new subclause:

"(XIV) the National Intelligence Authority; or".

(b) DELETION OF INFORMATION ABOUT FOREIGN GIFTS.—Section 7342(f)(4) of title 5, United States Code, is amended—

(1) by inserting "(A)" after "(4)";

(2) in subparagraph (A), as so designated, by striking "the Director of Central Intelligence" and inserting "the Director of the Central Intelligence Agency"; and

(3) by adding at the end the following new subparagraph:

"(B) In transmitting such listings for the National Intelligence Authority, the National Intelligence Director may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.".

(c) EXEMPTION FROM FINANCIAL DISCLOSURES.—Section 105(a)(1) of the Ethics in Government Act (5 U.S.C. App.) is amended by inserting "the National Intelligence Authority," before "the Central Intelligence Agency".

TITLE II—OTHER IMPROVEMENTS OF INTELLIGENCE ACTIVITIES

Subtitle A—Improvements of Intelligence Activities

SEC. 201. AVAILABILITY TO PUBLIC OF CERTAIN INTELLIGENCE FUNDING INFORMATION.

(a) AMOUNTS REQUESTED EACH FISCAL YEAR.—The President shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of appropriations requested in the budget of the President for such fiscal year for the National Intelligence Program.

(b) AMOUNTS AUTHORIZED AND APPROPRIATED EACH FISCAL YEAR.—Congress shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated, by Congress for such fiscal year for the National Intelligence Program.

(c) STUDY OF DISCLOSURE OF ADDITIONAL INFORMATION.—(1) The National Intelligence Director shall conduct a study to assess the advisability of disclosing to the public amounts as follows:

(A) The aggregate amount of appropriations requested in the budget of the President for each fiscal year for each element of the intelligence community.

(B) The aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated, by Congress for each fiscal year for each element of the intelligence community.

(2) The study under paragraph (1) shall—

(A) address whether or not the disclosure to the public of the information referred to in that paragraph would harm the national security of the United States; and

(B) take into specific account concerns relating to the disclosure of such information for each element of the intelligence community.

(3) Not later than 180 days after the effective date of this section, the Director shall submit to Congress a report on the study under paragraph (1).

SEC. 202. MERGER OF HOMELAND SECURITY COUNCIL INTO NATIONAL SECURITY COUNCIL.

(a) MERGER OF HOMELAND SECURITY COUNCIL INTO NATIONAL SECURITY COUNCIL.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended—

(1) in the fourth undesignated paragraph of subsection (a), by striking clauses (5) and (6) and inserting the following new clauses:

"(5) the Attorney General;

"(6) the Secretary of Homeland Security;"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(3) assess the objectives, commitments, and risks of the United States in the interests of homeland security and make recommendations to the President based on such assessments;

"(4) oversee and review the homeland security policies of the Federal Government and make recommendations to the President based on such oversight and review; and

"(5) perform such other functions as the President may direct.".

(c) REPEAL OF SUPERSEDED AUTHORITY.—(1) Title IX of the Homeland Security Act of 2002 (6 U.S.C. 491 et seq.) is repealed.

(2) The table of contents for that Act is amended by striking the items relating to title IX.

SEC. 203. JOINT INTELLIGENCE COMMUNITY COUNCIL.

Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 101 the following new section:

"JOINT INTELLIGENCE COMMUNITY COUNCIL

"SEC. 101A. (a) JOINT INTELLIGENCE COMMUNITY COUNCIL.—There is a Joint Intelligence Community Council.

"(b) MEMBERSHIP.—The Joint Intelligence Community Council shall consist of the following:

"(1) The National Intelligence Director, who shall chair the Council.

"(2) The Secretary of State.

"(3) The Secretary of the Treasury.

"(4) The Secretary of Defense.

"(5) The Attorney General.

"(6) The Secretary of Energy.

"(7) The Secretary of Homeland Security.

"(8) Such other officers of the United States Government as the President may designate from time to time.

"(c) FUNCTIONS.—The Joint Intelligence Community Council shall assist the National Intelligence Director to in developing and implementing a joint, unified national intelligence effort to protect national security by—

"(1) advising the Director on establishing requirements, developing budgets, financial management, and monitoring and evaluating the performance of the intelligence community, and on such other matters as the Director may request; and

"(2) ensuring the timely execution of programs, policies, and directives established or developed by the Director.

"(d) MEETINGS.—The Joint Intelligence Community Council shall meet upon the request of the National Intelligence Director.".

SEC. 204. IMPROVEMENT OF INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The National Commission on Terrorist Attacks Upon the United States in its final report stated that, under Director Robert Mueller, the Federal Bureau of Investigation has made significant progress in improving its intelligence capabilities.

(2) In the report, the members of the Commission also urged that the Federal Bureau of Investigation fully institutionalize the shift of the Bureau to a preventive counterterrorism posture.

(b) IMPROVEMENT OF INTELLIGENCE CAPABILITIES.—The Director of the Federal Bureau of Investigation shall continue efforts to improve the intelligence capabilities of the Federal Bureau of Investigation and to develop and maintain within the Bureau a national intelligence workforce.

(c) NATIONAL INTELLIGENCE WORKFORCE.—(1) In developing and maintaining a national intelligence workforce under subsection (b), the Director of the Federal Bureau of Investigation shall, subject to the direction and control of the President, develop and maintain a specialized and integrated national intelligence workforce consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, and rewarded in a manner which ensures the existence within the Federal Bureau of Investigation an institutional culture with substantial expertise in, and commitment to, the intelligence mission of the Bureau.

(2) Each agent employed by the Bureau after the date of the enactment of this Act shall receive basic training in both criminal justice matters and national intelligence matters.

(3) Each agent employed by the Bureau after the date of the enactment of this Act shall, to the maximum extent practicable, be given the opportunity to undergo, during such agent's early service with the Bureau, meaningful assignments in criminal justice matters and in national intelligence matters.

(4) The Director shall—

(A) establish career positions in national intelligence matters for agents and analysts of the Bureau; and

(B) in furtherance of the requirement under subparagraph (A) and to the maximum extent practicable, afford agents and analysts of the Bureau the opportunity to work in the career specialty selected by such agents and analysts over their entire career with the Bureau.

(5) The Director shall carry out a program to enhance the capacity of the Bureau to recruit and retain individuals with backgrounds in intelligence, international relations, language, technology, and other skills relevant to the intelligence mission of the Bureau.

(6) The Director shall, to the maximum extent practicable, afford the analysts of the Bureau training and career opportunities commensurate with the training and career opportunities afforded analysts in other elements of the intelligence community.

(7) Commencing as soon as practicable after the date of the enactment of this Act, each direct supervisor of a Field Intelligence Group, and each Bureau Operational Manager at the Section Chief and Assistant Special Agent in Charge (ASAC) level and above, shall be a certified intelligence officer.

(8) The Director shall, to the maximum extent practicable, ensure that the successful discharge of advanced training courses, and of one or more assignments to another element of the intelligence community, is a precondition to advancement to higher level intelligence assignments within the Bureau.

(d) FIELD OFFICE MATTERS.—(1) In improving the intelligence capabilities of the Federal Bureau of Investigation under subsection (b), the Director of the Federal Bureau of Investigation shall ensure that each Field Intelligence Group reports directly to a field office senior manager responsible for intelligence matters.

(2) The Director shall provide for such expansion of the secure facilities in the field offices of the Bureau as is necessary to ensure the discharge by the field offices of the intelligence mission of the Bureau.

(3) The Director shall require that each Field Intelligence Group manager ensures the integration of analysts, agents, linguists, and surveillance personnel in the field.

(e) BUDGET MATTERS.—The Director of the Federal Bureau of Investigation shall, in consultation with the Director of the Office of Management and Budget, modify the budget structure of the Federal Bureau of Investigation in order to organize the budget according to the four principal missions of the Bureau as follows:

(1) Intelligence.

(2) Counterterrorism and counterintelligence.

(3) Criminal Enterprises/Federal Crimes.

(4) Criminal justice services.

(f) REPORTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to Congress a report on the progress made as of the date of such report in carrying out the requirements of this section.

(2) The Director shall include in each annual program review of the Federal Bureau of Investigation that is submitted to Congress a report on the progress made by each field office of the Bureau during the period covered by such review in addressing Bureau and national program priorities.

(3) Not later than 180 days after the date of the enactment of this Act, and every 12 months thereafter, the Director shall submit to Congress a report assessing the qualifications, status, and roles of analysts at Bureau headquarters and in the field offices of the Bureau.

(4) Not later than 180 days after the date of the enactment of this Act, and every 12 months thereafter, the Director shall submit to Congress a report on the progress of the Bureau in implementing information-sharing principles.

SEC. 205. FEDERAL BUREAU OF INVESTIGATION INTELLIGENCE CAREER SERVICE.

(a) SHORT TITLE.—This section may be cited as the "Federal Bureau of Investigation Intelligence Career Service Authorization Act of 2005".

(b) ESTABLISHMENT OF FEDERAL BUREAU OF INVESTIGATION INTELLIGENCE CAREER SERVICE.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation, in consultation with the Director of the Office of Personnel Management—

(A) may establish positions for intelligence analysts, without regard to chapter 51 of title 5, United States Code;

(B) shall prescribe standards and procedures for establishing and classifying such positions; and

(C) may fix the rate of basic pay for such positions, without regard to subchapter III of chapter 53 of title 5, United States Code, if the rate of pay is not greater than the rate of basic pay payable for level IV of the Executive Schedule.

(2) LEVELS OF PERFORMANCE.—Any performance management system established for intelligence analysts shall have at least 1 level of performance above a retention standard.

(c) REPORTING REQUIREMENT.—Not less than 60 days before the date of the implementation of authorities authorized under this section, the Director of the Federal Bureau of Investigation shall submit an operating plan describing the Director's intended use of the authorities under this section to—

(1) the Committees on Appropriations of the Senate and the House of Representatives;

(2) the Committee on Governmental Affairs of the Senate;

(3) the Committee on Government Reform of the House of Representatives;

(4) the congressional intelligence committees; and

(5) the Committees on the Judiciary of the Senate and the House of Representatives.

(d) ANNUAL REPORT.—Not later than December 31, 2005, and annually thereafter for 4 years, the Director of the Federal Bureau of Investigation shall submit an annual report of the use of the permanent authorities provided under this section during the preceding fiscal year to—

(1) the Committees on Appropriations of the Senate and the House of Representatives;

(2) the Committee on Governmental Affairs of the Senate;

(3) the Committee on Government Reform of the House of Representatives;

(4) the congressional intelligence committees; and

(5) the Committees on the Judiciary of the Senate and the House of Representatives.

SEC. 206. INFORMATION SHARING.

(a) DEFINITIONS.—In this section:

(1) ADVISORY BOARD.—The term "Advisory Board" means the Advisory Board on Information Sharing established under subsection (i).

(2) EXECUTIVE COUNCIL.—The term "Executive Council" means the Executive Council on Information Sharing established under subsection (h).

(3) HOMELAND SECURITY INFORMATION.—The term "homeland security information" means all information, whether collected, produced, or distributed by intelligence, law enforcement, military, homeland security, or other activities relating to—

(A) the existence, organization, capabilities, plans, intentions, vulnerabilities, means of finance or material support, or activities of foreign or international terrorist groups or individuals, or of domestic groups or individuals involved in transnational terrorism;

(B) threats posed by such groups or individuals to the United States, United States persons, or United States interests, or to those of other nations;

(C) communications of or by such groups or individuals; or

(D) groups or individuals reasonably believed to be assisting or associated with such groups or individuals.

(4) NETWORK.—The term "Network" means the Information Sharing Network described under subsection (c).

(b) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks upon the United States, Congress makes the following findings:

(1) The effective use of information, from all available sources, is essential to the fight against terror and the protection of our homeland. The biggest impediment to all-source analysis, and to a greater likelihood of "connecting the dots", is resistance to sharing information.

(2) The United States Government has access to a vast amount of information, including not only traditional intelligence but also other government databases, such as those containing customs or immigration information. However, the United States Government has a weak system for processing and using the information it has.

(3) In the period preceding September 11, 2001, there were instances of potentially helpful information that was available but that no person knew to ask for; information that was distributed only in compartmented channels, and information that was requested but could not be shared.

(4) Current security requirements nurture over-classification and excessive compartmentalization of information among agencies. Each agency's incentive structure opposes sharing, with risks, including criminal, civil, and administrative sanctions, but few rewards for sharing information.

(5) The current system, in which each intelligence agency has its own security practices, requires a demonstrated "need to know" before sharing. This approach assumes that it is possible to know, in advance, who will need to use the information. An outgrowth of the cold war, such a system implicitly assumes that the risk of inadvertent disclosure outweighs the benefits of wider sharing. Such assumptions are no longer appropriate. Although counterintelligence concerns are still real, the costs of not sharing information are also substantial. The current "need-to-know" culture of information protection needs to be replaced with a "need-to-share" culture of integration.

(6) A new approach to the sharing of intelligence and homeland security information is urgently needed. An important conceptual model for a new "trusted information network" is the Systemwide Homeland Analysis and Resource Exchange (SHARE) Network proposed by a task force of leading professionals assembled by the Markle Foundation and described in reports issued in October 2002 and December 2003.

(7) No single agency can create a meaningful information sharing system on its own. Alone, each agency can only modernize stovepipes, not replace them. Presidential leadership is required to bring about governmentwide change.

(c) INFORMATION SHARING NETWORK.—

(1) ESTABLISHMENT.—The President shall establish a trusted information network and secure information sharing environment to promote sharing of intelligence and homeland security information in a manner consistent with national security and the protection of privacy and civil liberties, and based on clearly defined and consistently applied policies and procedures, and valid investigative, analytical or operational requirements.

(2) ATTRIBUTES.—The Network shall promote coordination, communication and collaboration of people and information among all relevant Federal departments and agencies, State, tribal, and local authorities, and relevant private sector entities, including owners and operators of critical infrastructure, by using policy guidelines and technologies that support—

(A) a decentralized, distributed, and coordinated environment that connects existing systems where appropriate and allows users to share information among agencies, between levels of government, and, as appropriate, with the private sector;

(B) the sharing of information in a form and manner that facilitates its use in analysis, investigations and operations;

(C) building upon existing systems capabilities currently in use across the Government;

(D) utilizing industry best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible;

(E) employing an information access management approach that controls access to data rather than to just networks;

(F) facilitating the sharing of information at and across all levels of security by using policy guidelines and technologies that support writing information that can be broadly shared;

(G) providing directory services for locating people and information;

(H) incorporating protections for individuals' privacy and civil liberties;

(I) incorporating strong mechanisms for information security and privacy and civil liberties guideline enforcement in order to enhance accountability and facilitate oversight, including—

(i) multifactor authentication and access control;

(ii) strong encryption and data protection;

(iii) immutable audit capabilities;

(iv) automated policy enforcement;

(v) perpetual, automated screening for abuses of network and intrusions; and

(vi) uniform classification and handling procedures;

(J) compliance with requirements of applicable law and guidance with regard to the planning, design, acquisition, operation, and management of information systems; and

(K) permitting continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(d) IMMEDIATE ACTIONS.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Executive Council, shall—

(1) submit to the President and to Congress a description of the technological, legal, and policy issues presented by the creation of the Network described in subsection (c), and the way in which these issues will be addressed;

(2) establish electronic directory services to assist in locating in the Federal Government intelligence and homeland security information and people with relevant knowledge about intelligence and homeland security information; and

(3) conduct a review of relevant current Federal agency capabilities, including—

(A) a baseline inventory of current Federal systems that contain intelligence or homeland security information;

(B) the money currently spent to maintain those systems; and

(C) identification of other information that should be included in the Network.

(e) GUIDELINES AND REQUIREMENTS.—As soon as possible, but in no event later than 180 days after the date of the enactment of this Act, the President shall—

(1) in consultation with the Executive Council—

(A) issue guidelines for acquiring, accessing, sharing, and using information, including guidelines to ensure that information is provided in its most shareable form, such as by separating out data from the sources and methods by which that data are obtained; and

(B) on classification policy and handling procedures across Federal agencies, including commonly accepted processing and access controls;

(2) in consultation with the Privacy and Civil Liberties Oversight Board established under section 211, issue guidelines that—

(A) protect privacy and civil liberties in the development and use of the Network; and

(B) shall be made public, unless, and only to the extent that, nondisclosure is clearly necessary to protect national security; and

(3) require the heads of Federal departments and agencies to promote a culture of information sharing by—

(A) reducing disincentives to information sharing, including overclassification of information and unnecessary requirements for originator approval; and

(B) providing affirmative incentives for information sharing, such as the incorporation of information sharing performance measures into agency and managerial evaluations, and employee awards for promoting innovative information sharing practices.

(f) ENTERPRISE ARCHITECTURE AND IMPLEMENTATION PLAN.—Not later than 270 days after the date of the enactment of this Act, the Director of Management and Budget shall submit to the President and to Congress an enterprise architecture and implementation plan for the Network. The enterprise architecture and implementation plan shall be prepared by the Director of Management and Budget, in consultation with the Executive Council, and shall include—

(1) a description of the parameters of the proposed Network, including functions, capabilities, and resources;

(2) a delineation of the roles of the Federal departments and agencies that will participate in the development of the Network, including identification of any agency that will build the infrastructure needed to operate and manage the Network (as distinct from the individual agency components that are to be part of the Network), with the delineation of roles to be consistent with—

(A) the authority of the National Intelligence Director under this Act to set standards for information sharing and information technology throughout the intelligence community; and

(B) the authority of the Secretary of Homeland Security and the role of the Department of Homeland Security in coordinating with State, tribal, and local officials and the private sector;

(3) a description of the technological requirements to appropriately link and enhance existing networks and a description of the system design that will meet these requirements;

(4) an enterprise architecture that—

(A) is consistent with applicable laws and guidance with regard to planning, design, acquisition, operation, and management of information systems;

(B) will be used to guide and define the development and implementation of the Network; and

(C) addresses the existing and planned enterprise architectures of the departments and agencies participating in the Network;

(5) a description of how privacy and civil liberties will be protected throughout the design and implementation of the Network;

(6) objective, systemwide performance measures to enable the assessment of progress toward achieving full implementation of the Network;

(7) a plan, including a time line, for the development and phased implementation of the Network;

(8) total budget requirements to develop and implement the Network, including the estimated annual cost for each of the 5 years following the date of the enactment of this Act; and

(9) proposals for any legislation that the Director of Management and Budget determines necessary to implement the Network.

(g) DIRECTOR OF MANAGEMENT AND BUDGET RESPONSIBLE FOR INFORMATION SHARING ACROSS THE FEDERAL GOVERNMENT.—

(1) ADDITIONAL DUTIES AND RESPONSIBILITIES.—

(A) IN GENERAL.—The Director of Management and Budget, in consultation with the Executive Council, shall—

(i) implement and manage the Network;

(ii) develop and implement policies, procedures, guidelines, rules, and standards as appropriate to foster the development and proper operation of the Network; and

(iii) assist, monitor, and assess the implementation of the Network by Federal departments and agencies to ensure adequate progress, technological consistency and policy compliance; and regularly report the findings to the President and to Congress.

(B) CONTENT OF POLICIES, PROCEDURES, GUIDELINES, RULES, AND STANDARDS.—The policies, procedures, guidelines, rules, and standards under subparagraph (A)(ii) shall—

(i) take into account the varying missions and security requirements of agencies participating in the Network;

(ii) address development, implementation, and oversight of technical standards and requirements;

(iii) address and facilitate information sharing between and among departments and agencies of the intelligence community, the Department of Defense, the Homeland Security community and the law enforcement community;

(iv) address and facilitate information sharing between Federal departments and agencies and State, tribal and local governments;

(v) address and facilitate, as appropriate, information sharing between Federal departments and agencies and the private sector;

(vi) address and facilitate, as appropriate, information sharing between Federal departments and agencies with foreign partners and allies; and

(vii) ensure the protection of privacy and civil liberties.

(2) APPOINTMENT OF PRINCIPAL OFFICER.—Not later than 30 days after the date of the enactment of this Act, the Director of Management and Budget shall appoint, with approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the day-to-day duties of the Director specified in this section. The officer shall report directly to the Director of Management and Budget, have the rank of a Deputy Director and shall be paid at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(h) EXECUTIVE COUNCIL ON INFORMATION SHARING.—

(1) ESTABLISHMENT.—There is established an Executive Council on Information Sharing that shall assist the Director of Management and Budget in the execution of the Director's duties under this Act concerning information sharing.

(2) MEMBERSHIP.—The members of the Executive Council shall be—

(A) the Director of Management and Budget, who shall serve as Chairman of the Executive Council;

(B) the Secretary of Homeland Security or his designee;

(C) the Secretary of Defense or his designee;

(D) the Attorney General or his designee;

(E) the Secretary of State or his designee;

(F) the Director of the Federal Bureau of Investigation or his designee;

(G) the National Intelligence Director or his designee;

(H) such other Federal officials as the President shall designate;

(I) representatives of State, tribal, and local governments, to be appointed by the President; and

(J) individuals who are employed in private businesses or nonprofit organizations that own or operate critical infrastructure, to be appointed by the President.

(3) RESPONSIBILITIES.—The Executive Council shall assist the Director of Management and Budget in—

(A) implementing and managing the Network;

(B) developing policies, procedures, guidelines, rules, and standards necessary to establish and implement the Network;

(C) ensuring there is coordination among departments and agencies participating in the Network in the development and implementation of the Network;

(D) reviewing, on an ongoing basis, policies, procedures, guidelines, rules, and standards related to the implementation of the Network;

(E) establishing a dispute resolution process to resolve disagreements among departments and agencies about whether particular information should be shared and in what manner; and

(F) considering such reports as are submitted by the Advisory Board on Information Sharing under subsection (i)(2).

(4) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Council shall not be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

(5) REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Director of Management and Budget, in the capacity of Chair of the Executive Council, shall submit a report to the President and to Congress that shall include—

(A) a description of the activities and accomplishments of the Council in the preceding year; and

(B) the number and dates of the meetings held by the Council and a list of attendees at each meeting.

(6) INFORMING THE PUBLIC.—The Executive Council shall—

(A) make its reports to Congress available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(B) otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(i) ADVISORY BOARD ON INFORMATION SHARING.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Information Sharing to advise the President and the Executive Council on policy, technical, and management issues related to the design and operation of the Network.

(2) RESPONSIBILITIES.—The Advisory Board shall advise the Executive Council on policy, technical, and management issues related to the design and operation of the Network. At the request of the Executive Council, or the Director of Management and Budget in the capacity as Chair of the Executive Council, or on its own initiative, the Advisory Board shall submit reports to the Executive Council concerning the findings and recommendations of the Advisory Board regarding the design and operation of the Network.

(3) MEMBERSHIP AND QUALIFICATIONS.—The Advisory Board shall be composed of no more than 15 members, to be appointed by the President from outside the Federal Government. The members of the Advisory Board shall have significant experience or expertise in policy, technical and operational matters, including issues of security, privacy, or civil liberties, and shall be selected solely on the basis of their professional qualifications, achievements, public stature and relevant experience.

(4) CHAIR.—The President shall designate one of the members of the Advisory Board to act as chair of the Advisory Board.

(5) ADMINISTRATIVE SUPPORT.—The Office of Management and Budget shall provide administrative support for the Advisory Board.

(j) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and semiannually thereafter, the President through the Director of Management and Budget shall submit a report to Congress on the state of the Network and of information sharing across the Federal Government.

(2) CONTENT.—Each report under this subsection shall include—

(A) a progress report on the extent to which the Network has been implemented, including how the Network has fared on the government-wide and agency-specific performance measures and whether the performance goals set in the preceding year have been met;

(B) objective systemwide performance goals for the following year;

(C) an accounting of how much was spent on the Network in the preceding year;

(D) actions taken to ensure that agencies procure new technology that is consistent with the Network and information on whether new systems and technology are consistent with the Network;

(E) the extent to which, in appropriate circumstances, all terrorism watch lists are available for combined searching in real time through the Network and whether there are consistent standards for placing individuals on, and removing individuals from, the watch lists, including the availability of processes for correcting errors;

(F) the extent to which unnecessary roadblocks, impediments, or disincentives to information sharing, including the inappropriate use of paper-only intelligence products and requirements for originator approval, have been eliminated;

(G) the extent to which positive incentives for information sharing have been implemented;

(H) the extent to which classified information is also made available through the Network, in whole or in part, in unclassified form;

(I) the extent to which State, tribal, and local officials—

(i) are participating in the Network;

(ii) have systems which have become integrated into the Network;

(iii) are providing as well as receiving information; and

(iv) are using the Network to communicate with each other;

(J) the extent to which—

(i) private sector data, including information from owners and operators of critical infrastructure, is incorporated in the Network; and

(ii) the private sector is both providing and receiving information;

(K) where private sector data has been used by the Government or has been incorporated into the Network—

(i) the measures taken to protect sensitive business information; and

(ii) where the data involves information about individuals, the measures taken to ensure the accuracy of such data;

(L) the measures taken by the Federal Government to ensure the accuracy of other information on the Network and, in particular, the accuracy of information about individuals;

(M) an assessment of the Network's privacy and civil liberties protections, including actions taken in the preceding year to implement or enforce privacy and civil liberties protections and a report of complaints received about interference with an individual's privacy or civil liberties; and

(N) an assessment of the security protections of the Network.

(k) Agency Responsibilities.—The head of each department or agency possessing or using intelligence or homeland security information or otherwise participating in the Network shall—

(1) ensure full department or agency compliance with information sharing policies, procedures, guidelines, rules, and standards established for the Network under subsections (c) and (g);

(2) ensure the provision of adequate resources for systems and activities supporting operation of and participation in the Network; and

(3) ensure full agency or department cooperation in the development of the Network and associated enterprise architecture to implement governmentwide information sharing, and in the management and acquisition of information technology consistent with applicable law.

(l) Agency Plans and Reports.—Each Federal department or agency that possesses or uses intelligence and homeland security information, operates a system in the Network or otherwise participates, or expects to participate, in the Network, shall submit to the Director of Management and Budget—

(1) not later than 1 year after the date of the enactment of this Act, a report including—

(A) a strategic plan for implementation of the Network's requirements within the department or agency;

(B) objective performance measures to assess the progress and adequacy of the department or agency's information sharing efforts; and

(C) budgetary requirements to integrate the agency into the Network, including projected annual expenditures for each of the following 5 years following the submission of the report; and

(2) annually thereafter, reports including—

(A) an assessment of the progress of the department or agency in complying with the Network's requirements, including how well the agency has performed on the objective measures developed under paragraph (1)(B);

(B) the agency's expenditures to implement and comply with the Network's requirements in the preceding year; and

(C) the agency's or department's plans for further implementation of the Network in the year following the submission of the report.

(m) Periodic Assessments.—

(1) Comptroller general.—

(A) In general.—Not later than 1 year after the date of the enactment of this Act, and periodically thereafter, the Comptroller General shall evaluate the implementation of the Network, both generally and, at the discretion of the Comptroller General, within specific departments and agencies, to determine the extent of compliance with the Network's requirements and to assess the effectiveness of the Network in improving information sharing and collaboration and in protecting privacy and civil liberties, and shall report to Congress on the findings of the Comptroller General.

(B) Information available to the comptroller general.—Upon request by the Comptroller General, information relevant to an evaluation under subsection (a) shall be made available to the Comptroller General under section 716 of title 31, United States Code.

(C) Consultation with congressional committees.—If a record is not made available to the Comptroller General within a reasonable time, before the Comptroller General files a report under section 716(b)(1) of title 31, United States Code, the Comptroller General shall consult with the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives concerning the Comptroller's intent to file a report.

(2) Inspectors general.—The Inspector General in any Federal department or agency that possesses or uses intelligence or homeland security information or that otherwise participates in the Network shall, at the discretion of the Inspector General—

(A) conduct audits or investigations to—

(i) determine the compliance of that department or agency with the Network's requirements; and

(ii) assess the effectiveness of that department or agency in improving information sharing and collaboration and in protecting privacy and civil liberties; and

(B) issue reports on such audits and investigations.

(n) Authorization of Appropriations.—There are authorized to be appropriated—

(1) $50,000,000 to the Director of Management and Budget to carry out this section for fiscal year 2005; and

(2) such sums as are necessary to carry out this section in each fiscal year thereafter, to be disbursed and allocated in accordance with the Network implementation plan required by subsection (f).

Subtitle B—Privacy and Civil Liberties

SEC. 211. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) In General.—There is established within the Executive Office of the President a Privacy and Civil Liberties Oversight Board (referred to in this subtitle as the "Board").

(b) Findings.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) In conducting the war on terrorism, the Government may need additional powers and may need to enhance the use of its existing powers.

(2) This shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life and to ensure that the Government uses its powers for the purposes for which the powers were given.

(c) Purpose.—The Board shall—

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism; and

(2) ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.

(d) Functions.—

(1) Advice and counsel on policy development and implementation.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 205(g);

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

(D) in providing advice on proposals to retain or enhance a particular governmental power, consider whether the department, agency, or element of the executive branch has explained—

(i) that the power actually materially enhances security;

(ii) that there is adequate supervision of the use by the executive branch of the power to ensure protection of privacy and civil liberties; and

(iii) that there are adequate guidelines and oversight to properly confine its use.

(2) Oversight.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) RELATIONSHIP WITH PRIVACY AND CIVIL LIBERTIES OFFICERS.—The Board shall—

(A) review and assess reports and other information from privacy officers and civil liberties officers described in section 212;

(B) when appropriate, make recommendations to such privacy officers and civil liberties officers regarding their activities; and

(C) when appropriate, coordinate the activities of such privacy officers and civil liberties officers on relevant interagency matters.

(4) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall—

(A) receive and review reports from privacy officers and civil liberties officers described in section 212; and

(B) periodically submit, not less than semiannually, reports—

(i)(I) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(II) to the President; and

(ii) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) INFORMING THE PUBLIC.—The Board shall—

(1) make its reports, including its reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(g) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee;

(C) request information or assistance from any State, tribal, or local government; and

(D) require, by subpoena issued at the direction of a majority of the members of the Board, persons (other than departments, agencies, and elements of the executive branch) to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

(2) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(D), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to produce the evidence required by such subpoena.

(3) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the head of the department, agency, or element concerned without delay. The head of the department, agency, or element concerned shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions.

(h) MEMBERSHIP.—

(1) MEMBERS.—The Board shall be composed of a full-time chairman and 4 additional members, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, and relevant experience, and without regard to political affiliation, but in no event shall more than 3 members of the Board be members of the same political party.

(3) INCOMPATIBLE OFFICE.—An individual appointed to the Board may not, while serving on the Board, be an elected official, officer, or employee of the Federal Government, other than in the capacity as a member of the Board.

(4) TERM.—Each member of the Board shall serve a term of six years, except that—

(A) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term;

(B) upon the expiration of the term of office of a member, the member shall continue to serve until the member's successor has been appointed and qualified, except that no member may serve under this subparagraph—

(i) for more than 60 days when Congress is in session unless a nomination to fill the vacancy shall have been submitted to the Senate; or

(ii) after the adjournment sine die of the session of the Senate in which such nomination is submitted; and

(C) the members initially appointed under this subsection shall serve terms of two, three, four, five, and six years, respectively, from the effective date of this Act, with the term of each such member to be designated by the President.

(5) QUORUM AND MEETINGS.—After its initial meeting, the Board shall meet upon the call of the chairman or a majority of its members. Three members of the Board shall constitute a quorum.

(i) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—

(A) CHAIRMAN.—The chairman shall be compensated at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(B) MEMBERS.—Each member of the Board shall be compensated at a rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

(2) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(j) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Chairman, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of a full-time executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAILEES.—Any Federal employee may be detailed to the Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of the detailee's regular employment without interruption.

(3) CONSULTANT SERVICES.—The Board may procure the temporary or intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates that do not exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(k) SECURITY CLEARANCES.—The appropriate departments, agencies, and elements of the executive branch shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements.

(l) TREATMENT AS AGENCY, NOT AS ADVISORY COMMITTEE.—The Board—

(1) is an agency (as defined in section 551(1) of title 5, United States Code); and

(2) is not an advisory committee (as defined in section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.)).

SEC. 212. PRIVACY AND CIVIL LIBERTIES OFFICERS.

(a) DESIGNATION AND FUNCTIONS.—The Attorney General, the Secretary of Defense, the Secretary of State, the Secretary of the Treasury, the Secretary of Health and Human Services, the Secretary of Homeland Security, the National Intelligence Director, the Director of the Central Intelligence Agency, and the head of any other department, agency, or element of the executive branch designated by the Privacy and Civil

Liberties Oversight Board to be appropriate for coverage under this section shall designate not less than 1 senior officer to—

(1) assist the head of such department, agency, or element and other officials of such department, agency, or element in appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism;

(2) periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that such department, agency, or element is adequately considering privacy and civil liberties in its actions;

(3) ensure that such department, agency, or element has adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege such department, agency, or element has violated their privacy or civil liberties; and

(4) in providing advice on proposals to retain or enhance a particular governmental power the officer shall consider whether such department, agency, or element has explained—

(i) that the power actually materially enhances security;

(ii) that there is adequate supervision of the use by such department, agency, or element of the power to ensure protection of privacy and civil liberties; and

(iii) that there are adequate guidelines and oversight to properly confine its use.

(b) Exception To Designation Authority.—

(1) Privacy officers.—In any department, agency, or element referred to in subsection (a) or designated by the Board, which has a statutorily created privacy officer, such officer shall perform the functions specified in subsection (a) with respect to privacy.

(2) Civil liberties officers.—In any department, agency, or element referred to in subsection (a) or designated by the Board, which has a statutorily created civil liberties officer, such officer shall perform the functions specified in subsection (a) with respect to civil liberties.

(c) Supervision and Coordination.—Each privacy officer or civil liberties officer described in subsection (a) or (b) shall—

(1) report directly to the head of the department, agency, or element concerned; and

(2) coordinate their activities with the Inspector General of such department, agency, or element to avoid duplication of effort.

(d) Agency Cooperation.—The head of each department, agency, or element shall ensure that each privacy officer and civil liberties officer—

(1) has the information, material, and resources necessary to fulfill the functions of such officer;

(2) is advised of proposed policy changes;

(3) is consulted by decision makers; and

(4) is given access to material and personnel the officer determines to be necessary to carry out the functions of such officer.

(e) Reprisal for Making Complaint.—No action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to a privacy officer or civil liberties officer described in subsection (a) or (b), or to the Privacy and Civil Liberties Oversight Board, that indicates a possible violation of privacy protections or civil liberties in the administration of the programs and operations of the Federal Government relating to efforts to protect the Nation from terrorism shall be taken by any Federal employee in a position to take such action, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(f) Periodic Reports.—

(1) In general.—The privacy officers and civil liberties officers of each department, agency, or element referred to or described in subsection (a) or (b) shall periodically, but not less than quarterly, submit a report on the activities of such officers—

(A)(i) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives;

(ii) to the head of such department, agency, or element; and

(iii) to the Privacy and Civil Liberties Oversight Board; and

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) Contents.—Each report submitted under paragraph (1) shall include information on the discharge of each of the functions of the officer concerned, including—

(A) information on the number and types of reviews undertaken;

(B) the type of advice provided and the response given to such advice;

(C) the number and nature of the complaints received by the department, agency, or element concerned for alleged violations; and

(D) a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of such officer.

(g) Informing the Public.—Each privacy officer and civil liberties officer shall—

(1) make the reports of such officer, including reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) otherwise inform the public of the activities of such officer, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(h) Savings Clause.—Nothing in this section shall be construed to limit or otherwise supplant any other authorities or responsibilities provided by law to privacy officers or civil liberties officers.

Subtitle C—Independence of Intelligence Agencies

SEC. 221. INDEPENDENCE OF NATIONAL INTELLIGENCE DIRECTOR.

(a) Location Outside Executive Office of the President.—The National Intelligence Director shall not be located within the Executive Office of the President.

(b) Provision of National Intelligence.—The National Intelligence Director shall provide to the President and Congress national intelligence that is timely, objective, and independent of political considerations, and has not been shaped to serve policy goals.

SEC. 222. INDEPENDENCE OF INTELLIGENCE.

(a) Director of National Counterterrorism Center.—The Director of the National Counterterrorism Center shall provide to the President, Congress, and the National Intelligence Director national intelligence related to counterterrorism that is timely, objective, and independent of political considerations, and has not been shaped to serve policy goals.

(b) Directors of National Intelligence Centers.—Each Director of a national intelligence center established under section 144 shall provide to the President, Congress, and the National Intelligence Director intelligence information that is timely, objective, and independent of political considerations, and has not been shaped to serve policy goals.

(c) Director of Central Intelligence Agency.—The Director of the Central Intelligence Agency shall ensure that intelligence produced by the Central Intelligence Agency is objective and independent of political considerations, and has not been shaped to serve policy goals.

(d) National Intelligence Council.—The National Intelligence Council shall produce national intelligence estimates for the United States Government that are timely, objective, and independent of political considerations, and have not been shaped to serve policy goals.

SEC. 223. INDEPENDENCE OF NATIONAL COUNTERTERRORISM CENTER.

No officer, department, agency, or element of the executive branch shall have any authority to require the Director of the National Counterterrorism Center—

(1) to receive permission to testify before Congress; or

(2) to submit testimony, legislative recommendations, or comments to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to Congress if such recommendations, testimony, or comments include a statement indicating that the views expressed therein are those of the agency submitting them and do not necessarily represent the views of the Administration.

SEC. 224. ACCESS OF CONGRESSIONAL COMMITTEES TO NATIONAL INTELLIGENCE.

(a) Documents Required To Be Provided to Congressional Committees.—The National Intelligence Director, the Director of the National Counterterrorism Center, and the Director of a national intelligence center shall provide to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and any other committee of Congress with jurisdiction over the subject matter to which the information relates, all intelligence assessments, intelligence estimates, sense of intelligence community memoranda, and daily senior executive intelligence briefs, other than the Presidential Daily Brief and those reports prepared exclusively for the President.

(b) Response to Requests from Congress Required.—

(1) In general.—Except as provided in paragraph (2), in addition to providing material under subsection (a), the National Intelligence Director, the Director of the National Counterterrorism Center, or the Director of a national intelligence center shall, not later than 15 days after receiving a request for any intelligence assessment, report, or estimate or other intelligence information from the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, or any other committee of Congress with jurisdiction over the subject matter to which the information relates, make available to such committee such intelligence assessment, report, or estimate or other intelligence information.

(2) Certain members.—In addition to requests described in paragraph (1), the National Intelligence Director shall respond to

requests from the Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate and the Chairman and Ranking Member of the Permanent Select Committee on Intelligence of the House of Representatives. Upon making a request covered by this paragraph, the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such committee shall notify the other of the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such committee of such request.

(3) ASSERTIONS OF PRIVILEGE.—In response to requests described under paragraph (1) or (2), the National Intelligence Director, the Director of the National Counterterrorism Center, or the Director of a national intelligence center shall provide information, unless the President certifies that such information is not being provided because the President is asserting a privilege pursuant to the United States Constitution.

SEC. 225. COMMUNICATIONS WITH CONGRESS.

(a) DISCLOSURE OF CERTAIN INFORMATION AUTHORIZED.—

(1) IN GENERAL.—Employees of covered agencies and employees of contractors carrying out activities under classified contracts with covered agencies may disclose information described in paragraph (2) to the individuals referred to in paragraph (3) without first reporting such information to the appropriate Inspector General.

(2) COVERED INFORMATION.—Paragraph (1) applies to information, including classified information, that an employee reasonably believes provides direct and specific evidence of a false or inaccurate statement to Congress contained in, or withheld from Congress, any intelligence information material to, any intelligence assessment, report, or estimate, but does not apply to information the disclosure of which is prohibited by rule 6(e) of the Federal Rules of Criminal Procedure.

(3) COVERED INDIVIDUALS.—

(A) IN GENERAL.—The individuals to whom information in paragraph (2) may be disclosed are—

(i) a Member of a committee of Congress having primary responsibility for oversight of a department, agency, or element of the United States Government to which the disclosed information relates and who is authorized to receive information of the type disclosed;

(ii) any other Member of Congress who is authorized to receive information of the type disclosed; and

(iii) an employee of Congress who has the appropriate security clearance and is authorized to receive information of the type disclosed.

(B) PRESUMPTION OF NEED FOR INFORMATION.—An individual described in subparagraph (A) to whom information is disclosed under paragraph (2) shall be presumed to have a need to know such information.

(b) CONSTRUCTION WITH OTHER REPORTING REQUIREMENTS.—Nothing in this section may be construed to modify, alter, or otherwise affect—

(1) any reporting requirement relating to intelligence activities that arises under this Act, the National Security Act of 1947 (50 U.S.C. 401 et seq.), or any other provision of law; or

(2) the right of any employee of the United States Government to disclose to Congress in accordance with applicable law information not described in this section.

(c) COVERED AGENCIES DEFINED.—In this section, the term "covered agencies" means the following:

(1) The National Intelligence Authority, including the National Counterterrorism Center.

(2) The Central Intelligence Agency.

(3) The Defense Intelligence Agency.

(4) The National Geospatial-Intelligence Agency.

(5) The National Security Agency.

(6) The Federal Bureau of Investigation.

(7) Any other Executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities.

TITLE III—MODIFICATIONS OF LAWS RELATING TO INTELLIGENCE COMMUNITY MANAGEMENT

Subtitle A—Conforming and Other Amendments

SEC. 301. RESTATEMENT AND MODIFICATION OF BASIC AUTHORITY ON THE CENTRAL INTELLIGENCE AGENCY.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by striking sections 102 through 104 and inserting the following new sections:

"CENTRAL INTELLIGENCE AGENCY

"SEC. 102. (a) CENTRAL INTELLIGENCE AGENCY.—There is a Central Intelligence Agency.

"(b) FUNCTION.—The function of the Central Intelligence Agency is to assist the Director of the Central Intelligence Agency in carrying out the responsibilities specified in section 103(d).

"DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

"SEC. 103. (a) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—There is a Director of the Central Intelligence Agency who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) SUPERVISION.—The Director of the Central Intelligence Agency shall report to the National Intelligence Director regarding the activities of the Director of the Central Intelligence Agency.

"(c) DUTIES.—The Director of the Central Intelligence Agency shall—

"(1) serve as the head of the Central Intelligence Agency; and

"(2) carry out the responsibilities specified in subsection (d).

"(d) RESPONSIBILITIES.—The Director of the Central Intelligence Agency shall—

"(1) collect intelligence through human sources and by other appropriate means, except that the Director of the Central Intelligence Agency shall have no police, subpoena, or law enforcement powers or internal security functions;

"(2) correlate and evaluate intelligence related to the national security and provide appropriate dissemination of such intelligence;

"(3) provide overall direction for and coordination of the collection of national intelligence outside the United States through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other departments, agencies, or elements of the United States Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that appropriate account is taken of the risks to the United States and those involved in such collection; and

"(4) perform such other functions and duties pertaining to intelligence relating to the national security as the President or the National Intelligence Director may direct.

"(e) TERMINATION OF EMPLOYMENT OF CIA EMPLOYEES.—(1) Notwithstanding the provisions of any other law, the Director of the Central Intelligence Agency may, in the discretion of the Director, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director considers the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

"(2) Any termination of employment of an officer or employee under paragraph (1) shall not affect the right of the officer or employee to seek or accept employment in any other department, agency, or element of the United States Government if declared eligible for such employment by the Office of Personnel Management.

"(f) COORDINATION WITH FOREIGN GOVERNMENTS.—Under the direction of the National Intelligence Director and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the Director of the Central Intelligence Agency shall coordinate the relationships between elements of the intelligence community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.".

(b) TRANSFORMATION OF CENTRAL INTELLIGENCE AGENCY.—The Director of the Central Intelligence Agency shall, in accordance with standards developed by the Director in consultation with the National Intelligence Director—

(1) enhance the analytic, human intelligence, and other capabilities of the Central Intelligence Agency;

(2) develop and maintain an effective language program within the Agency;

(3) emphasize the hiring of personnel of diverse backgrounds for purposes of improving the capabilities of the Agency;

(4) establish and maintain effective relationships between human intelligence and signals intelligence within the Agency at the operational level; and

(5) achieve a more effective balance within the Agency with respect to unilateral operations and liaison operations.

(c) REPORTS.—(1) Not later than 180 days after the effective date of this section, and annually thereafter, the Director of the Central Intelligence Agency shall submit to the National Intelligence Director and the congressional intelligence committees a report setting forth the following:

(A) A strategy for improving the conduct of analysis (including strategic analysis) by the Central Intelligence Agency, and the progress of the Agency in implementing the strategy.

(B) A strategy for improving the human intelligence and other capabilities of the Agency, and the progress of the Agency in implementing the strategy, including—

(i) the recruitment, training, equipping, and deployment of personnel required to address the current and projected threats to the national security of the United States during each of the 2-year, 5-year, and 10-year periods beginning on the date of such report, including personnel with the backgrounds, education, and experience necessary for ensuring a human intelligence capability adequate for such projected threats;

(ii) the achievement of a proper balance between unilateral operations and liaison operations;

(iii) the development of language capabilities (including the achievement of high standards in such capabilities by the use of financial incentives and other mechanisms);

(iv) the sound financial management of the Directorate of Operations; and

(v) the identification of other capabilities required to address the current and projected threats to the national security of the United States during each of the 2-year, 5-year, and 10-year periods beginning on the date of such report.

(C) In conjunction with the Director of the National Security Agency, a strategy for achieving integration between signals and human intelligence capabilities, and the progress in implementing the strategy.

(D) Metrics and milestones for measuring progress in the implementation of each such strategy.

(2)(A) The information in each report under paragraph (1) on the element of the strategy referred to in paragraph (1)(B)(i) shall identify the number and types of personnel required to implement the strategy during each period addressed in such report, include a plan for the recruitment, training, equipping, and deployment of such personal, and set forth an estimate of the costs of such activities.

(B) If as of the date of a report under paragraph (1), a proper balance does not exist between unilateral operations and liaison operations, such report shall set forth the steps to be taken to achieve such balance.

(C) The information in each report under paragraph (1) on the element of the strategy referred to in paragraph (1)(B)(v) shall identify the other capabilities required to implement the strategy during each period addressed in such report, include a plan for developing such capabilities, and set forth an estimate of the costs of such activities.

SEC. 302. CONFORMING AMENDMENTS RELATING TO ROLES OF NATIONAL INTELLIGENCE DIRECTOR AND DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.

(a) National Security Act of 1947.—(1) The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by striking "Director of Central Intelligence" each place it appears in the following provisions and inserting "National Intelligence Director":

(A) Section 3(5)(B) (50 U.S.C. 401a(5)(B)).

(B) Section 101(h)(2)(A) (50 U.S.C. 402(h)(2)(A)).

(C) Section 101(h)(5) (50 U.S.C. 402(h)(5)).

(D) Section 101(i)(2)(A) (50 U.S.C. 402(i)(2)(A)).

(E) Section 101(j) (50 U.S.C. 402(j)).

(F) Section 105(a) (50 U.S.C. 403–5(a)).

(G) Section 105(b)(6)(A) (50 U.S.C. 403–5(b)(6)(A)).

(H) Section 105B(a)(1) (50 U.S.C. 403–5b(a)(1)).

(I) Section 105B(b) (50 U.S.C. 403–5b(b)).

(J) Section 110(b) (50 U.S.C. 404e(b)).

(K) Section 110(c) (50 U.S.C. 404e(c)).

(L) Section 112(a)(1) (50 U.S.C. 404g(a)(1)).

(M) Section 112(d)(1) (50 U.S.C. 404g(d)(1)).

(N) Section 113(b)(2)(A) (50 U.S.C. 404h(b)(2)(A)).

(O) Section 114(a)(1) (50 U.S.C. 404i(a)(1)).

(P) Section 114(b)(1) (50 U.S.C. 404i(b)(1)).

(R) Section 115(a)(1) (50 U.S.C. 404j(a)(1)).

(S) Section 115(b) (50 U.S.C. 404j(b)).

(T) Section 115(c)(1)(B) (50 U.S.C. 404j(c)(1)(B)).

(U) Section 116(a) (50 U.S.C. 404k(a)).

(V) Section 117(a)(1) (50 U.S.C. 404l(a)(1)).

(W) Section 303(a) (50 U.S.C. 405(a)), both places it appears.

(X) Section 501(d) (50 U.S.C. 413(d)).

(Y) Section 502(a) (50 U.S.C. 413a(a)).

(Z) Section 502(c) (50 U.S.C. 413a(c)).

(AA) Section 503(b) (50 U.S.C. 413b(b)).

(BB) Section 504(a)(2) (50 U.S.C. 414(a)(2)).

(CC) Section 504(a)(3)(C) (50 U.S.C. 414(a)(3)(C)).

(DD) Section 504(d)(2) (50 U.S.C. 414(d)(2)).

(EE) Section 506A(a)(1) (50 U.S.C. 415a–1(a)(1)).

(FF) Section 603(a) (50 U.S.C. 423(a)).

(GG) Section 702(a)(1) (50 U.S.C. 432(a)(1)).

(HH) Section 702(a)(6)(B)(viii) (50 U.S.C. 432(a)(6)(B)(viii)).

(II) Section 702(b)(1) (50 U.S.C. 432(b)(1)), both places it appears.

(JJ) Section 703(a)(1) (50 U.S.C. 432a(a)(1)).

(KK) Section 703(a)(6)(B)(viii) (50 U.S.C. 432a(a)(6)(B)(viii)).

(LL) Section 703(b)(1) (50 U.S.C. 432a(b)(1)), both places it appears.

(MM) Section 704(a)(1) (50 U.S.C. 432b(a)(1)).

(NN) Section 704(f)(2)(H) (50 U.S.C. 432b(f)(2)(H)).

(OO) Section 704(g)(1)) (50 U.S.C. 432b(g)(1)), both places it appears.

(PP) Section 1001(a) (50 U.S.C. 441g(a)).

(QQ) Section 1102(a)(1) (50 U.S.C. 442a(a)(1)).

(RR) Section 1102(b)(1) (50 U.S.C. 442a(b)(1)).

(SS) Section 1102(c)(1) (50 U.S.C. 442a(c)(1)).

(TT) Section 1102(d) (50 U.S.C. 442a(d)).

(2) That Act is further amended by striking "of Central Intelligence" each place it appears in the following provisions:

(A) Section 105(a)(2) (50 U.S.C. 403–5(a)(2)).

(B) Section 105B(a)(2) (50 U.S.C. 403–5b(a)(2)).

(C) Section 105B(b) (50 U.S.C. 403–5b(b)), the second place it appears.

(3) That Act is further amended by striking "Director" each place it appears in the following provisions and inserting "National Intelligence Director":

(A) Section 114(c) (50 U.S.C. 404i(c)).

(B) Section 116(b) (50 U.S.C. 404k(b)).

(C) Section 1001(b) (50 U.S.C. 441g(b)).

(C) Section 1001(c) (50 U.S.C. 441g(c)), the first place it appears.

(D) Section 1001(d)(1)(B) (50 U.S.C. 441g(d)(1)(B)).

(E) Section 1001(e) (50 U.S.C. 441g(e)), the first place it appears.

(4) Section 114A of that Act (50 U.S.C. 404i–1) is amended by striking "Director of Central Intelligence" and inserting "National Intelligence Director, the Director of the Central Intelligence Agency"

(5) Section 701 of that Act (50 U.S.C. 431) is amended—

(A) in subsection (a), by striking "Operational files of the Central Intelligence Agency may be exempted by the Director of Central Intelligence" and inserting "The Director of the Central Intelligence Agency, with the coordination of the National Intelligence Director, may exempt operational files of the Central Intelligence Agency"; and

(B) in subsection (g)(1), by striking "Director of Central Intelligence" and inserting "Director of the Central Intelligence Agency and the National Intelligence Director".

(6) The heading for section 114 of that Act (50 U.S.C. 404i) is amended to read as follows:

"ADDITIONAL ANNUAL REPORTS FROM THE NATIONAL INTELLIGENCE DIRECTOR".

(b) Central Intelligence Agency Act of 1949.—(1) Section 1 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a) is amended—

(A) by redesignating paragraphs (a), (b), and (c) as paragraphs (1), (2), and (3), respectively; and

(B) by striking paragraph (2), as so redesignated, and inserting the following new paragraph (2):

"(2) 'Director' means the Director of the Central Intelligence Agency; and".

(2) That Act (50 U.S.C. 403a et seq.) is further amended by striking "Director of Central Intelligence" each place it appears in the following provisions and inserting "National Intelligence Director":

(A) Section 6 (50 U.S.C. 403g).

(B) Section 17(f) (50 U.S.C. 403q(f)), both places it appears.

(3) That Act is further amended by striking "of Central Intelligence" in each of the following provisions:

(A) Section 2 (50 U.S.C. 403b).

(A) Section 16(c)(1)(B) (50 U.S.C. 403p(c)(1)(B)).

(B) Section 17(d)(1) (50 U.S.C. 403q(d)(1)).

(C) Section 20(c) (50 U.S.C. 403t(c)).

(4) That Act is further amended by striking "Director of Central Intelligence" each place it appears in the following provisions and inserting "Director of the Central Intelligence Agency":

(A) Section 14(b) (50 U.S.C. 403n(b)).

(B) Section 16(b)(2) (50 U.S.C. 403p(b)(2)).

(C) Section 16(b)(3) (50 U.S.C. 403p(b)(3)), both places it appears.

(D) Section 21(g)(1) (50 U.S.C. 403u(g)(1)).

(E) Section 21(g)(2) (50 U.S.C. 403u(g)(2)).

(c) Central Intelligence Agency Retirement Act.—Section 101 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2001) is amended by striking paragraph (2) and inserting the following new paragraph (2):

"(2) Director.—The term 'Director' means the Director of the Central Intelligence Agency.".

(d) CIA Voluntary Separation Pay Act.—Subsection (a)(1) of section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 2001 note) is amended to read as follows:

"(1) the term 'Director' means the Director of the Central Intelligence Agency;".

(e) Foreign Intelligence Surveillance Act of 1978.—(1) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking "Director of Central Intelligence" each place it appears and inserting "National Intelligence Director".

(f) Classified Information Procedures Act.—Section 9(a) of the Classified Information Procedures Act (5 U.S.C. App.) is amended by striking "Director of Central Intelligence" and inserting "National Intelligence Director".

(g) Intelligence Authorization Acts.—

(1) Public Law 103–359.—Section 811(c)(6)(C) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359) is amended by striking "Director of Central Intelligence" and inserting "National Intelligence Director".

(2) Public Law 107–306.—(A) The Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306) is amended by striking "Director of Central Intelligence, acting as the head of the intelligence community," each place it appears in the following provisions and inserting "National Intelligence Director":

(i) Section 313(a) (50 U.S.C. 404n(a)).

(ii) Section 343(a)(1) (50 U.S.C. 404n–2(a)(1))

(B) Section 341 of that Act (50 U.S.C. 404n–1) is amended by striking "Director of Central Intelligence, acting as the head of the intelligence community, shall establish in the Central Intelligence Agency" and inserting "National Intelligence Director shall establish within the Central Intelligence Agency".

(C) Section 352(b) of that Act (50 U.S.C. 404–3 note) is amended by striking "Director" and inserting "National Intelligence Director".

(3) PUBLIC LAW 108–177.—(A) The Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177) is amended by striking "Director of Central Intelligence" each place it appears in the following provisions and inserting "National Intelligence Director":

(i) Section 317(a) (50 U.S.C. 403–3 note).

(ii) Section 317(h)(1).

(iii) Section 318(a) (50 U.S.C. 441g note).

(iv) Section 319(b) (50 U.S.C. 403 note).

(v) Section 341(b) (28 U.S.C. 519 note).

(vi) Section 357(a) (50 U.S.C. 403 note).

(vii) Section 504(a) (117 Stat. 2634), both places it appears.

(B) Section 319(f)(2) of that Act (50 U.S.C. 403 note) is amended by striking "Director" the first place it appears and inserting "National Intelligence Director".

(C) Section 404 of that Act (18 U.S.C. 4124 note) is amended by striking "Director of Central Intelligence" and inserting "Director of the Central Intelligence Agency".

SEC. 303. OTHER CONFORMING AMENDMENTS

(a) NATIONAL SECURITY ACT OF 1947.—(1) Section 101(j) of the National Security Act of 1947 (50 U.S.C. 402(j)) is amended by striking "Deputy Director of Central Intelligence" and inserting "Principal Deputy National Intelligence Director".

(2) Section 112(d)(1) of that Act (50 U.S.C. 404g(d)(1)) is amended by striking "section 103(c)(6) of this Act" and inserting "section 112(a)(11) of the National Intelligence Reform Act of 2004".

(3) Section 116(b) of that Act (50 U.S.C. 404k(b)) is amended by striking "to the Deputy Director of Central Intelligence, or with respect to employees of the Central Intelligence Agency, the Director may delegate such authority to the Deputy Director for Operations" and inserting "to the Principal Deputy National Intelligence Director, or, with respect to employees of the Central Intelligence Agency, to the Director of the Central Intelligence Agency".

(4) Section 504(a)(2) of that Act (50 U.S.C. 414(a)(2)) is amended by striking "Reserve for Contingencies of the Central Intelligence Agency" and inserting "Reserve for Contingencies of the National Intelligence Director".

(5) Section 506A(b)(1) of that Act (50 U.S.C. 415a–1(b)(1)) is amended by striking "Office of the Deputy Director of Central Intelligence" and inserting "Office of the National Intelligence Director".

(6) Section 701(c)(3) of that Act (50 U.S.C. 431(c)(3)) is amended by striking "or the Office of the Director of Central Intelligence" and inserting "the Office of the Director of the Central Intelligence Agency, or the Office of the National Intelligence Director".

(7) Section 1001(b) of that Act (50 U.S.C. 441g(b)) is amended by striking "Assistant Director of Central Intelligence for Administration" and inserting "Office of the National Intelligence Director".

(b) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—Section 6 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g) is amended by striking "section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))" and inserting "section 112(a)(11) of the National Intelligence Reform Act of 2004".

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.—Section 201(c) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011(c)) is amended by striking "paragraph (6) of section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c)) that the Director of Central Intelligence" and inserting "section 112(a)(11) of the National Intelligence Reform Act of 2004 that the National Intelligence Director".

(d) INTELLIGENCE AUTHORIZATION ACTS.—

(1) PUBLIC LAW 107–306.—Section 343(c) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 404n–2(c)) is amended by striking "section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3((c)(6))" and inserting "section 112(a)(11) of the National Intelligence Reform Act of 2004".

(2) PUBLIC LAW 108–177.—Section 317 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 403–3 note) is amended—

(A) in subsection (g), by striking "Assistant Director of Central Intelligence for Analysis and Production" and inserting "Principal Deputy National Intelligence Director"; and

(B) in subsection (h)(2)(C), by striking "Assistant Director" and inserting "Principal Deputy National Intelligence Director".

SEC. 304. MODIFICATIONS OF FOREIGN INTELLIGENCE AND COUNTERINTELLIGENCE UNDER NATIONAL SECURITY ACT OF 1947.

Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended—

(1) in paragraph (2), by striking "or foreign persons, or international terrorist activities" and inserting "foreign persons, or international terrorists"; and

(2) in paragraph (3), by striking "or foreign persons, or international terrorist activities" and inserting "foreign persons, or international terrorists".

SEC. 305. ELEMENTS OF INTELLIGENCE COMMUNITY UNDER NATIONAL SECURITY ACT OF 1947.

Paragraph (4) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

"(4) The term 'intelligence community' includes the following:

"(A) The National Intelligence Authority.

"(B) The Central Intelligence Agency.

"(C) The National Security Agency.

"(D) The Defense Intelligence Agency.

"(E) The National Geospatial-Intelligence Agency.

"(F) The National Reconnaissance Office.

"(G) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs.

"(H) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, and the Department of Energy.

"(I) The Bureau of Intelligence and Research of the Department of State.

"(J) The Office of Intelligence and Analysis of the Department of the Treasury.

"(K) The elements of the Department of Homeland Security concerned with the analysis of intelligence information, including the Office of Intelligence of the Coast Guard.

"(L) Such other elements of any department or agency as may be designated by the President, or designated jointly by the National Intelligence Director and the head of the department or agency concerned, as an element of the intelligence community.".

SEC. 306. REDESIGNATION OF NATIONAL FOREIGN INTELLIGENCE PROGRAM AS NATIONAL INTELLIGENCE PROGRAM.

(a) REDESIGNATION.—Section 3 of the National Security Act of 1947 (50 U.S.C. 401a), as amended by this Act, is further amended—

(1) by striking paragraph (6); and

(2) by redesignating paragraph (7) as paragraph (6).

(b) CONFORMING AMENDMENTS.—(1) The National Security Act of 1947, as amended by this Act, is further amended by striking "National Foreign Intelligence Program" each place it appears in the following provisions and inserting "National Intelligence Program":

(A) Section 105(a)(2) (50 U.S.C. 403–5(a)(2)).

(B) Section 105(a)(3) (50 U.S.C. 403–5(a)(3)).

(C) Section 506(a) (50 U.S.C. 415a(a)).

(2) Section 17(f) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(f)) is amended by striking "National Foreign Intelligence Program" and inserting "National Intelligence Program".

(c) HEADING AMENDMENTS.—(1) The heading of section 105 of that Act is amended to read as follows:

"RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL INTELLIGENCE PROGRAM".

(2) The heading of section 506 of that Act is amended to read as follows:

"SPECIFICITY OF NATIONAL INTELLIGENCE PROGRAM BUDGET AMOUNTS FOR COUNTERTERRORISM, COUNTERPROLIFERATION, COUNTER-
NARCOTICS, AND COUNTERINTELLIGENCE".

SEC. 307. CONFORMING AMENDMENT ON COORDINATION OF BUDGETS OF ELEMENTS OF THE INTELLIGENCE COMMUNITY WITHIN THE DEPARTMENT OF DEFENSE.

Section 105(a)(1) of the National Security Act of 1947 (50 U.S.C. 403–5(a)(1)) is amended by striking "ensure" and inserting "assist the Director in ensuring".

SEC. 308. REPEAL OF SUPERSEDED AUTHORITIES.

(a) APPOINTMENT OF CERTAIN INTELLIGENCE OFFICIALS.—Section 106 of the National Security Act of 1947 (50 U.S.C. 403–6) is repealed.

(b) COLLECTION TASKING AUTHORITY.—Section 111 of the National Security Act of 1947 (50 U.S.C. 404f) is repealed.

SEC. 309. CLERICAL AMENDMENTS TO NATIONAL SECURITY ACT OF 1947.

The table of contents for the National Security Act of 1947 is amended—

(1) by inserting after the item relating to section 101 the following new item:

"Sec. 101A. Joint Intelligence Community Council.";

(2) by striking the items relating to sections 102 through 104 and inserting the following new items:

"Sec. 102. Central Intelligence Agency.
"Sec. 103. Director of the Central Intelligence Agency.";

(3) by striking the item relating to section 105 and inserting the following new item:

"Sec 105. Responsibilities of the Secretary of Defense pertaining to the National Intelligence Program.";

(4) by striking the item relating to section 114 and inserting the following new item:

"Sec. 114. Additional annual reports from the National Intelligence Director.";

and

(5) by striking the item relating to section 506 and inserting the following new item:

"Sec. 506. Specificity of National Intelligence Program budget amounts for counterterrorism, counterproliferation, counternarcotics, and counterintelligence".

SEC. 310. MODIFICATION OF AUTHORITIES RELATING TO NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) APPOINTMENT OF NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—Subsection (a)(2) of section 902 of the Counterintelligence Enhancement Act of 2002 (title IX of Public

Law 107-306; 116 Stat. 2432; 50 U.S.C. 402b) is amended by striking "Director of Central Intelligence" and inserting "National Intelligence Director, and Director of the Central Intelligence Agency".

(b) COMPONENT OF OFFICE OF NATIONAL INTELLIGENCE DIRECTOR.—Such section is further amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) COMPONENT OF OFFICE OF NATIONAL INTELLIGENCE DIRECTOR.—The National Counterintelligence Executive is a component of the Office of the National Intelligence Director under subtitle C of the National Intelligence Reform Act of 2004.".

(c) DUTIES.—Subsection (d) of such section, as redesignated by subsection (a)(1) of this section, is amended by adding at the end the following new paragraph:

"(5) To perform such other duties as may be provided under section 131(b) of the National Intelligence Reform Act of 2004.".

(d) OFFICE OF NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—Section 904 of the Counterintelligence Enhancement Act of 2002 (116 Stat. 2434; 50 U.S.C. 402c) is amended—

(1) by striking "Office of the Director of Central Intelligence" each place it appears in subsections (c) and (l)(1) and inserting "Office of the National Intelligence Director";

(2) by striking "Director of Central Intelligence" each place it appears in subsections (e)(4), (e)(5), (h)(1), and (h)(2) and inserting "National Intelligence Director"; and

(3) in subsection (m), by striking "Director of Central Intelligence" and inserting "National Intelligence Director, the Director of the Central Intelligence Agency".

SEC. 311. CONFORMING AMENDMENT TO INSPECTOR GENERAL ACT OF 1978.

Section 8H(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following new subparagraph:

"(D) An employee of the National Intelligence Authority, an employee of an entity other than the Authority who is assigned or detailed to the Authority, or of a contractor of the Authority, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the National Intelligence Authority in accordance with section 141(h)(5) of the National Intelligence Reform Act of 2004.".

SEC. 312. CONFORMING AMENDMENT RELATING TO CHIEF FINANCIAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

Section 901(b)(1) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

"(Q) The National Intelligence Authority.".

Subtitle B—Transfers and Terminations

SEC. 321. TRANSFER OF OFFICE OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT.

(a) TRANSFER.—There shall be transferred to the Office of the National Intelligence Director the staff of the Office of the Deputy Director of Central Intelligence for Community Management as of the date of the enactment of this Act, including all functions and activities discharged by the Office of the Deputy Director of Central Intelligence for Community Management as of that date.

(b) ADMINISTRATION.—The National Intelligence Director shall administer the staff of the Office of the Deputy Director of Central Intelligence for Community Management after the date of the enactment of this Act as a component of the Office of the National Intelligence Director under section 121(d).

SEC. 322. TRANSFER OF NATIONAL COUNTERTERRORISM EXECUTIVE.

(a) TRANSFER.—There shall be transferred to the Office of the National Intelligence Director the National Counterintelligence Executive and the Office of the National Counterintelligence Executive under the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107-306; 50 U.S.C. 402b et seq.), as amended by section 309 of this Act, including all functions and activities discharged by the National Counterintelligence Executive and the Office of the National Counterintelligence Executive as of the date of the enactment of this Act.

(b) ADMINISTRATION.—The National Intelligence Director shall treat the National Counterintelligence Executive, and administer the Office of the National Counterintelligence Executive, after the date of the enactment of this Act as components of the Office of the National Intelligence Director under section 121(c).

SEC. 323. TRANSFER OF TERRORIST THREAT INTEGRATION CENTER.

(a) TRANSFER.—There shall be transferred to the National Counterterrorism Center the Terrorist Threat Integration Center (TTIC), including all functions and activities discharged by the Terrorist Threat Integration Center as of the date of the enactment of this Act.

(b) ADMINISTRATION.—The Director of the National Counterterrorism Center shall administer the Terrorist Threat Integration Center after the date of the enactment of this Act as a component of the Directorate of Intelligence of the National Counterterrorism Center under section 143(g)(2).

SEC. 324. TERMINATION OF CERTAIN POSITIONS WITHIN THE CENTRAL INTELLIGENCE AGENCY.

(a) TERMINATION.—The positions within the Central Intelligence Agency referred to in subsection (b) are hereby abolished.

(b) COVERED POSITIONS.—The positions within the Central Intelligence Agency referred to in this subsection are as follows:

(1) The Deputy Director of Central Intelligence for Community Management.

(2) The Assistant Director of Central Intelligence for Collection.

(3) The Assistant Director of Central Intelligence for Analysis and Production.

(4) The Assistant Director of Central Intelligence for Administration.

Subtitle C—Other Transition Matters

SEC. 331. EXECUTIVE SCHEDULE MATTERS.

(a) EXECUTIVE SCHEDULE LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding the end the following new item:

"National Intelligence Director.".

(b) EXECUTIVE SCHEDULE LEVEL II.—Section 5313 of title 5, United States Code, is amended—

(1) by striking the item relating to the Director of Central Intelligence; and

(2) by adding at the end the following new items:

"Deputy National Intelligence Directors (5).

"Director of the National Counterterrorism Center.".

(c) EXECUTIVE SCHEDULE LEVEL III.—Section 5314 of title 5, United States Code, is amended by striking the item relating to the Deputy Directors of Central Intelligence and inserting the following new item:

"Director of the Central Intelligence Agency.".

(d) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking the item relating to the Assistant Directors of Central Intelligence.

SEC. 332. PRESERVATION OF INTELLIGENCE CAPABILITIES.

The National Intelligence Director, the Director of the Central Intelligence Agency, and the Secretary of Defense shall jointly take such actions as are appropriate to preserve the intelligence capabilities of the United States during the establishment of the National Intelligence Authority under this Act.

SEC. 333. REORGANIZATION.

(a) REORGANIZATION.—The National Intelligence Director may, with the approval of the President and after consultation with the department, agency, or element concerned, allocate or reallocate functions among the officers of the National Intelligence Program, and may establish, consolidate, alter, or discontinue organizational units within the Program, but only after providing notice of such action to Congress, which shall include an explanation of the rationale for the action.

(b) LIMITATION.—The authority under subsection (a) does not extend to any action inconsistent with law.

(c) CONGRESSIONAL REVIEW.—An action may be taken under the authority under subsection (a) only with the approval of the following:

(1) Each of the congressional intelligence committees.

(2) Each of the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

SEC. 334. NATIONAL INTELLIGENCE DIRECTOR REPORT ON IMPLEMENTATION OF INTELLIGENCE COMMUNITY REFORM.

Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall submit to Congress a report on the progress made in the implementation of this Act, including the amendments made by this Act. The report shall include a comprehensive description of the progress made, and may include such recommendations for additional legislative or administrative action as the Director considers appropriate.

SEC. 335. COMPTROLLER GENERAL REPORTS ON IMPLEMENTATION OF INTELLIGENCE COMMUNITY REFORM.

(a) REPORTS.—(1) Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a comprehensive report on the implementation of this Act and the amendments made by this Act.

(2) The Comptroller General may submit to Congress at any time during the two-year period beginning on the date of the enactment of this Act, such reports on the progress made in the implementation of this Act and the amendments made by this Act as the Comptroller General considers appropriate.

(b) REPORT ELEMENTS.—Each report under subsection (a) shall include the following:

(1) The assessment of the Comptroller General of the progress made in the implementation of this Act (and the amendments made by this Act) as of the date of such report.

(2) A description of any delays or other shortfalls in the implementation of this Act that have been identified by the Comptroller General.

(3) Any recommendations for additional legislative or administrative action that the Comptroller General considers appropriate.

(c) AGENCY COOPERATION.—Each department, agency, and element of the United States Government shall cooperate with the Comptroller General in the assessment of the implementation of this Act, and shall provide the Comptroller General timely and complete access to relevant documents in accordance with section 716 of title 31, United States Code.

SEC. 336. GENERAL REFERENCES.

(a) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF INTELLIGENCE COMMUNITY.—Any reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the National Intelligence Director.

(b) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF CIA.—Any reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Director of the Central Intelligence Agency.

(c) OFFICE OF THE DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT.—Any reference to the Office of the Deputy Director of Central Intelligence for Community Management in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the staff of such office within the Office of the National Intelligence Director under section 121.

Subtitle D—Effective Date

SEC. 341. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act, and the amendments made by this Act, shall take effect 180 days after the date of the enactment of this Act.

(b) EARLIER EFFECTIVE DATE.—In order to ensure the rapid implementation of this Act while simultaneously ensuring a smooth transition that will safeguard the national security of the United States, the President may provide that this Act (including the amendments made by this Act), or one or more particular provisions of this Act (including the amendments made by such provision or provisions), shall take effect on such date that is earlier than the date otherwise provided under subsection (a) as the President shall specify.

(c) NOTIFICATION OF EFFECTIVE DATES.—If the President exercises the authority in subsection (b), the President shall—

(1) notify Congress of the exercise of such authority; and

(2) publish in the Federal Register notice of the earlier effective date or dates involved, including each provision (and amendment) covered by such earlier effective date.

Subtitle E—Other Matters

SEC. 351. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstance is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which such provision is held invalid, shall not be affected thereby.

SEC. 352. AUTHORIZATION OF APPROPRIATIONS.

There are specifically authorized to be appropriated for fiscal year 2005 such sums as may be necessary to carry out this Act and the amendments made by this Act.

By Mrs. BOXER (for herself, Mrs. FEINSTEIN, and Mr. JEFFORDS):

S. 2842. A bill to amend title 49, United States Code, to require motor carriers to comply with vehicle emission performance standards established by the Environmental Protection Agency, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Madam President, today I am introducing legislation to protect communities from pollution emitted by heavy-duty diesel trucks. I am pleased to be joined in this effort by Senators FEINSTEIN and JEFFORDS. The Clean Trucks Act will require all trucks operating within the United States to comply with Federal clean air requirements. It will also require the Federal Motor Carrier Safety Administration to collect and provide information on long-haul heavy-duty truck travel and fuel consumption to the United States Environmental Protection Agency to enable the EPA to estimate emissions.

More than 130 million Americans continue to breathe dirty, unhealthy air. The Los Angeles and San Joaquin Valley air basins have the highest levels of ozone, or smog, pollution in the Nation, and are among the most polluted from particulate matter, or soot. Many other areas of California also face severe air quality threats, including the Imperial Valley as well as Riverside, Sacramento, and Ventura Counties.

According to the California Air Resources Board, almost 59 percent of California's pollution is from mobile sources. Although overall mobile source emissions have decreased since 1975, the percentage contributed by diesel vehicles has increased. In California, heavy-duty diesel trucks account for 4 percent of vehicle traffic, but cause 40 percent of all nitrogen oxide emissions, which is a cause of smog. Emissions from diesel-fueled engines include over 40 other cancer causing substances, particulate matter, and ozone-forming pollutants.

According to the Environmental Protection Agency, hazardous pollutants in the air increase the risk of cancer—and 78 percent of that increased risk is due to diesel exhaust. Individuals are also at greater risk of developing asthma, respiratory conditions, and cardiovascular disease.

Pursuant to the NAFTA and a recent Supreme Court decision, the United States will begin allowing foreign heavy-duty diesel truck to operate freely within the United States. But, under current law, those trucks will not be required to meet Federal or state air quality standards. This will only make the air quality problem and the health risk worse.

The Clean Trucks Act is a reasonable measure to protect our communities as millions of foreign trucks are added to our highways. It simply says that all trucks, foreign and domestic, must meet the same emissions standards. I urge my colleagues to cosponsor this measure.

By Mr. CAMPBELL:

S. 2843. A bill to make technical corrections to laws relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President today I am pleased to introduce the Native American Technical Corrections Act of 2004 to amend a variety of Federal statutes affecting Indian tribes and Indian people.

The bill provides 13 amendments including changes to the Indian Arts and Craft Act, the Indian Financing Act, the Indian Pueblo Lands Act, and others.

Though modest, this bill provides relief to the many tribes that seek Congress's assistance and I urge my colleagues to support it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Technical Corrections Act of 2004".

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term "Secretary" means the Secretary of the Interior.

SEC. 3. INDIAN ARTS AND CRAFTS ACT AMENDMENTS.

(a) POWERS OF THE INDIAN ARTS AND CRAFTS BOARD.—Section 2 of the Act of August 27, 1935 (25 U.S.C. 305a), is amended by inserting before the period at the end the following: "; (j) to investigate violations of this Act; (k) to enforce this Act through the imposition of penalties for violations under section 6; (l) to request the Secretary of the Interior, with advice of the Solicitor, to enforce this Act through injunctive relief; (m) notwithstanding any other provision of law, to enter into reimbursable support agreements with Federal, State, tribal, regional, and local investigative or law enforcement entities in furtherance of the purposes and provisions of this Act".

(b) APPROPRIATIONS.—Section 4 of the Act of August 27, 1935 (25 U.S.C. 305c), is amended to read as follows:

"SEC. 4. APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to pay the expenses of the Board and carry out this Act.

"(b) FUND.—All income received by the Board from any source shall be deposited in a special fund, which shall be available to be expended by the Board, without further appropriation, to carry out this Act.

"(c) USE OF AMOUNTS.—Amounts received by the Board resulting from any civil action or enforcement action brought under this Act may be used by the Board consistent with this Act, as necessary for the accomplishment for the purposes of this Act.".

(c) REFERRAL FOR CRIMINAL AND CIVIL VIOLATIONS; COMPLAINTS; RECOMMENDATIONS.—Section 5 of the Act of August 27, 1935 (25 U.S.C. 305d), is amended to read as follows:

"SEC. 5. REFERRAL FOR CRIMINAL AND CIVIL PROCEEDINGS.

"(a) CRIMINAL PROCEEDINGS.—

"(1) INVESTIGATION.—The Board shall investigate violations of section 1159 of title 18, United States Code.

"(2) ACTION BY THE BOARD.—After an investigation is complete, or at any time during an investigation, the Board may—

"(A) refer the matter to the Attorney General for additional investigation; and

"(B) recommend to the Attorney General that criminal proceedings be brought under section 1159 of title 18, United States Code.

"(b) CIVIL PROCEEDINGS.—

"(1) INVESTIGATIONS.—The Board shall investigate violations of section 6.

"(2) ACTION BY THE BOARD.—After an investigation is complete, or at any time during an investigation, the Board may—

"(A) levy penalties in accordance with section 6; or

"(B) refer the matter to the Attorney General for civil action under section 6.

"(c) MANDATORY INVESTIGATIONS.—The Board shall receive and investigate all complaints of violations of section 1159 of title 18, United States Code, and section 6.".

(d) CAUSE OF ACTION FOR MISREPRESENTATION OF INDIAN-PRODUCED GOODS.—Section 6 of the Act of August 27, 1935 (25 U.S.C. 305e), is amended to read as follows:

"SEC. 6. CAUSE OF ACTION FOR MISREPRESENTATION OF INDIAN-PRODUCED GOODS.

"(a) DEFINITIONS.—In this section:

"(1) INDIAN.—The term 'Indian' means—

"(A) an individual who is a member of an Indian tribe; and

"(B) an individual who, for the purposes of this section, is certified as an Indian artisan by an Indian tribe.

"(2) INDIAN PRODUCT.—Subject to subsection (g), the term 'Indian product' has the meaning given the term in regulations that may be promulgated by the Secretary.

"(3) INDIAN TRIBE.—The term 'Indian tribe' means—

"(A) an Indian tribe, band, nation, Alaska native village, or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

"(B) an Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority.

"(4) PRODUCT OF A PARTICULAR INDIAN TRIBE OR INDIAN ARTS AND CRAFTS ORGANIZATION.—Subject to subsection (g), the term 'product of a particular Indian tribe or Indian arts and crafts organization' has the meaning given the term in regulations that may be promulgated by the Secretary.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(b) IMPOSITION OF PENALTIES BY THE BOARD.—

"(1) IN GENERAL.—The Board may impose a civil penalty against a person that, directly or indirectly, offers or displays for sale or sells a good, with or without a Government trademark, in a manner that falsely suggests that the good is Indian-produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization resident within the United States.

"(2) AMOUNT.—A civil penalty under paragraph (1) shall not exceed 100 percent of the price of the goods offered or displayed for sale in violation of the Act, not to exceed $500,000 per person, per violation.

"(3) FACTORS AFFECTING PENALTY AMOUNT.—In determining the amount of a civil penalty to be imposed, the Board shall consider—

"(A) the severity of the violation;

"(B) any history of prior violations; and

"(C) whether the amount of the civil penalty will be likely to deter future violations.

"(4) INJUNCTIVE RELIEF.—If the Board determines that enforcement of this Act under this section will be insufficient to avoid irreparable harm, the Board, with the concurrence of the Solicitor of the Department of the Interior, may request the Secretary to seek injunctive relief in accordance with section 2 in a court of competent jurisdiction.

"(5) NOTICE AND APPEAL OF BOARD DETERMINATION.—

"(A) NOTICE.—

"(i) IN GENERAL.—If, as a result of an investigation conducted by the Board, it is determined that a violation of this Act has occurred, the Board may, at any time during the investigation, notify the person under investigation regarding the nature of the alleged violation.

"(ii) CONTENT.—A notice under clause (i) shall include, at a minimum—

"(I) a detailed description of the violation;

"(II) possible remedies, if appropriate;

"(III) opportunity to cure, if appropriate; and

"(IV) any other information that the Board considers necessary.

"(B) APPEAL.—Any person determined to be in violation of this Act under this subsection may appeal the Board's findings and imposition of civil penalties to the Office of Hearings and Appeals of the Department of the Interior in accordance with part 4 of title 43, Code of Federal Regulations (or any successor regulation).

"(c) INJUNCTIVE OR EQUITABLE RELIEF; DAMAGES.—

"(1) IN GENERAL.—A person specified in subsection (e) may, in a civil action in a court of competent jurisdiction, bring an action against a person that, directly or indirectly, offers or displays for sale or sells a good, with or without a government trademark, in a manner that falsely suggests that the good is Indian-produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization resident within the United States, to—

"(A) obtain injunctive or other equitable relief; and

"(B) recover the greater of—

"(i) treble damages; or

"(ii) in the case of each aggrieved individual Indian, Indian tribe, or Indian arts and crafts organization, not less than $1,000 for each day on which the offer or display for sale or sale continues.

"(2) DAMAGES.—For purposes of paragraph (1)(B)(i), damages includes all gross profits realized by the defendant as a result of the activities found in violation of this subsection.

"(d) PUNITIVE DAMAGES; ATTORNEY'S FEE.—In addition to the relief specified in subsection (c), the court may award punitive damages, and costs of the civil action, and a reasonable attorney's fee.

"(e) PERSONS WHO MAY INITIATE CIVIL ACTIONS.—

"(1) IN GENERAL.—A civil action under subsection (b) may be brought—

"(A) by the Attorney General, on request of the Secretary on behalf of—

"(i) an Indian tribe;

"(ii) an Indian; or

"(iii) an Indian arts and crafts organization;

"(B) by an Indian tribe on behalf of itself, an Indian, or an Indian arts and crafts organization;

"(C) by an Indian; or

"(D) by an Indian arts and crafts organization.

"(2) DISPOSITION OF AMOUNTS RECOVERED.—Any amount recovered under this section shall be paid to the Indian tribe, Indian, or Indian arts and crafts organization, except that—

"(A) in the case of a civil action under paragraph (1)(A), the Attorney General may deduct from the amount recovered—

"(i) the amount for the costs of the civil action and reasonable attorney's fee awarded pursuant to subsection (d), to be deposited in the Treasury of the United States and credited to appropriations currently available to the Attorney General at the time of receipt of the amount; and

"(ii) the amount for the costs of investigation awarded pursuant to subsection (d), to be used to reimburse the Board the amount of such costs incurred as a direct result of Board activities in the civil action;

"(B) in the case of a civil action under paragraph (1)(B), the amount recovered for the costs of the civil action and reasonable attorney's fee pursuant to subsection (d) may be deducted.

"(f) SEVERABILITY.—If any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.

"(g) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Board shall promulgate regulations to include in the definition of the term 'Indian product' specific examples of each such product to provide guidance to Indian artisans and to purveyors and consumers of Indian arts and crafts.".

SEC. 4. INDIAN FINANCING ACT AMENDMENTS.

(a) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking "SEC. 205." and all that follows through subsection (b) and inserting the following:

"SEC. 205. SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.

"(a) IN GENERAL.—All or any portion of a loan guaranteed or insured under this title, including the security given for the loan—

"(1) may be transferred by the lender by sale or assignment to any person; and

"(2) may be retransferred by the transferee.

"(b) TRANSFERS OF LOANS.—With respect to a transfer described in subsection (a)—

"(1) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (h); and

"(2) the transferee shall give notice of the transfer to the Secretary.";

(2) by striking subsection (c);

(3) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), (g), and (h), respectively;

(4) in subsection (c) (as redesignated by paragraph (3))—

(A) by striking "VALIDITY.—" and all that follows through "subparagraph (B)," and inserting "VALIDITY.—Except as provided by regulations in effect on the date on which a loan is made,"; and

(B) by striking "incontestable" and all that follows and inserting "incontestable.";

(5) in subsection (e) (as redesignated by paragraph (3))—

(A) by striking "The Secretary" and inserting the following:

"(1) In general.—The Secretary"; and

(B) by adding at the end the following:

"(2) Compensation of fiscal transfer agent.—A fiscal transfer agent designated under subsection (f) may be compensated through any of the fees assessed under this section and any interest earned on any funds or fees collected by the fiscal transfer agent while the funds or fees are in the control of the fiscal transfer agent and before the time at which the fiscal transfer agent is contractually required to transfer such funds to the Secretary or to transferees or other holders."; and

(6) in subsection (f) (as redesignated by paragraph (3))—

(A) by striking "subsection (i)" and inserting "subsection (h)"; and

(B) in paragraph (2)(B), by striking ", and issuance of acknowledgments,".

SEC. 5. INDIAN PUEBLO LAND ACT AMENDMENTS.

(a) In General.—The Act of June 7, 1924 (43 Stat. 636, chapter 331), is amended by adding at the end the following:

"SEC. 20. CRIMINAL JURISDICTION.

"(a) In General.—Except as otherwise provided by Congress, jurisdiction over offenses committed anywhere within the exterior boundaries of any grant from a prior sovereign, as confirmed by Congress or the Court of Private land Claims to a Pueblo Indian tribe of new Mexico, shall be as provided in this section.

"(b) Jurisdiction of the Pueblo.—The Pueblo has jurisdiction, as an act of the Pueblos' inherent power as an Indian tribe, over any offense committed by a member of the Pueblo or of another federally recognized Indian tribe, or by any other Indian-owned entity.

"(c) Jurisdiction of the United States.—The United States has jurisdiction over any offense described in chapter 53 of title 18, United States Code, committed by or against a member of any federally recognized Indian tribe or any Indian-owned entity, or that involves any Indian property or interest.

"(d) Jurisdiction of the State of New Mexico.—The State of New Mexico shall have jurisdiction over any offense committed by a person who is not a member of a federally recognized Indian tribe, which offense is not subject to the jurisdiction of the United States.".

SEC. 6. INDIAN REORGANIZATION ACT CORPORATION AMENDMENT.

Section 17 of the Act of June 18, 1936 (25 U.S.C. 477) (commonly known as the "Indian Reorganization Act") is amended in the second sentence by striking "with law" and all that follows through "twenty-five" and inserting "with law, and not for purposes of conducting gaming (within the meaning of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), but no authority shall be granted to sell or mortgage or to lease for a period exceeding 99".

SEC. 7. PRAIRIE ISLAND LAND CONVEYANCE.

(a) In General.—The Secretary of the Army shall convey all right, title, and interest of the United States in and to the land described in subsection (b), including all improvements, cultural resources, and sites on the land, subject to the flowage and sloughing easement described in subsection (d) and to the conditions stated in subsection (f), to the Secretary, to be—

(1) held in trust by the United States for the benefit of the Prairie Island Indian Community in Minnesota; and

(2) included in the Prairie Island Indian Community Reservation in Goodhue County, Minnesota.

(b) Land Description.—The land to be conveyed under subsection (a) is the approximately 1290 acres of land associated with the Lock and Dam #3 on the Mississippi River in Goodhue County, Minnesota, located in tracts identified as GO–251, GO–252, GO–271, GO–277, GO–278, GO–284, GO–301 through GO–313, GO–314A, GO–314B, GO–329, GO–330A, GO–330B, GO–331A, GO–331B, GO–331C, GO–332, GO–333, GO–334, GO–335A, GO–335B, GO–336 through GO–338, GO–339A, GO–339B, GO–339C, GO–339D, GO–339E, GO–340A, GO–340B, GO–358, GO–359A, GO–359B, GO–359C, GO–359D, and GO–360, as depicted on the map entitled "United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights" and dated December 1936.

(c) Boundary Survey.—Not later than 5 years after the date of conveyance under subsection (a), the boundaries of the land conveyed shall be surveyed as provided in section 2115 of the Revised Statutes (25 U.S.C. 176).

(d) Easement.—

(1) In general.—The Corps of Engineers shall retain a flowage and sloughing easement for the purpose of navigation and purposes relating to the Lock and Dam No. 3 project over the portion of the land described in subsection (b) that lies below the elevation of 676.0.

(2) Inclusions.—The easement retained under paragraph (1) includes—

(A) the perpetual right to overflow, flood, and submerge property as the District Engineer determines to be necessary in connection with the operation and maintenance of the Mississippi River Navigation Project; and

(B) the continuing right to clear and remove any brush, debris, or natural obstructions that, in the opinion of the District Engineer, may be detrimental to the project.

(e) Ownership of Sturgeon Lake Bed Unaffected.—Nothing in this section diminishes or otherwise affects the title of the State of Minnesota to the bed of Sturgeon Lake located within the tracts of land described in subsection (b).

(f) Conditions.—The conveyance under subsection (a) is subject to the conditions that the Prairie Island Indian Community shall not—

(1) use the conveyed land for human habitation;

(2) construct any structure on the land without the written approval of the District Engineer; or

(3) conduct gaming (within the meaning of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) on the land.

(g) No Effect on Eligibility for Certain Projects.—Notwithstanding the conveyance under subsection (a), the land shall continue to be eligible for environmental management planning and other recreational or natural resource development projects on the same basis as before the conveyance.

(h) Effect of Section.—Nothing in this section diminishes or otherwise affects the rights granted to the United States pursuant to letters of July 23, 1937, and November 20, 1937, from the Secretary to the Secretary of War and the letters of the Secretary of War in response to the Secretary dated August 18, 1937, and November 27, 1937, under which the Secretary granted certain rights to the Corps of Engineers to overflow the portions of Tracts A, B, and C that lie within the Mississippi River 9-Foot Channel Project boundary and as more particularly shown and depicted on the map entitled "United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights" and dated December 1936.

SEC. 8. GILA RIVER INDIAN COMMUNITY MANDATORY BINDING ARBITRATION.

(a) Amendments.—Subsection (f) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(f)), is amended—

(1) in the first sentence—

(A) by striking "Any lease" and all that follows through "affecting land" and inserting "Any contract, including a lease, affecting land"; and

(B) in the second sentence, by striking "such leases or contracts entered into pursuant to such Acts" and inserting "Such contracts".

(b) Effective Date.—The amendments made by subsection (a) shall take effect as if included in the Act of August 9, 1955 (69 Stat. 539, chapter 615) and Public 107–159 (116 Stat. 122).

SEC. 9. ALASKA NATIVE CLAIMS SETTLEMENT ACT VOTING STANDARDS AMENDMENT.

(a) In General.—Subsection (d)(3) of section 36 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629b) (as amended by subsection (b)) is amended—

(1) by inserting after "of this section" the following: "or an amendment to the articles of incorporation described in section 7(g)(1)(B)"; and

(2) by inserting "or amendment" after "meeting relating to such resolution" each place it appears.

(b) Technical Corrections.—

(1)(A) Section 337(a) of the Department of the Interior and Related Agencies Appropriations Act, 2003 (Division F of Public Law 108–7; 117 Stat. 278; February 20, 2003) is amended—

(i) in the matter preceding paragraph (1), by striking "Section 1629b of title 43, United States Code," and inserting "Section 36 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629b)"; and

(ii) in paragraph (2), by striking "by creating the following new subsection:" and inserting "in subsection (d), by adding at the end the following:".

(B) Section 36 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629b) is amended—

(i) in subsection (d)(3), by striking "(d)"; and

(ii) in subsection (f), by striking "section 1629e of this title" and inserting "section 39".

(2)(A) Section 337(b) of the Department of the Interior and Related Agencies Appropriations Act, 2003 (Division F of Public Law 108–7; 117 Stat. 278; February 20, 2003) is amended by striking "Section 1629e(a)(3) of title 43, United States Code," and inserting "Section 39(a)(3) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629e(a)(3))".

(B) Section 39(a)(3)(B)(ii) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629e(a)(3)(B)(ii)) is amended by striking "(a)(4) of section 1629b of this title" and inserting "section 36(a)(4)".

(3) The amendments made by this subsection take effect on February 20, 2003.

SEC. 10. BEAVER AIRPORT LAND AMENDMENT.

(a) In General.—The Secretary shall execute such instruments as are necessary to release the condition on a portion of land situated adjacent to the community of Beaver, Alaska, conveyed pursuant to Patent No. 50–

69-0130 and dated August 23, 1968, that the land revert to the United States if the land is not used for airport purposes.

(b) TRACTS.—The release of the condition provided for in subsection (a)—

(1) shall apply to approximately 33 acres of land identified as tracts II through VI of the Beaver Airport, a part of U.S. Survey No. 3798, Alaska (referred to in this section as the "community expansion land");

(2) shall be without any requirement for receipt of fair market value for the release and conveyance of the conditions otherwise applicable to the community expansion land; and

(3) shall be contingent on the conveyance by the State of Alaska of the community expansion land to the Beaver Kwit'chin corporation, the Village Corporation of the village of Beaver, Alaska.

(c) RECONVEYANCE.—The Beaver Kwit'chin Corporation—

(1) shall reconvey to any individual who currently occupies a portion of the land, or successor in interest to such an individual, title to such land as is currently occupied; and

(2) may subsequently—

(A) convey the remaining land to other individuals or persons for community expansion purposes; or

(B) retain the remaining land in whole or in part for community uses.

SEC. 11. PUYALLUP INDIAN TRIBE LAND CLAIMS SETTLEMENT AMENDMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall—

(1) accept the conveyance of the parcels of land within the Puyallup Reservation described in subsection (b); and

(2) hold the land in trust for the benefit of the Puyallup Indian Tribe.

(b) LAND DESCRIPTION.—The parcels of land referred to in subsection (a) are as follows:

(1) PARCEL A.—Lot B, boundary line adjustment 9508150496: according to the map thereof recorded August 15, 1995, records of Pierce County Auditor, situate in the city of Fife, county of Pierce, State of Washington.

(2) PARCEL B.—Lots 3 and 4, Pierce County Short Plat No. 8908020412: according to the map thereof recorded August 2, 1989, records of Pierce County Auditor, together with portion of SR 5 abutting lot 4, conveyed by deed recorded under recording number 9309070433, described as follows:

That portion of Government lot 1, sec. 07, T. 20 N., R. 4 E., of the Willamette Meridian, described as commencing at Highway Engineer's Station (hereinafter referred to as HES) AL 26 6+38.0 P.O.T. on the AL26 line survey of SR 5, Tacoma to King County line: Thence S88°54′30″ E., along the north line of said lot 1 a distance of 95 feet to the true point of beginning: Thence S01°05′30″ W87.4′ feet: Thence westerly to a point opposite HES AL26 5+0.6 P.O.T. on said AL26 line survey and 75 feet easterly therefrom; Thence northwesterly to a point opposite AL26 5+80.6 on said AL26 line survey and 55 feet easterly therefrom: Thence northerly parallel with said line survey to the north line of said lot 1: Thence N88°54′30″ E., to the true point of beginning.

Except that portion of lot 4 conveyed to the State of Washington by deed recorded under recording number 9308100165 and more particularly described as follows:

Commencing at the northeast corner of said lot 4: Thence N80°53′30″ W., along the north line of said lot 4 a distance of 147.44 feet to the true point of beginning and a point of curvature; thence southwesterly along a curve to the left, the center of which bears S0°06′30″ W., 55.00 feet distance, through a central angle of 89°01′00″, an arc distance of 85.45 feet; Thence S01°05′30″ W., 59.43 feet; Thence N88°54′30″ W., 20.00 feet to a point on the westerly line of said lot 4; Thence N0°57′10″ E., along said westerly line 113.15 feet to the northwest corner of said lot 4; Thence S89°53′30″ east along said north line, a distance of 74.34 feet to the true point of beginning.

Chicago Title Insurance Company Order No. 4293514 Lot A boundary line adjustment recorded under Recording No. 9508150496. According to the map thereof recorded August 15, 1995, records of Pierce County Auditor.

Situate in the city of Fife, county of Pierce, State of Washington.

SEC. 12. CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE, AND STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION.

(a) DISBURSEMENT PROVISIONS OF THE STATE OF SOUTH DAKOTA AND THE CHEYENNE RIVER SIOUX TRIBE AND THE LOWER BRULE SIOUX TRIBE TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUNDS.—Section 602(a)(4) of the Water Resources Development Act of 1999 (113 Stat. 386) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by inserting "and the Secretary of the Treasury" after "Secretary"; and

(B) by striking clause (ii) and inserting the following:

"(ii) AVAILABILITY OF FUNDS.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the State of South Dakota funds from the State of South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund established under section 603, to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the State of South Dakota after the State certifies to the Secretary of the Treasury that the funds to be disbursed will be used in accordance with section 603(d)(3) and only after the Trust Fund is fully capitalized."; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) AVAILABILITY OF FUNDS.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe funds from the Cheyenne River Sioux Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Terrestrial Wildlife Habitat Restoration Trust Fund, respectively, established under section 604, to be used to carry out the plans for terrestrial wildlife habitat restoration submitted by the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, respectively, after the respective tribe certifies to the Secretary of the Treasury that the funds to be disbursed will be used in accordance with section 604(d)(3) and only after the Trust Fund is fully capitalized.".

(b) INVESTMENT PROVISIONS OF THE STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE RESTORATION TRUST FUND.—Section 603 of the Water Resources Development Act of 1999 (113 Stat. 388) is amended—

(1) by striking subsection (c) and inserting the following:

"(c) INVESTMENTS.—

"(1) ELIGIBLE OBLIGATIONS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall invest the amounts deposited under subsection (b) and the interest earned on those amounts only in interest-bearing obligations of the United States issued directly to the Fund.

"(2) INVESTMENT REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest the Fund in accordance with all of the requirements of this paragraph.

"(B) SEPARATE INVESTMENTS OF PRINCIPAL AND INTEREST.—

"(i) PRINCIPAL ACCOUNT.—The amounts deposited in the Fund under subsection (b) shall be credited to an account within the Fund (referred to in this paragraph as the 'principal account') and invested as provided in subparagraph (C).

"(ii) INTEREST ACCOUNT.—The interest earned from investing amounts in the principal account of the Fund shall be transferred to a separate account within the Fund (referred to in this paragraph as the 'interest account') and invested as provided in subparagraph (D).

"(iii) CREDITING.—The interest earned from investing amounts in the interest account of the Fund shall be credited to the interest account.

"(C) INVESTMENT OF PRINCIPAL ACCOUNT.—

"(i) INITIAL INVESTMENT.—Each amount deposited in the principal account of the Fund shall be invested initially in eligible obligations having the shortest maturity then available until the date on which the amount is divided into 3 substantially equal portions and those portions are invested in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having a 2-year maturity, a 5-year maturity, and a 10-year maturity, respectively.

"(ii) SUBSEQUENT INVESTMENT.—As each 2-year, 5-year, and 10-year eligible obligation matures, the principal of the maturing eligible obligation shall also be invested initially in the shortest-maturity eligible obligation then available until the principal is reinvested substantially equally in the eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having 2-year, 5-year, and 10-year maturities.

"(iii) DISCONTINUANCE OF ISSUANCE OF OBLIGATIONS.—If the Department of the Treasury discontinues issuing to the public obligations having 2-year, 5-year, or 10-year maturities, the principal of any maturing eligible obligation shall be reinvested substantially equally in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations of the maturities longer than 1 year then available.

"(D) INVESTMENT OF INTEREST ACCOUNT.—

"(i) BEFORE FULL CAPITALIZATION.—Until the date on which the Fund is fully capitalized, amounts in the interest account of the Fund shall be invested in eligible obligations that are identical (except for transferability) to publicly issued Treasury obligations that have maturities that coincide, to the greatest extent practicable, with the date on which the Fund is expected to be fully capitalized.

"(ii) AFTER FULL CAPITALIZATION.—On and after the date on which the Fund is fully capitalized, amounts in the interest account of the Fund shall be invested and reinvested in eligible obligations having the shortest maturity then available until the amounts are withdrawn and transferred to fund the activities authorized under subsection (d)(3).

"(E) PAR PURCHASE PRICE.—The price to be paid for eligible obligations purchased as investments of the principal account shall not exceed the par value of the obligations so that the amount of the principal account shall be preserved in perpetuity.

"(F) HIGHEST YIELD.—Among eligible obligations having the same maturity and purchase price, the obligation to be purchased shall be the obligation having the highest yield.

"(G) HOLDING TO MATURITY.—Eligible obligations purchased shall generally be held to their maturities.

"(3) ANNUAL REVIEW OF INVESTMENT ACTIVITIES.—Not less frequently than once each calendar year, the Secretary of the Treasury shall review with the State of South Dakota the results of the investment activities and financial status of the Fund during the preceding 12-month period."; and

(2) in subsection (d)(2), by inserting "of the Treasury" after Secretary".

(c) INVESTMENT PROVISIONS FOR THE CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE TRUST FUNDS.—Section 604 of the Water Resources Development Act of 1999 (113 Stat. 389) is amended by striking subsection (c) and inserting the following:

"(c) INVESTMENTS.—

"(1) ELIGIBLE OBLIGATIONS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall invest the amounts deposited under subsection (b) and the interest earned on those amounts only in interest-bearing obligations of the United States issued directly to the Funds.

"(2) INVESTMENT REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest each of the Funds in accordance with all of the requirements of this paragraph.

"(B) SEPARATE INVESTMENTS OF PRINCIPAL AND INTEREST.—

"(i) PRINCIPAL ACCOUNT.—The amounts deposited in each Fund under subsection (b) shall be credited to an account within the Fund (referred to in this paragraph as the 'principal account') and invested as provided in subparagraph (C).

"(ii) INTEREST ACCOUNT.—The interest earned from investing amounts in the principal account of each Fund shall be transferred to a separate account within the Fund (referred to in this paragraph as the 'interest account') and invested as provided in subparagraph (D).

"(iii) CREDITING.—The interest earned from investing amounts in the interest account of each Fund shall be credited to the interest account.

"(C) INVESTMENT OF PRINCIPAL ACCOUNT.—

"(i) INITIAL INVESTMENT.—Each amount deposited in the principal account of each Fund shall be invested initially in eligible obligations having the shortest maturity then available until the date on which the amount is divided into 3 substantially equal portions and those portions are invested in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having a 2-year maturity, a 5-year maturity, and a 10-year maturity, respectively.

"(ii) SUBSEQUENT INVESTMENT.—As each 2-year, 5-year, and 10-year eligible obligation matures, the principal of the maturing eligible obligation shall also be invested initially in the shortest-maturity eligible obligation then available until the principal is reinvested substantially equally in the eligible, obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having 2-year, 5-year, and 10-year maturities.

"(iii) DISCONTINUATION OF ISSUANCE OF OBLIGATIONS.—If the Department of the Treasury discontinues issuing to the public obligations having 2-year, 5-year, or 10-year maturities, the principal of any maturing eligible obligation shall be reinvested substantially equally in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations of the maturities longer than 1 year then available.

"(D) INVESTMENT OF THE INTEREST ACCOUNT.—

"(i) BEFORE FULL CAPITALIZATION.—Until the date on which each Fund is fully capitalized, amounts in the interest account of the Fund shall be invested in eligible obligations that are identical (except for transferability) to publicly issued Treasury obligations that have maturities that coincide, to the greatest extent practicable, with the date on which the Fund is expected to be fully capitalized.

"(ii) AFTER FULL CAPITALIZATION.—On and after the date on which each Fund is fully capitalized, amounts in the interest account of the Fund shall be invested and reinvested in eligible obligations having the shortest maturity then available until the amounts are withdrawn and transferred to fund the activities authorized under subsection (d)(3).

"(E) PAR PURCHASE PRICE.—The price to be paid for eligible obligations purchased as investments of the principal account shall not exceed the par value of the obligations so that the amount of the principal account shall be preserved in perpetuity.

"(F) HIGHEST YIELD.—Among eligible obligations having the same maturity and purchase price, the obligation to be purchased shall be the obligation having the highest yield.

"(G) HOLDING TO MATURITY.—Eligible obligations purchased shall generally be held to their maturities.

"(3) ANNUAL REVIEW OF INVESTMENT ACTIVITIES.—Not less frequently than once each calendar year, the Secretary of the Treasury shall review with the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe the results of the investment activities and financial status of the Funds during the preceding 12-month period.".

SEC. 13. LAKE TRAVERSE RESERVATION HEIRSHIP.

(a) IN GENERAL.—Public Law 98–513 is amended by striking section 5 (98 Stat. 2413) and inserting the following:

"SEC. 5. INHERITANCE OF SMALL FRACTIONAL INTERESTS.

"(a) DEFINITION OF SMALL FRACTIONAL INTEREST.—In this section, the term 'small fractional interest' means an undivided trust or restricted interest in a parcel of land within the reservation that—

"(1) represents less than 5 percent of the entire undivided ownership of the parcel of land (as reflected in the decedent's estate inventory as of the date on which the decisionmaker enters the final decision determining heirs); and

"(2) does not exceed the equivalent of 2½ acres if the interest were to be expressed in terms of its proportionate share of the total acreage of the parcel of land of which the interest is a part.

"(b) INTESTATE INHERITANCE IN GENERAL.—Notwithstanding section 3, no small fractional interest shall pass by intestate succession under this Act or any other provision of law except as provided in subsection (c).

"(c) INHERITANCE BY TRIBE.—If a person dies possessed of a small fractional interest that has not been devised in accordance with subsection (d) to 1 or more eligible devisees described in that subsection, the small fractional interest shall pass to the Tribe, with title to the interest to be held by the United States in trust for the Tribe.

"(d) INHERITANCE BY TESTAMENTARY DEVISE.—

"(1) ELIGIBLE DEVISEES.—Notwithstanding any other provision of this Act, and subject to paragraph (2), a small fractional interest may be devised only to the following eligible devisees:

"(A) The tribe.

"(B) Any person who is a member, or eligible to be a member, of the tribe.

"(2) REQUIREMENTS.—No devise of a small fractional interest shall be valid as to a devisee unless—

"(A) the devisee is eligible to receive the interest by devise under paragraph (1);

"(B) the devisee is expressly identified in the devise by name; and

"(C) the devise is made in a will that has been approved by the Secretary of the Interior in accordance with section 2 of the Act of June 25, 1910 (36 Stat. 856, chapter 431).

"(3) HOLDING IN TRUST.—Any small fractional interest devised in accordance with this subsection shall pass to the devisee or devisees on the death of the testator, with title to be held by the United States in trust for the devisee or devisees.".

(b) NOTICE TO LANDOWNERS; CERTIFICATION.—

(1) NOTICE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall provide notice of the amendment made by subsection (a) to owners of trust and restricted interests in land within the Lake Traverse Indian Reservation by—

(A) posting written notice of the amendment at the administrative headquarters of the Sisseton-Wahpeton Sioux Tribe of North Dakota and South Dakota and at the Agency of the Bureau of Indian Affairs located in Agency Village, South Dakota;

(B) publishing the notice not fewer than 4 times in newspapers of general circulation in all counties in which any part of the Lake Traverse Indian Reservation is located; and

(C) sending the notice by first class mail to the last known addresses of Indians with interests in trust or restricted land within the Lake Traverse Indian Reservation for whom the Secretary has such an addresss.

(2) CERTIFICATION.—After providing notice under paragraph (1), the Secretary shall—

(A) certify that notice has been given in accordance with that paragraph; and

(B) publish notice of the certification in the Federal Register.

(c) EFFECTIVE DATE.—

(1) EFFECT ON INTERESTS.—The amendment made by subsection (a) shall not affect any interest in the estate of a person who dies before the date that is 1 year after the date on which the Secretary publishes notice of the certification under subsection (b)(2).

(2) EFFECT ON WILLS.—The amendment made by subsection (a) shall not affect the validity or effect of any will executed before the date that is 1 year after the date on which the Secretary publishes notice of the certification under subsection (b)(2).

SEC. 14. AMENDMENT OF DEFINITION.

Section 2(9) of Public Law 101–601 (25 U.S.C. 3001(9)) is amended by inserting "or was" after "is".

By Mr. SANTORUM (for himself and Ms. MIKULSKI):

S. 2844. A bill to designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act; read the first time.

Mr. SANTORUM. Mr. President, I rise today to introduce, along with

Senator MIKULSKI, a bill that would designate Poland as a program country under the visa waiver program under section 217 of the Immigration Nationality Act.

As our soldiers preserve America's beliefs and values which have been threatened by terrorists at home and abroad, it is important to appreciate the sacrifices our allies have made during the War on Terror. America must continue to solidify the bond with its allies by assisting their government and citizens when possible. This legislation brings us closer to a country that has been by our side through a time of war and continues to be a partner in the fight for global freedom.

Since the founding of the United States, Poland has proven its steadfast dedication to the causes of freedom and friendship with the United States. This has been exemplified by the brave actions of Polish patriots such as Casimir Pulaski and Tadeusz Kosciuszco during the American Revolution. Polish history provides pioneering examples of democracy and religious tolerance, and this is reflected in their constitution that states, "Freedom of faith and religion shall be ensured to everyone."

Poland's revolt from the Soviet Union's communist stranglehold is a more recent example of their dedication to freedom. They are a prime example of Ronald Reagan's vision to end the Cold War. As I met this morning with Lech Walesa, the tenacious leader of Poland's Solidarity movement and former President of Poland, I was reminded of the hard and inspiring struggle the country endured to bring democracy to their people.

And their commitment to preserving freedom and global security continues today. On March 12, 1999, Poland became a member of the North Atlantic Treaty Organization. This was followed by admission into the European Union on May 1, 2004. Poland was a staunch ally to the United States in Operation Iraqi Freedom and has committed 2,300 troops to help with the ongoing peace efforts in Iraq.

In addition to Poland's efforts as a global ally, its people have contributed greatly within our borders. Nearly 9 million people of Polish ancestry live in the United States. Polish immigrants have been a contributing factor to the success of industry and agriculture in Pennsylvania and throughout the United States.

Currently, the United States administers the visa waiver program to citizens of 27 countries. The program allows citizens from visa waiver program countries to visit the United States as tourists, and Poland has earned the right to participate. For the 100,000 Polish citizens that visit the United States annually, I ask through this legislation that Poland be deemed a designated program country for the purposes of the visa waiver program. I thank my colleagues for their support.

Ms. MIKULSKI. Mr. President, I am here today to right a wrong in America's visa program. I am here to introduce a bill to extend the visa waiver program to Poland.

The cold war is over. Poland is a free and democratic nation. Poland is a NATO ally and a member of the European Union. But America's visa policy still treats Poland as a second-class citizen. That is just wrong.

Poland is a reliable ally, not just by treaty but in deeds. Two Polish ships participated in Desert Shield and Desert Storm during the 1990–91 gulf war. Poland sent troops to Bosnia as part of UNPROFOR and IFOR. Warsaw hosted an international conference on combating terrorism less than 2 months after the September 11 attacks. Poland sent troops as part of the international coalition in Afghanistan. And Polish troops fought alongside American and British and Australian troops from day one of the war in Iraq. They are still there, sharing the burden and the risk and the casualties.

So why are Singapore and San Marino among the 27 countries in the visa waiver program, but Poland is not?

This morning, we met with a hero of the cold war, Lech Walesa. When he jumped over the wall of the Gdansk shipyard, he took Poland and the whole world with him. He told us that the visa issue is a question of honor for Poland. We should once again stand in solidarity with the father of Solidarity, and extend the visa waiver program to Poland.

President Kwasniewski raised this issue with President Bush in January. The President said this is a matter for Congress. It is about time for us to act.

The bill Senator SANTORUM and I are introducing today will add Poland to the list of designated countries in the visa waiver program. That will allow Polish citizens to travel to the United States for business or tourism for up to 60 days without needing to stand in line to get a visa. That means it, will be easier for Poles to visit family and friends or do business in America. Should not we remove a barrier so the Pulaskis and Kosciuszkos and Marie Curies of today can visit our country?

We know that our borders will be no less secure because of these Polish visitors to our country. But we know that the alliance will be more secure because of this SANTORUM-MIKULSKI legislation.

I urge our colleagues to join us in support of this important bill, so that we can pass it and get it signed into law before we adjourn.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 433—COMMEMORATING THE 215TH ANNIVERSARY OF THE UNITED STATES MARSHALS SERVICE

Mr. LAUTENBERG (for himself and Mr. CRAIG) submitted the following resolution; which was considered and agreed to:

S. RES. 433

Whereas the Act entitled "An Act to establish the Judicial Court of the United States", approved September 24, 1789 (1 Stat. 73) ("the Judiciary Act of 1789"), directed the appointment of a Marshal and launched the United States Marshals Service;

Whereas the Judiciary Act of 1789 determined that law enforcement would be the primary function of the United States Marshal;

Whereas President George Washington subsequently appointed the first 13 United States Marshals that same year;

Whereas during 215 years of service, United States Marshals have executed warrants, distributed presidential proclamations, registered enemy aliens in time of war, and helped conduct the national census;

Whereas during 215 years of service, United States Marshals have protected the President and the Federal courts, provided for the custody and transportation of Federal prisoners, and maintained and disposed of seized and forfeited properties;

Whereas through the Witness Security Program, United States Marshals have provided for the security, health, and safety of more than 7,500 government witnesses and 9,500 family members whose lives were in danger as a result of the witnesses' testimony against drug traffickers, terrorists, organized crime members, and other major criminals;

Whereas during 215 years of service, United States Marshals have conducted their mission of fugitive apprehension with skill and valor; and

Whereas United States Marshals carry out complex and life-threatening missions daily to maintain the integrity of the judicial process of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 215th anniversary of the United States Marshals Service;

(2) recognizes the United States Marshals Service as one of the most versatile and effective law enforcement agencies in the world; and

(3) honors the men and women who have served the United States Marshals Service and our Nation so well with their dedication to justice, integrity, and service.

Mr. LAUTENBERG. Mr. President, I rise to submit a resolution honoring our Nation's oldest Federal law enforcement agency, the United States Marshals Service, on the occasion of the Service's 215th anniversary.

The United States Marshals Service was created when President George Washington signed the Judiciary Act into law on September 24, 1789. Subsequently, President Washington appointed the first 13 United States marshals that same year. Although their primary mission was to support the Federal courts, United States marshals and deputy United States marshals performed a wide variety of duties, including: executing warrants; distributing Presidential proclamations; registering enemy aliens in time of war; controlling riots; conducting the national census; collecting commerce statistics; and protecting the President of the United States. Although some of its responsibilities have changed over the past 215 years, the Service's dedication to justice, integrity, and service remains constant. As it continues to serve in the 21st century, the United States Marshals Service only enhances its role as one of the most versatile and effective law enforcement agencies in the world.

Today, the United States Marshals Service remains steadfast in its commitment to protect the Federal judiciary and carry out all Federal court orders. This entails providing for the custody and transportation of Federal prisoners, ensuring protection of witnesses, and maintaining and disposing of seized and forfeited properties. Of great importance is the fugitive apprehension mission of the Service: United States marshals capture more Federal fugitives than all other Federal agencies combined, and they have become an invaluable resource for State and local law enforcement agencies regarding fugitive apprehension tactics and techniques. Across the Nation, the United States marshals and deputy United States marshals carry out complex and life-threatening missions daily to maintain the integrity of the American judicial process.

The 4,500 men and women of the United States Marshals Service are proud of their history and their service to our Nation. I, too, am proud of their commitment to justice. On behalf of the Senate, I wish to honor the men and women of the United States Marshals Service and thank them for their contributions to the law enforcement community and to our Nation for 215 years and counting.

I ask Unanimous Consent that the full text of the Senate resolution be included in the record following my remarks.

SENATE RESOLUTION 434—RECOGNIZING AND SUPPORTING ALL EFFORTS TO PROMOTE GREATER CIVIC AWARENESS AMONG THE PEOPLE OF THE UNITED STATES

Mr. LEVIN (for himself, Mr. COCHRAN, Mr. LEAHY, Mr. ALLEN, Mr. JEFFORDS, Mr. REID, Mr. BAUCUS, Mrs. BOXER, Mr. LAUTENBERG, Mr. CRAIG, Mr. KENNEDY, Mr. KOHL, Mr. BIDEN, Mr. DASCHLE, Mr. WYDEN, Mr. AKAKA, and Mr. DAYTON) submitted the following resolution; which was considered and agreed to:

S. RES. 434

Whereas the Constitution of the United States establishes a representative form of government in which the people of the United States elect Members of the House of Representatives and Senators of the Senate, and each of the States appoint electors who, based on the popular vote of the State, select the President and the Vice-President;

Whereas the 15th, 19th, 24th, and 26th amendments to the Constitution establish that the right of citizens of the United States to vote shall not be denied or abridged on account of race, color, or previous condition of servitude; on account of sex; by reason of failure to pay any poll tax or other tax; and on account of age for those 18 years of age and older;

Whereas the right of citizens of the United States to vote is fundamental to our representative form of government;

Whereas many eligible citizens do not exercise the right to vote;

Whereas numerous civic awareness organizations and advocacy groups at the Federal, State, and local level actively promote voter registration and voter participation; and

Whereas many communities and schools have instituted civic awareness programs: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and supports all efforts to promote greater civic awareness among the people of the United States, including civic awareness programs such as candidate forums and voter registration drives; and

(2) encourages local communities and elected officials at all levels of government to promote greater awareness among the electorate of civic responsibility and the importance of participating in these elections.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3670. **Mr. ENSIGN** submitted an amendment intended to be proposed by him to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table.

SA 3671. **Mr. CORZINE** (for himself, Mr. DEWINE, Mr. BIDEN, Mr. DURBIN, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. FEINGOLD, Mr. LEAHY, Ms. MIKULSKI, Ms. STABENOW, Mr. LAUTENBERG, Mr. DODD, and Mr. SARBANES) submitted an amendment intended to be proposed by him to the bill H.R. 4818, supra.

SA 3672. **Mr. DAYTON** (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 4818, supra.

SA 3673. **Mr. SCHUMER** submitted an amendment intended to be proposed by him to the bill H.R. 4818, supra; which was ordered to lie on the table.

SA 3674. **Mr. SCHUMER** (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 4818, supra; which was ordered to lie on the table.

SA 3675. **Mr. SCHUMER** submitted an amendment intended to be proposed by him to the bill H.R. 4818, supra; which was ordered to lie on the table.

SA 3676. **Mrs. FEINSTEIN** submitted an amendment intended to be proposed by her to the bill H.R. 4818, supra; which was ordered to lie on the table.

SA 3677. **Mr. McCONNELL** (for Mr. CAMPBELL) proposed an amendment to the concurrent resolution S. Con. Res. 110, expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence.

SA 3678. **Mr. McCONNELL** (for Mr. CAMPBELL) proposed an amendment to the concurrent resolution S. Con. Res. 110, supra.

SA 3679. **Mr. McCONNELL** (for Mr. LUGAR (for himself and Mr. BIDEN)) proposed an amendment to the bill S. 2781, to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes.

SA 3680. **Mr. McCONNELL** proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes.

SA 3681. **Mr. McCONNELL** (for Mr. LEAHY) proposed an amendment to the bill H.R. 4818, supra.

SA 3682. **Mr. McCONNELL** (for Mr. LEAHY) proposed an amendment to the bill H.R. 4818, supra.

SA 3683. **Mr. McCONNELL** (for Mr. FRIST) proposed an amendment to the bill H.R. 4818, supra.

SA 3684. **Mr. McCONNELL** (for Mr. LEAHY) proposed an amendment to the bill H.R. 4818, supra.

SA 3685. **Mr. McCONNELL** (for Mr. GRASSLEY) proposed an amendment to the bill H.R. 4818, supra.

SA 3686. **Mr. McCONNELL** (for Mr. LEAHY (for himself, Mr. DEWINE, Mr. DODD, Mr. COLEMAN, Mr. NELSON of Florida, and Mr. HARKIN)) proposed an amendment to the bill H.R. 4818, supra.

SA 3687. **Mr. McCONNELL** (for Mr. LEAHY) proposed an amendment to the bill H.R. 4818, supra.

SA 3688. **Mr. McCONNELL** (for Mr. BYRD) proposed an amendment to the bill H.R. 4818, supra.

SA 3689. **Mr. McCONNELL** (for Mr. LEAHY) proposed an amendment to the bill H.R. 4818, supra.

SA 3690. **Mr. McCONNELL** (for Ms. CANTWELL) proposed an amendment to the bill H.R. 4818, supra.

SA 3691. **Mr. McCONNELL** (for Mr. LEAHY) proposed an amendment to the bill H.R. 4818, supra.

SA 3692. **Mr. McCONNELL** (for Mrs. BOXER) proposed an amendment to the bill H.R. 4818, supra.

SA 3693. **Mr. DODD** proposed an amendment to the bill H.R. 4818, supra.

SA 3694. **Mr. McCONNELL** (for Mr. BIDEN) proposed an amendment to the bill H.R. 4818, supra.

SA 3695. **Mr. McCONNELL** (for Mr. LEAHY) proposed an amendment to the bill H.R. 4818, supra.

SA 3696. **Mr. McCONNELL** (for Mr. COLEMAN (for himself, Mr. CORZINE, Mr. CHAMBLISS, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. BAYH, Ms. MIKULSKI, and Mr. SANTORUM)) proposed an amendment to the bill H.R. 4818, supra.

SA 3697. **Mr. McCONNELL** (for Mr. SCHUMER) proposed an amendment to the bill H.R. 4818, supra.

SA 3698. **Mr. McCONNELL** (for Mr. LEAHY) proposed an amendment to the bill H.R. 4818, supra.

SA 3699. **Mr. McCONNELL** (for Mr. SCHUMER) proposed an amendment to the bill H.R. 4818, supra.

SA 3700. **Mr. McCONNELL** (for Mr. ENSIGN) proposed an amendment to the bill H.R. 4818, supra.

SA 3701. **Mr. McCONNELL** (for Mr. BINGAMAN) proposed an amendment to the bill H.R. 4818, supra.

TEXT OF AMENDMENTS

SA 3670. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, after line 23, add the following:

SUPPORT FOR THE POLITICAL INDEPENDENCE OF LEBANON

SEC. 599F. (a) Congress makes the following findings:

(1) The United States has long supported the sovereignty, territorial integrity, and political independence of Lebanon and the sole and exclusive exercise by the Government of Lebanon of national governmental authority throughout that country.

(2) The continued presence in Lebanon of nongovernmental armed groups and militias, including Hizbollah, prevents the Government of Lebanon from exercising its full sovereignty over all territory in that country.

(3) The Government of Syria has had a military presence in Lebanon since 1976, and maintains approximately 20,000 troops in Lebanon.

(4) The Government of Syria continues to violate United Nations Security Council Resolution 520, adopted in 1982, which demands that "all non-Lebanese forces" leave Lebanon.

(5) Syria has, since 1979, been labeled by the Department of State as a state sponsor of terrorism.

(6) President George W. Bush signed an Executive order on May 11, 2004, that implements sanctions against the Government of Syria pursuant to the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Public Law 108–175; 22 U.S.C. 2151 note), demonstrating the resolve of the United States to address both the continued military presence of Syria in Lebanon and the support of the Government of Syria for terrorism.

(7) United Nations Security Resolution 1559, approved on September 2, 2004, expressed support for a free and fair electoral process in the upcoming presidential election in Lebanon conducted according to constitutional rules adopted in Lebanon without foreign interference or influence.

(8) On September 3, 2004, the Government of Syria, according to numerous reports, exerted undue influence upon government officials in Lebanon to amend the constitution to extend the term of the President of Lebanon, Emile Lahoud, who is supported by the Government of Syria.

(b) Congress—

(1) commends President George W. Bush for implementing sanctions on the Government of Syria pursuant to the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003;

(2) urges the United Nations to seek a firm, negotiated schedule for the complete withdrawal from Lebanon of Syria armed forces in order to facilitate the restoration of the sovereignty, territorial integrity, and political independence of Lebanon;

(3) calls upon the Government of Syria to immediately withdraw its troops from Lebanon in accordance with United Nations resolutions;

(4) demands that the Government of Syria—

(A) cease its support and armament of terror groups such as Hizbollah; and

(B) facilitate efforts by the legitimate national government and armed forces of Lebanon to disarm all nongovernmental armed groups and militias located in Lebanon and to extend central government authority throughout Lebanon; and

(5) condemns all efforts to derail the democratic process in Lebanon and to interfere with the legitimate election process in that country.

SA 3671. Mr. CORZINE (for himself, Mr. DEWINE, Mr. BIDEN, Mr. DURBIN, Mr. LIBERMAN, Ms. LANDRIEU, Mr. FEINGOLD, Mr. LEAHY, Ms. MIKULSKI, Ms. STABENOW, Mr. LAUTENBERG, Mr. DODD, and Mr. SARBANES) submitted an amendment intended to be proposed by him to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 183, after line 23, add the following:

SUPPORT FOR AFRICAN UNION MISSION IN DARFUR, SUDAN

SEC. 599F. (a) In addition, $75,000,000 is appropriated to the Department of State to carry out the provisions of section 551 of the Foreign Assistance Act of 1961 for the purpose of providing equipment, logistical, financial, material, and other resources necessary to support the rapid expansion of the African Union mission in Darfur, Sudan.

(b) The entire amount in subsection (a) is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

SA 3672. Mr. DAYTON (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 183, after line 23, add the following:

ADDITIONAL ECONOMIC ASSISTANCE FOR AFGHANISTAN

SEC. 599F. The total amount appropriated by title II for other bilateral economic assistance under the heading "ECONOMIC SUPPORT FUND" is hereby increased by $500,000,000. Of such total amount, as so increased, $500,000,000 shall be available for assistance for Afghanistan.

SA 3673. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, after line 23, insert the following:

SAUDI ARABIA

SEC. 599F. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to provide assistance to Saudi Arabia.

SA 3674. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 112, line 4, after "FINES", insert: "AND REAL PROPERTY TAXES"

On page 112, line 10, after "penalties", insert: "and unpaid property taxes"

On page 112, line 15, after "penalties", insert: "and unpaid property taxes"

On page 112, line 24, after "penalties", insert: "and unpaid property taxes"

On page 113, line 1, after "(d)", insert: "(1)"

On page 113, line 2, after "(a)", insert: "with respect to parking fines and penalties.

On page 113, line 6, after "so.", insert: "(2) The Secretary of State may waive the requirements set forth in subsection (a) with respect to the unpaid property taxes if the Secretary of State determines it is in the national interests of the United States to do so."

On page 113, line 13, after "penalties", insert: "and unpaid property taxes and interest"

On page 114, line 12, after "2009", insert: "(4) The term 'unpaid property taxes' means the amount of unpaid taxes and interest on such taxes that have accrued on real property in the District of Columbia or New York, New York under applicable law."

SA 3675. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, after line 23, add the following:

SENSE OF CONGRESS ON VIOLATIONS OF RELIGIOUS FREEDOM IN SAUDI ARABIA

SEC. 599F. It is the sense of Congress that, in light of the designation of Saudi Arabia as a country of particular concern under section 402(b)(1)(A) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)(1)(A)) because the Government of Saudi Arabia has engaged in or tolerated particularly severe violations of religious freedom, the President should—

(1) under the authority in section 402(c)(2) and 405(c) of such Act, negotiate a binding agreement with the Government of Saudi Arabia that requires such Government to phase out any program, policy, or practice that contributes to the violations of religious freedom occurring or being tolerated in Saudi Arabia; or

(2) take an action described in one of the paragraphs (9) through (15) of 405(a) of such Act or a commensurate action under the authority in section 402(c)(1)(B) of such Act with respect to Saudi Arabia that the President determines is appropriate after consideration of the recommendations for United States policy made by the United States Commission on International Religious Freedom.

SA 3676. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, after line 23, add the following:

COOPERATION IN SMALL ARMS PROGRAMS

SEC. 599F. (a) Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report—

(1) listing each country that refuses to cooperate in programs related to small arms and light weapons, including programs with respect to stockpile management, security, and destruction, and describing to what degree such failure to cooperate affects the national security of such country, its neighbors, and the United States;

(2) describing the activities undertaken, and the progress made, by the Department of State or other agencies and entities of the United States Government in prompting other countries to cooperate in programs related to small arms and light weapons; and

(3) recommending incentives and penalties that may be used by the United States Government to compel countries to comply with programs on small arms and light weapons.

(b)(1) Except as provided in paragraph (2), the term "small arms and light weapons" means revolvers and self-loading pistols, rifles and carbines, submachine guns, assault rifles, light machine guns, heavy machine guns, hand-held underbarrel and mounted grenade launchers, portable antiaircraft guns, portable antitank guns, recoilless rifles, portable launchers of antitank missiles and rocket systems, portable launchers of antiaircraft missile systems, mortars of calibers of less than 100 millimeter, ammunition and explosives, cartridges and rounds for small arms and light weapons, mobile containers with missiles or shells for single-action antiaircraft and antitank systems, antipersonnel and antitank hand grenades, landmines, and explosives.

(2) The term does not include any antique firearm manufactured before January 1, 1900, or any replica of such a firearm.

SA 3677. Mr. McCONNELL (for Mr. CAMPBELL) proposed an amendment to the concurrent resolution S. Con. Res. 110, expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence; as follows:

Strike all after the enacting clause and insert the following:

That it is the sense of Congress that—

(1) the United States Government and Congress should unequivocally condemn acts of anti-Semitism and intolerance whenever and wherever they occur;

(2) officials and elected leaders of all Organization for Security and Cooperation in Europe (OSCE) participating states, including all OSCE Mediterranean Partner for Cooperation countries, should also unequivocally condemn acts of anti-Semitism, racism, xenophobia, and discrimination whenever and wherever they occur;

(3) the participating states of the OSCE should be commended for supporting the Berlin Declaration and for working to bring increased attention to incidents of anti-Semitism and intolerance in the OSCE region;

(4) the United States Government, including Members of Congress, recognizing that the fundamental job of combating anti-Semitism and intolerance falls to governments, should work with other OSCE participating states and their parliaments to encourage the full compliance with OSCE commitments and, if necessary, urge the creation of legal mechanisms to combat and track acts of anti-Semitism and intolerance;

(5) all participating states, including the United States, should forward their respective laws and data on incidents of anti-Semitism and other hate crimes to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) for compilation and provide adequate resources for the completion of its duties;

(6) the United States should encourage the Bulgarian Chairman-in-Office, in consultation with the incoming Slovenian Chairman-in-Office, to consider appointing a high level "personal envoy" to ensure sustained attention with respect to fulfilling OSCE commitments on the reporting of anti-Semitic crimes;

(7) the United States should urge OSCE participating states to support the January 2000 Declaration of the Stockholm International Forum on the Holocaust, and the work of the Task Force for International Cooperation on Holocaust Education, Remembrance and Research, in developing effective methodologies to teach the lessons of the Holocaust; and

(8) all OSCE participating states should renew and revitalize efforts to implement their existing commitments to fight anti-Semitism and intolerance, and keep sharp focus on these issues as part of the usual work of the OSCE Permanent Council, the Human Dimension Implementation Review Meeting, the Ministerial Council and summits.

SA 3678. Mr. McCONNELL (for Mr. CAMPBELL) proposed an amendment to the concurrent resolution S. Con. Res. 110, expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence; as follows:

Strike the preamble and insert the following:

Whereas anti-Semitism is a unique evil and an affront to human rights that must be unequivocally condemned, and a phenomenon that, when left unchecked, has led to violence against members of the Jewish community and Jewish institutions;

Whereas racism, xenophobia, and discrimination are also pernicious ills that erode the dignity of the individual and undermine the achievement and preservation of stable democratic societies;

Whereas to be effective in combating these phenomena, governments must respond to related violence while seeking to address the underlying sources of anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence through public denouncements by elected leaders, vigorous law enforcement, and education;

Whereas all Organization for Security and Cooperation in Europe (OSCE) participating states must confront acts of anti-Semitism and intolerance, and must deal effectively with acts of violence against Jews and Jewish cultural sites, as well as against ethnic and religious minority groups, in keeping with their OSCE commitments;

Whereas education is critical in overcoming intolerance and it is essential that those responsible for formulating education policy recognize the importance of teaching about the Holocaust and intolerance as a tool to fight anti-Semitism, racism, xenophobia, and discrimination among young people;

Whereas ensuring proper training of law enforcement officers and military forces is vital in keeping alive the memory of the Holocaust and to the importance of understanding and responding to incidents of anti-Semitism and intolerance;

Whereas OSCE participating states have repeatedly committed to condemn anti-Semitism and intolerance, foremost in the historic 1990 Copenhagen Concluding Document that, for the first time, declared "participating [s]tates clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-Semitism, xenophobia and discrimination against anyone," and stated their intent to "take effective measures . . . to provide protection against any acts that constitute incitement to violence against persons or groups based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-Semitism";

Whereas the OSCE Parliamentary Assembly has demonstrated leadership by unanimously passing resolutions at its annual sessions in 2002 and 2003 that condemn anti-Semitism, racial and ethnic hatred, xenophobia, and discrimination and call upon participating states to speak out against these acts and to ensure aggressive law enforcement by local and national authorities;

Whereas the 2002 Porto OSCE Ministerial Council Decision committed participating states to "take strong public positions against hate speech and other manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism," specifically condemned the "recent increase in anti-Semitic incidents in the OSCE area, recognizing the role that the existence of anti-Semitism has played throughout history as a major threat to freedom," and urged for the "convening of separately designated human dimension events on issues addressed in this decision, including on the topics of anti-Semitism, discrimination and racism and xenophobia";

Whereas the 2003 OSCE Vienna conferences on anti-Semitism and racism, xenophobia, and discrimination were groundbreaking, as the OSCE and its participating states met to discuss ways to combat these destructive forces;

Whereas the 2003 Maastricht Ministerial Council approved follow-up OSCE conferences on anti-Semitism and on racism, xenophobia and discrimination, and encouraged "all participating [s]tates to collect and keep records on reliable information and statistics on hate crimes, including on forms of violent manifestations of racism, xenophobia, discrimination, and anti-Semitism," as well as to inform the OSCE Office of Democratic Institutions and Human Rights (ODIHR) "about existing legislation regarding crimes fueled by intolerance and discrimination";

Whereas at the 2004 OSCE Conference on Anti-Semitism, hosted in the German capital, the Bulgarian Chairman-in-Office issued the "Berlin Declaration" which stated unambiguously that "international developments or political issues, including those in Israel or elsewhere in the Middle East, never justify anti-Semitism";

Whereas the Berlin Declaration advances the process of monitoring of anti-Semitic crimes and hate crimes, as all OSCE participating states committed to "collect and maintain" statistics about these incidents and to forward that information to the ODIHR for compilation;

Whereas during the closing conference plenary, the German Foreign Minister and others highlighted the need to ensure all participating states follow through with their commitments and initiate efforts to track anti-Semitic crimes and hate crimes; and

Whereas the Government of Spain announced its willingness to organize and hold the next OSCE Conference on Anti-Semitism in Cordoba, Spain, in the event the OSCE Ministerial Council decides to hold another conference on anti-Semitism

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SA 3679. Mr. MCCONNELL (for Mr. LUGAR (for himself and Mr. BIDEN)) proposed an amendment to the bill S. 2781, to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes; as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Peace in Sudan Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) JEM.—The term "JEM" means the Justice and Equality Movement.

(3) SLA.—The term "SLA" means the Sudanese Liberation Army.

(4) SPLM.—The term "SPLM" means the Sudan People's Liberation Movement.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) A comprehensive peace agreement for Sudan, as envisioned in the Sudan Peace Act (50 U.S.C. 1701 note), and in the Machakos Protocol of 2002, is in jeopardy.

(2) Since 1989, the Government of Sudan has repeatedly engaged in and sponsored orchestrated campaigns of attacking and dislocating targeted civilian populations, disrupting their ability to sustain themselves, and subsequently restricting assistance to those displaced in a coordinated policy of ethnic cleansing that is most recently evident in the Darfur region of Sudan.

(3) In response to 2 decades of civil conflict in Sudan, the United States has helped to establish an internationally supported peace process to promote a negotiated settlement to the war that has resulted in a framework peace agreement, the Nairobi Declaration on the Final Phase of Peace in the Sudan signed June 5, 2004.

(4) At the same time that the Government of Sudan was negotiating for a final countrywide peace, enumerated in the Nairobi Declaration on the Final Phase of Peace in the Sudan, it refused to engage in any meaningful discussion with regard to its ongoing campaign of ethnic cleansing in the region of Darfur.

(5) It was not until the international community expressed its outrage, through high level visits by Secretary of State Colin Powell and others, and through United Nations Security Council Resolution 1556 of July 30, 2004, that the Government of Sudan agreed to attend talks to bring peace to the Darfur region.

(6) The Government of the United States, in both the executive branch and Congress, have concluded that genocide has been committed and may still be occurring in Darfur, and that the Government of Sudan and the Janjaweed bear responsibility for the genocide.

(7) The United Nations High Commissioner for Human Rights has identified massive human rights violations in Darfur perpetrated by the Government of Sudan and the Janjaweed, which the Commissioner stated may constitute war crimes or crimes against humanity.

(8) Evidence collected by international observers in the Darfur region between February 2003 and September 2004 indicate a coordinated effort to target African Sudanese civilians in a scorched earth policy, from both air and ground, that has destroyed African Sudanese villages, killing and driving away its people, while Arab Sudanese villages have been left unscathed.

(9) As a result of this coordinated campaign, which Congress and the executive branch have declared to be genocide, reports indicate tens of thousands of African Sudanese civilians killed, the systematic rape of thousands of women and girls, the destruction of hundreds of Fur, Masalit, and Zaghawa villages and other ethnically African populations, including the poisoning of their wells and the plunder of crops and cattle upon which they sustain themselves.

(10) According to the United Nations High Commissioner for Refugees, 1,400,000 people have been displaced in the Darfur region of Sudan, of whom over 200,000 have been forced to flee to Chad as refugees.

(11) The Government of Sudan conducted aerial attack missions and deadly raids across the international border between Sudan and Chad in an illegal effort to pursue Sudanese civilians seeking refuge in Chad.

(12) In addition to the thousands of violent deaths directly caused by ongoing Sudanese military and government sponsored Janjaweed attacks in the Darfur region, the Government of Sudan has restricted humanitarian and human rights workers' access to the Darfur area, primarily through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those displaced from their villages and homes without any means of sustenance or shelter.

(13) The Government of Sudan's continued support for the Janjaweed and their obstruction of the delivery of food, shelter, and medical care to the Darfur region is estimated by the World Health Organization to be resulting in up to 10,000 deaths per month and, should current conditions persist, is projected to escalate to thousands of deaths each day by December 2004.

(14) The Government of Chad served an important role in facilitating the Darfur humanitarian cease-fire (the N'Djamena Agreement dated April 8, 2004) for the Darfur region between the Government of Sudan and the 2 opposition rebel groups in Darfur (the JEM and the SLA) although both sides have violated it repeatedly.

(15) The people of Chad have responded courageously to the plight of over 200,000 Darfur refugees by providing assistance to them even though such assistance has adversely affected their own means of livelihood.

(16) The cooperation and inclusion of all Sudanese is essential to the establishment of peace and security throughout all of Sudan.

(17) The African Union has demonstrated renewed vigor in regional affairs through its willingness to respond to the crisis in Darfur, by convening talks between the parties and deploying several hundred monitors and security forces to the region, as well as by recognizing the need for a far larger force with a broader mandate.

(18) Despite the threat of international action expressed through United Nations Security Council Resolution 1556 of July 30, 2004, the Government of Sudan continues to obstruct and prevent efforts to reverse the catastrophic consequences that loom over Darfur.

SEC. 4. SENSE OF CONGRESS REGARDING THE CONFLICT IN DARFUR, SUDAN.

(a) SUDAN PEACE ACT.—It is the sense of Congress that the Sudan Peace Act (50 U.S.C. 1701 note) remains relevant and should be extended to include the Darfur region of Sudan.

(b) ACTIONS TO ADDRESS THE CONFLICT.—It is the sense of Congress that—

(1) a legitimate countrywide peace in Sudan will only be possible if the Agreed Principles of Part A of the Machakos Protocol of 2002, confirmed by the Nairobi Declaration on the Final Phase of Peace in the Sudan signed June 5, 2004, negotiated with the SPLM, apply to all of Sudan and to all of the people of Sudan, including the Darfur region;

(2) the parties to the N'Djamena Agreement (the Government of Sudan, the SLA, and the JEM) must meet their obligations under that Agreement to allow safe and immediate access of all humanitarian assistance throughout the Darfur region and must expedite the conclusion of a political agreement to end the genocide and conflict in Darfur;

(3) the United States should continue to provide humanitarian assistance to the areas of Sudan to which the United States has access and, at the same time, develop a plan similar to that described in section 10 of the Sudan Peace Act to provide assistance to the areas of Sudan to which United States access has been obstructed or denied;

(4) the international community, including African, Arab, and Muslim nations, should immediately provide resources necessary to save the lives of hundreds of thousands of individuals at risk as a result of the Darfur crisis;

(5) the United States Ambassador-at-Large for War Crimes should travel to Chad and the Darfur region immediately to investigate war crimes and crimes against humanity to develop a more accurate understanding of the situation on the ground and to better inform the report required in section 11(b) of the Sudan Peace Act;

(6) the United States and the international community should—

(A) provide all necessary assistance to deploy and sustain an African Union Force of at least 4,200 personnel to the Darfur region; and

(B) work to increase the authorized level and expand the mandate of such forces commensurate with the gravity and scope of the problem in a region the size of France;

(7) the President, acting through the Secretary of State and the Permanent Representative of the United States to the United Nations, should ensure that Sudan fulfills its obligations under United Nations Security Council Resolutions 1556 (July 30, 2004) and 1564 (September 18, 2004)

(8) sanctions should be imposed on the assets and activities of those Sudanese Government officials and other individuals that are involved in carrying out the atrocities in the Darfur region;

(9) the Government of the United States should not normalize relations with Sudan, including through the lifting of any sanctions, until the Government of Sudan agrees to, and takes demonstrable steps to implement, peace agreements for all areas of Sudan, including Darfur; and

(10) Presidential Proclamation 6958 issued November 22, 1996, which suspends entry into the United States of members of the Government of Sudan, officials of that Government, and members of the Sudanese Armed Forces, should continue to remain in effect and be strictly enforced.

SEC. 5. AMENDMENTS TO THE SUDAN PEACE ACT.

(a) Assistance for the Crisis in Darfur and for Comprehensive Peace in Sudan.—

(1) In general.—The Sudan Peace Act (50 U.S.C. 1701 note) is amended by adding at the end the following new section:

"SEC. 12. ASSISTANCE FOR THE CRISIS IN DARFUR AND FOR COMPREHENSIVE PEACE IN SUDAN.

"(a) Authorization of Appropriations.—

"(1) Humanitarian assistance.—There is authorized to be appropriated to the President for assistance to address the humanitarian and human rights crisis in the Darfur region and its impact on eastern Chad, pursuant to the authority in section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292), $200,000,000 for fiscal year 2005, in addition to any other funds otherwise available for such purpose.

"(2) Additional assistance.—Subject to the requirements of this section, there is authorized to be appropriated to the President, for development and humanitarian assistance for Sudan upon the conclusion of a permanent, just, and equitable peace agreement between the Government of Sudan and the SPLM, $100,000,000 for fiscal year 2005, in addition to any other funds otherwise available for such purpose.

"(3) Availability.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) or (2) are authorized to remain available until expended, notwithstanding any other provision of law other than the provisions of this section.

"(b) Requirement for Certification.—The assistance authorized under subsection (a)(2) may be provided—

"(1) to the regions administered by the Government of Sudan, in accordance with the peace agreement described in subsection (a)(2), only if the President submits the certification described in subsection (c); and

"(2) to the regions administered by the SPLM, in accordance with the peace agreement described in subsection (a)(2), only if the President submits the certification described in subsection (d).

"(c) Certification with Regard to Actions of the Government of Sudan.—The certification referred to in subsection (b)(1) is a certification submitted by the President to the appropriate congressional committees that—

"(1) the Government of Sudan is taking demonstrable steps to—

"(A) ensure that the armed forces of Sudan and any associated militias are not attacking civilians or obstructing human rights monitors or the provision of humanitarian assistance;

"(B) demobilize and disarm militias supported or created by the Government of Sudan;

"(C) allow full and unfettered access for the provision of humanitarian assistance to all regions of Sudan, including Darfur; and

"(D) cooperate fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan; and

"(2) the Government of Sudan is complying with the provisions of the peace agreement described in subsection (a)(2).

"(d) Certification with Regard to SPLM's Compliance with a Peace Agreement.—The certification referred to in subsection (b)(2) is a certification submitted by the President to the appropriate congressional committees that the SPLM is complying with the provisions of the peace agreement described in subsection (a)(2).

"(e) Suspension of Assistance.—If, on a date after the President submits a certification described in subsection (c) or (d), the President determines that either the Government of Sudan or the SPLM has ceased taking the actions described in the applicable subsection, the President shall immediately suspend the provision of any assistance made available as a result of such certification until the date on which the President certifies that such entity has resumed taking such actions.".

(2) Conforming amendment.—Section 3 of the Sudan Peace Act (50 U.S.C. 1701 note) is amended by adding at the end the following new paragraph:

"(4) SPLM.—The term 'SPLM' means the Sudan People's Liberation Movement.".

(b) Reporting Requirement.—Section 8 of the Sudan Peace Act (50 U.S.C. 1701 note) is amended in the first sentence by striking "Sudan." and inserting "Sudan, including the conflict in the Darfur region.".

SEC. 6. OTHER RESTRICTIONS.

(a) Blocking of Assets.—On the date that is 120 days after the date of enactment of this Act, if the President has not submitted the certification described in subsection (c)(1) of section 12 of the Sudan Peace Act, as added by section 5, the President shall, consistent with the authorities granted in the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block the assets of appropriate senior officials of the Government of Sudan.

(b) Continuation of Restrictions.—Restrictions against the Government of Sudan that were imposed pursuant to title III and sections 508, 512, and 527 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (Division D of Public Law 108–199; 118 Stat. 143) or any other similar provision of law may not be lifted pursuant to such provisions of law unless the President also makes the certification described in subsection (c) of section 12 of the Sudan Peace Act, as added by section 5.

SEC. 7. REQUIREMENT FOR REPORT.

(a) Requirement.—Not later than 60 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report on the planned United States response to a comprehensive peace agreement for Sudan.

(b) Content.—The report required by subsection (a) shall include—

(1) a description of the United States response to a modified peace process between the Government of Sudan and the SPLM that would account for the implementation of a peace in all regions of Sudan, in particular Darfur; and

(2) a contingency plan for extraordinary humanitarian assistance should the Government of Sudan continue to obstruct or delay the international humanitarian response to the crisis in Darfur.

(c) Form of Report.—The report required by subsection (a) may be submitted in classified form.

SEC. 8. TECHNICAL CORRECTION.

Section 12 of the International Organizations Immunities Act (22 U.S.C. 288f–2) is amended by striking "Organization of African Unity" and inserting "African Union".

SA 3680. Mr. McCONNELL proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 96, line 10 of the bill, insert "central" before "government"

SA 3681. Mr. McCONNELL (for Mr. Leahy) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 9, line 21, strike "a program of"

SA 3682. Mr. McCONNELL (for Mr. Leahy) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 17, line 26, strike "$600,000,000" and insert in lieu thereof "$618,000,000";

On page 58, line 16, strike "$69,691,000" and insert in lieu thereof "$59,691,000"; and

On page 59, line 6, strike "$75,000,000" and insert in lieu thereof "$67,000,000"

SA 3683. Mr. McCONNELL (for Mr. Frist) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 105, line 12, after the period, insert the following:

(p) Affordable Housing.—Section 607(b)(3)(B) of Title VI of Division D of the Consolidated Appropriations Act of 2004, P.L. 108–199, January 23, 2004, is amended by striking "and" under subparagraph (A), and inserting before the period in subparagraph (B): "; and (C) provide decent, affordable housing"

SA 3684. Mr. McCONNELL (for Mr. Leahy) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 24, line 11, after "Kenya:", insert the following:

Provided further, That of the funds appropriated under this heading, not less than $25,000,000 should be made available for assistance for Liberia:

SA 3685. Mr. McCONNELL (for Mr. Grassley) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 3, line 25, strike the period and insert the following: ": *Provided further*, That not later than 30 days after the date of enactment of this Act, the Export-Import Bank shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, containing an analysis of the economic impact on United States producers of ethanol of the extension of credit and financial guarantees for the development of an ethanol dehydration plant in Trinidad and Tobago, including a determination of whether such extension will cause substantial injury to such producers, as defined in section 2(e)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(4)): *Provided further*, That the Export-Import Bank shall consult with the Committees on Appropriations and the Senate Committee on Finance prior to extending direct credit or financial guarantee to establish or expand the production of indigenous products for export by a beneficiary country pursuant to section 423 of the Tax Reform Act of 1986 (19 U.S.C. 2703 note).".

SA 3686. Mr. MCCONNELL (for Mr. LEAHY (for himself, Mr. DEWINE, Mr. DODD, Mr. COLEMAN, Mr. NELSON of Florida, and Mr. HARKIN)) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

IMPROVING SECURITY IN HAITI

SEC. . (a) Congress makes the following findings:

(1) Haiti is important to the national security interests of the United States.

(2) The United States has contributed significant assistance to support the political, economic and social development of Haiti with limited and uneven results.

(3) The Haitian people are currently suffering from extreme poverty, threats from armed groups who control large areas of the country, and violations of human rights, including kidnappings.

(4) As of September 22, 2004, Tropical Storm Jeanne killed more than 1,000 people, with many hundreds remaining missing, in Gonaives and other areas of Haiti, and caused severe destruction of property.

(5) The Interim Government of Haiti under Prime Minister Gerard Latortue is attempting to initiate much needed reforms and bring political stability to the country prior to the reintroduction of anticipated democratically-elected governance in 2005.

(6) On July 19–20, 2004, the international community pledged $1,085,000,000 in assistance for Haiti, including $230,000,000 from the United States.

(7) The immediate challenges facing Haiti are (a) addressing the insecurity and instability caused by armed groups who are undermining the ability of the Interim Government of Haiti to combat poverty and create the conditions for free and fair elections; (b) establishing the rule of law; and (c) economic reactivation and job creation.

(8) On April 30, 2004, the United Nations Security Council authorized the United Nations Stabilization Mission in Haiti (MINUSTAH) 6,700 military personnel and 1,622 civilian police personnel, but as of July 31, 2004, only 2,259 military personnel and 224 civilian police personnel had been deployed.

(9) MINUSTAH is essential to efforts to restore stability and security, including countering the activities of rebels, ex-combatants and other armed groups.

(b) Congress—

(1) appreciates the contributions of military and civilian police personnel to MINUSTAH by Brazil and other nations;

(2) calls upon the Secretary of State to redouble his efforts to encourage contributions of additional personnel to MINUSTAH;

(3) calls upon MINUSTAH to assertively fulfill its mandate under Chapter VII of the United Nations Charter to "ensure a secure and stable environment within which the constitutional and political process in Haiti can take place", by confronting and resolving security threats to the Interim Government of Haiti and the people of Haiti;

(4) calls upon the United States and the international community, including the United Nations and the Organization of American States, to expedite the disbursement of sufficient assistance to enable the Interim Government of Haiti to—

(a) address Haiti's urgent humanitarian needs, including to assist Haitians affected by Tropical Storm Jeanne;

(b) increase employment and promote economic development; and

(c) carry out democratic elections in 2005;

(5) calls upon the Interim Government of Haiti to make every effort to ensure that all political parties can participate fully and freely in the electoral process; and

(6) notes that the failure to establish a secure and stable environment and to conduct credible and inclusive elections will likely result in Haiti's complete transition from a failed state to a criminal state.

SA 3687. Mr. MCCONNELL (for Mr. LEAHY) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 12, line 12, strike "nothing" and everything thereafter through "1961" on line 15 and insert in lieu thereof: "information provided about the use of condoms as part of projects or activities that are funded from amounts appropriated by this Act shall be medically accurate and shall include the public health benefits and failure rates of such use".

SA 3688. Mr. MCCONNELL (for Mr. BYRD) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 51, line 16, after the colon, insert: "*Provided further*, That of the funds appropriated under this heading, not less than $2,000,000 shall be made available for assistance for Greece:".

SA 3689. Mr. MCCONNELL (for Mr. LEAHY) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 38, strike line 23 through "treaties" on page 39, line 1, and insert in lieu thereof the following: "of civilians forcibly displaced by such groups; and (4) the Government of Colombia has not enacted legislation inconsistent with its obligations under the United States-Colombian treaty on extradition, and has committed to the United States that it will continue to extradite Colombian citizens to the United States, including members of such illegal armed groups, in accordance with that treaty".

SA 3690. Mr. MCCONNELL (for Ms. CANTWELL) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

At the appropriate place in the bill insert:

REPORT ON GLOBAL POVERTY AND NATIONAL SECURITY

SEC. . Not later than 180 days after the date of the enactment of this Act, the Secretary of State, in consultation with other relevant federal agencies, shall submit a report to Congress on the impact of global poverty on the national security of the United States, which shall include: (1) an evaluation of the effects of global poverty on United States efforts to promote democracy, equitable economic development, and the rule of law in developing countries; (2) a description of the relationship between global poverty and political instability, civil conflict, and international terrorism; and (3) recommendations for improving the ability of the United States Government to effectively address the problems in (1) and (2) by combating global poverty, including possible organizational changes within the Federal government.

SA 3691. Mr. MCCONNELL (for Mr. LEAHY) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 169, line 20, after the period insert:

(d) Funds made available for assistance for Nepal pursuant to subsection (a) may be made available if the Secretary of State reports to the Committee on Appropriations that the Government of Nepal is: (1) complying promptly with habeas corpus orders issued by the Supreme Court of Nepal, including all outstanding orders; (2) cooperating with the National Human Rights Commission of Nepal to resolve all cases of disappearances; and (3) granting the National Human Rights Commission of Nepal unimpeded access to places of detention: Provided, That the Secretary of State may waive the requirements of this subsection if he determines and reports to the Committees on Appropriations that to do so is in the security interests of the United States.

SA 3692. Mr. MCCONNELL (for Mrs. BOXER) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 45, line 21, strike "funds." and insert "funds: *Provided further*, That of the funds appropriated under this heading, $10,000,000 should be made available to reduce the threat that man-portable air defense systems ('MANPADS') could be acquired by terrorists or by state sponsors of terrorism.".

SA 3693. Mr. DODD proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 118, strike lines 9–11 and insert in lieu thereof the following:

"(3) $35,000,000 from "Economic Support Fund", $25,000,000 of which shall be made available to the Organization of American States for expenses related to the organization and holding of free and fair elections in Haiti in 2005; and".

SA 3694. Mr. McCONNELL (for Mr. BIDEN) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 183, after line 23, insert the following new section:

REPORT ON EDUCATION REFORM IN PAKISTAN.

SEC. 599F. (a) Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees—

(1) describing the strategy of the Government of Pakistan to implement education reform in Pakistan, and the strategy of the Government of the United States to assist Pakistan to achieve that objective;

(2) providing information on the amount of funding—

(A) obligated and expended by the Government of Pakistan and the Government of the United States, respectively, for education reform in Pakistan, since January 1, 2002;

(B) expected to be provided by the Government of Pakistan and Government of the United States, respectively, for education reform in Pakistan, including any assistance to be provided by the United States pursuant to the commitment of President Bush to provide $3,000,000,000 in assistance to Pakistan during fiscal year 2005 through fiscal year 2009; and

(3) discussing progress made in achieving education reform in Pakistan since January 1, 2002.

(b) DEFINITIONS.—In this section—

(1) the term "appropriate congressional committees" means—

(A) the Committees on Appropriations and International Relations of the House of Representatives; and

(B) the Committees on Appropriations and Foreign Relations of the Senate;

(2) the term "education reform" includes efforts to expand and improve the secular education system in Pakistan, and to develop and utilize a moderate curriculum for private religious schools in Pakistan.

SA 3695. Mr. McCONNELL (for Mr. LEAHY) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 128, line 19, after "shall" insert the following: "Consult with the appropriate congressional committees,".

SA 3696. Mr. McCONNELL (for Mr. COLEMAN (for himself, Mr. CORZINE, Mr. CHAMBLISS, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. BAYH, Ms. MIKULSKI, and Mr. SANTORUM)) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 183, after line 23, add the following:

UNITED NATIONS RESOLUTIONS ON ISRAEL

SEC. 599F. (a) The Senate makes the following findings:

(1) The United Nations General Assembly and United Nations Security Council have over a period of many years engaged in a pattern of enacting measures and resolutions castigating and condemning the state of Israel.

(2) Despite the myriad of challenges facing the world community, the United Nations General Assembly has devoted a disproportionate amount of time and resources to castigating Israel;

(3) During the fifty-seventh session of the United Nations General Assembly, the General Assembly adopted a total of 80 resolutions by roll call vote, 23 of which related to Israel and were opposed by the United States.

(4) The United States has a responsibility to promote fair and equitable treatment of all nations in the context of international organizations, including the United Nations.

(b) It is the sense of the Senate that the President, the United States Permanent Representative to the United Nations, and other appropriate United States officials should—

(1) work to dissuade member states of the United Nations from voting in support of United Nations General Assembly resolutions that unfairly castigate Israel; and

(2) promote within the United Nations General Assembly more balanced and constructive approaches to resolving the conflict in the Middle East.

(c) Section 406(b)(4) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 22 U.S.C. 2414a(b)(4)) is amended by inserting after "United States" the following: ", including a separate listing of all plenary votes cast by member countries of the United Nations in the General Assembly on resolutions specifically related to Israel that are opposed by the United States".

SA 3697. Mr. McCONNELL (for Mr. SCHUMER) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 183, after line 23, add the following:

SENSE OF THE SENATE ON VIOLATIONS OF RELIGIOUS FREEDOM IN SAUDI ARABIA

SEC. 599F. It is the sense of the Senate that, in light of the designation of Saudi Arabia as a country of particular concern under section 402(b)(1)(A) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)(1)(A)) because the Government of Saudi Arabia has engaged in or tolerated particularly severe violations of religious freedom, the President should—

(1) under the authority in section 402(c)(2) and 405(c) of such Act, negotiate a binding agreement with the Government of Saudi Arabia that requires such Government to phase out any program, policy, or practice that contributes to the violations of religious freedom occurring or being tolerated in Saudi Arabia; or

(2) take an action described in one of the paragraphs (9) through (15) of 405(a) of such Act or a commensurate action under the authority in section 402(c)(1)(B) of such Act with respect to Saudi Arabia that the President determines is appropriate after consideration of the recommendations for United States policy made by the United States Commission on International Religious Freedom.

SA 3698. Mr. McCONNELL (for Mr. LEAHY) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 139, line 22, after "conflict" insert: , respond to disasters,

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SA 3699. Mr. McCONNELL (for Mr. SCHUMER) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 112, line 4, after "FINES", insert: "AND REAL PROPERTY TAXES"

On page 112, line 10, after "penalties", insert: "and unpaid property taxes"

On page 112, line 15, after "penalties", insert: "and unpaid property taxes"

On page 112, line 24, after "penalties", insert: "and unpaid property taxes"

On page 113, line 1, after "(d)", insert: "(1)"

On page 113, line 2, after "(a)", insert: "with respect to parking fines and penalties"

On page 113, line 6, after "so.", insert: "(2) The Secretary of State may waive the requirements set forth in subsection (a) with respect to the unpaid property taxes if the Secretary of State determines that it is in the national interests of the United States to do so."

On page 113, line 13, after "penalties", insert: "and unpaid property taxes and interest"

On page 114, line 12, "2004", insert: "(4) The term 'unpaid property taxes' means the amount of unpaid taxes and interest on such taxes that have accrued on real property in the District of Columbia or New York, New York under applicable law."

SA 3700. Mr. McCONNELL (for Mr. ENSIGN) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 183, after line 23, add the following:

SUPPORT FOR THE POLITICAL INDEPENDENCE OF LEBANON

SEC. 599F. (a) The Senate makes the following findings:

(1) The United States has long supported the sovereignty, territorial integrity, and political independence of Lebanon and the sole and exclusive exercise by the Government of Lebanon of national governmental authority throughout that country.

(2) The continued presence in Lebanon of nongovernmental armed groups and militias,

including Hizbollah, prevents the Government of Lebanon from exercising its full sovereignty over all territory in that country.

(3) The Government of Syria has had a military presence in Lebanon since 1976, and maintains approximately 20,000 troops in Lebanon.

(4) The Government of Syria continues to violate United Nations Security Council Resolution 520, adopted in 1982, which demands that "all non-Lebanese forces" leave Lebanon.

(5) Syria has, since 1979, been labeled by the Department of State as a state sponsor of terrorism.

(6) President George W. Bush signed an Executive order on May 11, 2004, that implements sanctions against the Government of Syria pursuant to the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Public Law 108–175; 22 U.S.C. 2151 note), demonstrating the resolve of the United States to address both the continued military presence of Syria in Lebanon and the support of the Government of Syria for terrorism.

(7) United Nations Security Resolution 1559, approved on September 2, 2004, expressed support for a free and fair electoral process in the upcoming presidential election in Lebanon conducted according to constitutional rules adopted in Lebanon without foreign interference or influence.

(8) On September 3, 2004, the Government of Syria, according to numerous reports, exerted undue influence upon government officials in Lebanon to amend the constitution to extend the term of the President of Lebanon, Emile Lahoud, who is supported by the Government of Syria.

(b) Congress—

(1) commends President George W. Bush for implementing sanctions on the Government of Syria pursuant to the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003;

(2) urges the United Nations to seek a firm, negotiated schedule for the complete withdrawal from Lebanon of Syria armed forces in order to facilitate the restoration of the sovereignty, territorial integrity, and political independence of Lebanon;

(3) calls upon the Government of Syria to immediately withdraw its troops from Lebanon in accordance with United Nations resolutions;

(4) demands that the Government of Syria—

(A) cease its support and armament of terror groups such as Hizbollah; and

(B) facilitate efforts by the legitimate national government and armed forces of Lebanon to disarm all nongovernmental armed groups and militias located in Lebanon and to extend central government authority throughout Lebanon; and

(5) condemns all efforts to derail the democratic process in Lebanon and to interfere with the legitimate election process in that country.

SA 3701. Mr. McCONNELL (for Mr. BINGAMAN) proposed an amendment to the bill H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 134, line 16, after the period insert:

(e) AVAILABILITY AND USE OF FUNDS.—Funds appropriated under the heading "International Organizations and Programs" that are not made available for UNFPA because of the operation of any provision of law shall remain available until September 30, 2006: *Provided*, That funds made available pursuant to this section may not be used for any other purpose, notwithstanding the authority contained in sections 451, 610 and 614 of the Foreign Assistance Act of 1961, or any other provisions of law unless specifically authorized in subsequent legislation.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the committee on Energy and Natural Resources.

The hearing will be held on Thursday, September 30 at 10:30 a.m., in room SD–366.

The purpose of this hearing is to receive testimony regarding issues related to low level radioactive waste.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact: Clint Williamson at 202–224–7556, Dr. Pete Lyons at 202–224–5861 or Shane Perkins at 202–224–7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 23, 2004, at 2:30 p.m., in open session to receive testimony on the global posture review of United States military forces Stationed overseas.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing entitled "Prescription Drug Abuse and Diversion: The Role of Prescription Drug Monitoring Program" during the session of the Senate on Thursday, September 23, 2004, at 2 p.m., in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 23, 2004, at 4 p.m., to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. ENSIGN. Madam President, I ask unanimous consent that Margaret Klutz, a member of Senator DOLE's staff, be given floor privileges for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Madam President, I ask unanimous consent that the privileges of the floor be granted to the following fellows and interns of the Finance Committee for the consideration of the conference report on H.R. 1308, the Increased Child Tax Credit bill: Mary Tuckerman, Priya Mahanti, Audrey Schultz, Brittney McClary, Kelsie Eggensperger, Paige Lester, Jeremy Sylestine, Jodi George, Scott Landes, and Matt Stokes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING THE 215TH ANNIVERSARY OF THE UNITED STATES MARSHALS SERVICE

Mr. McCONNELL. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 433, submitted earlier today by Senators LAUTENBERG and CRAIG.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 433) commemorating the 215th anniversary of the United States Marshals Service.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, any statements relating thereto be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 433) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 433

Whereas the Act entitled "An Act to establish the Judicial Court of the United States", approved September 24, 1789 (1 Stat. 73) ("the Judiciary Act of 1789"), directed the appointment of a Marshal and launched the United States Marshals Service;

Whereas the Judiciary Act of 1789 determined that law enforcement would be the primary function of the United States Marshal;

Whereas President George Washington subsequently appointed the first 13 United States Marshals that same year;

Whereas during 215 years of service, United States Marshals have executed warrants, distributed presidential proclamations, registered enemy aliens in time of war, and helped conduct the national census;

Whereas during 215 years of service, United States Marshals have protected the President and the Federal courts, provided for the custody and transportation of Federal prisoners, and maintained and disposed of seized and forfeited properties;

Whereas through the Witness Security Program, United States Marshals have provided for the security, health, and safety of more than 7,500 government witnesses and 9,500 family members whose lives were in danger as a result of the witnesses' testimony against drug traffickers, terrorists, organized crime members, and other major criminals;

Whereas during 215 years of service, United States Marshals have conducted their mission of fugitive apprehension with skill and valor; and

Whereas United States Marshals carry out complex and life-threatening missions daily to maintain the integrity of the judicial process of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 215th anniversary of the United States Marshals Service;

(2) recognizes the United States Marshals Service as one of the most versatile and effective law enforcement agencies in the world; and

(3) honors the men and women who have served the United States Marshals Service and our Nation so well with their dedication to justice, integrity, and service.

GREATER CIVIC AWARENESS

Mr. McCONNELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 434 submitted earlier today by Senators LEVIN, COCHRAN, LEAHY, ALLEN, and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 434) recognizing and supporting all efforts to promote greater civic awareness among the people of the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Madam President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 434) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 434

Whereas the Constitution of the United States establishes a representative form of government in which the people of the United States elect Members of the House of Representatives and Senators of the Senate, and each of the States appoint electors who, based on the popular vote of the State, select the President and the Vice-President;

Whereas the 15th, 19th, 24th, and 26th amendments to the Constitution establish that the right of citizens of the United States to vote shall not be denied or abridged on account of race, color, or previous condition of servitude; on account of sex; by reason of failure to pay any poll tax or other tax; and on account of age for those 18 years of age and older;

Whereas the right of citizens of the United States to vote is fundamental to our representative form of government;

Whereas many eligible citizens do not exercise the right to vote;

Whereas numerous civic awareness organizations and advocacy groups at the Federal, State, and local level actively promote voter registration and voter participation; and

Whereas many communities and schools have instituted civic awareness programs: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and supports all efforts to promote greater civic awareness among the people of the United States, including civic awareness programs such as candidate forums and voter registration drives; and

(2) encourages local communities and elected officials at all levels of government to promote greater awareness among the electorate of civic responsibility and the importance of participating in these elections.

CONGRATULATING THE PARTICIPANTS IN THE 2004 SUMMER OLYMPIC GAMES

Mr. McCONNELL. Madam President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. Res. 427 and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 427) congratulating the citizens of Greece, the members of the Athens 2004 Organizing Committee for the Olympic and Paralympic Games, the International Olympic Committee, the U.S. Olympic Committee, the 2004 U.S. Olympic Team, athletes from around the World, and all the personnel who participated in the 2004 Olympic Summer Games in Athens, Greece.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Madam President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 427) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 427

Whereas Greece—birthplace of the Olympics—was selected on September 5, 1997, as the host of the 2004 Olympic Summer Games;

Whereas from August 13 to August 29, 2004, the Olympic Summer Games returned to Greece, more than 100 years after Athens staged the first modern Olympics in 1896 and nearly 3 millennia after Greece staged the first Olympics in 776 B.C.;

Whereas the people of Greece opened their hearts to the athletes who came together from all over the world and took part in the 2004 Olympic Summer Games in the best spirit of good sportsmanship;

Whereas the President and Managing Director of the Athens 2004 Organizing Committee for the Olympic and Paralympic Games and their associates, the Mayor of Athens, and the Government of Greece—particularly the officials from the Ministry of Culture in collaboration with the Ministry of Public Works—did an outstanding job in staging a great Olympic Summer Games in a manner that embodied the legacy, ideals, and values that Hellenic culture has given the world;

Whereas the Government of Greece, entrusted with the responsibility of protecting the athletes, coaches, judges, and spectators of the 2004 Olympic Summer Games, rose to the challenges to provide a safe Olympic Summer Games;

Whereas 10,500 athletes and 5,500 team officials from a record 201 National Olympic Committees prepared for and competed in the Olympic Summer Games with unmatched dedication, and inspired the world with their spirit of peaceful competition;

Whereas over 5,000 athletes from 140 nations will compete in the 2004 Paralympic Summer Games in Athens, Greece, representing the broadest country participation in Paralympic history and reminding the world that physical challenges are no limit to human achievement;

Whereas the Olympic venues constructed by Greece have been hailed as world class and have set a new standard of modernity for all future Olympic Games;

Whereas the 531 members of the United States Olympic Team added substantially to the great legacy of sportsmanship and athleticism that has characterized the history of United States Olympic competition;

Whereas the security personnel at the 2004 Olympic Summer Games all worked to ensure that the 2004 Olympic Summer Games were safe and secure for athletes and spectators alike;

Whereas over 5,000 individuals of Greece and other citizens from around the world volunteered their time and talents to show the world the best that Greece has to offer; and

Whereas the 2004 Olympic Summer Games accomplished the principles set forth by the Olympic movement, including the aim to "encourage the Olympic spirit of peace and harmony, which brings the people from across the world together around Olympic sport": Now, therefore, be it

Resolved, That the Senate extends its heartiest congratulations for a job well done to the citizens of Greece, the members of the Athens 2004 Organizing Committee for the Olympic and Paralympic Games, the International Olympic Committee, the United States Olympic Committee, the members, coaches, and officials of the 2004 United States Olympic Team, athletes from around the world, and the security personnel and volunteers who ensured that the 2004 Olympic Summer Games in Athens was a great success.

JOHN HEINZ SENATE FELLOWSHIP PROGRAM

Mr. McCONNELL. Madam President, I ask unanimous consent that the Rules Committee be discharged from further action of S. Res. 428 and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 428) to reauthorize the John Heinz Senate Fellowship Program.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Madam President, I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 428) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 428

Resolved,

SECTION 1. JOHN HEINZ SENATE FELLOWSHIP PROGRAM.

Senate Resolution 356, 102d Congress, agreed to October 7, 1992, is amended by striking section 5 and inserting the following:

"SEC. 5. FUNDS.

"There are authorized to be appropriated to carry out the provisions of this resolution $85,000 for each of fiscal years 2005 through 2009.".

EXPRESSING THE SENSE OF CONGRESS IN SUPPORT OF THE ONGOING WORK OF THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

Mr. McCONNELL. Madam President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Con. Res. 110, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 110) expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. CAMPBELL. Madam President, I applaud the leadership for taking up S. Con. Res. 110, a resolution expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe, OSCE, in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence.

The Helsinki Commission, which I co-chair, has been on the forefront of efforts to combat anti-Semitism throughout the 55 participating States that comprise the OSCE. Commission initiatives have been aimed at urging all OSCE countries to take real action, to ensure that the issue of anti-Semitism is not swept under the rug or disguised in misleading euphemisms like "hooliganism." The latent, yet persistent, problem of anti-Semitism is one that cannot be ignored, but rather must be met head on, with the full force and weight of elected leaders and Government officials publicly denouncing acts of anti-Semitism and related violence.

For this reason, I am pleased the U.S. Senate today will be on record in our fight against anti-Semitism and speak to this pernicious problem. I want to highlight one portion of the resolution that calls for the Bulgarian Chairman-in-Office and the incoming Slovenian CiO to "consider appointing" an individual to the post of a "personal envoy." This high profile position would help ensure "sustained attention with respect to fulfilling OSCE commitments on the reporting of anti-Semitic crimes." The need for this position was made clear in a recent report by the OSCE Office for Democratic Institutions and Human Rights.

At the end of June the OSCE'S Office for Democratic Institutions and Human Right's ODIHR reported that only 20 of 55 participating States had responded to the four requests for submissions issued by ODIHR between January 28 and May 28. Canada and Slovakia have since made submissions. Each participating State has been asked to forward to ODIHR information concerning legislation and statistics about anti-Semitic crimes and hate crimes, as agreed to under the Maastricht Ministerial Council Decision and the Permanent Council Decision highlighted in the Berlin Declaration.

Mr. President I ask unanimous consent that a summary of the responses from participating States, dated June 21, 2004 be printed in the RECORD following this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CAMPBELL. As actions speak louder than words, the poor compliance indicates a lack the political will by some to make fighting anti-Semitism and intolerance a high priority. Therefore, a personal envoy could work to encourage participating States to honor their commitments and to forward the information to ODIHR for compilation, raising these concerns at the highest level. I consequently urge Bulgaria and Slovenia, along with all other participating States, will support efforts to create a personal envoy of the OSCE Chairman in Office on anti-Semitism. I note that the current OSCE Chair, Foreign Minister Solomon Passy is in Washington this week for consultations and I urge him to appoint such a representative before the end of Bulgaria's chairmanship.

As Secretary of State Powell stated at the Berlin Conference, "We must send the clear message far and wide that anti-Semitism is always wrong and it is always dangerous. We must send the clear message that anti-Semitic hate crimes are exactly that: crimes, and that these crimes will be aggressively prosecuted." Senate passage of S. Con. Res. 110 will bolster the ongoing work of the OSCE in confronting and combating anti-Semitism.

Exhibit 1

PARTICIPATING STATE RESPONSES TO NOTE VERBALE

[As of 21st June 2004]

Participating State	Responded to NV	Statistics	Legislation	National initiatives	Nomination of authority responsible for collection and provision of info
Albania	Yes	X	Yes	X	X
Andorra	X	X	X	X	X
Armenia	X	X	X	X	X
Austria	Yes	Yes	Yes	Yes	X
Azerbaijan	X	X	X	X	X
Belarus	Yes	Yes	Yes	Yes	X
Belgium	X	X	X	X	X
Bosnia and Herzegovina	X	X	X	X	X
Bulgaria	Yes	X	Yes	Yes	X
Canada	X	X	X	X	X
Croatia	Yes	Yes	Yes	Yes	X
Cyprus	X	X	X	X	X

Exhibit 1—Continued

PARTICIPATING STATE RESPONSES TO NOTE VERBALE

[As of 21st June 2004]

Participating State	Responded to NV	Statistics	Legislation	National initiatives	Nomination of authority responsible for collection and provision of info
Czech Republic	X	X	X	X	X
Denmark	Yes	Yes	Yes	Yes	X
Estonia	X	X	X	X	X
Finland	Yes	Yes	Yes	Yes	X
France	X	X	X	X	X
Georgia	X	X	X	X	X
Germany	Yes	Yes	Yes	Yes	X
Greece	X	X	X	X	X
Holy See	Yes	X	X	Yes	Yes
Hungary	X	X	X	X	X
Iceland	X	X	X	X	X
Ireland	X	X	X	X	X
Italy	X	X	X	X	X
Kazakhstan	X	X	X	X	X
Kyrgyzstan	X	X	X	X	X
Latvia	Yes	Yes	Yes	Yes	Yes
Liechtenstein	Yes	X	Yes	Yes	X
Lithuania	Yes	Yes	Yes	Yes	X
Luxembourg	Yes	X	Yes	Yes	X
Malta	Yes	X	Yes	X	X
Moldova	Yes	Yes	Yes	X	X
Monaco	X	X	X	X	X
Netherlands	X	X	X	X	X
Norway	X	X	X	X	X
Poland	Yes	Yes	Yes	Yes	X
Portugal	X	X	X	X	X
Romania	Yes	X	Yes	Yes	X
Russian Federation	X	X	X	X	X
San Marino	X	X	X	X	X
Serbia and Montenegro	X	X	X	X	X
Slovak Republic	X	X	X	X	X
Slovenia	X	X	X	X	X
Spain	X	X	X	X	X
Sweden	Yes	Yes	Yes	Yes	Yes
Switzerland	Yes	Yes	Yes	Yes	Yes
Tajikistan	X	X	X	X	X
Former Yugoslav Republic of Macedonia	X	X	X	X	X
Turkey	X	X	X	X	X
Turkmenistan	X	X	X	X	X
Ukraine	X	X	X	X	X
United Kingdom of Great Britain and Northern Ireland	X	X	X	X	X
United States of America	Yes	Yes	Yes	Yes	X
Uzbekistan	X	X	X	X	X

Mr. MCCONNELL. Madam President, I ask unanimous consent that the amendments at the desk be agreed to, the concurrent resolution, as amended, be agreed to, the preamble, as amended, be agreed to, the motions to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3677 and 3678) were agreed to, as follows:

AMENDMENT NO. 3677

(Purpose: to propose a substitute to the resolution)

Strike all after the resolving clause and insert the following:

That it is the sense of Congress that—

(1) the United States Government and Congress should unequivocally condemn acts of anti-Semitism and intolerance whenever and wherever they occur;

(2) officials and elected leaders of all Organization for Security and Cooperation in Europe (OSCE) participating states, including all OSCE Mediterranean Partner for Cooperation countries, should also unequivocally condemn acts of anti-Semitism, racism, xenophobia, and discrimination whenever and wherever they occur;

(3) the participating states of the OSCE should be commended for supporting the Berlin Declaration and for working to bring increased attention to incidents of anti-Semitism and intolerance in the OSCE region;

(4) the United States Government, including Members of Congress, recognizing that the fundamental job of combating anti-Semitism and intolerance falls to governments, should work with other OSCE participating states and their parliaments to encourage the full compliance with OSCE commitments and, if necessary, urge the creation of legal mechanisms to combat and track acts of anti-Semitism and intolerance;

(5) all participating states, including the United States, should forward their respective laws and data on incidents of anti-Semitism and other hate crimes to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) for compilation and provide adequate resources for the completion of its duties;

(6) the United States should encourage the Bulgarian Chairman-in-Office, in consultation with the incoming Slovenian Chairman-in-Office, to consider appointing a high level "personal envoy" to ensure sustained attention with respect to fulfilling OSCE commitments on the reporting of anti-Semitic crimes;

(7) the United States should urge OSCE participating states to support the January 2000 Declaration of the Stockholm International Forum on the Holocaust, and the work of the Task Force for International Cooperation on Holocaust Education, Remembrance and Research, in developing effective methodologies to teach the lessons of the Holocaust; and

(8) all OSCE participating states should renew and revitalize efforts to implement their existing commitments to fight anti-Semitism and intolerance, and keep sharp focus on these issues as part of the usual work of the OSCE Permanent Council, the Human Dimension Implementation Review Meeting, the Ministerial Council and summits.

AMENDMENT NO. 3678

(Purpose: To propose a substitute to the preamble)

Strike the preamble and insert the following:

Whereas anti-Semitism is a unique evil and an affront to human rights that must be unequivocally condemned, and a phenomenon that, when left unchecked, has led to violence against members of the Jewish community and Jewish institutions;

Whereas racism, xenophobia, and discrimination are also pernicious ills that erode the dignity of the individual and undermine the achievement and preservation of stable democratic societies;

Whereas to be effective in combating these phenomena, governments must respond to related violence while seeking to address the underlying sources of anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence through public denouncements by elected leaders, vigorous law enforcement, and education;

Whereas all Organization for Security and Cooperation in Europe (OSCE) participating states must confront acts of anti-Semitism and intolerance, and must deal effectively with acts of violence against Jews and Jewish cultural sites, as well as against ethnic and religious minority groups, in keeping with their OSCE commitments;

Whereas education is critical in overcoming intolerance and it is essential that those responsible for formulating education policy recognize the importance of teaching about the Holocaust and intolerance as a tool to fight anti-Semitism, racism, xenophobia, and discrimination among young people;

Whereas ensuring proper training of law enforcement officers and military forces is vital in keeping alive the memory of the Holocaust and to the importance of understanding and responding to incidents of anti-Semitism and intolerance;

Whereas OSCE participating states have repeatedly committed to condemn anti-Semitism and intolerance, foremost in the historic 1990 Copenhagen Concluding Document that, for the first time, declared "participating [s]tates clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-Semitism, xenophobia and discrimination against anyone," and stated their intent to "take effective measures . . . to provide protection against any acts that constitute incitement to violence against persons or groups based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-Semitism";

Whereas the OSCE Parliamentary Assembly has demonstrated leadership by unanimously passing resolutions at its annual sessions in 2002 and 2003 that condemn anti-Semitism, racial and ethnic hatred, xenophobia, and discrimination and call upon participating states to speak out against these acts and to ensure aggressive law enforcement by local and national authorities;

Whereas the 2002 Porto OSCE Ministerial Council Decision committed participating states to "take strong public positions against hate speech and other manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism," specifically condemned the "recent increase in anti-Semitic incidents in the OSCE area, recognizing the role that the existence of anti-Semitism has played throughout history as a major threat to freedom," and urged for the "convening of separately designated human dimension events on issues addressed in this decision, including on the topics of anti-Semitism, discrimination and racism and xenophobia";

Whereas the 2003 OSCE Vienna conferences on anti-Semitism and racism, xenophobia, and discrimination were groundbreaking, as the OSCE and its participating states met to discuss ways to combat these destructive forces;

Whereas the 2003 Maastricht Ministerial Council approved follow-up OSCE conferences on anti-Semitism and on racism, xenophobia and discrimination, and encouraged "all participating [s]tates to collect and keep records on reliable information and statistics on hate crimes, including on forms of violent manifestations of racism, xenophobia, discrimination, and anti-Semitism," as well as to inform the OSCE Office of Democratic Institutions and Human Rights (ODIHR) "about existing legislation regarding crimes fueled by intolerance and discrimination";

Whereas at the 2004 OSCE Conference on Anti-Semitism, hosted in the German capital, the Bulgarian Chairman-in-Office issued the "Berlin Declaration" which stated unambiguously that "international developments or political issues, including those in Israel or elsewhere in the Middle East, never justify anti-Semitism";

Whereas the Berlin Declaration advances the process of monitoring of anti-Semitic crimes and hate crimes, as all OSCE participating states committed to "collect and maintain" statistics about these incidents and to forward that information to the ODIHR for compilation;

Whereas during the closing conference plenary, the German Foreign Minister and others highlighted the need to ensure all participating states follow through with their commitments and initiate efforts to track anti-Semitic crimes and hate crimes; and

Whereas the Government of Spain announced its willingness to organize and hold the next OSCE Conference on Anti-Semitism in Cordoba, Spain, in the event the OSCE Ministerial Council decides to hold another conference on anti-Semitism

The concurrent resolution (S. Con. Res. 110), as amended, was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, with its preamble, reads as follows:

(The concurrent resolution will be printed in a future edition of the RECORD.)

RECOGNIZING THAT PREVENTION OF SUICIDE IS A COMPELLING NATIONAL PRIORITY

Mr. McCONNELL. Madam President, I ask unanimous consent that the HELP Committee be discharged from further consideration of S. Con. Res. 119, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 119) recognizing that prevention of suicide is a compelling national priority.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCONNELL. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

Mr. REID. Madam President, I ask unanimous consent that I be added as a cosponsor of this concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 119) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 119

Whereas suicide is one of the most disruptive and tragic events a family and a community can experience, and it occurs at a national rate of 30,000 suicides annually;

Whereas suicide is the fastest growing cause of death among youths and the second leading cause of death among college students;

Whereas suicide kills youths 6 to 9 times more often than homicide;

Whereas research shows that 95 percent of all suicides are preventable;

Whereas research shows that the prevention of suicide must be recognized as a national priority;

Whereas community awareness and education will encourage the development of strategies to prevent suicide;

Whereas during the 105th Congress, both the Senate and the House of Representatives unanimously agreed to resolutions recognizing suicide as a national problem and declaring suicide prevention programs to be a national priority (Senate Resolution 84, 105th Congress, agreed to May 6, 1997, and House of Representatives Resolution 212, 105th Congress, agreed to October 9, 1998);

Whereas the yellow ribbon is rapidly becoming recognized internationally as the symbol for the awareness and prevention of suicide, and it is recognized and used by suicide prevention groups, crisis centers, schools, churches, youth centers, hospitals, counselors, teachers, parents, and especially youth themselves; and

Whereas the week beginning September 19, 2004, should be recognized as Yellow Ribbon Suicide Awareness and Prevention Week: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes that the need to increase awareness about and prevent suicide is a compelling national priority;

(2) reaffirms the commitment of Congress to the priorities expressed by the 105th Congress, in Senate Resolution 84 and House Resolution 212, to continue to recognize suicide prevention as a national priority; and

(3) encourages Americans, communities, and the Nation to work to increase awareness about and prevent suicide.

AMENDING THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

Mr. McCONNELL. Madam President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 3389, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3389) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. Madam President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3389) was read the third time and passed.

COMPREHENSIVE PEACE IN SUDAN ACT OF 2004

Mr. McCONNELL. Madam President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. 2781 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2781) to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the Lugar amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3679) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 2781), as amended, was read the third time and passed.

MEASURES READ THE FIRST TIME—S. 2844 and S. 2845

Mr. MCCONNELL. Madam President, I understand there are two bills at the desk. I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2844) to designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act.

A bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

Mr. MCCONNELL. I now ask for their second reading en bloc and, in order to place the bills on the calendar under the provisions of Rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bills will have their second reading on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 2830

Mr. MCCONNELL. Madam President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 2830) to amend part A of title IV of the Social Security Act to promote healthy marriages and responsible fatherhood, and for other purposes.

Mr. MCCONNELL. I object to further proceedings on the measure at this time in order to place the bill on the calendar under the provisions of rule XIV.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar under rule XIV.

UNANIMOUS CONSENT AGREEMENT—S. 2845

Mr. MCCONNELL. Madam President, I ask unanimous consent that on Monday, September 27, at a time determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to the consideration of S. 2845; provided that all amendments be related to the subject matter of the bill, or related to the 9/11 Commission recommendations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, SEPTEMBER 24, 2004

Mr. MCCONNELL. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Friday, September 24. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MCCONNELL. Madam President, for the information of all Senators, tomorrow the Senate will be in morning business throughout the day, and there will be no rollcall votes during tomorrow's session.

I remind our colleagues that we will be considering the intelligence reform bill beginning Monday of next week. This will be one of the most important issues before the Senate during this entire Congress. We want all Senators to plan accordingly. We will have more to say about next week's schedule during tomorrow's session.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MCCONNELL. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:56 p.m., adjourned until Friday, September 24, 2004, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 23, 2004:

DEPARTMENT OF DEFENSE

BUDDIE J. PENN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE H. T. JOHNSON.

DEPARTMENT OF STATE

RYAN C. CROCKER, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

MARCIE B. RIES, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ALBANIA.

NATIONAL SCIENCE FOUNDATION

DAN ARVIZU, OF COLORADO, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010, VICE MAXINE L. SAVITZ, TERM EXPIRED.

STEVEN C. BEERING, OF INDIANA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010. (REAPPOINTMENT)

GERALD WAYNE CLOUGH, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010, VICE ANITA K. JONES, TERM EXPIRED.

KELVIN KAY DROEGEMEIER, OF OKLAHOMA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010, VICE ROBERT C. RICHARDSON, TERM EXPIRED.

LOUIS J. LANZEROTTI, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010, VICE GEORGE M. LANGFORD, TERM EXPIRED.

ALAN I. LESHNER, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010, VICE LUIS SEQUEIRA, TERM EXPIRED.

JON C. STRAUSS, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010, VICE JOSEPH A. MILLER, JR., TERM EXPIRED.

KATHRYN D. SULLIVAN, OF OHIO, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010, VICE PAMELA A. FERGUSON.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U. S. C., SECTION 271:

To be commander

GERARD P. ACHENBACH, 1677
KENNETH M. ALBEE, 0673
PAUL ALBERTSON, 6461
THOMAS ALLAN, 0623
HERBERT M. ANDREWS, 8159
PAUL G. BACA, 1450
RONALD J. BALD, 6055
POLLY P. BARTZ, 3783
CLIFFORD S. BATES, 9132
CLIFFORD K. BAYUK, 0682
JEFFREY A. BENOIST, 7747
KORY J. BENZ, 4437
ERIC J. BERNHOLZ, 8407
ROBERT A. BEVINS, 1028
PAUL E. BOINAY, 1918
JOSEPH A. BOUDROW, 2606
PETER M. BRODA, 8005
BASIL F. BROWN, 8391
JEFFREY S. BROWN, 6250
WILLIAM J. BURNS, 8807
MICHAEL D. CALLAHAN, 6679
JOHN F. CAMERON, 8848
VIRGINIA K. CAMERON, 9659
WILLIAM D. CAMERON, 2341
CLAUDIA J. CAMP, 3944
TODD J. CAMPBELL, 0313
RONALD J. CANTIN, 3474
MAX A. CARUSO, 9694
GREGORY D. CASE, 1166
RICK D. CHRISTOFFERSEN, 0061
TIMOTHY J. CIAMPAGLIO, 0485
SCOTT W. CLENDENIN, 0628
DOUGLAS J. CONDE, 0070
TIMOTHY P. CONNORS, 3936
SAMUEL R. CREECH, 9052
CHRISTINE N. CUTTER, 3208
JAMES J. DEMPSEY, 7342
LAURA M. DICKEY, 8027
MICHAEL C. DICKEY, 1647
JONATHAN B. DUFF, 8952
DIANE W. DURHAM, 2994
DONALD R. DYER, 4493
STUART H. EHRENBERG, 3472
ROBERT A. ENGLE, 1581
TIMOTHY J. ESPINOZA, 0463
MARK L. EVERETT, 1599
MARK A. EYLER, 8832
RANDALL D. FARMER, 3721
BRIAN T. FISHER, 6254
WILLIAM A. FOX, 9086
JON G. GAGE, 2355
SEAN P. GILL, 7989
EVAN C. GRANT, 1471
HUGH R. GRIFFITHS, 5871
RICHARD HAHN, 4888
JONATHAN D. HELLER, 6152
WILLIAM D. HENNESSY, 0141

PATRICIA J. HILL, 9183
MICHAEL K. HOLLAND, 4445
MICHAEL D. HUNT, 3953
JAMES T. HURLEY, 4138
JAMES K. INGALSBE, 2044
KENNETH IVERY, 7693
JEFFREY C. JACKSON, 7016
KEITH B. JANSSEN, 7612
ERIC W. JOHNSON, 5666
LANE D. JOHNSON, 8021
MICHAEL J. JOHNSTON, 6209
THOMAS L. KAYE, 7122
CHRISTOPHER S. KEANE, 0075
PATRICK A. KEFFLER, 5943
JOSEPH B. KIMBALL, 4806
JAMES C. KOERMER, 9499
JOHN T. KONDRATOWICZ, 5151
ERIK C. LANGENBACHER, 5396
WILLIAM J. LAWRENCE, 5665
MARK S. LENASSI, 0649
WINSTON E. LESLIE, 5948
AARON LEVER, 3262
IAN LIU, 1706
RICHARD E. LORENZEN, 0863
MICHAEL G. LUPOW, 7041
TODD W. LUTES, 8603
ROBERT D. MACLEOD, 4839
JOSEPH J. MAHR, 0552
PETER F. MARTIN, 2918
GREGORY S. MATLIN, 9157
KYLE P. MCAVOY, 2857
SCOTT MCCARTNEY, 0320
SHANNON W. MCCULLAR, 7035
MATTHEW G. MCDONALD, 0848
ROBERT E. MCFARLAND, 4686
TIMOTHY M. MCGUIRE, 5555
JOHN W. MCKINLEY, 5422
JAMES MCLAUGHLIN, 4840
JAMES D. MCMAHON, 6192
JOHN K. MERRILL, 0725
GLEN J. MINE, 5392
PETER A. MINGO, 6908
SEAN K. MOON, 5178
DAVID R. MORGAN, 7167
DAVID W. MURK, 7614
THOMAS O. MURPHY, 9186
MATTHEW L. MURTHA, 6143
KEVIN S. NASH, 1599
JOHN P. NEWBY, 0603
ANDREW J. NORRIS, 3016
JAMES S. OKEEFE, 6664
GEORGE J. PAITL, 3627
CHRISTOPHER K. PALMER, 8534
MANUEL J. PEREZ, 7548
CARY J. PORTER, 1687
GREGORY T. PRESTIDGE, 2549
JEFFREY L. RADGOWSKI, 1271
LUKE M. REID, 8247
ERIC C. RIEPE, 0070
MARK S. RUSSELL, 6603
PETER A. SCHICHTEL, 1509
PHILIP C. SCHIFFLIN, 9930
TODD A. SCHMIDT, 8217
TALMADGE SEAMAN, 3247
SANDRA K. SELMAN, 3589
DAVID P. SEMNOSKI, 6580
MICHAEL E. SENECAL, 6910
HOWARD R. SHAW, 7207
CHARLES M. SIMERICK, 9408
MARK W. SKOLNICKI, 0685
JOHN P. SLAUGHTER, 6966
SCOTT J. SMITH, 7838
ANDREW J. SORENSON, 7160
CHARLES SRIOUDOM, 8018
GREGORY G. STUMP, 2776
SCOTT S. STUTZ, 9829
ANDREW M. SUGIMOTO, 1056
BRAD L. SULTZER, 7661
SAMUEL J. SUMPTER, 3915
ANDREA L. THOMAS, 1388
ROBERT J. THOMAS, 5419
BRIAN P. THOMPSON, 4690
GARY I. TODD, 9165
GEORGE J. TOLBERT, 1355
HELEN K. TOVES, 1476
DANIEL J. TRAVERS, 2105
DARRYL P. VERFAILLIE, 3228
EVAN WATANABE, 6148
VALERIAN F. WELICKA, 4578
GEORGE P. WELZANT, 3459
CASEY J. WHITE, 1186
HAROLD G. WHITLEY, 2172
TODD C. WIEMERS, 1294
STEVEN M. WISCHMANN, 5424
JANE C. WONG, 4259
AYLWYN S. YOUNG, 0334
ELIZABETH D. YOUNG, 0182

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DAVID A. BRUBAKER, 2008
BRIG. GEN. ALAN L. COWLES, 3501
BRIG. GEN. ALLEN R. DEHNERT, 7273
BRIG. GEN. HARRY W. FEUCHT JR., 7876
BRIG. GEN. CHARLES A. MORGAN III, 9002
BRIG. GEN. MARK R. MUSICK, 3561
BRIG. GEN. FRANK PONTELANDOLFO JR., 9346
BRIG. GEN. ANNETTE L. SOBEL, 0183
BRIG. GEN. FRANK D. TUTOR, 8226
BRIG. GEN. JOHN M. WHITE, 5135

To be brigadier general

COLONEL MICHAEL G. BRANDT, 5080
COLONEL HUGH T. BROOMALL, 8450
COLONEL ROBERT B. BUEHLER, 8135
COLONEL WILLIAM S. BUSBY III, 8374
COLONEL CHARLES M. CAMPBELL, 6247
COLONEL JAMES J. D'AGOSTINO, 0491
COLONEL EUGENE J. DELGADO, 3412
COLONEL RICHARD G. ELLIOTT, 5998
COLONEL JOHN B. ELLINGTON JR., 6887
COLONEL STEVEN E. FOSTER, 1516
COLONEL DONALD D. HARVEL, 0643
COLONEL THOMAS J. HAYNES, 7181
COLONEL ALLISON A. HICKEY, 4946
COLONEL DAVID E. HOLMAN, 5666
COLONEL RICHARD D. KING, 6633
COLONEL JAMES M. LILLIS, 0396
COLONEL DENNIS W. MENEFEE, 5023
COLONEL PETER S. PAWLING, 2613
COLONEL RICHARD J. PROSEK, 9887
COLONEL DON E. REYNOLDS, 4641
COLONEL STEPHEN M. SISCHO, 9908

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RAYMOND T. ODIERNO, 8425

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. RONALD D. SILVERMAN, 3658

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL RODNEY O. ANDERSON, 3221
COLONEL STEVEN M. ANDERSON, 2792
COLONEL JOHN M. BEDNAREK, 5704
COLONEL MARK A. BELLINI, 0763
COLONEL ROBERT M. BROWN, 0115
COLONEL JOHN F. CAMPBELL, 0073
COLONEL CHARLES T. CLEVELAND, 7375
COLONEL WALTER L. DAVIS, 4135
COLONEL JEFFREY J. DORKO, 8001
COLONEL MICHAEL FERRITER, 5367
COLONEL MARK A. GRAHAM, 0072
COLONEL DAVID D. HALVERSON, 1089
COLONEL JEFFREY C. HORNE, 3818
COLONEL JAMES L. HUGGINS JR., 5147
COLONEL RODNEY L. JOHNSON, 2637
COLONEL NICKOLAS G. JUSTICE, 3718
COLONEL BRIAN A. KELLER, 1957
COLONEL MICHAEL J. LALLY III, 3775
COLONEL HARVEY T. LANDWERMEYER, 2424
COLONEL SUSAN S. LAWRENCE, 4034
COLONEL KEVIN A. LEONARD, 9827
COLONEL ANNE F. MACDONALD, 8579
COLONEL RICHARD R. MCPHEE, 1921
COLONEL JAMES M. MILANO, 1118
COLONEL THEODORE C. NICHOLAS, 4035
COLONEL PETER J. PALMER, 0270
COLONEL WILLIAM N. PHILLIPS, 2441
COLONEL BELINDA PINCKNEY, 5043
COLONEL ERNEST E. PORTER, 8660
COLONEL RICKEY L. RIFE, 9823
COLONEL MICHAEL J. TERRY, 4150
COLONEL CHRISTOPHER TUCKER, 9233
COLONEL MICHAEL S. TUCKER, 4884
COLONEL ANDREW B. TWOMEY, 6117
COLONEL MICHAEL J. WALSH, 0884
COLONEL ROBERT H. WOODS JR., 3697
COLONEL JAMES C. YARBROUGH, 6424

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C. SECTION 624:

To be lieutenant colonel

GRAEME J. BOYETT, 2205

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5582:

To be captain

BLAINE E MOWREY, 2232

To be commander

DANIEL J ACKERSON, 5313
LESTER S BOWLING, 2548
WARREN S INOUYE, 6702
ROBERT E JOHNSON, 0713
PAUL G METZLER, 3999
TIMOTHY R SHOPE, 1309
WILLIAM L STEVENS, 4847

To be lieutenant commander

CHARLES D ADAMS, 4653
BRIAN N BOWES, 0401
DAVID R CRUMBLEY, 8076
PETER J DONAHER III, 2929
MARK R DUNCAN, 4650
KIMBERLY A FERLAND, 5832
AMY R GAVRIL, 6770
RICHARD A GUERRA, 3992
SUZANNE B HANEY, 9064
ERIC R HOFFMAN, 9066
JULIE S HOWE, 2238
TIPTON D Q HUTCHESON, 1893
KAREN J KOPMANN, 7200
CHARLES S KUZMA, 9907
ADONIS R MASON, 8814
TODD J MAY, 6014
MEDGAR M MOYA, 8557
STEPHEN J PANCHYSHYN, 3736
PAMELA PENTIN, 4354
JEFFREY D QUINLAN, 6847
ROBERT V RIEGER, 9904
CARRI A ROBBINS, 5150
ROBERT B ROBERTS, 0201
SHARON J ROBERTS, 2981
ALBERTO A RULLAN, 4558
RICHARD J SAVARINO JR., 2797
THOMAS A SCOTT, 2400
DONALD W SHENENBERGER, 5824
ADRIENNE J SIMMONS, 7293
FAWN R SNOW, 8264
MATTHEW W SOUTHWICK, 7690
ROBERT R STACHURA, 2356
DANIEL K STARK, 7650
BUFFY STORM, 1190
JERRY TORRES, 0109
SHANE A VATH, 2329
BRIAN K VAZQUEZ, 5021
CHRISTOPHER WESTBROOK, 2272
RICHARD WESTHOFF III, 9630
STACEY K WRIGHT, 6840

To be lieutenant

JEREMIAH V ADAMS, 4490
SEAN P AHEARNE, 6901
BRIAN M AKER, 6066
PAUL G ALBERS, 7288
EUGENE A ALBIN, 3510
KAREN L ALEXANDER, 6904
DAVID M ALIBERTI, 0578
DEAN E ALLEN, 4522
RICARDO ALSTON, 6778
JEFFREY D ALTON, 6161
SCOTT T ANDERSON, 9919
JOEY M ANDRES, 4284
PAUL T ANNEXSTAD, 8241
ROBERT P ANSELM, 2875
THURMAN J ANTINORA, 6029
AARON C ASH, 8204
EPI ATENCIO, 1587
AARON K AYERS, 9020
CENK AYRAL, 1599
STEVEN M BAILEY, 0169
DAVID H BANKART, 6983
LARRY W BANNON, 5351
MARTIN J BARLOW, 1823
JONATHAN L BARON, 7221
JASON K BARTHOLOMEW, 7674
TY D BATHURST, 9723
JAMES W BENDER, 2189
CHRISTOPHER L BENJAMIN, 0119
EDWARD X BERDECIO, 8066
JARED L BICKHAM, 5450
MICHAEL J BILLMAN, 3783
BRYAN D BLACK, 2737
JAMES L BOND, 8349
DEBORAH L BOYLAN, 0621
JOSEPH M BOYLES, 2368
STEPHEN J BRADFIELD, 1517
LEGENA M BRIEST, 6364
WILLIE D BRISBANE, 2287
JOHN G BROOM, 1974
RAY B BROWN, 2870
JAMES P BURRILL, 8534
JOHN P BUSER, 0748
MICHAEL J BUSH, 7631
NINA M BUTLER, 7136
AARON L CADLE, 8984
DAVID A CALDWELL, 4473
ROSS B CAMPBELL, 6435
TODD W CANNAN, 5974
PABLOBENITO CAPISTRANO, 8176
BRIAN J CARNEY, 2607
JAMES M CARRIERE, 8473
MICHAEL J CASSIDY, 9323
ROBERT D CASSIDY JR., 0765
ALAN B CHRISTIAN, 1887
CHRISTOPHER T CLARK, 5179
DANIEL W CLARK, 6736
KALOHI R CLARK, 1961
DANIEL D COCHRAN, 0160
LAURIE N COFFEY, 6970
PATRICK D COFFEY, 5991
WENDY A COOK, 6308
GREGORY R COOKE, 3670
MATTHEW K COOMBS, 6822
SCOTT C COONAN, 3504
ROBERT M CORLEY, 5348
PATRICK S CORRIGAN, 3419
BENJAMIN F COTE, 7954
CHARLENE R CRANDALL, 2338
CURTIS T CREWS, 1186
KEVIN R CROCKETT, 9528
JODY M DANIEL, 0867

TODD M DANTONIO, 7795
JOHN B DAY, 1849
DEAN C DEBOURGE, 0675
DANA A DECOSTER, 7649
EARL J DEMERSSEMAN II, 2703
JOHN M DICK, 9460
MARK H DICKINSON, 6797
RUSSELL E DICKS, 6683
JORDAN DIXEY, 4776
BRIAN L DORSEY, 4198
JORITTA DOTSONHARDY, 6838
TIMOTHY D DOUGHERTY, 7519
STEVEN M DOWNS, 4313
CARRIE L DREYER, 0632
SCOTT E DUNN, 9659
NATHANIAL K ELAM, 2358
BOYD A ELLIS, 6518
JOSHUA C ELLISON, 1131
MICHAEL P ELROD, 0917
ERIC M EMERY, 5199
THOMAS A ESPARZA, 5463
ANTHONY S ESTEP, 8723
MATTHEW J FAHNER, 2734
HOLLY M FALCONIERI, 0836
GORDON F FAULKNER, 8265
MATTHEW J FIFIELD, 1007
KALLIE D FINK, 3739
DANIEL K FISHER, 8101
DOUGLAS G FITCHETT, 2248
ANDREW K FORTMANN, 7072
SUSAN M FRANCIS, 5967
DAWN E GALVEZ, 7582
JOHN D GATES, 9258
DAMIAN M GELBAND, 0784
DAVID M GERACE, 9697
HEATHER M GHIRARDI, 4120
JUSTINE GILBERT, 2977
ANDREW J GILLESPY, 0058
VANESSA GIVENS, 1139
RICHARD M GLEASON JR., 0593
VICTOR J GLOVER, 2275
JENNIE L GOLDSMITH, 8546
DAVID M GONZALEZ, 0394
CHARLES H GOODSON, 3545
MATTHEW D GOODWIN, 7658
MATTHEW J GRASER, 2426
BLAIR R GREENLAW, 7101
JENNIFER M GREENOUGH, 9574
JOHN C GREER, 1615
JOHN A GUARINO, 5388
SHELLY J HAKSPIEL, 4181
SEAN HANSON, 6087
BENJAMIN J HEINEMEIER, 7528
SIDDHARTHA D HERDEGEN, 4249
TED W HERING, 1264
WERNHER C HEYRES, 2369
JEFFREY M HIBBARD, 1369
DAVID C HICKS, 2692
JIMMY B HIERS JR., 9160
JOHN N HILL, 8880
WILLIAM A HILL, 4697
RONALD L HOAK II, 4241
BRIAN R HODGES, 5352
JEFFREY A HODGES, 1036
JASON G HOFTIEZER, 8410
JOHN S HOLZBAUR JR., 3782
VANESSA C HOPGOOD, 3844
DAVID J HUBER, 0921
CHRISTINA A HULTIN, 4946
BOHUSLAV J HUMPLIK, 4294
STEVEN E ISOMURA, 4385
AUSTIN M JACKSON, 9168
JAMES S JAEHNIG, 8042
BRUCE L JENNINGS, 7061
BRETT W JOHNSON, 2399
NATHAN A JOHNSON, 6839
JOHANNES E JOLLY, 3017
DOUGLAS W JONES, 3954
MATTHEW S JONES, 1140
THOMAS C JONES, 4381
GREGORY G JONIC, 3096
JOSEPH B JUDKINS, 8845
RYAN L KAHLE, 6858
WALTER M KAHLE III, 1682
JEFFREY P KECK, 7189
GABRIEL M KELLY, 6593
JOHN J KERLEE, 8655
RYAN C KIDDER, 6526
JOHN M KILLILA, 4805
WILLIAM D KOONE, 1767
KEITH S KULOW, 4949
BRET M KUTANSKY, 9524
DUSTIN KWOK, 1680
STANLEY M LAKE JR., 2400
JANET L LAMB, 0342
JODY P LANDRY, 9199
THOMAS E LANSLEY, 4660
AMY K LARSON, 6933
ROBERT C LEINES, 1584
STEPHEN T LEPPER, 0517
ROBERT P LEOPOLD, 9365
KEITH B LOFLAND, 5518
PETER A LOGAN, 7391
BRIAN J LONGBOTTOM, 2256
HUNG K LUI, 4100
TODD D LUNSFORD, 6707
WILLIAM A LUTAT, 4792
JONI M MAKAR, 2501
BENJAMIN J MARTIN, 1131
RONALD R MARTIN, 6633
PATRICK C MARZLUFF, 2931
EDWARD J MASON, 0676
JOSEPH A MASTRANGELO, 8601
ROBERT D MATTHIAS, 7890
MEGAN S MATTINGLY, 3722
JAMES L MCARDLE JR., 7754
ROBERT D MCCLURE, 0750
PAUL N MCKELVEY, 2826
GREGORY G MCLAUGHLIN, 4034
DONALD M MCNEIL, 2672
JOHN W MCNEILL, 1539
CLAUDE M MCROBERTS, 3883
SCOTT A MEAIRS, 7324
BRIAN J MICHALEK, 9995
STACIE A MILAVEC, 1711
JOHN A MILLS, 5000
CHARLES A MINER, 1915
JAMES S MITTAG IV, 5451
COREY A MOORE, 5769
JASON S MOORE, 3497
CHRISTOPHER K MORGAN, 3258
CHRISTOPHER M MORINELLI, 7175
CHRISTOPHER J MORRIS, 3569
JAMES M MORTON III, 5921
STEVEN S MOSS, 2001
SCOTT A MULLINS, 9908
JORGE JR MUNIZ, 9565
LAMONT D NAHRGANG, 9646
ANDREW J NAPORANO, 1279
MARJORIE C NASIN, 8204
JOSHUA P NAUMAN, 1121
DAVID S NAVA, 7618
DAVID G NEALL, 8671
ELYSIA G H NGBAUMHACKL, 9532
MARK P NICHOLLS, 9831
DAVID A NORKIN, 2759
ERIC S OEMLERICH, 4908
PAUL B OFCHARIK, 9885
AMARYLLIS B OLASEHINDE, 9728
ANTHONY J OWENS, 3379
AARON A PATTERSON, 1424
LOUISA L PIRMANN, 9863
JAMES D POE, 7082
HAROLD S POULTON, 0392
DAVID J PRATT, 0068
DANIEL R PROCHAZKA, 9888
ROBERT J RAJOTTE, 4873
RICHARD RAYOS, 1559
ANNE E READER, 6685
JEFFREY A REASEY, 6389
ANDREW T REEVES, 4175
PAUL S REINHART, 3136
WILLIAM A REVAK, 6223
JEFFREY M REYNOLDS, 0411
JEREMY R RICH, 5910
JACK C RIGGINS, 2615
RICHARD A RIISMA, 3060
BRIAN R RILEY, 7664
DEBORAH E ROBINSON, 2421
KRISTOPHER A ROBINSON, 9660
DAVID W RODEBUSH, 0839
ADRIAN M RODZIANKO, 1715
CAMERON W ROGERS, 3557
JOSHUA A ROSE, 8614
PAUL S ROSE, 4158
ANTHONY D ROY, 3945
GREGGORY D RUSSELL, 3772
PATRICK J RYAN, 6125
JOSEPH P SACCOMAN, 8431
EDUARDO E SALAZAR, 0781
PAUL M SALEVSKI, 1877
ANTHONY T SAXON, 3610
SALVADOR M SUAREZ, 6622
JARED M SCHAFF, 9849
JEFFERY L SCHELL, 8387
DAVID C SCHOPLER, 3064
BENJAMIN J SCHWARTZ, 3305
ANTHONY SCLAFANI, 9940
JAMIE C SCOTT, 1486
AMANDA J SEIDEL, 1482
SARAH T SELFKYLER, 3258
TRACY L SEMONIK, 5344
STEVEN J SHAUBERGER, 6586
JONATHAN C SHEPARD, 1096
KATHARINE K SHOBE, 6663
ASHLEY E SHUPE, 8497
BENJAMIN O SIMPSON, 6305
ELISHA E SINGLETON, 8053
JOSEPH P SLAUGHTER II, 6365
STEVEN D SMIRALDO, 2822
KEVIN J SMITH, 6824
BONNIE S STAHLMAN, 6448
JEFFREY D STANCIL, 2771
THOMAS J STEFFENSEN, 6669
KEVIN R STEPHENS, 3193
TERESA A STEVENS, 8386
BRETT A STEVENSON, 0059
BENJAMIN A STICKNEY, 0280
TIMOTHY J STINSON, 3089
OLIVER T STORMER, 3625
JAMES A STRAFFORD JR., 9019
STEPHEN N STRAYER, 2787
DAVID C SULLIVAN JR., 7349
MICHAEL B SWEENEY, 6095
ADAM I TAFF, 0135
STEPHEN H TAYLOR, 8416
SPENCER E TEMKIN, 6531
WILLIAM B THAMES, 3815
RODNEY A THOMAS, 8131
SALVADOR TORRESACOSTA, 5387
ELIZABETH A TRAVIS, 7764
ADAM N TURNER, 0732
JUAN C URIBE, 4932
JOANNE B VANHORN, 0675
BENJAMIN D VANBUSKIRK, 1521
KRISTEN D VECHINSKI, 9090
MATTHEW J VILLARREAL, 2777
PHILIP D VOYER, 7194
YEN H WAGNER, 7960
PATRICK H WAINRIGHT, 1634
JAMES S WALKER, 0034
NATHAN A WALKER, 2768
WILLIAM K WALKER, 1847
DAVID D WANER, 9314
CHRISTOPHER S WATSON, 1337
JASON D WEAVER, 2146
JEFFREY P WEIGLE, 8473
CHAD E WELBORN, 2450
CHRISTOPHER C WESTPHAL, 2304
PAUL J WEWERS, 7254
MARK A WEYMOUTH, 5642
ANDREW T WILKES, 3230
JOHN E WILLIAMS, 5368
MICHAEL D WINN, 4313
JIMMIE I WISE, 8738
RICHARD J WITT, 9524
JOHN M YAKUBISIN, 0228
KANA YANG, 8094
RICHARD G ZEBER, 5764
BROOKE M ZIMMERMAN, 3462
JOHN W ZUMWALT, 0125

To be lieutenant junior grade

OSCAR D ANTILLON, 3721
CHARLES W BEAUFORT, 5370
BRADLEY A BENNETT, 8878
CHRISTOPHER M BROWN, 3285
MICHAEL C BRYAN, 0443
LENA C BUETTNER, 9079
DONALD J CALKINS, 8875
MELISSA S CARTER, 2172
LAKESHA A CHIEVES, 0503
MELISSA M CLARADY, 5796
SHAWN A COLEMAN, 2530
KELLEIGH A CUNNINGHAM, 5813
CONSTANCE L DANNER, 5948
SHANE H DERBY, 1243
JAMES W EVANS, 3999
MICHAEL A FERRARA, 3120
THEODORE J FOSTER JR., 5273
NATHAN J GAMMACHE, 3994
KEVIN A HAMMER, 3535
ROGER L HUFFSTETLER II, 6926
ANDREW C JAMES, 1222
ROBERT J JAMES, 6135
THOMAS R JENKINS, 2299
DENNIS W JENSEN, 0200
WILLIAM C KAYSER, 9557
JENNIFER L R KISER, 3464
CARL W KOCH, 3482
TIMOTHY B KUEHN, 8543
ROBERT F LANG III, 0213
TENILLE LATOURRETTE, 2011
JUSTIN C LEGG, 7682
ERIC D LOCKETT, 8382
BRETT M MCDANIEL, 6469
RONNIE R MCGILLVERY, 6001
CLINT W MILLER, 1059
MARK R MONAHAN, 2191
MARC M MORHACK, 5827
MARK E OCONNELL, 0824
WILLIAM A PALMER, 0253
JOSEPH H PETH, 1990
CHRISTOPHER J PRESSLER, 1488
SHAWN W PYLE, 1363
JOSHUA A ROBBINS, 4439
AARON D SHIFFER, 0617
DOUGLAS H STEELE, 0214
ERIK P ULMEN, 4453
GEOFFREY E WHITAKER, 4378
DONALD R WHITE, 5240
BRITTON D WINDELER, 3987
MATTHEW J WOLFE III, 4504
JOSHUA D WYNN, 5174
VICTORIA A YODER, 2440

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

JERRIS L BENNETT, 5432
TREMAYNE G CRINER, 2440
VINCENT D GARCIA, 8491
PATRICK D HANEY, 4513
TERESA A HURD, 6654
LANCE C LANTIER, 2608
CHRISTOPHER M NELSON, 8181
DAVID J REILLY, 4349
RONALD L STOWE, 4718
CHARLOS D WASHINGTON, 8115
DOUGLAS D WASKIEWICZ, 3730
JESSE J ZIMBAUER, 2351

HOUSE OF REPRESENTATIVES—*Friday, September 24, 2004*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. PETRI).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 24, 2004.

I hereby appoint the Honorable THOMAS E. PETRI to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, King of the Universe, as Jewish brothers and sisters begin their fast of Yom Kippur, may Americans all across this Nation spend some time this weekend in prayer and introspection upon our words and deeds. As we seek Your liberating forgiveness, Lord, may You strengthen our resolve to lead more virtuous lives as Your free people. Help us to find better ways to resolve difficulties and establish peace in this world. This we ask of You, the All Holy God, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The Speaker pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 3389. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations.

The message also announced that the Senate has passed a bill and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 2781. An act to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes.

S. Con. Res. 119. Concurrent resolution recognizing that prevention of suicide is a compelling national priority.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under clause 5(c) of rule XX, the Chair announces to the House that, in light of the resignation of the gentleman from Florida (Mr. GOSS), the whole number of the House is adjusted to 433.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 3 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 1630

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PETRI) at 4 o'clock and 30 minutes p.m.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2781. An act to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes; to the Committee on International Relations.

S. Con. Res. 119. Concurrent resolution recognizing that prevention of suicide is a compelling national priority; to the Committee on Energy and Commerce.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. on Tuesday next for morning hour debates.

There was no objection.

Accordingly (at 4 o'clock and 31 minutes p.m.), under its previous order, the House adjourned until Tuesday, September 28, 2004, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9739. A communication from the President of the United States, transmitting a request for a FY 2005 budget amendment for the the Department of Energy; (H. Doc. No. 108–219); to the Committee on Appropriations and ordered to be printed.

9740. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the grade of rear admiral (lower half) in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9741. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of General Paul J. Kern, United States Army, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

9742. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of General Ralph E. Eberhart, United States Air Force, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

9743. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the Board's semiannual Monetary Policy Report pursuant to Pub. L. 106-569; to the Committee on Financial Services.

9744. A letter from the Secretary, Department of the Treasury, transmitting an annual report to the President and to the Congress on the audit of the Telecommunications Development Fund, pursuant to 47 U.S.C. 614; to the Committee on Energy and Commerce.

9745. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to the Netherlands for defense articles and services (Transmittal No. 04-33), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9746. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services (Transmittal No. 04-31), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9747. A letter from the Secretary, Department of the Treasury, transmitting the

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

semiannual report detailing payments made to Cuba as a result of the provision of telecommunications services pursuant to Department of the Treasury specific licenses, as required by Section 1705(e)(6) of the Cuban Democracy Act of 1992, 22 U.S.C. 6004(3)(6), as amended by Section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, and pursuant to Executive Order 13313 of July 31, 2003, pursuant to 22 U.S.C. 6032; to the Committee on International Relations.

9748. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Germany (Transmittal No. DDTC 061-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9749. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Australia (Transmittal No. DDTC 069-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9750. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting Pursuant to section 565(b) of the Foreign Relations Authorization Act for FY 1994 and 1995 (Pub. L. 103-236), certifications and waivers of the prohibtion against contracting with firms that comply with the Arab League Boycott of the State of Israel, pursuant to Public Law 103-236, section 565(b) (108 Stat. 845); to the Committee on International Relations.

9751. A letter from the Deputy Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergency Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to terrorists who threaten to disrupt the Middle East peace process that was declared in Executive Order 12947 of January 23, 1995; to the Committee on International Relations.

9752. A letter from the Deputy Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergency Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c),and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1995; to the Committee on International Relations.

9753. A letter from the Deputy Chief, Administrative Law Division, Central Intelligence Agency, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9754. A letter from the Deputy Chief, Administrative Law Division, Central Intelligence Agency, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9755. A letter from the Deputy Chief, Administrative Law Division, Central Intelligence Agency, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9756. A letter from the Chief Executive Officer, Corporation for National and Community Service, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9757. A letter from the Manager, Human Resources Support Branch, Personal and Family Readiness Division, By direction of Commandant of Marine Corps, Department of transmitting the annual report for 2004 of the Retirement Plan for Civilian Employees ofthe United States Marine Corps Personal and Family Readiness Divison, and Miscellaneous Nonappropriated Fund Instrumentalities are also furnished, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform.

9758. A letter from the Archivist of the United States, National Archives and Records Administration, transmitting in accordance with Section 647(b) of Division F of the Consolidated Appropriations Act, FY 2004, Pub. L. 108-199, and the Office of Management and Budget Memorandum 04-07, the Administration's report on competitive sourcing efforts for FY 2003 and their planned ef forts for FY 2004; to the Committee on Government Reform.

9759. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney Canada PW206A and PW206E Turboshaft Engines [Docket No. 2003-NE-25-AD; Amendment 39-13775; AD 2004-17-03] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9760. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company 65, 90, 99, 100, 200, 300, and 1900 Series Airplanes [Docket No. 2004-CE-04-AD; Amendment 39-13774; AD 2004-17-02] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9761. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Grob Werke Gmbh & Co KG Models G102 CLUB ASTIR III, G102 CLUB ASTIR IIIb, and G102STANDARD ASTIR III Sailplanes [Docket No. 2004-CE-10-AD; Amendment 39-13776; AD 2004-17-04] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9762. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-10 Series Airplanes, Model MD-10 Series Airplanes, and Model MD-11 Series Airplanes [Docket No. FAA-2004-18978; Directorate Identifier 2004-NM-127-AD; Amendment 39-13780; AD 2001-14-08 R1] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9763. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE); CT7-2D1 Turboshaft Engines [Docket No. FAA-2004-18758; Directorate Identifier 2004-NE-24-AD; Amendment 39-13763; AD 2004-16-07] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9764. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34-3A1 and -3B1 Series Turbofan Engines [Docket No. FAA-2004-18648; Directorate Identifier 2004-NE-26-AD; Amendment 39-13773; AD 2004-15-03R1] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9765. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Aircraft Models 208 and 208B Airplanes [Docket No. 2002-CE-23-AD; Amendment 39-13772; AD 2004-17-01] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9766. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34-3A1 and -3B1 Series Turbofan Engines [Docket No. FAA-2004-18648; Directorate Identifier 2004-NE-26-AD; Amendment 39-13773; AD 2004-15-03R1] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9767. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200, -300, and -300F Series Airplanes [Docket No. 2002-NM-186-AD; Amendment 39-13768; AD 2004-16-12] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9768. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS-365N2, AS EC 155B, EC155B1, SA-365N and N1, and SA-366G1 Helicopters [Docket No. FAA-2004-18850; Directorate Identifier 2004-SW-19-AD; 39-13771; AD 2004-16-15] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9769. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Aircraft Company Models 172R, 172S, 182S, 182T, T182T, 206H, and T206H Airplanes [Docket No. 2004-CE-03-AD; Amendment 39-13752; AD 2004-15-18] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9770. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The New Piper Aircraft, Inc. Model PA-46-500TP Airplanes [Docket No. 2003-CE-52-AD; Amendment 39-13753; AD 2004-15-19] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9771. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes [Docket No. 2002-NM-302AD; Amendment 39-13751; AD 2004-15-17] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9772. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A310 Series Airplanes [Docket No. 2002-NM-344-AD; Amendment 39-13750; AD 2004-15-16] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9773. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations)Limited (Jetstream) Model 4101 Airplanes [DOcket No. 2001-NM-270-AD; Amendment 39-13740; AD 2004-15-06] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9774. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes [Docket No. 2002-NM-280-AD; Amendment 39-13742; AD 2004-15-08] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9775. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), and Model MD-88 Airplanes [Docket No. 2002-NM-215-AD; Amendment 39-13747; AD 2004-15-13] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9776. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330-202, -203, -223, and -243 Airplanes, and A330-300 Series AIrplanes [Docket No. 2003-NM-272-AD; Amendment 39-13746; AD 2004-15-12] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9777. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworhtiness Directives; Rolls-Royce plc RB211 Trent 800 Series Turbofan Engines [Docket No. 2003-NE-38-AD; Amendment 39-13736; AD 2004-15-02] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9778. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-200, -200C, -300, -400, and -500 Series Airplanes [Docket No. 99-NM-78-AD; Amendment 39-13738; AD 2004-15-04] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9779. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab Model SAAB SF340A Series Airplanes [Docket No. 2002-NM-319-AD; Amendment 39-13744; AD 2004-15-10] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9780. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2004-NM-47-AD; Amendment 39-13754; AD 2004-15-20] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9781. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Air Tractor, Inc. Models AT-401, AT-401B, AT-402, AT402A, AT-402B, AT-501, AT-502, AT-502A, AT-502B, AT-503A, AT-602, AT-802, and AT-802A Airplanes [Docket No. 2004-CE-05-AD; Amendment 39-13749; AD 2004-15-15] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9782. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model DHC-8-101, -102, -103, -106, -201, -202, -301, -311, and -315 Airplanes [Docket No. 2003-NM-285-AD; Amendment 39-13743; AD 2004-15-09] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9783. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A310 Series Airplanes [Docket No. 2003-NM-279-AD; Amendment 39-13741; AD 2004-15-07] (RIN: 2120-AA64) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9784. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notice of the completion of negotiations and signed subsidiary agreements to the amended Compacts of Free Association with the Republic of the Marshall Islands (RMI) and the Federated States of Micronesia (FSM) with regard to the future United States provision of disaster assistance, pursuant to Public Law 108—188, section 105(f)(1)(A)(iii); jointly to the Committees on International Relations and Resources.

9785. A letter from the Principal Deputy Under Secretary for Policy, Department of State, transmitting a report, prepared on behalf of the President, on progress in Kosovo toward achieving militarily significant benchmarks during the period July 1 to December 31, 2003, pursuant to Public Law 106—398, section 1212(c); jointly to the Committees on Armed Services, International Relations, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4077. A bill to enhance criminal enforcement of the copyright laws, to educate the public about the application of copyright law to the Internet, and for other purposes; with an amendment (Rept. 108–700). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HASTERT (for himself, Mr. DeLay, Mr. Blunt, Ms. Pryce of Ohio, Mr. Hoekstra, Mr. Hunter, Mr. Young of Florida, Mr. Sensenbrenner, Mr. Hyde, Mr. Tom Davis of Virginia, Mr. Oxley, Mr. Dreier, Mr. Cox, Mr. Thomas, Mr. Nussle, Mr. Boehner, and Mr. Smith of New Jersey):

H.R. 10. A bill to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes; to the Committee on Intelligence, and in addition to the Committees on Armed Services, Education and the Workforce, Energy and Commerce, Financial Services, Government Reform, International Relations, the Judiciary, Rules, Science, Transportation and Infrastructure, Ways and Means, and Homeland Security (Select) for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WAXMAN (for himself, Mr. Lewis of California, Ms. Linda T. Sánchez of California, Mr. Lantos, and Ms. Watson):

H.R. 5147. A bill to designate the facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, as the "Evan Asa Ashcraft Post Office Building"; to the Committee on Government Reform.

By Mrs. MILLER of Michigan (for herself, Mr. Tom Davis of Virginia, Mr. Shays, and Mr. Carter):

H.R. 5148. A bill to provide improved security for driver licenses and State identity documents; to the Committee on Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HERGER:

H.R. 5149. A bill to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS (for himself and Mrs. Maloney):

H.R. 5150. A bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; to the Committee on Intelligence (Permanent Select).

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

426. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 770 memorializing the United States Department of Agriculture to reconsider its recent policy change relating to Pennsylvania'a Nutrition Education Program (PA NEP); to the Committee on Agriculture.

427. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 829 memorializing the Congress of the United States to award the Congressional Medal of Honor to Major Richard D. Winters; to the Committee on Armed Services.

428. Also, a memorial of the Legislature of the State of California, relative to Senate Joint Resolution No. 20 memorializing the Congress of the United States to disapprove the rule submitted by the Office of the Comptroller of the Currency relating to bank activities and regulations published at 69 Federal Register 1895 (January 13, 2004), so the rule will have no force or effect, and if necessary, consider legislation that will prevent the unilateral expansion of jurisdiction over financial institutions by federal regulators without the specific endorsement of the elected representatives of the United States Congress; to the Committee on Financial Services.

429. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 822 memorializing the President and Congress of the United States to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 935: Mr. CROWLEY.
H.R. 1214: Mr. OLVER.
H.R. 3558: Mr. GOODLATTE.
H.R. 3859: Mrs. LOWEY.
H.R. 4026: Mr. MORAN of Virginia.
H.R. 4399: Mrs. MALONEY and Mr. CROWLEY.
H.R. 4595: Mrs. NAPOLITANO.
H.R. 4610: Mr. GRAVES.
H.R. 4653: Mr. PAUL.
H.R. 4956: Mr. HOEFFEL and Mr. OWENS.
H.R. 5124: Mr. RENZI.
H.R. 5135: Mr. CASE and Mr. BLUNT.
H. Res. 768: Ms. MCCOLLUM, Mr. KIRK, Mr. BURTON of Indiana, Ms. MILLENDER-MCDONALD, Mr. WELLER, Mr. BALLENGER, Mr. KING of New York, Mr. MEEHAN, and Mr. MCGOVERN.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 11. September 21, 2004, by Ms. LEE, on House Resolution 748, was signed by the following Members: Ms. Barbara Lee, Bernard Sanders, Michael E. Capuano, Stephen F. Lynch, Alcee L. Hastings, Kendrick B. Meek, John W. Olver, Michael R. McNulty, Anna G. Eshoo, Dale E. Kildee, Diana DeGette, Leonard L. Boswell, Chris Bell, Brad Sherman, Eddie Bernice Johnson, Rosa L. DeLauro, Bill Pascrell, Jr., Hilda L. Solis, Ellen O. Tauscher, Raúl M. Grijalva, Karen McCarthy, David Scott, Tammy Baldwin, Albert Russell Wynn, Diane E. Watson, Louise McIntosh Slaughter, Julia Carson, Jim McDermott, Susan A. Davis, Danny K. Davis, Jane Harman, James R. Langevin, Lois Capps, Grace F. Napolitano, Joe Baca, Ted Strickland, Carolyn B. Maloney, Tim Ryan, Ken Lucas, Janice D. Schakowsky, Ben Chandler, Stephanie Tubbs Jones, Sherrod Brown, Lynn C. Woolsey, Nick J. Rahall II, Betty McCollum, Martin T. Meehan, Thomas H. Allen, Donald M. Payne, Nydia M. Velázquez, Timothy H. Bishop, James P. McGovern, John Conyers, Jr., Henry A. Waxman, Wm. Lacy Clay, John F. Tierney, Robert Wexler, Peter A. DeFazio, Rush D. Holt, John B. Larson, Artur Davis, Charles A. Gonzalez, G. K. Butterfield, Linda T. Sánchez, Sheila Jackson-Lee, Melvin L. Watt, Elijah E. Cummings, Rick Larsen, Michael M. Honda, Richard A. Gephardt, Xavier Becerra, William D. Delahunt, Rahm Emanuel, Michael H. Michaud, Carolyn McCarthy, Martin Olav Sabo, Nancy Pelosi, Denise L. Majette, Barney Frank, Stephanie Herseth, David E. Price, Zoe Lofgren, Bart Stupak, Bob Etheridge, Ciro D. Rodriguez, Jerrold Nadler, Dennis J. Kucinich, Robert A. Brady, Vic Snyder, Patrick J. Kennedy, Jim Matheson, Mike Ross, Adam B. Schiff, Steve Israel, Bob Filner, Carolyn C. Kilpatrick, Mike Thompson, Darlene Hooley, Steven R. Rothman, Steny H. Hoyer, Ed Case, Shelley Berkley, Nick Lampson, Rubén Hinojosa, Ron Kind, Maxine Waters, Tom Lantos, Gregory W. Meeks, Gene Green, Silvestre Reyes, Lane Evans, Edward J. Markey, Michael F. Doyle, James E. Clyburn, Chris Van Hollen, John Lewis, Charles B. Rangel, Edolphus Towns, Robert C. Scott, James L. Oberstar, Jim Cooper, Frank Pallone, Jr., Joseph M. Hoeffel, Bobby L. Rush, Juanita Millender-McDonald, Major R. Owens, Corrine Brown, Lloyd Doggett, Jesse L. Jackson, Jr., Marcy Kaptur, Robert E. Andrews, Howard L. Berman, Mike McIntyre, John D. Dingell, Martin Frost.

SENATE—*Friday, September 24, 2004*

The Senate met at 10:04 a.m. and was called to order by the Honorable GORDON H. SMITH, a Senator from the State of Oregon.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God our shield, the giver of victory and honor, shine on us with Your kindness and bring us the rich harvest of joy. Lord, through many dangers You have brought us and we would not be guilty of ingratitude. Thank You for the catastrophes that haven't happened, for the unseen angels who have guarded our land and those we love. Help us to remember that all efforts to defend ourselves will fail without Your sovereign will and loving providence. May we not place our trust only in our ingenuity and courage, but instead lean on You, the Lord our God.

Today guide us with Your gentle spirit and lead us to right paths. Bless our lawmakers. May they trust You completely and permit You to clear the road ahead. Train them in Your school of humility so they will walk safely and never stumble. Give them the wisdom to obey Your teachings so they will live long and prosper.

We pray this in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable GORDON H. SMITH led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 24, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GORDON H. SMITH, a Senator from the State of Oregon, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SMITH thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The assistant majority leader is recognized.

SCHEDULE

Mr. McCONNELL. Mr. President, this morning, the Senate will be in a period for morning business to accommodate several Members who have statements to make. I do not anticipate a long session today, and once we complete our business, we will adjourn until Monday. As we announced last night, no rollcall votes will occur during today's session of the Senate.

As a reminder to Senators, on Monday we will begin consideration of the intelligence reform bill. No rollcall votes will occur on Monday. However, we anticipate that amendments will be offered and debated during Monday's session. Any votes ordered with respect to those amendments will occur Tuesday morning. Therefore, Senators can expect the next vote or votes to occur sometime Tuesday morning. As always, we will notify our colleagues as any votes are ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The assistant Democratic leader is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, we have two Senators on our side who wish to speak: Senator WYDEN for 10 minutes and Senator DORGAN. On behalf of Senator DORGAN, I ask unanimous consent that he be allowed to speak for up to 40 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, we have at least one Senator who would like to speak on this side who should be here shortly.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

TRADE

Mr. DORGAN. Mr. President, I was intending to speak earlier this week on the subject of trade, but because of the Senate schedule I decided to wait until today, when we don't have Senate business that would require votes.

Before I get to the subject of trade, I first want to mention that this morning in the Congressional Daily, there is a lead story that says:

> Growing GOP resistance might doom farm money in homeland funding bill.
>
> It says here that House Republican leaders are digging in against a package of drought assistance that Senators added to the Homeland Security appropriations bill.

The House Republican leaders say that the drought amendment doesn't have a head of steam.

I am wondering how is it these leaders seem to think that spending is very important when it comes to funding the reconstruction of Iraq—which ran through here like a big old truck in fifth gear—but when it comes to spending here at home to help people, in this case helping family farmers through a real tough time, they say we don't know that we can do that. They are going to dig in our heels.

The Senate passed disaster relief for farmers. We also supported disaster relief for the victims of hurricanes. I have never in all the time I have been in Congress opposed disaster relief for those who have been victims. It seems to me, whether it is the fury of a hurricane that hits your area or drought or some other act of nature or God, when people are victimized, the rest of this country will extend its hands and say, you are not alone, we want to help. And we have always done that.

For those poor folks in Florida and the rest of the Southeast who have been hit by hurricane after hurricane, we have a responsibility to help them and we did and we will. We will do more. But it is also the case, for example in my State, where torrential rains meant that 1.7 million acres of ground couldn't even be planted and family farmers who rely on that planting to make a living will lose their opportunity and perhaps lose their farm if they don't get help. In August there was a freeze, and that freeze dramatically injured crops. And there was a drought in the southeast part of my State, where between January and July they received 2.2 inches of moisture in 6 months, and they too need some hope.

So when we pass disaster assistance, whether it is for the hurricane victims or for those in agricultural areas that suffer weather-related disasters, and then we hear that there is opposition to this by the GOP in the House of Representatives, I ask myself this: Why is it that they are so anxious to help everybody except the people in this country?

I offered an amendment last year on the floor of the Senate to strip about $20 billion out of the bill for Iraq reconstruction which the President sent to us. That was the single largest cut in spending proposed on the floor of the U.S. Senate last year. Why did I offer that amendment? Because the President said, let's spend this money for reconstructing Iraq, when, in fact, Iraq has plenty of money to reconstruct itself. Iraq has the second largest reserves of oil in the world. It is perfectly capable, especially with oil prices where they are. Iraq is now pumping slightly less than 3 million barrels a day—about 2.5 million. But they clearly have the capability to pump oil and sell the oil and raise the money to reconstruct themselves.

Instead, what we have is a roads program in Iraq paid for by the American people; we have an education program in Iraq paid for by American taxpayers; we have a jobs program in Iraq paid for by American taxpayers; we have a health care program for Iraq paid for by American taxpayers. You name it, We have all of these programs in Iraq paid for by us, the American taxpayers. The supporters of that bill were rushing to get that through the Congress and couldn't get it through quickly enough.

Now when some folks in this country are hurting and we pass a disaster relief bill to say, you are not alone, we want to give you some help, we have the GOP leaders in the House saying, you can't do that. Why not? That is investing here at home, at least. You were so quick to rush $20 billion to Iraq to reconstruct Iraq; how about returning some money to help those family farmers who have suffered weather-related disasters?

This isn't over. There is going to be a big fight. If that is the attitude of other side, we are going to have a big fight about this because we owe it to those producers across the country who live on the land, who go to the fields in the morning alone to plow with nothing but hope that somehow things will work out. When they have weather-related disasters, they too need some help. They too deserve our help. So this is going to be a big fight.

We are not going to sit idly by and have GOP leaders in the House say that this isn't going to happen. It is going to happen one way or the other. We are going to make this happen. If we can spend nearly $20 billion on reconstruction in Iraq, this country can surely open up its pocketbook and provide some much needed help for family farmers in a significant part of this country who have suffered weather-related disasters. That is a fact.

INTERNATIONAL TRADE

Mr. DORGAN. Mr. President, I wanted to come to the Senate floor to speak about international trade, a subject about which I've spoken many times before.

I have just finished reading a book by Lou Dobbs. It is a quite remarkable book. And I wanted to share some of its observations with my colleagues.

At the outset, let me say that Lou Dobbs describes himself in this book as a lifelong Republican. This issue of trade is not the ideas of one political party or the other; the book is about a failed trade strategy which undermines the strength of this country by shifting American jobs overseas. The title of his book is "Exporting America: Why Corporate Greed is Shipping American Jobs Overseas."

Lou Dobbs has been vilified for writing this book. But it is a rare and wonderful book. I am not in the business of selling anybody's books, but to those who are interested in this issue of what is happening to American jobs, who are interested in what is happening with our trade strategy, this is a good book to read.

We have lost nearly 2 million private sector jobs in this President's term, a fair amount of it to outsourcing. The outsourcing issue is one we need to explore in some depth.

I offered an amendment on the Senate floor not long ago. It says, let us eliminate out of our tax system incentives for American companies to shift their jobs overseas. If companies decide to ship jobs overseas, we ought not give them a tax break. That makes no sense at all.

Now, on page 19 of this book, Mr. Dobbs writes:

> . . . American multinational companies that are outsourcing and offshoring are also essentially firing their customers. India can provide our software; China can provide our toys; Sri Lanka can make our clothes; Japan can make our cars. But at some point we have to ask, what will we export? At what will the Americans work? And for what kind of wages? No one I've asked in government, academia, or even the private sector has been answering those questions.

On page 31, Mr. Dobbs says:

> Big business is saying that all we need to do to become the most competitive nation on Earth is to cut wages, throw out our environmental, worker safety, investor protection, product liability, and consumer laws, and eliminate corporate tax obligations altogether—and while we're at it, let's repeal those unfriendly antitrust laws. There's no doubt the result would be sharply lower wages and higher profits, but the result would also be a plummeting standard of living and the shattering of the American dream.

For writing a book that expresses a radical thought that we ought to be standing up for American jobs and try to find ways to stop shipping American jobs overseas, Mr. Dobbs has been wildly vilified.

The executive director of the Business Roundtable says this of Mr. Dobbs:

> It's as if whatever made Linda Blair's head spin around in The Exorcist had invaded the body of Lou Dobbs and left him with the brain of Dennis Kucinich.

That's from John Castellani, executive director of the Business Roundtable. It is such a colorful quote. But it isn't even original. Daniel Henninger of the Wall Street Journal had written those same words about Lou Dobbs just 2 months earlier.

Let me share a few other of Mr. Dobbs' observations. One of the points he makes, which I have also made on the floor of the Senate often, is that the actual rules of trade are now being set by corporations. They have no allegiance to nations, much less individual communities or towns. They certainly have no allegiance to government. And the corporations set the rules of trade. Mr. Dobbs says:

> Corporations have overwhelmed governments in the borderless global economy. And corporate logos in many cases have more powerful symbolic importance than national flags. In part, that's because more than half of the largest 100 economies in the entire world are corporations.

Mr. Dobbs in his book used figures from the year 2000 to come up with his conclusions. At the time, Wal-Mart was equivalent to the 25th largest economy in the world. I have actually looked at the figures from 2003. What you see is that Wal-Mart, when you compare countries and corporations by size, is number 20 in the world. Wal-Mart is bigger than Austria, Indonesia, Sri Lanka, Saudi Arabia, Pakistan, Turkey, Denmark, and Poland, to name a few. But, then, the list of top 100 economies also includes ExxonMobil, so is General Motors, Royal Dutch/Shell, Ford Motor, DaimlerChrysler, and dozens of other corporations.

On page 40 of his book, Lou Dobbs says this:

> We might begin by reminding our business leaders and politicians that Americans want to be regarded as citizens, not just consumers, and that they need to see this country of ours first as a nation, not [just] a marketplace.

It seems to me it is a good starting point for this discussion. There is so much effort these days to outsource almost everything, not understanding that it begins to diminish and erode the basic economic strength of our country.

> Forty state governments are now outsourcing what were American jobs.

Again, this is from Mr. Dobbs's book.

> The state of Indiana's Department of Workforce Development is responsible for helping out of work Indiana citizens find jobs. Ironically, the department awarded a $15 million contract to update its computers to a firm in Bombay, India. The project would have provided employment to sixty-five workers coming from India on L–1 visas.

Why would they do that? Because of the millions of dollars it would save. But I expect the taxpayers of Indiana would have preferred their tax dollars be used to help those who are out of work in Indiana.

Again, this is quoting Lou Dobbs:

> Only after a loud public outcry did the governor of Indiana cancel the contract.

A recent survey found that 40 States plus the District of Columbia have food stamp help desks that use operators in foreign countries.

In January of 2004, the Times of India ran a story with this headline: "Silicon Valley Falls to Bangalore." It says:

> BANGALORE: The inevitable has happened. Bangalore, which grew under the shadow of America's Silicon Valley over the last two decades, has finally overtaken its parent.
>
> Today, Bangalore stands ahead of Bay Area, San Francisco and California, with a lead of 20,000 techies, while employing a total number of 150,000 engineers.

Service jobs are being exported from this country. It is true in almost every single area.

Massachusetts General Hospital had a firestorm on its hands when it was learned that the hospital was sending x rays and MRIs to India for examination, even though it is illegal for technicians in India to diagnose U.S. patients. And even though Medicare does not pay for work done outside the United States, hospitals have found a way around that. They just have an American doctor do a cursory review of the work and then sign off on it.

This again is from Lou Dobbs's book.

Recently, we had a statement by Mr. Greg Mankiw, who is the head of domestic policy, the top economist in the Bush administration, that caused a great deal of consternation. He said that this administration supports outsourcing.

Lou Dobbs, I think correctly, points out in his book that both Democratic and Republican administrations have done very little to address these issues and, in fact, in many cases have made them worse. So this is not about one party or the other. Neither political party, in my judgment, has developed a set of policies that would address this. I think both political parties have largely been silent on this issue or have done things that have made this problem worse.

But the current administration has said that outsourcing is really a good policy. In February, the Los Angeles Times reported that the administration, the White House, was endorsing outsourcing.

This is what Lou Dobbs had to say about Mr. Mankiw. He said:

> A number of people on Capitol Hill thought Mankiw should have resigned, but I disagreed. On my broadcast . . . I called for the President to fire him. Not merely because I obviously disagreed with him, but because Mankiw's statement raised the administration's support of overseas outsourcing to a declaration of government policy.

To drive home the point, Mr. Mankiw, the chairman of the President's Council of Economic Advisers, told reporters that the President plainly supported shifting jobs overseas, provided those jobs could be done more cheaply overseas. This is what Mr. Mankiw said to reporters:

> Outsourcing is just a new way of doing international trade.
>
> More things are tradable than were tradable in the past. And that's a good thing.
>
> Maybe we will outsource a few radiologists. What does that mean? Well, maybe the next generation of doctors will train fewer radiologists and will train more general practitioners or surgeons. . . . Maybe we have learned that we don't have a comparative advantage in radiologists.

And the President's report said this about outsourcing:

> One facet of increased services trade is the increased use of offshore outsourcing in which a company relocates labor-intensive service industry functions to another country.

In fact, the President's report says when it comes to trade, white-collar jobs should be no different from manufacturing jobs.

Well, after many of us raised some real questions about this, including Lou Dobbs, the White House spokesman, Scott McClellan said:

> We certainly don't want to do anything that would undermine free trade.

Mr. Dobbs concludes: I believe this is a declaration of Government policy with respect to outsourcing.

So this is what is happening in the private sector with respect to the outsourcing of jobs.

The Wall Street Journal ran a feature article that I read some while ago that was interesting to me. It was an article on IBM's outsourcing practices. It described internal company memos which described a strategy to systematically outsource American jobs overseas.

This is from an IBM memo. It says: "Do not be transparent regarding the purpose/intent" and cautions that the "Terms 'On-shore' and 'Off-shore' should never be used." The company expects to shift about 3,000 jobs from the U.S. overseas. So they advise managers on how to communicate the news to the affected employees. The memo says that anything written to employees should first be "sanitized" by human resources and communications staffers.

The plan IBM had, according to the Wall Street Journal, would move jobs from U.S. locations, including Connecticut, New York, North Carolina, and Colorado. It would transfer them to India, to China, and to Brazil. It says:

> Some of the foreign programmers will come to the U.S. for several weeks of on-the-job training by the people whose jobs they will take over.

That's an aspect of offshoring that many high-tech workers regard as particularly humiliating.

So this internal memo directs managers to say this to workers about to lose their jobs:

> This action is a statement about the rate and pace of change in this demanding industry. . . . It is in no way a comment on the excellent work you have done over the years.

So see you later. We are going to move your job to India or China or Brazil. Thank you. You have done excellent work. The fact that you have lost your job is in no way a comment on the excellent work you have done.

Now, what are our trade officials doing about this? I will tell you what—they are trying to facilitate even more outsourcing, by enabling corporations to use even cheaper overseas labor.

Let me review some of the trade agreements we have been doing recently. Let me talk about CAFTA, the Central American Free Trade Agreement. This would integrate our economy with that of El Salvador, among others.

This is from a recent news story, describing how El Salvador is scarred by child labor. Subsistence work in sugarcane fields leads to injuries, continuing poverty.

> Jesus Franco, 14 years of age, has scars crisscrossing his legs from his ankles to his thighs and more on his small hands. For more than half of his young life, he has spent long days cutting sugarcane. He has the machete scars to prove it, and so do his four sisters, age 9 to 19. His story is repeated countless times across Latin America, where children even younger than he are found working in cane fields at subsistence wages, $75 a month, which isn't even enough to pay for basic food needs.

So we are now going to integrate our economies with those of El Salvador, Guatemala, Honduras, and Costa Rica in a Central America Free Trade Agreement and set up our sugar producers for failure. That is what this is about, among other things.

Let me tell you about some kids who came to a hearing we had, who were working in a factory overseas producing rugs. These were kids who were locked in the factories, young kids 10, 11, 12 years old, producing carpets and rugs. We discovered that some of them had gun powder put on the tips of their fingers, and then it was lit so that it would burn the tips of their fingers and create big scars on all their fingertips. They did that so that when these young kids were sewing with needles, when they stuck their fingers, it wouldn't hurt because they had been scarred by the burns. Young kids with scarred fingers using needles to produce carpets to be sent to our stores. Free trade? Hardly.

Let me give some other examples. I have spoken often about Huffy bicycles. They were made in Ohio, manufactured in a plant by people who made $11 an hour and were proud of their jobs. Huffy bicycles were 20 percent of the American marketplace for bicycles. They were sold in Sears and Wal-Mart and K-Mart. Huffy bicycles had a decal on the front of the American flag.

Well, Huffy bicycles aren't made in the United States anymore. They are made in China. They closed the plant, fired the workers, and said: $11 an hour is too much for workers in Ohio who make bicycles. We will make them in China. And, by the way, the last job was to take the flag decal off the bike and replace it with a decal of a globe. Now Huffy bicycles, if you buy them, are made in China, made by people who work for 33 cents an hour. They work 12 to 14 hours a day, 7 days a week. Should we compete with that? Can we compete with that, with kids and others making 33 cents an hour? Huffy bicycles are gone. The people in Ohio who made them were fired. And Chinese workers now work 7 days a week at 33 cents an hour to make Huffy bicycles.

Another American company that moved its production overseas is Radio Flyer. They made the little red wagons. Everybody has ridden in a little red wagon. It was American for 100 years. This is pure Americana, except Radio Flyer is not made here any longer. After 100 years, the jobs of the American people who made the little red wagon are gone. The workers were fired. The jobs moved to China for low labor costs.

The list goes on and on. Fig Newton cookies. That is an all-American cookie. Every kid grew up with a Fig Newton cookie someplace on the shelf. But Fig Newton cookies are now made in Mexico. So when someone says to you, let's have some Mexican food, you can say: How about Fig Newtons. They left the United States. The people who made them are out of jobs.

The list goes on and on and on. The question is, Where will it end and when will it end? Should American workers be asked to compete with a 14-year-old working in a sugar field for subsistence wages? Should American workers in a textile plant be asked to compete with a 9-year-old kid who has gun powder burns on his or her fingertips to spare them the pain of the stabbing of needles when they make the carpets? Should an American worker be asked to compete with someone who makes 33 cents an hour working in a plant in China making bicycles or Radio Flyer little red wagons?

Let me describe the plight of a young woman in China and describe the circumstances under which we are asked to compete these days by those who want to find the lowest wages available on the face of the Earth and fatten profits, even while they diminish the standard of living. This is a story from the Washington Post. It is entitled "Worked Till They Drop. Few Protections for China's New Laborers."

This picture is of a girl named Li Chunmei.

It reads:

> On the night she died, Li Chunmei must have been exhausted.
>
> Co-workers said she had been on her feet for nearly 16 hours, running back and forth in the Bainan Toy Factory, carrying toy parts from machine to machine. This was the busy season before Christmas when orders peaked from Japan and the United States for the factory's stuffed animals.
>
> Long hours were mandatory, and at least two months had passed since Li and the other workers had enjoyed even a Sunday off.
>
> Lying on her bed that night, staring at the bunk above her, the slight 19-year-old complained she felt washed out. The factory food was so bad, she said, she felt as if she had not eaten at all. "I want to quit," one of her roommates . . . remembered her saying. "I want to go home."
>
> Her roommates had already fallen asleep when Li started coughing up blood. They found her in the bathroom a few hours later, curled up on the floor, moaning softly in the dark, bleeding from her nose and mouth. Someone called an ambulance, but she died before it arrived.
>
> The exact cause of her death remains unknown. But what happened to her last November in this industrial town in southeastern Guangdong Province is described by family, friends, and co-workers as an example of what China's more daring newspapers call . . . "over-work death."
>
> The story of her death highlights labor conditions that are the norm for a new generation of migrants of workers in China, tens of millions of migrants who flock from the nation's impoverished countryside to its prospering coast.

The question for this country is, Do we want to ask the American consumer to compete against companies that work a young girl to death, that put a young boy in a cane field with scars on his legs and arms, or put a young child in a factory making carpets? Is that what we want to ask our economy to do? Clearly that is importing low wages to this country. It is not just exporting American jobs, it is importing low wages.

I want to turn for a moment to a Nobel prize-winning economist named Paul Samuelson. I studied Samuelson in college.

Samuelson wrote the textbook on economics. If you went to college in the last 30, 40 years, you studied Samuelson. Professor Paul Samuelson is now 89 years old.

I have such respect for this man, Paul Samuelson. He has, just this month, started weighing in, at age 89, on the issue of outsourcing.

He has always been a free trader, a believer in Ricardo and the doctrine of comparative advantage, and Adam Smith. You know, the common sense notion that if you can produce the textiles in England—the sheep and the wool and the textiles—and you can raise the grapes in Portugal to produce the wine, it makes good sense for England to trade the textiles for the wine, and the English can drink and the Portuguese can wear wool. That is the trade we have all learned in textbooks—classic economics, the doctrine of comparative advantage.

The New York Times reports, however, that Paul Samuelson is rethinking the effects of outsourcing.

> At 89, Paul Samuelson, the Nobel Prize-winning economist and professor emeritus at MIT, still seems to have plenty of intellectual edge and the ability to antagonize and amuse. His dissent from mainstream economic consensus about outsourcing and globalization will appear later this month in a distinguished journal, cloaked in clever phrases and theoretical equations, but clearly aimed at the orthodoxy in his profession.

I will give you a couple quotes:

> Being able to purchase groceries 20 percent cheaper at Wal-Mart does not necessarily make up for the wage losses.
>
> If you don't believe that outsourcing changes the average wages in America, then you believe in the tooth fairy.

That is Paul Samuelson, speaking today.

The fact is, when we talk about the issue of trade and fair trade, for some reason, we have just lost common sense.

Let me describe our trade with Korea in the area of automobiles. In 2003, we imported from Korea 692,000 cars. Guess how many American cars we sold in Korea? We sold 3,800. I will say that again. Ships brought Korean cars here, nearly 700,000 of them, and we were able to sell not quite 4,000 cars in Korea. Why is that? Is it because we produce a dramatically inferior car? No. The Koreans want access to our marketplace. They want to sell to the American consumer, but they don't want American vehicles in Korea. They just don't.

We sit around thumbing our suspenders and smoking cigars and pontificating about free trade, never willing to say to the Koreans: If you want to trade with us, I will tell you what, then be fair. If our market is open to you, your market must be open to us. If not, sell your cars in Zambia. Go try to sell them there. You don't sell them in the American marketplace unless your market is open to our product.

How about China? It is interesting. We did a bilateral trade agreement with China. I would love to find the negotiator who made that deal for us.

Here is what our negotiator agreed to. After a phase-in, the Chinese will impose a 25-percent tariff on American cars that would be sold in China. And we will only have a 2.5-percent tariff on

Chinese cars they want to sell in the United States. The Chinese can have a tariff 10 times the size of ours on reciprocal automobile trade.

I think that is stark raving nuts. Who on Earth could have negotiated such an incompetent deal? Do we not have people who will stand up for the interests of this country for a change?

Here is what I suggest for that trade negotiator. That trade negotiator should have worn this shirt during the negotiations.

You know we just finished the Olympics. We asked the Olympic athletes to wear a uniform so we could look down and see where they are from, and it always says USA. God bless them. I would love our trade negotiator, just once, to wear a uniform that says USA.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DORGAN. Madam President, I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I would love, just once, to ask our trade negotiators to wear a uniform so at least they know on whose behalf they are negotiating.

I am so tired of what is happening in international trade negotiations. Will Rogers said, 70 years ago, that the United States of America has never lost a war and never won a conference. He must surely have been thinking about our trade negotiators. It doesn't matter what it is—the United States-Canada FTA, CAFTA, NAFTA, WTO—all our negotiators have to do is show up and lose. They do it routinely.

This isn't a partisan issue, international trade. I think both Republicans and Democrats have let this country down. We need a new trade strategy.

Globalization is here, that is true. We are not going to turn back globalization, but we at least, by God, ought to have rules that are fair to this country and to the workers of this country and to the businesses of this country that do business here and stay here.

I have one final point. This Senate did not even have the strength and the backbone to at least shut down the perverse tax incentives that reward companies that export U.S. jobs. If we cannot take the first baby step in the right direction, it is a pretty hopeless situation.

We will have an opportunity to address these issues next year. I hope Republicans and Democrats today will decide in unison that exporting these jobs hurts this country, and there are policies and approaches we can do to change the fortune of this country's economic future.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I ask unanimous consent that I be allowed to speak in morning business for so much time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. CORNYN. Madam President, I want to talk a little bit about the war in Iraq and what I consider to be a larger problem confronting this Nation, indeed, confronting the American people, particularly during an election year. It is really a challenge we all have, and that is how, in a country that is founded on the legitimacy of our laws, being founded on consent of the governed, how do the people know what is happening, not just in their Government but in the world? How do they get good information?

I will give an example. Two nights ago, I received a call from one of my constituents in Lubbock, TX, who said he had heard we were going to reinstate the draft because of concerns about Iraq and Afghanistan and American forces being spread too thin. Of course, I told him we have more than 2.5 million men and women in uniform, including our Active Duty, our Reserves, and our National Guard. I said the phrase I have come to use often, and that is that we are out of balance, but we are not out of troops.

Secretary Rumsfeld yesterday spoke before the Armed Services Committee—the distinguished Presiding Officer, of course, is a member of that committee and heard those remarks as well—that we are in the process of restructuring our military forces so we can access more of those forces, so we can put those troops where they need to be. That is a process that is part of the global posture review and certainly the Base Realignment and Closure Commission process that goes forward next year, all of which falls under the heading of transformation.

Getting back to the question my constituent asked—which is, I am worried because I hear that we may reinstate the draft—I asked Secretary Rumsfeld that very question. Indeed, I alluded to a statement that had been made the day before by the Democratic Presidential nominee where it was said that it was possible that the President would reinstate the draft to handle the war in Iraq if President Bush was reelected. This statement followed on a charge last week that the President was planning a surprise postelection callup of additional Guard and Reserve troops.

I asked the Secretary of Defense, Secretary Rumsfeld, for the record: Are there any plans for a postelection callup of additional Guard and Reserve troops, and is there any truth to this rumor that the President plans to reinstate the draft?

He gave a very spirited response, but the bottom line is he said: That is nonsense. It is not true. It is false.

I guess if he could find other ways to try to get that message through, he would do that. I cannot remember if it was Mark Twain who said rumor makes it halfway around the world while the truth is still putting on its shoes, or something to that effect. It is in that vein that I come to the floor of the Senate to talk about Iraq.

Let me start by sharing the results of a recent nationwide poll of the Iraqi people conducted by the Independent Institute for Administrative and Civil Society Studies. I refer to this poll because, of course, like the distinguished Presiding Officer, I am sure she has experienced troops who have been in Iraq and come back to the United States, who read the newspaper accounts, watch TV news, and do not recognize what they are seeing and reading because, indeed, the troops in Iraq, in addition to being everyday heroes, are well disciplined, morale is high, and they know they are doing an important job and they are getting the job done. But they come back to the States, read a newspaper and watch the news, and they are met with gloom and doom and pessimism about our prospects.

I worry—and I expressed this concern yesterday—that particularly in an election season, those of us who are in elected office need to be very careful and very responsible about our statements, even when we are in the heat of political combat, because we do not want to do anything that would have the consequence of demoralizing our troops or breaking the resolve of the American people as we fight this global war on terror.

But this poll of the Iraqi people I believe is important because it consisted of more than 2,300 household interviews and was distributed across Iraq's 18 provinces. Here are just a few of the interesting statistics this survey reveals:

A full 75 percent of the Iraqis expressed hopefulness about the future of the nation, and more than 70 percent say they would not leave their country even if they were given an opportunity to live elsewhere.

While earlier polls show the Iraqis were concerned with security, and that is obvious to all of us that they would be and should be, as we are, the Iraqi police and army are gaining the confidence of the Iraqi people to deal with their transition from a terrible, bloodthirsty dictator under Saddam Hussein to now this interim government leading up to full democratic elections in late January. More than two-thirds of the respondents expressed trust for the Iraqi men and women trying to bring about peace and stability and security—that is, the growing Iraqi Army and security forces—and, in fact, as the distinguished Presiding Officer knows, the single largest component of the coalition efforts in Iraq now are Iraqis. More than 238,000 Iraqis serve as part of that country's security force as we speak. As we have heard from Secretary Rumsfeld and others, that will continue to grow.

General David Petraeus is assigned the job of making sure they are trained. As we train more recruits to become good security forces in Iraq, it will decrease the pressure on America to provide those security forces and others of our coalition partners. That is good news to me and I am sure good news to people all across this country.

This same survey revealed that the interim government of Iraq is trusted by 65 percent of its citizens.

I wish all of us in elected office could claim those sorts of approval ratings in the United States, but I will not go there. The Iraqi courts and judges, the most important component of restoring respect for the rule of law in Iraq, are trusted by more than 64 percent of Iraqis responding to this survey of 2,300 households. More than 77 percent of those polled believe that holding regular, fair elections is the most important political right for the Iraqi people.

I will talk more to that in a moment, because I am afraid there are some who do not believe that the people of the Middle East are capable of democracy and doubt their aspirations for liberty. But 77 percent of those polled believe that holding regular, fair elections is the most important political right for the Iraqi people.

Finally, 58 percent of those polled believe that democracy in Iraq is likely to succeed. That is a far cry from the doom and gloom preached by some of the naysayers in this election season and, indeed, some of what we see on our televisions and read in our newspapers.

Yesterday, in a joint session of Congress, I had the honor to hear interim Prime Minister Allawi speak. He started out his remarks, after a few moments, with these words: Thank you, America. Thank you, America, for delivering the Iraqi people from a terrible dictator and tyrant in Saddam Hussein.

He went on to express his appreciation not only for the sacrifices of the men and women in uniform but to all of the people of this great country who hold the ideal of liberty, freedom, and opportunity as not just an American aspiration but something that everyone, every human being, aspires to.

I will quote from his remarks because they go to the heart of the pessimism that is expressed in some quarters about the Middle East and what is happening in Iraq. He said:

> Ladies and gentlemen, good will aside, I know that many observers around the world honestly wonder if we in Iraq really can restore our economy, be good neighbors, guarantee the democratic rule of law and overcome the enemies who seek to tear us down. I understand why, faced with the daily headlines, there are these doubts. I know, too, that there will be many more setbacks and obstacles to overcome.
>
> But these doubters risk underestimating our country and they risk fueling the hopes of the terrorists.

I will read that again because it is so important. Prime Minister Allawi said:

> But these doubters risk underestimating our country and they risk fueling the hopes of the terrorists.

He goes on to say:

> Despite our problems, despite our recent history, no one should doubt that Iraq is a country of tremendous human resources and national resources.
>
> Iraq is still a nation with an inspiring culture and tradition and an educated and civilized people. And Iraq is still a land made strong by a faith which teaches us tolerance, love, respect and duty.
>
> Above all, they risk underestimating the courage, determination of the Iraqi people to embrace democracy, peace and freedom, for the dreams of our families are the same as the dreams of the families here in America and around the world. There are those who want to divide our world. I appeal to you, who have done so much already to help us, to ensure they don't succeed.
>
> Do not allow them to say to Iraqis, to Arabs, to Muslims, that we have only two models of governments, brutal dictatorship and religious extremism. This is wrong.
>
> Like Americans, we Iraqis want to enjoy the fruits of liberty. Half of the world's 1.5 billion Muslims already enjoy democratically elected governments.
>
> As Prime Minister Blair said to you last year when he stood here, anywhere, any time ordinary people are given the chance to choose, the choice is the same: freedom over tyranny, democracy not dictatorship, and the rule of law not the rule of the secret police.
>
> Do not allow them to convince others that the values of freedom, of tolerance and democracy are for you in the West but not for us.
>
> For the first time in our history, the Iraqi people can look forward to controlling our own destiny. This would not have been possible without the help and sacrifices of this country and its coalition partners. I thank you again from the bottom of my heart.

Finally, the Prime Minister said:

> And let me tell you that as we meet our greatest challenge by building a democratic future, we the people of the new Iraq will remember those who have stood by us. As generous as you have been, we will stand with you, too. As stalwart as you have been, we will stand with you, too. Neither tyranny nor terrorism has a place in our region or our world. And that is why we Iraqis will stand by you, America, in a war larger than either of our nations, the global battle to live in freedom.

I believe that lengthy quote is worth hearing again because I also want to talk a minute about the nature of the threat we confront and that Prime Minister Allawi spoke of, not just a war confined to Iraq but indeed a global war on terrorism.

It was 3 years ago this month that we were forced to realize as a nation that the terrorist foe we had been fighting on the margin for years sought a more deadly goal than we ever suspected. The terrorist threat we battle today does not just seek victory over America; it seeks an extermination of our unity, our culture, our liberty, everything that makes America the envy of the free world today.

I think of recent expressions I have read. The 9/11 Commission did a very good job of expressing the nature of the threat Prime Minister Allawi spoke of and that we confront today. Under its recommendations, the 9/11 Commission said:

> The enemy is not just "terrorism." It is the threat posed specifically by Islamist terrorism, by Bin Ladin and others who draw on a long tradition of extreme intolerance within a minority strain of Islam that does not distinguish politics from religion, and distorts both.
>
> The enemy is not Islam, the great world faith, but a perversion of Islam. The enemy goes beyond al Qaeda to include the radical ideological movement, inspired in part by al Qaeda, that has spawned other terrorist groups and violence. Thus our strategy must match our means to two ends: dismantling the al Qaeda network and, in the long term, prevailing over the ideology that contributes to Islamic terrorism.

Skipping down a paragraph, they conclude from this reading:

> What should Americans expect from their government? The goal seems unlimited: Defeat terrorism anywhere in the world.

We have seen—and it is not a matter of taking my word for it or even the 9/11 Commission's word for it or Prime Minister Allawi's word for it—that the war we are fighting is not confined to Iraq. It is not confined to Afghanistan. In fact, I think those who suggest otherwise are ignoring the lessons of history, as well as the sage words of the 9/11 Commission, the Prime Minister, and others.

We have seen the evil works of this terrorist wave, and not just on 9/11. We saw the attack on the *USS Cole* in 2000, an attack that killed 17 American sailors and wounded 39. We saw the bombing in Bali in Indonesia 2 years ago. We see, it seems like with horrible regularity, Palestinian suicide attacks in Israel, and the United Nations compound car bomb attack in Iraq.

This year alone we have seen massacres in Madrid, the Twin Tupolev bombings in Russia, and the suicide car bomb attacks in Afghanistan and Iraq. Most recently, we have seen the butchery by terrorists who murdered children in the schoolyards of Beslan.

No, the war on terror is not limited to Iraq. It is not limited to Afghanistan. They are but fronts in the global war we are waging today. In fact, it was the combatant commander, the Central Command General John Abizaid, who only a couple of months ago admonished all of us in the Senate not to look at the war as though looking through a soda straw, not to look at what is happening in Afghanistan and at what is happening in Iraq and say this is all there is, this is reality. Indeed, some have even suggested that the war in Iraq is a diversion from the real war on terror. But, of course, that is flying in the face of the facts: the long litany of terrorist attacks in many different parts of the world, the presence of Al Qaeda forces and allies in Iraq, and, of course, what Prime Minister Allawi has said as well.

Indeed, during this political season when international affairs and the war on terror is a prime topic in political debates and discussions, there appears to be an attempt to decouple Iraq from the global war on terrorism, to suggest that it is a distraction. But I hope I have convinced those within the sound of my voice that cannot be true; that is not true. Indeed, I believe that argument is a disservice to the American people and our forces in the field, whose resolve must remain strong as we continue to fight this great scourge on humanity.

Under President Bush's leadership, despite the naysayers who claim this task could not be done, we have confronted this evil for what it is. We have employed the very best weapon America has to offer: the power of our ideals and the power of liberty. Even as we battle them around the world, the terrorists have flocked to specific points to battle us. As coalition forces liberated Iraq and Afghanistan, they have been attracted to Iraq and Afghanistan like moths to the flame. Why? Because they realize that their dark ideology of hate will not—cannot—survive the spreading light of freedom.

The spread of democracy, the new foundation of the rule of law, and the creation of fledgling representative governments that honor and respect human rights—together these actions spell out the increasing marginalization of the terrorists, as they have fewer and fewer places to run and hide. Ultimately, they herald the end of terrorism as we know it.

Of course, none of us asked for this task. We cannot erase 9/11, as much as our hearts desire it. We cannot change the past. But we must acknowledge that this responsibility has fallen to us—in this time, in this generation—and we must and we will win by fighting this enemy where they plot and plan, so we do not have to fight them on American soil.

I want to reiterate: We must always remain conscious in this body as elected officials, as representatives of our States and of this great Nation—we must always be conscious of the fact that the words we say, particularly during an election season, can have a broad and negative effect on the morale of our soldiers in the field. We must continue to give our forces all the support they need and stay focused on our goal. And while our enemies began this fight on their terms, we will finish it on ours.

We will widen the span of the democratic peace into places where the enemy trains and recruits. We will liberate the people held under the yoke of darkness and despotism for generations. And around the world we will hear the rumble of millions of people waking to discover that yes, at long last, they are free.

Madam President, the terrorists have heard a great noise in Iraq—and it is the sound of their doom.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

SECRET HOLDS

Mr. WYDEN. Madam President, I think if you walked down the streets of the small towns in North Carolina or Oregon and asked people what the "secret hold" is in the Senate, my guess is you would not find one out of a thousand people who would have any idea what this extraordinarily important rule is here in the Senate. As the President knows, it is possible for any Member of this body to put a hold on a bill or nomination, and do it in secret. It is one of the most extraordinary powers a Member of the Senate has.

Senator GRASSLEY and I have led, over more than 5 years, a bipartisan effort to try to change it, to have some sunlight over the secret hold. We have been fortunate to have the support of Senator LOTT and Senator DODD. Senator BYRD has been exceptionally helpful on it. I am very hopeful that we will finally get this changed when the Senate resumes in January, after the election.

Senator FRIST has been very kind meeting with us. He, of course, became the leader and had a lot on his plate besides the question of reform of Senate rules. But we saw again last week why this is so important. Right in front of the desks here in the front of our Chamber, we saw Senators scurrying around, trying to figure out who had a hold on their bill; who, in effect, was using in these last few days of our proceeding with our work before the election, who was holding up legislation they had worked on for months, and in a couple of cases, for years.

I think this is fundamentally wrong. The rules of this body and the precedents established, as Senator BYRD has taught us so well, make so much sense. But this is a flagrant example of abuse of the rules, to have in the last few days of a Senate session Senators scurrying about here in the front of the Chamber, trying to figure out who is objecting to something they have worked on.

I think we all ought to be held accountable. If you object to a nomination or a piece of legislation, fine. But with that right should come accountability. I am very hopeful we can get those rules changed. And in the spirit of changing those rules, Senator GRASSLEY and I have said we are in effect going to jump-start the process by making it clear that if we have an objection to the consideration of a nomination or a bill, we are going to come to the floor and announce it.

For that reason, I want to take a few minutes and outline why I publicly have placed a hold on the nomination of Deborah Majoras to chair the Federal Trade Commission. She now serves in a recess capacity. Of course, the FTC is the agency that is in a very strong position to protect the American consumer from price gouging at the gas pumps. But instead of doing its job, the Federal Trade Commission, in my view, has chosen to waste the taxpayers' money by very recently issuing a self-serving report that they use to justify their lack of enforcement action to block oil companies from merging.

In making these comments, I want to make it clear that there are a host of reasons why gasoline prices are going up. Worldwide demand is certainly a big factor. We see that higher demand is contributing to higher prices, particularly in the case of China. Certainly the mischief of OPEC is a very significant factor. Certainly the inability to put in place the kind of conservation practices our country needs in the transportation sector. There are a host of reasons why gasoline prices have soared. But the U.S. General Accounting Office (GAO), our independent body that audits these kinds of issues, said in an important recent study that the oil industry mergers the Federal Trade Commission keeps approving are a significant factor in why gasoline prices are so high.

In fact, the GAO found that the oil industry mergers that went through in the 1990s increased concentration in the oil industry significantly and increased gasoline prices for consumers by as much as 7 cents per gallon on the west coast of the United States.

Let us acknowledge there are a variety of reasons that gasoline prices have soared. But the GAO has found in an independent review that the policies of the Federal Trade Commission with respect to mergers have hammered the consumer, especially on the west coast of the United States, and in effect caused a shift of dollars out of the pockets of the consumer and into the pockets of those oil companies that benefit from these mergers.

In effect, the Federal Trade Commission again and again has tried to offer excuses for their inaction on this oil company merger issue. In their recent report, the Federal Trade Commission tries to excuse their inaction by claiming that gasoline prices at the pump are determined by world oil prices.

Again, no one disputes that can be a factor. But the record shows there is a lot more to this than the Federal Trade Commission's simplistic analysis.

Yesterday, for example, the price of a barrel of oil soared to $49 per barrel, just short of the all-time highest price on record. Yesterday's price is 15 percent higher than the price of oil was just before the Memorial Day weekend.

In effect, there is a 25-percent difference in recent gasoline prices that cannot be explained by the Federal Trade Commission's simplistic analysis. Clearly, there is a lot more going on in U.S. gasoline markets than can be accounted for by world oil prices alone.

In the hearings we held in the Commerce Committee, I have repeatedly cited the need on a bipartisan basis to make the case for why we need the Federal Trade Commission to do a better job of watchdogging these oil company mergers and protecting the consumer against anticompetitive practices.

I have asked repeatedly about this new study from the GAO. I have asked about the fact that the FTC issued a report which I think vastly oversimplifies the reasons why gasoline prices are so high and is an excuse to look the other way on this issue of oil company mergers. But the GAO is not alone in documenting how the Federal Trade Commission regulators have been missing in action when it comes to protecting the American consumer at the gas pump.

Since 2001, according to Bloomberg News, oil industry mergers totaling $19.5 billion have been unchallenged by the Federal Trade Commission. Bloomberg reports also that these unchecked mergers have played a role in contributing to the highest gasoline prices in the past few decades.

According to our review and the Federal Trade Commission's own records, the agency imposed no conditions on 28 of 33 oil mergers since 2001.

You can see the result of the Federal Trade Commission's inaction on this issue at gas stations in Oregon and across the country.

Nationwide, the GAO found that between 1994 and 2002, gasoline market concentration increased in all but four States. As a result of Federal Trade Commission merger policies, 46 State gasoline markets now face significant concentration which is almost double what we faced in 1994.

The Federal Trade Commission, oil industry officials, and consumer groups in effect now agree that in concentrated gasoline markets—and there are 46 gasoline markets, and I represent one of those markets—the oil companies do not need to go out and directly collude in order to raise prices. They don't need to go off to a steakhouse somewhere and sit down and in effect set the prices. The Federal Trade Commission's own general counsel said recently:

> It may be possible in selected markets for individual firms to unilaterally increase their prices.

So what you have is the Federal Trade Commission's general counsel in effect admitting that the oil companies in these concentrated markets have so much clout that in specific instances, they can price gouge with impunity.

Despite all of the evidence that gasoline markets around the country have become concentrated, and in these concentrated markets, individual firms can raise prices and extract monopoly profits, the Federal Trade Commission sits on its hands.

The General Accounting Office, in a May 2004 report, identified two major changes that even occurred in the gasoline market as a result of the wave of oil industry mergers and increased concentration during the 1990s.

> First, the availability of generic gasoline, which is generally lower priced than branded gasoline, had decreased substantially. Second, refiners now preferred to deal with large distributors and retailers which has motivated further consolidation in distributor and retail markets. The net results of these changes are likely to be higher prices and fewer choices for consumers when they purchase gasoline, especially in the concentrated markets. We have seen almost a doubling of the markets that are concentrated in recent years.

Despite the troubling findings of the General Accounting Office's report, Deborah Majoras has given no indication that she would in any way change the Federal Trade Commission's review of oil mergers. My sense is that Ms. Majoras hopes the General Accounting Office report disappears, that somehow Members of the Senate, who are busy and have lots of assignments, are going to go on to other things and are going to forget about this report which documents that the policies of the Federal Trade Commission are hammering the people I represent in Oregon and up and down the west coast.

As far as I could tell, when she is not trying to ignore the General Accounting Office report, she has taken steps to discredit the work of the General Accounting Office as she did in a letter to me.

An additional reason for my concern is that at virtually every opportunity, Deborah Majoras passes on the opportunity to even use her office as a bully pulpit to say that she is concerned about this issue. When she came for her confirmation hearings, she didn't even mention high gasoline prices among the issues she thought warranted consideration in her opening statement.

She didn't provide one significant new action she would take to address this urgent consumer issue. On August 16, Ms. Majoras received a recess appointment, and in the weeks since her recess appointment, there is no evidence that anything is going to change. As far as I can tell, the evidence indicates the campaign of inaction on competitive prices in the gasoline markets will continue. For example, Deborah Majoras announced that her priority as Federal Trade Commissioner is going to be involved in the national campaign on obesity. Well, I don't take a back seat to anybody in terms of fighting this problem. In fact, Senator FRIST and I have introduced legislation directed at the growing problem of childhood obesity. I hope Deborah Majoras will testify at the hearing to be held the first week in October on the Frist-Wyden legislation to tackle this serious problem of obesity.

But I come to the floor to say one reason I will continue the public hold I have on the Majoras appointment is that as she works on the important issue of obesity, she also needs to turn her attention to those oil companies feeding off American consumers' hard-earned money. As far as we know today, on her watch it is going to be business as usual in the gasoline market, with more oil company mergers, more concentration of oil and gas industries and higher gasoline prices for consumers at the pump. In my view, it is hard to find a more important consumer protection issue that the Federal Trade Commission has a responsibility for than overseeing competitive prices in our gasoline markets. High gasoline prices act like a tax on the consumers that reduces their purchasing power.

On average, gasoline prices are 20 cents a gallon higher than they were at this time last year. These higher prices mean a typical family is spending $600 more this year to fill the gas tanks in their car than they were a year ago.

Despite the urging that I and other colleagues have done, it has been hard to see the administration take any action to give the consumer a break from these record-high gasoline prices they have been paying throughout the year. I think it is interesting that there was a new development with respect to the Strategic Petroleum Reserve in the last 24 hours. In the last 24 hours, the administration announced it is negotiating to provide loans of oil from the Strategic Petroleum Reserve at the request of oil refiners to help keep their refineries supplied because of shortages of crude oil supplies in the Gulf of Mexico following the recent hurricanes.

I want to be clear. If there are significant supply shortages that can be relieved by the release of Strategic Petroleum Reserve oil, then I am all for making that oil available. That is what the Strategic Reserve was created to address. But I think it needs to be pointed out that this administration has a double standard with respect to using the Strategic Petroleum Reserve. They are willing to use the Strategic Petroleum Reserve to help big companies when they are in a jam, but they are not willing to use the Strategic Petroleum Reserve to help the little guy when the little guy is getting clobbered.

So I very much hope we will see a change in the administration's policies with respect to the Strategic Petroleum Reserve. Let's use it when we need to help companies, which seems to be the case with respect to the situation in the Gulf following the recent hurricanes. But let us not have a double standard that says we will use the Strategic Petroleum Reserve to help the big and powerful and sit on our hands when the little guy is getting hammered.

Let me close simply with one last point with respect to the role of the Federal Trade Commission. I intend to keep the public hold on the Majoras appointment for as long as it takes, until that time when we see changes at the agency that will promote competition in our gasoline markets. Ms. Majoras has given no indication at her confirmation hearing or since then that she is going to change the Federal Trade Commission's oil companies' merger policies, which the GAO found in an independent review have increased gasoline prices for consumers.

Ms. Majoras didn't even believe high gasoline prices were enough of a problem for consumers to mention them in her opening statement at the confirmation hearings. When I and others pressed her at the hearing to say what she would do to protect consumers from higher gasoline prices, we were not given one example of how to address this urgent issue. She subsequently offered the committee a blueprint for inaction. Out of seven so-called commitments she wanted to make, three are a continuation of the status quo, and three essentially are public relations activities. Only one would involve something new—an investigation of a refinery closure using a subpoena, which is sort of like sending a search party after a horse that was turned loose years ago.

Since her recess appointment more than 4 weeks ago, Ms. Majoras has made it clear that protecting consumers from getting gouged at the gas pump is simply not a priority.

For these reasons, I have placed a public hold on the Majoras nomination. I intend to continue to object to any unanimous consent request for the Senate to consider this nomination, until we see that there are going to be some changes at the Federal Trade Commission to protect gasoline consumers, particularly the ones I represent on the west coast of the United States, who are now getting mugged at the gas pump.

I yield the floor.

THE ADMINISTRATION POLICY IN IRAQ

Mr. HATCH. Madam President, it has been another interesting week in the public debate on Iraq. Yesterday, a joint session of Congress was convened to hear the address of the Interim Prime Minister of Iraq, Iyad Allawi.

I have heard many foreign leaders address joint sessions, and I have found many of those addresses compelling, powerful, historic. Last year we heard the Prime Minister of Great Britain, Tony Blair, give a riveting speech, where a leader of a famous center-left democratic party forcefully supported our President and his administration on a question that has always been best served when the parties join together: the question of war and security.

We all remember the speech Prime Minister Blair gave, and the rationale he reiterated for joining his nation's forces to the cause of the coalition's liberation of Iraq. Prime Minister Blair and I come from two different political traditions, and we represent two different political philosophies, but I respect him and I admire him. His speech was one of the best speeches I have heard given in a joint session.

But yesterday's speech by Interim Prime Minister Allawi was truly one of the most historic speeches by a foreign leader before this Congress.

Prime Minister Allawi was direct in his gratitude for the U.S. contribution and sacrifice to liberate his country from tyranny. He was compelling in his declaration that the Iraqi people are determined to move forward in assuming their security and in conducting free and fair elections. And he committed his Government's partnership to fighting terrorism in that region and throughout the world. The House Chamber was fully packed by my colleagues from both parties. The Prime Minister received much applause and, to the best that I could see, that applause came from all of us. I am happy to recognize this because Prime Minister Allawi is not the Republican's ally in Iraq, he is America's ally in Iraq.

As we know from his biographies in the press, the Prime Minister has worked with American administrations before this one, including a Democratic administration. He is not beholden to Democrats or Republicans. He is beholden to the cause of an Iraq that is free from terror and tyranny. And he has the scars to prove that.

This is why I was so appalled to hear some of the criticisms of Prime Minister Allawi that emanated from the other side yesterday. None was so appalling as this statement, quoted in today's Los Angeles Times, by Joe Lockhart, a senior adviser to the Kerry campaign:

> The last thing you want to be seen as is a puppet of the United States.

Now, what a thought to put out. What a condemnation of a man who risks his life every day for freedom in Iraq and freedom throughout the whole Middle East and freedom throughout the world.

"The last thing you want to be seen as is a puppet of the United States," said Mr. Lockhart who, last I checked, was not known for his foreign policy expertise. He continued:

> You can almost see the hand underneath the shirt today moving the lips.

Now, Madam President, this quote will be read in Iraq today. The reason it can be read in Iraq today is because today Iraq has freedom of the press.

The reason there is freedom of the press today is because a brutal totalitarian dictatorship was deposed by a U.S.-led coalition. The reason there is freedom of the press today is because the United States has sacrificed over 1,000 of our young men and women to free a country from a dictator who tortured his people, gassed his subjects, invaded his neighbors, associated with terrorists and al-Qaida, built and hid weapons of mass destruction, repeatedly violated international law requiring him to reveal the whereabouts of those weapons of mass destruction, never allowed international inspectors to confirm the destruction of those weapons, and never—never—ceased his virulent and hostile rhetoric against the United States, and who caused the death of at least 300,000 of his own fellow countrymen who now or did lay in mass graves.

Madam President, you know what is underneath the shirt of Prime Minister Allawi? Scars from an ax attack by Saddam's henchmen. And do you know what is underneath those scars? A brave and patriotic Iraqi heart, beholden to no one but the cause of a free Iraq.

The Democratic spokesman's statement was a calumny, pure and simple. It was a cheap and pathetic shot from a man whose only combat experience is bullet points in 10-point font. It was a cheap jab to a man who barely survived an ax attack ordered by a tyrant we have deposed, and who has been four times—four times—targeted by the terrorists and gangsters who kill our troops and the Iraqi people and who would kill us if they could.

But let me be plain. The statement was worse than a calumny. It was a deliberate attempt to undermine our mission in Iraq. And I am sick and tired of some suggestions I have heard in the press recently that we cannot speak plainly about these matters.

Prime Minister Allawi is as legitimate a politician as anyone in Iraq today. He has fought for the cause since before Joe Lockhart chose the pencil as his weapon of choice. He can list more fallen, tortured, vanished comrades than Joe Lockhart can list maitre d's. He is the Iraqi Interim Prime Minister because he was chosen last June by the Iraqi Governing Council—Iraqis, if you will—to lead his own country. He is the man we are relying on to lead us to elections in January, which is a key aspect of our policy in Iraq.

We are not there but to liberate these people. And we have done so, so far. And I am getting sick and tired of some who have found fault with this in the most discouraging of ways. I think some of those comments undermine our young men and women over there. How would you like your sons or daughters over there to have to read this drivel that not only has been said by Mr. Lockhart but others who have continually maligned this war, continually maligned our cause, continually maligned our leaders, and, by implication, our efforts in this war?

When a Democratic spokesman publicly says Prime Minister Allawi is a puppet, which Prime Minister Allawi clearly is not, and he says so in a way that Iraqis under fire from terrorists and gangsters can read, there is no way we can conclude that this is not undermining the Interim Prime Minister.

When the Interim Prime Minister is undermined, our political ally in Iraq is undermined. And when our political ally in Iraq is undermined, the work of our soldiers—whose mission is to create the security to support our political strategy—is undermined. Their work is undermined.

Recently, there has been some tut-tatting in some of the press and the antiwar movement that such declarations as I have just made are beyond proper discourse.

Let me be clear: A state of war should give no cause for inhibiting free speech in a democratic society, and I would tolerate no restriction of free speech here or anywhere in the country.

After all, Michael Moore is free to denounce every manifestation of American foreign policy; is he not? And we are upholding his right to do so, as ridiculous and inane and asinine as his comments are. His antiwar work includes Serbian propaganda clips in defense of genocide in "Bowling for Columbine" to nice pictures of playful Iraqis peacefully flying kites in the halcyon days of Saddam Hussein, which is in his latest virulently anti-Bush creed, and, of course, cheered on by some of our colleagues on the other side. The man is not an idiot, but he acts like an idiot, and he is undermining our young men and women over there.

But likewise, honest policy debates—and the comments on the role rhetoric plays—should also not be restricted.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. HATCH. I thought I had 15.

The PRESIDING OFFICER. We are in morning business with 10-minute grants.

Mr. HATCH. I think I can finish in the next 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. When a Democratic spokesman calls Prime Minister Allawi a puppet, that is not a suggestion as to what the Prime Minister could better do in his difficult job. That is a statement that undermines the Prime Minister, our ally in a war against terror and tyranny. And when you undermine our principal ally in a war against terror and tyranny, you are undermining our cause.

Madam President, I buried my brother-in-law at Arlington Cemetery last week. I spoke of him on the Senate floor yesterday. He was a tough sergeant in the Marines. He had that unique pride that I have come to so admire in the Marines. His modesty over his sacrifices for his country was surpassed only by his love of his country. He was a true hero. He fought in Korea and Vietnam, and he bore the wounds of Vietnam through his life. Agent orange exposure killed him. And to his dying day, he thought the cause he fought for in Vietnam was just.

Last May, the Democratic nominee in this fall's Presidential campaign was quoted as saying that President Bush "didn't learn the lessons of our generation in Vietnam." I find this remark staggeringly ironic.

Let me say this, Madam President. I honor the service of all who fought bravely and honorably in Vietnam—everyone, without exception.

But there are two different interpretations of our Vietnam policy. The antiwar movement's view on our Vietnam policy concluded that the use of American power was immoral and not to be trusted. Today, that world view is still very strong, overseas and here among the American left.

It has not changed much, except that, today, the left, which still distrusts the use of American power, believes that that power must be checked by the international community. That view holds that American power is illegitimate without the sanction of other powers, including the United Nations.

There is another view on Vietnam policy that my late brother-in-law held. And that view is that the sacrifices of those who fought nobly and bravely in Vietnam are to be forever honored. That view—my view—is that the American military won that war. When President Nixon signed the Paris Peace Treaty in early 1973, U.S. forces fighting with South Vietnam had secured South Vietnam. The war was lost when the north violated that peace treaty and a Democratic Congress failed to provide the arms and funds to help an ally defend itself from an invasion supported by the Soviets and the Chinese.

We made many policy mistakes in Vietnam, and the enslavement of the south to communism was a sad conclusion whose responsibility must never be borne by those who fought, but by those who failed to hold the course.

Do you know what one of the earliest policy mistakes we made was? It was when, under the Kennedy administration, the decision was made to stop supporting the Diem administration in South Vietnam. When that happened, the south lost a leading figure, a political leader. Diem was no democrat, but he was our political ally. We dealt ourselves a serious political blow when we failed to support Diem. He was assassinated, and our political goals were undermined.

I am not going to stand by and be silent when our ally, Prime Minister Allawi, is undermined by rhetoric from a top spokesman of the other party. Because some people need to understand that rhetoric has consequences.

Let debate rage, I say. Let the antiwar movement have its say, and let Michael Moore collect his fees on college campuses. But I believe that, in a time of war, we need to hold ourselves to higher standards of intellectual content, honesty and clarity.

Recently we have heard a lot about a CIA analysis from earlier this summer. Am I the only one to notice that the people who have been declaring that CIA analyses are unreliable are treating this latest analysis as holy writ? That the people who have taken the good work of Chairman ROBERTS and our committee—which did a stark and honest review of the failings of pre-war intelligence—and concluded that the CIA cannot be trusted are now asking us to conclude, based on an analysis no one has read, that the President is lying?

A CIA analysis is just that: analysis. It is more than guesswork, but it is a lot less than prediction. Yes, the situation could go bad in Iraq—very bad.

But at no time in American history has an administration conducting a war concluded during a dark hour that success was no longer attainable. That is not leadership. To focus on the course to success is not lying. It is leadership. To focus on the darkness of the hour is not.

The situation in Iraq is difficult, but it will not go bad, because we will not accept failure as an outcome. Failure would endanger our security, and this administration will not allow that.

We are in a charged political season. The American public will choose who they believe will best ensure their security. I would ask all who opine to remember that, while we are in a political season, we are in a war. Let us criticize as best we can, but let us do just that: as best as we can. That standard, is far above the rhetoric of defeat, despair and, in the case of calling Prime Minister Allawi a puppet, self-defeating delusion.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak up to 15 minutes.

The ACTING PRESIDENT pro tempore (Mr. SMITH). Without objection, it is so ordered.

NORTH KOREA HUMAN RIGHTS ACT

Mr. BROWNBACK. Mr. President, I believe this body is about to consider and pass the North Korea Human Rights Act and our amendment in the nature of a substitute. It is cleared through the House of Representatives and is on our consent calendar. It is about to clear through here, I believe, and I am thankful to the Foreign Relations Committee, the staff of the committee, the chairman and ranking member, for their work getting this moved forward.

This is about the fundamental human rights of the people of North Korea. It is my hope that this will pass today—and if not today, at least Monday.

It is no secret that North Korea policy continues to be a matter of intense debate at the highest levels of our Government and governments around the world. Reasonable people with good intentions disagree vehemently on various aspects of what an appropriate North Korea policy should be.

This is why I am pleased that the Senate, along with the House of Representatives, will soon be able to come together in unity and speak clearly on one particular set of issues regarding North Korea, and that is the most fundamental rights, human rights, of the people of North Korea, and to put that in a policy position.

The people of North Korea have endured some of the most horrendous assaults on the inherent dignity of human beings of any group of people in the world. Inside North Korea, the totalitarian dynasty of the Kim regime permits no dissent and maintains an inhumane system of prison camps that houses an estimated 200,000 political inmates.

I have held a hearing on this. We have had satellite photography. People who have left the country have testified about this system of gulags that exists and is in operation today in 2004.

The regime strictly prohibits freedoms of speech, press, religion, assembly, and movement. Torture and execution, often in public, are regular tools of state control. Since the collapse of the centralized agricultural system in the 1990s, more than 2 million North Koreans are estimated to have died of starvation and related diseases. That is nearly 10 percent of the total North Korean population—over 2 million people.

North Koreans outside of North Korea are also targets of abuse. Many thousands are hiding inside China, which currently refuses to allow the U.N. High Commissioner for Refugees to evaluate and identify genuine refugees among the North Korean migrant population. This is so even though China is a signatory and has obligations as a party to the U.N. Refugee Convention.

China forcibly returns North Koreans to North Korea where they routinely face imprisonment and torture and sometimes execution. The stories from North Korean refugees who are able to get out are absolutely horrific.

Inside China, North Korean women and girls are particularly vulnerable to trafficking and sexual exploitation. Recent reports also indicate that chemical and biological experiments are going on in the country's gulags inside North Korea.

Let me explain what the bill does. The bill promotes the human rights of North Koreans by funding private, nonprofit human rights and democracy programs, increasing the availability of nonstate-controlled sources of information to North Koreans and U.S. broadcasting into North Korea, urging additional North Korea-specific actions by the U.N. High Commission on Refugees and by the U.N. Human Rights Commission.

The bill promotes responsible assistance to the North Korean people by increasing funding for humanitarian assistance to North Koreans outside North Korea. This would include refugees, orphans, widows, and trafficking victims.

The bill endorses U.S. support for providing humanitarian aid inside North Korea but conditioning increases over current levels upon significant improvements in transparency, access, and monitoring. To date, we have had no transparency; very little monitoring has been able to take place of the humanitarian aid we have provided to North Korea. It conditions future direct aid to the North Korean Government on substantial progress on human rights and transparency benchmarks.

Let me elaborate a little bit on this final point. In an AP story this morning that ran in the Kansas City Star, appearing in many papers across the country, the headline reads: "North Korea Asking for More Foreign Aid." The article quotes an NGO official that the North Korean Government wants not only additional humanitarian aid but also technical assistance and developmental cooperation.

At the same time, we have stories and information from Secretary of State Colin Powell warning North Korea against conducting a new missile test.

It would be naive for us to think that North Korea was not making a connection between the two. That is, if aid is not forthcoming, they will test new missiles. If that is not blackmail, I don't know what is. This bill will make it clear that as a matter of U.S. policy, we will not give in to those threats.

At the same time, I doubt that anyone in this body would oppose providing aid if there were assurances that the distribution and use of such aid were conditioned on substantial improvement in human rights and transparency benchmarks, that NGOs would get complete access to vulnerable populations, that such aid would be clearly marked and targeted for children and people in need and not the North Korean military apparatus, and that the North Korean Government demonstrates that it is cooperating with NGOs.

The bill additionally protects refugees by clarifying U.S. policy toward North Korean refugees, and the eligibility of North Koreans for U.S. asylum and refugee processing; urging the U.N. High Commission for Refugees to use all available means to gain access and provide assistance to North Koreans in China; and seeking solutions to North Korea's lack of access to refugee protections.

As amended, the bill also asks the President to appoint a special envoy for human rights in North Korea, a person of high distinction. We have in mind someone such as former Senator John Danforth, now the U.N. Representative for the United States to the U.N., who was so instrumental in bringing together the north/south peace accords in Sudan.

In addition, the bill requires a number of reports that will keep the issue of human rights front and center so that even as we continue to seek a resolution to the nuclear issue, which we should, that this matter of human rights is not swept under the carpet and that the matter of human rights does not become a mere afterthought.

For too long, we have challenged rogue regimes on such fundamental issues and values as freedom of thought, religion, assembly, and press to back down now. We are not going to. We are going to continue to challenge rogue regimes, such as North Korea, on how they treat their own people.

As experience has taught us, during the Cold War and the battle over ideas during that period, these are some of the most effective ways in which we can promote freedom: open and democratic institutions within these countries.

Recently, a leading member of South Korea's Congress said to me in my office that North Koreans fear the West's criticism of its human rights more than any criticism about its nuclear program. North Korea will throw up all kinds of bluster when it comes to their threat as a potential nuclear power, but if you engage them on human rights, they become silent because even they know they cannot hide from the shame of the crimes they have committed against their own people.

With this bill, the regime in Pyongyang will now have to answer for itself in multiparty talks or any other setting on such matters as the gulags, chemical experiments on human beings, the denial of food and deliberate policies of starvation as a political tool, and a thousand other ways they violated human rights by which this regime in Pyongyang maintains its tenuous hold on power.

I know some were concerned about the impact of the bill, but the bill does not tie the hands of the President and ongoing negotiations over North Korean nuclear activities. Rather, I believe this bill will strengthen our negotiating position.

As I said at the outset, I thank the chairman of the Foreign Relations Committee and the ranking member, Chairman LUGAR and Ranking Member BIDEN, and their staff for their assistance in getting this bill to the floor. Hopefully, as I said, it will clear on Monday.

I thank the International Relations Committee, Chairman LEACH of the Asia Pacific subcommittee and his staff, Jamie McCormick and Doug Anderson. Both Chairman HYDE and Congressman LANTOS were critical in securing a bipartisan consensus in getting this bill to the floor in the House.

I also recognize Peter Yeo of Mr. LANTOS' staff and Sean Woo of my staff for the tremendous work in getting this moving forward.

There is a humanitarian crisis in North Korea, a human rights crisis, and I believe on a humanitarian basis, we are seeing in places such as North Korea and the Sudan a use of a humanitarian tool to maintain power and, in the process, people are dying and being killed.

Countries such as North Korea and Sudan have created an axis of death on their own people. This should not be, and it should not be allowed to take place in this world today. We need to stand up for the human dignity of every person, wherever they are located in the world.

The North Korea Human Rights Act highlights this problem and establishes a position for this country that hopefully will be a model position for many countries around the world in dealing with the human rights tragedy inside North Korea.

I thank the Members of this body for allowing this presentation. I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HELP THE VICTIMS OF AGRICULTURAL NATURAL DISASTERS

Mr. DASCHLE. Mr. President, South Dakotans have always been generous when our fellow Americans, even those living thousands of miles away, are suffering.

After September 11, we saw equipment makers, firefighters, school children, scout troops, church organizations, and countless other South Dakotans donate whatever they could to the victims. One ranch couple, themselves struggling, even sold 100 calves and dedicated the proceeds to the victims.

As hurricanes ravaged, and continue to threaten, Florida, South Dakotans sent not only their prayers, but also generators and plywood. Yet, while all of these things have taken place, South Dakota has been experiencing its own disaster, the slow-motion disaster of drought.

For the last several years, South Dakotans have been impacted to varying degrees by drought. In fact, 2002 was the worst drought since the Dust Bowl year of 1936. That is why I have worked so hard to get natural disaster aid for our state in the 2002 farm bill. The provision was not in the House-passed farm bill, and it was opposed and eventually stopped by the administration.

That is why I felt that as the Senate considered disaster assistance for the people of Florida, it was time for us to look for ways to help the people of South Dakota and other areas of the Nation who have been the victims of agricultural disasters. Make no mistake about it, this aid would help farmers and ranchers in Florida who have lost a majority of their citrus crop, much of the nursery stock and hundreds of head of cattle. In fact, farmers in Mississippi, Alabama, Louisiana, and Georgia and all along the eastern seaboard were seriously damaged by the myriad hurricanes, and the devastation may not be over. But for farmers and ranchers in the upper Midwest, the drought has continued for years.

On August 17, I wrote to the President expressing my support for assistance to hurricane victims and asking him to include other natural disaster victims, including drought-related disaster relief, in any emergency-funding request that he might send to Congress. While the Bush administration did not include this funding in its emergency hurricane funding requests, I still believed there was a way to secure this assistance.

When the first disaster assistance bill for Florida was on the floor of the Senate, I attempted to include agricultural disaster assistance in that legislation. While a procedural maneuver blocked that effort, we were able to secure a commitment from Senator FRIST to allow a vote on drought relief as part of the Homeland Security appropriations measure. On September 15, we got that vote, and the Senate passed a bipartisan provision for $2.9 billion in emergency disaster relief to agricultural producers.

This is a tremendously important for farmers and ranchers throughout the Nation, including those in South Dakota. It is important for our nation's rural economy, and for all of the communities that have waited too long for this relief.

The package includes $2.5 billion in assistance to crop producers through the crop disaster program, $475 million to livestock producers through the livestock assistance program, and $20 million for the tree assistance program. While some of us would have preferred assistance for both 2003 and 2004, the provision that passed would allow producers to choose compensation for either the 2003 or 2004 crop year.

The Senate's passage of this assistance is not the final step in this process, and the Senate and the House are currently meeting to resolve the differences they have with the Homeland Security bill.

I am deeply troubled by news reports that some in the House Republican leadership and the Bush administration are opposed to this most recent emergency aid provision. I would hope that the broad bipartisan support for this disaster provision in the Senate will convince the House and the President to provide the support farmers and ranchers across the country so badly need.

I wholeheartedly support providing States like Florida with the assistance they need to bounce back from a hurricane. By unanimously approving this agriculture-related disaster aid, the Senate also acknowledged something South Dakotans know far too well: victims of agricultural natural disasters are no less deserving of assistance than victims of hurricanes, floods, or tornadoes.

In South Dakota, we believe in helping our neighbors through tough times. But sometimes, we need some help, too.

I am hopeful that help will soon be on the way, and the administration will reverse its long-standing opposition to agricultural disaster aid for farmers and ranchers throughout the Nation.

STATUS OF THE TRANSPORTATION BILL

Mr. DASCHLE. Mr. President, I want to say a few words about the state of the transportation bill. That bill expired a year ago, and we have been operating on short-term extensions ever since. The delay has denied us the opportunity to create over 100,000 jobs and has led to continuing uncertainty in the States as they try to make contract and construction decisions without knowing what funding will be available. Our states, our communities, and our infrastructure deserve better.

It is not as if there have been no efforts to pass a new and stronger transportation bill. The Senate-passed transportation bill was a model of bipartisanship. It met the needs of States like South Dakota, which have a sparse population, but have a large geography and many miles of roads. Likewise, it ensures that the more populated States were treated fairly.

In the Senate bill, we were able to reach an agreement that worked for everyone. Our bill not only treated States fairly, but it treated transit fairly. There has often been a struggle between highways and transit, and the Senate bill struck a good balance. More importantly, it was a bill that did right by America's families, making critical investments in our infrastructure, and creating nearly 2 million jobs in the process.

The one area where we were unable to reach agreement was on the rail provisions, and I am hopeful that we can work to remedy that as we move forward. Having a dependable and affordable rail system to transport goods, including agricultural commodities, is critical to our Nation.

It is clear to me that despite the broad bipartisan agreement we were able to reach in the Senate, the rejection of that agreement by the President and some of the House majority leadership means that we are being denied the opportunity to debate and pass a bipartisan transportation bill.

Senators BOND and REID have suggested that we give some certainty to the States by ensuring that they will have a steady funding stream for the next 6 months. Senator SHELBY and Senator SARBANES, our leaders on the Banking Committee and on transit issues, agree. I, too, think that this is, unfortunately, the best course of action given the situation in which we find ourselves. And so I am hopeful that the majority leader will take up the bill early next week.

The reason for not completing this bill is clearly over the question of resources. The administration has not been willing to consider any bill that is anything other than their proposed $256 billion. In fact, the President threatened to veto both the House and Senate-passed bills because they contained greater levels of investment. And yet, to invest significantly less than the Senate was willing to invest fails to meet the goals I just discussed: to treat all States and modes of transportation fairly.

That does not mean that the Senate level is the only level and that a long-term bill cannot be completed at a lower investment level. But I have not seen, nor do I believe that anyone has seen, a willingness to seriously discuss that possibility.

Thus, we find ourselves in the unfortunate position of once again being up against the end of another extension. Rather than keeping States in the dark about their future, it seems to me that the bipartisan approach of Senators BOND, REID, SHELBY and SARBANES makes sense. In fact, several transportation groups have also called for a longer-term extension. As I said, I hope and urge the majority leader to take up the Bond-Reid transportation extension early next week.

Transportation has, by and large, been a bipartisan endeavor. After all, our economy, our infrastructure, and our Nation's families need and deserve a good transportation bill, one that will create good jobs and provide the investments in our Nation's infrastructure that are so desperately needed. I am hopeful that we can do better, that we will renew our efforts and continue to work as hard as possible to find the bipartisan solution that has been so elusive. And I hope that we can reach that compromise sooner rather than later.

I yield the floor.

HOMELAND SECURITY NEEDS A GREEN LIGHT, NOT A BLUE SLIP

Mr. BYRD. Mr. President, last week, the Senate approved overwhelmingly the fiscal year 2005 Homeland Security Appropriations bill. This bill makes critical investments in our protections here at home. And in light of the constant threat warnings from law enforcement and homeland security officials, those investments cannot be made quickly enough. Yet it has been 10 days since the Senate passed the measure and the House has not even appointed conferees.

Why has any progress toward protecting the people hit a brick wall? The legislation is in jeopardy because of the judgment of the chairman of the House Ways and Means Committee. I do not intend to talk about the chairman in a negative light. But I must point out to Senators that the chairman's actions could jeopardize the entire Homeland Security Appropriations bill.

During Senate debate, Democrat and Republican Senators worked to invest additional dollars in homeland security. We must work to close the gaps in our protections here at home. Too many exist, and you can be sure that, if we know where those gaps are, so do the terrorists.

That is why it was welcomed on both sides of the aisle when the Senator from Montana, Mr. BAUCUS, suggested a way to include $784 million in homeland security protections without violating arbitrary congressional spending limits. The Senator from Montana suggested that we help to protect Americans from terrorist attack by extending existing customs user fees that are set to expire in March 2005. It was a commonsense approach, one that I applaud Senator COCHRAN, the chairman of the Senate Appropriations Homeland Security panel, and the majority leader, Senator FRIST, for embracing. It was common sense because many of the agreement provided funding to key programs within the Department of Homeland Security, most of which are customs related, and did so without violating the budget caps or adding to the deficit.

The Senate adopted that funding, approved the bill, and asked the House for a conference. We were making progress. We were helping to save lives.

But then came the disappointment. The Senate was informed that the chairman of the Ways and Means Committee has recommended that the House of Representatives "blue-slip" this legislation, returning the measure to the Senate. But the funding will help to protect this country from attack, and we should not allow congressional turf battles to stop it.

Congressman MARTIN OLAV SABO, the ranking member of the House Appropriations Homeland Security Subcommittee, and I have written to the Speaker of the House and urge that the Speaker help to move this legislation forward. We ought to send it to conference, complete our work, and help to protect our country. Delay is unacceptable.

The additional funding provides needed investments to protect our borders, equip first responders, enhance air and rail security, and ensure that security measures are provided to harden potential terrorism targets.

Specifically, the additional funding will allow Customs and Border Protection to purchase additional radiation detectors to respond to the threat of a nuclear or radiological weapon being smuggled into this country. CBP is far behind on its plan for deploying 2,037 radiation portal monitors at our ports. The additional $50 million provided by this amendment will allow CBP to deploy radiation portal monitors to screen 100 percent of inbound containerized cargo at 30 additional seaport terminals.

This investment will provide Immigration and Customs Enforcement with an additional $50 million to address a manpower shortage within the Federal Air Marshal program and be more aggressive in placing air marshals on high-interest flights.

The funding being stymied in the House would increase resources to equip and train our nation's firemen by providing an additional $50 million through the fire grants program, which is one of the best run programs in the Federal Government.

The money would address the shortage of border employees by providing $150 million for more border inspectors and agents, and immigration and customs criminal investigators. The Department of Homeland Security has not yet met the northern border staffing goals set in the U.S. PATRIOT Act. An additional $50 million is also included for the detention and removal of illegal aliens.

This amendment strengthens the northern border by providing an additional $200 million to speed up the development of five air wings along the northern border which will track, identify, and intercept aircraft that are unauthorized to enter U.S. airspace.

The funds advance efforts to protect the millions of Americans who use public transportation over 32 million times per work day. The additional $128 million was approved by the Senate so that the Department can pursue investments to harden the security of transit systems by investing in additional law enforcement, canine teams, and training.

The legislation invests an additional $56 million to the Emergency Management Performance Grants program to help emergency managers at the state and community level to prepare, respond, and recover from all hazards.

Finally, the bill ensures that $50 million goes to high-risk non-profit organizations to develop security plans and make necessary improvements to prevent a terrorist attack.

The Department of Homeland Security is working day and night to stop potential terrorist attacks. But the Department cannot operate if it does not have any money. We cannot wait to address gaps in our nation's defenses while this new department is crafted. Terrorists will not wait to attack anew.

We cannot afford delay. The Senate has passed this critical legislation; now it requires the approval of the entire Congress. This bipartisan legislation must move quickly to bolster our weaknesses, address our shortfalls, and protect American lives.

I urge the Speaker, and the chairman of the House Ways and Means Committee to drop this threat of delay. The President, the Vice President, the Secretary of Homeland Security, the Attorney General, the CIA Director, and the FBI Director have each stated quite clearly that the country is at risk of attack. It serves no one's best interests to bicker over turf battles when lives are at stake. For the sake of the people, for the sake of the nation, I urge the House to strengthen the homeland security protections and make life more difficult for the terrorists. Don't blue-slip this funding. Green light it instead.

WORKING FAMILIES TAX RELIEF ACT

Mr. KOHL. Mr. President, I rise to discuss the conference report passed yesterday by the Senate, the Working Families Tax Relief Act of 2004. I supported this legislation, which will continue tax relief for thousands of middle-class families in Wisconsin and across the country. Most importantly, this bill provides for the extension of the $1,000 child tax credit, marriage penalty relief, and the 10 percent bracket. The bill also includes extensions important to business, such as the Research and Development tax credit, which expired in June of this year. Finally, the bill includes an acceleration of the increase from 10 to 15 percent of refundability in the child credit, a provision that helps the families who need it most. The end of the fiscal year is in sight, and the expiration of these cuts would negatively impact middle-class families throughout the country. I supported this legislation because I believe it is the responsibility of Congress to do its best to provide economic stability for hard-working American families.

However, by passing this legislation, Congress is also failing in its responsibility to our troops. Under current law, many soldiers are unable to claim the Earned Income Credit or the child tax credit because combat pay is excluded from the definition of earned income. Members of the conference had an opportunity to permanently solve this oversight in current law—despite Democratic efforts, the conference report only solves the problem for two years. Without a permanent solution, men and women serving on the front lines could potentially see a tax increase in 2006. I believe Congress has a responsibility to these brave men and women, and I hope we fulfill it before the end of the year.

This legislation is far from perfect. However, I believe that the benefits it will provide to middle class families across America are essential in today's economy. I thank my colleagues.

CONTINUING CARE FOR RECOVERING FAMILIES ACT

Mr. KENNEDY. Mr. President, one of the greatest domestic challenges facing our country today is the soaring cost of health care. It is a serious problem for millions of families. But when the chief income earner in a family suddenly becomes unemployed, the problem can be critical, and we give a helping hand. We give them the opportunity to continue their coverage through their employer for a reasonable period. Families who lost loved ones on September 11 deserve the same opportunity until they can land on their feet again.

The Continuing Care for Recovering Families Act I introduced yesterday with Senator LAUTENBERG and Senator CLINTON recognizes that many of the September 11 families are still struggling to recover and we have an obligation to assist them.

Some of the families have found ways to cover their health costs by purchasing private insurance or obtaining grant assistance on their own. For others, employers have agreed to provide coverage. For still other families, however, the safety net is about to fall apart, because their coverage is about to expire under COBRA—the temporary low-cost continuation of coverage available under current Federal law for those who change their job, lose their job, or for families that lose their chief income earner through death.

The Continuing Care for Recovering Families Act will give spouses and children of victims of September 11 the ability to purchase or continue to purchase coverage under COBRA indefinitely, as long as they enroll within 120 days after passage of the act or 120 days after they lose their COBRA coverage. Eligibility for the program would expire only if they enroll in a private insurance plan or become eligible for Medicare.

The families of September 11 have shown great courage and extraordinary resilience. But we still have much more to do to help them on their long and arduous road to recovery, and I hope very much that we can pass this legislation this year. It will only affect a small number of families. But for them, it will make a world of a difference.

KEEP OUR PROMISE

Mr. LEVIN. Mr. President, as the assault weapons ban expired last Monday, one of our Nation's law enforcement officers was recovering in a Miami, FL hospital from two gunshot wounds inflicted by an AK–47 rifle. According to the Brady Campaign, all models of this make of assault rifle were prohibited at the time of the attack, but are now legal due to the expiration of the assault weapons ban on September 13.

Last Monday, the Miami Herald reported that on September 12, 2004 Miami-Dade Police Officer Keenya Hubert was on a routine patrol when she heard gunshots fired in a nearby neighborhood. She spotted a suspicious vehicle leaving the area, called for backup, and pulled the vehicle over. Suddenly, the driver got out of his vehicle and fired nearly two-dozen bullets at Officer Hubert and her police car using an AK–47 assault rifle. One of those bullets struck Officer Hubert in the shoulder and another grazed her forehead. Later in the week a man was arrested in connection with this attack. Press reports indicate the man had been previously convicted of attacking two other police officers in 1997.

Unfortunately, assault rifles like the one reportedly used in the attack on Officer Hubert's life as well as many other similar assault weapons are once again being legally produced and sold as a result of the expiration of the assault weapons ban. The ban also included firearms that can accept detachable magazines and have more than one of several specific military features, such as a folding/telescoping stock, protruding pistol grip, bayonet mount, threaded muzzle or flash suppressor, barrel shroud or grenade launcher. Common sense tells us that there is no reason for civilians to have easy access to guns with these features.

In 1994, I voted for the assault weapons ban and in March of this year I joined a bipartisan majority of the

Senate in voting to extend the ban for 10 years. Unfortunately, despite the overwhelming support of the law enforcement community, the ongoing threat of terrorism, and bipartisan support in the Senate, neither the President nor the Republican Congressional leadership acted to protect Americans from assault weapons like the one used in the attack on Officer Hubert.

Last week, Sarah Brady, the wife of Jim Brady who was shot in John Hinckley's attempted assassination of President Reagan, issued an open letter to President Bush expressing disappointment in his decision to allow the assault weapons ban to expire.

Mr. President, I hope that in the remaining days of the 108th Congress the Republican leadership and the President will reverse course and act to extend the assault weapons ban.

I ask unanimous consent that Sarah Brady's letter to President Bush be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 14, 2004.

DEAR PRESIDENT BUSH: I cannot begin to express my disappointment in your decision to let the Assault Weapons Ban expire yesterday.

Four years ago you said you supported renewal of the assault weapons ban, though you made it clear that you were generally opposed to reasonable gun violence prevention laws. I was very happy to hear you say it then, because it was a sensible position, and one long supported by such conservative leaders as Ronald Reagan and Barry Goldwater. As a lifelong Republican, it gave me hope that my party would move away from the knee-jerk tendency to oppose whatever the gun lobby said Republicans should oppose.

Now, these guns, designed by military scientists to inflict the maximum level of damage to human beings, are back on our streets.

You have broken your promise to the American people and you should be ashamed. Jim and I loved Ronald Reagan, and one of the main reasons we loved him was that he was always, always, true to his word.

This law worked, and it saved lives. It saved the lives of police officers and children. You cast your support aside for a political endorsement. We all pay prices in life for our actions. I hope the American people will make you pay a price for this decision.

In your current campaign, you are pledging to keep America safe. But your conscious decision to let this ban expire has placed us all in jeopardy.

The expiration of this law is temporary. It will be renewed: It is only a matter of how long it will take to renew it. There is still time for you to show leadership, do the right thing, and restore this law. But know that Jim and I will continue our efforts to restore the ban, with or without your help. And we will succeed. Lives are hanging in the balance.

Mr. President, step forward and do the right thing.

Sincerely,

SARAH BRADY.

RELEASE OF YASER HAMDI

Mr. LEAHY. Mr. President, at a hearing Wednesday before the Judiciary Committee, I asked some tough questions about the record of the Department of Justice in prosecuting terrorism cases. Later that day, the Department announced the imminent release of Yaser Esam Hamdi, the so-called "enemy combatant" who has been held for nearly 3 years without being formally charged with any crime. During this period, the Bush administration argued that it could deny Hamdi, a U.S. citizen, due process and detain him indefinitely. In June, the Supreme Court struck down the administration's assertion of unchecked executive power, ruling that Hamdi had the right to challenge his detention. Rather than proceed in court, the Justice Department now says that it will release Hamdi, who will renounce his U.S. citizenship and join his family in Saudi Arabia.

The Justice Department has claimed that Hamdi fought with the Taliban and posed a threat to our national security. Hamdi claimed that he was an innocent captured in Afghanistan by the Northern Alliance. We simply do not know the truth. But, as the Rutland Herald correctly points out in its editorial Thursday, that is what trials are for. If Hamdi was a combatant, or a civilian caught up in a combat zone, he should have been treated in accordance with the Geneva Conventions, which provide for the treatment of soldiers and civilians in wartime. If Hamdi committed a crime, he should have been charged and tried. The timing of his release is curious. Three months after the Supreme Court rejected the administration's refusal to grant Hamdi due process, the Justice Department suddenly determined that Hamdi no longer posed a threat. Now it will release a person it previously claimed was so dangerous that he had to be held for years in a military brig, mainly in solitary confinement.

The Attorney General relied on powerful rhetoric to defend the Department's record. He liked to say that no one had successfully challenged the Government's use of authority under the PATRIOT Act and that no court had found the Government had overreached. Since the Supreme Court decisions on Hamdi and related cases last summer, it has become harder for him to make such claims. Those Court decisions do not stand alone in defining the Department's level of success, however. The list of reversals of this Administration's policies and practices has become extensive. From the Department's involvement in rewriting our country's adherence to the Geneva Convention and the Convention Against Torture, which contributed to the breakdown at the Abu Ghraib prison and elsewhere, to the Supreme Court's rejection of the administration's Guantanamo practices, there is much that needs attention and correction.

Indeed, the Justice Department has accumulated one loss after another in terrorism cases. In recent weeks, we have witnessed the unraveling of the Department's first post-September 11 prosecution of a terrorist sleeper cell in Detroit. This followed on the heels of a growing list of losses and questionable cases, including the wrongful arrest of a Portland attorney based on a fingerprint mismatch; the acquittal of a Saudi college student who was charged with providing material support to terrorists; the release on bail of two defendants in Albany, NY, after the Government admitted having mistranslated a key piece of evidence—the evidence referred to one defendant as "brother," not "commander," as originally represented; the collapse of all charges against Muslim chaplain, James Yee, an Army Captain who served at Guantanamo and was originally accused of espionage; and the Supreme Court's repudiation of the administration's claim that it can hold citizens indefinitely as "unlawful combatants," without access to counsel or family. In addition to announcing its decision to release Hamdi 2 days ago, the Government also folded its case against Ahmad al Halabi, a Senior Airman who served as a translator at Guantanamo Bay. Al Halabi once faced the death penalty for spying. He ultimately pled guilty to four minor charges, such as photographing a guard tower and taking a classified document to his quarters; other charges were dropped.

The fact is, there have been only a few real victories in cases that have brought terrorism charges since 9/11, and these have been overshadowed by seemingly half-hearted prosecutions. We all remember the antiterrorism sweeps that occurred after 9/11. The Justice Department detained over 5,000 foreign nationals in those sweeps, but, as law professor David Cole points out in an article in the October 4, 2004, edition of The Nation, not a single one of them was charged with terrorism.

Department officials say their record since the 2001 attacks reflects a successful strategy of catching suspected terrorists before they can launch deadly plots, even if that involves charging them with lesser crimes. I certainly will not contest that lesser crimes are being charged. According to the Transactional Records Access Clearinghouse (TRAC), of the approximately 184 cases disclosed as "international terrorism" matters, 171 received a sentence of one year or less. But is that making us safer? What exactly happens to a suspected terrorist who spends 6 months in prison and then is deported to his country of origin in the midst of a war that has no end in sight? Does it really squelch deadly plots?

The administration has yet to answer pointed questions about the deportation of Nabil al-Marabh to Syria, a nation that is a state sponsor of terrorism. Al-Marabh was at one time Number 27 on the FBI's list of Most Wanted Terrorists, and experienced prosecutors wanted to indict him. Why was he released? According to court records, Al-Marabh shared an address with defendants in the Detroit case who are now facing only document fraud charges. What is going on here?

We still await the resolution of the case against Jose Padilla. The Attorney General made a frightening announcement from Moscow when Jose Padilla was arrested—as if the Government had miraculously averted a radioactive "dirty bomb" from being detonated in our heartland. As Deputy Attorney General James Comey represented to the Federal courts a few months ago, the Government no longer even contends that Mr. Padilla was engaged in a "dirty bomb" plot. We have yet to see criminal charges against him, but I hope that we will. The Attorney General always finds time to announce allegations and dangers to frighten the American people but never seems to have time to be accountable when those specters prove false, when criminal cases can not be made, or when the Government has overreached or when innocent Americans have been unfairly accused.

We will soon be asked to give the Government more tools, more powers, and even greater authorities. I hope that we will not be asked to add PATRIOT Act-related powers to legislation to implement 9/11 Commission recommendations. The families of 9/11 victims have asked us to focus only on those actions endorsed by the Commission. We should honor this request. Before Congress considers granting the Government more powers to add to the Federal arsenal, we must determine which tools are actually being used, and how are they working? Which tools are subject to abuse, and which need to be modified? I hope that we can start getting some of those answers.

I ask unanimous consent to print in the RECORD the Rutland Herald editorial and The Nation article I mentioned earlier.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rutland Herald, Sept. 23, 2004]

CONSTITUTIONAL VICTORY

One of the most alarming abuses in President Bush's war on terrorism has come to a peculiar resolution. On Wednesday the government announced it would release Yaser Hamdi from custody.

Hamdi is an American citizen, born in Louisiana, and an Arab whose family lives in Saudi Arabia. U.S. forces gained custody of Hamdi when Northern Alliance officials handed him over during the war in Afghanistan. The U.S. military was rounding up Taliban fighters, and Hamdi ended up in Guantanamo, Cuba.

Hamdi said he was wrongfully captured by the Northern Alliance in northern Afghanistan and was wrongfully imprisoned by the U.S. military. But the Bush administration viewed him as an "enemy combatant," a designation that led to the government's asserted claim that it had the power to rob Hamdi of all his rights.

It is unknown whether Hamdi is telling the truth when he says he had nothing to do with the Taliban and was not involved in the Afghan war. In America that is what trials are for. Until found guilty of a crime, suspects are presumed innocent and are protected by an array of constitutional rights.

These rights ought to be cherished by every American. Otherwise each person is vulnerable to government abuse. These include the right to legal representation, the right to know the charges one is facing, the right to bail, and the right to a speedy and fair trial. Unrestrained by these rights, the government could jail any one of us on the flimsiest of excuses—or with no excuses.

It was a shocking event when the Bush administration claimed it had the power to deny Hamdi all of those rights. The claim was not made on the basis of any evidence or charge. Bush was asserting he had the right to declare anyone he saw fit to be an enemy combatant and to lock him or her up with no trial, no charges, no legal representation.

Hamdi was just one man; there is one other, Jose Padilla, who is being held on similar charges. But the power arrayed against him was the power of a police state—until the Supreme Court stepped in.

In June, the court ruled, 8-1, that Bush did not have the power to discard the Constitution and that Hamdi had the right to contest his detention. It was a victory celebrated by civil libertarians of the left and the right. Then on Wednesday the government announced it would release Hamdi to Saudi Arabia, where he would rejoin his family, and he would renounce his U.S. citizenship.

So for nearly three years the U.S. government, on the say of President Bush, held a U.S. citizen in solitary confinement on no charges. The Supreme Court has shown that, in our constitutional system, the judiciary remains an essential line to protect us against governmental abuse. Authoritarian regimes frequently cite dangers to civil order as an excuse to round up and jail people who are out of favor. In Bush's hands the war on terrorism had become a war on the Constitution. It appears that, fortunately, this time the Constitution has won.

[From the Nation]

TAKING LIBERTIES

(By David Cole)

On September 2, a federal judge in Detroit threw out the only jury conviction the Justice Department has obtained on a terrorism charge since 9/11. In October 2001, shortly after the men were initially arrested, Attorney General John Ashcroft heralded the case in a national press conference as evidence of the success of his anti-terror campaign. The indictment alleged that the defendants were associated with Al Qaeda and planning terrorist attacks. But Ashcroft held no news conference in September when the case was dismissed, nor did he offer any apologies to the defendants who had spent nearly three years in jail. That wouldn't be good for his boss's campaign, which rests on the "war on terrorism." Here, as in Iraq, Bush's war is not going a well as he pretends.

The Detroit case was extremely weak from the outset. The government could never specify exactly what terrorist activity was allegedly being planned and never offered any evidence linking the defendants to Al Qaeda. Its case consisted almost entirely of a pair of sketches and a videotape, described by an FBI agent as "casing materials" for a terrorist plot, and the testimony of a witness of highly dubious reliability seeking a generous plea deal. It now turns out that the prosecution failed to disclose to the defense evidence that other government experts did not consider the sketches and videotape to be terrorist casing materials at all and that the government's key witness had admitted to lying.

Until that reversal, the Detroit case had marked the only terrorist conviction obtained from the Justice Department's detention of more than 5,000 foreign national in antiterrorism sweeps since 9/11. So Ashcroft's record is 0 for 5,000. When the Attorney General was locking these men up in the immediate wake of the attacks, he held almost daily press conferences to announce how many "suspected terrorists" had been detained. No press conference has been forthcoming to announce that exactly none of them have turned out be actual terrorists.

Meanwhile, despite widespread recognition that Abu Ghraib has done untold damage worldwide to the legitimacy of the fight against terrorism, the military has still not charged any higher-ups in the Pentagon, and the Administration has shown no inclination to appoint an independent commission to investigate. It prefers to leave the investigation to the Justice Department and the Pentagon, the two entities that drafted secret legal memos defending torture.

And in late July, resurrecting the ideological exclusion practices so familiar form the cold war, the Department of Homeland Security revoked a work visa for a prominent Swiss Islamic scholar who had been hired by Notre Dame for an endowed chair in its International Peace Studies Institute, DHS invoked a Patriot Act provision that, like the McCarran-Walter Act of the cold war, authorizes exclusion based purely on speech. If a person uses his position of prominence to "endorse" terrorism or terrorist organization, the Patriot Act says, he may not enter the United States. The McCarran-Walter Act, on the books until its repeal in 1990, was used to exclude such "subversives" as Czeslaw Milosz and Graham Greene. This time the man whose views are too dangerous for Americans to hear firsthand is Tariq Ramadan, a highly respected intellectual and author of more than twenty books who was named by Time magazine as one of the hundred most likely innovators of the twenty-first century.

Notre Dame is not known as a hotbed of Islamic extremism—and Ramadan is no extremist. He argues for a modernized version of Islam that promotes tolerance and women's rights. Two days after 9/11 he called on fellow Muslims to condemn the attacks. In short, Ramadan is precisely the kind of moderate voice in Islam that the United States should be courting if it hopes to isolate Al Qaeda. The barring of Ramadan reinforces the sense that the Administration cannot or will not distinguish between moderates and extremists and is simply anti-Muslim.

What is most troubling is that none of these developments—the revelation of prosecutorial abuse in the interest of obtaining a "win" in the war on terrorism; the continuing failure to hold accountable those most responsible for the torture at Abu Ghraib; and the exclusion of a moderate Muslin as too dangerous for Americans to hear—is an isolated mistake. Rather, they are symptoms of a deeper problem. The President thinks he can win this war by "acting tough" and treating the rule of law and constitutional freedoms as optional. With enough fearmongering, that attitude may win him the election. But it will lose the war. Bush is playing right into Al Qaeda's hands by further alienating those we most need on our side.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 2844. A bill to designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act.

S. 2845. A bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. REID (for himself and Mr. ENSIGN):

S. 2846. A bill to provide for the conveyance of certain Bureau of Land Management land in the State of Nevada to the University and Community College System of Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. VOINOVICH:

S. Res. 435. A resolution congratulating the Croation Fraternal Union of America on its 110th anniversary; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 556

At the request of Mr. CAMPBELL, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 556, a bill to amend the Indian Health Care Improvement Act to revise and extend that Act.

S. 2671

At the request of Mr. SMITH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2671, a bill to extend temporary State fiscal relief, and for other purposes.

S. 2789

At the request of Mr. BROWNBACK, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2789, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself and Mr. ENSIGN):

S. 2846. A bill to provide for the conveyance of certain Bureau of Land Management land in the State of Nevada to the University and Community College System of Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today for myself and Senator ENSIGN to introduce the Nye County Higher Education Campus Conveyance Act. This bill would transfer 280 acres of federal land in Nye County, NV, to the University and Community College System of Nevada for a much-needed college campus.

As you may know, southern Nevada is one of the most rapidly growing regions of the country. For some time now, growth has been progressing out of Las Vegas, over the mountains, and into nearby surrounding areas. The Pahrump Valley in Nye County is one such area that is growing. However, Nye County does not have a single institution of higher learning to serve its now more than 33,000 residents.

This bill would set the stage to change that. The land conveyed by this bill would become the home of a college campus with facilities shared among the Community College of Southern Nevada, Nevada State College, and the Nye County School District.

In other States, educational systems can acquire land to accommodate growth relatively easily. In Nevada, where the Federal government owns 87 percent of the land, even a new college campus requires an Act of Congress.

The college campus that this bill would enable will become an exceptional asset not only to the citizens of Nye County, but to all Nevadans and ultimately to the Nation as a whole.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nye County Higher Education Campus Conveyance Act".

SEC. 2. DEFINITIONS.

(a) DEFINITIONS.—In this Act:

(1) CHANCELLOR.—The term "Chancellor" means the Chancellor of the University system.

(2) COUNTY.—The term "County" means the County of Nye, Nevada.

(3) COLLEGE.—The term "College" means the Nye County Nevada Higher Education Campus in Pahrump Valley, Nevada, a component of the University system.

(4) FEDERAL LAND.—The term "Federal land" means the parcel of Bureau of Land Management land identified on the map as the N½ (excluding the NW¼NW¼) of sec. 2 of T. 21 S., R. 54 E.

(5) MAP.—The term "map" means the map entitled "Southern Nevada Public Land Management Act" and dated October 1, 2002.

(6) STATE.—The term "State" means the State of Nevada.

(7) UNIVERSITY SYSTEM.—The term "University system" means the University and Community College System of Nevada.

SEC. 3. CONVEYANCE TO THE UNIVERSITY AND COMMUNITY COLLEGE SYSTEM OF NEVADA.

(a) IN GENERAL.—Notwithstanding the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and section 1(c) of the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869(c)), not later than 1 year after the date on which a survey defining the official metes and bounds of the Federal land is approved by the Secretary, the Secretary shall convey to the University system without consideration, all right, title, and interest of the United States in and to the Federal land for use as a campus for the College.

(b) CONDITIONS.—

(1) IN GENERAL.—As a condition of the conveyance under subsection (a), the Chancellor shall agree in writing—

(A) to pay any administrative costs associated with the conveyance, including the cost of any environmental, wildlife, cultural, or historical resources studies;

(B) to use the Federal land conveyed for educational and recreational purposes;

(C) to release and indemnify the United States from any claims or liabilities which may arise from uses that are carried out on the Federal land on or before the date of enactment of this Act by the United States or any person;

(D) as soon as practicable after the date of the conveyance under subsection (a), to erect at the College an appropriate and centrally located monument that acknowledges the conveyance of the Federal land by the United States for the purpose of furthering the higher education of citizens in the State; and

(E) to assist the Bureau of Land Management in providing information to the students of the College and the citizens of the State on—

(i) public land in the State; and

(ii) the role of the Bureau of Land Management in managing, preserving, and protecting the public land.

(2) VALID EXISTING RIGHTS.—The conveyance under subsection (a) shall be subject to all valid existing rights.

(c) USE OF FEDERAL LAND.—

(1) IN GENERAL.—The University system may use the land conveyed under subsection (a) for—

(A) any purpose relating to the establishment, operation, growth, and maintenance of the College; and

(B) any uses relating to those purposes, including residential and commercial development that would generally be associated with an institution of higher education.

(2) OTHER ENTITIES.—The University system may—

(A) consistent with Federal and State law, lease or otherwise provide property or space at the College, with or without consideration, to religious, public interest, community, or other groups for services and events that are of interest to the College, the University system, or any community located in the County;

(B) allow the County or any other community in the County to use facilities of the College for educational and recreational programs of the County or community; and

(C) in conjunction with the County, plan, finance (including through the provision of cost-share assistance), construct, and operate facilities for the County on the Federal land for educational or recreational purposes consistent with this section.

(d) REVERSION.—If the Federal land or any portion of the Federal land conveyed under subsection (a) ceases to be used for the College, the Federal land or any portion of the Federal land shall, at the discretion of the Secretary, revert to the United States.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 435—CONGRATULATING THE CROATION FRATERNAL UNION OF AMERICA ON ITS 110TH ANNIVERSARY

Mr. VOINOVICH submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 435

Whereas the Croatian Fraternal Union of America will celebrate its 110th anniversary on Sunday, September 26, 2004;

Whereas on September 2, 1894, Mr. Zdravko V. Muzina established the Croatian Fraternal Union in old Allegheny City, Pennsylvania;

Whereas the Croatian Fraternal Union began as a means to establish an insurance society to provide coverage for its members and their families;

Whereas the Croatian Fraternal Union of America is the largest Croatian organization outside of the Republic of Croatia, with tens of thousands of members in the United States; and

Whereas the members of the Croatian Fraternal Union remain active and engaged in efforts to provide their members with a secure foundation celebrating their Croatian heritage: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the Croatian Fraternal Union of America on the occasion of its 110th anniversary; and

(2) congratulates the members of the Croatian Fraternal Union on reaching this significant milestone.

Mr. VOINOVICH. Mr. President, I rise today to submit a resolution congratulating the Croatian Fraternal Union of America on the occasion of its 110th anniversary.

This weekend, members of the Croatian Fraternal Union will gather in Pittsburgh, PA to celebrate this significant event. As the CFU prepares for this celebration, I would like to extend my best wishes to Mr. Bernard Luketich, who serves as President of the CFU, and whom I have had the pleasure of knowing and working with for many years.

The Croatian Fraternal Union in Ohio, particularly in the Cleveland area, has for decades promoted the understanding and preservation of the Croatian heritage. Through its many cultural festivals, dances and other events, the local lodges have worked to ensure that the Croatian culture has remained strong and vibrant in Ohio.

I am honored to be a member of the Zumberak Lodge 859, and I attend as many of the lodge's events as my schedule allows. I fondly remember taking my own granddaughters to see the CFU sponsored Tamburitzans perform, because I know it was important to expose the next generation to this wonderful art form and culture. This is the sort of important role that the Croatian Fraternal Union's lodges have filled for the past 110 years, which continues today.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, September 24, 2004 at 9:30 a.m. to hold a hearing on the Dutch Tax Treaty.

SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WATER

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Water be authorized to meet on Friday, September 24, 2004 at 9 a.m. to conduct an oversight hearing to review State and private programs for sage grouse conservation.

The hearing will be held in SD 406.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2005

On Tuesday, September 21, 2004, the Senate passed H.R. 4755, as follows:

H.R. 4755

Resolved, That the bill from the House of Representatives (H.R. 4755) entitled "An Act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2005, and for other purposes.", do pass with the following amendments:

(1)Page 2, after line 5, insert the following:

SENATE

EXPENSE ALLOWANCES

For expense allowances of the Vice President, $20,000; the President Pro Tempore of the Senate, $20,000; Majority Leader of the Senate, $20,000; Minority Leader of the Senate, $20,000; Majority Whip of the Senate, $10,000; Minority Whip of the Senate, $10,000; President Pro Tempore emeritus, $7,500; Chairmen of the Majority and Minority Conference Committees, $5,000 for each Chairman; and Chairmen of the Majority and Minority Policy Committees, $5,000 for each Chairman; in all, $127,500.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $15,000 for each such Leader; in all, $30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, $134,440,000, which shall be paid from this appropriation without regard to the following limitations:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $2,108,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $561,000.

OFFICE OF THE PRESIDENT PRO TEMPORE EMERITUS

For the Office of the President Pro Tempore emeritus, $163,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $3,408,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $2,556,000.

COMMITTEE ON APPROPRIATIONS

For salaries of the Committee on Appropriations, $13,301,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $1,413,000 for each such committee; in all, $2,826,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $702,000.

POLICY COMMITTEES

For salaries of the Majority Policy Committee and the Minority Policy Committee, $1,473,000 for each such committee; in all, $2,946,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $341,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $19,586,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $50,635,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $1,528,000.

AGENCY CONTRIBUTIONS AND RELATED EXPENSES

For agency contributions for employee benefits, as authorized by law, and related expenses, $33,779,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $5,152,000.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $1,265,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $6,000; Sergeant at Arms and Doorkeeper of the Senate, $6,000; Secretary for the Majority of the Senate, $6,000; Secretary for the Minority of the Senate, $6,000; in all, $24,000.

CONTINGENT EXPENSES OF THE SENATE

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted under section 134(a) of the Legislative Reorganization Act of 1946 (Public Law 97–601), section 112 of the Supplemental Appropriations and Rescission Act, 1980 (Public Law 96–304), and Senate Resolution 281, 96th Congress, agreed to March 11, 1980, $110,000,000.

EXPENSES OF THE UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $520,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $1,700,000.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $127,182,000, of which $20,045,000 shall remain available until September 30, 2007, and of which $4,255,000 shall remain available until September 30, 2009.

MISCELLANEOUS ITEMS

For miscellaneous items, $18,326,000, of which up to $500,000 shall be made available for a pilot program for mailings of postal patron postcards by Senators for the purpose of providing notice of a town meeting by a Senator in a county (or equivalent unit of local government) at which the Senator will personally attend: Provided, That any amount allocated to a Senator for such mailing shall not exceed 50 percent of the cost of the mailing and the remaining cost shall be paid by the Senator from other funds available to the Senator.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $326,000,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate, $300,000.

ADMINISTRATIVE PROVISIONS

SEC. 1. GROSS RATE OF COMPENSATION IN OFFICES OF SENATORS. Effective on and after October 1, 2004, each of the dollar amounts contained in the table under section 105(d)(1)(A) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61–1(d)(1)(A)) shall be deemed to be the dollar amounts in that table, as adjusted by law and in effect on September 30, 2004, increased by an additional $50,000 each.

SEC. 2. CONSULTANTS. With respect to fiscal year 2005, the first sentence of section 101(a) of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h–6(a)) shall be applied by substituting "nine individual consultants" for "eight individual consultants".

SEC. 3. UNITED STATES SENATE COLLECTION. Section 316 of Public Law 101–302 (2 U.S.C. 2107) is amended in the first sentence of subsection (a) by striking "2004" and inserting "2005".

SEC. 4. PRESIDENT PRO TEMPORE EMERITUS OF THE SENATE. Section 7(e) of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 32b note) is amended by inserting "and the 109th Congress" after "108th Congress".

SEC. 5. TRANSFER OF FUNDS FROM APPROPRIATIONS ACCOUNT OF THE OFFICE OF THE VICE PRESIDENT AND THE OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY TO THE SENATE CONTINGENT FUND. (a) OFFICE OF THE VICE PRESIDENT.—

(1) IN GENERAL.—Upon the written request of the Vice President, the Secretary of the Senate shall transfer from the appropriations account appropriated under the subheading "OFFICE OF THE VICE PRESIDENT" under the heading "SALARIES, OFFICERS AND EMPLOYEES" such amount as the Vice President shall specify to the appropriations account under the heading " MISCELLANEOUS ITEMS" within the contingent fund of the Senate.

(2) AUTHORITY TO INCUR EXPENSES.—The Vice President may incur such expenses as may be necessary or appropriate. Expenses incurred by the Vice President shall be paid from the amount transferred under paragraph (1) by the Vice President and upon vouchers approved by the Vice President.

(3) AUTHORITY TO ADVANCE SUMS.—The Secretary of the Senate may advance such sums as may be necessary to defray expenses incurred in carrying out paragraphs (1) and (2).

(b) OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY.—

(1) IN GENERAL.—Upon the written request of the Secretary for the Majority or the Secretary for the Minority, the Secretary of the Senate shall transfer from the appropriations account appropriated under the subheading "OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY" under the heading "SALARIES, OFFICERS AND EMPLOYEES" such amount as the Secretary for the Majority or the Secretary for the Minority shall specify to the appropriations account under the heading "MISCELLANEOUS ITEMS" within the contingent fund of the Senate.

(2) AUTHORITY TO INCUR EXPENSES.—The Secretary for the Majority or the Secretary for the Minority may incur such expenses as may be necessary or appropriate. Expenses incurred by the Secretary for the Majority or the Secretary for the Minority shall be paid from the amount transferred under paragraph (1) by the Secretary for the Majority or the Secretary for the Minority and upon vouchers approved by the Secretary for the Majority or the Secretary for the Minority, as applicable.

(3) AUTHORITY TO ADVANCE SUMS.—The Secretary of the Senate may advance such sums as may be necessary to defray expenses incurred in carrying out paragraphs (1) and (2).

(c) EFFECTIVE DATE.—This section shall apply to fiscal year 2005 and each fiscal year thereafter.

SEC. 6. ACTIVITIES RELATING TO FOREIGN PARLIAMENTARY GROUPS AND FOREIGN OFFICIALS. Section 2(c) of chapter VIII of title I of the Supplemental Appropriations Act, 1987 (2 U.S.C. 65f(c)) is amended in the first sentence by striking "with the approval of" and inserting "and upon notification to".

SEC. 7. TRANSPORTATION OF OFFICIAL RECORDS AND PAPERS TO A SENATOR'S STATE. (a) PAYMENT OF REASONABLE TRANSPORTATION EXPENSES.—Upon request of a Senator, amounts in the appropriation account "Miscellaneous Items" within the contingent fund of the Senate shall be available to pay the reasonable expenses of sending or transporting the official records and papers of the Senator from the District of Columbia to any location designated by such Senator in the State represented by the Senator.

(b) SENDING AND TRANSPORTATION.—The Sergeant at Arms and Doorkeeper of the Senate shall provide for the most economical means of sending or transporting the official records and papers under this section while ensuring the orderly and timely delivery of the records and papers to the location specified by the Senator.

(c) OVERSIGHT.—The Committee on Rules and Administration shall have the authority to issue rules and regulations to carry out the provisions of this section.

(d) OFFICIAL RECORDS DEFINED.—In this section, the term "official records and papers" means books, records, papers, and official files which could be sent as franked mail.

(e) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 8. COMPENSATION FOR LOST OR DAMAGED PROPERTY. (a) IN GENERAL.—Any amounts received by the Sergeant at Arms and Doorkeeper of the Senate (in this section referred to as the "Sergeant at Arms") for compensation for damage to, loss of, or loss of use of property of the Sergeant at Arms that was procured using amounts available to the Sergeant at Arms in the account for Contingent Expenses, Sergeant at Arms and Doorkeeper of the Senate, shall be credited to that account or, if applicable, to any subaccount of that account.

(b) AVAILABILITY.—Amounts credited to any account or subaccount under subsection (a) shall be merged with amounts in that account or subaccount and shall be available to the same extent, and subject to the same terms and conditions, as amounts in that account or subaccount.

(c) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2005 and each fiscal year thereafter.

SEC. 9. AGE REQUIREMENT FOR SENATE PAGES. Section 491(b)(1) of the Legislative Reorganization Act of 1970 (2 U.S.C. 88b–1(b)(1)) is amended by striking "fourteen" and inserting "sixteen".

SEC. 10. TREATMENT OF ELECTRONIC SERVICES PROVIDED BY SERGEANT AT ARMS. The Office of the Sergeant at Arms and Doorkeeper of the United States Senate, and any officer, employee, or agent of the Office, shall not be treated as acquiring possession, custody, or control of any electronic mail or other electronic communication, data, or information by reason of its being transmitted, processed, or stored (whether temporarily or otherwise) through the use of an electronic system established, maintained, or operated, or the use of electronic services provided, in whole or in part by the Office.

(2)Page 9, strike line 20 and all that follows through, Page 21, line 6 and insert the following:

JOINT ITEMS

For Joint Committees, as follows:

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $4,139,000, to be disbursed by the Secretary of the Senate.

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $8,476,000, to be disbursed by the Chief Administrative Officer of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including: (1) an allowance of $2,175 per month to the Attending Physician; (2) an allowance of $725 per month each to four medical officers while on duty in the Office of the Attending Physician; (3) an allowance of $725 per month each to two assistants and $580 per month each to not to exceed 11 assistants on the basis heretofore provided for such assistants; and (4) $1,680,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $2,528,000, to be disbursed by the Chief Administrative Officer of the House of Representatives.

CAPITOL GUIDE SERVICE AND SPECIAL SERVICES OFFICE

For salaries and expenses of the Capitol Guide Service and Special Services Office, $3,844,000, to be disbursed by the Secretary of the Senate: Provided, That no part of such amount may be used to employ more than 58 individuals: Provided further, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than 120 days each, and not more than 10 additional individuals for not more than 6 months each, for the Capitol Guide Service.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate *and the House of Representatives, of the statements for the second session of the 108th Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.*

CAPITOL POLICE

SALARIES

For salaries of employees of the Capitol Police, including overtime, hazardous duty pay differential, and Government contributions for health, retirement, social security, professional liability insurance, and other applicable employee benefits, $198,000,000, to be disbursed by the Chief of the Capitol Police or his designee.

GENERAL EXPENSES

For necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, security equipment and installation, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, personal and professional services, the employee assistance program, the awards program, postage, communication services, domestic travel, foreign travel as approved by the Capitol Police Board, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, and not more than $5,000 to be expended on the certification of the Chief of the Capitol Police in connection with official representation and reception expenses, $28,925,000, of which $700,000 is to remain available until expended, to be disbursed by the Chief of the Capitol Police or his designee.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 1001. TRANSFER AUTHORITY. Amounts appropriated for fiscal year 2005 for the Capitol Police may be transferred between the headings ''SALARIES'' and ''GENERAL EXPENSES'' upon the approval of the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 1002. LIMITATION ON CERTAIN HIRING AUTHORITY OF CAPITOL POLICE. Section 1006(b) of the Legislative Branch Appropriations Act, 2004 (Public Law 108–83; 117 Stat. 1023) is amended—

(1) in paragraph (3)—

(A) in subparagraph (B), by inserting at the end ''The Chief of Police may hire individuals under this subsection who are not submitted for selection under this subparagraph. All hirings under this subparagraph shall comply with the limitations under this paragraph for any fiscal year.''; and

(B) in subparagraph (C), by striking ''(C) LIMITATION.—'' and inserting ''(C) LIMITATION FOR FISCAL YEAR 2004.—''; and

(C) by adding at the end the following:

''(D) LIMITATION FOR FISCAL YEAR 2005.— During fiscal year 2005, the number of individuals hired under this subsection may not exceed—

''(i) the number of Library of Congress Police employees who separated from service or transferred to a position other than a Library of Congress Police employee position during fiscal year 2004 for whom a corresponding hire was not made under this subsection; and

''(ii) the number of Library of Congress Police employees who separate from service or transfer to a position other than a Library of Congress Police employee position during fiscal year 2005.''; and

(2) in paragraph (4), by striking the first sentence and inserting ''Notwithstanding subsection (a)(1)(C), the Chief of the Capitol Police may detail an individual hired under this subsection to the Library of Congress Police on a nonreimbursable basis. Any individual detailed under this subsection shall receive necessary training, including training by the Library of Congress Police.''.

SEC. 1003. COMPENSATION FOR DAMAGED OR LOST PROPERTY. (a) IN GENERAL.—Any amounts received by the Capitol Police for compensation for damage to, loss of, or loss of use of property of the Capitol Police (including any insurance payments or payment made by an officer or civilian employee of the Capitol Police) shall be credited to the account established for the general expenses of the Capitol Police, and shall be available to carry out the purposes of such account during the fiscal year in which the amounts are received and the following fiscal year.

(b) EFFECTIVE DATE.—This section shall apply to fiscal year 2005 and each fiscal year thereafter.

SEC. 1004. PARTICIPATION IN VOLUNTARY TRANSFER OF LEAVE WITH OTHER AGENCIES. (a) IN GENERAL.—The Office of Personnel Management shall apply the regulations prescribed under section 6334(c) of title 5, United States Code, to the Capitol Police to provide for the participation of employees of the Capitol Police in the voluntary transfer of leave between employees of different agencies under subchapter III of chapter 63 of that title.

(b) CERTIFICATION OF LEAVE ACCOUNTS.—For purposes of this section, the Office of Personnel Management shall accept the certification of the Chief of the Capitol Police of the amount of annual leave in the annual leave account of any leave donor or leave recipient who is an employee of the Capitol Police.

(c) REGULATIONS.—After consultation with the Chief of the Capitol Police, the Office of Personnel Management may prescribe regulations to carry out this section.

(d) EFFECTIVE DATE.—This section shall apply to fiscal year 2005 and each fiscal year thereafter.

SEC. 1005. AUTHORIZATION OF WEAPONS. Section 1824 of the Revised Statutes (2 U.S.C. 1941) is amended—

(1) in the first sentence—

(A) by striking ''The Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives'' and inserting ''The Capitol Police Board''; and

(B) by striking all beginning with ''payable out'' through the period and inserting ''payable from appropriations to the Capitol Police upon certification of payment by the Chief of the Capitol Police.''; and

(2) in the second sentence—

(A) by inserting ''or other arms as authorized by the Capitol Police Board'' after ''furnished''; and

(B) by striking ''the Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives'' and inserting ''the Capitol Police Board''.

SEC. 1006. RELEASE OF SECURITY INFORMATION. (a) DEFINITION.—In this section, the term ''security information'' means information that—

(1) is sensitive with respect to the policing, protection, physical security, intelligence, counterterrorism actions, or emergency preparedness and response relating to Congress, any statutory protectee of the Capitol Police, and the Capitol buildings and grounds; and

(2) is obtained by, on behalf of, or concerning the Capitol Police Board, the Capitol Police, or any incident command relating to emergency response.

(b) AUTHORITY OF BOARD TO DETERMINE CONDITIONS OF RELEASE.—Notwithstanding any other provision of law, any security information in the possession of the Capitol Police may be released by the Capitol Police to another entity, including an individual, only if the Capitol Police Board determines in consultation with other appropriate law enforcement officials, experts in security preparedness, and appropriate committees of Congress, that the release of the security information will not compromise the security and safety of the Capitol buildings and grounds or any individual whose protection and safety is under the jurisdiction of the Capitol Police.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect the ability of the Senate and the House of Representatives (including any Member, officer, or committee of either House of Congress) to obtain information from the Capitol Police regarding the operations and activities of the Capitol Police that affect the Senate and House of Representatives.

(d) REGULATIONS.—The Capitol Police Board may promulgate regulations to carry out this section, with the approval of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and apply with respect to—

(1) any remaining portion of fiscal year 2004, if this Act is enacted before October 1, 2004; and

(2) fiscal year 2005 and each fiscal year thereafter.

SEC. 1007. ACCEPTANCE OF DONATIONS OF ANIMALS. (a) IN GENERAL.—The Capitol Police may accept the donation of animals to be used in the canine or equine units of the Capitol Police.

(b) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2005 and each fiscal year thereafter.

SEC. 1008. SETTLEMENT AND PAYMENT OF TORT CLAIMS. (a) FEDERAL TORT CLAIMS ACT.—

(1) IN GENERAL.—Except as provided in paragraph (2) with respect to the Senate, the Chief of the Capitol Police, in accordance with regulations prescribed by the Attorney General and any regulations as the Capitol Police Board may prescribe, may consider, ascertain, determine, compromise, adjust, and settle, in accordance with the provisions of chapter 171 of title 28, United States Code, any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Capitol Police while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

(2) SENATE.—

(A) IN GENERAL.—With respect to any claim of a Senator or an employee whose pay is disbursed by the Secretary of the Senate, the Chief of the Capitol Police shall—

(i) not later than 14 days after the receipt of such a claim, notify the Chairman of the Committee on Rules and Administration of the receipt of the claim; and

(ii) not later than 90 days after the receipt of such a claim, submit a proposal for the resolution of such claim which shall be subject to the approval of the Chairman of the Committee on Rules and Administration.

(B) EXTENSION.—The 90-day period in subparagraph (A)(ii) may be extended, not to exceed 90 days, for good cause by the Chairman of the Committee on Rules and Administration upon the request of the Chief of the Capitol Police.

(3) HEAD OF AGENCY.—For purposes of section 2672 of title 28, United States Code, the Chief of the Capitol Police shall be the head of a Federal agency with respect to the Capitol Police.

(4) REGULATIONS.—The Capitol Police Board may prescribe regulations to carry out this subsection.

(b) CLAIMS OF EMPLOYEES OF CAPITOL POLICE.—

(1) IN GENERAL.—The Capitol Police Board may prescribe regulations to apply the provisions of section 3721 of title 31, United States Code, for the settlement and payment of a claim against the Capitol Police by an employee of the Capitol Police for damage to, or loss of personal property incident to service.

(2) LIMITATION.—No settlement and payment of a claim under regulations prescribed under this subsection may exceed $2,000.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect—

(1) any payment under section 1304 of title 31, United States Code, of a final judgement, award, compromise settlement, and interest and costs specified in the judgment based on a claim against the Capitol Police; or

(2) any authority for any—

(A) settlement under section 414 of the Congressional Accountability Act of 1995 (2 U.S.C. 1414); or

(B) payment under section 415 of that Act (2 U.S.C. 1415).

(d) EFFECTIVE DATE.—This section shall apply to fiscal year 2005 and each fiscal year thereafter.

SEC. 1009. FOREIGN TRAVEL AUTHORIZATION. Notwithstanding any other provision of law and subject to the approval of the Capitol Police Board, the Capitol Police are authorized, in a non-law enforcement capacity, to travel with and assist overseas congressional delegations in a security advisory and liaison role, including advance security liaison preparations for such congressional foreign travel.

OFFICE OF COMPLIANCE

SALARIES AND EXPENSES

For salaries and expenses of the Office of Compliance, as authorized by section 305 of the Congressional Accountability Act of 1995 (2 U.S.C. 1385), $2,421,000: Provided, That the Executive Director of the Office of Compliance may, within the limits of available appropriations, dispose of surplus or obsolete personal property by interagency transfer, donation, or discarding.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary for operation of the Congressional Budget Office, including not more than $3,000 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $34,790,000: Provided, That no part of such amount may be used for the purchase or hire of a passenger motor vehicle.

ARCHITECT OF THE CAPITOL

GENERAL ADMINISTRATION

For salaries for the Architect of the Capitol, and other personal services, at rates of pay provided by law; for surveys and studies in connection with activities under the care of the Architect of the Capitol; for all necessary expenses for the general and administrative support of the operations under the Architect of the Capitol including the Botanic Garden; electrical substations of the Capitol, Senate and House office buildings, and other facilities under the jurisdiction of the Architect of the Capitol; including furnishings and office equipment; including not more than $5,000 for official representation and reception expenses, to be expended as the Architect of the Capitol may approve; for purchase or exchange, maintenance, and operation of a passenger motor vehicle, $74,063,000, of which $720,000 shall remain available until September 30, 2009.

CAPITOL BUILDING

For all necessary expenses for the maintenance, care and operation of the Capitol, $24,784,000, of which $8,770,000 shall remain available until September 30, 2009.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $6,940,000.

SENATE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of Senate office buildings; and furniture and furnishings to be expended under the control and supervision of the Architect of the Capitol, $62,303,000, of which $9,070,000 shall remain available until September 30, 2009.

(3)Page 21, strike line 12 and all that follows through, Page 50, line 13 and insert the following:

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, the Union Station complex, the Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $60,928,000, of which $2,190,000 shall remain available until September 30, 2009: Provided, That not more than $4,400,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 2005.

LIBRARY BUILDINGS AND GROUNDS

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $65,145,000, of which $47,114,000 shall remain available until September 30, 2009.

CAPITOL POLICE BUILDINGS AND GROUNDS

For all necessary expenses for the maintenance, care, and operation of buildings and grounds of the United States Capitol Police, $7,090,000, of which $1,500,000 shall remain available until September 30, 2009.

BOTANIC GARDEN

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $6,294,000: Provided, That this appropriation shall not be available for construction of the National Garden.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress not otherwise provided for, including development and maintenance of the Library's catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog records and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $379,648,000, of which not more than $6,000,000 shall be derived from collections credited to this appropriation during fiscal year 2005, and shall remain available until expended, under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150) and not more than $350,000 shall be derived from collections during fiscal year 2005 and shall remain available until expended for the development and maintenance of an international legal information database and activities related thereto: Provided, That the Library of Congress may not obligate or expend any funds derived from collections under the Act of June 28, 1902, in excess of the amount authorized for obligation or expenditure in appropriations Acts: Provided further, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $6,350,000: Provided further, That of the total amount appropriated, $11,981,000 shall remain available until expended for the partial acquisition of books, periodicals, newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: Provided further, That of the total amount appropriated, not more than $12,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Overseas Field Offices: Provided further, That of the total amount appropriated, $1,175,000 shall remain available until expended for the purpose of teaching educators and librarians how to incorporate the Library's digital collections into school curricula and shall be transferred to the educational consortium formed to conduct the "Adventure of the American Mind" project as approved by the Library: Provided further, That of the amount appropriated, $500,000 shall remain available until expended, and shall be transferred to the Abraham Lincoln Bicentennial Commission for carrying out the purposes of Public Law 106-173, of which $10,000 may be used for official representation and reception expenses of the Abraham Lincoln Bicentennial Commission: Provided further, That of the total amount appropriated, $15,620,000 shall remain available until expended for partial support of the National Audio-Visual Conservation Center: Provided further, That of the total amount appropriated, $2,795,000 shall remain available until expended for the development and maintenance of the Alternate Computer Facility: Provided further, That of the amount appropriated, $500,000 shall be used to provide a grant to the Middle Eastern Text Initiative for translation and publishing of middle eastern text.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, $53,518,000, of which not more than $26,843,000, to remain available until expended, shall be derived from collections credited to this appropriation during fiscal year 2005 under section 708(d) of title 17, United States Code: Provided, That the Copyright Office may not obligate or expend any funds derived from collections under such section, in excess of the amount authorized for obligation or expenditure in appropriations Acts: Provided further, That not more than $6,496,000 shall be derived from collections during fiscal year 2005 under sections 111(d)(2), 119(b)(2), 802(h), 1005, and 1316 of such title: Provided further, That the total amount available for obligation shall be reduced by the amount by which collections are less than $33,339,000: Provided further, That not more than $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright

Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: Provided further, That not more than $4,250 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the International Copyright Institute and for copyright delegations, visitors, and seminars.

Congressional Research Service

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $96,678,000: Provided, That no part of such amount may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate.

Books for the Blind and Physically Handicapped

SALARIES AND EXPENSES

For salaries and expenses to carry out the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), $53,937,000, of which $15,960,000 shall remain available until expended.

Administrative Provisions

Sec. 1101. Incentive Awards Program. Of the amounts appropriated to the Library of Congress in this Act, not more than $5,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the incentive awards program.

Sec. 1102. Reimbursable and Revolving Fund Activities. (a) In General.—For fiscal year 2005, the obligational authority of the Library of Congress for the activities described in subsection (b) may not exceed $106,985,000.

(b) Activities.—The activities referred to in subsection (a) are reimbursable and revolving fund activities that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

(c) Transfer of Funds.—During fiscal year 2005, the Librarian of Congress may temporarily transfer funds appropriated in this Act, under the heading "LIBRARY OF CONGRESS" under the subheading "Salaries and Expenses" to the revolving fund for the FEDLINK Program and the Federal Research Program established under section 103 of the Library of Congress Fiscal Operations Improvement Act of 2000 (Public Law 106–481; 2 U.S.C. 182c): Provided, That the total amount of such transfers may not exceed $1,900,000: Provided further, That the appropriate revolving fund account shall reimburse the Library for any amounts transferred to it before the period of availability of the Library appropriation expires.

Sec. 1103. National Digital Information Infrastructure and Preservation Program. The Miscellaneous Appropriations Act, 2001 (enacted into law by section 1(a)(4) of Public Law 106–554, 114 Stat. 2763A–194) is amended in the first proviso under the subheading "Salaries and Expenses" under the heading "LIBRARY OF CONGRESS" in chapter 9 of division A—

(1) by inserting "and pledges" after "other than money"; and

(2) by striking "March 31, 2005" and inserting "March 31, 2010".

Sec. 1104. Construction of United States Diplomatic Facilities. None of the funds in this Act may be used to pay any fee charged by the Department of State for the purpose of constructing United States diplomatic facilities.

Sec. 1105. National Film Preservation Board and National Film Preservation Foundation. (a) Effective Dates.—Notwithstanding the effective date under section 113 of the National Film Preservation Act of 1996 (2 U.S.C. 179w), title I of that Act shall be considered to be effective through fiscal year 2005.

(b) Authorization of Appropriations.—Section 151711(a) of title 36, United States Code, is amended by striking "2003" and inserting "2005".

GOVERNMENT PRINTING OFFICE

Congressional Printing and Binding

(INCLUDING TRANSFER OF FUNDS)

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (section 902 of title 44, United States Code); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $88,800,000: Provided, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under section 906 of title 44, United States Code: Provided further, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years: Provided further, That notwithstanding the 2-year limitation under section 718 of title 44, United States Code, none of the funds appropriated or made available under this Act or any other Act for printing and binding and related services provided to Congress under chapter 7 of title 44, United States Code, may be expended to print a document, report, or publication after the 27-month period beginning on the date that such document, report, or publication is authorized by Congress to be printed, unless Congress reauthorizes such printing in accordance with section 718 of title 44, United States Code: Provided further, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

Office of Superintendent of Documents

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $31,935,000: Provided, That amounts of not more than $2,000,000 from current year appropriations are authorized for producing and disseminating Congressional serial sets and other related publications for fiscal years 2003 and 2004 to depository and other designated libraries: Provided further, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

Government Printing Office Revolving Fund

The Government Printing Office may make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolving fund: Provided, That not more than $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: Provided further, That the revolving fund shall be available for the hire or purchase of not more than 12 passenger motor vehicles: Provided further, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: Provided further, That the revolving fund shall be available for temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of such title: Provided further, That the revolving fund and the funds provided under the headings "Office of Superintendent of Documents" and "Salaries and Expenses" together may not be available for the full-time equivalent employment of more than 2,621 workyears (or such other number of workyears as the Public Printer may request, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate): Provided further, That activities financed through the revolving fund may provide information in any format: Provided further, That not more than $10,000 may be expended from the revolving fund in support of the activities of the Benjamin Franklin Tercentenary Commission established by Public Law 107–202.

Administrative Provision

Sec. 1301. Discounts for Sales Copies. Section 1708 of title 44, United States Code, is amended by striking "of not to exceed 25 percent may be allowed to book dealers and quantity purchasers", and inserting in lieu thereof the following: "may be allowed as determined by the Superintendent of Documents".

GOVERNMENT ACCOUNTABILITY OFFICE

Salaries and Expenses

For necessary expenses of the Government Accountability Office, including not more than $12,500 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with section 3324 of title 31, United States Code; benefits comparable to those payable under section 901(5), (6), and (8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), (6), and (8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries, $470,000,000: Provided, That not more than $4,919,000 of payments received under section 782 of title 31, United States Code, shall be available for use in fiscal year 2005: Provided further, That not more than $2,500,000 of reimbursements received under section 9105 of title 31, United States Code, shall be available for use in fiscal year 2005: Provided further, That this *appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of either Forum's costs as determined by the respective Forum, including necessary travel expenses of non-Federal participants: Provided further, That payments hereunder to the Forum may be credited as reimbursements to any appropriation from which costs involved are initially financed: Provided further, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences.*

ADMINISTRATIVE PROVISION

SEC. 1401. REPORTS TO THE COMPTROLLER GENERAL. (a) LIMITATIONS ON EXPENDITURES, OBLIGATIONS, AND VOLUNTARY SERVICES.—Section 1351 of title 31, United States Code, is amended by inserting "A copy of each report shall also be transmitted to the Comptroller General on the same date the report is transmitted to the President and Congress." after the first sentence.

(b) PROHIBITED OBLIGATIONS AND EXPENDITURES.—Section 1517(b) of title 31, United States Code, is amended by inserting "A copy of each report shall also be transmitted to the Comptroller General on the same date the report is transmitted to the President and Congress." after the first sentence.

PAYMENT TO THE OPEN WORLD LEADERSHIP CENTER TRUST FUND

For a payment to the Open World Leadership Center Trust Fund for financing activities of the Open World Leadership Center, $13,500,000.

ADMINISTRATIVE PROVISION

SEC. 1501. EXPANSION OF OPEN WORLD LEADERSHIP COUNTRIES.—Section 313(j) of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1151(j)) is amended—

(1) in paragraph (1), by striking "and" after the semicolon;

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) any other country that is designated by the Board, except that the Board shall notify the Committees on Appropriations of the Senate and the House of Representatives of the designation at least 90 days before the designation is to take effect.".

TITLE II—GENERAL PROVISIONS

SEC. 201. MAINTENANCE AND CARE OF PRIVATE VEHICLES. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 202. FISCAL YEAR LIMITATION. No part of the funds appropriated in this Act shall remain available for obligation beyond fiscal year 2005 unless expressly so provided in this Act.

SEC. 203. RATES OF COMPENSATION AND DESIGNATION. Whenever in this Act any office or position not specifically established by the Legislative Pay Act of 1929 (46 Stat. 32 et seq.) is appropriated for or the rate of compensation or designation of any office or position appropriated for is different from that specifically established by such Act, the rate of compensation and the designation in this Act shall be the permanent law with respect thereto: Provided, That the provisions in this Act for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

SEC. 204. CONSULTING SERVICES. The expenditure of any appropriation under this Act for any consulting service through procurement contract, under section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued under existing law.

SEC. 205. AWARDS AND SETTLEMENTS. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of the Congressional Accountability Act (2 U.S.C. 1415(a)) to pay awards and settlements as authorized under such subsection.

SEC. 206. COSTS OF LBFMC. Amounts available for administrative expenses of any legislative branch entity which participates in the Legislative Branch Financial Managers Council (LBFMC) established by charter on March 26, 1996, shall be available to finance an appropriate share of LBFMC costs as determined by the LBFMC, except that the total LBFMC costs to be shared among all participating legislative branch entities (in such allocations among the entities as the entities may determine) may not exceed $2,000.

SEC. 207. LIMITATION ON TRANSFERS. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 208. VOLUNTARY COMPLIANCE WITH GOVERNMENT ETRAVEL SERVICE REGULATION. (a) DEFINITION.—In this section, the term "agency" means the—

(1) Architect of the Capitol;

(2) Congressional Budget Office;

(3) Government Accountability Office;

(4) Government Printing Office;

(5) Library of Congress; and

(6) Office of Compliance.

(b) COMPLIANCE ELECTION.—Notwithstanding any other provision of law, an agency, at the discretion of the head of the agency, may—

(1) elect to comply with the requirements of parts 300–3, 301–50, 301–52, 301–70, and 301–73 of title 41 of the Code of Federal Regulations, or any modification to those requirements, (relating to the Governmentwide eTravel Service); and

(2) if the head of the agency makes an election to comply under paragraph (1), enter into an agreement with the General Services Administration to modify those requirements, as applicable to that agency, relating to confidentiality of information or other concerns of the head of the agency.

(c) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2005 and each fiscal year thereafter.

SEC. 209. CONGRESSIONAL RECOGNITION FOR EXCELLENCE IN ARTS EDUCATION. Section 210 of the Legislative Branch Appropriations Act, 2003 is amended—

(1) by striking the first proviso; and

(2) by striking "Provide further," and inserting "Provided,".

SEC. 210. TRANSFER OF JURISDICTION OVER REAL PROPERTY NEAR JAPANESE AMERICAN PATRIOTISM MEMORIAL. (a) TRANSFER OF JURISDICTION.—

(1) IN GENERAL.—Jurisdiction over the parcels of Federal real property described under paragraph (2) (over which jurisdiction was transferred under section 514(b)(2)(C) of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 5102 note; Public Law 104–333)) is transferred to the Architect of the Capitol, without consideration.

(2) PARCELS.—The parcels of Federal real property referred to under paragraph (1) are the following:

(A) That portion of New Jersey Avenue, N.W., between the northernmost point of the intersection of New Jersey Avenue, N.W., and D Street, N.W., and the northernmost point of the intersection of New Jersey Avenue, N.W., and Louisiana Avenue, N.W., between squares 631 and W632, which remains Federal property, and whose maintenance and repair shall be the responsibility of the District of Columbia.

(B) That portion of D Street, N.W., between its intersection with New Jersey Avenue, N.W., and its intersection with Louisiana Avenue, N.W., between squares 630 and W632, which remains Federal property.

(b) MISCELLANEOUS.—

(1) COMPLIANCE WITH OTHER LAWS.—Compliance with this section shall be deemed to satisfy the requirements of all laws otherwise applicable to transfers of jurisdiction over parcels of Federal real property.

(2) UNITED STATES CAPITOL GROUNDS.—

(A) DEFINITION.—Section 5102 of title 40, United States Code, is amended to include within the definition of the United States Capitol Grounds the parcels of Federal real property described in subsection (a)(2).

(B) JURISDICTION OF CAPITOL POLICE.—The United States Capitol Police shall have jurisdiction over the parcels of Federal real property described in subsection (a)(2) in accordance with section 9 of the Act entitled "An Act to define the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (2 U.S.C. 1961).

(3) EFFECT OF TRANSFER.—A person relinquishing jurisdiction over any parcel of Federal real property transferred by subsection (a) shall not retain any interest in the parcel except as specifically provided in this section.

(c) EFFECTIVE DATE.—This Act shall apply to fiscal year 2005 and each fiscal year thereafter.

SEC. 211. COMMISSION ON THE ABRAHAM LINCOLN STUDY ABROAD FELLOWSHIP PROGRAM.—(a) APPROPRIATION.—There are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, $495,000, for the Commission on the Abraham Lincoln Study Abroad Fellowship Program established under section 104 of division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 435).

(b) EXTENSION OF REPORT AND TERMINATION DATES.—Section 104 of division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 435) is amended—

(1) in subsection (f), by striking "December 1, 2004" and inserting "December 1, 2005"; and

(2) in subsection (g), by striking "December 31, 2004" and inserting "December 31, 2005".

This Act may be cited as the "Legislative Branch Appropriations Act, 2005".

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

On Wednesday, September 22, 2004, the Senate passed H.R. 4850, as follows:

H.R. 4850

Resolved, That the bill from the House of Representatives (H.R. 4850) entitled "An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia and related agencies for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, $21,200,000, to remain available until expended: Provided, That such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to $2,500 each year at eligible private institutions of higher education: Provided further, That the awarding of such funds may be prioritized on the basis of a resident's academic merit, the income and need of eligible students and such other factors as may be authorized: Provided further, That the District of Columbia government shall maintain a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year: Provided further, That the account shall be under the control of the District of Columbia Chief Financial Officer who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program: Provided further, That the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor: Provided further, That not more than 7 percent of the total amount appropriated for this program may be used for administrative expenses.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA

For necessary expenses, as determined by the Mayor of the District of Columbia in written consultation with the elected county or city officials of surrounding jurisdictions, $15,000,000, to remain available until expended, to reimburse the District of Columbia for the costs of providing public safety at events related to the presence of the national capital in the District of Columbia and for the costs of providing support to respond to immediate and specific terrorist threats or attacks in the District of Columbia or surrounding jurisdictions: Provided, That any amount provided under this heading shall be available only after notice of its proposed use has been transmitted by the President to Congress and such amount has been apportioned pursuant to chapter 15 of title 31, United States Code.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

For salaries and expenses for the District of Columbia Courts, $195,010,000, to be allocated as follows: for the District of Columbia Court of Appeals, $8,952,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Superior Court, $84,948,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Court System, $40,699,000, of which not to exceed $1,500 is for official reception and representation expenses; and $60,411,000, to remain available until September 30, 2005, for capital improvements for District of Columbia courthouse facilities: Provided, That funds made available for capital improvements shall be expended consistent with the General Services Administration master plan study and building evaluation report: Provided further, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: Provided further, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232–18: Provided further, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate: Provided further, That 30 days after providing written notice to the Committees on Appropriations of the House of Representatives and Senate, the District of Columbia Courts may reallocate not more than $1,000,000 of the funds provided under this heading among the items and entities funded under such heading for operations, and not more than 4 percent of the funds provided under this heading for facilities.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

For payments authorized under section 11–2604 and section 11–2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code, or pursuant to contractual agreements to provide guardian ad litem representation, training, technical assistance and/or such other services as are necessary to improve the quality of guardian ad litem representation, payments for counsel appointed in adoption proceedings under chapter 3 of title 16, D.C. Code, and payments for counsel authorized under section 21–2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), $34,500,000, to remain available until expended: Provided, That the funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the $53,011,000 provided under such heading for capital improvements for District of Columbia courthouse facilities) may also be used for payments under this heading: Rrovided further, That in addition to the funds provided under this heading, the Joint Committee on Judicial Administration in the District of Columbia shall use funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the $53,011,000 provided under such heading for capital improvements for District of Columbia courthouse facilities), to make payments described under this heading for obligations incurred during any fiscal year: Provided further, That funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: Provided further, That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia and the Public Defender Service for the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, $182,490,000, of which not to exceed $2,000 is for official reception and representation expenses related to Community Supervision and Pretrial Services Agency programs; of which not to exceed $25,000 is for dues and assessments relating to the implementation of the Court Services and Offender Supervision Agency Interstate Supervision Act of 2002; of which $113,343,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include expenses relating to the supervision of adults subject to protection orders or the provision of services for or related to such persons; of which $39,314,000 shall be available to the Pretrial Services Agency; and of which $29,833,000 shall be transferred to the Public Defender Service for the District of Columbia: Provided, That $1,100,000 shall be to lower supervision caseload ratios to 25:1 for special population offenders: Provided further, That $200,000 shall be to expand monitoring of offenders using global position system technology: Provided further, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: Provided further, That notwithstanding chapter 12 of title 40, United States Code, the Director may acquire by purchase, lease, condemnation, or donation, and renovate as necessary, Building Number 17, 1900 Massachusetts Avenue, Southeast, Washington, District of Columbia to house or supervise offenders and defendants, with funds made available for this purpose in Public Law 107–96: Provided further, That the Director is authorized to accept and use gifts in the form of in-kind contributions of space and hospitality to support offender and defendant programs, and equipment and vocational training services to educate and train offenders and defendants: Provided further, That the Director shall keep accurate and detailed records of the acceptance and use of any gift or donation under the previous proviso, and shall make such records available for audit and public inspection: Provided further, That the Court Services and Offender Supervision Agency Director is authorized to accept and use reimbursement from the D.C. Government for space and services provided on a cost reimbursement basis: Provided further, That the Public Defender Service is authorized to charge fees to cover cost of materials distributed to attendees of educational events, including conferences, sponsored by the Public Defender Service, and notwithstanding 31 U.S.C. 3302, said fees shall be credited to the Public Defender Service account to be available for use without further appropriation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

For a Federal payment to the District of Columbia Water and Sewer Authority, $10,000,000, to remain available until expended, to continue implementation of the Combined Sewer Overflow Long-Term Plan: Provided, That the District of Columbia Water and Sewer Authority provides a 100 percent match for this payment.

FEDERAL PAYMENT FOR THE ANACOSTIA WATERFRONT INITIATIVE

For a Federal payment to the District of Columbia Department of Transportation, $3,000,000, to remain available until September 30, 2006, for design and construction of a continuous pedestrian and bicycle trail system from the Potomac River to the District's border with Maryland.

FEDERAL PAYMENT TO THE CRIMINAL JUSTICE COORDINATING COUNCIL

For a Federal payment to the Criminal Justice Coordinating Council, $1,300,000, to remain available until expended, to support initiatives related to the coordination of Federal and local criminal justice resources in the District of Columbia.

FEDERAL PAYMENT FOR THE UNIFIED COMMUNICATIONS CENTER

For a Federal payment to the District of Columbia, $7,000,000, to remain available until expended, shall be for the Unified Communications Center.

FEDERAL PAYMENT FOR TRANSPORTATION ASSISTANCE

For a Federal payment to the District of Columbia Department of Transportation, $5,000,000, of which $1,000,000 shall be allocated to implement a downtown circulator transit system, and of which $4,000,000 shall be to offset a portion of the District of Columbia's allocated operating subsidy payment to the Washington Metropolitan Area Transit Authority.

FEDERAL PAYMENT FOR FOSTER CARE IMPROVEMENTS IN THE DISTRICT OF COLUMBIA

For a Federal payment to the District of Columbia for foster care improvements, $5,000,000, to remain available until expended: Provided, That $3,250,000 shall be for the Child and Family Services Agency, of which $2,000,000 shall be for the early intervention program to provide intensive and immediate services for foster children; of which $750,000 shall be for the emergency support fund to purchase services or technology necessary to allow children to remain in the care of an approved and licensed family member; of which $500,000 shall be for technology upgrades: Provided further, That $1,250,000 shall be for the Department of Mental Health to provide all court-ordered or agency-required mental health screenings, assessments and treatments for children under the supervision of the Child and Family Services Agency: Provided further, That $500,000 shall be for the Washington Metropolitan Council of Governments, to continue a program in conjunction with the Foster and Adoptive Parents Advocacy Center, to provide respite care for and recruitment of foster parents: Provided further, That these Federal funds shall supplement and not supplant local funds for the purposes described under this heading.

FEDERAL PAYMENT TO THE OFFICE OF THE CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

For a Federal payment to the Office of the Chief Financial Officer of the District of Columbia, $32,500,000: Provided, That these funds shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act: Provided further, That each entity that receives funding under this heading shall submit to the Office of the Chief Financial Officer of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate a report on the activities to be carried out with such funds no later than March 15, 2005.

FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT

For a Federal payment for a School Improvement Program in the District of Columbia, $40,000,000, to be allocated as follows: for the District of Columbia Public Schools, $13,000,000 to improve public school education in the District of Columbia, $13,000,000 to expand quality public charter schools in the District of Columbia; for the Secretary of the Department of Education, $14,000,000 to provide opportunity scholarships for students in the District of Columbia in accordance with Public Law 108–199, of which up to $1,000,000 may be used to administer and fund assessments: Provided, That of the $13,000,000 for the District of Columbia Public Schools, $5,000,000 shall be for a new incentive fund to reward high performing or significantly improved public schools; $5,000,000 shall be to support the Transformation School Initiative directed to schools in need of improvement: Provided further, That of the remaining amounts, the Superintendent of the District of Columbia Public Schools shall use such sums as necessary to contract for management consulting services and implement recommended reforms: Provided further, That the Comptroller General shall conduct a financial audit of the District of Columbia Public Schools: Provided further, That of the $13,000,000 provided for public charter schools in the District of Columbia, $4,000,000 shall be for the City Build Initiative · to create neighborhood-based charter schools; $2,750,000 shall be for the Direct Loan Fund for Charter Schools; $150,000 shall be for administrative expenses of the Office of Charter School Financing and Support to expand outreach and support of charter schools; $100,000 shall be for the D.C. Public Charter School Association to enhance the quality of charter schools; $4,000,000 shall be for the development of an incubator facility for public charter schools; and $2,000,000 shall be for a new incentive fund to reward high performing or significantly improved public charter schools: Provided further, That the District of Columbia government shall establish a dedicated account for the Office of Charter School Financing and Support (the Office) that shall consist of the Federal funds appropriated in this Act, any subsequent appropriations, any unobligated balances from prior fiscal years, any additional grants, and any interest and principal derived from loans made to Charter Schools, and repayment of dollars utilized to support credit enhancement earned in this or any fiscal year: Provided further, That the account shall be under the control of the District of Columbia Chief Financial Officer who shall use those funds solely for the purposes of carrying out the Credit Enhancement Program, Direct Loan Fund Grant Program, and any other charter school financing under the management of the Office: Provided further, That in this and subsequent fiscal years the Office of the Chief Financial Officer shall conduct an annual audit of the funds expended by the Office and provide an annual financial report to the Mayor, the Council of the District of Columbia, the Office of the District of Columbia Treasurer and the Committees on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor: Provided further, That not more than $1,000,000 of the total amount appropriated for this program may be used for administrative expenses and training expenses related to the cost of the National Charter School Conference(s) to be hosted by December 2006; and no more than 5 percent of the funds appropriated for the direct loan fund may be used for administrative expenses related to the administration and annual audit of the direct loan, grant, and credit enhancement programs.

FEDERAL PAYMENT FOR BIOTERRORISM AND FORENSICS LABORATORY

For a Federal payment to the District of Columbia, $8,000,000, to remain available until September 30, 2006, for design, planning, and procurement costs associated with the construction of a bioterrorism and forensics laboratory: Provided, That the District of Columbia shall provide an additional $2,300,000 with local funds as a condition of receiving this payment.

TITLE II—DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: Provided, That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.50a) and the provisions of this Act, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2005 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or $7,206,164,000 (of which $4,215,088,000 shall be from local funds, $1,762,046,000 shall be from Federal funds, $1,214,843,000 shall be from other funds, and $14,817,000 shall be from private funds), and an intra-district amount of $435,054,000, in addition, $186,900,000 from funds previously appropriated in this Act as Federal payments: Provided further, That this amount may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs: Provided further, That such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act as amended by this Act: Provided further, That the Chief Financial Officer of the District of Columbia shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2005, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $416,069,000 (including $261,068,000 from local funds, $100,256,000 from Federal funds, and $54,745,000 from other funds), in addition, $32,500,000 from funds previously appropriated in this Act under the heading "Federal Payment to the Office of the Chief Financial Officer of the District of Columbia", $15,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Emergency Planning and Security Costs in the District of

Columbia", and $5,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Foster Care Improvements in the District of Columbia": Provided, That not to exceed $9,300 for the Mayor, $9,300 for the Chairman of the Council of the District of Columbia, $9,300 for the City Administrator, and $9,300 for the Office of the Chief Financial Officer shall be available from this appropriation for official reception and representation expenses: Provided further, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: Provided further, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally generated revenues: Provided further, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Office of the Chief Technology Officer's delegated small purchase authority shall be $500,000: Provided further, That the District of Columbia government may not require the Office of the Chief Technology Officer to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $334,745,000 (including $55,764,000 from local funds, $93,050,000 from Federal funds, $185,806,000 from other funds, and $125,000 from private funds), of which $13,000,000 collected by the District of Columbia in the form of BID tax revenue shall be paid to the respective BIDs pursuant to the Business Improvement Districts Act of 1996 (D.C. Law 11–134; D.C. Official Code, sec. 2–1215.01 et seq.), and the Business Improvement Districts Amendment Act of 1997 (D.C. Law 12–26; D.C. Official Code, sec. 2–1215.15 et seq.): Provided, That such funds are available for acquiring services provided by the General Services Administration: Provided further, That Business Improvement Districts shall be exempt from taxes levied by the District of Columbia: Provided further, That local funds in the amount of $1,200,000 shall be appropriated for the Excel Insitute.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, $798,723,000 (including $760,849,000 from local funds, $7,899,000 from Federal funds, $29,966,000 from other funds, and $9,000 from private funds), in addition, $1,300,000 from funds previously appropriated in this Act under the heading "Federal Payment to the Criminal Justice Coordinating Council": Provided, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: Provided further, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: Provided further, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

(INCLUDING TRANSFERS OF FUNDS)

Public education system, including the development of national defense education programs, $1,266,424,000 (including $1,058,709,000 from local funds, $194,979,000 from Federal funds, $8,957,000 from other funds, $3,780,000 from private funds to be allocated as follows:

(1) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—$901,944,000 (including $760,494,000 from local funds, $130,450,000 from Federal funds, $7,330,000 from other funds, $3,670,000 from private funds, and not to exceed $6,816,000, to remain available until expended, from the Medicaid and Special Education Reform Fund established pursuant to the Medicaid and Special Education Reform Fund Establishment Act of 2002 (D.C. Law 14–190; D.C. Official Code 4–204.51 et seq.)), and $14,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement in the District of Columbia" shall be available for District of Columbia Public Schools: Provided, That notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public School employees shall be a non-negotiable item for collective bargaining purposes: Provided further, That this appropriation shall not be available to subsidize the education of any nonresident of the District of Columbia at any District of Columbia public elementary or secondary school during fiscal year 2005 unless the nonresident pays tuition to the District of Columbia at a rate that covers 100 percent of the costs incurred by the District of Columbia that are attributable to the education of the nonresident (as established by the Superintendent of the District of Columbia Public Schools): Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2005, an amount equal to 10 percent of the total amount of the local funds provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools under the District of Columbia Appropriations Act, 2005: Provided further, That not to exceed $9,300 for the Superintendent of Schools shall be available from this appropriation for official reception and representation expenses.

(2) TEACHERS' RETIREMENT FUND.—$9,200,000 from local funds shall be available for the Teachers' Retirement Fund.

(3) STATE EDUCATION OFFICE.—$73,104,000 (including $10,015,000 from local funds, $62,914,000 from Federal funds, and $176,000 from other funds), in addition, $26,500,000 from funds previously appropriated in this Act under the heading "Federal Payment for Resident Tuition Support" and $14,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement in the District of Columbia" shall be available for the State Education Office: Provided, That of the amounts provided to the State Education Office, $500,000 from local funds shall remain available until June 30, 2006 for an audit of the student enrollment of each District of Columbia Public School and of each District of Columbia public charter school.

(4) DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOLS.—$196,802,000 from local funds shall be available for District of Columbia public charter schools: Provided, That there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of the fiscal year: Provided further, That if the entirety of this allocation has not been provided as payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall remain available as follows: (A) the first $3,000,000 shall be deposited in the Credit Enhancement Revolving Fund established pursuant to section 603(e) of the Student Loan Marketing Association Reorganization Act of 1996 (Public Law 104–208; 110 Stat. 3009; 20 U.S.C. 1155(e)); and (B) the balance shall be for public education in accordance with section 2403(b)(2) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38–1804.03(b)(2)): Provided further, That of the amounts made available to District of Columbia public charter schools, $25,000 shall be made available to the Office of the Chief Financial Officer as authorized by section 2403(b)(6) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38–1804.03(b)(6)): Provided further, That $660,000 of this amount shall be available to the District of Columbia Public Charter School Board for administrative costs: Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2005, an amount equal to 25 percent of the total amount of the local funds appropriations request provided for payments to public charter schools in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for such payments under the District of Columbia Appropriations Act, 2005: Provided further, That notwithstanding any other provision of law, of the funds appropriated herein for the District of Columbia Public Charter Schools, the Chief Financial Officer of the District of Columbia, in coordination with the District of Columbia Chartering Authorities for the District of Columbia Public Charter Schools, shall establish requirements, policies and procedures for the performance of a single financial audit, to be performed by one auditing firm selected by the Chief Financial Officer of the District of Columbia: Provided further, That beginning in fiscal year 2005, the District of Columbia Chartering Authorities for the District of Columbia Public Charter Schools shall implement and follow these requirements (including, but not limited to, the terms and conditions), policies and procedures to ensure the completion of the annual financial single audit of all District of Columbia Public Charter Schools conducted in accordance herewith.

(5) UNIVERSITY OF THE DISTRICT OF COLUMBIA SUBSIDY.—$49,602,000 from local funds shall be available for the University of the District of Columbia: Provided, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2005, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the University of the District of Columbia on July 1, 2005, an amount equal to 10 percent of the total amount of the local funds appropriations request provided for the University of the District of Columbia in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such

payment shall be chargeable against the final amount provided for the University of the District of Columbia under the District of Columbia Appropriations Act, 2005: Provided further, That not to exceed $9,300 for the President of the University of the District of Columbia shall be available from this appropriation for official reception and representation expenses.

(6) District of Columbia Public Libraries.—$30,831,000 (including $28,978,000 from local funds, $1,093,000 from Federal funds, and $651,000 from other funds) shall be available for the District of Columbia Public Libraries: Provided, That not to exceed $7,500 for the Public Librarian shall be available from this appropriation for official reception and representation expenses.

(7) Commission on the Arts and Humanities.—$4,941,000 (including $3,618,000 from local funds, $523,000 from Federal funds, and $800,000 from other funds) shall be available for the Commission on the Arts and Humanities.

Human Support Services

(including transfer of funds)

Human support services, $2,533,825,000 (including $1,165,314,000 from local funds, $1,331,670,000 from Federal funds, $27,441,000 from other funds, $9,400,000 from private funds, in addition, $5,000,000 from funds previously appropriated in this Act under the heading "Federal Payment to Foster Care Improvements in the District of Columbia": Provided, That $29,600,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further, That no less than $8,498,720, to remain available until expended, shall be deposited in the Addiction Recovery Fund, established pursuant to section 5 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3004) and used exclusively for the purpose of the Choice in Drug Treatment program, established pursuant to section 4 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3003), of which $7,500,000 shall be provided from local funds: Provided further, That none of the $8,498,720 for the Choice in Drug Treatment program shall be used by the Department of Health's Addiction Prevention and Recovery Administration to provide youth residential treatment services or youth outpatient treatment services: Provided further, That no less than $2,000,000 shall be available to the Department of Health's Addiction Prevention and Recovery Administration exclusively for the purpose of providing youth residential treatment services: Provided further, That no less than $1,575,416 shall be available to the Department of Health's Addiction Prevention and Recovery Administration exclusively for the purpose of providing youth outpatient treatment services, of which $750,000 shall be made available exclusively to provide intensive outpatient treatment slots, outpatient treatment slots, and other program costs for youth in the care of the Youth Services Administration: Provided further, That no less than $1,400,000 shall be used by the Department of Health's Addiction Prevention and Recovery Administration to fund a Child and Family Services Agency pilot project entitled Family Treatment Court: Provided further, That $1,200,000 of local funds, to remain available until expended, shall be deposited in the Adoption Voucher Fund, established pursuant to section 3805(a) of the Adoption Voucher Fund Act of 2000, effective October 19, 2000 (D.C. Law 13–172; D.C. Official Code, sec. 4–344(a)), to be used exclusively for the purposes set forth in section 3805(b) of the Adoption Voucher Fund Act (D.C. Official Code, sec. 4–344(b)): Provided further, That no less than $300,000 shall be used by the Department of Health's Environmental Health Administration to operate the Total Maximum Daily Load program: Provided further, That no less than $1,268,500 shall be used by the Department of Health's Environmental Health Administration to operate its air quality programs, of which no less than $242,000 shall be used to fund 4 full-time air quality employees: Provided further, That the Department of Human Services, Youth Services Administration shall not expend any appropriated fiscal year 2005 funds until the Mayor has submitted to the Council by September 30, 2004 a plan, including time lines, to close the Oak Hill Youth Center at the earliest feasible date. All of the above proviso amounts in this heading relate back to and are a subset of the first-referenced appropriation amount of $2,533,825,000.

Public Works

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, $331,936,000 (including $312,035,000 from local funds, $4,000,000 from Federal funds, and $15,901,000 from other funds), in addition, $5,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Transportation Assistance": Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

Cash Reserve

For the cumulative cash reserve established pursuant to section 202(j)(2) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (D.C. Official Code, sec. 47–392.02(j)(2)), $50,000,000 from local funds.

Emergency and Contingency Reserve Funds

For the emergency reserve fund and the contingency reserve fund under section 450A of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.50a), such additional amounts from the District's general fund balance as are necessary to meet the balance requirements for funds under section 450A.

Repayment of Loans and Interest

For payment of principal, interest, and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act (D.C. Official Code, secs. 1–204.62, 1–204.75, and 1–204.90), $347,700,000 from local funds.

Payment of Interest on Short-Term Borrowing

For payment of interest on short-term borrowing, $4,000,000 from local funds.

Certificates of Participation

For principal and interest payments on the District's Certificates of Participation, issued to finance the ground lease underlying the building located at One Judiciary Square, $11,252,000 from local funds.

Settlements and Judgments

For making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government, $20,270,000 from local funds: Provided, That this appropriation shall not be construed as modifying or affecting the provisions of section 103 of this Act.

Wilson Building

For expenses associated with the John A. Wilson building, $3,633,000 from local funds.

Workforce Investments

For workforce investments, $38,114,000 from local funds, to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act for which employees are properly payable: Provided, That of this amount $3,548,000 shall remain available until expended to meet the requirements of the Compensation Agreement Between the District of Columbia Government Units 1 and 2 Approval Resolution of 2004, effective February 17, 2004 (Res. 15–459; 51 DCR 2325).

Non-Departmental Agency

To account for anticipated costs that cannot be allocated to specific agencies during the development of the proposed budget, $13,946,000 (including $4,000,000 from local funds and $9,946,000 from other funds) to be transferred by the Mayor of the District of Columbia within the various appropriations headings in this Act: Provided, That $4,000,000 from local funds shall be for anticipated costs associated with the No Child Left Behind Act.

Pay-As-You-Go Capital

For Pay-As-You-Go Capital funds in lieu of capital financing, $6,531,000 from local funds, to be transferred to the Capital Fund, subject to the Criteria for Spending Pay-as-You-Go Funding Amendment Act of 2003 (D.C. Act 15–106): Provided, That pursuant to this Act, there are authorized to be transferred from Pay-As-You-Go Capital funds to other headings of this Act, such sums as may be necessary to carry out the purposes of this Act.

Emergency Planning and Security Fund

For Emergency Planning and Security Fund, $15,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Planning and Security Costs in the District of Columbia".

Old Convention Center Demolition Reserve

For the Old Convention Center Demolition Reserve, such amounts as may be necessary, not to exceed $11,000,000, from the District's general fund balance.

Tax Increment Financing Program

For a Tax Increment Financing Program, such amounts as are necessary to meet the Tax Increment Financing requirements, not to exceed $9,710,000 from the District's general fund balance.

Pay-As-You-Go Contingency

For Pay-As-You-Go Contingency Fund, $43,137,000, subject to the Criteria for Spending Pay-as-You-Go Funding Act of 2004, approved by the Council of the District of Columbia on 1st reading, May 14, 2004 (Title I of Bill 15–768), there are authorized to be transferred from the contingency fund to certain other headings of this Act as necessary to carry out the purposes of this Act. Expenditures from the Pay-As-You-Go Contingency Fund shall be subject to the approval of the Council by resolution.

Revised Revenue Estimate Contingency Priority

If the Chief Financial Officer for the District of Columbia certifies through a revised revenue estimate that funds are available from local funds, such available funds shall be expended as provided in the Contingency for Recordation and Transfer Tax Reduction and the Office of Property Management and Library Expenditures Act of 2004, approved by the Council of the District of Columbia on 1st reading, May 14, 2004 (Bill 15–768), including up to $2,000,000 to the Office of Property Management, up to $1,200,000 to the District of Columbia Public Library, up to $256,000 to the D.C. Police and Firefighters Retirement and Relief Board, and $132,600 for the Police and Fire Clinic.

ENTERPRISE AND OTHER FUNDS

Water and Sewer Authority

For operation of the Water and Sewer Authority, $287,206,000 from other funds, of which

$15,180,402 shall be apportioned for repayment of loans and interest incurred for capital improvement projects and payable to the District's debt service fund.

For construction projects, $371,040,000, to be distributed as follows: $181,656,000 for the Blue Plains Wastewater Treatment Plant, $43,800,000 for the sewer program, $9,118,000 for the stormwater program, $122,627,000 for the water program, and $13,839,000 for the capital equipment program; in addition, $10,000,000 from funds previously appropriated in this Act under the heading "Federal Payment to the District of Columbia Water and Sewer Authority": Provided, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation account shall apply to projects approved under this appropriation account.

WASHINGTON AQUEDUCT

For operation of the Washington Aqueduct, $47,972,000 from other funds.

STORMWATER PERMIT COMPLIANCE ENTERPRISE FUND

For operation of the Stormwater Permit Compliance Enterprise Fund, $3,792,000 from other funds.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act, 1982, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia (D.C. Law 3–172; D.C. Official Code, sec. 3-1301 et seq. and sec. 22–1716 et seq.), $247,000,000 from other funds: Provided, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board: Provided further, That the Lottery and Charitable Games Enterprise Fund is hereby authorized to make transfers to the general fund of the District of Columbia, in excess of this appropriation, if such funds are available for transfer.

SPORTS AND ENTERTAINMENT COMMISSION

For the Sports and Entertainment Commission, $7,322,000 from other funds: Provided, That the paragraph under the heading "Sports and Entertainment Commission" in Public Law 108–199 (118 Stat. 125) is amended by striking the term "local funds" and inserting the term "other funds" in its place.

DISTRICT OF COLUMBIA RETIREMENT BOARD

For the District of Columbia Retirement Board, established pursuant to section 121 of the District of Columbia Retirement Reform Act of 1979 (D.C. Official Code, sec. 1–711), $15,277,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: Provided, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: Provided further, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $77,176,000 from other funds.

NATIONAL CAPITAL REVITALIZATION CORPORATION

For the National Capital Revitalization Corporation, $7,850,000 from other funds.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

For the University of the District of Columbia, $85,102,000 (including, $49,602,000 from local funds previously appropriated in this Act under the heading "Public Education Systems", $15,192,000 from Federal funds, $19,434,000 from other funds, and $873,000 from private funds): Provided, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2005, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

UNEMPLOYMENT COMPENSATION FUND

For the Unemployment Compensation Fund, $180,000,000 from other funds.

DISTRICT OF COLUMBIA PERSONNEL TRUST FUND

For the District of Columbia Personnel Trust Fund, $953,000 from other funds.

DISTRICT OF COLUMBIA PUBLIC LIBRARY TRUST FUND

For the District of Columbia Public Library Trust Fund, $17,000 from other funds: Provided, That $7,000 shall be for the Theodore W. Noyes Trust Fund: Provided further, That $10,000 shall be for the Peabody Trust Fund.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, an increase of $1,087,649,000, of which $839,897,000 shall be from local funds, $38,542,000 from Highway Trust funds, $37,000,000 from the Rights-of-way funds, $172,209,000 from Federal funds, and a rescission of $367,763,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of $725,886,000, to remain available until expended; in addition, $7,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for the Unified Communications Center" and $3,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for the Anacostia Waterfront Initiative": Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That the Office of the Chief Technology Officer of the District of Columbia shall implement the following information technology projects on behalf of the District of Columbia Public Schools: Student Information System (project number T2240), Student Information System PCS (project number T2241), Enterprise Resource Planning (project number T2242), E-Rate (project number T2243), and SETS Expansion PCS (project number T2244).

TITLE III—GENERAL PROVISIONS

SEC. 301. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 302. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: Provided, That in the case of the Council of the District of Columbia, funds may be expended with the authorization of the Chairman of the Council.

SEC. 303. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly to provided herein.

SEC. 305. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, and salary are not available for inspection by the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 306. None of the Federal funds provided in this Act may be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 307. (a) None of the Federal funds provided in this Act may be used to carry out lobbying activities on any matter.

(b) Nothing in this section may be construed to prohibit any elected official from advocating with respect to any issue.

SEC. 308. (a) None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2005, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditures for an agency through a reprogramming of funds which—

(1) creates new programs;

(2) eliminates a program, project, or responsibility center;

(3) establishes or changes allocations specifically denied, limited or increased under this Act;

(4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted;

(5) reestablishes any program or project previously deferred through reprogramming;

(6) augments any existing program, project, or responsibility center through a reprogramming of funds in excess of $1,000,000 or 10 percent, whichever is less; or

(7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center, unless the Committee on Appropriations of the House of Representatives and Senate are notified in writing 15 days in advance of the reprogramming.

(b) None of the local funds contained in this Act may be available for obligation or expenditure for an agency through a transfer of any local funds in excess of $1,000,000 from one appropriation heading to another unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 15 days in advance of the transfer, except that in no event may the amount of any funds transferred exceed 4 percent of the local funds in the appropriations.

SEC. 309. Consistent with the provisions of section 1301(a) of title 31, United States Code, appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

SEC. 310. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2–139; D.C. Official Code, sec. 1–601.01 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–2041.22(3)), shall apply with respect to the compensation of District of Columbia employees: Provided, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 311. No later than 30 days after the end of the first quarter of fiscal year 2005, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate the new fiscal year 2005 revenue estimates as of the end of such quarter. These estimates shall be used in the budget request for fiscal year 2005. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 312. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6–85; D.C. Official Code, sec. 2–303.03), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical, but only if the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and has been reviewed and certified by the Chief Financial Officer of the District of Columbia.

SEC. 313. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3–171; D.C. Official Code, sec. 1–123).

SEC. 314. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 315. None of the Federal funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9–114; D.C. Official Code, sec. 32–701 et seq.) or to otherwise inplement or enforce any system of registration of unmarried, cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

SEC. 316. (a) Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(b)(1) No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—

(A) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and

(B) the Council has reviewed and approved the acceptance, obligation, and expenditure of such grant.

(2) For purposes of paragraph (1)(B), the Council shall be deemed to have reviewed and approved the acceptance, obligation, and expenditure of a grant if—

(A) no written notice of disapproval is filed with the Secretary of the Council within 14 calendar days of the receipt of the report from the Chief Financial Officer under paragraph (1)(A); or

(B) if such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the acceptance, obligation, or expenditure of the grant within 30 calendar days of the initial receipt of the report from the Chief Financial Officer under paragraph (1)(A).

(c) No amount may be obligated or expended from the general fund or other funds of the District of Columbia government in anticipation of the approval or receipt of a grant under subsection (b)(2) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such subsection.

(d) The Chief Financial Officer of the District of Columbia may adjust the budget for Federal, private, and other grants received by the District government reflected in the amounts appropriated in this Act, or approved and received under subsection (b)(2) to reflect a change in the actual amount of the grant.

(e) The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council of the District of Columbia and to the Committees on Appropriations of the House of Representatives and Senate not later than 15 days after the end of the quarter covered by the report.

SEC. 317. (a) Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and workplace, except in the case of—

(1) an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or is otherwise designated by the Chief of the Department;

(2) an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day or is otherwise designated by the Fire Chief;

(3) the Mayor of the District of Columbia; and

(4) the Chairman of the Council of the District of Columbia.

(b) The Chief Financial Officer of the District of Columbia shall submit by March 1, 2005, an inventory, as of September 30, 2004, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

SEC. 318. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government for fiscal year 2005 unless—

(1) the audit is conducted by the Inspector General of the District of Columbia, in coordination with the Chief Financial Officer of the District of Columbia, pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Official Code, sec. 2–302.8); and

(2) the audit includes as a basic financial statement a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year using the format, terminology, and classifications contained in the law making the appropriations for the year and its legislative history.

SEC. 319. (a) None of the Federal funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

(b) Nothing in this section bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

SEC. 320. (a) None of the Federal funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

(b) Any individual or entity who receives any funds contained in this Act and who carries out any program described in subsection (a) shall account for all funds used for such program separately from any funds contained in this Act.

SEC. 321. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including any independent agency of the District of Columbia) who has not filed a certification with the Mayor and the Chief Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted. The Chief Financial Officer of the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and Senate by the 10th day after the end of each quarter a summary list showing each report, the due date, and the date submitted to the Committees.

SEC. 322. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

SEC. 323. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a "conscience clause" which provides exceptions for religious beliefs and moral convictions.

SEC. 324. The Mayor of the District of Columbia shall submit to the Committees on Appropriations of the House of Representatives and

Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate quarterly reports addressing—

(1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets;

(2) access to substance and alcohol abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs;

(3) management of parolees and pre-trial violent offenders, including the number of halfway houses escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency for the District of Columbia;

(4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools and the District of Columbia public charter schools;

(5) improvement in basic District services, including rat control and abatement;

(6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but for which the District failed to spend the amounts received; and

(7) indicators of child well-being.

SEC. 325. (a) No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the Council of the District of Columbia a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.42), for all agencies of the District of Columbia government for fiscal year 2004 that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

(b) APPLICABILITY.—This provision shall apply only to an agency where the Chief Financial Officer of the District of Columbia certifies that a reallocation is required to address unanticipated changes in program requirements.

SEC. 326. None of the funds contained in this Act may be used to issue, administer, or enforce any order by the District of Columbia Commission on Human Rights relating to docket numbers 93–030–(PA) and 93–031–(PA).

SEC. 327. Notwithstanding any other law, the District of Columbia Courts shall transfer to the general treasury of the District of Columbia all fines levied and collected by the Courts under section 10(b)(1) and (2) of the District of Columbia Traffic Act (D.C. Official Code, sec. 50–2201.05(b)(1) and (2)). The transferred funds shall remain available until expended and shall be used by the Office of the Corporation Counsel for enforcement and prosecution of District traffic alcohol laws in accordance with section 10(b)(3) of the District of Columbia Traffic Act (D.C. Official Code, sec. 50–2201.05(b)(3)).

SEC. 328. None of the funds contained in this Act may be made available to pay—

(1) the fees of an attorney who represents a party in an action or an attorney who defends an action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in excess of $4,000 for that action; or

(2) the fees of an attorney or firm whom the Chief Financial Officer of the District of Columbia determines to have a pecuniary interest, either through an attorney, officer or employee of the firm, in any special education diagnostic services, schools, or other special education service providers.

SEC. 329. The Chief Financial Officer of the District of Columbia shall require attorneys in special education cases brought under the Individuals with Disabilities Act (IDEA) in the District of Columbia to certify in writing that the attorney or representative rendered any and all services for which they receive awards, including those received under a settlement agreement or as part of an administrative proceeding, under the IDEA from the District of Columbia: Provided, That as part of the certification, the Chief Financial Officer of the District of Columbia shall require all attorneys in IDEA cases to disclose any financial, corporate, legal, memberships on boards of directors, or other relationships with any special education diagnostic services, schools, or other special education service providers to which the attorneys have referred any clients as part of this certification: Provided further, That the Chief Financial Officer shall prepare and submit quarterly reports to the Committees on Appropriations of the House of Representatives and Senate on the certification of and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to attorneys in cases brought under IDEA: Provided further, That the Inspector General of the District of Columbia may conduct investigations to determine the accuracy of the certifications.

SEC. 330. Section 401(a) and (b) of Chapter 4 of Public Law 106–554 is hereby amended by striking paragraph (5).

SEC. 331. Sections 11–1701(b)(5), 11–1704(b), 11–1723(b), 11–2102(a)(2), and the second and third sentences of Section 11–1724, of the District of Columbia Official Code, are hereby repealed.

SEC. 332. Section 11–1728 of the District of Columbia Official Code, is amended to read as follows:

"SEC. 11–1728. RECRUITMENT AND TRAINING OF PERSONNEL AND TRAVEL.

"(a) The Executive Officer shall be responsible for recruiting such qualified personnel as may be necessary for the District of Columbia Courts and for providing in-service training for court personnel.

"(b) Travel under Federal supply schedules is authorized for the travel of court personnel on official business. The joint committee shall prescribe such requirements, conditions and restrictions for such travel as it considers appropriate, and shall include policies and procedures for preventing abuses of that travel authority.".

SEC. 333. Section 450A of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code, sec. 1–204.50a), is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

"(1) IN GENERAL.—There is established an emergency cash reserve fund ('emergency reserve fund') as an interest-bearing account (separate from other accounts in the General Fund) into which the Mayor shall make a deposit in cash not later than October 1 of each fiscal year of such an amount as may be required to maintain a balance in the fund of at least 2 percent of the operating expenditures as defined in paragraph (2) of this subsection or such amount as may be required for deposit in a fiscal year in which the District is replenishing the emergency reserve fund pursuant to subsection (a)(7).".

(B) Paragraph (2) is amended to read as follows:

"(2) IN GENERAL.—For the purpose of this subsection, operating expenditures is defined as the amount reported in the District of Columbia's Comprehensive Annual Financial Report for the fiscal year immediately preceding the current fiscal year as the actual operating expenditure from local funds, less such amounts that are attributed to debt service payments for which a separate reserve fund is already established under this Act.".

(C) Paragraph (7) is amended to read as follows:

"(7) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the emergency reserve fund during the preceding fiscal years so that not less than 50 percent of any amount allocated in the preceding fiscal year or the amount necessary to restore the emergency reserve fund to the 2 percent required balance, whichever is less, is replenished by the end of the first fiscal year following each such allocation and 100 percent of the amount allocated or the amount necessary to restore the emergency reserve fund to the 2 percent required balance, whichever is less, is replenished by the end of the second fiscal year following each such allocation.".

(2) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

"(1) IN GENERAL.—There is established a contingency cash reserve fund ('contingency reserve fund') as an interest-bearing account, separate from other accounts in the General Fund, into which the Mayor shall make a deposit in cash not later than October 1 of each fiscal year of such amount as may be required to maintain a balance in the fund of at least 4 percent of the operating expenditures as defined in paragraph (2) of this subsection or such amount as may be required for deposit in a fiscal year in which the District is replenishing the emergency reserve fund pursuant to subsection (b)(6).".

(B) Paragraph (2) is amended to read as follows:

"(2) IN GENERAL.—For the purpose of this subsection, operating expenditures is defined as the amount reported in the District of Columbia's Comprehensive Annual Financial Report for the fiscal year immediately preceding the current fiscal year as the actual operating expenditure from local funds, less such amounts that are attributed to debt service payments for which a separate reserve fund is already established under this Act.".

(C) Paragraph (6) is amended to read as follows:

"(6) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the contingency reserve fund during the preceding fiscal years so that not less than 50 percent of any amount allocated in the preceding fiscal year or the amount necessary to restore the contingency reserve fund to the 4 percent required balance, whichever is less, is replenished by the end of the first fiscal year following each such allocation and 100 percent of the amount allocated or the amount necessary to restore the contingency reserve fund to the 4 percent required balance, whichever is less, is replenished by the end of the second fiscal year following each such allocation.".

SEC. 334. For fiscal year 2005, the Chief Financial Officer shall re-calculate the emergency and contingency cash reserve funds amount established by Section 450A of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code, sec. 1–204.50a), as amended by this Act and is authorized to transfer funds between the emergency and contingency cash reserve funds to reach the required percentages: Provided, That for fiscal year 2005, the Chief Financial Officer may *transfer funds from the emergency and contingency cash reserve funds to the general fund of the District of Columbia to the extent that such funds are not necessary to meet the requirements established for each fund: Provided further, That the Chief Financial Officer may not transfer funds from the emergency or the contingency reserve funds to the extent that such a transfer would lower the fiscal year 2005 total percentage below 7 percent of operating expenditures, as amended by this Act.*

SEC. 335. Section 6 of the Policemen and Firemen's Retirement and Disability Act, approved August 21, 1957 (Public Law 85–157; 71 Stat. 399; D.C. Official Code §5–732) is amended by striking the phrase "of this chapter, to the extent that such benefit payments exceed the deductions from the salaries of federal employees for credit to the revenues of the District of Columbia." and inserting the phrase "of this chapter and to reimburse the District of Columbia for the administrative costs associated with making such benefit payments for credit to the revenues of the District of Columbia: Provided, That benefit payment reimbursement shall only be to the extent that such benefit payments exceed the deductions from the salaries of federal employees." in its place.

SEC. 336. Notwithstanding any other provision of this Act, there is hereby appropriated for the Office of the Inspector General such amounts in local funds, as are consistent with the annual estimates for the expenditures and appropriations necessary for the operation of the Office of the Inspector General as prepared by the Inspector General and submitted to the Mayor and forwarded to the Council pursuant to D.C. Official Code 2–302.08(a)(2)(A) for fiscal year 2005: Provided, That the Office of the Chief Financial Officer shall take such steps as are necessary to implement the provisions of this subsection.

SEC. 337. The authority which the Chief Financial Officer of the District of Columbia exercised with respect to personnel, procurement, and the preparation of fiscal impact statements during a control period (as defined in Public Law 104–8) shall remain in effect through September 30, 2005.

SEC. 338. The paragraph under the heading "Federal Payment for Incentives for Adoption of Children" in Public Law 106–113, approved November 29, 1999 (113 Stat. 1501), is amended to add the following proviso: ": Provided further, That the funds provided under this heading for the establishment of a scholarship fund for District of Columbia children of adoptive families, and District of Columbia children without parents due to the September 11, 2001 terrorist attack to be used for post high school education and training, once obligated by the District to establish the scholarship fund, shall remain obligated and be retained by the District for 25 years from the date of obligation to allow for any individual who is within the class of persons to be assisted by this provision to reach post high school and to present expenditures to be extinguished by the fund".

SEC. 339. AUTHORITY OF OPCSFS. (a) Section 161(3)(E)(i) of Public Law 106–522 shall be amended to include a new section known as (E)(i)(IV) to establish regulations for administering lease guarantees through the credit enhancement fund to public charter schools in the District of Columbia.

(b) The first sentence of section 143 of the District of Columbia Appropriations Act of 2003 (Public Law 108–7, 117 STAT. 130) approved April 20, 2003 is amended by striking the phrase, "under the authority of the Department of Banking and Financial Institutions" and inserting "under the authority of the Mayor" in its place.

SEC. 340. PROCESS FOR FILING CHARTER PETITIONS. D.C. Code §38–1802.01 is amended by adding a new section (e) as follows—

"(e) A petition to establish a public charter school in the District of Columbia, or to convert a District of Columbia public school or an existing private or independent school, is a public document.".

SEC. 341. AMENDMENTS TO CHARTER SCHOOL LAW. (a) PROCESS FOR FILING CHARTER PETITIONS.—Section 2201 of the District of Columbia School Reform Act of 1995 (D.C. Code 38–1802.01) is amended—

(1) in subsection (a)(3)(B), by striking "two-thirds" and inserting "51 percent"; and

(2) in subsection (b)(3)(B), by striking "two-thirds" and inserting "51 percent".

(b) EMPLOYEES.—Section 2207 of the District of Columbia School Reform Act of 1995 (D.C. Code 38–1802.07) is amended by adding at the end the following:

"(d) TEACHERS REMAINING AT CONVERTED PUBLIC CHARTER SCHOOLS.—A teacher employed at a District of Columbia public school that converts to a public charter school under section 2201 shall have the option of remaining at the charter school during the school's first year of operation after receiving an extended leave of absence under subsection (a)(1). After this 1-year period, the teacher may continue to be employed at the public charter school, at the sole discretion of the public charter school, or shall maintain current status within the District of Columbia public school system.".

(c) PUBLIC SCHOOL SERVICES TO PUBLIC CHARTER SCHOOLS.—Section 2209(b) of the District of Columbia School Reform Act of 1995 (D.C. Code 38–1802.09(b)) is amended—

(1) in paragraph (1)—

(A) by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—Notwithstanding any other provision of law, regulation, or order relating to the disposition of a facility or property described in subparagraph (B), or to the disposition of any property of the District of Columbia, the Mayor and the District of Columbia government shall give a right of first offer, which right shall be annually reinstated with respect to any facility or property not previously disposed of, or under contract to be disposed of, to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2), or a Board of Trustees, with respect to the purchase, lease, transfer, or use of a facility or property described in subparagraph (B).";

(B) by amending subparagraph (B)(iii) to read as follows:

"(iii) With respect to which—

"(I) the Board of Education has transferred jurisdiction to the Mayor and over which the Mayor has jurisdiction on the effective date of this subclause; or

"(II) over which the Mayor or any successor agency gains jurisdiction after the effective date of this subclause."; and

(C) by adding at the end the following:

"(C) TERMS OF PURCHASE OR LEASE.—The terms of purchase or lease of a facility or property described in subparagraph (B) shall—

"(i) be negotiated by the Mayor;

"(ii) include rent or an acquisition price, as applicable, that is at least 25 percent less than the appraised value of the property (based on use of the property for school purposes); and

"(iii) include a lease period, if the property is to be leased, of not less than 25 years, and renewable for additional 25-year periods as long as the eligible applicant or Board of Trustees maintains its charter."; and

(2) in paragraph (2)(A), by striking "preference" and inserting "a right to first offer"; and

(3) by adding at the end the following:

"(3) CONVERSION PUBLIC CHARTER SCHOOLS.—Any District of Columbia public school that was approved to become a conversion public charter school under section 2201 before the effective date of this subsection or is approved to become a conversion public charter school after the effective date of this subsection, shall have the right to exclusively occupy the facilities the school occupied as a District of Columbia public school under a lease for a period of not less than 25 years, renewable for additional 25-year periods as long as the school maintains its charter at the non-profit rate, or if there is no non-profit rate, at 25 percent less than the fair market rate for school use.".

SEC. 342. ANNUAL REPORT TO CONGRESS. Section 2211 of the School Reform Act of 1995 (D.C. Code 38–1802.11) shall be amended by:

(1) adding the following new subparagraph at the end of section 2211(a)(1):

"(D) Shall ensure that each public charter school complies with the annual reporting requirement of subsection 38–1802.04(b)(11) of this Act, including submission of the audited financial statement required by sub-subsection (B)(ix) of that section."; and

(2) adding the following before the period at the end of subparagraph (d): "(10) details of major Board actions; (11) major findings from school reviews of academic, financial, and compliance with health and safety standards and resulting Board action or recommendations; (12) details of the fifth year review process and outcomes; (13) summary of annual financial audits of all charter schools, including (a) the number of schools that failed to timely submit the audited financial statement required by that section; (b) the number of schools whose audits revealed a failure to follow required accounting practices or other material deficiencies; and (c) the steps taken by the authority to ensure that deficiencies found by the audits are rectified; (14) number of schools which have required intervention by authorizing board to address any academic or operational issue; (15) what recommendations an authorizing board has made to correct identified deficiencies".

SEC. 343. LEASE TO DISTRICT OF COLUMBIA. (a) LEASE.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, subject to subsection (b), the Secretary of the Interior (referred to in this section as the "Secretary") shall lease to the government of the District of Columbia, without consideration, the property described in paragraph (2).

(2) PROPERTY.—The property referred to in paragraph (1) is—

(A) the National Park Service land in Anacostia Park, the boundaries of which are the Anacostia River to the west, Watts Branch to the south, Kenilworth Aquatic Gardens to the north, and Anacostia Avenue to the east (US Reservations 325 and 343, Section G); and

(B) the community center under the jurisdiction of the District of Columbia known as the "Kenilworth Parkside Community Center".

(b) CONDITIONS OF LEASE.—

(1) TERM.—The lease under subsection (a)(1) shall be for a period of 50 years.

(2) TRANSFER OF TITLE.—The lease under subsection (a)(1) shall be subject to such terms and conditions, to be included in the lease, as are necessary to ensure that the property leased under that subsection—

(A) may be subleased by the District of Columbia to any public entity or private not-for-profit corporation under a public process; and

(B) is used only for the provision of public recreational facilities, open space, or public outdoor recreational opportunities.

(C) Nothing in the Act precludes the District of Columbia from entering into a sublease for all or part of the property with a public not-for-profit entity for the management or maintenance of the property.

(3) TERMINATION.—

(A) IN GENERAL.—The lease under subsection (a)(1) shall terminate if—

(i) any term or condition of the lease described in paragraph (2) is violated, as determined by the Secretary; and

(ii) the violation is not corrected by the date that is 90 days after the date on which the Mayor of the District of Columbia receives from the Secretary a written notice of the violation.

(B) DETERMINATION OF CORRECTION.—A violation of a term or condition of the lease under subsection (a)(1) shall be determined to have been corrected under subparagraph (A)(ii) if, after notification of the violation, the District of Columbia and the Secretary enter into an agreement that the Secretary considers to be adequate to ensure that the property leased will be used in a manner consistent with paragraph (2).

(4) PROHIBITION OF CIVIL ACTIONS.—No person may bring a civil action relating to a violation any term or condition of the lease described in paragraph (2) before the date that is 90 days after the person notifies the Mayor of the District of Columbia of the alleged violation (including the intent of the person to bring a civil action for termination of the lease under paragraph (3)).

(5) REMOVAL OF STRUCTURES; REHABILITATION.—The lease under subsection (a)(1) shall be subject to the condition that, in the event of a termination of the lease under paragraph (3), the District of Columbia shall bear the cost of removing structures on, or rehabilitating, the property leased.

(6) ADMINISTRATION OF PROPERTY.—If the lease under subsection (a)(1) is terminated under paragraph (3), the property covered by the lease shall be administered by the Secretary as a unit of the National Park System in the District of Columbia in accordance with—

(A) the Act of August 25, 1916 (commonly known as the "National Park Service Organic Act") (16 U.S.C. 1 et seq.); and

(B) other laws (including regulations) generally applicable to units of the National Park System.

SEC. 344. BIENNIAL EVALUATION OF CHARTER SCHOOL AUTHORIZING BOARDS. (a) Biennial management evaluation of the District of Columbia Chartering Authorities for the District of Columbia Public Charter Schools shall be conducted by the Comptroller General of the United States.

(b) Evaluation shall include the following:

(1) Establish standards to assess each authorizer's procedures and oversight quality;

(2) Identify gaps in oversight and recommendations;

(3) Review processes of charter school applications;

(4) Extent of ongoing monitoring, technical assistance, and sanctions provided to schools;

(5) Compliance with annual reporting requirements;

(6) Actual budget expenditures for the preceding two fiscal years;

(7) Comparison of budget expenditures with mandated responsibilities;

(8) Alignment with best practices; and

(9) Quality and timeliness of meeting Section 2211(d) of the School Reform Act of 1995 (D.C. Code 38–1802.11(d)), as amended.

(c) INITIAL INTERIM REPORT TO CONGRESS.—The Government Accountability Office shall submit to the Committees on Appropriations of the House of Representatives and Senate, no later than May 1, 2005, a baseline report on the performance of each authorizer in meeting the requirements of the School Reform Act of 1995.

(d) Hereafter Section 2214(f) of Public Law 104–143 (D.C. Code 38–1802.14(f)), shall apply to the District of Columbia Board of Education Charter Schools Office.

SEC. 345. CLARIFYING OPERATIONS OF PUBLIC CHARTER SCHOOL BOARD. Section 2214 of the School Reform Act of 1995 (Public Law 104–134; D.C. Code 38–1802.14), is amended—

(1) by striking subsection (f) and inserting the following:

"(f) AUDIT.—The Board shall maintain its accounts according to Generally Accepted Accounting Principles for Not-for-Profit Organizations. The Board shall provide for an audit of the financial statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States. The findings and recommendations of any such audit shall be forwarded to the Mayor, the District of Columbia Council, the appropriate congressional committees, and the Office of the Chief Financial Officer."; and

(2) adding at the end the following:

"(h) CONTRACTING AND PROCUREMENT.—The Board shall have the authority to solicit, award, and execute contracts independently of the Office of Contracting and Procurement and the Chief Procurement Officer. Nothing in chapter 3 of title 2 of the District of Columbia Code shall affect the authority of the Board under this subsection.".

This Act may be cited as the "District of Columbia Appropriations Act, 2005".

S. 2781

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Peace in Sudan Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) JEM.—The term "JEM" means the Justice and Equality Movement.

(3) SLA.—The term "SLA" means the Sudanese Liberation Army.

(4) SPLM.—The term "SPLM" means the Sudan People's Liberation Movement.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) A comprehensive peace agreement for Sudan, as envisioned in the Sudan Peace Act (50 U.S.C. 1701 note), and in the Machakos Protocol of 2002, is in jeopardy.

(2) Since 1989, the Government of Sudan has repeatedly engaged in and sponsored orchestrated campaigns of attacking and dislocating targeted civilian populations, disrupting their ability to sustain themselves, and subsequently restricting assistance to those displaced in a coordinated policy of ethnic cleansing that is most recently evident in the Darfur region of Sudan.

(3) In response to 2 decades of civil conflict in Sudan, the United States has helped to establish an internationally supported peace process to promote a negotiated settlement to the war that has resulted in a framework peace agreement, the Nairobi Declaration on the Final Phase of Peace in the Sudan signed June 5, 2004.

(4) At the same time that the Government of Sudan was negotiating for a final countrywide peace, enumerated in the Nairobi Declaration on the Final Phase of Peace in the Sudan, it refused to engage in any meaningful discussion with regard to its ongoing campaign of ethnic cleansing in the region of Darfur.

(5) It was not until the international community expressed its outrage, through high level visits by Secretary of State Colin Powell and others, and through United Nations Security Council Resolution 1556 of July 30, 2004, that the Government of Sudan agreed to attend talks to bring peace to the Darfur region.

(6) The Government of the United States, in both the executive branch and Congress, have concluded that genocide has been committed and may still be occurring in Darfur, and that the Government of Sudan and the Janjaweed bear responsibility for the genocide.

(7) The United Nations High Commissioner for Human Rights has identified massive human rights violations in Darfur perpetrated by the Government of Sudan and the Janjaweed, which the Commissioner stated may constitute war crimes or crimes against humanity.

(8) Evidence collected by international observers in the Darfur region between February 2003 and September 2004 indicate a coordinated effort to target African Sudanese civilians in a scorched earth policy, from both air and ground, that has destroyed African Sudanese villages, killing and driving away its people, while Arab Sudanese villages have been left unscathed.

(9) As a result of this coordinated campaign, which Congress and the executive branch have declared to be genocide, reports indicate tens of thousands of African Sudanese civilians killed, the systematic rape of thousands of women and girls, the destruction of hundreds of Fur, Masalit, and Zaghawa villages and other ethnically African populations, including the poisoning of their wells and the plunder of crops and cattle upon which they sustain themselves.

(10) According to the United Nations High Commissioner for Refugees, 1,400,000 people have been displaced in the Darfur region of Sudan, of whom over 200,000 have been forced to flee to Chad as refugees.

(11) The Government of Sudan conducted aerial attack missions and deadly raids across the international border between Sudan and Chad in an illegal effort to pursue Sudanese civilians seeking refuge in Chad.

(12) In addition to the thousands of violent deaths directly caused by ongoing Sudanese military and government sponsored Janjaweed attacks in the Darfur region, the Government of Sudan has restricted humanitarian and human rights workers' access to the Darfur area, primarily through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those displaced from their villages and homes without any means of sustenance or shelter.

(13) The Government of Sudan's continued support for the Janjaweed and their obstruction of the delivery of food, shelter, and medical care to the Darfur region is estimated by the World Health Organization to be resulting in up to 10,000 deaths per month and, should current conditions persist, is projected to escalate to thousands of deaths each day by December 2004.

(14) The Government of Chad served an important role in facilitating the Darfur humanitarian cease-fire (the N'Djamena Agreement dated April 8, 2004) for the Darfur region between the Government of Sudan and the 2 opposition rebel groups in Darfur (the JEM and the SLA) although both sides have violated it repeatedly.

(15) The people of Chad have responded courageously to the plight of over 200,000 Darfur refugees by providing assistance to them even though such assistance has adversely affected their own means of livelihood.

(16) The cooperation and inclusion of all Sudanese is essential to the establishment of peace and security throughout all of Sudan.

(17) The African Union has demonstrated renewed vigor in regional affairs through its willingness to respond to the crisis in Darfur, by convening talks between the parties and deploying several hundred monitors and security forces to the region, as well as by recognizing the need for a far larger force with a broader mandate.

(18) Despite the threat of international action expressed through United Nations Security Council Resolution 1556 of July 30, 2004, the Government of Sudan continues to obstruct and prevent efforts to reverse the catastrophic consequences that loom over Darfur.

SEC. 4. SENSE OF CONGRESS REGARDING THE CONFLICT IN DARFUR, SUDAN.

(a) Sudan Peace Act.—It is the sense of Congress that the Sudan Peace Act (50 U.S.C. 1701 note) remains relevant and should be extended to include the Darfur region of Sudan.

(b) Actions To Address the Conflict.—It is the sense of Congress that—

(1) a legitimate countrywide peace in Sudan will only be possible if the Agreed Principles of Part A of the Machakos Protocol of 2002, confirmed by the Nairobi Declaration on the Final Phase of Peace in the Sudan signed June 5, 2004, negotiated with the SPLM, apply to all of Sudan and to all of the people of Sudan, including the Darfur region;

(2) the parties to the N'Djamena Agreement (the Government of Sudan, the SLA, and the JEM) must meet their obligations under that Agreement to allow safe and immediate access of all humanitarian assistance throughout the Darfur region and must expedite the conclusion of a political agreement to end the genocide and conflict in Darfur;

(3) the United States should continue to provide humanitarian assistance to the areas of Sudan to which the United States has access and, at the same time, develop a plan similar to that described in section 10 of the Sudan Peace Act to provide assistance to the areas of Sudan to which United States access has been obstructed or denied;

(4) the international community, including African, Arab, and Muslim nations, should immediately provide resources necessary to save the lives of hundreds of thousands of individuals at risk as a result of the Darfur crisis;

(5) the United States Ambassador-at-Large for War Crimes should travel to Chad and the Darfur region immediately to investigate war crimes and crimes against humanity to develop a more accurate understanding of the situation on the ground and to better inform the report required in section 11(b) of the Sudan Peace Act;

(6) the United States and the international community should—

(A) provide all necessary assistance to deploy and sustain an African Union Force of at least 4,200 personnel to the Darfur region; and

(B) work to increase the authorized level and expand the mandate of such forces commensurate with the gravity and scope of the problem in a region the size of France;

(7) the President, acting through the Secretary of State and the Permanent Representative of the United States to the United Nations, should ensure that Sudan fulfills its obligations under United Nations Security Council Resolutions 1556 (July 30, 2004) and 1564 (September 18, 2004);

(8) sanctions should be imposed on the assets and activities of those Sudanese Government officials and other individuals that are involved in carrying out the atrocities in the Darfur region;

(9) the Government of the United States should not normalize relations with Sudan, including through the lifting of any sanctions, until the Government of Sudan agrees to, and takes demonstrable steps to implement, peace agreements for all areas of Sudan, including Darfur; and

(10) Presidential Proclamation 6958 issued November 22, 1996, which suspends entry into the United States of members of the Government of Sudan, officials of that Government, and members of the Sudanese Armed Forces, should continue to remain in effect and be strictly enforced.

SEC. 5. AMENDMENTS TO THE SUDAN PEACE ACT.

(a) Assistance for the Crisis in Darfur and for Comprehensive Peace in Sudan.—

(1) In general.—The Sudan Peace Act (50 U.S.C. 1701 note) is amended by adding at the end the following new section:

"SEC. 12. ASSISTANCE FOR THE CRISIS IN DARFUR AND FOR COMPREHENSIVE PEACE IN SUDAN.

"(a) Authorization of Appropriations.—

"(1) Humanitarian assistance.—There is authorized to be appropriated to the President for assistance to address the humanitarian and human rights crisis in the Darfur region and its impact on eastern Chad, pursuant to the authority in section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292), $200,000,000 for fiscal year 2005, in addition to any other funds otherwise available for such purpose.

"(2) Additional assistance.—Subject to the requirements of this section, there is authorized to be appropriated to the President, for development and humanitarian assistance for Sudan upon the conclusion of a permanent, just, and equitable peace agreement between the Government of Sudan and the SPLM, $100,000,000 for fiscal year 2005, in addition to any other funds otherwise available for such purpose.

"(3) Availability.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) or (2) are authorized to remain available until expended, notwithstanding any other provision of law other than the provisions of this section.

"(b) Requirement for Certification.—The assistance authorized under subsection (a)(2) may be provided—

"(1) to the regions administered by the Government of Sudan, in accordance with the peace agreement described in subsection (a)(2), only if the President submits the certification described in subsection (c); and

"(2) to the regions administered by the SPLM, in accordance with the peace agreement described in subsection (a)(2), only if the President submits the certification described in subsection (d).

"(c) Certification with Regard to Actions of the Government of Sudan.—The certification referred to in subsection (b)(1) is a certification submitted by the President to the appropriate congressional committees that—

"(1) the Government of Sudan is taking demonstrable steps to—

"(A) ensure that the armed forces of Sudan and any associated militias are not attacking civilians or obstructing human rights monitors or the provision of humanitarian assistance;

"(B) demobilize and disarm militias supported or created by the Government of Sudan;

"(C) allow full and unfettered access for the provision of humanitarian assistance to all regions of Sudan, including Darfur; and

"(D) cooperate fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan; and

"(2) the Government of Sudan is complying with the provisions of the peace agreement described in subsection (a)(2).

"(d) Certification With Regard to SPLM's Compliance With a Peace Agreement.—The certification referred to in subsection (b)(2) is a certification submitted by the President to the appropriate congressional committees that the SPLM is complying with the provisions of the peace agreement described in subsection (a)(2).

"(e) Suspension of Assistance.—If, on a date after the President submits a certification described in subsection (c) or (d), the President determines that either the Government of Sudan or the SPLM has ceased taking the actions described in the applicable subsection, the President shall immediately suspend the provision of any assistance made available as a result of such certification until the date on which the President certifies that such entity has resumed taking such actions.".

(2) Conforming amendment.—Section 3 of the Sudan Peace Act (50 U.S.C. 1701 note) is amended by adding at the end the following new paragraph:

"(4) SPLM.—The term 'SPLM' means the Sudan People's Liberation Movement.".

(b) Reporting Requirement.—Section 8 of the Sudan Peace Act (50 U.S.C. 1701 note) is amended in the first sentence by striking "Sudan." and inserting "Sudan, including the conflict in the Darfur region.".

SEC. 6. OTHER RESTRICTIONS.

(a) Blocking of Assets.—On the date that is 120 days after the date of enactment of this Act, if the President has not submitted the certification described in subsection (c)(1) of section 12 of the Sudan Peace Act, as added by section 5, the President shall, consistent with the authorities granted in the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block the assets of appropriate senior officials of the Government of Sudan.

(b) Continuation of Restrictions.—Restrictions against the Government of Sudan that were imposed pursuant to title III and sections 508, 512, and 527 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (Division D of Public Law 108–199; 118 Stat. 143) or any other similar provision of law may not be lifted pursuant to such provisions of law unless the President also makes the certification described in subsection (c) of section 12 of the Sudan Peace Act, as added by section 5.

SEC. 7. REQUIREMENT FOR REPORT.

(a) Requirement.—Not later than 60 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report on the planned United States response to a comprehensive peace agreement for Sudan.

(b) Content.—The report required by subsection (a) shall include—

(1) a description of the United States response to a modified peace process between the Government of Sudan and the SPLM that would account for the implementation of a peace in all regions of Sudan, in particular Darfur; and

(2) a contingency plan for extraordinary humanitarian assistance should the Government of Sudan continue to obstruct or delay

the international humanitarian response to the crisis in Darfur.

(c) FORM OF REPORT.—The report required by subsection (a) may be submitted in classified form.

SEC. 8. TECHNICAL CORRECTION.

Section 12 of the International Organizations Immunities Act (22 U.S.C. 288f–2) is amended by striking "Organization of African Unity" and inserting "African Union".

S. CON. RES. 119

Whereas suicide is one of the most disruptive and tragic events a family and a community can experience, and it occurs at a national rate of 30,000 suicides annually;

Whereas suicide is the fastest growing cause of death among youths and the second leading cause of death among college students;

Whereas suicide kills youths 6 to 9 times more often than homicide;

Whereas research shows that 95 percent of all suicides are preventable;

Whereas research shows that the prevention of suicide must be recognized as a national priority;

Whereas community awareness and education will encourage the development of strategies to prevent suicide;

Whereas during the 105th Congress, both the Senate and the House of Representatives unanimously agreed to resolutions recognizing suicide as a national problem and declaring suicide prevention programs to be a national priority (Senate Resolution 84, 105th Congress, agreed to May 6, 1997, and House of Representatives Resolution 212, 105th Congress, agreed to October 9, 1998);

Whereas the yellow ribbon is rapidly becoming recognized internationally as the symbol for the awareness and prevention of suicide, and it is recognized and used by suicide prevention groups, crisis centers, schools, churches, youth centers, hospitals, counselors, teachers, parents, and especially youth themselves; and

Whereas the week beginning September 19, 2004, should be recognized as Yellow Ribbon Suicide Awareness and Prevention Week: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes that the need to increase awareness about and prevent suicide is a compelling national priority;

(2) reaffirms the commitment of Congress to the priorities expressed by the 105th Congress, in Senate Resolution 84 and House Resolution 212, to continue to recognize suicide prevention as a national priority; and

(3) encourages Americans, communities, and the Nation to work to increase awareness about and prevent suicide.

MEASURES PLACED ON THE CALENDAR—S. 2844 and S. 2845

Mr. McCONNELL. Mr. President, I understand there are two bills at the desk which are due for a second reading.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. McCONNELL. I ask unanimous consent that the bills be given a second reading en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will read the bills by title, en bloc.

The assistant legislative clerk read as follows:

A bill (S. 2844) to designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act.

A bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

Mr. McCONNELL. I object to further proceedings on the measures, en bloc, at this time.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bills will be placed on the calendar.

ORDERS FOR MONDAY, SEPTEMBER 27, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m. on Monday, September 27. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business until 2 p.m., with the time equally divided between the two leaders or their designees; provided that at 2 p.m. the Senate proceed to consideration of S. 2845, the Intelligence Reform bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, for the information of all Senators, on Monday, following morning business, the Senate will begin consideration of the Intelligence Reform bill. As I announced earlier, there will be no rollcall votes on Monday. However, I will alert all Senators that amendments will be offered and debated during Monday's session. The chairman and ranking member of the Governmental Affairs Committee will be here to begin working through amendments to the bill. Any votes ordered with respect to amendments will be set to occur on Tuesday morning. So I encourage Senators who wish to have their amendments considered on Monday to contact the bill managers.

ORDER FOR RECORD TO REMAIN OPEN

Mr. McCONNELL. Mr. President, I ask unanimous consent that the RECORD remain open for statements until 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 1 P.M., MONDAY, SEPTEMBER 27, 2004

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment.

There being no objection, the Senate, at 12:41 p.m., adjourned until Monday, September 27, 2004 at 1 p.m.

EXTENSIONS OF REMARKS

HONORING THE KIMBERTON FIRE COMPANY ON THEIR 75TH ANNIVERSARY

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. GERLACH. Mr. Speaker, I rise today to honor the Kimberton Fire Company of Kimberton, Pennsylvania on the occasion of their 75th Anniversary.

The Kimberton Fire Company began back in 1929 when a group of community leaders came together to discuss the need for a local fire company to protect the community and its vicinity from the inherent danger of fire. On February 5, 1929, the first officers were elected by the newly formed membership. At that time, they also voted to purchase one 1917 Brockway Combination Chemical and Hose Car for $300. These steps led to the Kimberton Fire Company's official incorporation three months later in May of 1929.

In May 1936, right after the Company purchased their first new fire apparatus, the Hale Pumper, fire broke out in the Kimberton firehouse. While the firehouse was completely destroyed, firefighters were able to save the pumper and were able to utilize their new equipment to extinguish the fire.

Today, the Kimberton Fire Company has a fleet of twelve emergency vehicles. This fleet has the capability to meet the needs of the Kimberton community that is comprised of six municipalities and covers over 32 square miles. The area protected by the Kimberton Fire Company ranges from the farmland to small towns and suburban developments.

Not only does the Kimberton Fire Company provide outstanding rescue and fire services, they also provide exemplary community service. The members of the Kimberton Fire Company serve as members of the Tanker Task Force and the State Forest Fire Crew. The Kimberton Fire Company is also the area's Emergency Operations Center and an evacuation center. Meeting space is provided at the firehouse for the Boy Scouts and for other groups such as Exploring and Venture group. The firehouse also opens its doors and hosts fundraisers and other community events. The Kimberton Fire Company believes strongly in investing in the youth of the community because they believe that today's youth will provide for a more improved community in the future. The Kimberton Fire Company is well-known for its fire and rescue teams, and also for being actively responsive to the unique needs of the Kimberton community. Lifelong friendships and solid community partnerships have been made and the Kimberton Fire Company is prominent in establishing and maintaining these local bonds.

Mr. Speaker, I ask that my colleagues join me today is congratulating the Kimberton Fire Company for its dedication and service to the Kimberton area community. It is an honor to recognize the Kimberton Fire Company for its 75 years of tremendous service to the people.

* * *

CONGRATULATING RECIPIENTS OF THE 2004 HENRY B. GONZALEZ AWARDS

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. LAMPSON. Mr. Speaker, I rise today to honor Hispanic citizens from the 9th District of Texas being honored September 25, 2004 for their work in the community. While the dedication of Hispanic leaders is well-known throughout the United States, local citizens, right here in the Southeast Gulf Coast region, are just as important to ensuring equal rights and economic progress for all Texans.

Each year, I ask members of the communities in the 9th District to nominate individuals for the Henry B. Gonzalez Latino Leadership Award. This award, named in honor of the late Congressman Henry B. Gonzalez, gives special recognition to those who have worked selflessly, often without recognition, and made contributions both in the Hispanic community and the broader community as well. Recipients were chosen because their spirit of giving and sharing spirit makes a substantial contribution to our community and inspires others to do the same.

While their efforts may not make the headlines every day, the recipients' service and dedication to our country is nevertheless vital to our entire region. Southeast Texas is not successful in spite of our diversity, but rather successful because of it.

Please join me in recognizing and congratulating these leaders for their work an commitment to their communities and to southeast Texas. It is leaders like these men and women that continue to be a source of pride for Texas. The winners of this years Henry B. Gonzalez Latino Leadership Award are: Mrs. Sabrina Vrooman, Mr. Joe Hernandez, Mr. Albert Seguin, Mr. Manuel Escontrias, Mr. Hipolito Acosta, Mr. Carlos Lopez, and Mrs. Maria Barrios de Estrello.

Mr. Speaker, the recipients of the Henry B. Gonzalez Award are dedicated and hard-working individuals who have done so much for their neighbors and for this Nation as a whole. Today, I stand to recognize their spirit and to say that I am honored to be their Representative.

HONORING JOHN W. ROWE

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. EMANUEL. Mr. Speaker, I would like to extend my warmest congratulations to John W. Rowe of Chicago on being honored by the American Jewish Committee for his continued civic leadership in our city.

For almost 100 years the American Jewish Committee has maintained its mission of promoting a world in which all are accorded the same civic treatment, promoting minority protection in democratic societies, and fighting against anti-Semitism.

Chairman and CEO of the Exelon Corporation, John W. Rowe is a person of great leadership who shares this same mission. By establishing the Exelon Corporation as one of Chicago's premier philanthropic and civically mindful corporations, he has consistently displayed excellent leadership and humanitarianism.

Mr. Rowe is chairman and CEO of the Exelon Corporation which was formed October 2000 by way of a corporate merging of the Unicorn Corporation and PECO Energy. Exelon, with some 5 million customers and annual revenues more than $15 billion, is one of the Nation's largest electric utilities.

Mr. Rowe also has a history of exemplifying great leadership through his previous work as chairman president, and CEO of the Unicom Corporation and Commonwealth Edison, as well as president and CEO of NEES, and president and CEO of Central Maine Power Company.

The past recognition Mr. Rowe has received is a testimony to his continued commitment to human rights. In 2002, Mr. Rowe was honored as the Citizen of the Year by the City Club of Chicago for his active responses to important environmental issues. In 2003, Mr. Rowe was awarded El Valor Corporation's Corporate Visionary Award, which honors corporate leaders for their vision and resolution for providing opportunities to all people. In May 2002, he was honored with the Corporate Leadership Award from the Spanish Coalition for Jobs for his outstanding civic commitment and contributions to the Latino community. In 2000, he was also the recipient of the Anti-Defamation League's "A World of Difference" award for his commitment to the promotion of civil rights through fighting discrimination, prejudice, and bigotry.

Mr. Speaker, I would like to commend John W. Rowe for his great leadership in our community and congratulate him on his well deserved Civic Leadership Award.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HONORING BARBARA VOLPE

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise today to acknowledge the distinguished service of Ms. Barbara Volpe, President of the Public Education & Business Coalition (PEBC) in Denver, Colorado.

Ms. Volpe has been working with the PEBC for 15 years. Under her leadership the organization has tripled its size and developed an outstanding national reputation. With Ms. Volpe's steady guidance the PEBC has successfully completed a merger between two non-profits, assembled a high-caliber, professional staff, and created extraordinary initiatives such as the Boettcher Teachers Program.

Sadly, Ms. Volpe has decided that the time has come for her to leave the PEBC. Her dedication and commitment to her community serve as an inspiration to others in the field.

I ask my colleagues today to join me in thanking Ms. Barbara Volpe for her outstanding leadership and service. She certainly deserves our utmost appreciation. Her presence at PEBC will surely be missed.

TRIBUTE TO PRIVATE FIRST CLASS RYAN MARTIN

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. REGULA. Mr. Speaker, I rise to pay tribute to a committed soldier and citizen from the 16th District of Ohio who died protecting our Nation. Private First Class Ryan Martin died when a bomb exploded while he was on a mine clearing mission with the 216th Engineering Battalion of the Ohio National Guard.

A graduate of Mount Vernon High School and of the carpentry program at the Knox County Career Center in Mount Vernon, Ohio, Pfc. Martin enjoyed fishing and working on cars and had a tremendous sense of humor. After his tour, he planned to either operate heavy equipment or help his father on the family farm.

Pfc. Ryan acted as vital part of his unit in Iraq, often volunteering for dangerous missions. His bravery and service were an inspiration to his fellow soldiers and to us all. Ryan embodied all that is great about our Nation. Without young men and women like him, our Nation would fall.

I send my most heartfelt prayers and sympathies to his family and friends. I pray for the homecoming of all of our service men and women and remember them as they continue to defend our freedom at home and abroad.

IN HONOR OF PVT RYAN MICHAEL McCAULEY

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. BURGESS. Mr. Speaker, I rise today to pay tribute to Pvt Ryan Michael McCauley, who was killed while defending our Nation on September 5, 2004 in Sadr City, Iraq.

For the past year, Private McCauley has rendered faithful, conscientious, and valuable services to the U.S. Army and to the United States of America. Private McCauley will be remembered for his commendable service and dedication to this great Nation.

Private McCauley was a native of Lewisville, TX and a recent graduate of Lewisville High School. At Lewisville High the future soldier was an amiable and trustworthy student, who left behind many close friends. On September 11, family, friends, students, and school administration attended a ceremony at the school in tribute to their former classmate and fallen soldier.

Private McCauley joined the Army after graduating in 2002 where he faithfully served our Nation in the 2nd Battalion, 5th Calvary regiment, 1st Calvary Division.

Our thoughts and prayers go out to the family and friends of this young American hero.

HONORING HABITAT FOR HUMANITY OF CHESTER COUNTY, PENNSYLVANIA

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. GERLACH. Mr. Speaker, I rise today to recognize Habitat for Humanity of Chester County, Pennsylvania's 15th Anniversary. For fifteen years, they have provided basic, well-built, affordable housing for low-income families and for those in need. Habitat for Humanity has made countless contributions to our community and, for that, they should be commended.

Habitat for Humanity is an organization that not only builds homes, but it also builds hope for those less fortunate. In turn, it gives those people in need a sense of dignity and of independence. This program is known for developing partnerships within the community and for its involvement in the promotion of Christian values. This great organization is led and sustained by volunteers of all faiths and it prides itself on serving all low-income families regardless of race, religion, culture, or gender.

Habitat for Humanity of Chester County began operations in 1986 as a part of the Greater Philadelphia Habitat for Humanity. Shortly afterwards in 1988, Chester County became a separate affiliate after completing its first home. Today, Habitat for Humanity of Chester County is one of six affiliates in the Delaware Valley and one of 1,600 United States affiliates of Habitat for Humanity International.

Since 1988, Habitat for Humanity Chester County has built 58 homes and refurbished an additional seven properties in the area. In 2003, the organization began construction on eleven new homes in Chester County. Eight of these homes will be located in the city of Coatesville and three in the borough of Phoenixville, Pennsylvania.

Volunteers from the community are a vitally important part of Habitat for Humanity. In 2000 alone, community volunteers in Chester County, Pennsylvania contributed more that 25,000 hours of work on the homes for those less fortunate. Habitat for Humanity brings volunteers and future homeowners in the community together in a positive and productive fashion, putting a face and a name on the issue of affordable housing.

Mr. Speaker, I ask that my colleagues join me today in recognizing the outstanding contributions that Habitat for Humanity has made not only in Chester County, Pennsylvania, but for their service to the needy throughout the world.

TRIBUE TO MARTHA PENNINO

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. MORAN of Virginia. Mr. Speaker, on September 17, Fairfax County, Virginia lost one of its most important and influential citizens when Martha Pennino, known as "Mother Fairfax", passed away. Through her leadership, Mrs. Pennino helped oversee the development of Fairfax County into one of the most successful jurisdictions in the Nation.

From 1968 to 1991 Martha Pennino served on the Fairfax County Board of Supervisors, including 17 years as the Vice Chairman. As the representative of the Centreville District, Mrs. Pennino worked tirelessly for her constituents. During her tenure she was involved in most of the major decisions affecting the County, and was instrumental in seeing Reston develop into a successful planned community. Her work also saw the development of projects including the Dulles Toll Road, South Lakes High School, and the Reston Regional Library. She helped create a sense of community for all those living in her district.

Martha Pennino will best be remembered by the citizens of Fairfax County for her commitment to the poor and homeless in her community. She opened her office at night for people without a home and provided them a bed and a warm place to rest. She created a homeless shelter in her district and ensured that with the enormous development occurring in Fairfax County there would be low-cost housing options for those who needed it. Martha Pennino also helped establish the Fairfax County Human Rights Commission to help fight discrimination throughout the County. While Fairfax County grew, she wanted to ensure that every person could be a part of this vibrant community.

In honor of her work to help all the residents of Fairfax County and for being an instrumental part in the growth of the County, I ask that the Reston Post Office be named after Martha Pennino. It is imperative that we honor and remember this remarkable woman.

HONORING CONTINENTAL NATIONAL BANK FOR 30 YEARS OF FINANCIAL SERVICE TO THE SOUTH FLORIDA COMMUNITY

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise to congratulate Continental National Bank of Miami on their 30th anniversary of operations. Continental National Bank is an established and trusted institution that serves the financial needs of my community.

Continental National Bank was established in 1974 and was the first Cuban-American owned national bank chartered in the United States. It is a full service community bank with six branches in Miami, Hialeah and Sweetwater. The bank offers a variety of personal and commercial services, including residential mortgage lending, small builder construction financing, and online banking services.

For 30 years, Continental National Bank has been at the heart of the economic development of South Florida. With quality banking services, a skilled staff and extensive community involvement, Continental National Bank has developed a reputation for caring about its customers while extending knowledgeable and professional banking services.

Again, Mr. Speaker, I warmly congratulate Continental National Bank on this important milestone and thank all of the fine men and women who are part of Continental National for their commitment and faithful service in supporting the needs and priorities of the entire South Florida community.

HONORING RON McNEALL

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Ron McNeall. On October 1, Ron is retiring from the Board of Directors of the Missouri Corn Growers Association and Missouri Corn Merchandising Council after 11 years of service.

Ron McNeall was born in Boonville, Cooper County, Missouri on November 30, 1948. He has been married to his wife Carolyn for 33 years, and they have three wonderful children in Travis, Kelly, and Ashley.

In addition to his 11 years of service as a Director on the MCGA/MCMC Board, Ron is also a past MCMC Chairman and MCGA President. At the national level, he has served as a delegate to the National Corn Growers Association and he has served as a National Corn Growers Association Production and Stewardship Action Team Member. He has also been an active member of the United States Grains Council. Ron was a seed salesman for Pioneer Seed for at least 18 years, and served on Pioneer Seed's Advisory Council from 1991–1993.

As a dedicated advocate for agriculture, Ron has been the recipient of numerous awards. In 2000 he received an Honorary State FFA Degree, and in 2003 he was named the Outstanding MCGA Member. While many of us associate Ron's service with the agricultural sector, his dedication extends far beyond it, as he served with distinction on the Keytesville School Board for 12 years.

Mr. Speaker, I proudly ask you to join me in commending Ron McNeall, a remarkable citizen who exemplifies the qualities of dedication and service.

HONORING HARRIS COUNTY COMMISSIONER SYLVIA R. GARCIA

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. LAMPSON. Mr. Speaker, I rise today to honor Harris County Commissioner Sylvia R. Garcia. Aside from her hard work and diligence as an distinguished public servant, she has been an inspiration and a strong leader for the Hispanic communities of Southeast Texas. Prior to her election in 2003, Commissioner Garcia served as Controller for the City of Houston and before that served as the appointed Director and Presiding Judge of the Houston Municipal Court System.

She is not only a great Houstonian, but a proven leader and driving force in her community. As an active leader in the Houston community, the Commissioner has served on more than 25 community boards and commissions, including the San Jacinto Girl Scouts, the Houston Hispanic Forum, the American Leadership Forum, the Texas Southern University Foundation and the Institute of Hispanic Culture. She has selflessly given of herself in order to promote strength and leadership in her community.

Despite the demanding duties of being Harris County Commissioner, she has given of her time to be chairperson or honorary chairperson of many charity functions. Such functions include the kick-off for "America Walks for Strong Women", benefiting the National Osteoporosis Foundation and the "International Paella Festival and Polo Espanol" benefiting Casa de Esperanza and The Mercy Foundation.

Her honors by the media and other organizations speak volumes about her service. She was named "Humanitarian of the Year" by the National Conference of Communities and Justice and has also been honored with the Texas Woman's University Board of Regents Woman of Distinction Award, the Hispanic Scouting Distinguished Citizen Award from the Sam Houston Area Boy Scouts of America, and the Board Award from the San Jacinto Girl Scouts.

Commissioner Garcia's accomplishments should be an inspiration to us all. She has done a fine job as Harris County Commissioner and is an invaluable resource for the Hispanic communities of Texas. She is someone who continues to inspire, and I am proud to recognize her on the floor of the House today.

HONORING THE RUTH PAGE FOUNDATION

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. EMANUEL. Mr. Speaker, I rise to congratulate the Ruth Page Foundation of dance and performing arts on more than 30 years of innovative dance and artistic excellence.

The Ruth Page Foundation was established in 1970 in order to uphold and promote the highest quality of performing arts as produced by choreographer and dance icon Ruth Page and continues to be at the forefront of innovative dance theater in Chicago.

A native Chicagoan, Ms. Page gained national recognition through her unprecedented incorporation of the era's social and political issues into her artistic performances. In addition, Ms. Page attained international prominence by becoming the first American to dance with Diaghilev's Ballet Russe. In later years, Ms. Page would go on to choreograph, commission, and dance in a string of hits such as Polka Melancholique and Hear Ye! Hear Ye!

During the Great Depression of the 1930's, Ms. Page teamed up with Bentley Stone to direct the federally funded Chicago Works Progress Administration (WPA) Dance Project. The duo had significant success with their groundbreaking feminist ballet American Patterns, and later became the first American ballet company to tour South America.

However, Ms. Page is probably best remembered for her assiduous efforts in creating and operating numerous dance companies throughout the Chicagoland area. From her first association with the Ravinia Opera in 1926, to her production of the The Nutcracker at McCormick Place's Arie Crown Theater in the mid 1980's, Ms. Page contributed to the city's cultural scene by taking on the roles of prima ballerina, choreographer, director, financial backer, and visionary. Ms. Page, who passed away in 1991, is still considered the grand lady of Chicago dance.

Mr. Speaker, I join with the people of Chicago in congratulating the brilliant Ruth Page Foundation, a company that continues to uphold the quality and discipline that was embodied by its namesake. I am proud of their numerous achievements both on and off the stage and wish them continued growth and success into the future.

HONORING PAUL TUDOR JONES II

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise today to recognize Mr. Paul Tudor Jones II for his passionate dedication to conservation techniques and land stewardship practices of his Blue Valley Ranch located in Grand County, CO.

Mr. Jones was the 2004 recipient of the Middle Park Land Trust Land Steward of the

Year Award. This annual award is given to the Grand County, CO landowner who most exemplifies the mission of the Middle Park Land Trust in land management and conservation practices who help preserve Grand County's scenery, agriculture, water, wildlife and biodiversity for today and future generations.

Mr. Jones first purchased a portion of the Blue Valley Ranch in 1994, he re-acquired the water rights and began a holistic approach to ranch management which includes wildlife conservation, agricultural production, stream enhancement, recreational activities and in essence, the preservation of our local heritage. The Blue Valley Ranch now encompasses 25,000 acres and is thriving.

The primary focus of the Blue Valley Ranch is wildlife conservation. The ranch has worked in partnership with the Colorado Division of Wildlife on many projects including the reintroduction of antelope south of the Colorado River, sage grouse monitoring and habitat restoration, and wild turkey transplants on both public and private land.

Habitat improvements for both wildlife and livestock have been prescribed burns, forest treatments, crops, and a rotational grazing system.

Many miles of the Blue River and adjoining tributaries that were vulnerable to low flows, high temperatures, and predators have been restored to a more natural condition.

It is a credit to Mr. Jones that agricultural production continues on the Blue Valley Ranch. Each year, the Ranch puts up hay and runs cattle as well as buffalo.

On behalf of the residents of Grand County CO, I ask my colleagues to join me in honoring Paul Tudor Jones II for his dedication and commitment to land management and conservation practices and for being selected as the 2004 Middle Park Land Trust Land Steward of the Year Award.

TRIBUTE TO PRIVATE FIRST CLASS DEVIN GRELLA

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. REGULA. Mr. Speaker, I rise to acknowledge Devin Grella, a constituent from the 16th District of Ohio, who sacrificed his life fighting for our country. Private First Class Devin Grella of the 706th Transportation Company of the Army Reserve died when incendiaries exploded near his convoy.

A graduate of Medina High School, Pfc Grella was an Eagle Scout in Boy Scout Troop 503 and was active in choir and athletics, participating in both cross-country and lacrosse. Everyone who knew him regarded him as a happy, gentle, and caring man. After his term of service, he planned to go to college in Utah and join ROTC in order to become an officer.

This exceptional young man exhibited valor and a commitment to serving our country. Without people of Pfc Grella's quality, the Nation would fail to carry out its task as a protector of freedom.

My deepest sympathy and prayers are extended to his family and friends who are now in mourning. I pray for the safety of our servicemen and women and thank them for their dedication to the defense of our Nation.

IN HONOR OF LANCE CORPORAL JACOB RAUL LUGO

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. BURGESS. Mr. Speaker, I rise today to pay tribute to Lance Corporal Jacob Raul Lugo, who was killed while defending our Nation on August 24, 2004 in the Al Anbar Province of Iraq.

For the past year, Lance Corporal Lugo has rendered faithful, conscientious, and valuable services to the U.S. Marine Corps and to the United States of America. Lance Corporal Lugo will be remembered for his commendable service and dedication to this great Nation.

Lance Corporal Lugo was a native of Flower Mound, Texas and a recent graduate of Marcus High School. At Marcus High the future Marine was an exceptional student, participating in both the Marching and Symphonic Bands and excelling academically as a member of the Spanish Honor Society.

In 2001, Mr. Lugo decided to join the Marines, where he served exceptionally in his career. He honored our great country and defended freedom as a member of the Lima Company, 3rd Battalion, 7th Marine Regiment, Weapons Platoon where he was awarded the National Defense Service Medal, Combat Action Ribbon, Presidential Unit Citation, Sea Service Deployment Ribbon Second Award and the War on Terrorism Expeditionary Medal. Lance Corporal Lugo was on his second tour of duty in Iraq.

Our thoughts and prayers go out to the family and friends of this young American hero.

HONORING "MOTHER FAIRFAX" MARTHA PENNINO

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. MORAN of Virginia. Mr. Speaker, on September 17th, Fairfax County, Virginia lost one of its most important and influential citizens when Martha Pennino, known as "Mother Fairfax", passed away. Through her leadership, Mrs. Pennino helped oversee the development of Fairfax County into one of the most prosperous and diverse jurisdictions in the Nation.

From 1968 to 1991 Martha Pennino served on the Fairfax County Board of Supervisors, including 17 years as the Vice Chairman. As the representative of the Centreville District, Mrs. Pennino worked tirelessly for her constituents. During her tenure she was involved in most of the major decisions affecting the County, and was instrumental in seeing Reston develop into a successful planned community. Her work also saw the development of projects including the Dulles Toll Road, South Lakes High School, and the Reston Regional Library. She helped create a sense of community for all those living in her district.

Martha Pennino will best be remembered by the citizens of Fairfax County for her commitment to the poor and homeless in her community. She opened her office at night for people without a home and provided them a bed and a warm place to rest. She created a homeless shelter in her district and ensured that with the enormous development occurring in Fairfax County there would be low-cost housing options for those who needed it. Martha Pennino also helped establish the Fairfax County Human Rights Commission to help fight discrimination throughout the County. While Fairfax County grew, she wanted to ensure that every person could be a part of this vibrant community.

In honor of her work to help all the residents of Fairfax County and for being an instrumental part in the growth of the County, I ask that the Reston Post Office be named after Martha Pennino. It is imperative that we honor and remember this remarkable woman.

FREEDOM FOR MIJAIL BARZAGA LUGO

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker. I rise today to speak about Mijail Barzaga Lugo, a political prisoner in totalitarian Cuba.

Mr. Barzaga Lugo is an independent journalist in totalitarian Cuba. He believes in writing and publishing the truth, including about the nightmare that is the Castro regime. In his quest to disseminate the facts about the politics of repression practiced by the tyrant, Mr. Barzaga Lugo has written for various publications, including Cubanet. However, the dictatorship mandates propaganda and the tyrant's thugs arrest and imprison the brave independent journalists who peacefully publish the truth about the decrepit regime.

In March 2003, as part of Castro's brutal crackdown on peaceful pro-democracy activists, Mr. Barzaga Lugo was arrested. In the sham trial that followed, he was sentenced to 15 years in the abhorrent totalitarian gulag.

According to Amnesty International, the sham trial verdict read, in part, "Mijail Barzaga Lugo, in 2002, wrote, as an independent journalist, in different websites like Cubanet, Cubaliberal, and Payolibre, different articles of a subversive and counterrevolutionary type." Let me be clear, this sham verdict only confirms that Mr. Barzaga Lugo is languishing in the infernal gulag because he heroically wrote the truth about the totalitarian dictatorship.

Mr. Speaker, it is unconscionable that anyone, anywhere, is imprisoned in sub-human gulags simply for their belief in truth, freedom and democracy. At the dawn of the 21st century, mankind must no longer tolerate prisoners of conscience in any form, in any place, in any country. My Colleagues, we must demand the immediate release of Mijail Barzaga

Lugo and every prisoner of conscience in totalitarian Cuba.

RECOGNIZING TEN YEARS OF OPERATIONS AT PREMIUM STANDARD FARMS' MILAN PROCESSING FACILITY

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize the Premium Standard Farms Milan Processing Facility. On September 19, 2004 Premium Standard Farms celebrated 10 years since the Milan plant first began operations. When the plant began its operations in 1994, there were only 200 employees. Today, the Milan facility employs more than 900 people and produces more than one million pounds of fresh pork per day.

The Premium Standard Farms Milan Processing Facility has received numerous awards since 1994. Just last year, the plant was named 2003 Food Plant of the Year by Refrigerated and Frozen Foods magazine. This prestigious award recognizes the company's exceptional record for not only food safety, but worker safety as well. Premium Standard Farms sets high standards to provide an all around safe product. During 3 of the last 4 years, employees at the facility have worked over one million combined hours without a lost-time accident of any kind, a feat that many plants have not achieved even once. This spring, the Milan Processing Facility received the American Meat Institute's highest safety award: the Award of Honor. The Award of Honor is presented to those facilities that demonstrate continuous improvement in safety, based on criteria administered by the National Safety Council. Only 1 percent of U.S. slaughter plants receive this honor.

Mr. Speaker, I proudly ask you to join me in congratulating Premium Standard Farms on 10 years of safe and productive operations at the Milan Processing Facility.

SUPPORTING TAIWAN'S EFFORT TO RETURN TO THE UNITED NATIONS

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. LAMPSON. Mr. Speaker, in seeking to return to the United Nations, the Republic of China on Taiwan will once again ask diplomatic allies to present its case before the United Nations this fall. I am in total sympathy with Taiwan's effort. Taiwan is the only nation not represented in the U.N. Taiwan's exclusion from the U.N. violates the principles and spirit of the U.N. Charter, especially the fundamental principle of universality and the Universal Declaration of Human Rights.

As we all know, the U.N. Charter demands that this global body welcome the participation of all people, including the 23 million people of Taiwan. Those who object to Taiwan's participation in the U.N. argue that U.N. Resolution 2758, adopted in 1971, makes the People's Republic of China the legitimate representative of Taiwan. The fact is that the PRC has never exercised jurisdiction over Taiwan. It is absurd to claim that the PRC can speak for a land and people over which it has no control. If the United Nations is founded on the principle of the equality of sovereign nations, it has no reason not to recognize Taiwan's sovereignty as an independent nation. It must and should give Taiwan representation.

Moreover, as we live in an era of the ascendancy of democracy and human rights, we must see that Taiwan has been a vibrant democracy with a democratically elected president and legislature. Taiwan's government upholds human rights. Its citizens enjoy freedom of assembly, association and religion. Free nations of the world cannot allow Taiwan, a beacon of democracy, to be subdued by an authoritarian China.

Besides being a multiparty democracy, Taiwan is an economic powerhouse, now ranking as the world's 14th largest economy. It has the potential to be a valuable party to ensure peace, security and progress in the Pacific region. Clearly it does not serve anyone's interest to keep Taiwan out of the United Nations. Also, as Asian-Pacific nations are confronted with problems of environmental degradation, greenhouse effects, depletion of marine and other resources, poverty and disease, Taiwan could play a significant role in grappling with some of these concerns if it were allowed to work with the United Nations and its agencies. No such opportunity avails Taiwan today.

Mr. Speaker, I truly believe that Taiwan has been poorly treated by the United Nations. Taiwan has been a responsible global citizen for years. It has done a good job, for example, in helping to resettle refugees in Afghanistan, in preventing AIDS in Africa and in dispatching numerous technical and medical teams to developing countries in Latin America and Africa. U.N. should recognize and reward Taiwan's global outreach to needy countries.

Maybe the solution is parallel representation for both Taiwan and the People's Republic of China on the pattern of the previous East and West Germanys and the North and South Koreas. Such an arrangement would provide Taiwan and China with a forum for dialogue whereby they may forge closer ties based on mutual understanding and respect, leading to permanent peace in the Taiwan Strait.

For all the reasons named above, my colleagues and I urge the United Nations to consider Taiwan's bid to return to the U.N. with thought and wisdom.

HONORING THE JOFFREY BALLET OF CHICAGO

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. EMANUEL. Mr. Speaker, I rise to congratulate The Joffrey Ballet of Chicago on more than 40 years of excellence and artistic achievement.

Since its foundation in 1956, the Joffrey Ballet has brought a unique and innovative approach to American dance theater. In addition to entertaining Chicago audiences for decades, the Joffrey exists as a touring company with a repertoire of original ballets and choreography that have been enjoyed by ballet fans worldwide.

Created by Robert Joffrey and Gerald Arpino, the Joffrey held its first major production at Chicago's 8th Street Theater on January 22, 1957. The performance proved to be a tremendous success, and helped establish the Joffrey as one of the best national companies of the day. In addition, the Joffrey has received international acclaim for its performances in 25 foreign countries, including Korea, Syria, and Afghanistan.

Renowned for a remarkable repertory of more than 225 ballets by 85 choreographers, The Joffrey commissioned the first ballets of such notable American choreographers as Alvin Ailey, Laura Dean, Anna Sokolow, and Chicagoan Randy Duncan. Furthermore, the company has revived many of the lost classics such as Parade from 1909, and The Three-Cornered Hat from 1919. In addition, The Joffrey has achieved great success by incorporating modern technology and pop culture into its productions to create ballets that are appealing to modern audiences.

Mr. Speaker, I join with the people of Chicago in congratulating The Joffrey Ballet of Chicago, one of Chicago's finest cultural institutions. From its brilliant original productions, to its extraordinary presentations of the classics, the company continues to perform ballet at the very highest of levels. I am happy to applaud their numerous achievements, and to wish them continued growth and future success.

HISPANIC ENGINEERING SCIENCE AND TECHNOLOGY WEEK

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. HINOJOSA. Mr. Speaker, I rise today to commend the University of Texas Pan American on organizing the 3rd annual Hispanic Engineering Science and Technology Week (HESTEC), a national celebration, emphasizing the importance of math and science literacy by highlighting rewarding career paths in engineering, science, and technology.

The University of Texas Pan American is one of the premier Hispanic-Serving Institutions in the Nation not just because of the large number of Hispanic students that attend classes here but because of the university's longstanding and deeply rooted commitment to expanding access to education for our community. HESTEC is just one example of that commitment to our young people, our future.

We are in the midst of celebrating Hispanic Heritage Month—a time to celebrate Hispanic culture and the many contributions Hispanic Americans have made to this great Nation. The University of Texas Pan American, through the HESTEC initiative, has decided to celebrate Hispanic Heritage Month by looking to the future.

Love of country is a fundamental value in the Hispanic community. When the nation is in need, Hispanic Americans have always answered the call to serve. It is in this fine tradition that University of Texas Pan American founded HESTEC.

HESTEC is a call to serve. It is a call to our Hispanic youth to step in and fill the pressing national need for highly trained professionals in the fields of science, engineering, and technology.

Our Nation is facing a shortage of critical proportions in the fields of math, science, engineering and technology. Science and engineering employment opportunities are increasing three times faster than all other occupations. Yet, the number of college students entering the fields of math, science and engineering continues to decline, placing America's position as the world's leader in science and technology at risk. Increasingly, Hispanics will be called upon to reverse that trend. By the year 2010, Hispanics will represent 1 out of 4 students in U.S. schools, but today only 4 percent of U.S. scientists and engineers are Hispanic. This presents both a challenge and an opportunity for higher education institutions to attract more Hispanics entering the career fields of science and technology.

The University of Texas Pan American recognized that Hispanic Serving Institutions have a unique responsibility to meet this challenge and to increase the number of Hispanics in math, science, engineering and technology fields. Therefore, in October 2002, under the leadership and vision of Roland Arriola, vice president of external affairs, the university hosted the first Hispanic Engineering Science Technology Conference (HESTEC).

Since its inception, HESTEC has captured the imagination of South Texas and galvanized the community around the goal of preparing the next generation of mathematicians, scientists, engineers, and technology experts. This event has engaged our community on all levels. Last year, HESTEC reached over 1,500 teachers, 25,000 community members, and 330,000 students from across Texas. The initiative also has generated $1 million in scholarship dollars for college students.

The University of Texas Pan American has created a model initiative for the Nation. Today, on the eve of the 3rd annual HESTEC and in the midst of our national celebration of Hispanic Heritage Month, I urge my colleagues to join me in saluting this fine institution for its service to the Hispanic community and to the Nation.

CELEBRATING THE 60TH ANNIVERSARY OF THE COMMISSIONING OF THE USS "OZARK" IN PORTLAND, OR, AND HONORING ITS CREW

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. BLUMENAUER. Mr. Speaker, it is with great pleasure today that I welcome the crewmembers of the USS *Ozark* back to Portland, OR to celebrate the 60th anniversary of the ship's commissioning on September 23, 1944. The *Ozark*, built by the Willamette Iron and Steel Corporation here in Portland, crossed the Columbia River bar less than 2 weeks later and played a vital role in our Nation's victory in the Pacific Theater during World War II. The Pacific Theater saw some of the war's most dangerous naval encounters, and the commitment of the USS *Ozark*'s crewmembers is a testimony of their bravery and sacrifice.

In the Pacific Theater, the ship and its crew transported troops for the invasion of Iwo Jima and evacuated wounded Marines to hospitals in Guam. After seeing further action in the Pacific Theater, the USS *Ozark* was present in Tokyo Harbor during the historic ceremony where the Japanese surrendered on board the USS *Missouri*. The ship then returned 950 recovered American prisoners of war to the United States via Guam and Pearl Harbor.

I want to take this opportunity to thank those who served aboard the USS *Ozark* for their brave efforts in the defense of our Nation. I wish them a festive 60th anniversary celebration this week in Portland.

TRIBUTE TO MR. LOWELL E. ENSLEN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and pleasure that I stand before you today to recognize the many accomplishments of Mr. Lowell E. Enslen during 52 years of service in the Northwest Indiana community. Lowell has spent nearly five decades representing his community. His career as a lawyer has allowed him the opportunity to touch the lives of numerous people.

Lowell E. Enslen was born in Gary, Indiana in 1927. He attended Hobart public schools and Valparaiso University. Lowell was admitted to the American Bar Association in 1952. He was National President of Sigma Delta Kappa from 1963–1964, Town Attorney of Dyer, Indiana from 1957–1960, 1962, and 1964–1972 and of Cedar Lake, Indiana, from 1976–1980. Lowell has accomplished many visionary goals throughout his career. He is a member of Enslen, Enslen & Matthews Law Firm, which was established in 1960. Enslen, Enslen, & Matthews Law Firm provides general civil, criminal and appellate practice in all State and Federal courts, family/domestic relations, probate and estate planning, insurance, real estate and labor relations law.

Not only has Lowell Enslen had many constructive accomplishments throughout his career as a lawyer, he has also actively contributed to his community through participation in various programs designed at improving opportunities for the people of Northwest Indiana. Lowell was President of Members Hammond from 1965–1966 and is currently affiliated with Lake County, Indiana State, and American Bar Associations, American Judicature Society, Indiana Trial Lawyers Association, The Association of Trial Lawyers of America, and Fellow Indiana Bar Foundation. Along with his many other accomplishments, Lowell has received numerous certificates and awards.

Lowell has demonstrated his faithfulness by his extraordinary service to Enslen, Enslen, & Matthews and his community through his hard work and self-sacrifice. Although Lowell has served on numerous committees and has dedicated his time to Enslen, Enslen, & Matthews, he has never neglected to provide support and love to his family.

Mr. Speaker, Lowell E. Enslen has given his time and efforts selflessly to the people of Northwest Indiana throughout his years of service. He has taught every member of Enslen, Enslen, & Matthews the true meaning of service to all members of the Northwest Indiana community. I respectfully ask that you and my other distinguished colleagues join me in congratulating Mr. Lowell E. Enslen for his outstanding contributions to Indiana's First Congressional District. I am proud to commend him for his lifetime of service and devotion.

TRIBUTE TO INSPECTOR DENNIS WITULSKI AND BIO-OPERATIONS CHIEF ANTHONY MALTESE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. LEVIN. Mr. Speaker, on Friday, September 24, 2004 the Sterling Heights Fire Fighters Union will host their Annual Dinner-Dance, honoring their 2004 retirees. This yearly event, honors Sterling Heights firefighters for their dedication to their community and recognizes their commendable contributions to the city. I am pleased to be associated with this fine organization and to call many of them my friends.

I am proud to rise today to pay tribute to the careers of two retiring firefighters.

Inspector Dennis Witulski, discharged from the U.S. Navy in 1973, was appointed as a Sterling Heights firefighter on July 20, 1981. He was promoted to FEO in 1992 and then promoted again to Lieutenant in 1996. Mr. Witulski was deemed Firefighter of the Year in 2001 by the city of Sterling Heights and American Legion Post 151. He twice received Perfect Attendance awards in 1996 and 2002. Mr. Witulski received various merits and awards throughout his tenure with the fire department, and retired on July 20, 2004.

Bio-Operations Chief Anthony Maltese was born in Detroit, Michigan, on June 6, 1950. He was appointed to the position of firefighter January 29, 1973. He received commendation for responding to a house fire in 1974 and a Meritorious Unit Citation for a lifesaving incident in 1986. Mr. Maltese was promoted to Lieutenant in July of 1992, and promoted again to Captain in October of 1995. He received his Associates Degree, Cum Laude, in 1994 and was appointed Battalion Chief in 1997. Mr. Maltese retired as Operations Chief on November 19, 2003.

Many of us embark on a profession that does not call for us to put our lives in danger each day we go into work. These men chose to dedicate their careers and their lives to helping people in their community stay safe and secure, and putting their lives in harm's way to save a life, a family, a home.

Mr. Speaker, I ask my colleagues to join me in recognizing these two heroes, who have dedicated themselves to Sterling Heights and the community at large in a way that few can; with valor, commitment and honor.

TRIBUTE TO GIANNA ANGELOPOULOS-DASKALAKI FOR HER OUTSTANDING SERVICE TO THE 2004 OLYMPIC GAMES

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Ms. DELAURO. Mr. Speaker, I am honored to rise today to extend my sincere congratulations to Gianna Angelopoulos-Daskalaki, the woman who was responsible for the success of the 2004 Olympic Games held in Athens, Greece. As head of the Athens 2004 Organizing Committee, "Mrs. A" was instrumental in ensuring that Athens remained the site of Summer Games and that the massive undertaking of construction and organization was completed.

Preparing for an event that is as elaborate as the Olympic Games is a monumental task—one which was almost lost to Athens. Credit for the success of the Games has gone to the leadership and determination of Mrs. A whose vision, tenacity, and pride in Greece enabled the Athens 2004 Organizing Committee to overcome every challenge they faced.

I was fortunate enough to have the opportunity to attend this summer's games and found myself in awe of all that surrounded me. From the magic of the opening ceremonies and the lighting of the Olympic Torch to the incredible athletic venues, Athens was nothing short of spectacular. As the Games were brought back to their birthplace, the city was reborn—the Old World met the New and people from across the world celebrated in the spirit of competition. Whether spectators marveled at the breathtaking image of the lighted Parthenon in the night sky, or took in the beauty of the Greek countryside as marathon runners raced along the original route from the city of Marathon to the Olympic Stadium, Mrs. A brought the world to Athens—reminding us of all that this ancient civilization has meant to world history and of all that this great country has yet to offer.

In the days before the opening ceremony, Mrs. A wrote, "Some will call what we have achieved a miracle. It is a miracle, but one that's man-made—a product of hard work, discipline and the pride of the Greek people." She could not have been more accurate. Today's Athens is a unique blend of an ancient civilization and modern marvel—with it's rich history celebrated and showcased for the world to enjoy. In ensuring the success of the 2004 Olympic Games, Mrs. A has also brought renewed vigor and beauty to one of the world's most fascinating cities.

For her outstanding contributions to both the 2004 Olympic Games and to the city of Athens, I am proud to stand and congratulate Gianna Angelopoulos-Daskalaki. She has left an indelible mark on our consciousness and shared history.

RECOGNIZING EAGLE SCOUT STEPHEN TYLER STOKES

HON. BRAD MILLER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. MILLER of North Carolina. Mr. Speaker, I want to acknowledge the perseverance and achievement of Stephen Tyler Stokes in earning the rank of Eagle Scout, Boy Scouts of America, Occoneechee Council—Troop 104, on December 12, 2003, and entered into the CONGRESSIONAL RECORD as such. His Court of Honor commenced on July 24, 2004.

While a member of Troop 104 in Wake County, North Carolina, Stephen served in various positions including Librarian, Instructor, Troop Guide, Assistant Patrol Leader, and even Patrol Leader. He learned what it takes to assist his fellow scouts and how to lead them. Stephen attended the National Boy Scout Jamboree in 2001, at Ft. A.P. Hill in Virginia, which influenced him to become an Eagle Scout and a role model for younger boys.

In addition to devoting his time to being an Eagle Scout, Stephen attended Broughton High School in Raleigh, NC, where he helped establish the F.I.R.S.T. Robotics Program, participated in the Chess Club, and served as webmaster for the Literary Magazine and the Japanese Animation Club. Stephen received an Enterprise in Action Certificate of Achievement from Junior Achievement and was listed in the publication Who's Who Among American High School Students.

Stephen's commitment to serving his community and helping others is truly commendable. He has helped construct homes in Charleston and Philadelphia as part of Habitat for Humanity's ongoing inner-city improvement projects. During Stephen's 8 years with the Boy Scouts, he was an active participant in the Citizenship in the Community, Citizenship in the Nation, and Citizenship in the World volunteer programs.

Mr. Speaker, I know his father Steven and his mother Jamie are proud of all that their son has accomplished and join me in recognizing that the achievement of earning the rank of Eagle Scout is just the beginning of a bright future for their talented and deeply committed son.

The journey a young man makes to earn the rank of Eagle Scout requires not only a scout's dedication to his community, but also the community's dedication to the scout. I would like to extend my congratulations and best wishes to Stephen Tyler Stokes, his family and Troop 104.

CONGRATULATIONS, TAMI DOETCH

HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. RYAN of Wisconsin. Mr. Speaker, what an honor it is to be able to congratulate Tami Doetch, a teacher at Wilson Elementary School in my hometown of Janesville, Wisconsin, for being recognized by the U.S. Department of Education as a No Child Left Behind American Star of Teaching.

Every day, Tami Doetch goes to school committed to helping students learn to read and master the building blocks that will form the foundation of their education. She teaches third- and fourth-graders and has put a lot of time and energy into helping English language learners.

By using effective teaching techniques to open up the world of reading to her students, she is giving them the tools to achieve their dreams, not to mention countless hours of reading enjoyment throughout their lives.

Tami Doetch has also taken a leadership role, going above and beyond her work in the classroom. She oversaw the incorporation of the Harcourt Brace Reading Program into instruction at Wilson Elementary. And she has led tutoring and after-school reading programs.

For many of us, our most challenging teachers are the ones we remember most fondly because they pushed us to think and taught us lessons that we still rely on today. I have no doubt that Tami Doetch's students will remember her fondly and gratefully for her dedication to their reading instruction and overall education.

ESSAY BY BROOKE ROBISON "MY COMMITMENT TO AMERICA'S FUTURE"

HON. ROB BISHOP

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. BISHOP of Utah. Mr. Speaker, I am pleased that Brooke Robison, a high-school student at Layton High School in The First Congressional District of Utah was selected earlier this year as a recipient of the Veterans of Foreign Wars' 2004 "Voice of Democracy" scriptwriting contest. I commend to my colleagues her essay which speaks so movingly of the sacrifices of her grandfather and, indeed, all members of the U.S. Armed Forces in protecting our freedom.

MY COMMITMENT TO AMERICA'S FUTURE

(By Brooke Robison, Utah)

On a stormy afternoon in February I was working towards an easy "A" for my history class. The assignment was to write an essay on a veteran's most memorable war experience. "Piece of cake," I thought. "I'll just interview my Grandpa, he fought in World War II. He might even have a story written up for me by the time I got there and I could be on my way." But, when I arrived at my grandparent's home, I saw that he had brought out piles of war memorabilia to show me. "Great," I thought, "this is going to take longer than I thought. I'm actually going to have to act interested." I picked up a photograph and was drawn in by the dashingly handsome young pilot that smiled up at me. The other aged photographs began to intrigue me and I gently fingered the old uniforms and medals and read the letters he had saved. I had never really thought of him as a young guy. I mean he was always, you know, GRANDPA! I was surprisingly fascinated about the life he had when he was barely older than I am now. I became anxious to hear the story he had selected to share with me for my project. Little did I know that his story would rock my shallow little world.

Near the end of the war a group of cocky young pilots emerged from their mess tent in Germany. They nearly ran into a truck full of sandy material parked near them on the street. My grandfather, a bright and promising mining engineer before the war, prided himself on being able to quickly identify almost any rock or mineral. He boasted that he could probably tell the make up of the sand just by touching it. He thrust his hand in and let it run through his fingers. Puzzled, he did it again and again, sniffing it and rubbing it between his palms. "What is this?" he thought, "I must be losing my touch!" He approached the driver of the truck and explained his professional background. "What is this stuff?", he asked, "I just can't figure it out!" The driver answered with a tone of one who had learned to distance himself from the daily horror of his job. "Ashes," he replied flatly, "human ashes."

The driver's answer struck me as hard as it did my grandfather decades ago. I felt as if my eyes had been opened for the first time. Wars weren't just a flash of information on the news or something that starred Tom Hanks. My young, handsome grandfather had watched the remains of thousands of innocent lives run through his fingers like common playground dirt. His efforts, and those of thousands of others, made sure that this carnage would stop. Brushing aside tears he whispered to me, "Tell this story, tell it, so this can never happen again." I came away from that visit with my grandfather knowing I had lived a shallow and ungrateful life. As corny as it may sound, my grandfather's story changed who I am and what I will do with my future. I learned that day that I have a responsibility to my country. The sale at the mall or having a date on Saturday night is nowhere near as important to me as my latest service project. I feel that if America's soldiers can endure so much to make our world a better place, I can certainly do all I can to improve my little corner of it. I have developed a passion to learn about wars and conflicts in our history. I have joined political youth groups so I can be well informed when I'm old enough to vote. I collect food for the local food pantry, fill and deliver bags of supplies for children in shelters, and make blankets for homeless. I wrote a song that encourages young people to get involved in community service. I was honored to perform it this past summer at a national award ceremony honoring outstanding youth in service. Performing with the Marines the last two years I became aware that gifts for teenagers run out early. There are never enough. I knew I could come up with a plan to help. I developed a program called Toys for Teens that involves running teen gift drives in our high schools and middle schools. I presented my idea to the Marines in my area and it was enthusiastically approved. The program is well received and is being implemented all across the state giving other young people the opportunity to know joy of giving back to their community. We hope to raise hundreds of thousands of dollars worth of donations. With this project I am proud to serve the youth of my community while also supporting my country's servicemen.

But I feel that the most important thing that I can do to show my commitment to America's future, is to tell my grandfather's story. As young people we need to make an effort to hear and pass on the stories from our country's past. Armed with the strength of the stories of our Nation's past heroes, we can truly have an inspired commitment to America's future.

IN MEMORY OF GEORGEA BLACK McKINLEY

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. BERRY. Mr. Speaker, I rise today in memory of Georgea Black McKinley, an Arkansan whose dedication to her family, her church and her community was as strong as the constitution of her pioneering ancestors.

Mrs. McKinley could trace her family roots all the way back to the true founders of this great nation: America's first pioneers. In order to stay in touch with her historic and noble history, Mrs. McKinley was a member of the Arkansas Pioneers, United Daughters of the Confederacy and Daughters of the American Revolution.

Born in DeWitt, Arkansas, she was the daughter of the late Lester A. and Mary Black. Mrs. McKinley attended DeWitt schools, Ward Belmont School in Nashville, Tennessee and then Randolph Macon Woman's College in Lynchburg, Virginia.

Mrs. McKinley's family holds a special place in my own career, as well. It was Georgea's father, L.A., who had vision of how crucial water is to a farmer. I have no doubt Mr. Black also passed down his knowledge of irrigation strategies and water management issues to his daughter. I never met him, but the legacy of the value of water has impacted my home community forever.

Georgea McKinley was an active Methodist, but her commitments to her community did not stop at the church steps. She was a member of the Aesthetic Club, The Colonial Dames of America, Little Rock Garden Club, Junior League of Little Rock and the Edelweiss Club.

Mrs. McKinley leaves behind a large and loving family filled with children, grandchildren and great-grandchildren. On behalf of the Congress, I extend sympathies to her family and the utmost respect to a woman whose love for her friends and family was unlimited and whose time was generously shared with the community. Georgea Black McKinley was a true role model, and I am honored to be able to recognize her in this Congress.

INTRODUCTION OF THE RAIL AND PUBLIC TRANSPORTATION SECURITY ACT

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. MENENDEZ. Mr. Speaker, today I am pleased to be joined by my Democratic colleague from New Jersey to introduce the Rail and Public Transportation Security Act, which would force the Federal Government to finally get serious about protecting our Nation's transit and intercity rail passengers.

This bill addresses the tremendous disparity between what we spend on security for each airline passenger and what we spend for each bus and train passenger, who are no less vulnerable than those who fly. In fact, data from the National Memorial Institute for the Prevention of Terrorism shows that public transportation passengers are in far more danger worldwide than airline passengers. Since 9/11, there have been roughly 50 terrorist incidents targeting airports and airlines, resulting in about 120 deaths. In the same 3 years, there have been over 280 terrorist attacks on other transportation systems, with over 600 fatalities.

The recent attacks in Spain, and intelligence that terrorists may strike the rail and systems here in America, dictate that we now broaden our attention to also include rail and transit security. Each year, approximately 24 million intercity rail passengers ride Amtrak, and 9.6 billion people travel by transit. Every day, 32 million commuters, students, and tourists depend on our public transportation system. One of the ripple effects of 9/11 was that the aviation industry was shut down for several days. Imagine the social and economic dislocation that would occur if a major attack destroyed people's confidence in our transit system, or made it grind to a halt. The economic impact would be far greater than 9/11.

Our Nation's rail and transit systems are highly vulnerable, and require at least $5.2 billion in capital equipment and $800 million in annual operating expenses to adequately meet security needs, according to the American Public Transportation Association. This legislation provides that funding, and just as importantly, it allows operating expense grant money to be used for the best security device of all: more police officers.

Giving our transit agencies money for fences, cameras and explosive detection equipment is necessary, but only a half-measure unless we also give them money for the cops and security officers that make all that equipment work. This bill allows money to be used for hiring new cops and security officers, pay them overtime when necessary, deploy additional K–9 units, conduct helicopter patrols, and more. In short, it unties the hands of our transit agencies and lets them spend the money where they need it.

This legislation also provides badly needed security and safety funding for Amtrak, including $670 million for safety upgrades to the tunnels that run underneath New York, Baltimore, and Washington, DC. These tunnels are simply not properly equipped for rescue operations or evacuation should either be necessary. An additional $62 million for Amtrak to put towards security expenses, including the hiring of additional police officers, is also provided.

Mr. Speaker, this bill would authorize new research and development grants to help develop new technologies for both passenger and freight rail that can help reduce the threat of terrorist attacks. And since rail security involves more than just deterring terrorist attacks, the legislation would establish new inspection procedures for rail track, and set new standards for tank cars, to make sure their hazardous cargo isn't released in the event of an accident.

I believe this bill is already long overdue. I urge my colleagues to imagine what we would have done, what action we would have taken, if the Madrid train bombings had occurred in our homeland, on our soil. What immediate investments would we have been ready to make? What urgent action would we have been willing to take?

Well, we can do it now. Let's make that investment and take those actions now. Let's take what steps we can to reduce the risk to our Nation's transit. We don't need commissions and studies after a tragedy in order to act, so let's not get mired in that now. Nearly 3 years of needs assessment and analysis have occurred, and we have the data to put a program in place. All it takes is Congress having the gumption to act before a tragedy on the rails takes place in this country.

QUESTIONING BUSH'S RECORD ON VETERANS

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. EVANS. Mr. Speaker, on August 16, President Bush stood before the national convention of the Veterans of Foreign Wars (VFW) and proclaimed: ". . . my administration has a solid record of accomplishment for our veterans . . . To provide health care to veterans, we've increased VA medical care funding by 41 percent over the past 4 years."

The reality is far more complex.

In 1997, Congress gave the Department of Veterans Affairs (VA) the authority to collect and retain veterans' copayments for health care. As a result, about 6.4 percent of the VA's medical care system is now (fiscal year 2004) comprised of veterans' copayments. The Bush Administration has made no secret that it would like to increase the share of this budget borne by veterans, including combat decorated veterans, while at the same time taking steps to discourage veterans' use of their health care system or explicitly bar their entrance into the system. The Administration's budget request for fiscal year 2005 would increase the share of the budget financed by veterans to 8.7 percent.

The Congress—for the third consecutive year—has rejected the legislative proposals in the President's budget that would charge a new enrollment fee for certain veterans and increase copayments for pharmaceutical drugs. Democrats in the House and Senate have also asked VA Secretary Anthony J. Principi to reconsider his current position to prohibit some veterans from enrolling in the VA health care system.

The President's claim that "we've" added 41 percent for VA medical care gives the false impression that he has endorsed all of these increases to the VA budget. In fact, the President has requested only about a 25 percent increase in appropriated funding over 5 years; the remainder has come from funding added by Congress and from increased collections of copayments from veterans.

Keep in mind that during the same period, the number of veterans entering the VA health care system grew by almost 50 percent. Additionally, medical inflation (which VA forecast at five percent per year) increased by seven to eight percent per year. The total average annual increases of eight percent over the five budget cycles in question still have required VA to take dramatic action to continue to deliver health care services to veterans. In addition to halting enrollment for tens of thousands of veterans with incomes as low as $25,000 who might not be able to afford private health insurance, VA has proposed elimination of nursing home care for all but the most severely service-disabled veterans.

Moreover, the President has actually opposed Congressional efforts to add funds to the VA health care system. On July 26, 2002, Congress authorized $275 million to address the costs of caring for VA's higher priority groups—service-connected and low-income veterans and those in need of specialized services. The President failed to designate these funds as emergency spending pursuant to the Balanced Budget Act, so the additional resources Congress sought to provide, which would have remained available to the agency throughout fiscal year 2003, were sacrificed.

The Bush Administration also objected to Congressional attempts to add $1.3 billion for veterans' health care in the FY 2004 Emergency Supplemental for Iraq and Afghanistan Security and Reconstruction Bill. Joshua Bolten, Director of the White House Office of Management and Budget (OMB) wrote to House and Senate appropriators on October 21, 2003: "The Administration strongly opposes these provisions that would allocate an additional $1.3 billion for VA medical care . . ."

A second Bush term would likely create an even more difficult funding environment for veterans' programs. OMB guidance leaked to the Washington Post this spring indicated that, for fiscal year 2006, the White House would require VA to identify $910 million to cut from its fiscal year 2005 budget request for discretionary programs—primarily, medical care, construction, and research.

The President also told the VFW: "We've reduced the large backlog of disability claims by about a third; we will reduce it even further."

Again, not so and not likely. When President Bush assumed office in January 2001, 278,334 veterans' disability claims were awaiting a VA rating decision. As of August 21, 2004, there were 330,380 disability claims awaiting a rating decision. The one-third reduction claimed by President Bush is not supported by VA's own data.

I am concerned that the Bush Administration's emphasis on productivity as a goal in itself, has actually been harmful to veterans. Veterans need a timely accurate decision when they apply for benefits. In an effort to meet production goals, I have found veterans rated on the basis of inadequate medical examinations which do not fully address the impact of a veteran's disability on his or her ability to function. It is tempting for well-meaning VA employees under pressure to reduce the backlog to decide the claim rather than sending the examination back to correct the deficiencies.

One measure of accuracy is the marked increase in veterans' claims pending at the Board of Veterans Appeals (BVA). When President Bush assumed office, 87,291 appeals were pending. As of August 14, 2004, there were 149,222 appeals pending. With increasing frequency, BVA continues to send claims back for evidence which should have been obtained before the claim was decided.

The prospect for the future is even worse. Despite increasing numbers of claims for service-connected compensation from the current wars in Iraq and Afghanistan as well as past conflicts, the Bush Administration fiscal year 2005 budget calls for 289 fewer full-time employees to handle disability compensation claims than were on the rolls in 2003. Cutting employees who decide these claims at a time when the number and complexity of claims is increasing does a great disservice to veterans.

The misdirection in the President's speech continued: "For more than a century, federal law prohibited disabled veterans from receiving both their military retired pay and their VA disability compensation. Combat-injured and severely disabled veterans deserve better. I was proud to be the first President in over 100 years to sign concurrent receipt legislation."

Considering his threats to veto it, his party's vehement objections to it, and the behind-closed-doors Republican "compromise" that excludes two-thirds of those eligible and forces the rest to wait 10 years to receive full benefits, "proud" seems an odd choice of words.

"We're getting the job done in Washington, D.C.," said the President to the VFW. Earlier this year, VFW then-Commander-in-Chief Edward S. Banas, Sr., gave his own assessment: "The President ignored veterans in the State of the Union Address and with [the] release of his 2005 budget, it is further evident that veterans are no longer a priority with this administration . . . the American people will not tolerate this shoddy treatment of America's veterans, especially at a time of war."

RECOGNITION OF MICHAEL F. CANTWELL IN HONOR OF HIS RETIREMENT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. PALLONE. Mr. Speaker, I rise today to pay tribute to an individual who I am fortunate enough to call a dear friend, Mr. Michael Cantwell. Mike, who started his career as an Apprentice Steamfitter in 1960, will be retiring this week, leaving behind a legacy of public service and dedication to working families throughout the great State of New Jersey.

As a longtime union member and leader, Mike has tirelessly devoted his efforts and time to countless State, county and municipal organizations. For the past 44 years, he has served proudly, as a member of the United Association of Plumbers and Pipefitters, Locals 236 and 9. Currently, he serves as Local 9's business manager, financial secretary-treasurer. As a staunch supporter of worker's rights and active union member and leader, Mike currently serves as the vice president of the New Jersey State AFL–CIO and the New Jersey State Building and Construction Trades Council. He is also a member of the New Jersey Joint Labor-Management Committee and the New Jersey Alliance for Action.

In addition, Mike is president of the New Jersey State Association of Pipe Trades, and the Mechanical Trades Council of New Jersey. He also chairs the Plumbers and Pipefitters Local Union No. 9 Joint Apprenticeship Committee, as well as the Trustees of the Education Fund—UA/Air Conditioning and Refrigeration Contractors Association of New Jersey.

For the past 17 years, Mike has proudly served on the Mercer County vocational Technical School Board, and his civic responsibilities also include his service on the New Jersey State Employment and Training Commission Executive Committee and the Mercer County Planning Board.

An avid golfer, and proud father of 4, Michael, Lee, Barbara and Patrick, and grandfather to Luke and Eric, Mike has been married to his wife Lynne for the past 44 years. A true friend, and ardent supporter, Mike has been invaluable to my reelection efforts over the years. I have profound admiration and respect for Mike, and I am certain that his best years have yet to come. I wish Mike and his family the best that retirement has to offer and I extend my heartfelt praise and gratitude for all that he has done.

VIDEO VOYEURISM PREVENTION ACT OF 2003

SPEECH OF

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 2004

Mr. GONZALEZ. Mr. Speaker, I wish to express my strong support for passage of S. 1301, the Video Voyeurism Prevention Act. I wish to thank Chairman OXLEY, Senator DEWINE, Senator SCHUMER, as well as Chairman SENSENBRENNER and Ranking Member CONYERS for their work on this legislation.

Mr. Speaker, unfortunately video voyeurism has become a rapidly growing national problem. With the development of the Internet and miniature camera technology, anybody can now readily invade the privacy of another by secretly videotaping or photographing others and putting those compromising images on the Internet. We all regularly see pop up advertisements on the Internet for new miniature camera technology. Undoubtedly this technology is being used by many "Peeping Toms" to spy on others. It is time that Congress takes a stand against the growing misuse of these new technologies.

S. 1301, the Video Voyeurism Act makes it illegal for anyone on federal property to capture an improper image of another under circumstances that clearly violates the privacy of that individual. It is my hope that this legislation will spur individual states to follow suit and update their criminal codes to ensure that their citizens are similarly protected from video voyeurism in areas under state jurisdiction.

Mr. Speaker, every American has a fundamental right to privacy that should be protected from intentional, unwanted incursion. S. 1301, the Video Voyeurism Prevention Act takes an important step towards updating our nation's privacy protections for a new generation of video and camera technology. I support passage of this legislation.

DOCTORS FOR DESIGNATED DRIVING

HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. CRENSHAW. Mr. Speaker, today I rise to recognize the achievements of Doctors for Designated Driving which is putting one of President George W. Bush's guiding principles—compassionate conservatism—into practice.

Doctors for Designated Driving is a group of physicians dedicated to working with the hospitality industry and other groups to promote the role of the designated driver. The group recognizes cooperating partners for their commitment to public safety through publicity and recognition awards including the "Platinum Key of Life."

I am proud that the Jacksonville Jaguars, together with the National Football League and the Techniques for Effective Alcohol Management (TEAM) Coalition, are supporting the designated driver programs during the 2004 season with a special incentive. This year Alltel Stadium—home of the Jacksonville Jaguars and host of Super Bowl XXXIX—encourages responsibility by providing fans a designated driver booth program where participating patrons receive free non-alcoholic drinks. Fans who register to be a designated driver will pledge not to drink alcohol, will drive their friends and family home safely, and will ensure that everyone always buckles up. At the end of the season, the TEAM Coalition and the Jacksonville Jaguars will select one designated driver to represent the team at Super Bowl XXXIX. The selected designated driver will receive two tickets to the game and hotel accommodations.

I want to commend my friend, Dr. Howard Forman, for his work in founding Doctors for Designated Driving. With our strong support, it is my hope that Doctors for Designated Driving will be successful in the promotion of designated drivers throughout the nation.

RECOGNITION OF ROBERT MARQUETTE, NEWLY ELECTED DIRECTOR ON THE BOARD OF THE NATIONAL ASSOCIATION OF FEDERAL CREDIT UNIONS

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. HOLDEN. Mr. Speaker, I rise today to recognize Bob Marquette, the president and CEO of Members 1st Federal Credit Union, headquartered in Mechanicsburg, PA, on his recent election to the Board of Directors of the National Association of Federal Credit Unions, NAFCU. Bob has been a vocal supporter of credit union issues at both the state and national levels.

Bob's election to the NAFCU board is just one more in a long list of accomplishments that has spanned more than 30 years of service in the credit union movement. Bob serves on the board of directors for both the Credit Union Campaign for Consumer Choice and the Pennsylvania Credit Union Foundation. Additionally, Bob serves on the Philadelphia Fed's Credit Union Advisory Council. Bob is a tireless advocate of the credit union movement and I am sure he will serve NAFCU, and the entire credit union community, well in his new position on the board of directors.

Under Bob's management Members 1st FCU has continued to flourish. Today, Member's 1st has 15 branches serving more than 93,000 Pennsylvanians living and working in the south central region of the State.

It is because of the good work of Bob and others like him that the credit union movement enjoys the success it has today. As the President/CEO of Members 1st, Bob has focused on ensuring his members receive helpful, personal service that caters to the needs of individual members and their financial goals. Such service is the hallmark of the credit union movement and Members 1st has exemplified that philosophy under Bob's tenure as president. I wish Bob good luck in his new role as a member of the NAFCU Board of Directors.

CALLING FOR THE SUSPENSION OF SUDAN'S MEMBERSHIP ON THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS

SPEECH OF

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. RUSH. Mr. Speaker, I rise to support S. Con. Res. 137, calling for the suspension of Sudan's membership on the United Nations Commission on Human Rights. For nearly 20 months now, there have been atrocities in Darfur, Sudan. The group that have been committing these killings are called "Janjaweed." The Janjaweed are a Sudanese government sponsored militia group.

There is a creditable amount of testimony to confirm that the Sudanese government have been using the Janjaweed as an extension of their military to forcible remove the Black Africans in Darfur from their land. The Janjaweed have been linked to brutal executions, rape, pillage and burning of villages.

Recently, the Secretary of State had no choice but to acknowledge the genocide publicly. He has returned to the UN with a new resolution calling for sanctions if Khartoum refuses to disarm militias in Darfur and to allow more African Union soldiers in to monitor.

We are aware that there are American companies with interest in Sudan but principles must come before profits.

I rise to ask all Members to join us and call for Sudan's membership on the United Nations Commission on Human Rights to be revoked and I unequivocally support this resolution.

A TRIBUTE TO MAJOR GENERAL TONY L. CORWIN, U.S. MARINE CORPS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. LEWIS of California. Mr. Speaker, it is with pleasure that I rise today to recognize Major General Tony L. Corwin, United States Marine Corps. Major General Corwin has served as the Legislative Assistant to the Commandant of the Marine Corps for the last five years.

Many Members of Congress and their staffs have come to know General Corwin as an exceptional spokesman for the United States Marine Corps. His straightforward approach and extensive knowledge of programs and policy have been of great benefit to the U.S. Congress, and our national security.

Through the effective communication efforts of General Corwin, the U.S. Congress has been kept fully informed of the crucial programs vital to the success of America's force-in-readiness: the United States Marine Corps. These important programs include, the Joint Strike Fighter (JSF), the V–22 program, the Expeditionary Fighting Vehicle (EFV), the KC–130J, the Maritime Prepositioned Force (Future), initial issue of gear for the individual Marine, LHD–17, LHA (R). General Corwin is thoroughly knowledgeable on all of these programs.

General Corwin has provided Congress with vital information regarding the purchase of the Blount Island Maritime Prepositioning port facility, and why it is vital to the United State's national security. As a result of his efforts, the House has agreed to provide $115 million to acquire this property. In his role as lead liaison with the Marine Corps, General Corwin has overseen the responses to more than 25,000 congressional inquiries made to House and Senate Members. His responses have always been timely, accurate, and professional.

The Marine Corps Air-Ground Combat Center at Twentynine Palms—the Corps' largest base—is in my district, and I receive numerous requests from Marines, and their family members on a myriad of issues. General Corwin and his superb staff have helped me provide top-notch service for these defenders of our Nation.

General Corwin is known for his in-depth knowledge of the legislative issues and operational requirements of the Marine Corps. But he is also greatly respected as a dedicated leader and officer who possesses a deep and abiding passion for what it means to be a Marine. He has an unquestionable devotion to duty, impeccable integrity, absolute sound character and is a consummate professional. Through his assignment as the Legislative Assistant to the Commandant, General Corwin has served the Congress and our Nation extraordinarily well.

As Chairman of the Defense Subcommittee of the House Appropriations Committee, I have had invaluable insights and great appreciation for the caliber of General Corwin's work. He sets a high standard for others to emulate. I wish General Corwin and his wife, Thanya, and their wonderful family continued success in their future endeavors. Many thanks, General Corwin. Our Nation benefits from your outstanding leadership.

HONORING THE 50TH ANNIVERSARY OF THE CATHOLIC CHARITIES OF MONROE COUNTY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. DINGELL. Mr. Speaker, I rise today to pay tribute to the Catholic Charities of Monroe County in honor of its 50th anniversary.

The Catholic Charities of Monroe County, which is located in my district, began in 1952 under the leadership of Joseph O'Connor, and was incorporated into the Archdiocese of Detroit in September, 1954. Since its inception, the organization has touched many individuals with their education, health and human services programs.

In their 50 years of service, the Catholic Charities of Monroe County assisted over 142,000 individual requests. The adoption program they created in 1959 placed approximately 800 children with adoptive families. Catholic Charities started numerous counseling programs for separated families, senior citizens, and substance abuse treatment and prevention. Additionally, they helped offenders in the criminal justice system, as well as established services for runaways. Other services included the Local Migrant Program, Head Start, Early Childhood Education, and at-risk youth and adult programs. Through these various programs, one theme is steadily apparent: the Catholic Charities of Monroe County has consistently come to the aid of those most in need.

The Catholic Charities of Monroe County continues to make much needed contributions to their community, and with recent successful fundraisers will do so for many years to come. Indeed, through the dedication of this humanitarian agency, Monroe County is a better place to live and work.

Mr. Speaker, I ask that all of my colleagues join me in commending the Catholic Charities of Monroe County on providing 50 years of exemplary service to the Michigan community and in wishing them many more years of success.

INTRODUCTION OF THE SECURE DOMESTIC CONTAINER PARTNERSHIP ACT OF 2004

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise to ask for unanimous consent to address the House for 5 minutes.

I want to bring to the attention of this Congress, legislation that I have introduced today—The Secure Domestic Container Partnership Act of 2004.

This legislation directs the Secretary of Homeland Security to create a pilot program that encourages shipping handlers to seal empty shipping containers after they have unpacked them.

Under this pilot program, the Secretary may authorize a shipper, cargo carrier, freight forwarder, terminal operator, port authority, or labor organization that is a qualified container handler to secure under a seal approved by the Secretary, a shipping container that is emptied by the person.

It is my strong belief that this program, when fully implemented, will do so much for securing our supply chain, reducing congestion around our ports and intermodal centers while offering our shippers the opportunity to actively participate in securing our home front, our economic supply chain, our transportation infrastructure, and most importantly our communities.

Last month in response to the 9/11 Commission Report, the Maritime and Coast Guard Subcommittee took testimony from panelists responding to the Commission's findings and directives.

A scenario, presented to our committee that characterized "cargo containers as a poor man's missile," struck me as all too real. In southern California, the ports of Long Beach and Los Angeles imported 68,000 containers a week in 2003. Combine exports and imports for 2003 and you have 125,000 containers that come in, out and through the most populous region in the country with 17 million residents and growing—and with many high risk targets. Our streets, our communities, our rail infrastructure at any time are supporting full and empty containers.

Containers are as common in southern California as lawyers are in Washington, DC. Look around you and you will know what I mean.

Now, if a container were to be compromised, empty or full, it would call into question the integrity of all containers on our highways and railways that travel along our entire transportation infrastructure and throughout our communities.

Placing a seal on an empty container is a cost effective commonsense solution that further strengthens the partnership between the shipping community and the Department of Homeland Security against the on-going war on terrorism.

Specifically, I would recommend that the Customs-Trade Partnership Against Terrorism or C–TPAT administer this program.

This initiative, under the Customs and Border Protection Doctorate at the Department of

Homeland Security, has a proven track record of doing great things with securing our supply line.

Through the C–TPAT initiative, Customs has been working in partnership with companies and carriers involved in importing goods into the United States.

Companies are asked to assess the vulnerabilities of their supply chains and to work with Customs to address any vulnerability.

In short, the C–TPAT initiative is the equivalent to the trusted traveler program for goods that the FAA is currently implementing for passengers.

The C–TPAT initiative would be an excellent partner and I would encourage the Secretary to take my recommendation.

Like the C–TPAT initiative, the pilot program created by enactment of The Secure Domestic Container Partnership Act of 2004 would be purely voluntary on the part of shippers.

This is a win/win for business, our transportation system, and our communities.

I ask my colleagues to strongly support the "The Secure Domestic Container Partnership Act of 2004."

HONORING THE CONGRESSIONAL CONFERENCE ON CIVIC EDUCATION

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. GIBBONS. Mr. Speaker, our founding fathers knew that the vitality of our democracy was contingent on an informed and enlightened citizenry. That is why we must promote quality instruction and teacher preparation in the field of civic education.

On September 20–22 of last year the first annual Congressional Conference on Civic Education was launched. During the conference, state delegations were created to enact specific local policies designed to restore the civic mission of our schools.

I would like to recognize Judith Simpson, the facilitator of the Nevada delegation for her leadership in working to design an action plan to improve civic education in our State.

Nevada was one of six States that were awarded the $150,000 Campaign for the Civic Mission of Schools Grand from the Carnegie and Knight Foundations. Civic education is on the move in Nevada.

I look forward to the success of the Nevada civic education delegation and its participation at the second annual Congressional Conference on Civic Education on December 4–6 of this year.

PERSONAL EXPLANATION

HON. BRIAN BAIRD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. BAIRD. Mr. Chairman, on Wednesday, September 22, 2004, I was unable to participate in legislative business because I was attending the funeral of a close friend. Had I been present for legislative business on September 22, 2004, I would have voted "yea" on final passage of H.R. 5025, the Fiscal Year 2005 Transportation, Treasury and Independent Agencies Appropriations Act.

INTRODUCTION OF THE OGLALA SIOUX TRIBE ANGOSTURA IRRIGATION PROJECT REHABILITATION AND DEVELOPMENT ACT

HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Ms. HERSETH. Mr. Speaker, today I am pleased to introduce the Oglala Sioux Tribe Angostura Irrigation Project Rehabilitation and Development Act. This legislation authorizes much-needed efficiency improvements to the irrigation facilities at the Angostura Unit, a Federal Bureau of Reclamation dam on the Cheyenne River in South Dakota. These improvements will restore critical water resources and promote economic development on the nearby Pine Ridge Indian Reservation.

This bill provides important resources to the citizens of South Dakota and the Lakota people of the Pine Ridge Indian Reservation. It authorizes funds to carry out the Bureau of Reclamation's recommended improvements to the irrigation facilities at the Angostura dam. The dam provides substantial economic benefits to many South Dakotans. It provides irrigation to 12,218 acres of land which benefits ranchers and agricultural producers in the area, and it supports an important recreational boating and fishing industry which is enjoyed by many of our citizens.

Until now, however, the Angostura dam has failed to provide any of these economic benefits to the members of the Oglala Sioux Tribe who live just 20 miles downstream of the dam on the Pine Ridge Indian Reservation. The Oglala Sioux Tribe has long relied on the resources provided by the Cheyenne River, which forms part of the northern boundary of its reservation. Long before the dam was constructed as part of the Pick-Sloan Missouri River Basin Project, the Tribe relied on the river as an important economic resource. Since it was completed, however, the dam has taken an enormous toll on the Tribe. The dam curbed the Cheyenne River's natural flow, reducing water quality on the Reservation, diminishing natural riparian habitats, adversely impacting fish and wildlife and forcing important Tribal agricultural enterprises to shut their doors.

The bill implements the Bureau of Reclamation's preferred alternative in its revised water management plan for the Angostura Unit, which calls for improved efficiencies in irrigation operations that will free up additional water resources for both existing water users and the Tribe. In addition, the legislation would authorize the creation of a trust fund to compensate the Tribe for the devastating economic impacts and loss of natural resources caused by the operation of the dam. The fund will be used to promote economic and infrastructure development on the Pine Ridge Indian Reservation and enhance the education, health and general welfare of the Oglala Lakota people.

The bill is a companion to S. 1996, which was introduced by Senator DASCHLE on December 9, 2003 and is co-sponsored by Senators JOHNSON and INOUYE. S. 1996 was recently reported favorably to the Senate by the Committee on Indian Affairs.

I hope that my distinguished colleagues will take up and pass this legislation quickly. It will allow all of us in South Dakota to better use our natural resources, while keeping our solemn commitment to deal fairly and honorably with the Oglala Sioux Tribe and the Lakota people of the Pine Ridge Indian Reservation. I ask for your help and support in moving it forward.

HONORING GREG RENKER

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. PORTER. Mr. Speaker, I rise today with great pleasure to honor an individual that has been awarded the Electronic Retailing Association's (ERA) 2004 Lifetime Achievement Award. This award is given to individuals who have been instrumental in shaping the electronic retailing industry and who have elevated the significance and stature of both direct response and the association.

Mr. Greg Renker is a founding principal of Guthy-Renker, an infomercial studio that has evolved into one of the world's largest television response-driven companies. Mr. Renker is personally responsible for productions, new business development and business affairs, and, with partner Bill Guthy, supervises the overall direction of the company.

As a founder of ERA and an industry pioneer, Advertising Age magazine named Mr. Renker to its "Marketing 100" list for his achievements in the direct response television industry. In addition, Mr. Renker has been spotlighted by Fortune Magazine on its list of "America's Smartest Young Entrepreneurs" and also was honored as one of Inc.'s "Entrepreneurs of the Year." Currently, he serves as a permanent Chairman Emeritus of ERA and is active in a multitude of industry-wide initiatives.

Mr. Speaker, I congratulate Greg Renker on his successes and on his dedication to the electronic retailing industry. I know that he will continue to be a strong presence in both the industry as well as in his local community. I wish him all the best in his future endeavors and congratulate him on this well-deserved award.

RECOGNIZING THE ACCOMPLISHMENTS OF WOMEN ATHLETES AT THE 2004 SUMMER OLYMPICS

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Ms. SLAUGHTER. Mr. Speaker, I rise today to honor the amazing achievements of the women athletes at the 2004 Olympics in Athens, Greece. In particular, I want to celebrate the success of the United States Women's Soccer Team, who made us proud by winning a gold medal at the 2004 Olympics, beating Brazil 2–1 in overtime, on August 26, 2004.

Every woman on the Olympic soccer team deserves our recognition and congratulations: Shannon Boxx, Brandi Chastain, Joy Fawcett, Julie Foudy, Mia Hamm, Angela Hucles, Kristine Lilly, Kristin Luckenbill, Kate Markgraf, Heather Mitts, Heather O'Reilly, Cindy Parlow, Christie Rampone, Cat Reddick, Briana Scurry, Lindsay Tarpley, Aly Wagner, and Abby Wambach.

These women have become some of the most famous athletic role models on earth. They have taught our children that if you work hard and you believe in yourself, you can accomplish anything. Indeed, these women are helping to fundamentally change perceptions about athletics. It is no surprise that our little girls look up to these strong, motivated women for inspiration. But to also see little boys wearing jerseys emblazoned with the names of their favorite women players is a wonderful sight.

The accomplishments of this generation of women athletes demonstrates the profound impact that Title IX has had on increasing opportunities in sports for women and girls. Title IX, part of the Education Amendments of 1972 requiring that public schools and colleges provide equal educational and athletic opportunities for girls and women, has unquestionably been a tremendous success. The members of the U.S. Women's Soccer team have been tireless advocates for Title IX. Their efforts have helped the Women's Caucus and our male colleagues to preserve and strengthen this historic law.

It is important for girls to have every opportunity to succeed, especially when it comes to athletics. That is why the leadership of the Congressional Caucus for Women's Issues has introduced H.R. 4994, the High School Athletics Accountability Act. This bill will require schools to report to the Department of Education basic data on the number of female and male students in their athletic programs and the expenditures made for their sports teams. Currently high schools are not required to disclose any data on equity in sports, making it difficult for schools and parents to ensure fairness in athletics programs. Better information can help high schools and parents of schoolchildren foster fairness in athletic opportunities for girls and boys.

As a testament to the power of these women, their fan appreciation tour, which kicks off in Rochester, on September 25, sold out all 14,000 seats in just minutes. I have introduced a bill in Congress, H. Res. 373, which supports the reestablishment of the Women's United Soccer Association (WUSA). Hopefully, some day the WUSA will return, to give every amazing female soccer player the professional athletic opportunities in the United States they so deeply deserve.

Thank you to all the women Olympic athletes for transforming the lives and attitudes of today's young women, and for those of generations to come. We all know that girls who compete in sports perform better in school, are physically healthier and have a stronger self-esteem. Our girls have learned that sweat is sexy, brawn is beautiful and a little dirt never hurt anyone. You have truly given us all a whole lot more to celebrate, work hard for and dream about.

HONORING DEDICATION OF FRANKLIN PARKER PRESERVE

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the New Jersey Conservation Foundation's official dedication of the Franklin Parker Preserve—the largest, private land acquisition in our state on Friday, September 24, 2004.

The 9,400-acre Franklin Parker Preserve includes 1,500 acres of reservoirs and thousands of acres of wetland and upland forests, including 600 acres of Atlantic white cedar swamp, and serves as a critical link in connecting state-owned forests.

The Preserve has exceptional habitat for native and endangered species including bald eagle and the Pine Barrens tree frog.

The site will be named in honor of Franklin E. Parker III, the first Chair of the Pinelands Commission from 1979 to 1988, who has been a long-time supporter of environmental causes throughout the country, our state and my Congressional District.

Mr. Speaker, I urge you and my colleagues to join me in congratulating New Jersey Conservation Foundation, Franklin Parker, and so many individuals and groups that have made the Parker Preserve a reality.

PERSONAL EXPLANATION

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. LANGEVIN. Mr. Speaker, from September 9th to September 15th, I was unavoidably detained in my district due to the death of my father. I would like the record to show that, had I been present, I would have voted "yea" on rollcall vote numbers 440, 441, 442, 443, 446, 447, 448, 449, 452, 453, 454, and 456. I would have voted "no" on rollcall vote numbers 438, 439, 444, 445, 450, 451, and 455.

PERSONAL EXPLANATION

HON. TIM MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. MURPHY. Due to official business relating to the devastating damage caused by Hurricane Ivan in my Congressional District, I was not present in the chamber on Wednesday, September 22, 2004, and was regrettably unable to cast my vote on rollcall No. 461, No. 462, No. 463, No. 464, and No. 465.

Had I been present, I would have voted "no" on rollcall No. 461; "yea" on rollcall No. 462; "yea" on rollcall No. 463; "no" on rollcall No. 464; and "yea" on rollcall No. 465.

A TRIBUTE TO REV. DR. V. SIMPSON TURNER, SR.

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. TOWNS. Mr. Speaker, I rise in honor of Dr. V. Simpson Turner, Sr. for the 39th anniversary of his pastoral leadership and spiritual guidance of the Mt. Carmel Baptist Church and the Brooklyn Community.

Dr. Turner earned his Bachelor's Degree at Gordon College, Wenham, Massachusetts; a Master's of Religious Education at Biblical Seminary of New York City; a Master's of Sacred Theology at New York Theological Seminary; and a Doctor of Ministry degree from Drew University School of Theology in Administration. He is married to Laura B. Turner, an outstanding educator and a New York State Certified Secondary School Principal. They have two children: Reverend Vivian R. Pittman and Reverend V. Simpson Turner, Jr., both of whom are ordained ministers at the Mt. Carmel Baptist Church; son-in-law, Deacon/Trustee Jerald Pittman; daughter-in-law, Lady Selena Turner; grandchildren, Kenya and Nathan Botley, Jerald Ali Pittman, Joelle Pittman, V. Simpson Turner III and Seteena Eliza Laura Turner; and great grandchildren, Rasaun Botley and Vivian Botley.

Dr. Turner has been active in numerous civic and charitable organizations. He has served on the Board of Trustees for Gordon College, the Baptist Home for the Elderly, the Brooklyn Public Library, and Baptist Medical Center. He has served as the Chairman of the Department of Communications for the Council of Churches in New York City and as a former president of the North American Baptist Fellowship of the Baptist World Alliance and the Baptist Minister's Conference of Greater New York. He was also a former member of the Board of Directors for Religion in American Life, a former member of the Brooklyn Borough President's Community Board #3, and was elected to the Board of Directors of the New York Bible Society in New York City in 1990. More recently, in June 2002, Dr. Turner was elected Secretary of the 7,000 members Hampton University Minister's Conference. Finally, he was an Adjunct Professor on Urban Concerns at Alliance Theological Seminary in New York.

For his efforts, Dr. Turner has been honored by many community groups including the City of New York; the Bureau of Child Welfare; the United Builders Association; the Boy Scouts of America; and the YMCA. The Governor of New York appointed him to the New York State Commission on Health Education and Illness Prevention. In 1990, Dr. Turner was appointed Chairman of the Billy Graham Crusade in New York City where the Great Lawn in Central Park held the largest crowd ever to attend a Billy Graham meeting in North America. Also, in the spring of 1990, as editor of the Baptist Progress, Dr. Turner received the Martin Luther King, Jr. Award for meritorious service in writing.

Dr. Turner produces and directs a weekly radio show known as "The Black Religious Experience" as well as a public affairs Cable TV program known as "The Public Wants To Know." He is the author of "Compassion for the City," which is used throughout the country as a textbook for those going into urban ministry. Dr. Turner has been instrumental in implementing several important community programs and resources such as a Homework Center, a High School Equivalency Program, a referral service to New York City Technical College, a Senior Services and handicapped Bus Ministry, a Radio Ministry, a Shut-In and Outreach Ministry, a Carillons Ministry, a "Sing, Spell, Read and Write" Educational Ministry, and a Soup Kitchen Ministry. Several college graduates began their college careers at Mt. Carmel as part of the then NYC Community College extension, which Dr. Turner helped to operate.

On January 4, 2004, Dr. Turner celebrated his 39th Anniversary as Pastor of Mt. Carmel Baptist Church in Brooklyn, New York. He had a vision to combine his church and an apartment building into a Church and Educational complex. In the spring of 1993, Dr. Turner realized his vision of building affordable housing. Today, the 78 units, known as the Mt. Carmel Town Houses are occupied by new homeowners.

Mr. Speaker, Dr. V. Simpson Turner, Sr. has been a tireless advocate for his community and a spiritual leader for 39 years at Mt. Carmel Baptist Church. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

NEBRASKA'S LEADERSHIP IN DESIGNING A PLAN TO IMPROVE CIVIC EDUCATION

HON. TOM OSBORNE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. OSBORNE. Mr. Speaker, we should be very proud of our constitutional heritage, and feel comforted by the fact that we live in the world's oldest constitutional democracy. We celebrate Constitution Week knowing that the principles of a free democracy are emulated by nations throughout the world. It is extremely important that our young people understand and appreciate the time-honored principles that the U.S. Constitution, the Declaration of Independence, and other documents embody. For this reason, effective instruction in civics and government in our schools is necessary.

Last year, the first Congressional Conference on Civic Education was held. One of the positive outcomes of this conference was the establishment of state delegations to return to the state to enact specific policies designed to restore the civic mission of our schools. I would like to recognize Nebraska's delegation for their leadership in working to design a plan to improve civic education in our state.

Nebraska's plan will result in the formation of the Civics Nebraska Partnership, a coalition of educators, public officials, agencies, and organizations committed to improving the level of civic learning in our state. Initially, Civics Nebraska will measure civic aptitude and attitudes of Nebraskans and provide a clearinghouse of resources for classroom teachers. It is hoped that the partnership will help bridge the gap that sometimes exists between the education and government sectors when it comes to civics education.

I look forward to the success of Civics Nebraska and want to recognize the efforts of those who are working hard to improve civics and government education.

RECOGNIZING OLYMPIAN MELISSA MORRISON

HON. ROBIN HAYES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. HAYES. Mr. Speaker, I rise today to honor Kannapolis, North Carolina native Melissa Morrison. I want to congratulate Melissa for her Bronze medal in the 100 meter hurdles at the 2004 Athens Olympics.

Melissa started running track in the seventh grade because a cousin, April Graham, made it look easy and fun. A few short years later Melissa was running track for A.L. Brown High School, and collecting four state titles in the process. She next attended Appalachian State University earning a Bachelor of Science degree in Psychology, and receiving All-American honors in both the 55 and 100 meter hurdles.

Melissa's first Olympic experience was at the 2000 Sydney, Australia games. In Sydney, Melissa was the only American woman to win a medal in the 100 meter hurdles, winning bronze with a time of 12.76 seconds in the final. With her Athens repeat this year, Melissa became the only two-time American medalist in the 100 meter hurdles.

In the last couple of years Melissa has fought through serious adversity, including nagging injuries and personal tragedy. However, through unyielding determination and support from her loved ones, she never gave up. In the race where Melissa captured her second Olympic medal, she exemplified her never quit attitude. Melissa collided with two hurdles but continued to fight on. In fact, she addressed these hardships and gave us insight to her strong character by saying, "Mental strength got me through there and got me a bronze medal again this year."

Mr. Speaker, while I have only touched on a fraction of her accomplishments, I proudly join her friends, family, and teammates in congratulating Melissa's outstanding athletic achievements. I wish Melissa continued success both on and off the track, and would also like to congratulate her on the forthcoming marriage to fiancé Josephus Howard.

PAYING TRIBUTE TO LEE ELWOOD GILLIS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Lee Elwood Gillis and thank him for his exceptional contributions to his community and the State of Colorado as the District 63 representative to the Colorado House of Representatives. A representative since 1981, Lee is a dedicated public servant and leader in his community and I am honored to recognize his accomplishments before this body of Congress and this Nation today.

Lee was born in Texas and graduated with a bachelor's degree in business from West Texas State University before going on to serve in the Texas National Guard and the U.S. Army Rangers. He is a member of the National Federation of Independent Business and Director of the Heritage Savings and Loan from 1977 to the present. Lee began his public service career in 1980, when he was elected to the Colorado House of Representatives and subsequently reelected in 1982, 1984, 1986, 1988, and 1990. Serving the people of Baca, Bent, and Otero County in District 63, Lee has long been an advocate of lowering property taxes on agricultural land, and establish an economic development office in Southeast Colorado. He served on the Game, Fish & Parks, Education, Appropriations, House Services, and Joint Budget Committees during his legislative career.

Mr. Speaker, it is clear that Lee Elwood Gillis has ceaselessly dedicated his time and efforts to serving his country and the people of Colorado as a State Representative. I am honored to bring his hard work and commitment to the attention of this body of Congress and this nation today. Thank you for all your service, Lee, and I wish you all the best in your future endeavors.

CALLING FOR THE SUSPENSION OF SUDAN'S MEMBERSHIP ON THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS

SPEECH OF

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. MEEHAN. Mr. Speaker, I rise today in strong support of Senate Concurrent Resolution 137.

The human rights violations in Darfur are reaching a crisis point. Since the beginning of the conflict in early 2003, more than 30,000 innocent civilians have been murdered, more than 400 villages have been destroyed, and hundreds of thousands of people have been displaced from their homes.

Tragically, the situation in Darfur has escalated from a rebellion by local militias into a full-scale ethnic cleansing campaign. The government in Khartoum has met this crisis with deliberate neglect at best, and direct support at worst. Congress rightly called this brutal and systematic slaughter a "genocide" in a resolution passed on July 22.

On July 30th, the United Nations Security Council unanimously adopted a resolution calling upon the Sudanese government to immediately fulfill its obligations to facilitate humanitarian relief, take steps to disarm the Janjaweed militias, and cooperate with an independent investigation of human rights violations in Darfur. However, it is time for the international community to make its authority felt through actions, not just words.

The Universal Declaration of Human Rights binds member nations together in a pact to uphold universal respect for and observance of human rights and fundamental freedoms. The Government of Sudan has broken this pledge and must be held accountable for its crime against humanity. I therefore urge Congress to call for the immediate suspension of Sudan from the United Nations Commission on Human Rights and pass Senate Concurrent Resolution 137.

IN HONOR OF DR. TREENA LIVINGSTON ARINZEH

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Dr. Treena Livingston Arinzeh for her outstanding work in the field of stem cell research. On September 9, 2003, President Bush presented her with the Presidential Early Career Award for Scientists and Engineers.

Dedicated to researching stem cells, Dr. Arinzeh has made revolutionary findings that may lead to procedures that help people recover from a variety of diseases, spinal cord injuries, and bone and cartilage damage. Dr. Arinzeh has earned the respect of her colleagues and established herself as a scientist by publishing influential papers in the Journal of Biomedical Materials Research and the Journal of Bone and Joint Surgery.

The Presidential Early Career Award for Scientists and Engineers is the highest honor a young researcher can receive. Since 1996, the White House has acknowledged the achievements of such talented professionals. Each year, eight federal agencies nominate promising researchers and the winners receive up to five years of funding for their future work. The sole recipient from New Jersey, Dr. Arinzeh received a $400,000 grant from the National Science Foundation.

Born and raised in Jersey City, Dr. Arinzeh is currently a professor of biomedical engineering at the New Jersey Institute of Technology in Newark. In addition to her research projects, Dr. Arinzeh devotes her time to developing new undergraduate and graduate programs in tissue engineering, as well as creating community outreach programs for high school students in New Jersey and New York.

Today, I ask my colleagues to join me in honoring Dr. Treena Livingston Arinzeh, a trailblazer in the field of stem cell research. I applaud her for her exceptional achievements. New Jersey and our nation will greatly benefit from her groundbreaking work.

PAYING TRIBUTE TO CARL BLEDSOE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Carl Bledsoe and thank him for his exceptional contributions to his community and the State of Colorado as the Speaker of the Colorado House of Representatives. A state representative since 1973, Carl is a dedicated public servant and leader in his community and I am honored to recognize his service before this body of Congress and this Nation today.

A resident of Aroya, Colorado, Carl graduated from Kit Carson High School in 1941 and served in the U.S. Army Air Corp from 1942 to 1945. He later earned a bachelor's degree in animal husbandry from Colorado State University. Carl began his impressive thirty-two year public service career in 1958 as secretary of the Lincoln County Stockmen's Association. He served 12 years on the Kit Carson Board of Education, including two years as President. Carl was the President of Cheyenne County Farm Bureau from 1962 to 1964, and the Colorado Cattlemen's Association in 1967. He has also served as a member of various organizations like the National Western Stock Show Association, the Colorado Housing Inc, Board, the Colorado State Board of Veterinary Medicine and the Colorado State Fiscal Policy Committee.

Carl was elected to the State House of Representatives in 1972 becoming the third member of his family to serve in the Colorado General Assembly. During his seventeen years as a legislator, Carl chaired the House Committee on Finance, the Legislative Audit Committee, the Western Region of the Council of State Governments, and was the vice-chairman of the International Trade Committee of the National Conference of State Legislatures and most recently Speaker of the House for the last five years. During his seventeen years of service he received many awards such as the Outstanding Rural Legislator of the Year, and the American Legislative Exchange Conference's Outstanding State Legislator award.

Mr. Speaker, it is clear that Speaker Bledsoe has ceaselessly dedicated his time and efforts to serving his country and the people of Colorado as the Speaker of the House in the Colorado House of Representatives. I am honored to bring his hard work and commitment to the attention of this body of Congress and this nation today. Thank you for all your service, Carl, and I wish you all the best in your future endeavors.

FORMER U.S. CONGRESSMEN'S MONITORING DELEGATION TO UKRAINE JULY REPORT—EXECUTIVE SUMMARY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Ms. KAPTUR. Mr. Speaker, I am submitting the following article for the RECORD.

Significant irregularities and improprieties have been found in the on-going presidential campaign in Ukraine by an election monitoring delegation of former Members of Congress in the Kharkiv, Poltava, and Sumy oblasts.

Five former U.S. Congressmen—John Conlan (R–AZ), Arlen Erdahl (R–MN), Jack Hightower (D–TX), Gregory Laughlin (R–TX), Andrew Maguire (D–NJ), and Tom Sawyer (D–OH)—traveled to Ukraine on July 25–31, 2004 to monitor presidential election campaign activities in the region. The communities visited were: Kupiansk, Merefa, and Vovchansk in the Kharkiv oblast; Chutove, Dykanka and Karlivka in the Poltava oblast; and Lebedyn, Okhtyrka and Trostianets in the Sumy oblast. These former congressmen were registered by the Central Election Commission (CEC) of Ukraine and accorded all the rights and privileges provided to foreign observers by Ukraine's law on presidential elections.

Ukraine is a signatory of the Organization for Security and Cooperation in Europe (OSCE) and therefore welcomes international observers to help secure a free and fair election. The congressmen's election monitoring activities included meetings with representatives of the main political parties, Ukrainian government officials, Central Election Committee, and U.S. officials in Kyiv. In the regions, the congressmen met with local government officials, representatives of NGOs, political parties, the media, and citizens, who shared their views and experiences of the political process in their respective communities.

KEY FINDINGS OF THE FIRST DELEGATION TO THE KHARKIV, POLTAVA, AND SUMY OBLASTS

Generally, in the communities visited, local officials were very cooperative and generously shared their time and opinions with the delegation. Local officials provided space for meetings and assisted in extending invitations to representatives of political parties, media, and NGOs to meet with the delegation. The delegation does note, however, that there were occasions when opposition parties were not informed of the meetings and, thus, were denied an opportunity to express their views and have their respective cases heard.

In conversations with participants in the meetings attended and in conversations with ordinary Ukrainian citizens, the delegation was appalled to find that an overwhelming number do not expect the outcome of the election to be fairly decided. Those that hold this view often reply that the outcome has already been determined and that the vote count will support that determination. Independent polls verify that around 70 percent of the population believes this. That reinforces the view that every effort must be made by observers to ensure that the vote count is accurate and fair.

While the delegation cannot investigate the allegations made, it does note with deep concern the repeated allegations of the systematic use of the government's administrative resources to bring pressure upon voters to support the candidate endorsed by government authorities. These reports are too numerous, consistent, and from too many different locations to be set aside; in fact they appear to the delegation to constitute a pattern of officially sanctioned political activity by government employees that is in violation of Ukraine's law on presidential elections.

The delegation is very concerned about these reports and appeals to the Ukrainian government to ensure that all local government officials strictly adhere to the law. Allegations include: threats regarding loss of jobs predominate; police preventing buses and automobiles from traveling to opposition rallies; forcing government workers, teachers, and hospital workers to sign petitions for pro-government candidate, Viktor Yanukovych; forcing regional councils to pass resolutions in support of Yanukovych; teachers and agricultural workers given quotas to collect signatures for Yanukovych, under threat to lose vacation time or jobs; students pressured to distribute Yanukovych literature; even patients have been threatened with discharge from hospitals and denial of medical services if they fail to sign and pledge to vote for Yanukovych.

In every community the delegation visited, they were greeted with hope and anticipation of a brighter tomorrow. They welcomed contact with the wider world and were anxious to host foreign visitors to show off their country and its potential. They deserve an opportunity to go to the polls and freely express their views and to be secure in the knowledge that all their votes are counted accurately in accordance with the law of Ukraine.

The delegation is a fact-finding mission and will report its findings to Ukraine's Central Election Commission, the U.S. Government, European governments, international organizations and the public through release to the mass media. The delegation does not support any candidate or political party and is only interested in helping ensure that the presidential election is free and fair.

Programming is organized by the U.S.-Ukraine Foundation (USUF), in partnership with the U.S. Association of Former Members of Congress (USAFMC) and is funded by the United States Agency for International Development (USAID).

The Foundation's second delegation traveled in August to the Cherkasy, Kyiv, and Kirovohrad oblasts and also included parliamentarians from Spain and the Netherlands. The third delegation, comprised of congressmen and a former member of the German Bundestag, traveled to the Kherson region during the week of September 19–25, 2004 to observe election campaign activities in the Kherson, Mykolayiv, and Zaporizhzhya oblasts.

PAYING TRIBUTE TO MICHELLE LAWRENCE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Michelle Lawrence and thank her for her exceptional contributions to her community and the State of Colorado as a Jefferson County Commissioner. A two term commissioner, Michelle is a dedicated public servant and leader in her community, and I am honored to recognize her accomplishments before this body of Congress and this Nation today.

Michelle is a Colorado native who has lived most of her life in Jefferson County. She is the co-owner of a Jefferson county business that had been in her family for over 48 years. Michelle served in the Colorado legislature from 1990 to 1994, and is a former member of the board of directors of the Arvada Chamber of Commerce. She has been active in several local community organizations such as the Arvada Historical Society and the Arvada center for the Arts & Humanities and as a member of the Jeffco Transportation Task Force.

After leaving the General Assembly, Michelle continued her exemplary public service record by serving as a Jefferson County commissioner. Currently she is the Chairman of the Board of Commissioners and the Law Enforcement Authority Board. She also represents the county on the Rocky Flats Coalition of Local Governments and the Urban Drainage and Flood Control District Board. Michelle has been appointed as an alternate to the Denver Regional Council of Governments, the Jefferson Economic Council, and most recently the Intergovernmental Affairs Steering Committee.

Mr. Speaker, it is clear that Michelle Lawrence has ceaselessly dedicated her time and efforts to serving her country and the people of Colorado as a Commissioner for Jefferson County. I am honored to bring her hard work and commitment to the attention of this body of Congress and this nation today. Thank you for all your service, Michelle, and I wish you all the best in your future endeavors.

HONORING THE BROOKSVILLE EMERGENCY RESPONSE TEAM (BERT)

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise to honor the members of the Brooksville Emergency Response Team, also known as BERT.

In the wake of Hurricane Charley's devastating visit to Florida, these remarkable individuals answered the call of duty. On the morning of August 14, 2004 at 6:45 a.m. these BERT operatives sprung into action and began to rebuild areas of the Fifth Congressional District left in shambles. Because of their efforts, the communities of Poinciana, Caloose, Lake Village, Lake Wales, Bascon, Highland Park, Frostproof, and Lake Hamilton received relief at a critical time of need. The BERT team worked to reconstruct Poinciana's fire department and assisted with firefighting duties for the community. In addition, the team worked on debris clean-up, directed traffic, and assisted in damage assessment activities throughout the area. In the end, the BERT team accomplishments included 336 work hours removing trees from residences and roadways; 14 hours traffic control; and deliveries of 1,250 bags of ice, 450 cases of water and 150 prepared meals to hungry citizens.

I would like to express my gratitude for the BERT team's service. Their actions demonstrated the dedication, selflessness, and sacrifice of the human spirit that emerges from rubble of Mother Nature's fury. I am proud to represent the Fifth Congressional District of Florida, where members of the heroic Brooksville Emergency Response Team call home.

PAYING TRIBUTE TO FRANCES OWENS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. MCINNIS. Mr. Speaker, I rise today to pay tribute to the First Lady of Colorado, Frances Owens. Frances is a compassionate and intelligent woman whose dedication and commitment to her family and fellow citizens is renowned and unprecedented. Long before she became Colorado's First Lady, Frances was an education advocate for children and a dedicated servant to her fellow Coloradans. I am honored to stand before this body of Congress and this nation to recognize her many accomplishments.

Frances is a Colorado native, spending her childhood in Texas before returning to Colorado to receive a degree in Art History from the University of Colorado at Denver. She began campaigning for former Senator Bill Armstrong in the late 1970's and served as the Associate Director of the Colorado Council on Economic Education. Frances, who is married to current Governor Bill Owens for twenty-nine years, has three children: Monica, Mark, and Brett. She is actively involved in her children's academic careers.

On January 12, 1999, Frances became the First Lady of Colorado, where she has made important strides for Colorado in public service by actively volunteering her time to various charitable projects and organizations throughout the state and by serving on boards such as the Children's Hospital Cardiac Care Center, and the Colorado Opera. Frances is a dedicated advocate for children; her involvement crosses into many arenas, including support of Recording for the Blind and Dyslexic, Samaritan's Purse-Operation Christmas Child, Make-A-Wish Foundation, and the Colorado Historical Society. Frances currently serves as the Honorary Chair for Early Childhood Intervention Awareness Day, where she continues to champion important issues for Colorado's children. Frances widely promotes literacy and children's programs like the annual Easter Egg Roll. Her latest honor, given by the Republican Women Leadership Forum, was their Humanitarian Award for civic involvement.

Colorado's First Lady is involved in many long-term projects that promote the great diversity and vibrant culture of Colorado. She chairs the Colorado Commemorative Quarter Advisory Commission for the design of Colorado's new quarter, which is planned for release in 2006. Frances has also been instrumental in the privately funded renovation and restoration efforts of the Executive Residence, which was originally constructed in 1908.

Mr. Speaker, Frances Owens is a tremendous asset to the State of Colorado. Her impeccable record of dedication and service throughout her life is a high standard for any public servant to match. Frances' devotion to the State of Colorado has advanced Colorado and certainly made it a better place to live and raise a family. I want to thank Frances for all of her hard work, and I wish her all the best in her future endeavors.

TRIBUTE TO ROY BRAUNSTEIN, LEGISLATIVE DIRECTOR OF THE AMERICAN POSTAL WORKERS UNION, AFL–CIO

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mrs. MALONEY. Mr. Speaker, I rise today to pay tribute to my friend, Roy Braunstein, Legislative Director of the American Postal Workers Union (APWU).

Roy was hired in June 1973 with the United States Postal Service, and worked as both a Distribution Clerk and CMU Clerk during his postal career. He will retire on November 6, 2004.

The APWU has more than 300,000 members in every city, town and hamlet in the United States and is the world's largest postal union. Roy was first elected in 1980 as the APWU Legislative Aide, and was elected Legislative Director in 1992. He was elected nine times by the APWU membership.

Before he came to Washington, D.C. in 1960, Roy was active in the New Jersey Shore Area Local where he served as Legislative Director and Shop Steward. He was also the New Jersey State APWU Legislative Director and Editor. He served in community affairs as a member of the Barnegat, New Jersey Board of Education for three years and as a member of the Ocean County New Jersey Mental Health Board.

In Washington, Roy served as a lobbyist for the APWU and has worked on a number of issues important to the membership. During his tenure at the APWU, Roy worked to secure passage of the Hatch Act, legislation granting greater political freedom for postal and federal employees. Roy also played a key role in the eight year battle for the Family and Medical Leave Act which President Clinton signed into law in 1993.

Over the years, Roy worked diligently to help win passage of the Federal Employees Retirement System Act, the Spouse Equity Act, the Postal Employees Safety Enhancement Act, the Veterans Employment Opportunity Act, and many other legislative initiates to help working families.

Roy fought to protect the viability of the Postal Service. He was a leader in the fight against Postal Privatization, and the movement to take the Postal Service off-budget during the 1960s in an effort to stop congressional attacks on the Postal Service. APWU is an affiliate of the AFL–CIO, and Roy worked closely with other labor leaders for the goals of this nation's working men and women.

Roy's wife of 36 years, Marilyn, is also an APWU member, and they are the proud parents of two young men, Rick and Daniel. He has an A.A. Degree from Kinsborough Community College in Brooklyn, New York, and a B.A. Degree from Richmond College in Staten Island, New York.

Roy will be retiring to the Phoenix, Arizona area where his sons are living. He plans to retain full APWU membership, and to become actively involved with the Phoenix Metro Area Local (Arizona) and the Arizona Postal Workers Union relating to legislative issues. He also will be spending time traveling and relaxing with family and friends.

HONORING LATE REPRESENTATIVE WILLIAM NATCHER

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to pay public tribute to a remarkable man of this House, the late William Huston Natcher, on the occasion of The Kentucky Museum and Library's opening of the William H. Natcher Political Collection, a compilation of artifacts from his storied life and career.

Congressman Natcher served in this body, preceding me as representative of the Second District of Kentucky, from August 1, 1953 until his death on March 29, 1994, having cast an astonishing 18,401 consecutive votes, a record most historians believe will never be matched. Through the years, he earned a reputation as an exceptionally hardworking and honest public servant, becoming one of the most highly-respected and influential members of congress in recent memory.

As years passed and his congressional seniority increased, Natcher received several important committee appointments, namely within the powerful House Appropriations Committee. From 1961 to 1979, he chaired the Appropriations District of Columbia subcommittee, exercising control over spending in the Nation's capital. He later moved on to chair the subcommittee on labor, health and human services, influencing major legislation to advance education and promote public welfare throughout the 1980's. He was elected Chairman of the full House Appropriations Committee in 1992, a position he held until his death in 1994.

Congressman Natcher became a legend not only for his effectiveness as a legislator but for his uncompromising dedication to the responsibilities of public service. Not only did he cast an unbroken chain of roll call votes over a 41-year career, he also exercised a sincere reverence for the opinions of his constituents, personally reading and responding to his own mail. Though he attained a position of national influence, he maintained a modest, responsible lifestyle, never accepting political contributions, driving himself to and from work in his aged Chevrolet. He was a model citizen-legislator worthy of an honored place in our Nation's history.

After several years of processing, the William H. Natcher Political Collection will open to the public Friday, October 1, 2004, at the Kentucky Library and Museum on the campus of Western Kentucky University. The collection will display volumes of correspondences, photographs, awards and memorabilia, accumulated throughout Congressman Natcher's distinguished life and career.

I would like to extend the collective gratitude of the U.S. House of Representatives to the Natcher Family and Western Kentucky University for assembling a collection that will allow future generations to appreciate and learn from Congressman Natcher's exceptional life.

PAYING TRIBUTE TO PETE LARSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise to mourn the death of Pete Larson, who was killed in an all-terrain-vehicle accident while conducting land health assessments for the Bureau of Land Management near Grand Junction, Colorado. Pete was an active, enthusiastic individual, who loved his job and was a loyal friend to Colorado's Western Slope. I am honored to stand here today before this body of Congress and this nation to celebrate his life and recognize his many accomplishments.

Pete married Rita Graham in 1966, and they raised their family in Grand Junction, where Pete was very active in the community. He taught science for twenty-nine years at Grand Junction High School where his natural curiosity and wide-ranging interests allowed him to connect with students of every personality. His students recall his enthusiasm for explaining chemistry, physics, biology and botany to generations of Grand Junction students.

Pete was always ready to help a friend or a stranger and willingly shared his knowledge of the environment. He knew its plants and its animal inhabitants, its soils and its water, its weather and its moods. Pete's love of the land and the people of Mesa County led him to continue his service to others as he worked to combat tamarisk while working at the Colorado National Monument. He was instrumental in creating the Tamarisk Coalition and served on their board of directors. After ten years of dedication to the National Park Service, Pete took a job as a biological technician for the Bureau of Land Management (BLM) field office in Grand Junction where he worked for three years before his unfortunate accident on August 2, 2004.

Mr. Speaker, I am honored to call the attention of this body of Congress to the life of Pete Larson. He always had a bright outlook on life and his curiosity and love of learning inspired those who knew him. The Grand Junction community and the State of Colorado are a better place as the result of his many contributions. Pete was a great man who dedicated his life to helping others, and I know that he will be sorely missed. My thoughts and prayers go out to his wife Rita, his two daughters Kristen Kasel and Kari Larson, and his son Tor Larson at this difficult time of bereavement.

TRIBUTE TO THE 100TH ANNIVERSARY OF THE STOUGHTON HOSPITAL

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Ms. BALDWIN. Mr. Speaker, I rise today to honor the 100th anniversary of the Stoughton Hospital located in Stoughton, Wisconsin. Since 1904, Stoughton Hospital has provided high quality individual healthcare to the people of Stoughton and the surrounding communities.

Stoughton Hospital was founded by Dr. Michael Iverson in 1904 as the Stoughton Surgical Hospital. The hospital was purchased by the city in 1924 upon Dr. Iverson's retirement. Over the years, the hospital has seen many renovations and improvements, but Stoughton Hospital's core values have remained the same. The Norwegian born and educated Dr. Iverson was committed to a small hospital that offered personalized care to each of its patients. Today, a century later, Stoughton Hospital is still firmly committed to that same philosophy.

The hospital offers a variety of services to the community in its facility that include an urgent care complex, intensive care unit, medical and surgical inpatient units and both outpatient surgery and rehabilitation facilities. At Stoughton Hospital, state-of-the-art care is provided for each patient. In addition to providing care for community members, the hospital also meets the needs of the community by offering community education courses and service programs.

Today, I proudly join the Stoughton Hospital staff and volunteers, residents of Stoughton and the surrounding communities in celebrating Stoughton Hospital's 100 years of quality healthcare and personalized service.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. GUTIERREZ. Mr. Speaker, on September 13, 2004, and September 21, 2004, I was unavoidably absent from this Chamber. I would like the RECORD to show that, had I been present, I would have voted "yea" on rollcall votes 441, 442, 443, 457, 458, 459, and 460.

PAYING TRIBUTE TO BOB NERO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise to mourn the passing of Bob Nero from my home state of Colorado. Bob, who recently retired as the head of Public Relations for the University of Colorado system, passed away at the age of fifty-nine after battling pancreatic cancer. He was known for his fun-loving nature, excellent wit, and abiding sense of professionalism. As his family and friends mourn this loss, I believe it is appropriate to remember Bob and pay tribute to him for his contributions to the state of Colorado.

Bob worked for the University of Colorado for nineteen years, most recently as the Assistant Vice President of Institutional Relations. He was an effective and professional communicator who passionately worked to build an understanding of the University of Colorado's mission and its educational contributions to the state.

However, Bob's legacy reaches far beyond the University of Colorado. He was a multitalented individual who had a diverse career working as a consultant to the cast of The Lives of the Rich and Famous in Europe; as an assistant editor in the reference book division of Thomas Y. Crowell Publishing Company; and as the West Coast Bureau chief for the New York Herald. Earlier in his career, Bob served as an oral historian at the American Film Institute and was the Director of Communications at UCLA's Graduate School of Management.

Mr. Speaker, we are all terribly saddened by the loss of Bob Nero, though take comfort in the knowledge that our grief is overshadowed only by the legacy of dedication that Bob has left with us. I am honored to pay tribute to such a devoted public servant, one who has given many years in service to the state of Colorado. I know that many throughout our state who had the chance to benefit from his experience and dedication will miss Bob Nero. My thoughts and prayers go out to his family during this time of bereavement.

TRIBUTE TO REPRESENTATIVE LINDY BOGGS

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to congratulate the former Representative and Ambassador Corrine Claiborne "Lindy" Boggs on the acceptance of her portrait into the House collection. While I did not have the pleasure of serving with Lindy Boggs, I am a great admirer of hers. Her Southern charm is infamous. Her legislative and political knowledge is vast. As a champion of education, women's issues, and civil rights, her accomplishments are many and need not be enumerated. Indeed, it is impossible not to admire, to like, and to respect Lindy Boggs, as we are all beneficiaries of her advocacy.

However, I do want to highlight that she shared my commitment to this institution and a love of history. Lindy Boggs believed that a recorded history was important and helped Americans understand the institution of Congress and the House. She successfully worked to establish the Office of the Historian in the House, which was created to collect, preserve, and interpret the documents of the House for Congress, the public and the press. In addition, she chaired the Joint Committee on Bicentennial Arrangements. It is also noteworthy that she served on my Committee, the Committee on House Administration, before taking a seat on the Committee on Appropriations.

As an ex-officio member of the House Fine Arts Board, which serves as the clearinghouse for donations of House-related works of art, furniture and artifacts, I am pleased to support the acceptance of the portrait of Lindy Boggs by the House. I would also like to acknowledge Jan Schoonmaker and his efforts with the Lindy Boggs Portrait Committee in making this project a reality. This House has previously recognized the many contributions of Mrs. Boggs by naming a room in the Capitol in honor of her, and I think it is only fitting that the portrait will be hung in The Corrine Claiborne Boggs Room.

Therefore, I urge my colleagues to join me in congratulating former Representative and Ambassador Lindy Boggs on her receipt of this honor.

REGARDING CARY MEDICAL CENTER

HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. MICHAUD. Mr. Speaker, I rise today to congratulate the Cary Medical Center not only for 80 years of community health care services to Aroostook County but for receiving the National Job Corps Association's 2004 Alpha Award in the Community Category.

The Cary Medical Center has played a unique and integral role in providing health services to the communities in Northern Maine. The Cary Medical Center offers a variety of excellent services to the people of Aroostook County. Its dietary department is one of the best in the country. Cary also has established itself as a leader in Community Health Education and Disease Prevention programs.

The Cary Medical Center also has superior veterans' services. The VA outpatient clinic was the first facility of its type in the nation, providing outpatient medical care for Aroostook veterans since 1987. It has over 6,000 patient visits per year.

The Cary Medical Center has been recognized by many organizations for its excellent service. In 1998, Cary Medical Center earned Accreditation with Commendation from the Joint Commission on Accreditation of Health Care Organizations, the highest rating attainable, placing Cary among the top 15 percent of hospitals in the nation in reference to nationally established guidelines on quality patient care.

More recently, the Center received the National Job Corps Association's 2004 Alpha Award in the Community Category. This is an extraordinary achievement: Cary Medical Center will be one of 6 winners out of 107 national nominations. The Alfa Award is given to individuals, organizations and employers who are dedicated to helping Job Corps students. CMC manages the Certified Nurses Assistant program for the Loring Job Corps. The hospital provides both classroom and clinical instruction for students who select the vocation.

Beyond excellent programs and the highest honors, perhaps the greatest achievement of all is the duration of service CMC has given to the community of Aroostook County. 80 years is a very long time to be serving people, and Northern Maine is surely a better place because of their contributions. I thank them for their dedication and service to the people of Maine, and commend them for this most recent award.

PAYING TRIBUTE TO DON SHEPPARD

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Don Sheppard, a dedicated Colorado State Patrol Officer from Cortez, Colorado who recently retired after twenty-one years of service to the people of my state. His hard work and love for protecting his community over the years serves as a shining example of the character of our nation's law enforcement officers. It is my privilege to stand before this body of Congress and this nation today to recognize the career of Don Sheppard.

Don has compiled an impressive record in helping others. During Vietnam, he served in the U.S. Air Force as a communications specialist working with computers and cryptography. In 1979, he joined the Montezuma County Sheriff's office and then the Dolores County Sheriff's office. He attended the Colorado State Patrol Academy in 1983, and upon completion was assigned to the Cortez office of Troop 5A where he has served for twenty-one years.

Don has received many accolades throughout his law enforcement career for his professional and courteous service. He was an active, hard working officer who was responsible for removing more drunk drivers from the roads that any other trooper in 5A. He still holds the DUI arrest record for his area, ninety-one in a single year.

Mr. Speaker, Don Sheppard has dedicated his career to ensuring the safety and well being of Colorado citizens. His presence in the continuing efforts to fight drunk driving are especially commendable given that he has taken time away from his family and friends to face uncertain danger and unpredictable consequences. I am honored to stand here before this body and recognize the efforts of such an industrious public servant who will be sorely missed in Colorado. Good luck in your retirement, Don, and I wish you all the best in your future endeavors.

A TRIBUTE IN HONOR OF NORTHWEST COMMUNITY SCHOOL DISTRICT AS IT CELEBRATES THE 50TH ANNIVERSARY OF ITS FOUNDING IN JACKSON, MICHIGAN

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. SMITH of Michigan. Mr. Speaker, I rise today to congratulate Northwest Community School District in Jackson, Michigan as it celebrates fifty years of educational excellence in the Jackson community. Our current superintendent, Dennis Desmarais, as well as the other administrators, teachers, support personnel, and the 25,000 residents and parents of the school district should all be proud of the lasting contribution they have made in shaping the lives of the young people in the Jackson area.

Northwest School District is one of Jackson County's largest school districts, and was established in 1954 when nineteen tiny districts consolidated to become Northwest Rural Agricultural Schools. By the time R. Willard Kidder became superintendent in 1955, more than 1100 students were enrolled in the district, and were transported to 23 buildings on nine buses. The next year, the school's student council chose the Mounties as the district's mascot, a name which was taken from the Royal Canadian Mounted Police, symbolizing fairness, devotion, duty, and exemplary service. It was also at this time that red and black were adopted as the official school colors.

Mr. Kidder took over as Northwest's superintendent in 1956 when the original superintendent, Dr. Warran Randall, accepted a position in Hudson. Under Kidder's leadership, the school grew, the Northwest Junior-Senior High School, now R.W. Kidder Middle School, opened for students in grades five through nine in 1956. Enrollment continued to grow, and peaked at 4,200 when Mr. Kidder retired in 1972. In 1960, Flora List Elementary School opened for 700 students in kindergarten through sixth grade, and three years later, Parnall Elementary School opened on Lansing Avenue to accommodate another 900 students. In 1966, Mr. Kidder hired Mr. Joe Koziol to teach driver's education, and Mr. Koziol continued to serve the district for nearly four more decades as assistant principal in the 1970's and then as the district's superintendent from 1998 till 2002.

On behalf of the United States Congress, it is with great pleasure that I rise today to extend our highest praise and congratulations to the Northwest School District for its awards and academic honors as it marks the 50th anniversary of its founding.

COMMEMORATING THE OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. KIND. Mr. Speaker, I rise today as a proud member of the House Native American Caucus, to celebrate the opening of the National Museum of the American Indian.

I also extend a warm welcome to the members from Wisconsin's seven tribes: the Oneida, Ojibwe, Ho Chunk, Stockbridge-Munsee, Menominee, Brothertown, and Potawatomi who have traveled to Washington, D.C. this week. They join the nearly twenty-thousand Native Americans, representing the nearly five-hundred state and federally recognized tribes, who have gathered here to celebrate the opening of the museum in the largest tribal gathering in our nation's history.

After 15 years of planning and five years of construction, the National Museum of the American Indian celebrates the traditions, diversity and vitality of America's first people. Located within reach of the Capitol dome on the National Mall, the museum focuses on the art, history and culture of Native Americans.

The museum's impressive design and extensive exhibits were developed in close consultation with nearly 150 communities from Central and South America, the Caribbean, Canada and the United States.

The pieces in the collection of eight-hundred and fifty thousand items represent a 'living history' that will take visitors on a journey from past to present, and show that Native Americans continue to make vital contributions to contemporary American culture and art.

The National Museum of the American Indian, with its graceful architecture and soaring atrium sited on the country's most ceremonial ground is a long-overdue recognition of the many contributions made by tribe members. I encourage all Americans to join me in honoring them by experiencing the museum and learning more about their heritage.

PAYING TRIBUTE TO TED STRICKLAND

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Ted Strickland and thank him for his exceptional contributions to his community and the State of Colorado as an Adams County Commissioner. A two term county commissioner, Ted is a dedicated public servant and leader in his community, and I am honored to recognize his accomplishments before this body of Congress and this Nation today.

Ted was born in Austin, Texas and moved to Colorado in 1954 after serving in the Army. He began working as Vice President of Petroleum Information before his 1966 election to the Colorado State House of Representatives.

Two years later he was elected to the Colorado State Senate in 1968 and served twenty-four years, including twelve as the President of the Senate. Ted also served as Lieutenant Governor of Colorado from 1973 to 1975. In 1996, he was elected to the Board of Commissioners of Adams County where he has dedicated his efforts to serving the people of Adams County. Ted currently serves on the E–470 Public Highway and Front Range Airport Authority Boards and is the alternate representative to the Denver Regional Council of Governments, the Adams County Economic Development and Adams County Water Association.

Mr. Speaker, it is clear that Ted Strickland has ceaselessly dedicated his time and efforts to serving his country and the people of Colorado as an Adams County Commissioner. I am honored to bring his hard work and commitment to the attention of this body of Congress and this nation today. Thank you for all your service, Ted, and I wish you all the best in your future endeavors.

IN RECOGNITION OF MARTHA "MARTI" YOUNG OF ROSEBURG, OREGON

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. DEFAZIO. Mr. Speaker, I rise today to recognize and to congratulate Martha "Marti" Young of Roseburg, Oregon. The Oregon Commission for Women selected Ms. Young as one of the 2004 Women of Achievement. She will be honored on Saturday, October 2nd, at the 20th Annual Women of Achievement Awards Dinner for her determined advocacy, intelligent leadership, and inspired vision on behalf of low income Oregonians.

Marti Young has an impressive record of public service, with over thirty years of active participation. Wherever there has been innovation, progress, and development in human services in Oregon, she has been in the front ranks. She has been an unstoppable advocate, mobilizing resources and providing services to alleviate poverty and enhance the quality of life for the poor, the elderly, and people with disabilities.

Marti Young gets things done—and done well. She has worked with the low income community and community partners to establish Head Start programs, a child care center for low income families, a school lunch program, and an emergency food bank, an energy assistance program, transportation services, shelter programs, and other resources and opportunities vital to the health and well-being of Douglas County.

The world is full of heroes like Marti Young, working every day to make the world a better place. I am pleased to offer her the heartfelt congratulations and warm thanks she so richly merits.

IN HONOR OF WHEELING JESUIT UNIVERSITY'S 50TH ANNIVERSARY

HON. TIM MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. MURPHY. Mr. Speaker, as an alumni it is an honor for me to rise today to recognize and commemorate Wheeling Jesuit University as this institution of higher learning celebrates its 50th anniversary.

In 1954 the Catholic Diocese of Wheeling-Charleston and the Society of Jesus of the Maryland Province forged a partnership to establish the only Catholic university in West Virginia. Since its first class of 90 students and 12 Jesuits, Wheeling Jesuit has grown to include over 1,000 students and five graduate programs.

As one of our nation's youngest Jesuit institutions, Wheeling Jesuit practices and teaches the Ignation tradition of faith, worship, and service. Students at WJU learn to incorporate these principles into their daily lives. Today we may witness the continuation of this tradition among the younger classes which exemplify a lifestyle of hard work and achievement. Wheeling Jesuit University alumni are constantly challenging themselves and others to move at full speed towards perfection in service to their community and the Lord.

In its efforts to provide a valuable learning experience to its student body, Wheeling Jesuit created the Appalachian Institute. The Institute serves as a vehicle to expose students to the issues most important to the surrounding Appalachian region. It is through service opportunities developed by the Institute that students are able to apply their understanding from the classroom to situations real in the world.

Additionally, students attending Wheeling Jesuit are afforded an array of opportunities to participate in public service projects. These activities include a semester-long hunger and homelessness awareness program to educate students of the problems plaguing the local and global community; and the Appalachian Experience Club, which sponsors work experiences in rural West Virginia throughout the academic year.

This small college, by steadfastly adhering to its principles, continues to impact local, national, and global communities. Through an emphasis on academic excellence the college has graduated thousands of students to pursue careers in health care, law, business, education, and the arts. Residing in our nation's 50 states and 147 nations abroad, Wheeling Jesuit Alumni typify the lifestyle of selflessness, achievement, and service that this institution instilled in them years ago.

Mr. Speaker, I ask that you and my colleagues join me in honoring and congratulating Wheeling Jesuit University for celebrating their 50th anniversary. Over the years Wheeling Jesuit has provided unsurpassed support and guidance to its students and the Appalachian community, and will continue to impact the lives of its students and the community through its charitable contributions and commitment to public service.

PAYING TRIBUTE TO CHERYL OLSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Cheryl Olson and thank her for her exceptional contributions to her community and the State of Colorado as a Larimer County Commissioner. A two-term commissioner, Cheryl is a dedicated public servant and leader in her community, and I am honored to recognize her accomplishments before this body of Congress and this Nation today.

As a lifelong resident of Fort Collins, Colorado, Cheryl attended Fort Collins High School and earned her bachelor's degree from the Colorado State University. After graduation Cheryl worked at various organizations including: James Johnson & Son, Inc., The Group, Inc., and Commercial Investment Team, Inc. She began her public service career in 1996, when she was elected to the Board of Commissioners of Larimer County where she has dedicated her efforts to serving the people of Larimer County. Cheryl served as Chair of the Board from 1998 to 2001. Some of the additional boards and commissions Cheryl served on include: the Larimer Center for Mental Health, the Colorado State University's President's Community Relations Committee, and the Larimer County Department of Human Services Children and Family Services Division. She was also chairman of the Colorado Counties, Inc. Land Use and Natural Resources committee, and the joint Colorado Municipal League Growth subcommittee.

Mr. Speaker, it is clear that Cheryl Olson has ceaselessly dedicated her time and efforts to serving her country and the people of Colorado as a County Commissioner for Larimer County. I am honored to bring her hard work and commitment to the attention of this body of Congress and this nation today. Thank you for all your service, Cheryl, and I wish you all the best in your future endeavors.

IN RECOGNITION OF THE NATIONAL HISPANIC CONTRACTORS ASSOCIATION'S 2ND ANNUAL CONFERENCE

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. RODRIGUEZ. Mr. Speaker, I want to recognize the gathering of the National Hispanic Contractors Association at their 2nd Annual Conference entitled "Framing the Future: Diversity Builds the American Dream".

The Conference will take place on September 23rd and 24th, 2004 at the Greater Fort Lauderdale Broward County Convention Center located in Fort Lauderdale, Florida. With more than 150,000 Hispanic contractors in our nation, the Association will host many of them during this conference.

One of the panel discussions will focus on safety in the workforce. The rate of workplace injuries for Hispanics is disproportionately high. Hispanic workers, who comprise 12 percent of the U.S. labor force, experienced 15 percent of the fatal occupational injuries in 2003. Eight hundred forty Hispanic workers died from workplace injuries in 2003. I commend the USHCA for discussing this important subject.

The U.S. Hispanic Contractors Association is a 501(c)(3) non-profit organization dedicated to providing the support necessary for the advancement, advocacy, and economic growth, and full participation of Hispanic-owned businesses in all areas of contracting and procurement contracts.

CONGRATULATING DR. MIGUEL ANGEL RODRIGUEZ AS HE IS INSTALLED AS SECRETARY GENERAL OF THE ORGANIZATION OF AMERICAN STATES

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. PORTMAN. Mr. Speaker, I rise to honor my friend, Dr. Miguel Angel Rodriguez, the distinguished former President of Costa Rica, who today will be formally installed as Secretary General of the Organization of American States (OAS).

Combining a shared vision for the Americas, the OAS brings together a number of nations of the Western Hemisphere to strengthen cooperation and common interests. It is the region's premier forum for multilateral dialogue and action. At the core of the OAS mission is the belief in, and commitment to, democracy. Since the end of the Cold War, the OAS member states have signified their cooperation by working to promote peace and human understanding; strengthen security; expand trade; and promote human rights.

A recognized world leader and economist, Dr. Rodriguez has served in many key leadership positions. Prior to assuming the Presidency of Costa Rica in 1998, he was President, and before that, Vice President of the Christian Democrat Organization of America. He was President of the Legislative Assembly of the Republic of Costa Rica and a Congressman of the Legislative Assembly of the Republic of Costa Rica. A professor at the Universidad Autonoma de Centro America, he has published extensively on the subjects of democracy; market and social welfare policy.

Dr. Rodriguez received a B.Sc. in Economics and Social Sciences and a BS in Law from the Universidad de Costa Rica. He also earned an M.A. and Ph.D. in Economics from the University of California at Berkeley.

I have had the honor of working with Dr. Rodriguez to resolve outstanding issues that would enable Costa Rica to participate in the Tropical Forest Conservation Act. I authored this legislation, which is designed to protect the world's most endangered tropical forests using market-oriented debt-for-nature mechanisms. I know him to be a thoughtful and fair person, and a friend of the United States.

I join my colleagues in congratulating Dr. Rodriguez on assuming the position of Secretary General. We look forward to working with him in his new position.

PAYING TRIBUTE TO SANDY HUME

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Sandy Hume and thank him for his exceptional contributions to his community and the State of Colorado as an Adams County Commissioner. As a public official since 1983, Sandy is a dedicated public servant and leader in his community and I am honored to recognize his accomplishments before this body of Congress and this Nation today.

A lifelong resident of Boulder, Colorado, Sandy attended Boulder High School and went on to earn both a bachelor's and masters degree from the University of Colorado. After a short period of serving with the Army, Sandy became a self-employed photographer. Sandy began his public service career when he was elected to the State House of Representatives in 1983, and reelected in 1985, and 1987. His strength as a legislator led to his 1989 election to the Colorado State Senate. Serving the people of Boulder County in District 13, Sandy has long been an advocate of education, efficient transportation, and management of our energy and natural resources. During his tenure in the House he served as a member of the Education and Transportation and Energy committees where he was able to work on higher education bills and regulating the amount of hazardous waste that is transported through Boulder.

After leaving the General Assembly, Sandy continued his exemplary public service record by serving as a Boulder County commissioner from 1991–1994, and the Boulder County Treasurer from 1995–2002. Currently he is serving as the Boulder Public Trustee, a post that he was appointed to in 2003 by Colorado Governor Bill Owens. In his spare time, he serves on the Advisory Board of the Colorado Commission for Higher Education, and is an accomplished photographer.

Mr. Speaker, it is clear that Sandy Hume has ceaselessly dedicated his time and efforts to serving his country and the people of Colorado as an Adams County Commissioner. I am honored to bring his hard work and commitment to the attention of this body of Congress and this nation today. Thank you for all your service, Sandy, and I wish you all the best in your future endeavors.

RECOGNIZING THE CATHOLIC SOCIAL SERVICES FOR 25 YEARS OF COMMITTED SERVICE TO GOD'S PEOPLE

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Ms. BORDALLO. Mr. Speaker, I want to honor the Catholic Social Services (CSS) for 25 years of committed service to the people of Guam. For over two decades, the CSS has responded to the needs of our island community through housing, health care, nutritional and other support programs for the elderly and disadvantaged in our community. In doing so, it has fulfilled its mission to encourage the development of the spiritual, intellectual, economic, and social well-being of those in need while respecting the dignity of each individual.

Founded by Fr. David I.A. Quitugua with the assistance of Judge Ramon Diaz and the late Archbishop Felixberto C. Flores, the Catholic Social Services opened its doors on September 12, 1979 in Agana, Guam. From its first programs, the residential Drug Treatment Center and the Migration and Refugee Office to the many programs they currently administer, the Catholic Social Services continues to expand to meet the growing needs of our community. Programs such as the In-Home Services Program have provided much needed respite and support services for caretakers of the elderly and to elderly individuals without caretakers. Other programs, including the Alee Shelters and Guma Sagrada Familia, have provided a safe haven for victims of abuse especially women, children, the elderly and adults with disabilities. The Guma San Jose shelters and the Liheng Transitional Housing Program provide shelter to homeless individuals and families as well as assistance in obtaining permanent housing. The Caridad programs provide much needed assistance to children and adults with special needs.

The accomplishments of the Catholic Social Services over the last 25 years would not have been possible without the work of dedicated staff and volunteers, past and present. I want to commend each of them for their commitment to serving the less fortunate in our community. I would also like to commend the leadership of CSS over the years, Fr. David Quitugua, Sr. Anita, Mrs. Cerila M. Rapadas, and Sr. Callista Camacho, R.S.M. Together they have brought hope to those in need.

I want to recognize Archbishop Anthony S. Apuron and the Archdiocese of Agana for the continued support of the mission of the Catholic Social Services. Furthermore, I would also like to recognize the generosity of the donors and benefactors of the Catholic Social Services. Their contributions have made it possible for CSS to continue its work and I encourage their continued support.

I want to congratulate the Catholic Social Services on their 25th Anniversary. Although I cannot be with them as they celebrate the occasion, I want to thank them for their service to our people and wish them continued success. Un Dangkulu na Si Yu'os Ma'ase!

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes:

Ms. DEGETTE. Mr. Chairman, I voted in strong support of the Motion to Recommit sponsored by Representative DAVID OBEY and in reluctant support for final passage of H.R. 5025, the Transportation and Treasury Appropriations Act for Fiscal Year 2005.

Politics and a deplorable abuse of the legislative process are holding critical transportation projects across this country hostage. This includes the T–REX project in my district—which has introduced light rail to metro Denver and expanded a vital corridor along I–25. Every federal highway and transit project in this country must be authorized to receive federal funds before the appropriators can release them. Unfortunately, the wheels have fallen off the authorization train this time around.

We in Congress are facing an incredible situation where a Republican-controlled House, a Republican-controlled Senate and a Republican-controlled White House cannot reach an agreement on funding levels for our nation's transportation system. This showdown occurs against a background of ever increasing traffic congestion, as our transportation needs continue to outstrip our will to address them.

As if there weren't enough to raise concern about the authorization process alone, the folly extended to the House's consideration of the transportation funding bill as well. My Republican colleagues from Colorado subjected the appropriations bill itself to numerous points of order that stripped the legislation of funding for transit projects, Amtrak, and even T–REX.

My hometown paper, the Rocky Mountain News, recently described the situation we face today, "Imagine a major transportation bill that pays for very few roads or transit programs." Well, that's what we're stuck with. Do you know why my colleagues decided to strip this much-needed money out of the bill? Because the authorization bill hasn't passed. Well, whose fault is that?

So I support Mr. OBEY's efforts to restore the transit funding to the transportation bill before us here today. I'll vote for final passage, because I hope that all of this absurdity will be remedied in the conference report because, frankly, my constituents don't care about this political wrangling. They care about the transportation crunch across our country, they care about congestion in Denver and they care about real solutions. I will continue to fight against this political posturing and for the real solutions that will get traffic flowing again in my district and across this nation.

PLEDGE PROTECTION ACT OF 2004

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2028) to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance:

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in strong opposition to the Pledge Protection Act of 2003, H.R. 2028. The operative language of H.R. 2028 is contained in a single provision—Section 2(a):

> [n]o court created by an Act of Congress shall have any jurisdiction, and the Supreme Court shall have no appellate jurisdiction, to hear or decide any question pertaining to the interpretation of, or the validity under the Constitution of, the Pledge of Allegiance, as defined in section 4 of title 4, or its recitation.

Mr. Chairman, we have seen this kind of egregious legislation before in the context of closing federal court doors to claims related to the Defense of Marriage Act. This legislation violates the same principles as that did—supreme court and lower federal court jurisprudence; well-respected legal precedence; the doctrines of the "separation of powers;" the doctrine of "judicial review;" equal rights and equal protection; the U.S. Constitution; the intent of the original Framers; and others.

H.R. 2028 would preclude any federal judicial review of any constitutional challenge to the Pledge of Allegiance—whether it be in the lower federal courts or in the highest Court in the Land, the U.S. Supreme Court. Effectively, if passed, this extremely vague legislation will relegate all claimants to State courts to review any challenges to the Pledge. This possibility will lead to different constitutional constructions in each of the 50 states. If one of the purported goals of H.R. 2028 is to minimize the amount of cases brought to the federal courts and save the court administration's time, this bill fails miserably. H.R. 2028 "dumps" these claims onto the dockets of the State courts which will render different decisions across the board—clearly bad policy.

JUDICIAL REVIEW AND ARTICLE III

Article III of the U.S. Constitution vests "the Judicial Power of the United States . . . in one supreme court." The laundry list of areas which the federal courts have the power to hear and decide under Section 2 of Article III, establishes the doctrine of the "separation of powers."

For over 50 years, the federal courts have played a central role in the interpretation and enforcement of civil rights laws. Bills such as H.R. 2028 and H.R. 3313, the Marriage Protection Act—bills to prevent the courts from exercising their Article III functions only mask discrimination.

We cannot allow bad legislation such as this to pass in the House. In the 1970s, some members of Congress unsuccessfully sought to strip the courts of jurisdiction to hear desegregation efforts such as busing, which would have perpetuated racial inequality.

At the height of anti-immigration sentiments in 1996, Congress succeeded in enacting immigration laws that stripped federal courts of the ability to hear appeals by legal immigrants who sought to challenge the harsh deportation laws that were on the books. Some of these laws were so extreme that the Supreme Court ultimately weighed in and struck them down as unconstitutional. As Ranking Member of the House Judiciary Subcommittee on Immigration and Claims, I recognize the importance of the Supreme Court's role in ensuring that fundamental fairness remains the hallmark of the American legal and judicial system.

Minority groups enjoy the freedoms that they now enjoy today because of the wisdom of the Supreme Court. By passing legislation such as H.R. 2028 and H.R. 3313, Congress will set a dangerous precedent that will leave many Americans vulnerable to discrimination and disparate treatment.

The denial of a federal forum for plaintiffs to vindicate their Constitutional rights would preclude a body specifically suited for the analysis of federal interests from doing what it has been created to do under the Constitution. State courts, which will be the "last shot" at relief for these plaintiffs, may lack the expertise and independent safeguards provided to federal judges under Article III.

H.R. 2028, as drafted, insulated the Pledge of Allegiance as set forth in section 4 of title 4 of the United States Code from constitutional challenge in the federal courts.

However, the statute and the Pledge are subject to change by future legislative bodies. This means that if some future Congress decides to insert some religiously offensive or discriminatory language in the pledge, the matter would be immune to constitutional challenge in the federal courts.

The Jackson-Lee amendment, which I will offer, provides for an exception to the bill's preclusion that involves allegations of coerced or mandatory recitation of the Pledge of Allegiance, including coercion in violation of the First Amendment.

Closing the doors of the federal courthouse doors to claimants will amount to a coercion of individuals to recite the Pledge and its reference to God in violation of the holding in West Virginia State Board of Education v. Barnette. This case struck down mandatory recitation of the Pledge of Allegiance.

In Barnette, the Supreme Court struck down a West Virginia law that mandated schoolchildren to recite the Pledge of Allegiance. Under the West Virginia law, religious minorities faced expulsion from school and could be subject to prosecution and fined, if convicted of violating the statute's provisions. In striking down that statute, Justice Jackson wrote for the Court:

> To believe in patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds . . . If there is any fixed star in our constitutional constellation, it is that no official, high, or petty can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

This legislation would strip the parents of those children of the right to go to court and defend their children's religious liberty. If this legislation is passed, schools could expel children for acting according to the dictates of their faith and Congress will have slammed the courthouse door shut in their faces. When I was a child, I always wondered why, when the rest of the class recited the Pledge of Allegiance, she always sat quietly. Today, I understand that it was because she was of the 7th Day Adventist faith and therefore reciting the "under God" provision would force her to frustrate her religious faith. If H.R. 2028 were law back then, the school administrators could have forced her to say the pledge and she would have no recourse in the federal courts.

The Jackson-Lee Amendment protects religious minorities, Mr. Chairman.

Recently, a panel of the U.S. Court of Appeals for the Third Circuit held that a Pennsylvania law requiring recitation of the Pledge, even when it provided a religious exception, violated the Constitution because it violated the free speech of the students.

In Circle School v. Pappert, the court found that:

> It may be useful to note our belief that most citizens of the United States willingly recite the Pledge of Allegiance and proudly sing the national anthem. But the rights embodied in the Constitution, particularly the First Amendment, protect the minority—those persons who march to their own drummers. It is they who need the protection afforded by the Constitution and it is the responsibility of federal judges to ensure that protection.

Again, under H.R. 2028, such a coercive speech case could never reach the federal courts.

DUE PROCESS AND SEPARATION OF POWERS

Protecting fundamental due process of the law requires independent judicial forums capable of determining federal constitutional rights—with experience. H.R. 2028 will deprive the federal courts of the ability to hear cases involving fundamental free exercise and free speech rights of students, parents, religious affiliates, and many others. Congressional denial of a federal forum to plaintiffs in a specified class of cases would force these plaintiffs out of federal courts—which are specifically suited for the vindication of federal interests, and into state courts which may be inexperienced and hostile to federal claims.

The Pledge Protection Act threatens to destroy the U.S. Constitution, the independence of the federal judiciary, separation of powers, and individual rights and protections guaranteed by the Constitution. Mr. Chairman, I urge my colleagues to save this country from legal demise and defeat the base bill.

GREATER REGULATION OF RELIGION IN KAZAKHSTAN?

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 2004

Mr. SMITH of New Jersey. Mr. Speaker, as Chairman of the U.S. Helsinki Commission I am concerned about Kazakhstan's draft law on combating extremist activity, as the legislation could violate Kazakhstan's OSCE commitments on religious freedom and damage the country's positive reputation on religious tolerance and liberty. In President Nursultan Nazarbaev's address to the parliament on September 1, he urged deputies to pass the bill while dismissing concerns about the further regulation of religion. Nevertheless, the text is problematic in several respects and would benefit from further refinement. Considering that Kazakhstan wishes to be the OSCE Chair-in-Office in 2009, I urge Kazakhstan to seek the advice of the OSCE Panel of Experts on Religious Freedom or Belief, as President Nazarbaev wisely did two years ago regarding a proposed draft law on religion.

Intended to combat terrorism, the draft law would criminalize membership in certain groups or the holding of certain beliefs, rather than combating actual criminal deeds. A critical portion of the law is also vague, as the text fails to define clearly the term "extremism." The omission is glaring and will very likely lead to its misapplication. In addition, the draft uses the word "religious" ten times and links religion with an ill-defined understanding of "extremism." In the context of an anti-terrorism law, such a connection gives rise to concern, as these types of statutes can easily be misused against unpopular religious communities. The draft law would strengthen state control over religious activity by giving the State Agency for Work with Religious Associations the ability to monitor groups. From its observations, the State Agency can recommend the banning of a group for "extremist activity," but again the text does not spell out what activities would qualify.

Another problematic provision included in the draft concerns the foreign classification of a group as "extremist," as the law will honor the classification by another country and ban their activity in Kazakhstan. This clause would in effect allow the long arm of a repressive government to outlaw a group in Kazakhstan, as well. I remember when a Moscow court labeled the Salvation Army as a "paramilitary" organization; under this draft bill, Kazakhstan could follow this erroneous assertion and ban this well-respected humanitarian organization.

Existing Kazakh law fully provides for the prosecution of criminal acts, so these new provisions are not only unnecessary but harmful. In fact, some articles of current law are too restrictive. For example, Article 375 of the Administrative Code, which requires the registration of religious groups, should be removed. I have received consistent reports since the promulgation of Article 375 of unregistered groups being penalized for legitimate activities and their facing civil and criminal sanctions. Considering the recurring misuse of civil regulations, I fear further abuse under the draft law.

I understand that President Nazarbaev is concerned about the spread of extremism in his country, especially from "radical" Islamic groups. The President may be tempted to follow the actions of his neighbors, especially Uzbekistan, but I would advise him otherwise. The Uzbek Government has for years ruthlessly clamped down on pious Muslims suspected of being associated with Hizb ut-Tahrir. This reactionary and heavy-handed policy has proven counterproductive, antagonizing the devout Muslim population and leaving it receptive to other, radical voices. Instead of defeating terrorists, demanding legal requirements for religious practice and Uzbekistan's harsh responses have restricted the religious freedoms of the many peaceful Muslims and Christians wanting to practice their faith. Obviously, individuals involved in criminal activity in Kazakhstan should be punished. But, by banning entire groups, particularly independent mosques outside the control of the state-backed Muslim Spiritual Association, entire communities will be penalized. The result will be the inappropriate limiting of a fundamental freedom, while doing little to prevent criminal acts.

In closing, the Congress of World and Traditional Religions convened by President Nazarbaev himself was successful in bringing together Christian, Muslim, Jewish, Buddhist and Hindu leaders to discuss tolerance and understanding. I fear that the draft law on extremism, if not amended, will sully Kazakhstan's reputation on religious tolerance by unduly limiting religious freedoms through the criminalization of certain memberships and beliefs as opposed to addressing real criminal activity.

PERSONAL EXPLANATION

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 2004

Mr. TANCREDO. Mr. Speaker, I was out of town on official business, and missed rollcall vote Nos. 457, 458, 459, and 460. Had I been present, I would have voted "no" on rollcall 457, "no" on rollcall 458, "no" on rollcall 459, and "no" on rollcall 460.

PERSONAL EXPLANATION

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 2004

Mr. GRAVES. Mr. Speaker, on Thursday, September 23, 2004 I was unavoidably detained and thus missed rollcall vote Nos. 466, 467, 468 469, 470, 471 and 472. Had I been present, I would have voted "nay" on 466, an amendment by Mr. Watt; "yea" on 467, passage of the Pledge Protection Act; "yea" on 468, the Adoption Tax Relief Guarantee Act; "yea" on 469; "yea" on 470; "yea" on 471; and "yea" on 4721, passage of the conference report to H.R. 1308, which I previously supported.

SENATE—*Monday, September 27, 2004*

The House was not in session today. Its next meeting will be held on Tuesday, September 28, 2004, at 12:30 p.m.

The Senate met at 1 p.m. and was called to order by the Honorable CHUCK HAGEL, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God our King, You deserve our praise. Because of Your great mercy we approach Your throne today. You delight in righteousness and manifest Your mercy to those who keep their eyes on You. Thank You that each difficulty is an opportunity to see Your work, for You always bring us through trouble to a place of abundance.

Bless the Members of this body. Give them the wisdom to live at peace with each other and with You. Rescue them from discouragement and inspire them with hope. Bring them safely through the complex challenges of today and tomorrow, for You are their protection from life's storms.

Protect America from the traps of its enemies and keep this Nation strong. Bless this land with peace and happiness, as we celebrate each day as a gift from You.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHUCK HAGEL led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, September 27, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHUCK HAGEL, a Senator from the State of Nebraska, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. HAGEL assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will have a period of morning business until the hour of 2 p.m., and at 2 o'clock under the order from last week we will begin consideration of S. 2845, the intelligence reform bill sponsored by Senators COLLINS and LIEBERMAN. As we announced on Friday, amendments are in order to the bill today. However, no rollcall votes will occur. Any votes ordered with respect to any amendment will be delayed until tomorrow morning.

Following the opening remarks on the intelligence legislation, we hope some Members will be available to begin that amendment process.

I also encourage any Senator who anticipates offering additional amendments to the bill to contact the chairman and ranking member of the Governmental Affairs Committee. This is a critically important piece of legislation. It would be extremely helpful to have an orderly consideration of the bill, and we expect to do just that. With a full week of Senate business, we should be able to finish the bill this week.

We could have other legislative matters to complete over the course of this week, including such measures as a highway extension and a continuing resolution. Therefore, Senators should be prepared for full days and evenings as we wrap up these matters.

As everyone knows, the recommendations of the 9/11 Commission were released in late July. Immediately thereafter we began a very structured and orderly hearing process. A number of committees held hearings over the course of August. The Governmental Affairs Committee in a very orderly way had a markup and considered the range of recommendations and findings that have emerged. Now we have a bill that is being brought to the floor to be debated and appropriately amended, if necessary and as necessary, over the course of this week.

This will be a very full week. It is important that we start on this bill today, and we will continue with each and every day until we complete that bill.

RECOGNITION OF THE ASSISTANT MINORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished assistant minority leader is recognized.

A TIME FOR ACCOMPLISHMENTS

Mr. REID. Mr. President, the Republican leader and the Democratic leader appointed Senator MCCONNELL and this Senator to work on the legislative aspects of the 9/11 Commission. If the cooperation among Members is as good as Senator MCCONNELL and I have had, we are going to be able to move forward on this bill, I think with bipartisanship. And we need to move forward. I think the 22 of us who serve on this task force feel that way.

We have to understand how much there is to do these next few days. There is a lot to do. We had a very productive last 2 weeks when most people expected a tremendous amount of partisanship this last little bit before we break for the elections. But from my observation it has been the opposite. There has been cooperation, and we have gotten a lot done. The next 2 weeks are important.

Also by virtue of the schedule we will have a difficult time this week because Tuesday we have an event for retiring Senators. That has been scheduled for months and there is no way out of that. That is Tuesday evening. Then, of course, Thursday is the first Presidential debate. It makes a lot of sense to me that we be in tune with that. I know there are some Senators who have events related to that. We will have to keep those things in mind.

I hope we can move forward on these matters which the leader has talked about. There is an opportunity to get a few things done with a limited time agreement. During the time we are working on this matter, we should go ahead and do that to prevent a lot of backlog next week before we head home before the recess.

I appreciate the leader's comments. I hope my observation is a correct one. We have been doing very well in spite of what some of the political prognosticators have said. This isn't a time for meltdown. This is a time for accomplishing a lot.

When the Chair announces morning business, we have two on the Democratic side who wish to speak, Senator HARKIN and Senator NELSON of Florida.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

NORTH PLATTE CANTEEN IN NORTH PLATTE, NEBRASKA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 161, which is at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 161) recognizing the outstanding efforts of the individuals and communities who volunteered or donated items to the North Platte Canteen in North Platte, Nebraska, during World War II from December 25, 1941, to April 1, 1946.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 161) was agreed to.

The preamble was agreed to.

Mr. FRIST. Mr. President, obviously this particular resolution recognizes the outstanding efforts of the individuals and communities that volunteered or donated items to the North Platte canteen in Nebraska during World War II, as the resolution was put forward by the distinguished Senator from Nebraska, the occupant in the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, when the Senate goes into morning business, I will yield 10 minutes on behalf of the Democratic leader to the Senator from Florida, Mr. NELSON, followed by 20 minutes to the Senator from Iowa, Mr. HARKIN.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved. Under the previous order, 25 minutes remain.

Mr. REID. Mr. President, I am wondering if we could have a delay of a few minutes so Senators on both sides will have a full 30 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business with a full 60 minutes, with the time equally divided between the two leaders or their designees.

HEALTH CARE IN AMERICA

Mr. FRIST. Mr. President, I rise to speak on an issue we discussed last week that I will shed further light on, which is the broad topic of health care in America. I listened last week with some disappointment to the comments made in the Senate by the distinguished Democratic leader regarding health care costs. The senior Senator from Massachusetts repeated some of the Democratic leader's critique of the President's policies on health care. Because both of my colleagues left an incomplete picture, I take a moment to step back and give a more realistic assessment of where we are today and where we should be going.

America has the best doctors, the best nurses, the best hospitals, the best medical technology, the best medical breakthrough medicines in the world. There is absolutely no reason we should not have in this country the best health care in the world. The time has come for common sense—not Washington—to determine how patients interact with doctors and with hospitals. The time has come for health care professionals, not Government or HMO bureaucrats, to make health care decisions. The time has come to put patients and consumers back in charge.

Under the leadership of President Bush, we have taken measurable, concrete steps toward making quality health care more affordable, more available, and more reliable. Although much work remains to be done, a comprehensive, independent study confirms that we are, indeed, moving in the right direction.

One report released last week by the highly valued Lewin Group examined the costs of health care proposals put forward by President Bush and by Senator JOHN KERRY. This is the second nonpartisan independent analysis in recent weeks to compare the Presidential candidates' proposals side by side. It is the second independent study to find that the price tag of Senator KERRY's plan is twice—two times—what he claims. The Lewin Group study finds Senator KERRY's proposals would cost $1.25 trillion—not billion but trillion—over the next 10 years and still leave 20 million Americans uninsured. This is similar to the findings of another independent study released 2 weeks ago by the nonpartisan American Enterprise Institute. That study put the price tag of Senator KERRY's plan at $1.5 trillion.

We all know it is difficult and, yes, next to impossible to project the accurate cost of major Federal Government programs. We know all too well Washington has that annoying habit of underestimating the cost of just about everything it does and sticking taxpayers at the end of the day with that tab. However, if these two independent studies are even mildly accurate, Senator KERRY's estimates are off by half a trillion. Let me say that again: Senator KERRY's estimates for his health care proposals are off by half a trillion dollars. Talk about fuzzy math. To put that in perspective, that is more than the cost of the WIC Program, the Low Income Energy Assistance Program, the Ryan White Program, and the School Lunch Program combined. In fact, it is more than the annual cost of the entire Medicare Program today.

So we are left with the perennial question, how will Senator KERRY pay for all of this? Who is going to get stuck with the tab this time? For starters, nearly all of the tax relief passed by Congress during the past 2 years would have to be repealed—all of that tax relief: No more marriage penalty relief; no more child tax credit; no more middle-class tax relief; no more death tax reduction. That means if you are a taxpayer, you will be paying a lot more and keeping a lot less of your hard-earned dollars. Yet still today Senator KERRY is telling the American people that his health care plan will save you money.

As a doctor, as a Senator, I am here to tell you it simply won't. For starters, he would have to raise an average of $1,115 per family in taxes for his proposal—unless, of course, he plans to add $1 trillion to the deficit. As a defender of the American taxpayer, both options are unacceptable. American families simply deserve better. This is one Washington-imposed solution we do not need. When it comes to health care, as a matter of principle, it should be about you. It should be about your doctor; it should be about your hospital, period. It should focus on you, the patient, the consumer. Senator KERRY's proposal is not a prescription for progress; it is a prescription for more Government-controlled health care.

Consider another finding from the Lewin report released last week. More than 21 million of the 25.2 million who would get health insurance under the Kerry plan would be forced into the Government-run Medicaid Program. As we all know, and it has been documented again and again, expanding Government-controlled programs can force people with good private health insurance coverage to lose it. In fact, an analysis released by the National Center for Policy Analysis concludes that 8 million people who are currently privately insured will lose this private coverage because of Senator KERRY's expansion of Medicaid. This is plain wrong. America deserves better.

In sharp contrast, we have the policy of President Bush, including those already enacted by this body and by Congress. They are focused on the patient.

They are focused on the consumer. They are focused on you. As a matter of principle, we believe patients should be able to see the right doctor at the right time. As a matter of principle, we believe nothing should interfere with that doctor-patient relationship. As a matter of principle, we believe all Americans deserve affordable, available, and reliable quality health care.

Health care costs are soaring. We must address the root causes of these soaring costs. There are countless commonsense reforms we can pursue today to control your rising health care costs. At the top of that list is a reform all Americans can agree upon. We need to reel in personal injury trial lawyers whose frivolous lawsuits are crippling health care in communities all across America. The fact is, too many lawyers and too many frivolous lawsuits are making medicine much too expensive. This lawsuit abuse is driving good doctors out of practice and discouraging our very best and our very brightest from entering the profession. Doctors literally today are telling their children: Because of lawsuit abuse now and in the future, maybe it is best that you not even enter the profession of medicine. That presents a crisis.

Worse yet, lawsuit abuse is now threatening people's access to critical health service and is occurring in communities all across America. Did you know there are countless counties across this country where Americans no longer have access to their obstetricians to deliver babies? There are counties across this country where Americans no longer have access to trauma centers. Can you imagine?

According to the American Medical Association, this situation has reached true crisis proportions in 20 States, and that includes some of the most populous States in this country: Florida, Ohio, Pennsylvania, New York. Families in these States are not getting the quality care they deserve. I will tell you why. Out-of-control litigation is leading to out-of-control medical liability premiums, which leads to out-of-control costs. Too many doctors are being forced to close their doors simply because they can no longer afford to keep the insurance to keep their doors open.

If you have no doctor, that ultimately means no care; it means loss of access; it means loss of availability of care. If you want your baby delivered, it means an obstetrician may not be around. If you have an accident driving home from work today, the trauma center may not be open. That is a crisis. It is a crisis of cost; it is a crisis of access; it is a crisis of availability; it is a crisis of reliability.

Mr. President, I ask unanimous consent to have printed in the RECORD a recent article.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From American Medical News, May 3, 2004]

LIABILITY CRISIS ENDS CENTURY OF DELIVERIES

(By Tanya Albert)

Perhaps one day the children of family physicians Jim Schwieterman, MD, and Tom Schwieterman, MD, will pick up where medical liability rates have forced the brothers to leave off.

The duo is scheduled to deliver their last baby in September, stopping a more than 100-year run of their family bringing children into the world in Mercer County, Ohio.

An in an ending that wouldn't have been more perfect if Hollywood had written the script, the brothers' last delivery will be the baby of a woman their father delivered.

The grandfather delivered the woman's mother. And the doctors' great-grandfather who founded the Maria Stein, Ohio, family practice, delivered the woman's grandmother.

But the Schwietermans—who their patients call Dr. Jim and Dr. Tom—don't want people to interpret their fate as a "woe-is-me" story.

They are saddened that they're being forced to give up a part of their practice that they love. But they'll continue to provide the cradle-to-grave primary care that patients in their rural county of 40,924 need.

They're telling their story because they worry that patients who need obstetrical care may not be able to get it in the future.

"Something is wrong when a legal situation is preventing us . . . from doing a service for very little income and when we have good outcomes," Dr. Tom said.

The brothers want people to know that even rural doctors in a practice with no lawsuit payouts in more than 100 years can be forced to cut back services to patients because of unaffordable medical liability rates. Only one lawsuit has ever been filed against the practice, and it was dropped a few days later.

"We've fallen victim to another outside force," Dr. Jim said.

THE OUTSIDE FORCES

Maria Stein's small-town atmosphere hasn't changed much over the years, Dr. Jim's and Dr. Tom's father, Don Schwieterman, MD, said.

Churches still stand in the community of crossroads. And Dr. Don said the town still clings tight to the values of the thrifty, hardworking German farmers who settled it.

"It's still an area where we have a very close relationship with patients," said Dr. Don, who retired in 1997.

But the practice of medicine has changed.

In Ohio, like so many other states, an increasing number of physicians have had to give up "high-risk" aspects of their practice because insurance has become unaffordable.

An Ohio State Medical Assn. survey released April 15 found that 80% of the state's physicians agree that rising premiums have directly impacted their patients.

The survey found that 34% of Ohio doctors expect to close their practices in the next two years if rates continue to climb. When asked to look forward three years, 58% plan to close.

"If only 10% of that happened, that's a huge crisis," said Bill Byers, OSMA's government relations director.

For the Schweitermans, giving up obstetrics was purely a business decision. When the fax for this year's premium came through, the insurance company was asking for $80,000 for the brothers to keep delivering the 60 or so babies a year that they average. That's a premium hike of about 150% over the past six years.

"It was a financial no-brainer," Dr. Jim said.

And given how long their family has been in the community, neither wanted to move 20 miles west to Indiana where tort reform is established and rates would have been 75% less.

"It doesn't make any sense that geography can play such a role," Dr. Tom said. "[Rates] have nothing to do with the medicine you practice."

SAVORING EVERY LAST MOMENT

It's beginning to hit the doctors that they only have five more months of deliveries left, and they find they're soaking up every moment in the delivery room.

"It's giving up one part of a job where there are tears of happiness," Dr. Tom said.

While both brothers would love to be able to offer obstetrics again, they realize that once they are out of it for a couple of years it will be difficult to go back. "I feel like I'm a baseball player stepping up to bat for the last time," Dr. Jim said.

Family physicians have been giving up deliveries for years. In 1978, 46% had hospital privileges to deliver babies, according to the American Academy of Family Physicians. In 2003, only 24% of FPs did deliveries.

While premiums have been an issue in some states, Thomas S. Nesbitt, MD, MPH, said there are a number of reasons for the decline, including the fact that more FPs are joining groups where the scope of practice is already established.

Dr. Nesbitt, associate dean for graduate education, continuing education and outreach at the University of California, Davis, said it's a loss to family medicine. "The real tragedy is that family care is being fragmented."

Dr. Don hopes the climate shifts so that one or more of his grandchildren may be able to enjoy the special experience of helping deliver children into the world.

"I would love that," he said.

Mr. FRIST. Mr. President, this article is about Dr. Jim Schwieterman and his brother, Dr. Tom Schwieterman. Both are family physicians who practice in Mercer County, OH. This month "Dr. Jim" and "Dr. Tom," as their patients call them, will deliver their last baby, bringing an end to a distinguished 100-year run of their family providing care in delivering babies in their community in this corner of Ohio. The brothers' final delivery will be the baby of a woman who their father delivered. Their grandfather delivered the woman's mother, and their great-grandfather, who founded the family practice, delivered the woman's grandmother—a wonderful, rich tradition of caring in that community.

Why will this long and honorable family history of physician service come to an end? Because of out-of-control medical liability costs. The Schwieterman brothers simply cannot afford to deliver children because of the skyrocketing insurance fees they must now pay. It is a tragedy, and we all suffer in one way or another.

I was in Philadelphia earlier this month to speak to a group of physicians. Did you know that the average or the typical obstetrician/gynecologist now pays over $134,000 a year for liability insurance just for that privilege of being able to deliver babies? That is a tripling of the cost just since 2000, a $100,000 increase in just 4 years. It is not surprising that Pennsylvania is on the crisis list and physicians are leaving the State. That means diminished access for the people of Pennsylvania. And it applies to orthopedic surgeons, to trauma surgeons, to obstetricians.

The trial lawyer special interest lobby is next to impossible to beat at the State level, but, fortunately, some States are taking action. They see what is happening to their neighbors, and they know they could be next. Without restoring common sense to the legal system, it is just a matter of time before their health care is hijacked by the lawsuit lottery.

Take California, for example. Because California has acted and adopted comprehensive medical liability reform, including limits on pain and suffering awards, liability insurance costs for OB-GYNs in the Los Angeles area are less than half of what their colleagues pay in Pennsylvania, Illinois, or Florida. Everything else is more expensive in California but not health care.

Texas is another State pursuing comprehensive, commonsense legal reform. Recently, my distinguished colleague from Texas, Senator CORNYN, spoke passionately on the Senate floor about the need for lawsuit abuse reform. His State recently adopted medical liability reforms similar to those passed in California, and they are working.

Texas Medical Liability Trust, the largest medical liability insurer in the State, is now decreasing its rates for the second time in the 2 years since this reform was instituted. The new 5-percent cut comes in addition to a 12-percent reduction implemented earlier this year. These cuts are a direct result of Texas's constitutional amendment capping liability costs. According to the trust president and CEO, Thomas Cotton, 12,000 Texas doctors will save $34 million in a single year. This represents almost half of all Texas physicians. And when doctors pay less, patients pay less, premiums fall, and health care becomes more available for all. Before Texas passed the new liability law, the same insurer had raised rates over 146 percent between 1999 and 2003. Now that the medical malpractice insurance market has stabilized, 13 new insurance companies have entered the Texas market and doctors are returning to their practices. That is the way it should be.

The lesson is clear. If we adopt Federal reforms based on the commonsense laws that are working in States such as California and Texas, we will dramatically lower health care costs, in turn providing more affordable and more accessible health care to our communities, to the American people. That means our precious health care dollars will be spent in the operating room and not in the courtroom.

The Senate has tried three times during the 108th Congress to debate comprehensive medical liability legislation. We have tried three times to have a simple debate about the merits of ending the abuse of our health care system by personal injury trial lawyers and their frivolous lawsuits, and each time my colleagues on the other side of the aisle have filibustered, obstructed even consideration of this legislation. They block consideration of a solution. No action, no vote, no accountability, and no change is partisan politics at its worst. It hurts the doctor. It hurts the patient. It hurts the consumer. It hurts you. That is plain wrong and, again, America deserves better.

Senator KERRY and Senator EDWARDS have made it clear that they oppose the laws that are working today in California and Texas. They have also made it clear that as long as they are in the Senate, they will not even allow a vote on real reform. Why, you ask? Why oppose reforms that provide more health care services than ever before? Why oppose reforms that ensure doctors and hospitals will be more involved in providing care? Why oppose health care services that are more accessible and more convenient? And why oppose health care services that will be there when you need them? America deserves an explanation.

Finally, Mr. President, I want to comment on one other issue, and that is the new drug discount card available to seniors today.

I will turn to some compelling testimony that was provided to the Senate Finance Committee, I guess it was 2 weeks ago. I had the opportunity to chair that Finance Committee hearing, and I listened very carefully as Dr. Mark McClellan, who is the Administrator for the Centers for Medicare & Medicaid Services, discussed the Medicare Modernization Act, which this body passed, which was signed into law by the President. In his testimony, Dr. McClellan said that 4.3 million seniors have already enrolled in the Medicare Prescription Drug Discount Card Program, which was signed into law by President Bush last year. Over 1 million low-income seniors are today, because of this new law, receiving an additional $1,200 of free prescription drugs on top of the already deep discounts available to all seniors who have signed up for this card.

Those discounts are making a difference. They make a difference in the lives of those seniors. They make a difference in the health care of those seniors.

It is beyond belief how anyone could tell seniors, don't get that card; it is too confusing. That is wrong. We should be encouraging seniors to sign up for the card. Why? A recent Kaiser Family Foundation study reported that the Medicare drug cards are providing a savings of 17 to 24 percent off retail prices in urban and rural areas. That means if you have the card, you have a savings of 17 to 24 percent than if you don't have the card. How could anybody tell our seniors today, don't get the card, with those demonstrated savings?

A Lewin Group study analyzing the 150 drugs most frequently used by seniors found that people participating in the Medicare drug discount program can, beginning this year, save an average of well over $1,200 on their prescription drug purchases with this card.

A study by Consumers Union found that in California, the Medicare prescription drug discount cards provided drug prices that are even lower than the State's Medi-Cal program. I say "even lower" because the Medi-Cal prices are 20 percent below those typically available at retail pharmacies.

The Democratic leader indicated last week that too little has been done to control prescription drug costs in America. The facts—study after study—show otherwise. In my colleague's own State of South Dakota, 40,000 Medicare beneficiaries who do not have prescription drug coverage stand to gain the most from that drug discount card; 28,000 South Dakotans are eligible for an additional $1,200 over the next 14 months. How can they be told not to sign up for that card?

The discount drug card is only the beginning. In the year 2006, all Medicare beneficiaries will be eligible for prescription drug coverage under the Medicare program. Tens of thousands of South Dakota's seniors and citizens with disabilities will receive coverage with no premiums, no deductibles, no gaps in coverage, and copayments of no more than $2 for generics and $5 for brand-name drugs.

There is a better way to provide affordable prescription drugs and health coverage to the American people. Texas and California have chosen the right path. I ask: When will Senator KERRY and Senator EDWARDS choose theirs? Make no mistake, we need health care reform now. Costs are way too high today, and they continue to rise. Quality chasms and health care disparities exist in our health care sector today. But I can tell you from personal experience—both in medicine for 20 years as a physician and as a policymaker today—these are tough and challenging issues. Reform is a challenge that is not easy, but we have begun to address it and we will continue.

The health care challenge is complicated, and it is much more complicated than a lot of politicians would have you believe. They simply are not going to be solved overnight.

Let us pledge today to get it right the first time. Let us pledge today to give that power back to the patients. Let us pledge to tackle the challenges today and to stop the partisan politics and to stop the foot dragging that becomes an embarrassment to this institution and a source of frustration for the American people.

With the President's leadership and the bipartisan reforms that we have enacted during the past several years, we are on the right track. A lot of work remains to be done. We need to pass medical liability reform. We need to expand those health savings accounts that are now the law of the land. We need to give small businesses the ability to ban together to buy more affordable health care coverage for their hard-working employees. Because as a matter of principle, every family deserves access to affordable, reliable, and quality health care that can never be taken away.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

HEALTH CARE

Mr. NELSON of Florida. Mr. President, the fourth hurricane has visited my State, and that is the subject of my remarks.

I am compelled to respond to some of the statements the majority leader has made about the condition of medical malpractice in the country.

One of the great privileges of being a part of the Senate, it being the greatest deliberative body in the world, is out of the discussions of ideas, hopefully truth can ultimately be achieved. A number of the statements the majority leader has made are giving his point of view, one side of the argument. Indeed, it is absolutely no secret that there is a medical malpractice insurance crisis in the country.

As the majority leader would have it characterized, it is all as a result of lawyers and excesses. Are there excesses? Yes, there are. And those ought to be reformed in the system. But in outlining how you want to solve the problem of bringing down the insurance premiums for doctors to protect themselves with medical malpractice, what is proposed by the majority leader leaves the main entity out of the solution, and that is the insurance company.

The doctors have characterized this—indeed, some lawyers—as a fight between doctors and lawyers. But they have left out the main party, if we are going to reach a solution. I speak from a little bit of experience, having been the elected insurance commissioner of Florida for 6 years. I found myself, interestingly, as insurance commissioner, denying rate decreases for insurance companies that were medical malpractice companies because they were wanting rate decreases so they could get additional market share, but it was not financially prudent. It was not actuarially sound. This was during the 1990s, when the stock market was robust.

Insurance companies make money in two different ways: One, with regard to their premiums, which ought to be actuarially sound for the risk they are insuring; and two, by investing those funds in prudent investments. And in the decade of the 1990s, those investments were paying off handsomely for the entire business community, including insurance companies.

But what happens when the stock market turns south and the return on their investments is not there? Then an insurance company is supposed to have its premiums so that it can be actuarially sound so it can pay its claims due to the risk it has assumed.

Well, a lot of those companies started getting in difficulty because they were not getting the returns on their investment. So they had to start yanking their premiums up.

All of this is to say that if we want a real solution to this problem, we have to get doctors and hospitals, lawyers and insurance companies all in the room in order to solve the problem.

The majority leader made reference to the State of California as if it were just a cap on lawyers' fees. That is not the history of the State of California. California not only did that, but they also put a limit on the increases on insurance premiums as well. So when we have a discussion, we should have a discussion of an overall comprehensive way to solve this problem. That is what I would like to see—this being less partisan, less ideological, less special interests, and talk about a solution where we can bring all parties in and get something done. That should be done at the State level. What we have seen from it is that States that have taken up legislation like that do not bring all of the parties to the table to find a viable solution.

I felt compelled to respond to the majority leader's comments because in the debate that ought to occur in this body, it ought to be a comprehensive debate showing all sides to the argument.

FLORIDA'S HURRICANES

Mr. NELSON of Florida. Mr. President, I came here because, as most everybody in the country knows, an unusual meteorological phenomenon has occurred in my State where it has now been battered by four major hurricanes. Part of the State now has been battered in the same area—namely, south of Orlando, southeast of Lakeland. In that area, it has been traversed now by hurricane strength winds from three hurricanes—first Charley, then Frances, and now this last one. The third hurricane, Ivan, took off for a different part of the State. It hit west Florida in the Pensacola area, as well as eastern Alabama, with such force of not only 138 mile per hour winds but also with that surge of water called a tidal surge, which was so significant that it went all the way up Pensacola Bay and, in fact, lifted up sections of the Interstate 10 bridge—huge, heavy concrete sections—lifted it up by the pressure of that water and deposited it on the bottom of Pensacola Bay. That is the kind of force and fury of Mother Nature that has been visited upon my State. So what do we need to do? Well, there is one reason for the Federal Government, other than the protection of the national defense of this country, and that is also to provide during times of disaster.

FEMA ran out of money several weeks ago. We came in here and we passed an emergency appropriations bill of $2 billion to try to fill up their coffers. But since then, we have passed several things appendaged to the Homeland Security Appropriations bill, plus receiving several acknowledgements and commitments to, in particular, this Senator from Florida from the esteemed chairman of the Appropriations Committee of adding additional funds in the conference that is now occurring on the Department of Homeland Security funding bill.

But as of yet, we have seen an appropriation request come from the White House that is just not going to solve the problem. For example, the Commissioner of Agriculture of Florida said that for the first two hurricanes, we are going to have $2 billion of losses just in agriculture. Yet all we have announced out of that $2 billion requested by the Commissioner of Agriculture—who happens to be in the same party as the President—all we have seen is the Secretary of Agriculture offer a package that is only one quarter of what the Commissioner of Agriculture of Florida has asked for. That is just not going to do it.

Since the first two hurricanes, we have been hit by a third hurricane and, a day ago, by a fourth hurricane. In that third hurricane, there is going to be a big loss of the cotton and peanut crops up in the panhandle. With the fourth, what was left of the citrus crop across central Florida is going to be all gone because these ferocious winds are going to drop to the ground any fruit that was remaining. This is an election year, but this should not be partisan.

People are hurting and they need help, they need it now. I ask the White House, this administration, the Department of Agriculture, and all those myriad of agencies to come forward and help us. We need that help right now.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, how much time am I allotted?

The ACTING PRESIDENT pro tempore. The Senator from Iowa has 19½ minutes.

Mr. HARKIN. I thank the Chair.

HEALTH CARE

Mr. HARKIN. Mr. President, I want to talk a little about Iraq. Before that, I have a responsibility to respond to the majority leader's comments on health care today. Sometimes you hear things on the Senate floor and you have to stop and say, did I really hear that or is that just something I thought?

I was really listening to the Republican leader talk about Republican support for health care—meaningful health care. Listening to the Republican leader talk about Republican support for meaningful health care is like listening to the big tobacco companies talk about the need for cancer research. How do I say that? Because the problems of cancer basically are caused by the big tobacco companies. The problem that we don't have a meaningful health care system in America today—people-based, patient-based, preventive care-based—is because of Republican Party policies.

It has been very clear for a long time that the Republican Party has opposed any kind of meaningful people-based health care program. After all, it was our colleague, former Senator Robert Dole, who during his Presidential campaign in 1996 bragged he had voted against Medicare, as most Republicans did in the mid 1960s. Now, again, the majority leader says that the elderly are not signing up for these discount cards and we ought to be promoting them, sort of like a cheerleader. Maybe they are all taking their cue from the fact that President Bush was a cheerleader in college, so now we have to be a cheerleader. We heard that we have to cheerlead, regardless of what the facts are. There is a reason the elderly are not signing up for this card. It is meaningless. It doesn't do anything for them. Yet we are supposed to go out and be a cheerleader for them?

Well, the Republicans rammed through their health care program. The elderly get a meaningless card, and the pharmaceutical companies got $12 billion in payments to entice them into this program. How about giving the elderly in our country $12 billion?

I sum it up by saying that President Bush does have—I want to be fair to him—a health care plan. It is very simple and straightforward: Pray you don't get sick. That is President Bush's health care plan.

JOHN KERRY has a sound health care plan: One, to overturn the ban on Medicare bidding down the prices from pharmaceutical companies. Again, that was in our last Medicare bill. Republicans insisted on it. They pushed it through. Right now, Medicare cannot bargain with the large pharmaceutical companies to bid down the prices. Why? Because they are paying in the bill and they are forbidden to do so. What kind of sense does that make? The Veterans' Administration can bargain down the price of drugs with pharmaceutical companies but not Medicare. That makes no sense.

One of the first things a President KERRY would do is get rid of that ban and let Medicare get the price of drugs down for the elderly.

Secondly, a President KERRY will say we have to allow for the reimportation of drugs from Canada. We have a free-trade agreement with them on cars, clothes, pens, ties, and everything else, except for one thing—drugs. Well, it is time we have a free-trade agreement on drugs and let us reimport drugs from Canada.

The third part of the Kerry program is to provide a tax credit for small businesses—up to 50 percent—so they can carry a health care policy on their workers. That is so important for us in rural America, where most of our people work for small business.

Fourth, Senator KERRY says we ought to open the Federal Employee Health Benefit Program to everybody in America. That is a good program. It allows you to pick your doctor and hospital, and it allows you to change your plan if you would like to do so. It is a great program. I ought to know, I am in it. So is President Bush. So is Vice President CHENEY. So is every Senator on this floor. If it is good enough for us, it ought to be good enough for the American people.

The last thing in the Kerry program for health care is to double the National Health Service Corps to get more doctors, physicians' assistants, nurse practitioners, and others serving in our rural and underserved areas and to increase the number of community health centers in America.

So while I am proud JOHN KERRY has a forward-looking, comprehensive health care plan that will be meaningful, that will reduce drug prices, and that will get affordable, reliable health care to the American people, President Bush is silent. Again, President Bush's health care plan is simple: Pray you don't get sick. That is not enough. We need better than that.

IRAQ

Mr. HARKIN. Mr. President, I also wish to speak for a few minutes about the mess in Iraq. Last week, Prime Minister Iyad Allawi came to Washington to join in President Bush's campaign of relentless happy talk about the war in Iraq. President Bush says:

> We're making progress. We're making progress.

Meanwhile, back in the real world—the world that American soldiers confront on the ground in Iraq—the chaos gets worse and worse. Entire regions and many provincial capitals are under the insurgents' control. Virtually every day we see car bombings, kidnappings, assassinations, beheadings.

As we learned last week, the CIA has produced a formal National Intelligence Estimate that says that, at best, the current level of violence will continue and, at worst, Iraq will plunge into a civil war. As Secretary of State Colin Powell acknowledged yesterday, it is getting worse in Iraq. But amazingly, President Bush insists that this mess in Iraq has made us safer, and the President and his political allies have been relentless in using the war on terror for their own electoral purposes.

Their message to the American people is simple: Be afraid, President Bush will protect you; his opponent will not.

Vice President DICK CHENEY also took this line of attack 2 weeks ago when he darkly warned with his Darth Vader-type voice that if JOHN KERRY is elected President, then "the danger is we'll get hit again, that we'll be hit in a way that will be devastating." That was Vice President CHENEY.

Last Tuesday, the senior Senator from Utah, Mr. HATCH, said that terrorists "are going to throw everything they can between now and the election to try and elect Kerry."

Last Monday, Deputy Secretary of State Richard Armitage said terrorists in Iraq "are trying to influence the election against President Bush."

If these gentlemen have such excellent access to the terrorists' thoughts, they are not doing a good job of turning that knowledge into effective policy against the terrorists. At key junctures, this administration has made disastrously wrong choices. Repeatedly, these decisions have played into the terrorists' hands. Let's look at the record.

It is a fact that the September 11 attacks happened despite repeated warnings to Mr. Bush from the CIA that al-Qaida was planning to attack America. Those warnings included an August 8, 2001, President's daily briefing which he received while he was vacationing in Crawford, TX. The report was titled "Bin Laden Determined to Strike in the U.S." That is not a subhead or a sentence in the memo, that is the title of the memo: "Bin Laden Determined to Strike in U.S."

Let's look at the rest of the record.

On President Bush's watch, the U.S. botched the single best opportunity to capture bin Laden at Torah Borah in Afghanistan. A political decision was made to allow Afghan warlords to carry the brunt of that siege, and bin Laden escaped.

It was President Bush who 3 years ago pledged to smoke bin Laden out of his cave, but has utterly failed to do so. Instead, by successfully defying President Bush, bin Laden has become a folk hero across the Muslim world. He has attracted not only thousands of new recruits, but dozens of imitators, new bin Ladens who are forming their own terrorist organizations to attack America and Americans.

It was President Bush who diverted our military intelligence resources and certain military hardware, such as the Predator aircraft, the unmanned aerial vehicles, took them out of Afghanistan, away from the hunt for bin Laden and sent them to Iraq.

It was President Bush whose taunt, "Bring it on," did indeed bring it on—a nationwide insurgency in Iraq, an urban guerrilla war that has trapped our Armed Forces in a quagmire.

It was President Bush whose unilateral approach on Iraq alienated many of our oldest allies and turned world opinion against the United States.

It was President Bush whose invasion and occupation of the second largest Arab country has outraged much of the Muslim world and has been a recruiting bonanza for Islamist terrorists.

This is an astonishing record of mistakes, misjudgments, and mismanagement. It is an astonishing record of George W. Bush again and again playing into Osama bin Laden's hands. It is like Wile E. Coyote chasing the Road Runner, only this time it is not funny. It is a colossal tragedy. It has put our Nation at even greater risk of terrorist attack.

Ironically, President Bush's father, George Herbert Walker Bush, warned against the folly of invading and occupying Iraq. Listen to this. On February 28, 1999, speaking to a group of Desert Storm veterans at Fort Myer, VA, former President Bush said:

> Had we gone into Baghdad—we could have done it, you guys could have done it, you could have been there in 48 hours—and then what?

The first President Bush continued:

> Whose life would be on my hands as the Commander in Chief because I, unilaterally, went beyond international law, went beyond the stated mission, and said we're going to show our macho? We're going into Baghdad. We're going to be an occupying power—America in an Arab land—with no allies at our side. It would have been disastrous.

That is the first President Bush. That is not me. That is an exact quote from the first President Bush, 1999. I would say to this President: You do not have to listen to us, just listen to your father. He would have told you what you are getting into in Iraq.

This is what his father said:

> We're going to be an occupying power—America in an Arab land—with no allies at our side. It would have been disastrous.

It is disastrous. Of course, we heard the same prophetic warnings from Brent Scowcroft, James Baker, and other foreign policy experts. But this President Bush and his partner DICK CHENEY and the neoconservative intellectuals thought they knew better. They reveled in words such as "slam dunk" and "cakewalk." And so now the disaster that Bush 41 warned against has become a reality under Bush 43.

The Iraq invasion has set back, rather than advanced, the war on terrorism and al-Qaida. Osama bin Laden remains at large—an imminent danger to our homeland. Our Armed Forces are bogged down in Iraq, with casualties rising above 8,000, and they are not able to respond to real threats to the United States. Our moral authority and credibility on the world stage are at rock bottom.

The other day I was watching former President Carter at the Carter Center answer a question. He said he has been, I believe I am not mistaken, in over 120 countries. He said never in the history of the United States has our country been at such low esteem and moral authority in the rest of the world—never in the history of our country.

Despite President Bush's blustery threats about the so-called axis of evil, on his watch, North Korea has acquired nuclear weapons and Iran appears to be proceeding with impunity to develop its own nuclear weapons. This is an extraordinary record of mistakes, misjudgments, miscalculations, and missed opportunities.

As a consequence of President Bush's choices over the last 4 years, America is weaker, America is less secure, America is more vulnerable.

I say to my friend and colleague from Utah, whom I quoted earlier, look at the record. Look at this record and come to only one conclusion: The single best recruitment poster for al-Qaida and the terrorists is our policy in Iraq. Quite frankly, the architect of that policy, the person who is carrying it out, is President George W. Bush. No, it is not JOHN KERRY, I say to my friend from Utah. It is not JOHN KERRY. George W. Bush's reckless, stubborn policy is the single best recruiter for al-Qaida, and this must end so that our people can truly be made secure; that we can go after the terrorists; that we can get out of this quagmire in Iraq; that we can once again become the moral authority, the shining city on a hill that America has been to the rest of the world. I am sad to say it will not happen on this President's watch. That is why a change is in order.

I ask unanimous consent that an article that appeared September 26, 2004, in the Los Angeles Times be printed in its entirety in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Sept. 26, 2004]

AL QAEDA SEEN AS WIDER THREAT

(By Douglas Frantz, Josh Meyer, Sebastian Rotella and Megan K. Stack)

RABAT, MOROCCO.—Authorities have made little progress worldwide in defeating Islamic extremists affiliated with Al Qaeda despite thwarting attacks and arresting high-profile figures, according to interviews with intelligence and law enforcement officials and outside experts.

On the contrary, officials warn that the Bush administration's upbeat assessment of its successes is overly optimistic and masks its strategic failure to understand and combat Al Qaeda's evolution.

Even before the Sept. 11 attacks, Al Qaeda was a loosely organized network, but core leaders exercised considerable control over its operations. Since the loss of its base in Afghanistan and many of those leaders, the organization has dispersed its operatives and reemerged as a lethal ideological movement.

Osama bin Laden may now serve more as an inspirational figure than a CEO, and the war in Iraq is helping focus militants' anger, according to dozens of interviews in recent weeks on several continents. European and moderate Islamic countries have become targets. And instead of undergoing lengthy training at camps in Afghanistan, recruits have been quickly indoctrinated at home and deployed on attacks.

The United States remains a target, but counter-terrorism officials and experts are alarmed by Al Qaeda's switch from spectacular attacks that require years of planning to smaller, more numerous strikes on softer targets that can be carried out swiftly with little money or outside help.

The impact of these smaller attacks can be enormous. Bombings in Casablanca in May 2003 shook Morocco's budding democracy, leading to mass arrests and claims of abuse. The bombing of four commuter trains in Madrid in March contributed to the ouster of Spain's government and the withdrawal of its troops from Iraq.

Officials say the terrorist movement has benefited from the rapid spread of radical Islam's message among potential recruits worldwide who are motivated by Al Qaeda's anti-Western doctrine, the continuing Palestinian-Israeli conflict and the insurgency in Iraq.

The Iraq war, which President Bush says is necessary to build a safer world, has emerged as a new front in the battle against terrorism and a rallying point for a seemingly endless supply of young extremists willing to die in a jihad, or how war.

Intelligence and counter-terrorism officials said Iraq also was replacing Afghanistan and the Russian republic of Chechnya as the premier location for on-the-job training for the next phase of violence against the West and Arab regimes.

"In Iraq, a problem has been created that didn't exist there before," said Judge Jean-Louis Bruguiere of France, dean of Europe's anti-terrorism investigators. "The events in Iraq have had a profound impact on the entirety of the jihad movement."

Officials warn that radical Islam is fanning extremism in moderate Islamic countries such as Morocco, where the threat of terrorism has escalated with unexpected speed and ferocity, and re-energizing adherents in old hot spots such as Kenya and Yemen.

In recent weeks, police thwarted an attack against a U.S. target in Morocco at the last minute, and concerns have increased sharply about the possibility of attacks in Kenya, U.S. and foreign officials say.

The Madrid bombings and arrests in Britain this summer highlight Europe's emergence as a danger zone. Long used by extremists as a haven for recruitment and planning attacks elsewhere, the continent now is believed to be a target itself, especially countries backing the Iraq war.

Al Qaeda's transformation since the destruction of its Afghan training camps nearly three years ago has been chronicled extensively. Arrests and killings of senior leaders and the shutting down of major avenues of financing further fragmented the network.

Bush said at the Republican National Convention this month that more than three-quarters of Al Qaeda's leadership had been killed or captured.

Among those arrested are Khalid Shaikh Mohammed, alleged planner of the Sept. 11 attacks, and Abu Zubeida, who oversaw the global network and helped recruit for the training bases in Afghanistan.

Administration officials contend that information from interrogations helped prevent new attacks and unravel the network, leaving Al Qaeda too diminished to carry out a strike as complex as that of Sept. 11.

Polls indicate that voters trust Bush to handle the fight against terrorism better than his Democratic challenger, Sen. John F. Kerry.

A far less reassuring assessment of the condition of Islamic extremism emerged from the interviews with government intelligence officials, religious figures and counter-terrorism experts in the United States, Europe, the Middle East and North Africa.

Although opinions are not unanimous and ambiguities remain, there is a consensus that Al Qaeda's leadership still exerts some control over attacks worldwide. However, veterans of the extremist movement have demonstrated a new autonomy in using the group's ideology and training techniques to launch attacks with little or no direct contact with the leaders.

"Any assessment that the global terror movement has been rolled back or that even one component, Al Qaeda, is on the run is optimistic and most certainly incorrect," said M.J. Gohel, head of the Asia-Pacific Foundation, a London think tank. "Bin Laden's doctrines are now playing themselves out all over the world. Destroying Al Qaeda will not resolve the problem."

U.S. and foreign intelligence officials said the Bush administration's focus on the "body count" of Al Qaeda leaders and its determination to stop the next attack meant comparatively few resources were devoted to understanding the threat.

Michael Scheuer, a senior CIA official, said in an interview that agents wound up "chasing our tails" to capture suspects and follow up leads at the expense of countering the rapid spread of Al Qaeda and the international jihad.

Scheuer, chief of the CIA's Bin Laden unit from 1996 to 1999, now plays a broader role in counter-terrorism at the agency. He is the author of "Imperial Hubris," a recent book that criticized U.S. counter-terrorism policy; the interview with him occurred before the CIA restricted his conversations with reporters.

Another counter-terrorism expert who works as a consultant for the U.S. government and its allies said Scheuer's criticism had been echoed elsewhere.

"I think they're deluged with the immediate stuff and I think their horizons are also very, very short-term," said the consultant, who spoke on condition of anonymity. "One of the biggest complaints I hear when talking to intelligence services around the world is that the Americans are so interested in the short term, preventing attacks and getting credit."

Anti-terrorism experts who fault the administration's strategy and its optimism argue that concentrating on individual plots and operatives obscures the need to address the broader dimensions of Islamic extremism and makes it impossible to mount an effective defense.

The Al Qaeda movement now appears to be more of an ideology than an organization, spreading worldwide among cells inspired by the Sept. 11 attacks.

Adherents generally share a few basic principles: an overarching belief that Muslims must take up arms in a holy war against the Judeo-Christian West, a profound sense of indignation over the deaths of Muslims in Palestinian territories and Iraq, and a conviction that secular rulers should be replaced by Islamic governments.

But beyond that, their concerns often splinter along the lines of geography, local politics and the intricacies of Islamic thought. A Moroccan is unlikely to pursue the same targets or even agree with the strategy of his Saudi counterparts. Saudis, in turn, are fighting bitterly among themselves over whether it's more important to battle the royal family at home or the Americans in Iraq.

The inadequate response to the threat is not unique to Washington.

European officials also see gaps in their policies, particularly when it comes to understanding the complexity of the situation, said Gijs de Vries, the counter-terrorism coordinator for the European Union.

"Al Qaeda is increasingly being invoked as an ideological motivation of Islamic radicals," he said. "There is a type of diffuse jihadism, which on the one hand consists of loosely structured small cells and on the other hand ideology."

SHIFT TO SMALLER STRIKES

A new cadre of second-generation Al Qaeda commanders has compensated for the damage to the network by stepping up the pace of attacks with smaller strikes on soft targets.

The strategy relies on a limited number of veteran operatives trained in Afghanistan who function with a high degree of autonomy. They recruit foot soldiers through mosques, local groups and the Internet, then provide on-site training in bomb-making and tactics.

Senior counter-terrorism authorities in the U.S. and Europe say they are not certain how much central control is exercised over these independent operators—or even whether they are linked to one another in a formal manner.

But officials said evidence indicated that attacks in Saudi Arabia, Morocco and Turkey during the last 16 months were part of a loosely coordinated pattern that could be traced to Bin Laden and his lieutenants.

Based primarily on intercepted communications from Iran to Saudi Arabia by U.S. listening posts, U.S. and European officials said orders for the suicide bombings in the Saudi capital of Riyadh on May 12, 2003, came from an Al Qaeda fugitive in Iran.

The officials said the most likely suspect was Saif Adel, a former Bin Laden bodyguard now believed to be Al Qaeda's military commander. But Western security officials said Adel was only one of numerous Al Qaeda figures granted haven by Iran's Revolutionary Guards. Iran denies that.

Extremists behind a string of attacks in Saudi Arabia since then operate with a large degree of independence, but Saudi security officials said the radicals retained links with Al Qaeda leaders in Iran and elsewhere by telephone and courier.

Authorities in Morocco and Europe said the go-ahead for the Casablanca suicide attacks on May 16, four days after the Riyadh bombings, was given at a meeting of Al Qaeda commanders in Istanbul, Turkey, in January 2003. They also said the young men who died carrying out the five nearly simultaneous bombings were recruited and trained by an Al Qaeda veteran.

Turkish extremists who bombed two synagogues, the British Consulate and the headquarters of a London-based bank in Istanbul in November 2003, killing more than 60 people, received money and advice on targets from Al Qaeda and its associates, according to testimony this month in the trial of 69 suspects.

One of the defendants, Adrian Ersoz, testified that he arranged a meeting in August 2001 in Afghanistan between Habib Akdas, the leader of the Turkish cell, and Mohammed Atef, also known as Abu Hafs Masri, a top Bin Laden lieutenant later killed in a U.S. airstrike in Afghanistan.

He said that Akdas was promised money from Al Qaeda but that after Afghanistan's Taliban regime collapsed, the cell leader turned for financial help to Al Qaeda representatives in Iran and Syria, whom Ersoz did not identify. Akdas fled to Iraq immediately after the Istanbul bombings and participated in the kidnapping of several Turkish workers there, Turkish authorities said.

These smaller strikes cost relatively little, even compared with the modest $500,000 price tag for Sept. 11, indicating that the network has adapted to the clampdown on its financing methods.

Mohammed Bouzoubaa, Morocco's justice minister, said the bombings in Casablanca, which killed 45 people, cost $4,000.

Top suspects in the Madrid bombings have long-standing ties to Al Qaeda cells in Spain, Morocco and elsewhere. Still, six months after the bombings, investigators have no evidence that the planners received instructions or money from outside for the attacks that killed 191 people.

The methods used in Casablanca and Madrid illustrate what a senior European counter-terrorism official described as "the most frightening" scenario: local groups without previous experience, acting with minimal supervision from an interchangeable cast of Al Qaeda veterans.

"By now we have no evidence, not even credible intelligence, that the Madrid group was steered, financed, organized from the outside," he said. "So that might be the biggest success of Bin Laden."

In the past, Al Qaeda militants were mostly educated young men in their mid-20s and older who had strong religious convictions and middle-class backgrounds. They trained extensively at camps in Afghanistan and their missions were planned over months or years.

Recent attackers were drawn from a larger pool of alienated young men, reflecting the wider tug of Al Qaeda's doctrine, Bin Laden's status as a hero to some Muslims and fury at American foreign policy.

Some experts, like Richard Clarke, the former White House counter-terrorism chief, publicly blame the war in Iraq for strengthening the motivation of radical Islamic groups globally. Others still in governments around the world make the point privately, saying that the conflict in Iraq has broadened support for extremism.

De Vries, the EU counter-terrorism chief, acknowledged only that there were differences over the impact of Iraq. "Public opinion in many countries has not been convinced that the war in Iraq has helped the war on terror as defined by some," he said.

The bombers in Casablanca were uneducated slum dwellers between the ages of 20 and 24 with little previous involvement in extremism, religious figures and people who knew them say.

The Moroccan immigrants who spearheaded the Madrid attacks were shopkeepers and drug dealers. They embraced a theology that justified their crimes as part of their jihad.

The sense that an angry young man anywhere could become the next suicide bomber, the absence of training camps and only intermittent contact with any central command structure pose tough challenges for law enforcement.

"Terrorist culture has been disseminated," said Pierre de Bousquet de Florian, director of France's intelligence agency. "Technical knowledge has spread."

Even U.S. officials, most of whom are more optimistic than their foreign counterparts, acknowledged that there were too many blank spots for them to understand the full scope of the threat.

"From what we have seen and learned, particularly in light of the recent arrests, we have made enormous strides in knocking out Al Qaeda," a senior counter-terrorism official in the Bush administration said. "That said, we believe there are operational people who have moved up, with operational expertise, and that there remains some sort of loose command and control structure."

Among the mysteries is whether Bin Laden and his second-in-command, Ayman Zawahiri, still play operational roles. Another question is the extent of coordination between Al Qaeda's leadership and the attacks in Iraq.

The role that Jordanian militant Abu Musab Zarqawi plays in Iraq has been cited repeatedly by the administration as evidence of an Al Qaeda-Iraq link, but many counter-terrorism officials said he had long operated independently.

His activities in Iraq have boosted his status among Islamic extremists and led to what investigators suspect is an even greater independence from Bin Laden.

Zargawi's reach extends beyond the carnage in Iraq and makes his offshoot of Al Qaeda an urgent threat. As the former chief of a training camp in Afghanistan, he has alliances with militant groups from Chechnya to North Africa.

European counter-terrorism officials blame him for several thwarted attacks in Europe and suspect that he helped plan the Casablanca and Istanbul bombings.

Investigators believe that there are ties between suspects in the Madrid attacks and the Zarqawi network. They have turned up evidence of an operational and ideological axis that links fighters traveling to Iraq from Europe and North Africa—and raises the threat that they will bring the mayhem home with them.

In June, Italian police arrested Rabei Osman Sayed Ahmed, an Egyptian suspected of playing a lead role in the Madrid attacks.

According to transcripts of electronic eavesdropping, police also learned of Ahmed's involvement in a European network sending fighters to Iraq to carry out suicide bombings.

"All my friends are dying, one after another," he said during a conversation in his Milan hide-out May 26. "I know so many who are ready. I tell you there are two groups ready for martyrdom. The first group leaves the 25th or 20th of next month for Iraq via Syria."

French authorities opened an investigation Wednesday into a network involved in recruiting extremists and helping them get to Iraq, but so far the flow of such foreigners does not approach the thousands who went to Afghanistan before 2001.

Still, European investigators are particularly concerned about the increasing movement of North Africans—some from Europe but most from their homelands—to fight in Iraq and what it means for the future.

"Our fear is that they go and become a threat to our countries," said De Bousquet de Florian, the French intelligence chief. "We pay a great deal of attention because once these guys have gone to Iraq to train, they know how to use weapons and explosives. That's the first level: Iraq as a new Afghanistan, a Chechnya."

Determining who is behind the attacks in Iraq is difficult. U.S. military and Iraqi authorities blame much of the violence on foreign fighters, and Saudis, Egyptians and other nationals have been seen saying farewell in videotapes before suicide bombings. A Saudi captured after a botched car bombing in Baghdad recently said he had been slipped across the border, given $200 and keys to a car and told to attack a military convoy.

But some say pinning most of the suicide attacks on Zarqawi's network and foreign fighters in general ignores the insurgency's home-grown aspects and overlooks growing links between Iraqis and radical Islam.

RADICAL ISLAM ADAPTS

The new model of Islamic terrorism was born May 16, 2003, in Sidi Moumen, a shantytown of 200,000 people on the outskirts of Casablanca. That day a band of unemployed young men from the neighborhood, most of whom lived on the same narrow street, carried out five nearly simultaneous attacks.

The targets were in the heart of Casablanca: a Jewish community center, a Spanish restaurant and social club, a hotel, a Jewish cemetery and a Jewish-owned Italian restaurant. The death toll was 45, including 12 of the 14 bombers.

Morocco's role in Islamic extremism previously had been as a way station for jihadis entering and leaving Europe, and investigators said the emergence of Moroccans as front-line operatives demonstrated the ability of radical Islam to adapt.

In unraveling the Casablanca plot, Moroccan and foreign authorities discovered that the bombers had no previous ties to extremism, which meant spotting them in advance would have been almost impossible, even in a country where paid informants lurk in almost every neighborhood.

Moroccan authorities identified Karim Mejatti, a Moroccan veteran of Afghanistan, as the person who recruited them and received a green light for the attacks in the meeting in Istanbul. Unlike his recruits, Mejatti is educated and spent time in the U.S. in the late 1990s. He remains a fugitive.

On camping trips in the dusty hills outside Casablanca, Mejatti indoctrinated the men and taught them to make explosives, authorities said. Al Qaeda videos on making bombs with TATP, the group's trademark explosive, were later discovered in their homes. They rode to the attacks in taxis with homemade explosives stuffed into backpacks.

"They did not need sophisticated equipment or means," said Bouzoubaa, the justice minister. "They made their own explosives."

Mejatti recruited the men in November 2002, and authorities were struck by the speed with which he converted them into suicide bombers.

Moroccan police foiled a number of follow-up attacks in other cities by cells formed by Mejatti and a handful of other graduates of Afghan camps, investigators said.

"The thing about this kind of operation is that it could be repeated just about anywhere," said an Italian law enforcement official who investigated the European links to Casablanca.

Spanish anti-terrorism police who visited Casablanca after the attacks said they were convinced the tactic could be replicated in Europe. The prediction came true 10 months later in Madrid.

The involvement of Moroccans in the Madrid attack and evidence that it was linked to Casablanca sent shivers through the counter-terrorism community.

Spain's leading anti-terrorism judge, Baltasar Garzon, testified before a government commission investigating the bombings that Morocco was home to as many as 100 cells linked to Al Qaeda. They pose Europe's biggest terrorist threat, he said.

Other counter-terrorism officials said Garzon's figures might be too high, but they estimated that 400 to 500 Al Qaeda veterans returned to Morocco after the Taliban regime's collapse in Afghanistan.

The officials said Moroccan extremists posed a unique danger because they could slip easily in and out of Europe and blend in with the immigrant population. Moroccans are the largest immigrant group in several European countries.

Morocco prides itself on being a moderate country with virtually no history of terrorism, but the Casablanca attacks led to a massive crackdown that has drawn complaints from local and international human rights groups.

More than 100 mosques have been closed and thousands of people rounded up and jailed. Family members and lawyers complained that detainees were abused and tortured.

So far, about 1,000 people have been convicted of terrorism-related offenses; 14 have been sentenced to death, including the two surviving Casablanca bombers.

Washington has provided tens of millions of dollars in aid to Morocco and deeper cooperation in law enforcement.

In July, three FBI agents moved into the U.S. Embassy in Rabat to work with the Moroccans. A Navy officer was assigned to help monitor potential attacks on shipping in the Strait of Gibraltar.

U.S. diplomats are on high alert in Morocco. Two planned attacks in recent months, including one on an American target, were stopped only hours before their execution, authorities in Rabat said.

Police also discovered that a private security guard at the embassy was reporting diplomats' movements to an extremist group.

Morocco's leaders are defensive about their country's new profile in the campaign against Islamic extremism. Senior officials argue that outsiders are trying to destabilize a country that is striving to be a model of moderation for the Arab world.

Moroccans and officials of other Islamic countries agree that anger over U.S. policies in the Israeli-Palestinian conflict provides much of the motivation for the attacks.

"If the Palestinian issue were settled, if Iraq were stable, 70% of the threats would disappear," said Bouzoubaa, the justice minister.

But officials say they also recognize that not enough has been done to reach disaffected areas such as Sidi Moumen.

In July, King Mohammed VI ordered new social programs, including the construction of 100 small mosques and 20 large ones to counter the spread of hard-line Islam.

"We are very aware that we must fill the gap between what is good in Islam and the initiatives by outsiders, particularly in the poorer areas," said Ahmed Toufiq, the minister of Islamic affairs. "They were left to themselves too long."

REFUGE FOR EXTREMISTS

Even as new trouble spots emerge, eradicating known extremist sanctuaries has proved difficult, particularly in remote places out of the reach of government authority, such as parts of Yemen on the southern tip of the Arabian Peninsula.

After Al Qaeda bombed the U.S. destroyer *Cole* in Yemen in 2000, killing 17 American sailors, Washington helped train and equip Yemeni security forces and tried to persuade the government to do more to counter extremists.

But diplomats say the country remains primarily a lawless place where forbidding terrain and intricate tribal codes provide an ideal nest for militants.

Saudi and U.S. officials identified Yemen as the primary source of weapons and explosives for the Al Qaeda cells that have launched attacks in neighboring Saudi Arabia.

"Yemen still has to be viewed as largely ungovernable," a senior U.S. counter-terrorism official said. "We sunk some money and time and effort into it, but we don't have much to show for it."

Yemeni officials acknowledged in interviews that surface-to-air missiles, grenade launchers and other weapons remain widely available despite a crackdown on open-air arms bazaars.

The mix of radicals and weapons is particularly potent along the Saudi border, which encompasses rugged mountains and remote desert where tribal leaders hold sway.

"If somebody comes, he's going to pay for tribal protection," said Faisal Aburas, a sheik from the impoverished province of Al Jawf on the Saudi border.

"Then it would look bad for a sheik to hand him in, even if he's a criminal, because it shows weakness."

Abubakr al Qerbi, Yemen's foreign minister, denied that the country still harbored Al Qaeda veterans.

"This is old information," he said, saying they were expelled in 1995 and again after the *Cole* bombing.

But Hamood Abdulhamid Hitar, a Yemeni government official in charge of negotiating with extremists, said he was holding theological debates with hundreds of militants, including 107 suspected Al Qaeda loyalists.

Yemen also links the Arabian Peninsula and the Horn of Africa. Somalia, where there is virtually no workable, central government, is just an hour by boat across waterways that are essentially wide open.

Farther down the coast in Kenya, concerns focus on a group run by Fazul Abdullah Mohammed, an Al Qaeda operative with a $25-million bounty on his head. Mohammed, a native of Comoros off the southeastern coast of Africa, was indicted in the United States on charges of orchestrating the 1998 bombings of the U.S. embassies in Kenya and Tanzania. He also is suspected of organizing the 2002 attacks on Israeli targets in Mombasa, Kenya.

Today, U.S. and other Western security officials say they believe he is planning another round of attacks, possibly on the new U.S. Embassy in Nairobi, the Kenyan capital.

"Al Qaeda is preparing for another sensational attack against Western targets in Kenya," a Western security official said. "Two attacks planned for Kenya were exposed during the past year."

U.S. officials suspect that the hunt for Mohammed has driven him into a remote part of northern Kenya, but they say he remains in touch with Al Qaeda leaders through courier and computer.

"I consider him to be a high-value target and a real player in the global Al Qaeda operation," said a senior U.S. official in Washington.

U.S. STILL A TARGET

U.S. and foreign intelligence and counter-terrorism officials warned that the United States remained the prime target of radical Islam.

"They have overcome the shock of the Afghanistan war and very likely they are preparing another large scale attack, possibly on a U.S. target," the senior European counter-terrorism official said. "There are good reasons to be on alert."

A CHANGING ROSTER

Despite the arrests of several high-profile leaders, anti-terrorism experts believe that Al Qaeda has managed to reemerge as a lethal ideological movement. Dispersed operatives—loosely organized or acting alone—recruit and quickly train local terrorist groups for small but deadly attacks.

A TERRORIST EVOLUTION

In operations such as the 1998 U.S. Embassy bombings in Africa and the Sept. 11 attacks, Al Qaeda leaders exercised considerable control over operations. Today, Al Qaeda appears to have become more ideology than network, spreading globally among cells inspired by Sept. 11.

MARKING TERROR'S CHANGES

"In Iraq, a problem has been created that didn't exist there before. The events in Iraq have had a profound impact on the entirety of the jihad movement." Judge Jean-Louis Brugulere, French anti-terrorism investigator.

"Any assessment that the global terror movement has been rolled back or that even one component, Al Qaeda, is on the run is optimistic and most certainly incorrect. Bin Laden's doctrines are now playing themselves out all over the world. Destroying Al Qaeda will not resolve the problem." M.J. Gohel, head of the Asia-Pacific Foundation, a London think tank.

"Once these guys have gone to Iraq to train, they know how to use weapons and explosives. That's the first level: Iraq as a new Afghanistan, a Chechnya." Pierre de Bousquet de Florian, director of France's intelligence agency.

"Al Qaeda is increasingly being invoked as an ideological motivation of Islamic radicals." Gijs de Vries, counter-terrorism coordinator for the European Union.

"By now we have no evidence, not even credible intelligence, that the Madrid group was steered, financed, organized from the outside. So that might be the biggest success of Bin Laden." A senior European counter-terrorism official.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that the remainder of morning business time on both sides be yielded back.

The PRESIDING OFFICER. Without objection, it is so ordered. Morning business is closed.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consideration of S. 2845, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, today the Senate begins an important debate on the National Intelligence Reform Act. This legislation, which I have introduced with my good friend and colleague, Senator JOE LIEBERMAN, represents the most sweeping reform of our intelligence structures in more than 50 years. It reorganizes an intelligence community designed for the Cold War into one designed for the war against global terrorism and future national security threats. It recognizes that the fundamental obligation of government is to protect its citizens and that those protections must evolve along with the threats. It reorders the priorities of an intelligence structure that was devised for a different time and a different enemy.

On July 22, the 9/11 Commission released its final report on terrorist attacks against the United States. On that same day, our leaders, Senator FRIST and Senator DASCHLE, assigned the Governmental Affairs Committee the task of developing legislation addressing the Commission's recommendations to restructure the intelligence agencies within the executive branch. Our committee performed that task with dedication and diligence, and with the active participation of its talented members. From late July until mid-September, we held eight indepth hearings to assess the recommendations of the 9/11 Commission. We heard testimony from more than two dozen witnesses, including Secretary of State Powell, Secretary of Homeland Security Ridge, FBI Director Mueller, CIA Director McLaughlin, the 9/11 Commission Cochairmen, Kean and Hamilton, Commissioners Fielding and Gorelick, intelligence experts, field operatives, professors, and representatives of the 9/11 families. As a result of this unprecedented effort and wide-ranging input, the committee has produced the legislation now before the Senate. It is legislation that is comprehensive, bipartisan—indeed, unanimous—and historic.

This legislation is not, however, merely the product of 2 months' work by our committee. It is based upon the work of the 9/11 Commission and the inquiry that spanned 20 months, with 19 days of hearings and 160 witnesses, the review of 2.5 million documents, and interviews of more than 1,200 individuals in 10 countries. The new intelligence structure we propose in our legislation is built upon a rock-solid foundation of inquiry and information.

In crafting a structure designed for today and for the future, the committee built on the strengths of our current system, recognized the progress that has been made since 9/11, and charted a new course to strengthen our intelligence community. We understood that the 15 agencies that comprise the intelligence community provide a wide range of unique experience, expertise, and viewpoints that must be preserved. We realize that the barriers to information sharing, cooperation, and coordination—what the 9/11 Commission referred to as "stovepipes"—must be demolished.

We set as our goal an intelligence structure with the agility that the times and the threats demand, not simply another layer of bureaucracy. We were determined that this new structure not infringe upon the freedoms that Americans cherish.

This legislation uses the Commission's recommendations as our guide and these principles as our compass. It begins with the creation of the position of national intelligence director. The NID will be the head of our intelligence community and the principal adviser to the President of the United States. As the head of the new National Intelligence Authority, this Presidentially appointed, Senate-confirmed official will truly be in charge of our intelligence community. No longer will there be confusion and doubt about who is in charge and accountable. The answer will clearly be the national intelligence director.

The director will have broad authority to unify and strengthen our intelligence community's efforts and to eliminate barriers that impede the coordination of intelligence activities. He or she will set standards for information sharing and classification across the intelligence community and develop an integrated, coordinated communications network. His responsibility will be to turn the stovepipes that separate our intelligence community into conduits that promote cooperation. Along with this responsibility will come strong authority to direct budgetary and personnel resources where they are needed most.

To illustrate why these authorities are crucial, consider this passage from the 9/11 Commission Report.

In late 1998, it had become increasingly apparent that Osama bin Laden and al-Qaida posed a direct, immediate, and deadly threat to the United States. On December 4 of that year, Director of Central Intelligence George Tenet issued this memorandum. I quote from it:

> We are at war. I want no resources or people spared in this effort, either inside CIA or the Community.

You may ask, What is the result of this clear, concise and direct order from the head of our intelligence community.

According to the Commission:

> The memorandum had little overall effect on mobilizing the CIA or the intelligence community.

Why did it have so little impact? The expert witnesses before our committee and before the Commission provided the answer. Under the current structure, the DCI is responsible for managing the intelligence community but does not have the real authority to do so. No organization can succeed with such a disconnect between responsibility and authority.

At our committee hearing on September 13, I asked Secretaries Powell and Ridge what I consider to be the bottom-line question in this debate. I asked them both: Do you believe that a strong national intelligence director with enhanced power to set collection priorities, to task the collection of intelligence, will improve the quality of intelligence that you both need in your capacity as policymakers?

Each answered with an enthusiastic and unambiguous "yes." As Secretary Powell put it, our intelligence team needs, and I quote the Secretary, "a stronger, empowered quarterback." The Collins-Lieberman bill would provide that quarterback.

Perhaps the most important power that we provide to the national intelligence director is the power of the purse. In order to foster cooperation throughout the intelligence community, the NID will have control over the budget for national intelligence. Currently, that funding is largely funneled through the Department of Defense, and the director of the CIA has only very limited authority over the overall resources of the intelligence community.

Under the Collins-Lieberman bill, the NID, in consultation with the agency and department heads, will develop and recommend an intelligence budget to the President. After congressional action, it will be the NID who receives the appropriations for what will be known as the national intelligence program. The NID will also have significant authority to reprogram and transfer funds so that he can marshal the resources needed to counter a threat.

Never again should we have the kind of situation we saw with the directives issued by George Tenet in December of 1998, calling on the marshaling of resources and yet nothing happens.

After careful consideration, the committee decided to declassify only the aggregate figure for the national intelligence program. The Collins-Lieberman bill does not require the declassification of the budget totals for the various agencies that make up the NIP. Our witnesses generally urged great caution in going that far; instead, we require the directors to report to Congress on whether further declassification of budget totals is appropriate.

The NID will allocate the budget to the various intelligence agencies in accordance with the appropriations determined by the Congress. That includes agencies such as the National Security Agency, the National Geospatial Intelligence Agency, the National Reconnaissance Office, and parts of the Defense Intelligence Agency which serve national intelligence consumers but are located within the Department of Defense. In recognition of the dual roles played by these important agencies, which provide critical intelligence not only to the Department of Defense but also to the CIA and other national customers, our bill keeps these agencies within the department but strengthens the NID's authority over them.

It is important to emphasize that nothing in the national intelligence agency's authority will in any way hinder military operations or readiness. Tactical and joint military intelligence programs will remain under the control of the Pentagon and outside the national intelligence program as they are today. The Collins-Lieberman bill will not affect the tactical intelligence assets of the Army, Air Force, Navy, or Marines. This bill will not impede the flow of real-time actionable intelligence that our war fighters require. In fact, by strengthening and improving the collection and analysis of intelligence, our legislation should improve the quality of intelligence provided to Pentagon officials and the combatant commanders.

The members of the intelligence community collect a vast amount of information, but the Commission found that we have a weak system for processing and transmitting this information where it is needed. As the 9/11 report reveals, this weakness has been evident during many terrorist attacks over many years. It took an attack that claimed the lives of 3,000 people for this weakness to be fully exposed, and now it cannot be ignored.

Our legislation contains strong provisions that make information sharing the rule, not the exception, and requires integrated communications networks to be developed, a serious deficiency in our current system which

Senator DURBIN highlighted in our hearings. We simply can no longer tolerate a system where the pieces of the puzzle are not assembled, where the CIA and the FBI each have vital, urgent, and compelling information, but no one puts the picture together.

The second major Commission recommendation included in our bill is the establishment of a national counterterrorism center. It would expand the communitywide intelligence analysis capabilities of the Terrorist Threat Integration Center established by the President last year.

A major benefit of this new center is that much of its staff will be drawn from the various intelligence agencies now scattered across the Federal Government. These intelligence experts will work side by side sharing and analyzing information, gaining an understanding of each other's mission, and creating a culture of cooperation. A significant responsibility of the NCTC will be joint planning. The center will have the authority to develop plans that include a mission, objectives to be achieved, courses of action, and recommendations from operational plans. Moreover, the center will assign responsibilities for counterterrorism operations to the agencies as set forth in these plans.

As an example of how this might work, the NCTC would have the authority to create an interagency plan to dismantle a particular al-Qaida cell. The center would assign specific tasks to the appropriate agencies. But I want to be clear that the NCTC would not have the authority to tell any agency how it must execute that task, nor will it be in the military chain of command. Should an agency object to the NCTC assignment, the national intelligence director could either accede to the objection or appeal to the President to resolve the conflict.

These provisions are important. They will ensure an integrated approach to operational planning. We are not telling the various agencies precisely how to carry out the plan, how to execute it, but we will make sure that someone is looking at plans that span agencies, and in doing the planning when it affects more than one agency, when it is joint.

The legislation also includes provisions recommended by the Commission and authored by Senator VOINOVICH that streamline and standardize the system for security clearances, a system that we have heard, over and over again, is inconsistent, slow, and backlogged. An important provision requires the President to designate a single agency to handle security clearances for Government employees and contractors.

The final chapter of the 9/11 report, the chapter that outlines the recommendations we seek to implement, begins with this statement:

> Some of the saddest aspects of the 9/11 story are the outstanding efforts of so many individual officials straining, often without success, against the boundaries of the possible. Good people can overcome bad structures. They should not have to.

This summarizes one of the major reasons we need reform. We have a system now that does not allow us to respond with agility to the threats we face today.

As this next chart shows, in our legislation we are not adding a layer of bureaucracy, nor are we breaking up individual agencies, nor are we creating a new department of intelligence. We are, instead, creating a new structure for cooperation, accountability, and results. Our legislation gives the good people in our intelligence community the structure they deserve. It also takes steps recommended by Senator JAY ROCKEFELLER, the vice chairman of the Intelligence Committee, to ensure that we will always have good people. It creates a scholarship program to encourage bright young Americans to join the intelligence community and it will enable veteran intelligence officers to enhance their skills. Intelligence reform requires this investment in human capital. We also create a reserve corps of retired intelligence officers who can be called upon when their special skills and judgment are needed.

Our bill also creates a civil liberties board as recommended by the Commission and strengthened by amendments offered by Senator DURBIN. Nominated by the President and confirmed by the Senate, the members of this board will advise agencies of the civil liberties ramifications of policies before they are adopted and then will conduct oversight.

In addition, our legislation will create both a civil liberties and privacy officer as part of the new national intelligence authority.

The fundamental obligation of any government is to protect its citizens. The American Government has an additional obligation to protect the freedom of its citizens. Our legislation does not ask the American people to choose between security and liberty. We firmly believe that no such choice is necessary. Our structure reflects that belief.

To help ensure a smooth transition from the current structure to the new, the bill provides a 6-month phase-in period that gives the President considerable discretion in implementing these reforms. We will not let our guard down during any point in this process.

We also recognize that reforms of this magnitude require continued and careful congressional oversight and review. The bill includes a provision recommended by former Senator Warren Rudman that requires a report to Congress on implementation of these reforms after 1 year. As a result of an amendment offered by Senator PRYOR, it also includes a useful requirement for a government accountability study and report to Congress.

As I have indicated, this legislation is the product of a concerted effort by the Governmental Affairs Committee. It reflects the recommendations of other committees and it builds upon the work of the 9/11 Commission. But it is important to know that the 9/11 Commission did not start from scratch, either. Its work takes into account nearly a half century of studies on intelligence reform dating back to the Eisenhower administration.

The titles of the studies and commissions reads like a "Who's Who" of 20th century military, intelligence, and diplomatic expertise: Hoover, Doolittle, Schlesinger, Rockefeller, Scowcroft, to name just a few. These studies were conducted under a variety of conditions and threats but a central theme emerges: America's intelligence system is hindered by a fragmented structure and compartmentalized thinking.

Our past failure to act on these many studies, which spans decades, which is repeated over and over again, is why we are here today. For example, the Boren-McCurdy legislation of 1992 realized the emerging threat of the post-Cold War era, terrorism, and weapons proliferation. Using the successful restructurings of the military since World War II as models, the National Security Act of 1947 and the Goldwater-Nichols Act of 1986, this legislation called for the creation—yes, you guessed it, Mr. President—the creation of a national director of intelligence with strong authority similar to what we propose today.

The Boren-McCurdy Act was not adopted. At the same time that those reforms were being set aside for another day, one component of our intelligence community had identified Osama bin Laden as the mastermind behind a foiled plot to bomb American troops. Another noted bin Laden's close ties to a known terrorist who was later revealed as the architect of the 1993 World Trade Center bombing. Yet another considered bin Laden to be nothing more than an extremist financier. Information that could have led to effective action against bin Laden a decade ago was there, but it was not shared or acted on. In 1996, the Aspin-Brown Commission reached the same post-Cold War conclusion and made very similar reform recommendations. The result; yet another failure by Congress to take action.

Meanwhile, our intelligence community was starting to agree that bin Laden had started something called al-Qaida and that it was some kind of terrorist army. As the 9/11 Commission notes, however, every relevant member of the intelligence community had a different plan for dealing with bin Laden and al-Qaida, from cruise missiles to diplomacy with the Taliban. While these conflicting plans were butting heads, two American Embassies in Africa were bombed, the attack on the USS *Cole* was approved, and what became known as the Planes Operation was taking shape.

The need for reform was made clear by the 9/11 Commission's exhaustive study on the intelligence failures that preceded the murder of 3,000 innocent people on September 11, 2001. In late July of this year, as the Governmental Affairs Committee's work began, Washington, New York City, and northern New Jersey were placed under elevated terrorist alert, an alert that is still very much evident at the intersections of this city today. Our committee work neared its conclusion as terrorists murdered once again, this time at a schoolhouse in Russia.

These terrible events, combined with the slaughter we have seen in Bali, Istanbul, Madrid, Jerusalem, Jakarta, and so many other places, leaves no doubt that the enemy we face has both a global reach and an unlimited capacity for cruelty. Our response must be far reaching, and it must unleash America's capacity to meet any challenge. This legislation is an essential part of that response.

The calls for reform go back 50 years. For nearly 2 years, the 9/11 Commission conducted an investigation of unprecedented depth. Our committee produced comprehensive legislation with unanimous support.

Hardly a day passes in which we do not see new evidence of terrorism's depravity. Yet there are still some who say: We should wait. We need more information. Under the current threat of terrorist attack, the time is not right. The charged atmosphere of the election season is not the right environment for such important decisions.

I ask, What more information do we need? Look at the list of witnesses who appeared before the 9/11 Commission and our committee. What point of view has not been heard? What area of expertise was not explored? What more compelling evidence do we need before we act?

I ask, If the time is not right now, when will the right time come? When will there be no threats? I ask What could be more cynical than our failure to act on something of such critical importance to the citizens of our country?

At our very first Commission hearing on July 30, Commission Chairman Thomas Kean spoke on the need to move forward with these reforms. This is what he said—and I hope we will heed his words—

> These people are planning to attack us again and trying to attack us sooner, rather than later. Every delay we have in changing structures or changing people . . . to make that less likely is a delay the American people can't tolerate.

Yes, we can wait. We can wait until the day when we know everything we possibly can know, when there are no more threats, when the American people do not expect their leaders to lead. We can wait until the day another attack leaves us all wondering once again why we did not see it coming.

That first day will never come. If we do not act, the second surely will.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I have a unanimous consent request which I am really happy to make. I am sure Senator COLLINS, if she does not know yet, will be happy to hear this. I ask unanimous consent to add Senators FEINSTEIN and MIKULSKI as cosponsors of our legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I am truly proud to join with Chairman COLLINS in presenting to the Senate this historic bipartisan legislation, the National Intelligence Reform Act of 2004.

Senator COLLINS deserves enormous credit for shepherding this bill through the Governmental Affairs Committee and for involving so many interested parties to produce transformational reform, which, when implemented, will make all Americans safer than we are today. It has been truly a personal pleasure to work with her and other members of our committee to produce the legislation we have brought before the Senate this afternoon.

On the day after the September 11 Commission report was issued and the bipartisan leadership of this Senate, Senator FRIST and Senator DASCHLE, gave the Governmental Affairs Committee jurisdiction to take up and discuss and report back to the full Senate on the executive branch recommendations for intelligence reform, Senator COLLINS and I spoke and we agreed from the beginning that this was the moment to forget party labels and focus on the national security interests.

After all, not only were we attacked 3 years ago, we are under imminent threat of another terrorist attack. Al-Qaida and the other terrorist groups have made absolutely clear they intend to strike us again. The news reports today feature warnings from our Government to various levels of Government throughout the country to be prepared and on guard for the potential of terrorist attempts to disrupt our election process, right up to and through election day.

So Senator COLLINS and I understood from the beginning that we had to work together to do what was best for the country as we saw it. There would be differences of opinion, but we would do everything we could to make sure they were not partisan. That is exactly the tenor of the markup our committee conducted for 2 days last week. It was one of the best 2 days of my 16 years as a Senator. When it was over, we had more than 40 amendments filed with the committee. Not a single amendment was decided on a partisan vote. One particular Democratic colleague said to me: For 2 days it was actually like we were legislating, the reason we came here in the first place.

That is absolutely right. We produced a solid, bold bill to transform our intelligence community to meet the challenges of an age of terrorism. We present it to the Senate with a confidence that the momentum that has been created by the 9/11 Commission, by the families of victims of September 11 appealing to us for action, by our own committee's nonpartisan work, will carry through the Senate, the House, the conference committee, and we will get this critical job done and in law as soon as possible, certainly this year, hopefully before the election.

I call this transformational reform because transformational reform is exactly what is necessary to face the enemy of today.

Terrorists working across national boundaries are brutal. They are inhumane. They strike, most of all, undefended targets, and they adapt to meet new circumstances. They are not going to be defeated solely, or perhaps even largely, in the end by military power or with the help of an intelligence system and community that were organized to fight the Cold War and helped win the Cold War. We need to restructure our intelligence capabilities to meet the challenges of 21st century warfare, and that means the war on terrorism.

That is what the legislation Senator COLLINS and I are presenting today will do. We owe a great debt to the seminal work of the 9/11 Commission and to their staff whose recommendations we relied on in drafting this bill. The Commission spent a year and a half studying the weaknesses in our national defenses that left us vulnerable on September 11, 2001. They interviewed more than 1,200 witnesses, reviewed literally millions of documents, held 12 public hearings, and produced a compelling narrative, chilling in its details and implications.

Under the strong leadership of Governor Kean and Congressman Hamilton, this bipartisan Commission made 41 recommendations to strengthen our country against terrorists. The two that they have called the most urgent—that is, the most time sensitive to act on—a strong national intelligence director, and a national counterterrorism center, form the centerpiece of the legislation we put before the Senate today.

We owe a deep debt of gratitude as well to the courageous families of those who died on September 11. We are here today because they turned their personal grief into an inestimable force for change, playing a vital role in getting the 9/11 Commission established in the first place, working relentlessly to help the Commission through the rough patches it faced, and embracing and championing its final recommendations. They are a mighty moral force. I continue to be awed and inspired by them in this debate. I will not forget their loss and their commitment to make sure that we reform our Government so that no other Americans face similar losses from 9/11 type attacks.

When the Commission released its report on July 22, very few would have predicted that legislation would be on the Senate floor today and the Senate would be poised to debate the most far-reaching reforms of our Nation's intelligence community in half a century. In fact, many predicted it would never happen. Most people thought it certainly wouldn't happen this year. Maybe next year. But the 9/11 Commission confirmed what we knew—the work of protecting our Nation from terrorist attacks cannot wait and must not be delayed. Business as usual on these matters is not an acceptable option.

During August and early September, in fact beginning at the end of July, the Senate Governmental Affairs Committee held, as Senator COLLINS said, eight hearings on the Commission's recommendations and drafted a bill on their work. Last week we held a 2-day markup, considered more than 40 amendments, and voted the measure out of committee unanimously, with amendments adopted, good give and take, thoughtful discussion, negotiation on wording that in the end strengthened the authority and the position of national intelligence director.

Following the example of the 9/11 Commission, our committee members did work, not as partisans, though we are in the midst of an election campaign; we worked as Americans, concerned about the security of our fellow Americans and the responsibility we have to protect them. That is a much more compelling interest than any partisan political interest that any one of us may have.

Although we have acted with speed, we have also acted with deliberation. Our legislation is based not only on the comprehensive work of the 9/11 Commission I have described but on the earlier work of the joint House and Senate Intelligence Committees in their inquiry into matters of intelligence, on the expertise of scores of experts who have been thinking about this subject for decades, and on critical reports, as Senator COLLINS indicated, that date back not 10 or 20 years but 50 years, making similar recommendations to the ones we have made. It is a tragedy that it took 9/11 to shake us out of our bureaucratic lethargy to be on the edge of doing what should have been done 50 years ago.

The fact is, we are not moving too fast. Three years have passed since the devastation of the attacks of September 11. The 9/11 Commission has stated—and I think this says it all—"We are safer. But we are not safe." That is why we are moving so swiftly in this proposal to modernize the management of our intelligence agencies, to make sure we get the maximum in national security for the billions of dollars we are investing. Our enemies continue to plot against us, and intelligence is the first line of defense against these plots.

As the Commission report noted:

> Not only does good intelligence win wars, but the best intelligence enables us to prevent them from happening altogether.

These are not ordinary times. Our citizens are still at risk. Our military is on a wartime footing and in action, deployed abroad. So, too, we must be on wartime footing and deployed here at home.

September 11, 2001, reminds us that we can no longer afford to put off reform. In its extensive report, the 9/11 Commission literally indicted the status quo in America's intelligence community and insisted on change. The report said:

> As presently configured, the national security institutions of the United States Government are still the institutions constructed to win the Cold War.

The Cold War is over. We are now engaged in a wholly different conflict: a long-term war on terror. That is why the old systems of intelligence, the old structures must give way to new and more effective ones that meet our current threat.

A big part of the problem with the old structure, the Commission found, is that it has no leader. Lee Hamilton, vice chair of the Commission, said:

> A critical theme that emerged throughout our inquiry was the difficulty of answering the question: Who is in charge? Who ensures that agencies pool resources, avoid duplication, and plan jointly? Who oversees the massive integration and unity of effort to keep America safe? Too often, the answer is no one.

Our intelligence community is like an army without a commanding officer, a football team without a quarterback. It doesn't work; it is not acceptable, not with the challenges we face.

No one below the level of the President is charged today with the responsibility of overseeing a diffusion of organizations spread across 15 agencies in our intelligence community. No one today has the authority to knit together the efforts of these disparate elements; therefore, no one is accountable for mistakes.

Senator COLLINS showed a chart which portrays the changes our reform proposes. For comparison, here is our best effort to show the current system. You see the President, but then you see stovepipes—CIA, Defense, Homeland Security, State, et cetera—without a leader. We can't expect the President, with all the demands on the highest office in our Nation, to be on a daily basis coordinating this community which spends billions and billions of dollars every year—so stovepipes but not coordination.

That leads to some of the shortcomings that Senator COLLINS so ably and eloquently dramatized.

In fact, the Commission's report describes over and over again the consequences of the absence of a leader of our intelligence community today.

Senator COLLINS referred to George Tenet's call to war against terrorism, a directive sent to all of the agencies of the intelligence community on December 4, 1998. What was done in response to that call to war? Nothing. Why? Because most of the members of the intelligence community didn't think they had to do anything. The Commission concluded that Tenet's declaration "had little overall effect on mobilizing the CIA or the intelligence community" because he didn't have the power. He was not in control. The fallout, as we all know, was a frustrating series of missed opportunities and an agonizing failure to piece together good information that different agencies had gathered—the failure to connect the dots.

We have a lot of able people and extraordinary capacities in our intelligence community. Nobody in the world can do all that we can do in intelligence. But if you don't bring it together in one place, if you don't have coordination and leadership, literally one arm doesn't know what the other is doing, and the national security suffers and the terrorists gain.

At its core, the configuration of the intelligence community today prevents us from drawing upon the experienced people, the ample resources, and the extraordinary information that are available within the community. Some of the problem is this lack of leadership I have talked about. Some of it is the top-to-bottom bureaucratic organization that the stovepipes on the chart show. Too often, each of the 15 intelligence agencies reside in their own universe, walled off from alternative points of view, failing to share information, and adjusting too slowly to new and emerging threats. As the commissioner put it on page 353 of the 9/11 report:

> Information was not shared, sometimes inadvertently or because of legal misunderstandings. Analysis was not pooled. Effective operations were not launched. Often, the handoffs of information were lost across the divide separating the foreign and domestic agencies of the government.

I depart from the quote. Even though the terrorists don't make that foreign and domestic divide, they are coordinating their activities; they are at war against us without regard to bureaucratic or foreign and domestic divides.

The Commission said that:

> The Agencies [of the intelligence community] are like a set of specialists in a hospital, each ordering tests, looking for symptoms, and prescribing medications. What is missing is the attending physician who makes sure they work as a team.

Today, the head of the intelligence community—whom we call the DCI, Director of Central Intelligence—only has effective control over the funds of one agency within the entire community, and that is the CIA. That means that roughly 80 percent of the national intelligence budget is not even controlled by the Director of Central Intelligence. We may have won the Cold War with that structure, but as has been made painfully clear, it is not enough for the war on terror, if we are to learn many lessons the hardest way possible. And agencies are doing a better job now sharing information and better coordinating their activity, but the system is still not organized—certainly not as well as it should be to get maximum security from the billions of dollars American taxpayers invest every year in the intelligence community.

Listen to this story. Philip Zelikow, the executive director of the 9/11 Commission, spelled out the problem before our committee. He told of traveling to Pakistan and Afghanistan to visit representatives of various U.S. agencies working in the border areas there to determine, he said, how they were working together, how they were integrating their hunt for Osama bin Laden. Surely, it is one of our most critical national goals since September 11 to find bin Laden. So Zelikow asked his host:

> Well, where is the joint strategic plan for the hunt for bin Laden? Where is the person who is in charge every day of the integrated strategic plan, [who] updates that plan every day of how we're hunting bin Laden?

What Zelikow found was that 3 years after September 11, "there is no such joint plan. There isn't a joint integrated planner for that hunt."

I imagine that will shock and unsettle the American people as much as it did the members of the Commission and the members of our committee. That is why we want to put this national intelligence director and national counterterrorism center in charge.

The legislation we are presenting today deals with these deficiencies by adopting two of the three critical Commission recommendations. Under our proposal, the national intelligence director would be the President's primary intelligence adviser but also the leader of the national intelligence community, with strong budget, personnel, and tasking authorities to break down the stovepipes and knit the agencies together into a powerful, agile, effective network. Tom Kean and Lee Hamilton told our committee they recommended a national intelligence director:

> Not because we want to create some new "czar" or a new layer of bureaucracy to sit atop the existing bureaucracy. We come to this recommendation because we see it as the only way to effect what we believe is necessary: a complete transformation of the way the intelligence community does its work.

The national intelligence director will have strong authority to reprogram and transfer money and people, so that he or she may react quickly to changing threats, and direct intelligence resources when and where they are most needed.

We heard from many witnesses before our committee about how critical it was to give the new national intelligence director budget authority if we wanted that director to forge the unity of effort we are looking for. The Director of Central Intelligence currently has authority to reprogram funds but not real budget authority, and even the reprogramming authority is not exercised frequently because the process takes from 3 to 5 months to complete. Imagine that. The threat of terrorism is daily, and it requires agility, quick action, and reprogramming funds to fight it, but reprogramming can take 3 to 5 months.

We heard from the former Director of the CIA, Jim Woolsey. He described what he called the Washington version of the Golden Rule: Whoever has the gold makes the rules. That is why we want to give the new national intelligence director real budget authority. Let me quote Woolsey:

> If budget execution authority is given to the national intelligence director, he will or she will have a much better ability to say to the Secretary of State or Secretary of Defense, "Look, I sympathize, I understand. I know this fluent Arabic language linguist is a very rare asset. But you didn't hear me. I really need her or him."

Unlike the current DCI, the new director would not run the CIA, while simultaneously trying to manage the entire intelligence community. We are going to separate them. The 9/11 Commission told us you cannot be both the President's principal intelligence adviser, the head of the intelligence community, and also run the CIA every day. So we have separated those two functions.

Our proposal thus puts the director in charge of the national intelligence program, which will encompass all programs and intelligence activities concerned with "national" intelligence—the interests of the entire nation rather than just one department.

Remember that our intelligence community ultimately serves the President as Commander in Chief, but the President is the head of our Government overall, representing the public interest. I know there are concerns about how these changes might affect the American military, so let me be very clear about this. Intelligence for use by the military services must continue to be a top priority of the national intelligence director and of our intelligence community. Support of our warfighters will always be a primary concern of our intelligence community, but it is not the only concern. Under this organization, the warfighter will benefit because as the national intelligence director takes charge, our overall intelligence will become more effective, including for the warfighter.

As Senator COLLINS made clear, the Department of Defense will retain control totally over the tactical military intelligence budgets.

Finally, the national intelligence director will have the assistance of a newly created Cabinet-level joint intelligence community council—Secretary Powell, when he appeared before us, compared this to the Joint Chiefs of Staff in the military—headed by the intelligence director as well as the Secretaries of State, Treasury, Defense, Energy, and Homeland Security, as well as the Attorney General. This council will advise the Director of Intelligence and ensure that the timely execution of the Director's priorities within each member's respective Department occurs. That reform, we believe, will bring direction and focus to the intelligence community's work.

The national counterterrorism center, the second urgent major recommendation made by the 9/11 Commission, is designed to overcome the failure to share information, to break through the stovepipes, to coordinate activities to make sure, to the best of our ability, that never again does 1 agency of our Government see 2 terrorist suspects coming into our country and not tell the border security agencies and those 2 end up as 2 of the 19 who attacked us on September 11.

Our legislation establishes the center with two key functions: First, to build on the Terrorist Threat Integration Center now housed at the CIA and ensure that intelligence from all sources in our Government is integrated and analyzed. In other words, this is the place where we can be sure the dots will be connected. Second, it will develop interagency counterterrorism plans and assign agencies responsibilities and monitor and report on implementation of the plans.

The obvious point here is if we are going to have everybody at the same table sharing the intelligence they collected, the analysis they make of it, it makes every bit of common sense to authorize them to plan together what to do about it.

This counterterrorism center—and I note the occupant of the chair is a member of the Armed Services Committee—would be comparable to the combatant commands, the joint commands that were created pursuant to the Goldwater-Nichols Act of the mid-eighties. These operations that would be planned could be on the larger strategic level, such as how do we win the war on terrorism, how do we win the hearts and minds of people in the Muslim world, and, of course, they also should be on the more tactical level: What can we do together to more quickly capture or kill bin Laden? What can we do together about this terrorist cell we see in some American city?

Here is what the Commission chairman and vice chair said about this:

> Today, we face a transnational threat. That threat respects no boundaries and makes no distinction between foreign and domestic. The enemy is resourceful, flexible and disciplined. We need a system of management that is as flexible and resourceful as is the enemy. We need a system that can bring all the resources of Government to bear on the problem—and that can change and respond as the threat changes. We need a model of Government that meets the needs of the 21st century. We believe that the National Counterterrorist Center will meet that test.

So, too, of course, Senator COLLINS and I and the members of our committee, whose bill we put before you today, would establish such a center.

This is a critical reform. It will triumph over the bureaucratic inaction and failure to share information described by the Commission throughout its report. Let me just give this example from the report.

In late 1999, the National Security Agency, which overseas the collection of signal intelligence, analyzed communications to and from and about some people they were watching who turned out to be future terrorist hijackers of September 11. NSA correctly concluded that someone named "Nawaf" and his accomplice named "Khalid" were part of "an operational cadre," and that "something nefarious might be afoot." But the NSA, and that particular analyst and others, did not think its job was to pursue further the identities of these men because it saw itself as a support agency that should energetically respond to requests for information, listen to conversations, et cetera, but not initiate investigations. It turns out there was additional valuable information right in the NSA computers regarding these two terrorists which, had it been checked, might well have thwarted the 9/11 plot.

The Commission tells us how the CIA tracked Nawaf and Khalid to Kuala Lumpur and then lost them when they traveled to Bangkok. The evidence is that one of the men's passports indicated that a possible destination and interdiction point was the United States. Yet no one alerted the Immigration and Naturalization Service or the FBI, and so these 2 arrived in Los Angeles unhindered on January 15, 2000, and became 2 of the 19 September 11 terrorist attackers.

The Commission report notes the response of different officials to this information. There was confusion about who was supposed to do what. The head of the CIA's Counterterrorism Center at the time did not recall why the case fell through the cracks or off the radar. The Director of the al-Qaida unit in CIA did not think it was his job to determine what actions should or should not be taken in a case such as this.

Under our proposal, the national counterterrorism center will put in place interagency orders to make sure rules and responsibilities for counterterrorism missions are clear. It will monitor the implementation of those plans to make sure information so critical does not fall through the cracks of bureaucratic stovepipes again and that no one drops the ball again and that the American people are never left unprotected again.

As the Commission recommended, the national intelligence director will also have authority to create new national intelligence centers beyond the Counterterrorism Center to integrate capabilities across the intelligence community to focus on other threats, such as weapons of mass destruction, or geographic areas, such as North Korea. You can imagine a national intelligence center on North Korea or Iran or, more specifically, on what we are so worried about today: the development of a potential nuclear weapons capability in Iran. This would bring everyone in our Government who knows anything about such a capability together to share information and analysis, and develop plans.

Senator COLLINS talked about the information-sharing parts of our report, and I will not go over that any further except to say that I am proud of what we have done here. We built on some excellent work done by the Markle Foundation which, quite rightly, suggested the old need-to-know standard in intelligence ought to be broken to allow more sharing at every level of our Government to maximize protection of the public.

I do want to say that Senator DURBIN has for years championed the idea that we need a concerted effort to make sure that information is shared throughout our Government in a systematic way, using the best of modern information technology to gather, pool, and understand information—a Manhattan Project, as Senator DURBIN likes to call it, for information sharing. His ideas are reflected in substantial parts of this report, and I thank him for it.

We have a very important section on civil liberties. Again, Senator COLLINS referred to this, and I will just say briefly that throughout our history, America has always balanced the joint concerns and commitments to security, without which there is no liberty, and liberty. We seek security for a purpose, which is to protect our liberties so as not to compromise the liberties that define us as Americans.

As the 9/11 Commission said, we are at a stage in our history, after having been attacked as we never were before on September 11, where the Government will have to play a more active role in American life. We want to make sure as that happens that the liberties of the American people are not compromised.

There is a broad section on independence—which in some senses goes beyond what the 9/11 Commission was specifically responding to, and responds to other concerns that people in both parties and both Chambers have had—to make sure that the intelligence product the President gets and that we in Congress get is independent and objective.

Senator ROCKEFELLER brought to this matter his extraordinary expertise as ranking member of the Intelligence Committee. He deserves special thanks from our committee for the many contributions he made to the bill that we put before the Senate. I mention him because he had uniquely the idea of creating an ombudsman within the National Intelligence Authority who will serve as an independent counselor for complaints, but more than that, an independent reviewer of analytical products throughout the intelligence community to ensure that the intelligence advice the President and Members of Congress get is free of bias of any kind, political or otherwise.

In private industry, there is not a business I know that can afford it, that does not have some kind of quality control system. In some sense we do not have a quality control system for the $40 billion-plus we spend on intelligence, and this office of ombudsman will be the quality control office for American intelligence.

Senator ROCKEFELLER is also the author of the national intelligence reserve corps idea. It is a great idea, allowing in these demanding times for temporary reemployment of retired intelligence community employees with specialized skills to help us meet emergency mission requirements.

Senator LEVIN helped improve Congress's access to intelligence, and to require that the information is free from bias, with substantial input to this bill as a member of our committee.

Senator PRYOR, too, added significantly to the bill. Because of his efforts, we will have reports from the Government Accountability Office, the GAO, providing us with an assessment as to how this legislation is actually being implemented, enabling Congress to be more effective in our oversight. I hope it will give some sense of assurance to those who wonder how this will all work that we have built in lookbacks to make sure that if it is not working in all of its particulars as we want it to, we will know that and we will act on it.

The 9/11 Commission report tells us:

> Our biggest weapon of defense is our intelligence system. If that doesn't work, our

chances of being attacked are so much greater. So our major recommendation is to fix that intelligence system and do it as fast as possible. Chairman Tom Kean said:

> Not only does good intelligence win wars, but the best intelligence enables us to prevent them from happening altogether.

Intelligence has always been critical to warfare. In many ways, it is even more critical to the war on terrorism because we face an enemy unlike any we faced before, whose basic mode of operating is to strike undefended targets, to strike not at the military but to strike at undefended, innocent civilians. Intelligence is critical so we can see and hear what our terrorist enemies are planning so we can stop them before they strike at us again.

Senator COLLINS and I have taken the words of the Commission to heart and are offering this historic and transformational reform in direct response to those words. We have hewn very close to the Commission's intelligence reform recommendations and are proud and grateful to have the explicit support of the chairman, vice chairman, and the members of this extraordinary bipartisan Commission.

Yes, we are moving quickly but we are moving quickly for a reason. As I have said, our terrorist enemies are not mired in bureaucratic tradition. They are flexible. They are agile, brutal, and inhumane. We must be, in all of our humanity, with all of our values, as powerful, agile, and quick to change as they are. If we hesitate, we will truly pay the consequences again.

The Deputy Director of the CIA's counterterrorism center, Philip Mudd, summed it up when he told our committee:

> We need clear, clean, short lines of command and control. Opportunities to roll up a terrorist or prevent an attack demand immediate action. This is a war of speed.

Those are important words to remember.

I expect some of the most significant amendments that will be presented on the floor will be those that I am afraid will blur the clear, clean, short lines of command and control.

Preserving the strength of the national intelligence director is one of the critical aims that Senator COLLINS and I have as we go forward with this debate.

FBI Director Robert Mueller said:

> Don't create a national intelligence director with no real authority, because you will have the worst of all worlds then.

Interestingly, that was echoed by the now former Acting Director of the CIA, John McLaughlin, when he said, and I paraphrase with apologies, the only thing worse than doing nothing is to create a national intelligence director without real authority. Then it is just another layer of bureaucracy.

We have to establish that 21st century management system we have talked about.

So in a Congress that unfortunately over the years has grown increasingly partisan, in the middle of an election season which is inherently political and partisan, Senator COLLINS, the members of our committee, and I, on a bipartisan basis, putting aside our partisan labels to work exclusively for the national security interests, present this proposal to the Senate. Every member of the Governmental Affairs Committee worked hard, with some disagreements, and ultimately supported the proposal.

There is now a significant political consensus for change. Momentum is building and I am confident our colleagues in the Senate will rise to the challenge and take strong action in the national interest. We are, after all, a nation at war, a war like none we have ever fought. We must maximize and transform our ability to defend our Nation to meet this new threat. We cannot do that without the best intelligence possible.

Senator COLLINS and I are confident that the proposal we put before our colleagues today will result in just that, the best intelligence possible. It deserves the support of our colleagues in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I rise in support of the National Intelligence Reform Act of 2004, the bill that Senator COLLINS and Senator LIEBERMAN have discussed. I speak not only as the Senator from West Virginia but also as the vice chairman of the Intelligence Committee.

I begin by expressing my thanks for the bipartisan cooperation of Chairman COLLINS and Ranking Member LIEBERMAN, their staffs, and members of their committee for the way in which they worked and reached out across the intelligence community. It was an extraordinary thing, something one does not see around here very often.

I lend my voice as strongly as I can to theirs in saying that Congress—and by that I mean both the Senate and the House—should pass and enact this critical legislation before we recess.

I certainly am committed to making that happen, as I know Senator COLLINS and Senator LIEBERMAN are. With an equal level of commitment from the Senate leadership, the House leadership, and the President of the United States, we can meet this ambitious goal, a goal about which, a month ago, even 3 weeks ago, people would have said is absolutely impossible. This has to not be put off. Distinguished statesmen from eras gone by have said we can't do these things, we have to take our time.

I say, from time to time, when you give Congress the time to do something, we may not. If you give us a little bit of time to do something very important, we may very well. I believe this is one of those cases.

In just the past 2 years, the Senate Select Committee on Intelligence has put forth not one, but two, frankly, quite devastating investigative reports about what surely rank among the greatest intelligence failures in the history of our country, to wit, the terrorist attacks of September 11, 2001, and the intelligence estimates prior to the war in Iraq, particularly those that related to weapons of mass destruction.

In December of 2002, after 2 years of painstaking work by a congressional joint inquiry—it was the House and Senate Intelligence Committees acting together as one, for a very long period of about a year and a half, where we worked side by side and we also issued a report and series of recommendations reflecting the suggestions about the 9/11 attacks. It is extraordinary when one reads that and one reads the 9/11 Commission Report, how much is familiar, as between the one and the other; more eloquently expressed by far in the 9/11 Commission Report but nevertheless in both reports.

In early July of this year, less than 3 months ago, we released a report on the collection and analysis and dissemination of prewar intelligence leading up to the war in Iraq, as I have indicated. That 511-page investigation, reported out of our committee by a unanimous vote of 17 to nothing, thoroughly detailed how the analytical judgments about Iraq's weapons of mass destruction programs were flawed, exaggerated, and misleading. And there were no doubters. There were no doubters. There were different points of view, but there were no doubters on those central premises.

It showed in plain terms that the intelligence community had failed to provide intelligence assessments prior to the war that were timely, objective, and in this Senator's opinion, independent of political considerations, as is legally required under the National Security Act which defines so much of what we do.

Then, a few weeks later, the independent national 9/11 Commission, led by Governor Tom Kean and Congressman Lee Hamilton, himself a former chairman of the House Intelligence Committee, published its findings and recommendations, and in so doing took our work a much needed, a very critical step down the road.

The 9/11 Commission not only very powerfully described the individual organizational and systematic failures prior to the attacks, but they also set forth a very specific agenda for reform in what I thought were clearly readable, logical, and understandable ways. They addressed our intelligence shortcomings and proposed restructuring the intelligence community so that it would be more effectively managed, better prepared to deal both offensively and defensively with the terrorist threat that faces our Nation.

By the end of July, mere days before this Senate was scheduled to adjourn for a lengthy recess that is called August, the case for reforming the intelligence community had been described in more convincing detail than ever before, and the question suddenly became no longer should the intelligence community be reformed, but when. Most Members of Congress understood this. The American people certainly understood this. Even the leaders of the Central Intelligence Agency and other intelligence agencies seemed to have concluded on their own that the intelligence communities, after 57 years of largely static existence, denigrating nothing that they have done following its Cold War birth, rooted in that tradition and in that culture, is in need of an overhaul. One does not simply say let us have an overhaul. One produces legislation to create it, and that is exactly what the Governmental Affairs Committee has so brilliantly done, which is not to say that this is all new, or even a reflection of only recent events.

I am aware of no fewer than 46 significant studies, reviews, and commissions on the organization of the U.S. intelligence community, dating back to 1949. Nearly half of those were completed in the past 10 years, each proposing ways to improve and restructure our intelligence operation.

The issue of reforming the intelligence community has been swirling about Capitol Hill for decades now. The concept of creating a position such as a national intelligence director, in fact, dates back to the Nixon administration. These past commissions' recommendations were never enacted, for a whole host of reasons, some of which we will not discuss at the present time, not the least of which was that there was really no momentum. There was no sort of galvanizing event or series of events and the will, therefore, in the Congress, joining with the administration, never came to be.

Today we have that commitment, largely and sadly because we are gripped by present and growing signs of terrorism around the world and at home, true terrorism in which violence is not merely a means but also an end unto itself. I am talking now beyond even the tragedy of the 9/11 event itself.

Madam President, 95 percent of the population growth in this next generation throughout the world will take place in precisely the 5 percent of the land on the Earth which is poorest. If that is not a precalculated formula for the unleashing of people who want to find a cause or reason for justifying themselves as young men and women—I talk about 14- and 15-year-olds. One looks at the average age of people in Iraq, which is 19. 40 percent of them were born either during or after the Persian Gulf war. They have known nothing but violence.

So it is a part of our future. Senator COLLINS and Senator LIEBERMAN understand that, and they have created legislation to help us deal with that from the intelligence perspective. As Senator LIEBERMAN said, intelligence has taken on a new role because terrorists, jihadists, those who misinterpret good doctrine in the Koran, religious doctrine—they are not afraid in the same way of military might as they used to be. Still very much so, still very much in play, the attempts to find Osama bin Laden have shown us, in a peculiarly unpleasant way, that it is not just airplanes and bombs and laser bombs and smart bombs and the rest of it that can find the people we must find. It is, indeed, intelligence or the lack of intelligence which has made that impossible.

So we have now the best chance in at least a generation, thanks to Senator COLLINS and Senator LIEBERMAN and their committee, for getting at the heart of the problem in the intelligence community. It is past time to get the work done. The Senate bill we are considering is serious, comprehensive, and careful. On the other hand, I must say I am somewhat dismayed at reports of the efforts in the House—I must be frank; I mean to offend nobody—where I understand the bill which is under consideration may be much weaker, perhaps by design, and contains unnecessary and highly controversial items meant to slow debate. I pray that I am wrong on that. But we must have that in mind.

If reports are also true that the minority has been shut out of the process, with exactly the opposite of what happened in the Collins-Lieberman approach to crafting this bill, then the House leadership has a great deal of work to get things back on track.

I think the President will face a great test of his leadership. Will he step forward to encourage full and far-reaching intelligence reform, as he has partly done so far already, taking steps which some were not sure that he would be willing to take? Or will he look the other way, and let things happen as they will? We need him and his influence in this Chamber and in the House Chamber, and I am confident that will happen.

If the Senate and the House and the President squander this opportunity to allow the momentum behind the reform to lapse in the next year, we will have failed—and we will not fail. Other things will grab our attention even as exacting and devastating as this problem is. So we must not fail. We must not fail the American people. They expect reform, and we are not going to fail them.

As to the substance, briefly: The Governmental Affairs Committee's work embraces the key principles of the 9/11 Commission except in a few instances where they saw things otherwise, such as the 9/11 Commission suggested locating the new national intelligence director inside the Executive Office of the President. The Commission felt that was a good idea. The committee felt that was not such a good idea, so it is not happening. They dealt in the same way with the suggestions made by paramilitary activities ongoing by the CIA, with respect to changing those. And once again the Collins-Lieberman committee made those changes.

As my colleagues know, the lead recommendations of the 9/11 Commission are the creation of a national intelligence director and a national counter-terrorism center. Senators LIEBERMAN and COLLINS have both explained those very thoroughly here today. The Commission correctly saw in the intelligence community's current organizational arrangement a fragmented array of budget, personnel, and tasking authorities that inhibit the sharing of information and prevent coordination of efforts under a single accountable individual. This lack of consolidated authority undercuts the ability and the willing ability of the intelligence community to function as a true community, and more specifically prevents America from bringing the maximum force of intelligence, military, and law enforcement weapons to bear against al-Qaida and other terrorists both here and abroad.

I have had a chance to carefully review the bill. I don't enjoy reading bills, but I have read this bill of the Governmental Affairs Committee. And it is, so far as this Senator can say, and many others, faithful to the 9/11 Commission's most important recommendations, and creates many of its own.

The bill creates a national intelligence director, of course, and a national counter-terrorism center with unified authorities that will correct the inefficiencies and lack of accountability that exists.

That was the beginning. Some will say—it is important to say these things—that the national intelligence director established in this legislation is too strong because the position will manage the budget and operations of three national intelligence agencies currently under the Pentagon's control. Here we get onto somewhat sacred ground. I speak of the National Security Agency, the National Reconnaissance Office, the National Geospatial Intelligence Agency.

Others will criticize the bill by saying that the national intelligence director is too weak because the position does not have so-called "day-to-day operational control" over these three agencies I have just mentioned which also serve important combat functions inside the Pentagon. These critics are advocating in effect the creation of a new department of national intelligence. Senator LIEBERMAN indicated that was not what they wanted to do, and thankfully that is not what they have done. In my view, the bill that was reported out unanimously by the Governmental Affairs Committee strikes precisely the right balance between these two positions.

The budgetary, personnel, and management tasking authorities consolidated under the national intelligence director are substantial improvements over those now at the disposal of the current Director of Central Intelligence.

I remember asking George Tenet when he was Director of the CIA, on several occasions—I think he was not happy with the question, but he was forthright with his answer—if you could control, don't you want to control what goes on at NSA, or NRO, or the Geospatial folks—it wasn't called that then—and he said, I can only and will only seek to have authority over what in fact I have budgetary authority. I cannot exercise control beyond that.

The committee has reached that point to say that we have to have one person who has the budgetary control to do these things. The budgetary control of personnel, management, and tasking authorities consolidated in the national intelligence director is an enormous improvement over those now at the disposal of the current Director of Central Intelligence.

Moreover, the bill recognizes that the national intelligence director will have to rely on the expertise of the newly created deputies and the agency heads beneath them to manage the intelligence collected from domestic, foreign, and military forces. It acknowledges implicitly and explicitly the connection of the time and attention between military and intelligence. Chairman COLLINS addressed this very directly. It accommodates the military's legitimate need to control its own operations without giving short shrift to all of the nonmilitary consumers of intelligence, one of whom, incidentally, happens to be President of the United States.

To put it another way, this bill achieves the fundamental restructuring of the intelligence community while preserving an underlying management arrangement that can implement the new director's directives in a coordinated way which is altogether missing today. Fifteen pairs of oars pulling at the same time under the direction of one captain—that is the concept at the heart of this legislation.

I would also like to highlight a couple of additional items the committee made which I feel very good about. Both have been mentioned by Chairman COLLINS and Ranking Member LIEBERMAN.

The communitywide ombudsman to handle concern from the analysts—we heard a great deal about this—over the shaping or politicalization or potential, referring to the future, of intelligence, such as were voiced by analysts in the preparation of intelligence reports on Iraq in the fall of 2002.

Creating this ombudsman, which the bill does, is an important way to ensure that policy considerations do not compromise the independence and objectivity of the intelligence community's judgment.

Second, Senator LIEBERMAN referred to this—I believe we need an intelligence reserve corps. The intelligence community can get stretched very thin. It was, for example, during Kosovo. We saw that during that time. Currently, in Afghanistan and Iraq, we see it now. We simply stop doing other important intelligence work, which in fact must continue in other parts of the world because resources are moved from some important place which is evolving into the current situation. One can't afford to do that in intelligence. We need to support the war site foremost at all costs, but we need to have the backup to make sure we are looking at intelligence on a worldwide basis. The intelligence reserve corps will do that. We don't want to miss a nuclear test. I am sorry; we have in the past. The intelligence community has missed it. We don't want that to happen again.

Finally, I do think that our reform bill should establish a permanent analytical red team under the national intelligence director to test the key underlying—I use the word "assumptions" in analytical reports.

The legislation before us includes a review unit under the office of the new ombudsman which is helpful but, if I may be allowed to say so, I don't think goes quite far enough and simply will be a matter of discussion for the floor. I believe we need a red team unit to work inside the analytical process before it has produced a product. In other words, as intelligence reports are being formulated, not after the fact of their formulation into a product. I hope we can work on that concept as we debate the legislation.

In closing, I believe the bill before the Senate has taken an extremely complex and in certain respects arcane subject matter, the organization of the U.S. intelligence community, and proposed a sensible approach to long overdue reform. This bill will make considerable headway toward learning from the mistakes of the past and strengthening our national security.

I again thank Senator COLLINS, Senator LIEBERMAN, and their staff for working in the highest tradition of this body.

I also want to extend my appreciation to Majority Leader FRIST and Minority Leader DASCHLE for making the national intelligence reform the top priority of the Senate in the waning days of this Congress.

Two weeks from the third anniversary of the September 11 attacks, we stand on the threshold of passing landmark legislation that few would have thought possible even 3 weeks ago. The planets are aligned. Let's finish our work and pass this legislation.

I ask unanimous consent I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

Ms. COLLINS. Madam President, I thank the Senator from West Virginia for his eloquent statement of support for this legislation. As vice chairman of the Senate Intelligence Committee, he brings extraordinary knowledge to this debate. We are very grateful for his contributions to the Collins-Lieberman bill.

As both Senator LIEBERMAN and I mentioned, Senator ROCKEFELLER responded to our request for input and advice. We incorporated into our legislation several of the suggestions he provided. We are very grateful to have his support. It means a great deal as we proceed with this debate.

Mr. LIEBERMAN. Madam President, let me join Senator COLLINS in thanking Senator ROCKEFELLER across the board—most immediately, to say how significant it is to Senator COLLINS and me that Senator ROCKEFELLER has joined as a cosponsor of this proposal. Senator COLLINS and I happen to not only be on the Governmental Affairs Committee, we are on the Armed Services Committee, so we know something about intelligence. Truthfully, we do not claim expertise, and the Senator has expertise.

As we have discussed, Senator FRIST and Senator DASCHLE were very wise in giving our committee jurisdiction because we are the committee on governmental reorganization without a particular interest. But to do our job well we depended on the members, the leaders of the other subject matter committees to counsel with us and to help turn out the best product we could. We sent letters to all the relevant committees, and the Senator responded magnificently. The Senator's imprint is all over this bill.

His statement today was eloquent and rose to the national responsibility. I appreciate it greatly.

The problem for Senator ROCKEFELLER is that Senator COLLINS and I are now not going to let him leave the Senate floor for the remainder of the debate—well, occasionally. The Senator's informed involvement in this legislation will help the Senate do the right thing, which is to pass this bill and hopefully get it enacted before we leave so we can get it going for our intelligence services.

I thank the Senator for all he has done.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I begin by commending the leadership from both sides of the aisle for working together to allow critical debate to begin today on legislation to implement the 9/11 Commission recommendations. In my view, this debate is perhaps one of the most important that will be held during the 108th Congress.

I acknowledge the great leadership of the bill managers, Senators COLLINS and LIEBERMAN, for their bipartisan work in reporting the pending legislation, reform legislation to the Senate. It is my understanding the bill was reported out by unanimous vote through the Governmental Affairs Committee, which is a significant accomplishment. They have developed sound legislation following the numerous hearings they held during the last 2 months. I commend them for their dedication to this very important legislation. Also, I point out that Senator COLLINS and Senator LIEBERMAN, their staff, and members of the committee gave up a significant part of their August recess in order to hold a sufficient number of hearings in order to be able to frame this legislation.

We have come a long way since 2001 in enhancing this country's ability to prevent and respond to terrorist attacks, but, as the 9/11 Commission said in its final report, we are not yet safe. Increasing our safety against terrorist attack requires new strategies, new ways of thinking, and new ways of organizing our Government. That is what this legislative debate will be all about.

The 9/11 Commission's underlying goal was to determine where we went wrong and what we can learn from identified failures, weaknesses, and vulnerabilities in order to make necessary systematic corrections to better protect our Nation. I firmly believe the Commission accomplished its enormous assignment. It carried out a far-ranging and candid assessment in order to account for the failures of vision, threat assessment, and policy actions that preceded the attacks. I again thank Governor Kean and Congressman Hamilton for their commendable leadership of the Commission and the other Commissioners and their staff as well. They performed a tremendous service for our country while leaving politics at the door. Now it is the turn of the Congress to act on the Commission's report.

Earlier this month, I joined with Senator LIEBERMAN and others in introducing comprehensive legislation to implement all of the 9/11 Commission recommendations. The bill before the Senate, developed by the Governmental Affairs Committee, S. 2845, the National Intelligence Reform Act of 2004, addresses the Commission's recommendations regarding intelligence reform, information sharing, and civil liberties. It is Senator LIEBERMAN's and my intent to ensure the Commission's other recommendations—those not already addressed in the underlying bill—are fully debated; therefore, we will be offering amendments we hope will be adopted in order for the Senate to send to conference a comprehensive bill addressing the full range of the Commission's recommendations.

AMENDMENT NO. 3702

(Purpose: To add title VII of S. 2774, related to transportation security)

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 3702.

Mr. McCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. McCAIN. Madam President, this amendment is designed to address the transportation security-related recommendations of the 9/11 Commission. The amendment is almost identical to title VII of S. 2774, the 9/11 Commission Report Implementation Act of 2004, which Senator LIEBERMAN and I introduced earlier this month.

It is important that during this debate we acknowledge the progress that has already been made since September 11 in improving transportation security, especially for aviation. However, as the Commission points out, significant challenges remain. For example, the computer systems and protocols used to vet passengers before they board a plane are not substantially different than the systems that failed to prevent the terrorists from boarding the planes on September 11.

The Commerce Committee held a hearing on August 16, 2004, to examine these recommendations and heard testimony from the Commission and the Department of Homeland Security. This amendment reflects both the Commission's recommendations and that testimony.

The amendment implements the Commission's recommendations on transportation security in the following three ways: One, establishing a national strategy for transportation security; two, assigning responsibility for the no-fly list to the Transportation Security Administration; and three, enhancing passenger and cargo screening.

I will briefly discuss each of these recommendations.

The Commission found that TSA had no comprehensive strategic plan for the transportation sector or plans for the various transportation modes—air, sea, and ground—and, therefore, called for such a plan to be developed. This amendment would require the Department of Homeland Security to develop a strategy that includes identification and evaluation of homeland transportation assets susceptible to attack; analysis of methods and technologies associated with transportation security methods; the development of risk-based priorities and deadlines; a plan that assigns roles to the Federal Government, State government, local governments, and public utilities while encouraging public sector cooperation and participation; an outline of response and recovery responsibilities; prioritization of research and development objectives; and recommendations for a budget and appropriate levels of funding. The amendment also requires the strategy to be developed and transmitted to Congress no later than April 1, 2005, and subsequent submissions would be required not less frequently than April 1 of each even-numbered year.

We must indeed make sure our skies are safe. But we cannot focus only on the so-called last war. Recent events around the world have shown that other modes of transportation are vulnerable to terrorist attacks. We must ensure that we are aware of threats aimed at any and all modes of transportation as we determine how best to manage our resources to defend our homeland. This comprehensive plan, calling for specific criteria to be considered, will be a strong step in that direction.

Understandably, aviation was the subject of our immediate reaction to 9/11. I think it is clear events such as the Madrid rail bombing and other events throughout the world indicate that we must be equally attentive and equally committed to addressing those threats as well.

The 9/11 Commission also recommended that the process of screening passengers against the no-fly list be performed by TSA and should utilize the larger set of watch lists maintained by the Federal Government. It further suggested that air carriers should be required to supply the information needed to test and implement this new system. Based on the Commission's recommendations, this amendment directs the Secretary of Homeland Security to implement a procedure under which the TSA compares information about passengers aboard all passenger aircraft with a database containing known or suspected terrorists and associates, commonly known as a no-fly list. This procedure is currently performed by individual air carriers, meaning each air carrier has its own separate no-fly process.

By placing the burden squarely on the TSA, we will ensure there is a single database used to check the names of passengers against. I might add that I hope the TSA moves forward with its assessment on how best to develop a prescreening program that will assess the risk of passengers even if they do not appear on the no-fly list.

The Commission also concluded that further improvements are needed in passenger and cargo screening. For example, currently there is no widespread use of technology to screen the actual passengers for explosives at passenger checkpoints, but only for screening passengers' checked luggage and carry-on luggage. Based on the recommendation of the 9/11 Commission, this amendment directs the Secretary to take action in improving passenger screening checkpoints to detect explosives. Within 90 days after the implementation of this act, the amendment would call for the Secretary to transmit a report and schedule to the Senate and the House of Representatives on how to achieve the objectives previously mentioned in this section.

This amendment also directs the Secretary to take action to help improve the job performance of airport screening personnel, as well as to conduct a human factors study to better understand problems with performance. The Secretary is further directed to expedite the installation and use of baggage-screening equipment and to ensure that the TSA increases and improves its efforts to screen cargo.

The amendment also would direct the Secretary to initiate a pilot program for air carriers to deploy hardened cargo containers on passenger aircraft that also carry cargo. This requirement is modified from the one we introduced on September 7, which would have required a hardened container on every passenger aircraft. Upon further review, it is apparent there are certain technical and implementation issues that have to be addressed before the use of these containers can be universal. Therefore, I have modified this proposal to require TSA to initiate a pilot program to further explore the feasibility of this technology.

Madam President, this amendment is the next step in fulfilling the mandate of the 9/11 Commission recommendations and ensuring that we move forward in addressing the vulnerabilities in our transportation systems. These provisions should not be controversial, and I urge my colleagues to support this amendment.

I would also like to add there will be further amendments that will come before the body, particularly on rail as well as port security. I remind my colleagues that some of those may be very expensive and have a very high price tag associated with them. I hope, while supporting efforts to improve rail and port security, we would also be cognizant of the fact that we cannot do all things to all means of transportation at all times.

However, this is a great opportunity for all of us to improve all of our security, whether it be aviation, port, rail, bus, or other areas of vulnerability, and I urge my colleagues to bring forward those amendments as quickly as possible so we can dispose of them and, perhaps this week, bring forth a product all of us can support.

Madam President, I again express my appreciation to Senators COLLINS and LIEBERMAN for the incredible amount of work that they, their staffs, and other members of the committee have performed, which has resulted in an incredibly laudable product, supported by every member of the committee. I hope we will proceed in that same spirit as was exhibited in the Governmental Affairs Committee on both sides of the aisle so we can make sure we debate thoroughly and address the further challenges that we face, including addressing in one way or another all 41 recommendations of the 9/11 Commission.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I thank the chairman of the Commerce Committee, the distinguished Senator from Arizona, for his contributions to this entire enterprise. I am very grateful to have his support for the underlying bill drafted by Senator LIEBERMAN and myself. And I very much appreciate his offering of the first amendment to strengthen the bill still further, by adding one of the recommendations made by the 9/11 Commission.

As the Senator indicated, the Governmental Affairs Committee largely confined its review to the major recommendations of the Commission that had to do with the reorganization of our intelligence community. That does not mean, however, that we slight in any way the many other recommendations made by the Commission. The amendment of the Senator from Arizona would implement the transportation security recommendations of the 9/11 Commission.

It is my understanding the Senator's amendment was drafted in consultation with officials from the Department of Homeland Security. I believe it will help make our Nation more secure. Specifically, the 9/11 Commission recommended establishing a national strategy for transportation security, assigning responsibility for the no-fly list to the Transportation Security Administration, and enhancing passenger and cargo screening.

The amendment offered by the Senator will require the Secretary of the Department of Homeland Security to develop and implement a national strategy for transportation security and to revise and update that strategy as necessary to improve or maintain its currency.

I particularly want to comment on the provisions of the McCain amendment that task the TSA with the responsibility of developing the no-fly list and comparing the names of air passengers against the Government database containing the consolidated terrorist watch list.

I think recent incidents in the news show why it is a good idea for the Transportation Security Administration to have that authority rather than vesting it in the airlines, as is now the case. I would indicate to my colleagues that the Department of Homeland Security agrees with Senator McCAIN that it is the more appropriate entity to perform this matching of names against the Government's database.

Two incidents which come to mind are, first, one of our colleagues, the senior Senator from Massachusetts, finding that he had difficulty boarding flights because of confusion with the names listed on the terrorist database. I have a similar case of a retired physician in Camden, ME, whose name, unfortunately, including his middle initial, is very similar to a name that is on the terrorist watch list. As a result, this retired physician, who is no more a terrorist than you or I, Madam President, has an extremely difficult time every single time he flies. That shows me that we need to do a far better job of improving the quality of that watch list to make sure it is consolidated but also to make sure it is accurate and that people who have similar names are not needlessly subjected to an in-depth search or even denied boarding privileges altogether.

The second incident involves the singer formerly known as Cat Stevens, who was allowed to board an air flight from London to the United States recently because the airline was using a list that did not include all of the names on the terrorist watch list. So clearly we have a problem in that direction as well. There are too many watch lists. They need to be consolidated.

The quality of information on those lists needs to be improved to make sure innocent Americans are not needlessly targeted, and it should be a Government responsibility—that of the Transportation Security Administration—to maintain and check these databases against the lists of airline passengers. It is really not fair to ask the airlines to accept that responsibility, particularly when they may not have access to the entire database that the Government has compiled.

The McCain amendment appropriately vests in the Transportation Security Administration the responsibility for the no-fly list and for checking airline passengers against this list. I again emphasize that the Department of Homeland Security agrees that TSA should assume that responsibility and it should no longer be carried out by the airlines.

For these reasons, I urge adoption of the McCain amendment. I believe it strengthens the Collins-Lieberman bill by incorporating some worthwhile and commonsense recommendations made by the 9/11 Commission in the area of airline security.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I thank the distinguished chairman, Senator COLLINS. I would like to have a rollcall vote on this, but that rollcall vote would be held at the discretion of the majority and the Democratic leaders. I ask for the yeas and nays, and I ask unanimous consent for the yeas and nays at a time agreed to by the majority and Democratic leaders.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank Senator McCAIN for proposing this amendment as a part of the package that he and I introduced a while back as a full bill implementing all of the recommendations of the September 11 Commission. This is not in any sense a detraction from the bill Senator COLLINS and I have brought out. It is in addition to it and would make it stronger.

I wish to speak at length on the proposal, but I note the presence on the floor of Senator FEINSTEIN who I am proud to say is a cosponsor of the proposal that Senator COLLINS and I have put before the Senate. She has been a leader on intelligence matters, one of the first in this Chamber to offer a proposal for reform and reorganization of the intelligence assets of the American Government. Her ideas greatly informed the proposal that we put before the Senate today. I am grateful, as is Senator COLLINS, for Senator FEINSTEIN's support.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I thank the distinguished ranking member.

Let me begin by thanking the chairman of the committee, the distinguished Senator from Maine, the ranking member, Senator LIEBERMAN, and the Governmental Affairs Committee for a very good bill. As a member of the Intelligence Committee, one who has been for the concept of a strong, independent director of national intelligence for 3 years now, I was surprised to see the strong quality of the product that came out, because this committee has actually entered into some of the nitty-gritty and tried to come up with solutions that would stand the test of time. I thank them for their work. It has been excellent work, and it puts a product before the Senate that we can all be proud to discuss. It contains no poison pills. It is a straight bill. It deals with the subject at hand in a very meaningful way.

As I mentioned, I have believed for sometime now that the way in which our intelligence community is structured is really fundamentally flawed. It is unsuited for the 21st century, when we are not talking about intelligence agencies of large powers but we are talking about asymmetric terror.

In the context of intelligence, we have seen three comprehensive investigations into recent failures of the intelligence community. Senator COLLINS, Senator LIEBERMAN, and Senator ROCKEFELLER have mentioned many of them. Certainly, there was the joint inquiry of the House and Senate Intelligence Committees into the attacks of September 11. There was the Senate Select Committee on Intelligence investigation, resulting in a 300-page report that we recently completed, which investigated and reported on the intelligence, the findings, and the recommendations—all related to weapons of mass destruction in Iraq. Then, of course, there was the 9/11 Commission, which investigated the attacks on 9/11, a very comprehensive report and review, which has, frankly, brought most of the decisionmakers, as well as the country, into alignment with the concept that we do need a strong national director of intelligence.

In each of these cases there were explicit and implicit findings that touched on how our intelligence community could fail so badly. Issues of funding, of education, of risk taking, and, frankly, of plain incompetence surfaced. Even today, there is still denial that many of the findings of weapons of mass destruction were simply wrong, deeply flawed, or bad. This will need to be remedied.

In my view, these failings were symptoms of a failed structure; again, of a structure that was built for the last century's conflicts and unsuited to this new war of asymmetric terror.

I believe the most important steps needed to address these structural failings revolve around the office of the Director of Central Intelligence, known as the "DCI."

Up to this point, there has been a nominal head but a head of the Intelligence Community without the necessary authority. That post carries two handicaps. Those are built into its structure and, I believe, lead that structure to fail.

First, the individual serving as DCI has two basic, incompatible jobs: leader of the intelligence community, which includes 15 often fractious Agencies and Departments, and in that role is the principal intelligence adviser also to the President; and leader of the Central Intelligence Agency, which is, of course, only one of the 15 agencies which make up that big fractious community.

These two jobs are not compatible. They each take up far too much time. They each require a laser-like focus on its own unique mission. Worse yet, they can be in direct conflict, because the needs of the intelligence community in terms of mission, resources, and strategy may not be exactly what is wanted by the Central Intelligence Agency. The problem is that the Intelligence Community and the Central Intelligence Agency both need and deserve full-time leaders. That, of course, is the heart of the argument for this bill.

Secondly, even under the current structure, the DCI lacks basic tools needed to run any large institution in Washington. And what are they? Budget, personnel, and statutory authority.

Under current law, the DCI nominally is charged with administering the money and people who make up the intelligence community and for formulating a budget presented to us in the Congress.

Today, in reality, the DCI has little control of much of that budget, with more than 80 percent actually controlled by the Secretary of Defense. He is unable to move personnel, or shift strategic focus, in an effective way. One chilling example was revealed by the investigations into 9/11, where DCI Tenet issued an order declaring war on al-Qaida in 1999, only to find in 2001 that few outside the CIA even heard about it, much less listened to it.

The solution to the second problem is to ensure that the position of intelligence community director is provided with real budget authority, real personnel authority, and real authority to set strategy and policy, and this bill does that. I am very thankful for that.

The bill before us today builds on these earlier efforts and I strongly believe accomplishes the basic and necessary goals.

The bill creates a national intelligence director, separate from the CIA Director. The bill invests this director with meaningful budget authority, effective personnel authority, and the ability to set strategy for the entire intelligence community. And it ensures that the national intelligence director can set priorities for intelligence collection and analysis, and manage tasking across all 15 agencies to ensure that it gets done and done right.

One of the Senate Intelligence Committee's findings in our report was that the collection and analysis that went into the compilation of the national intelligence estimate was deeply flawed, and that there were differences of opinion between agencies, whether it was aluminum tubes, where the Energy Department's intelligence and the CIA's differed, or whether it was with the unmanned aerial vehicles, where the intelligence agencies of the Air Force and the CIA differed, or whether it had to do with biological mobile labs, where the Secretary of State went out before the United Nations with deeply flawed intelligence. But the analysis and collection of that intelligence had deep flaws, which made it bad intelligence.

This bill provides the national intelligence director also with a general counsel, inspector general, chief financial officer, human resources officer, and chief information officer, who together can ensure that effective organization and guidance can flow through the entire community. That is a good thing.

I will support the bill because I believe it accomplishes the task at hand: making necessary changes to our intelligence community structure.

That said, I believe there is some room for improvement. I want to take a few minutes to talk about that, and I want to offer to continue to work with my colleagues to improve this bill during this next week. Let me give you some of the things I am concerned about.

First, I am concerned that the bill leaves ambiguous the relationship between the new national intelligence director and the Federal Bureau of Investigation. Let me give you some specifics. The bill incorporates, with no change, current law, which defines the role of the FBI's intelligence activities into this new bill. However, the current law is confusing, it is internally inconsistent, and it is a source of many of the problems that beset the FBI as a part of the intelligence community. I believe we must clarify this to do three things: First, we have to make it absolutely clear that counterintelligence investigations that involve the "plans, intentions and capabilities" of foreign nations and organizations, including terrorist groups, are part of the National Intelligence Program and thus under the overall supervision of the National Intelligence Director. This bill does not yet do that. For instance, the investigation of suspicious individuals taking flight lessons prior to September 11, which resulted in the ill-fated Phoenix memo, should clearly be a part of the intelligence community's responsibilities.

Second, we should establish in law the FBI's Office of Intelligence. The office of intelligence is created on page 7, with a mention under the programs of the bill. But it is not further defined anywhere in the bill. I suggest that it be defined on page 127, line 20, of the bill, and that it be defined to make it crystal clear that within the FBI this office is the source of authority and guidance for the intelligence activities of the FBI.

Third, we should recognize in law that old, rigid divisions between law enforcement and intelligence make no sense. This can be accomplished by clarifying the definition section of the bill to remove the old "carve out" for "counterintelligence and law enforcement" activities within the FBI.

For example, an FBI investigation into the activities of individuals suspected of illegally providing funds to overseas terrorist groups is both a law enforcement investigation and an intelligence effort.

So I hope to offer an amendment, and would like to work with both Senators, the chairman and the ranking member, to clarify these definitions and remove the poorly worded "carve out" for "counterintelligence" investigations; to ensure that the Office of Intelligence is defined in law, with clear responsibility for foreign intelligence; and to ensure that the new "National Intelligence Director" plays a guiding role in the FBI's efforts to improve its ability to function as an intelligence agency.

Next, I am concerned that the bill leaves a similar ambiguity in the relationship between the authorities of the National Intelligence Director and the Secretary of Defense. This problem flows from the fact that the bill refers to "tactical" military intelligence, but does not define it. I believe we can remove a potential source of contention between the director of national intelligence and the Secretary of Defense by incorporating a set of definitions, so everyone knows exactly what is tactical intelligence and, thus, outside the scope of the National Intelligence Director's review. So we have that language and I would like to pass it by the chairman and ranking member before I offer it, which would includes a clarifying definition.

Finally, I must say—and this I have gone back and forth on—I remain troubled that under this bill the Director serves at the pleasure of the President. When I introduced my first bill in 2002, the Director served at the pleasure of the President. When I introduced the second one in 2003, the director served at the pleasure of the President. Then I began to think about policy and intelligence and recognized that the two should remain separate, and I recognized that it is necessary to give this new National Intelligence Director some separation from the President's policies, or the Congress's policies. The only way to do this is with a term. I know that the Senator from New Jersey, Senator LAUTENBERG, offered in committee a 5-year term. I believe he was not successful in pressing his case at that time. I have thought about a 10-year term.

I remember the Casey days. I do not think we want to go back to those days, but I also think we need to keep policy and intelligence separated. So I hope Senator LAUTENBERG will offer his amendment, and I will support it if he does.

Before I end, I want to say a few words about practical considerations related to the bill.

It is my understanding that the House of Representatives may pass out a bill containing extremely controversial provisions unrelated to intelligence reform. I am concerned that this is a thinly veiled effort to introduce "poison pills" into desperately needed legislation. One House Member even referred to having Democrats "over a barrel" in a description of this strategy. This is no strategy at all. I think if this were to happen, and I certainly hope it does not happen, Americans are going to see right through it.

The Senate, in this bill, has set the tone, and the tone is a well-considered, well-crafted bill which deals solely with the issue at hand. In my view, that is what should be passed by both parties and both bodies.

I am hopeful that our leadership—the majority and the minority leaders—will be able to make every effort to resist this. I think to get into PATRIOT Act items—this is under the jurisdiction of the Judiciary Committee. We have held several hearings. We will hold more oversight hearings. There are 156 sections of the PATRIOT Act; 16 of them sunset in December of next year. We will do our due diligence, and I say that as someone who has supported the PATRIOT Act, supported those 16 sections, and made some of the amendments.

It is extraordinarily important that we be able to work in a careful method of oversight responsibility. I think something coming from the House which pushes in this direction would not be welcome.

In conclusion, I, once again, compliment Senators COLLINS and LIEBERMAN and the Governmental Affairs Committee for a job well done. I think we can pass this bill, and I hope we continue—I was going to say an "aroma of bipartisanship." I am not sure "aroma" is the right way to say this, but in the bipartisanship model both the chairman and the ranking member have set forward. If we do, I think we deliver for the people of this Nation a very fine work product.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I thank the distinguished Senator from California for her longstanding expertise in this area. I know the Senator presented a bill to create a national intelligence director long before it was popular to do so. She has been a leader in intelligence reform. She has made several very constructive and helpful suggestions and recommendations to the committee. We very much appreciate her leadership, and we consider it a great coup to have her support for our legislation.

I thank her for her hard work and her leadership. We look forward to continuing to work with her.

Mrs. FEINSTEIN. Madam President, I thank the Senator.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I join with Senator COLLINS in thanking Senator FEINSTEIN for her leadership over the long term on matters of national intelligence, but also for a very thoughtful statement today and to express, again, not just gratitude but our real pleasure that she has made a judgment that the proposal we have made to Congress deserves her support as a cosponsor. That means a lot to Senator COLLINS and me, and I know it will to all the members of our committee.

I also thank her for the suggestion she made in her statement about some areas of the bill she would like to work with us to strengthen. I know we would be delighted to do that.

Finally, it may have been inadvertent, but I like the idea of the sweet smell of bipartisanship that may overwhelm this bill. Aroma is a better term.

Mrs. FEINSTEIN. Madam President, I thank the Senator.

Mr. LIEBERMAN. Madam President, I know the Senator from Oregon is in the Chamber. If he has a moment or two, I would like to go forward with a statement I intended to make in response to the amendment Senator McCAIN laid down, which is the pending amendment.

I rise to support that amendment, and I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3702

Mr. LIEBERMAN. I thank the Chair.

Madam President, in the aftermath of September 11, we have obviously taken some very aggressive steps to improve airline security. Those were critical improvements and, in some sense, inevitable after airplanes were used to attack us on September 11. But there is a lot more to do, and not just in aviation. We have to confront threats facing all modes of transportation.

I continuously meet people who express to me worries about one or another mode of transportation they use—trains, buses, et cetera—because they are now in some sense reassured by the presence of security around air travel but miss it and are unsettled when they do not find similar measures in other modes of transportation. So we have to confront the threats from terrorists facing all modes of transportation. Otherwise, we are going to be fighting the last war while our enemies probe for other weaknesses that we have left undefended.

Before I go into a little more detail on this amendment, I want to say this is the first of a series of amendments that Senator McCAIN, myself and others will offer on the Governmental Affairs Committee's National Intelligence Reform Act of 2004, the proposal Senator COLLINS and I put before the Senate. Obviously, the underlying bill contains several critical reforms and focuses on matters of intelligence, which our committee took to be the charge we were given by the bipartisan leadership of the Senate.

I am very proud of the way in which the Governmental Affairs Committee addressed the issues that fell within that mandate that Senator FRIST and Senator DASCHLE gave us. Obviously, there were other important recommendations of the 9/11 Commission that fell beyond the committee's purview. In fact, it made 41 recommendations to help detect and prevent terrorist attacks on the United States or on American citizens, wherever they might be.

Some of these were quite broad. Obviously, what the Committee focused on is the restructuring of the intelligence operations of the executive branch. As I indicated in an earlier statement today, those recommendations are the ones the Commission felt were most urgent because we are under the threat of attack, and we need to reorganize and focus our considerable intelligence resources. But there were other recommendations the 9/11 Commission made. For example, they urged diplomatic outreach and educational grants to the Muslim world because a realistic offer of hope and freedom to the hundreds of millions of people living in countries that are primarily Muslim can be a much greater force, a much more appealing force, than the radical extremist terrorists called to Jihad.

Other recommendations were to tighten and coordinate the screening and identification systems we use to admit people into the United States of America or when we give them access to transportation systems and other key facilities within our country.

Other recommendations deal with the distribution of homeland security grants or increasing security for all forms of transportation.

All of those, and others, went beyond the Governmental Affairs Committee's mandate.

Two or three weeks before the 9/11 Commission made its report, Senator McCAIN and I met with Governor Kean and Congressman Hamilton, and we said to them—at that point we had no idea what the pace of the congressional reaction to the Commission report would be. We said: We are going to make you a promise. After you issue your report, our staffs and we will work hard to translate every recommendation of your report into legislative language, and introduce it so there could be a vehicle around which we could concentrate our support.

We did not know at that time the Governmental Affairs Committee would be asked to take on this role by Senator FRIST and Senator DASCHLE and that the congressional pace of reaction would quite appropriately be quick, leading us to set aside our normal August recess, have a number of hearings, and now have the bill before the Senate.

Still, there are parts of the Commission report that, as I say, are not explicitly within the purview of the Governmental Affairs Committee's work and that is what the amendments of Senator McCAIN, others and I are intending to address; to complete the full package of reforms recommended by the 9/11 Commission after its own 20 months of hard work. Put all of this legislation together and there will be a package of reforms, both broad and deep, that will make America and Americans, wherever they are, safer and lead us to the victory in the war on terrorism that we all seek and know first must come with the use of force and any and all efforts we can make to capture and/or kill terrorists, but will take more than that as well.

The amendment Senator McCAIN introduced today, the first of these amendments to go beyond intelligence reform in the Committee bill, deals with transportation security. It comes from our conclusion and the Commission's conclusion that we need to look at protecting our transportation systems the way a general looks at protecting supply lines. A well-coordinated attack on our transportation systems, or the key infrastructure that supports them, would be staggering to our homeland security and, of course, to the personal security of many Americans.

Imagine a major city being crippled because an attack had rendered mass transportation unusable, or imagine not even being able to resupply our troops in Iraq and Afghanistan because we cannot move the goods from warehouse to port.

As we look worldwide, we know terrorists often target transportation systems. We are not imagining these threats. As we know from the news, they have not only used airplanes for their inhumane, cruel purposes, to express the extent to which they hate anyone who is not like them, they have used buses, trains, and shipping vessels. With the exception of aviation, the fact is in the United States of America we are still dangerously behind in our efforts to secure our own vital transportation networks.

As the 9/11 Commission notes, "over 90 percent of the Nation's $5.3 billion annual investment in the TSA goes to aviation." Important? Of course. Critically important after September 11, but its not enough to meet all of the threats in transportation that face us.

This amendment requires the Transportation Safety Administration to at least evaluate the threats, vulnerabilities, and risks faced by all modes of transportation, and then set priorities and deadlines—including budget and research and development priorities—for addressing those needs; investing in new technologies that can help us gain the security in all modes of transportation that we need. This kind of transportation security strategy has been talked about for many months but it just never seems to happen, and that is why this amendment requires the TSA to complete this critical work under the direction of the Secretary of Homeland Security by April 1, 2005.

The Transportation Research Board, the Government Accountability Office, and other independent experts have all called for this exact vital step. It will set the stage for critical new initiatives that must follow to better protect rail, transit, ports, and other key modes of American transportation.

There is still more to do in the area of aviation security. That is why this amendment calls on TSA to step up efforts to detect explosives on individuals trying to board planes. Currently, as most of us who travel know but probably do not think about, only checked bags are routinely screened for explosives. This amendment would require the Department of Homeland Security to implement plans to screen all passengers for explosives.

The amendment would also direct the TSA to begin comparing passenger lists against the Government's new consolidated terrorist watch list. This is not happening yet; not happening to the extent we want it and need it to happen. It makes such common sense that it is frustrating to the point of being infuriating that we are not yet doing it. That we are not using the capacity of information networks and computers to check passenger lists against terrorist watch lists so none of us is on a plane with someone who intends to use that plane for an attack or to bring the plane itself down.

This is the first of several amendments Senator MCCAIN and I will be offering. Again, I believe it is important we act on all of these as well as, of course, the underlying Governmental Affairs Committee intelligence reform proposal.

We find ourselves at one of those rare moments in time, certainly in congressional time, when both the moment to act and the momentum for action have come together in a truly bipartisan way in Congress, in the executive branch and, of course, most importantly of all, among the American people to whom we owe the greatest responsibility.

With that kind of general agreement nationally, passing a complete package of legislation responding to the strong compelling arguments in the bipartisan 9/11 Commission report is within our grasp, and adopting this amendment will be yet another step toward achieving that goal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, I ask unanimous consent to set aside the pending McCain amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3704

(Purpose: To establish an Independent National Security Classification Board in the executive branch)

Mr. WYDEN. I send an amendment to the desk on behalf of myself, Senator LOTT, Senator BOB GRAHAM, and Senator SNOWE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself, Mr. LOTT, Mr. GRAHAM of Florida, and Ms. SNOWE, proposes an amendment numbered 3704.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. WYDEN. Without turning this into a bouquet-tossing contest, I will say how lucky I think we are to have Senator COLLINS and Senator LIEBERMAN, who have long practiced good government, handling this legislation. This is going to be a long and arduous task and to have this bipartisan duet at the helm is what is going to make this possible. I have enjoyed working with them on this and so many other issues in the past. We are going to get this done. The country is going to be safer and stronger for it, and I am very grateful for the work of the Senator from Maine and the Senator from Connecticut.

Governor Kean, the chairman of the 9/11 Commission, said three-quarters of the classified material he reviewed for the Commission should not have been classified in the first place. I think Governor Kean's comments reflect the state of where we are with respect to how Government documents are classified today, and it is for that reason that a bipartisan coalition has spent a considerable amount of time on the Intelligence Committee. Senator LOTT and Senator SNOWE and I serve there now.

Senator BOB GRAHAM, of course, chaired the committee, and the four of us, two Democrats, two Republicans, have teamed up so as to try to make sure that in this important reform legislation some common sense is brought to the way that information is classified for national security purposes.

The ability to make documents secret is one of the most powerful tools in our Government. It is a power wielded generously by those in 18 agencies that deal with intelligence. My concern is that the Senate could spend weeks debating flowcharts and organizational changes and moving the boxes around with respect to where people in the intelligence community sit, but if the underlying way in which information is classified is not reformed, it is going to be very hard to make information sharing throughout the intelligence community effective. Very little will have been accomplished if information continues to be classified for purposes of protecting somebody's political career rather than our national security or if classification decisions continue to deprive the American people of their ability to judge the effectiveness of their Government on national security matters.

The 9/11 Commission report says the need to restructure the intelligence community grows out of six problems. One of them, the Commission says at page 410, is that, in their words, "The intelligence community is too complex and secret."

The Commission states:

> Over the decades, the agencies and the rules surrounding the intelligence community have accumulated to a depth that practically defies public comprehension. . . . Even the most basic information about how much money is actually allocated to or within the intelligence community and most of its key components is shrouded from public view.

The bipartisan amendment Senator LOTT, Senator BOB GRAHAM, Senator SNOWE, and I offer today is premised on the belief that it is time to clear the fog of secrecy and that it is possible to do that so as to protect this country's national security. Our legislation establishes a three-person board with the President and the bipartisan leadership in the House and Senate each recommending one member, subject to Senate confirmation. Our board would have two tasks: first, to review and make recommendations on the standards and processes used to classify information for national security purposes, and, second, to serve as a standing body to act on congressional and certain executive branch requests to reexamine how a Government document has been classified.

As entities, from the traditional intelligence community to the Environmental Protection Agency, now have the power to classify documents, the board would look at national security classification across our Government. Its creation would give the Congress, for the first time, an independent body to which it can appeal a national security classification decision.

President Truman noted that the Nation's primary intelligence agency, the CIA, was created, "for the benefit and convenience of the President." But the United States cannot preserve an open and democratic society when one branch of Government has a totally free hand to shut down access to information. The lack of an independent appeals process for Congress, in terms of the view of the four of us, two Democrats and two Republicans, tips the scale too far toward secrecy for any administration, and our bipartisan group of four Senators seeks to correct that imbalance.

The 1946 Atomic Energy Act established the principle that some information is born classified. There are certainly important sources and pieces of information that must never be compromised. But over the years, millions and millions of documents that weren't born classified have inherited or adopted or married into a classification. Keeping information secret for political purposes or horse trading intelligence data, especially during this critical time, a time of heightened security, is unacceptable.

Our Government must begin to be more accountable to its citizens. Having all appropriate information about national security is essential to Congress's congressionally prescribed oversight role. Access to information about their own security is the people's right. It is time to stop hiding the facts they deserve to know. Our bipartisan proposal does just that in a fashion that protects America's national security.

According to the late Senator Moynihan, who was an expert on secrecy in Government:

> . . . much of the structure of secrecy now in place in the U.S. Government took shape in just 11 weeks, in the spring of 1917, while the Espionage Act was debated and signed into law.

Eighty years later, Senator Moynihan would note that 6,610,154 secrets were created in just 1 year alone. In fact, only a small portion, or 1.4 percent, was created pursuant to statutory authority, the Atomic Energy Act. Senator Moynihan labeled the other 98.6 percent "pure creatures of bureaucracy," created via Executive orders.

The Secrecy Report Card issued in August by a coalition of groups including the American Society of Newspaper Editors found the American Government spent $6.5 billion last year creating 14 million new classified documents. This is a 60-percent increase in secrets since 2001. These numbers do not even include CIA documents. The Secrecy Report Card also points out that agencies are becoming more creative in their classification systems.

In addition to the traditional "Limited Official Use," "Secret" and "Top Secret," some agencies now have something called "Sensitive Security Information," "Sensitive Homeland Security Information," "Sensitive But Unclassified," or "For Official Use Only." It has gotten to the point where Mr. William Leonard of the National Archives Information Security Office—the gentleman who oversees classification and declassification policies; he is known to some as the secrecy czar—believes that the system defies logic in many respects. He has called today's classification system "a patchwork quilt" that is a result of "a hodgepodge of laws, regulations and directives." In reality, the Federal Government has so many varieties of classification that it can make Heinz look modest.

In Mr. Leonard's view, the classification system for national system has lost touch with the basics to the point that some agencies don't know how much information they classify or whether they are classifying more or less than they once did or whether they are classifying too much or too little.

The executive branch exerts almost total control over what should or should not be classified. The Congress has no ability to declassify material. So there is no self-correcting mechanism in the system. Even if Members of Congress wish to share information with constituents, it is so complicated for the Congress to release information to the public that no one has ever tried to use this convoluted process. The executive branch has a little-known group that can review classification issues, but it is seldom used and open only to executive branch employees and not to Members of Congress.

What all this means in practice is that with the thump of a stamp marked "Secret" some unelected person in the belly of a Federal building has prevented Americans from gaining access to information. That decision cannot be appealed, even by the Congress. There is no independent review of classification decisions by the executive branch. With no chance of unbiased review, classification decisions are ready and ripe for abuse. Agencies wishing to hide their flaws and politicians—and I emphasize this, Mr. President—of both political parties who wish to make political points can abuse the classification guidelines to their advantage. And four Senators, two Democrats and two Republicans, wish to change that.

I, for one, do not subscribe to the view that there is an inherent conflict between the executive branch's accountability to Congress and the American people on the one hand and the constitutional role of the President as Commander in Chief on the other. I believe that a balance can and must be struck between the public's need for sound, clear-eyed analysis and executive desire to protect the Nation's legitimate security interests.

I believe we can fight terrorism ferociously without limiting the rights of our citizens to information. That is what the sponsors of this legislation seek to do.

There should be no room in this equation I have described for the use of classification to insulate officials and agencies from political pressure. As a member of the Senate Intelligence Committee, I have had lengthy discussions with my colleagues on a bipartisan basis about how to strike such a balance. It is the view of Senator LOTT, Senator GRAHAM, Senator SNOWE, and I that in proposing this amendment we have an opportunity to make the broad overhaul of the national security classification system and to do it in a way that will strengthen the overall reform effort that the Senate is working on.

Finally, the independent board would review and make recommendations on overhauling the standards and process used in the classification system for national security information. The board then submits proposed new standards and processes to both Congress and the executive branch for comment and review. It would then implement the new standards and processes once there has been full opportunity by the executive branch to comment. The board would then begin on an ongoing basis to implement a system, continue to review and make recommendations on current and new national security classifications subject to executive branch veto that must be accompanied by a public, written explanation.

The balance in this legislation ensures that the public and the Congress have access to an independent board for national security matters while ensuring that the Commander in Chief maintain the constitutional prerogative that the Commander in Chief must have with respect to military and foreign policy matters.

For far too long, the executive branch has adhered to the motto, "When in doubt classify." Withholding information to protect political careers and entrenched bureaucracies is a disservice to the American people. It is a perversion of a policy intended to save lives, a perversion that weakens our democracy, and one that could even endanger our people. It is time to throw open the curtains and let the sun shine on American democracy and on the governmental processes we utilize today.

That is what this amendment does.

I see both the chairman and ranking member in the Chamber. Both of them have had an opportunity to see this amendment. I know both of them have a lot on their plates as we try to deal with this important legislation.

I think I can speak for Senator LOTT, Senator BOB GRAHAM, and Senator SNOWE in saying we are anxious to work with the two of them. I know staff has some ideas, some of which strike me as very good, for ways in which we can improve this legislation. I wrap up only by way of saying that I think, with the excellent work they have already done as relates to the organizational structure and the flowcharts and all of the things that we are going to be debating over the next, I hope, few weeks rather than months—but I only say that to maximize the changes which will be made organizationally—we need to find a new way to strike a balance between protecting the country's national security and the people's right to know. I think that balance is out of whack today.

If you look, for example, even at the exceptional work done by Senator ROBERTS and Senator ROCKEFELLER with our committee's report on the Iraq situation with respect to intelligence, had Senator ROBERTS and Senator ROCKEFELLER not dug in as aggressively as they have, my sense is that well over 50 percent of that report would have been classified. In fact, the most important sections would literally receive black ink. We have to do better. I think we can do it on a bipartisan basis. I think doing it will ensure that the important work Senator COLLINS and Senator LIEBERMAN are steering the Senate to will be better. I am anxious to work with both of them and staff. They have both been very gracious as always. I know my cosponsors join me in saying that as we look at various ways to refine this, we are anxious to continue to work in a bipartisan way.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I appreciate the commitment of the Senator from Oregon to work with us on this issue. I certainly understand his frustration at a tendency to overclassify information that it is not warranted to be classified, that is not necessary to protect intelligence sources and methods.

I note a couple of points. One is that the Collins-Lieberman bill vests in the national intelligence director the authority to establish requirements and procedures for the classification of intelligence information.

Another portion of our bill requires the national intelligence director to establish intelligence-reporting guidelines that maximize the dissemination of information, while protecting intelligence sources and methods.

In addition, the administration has expressed grave reservations about the amendment as it is now drafted.

What I would like to suggest and what the Senator from Oregon has graciously offered to do is have our staff on both sides of the aisle sit down with the Senator, see if we can address some of the administration's concerns, see if we can look at language that is already in the bill, and understand how that interacts with the Senator's proposal.

I thank him for his commitment to this area. He has identified a very real problem. I hope, perhaps, we can come up with an approach that will address his concerns.

Mr. LIEBERMAN. Mr. President, I also thank my friend and colleague from Oregon for a very thoughtful statement and a very thought-provoking amendment that he has offered. I know it comes out of his service and the service of the other bipartisan cosponsors on the Intelligence Committee and some experiences they have had, shall we say, which have not been satisfying, in which they have believed they and the public have been deprived of information in a timely way that did not allow them to make informed judgments.

I want to say a few things after thanking Senator WYDEN. One is there are members of our committee who both shared the experience of membership on the Intelligence Committee and brought it to bear on the deliberations of our committee in presenting the Collins-Lieberman proposal which is now before the Senate. That all goes to the priority on sharing of information and the independence and objectivity of intelligence, and on the responsibility of the intelligence community to Congress to provide timely and objective information. And the proposal that the committee brought out is full of provisions aimed at doing just that.

Senator COLLINS has just indicated the central provision for which the national intelligence director is responsible is reviewing and establishing standards for classification of intelligence.

Remember, in the original 9/11 Commission proposal, the national intelligence director was in the Executive Office of the President. We decided—and the Commission ultimately agreed with us—that was a bad idea; that we wanted to establish a standard of independence, openness, and objectivity. We took the position out. The national intelligence director will now be an independent agent setting these standards for classification.

We have broadly adopted a transformational approach to information in which we quite explicitly say we want to go from the Cold-War-era notion that there was a need only to have information if you really needed to know, and that the priority here is on a need to share unless there is a reason not to share. That goes in some cases not to the public but to the other intelligence agencies of our Government and to State and local law enforcement intelligence agencies.

Senator LEVIN, a member of our committee, greatly strengthened building on our requirement in the underlying bill that the national intelligence director must provide national intelligence to Congress and the President that is "timely, objective, independent of political consideration and based on all sources available to the intelligence community." Senator LEVIN extended that to cover the director of the national terrorism center, the other national intelligence centers, the CIA Director, the National Intelligence Council, and restated the mandate to require national intelligence be timely, objective, independent of political considerations, and not shaped to serve policy considerations.

We are asking that the national intelligence director have responsibilities to ensure that the appropriate officials of the U.S. Government, including, of course, Members of Congress, have access to a variety of intelligence assessments and analytical views; likewise, that the national intelligence centers have similar access.

In response to the specific recommendation of your colleague, the ranking Democrat on the Intelligence Committee, Senator ROCKEFELLER, we created the office of ombudsman within the national intelligence authority to serve as an independent counselor, an independent reviewer of analytical product, to address any problems of bias or lack of objectivity or politicization in the intelligence community. The same is true of national intelligence estimates, that they be provided in a way that distinguishes between analytical judgments underlying intelligence.

We have a very strong provision about congressional oversight. The committee included provisions to strengthen the ability of congressional oversight to ensure independent and timely intelligence analysis; that the director of the counterterrorism center, for instance, may testify and submit comments to Congress without clearance from anyone else in the executive branch. The heads of the counterterrorism centers must provide intelligence assessments and certain other information to appropriate Members of Congress. Employees are explicitly authorized to report directly to Congress any evidence showing false statements to Congress and to an intelligence estimate.

There is a real congruence of purpose here in opening up, to the extent allowed by our national security needs, the intelligence that is in the possession of our Government.

I understand this amendment pushes this a step or two forward in focusing beyond what our proposal does in authorizing the national intelligence director to deal with classification standards to create this board. This is the first time I have seen the amendment. I appreciate the work that has been done on it and the purpose behind it, and with Senator COLLINS, I offer to sit and reason together with our respective colleagues, leaders in this field, who are the proponents of the amendment, and see if we can come to some agreement that is progressive but does not take the bill in a direction that might make it hard to adopt everything else we want to adopt.

That is the practical last word I want to offer.

Mr. WYDEN. Mr. President, if I could take perhaps an additional 2 minutes to make a quick comment.

Mr. LIEBERMAN. I yield the floor.

Mr. WYDEN. And then one of our cosponsors, the former chairman of the Intelligence Committee, wants to speak on behalf of the bill, as well.

Mr. President, I ask unanimous consent Senator CORNYN of Texas be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, very briefly, first I express my thanks to Senator COLLINS and Senator LIEBERMAN for their help. They always go out of their way to help me and I am very appreciative of it.

My only substantive point, because we are going to work very closely, touches on the matter that our distinguished Chair made with respect to the executive branch having concerns about this issue. Every executive branch, whether it be controlled by Democrats or Republicans, will be concerned about this issue. What troubles the four of us is, whether a Democrat is President or a Republican is President, is that there are employees who can take a big old stamp, mark something "secret," and then there is no independent review at all. That has been abused, in our view, on a bipartisan basis. It has been abused by administrations when they were run by Democrats. It has been abused when there have been administrations run by Republicans.

What the four Senators seek to do—now five, with the gracious help of the distinguished Senator from Texas—we seek to strike a balance between the President and the Congress.

What I say to the distinguished chairman of the committee, who makes a good point as to the executive branch, as the four of us talked about this issue—Senator LOTT, Senator SNOWE, Senator GRAHAM, and myself—we felt we would give the President, the executive branch, the first word and the last word on an issue with respect to classification. It is possible under our bipartisan proposal for a President to have the last word with respect to whether a document is classified. What we do, consistent with that principle, is allow for a broad swath of congressional involvement in between the President having the first word and the last word.

I only say to the distinguished chair of the committee, I will work very closely with you and Senator LIEBERMAN. My guess is we can never make the executive branch completely happy on this issue, whether it is controlled by a Democrat or controlled by a Republican. It is in the public interest now to strike a better balance with respect to how Government documents are classified with respect to the Congress and the President. We do that by giving the President the first word and the last word. But without any opportunity for congressional appeal, what we will have is what Senator Moynihan started talking about years ago, which is that in every executive branch, whether controlled by Democrats or Republicans, people in these agencies in the belly of some building somewhere will keep stamping stuff secret because there is no independent review. It is just in the political interests of those people to do it.

I look forward to working with my colleagues. They have been very kind.

I see the former chairman of the Intelligence Committee. My involvement in this issue really stems from the superb work Senator GRAHAM has done. I hope everyone buys his book in hardback. It is a wonderful piece of scholarship with respect to intelligence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, I thank my good friend Senator WYDEN for his thoughtful work on this amendment, for his always generous personal relationship, and for his commercial reference to the book "Intelligence Matters." I will be using some of the material from that book in my comments this afternoon as I rise to speak in favor of the amendment which addresses our Government's dangerous tendency toward excessive secrets.

From the very beginning of our Nation, the American people have been concerned with the Government's attempts, almost an irresistible attempt by any government, to hide or to fail to disclose issues that properly should be available to the public.

President John F. Kennedy said in his first year as President:

> The very word "secrecy" is repugnant in a free and open society; and we are as a people inherently and historically opposed to secret societies, to secret oaths and to secret proceedings . . .
>
> We decided long ago that the dangers of excessive and unwarranted concealment of pertinent facts far outweighed the dangers which are cited to justify it.

In a free, open, democratic society, we must always begin with the belief that the people should have access to all of the information which the Government holds on their behalf. The only exceptions to this rule should be those made for necessary personal or corporate privacy reasons, such as tax returns, and for legitimate reasons of national security.

Now, of course, there are occasions when the national security of the United States is best served by the withholding of certain information, such as when we conceal the sources and methods of gathering extremely sensitive information to protect the sources themselves. However, our current system of classifying information is being abused to an extent that borders on the absurd. But there is nothing comical about this development.

In my judgment, the two key issues we are going to have to face if we are going to overcome the many fundamental problems which are facing our intelligence community are, first, the inadequacy of our human intelligence to be able to confront the threats that we now face, and, second, this issue of secrecy.

Now, I know that much of our analysis and focus will be on the specific problems identified by various groups which have looked into the events leading up to 9/11, including the Joint House/Senate Inquiry. However, there are some other issues which are embraced in 9/11 but which go well beyond 9/11. One of those which has been a recurring failure of America's intelligence is the failure to see the big issue. Why was it that our intelligence did not see the fact that although it had stated there were precisely 550 sites where weapons of mass destruction were being either produced or stored in Iraq, once we got to Iraq, the number was actually zero? Can you imagine that we have an address book of 550 sites that were supposed to be the dangerous locations, and as soon as we occupied the country we started knocking on 550 doors and did not find any of it? Think of the damage that failure has meant to the United States as a fundamental rationale for going to war in the first place and to our international reputation.

A second example of the failure to see the big issue is the one Senator Moynihan used as a centerpiece of his book "Secrecy," and that was the fact that our intelligence community failed to predict the collapse of the Soviet Union. As Senator Moynihan pointed out, indicators that the Soviet Union was on the brink of economic collapse were available years in advance of the end of the Cold War. Yet our intelligence community, and specifically the CIA, greatly misperceived the strength of the Soviet economy and, therefore, did not realize that collapse was imminent.

Unfortunately, the CIA and other intelligence agencies insisted on classifying nonsensitive information about the state of the Soviet economy. If this information had been disclosed to the public and to experts outside the Government, we could have seen the CIA was working with flawed data. That flawed data would have been subject to challenge. And perhaps before the collapse of the Berlin Wall we would have concluded that the Soviet Union was not internally stable in order to maintain its position in the military, space, and scientific competition with the United States. Had we done so, this undoubtedly would have allowed us to develop smarter, more effective strategies regarding the Soviets and their allies.

To give one example of that, during the period when it was widely known by many that the Soviet Union was on the verge of collapse, but where we were being told by our intelligence agencies, with information not available to the general public, that in fact the Soviet Union remained a competitive force, we were providing the resistance fighters in Afghanistan with some of the most sophisticated military materials, particularly items such as the Stinger missile, to use in the war against the Soviet Union.

If we had known how close the Soviet Union was to collapse and had thought about the consequences of having hundreds if not thousands of pieces of some of the most lethal military equipment in the world in the hands of those who were resisting the Soviets in Afghanistan, we might have rethought whether that was a wise policy or whether we were pursuing a short-term victory at the expense of arming a part of the world which was going to be our long-term adversary.

Those are the consequences of failure to see the big picture. I believe one of the principal reasons we repeatedly failed to see the big picture is exactly the secrecy which we have imposed upon material, therefore denying the opportunity for a wide range of Americans to see the information, challenge the information, and, if it is unable to sustain that challenge, force the information to be corrected.

One of the more recent failures that was disclosed by both the House/Senate Intelligence Committees Joint Inquiry and the recent 9/11 Commission related to some of the evidence that there was a connection between the Kingdom of Saudi Arabia and at least some if not all of the terrorists inside the United States. This, in my opinion, was one of the most significant findings of the inquiry. Its significance is that if a foreign government is providing support to terrorists embedded inside the United States, it contributes substantially to the ability of those embedded operatives to maintain their anonymity while they are planning, practicing, and executing very complex terrorist plots.

That is what happened prior to 9/11. It was our conclusion that in fact these terrorists were not here alone, that they were receiving that type of support. We raised the question, if it was happening before 9/11, what is our level of confidence that it is not happening after 9/11?

Details of our findings that led us to this chilling possibility were included in the Joint Inquiry's final report.

Let me read from a section of that final report which was made available to the public. But I note the brackets around these paragraphs. Those brackets indicate that while this information was made available to the public, it was only done so after it was sanitized, rewritten by the agencies which had scrutinized this report, particularly the CIA and the FBI. But here is what they would allow to be made available to the American people:

> [Through its investigation, the Joint Inquiry developed information suggesting specific sources of foreign support for some of the September 11 hijackers while they were in the United States. The Joint Inquiry's review confirmed that the intelligence community also has information, much of which has not yet been independently verified, concerning these potential sources of support. In their testimony, neither CIA nor FBI officials were able to address definitively the extent of such support for the hijackers globally or within the United States or the extent to which such support, if it exists, is knowing or inadvertent in nature. Only recently, and at least in part due to the Joint Inquiry's focus on this issue, did the FBI and CIA strengthen their efforts to address these issues. In the view of the Joint Inquiry, this gap in U.S. intelligence coverage is unacceptable, given the magnitude and immediacy of the potential risk to U.S. national security. The intelligence community needs to address this area of concern as aggressively and as quickly as possible.]

What happened was that even with that sanitized version of the introduction to that section, then the intelligence community proceeded to censor the rest of the section, page after page. Twenty-seven pages were completely blank so that the American people were never given the opportunity to know what we knew about the role of foreign governments—specifically, the Kingdom of Saudi Arabia—in support of the terrorists. Does it make America safer that this type of information is withheld? What an absurdity.

Of course, this puts Americans at greater risk. Why was this done? Why was this withheld from the American people? I believe it was withheld not for national security reasons. And I might say I am joined in that assessment by my colleague, Senator DICK SHELBY, who reviewed this information, as I had, and concluded that 95 percent of the information which had been censored was not of a national security nature.

Obviously, it was embarrassing, embarrassing to the CIA, to the FBI that such an infrastructure of support could have been allowed to exist and grow in the United States and then be used by people who killed 3,000 Americans.

I believe this information is just one example of the tendency toward excessive secrecy, including the most recent example of that, which is the refusal to declassify any portion of the recently released national intelligence estimate regarding the scenario of future events in Iraq.

This report, which represents the consensus view of all our intelligence agencies, outlines several possible scenarios for the future of Iraq and combines the best information and analysis available within the executive branch. While a few of the sources of information probably should continue to be concealed, the national intelligence estimate itself should not be. As the Congress and the American public debate the best way to proceed in Iraq, we should have access to the best thinking available on that subject.

The administration thus far has characterized the national intelligence estimate on Iraq as being guesses. The administration should act immediately to declassify the national intelligence estimate so that the American people can determine whether it is a mature and professional assessment of the range of choices we have in Iraq.

Our Joint Inquiry recommended that the President and the intelligence agency review the Executive orders, the policies and procedures that govern classification, the withholding from the American people of information. The purpose of this review would be to "expand access to relevant information for federal agencies outside the intelligence community, for state and local authorities, which are critical to the fight against terrorism, and for the American public."

If I could comment a moment on that access to State and local officials, there were at least five incidents within a matter of weeks of 9/11 in which one or more of the terrorists was under the control of a State and local law enforcement officer, generally because they had committed a traffic offense. Yet the State and local law enforcement officers did not have access, because of excessive secrecy, to the information that these very people who were under their direct command were also listed on a terrorist watch list as being people who, had they been outside the United States, would not have been allowed to enter. But now they are in the United States, and the people who are the most likely to encounter them, State and local law enforcement, are denied the information upon which they can protect the safety and security of the American people. It is an outrage.

Two-thirds of these terrorists spent most of their time in the United States in my State of Florida. I am not proud of that, but it happens to be a statement of fact. I have talked with local and State law enforcement leadership in my State and I asked: If the same thing that occurred in the summer of 2001 were to occur in the fall of 2004, what would the result have been? Do you know what the answer is? Exactly the same, that our State and local law enforcement would continue to be denied access to the information that would allow them to be of optimal effectiveness in providing us, the American people, optimal security.

Returning to the recommendations of the 9/11 Joint Inquiry, the Joint Inquiry called on the Director of Central Intelligence, the Attorney General, the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of State to review and report to the House and Senate proposals to protect against the use of the classification process as a shield to protect agency self-interest.

What has happened in the now almost 2 years since this report was filed? The answer is, nothing has happened. There has been no effort by any of those agencies to present to the Congress their ideas of how we can protect ourselves against agency self-interest.

The recommendation also called upon Congress to undertake a similar review of classification procedures and consider in particular "the degree to which excessive classification has been used in the past and the extent to which the emerging threat environment has greatly increased the need for real-time sharing of sensitive information."

Again, sad to say, almost 2 years since the report was filed, no executive agencies have taken any action to review and report on their classification procedures. This means that we in the Congress, as the representatives of the people who are being denied this information, must now step forward and force action.

The amendment offered this afternoon by my colleague from Oregon would create an independent national security classification board within the executive branch to review current classification policies and procedures. The board would then propose more coherent, rational standards to Congress and the President and help to ensure that new standards are implemented.

Once the new standards are in place, the board will have access to all documents classified for national security reasons and will have the authority to review decisions made by employees of the executive branch. The board will be able to recommend that the President reverse or alter classifications with which it disagrees. The President will have the authority to ignore the board's recommendation, but the President will be required to notify Congress and the American public that he or she has done so.

Early in our country's history, Patrick Henry argued:

> The liberties of a people never were, nor ever will be, secure when the transactions of their rulers may be concealed from them.

Much more recently, Senator Moynihan concluded his book on the evils of government secrecy with these words:

> A case can be made . . . that secrecy is for losers, for people who don't know how important information really is. The Soviet Union realized this too late. Openness is now a singular, and singularly American, advantage. We put it in peril by poking along in the mode of an age now past.

We would do well to heed both the words of Patrick Henry and Senator Patrick Moynihan. We would do well, by such heeding of these words, to avoid the peril of excessive secrecy and its consequences, including the consequence of designating the United States of America as losers. We now have the opportunity to avoid that fate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I thank my friend, the Senator from Florida, for a very informed statement.

To restate what we said to Senator WYDEN, I appreciate the experience that led our colleagues from both parties to offer this amendment. I know I speak for Senator COLLINS in saying, first, we want to look at the amendment in more detail; second, we want to work to see if we can come up with some way to accommodate your concerns that is agreeable to all involved.

I ask unanimous consent that this amendment be set aside to allow us time to do the work we are about to do.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, it is my understanding that the senior Senator from Maine, Senator SNOWE, is on her way to the floor to speak to the amendment temporarily laid aside.

Before the Senator from Florida leaves the floor, I want to thank him for all the work he has done in this area. The Senator recently spent about an hour with me, sharing some of his experiences as chairman of the Senate Intelligence Committee. He has a great deal of knowledge and expertise, and I very much appreciated his taking the time to give me the benefit of his thoughts on intelligence reform. I am also the proud owner of his book, which is on my bedside table right now and is very appropriate reading as we do this debate. I thank him for his contributions. Like Senator LIEBERMAN, I look forward to working with him, Senator WYDEN, Senator SNOWE, Senator LOTT, on the amendment they have proposed.

Mr. LIEBERMAN. Mr. President, I want to tell Senator GRAHAM that Senator COLLINS indicated to me she does have your book on her bedside table and she finds it compelling. She does not use it to induce sleep. I want to reassure him of that. I find it compelling as well. I join her in thanking the Senator.

You two were way out front in recommending quite a while ago some of the reforms that are contained in our committee's proposal. I hope the Senator knows his work cleared a path and informed the work that the committee did. I thank him for that.

AMENDMENT NO. 3705

Ms. COLLINS. Mr. President, I send an amendment to the desk on behalf of myself, Senator CARPER, and Senator LIEBERMAN.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Maine [Ms. COLLINS] for herself, Mr. CARPER, and Mr. LIEBERMAN, proposes an amendment numbered 3705.

Ms. COLLINS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Ms. COLLINS. Mr. President, I will not debate this amendment tonight. I wanted to alert our colleagues that this amendment represents the work of the Governmental Affairs Committee to reform and improve and strengthen the formula for the allocation of Homeland Security grant moneys. Our committee has held several hearings over the last 2 years on this issue. This legislation reflects the result of those hearings. It also parallels the recommendations of the 9/11 Commission, that the formula needs to be revised so that it is more of a threat-based formula.

We worked very hard to come up with a compromise on the committee. We maintained the minimum that each State would get to ensure that every State can respond to its preparedness needs. But we also rewrote the formula in recognition of the fact that some areas of our country, some States, are indeed high-threat areas.

This legislation represents a careful balance that reflects the membership of our committee, which includes both large-State Senators, such as Senator LEVIN of Michigan, and small-State Senators, such as Senator CARPER of Delaware. Senator LEVIN, in particular, I recognize for his very hard work on revising the formula. As I said—and I see members of the leadership on the floor—we will not debate this at length tonight. I did want to send the amendment to the desk.

Mr. LIEBERMAN. Mr. President, I am prepared to join with Senator COLLINS and Senator CARPER in introducing this amendment, and Senator CARPER played a very active role on the committee, along with Senators COLLINS, LEVIN, and other members in devising this very balanced approach to this controversial question of the Homeland Security grant formula. It does reflect the reality of the current terrorist threat, that there are some places that are a higher probability because they contain more potential targets, or because they are just big, prominent cities. But the fact is, when you are dealing with an enemy—and we have seen this around the world—that will strike at the most vulnerable, undefended targets, not caring about consequences to human life, whoever it is—children in schools, buses, trains, families, et cetera—in some sense, every American is endangered and every community is endangered.

Therefore, every State deserves some proportion of these Homeland Security grants.

That balance has been struck very well, I think, in this amendment, which is the bill our committee reported out earlier. So I look forward to debating this and hopefully passing it with strong support in the coming days.

I want to say two more things before I yield the floor. First, we now have, I believe, three amendments that have been filed this afternoon. This is good news. There will be a lot of amendments on this bill, and I am sure we will be on the bill for a considerable number of days. One of our colleagues said we might be on this for weeks or months. I prefer to speak in terms of days or hours, as Senator REID prefers. But it is good we have these three amendments offered and hopefully we will go to a vote on one or maybe two of them tomorrow and begin to move forward on this proposal. That is good news.

Secondly, I am delighted to ask unanimous consent to add Senator DURBIN of Illinois as a cosponsor to the underlying bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, Senator DURBIN is a member of the Governmental Affairs Committee. He made some very significant contributions to this bill, which we will discuss in more detail during the debate on information technology systems of our Government when it comes to dealing with national security intelligence and the board that the bill creates to guarantee while we are improving the security of our people in an age of terrorism that their liberty continues to be protected as well.

I am grateful Senator DURBIN has joined us as a cosponsor. I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. McCONNELL. Mr. President, we are not in a quorum call, are we?

The PRESIDING OFFICER. We are not.

ORDERS FOR TUESDAY, SEPTEMBER 28, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m., Tuesday, September 28. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period for morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee and the final 30 minutes under the control of the Democratic leader or his designee; provided that following morning business, the Senate resume consideration of S. 2845, the intelligence reform bill. I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, for the information of all Senators, tomorrow, following morning business, the Senate will resume consideration of the intelligence reform bill. I would like to say to Chairman COLLINS and Ranking Member LIEBERMAN, I think they had a good debate today and have gotten a good start, and we will continue the amending process tomorrow. The chairman and ranking member will be here to work through any amendments, and we hope to have them begin to be offered tomorrow. We encourage all Senators to contact the bill managers as early as possible and see if we can move forward on this very important legislation which the majority leader and the Democratic leader wish us to finish before we go home for the elections.

ORDER FOR ADJOURNMENT

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator SNOWE or any other remarks of the chairman of the committee.

Mr. REID. I ask that be amended to the chairman and ranking member.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. I yield the floor.

MORNING BUSINESS

CUMBERLAND VALLEY NATIONAL BANK

Mr. McCONNELL. Mr. President, I rise today to recognize the Cumberland Valley National Bank on its one hundredth anniversary as a premiere financial institution in the heart of southeastern Kentucky.

On October 1, 1904, the East Bernstadt Banking Company, as it was known then, opened its doors with capital stock of $15,000. Within 8 years their capital stock had jumped to $25,000 and they underwent their first name change, to the First National Bank. This was just the beginning of several expansions and name changes.

In spite of the closing of major coal mining operations in East Bernstadt, the First National Bank remained quite successful and moved from East Bernstadt to the Catching Building in London, becoming, ironically, the Second National Bank of London. In the years that followed, their capital stock continued to rise. By 1951, the bank reached a milestone with $100,000 in capital stock. In 1959, the Second National Bank opened its first branch location, the North London Branch and added a third location in 1974. Because it was able to establish itself as one of the premiere banking institutions in Laurel County, the bank decided to change its name again, this time to its current name the Cumberland Valley National Bank.

Today, the Cumberland Valley National Bank has twenty locations to serve the people of Laurel County. While the bank has changed its name several times over the last 100 years, it has never changed the impeccable service it provides its customers. This is due in large part to the hundreds of former and current employees who have strived to make this bank a cornerstone of Laurel County.

Today I ask my colleagues to join me in honoring the Cumberland Valley National Bank, the largest locally owned bank in southeastern Kentucky, for its one hundred years of business. I wish them another one hundred years of success.

SECURITY FOR JUSTICES—S. 2742

Mr. LEAHY. Mr. President, I am pleased to be an original cosponsor of S. 2742, which is a short but important piece of legislation that Senator HATCH and I have cosponsored at the request of the Supreme Court. This legislation would renew authority to provide security for the Justices when they leave the Supreme Court. Recent reports of the assault of Justice Souter when he was outside of the Supreme Court highlight the importance of security for Justices. If no congressional action is taken, the authority of Supreme Court police to protect Justices off court grounds will expire at the end of this year.

Another provision in this legislation allows the Supreme Court to accept gifts "pertaining to the history of the Supreme Court of the United States or its justices." The administrative offices of the Courts currently has statutory authority to accept gifts on behalf of the judiciary. This provision would grant the Supreme Court authority to accept gifts but it would narrow the types of gifts that can be received to historical items. I think this provision strikes the proper balance.

Finally, this legislation also would provide an additional venue for the prosecution of offenses that occur on the Supreme Court grounds. Currently, the DC Superior Court is the only place of proper venue despite the uniquely Federal interest at stake. This legislation would allow suit to be brought in United States District Court in the District of Columbia.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On July 7, 2000 in San Diego, CA, Paul Cain, a 28-year-old member of the Nazi Low Riders, was sentenced to 15 years to life in prison for the beating and strangulation of a gay man in 1995.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

CAPS DREAM VIGIL

Mrs. CLINTON. Mr. President, I rise today in recognition of the DREAM Vigil, a national grassroots effort to raise support for the DREAM Act. Many New Yorkers participated in a 5-day fast during the National Week of Action for Immigrants' Rights. They did this in part to show support for the DREAM Act, an important piece of legislation for immigration reform. In a show of solidarity, similar fasts have been organized in cities and States across the Nation over the past 2 weeks. The DREAM Vigil culminated last week and I commend all of the State and local organizations, community members, local leaders and students in New York and across the Nation that have participated in this effort.

Recently, I stood before you and spoke about the importance of this month's celebration of Hispanic heritage. Today, Hispanic Americans are flourishing in States across the country and I am proud to represent the most diverse Hispanic community in our Nation. Yet, I worry that far too many immigrant children and families continue to suffer under America's broken immigration system.

This year more than 65,000 immigrant students graduated from U.S. high schools only to see the doors of opportunity closed to them, through no fault of their own. The DREAM Act, which I proudly cosponsor, will help expand opportunities for our Nation's immigrant students by placing them on a path to college and U.S. citizenship. Yet Members of Congress and this administration continue to put this important legislation on the back burner.

Over the last few years, immigrant students and advocates across the country have engaged in an enormous amount of activity in support of the DREAM Act. They have met with members of Congress, held hundreds of rallies, gathered more than 100,000 petitions, made tens of thousands of phone calls to congressional offices, and more. Just last April, over 300 students and advocates came to Washington, DC, from all across the Nation to express their support for the DREAM Act and to urge President Bush to support this legislation. Nearly half of these students came from New York, and I was proud to have had the opportunity to meet some of them.

It is important to understand that these students were brought to this Nation as young children and have been educated in our public school system. They have stayed in school and stayed out of trouble and many are valedictorians, honor students, student leaders, and high achievers. Yet, because of their immigration status they are often effectively barred from pursuing a post-secondary education and the American dream.

Over the past several years I have met many of these students. They have also written to me to share their stories of why this legislation is important to them. In July, I heard from Alejandra, who came to Washington as part of a group of advocates for immigration reform. Alejandra also participated in the 5-day fast as part of the National Week of Action in New York. She graduated in June as the valedictorian of Renaissance Charter School in Jackson Heights, Queens. Alejandra was a member of the National Honor Society; a sixth grade tutor; a teacher's assistant; an intern with the Global Kids, Human Rights Activist Project; and one of 400 students and staff across the Nation who were selected to participate in the National Young Leaders Conference in Washington, DC, last year. Yet. Alejandra is one of many students across New York whose high school graduation was bittersweet.

Alejandra has done everything right. However, she still struggles to pay for college, a struggle that is not based on her merit, but rather on her immigration status. Despite all of her hard work, exemplary academic performance, and outstanding record of community service, Alejandra remains ineligible for Federal grants, loans or work-study jobs to help her afford college. Our broken immigration system is trying to force her out of our education system and the American dream. But, Alejandra is determined. She is persistent, and she refuses to give up. In spite of her immigration status and unlike other students in her precarious situation, Alejandra has found a way to pursue higher education. She currently attends the City University of new York. But still, the DREAM Act remains her only real hope of achieving that one thing that all Americans yearn and work hard for—the opportunity to fully contribute to the land we call home—the American dream. Without the DREAM Act, her years of hard work and the education that she has struggled so hard to obtain will be meaningless and wasted since Alejandra will never be able to put her skills to work legally.It is a wasted investment for her and a wasted investment for the American people.

I find it deeply troubling that we allow this to happen in today's 21st century economy, where a post-secondary education is quickly becoming the minimum requirement for higher-earning jobs. Failure to provide immigrant students such as Alejandra and all students with adequate access to post-secondary education will have devastating economic and social consequences for these individuals and our entire Nation.

That is why the DREAM Act is so critical. It ensures that the promise of the American dream becomes a reality for our Nation's immigrants—many of whom are Hispanic Americans—and every American. Results of two national public opinion polls demonstrate strong voter support for the concept embodied in the DREAM Act. The DREAM Act deserves our Nation's full support and I urge President Bush and Congress to pass this important legislation this year.

ADDITIONAL STATEMENTS

TRIBUTE TO MRS. BEATRICE T. JONES

• Mr. SESSIONS. Mr. President, today I wish to recognize the accomplishments of Mrs. Beatrice T. Jones, a dedicated public servant who has given 22 years of her life to our country. Mrs. Jones began her civil service career on May 30, 1982 with the Department of the Army. Originally from the Roanoke, VA, area, Mrs. Jones is the classic success story. Steadily climbing the ladder, Mrs. Jones advanced from a Secretary position to become the Chief of Protocol for the U.S. Army Military District of Washington. Over the years, she gained a reputation among her peers and Army leadership as the resident expert in military protocol and etiquette.

Mrs. Jones was directly responsible for the success of countless ceremonial events such as the Army's notable Twilight Tattoo, Spirit of America, holiday concerts, numerous retirements and in a special tribute to honor America's fallen heroes of September 11. Many of these events gave great solace to our national audience. She was the ever present figure behind the scenes ensuring that all went well. Her involvement and unique sense of what the United States Army meant to her countrymen allowed Mrs. Jones to chart these events so that everyone in attendance was enthused with a sense of pride in our senior service.

I mention her today because I believe it is important to recognize the type of steadfast trooper we have in Mrs. Jones; she was always there, working the late hours before the event and hustling during the event. She was the person concerned about the smallest detail so that the pride of the Army would be at the maximum level. Mrs. Jones was likely so caught up in these events to ensure success that she had little time to contemplate the scale and dignity of the grand ceremonies she brought about. I was pleased to note that the Army recognized that time had come to give Mrs. Jones her own ceremony. On July 16 of this year, Mrs. Jones was awarded the Superior Civilian Service Award by Major General Jackman, Commanding General, U.S. Army Military District of Washington, for her exceptional contributions to the Directorate of Ceremonies and Special Events. This medal reflects her superb service and the gratitude of a long gray line of Army Protocol Specialists whose lives and careers she has touched, and many of whom have become successful in their own right as a result of carrying with them the lessons learned under Mrs. Jones.

I am please to report that her future plans include spending quality time with her grandchildren and family. These personal ventures have been long put aside for the benefit of our Army, and for the record, let it be noted that Mrs. Jones's countrymen extend their gratitude for her loyalty and dedicated service to her country.●

MESSAGE FROM THE HOUSE

At 1:03 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1057. An act to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

H.R. 2028. An act to amend title 28, United States Code, with respect to the jurisdiction of Federal courts over certain cases and controversies involving the Pledge of Allegiance.

H.R. 3428. An act to designate a portion of the United States courthouse located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building".

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 475. Concurrent resolution encouraging the International Olympic Committee to select New York City as the site of the 2012 Olympic Games.

H. Con. Res. 486. Concurrent resolution recognizing and honoring military unit family support volunteers for their dedicated service to the United States, the Armed Forces, and members of the Armed Forces and their families.

MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 486. Concurrent resolution recognizing and honoring military unit family support volunteers for their dedicated service to the United States, the Armed Forces, and members of the Armed Forces and their families; to the Committee on Armed Services.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3428. An act to designate a portion of the United States courthouse located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPECTER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2485. A bill to amend title 38, United States Code, to improve and enhance the authorities of the Secretary of Veterans Affairs relating to the management and disposal of real property and facilities, and for other purposes (Rept. No. 108–358).

By Ms. COLLINS, from the Special Committee on Aging:

Report to accompany S. 2840, An original bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes (Rept. No. 108-359).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CRAPO (for himself, Mr. INHOFE, and Mr. JEFFORDS):

S. 2847. A bill to reauthorize the Water Resources Act of 1984; to the Committee on Environment and Public Works.

By Mr. ENSIGN (for himself and Mr. REID):

S. 2848. A bill to transfer administrative jurisdiction over certain land in Clark County, Nevada, from the Secretary of the Interior to the Secretary of Veterans Affairs; to the Committee on Energy and Natural Resources.

By Mr. HAGEL:

S. 2849. A bill to provide certain enhancements to the Montgomery GI Bill Program for certain individuals who serve as members of the Armed Forces after the September 11, 2001, terrorist attacks, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2850. A bill to authorize the President to posthumously award a gold medal on behalf of the Congress to Fred McFeely Rogers, in recognition of his lasting contributions to the application of creativity and imagination in the early education of our Nation's children, and to his lasting example to the Nation and the world of what it means to be a good neighbor; to the Committee on Banking, Housing, and Urban Affairs.

ADDITIONAL COSPONSORS

S. 847

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

At the request of Mr. SMITH, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 847, supra.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S . 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1368

At the request of Mr. FRIST, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1890

At the request of Mr. ENZI, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1890, a bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes.

S. 2003

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2003, a bill to amend the Public Health Service Act to promote higher quality health care and better health by strengthening health information, information infrastructure, and the use of health information by providers and patients.

S. 2298

At the request of Mr. BREAUX, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2298, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes.

S. 2367

At the request of Mr. REID, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2367, a bill to amend chapters 83 and 84 of title 5, United States Code, to provide Federal retirement benefits for United States citizen employees of Air America, Inc., its subsidiary Air Asia Company Limited, or the Pacific Division of Southern Air Transport, Inc.

S. 2425

At the request of Mr. BYRD, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2614

At the request of Mr. CONRAD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2614, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 2722

At the request of Mr. DURBIN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2722, a bill to maintain and expand the steel import licensing and monitoring program.

S. 2782

At the request of Mr. SUNUNU, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2782, a bill to reform social security by establishing a Personal Social Security Savings Program.

S. 2808

At the request of Mr. BYRD, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2808, a bill to amend title 5, United States Code, to make the date of the signing of the United States Constitution a legal public holiday, and for other purposes.

S. 2815

At the request of Mr. DEWINE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2815, a bill to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

S. 2845

At the request of Mr. LIEBERMAN, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of S. 2845, supra.

At the request of Ms. COLLINS, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2845, supra.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. CON. RES. 136

At the request of Mr. CONRAD, the names of the Senator from New York (Mrs. CLINTON), the Senator from West Virginia (Mr. BYRD), the Senator from Delaware (Mr. CARPER) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 408

At the request of Mr. SCHUMER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 408, a resolution supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence.

S. RES. 420

At the request of Mr. PRYOR, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. Res. 420, a resolution recommending expenditures for an appropriate visitors center at Little Rock Central High School National Historic Site to commemorate the desegregation of Little Rock Central High School.

S. RES. 424

At the request of Mr. CRAIG, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 424, a resolution designating October 2004 as "Protecting Older Americans From Fraud Month".

S. RES. 429

At the request of Mr. DURBIN, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from California (Mrs. FEINSTEIN) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. Res. 429, a resolution establishing a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

S. RES. 434

At the request of Mr. PRYOR, his name was added as a cosponsor of S. Res. 434, a resolution recognizing and supporting all efforts to promote greater civic awareness among the people of the United States.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HAGEL:

S. 2849. A bill to provide certain enhancements to the Montgomery G.I. Bill Program for certain individuals who serve as members of the Armed Forces after the September 11, 2001, terrorist attacks, and for other purposes; to the Committee on Veterans' Affairs.

Mr. HAGEL. Mr. President, I rise today to introduce the G.I. Bill Enhancement Act of 2004. My legislation would waive the Montgomery G.I. bill program's $1,200 enrollment fee for active duty members of our Nation's military.

This legislation covers any member of the United States military, including Reserve and National Guard members, serving on active duty during the period after President Bush's November 2001 Executive order that placed the military on a wartime footing. This legislation would: waive the G.I. bill enrollment fee until President Bush's November 2001 Executive order is rescinded; allow all servicemen and women to opt into the G.I. bill with no penalty or enrollment fee; and reimburse those servicemen and women covered by this bill who have already paid the $1,200 enrollment fee prior to the enactment of this legislation.

The current Montgomery G.I. bill is tailored to serve members of our military in a time of peace. Upon enlistment, recruits are given the option of enrolling in the G.I. bill. If they choose to participate, they are charged a $1,200 enrollment fee which is deducted from their monthly pay over 12 months. However, we are now in a time of war and the demands on our service members and their families have been transformed and increased. To that end, changes must be made to the G.I. bill to ensure that it continues to provide realistic and relevant educational opportunities to those who are defending our country.

This is an issue of fundamental fairness. The men and women serving our country in wartime should not have to choose between the long-term benefits of the G.I. bill and the short-term demands of their paycheck. The G.I. bill is one of the great legacies of military service to our country. Men and women sacrificing for their country in a time of war need to be assured that access to higher education is in their future. Congress must do all it can to ensure that education options for our veterans are accessible and real.

The year 2004 marks the 60th anniversary of the Servicemen's Readjustment Act of 1944, better known as the G.I. bill. This bill has long been recognized as one of the most important congressional acts of post World War II America. The G.I. bill ensured that all who served their Nation would not be penalized as a result of their time away from their careers and communities in service to their country. The G.I. bill helped members of our "greatest generation" upon their return home by providing them with the educational tools necessary to pursue the opportunities enjoyed by all Americans.

Over the last 60 years, the Federal Government has invested billions of dollars in education benefits for our Nation's veterans. Over 17.6 million men and women have benefitted from the G.I. bill, resulting in a workforce that transformed American society. The bill's far-reaching impact can be seen here today, as Members of this body, including this Senator, have prospered as a result of the benefits of the G.I. bill.

Every American should be proud of how we have responded to the challenges of terrorism following September 11, 2001. We owe much to the men and women who have fought professionally and bravely in Afghanistan and Iraq and who have kept guard around the world. This bill recognizes these sacrifices. I hope that my Senate colleagues will give serious consideration to this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2849

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FROM PAYMENT OF INDIVIDUAL CONTRIBUTIONS UNDER MONTGOMERY GI BILL OF INDIVIDUALS WHO SERVE AS ACTIVE DUTY MEMBERS OF THE ARMED FORCES UNDER EXECUTIVE ORDER 13235.

(a) ACTIVE DUTY PROGRAM.—Notwithstanding section 3011(b) of title 38, United States Code, no reduction in basic pay otherwise required by such section shall be made in the case of a covered member of the Armed Forces.

(b) SELECTED RESERVE PROGRAM.—Notwithstanding section 3012(c) of such title, no reduction in basic pay otherwise required by such section shall be made in the case of a covered member of the Armed Forces.

(c) TERMINATION OF ON-GOING REDUCTIONS IN BASIC PAY.—In the case of a covered member of the Armed Forces who first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces before the date of the enactment of this Act and whose basic pay would, but for subsection (a) or (b) of this section, be subject to reduction under section 3011(b) or 3012(c) of such title for any month beginning on or after that date, the reduction of basic pay of such covered member of the Armed Forces under such section 3011(b) or 3012(c), as applicable, shall cease commencing with the first month beginning on or after that date.

(d) REFUND OF CONTRIBUTIONS.—(1) In the case of any covered member of the Armed Forces whose basic pay was reduced under section 3011(b) or 3012(c) of such title for any month beginning before the date of the enactment of this Act, the Secretary concerned shall pay to such covered member of the Armed Forces an amount equal to the aggregate amount of reductions of basic pay of such member of the Armed Forces under such section 3011(b) or 3012(c), as applicable, as of that date.

(2) Any amount paid to a covered member of the Armed Forces under paragraph (1) shall not be included in gross income under the Internal Revenue Code of 1986.

(3) Amounts for payments under paragraph (1) shall be derived from amounts appropriated or otherwise made available to the Secretary concerned for military personnel in chapter 1 of title I of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1209).

(4) In this subsection, the term "Secretary concerned" means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy or the Marine Corps;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force; and

(D) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard.

(e) COVERED MEMBER OF THE ARMED FORCES DEFINED.—In this section, the term "covered member of the Armed Forces" means any individual who serves on active duty as a member of the Armed Forces during the period—

(1) beginning on November 16, 2001, the date of Executive Order 13235, relating to National Emergency Construction Authority; and

(2) ending on the termination date of the Executive order referred to in paragraph (1).

SEC. 2. OPPORTUNITY FOR INDIVIDUALS WHO SERVE AS ACTIVE DUTY MEMBERS OF THE ARMED FORCES UNDER EXECUTIVE ORDER 13235 TO WITHDRAW ELECTION NOT TO ENROLL IN MONTGOMERY GI BILL.

Section 3018 of title 38, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsection (d) and (e), respectively;

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Notwithstanding any other provision of this chapter, during the one-year period beginning on the date of the enactment of this subsection, an individual who—

"(A) serves on active duty as a member of the Armed Forces during the period beginning on November 16, 2001, and ending on the termination date of Executive Order 13235, relating to National Emergency Construction Authority; and

"(B) has served continuously on active duty without a break in service following the date the individual first becomes a member or first enters on active duty as a member of the Armed Forces,

shall have the opportunity, on such form as the Secretary of Defense shall prescribe, to withdraw an election under section 3011(c)(1) or 3012(d)(1) of this title not to receive education assistance under this chapter.

"(2) An individual described paragraph (1) who made an election under section 3011(c)(1) or 3012(d)(1) of this title and who—

"(A) while serving on active duty during the one-year period beginning on the date of the enactment of this subsection makes a withdrawal of such election;

"(B) continues to serve the period of service which such individual was obligated to serve;

"(C) serves the obligated period of service described in subparagraph (B) or before completing such obligated period of service is described by subsection (b)(3)(B); and

"(D) meets the requirements set forth in paragraphs (4) and (5) of subsection (b),

is entitled to basic educational assistance under this chapter."; and

(3) in subsection (e), as so redesignated, by inserting "or (c)(2)(A)" after "(b)(1)".

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2850. A bill to authorize the President to posthumously award a gold medal on behalf of the Congress to Fred McFeely Rogers, in recognition of his lasting contributions to the application of creativity and imagination in the early education of our Nation's children, and to his lasting example to the Nation and the world of what it means to be a good neighbor; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SANTORUM. Mr. President, I rise today to recognize the accomplishments of Mr. Fred McFeely Rogers and to introduce, along with Senator SPECTER, a measure posthumously award him a Congressional Gold Medal.

People of all ages across the country were saddened to learn of Fred Rogers' death last year. Better known to generations of Americans simply as Mr. Rogers, he devoted his life to fostering children's imaginations and reinforcing virtues that help serve the greater good of society.

A student of child development at the University of Pittsburgh and an ordained Presbyterian minister, Fred Rogers produced various local and national television programs for the enjoyment of America's youth. Most notable among his productions were "The Children's Corner" and "Mr. Rogers' Neighborhood," programs that showcased Rogers' talent as both producer and actor. For his work on programs such as these, Fred Rogers was awarded numerous professional accolades that included four Emmy Awards, "Lifetime Achievement" Awards from the National Academy of Television Arts and Sciences and the TV Critics Association, and two George Foster Peabody Awards. In 1999, he was inducted into the Television Hall of Fame.

Beyond his professional accomplishments, Fred Rogers was an ambassador of kindness and compassion to generations of American children. He infused laughter and life lessons into every episode of his programs. Time spent in "Mr. Rogers' Neighborhood" taught children to share, care for others, and express their emotions during times of grief and trouble. Above all, he taught children how to be a good neighbor to those in their communities.

I commend the work of Fred McFeely Rogers, and I am privileged to introduce this measure on behalf of everyone who had the opportunity to watch and learn from Mr. Rogers—we were truly blessed to have such a compassionate and caring figure broadcast into our homes on a daily basis. He well be greatly missed, but his exemplary life of tireless service will not be forgotten.

AMENDMENTS SUBMITTED & PROPOSED

SA 3702. Mr. McCAIN (for himself and Mr. Lieberman) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3703. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3704. Mr. WYDEN (for himself, Mr. Lott, Mr. Graham of Florida, Ms. Snowe, and Mr. Cornyn) proposed an amendment to the bill S. 2845, supra.

SA 3705. Ms. COLLINS (for herself, Mr. Carper, and Mr. Lieberman) proposed an amendment to the bill S. 2845, supra.

SA 3706. Mr. SPECTER (for himself, Mr. Shelby, Mr. Roberts, Mr. Bond, and Mr. Wyden) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3707. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3708. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3702. Mr. McCAIN (for himself and Mr. Lieberman) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE —TRANSPORTATION SECURITY

SEC. 01. DEFINITIONS.

In this title, the terms "air carrier", "air transportation", "aircraft", "airport", "cargo", "foreign air carrier", and "intrastate air transportation" have the meanings given such terms in section 40102 of title 49, United States Code.

SEC. 02. NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.

(a) Requirement for Strategy.—

(1) Responsibilities of secretary of homeland security—.The Secretary of Homeland Security shall—

(A) develop and implement a National Strategy for Transportation Security; and

(B) revise such strategy whenever necessary to improve or to maintain the currency of the strategy or whenever the Secretary otherwise considers it appropriate to do so.

(2) Consultation with secretary of transportation.—The Secretary of Homeland Security shall consult with the Secretary of Transportation in developing and revising the National Strategy for Transportation Security under this section.

(b) Content.—The National Strategy for Transportation Security shall include the following matters:

(1) An identification and evaluation of the transportation assets within the United States that, in the interests of national security, must be protected from attack or disruption by terrorist or other hostile forces, including aviation, bridge and tunnel, commuter rail and ferry, highway, maritime, pipeline, rail, urban mass transit, and other public transportation infrastructure assets that could be at risk of such an attack or disruption.

(2) The development of the risk-based priorities, and realistic deadlines, for addressing security needs associated with those assets.

(3) The most practical and cost-effective means of defending those assets against threats to their security.

(4) A forward-looking strategic plan that assigns transportation security roles and missions to departments and agencies of the Federal Government (including the Armed Forces), State governments (including the Army National Guard and Air National Guard), local governments, and public utilities, and establishes mechanisms for encouraging private sector cooperation and participation in the implementation of such plan.

(5) A comprehensive delineation of response and recovery responsibilities and issues regarding threatened and executed acts of terrorism within the United States.

(6) A prioritization of research and development objectives that support transportation security needs, giving a higher priority to research and development directed toward protecting vital assets.

(7) A budget and recommendations for appropriate levels and sources of funding to meet the objectives set forth in the strategy.

(c) Submissions to Congress.—

(1) The national strategy.—

(A) Initial strategy.—The Secretary of Homeland Security shall submit the National Strategy for Transportation Security developed under this section to Congress not later than April 1, 2005.

(B) Subsequent versions.—After 2005, the Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including any revisions, to Congress not less frequently than April 1 of each evennumbered year.

(2) Periodic progress report.—

(A) Requirement for report.—Each year, in conjunction with the submission of the budget to Congress under section 1105(a) of title 31, United States Code, the Secretary of Homeland Security shall submit to Congress an assessment of the progress made on implementing the National Strategy for Transportation Security.

(B) Content.—Each progress report under this paragraph shall include, at a minimum, the following matters:

(i) An assessment of the adequacy of the resources committed to meeting the objectives of the National Strategy for Transportation Security.

(ii) Any recommendations for improving and implementing that strategy that the Secretary, in consultation with the Secretary of Transportation, considers appropriate.

(3) Classified material.—Any part of the National Strategy for Transportation Security that involves information that is properly classified under criteria established by Executive order shall be submitted to Congress separately in classified form.

(d) Priority Status.—

(1) In general.—The National Strategy for Transportation Security shall be the governing document for Federal transportation security efforts.

(2) Other plans and reports.—The National Strategy for Transportation Security shall include, as an integral part or as an appendix—

(A) the current National Maritime Transportation Security Plan under section 70103 of title 46, United States Code;

(B) the report required by section 44938 of title 49, United States Code; and

(C) any other transportation security plan or report that the Secretary of Homeland Security determines appropriate for inclusion.

SEC. 03. USE OF WATCHLISTS FOR PASSENGER AIR TRANSPORTATION SCREENING.

(a) In General.—The Secretary of Homeland Security, acting through the Transportation Security Administration, as soon as practicable after the date of the enactment of this Act but in no event later than 180 days after that date, shall—

(1) implement a procedure under which the Transportation Security Administration compares information about passengers who are to be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation for flights and flight segments originating in the United States with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(2) use the information obtained by comparing the passenger information with the information in the database to prevent known or suspected terrorists and their associates from boarding such flights or flight segments or to subject them to specific additional security scrutiny, through the use of "no fly" and "automatic selectee" lists or other means.

(b) Air Carrier Cooperation.—The Secretary of Homeland Security, in coordination with the Secretary of Transportation, shall by order require air carriers to provide the passenger information necessary to implement the procedure required by subsection (a).

(c) Maintaining the Accuracy and Integrity of the "No Fly" and "Automatic Selectee" Lists.—

(1) Watchlist database.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigation, shall design guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the watchlist database described in subsection (a) (1) that are designed to ensure the accuracy and integrity of the database.

(2) Accuracy of entries.—In developing the "no fly" and "automatic selectee" lists under sub-section (a) (2), the Secretary of Homeland Security shall establish a simple

and timely method for correcting erroneous entries, for clarifying information known to cause false hits or misidentification errors, and for updating relevant information that is dispositive in the passenger screening process. The Secretary shall also establish a process to provide individuals whose names are confused with, or similar to, names in the database with a means of demonstrating that they are not a person named in the database.

SEC. 04. ENHANCED PASSENGER AND CARGO SCREENING.

(a) AIRCRAFT PASSENGER SCREENING AT CHECKPOINTS.—

(1) DETECTION OF EXPLOSIVES.—

(A) IMPROVEMENT OF CAPABILITIES.—As soon as practicable after the date of the enactment of this Act, the Secretary of Homeland Security shall take such action as is necessary to improve the capabilities at passenger screening checkpoints, especially at commercial airports, to detect explosives carried aboard aircraft by passengers or placed aboard aircraft by passengers.

(B) INTERIM ACTION.—Until measures are implemented that enable the screening of all passengers for explosives, the Secretary shall take immediate measures to require Transportation Security Administration or other screeners to screen for explosives any individual identified for additional screening before that individual may board an aircraft.

(2) IMPLEMENTATION REPORT.—

(A) REQUIREMENT FOR REPORT.—Within 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall transmit to the Senate and the House of Representatives a report on how the Secretary intends to achieve the objectives of the actions required under paragraph (1). The report shall include an implementation schedule.

(B) CLASSIFIED INFORMATION.—The Secretary may submit separately in classified form any information in the report under subparagraph (A) that involves information that is properly classified under criteria established by Executive order.

(b) ACCELERATION OF RESEARCH AND DEVELOPMENT ON, AND DEPLOYMENT OF, DETECTION OF EXPLOSIVES.—

(1) REQUIRED ACTION.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall take such action as may be necessary to accelerate research and development and deployment of technology for screening aircraft passengers for explosives during or before the aircraft boarding process.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for each of fiscal years 2005 through 2009.

(c) IMPROVEMENT OF SCREENER JOB PERFORMANCE.—

(1) REQUIRED ACTION.—The Secretary of Homeland Security shall take such action as may be necessary to improve the job performance of airport screening personnel.

(2) HUMAN FACTORS STUDY.—In carrying out this subsection, the Secretary shall, not later than 180 days after the date of the enactment of this Act, conduct a human factors study in order better to understand problems in screener performance and to set attainable objectives for individual screeners and screening checkpoints.

(d) CHECKED BAGGAGE AND CARGO.—

(1) IN-LINE BAGGAGE SCREENING.—The Secretary of Homeland Security shall take such action as may be necessary to expedite the installation and use of advanced in-line baggage-screening equipment at commercial airports.

(2) CARGO SECURITY.—The Secretary shall take such action as may be necessary to ensure that the Transportation Security Administration in creases and improves its efforts to screen potentially dangerous cargo.

(e) BLAST-RESISTANT CARGO AND BAGGAGE CONTAINERS.—

(1) IN GENERAL.—The Secretary of Homeland Security, in coordination with the Secretary of Transportation—

(A) shall assess the feasibility of requiring the use of blast-resistant containers for cargo and baggage on passenger aircraft to minimize the potential effects of detonation of an explosive device; and

(B) may require their use on some or all flights on aircraft for which such containers are available.

(2) PILOT PROGRAM.—Before requiring the use of such containers on any such flights, the Secretary of Homeland Security shall conduct a pilot program to evaluate the use of currently available blast-resistant containers for cargo and baggage on passenger aircraft. In conducting the pilot program the Secretary—

(A) shall test the feasibility of using the containers by deploying them on participating air carrier flights; but

(B) may not disclose to the public the number of blast-resistant containers being used in the program or publicly identify the flights on which the containers are used.

(3) ASSISTANCE FOR PARTICIPATION IN PILOT PROGRAM.—

(A) IN GENERAL.—As part of the pilot program, the Secretary may provide assistance to air carriers to volunteer to test the use of blast-resistant containers for cargo and baggage on passenger aircraft.

(B) APPLICATIONS.—To volunteer to participate in the incentive program, an air carrier shall submit to the Secretary an application that is in such form and contains such information as the Secretary requires.

(C) TYPES OF ASSISTANCE.—Assistance provided by the Secretary to air carriers that volunteer to participate in the pilot program may include the use of blast-resistant containers and financial assistance to cover increased costs to the carriers associated with the use and maintenance of the containers, including increased fuel costs.

(4) TECHNOLOGICAL IMPROVEMENTS.—The Secretary of Homeland Security, in cooperation with the Secretary of Transportation, shall—

(A) support efforts to further the development and improvement of blast-resistant containers for potential use on aircraft, including designs that—

(i) will work on a variety of aircraft, including narrow body aircraft; and

(ii) minimize the weight of such containers without compromising their effectiveness; and

(B) explore alternative technologies for minimizing the potential effects of detonation of an explosive device on cargo and passenger aircraft.

(5) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the pilot program and on progress made in developing improved containers and equivalent technologies. The report may be submitted in classified and redacted formats.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as are necessary to carry out this section. Such sums shall remain available until expended.

(f) COST-SHARING.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with representatives of air carriers, airport operators, and other interested parties, shall submit to the Senate and the House of Representatives—

(1) a proposed formula for cost-sharing, for the advanced in-line baggage screening equipment required by this title, between and among the Federal Government, State and local governments, and the private sector that reflects proportionate national security benefits and private sector benefits for such enhancement; and

(2) recommendations, including recommended legislation, for an equitable, feasible, and expeditious system for defraying the costs of the advanced in-line baggage screening equipment required by this title, which may be based on the formula proposed under paragraph (1).

SEC. 05. EFFECTIVE DATE.

This title takes effect on the date of enactment of this Act.

SA 3703. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. NATIONAL INTELLIGENCE COORDINATOR.

(a) NATIONAL INTELLIGENCE COORDINATOR.—There is a National Intelligence Coordinator who shall be appointed by the President.

(b) RESPONSIBILITY.—Subject to the direction and control of the President, the National Intelligence Coordinator shall have the responsibility for coordinating the performance of all intelligence and intelligence-related activities of the United States Government, whether such activities are foreign or domestic.

(c) AVAILABILITY OF FUNDS.—Funds shall be available to the National Intelligence Coordinator for the performance of the responsibility of the Coordinator under subsection (b) in the manner provided by law or as directed by the President.

(d) MEMBERSHIP ON NATIONAL SECURITY COUNCIL.—The National Intelligence Coordinator shall be a member of the National Security Council.

(e) SUPPORT.—(1) Any official, office, program, project, or activity of the Central Intelligence Agency as of the date of the enactment of this Act that supports the Director of Central Intelligence in the performance of responsibilities and authorities as the head of the intelligence community shall, after that date, support the National Intelligence Coordination in the performance of the responsibility of the Coordinator under subsection (b).

(2) Any powers and authorities of the Director of Central Intelligence under statute, Executive order, regulation, or otherwise as of the date of the enactment of this Act that relate to the performance by the Director of responsibilities and authorities as the head of the intelligence community shall, after that date, have no further force and effect.

(f) ACCOUNTABILITY.—(1) The National Intelligence Coordinator shall report directly to the President regarding the performance of the responsibility of the Coordinator under subsection (b), and shall be accountable to the President regarding the performance of such responsibility.

(2) Except as otherwise provided by law, the National Intelligence Coordinator shall not be accountable to Congress regarding the performance of the responsibility of the Coordinator.

SA 3704. Mr. WYDEN (for himself, Mr. LOTT, Mr. GRAHAM of Florida, Ms. SNOWE, and Mr. CORNYN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end of title II, add the following:

Subtitle D—Classified Information

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Independent National Security Classification Board Act of 2004".

SEC. 232. PURPOSE.

The purpose of this subtitle is to establish in the executive branch an Independent National Security Classification Board—

(1) to review the standards and procedures used in the classification system for national security information;

(2) to propose and submit to Congress and the President for comment new standards and procedures to be used in the classification system for such information;

(3) to establish the new standards and procedures after Congress and the President have had the opportunity to comment; and

(4) to review, and make recommendations with respect to, classifications of current and new information made under the applicable classification system.

SEC. 233. INDEPENDENT NATIONAL SECURITY CLASSIFICATION BOARD.

(a) ESTABLISHMENT.—The Independent National Security Classification Board (in this subtitle referred to as the "Board") is established as an independent agency in the executive branch.

(b) COMPOSITION.—The Board shall be composed of one member appointed by the President, one member jointly recommended by the Majority Leader and the Minority Leader of the Senate and appointed by the President, and one member jointly recommended by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives and appointed by the President, each by and with the advice and consent of the Senate. Each member shall be knowledgeable on classification matters.

(c) TERM OF MEMBERS.—Each member of the Board shall be appointed for a term of 5 years. A member may be reappointed for one additional 5-year term. A member whose term has expired shall continue to serve on the Board until a replacement has been appointed.

(d) VACANCIES.—Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) SEPARATE OFFICE.—The Board shall have its own office for carrying out its activities, and shall not share office space with any element of the intelligence community or with any other department, agency, or element of the United States Government.

(f) CHAIRMAN.—The Board shall select a Chairman from among its members.

(g) MEETINGS.—The Board shall meet at the call of the Chairman.

(h) QUORUM.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(i) AVAILABILITY OF INFORMATION.—The decision-making process of the Board may be classified, but the final decisions of the Board and the reports submitted under this subtitle shall be made available to the public.

(j) INITIAL APPOINTMENTS AND MEETING.—

(1) INITIAL APPOINTMENTS.—Initial appointments of members of the Board shall be made not later than 90 days after the date of the enactment of this Act.

(2) INITIAL MEETING.—The Board shall hold its first meeting not later than 30 days after the date on which all members of the Board have been appointed.

(k) WEBSITE.—The Board shall establish a website not later than 90 days after the date on which all members of the Board have been appointed.

SEC. 234. DUTIES OF BOARD.

(a) REVIEW OF CLASSIFICATION SYSTEM.—

(1) IN GENERAL.—The Board shall conduct a thorough review of the classification system for national security information, including the policy, procedures, and practices of the system. The Board shall recommend reforms of such system to ensure—

(A) the protection of the national security of the United States;

(B) the sharing of information among departments, agencies, and element of the United States Government; and

(C) an open and informed public discussion of national security issues.

(2) SCOPE OF REVIEW.—

(A) CONSULTATION.—The Board shall consult with the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate and the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives in determining the scope of its review of the classification system.

(B) REVIEW.—The Board shall submit a report describing the proposed scope of review to the President and the committees of Congress referred to in subparagraph (A) for comment.

(C) REVISIONS.—Not later than 30 days after receiving the report under subparagraph (B)—

(i) the President shall notify the Board in writing of any revisions to such scope of review; and

(ii) each committee of Congress referred to in subparagraph (A) may submit to the Board, in writing, any comments of the committee on the proposed scope of review.

(b) ADOPTION OF NATIONAL SECURITY INFORMATION CLASSIFICATION SYSTEM.—

(1) AUTHORITY.—The Board shall prescribe the classification system for national security information, which shall apply to all departments, agencies, and elements of the United States Government.

(2) FINDINGS AND RECOMMENDATIONS.—The Board shall, in accordance with the scope of review developed under subsection (a)(2), review the classification system for national security information and submit to the President and Congress its findings and recommendations for new procedures and standards to be used in such classification system.

(3) CLASSIFICATION SYSTEM.—Not later than 180 days after the date on which all members of the Board have been confirmed by the Senate, the Board shall adopt a classification system for national security information, incorporating any comments received from the President and considering any comments received from Congress. Upon the adoption of the classification system, the system shall be used for the classification of all national security information.

(c) REVIEW OF CLASSIFICATION DECISIONS.—

(1) IN GENERAL.—The Board shall, upon its own initiative or pursuant to a request under paragraph (3), review any classification decision made by an Executive agency with respect to national security information.

(2) ACCESS.—The Board shall have access to all documents or other materials that are classified on the basis of containing national security information.

(3) REQUESTS FOR REVIEW.—The Board shall review in a timely manner the existing or proposed classification of any document or other material the review of which is requested by—

(A) the head or Inspector General of an Executive agency who is an authorized holder of such document or material; or

(B) the chairman or ranking member of—

(i) the Committee on Armed Services, the Committee on Foreign Relations, or the Select Committee on Intelligence of the Senate; or

(ii) the Committee on Armed Services, the Committee on International Relations, or the Permanent Select Committee on Intelligence of the House of Representatives.

(4) RECOMMENDATIONS.—

(A) IN GENERAL.—The Board may make recommendations to the President regarding decisions to classify all or portions of documents or other material for national security purposes or to declassify all or portions of documents or other material classified for such purposes.

(B) IMPLEMENTATION.—Upon receiving a recommendation from the Board under subparagraph (A), the President shall either—

(i) accept and implement such recommendation; or

(ii) not later than 60 days after receiving the recommendation if the President does not accept and implement such recommendation, transmit in writing to Congress and have posted on the website of the Board a notification in unclassified form of the justification for the President's decision not to implement such recommendation.

(5) EXEMPTION FROM FREEDOM OF INFORMATION ACT.—The Board shall not be required to make documents or materials reviewed under this subsection available to the public under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act).

(6) REGULATIONS.—The Board shall prescribe regulations to carry out this subsection.

(7) EXECUTIVE AGENCY DEFINED.—In this section, the term "Executive agency" has the meaning given that term in section 105 of title 5, United States Code.

SEC. 235. POWERS OF BOARD.

(a) HEARINGS.—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Board may secure directly from any department, agency, or element of the United States Government such information as the Board considers necessary to carry out this subtitle. Upon request of the Chairman of the Board, the head of such department, agency, or element shall furnish such information to the Board.

(c) Administrative Support Services.—Upon request of the Board, the Administrator of General Services shall provide to the Board, on a reimbursable basis, the administrative support necessary for the Board to carry out its duties under this subtitle.

(d) Postal Services.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) Gifts.—The Board may accept, use, and dispose of gifts or donations of services or property.

SEC. 236. BOARD PERSONNEL MATTERS.

(a) Executive Schedule Level IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Members, Independent National Security Classification Board.".

(b) Staff.—

(1) In general.—The Chairman of the Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Board to perform its duties under this subtitle. The employment of an executive director shall be subject to confirmation by the Board.

(2) Compensation.—The Chairman of the Board may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) Detail of Government Employees.—Any employee of the United States Government may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

SEC. 237. FUNDING.

Of the amount authorized to be appropriated by section 352, $2,000,000 shall be available for the Board for purposes of this section during fiscal year 2005.

SA 3705. Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE IV—HOMELAND SECURITY GRANTS

SEC. 401. SHORT TITLE.

This title may be cited as the "Homeland Security Grant Enhancement Act of 2004".

SEC. 402. DEFINITIONS.

In this title, the following definitions shall apply:

(1) Insular area.—The term "insular area" means American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(2) Large high-threat state fund.—The term "Large High-Threat State Fund" means the fund containing amounts authorized to be appropriated for States that elect to receive Federal financial assistance through a per capita share of 38.625 percent of the amount appropriated for the State Homeland Security Grant Program.

(3) Local government.—The term "local government" has the same meaning given that term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(4) State.—The term "State" means each of the several States of the United States and the District of Columbia.

(5) State homeland security grant program.—The term "State Homeland Security Grant Program" means the program receiving 75 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program.

(6) Threat-based homeland security grant program.—The term "Threat-Based Homeland Security Grant Program" means the program authorized under section 6.

(7) Urban area security initiative grant program.—The term "Urban Area Security Initiative Grant Program" means the program receiving 25 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program.

SEC. 403. PRESERVATION OF PRE-9/11 GRANT PROGRAMS FOR TRADITIONAL FIRST RESPONDER MISSIONS.

(a) In General.—This title shall not be construed to affect any authority to award grants under any Federal grant program listed under subsection (b), which existed on September 10, 2001, to enhance traditional missions of State and local law enforcement, firefighters, ports, emergency medical services, or public health missions.

(b) Programs Included.—The programs referred to in subsection (a) are the following:

(1) The Firefighter Assistance Program authorized under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229).

(2) The Emergency Management Performance Grant Program and the Urban Search and Rescue Grant program authorized under—

(A) title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.);

(B) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106–74; 113 Stat. 1047 et seq.); and

(C) the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

(4) The Edward Byrne Memorial State and Local Law Enforcement Assistance Programs authorized under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(5) The Public Safety and Community Policing (COPS ON THE BEAT) Grant Program authorized under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.).

(6) Grant programs under the Public Health Service Act regarding preparedness for bioterrorism and other public health emergencies and the Emergency Response Assistance Program authorized under section 1412 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2312).

SEC. 404. INTERAGENCY COMMITTEE TO COORDINATE AND STREAMLINE HOMELAND SECURITY GRANT PROGRAMS.

(a) In General.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 801 the following:

"SEC. 802. INTERAGENCY COMMITTEE TO COORDINATE AND STREAMLINE HOMELAND SECURITY GRANT PROGRAMS.

"(a) Establishment.—

"(1) In general.—The Secretary, in coordination with the Attorney General, the Secretary of Health and Human Services, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and other agencies providing assistance for first responder preparedness, as identified by the President, shall establish the Interagency Committee to Coordinate and Streamline Homeland Security Grant Programs (referred to in this subtitle as the 'Interagency Committee').

"(2) Composition.—The Interagency Committee shall be composed of—

"(A) a representative of the Department;

"(B) a representative of the Department of Health and Human Services;

"(C) a representative of the Department of Transportation;

"(D) a representative of the Department of Justice;

"(E) a representative of the Environmental Protection Agency; and

"(F) a representative of any other department or agency determined to be necessary by the President.

"(3) Responsibilities.—The Interagency Committee shall—

"(A) report on findings to the Information Clearinghouse established under section 801(d);

"(B) consult with State and local governments and emergency response providers regarding their homeland security needs and capabilities;

"(C) advise the Secretary on the development of performance measures for homeland security grant programs and the national strategy for homeland security;

"(D) compile a list of homeland security assistance programs;

"(E) not later than 1 year after the effective date of the Homeland Security Grant Enhancement Act of 2004—

"(i) develop a proposal to coordinate, to the maximum extent practicable, the planning, reporting, application, and other guidance documents contained in homeland security assistance programs to eliminate all redundant and duplicative requirements; and

"(ii) submit the proposal developed under clause (i) to Congress and the President.

"(b) Administration.—The Department shall provide administrative support to the Interagency Committee, which shall include—

"(1) scheduling meetings;

"(2) preparing agenda;

"(3) maintaining minutes and records; and

"(4) producing reports.

"(c) Chairperson.—The Secretary shall designate a chairperson of the Interagency Committee.

"(d) Meetings.—The Interagency Committee shall meet—

"(1) at the call of the Secretary; or

"(2) not less frequently than once every 1 month.".

(b) Technical and Conforming Amendment.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 801 the following:

"Sec. 802. Interagency Committee to Coordinate and Streamline Homeland Security Grant Programs.".

SEC. 405. STREAMLINING FEDERAL HOMELAND SECURITY GRANTS.

(a) Director of State and Local Government Coordination and Preparedness.—Section 801(a) of the Homeland Security Act of 2002 (6 U.S.C. 361(a)) is amended to read as follows:

"(a) Establishment.—

"(1) In general.—There is established within the Office of the Secretary the Office for State and Local Government Coordination and Preparedness, which shall oversee and coordinate departmental programs for, and relationships with, State and local governments.

"(2) EXECUTIVE DIRECTOR.—The Office established under paragraph (1) shall be headed by the Executive Director of State and Local Government Coordination and Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate.".

(b) OFFICE FOR DOMESTIC PREPAREDNESS.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by redesignating section 430 as section 803 and transferring that section to the end of subtitle A of title VIII, as amended by section 4; and

(2) in section 803, as redesignated by paragraph (1)—

(A) in subsection (a), by striking "the Directorate of Border and Transportation Security" and inserting "the Office for State and Local Government Coordination and Preparedness";

(B) in subsection (b), by striking "who shall be appointed by the President" and all that follows and inserting "who shall report directly to the Executive Director of State and Local Government Coordination and Preparedness.";

(C) in subsection (c)—

(i) in paragraph (7)—

(I) by striking "other" and inserting "the";

(II) by striking "consistent with the mission and functions of the Directorate"; and

(III) by striking "and" at the end; and

(ii) in paragraph (8)—

(I) by inserting "carrying out" before "those elements";

(II) by striking the period at the end and inserting "; and" ; and

(iii) by adding at the end the following:

"(9) managing the Homeland Security Information Clearinghouse established under section 801(d).";

(D) by redesignating subsection (d) as subsection (e); and

(E) by inserting after subsection (c) the following:

"(d) TRAINING AND EXERCISES OFFICE WITHIN THE OFFICE FOR DOMESTIC PREPAREDNESS.—

"(1) IN GENERAL.—The Secretary shall create within the Office for Domestic Preparedness an internal office that shall be the proponent for all national domestic preparedness, training, education, and exercises within the Office for State and Local Government Coordination.

"(2) OFFICE HEAD.—The Secretary shall select an individual with recognized expertise in first-responder training and exercises to head the office, and such person shall report directly to the Director of the Office of Domestic Preparedness.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by striking the item relating to section 430;

(2) by amending section 801 to read as follows:

"Sec. 801. Office of State and Local Government Coordination and Preparedness."; and

(3) by inserting after the item relating to section 802, as added by this Act, the following:

"Sec. 803. Office for Domestic Preparedness.".

(d) ESTABLISHMENT OF HOMELAND SECURITY INFORMATION CLEARINGHOUSE.—Section 801 of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), as amended by subsection (a), is further amended by adding at the end the following:

"(d) HOMELAND SECURITY INFORMATION CLEARINGHOUSE.—

"(1) ESTABLISHMENT.—There is established within the Office for State and Local Government Coordination a Homeland Security Information Clearinghouse (referred to in this section as the 'Clearinghouse'), which shall assist States, local governments, and first responders in accordance with paragraphs (2) through (5).

"(2) HOMELAND SECURITY GRANT INFORMATION.—The Clearinghouse shall create a new website or enhance an existing website, establish a toll-free number, and produce a single publication that each contain information regarding the homeland security grant programs identified under section 802(a)(4).

"(3) TECHNICAL ASSISTANCE.—The Clearinghouse, in consultation with the Interagency Committee established under section 802, shall provide information regarding—

"(A) technical assistance provided by any Federal agency to States and local governments to conduct threat analyses and vulnerability assessments; and

"(B) templates for conducting threat analyses and vulnerability assessments.

"(4) BEST PRACTICES.—The Clearinghouse shall work with States, local governments, emergency response providers and the National Domestic Preparedness Consortium, and private organizations to gather, validate, and disseminate information regarding successful State and local homeland security programs and practices.

"(5) USE OF FEDERAL FUNDS.—The Clearinghouse shall compile information regarding equipment, training, and other services purchased with Federal funds provided under the homeland security grant programs identified under section 802(a)(4), and make such information, and information regarding voluntary standards of training, equipment, and exercises, available to States, local governments, and first responders.

"(6) OTHER INFORMATION.—The Clearinghouse shall provide States, local governments, and first responders with any other information that the Secretary determines necessary.".

SEC. 406. THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—The Secretary of Homeland Security (referred to in this section as the "Secretary") may award grants to States and local governments to enhance homeland security.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Grants awarded under subsection (a)—

(A) shall be used to address homeland security matters related to acts of terrorism or major disasters and related capacity building; and

(B) shall not be used to supplant ongoing first responder expenses or general protective measures.

(2) ALLOWABLE USES.—Grants awarded under subsection (a) may be used to—

(A) develop State plans or risk assessments (including the development of the homeland security plan) to respond to terrorist attacks and strengthen all hazards emergency planning and communitywide plans for responding to terrorist or all hazards emergency events that are coordinated with the capacities of applicable Federal, State, and local governments, first responders, and State and local government health agencies;

(B) develop State, regional, or local mutual aid agreements;

(C) purchase or upgrade equipment based on State and local needs as identified under a State homeland security plan;

(D) conduct exercises to strengthen emergency preparedness of State and local first responders including law enforcement, firefighting personnel, and emergency medical service workers, and other emergency responders identified in a State homeland security plan;

(E) pay for overtime expenses relating to—

(i) training activities consistent with the goals outlined in a State homeland security plan;

(ii) as determined by the Secretary, activities relating to an increase in the threat level under the Homeland Security Advisory System; and

(iii) any other activity relating to the State Homeland Security Strategy, and approved by the Secretary;

(F) promote training regarding homeland security preparedness including—

(i) emergency preparedness responses to a use or threatened use of a weapon of mass destruction; and

(ii) training in the use of equipment, including detection, monitoring, and decontamination equipment, and personal protective gear; and

(G) conduct any activity permitted under the Law Enforcement Terrorism Prevention Grant Program.

(3) PROHIBITED USES.—

(A) CONSTRUCTION.—Grants awarded under subsection (a) may not be used to construct buildings or other physical facilities, except those described in section 611 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196) and approved by the Secretary in the homeland security plan certified under subsection (d), or to acquire land.

(B) COST SHARING.—Grant funds provided under this section shall not be used for any State or local government cost sharing contribution request under this section.

(c) APPLICATION.—

(1) SUBMISSION.—A State may apply for a grant under this section by submitting to the Secretary an application at such time, and in such manner, and containing such information the Secretary may reasonably require.

(2) REVISIONS.—A State may revise a homeland security plan certified under subsection (d) at the time an application is submitted under paragraph (1) after receiving approval from the Secretary.

(3) APPROVAL.—The Secretary shall not award a grant under this section unless the application submitted by the State includes a homeland security plan meeting the requirements of subsection (d).

(4) RELEASE OF FUNDS.—The Secretary shall release grant funds to States with approved plans after the approval of an application submitted under this subsection.

(d) HOMELAND SECURITY PLAN.—

(1) IN GENERAL.—An application submitted under subsection (c) shall include a certification that the State has prepared a 3-year State homeland security plan (referred to in this subsection as the "plan") to respond to terrorist attacks and strengthen all hazards emergency planning that has been approved by the Secretary.

(2) CONTENTS.—The plan shall contain measurable goals and objectives that—

(A) establish a 3-year strategy to set priorities for the allocation of funding to political subdivisions based on the risk, capabilities, and needs described under paragraph (3)(C);

(B) provide for interoperable communications;

(C) provide for local coordination of response and recovery efforts, including procedures for effective incident command in conformance with the National Incident Management System;

(D) ensure that first responders and other emergency personnel have adequate training and appropriate equipment for the threats that may occur;

(E) provide for improved coordination and collaboration among police, fire, and public health authorities at State and local levels;

(F) coordinate emergency response and public health plans;

(G) mitigate risks to critical infrastructure that may be vulnerable to terrorist attacks;

(H) promote regional coordination among contiguous local governments;

(I) identify necessary protective measures by private owners of critical infrastructure;

(J) promote orderly evacuation procedures when necessary;

(K) ensure support from the public health community for measures needed to prevent, detect and treat bioterrorism, and radiological and chemical incidents;

(L) increase the number of local jurisdictions participating in local and statewide exercises;

(M) meet preparedness goals as determined by the Secretary; and

(N) include a report from the relevant advisory committee established under paragraph (3)(D) that documents the areas of support, disagreement, or recommended changes to the plan before its submission to the Secretary.

(3) DEVELOPMENT PROCESS.—

(A) IN GENERAL.—In preparing the plan under this section, a State shall—

(i) provide for the consideration of all homeland security needs;

(ii) follow a process that is continuing, inclusive, cooperative, and comprehensive, as appropriate; and

(iii) coordinate the development of the plan with the homeland security planning activities of local governments.

(B) COORDINATION WITH LOCAL PLANNING ACTIVITIES.—The coordination under subparagraph (A)(iii) shall contain input from local stakeholders, including—

(i) local officials, including representatives of rural, high-population, and high-threat jurisdictions;

(ii) first responders and emergency response providers; and

(iii) private sector companies, such as railroads and chemical manufacturers.

(C) SCOPE OF PLANNING.—Each State preparing a plan under this section shall, in conjunction with the local stakeholders under subparagraph (B), address all the information requested by the Secretary and complete a comprehensive assessment of—

(i) risk, including a—

(I) vulnerability assessment;

(II) threat assessment; and

(III) public health assessment, in coordination with the State bioterrorism plan; and

(ii) capabilities and needs, including—

(I) an evaluation of current preparedness, mitigation, and response capabilities based on such assessment mechanisms as shall be determined by the Secretary;

(II) an evaluation of capabilities needed to address the risks described under clause (i); and

(III) an assessment of the shortfall between the capabilities described under subclause (I) and the required capabilities described under subclause (II).

(D) ADVISORY COMMITTEE.—

(i) IN GENERAL.—Each State preparing a plan under this section shall establish an advisory committee to receive comments from the public and the local stakeholders identified under subparagraph (B).

(ii) COMPOSITION.—The Advisory Committee shall include local officials, local first responders, and emergency response providers that are representative of the counties, cities, and towns within the State, and which shall include representatives of rural, high-population, and high-threat jurisdictions.

(4) PLAN APPROVAL.—The Secretary shall approve a plan upon finding that the plan meets the requirements of—

(A) paragraphs (2) and (3);

(B) the interim performance measurements under subsection (g)(1), or the national performance standards under subsection (g)(2); and

(C) any other criteria the Secretary determines necessary to the approval of a State plan.

(5) REVIEW OF ADVISORY COMMITTEE REPORT.—The Secretary shall review the recommendations of the advisory committee report incorporated into a plan under subsection (d)(2)(N), including any dissenting views submitted by advisory committee members, to ensure cooperation and coordination between local and State jurisdictions in planning the use of grant funds under this section.

(e) TENTATIVE ALLOCATION.—

(1) URBAN AREA SECURITY INITIATIVE GRANT PROGRAM.—

(A) IN GENERAL.—The Secretary shall allocate 25 percent of the funds appropriated under the Threat-Based Homeland Security Grant Program for discretionary grants to be provided directly to local governments, including multistate entities established by a compact between 2 or more States, in high threat areas, as determined by the Secretary based on the criteria under subparagraph (B).

(B) CRITERIA.—The Secretary shall ensure that each local government receiving a grant under this paragraph—

(i) has a large population or high population density;

(ii) has a high degree of threat, risk, and vulnerability related to critical infrastructure or not less than 1 key asset identified by the Secretary or State homeland security plan;

(iii) has an international border with Canada or Mexico, or coastline bordering international waters of Canada, Mexico, or bordering the Atlantic Ocean, the Pacific Ocean, or the Gulf of Mexico; or

(iv) are subject to other threat factors specified in writing by the Secretary.

(C) CONSISTENCY.—Any grant awarded under this paragraph shall be used to supplement and support, in a consistent and coordinated manner, those activities and objectives described under subsection (b) or a State homeland security plan.

(D) COORDINATION.—The Secretary shall ensure that any grants made under this paragraph encourage multiple contiguous units of local government and mutual aid partners to coordinate any homeland security activities.

(2) STATE HOMELAND SECURITY GRANT PROGRAM.—

(A) STATES.—Each State whose application is approved under subsection (c) shall receive, for each fiscal year, the greater of—

(i) 0.75 percent of the amounts appropriated for the State Homeland Security Grant Program; or

(ii) the State's per capita share, as defined by the 2002 census population estimate, of 38.625 percent of the State Homeland Security Grant Program.

(B) INSULAR AREAS.—Each insular area shall receive, for each fiscal year, the greater of—

(i) 0.075 percent of the amounts appropriated for the State Homeland Security Grant Program; or

(ii) the insular area's per capita share, as defined by the 2002 census population estimate, of 38.625 percent of the State Homeland Security Grant Program.

(3) SECONDARY DISTRIBUTION.—After the distribution of funds under paragraph (2), the Secretary shall, from the remaining funds for the State Homeland Security Grant Program and 10.8 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program pursuant to subsection (j)(1), distribute amounts to each State that—

(A) has a substantial percentage of its population residing in Metropolitan Statistical Areas, as defined by the Office of Management and Budget;

(B) has a high degree of threat, risk, and vulnerability related to critical infrastructure or not less than 1 key asset identified by the Secretary or State homeland security plan;

(C) has an international border with Canada or Mexico, or coastline bordering international waters of Canada, Mexico, or bordering the Atlantic Ocean, the Pacific Ocean, or the Gulf of Mexico; or

(D) are subject to other threat factors specified in writing by the Secretary.

(4) DISTRIBUTION OF FUNDS.—If the amounts tentatively allocated under paragraphs (1) through (3) equal the sum of the amounts appropriated pursuant to subsection (j), the Secretary shall distribute the appropriated amounts based on the tentative allocation.

(5) PROPORTIONAL REDUCTION.—If the amount appropriated for the Large High-Threat State Fund pursuant to subsection (j)(2) is less than 10.8 percent of the amount appropriated for the Threat-Based Homeland Security Grant Program pursuant to subsection (j)(1), the Secretary shall proportionately reduce the amounts tentatively allocated under paragraphs (1) through (3) so that the amount distributed is equal to the sum of the amounts appropriated for such programs.

(6) FUNDING FOR LOCAL ENTITIES AND FIRST RESPONDERS.—The Secretary shall require recipients of the State Homeland Security Grant to provide local governments and first responders, consistent with the applicable State homeland security plan, with not less than 80 percent of the grant funds, the resources purchased with such grant funds, or a combination thereof, not later than 60 days after receiving grant funding.

(7) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this subsection shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this Act.

(8) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—

(A) IN GENERAL.—The Secretary shall designate not more than 25 percent of the amounts allocated through the State Homeland Security Grant Program to be used for the Law Enforcement Terrorism Prevention Program to provide grants to law enforcement agencies to enhance capabilities for terrorism prevention.

(B) USE OF FUNDS.—Grants awarded under this paragraph may be used for—

(i) information sharing to preempt terrorist attacks;

(ii) target hardening to reduce the vulnerability of selected high value targets;

(iii) threat recognition to recognize the potential or development of a threat;

(iv) intervention activities to interdict terrorists before they can execute a threat;

(v) interoperable communication systems;

(vi) overtime expenses related to the State Homeland Security Strategy approved by the Secretary; and

(vii) any other terrorism prevention activity authorized by the Secretary.

(f) Report on Homeland Security Spending.—Each recipient of a grant under this section shall annually submit a report to the Secretary that contains—

(A) an accounting of the amount of State and local funds spent on homeland security activities under the applicable State homeland security plan; and

(B) information regarding the use of grant funds by units of local government as required by the Secretary.

(g) Accountability.—

(1) Interim performance measures.—

(A) In general.—Before establishing performance standards under paragraph (2), the Secretary shall assist each State in establishing interim performance measures based upon—

(i) the goals and objectives under subsection (d)(2); and

(ii) any other factors determined by the Secretary.

(B) Annual report.—Before establishing performance measures under paragraph (2), each State with an approved State plan shall submit to the Secretary a report detailing the progress the State has made in meeting the interim performance measures established under subparagraph (A).

(2) National performance standards.—

(A) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary shall set national performance standards based in part on the goals and objectives under subsection (d)(2) and any other factors the Secretary determines relevant.

(B) Compliance.—The Secretary shall ensure that State plans are in conformance with the standards set under subparagraph (A).

(C) Annual report.—After the establishment of performance standards under subparagraph (A), each State with an approved State homeland security plan shall submit to the Secretary a report on the progress the State has made in meeting such standards.

(3) General accounting office access to information.—Each recipient of a grant under this section and the Department of Homeland Security shall provide the General Accounting Office with full access to information regarding the activities carried out under this section.

(4) Audit.—Grant recipients that expend $500,000 or more in Federal funds during any fiscal year shall submit to the Secretary an organization wide financial and compliance audit report in conformance with the requirements of chapter 75 of title 31, United States Code.

(h) Remedies for Non-Compliance.—

(1) In general.—If the Secretary finds, after reasonable notice and an opportunity for a hearing, that a recipient of a grant under this section has failed to substantially comply with any provision of this section, the Secretary shall—

(A) terminate any payment of grant funds to be made to the recipient under this section;

(B) reduce the amount of payment of grant funds to the recipient by an amount equal to the amount of grants funds that were not expended by the recipient in accordance with this section; or

(C) limit the use of grant funds received under this section to programs, projects, or activities not affected by the failure to comply.

(2) Duration of penalty.—The Secretary shall apply an appropriate penalty under paragraph (1) until such time as the Secretary determines that the grant recipient is in full compliance with this section.

(3) Direct funding.—If a State fails to substantially comply with any provision of this section, including failing to provide local governments with grant funds or resources purchased with grant funds in a timely fashion, a local government entitled to receive such grant funds or resources may petition the Secretary, at such time and in such manner as determined by the Secretary, to request that grant funds or resources be provided directly to the local government.

(i) Reports to Congress.—The Secretary shall submit an annual report to Congress that provides—

(1) findings relating to the performance standards established under subsection (g);

(2) the status of preparedness goals and objectives;

(3) an evaluation of how States and local governments are meeting preparedness goals and objectives;

(4) the total amount of resources provided to the States;

(5) the total amount of resources provided to units of local government; and

(6) a list of how these resources were expended.

(j) Authorization of Appropriations.—

(1) Threat-based homeland security grant program.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(2) Large high-threat state fund.—There are authorized to be appropriated 10.8 percent of the funds appropriated in any fiscal year pursuant to paragraph (1), which shall be used to carry out the Large High-Threat State Fund.

SEC. 407. ELIMINATING HOMELAND SECURITY FRAUD, WASTE, AND ABUSE.

(a) Annual General Accounting Office Audit and Report.—

(1) Audit.—The Comptroller General shall conduct an annual audit of the Threat Based Homeland Security Grant Program

(2) Report.—The Comptroller General shall provide a report to Congress on the results of the audit conducted under paragraph (1), which includes—

(A) an analysis of whether the grant recipients allocated funding consistent with the State homeland security plan and the guidelines established by the Department of Homeland Security; and

(B) the amount of funding devoted to overtime and administrative expenses.

(b) Reviews of Threat-Based Homeland Security Funding.—The Secretary, through the appropriate agency, shall conduct periodic reviews of grants made through the Threat Based Homeland Security Grant Program to ensure that recipients allocate funds consistent with the guidelines established by the Department of Homeland Security.

(c) Remedies for Non-Compliance.—If the Secretary determines, after reasonable notice and an opportunity for a hearing, that a recipient of a Threat Based Homeland Security Grant has failed to substantially comply with any regulations or guidelines issues by the Department regarding eligible expenditures, the Secretary shall—

(1) terminate any payment of grant funds scheduled to be made to the recipient;

(2) reduce the amount of payment of grant finds to the recipient by an amount equal to the amount of grant funds that were not expended by the recipient in accordance with such guidelines; or

(3) limit the use of grant funds received under the Threat Based Homeland Security Grant Program to programs, projects, or activities not affected by the failure to comply.

(d) Duration of Penalty.—The Secretary shall apply an appropriate penalty under subsection (c) until such time as the Secretary determines that the grant recipient is in full compliance with the guidelines established by the Department of Homeland Security.

SEC. 408. FLEXIBILITY IN UNSPENT HOMELAND SECURITY FUNDS.

(a) Reallocation of Funds.—The Director of the Office for Domestic Preparedness, Department of Homeland Security, shall allow any State to request approval to reallocate funds received pursuant to appropriations for the State Homeland Security Grant Program under Public Laws 105–277 (112 Stat. 2681 et seq.), 106–113 (113 Stat. 1501A–3 et seq.), 106–553 (114 Stat. 2762A–3 et seq.), 107–77 (115 Stat. 78 et seq.), or the Consolidated Appropriations Resolution of 2003 (Public Law 108–7), among the 4 categories of equipment, training, exercises, and planning.

(b) Approval of Reallocation Requests.—The Director shall approve reallocation requests under subsection (a) in accordance with the State plan and any other relevant factors that the Secretary of Homeland Security determines to be necessary.

(c) Limitation.—A waiver under this section shall not affect the obligation of a State to pass through 80 percent of the amount appropriated for equipment to units of local government.

SEC. 409. CERTIFICATION RELATIVE TO THE SCREENING OF MUNICIPAL SOLID WASTE TRANSPORTED INTO THE UNITED STATES.

(a) In General.—The Secretary of Homeland Security shall deny entry into the United States of any commercial motor vehicle (as defined in section 31101(1) of title 49, United States Code) carrying municipal solid waste unless and until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau of Customs and Border Protection of the Department of Homeland Security to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in such waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport.

(b) Defined Term.—In this section, the term "municipal solid waste" includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

SA 3706. Mr. SPECTER (for himself, Mr. SHELBY, Mr. ROBERTS, Mr. BOND, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, line 23, strike "a principal" and insert "the principal".

On page 10, line 26, strike "and".

On page 11, strike line 1 and 2 and insert the following:

(4) direct, oversee, and execute the National Intelligence Program; and

(5) supervise, direct, and control the operations of the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the elements, components, and programs of the Defense Intelligence Agency (other than the defense attaches) engaged in the collection of national intelligence, with the head of each such agency, element, component, or program reporting directly to the National Intelligence Director.

On page 14, line 3, strike "issue" and insert "direct".

On page 14, line 13, strike "manage and oversee" and insert "supervise, direct, and control".

On page 15, line 10, strike "encourage and".

On page 16, line 5, strike "condition of" and insert "requirement for".

On page 19, line 6, strike "and".

On page 19, between lines 6 and 7, insert the following:

(20) review, approve, and manage the research and development efforts of the intelligence community;

(21) review, approve, and manage the acquisition programs of the National Intelligence Program, including all acquisitions of major systems by the intelligence community covered by section 506A of the National Security Act of 1947 (50 U.S.C. 415a–1) or described in section 162 of this Act; and

On page 19, line 7, strike "(20)" and insert "(22)".

On page 20, between lines 3 and 4, insert the following:

(d) RESPONSIBILITY FOR PERFORMANCE OF SPECIFIC FUNCTIONS.—In carrying out responsibilities under this section, the National Intelligence Director shall ensure—

(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

(2) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of human intelligence activities (other than activities of the defense attaches, which shall remain under the direction of the Secretary of Defense) and other national intelligence collection activities performed by the Defense Intelligence Agency;

(3) through the National Geospatial-Intelligence Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization—

(A) for carrying out tasking of imagery collection;

(B) for the coordination of imagery processing and exploitation activities;

(C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and

(D) notwithstanding any other provision of law and consistent with the policies, procedures, standards, and other directives of the National Intelligence Director and the Chief Information Officer of the National Intelligence Authority, for—

(i) prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and

(ii) developing and fielding systems of common concern related to imagery intelligence and geospatial information; and

(4) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research, development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community.

(e) NATIONAL INTELLIGENCE COLLECTION.—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence using technical means, human sources, and other lawful techniques;

(2) provide overall direction for and coordinate the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection; and

(3) coordinate with other departments, agencies, and elements of the United States Government which are authorized to undertake such collection and ensure that the most effective use is made of the resources of such departments, agencies, and elements with respect to such collection, and resolve operational conflicts regarding such collection.

On page 20, line 4, strike "(d)" and insert "(f)".

On page 32, beginning on line 8, strike "oversee and direct" and all that follows through line 10 and insert "direct and coordinate".

On page 109, line 12, strike "subject to paragraph (4),"

On page 109, line 13, strike "and".

On page 109, line 19, strike the period and insert "; and".

On page 109, between lines 19 and 20, insert the following:

(D) ensure compliance with section 506A of the National Security Act of 1947 (50 U.S.C. 415a–1).

On page 110, strike lines 4 through 19 and insert the following:

(3) With respect to the acquisition of a major system (as that term is defined in section 506A(e) of the National Security Act of 1947), the National Intelligence Director may delegate a duty, responsibility, or authority under this section or any other provision of law only to the Principal Deputy National Intelligence Director or to another Deputy National Intelligence Director specified by the Director.

(4) In this subsection:

On page 111, line 1, strike "whole" and insert "whole or in part".

On page 111, line 3, strike "The term" and insert "Except for purposes of paragraph (3), the term".

On page 179, strike lines 1 through 4 and insert the following:

"(b) SUPERVISION.—(1) The Director of the Central Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director.

"(2) The Director of the Central Intelligence Agency shall report directly to the National Intelligence Director regarding the activities of the Central Intelligence Agency.

On page 179, line 20, add "and" at the end.

On page 179, strike line 21 and all that follows through page 180, line 6.

On page 180, line 7, strike "(4)" and insert "(3)".

On page 181, strike lines 1 through 10.

On page 196, between lines 19 and 20, insert the following:

SEC. 304. NATIONAL SECURITY AGENCY.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by inserting after the first section the following new sections:

"SEC. 2. There is a National Security Agency.

"SEC. 3. (a) The Director of the National Security Agency is the head of the National Security Agency.

"(b)(1) The Director of the National Security Agency shall be under the direction, supervision, and control of the National Intelligence Director.

"(2) The Director of the National Security Agency shall report directly to the National Intelligence Director regarding the activities of the National Security Agency.".

SEC. 305. DEFENSE INTELLIGENCE AGENCY.

(a) SUPERVISION.—Except as provided in subsection (b), the Director of the Defense Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director regarding the national intelligence collection mission of the Defense Intelligence Agency.

(b) DEFENSE ATTACHES.—With respect to the activities of the defense attaches, the Director of the Defense Intelligence Agency shall be under the direction, supervision, and control of the Secretary of Defense.

(c) LINE OF AUTHORITY.—The Director of the Defense Intelligence Agency shall report directly to the National Intelligence Director with respect to any programs, operations, and elements of the Directorate for Human Intelligence and the Directorate for MASINT and Technical Collection of the Defense Intelligence Agency that carry out the national intelligence collection mission of the Defense Intelligence Agency, other than those specified in subsection (b).

SEC. 306. NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.

(a) SUPERVISION AND CONTROL BY NATIONAL INTELLIGENCE DIRECTOR.—(1) Section 441 of title 10, United States Code, is amended by striking subsection (c) and inserting the following new subsection (c):

"(c) SUPERVISION.—(1) The Director of the National Geospatial-Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director.

"(2) The Director of the National Geospatial-Intelligence Agency shall report directly to the National Intelligence regarding the activities of the National Geospatial-Intelligence Agency.".

(2) Such title is further amended by striking "Secretary of Defense" each place it appears in the following provisions and inserting "National Intelligence Director":

(A) Section 453(a).

(B) Section 453(b)(1).

(C) Section 454.

(D) Section 455(b)(1), both places it appears.

(E) Section 462, the first place it appears.

(b) SUPPORT.—Section 444 of such title is amended by striking "Director of Central Intelligence" each place it appears and inserting "Director of the Central Intelligence Agency".

(c) OTHER AMENDMENTS.—(1) Subsection (d) of section 441 of such title is amended by striking "The Secretary of Defense, in consultation with the Director of Central Intelligence," and inserting "The National Intelligence Director".

(2) Section 442(b) of such title is amended by striking “Secretary of Defense” and inserting “National Intelligence Director, in coordination with the Secretary of Defense”.

(3) Section 443(d) of such title is amended—

(A) in the subsection caption, by striking “CENTRAL INTELLIGENCE” and inserting “CENTRAL INTELLIGENCE AGENCY”; and

(B) by striking “of the Agency shall coordinate with the Director of Central Intelligence” and inserting “of the National Geospatial-Intelligence Agency shall coordinate with the Director of the Central Intelligence Agency”.

(4) Section 451 of such title is amended by striking “Secretary of Defense” and inserting “National Intelligence Director, in coordination with the Secretary of Defense,”.

(5) Section 452(a) of such title is amended—

(A) by striking “of the Department of Defense”; and

(B) by striking “Secretary of Defense” and inserting “National Intelligence Director”.

(6) Section 455(b)(1) of such title is amended by striking “Department of Defense” and inserting “United States Government”.

(7) Section 457(a) of such title is amended by striking “Secretary of Defense” and inserting “Director of the National Geospatial-Intelligence Agency, in coordination with the National Intelligence Director,”.

(8) Section 462 of such title is further amended by striking “by the Secretary of Defense”.

SEC. 307. NATIONAL RECONNAISSANCE OFFICE.

(a) SUPERVISION.—The Director of the National Reconnaissance Office shall be under the direction, supervision, and control of the National Intelligence Director.

(b) LINE OF AUTHORITY.—The Director of the National Reconnaissance Office shall report directly to the National Intelligence Director regarding the activities of the National Reconnaissance Office.

On page 196, line 20, strike “**304.**” and insert “**308.**”.

On page 197, line 8, strike “**305.**” and insert “**309.**”.

On page 198, line 19, strike “**306.**” and insert “**310.**”.

On page 200, line 5, strike “**307.**” and insert “**311.**”.

On page 200, strike lines 9 through 11 and insert the following:

(a) IN GENERAL.—Subsection (a) of section 105 of the National Security Act of 1947 (50 U.S.C. 403-5) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(2) by striking paragraph (1) and inserting the following new paragraphs:

“(1) ensure that—

“(A) the budgets of the elements of the intelligence community within the Department of Defense relating to the tactical intelligence activities of such elements are adequate to satisfy the tactical intelligence needs of the Department of Defense, including the needs of the chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands; and

“(B) the budgets of the elements of the intelligence community within the Department of Defense relating to the intelligence and intelligence-related activities of such elements—

“(i) comply with the requirements and priorities specified by the Director with respect to the National Intelligence Program; and

“(ii) conform, to the maximum extent, to the guidance provided by the Director to such elements on those portions of their budgets in the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities Program;

“(2) ensure that the national intelligence needs of the Department of Defense, including the needs of the chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands, are conveyed to the Director for purposes of setting requirements and priorities for national intelligence;”;

(3) in paragraph (3), as so redesignated, by striking “appropriate”; and

(4) in paragraph (5), as so redesignated, by inserting “and comply with the national intelligence decisions of the Director” before the semicolon.

(b) SPECIFIC FUNCTIONS.—Subsection (b) of such section is amended—

(1) by striking paragraphs (1), (2), and (3);

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (1), (2), and (3) respectively;

(3) in paragraph (1), as so redesignated, by striking “or the National Security Council)” and inserting “, the National Security Council, or the National Intelligence Director (when exercising the responsibilities and authorities provided under this Act, the National Intelligence Reform Act of 2004, or any other provision of law))”; and

(4) in paragraph (2), as so redesignated, by striking “Department of Defense human intelligence activities, including”.

(c) ANNUAL EVALUATION OF PERFORMANCE OF CERTAIN OFFICIALS.—Such section is further amended by adding at the end the following new subsection:

“(d) ANNUAL EVALUATION OF PERFORMANCE OF CERTAIN OFFICIALS.—(1) The Secretary of Defense shall, in consultation with the Chairman of the Joint Chiefs of Staff, submit each year to the National Security Council, the National Intelligence Director, and the appropriate committees of Congress an evaluation of the performance and responsiveness to military intelligence requirements of the officials specified in paragraph (2).

“(2) The officials specified in this paragraph are as follows:

“(A) The Director of the Central Intelligence Agency.

“(B) The Director of the National Security Agency.

“(C) The Director of the Defense Intelligence Agency.

“(D) The Director of the National Geospatial-Intelligence Agency.

“(E) The Director of the National Reconnaissance Office.

On page 200, line 12, strike “**308.**” and insert “**312.**”.

On page 200, line 19, strike “**309.**” and insert “**313.**”.

On page 201, line 11, strike “**310.**” and insert “**314.**”.

On page 203, between lines 8 and 9, insert the following:

SEC. 315. OVERSIGHT OF COMBAT SUPPORT AGENCIES OF THE INTELLIGENCE COMMUNITY.

(a) OVERSIGHT.—(1) Chapter 8 of title 10, United States Code, is amended by inserting after section 193 the following new section:

“§ 193a. Combat support agencies of the intelligence community: oversight

“(a) COMBAT READINESS.—(1) Every two years (or sooner, if approved by the National Intelligence Director), the Chairman of the Joint Chiefs of Staff shall, in consultation with the Secretary of Defense, submit to the National Intelligence Director a report on the combat support agencies of the intelligence community. Each report shall include—

“(A) a determination with respect to the responsiveness and readiness of each such agency to support operating forces in the event of a war or threat to national security; and

“(B) any recommendations that the Chairman considers appropriate.

“(2) In preparing each report, the Chairman shall review the plans of each combat support agency of the intelligence community with respect to its support of operating forces in the event of a war or threat to national security. After consultation with the Secretaries of the military departments and the commanders of the unified and specified combatant commands, as appropriate, the Chairman may, with the approval of the Secretary of Defense, provide the National Intelligence Director any recommendations for modifications of such plans that the Chairman considers appropriate.

“(b) PARTICIPATION IN JOINT TRAINING EXERCISES.—The Chairman shall, with the cooperation of the National Intelligence Director—

“(1) provide for the participation of the combat support agencies of the intelligence community in joint training exercises to the extent necessary to ensure that such agencies are capable of performing their support missions with respect to a war or threat to national security; and

“(2) assess the performance in joint training exercises of each combat support agency of the intelligence community and, in accordance with guidelines established by the Secretary of Defense, take steps to provide the National Intelligence Director recommendations for any change that the Chairman considers appropriate to improve that performance.

“(c) READINESS REPORTING SYSTEM.—The Chairman shall develop, in consultation with the director of each combat support agency of the intelligence community, a uniform system for reporting to the Secretary of Defense, the commanders of the unified and specified combatant commands, and the Secretaries of the military departments concerning the readiness of each combat support agency of the intelligence community to perform with respect to a war or threat to national security.

“(d) REVIEW OF NSA, NGA, AND NRO.—(1) Subsections (a), (b), and (c) shall apply to the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office, but only with respect to combat support functions that such agencies perform for the Department of Defense.

“(2) The Secretary of Defense shall, in coordination with the National Intelligence Director, establish policies and procedures with respect to the application of subsections (a), (b), and (c) to the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office.

“(e) COMBAT SUPPORT CAPABILITIES OF DIA, NSA, NGA, AND NRO.—The Secretary of Defense and the National Intelligence Director shall jointly develop and implement such policies and programs as they determine necessary to correct such deficiencies as the Chairman of the Joint Chiefs of Staff and other officials of the Department of Defense may identify in the capabilities of the Defense Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office to accomplish assigned missions in support of military combat operations.

“(f) COMBAT SUPPORT AGENCY OF THE INTELLIGENCE COMMUNITY DEFINED.—In this section, the term ‘combat support agency of the intelligence community' means any of the following agencies:

"(1) The National Security Agency.

"(2) The Defense Intelligence Agency.

"(3) The National Geospatial-Intelligence Agency.

"(4) The National Reconnaissance Office.".

(2) The table of sections at the beginning of subchapter I of chapter 8 of such title is amended by inserting after the item relating to section 193 the following new item:

"193a. Combat support agencies of the intelligence community: oversight.".

(b) CONFORMING AMENDMENTS.—Section 193 of such title is amended—

(1) by striking subsections (d) and (e);

(2) by redesignating subsection (f) as subsection (d); and

(3) in subsection (d), as so redesignated—

(A) by striking paragraphs (2) and (4); and

(B) by redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively.

On page 203, line 9, strike "**311.**" and insert "**316.**".

On page 204, line 1, strike "**312.**" and insert "**317.**".

On page 209, line 4, strike "**334.**" and insert "**333.**".

On page 209, line 15, strike "**335.**" and insert "**334.**".

On page 210, line 23, strike "**336.**" and insert "**315.**".

SA 3707. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, between lines 16 and 17, insert the following:

(d) TERM OF OFFICE; REMOVAL.—(1) The term of service of the National Intelligence Director shall be ten years.

(2) An individual may not serve more than one term of service as National Intelligence Director.

(3) Paragraphs (1) and (2) shall apply with respect to any individual appointed as National Intelligence Director after the date of the enactment of this Act.

(4) If the individual serving as Director of Central Intelligence on the date of the enactment of this Act is the first person appointed as National Intelligence Director under this section, the date of appointment of such individual as National Intelligence Director shall be deemed to be the date of the commencement of the term of service of such individual as National Intelligence Director.

(5) The individual serving as National Intelligence Director may be removed from service as National Intelligence Director only for good cause shown.

On page 10, line 17, strike "(d)" and insert "(e)".

On page 11, line 3, strike "(e)" and insert "(f)".

On page 11, line 5, strike "subsection (c)" and insert "subsection (e)".

SA 3708. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 13 after line 19 insert the following:

"(a) IN GENERAL.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:"

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Deborah Sundquist of my staff be granted floor privileges for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Paul Brand, Andrew Young, Sara Hagigh, Rob Culbertson, Joseph Helble, Wilson Wang, Andrew Weinschenk, and Matt Doyle of my staff and the Governmental Affairs Committee staff have privileges of the floor during the debate on S. 2845.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I ask unanimous consent that the following Governmental Affairs Committee detailees be granted floor privileges during the duration of this bill: Deborah Barger, Donald Bumgardner, Keith Herrington, Keith Janssen, William Murray, Edward Priestap, and Cornelius Southall.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005

On Thursday, September 23, 2004 the Senate passed H.R. 4818, as follows:

H.R. 4818

Resolved, That the bill from the House of Representatives (H.R. 4818) entitled "An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

INSPECTOR GENERAL OF THE EXPORT-IMPORT BANK

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $1,140,000.

EXPORT-IMPORT BANK LOANS PROGRAM ACCOUNT

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: Provided, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country, other than a nuclear-weapon state as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act, that has detonated a nuclear explosive after the date of the enactment of this Act: Provided further, That notwithstanding section 1(c) of Public Law 103–428, as amended, sections 1(a) and (b) of Public Law 103–428 shall remain in effect through October 1, 2005.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, $115,700,000, to remain available until September 30, 2008: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That such sums shall remain available until September 30, 2023 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 2005, 2006, 2007, and 2008: Provided further, That none of the funds appropriated by this Act or any prior Act appropriating funds for foreign operations, export financing, and related programs for tied-aid credits or grants may be used for any other purpose except through the regular notification procedures of the Committees on Appropriations: Provided further, That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any Eastern European country, any Baltic State or any agency or national thereof: Provided further, That not later than 30 days after the date of enactment of this Act, the Export-Import Bank shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, containing an analysis of the economic impact on United States producers of ethanol of the extension of credit and financial guarantees for the development of an ethanol dehydration plant in Trinidad and Tobago, including a determination of whether such extension will cause substantial injury to such producers, as defined in section 2(e)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(4)): Provided further, That the Export-Import Bank shall consult with the Committees on Appropriations and the Senate Committee on Finance prior to extending direct credit or financial guarantee to establish or expand the production of indigenous products for export by a beneficiary country pursuant to section 423 of the Tax Reform Act of 1986 (19 U.S.C. 2703 note).

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $30,000 for official reception and representation expenses for members of the Board of Directors, $73,200,000: Provided, That the Export-Import Bank may accept, and use, payment or services provided by transaction participants for legal, financial, or technical services in connection with any transaction for which an application for a loan, guarantee or insurance commitment has been made: Provided further, That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of

1992, subsection (a) thereof shall remain in effect until October 1, 2005.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: Provided, That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $42,885,000: Provided further, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $24,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Non-Credit Account: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 2005 and 2006. Provided further, That such sums shall remain available through fiscal year 2013 for the disbursement of direct and guaranteed loans obligated in fiscal year 2005, and through fiscal year 2014 for the disbursement of direct and guaranteed loans obligated in fiscal year 2006.

In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $49,000,000, to remain available until September 30, 2006.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 2005, unless otherwise specified herein, as follows:'

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, $1,550,000,000, to remain available until September 30, 2007: Provided, That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for children displaced or orphaned by causes other than AIDS; (5) programs for the prevention, treatment, control of, and research on HIV/AIDS, tuberculosis, polio, malaria, and other infectious diseases, and for assistance to communities severely affected by HIV/AIDS, including children displaced or orphaned by AIDS; and (6) family planning/reproductive health: Provided further, That none of the funds appropriated under this heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health activities: Provided further, That of the funds appropriated under this heading, not to exceed $250,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: Provided further, That the following amounts should be allocated as follows: $345,000,000 for child survival and maternal health; $30,000,000 for vulnerable children; $600,000,000 for HIV/AIDS including not less than $32,000,000 to support the development of microbicides as a means for combating HIV/AIDS; $200,000,000 for other infectious diseases; and $375,000,000 for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species: Provided further, That of the funds appropriated under this heading, not less than $250,000,000 shall be made available, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 1701 et seq.) as amended, for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria (the "Global Fund"), and shall be expended at the minimum rate necessary to make timely payment for projects and activities: Provided further, That of the funds appropriated under this heading that are available for HIV/AIDS programs and activities, not less than $28,000,000 should be made available for the International AIDS Vaccine Initiative and not less than $28,000,000 should be made available for a United States contribution to UNAIDS: Provided further, That of the funds appropriated under this heading, $65,000,000 should be made available for a United States contribution to The Vaccine Fund, and up to $6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading "Operating Expenses of the United States Agency for International Development" for costs directly related to international health, but funds made available for such costs may not be derived from amounts made available for contribution under this and preceding provisos: Provided further, That restrictions with respect to assistance provided with funds appropriated by this Act for HIV/AIDS, family planning, or child survival and health activities shall not be construed to restrict assistance in support of programs to expand the availability and use of condoms for HIV/AIDS prevention and of contraceptives to reduce the incidence of abortion: Provided further, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, directly supports coercive abortion or involuntary sterilization: Provided further, That the previous proviso shall not be construed to deny funding to any organization or program solely because the government of a country engages in coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: Provided further, That none of the funds made available under this Act may be used to lobby for or against abortion: Provided further, That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: Provided further, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: Provided further, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: Provided further, That information provided about the use of condoms as part of projects or activities that are funded from amounts appropriated by this Act shall be medically accurate and shall include the public health benefits and failure rates of such use.

DEVELOPMENT ASSISTANCE

For necessary expenses of the United States Agency for International Development to carry out the provisions of sections 103, 105, 106, and

131, and chapter 10 of part I of the Foreign Assistance Act of 1961, $1,460,000,000, to remain available until September 30, 2006: Provided, That none of the funds appropriated under title II of this Act that are managed by or allocated to the United States Agency for International Development's Global Development Secretariat, may be made available except through the regular notification procedures of the Committees on Appropriations: Provided further, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed $37,500, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: Provided further, That of the aggregate amount of the funds appropriated by this Act that are made available for agriculture and rural development programs, $40,000,000 shall be made available for plant biotechnology research and development: Provided further, That not less than $2,300,000 shall be made available for core support for the International Fertilizer Development Center: Provided further, That of the funds appropriated under this heading, not less than $22,000,000 should be made available for the American Schools and Hospitals Abroad program: Provided further, That of the funds appropriated under this heading, not less than $1,000,000 shall be made available for support of the United States Telecommunications Training Institute: Provided further, That of the funds appropriated under this heading, not less than $2,000,000 shall be made available for support of the International Real Property Foundation: Provided further, That of the funds appropriated under this heading, not less than $5,000,000 should be made available for pilot programs in the Democratic Republic of the Congo, Uganda, Burundi, and Liberia to address sexual and gender-based violence: Provided further, That of the funds appropriated under this heading, in addition to funds made available pursuant to the previous proviso, not less than $8,000,000 should be made available for assistance for Liberia: Provided further, That of the funds appropriated under this heading, $2,000,000 shall be made available for Water Missions International to develop clean water treatment projects in developing countries: Provided further, That of the funds appropriated by this Act, $100,000,000 shall be made available for drinking water supply projects and related activities.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For necessary expenses of the United States Agency for International Development to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 for international disaster relief, rehabilitation, and reconstruction assistance, $335,500,000, to remain available until expended.

In addition, for necessary expenses for assistance for famine prevention and relief, including for mitigation of the effects of famine, $50,000,000, to remain available until expended: Provided, That such funds shall be made available utilizing the general authorities of section 491 of the Foreign Assistance Act of 1961, and shall be in addition to amounts otherwise available for such purposes: Provided further, That funds appropriated by this paragraph shall be available for obligation subject to prior consultation with the Committees on Appropriations.

TRANSITION INITIATIVES

For necessary expenses for international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, $50,000,000, to remain available until expended, to support transition to democracy and to long-term development of countries in crisis: Provided, That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: Provided further, That the United States Agency for International Development shall submit a report to the Committees on Appropriations at least 5 days prior to beginning a new program of assistance: Provided further, That if the President determines that is important to the national interests of the United States to provide transition assistance in excess of the amount appropriated under this heading, up to $15,000,000 of the funds appropriated by this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961 may be used for purposes of this heading and under the authorities applicable to funds appropriated under this heading: Provided further, That funds made available pursuant to the previous proviso shall be made available subject to prior consultation with the Committees on Appropriations.

DEVELOPMENT CREDIT AUTHORITY

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans and loan guarantees provided by the United States Agency for International Development, as authorized by sections 108 and 635 of the Foreign Assistance Act of 1961, funds may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading "Assistance for Eastern Europe and the Baltic States": Provided, That such funds shall not exceed $21,000,000, which shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: Provided further, That such costs, including the cost of modifying such direct and guaranteed loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, of up to $700,000,000: Provided further, That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this heading: Provided further, That funds made available by this paragraph may be used for the cost of modifying any such guaranteed loans under this Act or prior Acts, and funds used for such costs shall be subject to the regular notification procedures of the Committees on Appropriations.

In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, $8,000,000, which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: Provided, That funds made available under this heading shall remain available until September 30, 2007.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $42,500,000.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, $618,000,000, of which up to $25,000,000 may remain available until September 30, 2006: Provided, That none of the funds appropriated under this heading and under the heading "Capital Investment Fund" may be made available to finance the construction (including architect and engineering services), purchase, or long-term lease of offices for use by the United States Agency for International Development, unless the Administrator has identified such proposed construction (including architect and engineering services), purchase, or long-term lease of offices in a report submitted to the Committees on Appropriations at least 15 days prior to the obligation of these funds for such purposes: Provided further, That the previous proviso shall not apply where the total cost of construction (including architect and engineering services), purchase, or long-term lease of offices does not exceed $1,000,000: Provided further, That contracts or agreements entered into with funds appropriated under this heading may entail commitments for the expenditure of such funds through fiscal year 2006: Provided further, That none of the funds in this Act may be used to open a new overseas mission of the United States Agency for International Development without the prior written notification of the Committees on Appropriations: Provided further, That the authority of sections 610 and 109 of the Foreign Assistance Act of 1961 may be exercised by the Secretary of State to transfer funds appropriated to carry out chapter 1 of part I of such Act to "Operating Expenses of the United States Agency for International Development" in accordance with the provisions of those sections.

CAPITAL INVESTMENT FUND

For necessary expenses for overseas construction and related costs, and for the procurement and enhancement of information technology and related capital investments, pursuant to section 667 of the Foreign Assistance Act of 1961, $59,000,000, to remain available until expended: Provided, That this amount is in addition to funds otherwise available for such purposes: Provided further, That the Administrator of the United States Agency for International Development shall assess fair and reasonable rental payments for the use of space by employees of other United States Government agencies in buildings constructed using funds appropriated under this heading, and such rental payments shall be deposited into this account as an offsetting collection: Provided further, That the rental payments collected pursuant to the previous proviso and deposited as an offsetting collection shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations: Provided further, That the assignment of United States Government employees or contractors to space in buildings constructed using funds appropriated under this heading shall be subject to the concurrence of the Administrator of the United States Agency for International Development: Provided further, That funds appropriated under this heading shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, $35,000,000, to remain available until September 30, 2006, which sum shall be available for the Office of the Inspector General of the United States Agency for International Development.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,470,000,000, to remain available until September 30, 2006: Provided, That of the funds appropriated under this heading, not less than $360,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer *and shall be disbursed within 30 days of the enactment of this Act or by October 31, 2004, whichever is later: Provided further, That not less than $535,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic and political reforms which are additional to those which were undertaken in previous fiscal years, and of which not more than $200,000,000 shall be provided as Commodity Import Program assistance: Provided further, That with respect to the provision of assistance for Egypt for democracy and governance activities, the organizations implementing such assistance and the specific nature of that assistance shall not be subject to the prior approval by the Government of Egypt: Provided further, That in exercising the authority to provide cash transfer assistance for Israel, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to such country and that Israel enters into a side letter agreement in an amount proportional to the fiscal year 1999 agreement: Provided further, That of the funds appropriated under this heading, not less than $250,000,000 shall be made available only for assistance for Jordan: Provided further, That funds appropriated under this heading shall be made available for administrative costs of the United States Agency for International Development to implement regional programs in Asia and the Near East, including the Middle East Partnership Initiative, in addition to amounts otherwise available for such purposes: Provided further, That $13,500,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus: Provided further, That $35,000,000 of the funds appropriated under this heading shall be made available for assistance for Lebanon, of which not less than $4,000,000 should be made available to American educational institutions for scholarships and direct support: Provided further, That notwithstanding section 5034(a) of this Act, funds appropriated under this heading that are made available for assistance for the Central Government of Lebanon shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That not to exceed $200,000,000 of the funds appropriated under this heading may be used for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Pakistan: Provided further, That amounts that are made available under the previous proviso for the costs of modifying direct loans and guarantees shall not be considered "assistance" for the purposes of provisions of law limiting assistance to a country: Provided further, That of the funds appropriated under this heading, not less than $22,000,000 shall be made available for assistance for the Democratic Republic of Timor-Leste, of which up to $1,000,000 may be available for administrative expenses of the United States Agency for International Development: Provided further, That of the funds available under this heading for assistance for Indonesia, not less than $3,000,000 shall be made available to Internews to promote freedom of the media in Indonesia and not less than $2,000,000 shall be made available for economic development programs conducted by Indonesian universities: Provided further, That of the funds available under this heading for assistance for Jordan, $5,000,000 should be made available for the Rosary Sisters Hospital in Jordan: Provided further, That of the funds available under this heading for the "Middle East Partnership Initiative", up to $4,500,000 may be made available for scholarship programs for students from countries with significant Muslim populations at American institutions of higher education in the Middle East that are accredited by an accrediting agency recognized by the United States Department of Education: Provided further, That of the funds appropriated under this heading, not less than $2,500,000 should be made available for technical assistance for countries to implement and enforce the Kimberley Process Certification Scheme: Provided further, That of the funds appropriated under this heading, not less than $3,750,000 should be made available for East Asia and Pacific Environment Initiatives: Provided further, That of the funds appropriated under this heading, not less than $10,000,000 should be made available for assistance for Kenya: Provided further, That of the funds appropriated under this heading, not less than $25,000,000 should be made available for assistance for Liberia: Provided further, That of the funds appropriated under this heading, not less than $500,000 should be made available to support the Commission to Investigate Illegal Groups and Clandestine Security Apparatus in Guatemala: Provided further, That of the funds appropriated under this heading, $3,000,000 shall be made available for the Foundation for Security and Sustainability: Provided further, That of the funds appropriated under this heading that are made available for assistance for Pakistan, not less than $10,000,000 should be made available to support programs and activities conducted by indigenous organizations that seek to further educational, health, employment, and other opportunities for the people of Pakistan, of which up to $4,000,000 should be made available for the Pakistan Human Development Fund and $1,000,000 for the Amanut Society: Provided further, That of the funds appropriated under this heading, $10,000,000 shall be made available to continue to support the provision of wheelchairs for needy persons in developing countries: Provided further, That funds appropriated under this heading that are made available for a Middle East Financing Facility, Middle East Enterprise Fund, or any other similar entity in the Middle East shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That with respect to funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, the responsibility for policy decisions and justifications for the use of such funds, including whether there will be a program for a country that uses those funds and the amount of each such program, shall be the responsibility of the Secretary of State and the Deputy Secretary of State and this responsibility shall not be delegated.*

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $410,000,000, to remain available until September 30, 2006, which shall be available, notwithstanding any other provision of law, for assistance and for related programs for Eastern Europe and the Baltic States: Provided, That of the funds appropriated under this heading that are made available for assistance for Bulgaria, $2,000,000 shall be made available to enhance safety at nuclear power plants: Provided further, That of the funds appropriated under this heading, not more than $87,000,000 may be made available for assistance for Serbia: Provided further, That the amount contained in the previous proviso shall be reduced by an amount equal to the amount of financial and other support, as determined by the Secretary of State, that Serbia has provided to Slobodan Milosevic and other indicted war criminals, and their families, during calendar year 2004: Provided further, That funds appropriated under this heading shall be made available for programs and countries in the amounts contained in the table included in the report accompanying this Act: Provided further, That any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds.

(b) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

(c) Notwithstanding any provision of this or any other Act, local currencies generated by, or converted from, funds appropriated by this Act and by previous appropriations Acts and made available for the economic revitalization program in Bosnia may be used in Eastern Europe and the Baltic States to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989.

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the Independent States of the former Soviet Union and for related programs, $560,000,000, to remain available until September 30, 2006: Provided, That the provisions of such chapters shall apply to funds appropriated by this paragraph: Provided further, That funds made available for the Southern Caucasus region may be used, notwithstanding any other provision of law, for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabagh: Provided further, That of the funds appropriated under this heading, $8,000,000 should be available only to meet the health and other assistance needs of victims of trafficking in persons: Provided further, That of the funds appropriated under this heading, $20,000,000 shall be made available solely for assistance for the Russian Far East: Provided further, That of the funds appropriated under this heading, $6,000,000 should be made available for an emergency operations center in Kazakhstan: Provided further, That, notwithstanding any other provision of law, funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, that are made available pursuant to the provisions of section 807 of Public Law 102–511 shall be subject to a 6 percent ceiling on administrative expenses: Provided further, That funds appropriated under this heading shall be made available for programs and countries in the amounts contained in the table included in the report accompanying this Act: Provided further, That any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds.

(b) Of the funds appropriated under this heading that are made available for assistance

for Ukraine, not less than $5,000,000 shall be made available for nuclear reactor safety initiatives, and not less than $3,000,000 shall be made available for coal mine safety programs.

(c) Of the funds appropriated under this heading, not less than $93,000,000 shall be made available for assistance for Russia, of which not less than $4,000,000 shall be made available to the National Endowment for Democracy for democracy, human rights and rule of law programs.

(d) Of the funds appropriated under this heading, not less than $75,000,000 shall be made available for assistance for Armenia.

(e) Of the funds appropriated under this heading, not less than $6,500,000 shall be made available for democracy, human rights, and rule of law programs in Belarus.

(f)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of the Russian Federation, 60 percent shall be withheld from obligation until the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation:

(A) has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability; and

(B) is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.

(2) Paragraph (1) shall not apply to—

(A) assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; and

(B) activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

(g) Section 907 of the FREEDOM Support Act shall not apply to—

(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 or non-proliferation assistance;

(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

(4) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

(5) any financing provided under the Export-Import Bank Act of 1945; or

(6) humanitarian assistance.

INDEPENDENT AGENCIES

INTER-AMERICAN FOUNDATION

For necessary expenses to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, $19,000,000, to remain available until September 30, 2006.

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533, $20,000,000, to remain available until September 30, 2006: Provided, That funds made available to grantees may be invested pending expenditure for project purposes when authorized by the board of directors of the Foundation: Provided further, That interest earned shall be used only for the purposes for which the grant was made: Provided further, That notwithstanding section 505(a)(2) of the African Development Foundation Act, in exceptional circumstances the board of directors of the Foundation may waive the $250,000 limitation contained in that section with respect to a project: Provided further, That the Foundation shall provide a report to the Committees on Appropriations after each time such waiver authority is exercised.

PEACE CORPS

For necessary expenses to carry out the provisions of the Peace Corps Act (75 Stat. 612), $310,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: Provided, That none of the funds appropriated under this heading shall be used to pay for abortions: Provided further, That funds appropriated under this heading shall remain available until September 30, 2006.

MILLENNIUM CHALLENGE CORPORATION

For necessary expenses for the "Millennium Challenge Account", $1,120,000,000, to remain available until expended.

DEPARTMENT OF STATE

GLOBAL HIV/AIDS INITIATIVE

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 for the prevention, treatment, and control of, and research on, HIV/AIDS, $1,450,000,000, to remain available until expended: Provided, That increased emphasis should be given to building local capacity of foreign governments and non-governmental organizations to implement sustainable HIV/AIDS prevention, care and treatment programs as a component of national health care delivery systems: Provided further, That of the funds appropriated under this heading, $25,000,000 shall be made available for HIV/AIDS education and outreach programs that utilize state of the art information technology: Provided further, That of the funds appropriated under the headings "Assistance for Eastern Europe and the Baltic States", "Assistance for the Independent States of the Former Soviet Union", "Andean Counterdrug Initiative", "Foreign Military Financing Program", and "Economic Support Fund", not less than $42,000,000 shall be made available for programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, and malaria: Provided further, That of the funds appropriated under this heading, not more than $8,818,000 may be made available for administrative expenses of the office of the Coordinator of United States Government Activities to Combat HIV/AIDS Globally of the Department of State.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $328,820,000, to remain available until September 30, 2007: Provided, That during fiscal year 2005, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: Provided further, That of the funds appropriated under this heading, $15,000,000 should be made available for anti-trafficking in persons programs, including trafficking prevention, protection and assistance for victims, and prosecution of traffickers: Provided further, That the Secretary of State shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: Provided further, That of the funds appropriated under this heading, not less than $17,000,000 should be made available for training programs and activities of the International Law Enforcement Academies: Provided further, That of the funds appropriated under this heading, not less than $12,000,000 shall be made available for assistance for the Philippines for police training and other related activities: Provided further, That of the funds appropriated under this heading, $3,000,000 shall be made available for assistance for the Government of Malta for the purchase of helicopters to enhance its ability to control its borders and deter terrorists: Provided further, That of the funds appropriated under this heading, $5,000,000 shall be made available for combating piracy of United States intellectual property: Provided further, That of the funds appropriated under this heading, not less than $1,500,000 should be made available to the International Foundation of Hope for alternative crop programs in Nangarhar Province, Afghanistan: Provided further, That of the funds appropriated under this heading, not less than $1,000,000 should be made available for police training in the Democratic Republic of Timor-Leste: Provided further, That of the funds appropriated under this heading, not more than $26,117,000 may be available for administrative expenses.

ANDEAN COUNTERDRUG INITIATIVE

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support counterdrug activities in the Andean region of South America, $731,000,000, to remain available until September 30, 2007: Provided, That in fiscal year 2005, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations: Provided further, That this authority shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations: Provided further, That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of any illegal self-defense group or illegal security cooperative, such helicopter shall be immediately returned to the United States: Provided further, That the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: Provided further, That of the funds appropriated under this heading, not less than $272,000,000 shall be made available for alternative development/institution building, of which $240,000,000 shall be apportioned directly to the United States Agency for International Development, including $140,000,000 for assistance for Colombia: Provided further, That with respect to funds apportioned to the United States Agency for International Development under the previous proviso, the responsibility for policy decisions for the use of such funds, including what activities will be funded and the amount of funds that will be provided for each of those activities, shall be the responsibility of *the Administrator of the United States Agency for International Development in consultation with the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs: Provided further, That of the funds appropriated under this heading, not less than $6,000,000 should be made available for judicial reform programs in Colombia: Provided further, That of the funds appropriated under this heading, in addition to funds made available pursuant to the previous proviso, not less than $6,000,000 shall be made available to the United States Agency for International Development for organizations and programs to protect human rights: Provided further, That funds appropriated by this Act that are otherwise available for such purposes may be made available to support the demobilization of illegal armed groups in Colombia only if the Secretary of State certifies to the Committees on Appropriations that: (1) the Colombian legal framework governing the demobilization of such groups provides for prosecution and punishment, in proportion to the crimes committed, of those responsible for gross violations of human rights and drug trafficking; (2) actions are being taken by the Government of Colombia to ensure the dismantling of underlying structures of such groups, including the seizure of financial and real property assets; (3) actions are being taken by the Government of Colombia to enable the return of civilians forcibly displaced by such groups; and (4) the Government of Colombia has not enacted legislation inconsistent with its obligations under the United States-Colombian treaty on extradition, and has committed to the United States that it will continue to extradite Colombian citizens to the United States, including members of such illegal armed groups, in accordance with that treaty: Provided further, That not more than 20 percent of the funds appropriated by this Act that are used for the procurement of chemicals for aerial coca and poppy fumigation programs may be made available for such programs unless the Secretary of State certifies to the Committees on Appropriations that: (1) the herbicide mixture is being used in accordance with EPA label requirements for comparable use in the United States and with Colombian laws; and (2) the herbicide mixture, in the manner it is being used, does not pose unreasonable risks or adverse effects to humans or the environment: Provided further, That such funds may not be made available unless the Secretary of State certifies to the Committees on Appropriations that complaints of harm to health or licit crops caused by such fumigation are evaluated and fair compensation is being paid for meritorious claims: Provided further, That such funds may not be made available for such purposes unless programs are being implemented by the United States Agency for International Development, the Government of Colombia, or other organizations, in consultation with local communities, to provide alternative sources of income in areas where security permits for small-acreage growers whose illicit crops are targeted for fumigation: Provided further, That of the funds appropriated under this heading, not less than $2,000,000 should be made available through nongovernmental organizations for programs to protect biodiversity and indigenous reserves in Colombia: Provided further, That funds appropriated by this Act may be used for aerial fumigation in Colombia's national parks or reserves only if the Secretary of State certifies that it is in accordance with Colombian laws and that there are no effective alternatives to reduce drug cultivation in these areas: Provided further, That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: Provided further, That assistance provided with funds appropriated under this heading that is made available notwithstanding section 482(b) of the Foreign Assistance Act of 1961 shall be made available subject to the regular notification procedures of the Committees on Appropriations: Provided further, That no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available by this Act for Colombia: Provided further, That funds appropriated under this heading that are available for assistance for the Bolivian military and police are subject to the regular notification procedures of the Committees on Appropriations and may be made available for such purposes only if the Bolivian military and police are respecting human rights and cooperating with civilian judicial authorities, and the Bolivian Government is prosecuting and punishing those responsible for violations of human rights: Provided further, That of the funds appropriated under this heading, not more than $16,285,000 may be available for administrative expenses of the Department of State, and not more than $4,500,000 may be available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development.*

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $775,000,000, which shall remain available until expended: Provided, That not more than $22,000,000 may be available for administrative expenses: Provided further, That not less than $50,000,000 of the funds made available under this heading shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel: Provided further, That funds made available under this heading should be made available to international organizations for assistance for refugees from North Korea: Provided further, That funds made available under this heading and the heading "Emergency Migration and Refugee Assistance Fund" shall be made available to nongovernmental organizations located in Thailand for humanitarian assistance inside Burma: Provided further, That funds appropriated under this heading may be made available for a headquarters contribution to the International Committee of the Red Cross only if the Secretary of State determines (and so reports to the appropriate committees of Congress) that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)), $50,000,000, to remain available until expended: Provided, That funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of such Act which would limit the amount of funds which could be appropriated for this purpose.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, $415,200,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: Provided, That of this amount not to exceed $34,500,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: Provided further, That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: Provided further, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: Provided further, That funds available during fiscal year 2005 for a contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission and that are not necessary to make the United States contribution to the Commission in the amount assessed for fiscal year 2005 shall be made available for a voluntary contribution to the International Atomic Energy Agency and shall remain available until September 30, 2006: Provided further, That of the funds made available for demining and related activities, not to exceed $690,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: Provided further, That the Secretary of State is authorized to provide, from funds appropriated under this heading in this Act and each subsequent Act making appropriations for foreign operations, export financing and related programs, not to exceed $250,000 for public-private partnerships for mine action by grant, cooperative agreement, or contract: Provided further, That funds appropriated under this heading that are available for "Anti-terrorism Assistance" and "Export Control and Border Security" shall remain available until September 30, 2006: Provided further, That of the funds appropriated under this heading, $10,000,000 should be made available for mobile robot systems and radiation detection technology to combat international terrorism: Provided further, That funds appropriated under this heading shall be made available for programs and countries in the amounts contained in the table included in the report accompanying this Act: Provided further, That any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds: Provided further, That of the funds appropriated under *this heading, $10,000,000 should be made available to reduce the threat that man-portable air defense systems ('MANPADS') could be acquired by terrorists or by state sponsors of terrorism.*

CONFLICT RESPONSE FUND

For necessary expenses to assist in stabilizing and reconstructing a country that is in, or is in transition from, conflict or civil strife, $20,000,000, to remain available until expended: Provided, That funds available under this paragraph may be used for assistance for a country only if the Secretary of State determines and reports to the Committees on Appropriations, that it is important to the national security interest of the United States to do so and consults with the Committees on Appropriations prior to making any such determination: Provided further, That the responsibility for this determination required by the previous proviso and policy decisions and justifications for the use of funds made available under the authority of this paragraph, including the amount of assistance provided to a country under this authority, shall be the responsibility of the Secretary of State and the Deputy Secretary of State and shall not be delegated: Provided further, That the President may exercise the authority of section 552 of the Foreign Assistance Act of 1961, without regard and in addition to the dollar limitations contained in that section, to furnish assistance under this heading with respect to any country that is the subject of a determination made under this heading: Provided further, That assistance furnished under this heading for any country that is the subject of a determination under this heading may be made available notwithstanding any other provision of law: Provided further, That the previous proviso shall not apply to section 5051 of this Act: Provided further, That the administrative authorities of the Foreign Assistance Act of 1961 shall be applicable to the funds and resources available under this paragraph: Provided further, That up to 5 percent of the funds available under this paragraph may be made available for the administrative costs of United States Government agencies implementing activities under this paragraph: Provided further, That funds and resources available under this heading shall be subject to the regular notification procedures of the Committees on Appropriations except that such notifications shall be transmitted at least 5 days in advance of the obligation of funds.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For necessary expenses to carry out the provisions of section 129 of the Foreign Assistance Act of 1961, $17,500,000, to remain available until September 30, 2007, which shall be available notwithstanding any other provision of law.

DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts owed to the United States as a result of concessional loans made to eligible countries, pursuant to parts IV and V of the Foreign Assistance Act of 1961, and of modifying concessional credit agreements with least developed countries, as authorized under section 411 of the Agricultural Trade Development and Assistance Act of 1954, as amended, and concessional loans, guarantees and credit agreements, as authorized under section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), and of canceling amounts owed, as a result of loans or guarantees made pursuant to the Export-Import Bank Act of 1945, by countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113, $95,000,000, to remain available until September 30, 2007: Provided, That not less than $20,000,000 of the funds appropriated under this heading shall be made available to carry out the provisions of part V of the Foreign Assistance Act of 1961: Provided further, That $75,000,000 of the funds appropriated under this heading may be used by the Secretary of the Treasury to pay to the Heavily Indebted Poor Countries (HIPC) Trust Fund administered by the International Bank for Reconstruction and Development amounts for the benefit of countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113: Provided further, That amounts paid to the HIPC Trust Fund may be used only to fund debt reduction under the enhanced HIPC initiative by—

(1) the Inter-American Development Bank;

(2) the African Development Fund;

(3) the African Development Bank; and

(4) the Central American Bank for Economic Integration:

Provided further, That funds may not be paid to the HIPC Trust Fund for the benefit of any country if the Secretary of State has credible evidence that the government of such country is engaged in a consistent pattern of gross violations of internationally recognized human rights or in military or civil conflict that undermines its ability to develop and implement measures to alleviate poverty and to devote adequate human and financial resources to that end: Provided further, That on the basis of final appropriations, the Secretary of the Treasury shall consult with the Committees on Appropriations concerning which countries and international financial institutions are expected to benefit from a United States contribution to the HIPC Trust Fund during the fiscal year: Provided further, That the Secretary of the Treasury shall inform the Committees on Appropriations not less than 15 days in advance of the signature of an agreement by the United States to make payments to the HIPC Trust Fund of amounts for such countries and institutions: Provided further, That the Secretary of the Treasury may disburse funds designated for debt reduction through the HIPC Trust Fund only for the benefit of countries that—

(1) have committed, for a period of 24 months, not to accept new market-rate loans from the international financial institution receiving debt repayment as a result of such disbursement, other than loans made by such institutions to export-oriented commercial projects that generate foreign exchange which are generally referred to as "enclave" loans; and

(2) have documented and demonstrated their commitment to redirect their budgetary resources from international debt repayments to programs to alleviate poverty and promote economic growth that are additional to or expand upon those previously available for such purposes:

Provided further, That any limitation of subsection (e) of section 411 of the Agricultural Trade Development and Assistance Act of 1954 shall not apply to funds appropriated under this heading: Provided further, That none of the funds made available under this heading in this or any other appropriations Act shall be made available for Sudan or Burma unless the Secretary of the Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $89,730,000, of which up to $3,000,000 may remain available until expended: Provided, That the civilian personnel for whom military education and training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: Provided further, That of the funds appropriated under this heading, not less than $2,000,000 shall be made available for assistance for Greece: Provided further, That funds appropriated under this heading for military education and training for Guatemala may only be available for expanded international military education and training, and funds made available for Cambodia, Haiti, the Democratic Republic of the Congo, Nigeria and Guatemala may only be provided through the regular notification procedures of the Committees on Appropriations.

FOREIGN MILITARY FINANCING PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,777,500,000: Provided, That of the funds appropriated under this heading, not less than $2,220,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be made available for grants only for Egypt: Provided further, That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act or by October 31, 2004, whichever is later: Provided further, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $583,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: Provided further, That of the funds appropriated by this paragraph, $206,000,000 shall be made available for assistance for Jordan: Provided further, That of the funds appropriated by this paragraph, $5,000,000 may be transferred to and consolidated with funds appropriated under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs", and made available, in addition to amounts otherwise available for such purposes, as follows: $2,500,000, to remain available until expended, may be made available to carry out the provisions of section 504 of the FREEDOM Support Act for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament; and $2,500,000 may be made available as an additional contribution to "Anti-Terrorism Assistance" programs: Provided further, That of the funds appropriated by this paragraph, $10,000,000 shall be made available for assistance for Tunisia: Provided further, That of the funds appropriated by this paragraph, $8,000,000 shall be made available for assistance for Armenia: Provided further, That of the funds appropriated by this paragraph, not less than $30,000,000 shall be made available for assistance for Liberia: Provided further, That of the funds appropriated under this heading, not more than $2,000,000 may be made available for assistance for Uganda and only for non-lethal military equipment if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uganda, during the previous six months, has made significant improvements in: (1) the protection of human rights, especially preventing acts of torture; (2) the protection of civilians in northern and eastern Uganda; (3) the professionalization of the Ugandan armed forces, including transparency of military budgets; and (4) the prevention of recruitment of children into armed militias and the demobilization of existing militias: Provided further, That of the funds appropriated under this heading, not less than $15,000,000 shall be made available for assistance for Georgia: Provided further, That in addition to the funds appropriated under this heading, up to $150,000,000 may be derived by transfer from unobligated balances of funds appropriated under the headings "Economic Support Fund" and "Foreign Military Financing Program" in prior appropriations Acts and not otherwise designated in those Acts for a specific country, use, or purpose: Provided further, That funds appropriated by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: Provided further, That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: Provided, That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 5015 of this Act: Provided further, That none of the funds appropriated under this heading shall be available for assistance for Sudan and Guatemala: Provided further, That none of the funds appropriated under this heading may be made available for assistance for Haiti except pursuant to the regular notification procedures of the Committees on Appropriations: Provided further, That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: Provided further, That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: Provided further, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: Provided further, That not more than $40,500,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: Provided further, That not more than $367,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2005 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: Provided further, That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2005 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act or by October 31, 2004, whichever is later.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $104,000,000: Provided, That notwithstanding any other provision of law except section 5051 of this Act, funds appropriated for the Department of Defense for fiscal year 2005 may be transferred to the Department of State and may be made available by the Department of State to provide such assistance as the Secretary of State deems appropriate for the military or security forces of a foreign country in order to enhance the capability of such country to participate in international peacekeeping or peace enforcement operations: Provided further, That none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

GLOBAL ENVIRONMENT FACILITY

For the United States contribution for the Global Environment Facility, $120,678,000 to the International Bank for Reconstruction and Development as trustee for the Global Environment Facility, by the Secretary of the Treasury, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $820,000,000, to remain available until expended.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the fund, $15,000,000, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended, $59,691,000, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, $1,100,000, for the United States paid-in share of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed $79,532,933.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the African Development Fund, $67,000,000, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $35,431,000 for the United States share of the paid-in portion of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $121,997,000.

CONTRIBUTION TO THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

For the United States contribution by the Secretary of the Treasury to increase the resources of the International Fund for Agricultural Development, $15,000,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $328,925,000: Provided, That none of the funds appropriated under this heading may be made available to the International Atomic Energy Agency (IAEA): Provided further, That funds appropriated under this heading shall be made available for programs and countries in the amounts contained in the table included in the report accompanying this Act: Provided further, That any proposed increases or decreases to the amounts contained in such table shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds.

TITLE V—GENERAL PROVISIONS

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 5001. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

RESTRICTIONS ON VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS AGENCIES

SEC. 5002. None of the funds appropriated by this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program) if the United Nations implements or imposes any taxation on any United States persons.

LIMITATION ON RESIDENCE EXPENSES

SEC. 5003. Of the funds appropriated or made available pursuant to this Act, not to exceed $100,500 shall be for official residence expenses of the United States Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 5004. Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the United States Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 5005. Of the funds appropriated or made available pursuant to this Act, not to exceed $125,000 shall be available for representation allowances for the United States Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: Provided further, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,000 shall be available for entertainment expenses and not to exceed $125,000 shall be available for representation allowances: Provided further, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $50,000 shall be available for entertainment allowances: Provided further, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: Provided further, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: Provided further, That of the funds made available by this Act under the heading "Trade and Development Agency", not to exceed $2,000 shall be available for representation and entertainment allowances: Provided further, That of the funds made available by this Act under the heading "Millennium Challenge Corporation", not to exceed $100,000 shall be available for representation allowances.

PROHIBITION ON TAXATION OF UNITED STATES ASSISTANCE

SEC. 5006. (a) PROHIBITION ON TAXATION.—None of the funds appropriated by this Act may be made available to provide assistance for a foreign country under a new bilateral agreement governing the terms and conditions under which such assistance is to be provided unless such agreement includes a provision stating that assistance provided by the United States shall be exempt from taxation, or reimbursed, by the foreign government, and the Secretary of State shall expeditiously seek to negotiate amendments to existing bilateral agreements, as necessary, to conform with this requirement.

(b) REIMBURSEMENT OF FOREIGN TAXES.—An amount equivalent to 200 percent of the total taxes assessed during fiscal year 2005 on funds appropriated by this Act by a foreign government or entity against commodities financed under United States assistance programs for which funds are appropriated by this Act, either directly or through grantees, contractors and subcontractors shall be withheld from obligation from funds appropriated for assistance for fiscal year 2006 and allocated for the central government of such country and for the West Bank and Gaza Program to the extent that the Secretary of State certifies and reports in writing to the Committees on Appropriations that such taxes have not been reimbursed to the Government of the United States.

(c) DE MINIMIS EXCEPTION.—Foreign taxes of a de minimis nature shall not be subject to the provisions of subsection (b).

(d) REPROGRAMMING OF FUNDS.—Funds withheld from obligation for each country or entity pursuant to subsection (b) shall be reprogrammed for assistance to countries which do not assess taxes on United States assistance or which have an effective arrangement that is providing substantial reimbursement of such taxes.

(e) DETERMINATIONS.—

(1) The provisions of this section shall not apply to any country or entity the Secretary of State determines—

(A) does not assess taxes on United States assistance or which has an effective arrangement that is providing substantial reimbursement of such taxes; or

(B) the foreign policy interests of the United States outweigh the policy of this section to ensure that United States assistance is not subject to taxation.

(2) The Secretary of State shall consult with the Committees on Appropriations at least 15 days prior to exercising the authority of this subsection with regard to any country or entity.

(f) IMPLEMENTATION.—The Secretary of State shall issue rules, regulations, or policy guidance, as appropriate, to implement the prohibition against the taxation of assistance contained in this section.

(g) DEFINITIONS.—As used in this section—

(1) the terms "taxes" and "taxation" refer to value added taxes and customs duties imposed on commodities financed with United States assistance for programs for which funds are appropriated by this Act; and

(2) the term "bilateral agreement" refers to a framework bilateral agreement between the Government of the United States and the government of the country receiving assistance that describes the privileges and immunities applicable to United States foreign assistance for such country generally, or an individual agreement between the Government of the United States and such government that describes, among other things, the treatment for tax purposes that will be accorded the United States assistance provided under that agreement.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 5007. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Libya, North Korea, Iran, or Syria: Provided, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 5008. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by decree or military coup: Provided, That assistance may be resumed to such government if the President determines and certifies to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office: Provided further, That the provisions of this section shall not apply to assistance to promote democratic elections or public participation in democratic processes: Provided further, That funds made available pursuant to the previous provisos shall be subject to the regular notification procedures of the Committees on Appropriations.

TRANSFERS

SEC. 5009. (a)(1) LIMITATION ON TRANSFERS BETWEEN AGENCIES.—None of the funds made available by this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

(2) Notwithstanding paragraph (1), in addition to transfers made by, or authorized elsewhere in, this Act, funds appropriated by this Act to carry out the purposes of the Foreign Assistance Act of 1961 may be allocated or transferred to agencies of the United States Government pursuant to the provisions of sections 109, 610, and 632 of the Foreign Assistance Act of 1961.

(b) TRANSFERS BETWEEN ACCOUNTS.—None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, not less than five days prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate.

(c) AUDIT OF INTER-AGENCY TRANSFERS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall expressly provide that the Office of the Inspector General for the agency receiving the transfer or allocation of such funds shall perform periodic program and financial audits of the use of such funds: Provided, That funds transferred under such authority may be made available for the cost of such audits.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 5010. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

AVAILABILITY OF FUNDS

SEC. 5011. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: Provided, That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 667, chapters 4, 6, 8, and 9 of part II of the Foreign Assistance Act of 1961, section 23 of the Arms Export Control Act, and funds provided under the heading "Assistance for Eastern Europe and the Baltic States", shall remain available for an additional four years from the date on which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: Provided further, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address *balance of payments or economic policy reform objectives, shall remain available until expended.*

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 5012. No part of any appropriation contained in this Act shall be used to furnish assistance to the government of any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to the government of such country by the United States pursuant to a program for which funds are appropriated under this Act unless the President determines, following consultations with the Committees on Appropriations, that assistance to such country is in the national interest of the United States.

COMMERCE AND TRADE

SEC. 5013. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: Provided, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: Provided, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact on the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

SEC. 5014. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 5015. For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under this Act for "Child Survival and Health Programs Fund", "Development Assistance", "International Organizations and Programs", "Trade and Development Agency", "International Narcotics Control and Law Enforcement", "Andean Counterdrug Initiative", "Assistance for Eastern Europe and the Baltic States", "Assistance for the Independent States of the Former Soviet Union", "Economic Support Fund", "Global HIV/AIDS Initiative", "Peacekeeping Operations", "Capital Investment Fund", "Operating Expenses of the United States Agency for International Development", "Operating Expenses of the United States Agency for International Development Office of Inspector General", "Nonproliferation, Anti-terrorism, Demining and Related Programs", "Millennium Challenge Corporation" (by country only), "Foreign Military Financing Program", "International Military Education and Training", "Peace Corps", and "Migration and Refugee Assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Committees on Appropriations for obligation under any of these specific headings unless the Committees on Appropriations of both Houses of Congress are previously notified 15 days in advance: Provided, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: Provided further, That this section shall not apply to any reprogramming for an activity, program, or project for which funds are appropriated under title II of this Act of less than 10 percent of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: Provided further, That all reprogrammings of funds appropriated by this Act and prior Acts under the headings "International Narcotics Control and Law Enforcement" and "Andean Counterdrug Initiative" by the Department of State shall be subject to the same review and approval procedures by the Department of State as apply to the reprogramming by the Department of funds appropriated under the heading "Economic Support Fund": Provided further, That the requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: Provided further, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: Provided further, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 5016. Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2006.

INDEPENDENT STATES OF THE FORMER SOVIET UNION

SEC. 5017. (a) None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for assistance for a government of an Independent State of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other Independent State of the former Soviet Union, such as those violations included in the Helsinki Final Act: Provided, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States.

(b) None of the funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" shall be made available for any state to enhance its military capability: Provided, That this restriction does not apply to demilitarization, demining or nonproliferation programs.

(c) Funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" for the Russian Federation, Armenia, Georgia, and Ukraine shall be subject to the regular notification procedures of the Committees on Appropriations.

(d) Funds made available in this Act for assistance for the Independent States of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(e) In issuing new task orders, entering into contracts, or making grants, with funds appropriated in this Act or prior appropriations Acts under the heading "Assistance for the Independent States of the Former Soviet Union" and under comparable headings in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to Europe and Eurasia and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 5018. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations.

EXPORT FINANCING TRANSFER AUTHORITIES

Sec. 5019. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 2005, for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs, and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: Provided, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

SPECIAL NOTIFICATION REQUIREMENTS

Sec. 5020. None of the funds appropriated by this Act shall be obligated or expended for Liberia, Serbia, Sudan, Zimbabwe, Pakistan, Cambodia, or Haiti except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

Sec. 5021. For the purpose of this Act, "program, project, and activity" shall be defined at the appropriations Act account level and shall include all appropriations and authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the United States Agency for International Development "program, project, and activity" shall also be considered to include central, country, regional, and program level funding, either as: (1) justified to the Congress; or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within 30 days of the enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

CHILD SURVIVAL AND HEALTH ACTIVITIES

Sec. 5022. Up to $13,500,000 of the funds made available by this Act for assistance under the heading "Child Survival and Health Programs Fund", may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the United States Agency for International Development for the purpose of carrying out activities under that heading: Provided, That up to $3,500,000 of the funds made available by this Act for assistance under the heading "Development Assistance" may be used to reimburse such agencies, institutions, and organizations for such costs of such individuals carrying out other development assistance activities: Provided further, That funds appropriated by titles II and III of this Act that are made available for bilateral assistance for child survival activities or disease programs including activities relating to research on, and the prevention, treatment and control of, HIV/AIDS may be made available notwithstanding any other provision of law except for the provisions under the heading "Child Survival and Health Programs Fund" and the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 7601 et seq.), as amended: Provided further, That of the funds appropriated under title II of this Act, not less than $450,000,000 shall be made available for family planning/reproductive health.

AFGHANISTAN

Sec. 5023. Of the funds appropriated by this Act, not less than $504,450,000 shall be made available for humanitarian and reconstruction assistance for Afghanistan: Provided, That of the funds made available pursuant to this section, not less than $225,000,000 should be from funds appropriated under the heading "Economic Support Fund": Provided further, That funds appropriated by this Act that are available for assistance for the Afghan National Army should be made available if members of the Army have been vetted for any involvement in terrorism, human rights violations, drug trafficking, and other serious criminal activity: Provided further, That of the funds made available pursuant to this section, not less than $2,000,000 should be made available for reforestation activities: Provided further, That funds made available pursuant to the previous proviso should be matched, to the maximum extent possible, with contributions from American and Afghan businesses: Provided further, That of the funds made available pursuant to this section, not less than $2,000,000 shall be made available for the Afghan Independent Human Rights Commission and for other Afghan human rights organizations: Provided further, That of the funds made available pursuant to this section, not less than $50,000,000 shall be made available to support programs that directly address the needs of Afghan women and girls, of which not less than $15,000,000 shall be made available for small grants to support training and equipment to improve the capacity of women-led Afghan nongovernmental organizations and to support the activities of such organizations: Provided further, That not less than $2,000,000 should be made available for assistance for Afghan communities and families that have suffered losses as a result of the military operations.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

Sec. 5024. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (f) of that section: Provided, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees if such defense articles are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or are valued (in terms of original acquisition cost) at $7,000,000 or more, or if notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such excess defense articles: Provided further, That such Committees shall also be informed of the original acquisition cost of such defense articles.

HIV/AIDS WORKING CAPITAL FUND

Sec. 5025. (a) In furtherance of the purposes of section 104A of the Foreign Assistance Act of 1961, and to assist in providing a safe, secure, reliable, and sustainable supply chain of pharmaceuticals and other products needed to provide care and treatment of persons with HIV/AIDS and related infections, the Coordinator of the United States Government Activities to Combat HIV/AIDS Globally (the "Coordinator") is authorized to establish an HIV/AIDS Working Capital Fund (in this section referred to as the "HIV/AIDS Fund").

(b) Funds deposited during any fiscal year in the HIV/AIDS Fund shall be available without fiscal year limitation and used for pharmaceuticals and other products needed to provide care and treatment of persons with HIV/AIDS and related infections, including, but not limited to—

(1) anti-retroviral drugs;

(2) other pharmaceuticals and medical items needed to provide care and treatment to persons with HIV/AIDS and related infections;

(3) laboratory and other supplies for performing tests related to the provision of care and treatment to persons with HIV/AIDS and related infections;

(4) other medical supplies needed for the operation of HIV/AIDS treatment and care centers, including products needed in programs for the prevention of mother-to-child transmission;

(5) pharmaceuticals and health commodities needed for the provision of palliative care; and

(6) laboratory and clinical equipment, as well as equipment needed for the transportation and care of HIV/AIDS supplies, and other equipment needed to provide prevention, care and treatment of HIV/AIDS described above.

(c) There may be deposited during any fiscal year in the HIV/AIDS Fund payments for HIV/AIDS pharmaceuticals and products provided from the HIV/AIDS Fund received from applicable appropriations and funds of the United States Agency for International Development, the Department of Health and Human Services, the Department of Defense, or other Federal agencies and other sources at actual cost of the HIV/AIDS pharmaceuticals and other products, actual cost plus the additional costs of providing such HIV/AIDS pharmaceuticals and other products, or at any other price agreed to by the Coordinator or his designee.

(d) There may be deposited in the HIV/AIDS Fund payments for the loss of, or damage to, HIV/AIDS pharmaceuticals and products held in the HIV/AIDS Fund, rebates, reimbursements, refunds and other credits application to the operation of the HIV/AIDS Fund.

(e) At the close of each fiscal year the Coordinator may transfer out of the HIV/AIDS Fund to other HIV/AIDS programmatic areas such amounts as the Coordinator determines to be in excess of the needs of the HIV/AIDS Fund.

(f) At the close of each fiscal year the Coordinator shall submit a report to the Committees on Appropriations detailing the financial activities of the HIV/AIDS Fund, including sources of income and information regarding disbursements.

DEMOCRACY PROGRAMS

Sec. 5026. (a) Notwithstanding any other provision of law, of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $35,000,000 shall be made available for assistance for activities to support democracy, human rights, and the rule of law in the People's Republic of China and Hong Kong: Provided, That funds appropriated under the heading "Economic Support Fund" should be made available for assistance for Taiwan for the purposes of furthering political and legal reforms: Provided further, That such funds shall only be made available to the extent that they are matched from sources other than the United States Government: Provided further, That funds made available pursuant to the authority of this subsection shall be subject to the regular notification procedures of the Committees on Appropriations.

(b)(1) In addition to the funds made available in subsection (a), of the funds appropriated by this Act under the heading "Economic Support Fund" not less than $25,000,000 shall be made available for programs and activities to foster democracy, human rights, civic education, women's development, press freedom, and the rule of law in countries with a significant Muslim population, and where such programs and activities would be important to United States efforts to respond to, deter, or prevent acts of international terrorism: Provided, That funds made *available pursuant to the authority of this subsection should support new initiatives and activities in those countries: Provided further, That of the funds appropriated under this heading, $3,000,000 shall be made available for programs and activities that provide professional training for journalists, of which $2,000,000 shall be made available to Internews: Provided further, That of the funds appropriated under such heading, in addition to other amounts made available for Egypt in this Act, funds shall be made available to support civil society organizations working for democracy, human rights, and the rule of law in Egypt: Provided further, That notwithstanding any other provision of law, not less than $3,000,000 of such funds may be used for making grants to educational, humanitarian and nongovernmental organizations and individuals inside Iran to support the advancement of democracy and human rights in Iran: Provided further, That notwithstanding any other provision of law, funds appropriated pursuant to the authority of this subsection may be made available for democracy, human rights, and rule of law programs for Syria: Provided further, That funds made available pursuant to this subsection shall be subject to the regular notification procedures of the Committees on Appropriations.*

(2) In addition to funds made available under subsections (a) and (b)(1), of the funds appropriated by this Act under the heading "Economic Support Fund" not less than $5,000,000 shall be made available for programs and activities of the National Endowment for Democracy to foster democracy, human rights, civic education, women's development, press freedom, and the rule of law in countries in sub-Saharan Africa, and not less than $1,500,000 shall be made available for such programs and activities of the National Endowment for Democracy in countries in Asia.

(c) Of the funds made available under subsection (a), not less than $15,000,000 shall be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights and Labor, Department of State, to support the activities described in subsection (a), and of the funds made available under subsection (b)(1), not less than $15,000,000 shall be made available for such Fund to support the activities described in subsection (b)(1): Provided, That the total amount of funds made available by this Act under "Economic Support Fund" for activities of the Bureau of Democracy, Human Rights and Labor, Department of State, including funds available in this section, shall be not less than $57,000,000.

(d) Of the funds made available under subsection (a), not less than $10,000,000 shall be made available for the National Endowment for Democracy to support the activities described in subsection (a), and of the funds made available under subsection (b)(1), not less than $5,000,000 shall be made available for the National Endowment for Democracy to support the activities described in subsection (b)(1): Provided, That the Secretary of State shall provide a report to the Committees on Appropriations within 120 days of the date of enactment of this Act on the status of the allocation and obligation of such funds.

(e) Of the funds made available under subsection (a), $10,000,000 shall be made available to American educational institutions for programs and activities in the People's Republic of China relating to the environment, democracy and the rule of law: Provided, That funds available under this subsection shall be made available subject to prior consultation with the Committees on Appropriations.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 5027. (a) Funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to the enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism; or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

DEBT-FOR-DEVELOPMENT

SEC. 5028. In order to enhance the continued participation of nongovernmental organizations in debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the United States Agency for International Development may place in interest bearing accounts local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and, subject to the regular notification procedures of the Committees on Appropriations, any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.

SEPARATE ACCOUNTS

SEC. 5029. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated; and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the United States Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities; or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The United States Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) REPORTING REQUIREMENT.—The Administrator of the United States Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98–1159).

(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

ENTERPRISE FUND RESTRICTIONS

SEC. 5030. (a) Prior to the distribution of any assets resulting from any liquidation, dissolution, or winding up of an Enterprise Fund, in whole or in part, the President shall submit to the Committees on Appropriations, in accordance with the regular notification procedures of the Committees on Appropriations, a plan for the distribution of the assets of the Enterprise Fund.

(b) Funds made available by this Act for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

BURMA

SEC. 5031. (a) The Secretary of the Treasury shall instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose and vote against the extension by such institution of any loan or financial or technical assistance or any other utilization of funds of the respective bank to and for Burma.

(b) Of the funds appropriated under the heading "Economic Support Fund", not less than $15,000,000 shall be made available to support democracy activities in Burma, along the Burma-Thailand border, for activities of Burmese student groups and other organizations located outside Burma, and for the purpose of supporting the provision of humanitarian assistance to displaced Burmese along Burma's borders: Provided, That funds made available

under this heading may be made available notwithstanding any other provision of law: Provided further, That in addition to assistance for Burmese refugees provided under the heading "Migration and Refugee Assistance" in this Act, not less than $4,000,000 of the funds made available under this heading shall be made available for humanitarian assistance for displaced Burmese and host communities in Thailand, and not less than $3,000,000 of such funds shall be made available to Thailand-based, nongovernmental organizations operating along the Thai-Burma border to provide food, medical and other humanitarian assistance to internally displaced peoples in Burma: Provided further, That funds made available under this section shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) None of the funds appropriated by this Act may be made available to the central government of any country that is a major provider of weapons or other defense-related equipment to the State Peace and Development Council.

AUTHORITIES FOR THE PEACE CORPS, INTER-AMERICAN FOUNDATION AND AFRICAN DEVELOPMENT FOUNDATION

SEC. 5032. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act or the African Development Foundation Act. The agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 5033. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States; or

(b) assistance for any program, project, or activity that contributes to the violation of internationally recognized workers rights, as defined in section 507(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: Provided, That the application of section 507(4) (D) and (E) of such Act should be commensurate with the level of development of the recipient country and sector, and shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

SPECIAL AUTHORITIES

SEC. 5034. (a) AFGHANISTAN, IRAQ, PAKISTAN, LEBANON, MONTENEGRO, VICTIMS OF WAR, DISPLACED CHILDREN, AND DISPLACED BURMESE.—Funds appropriated by this Act that are made available for assistance for Afghanistan may be made available notwithstanding section 5012 of this Act or any similar provision of law and section 660 of the Foreign Assistance Act of 1961, and funds appropriated in titles I and II of this Act that are made available for Iraq, Lebanon, Montenegro, Pakistan, and for victims of war, displaced children, and displaced Burmese, and to assist victims of trafficking in persons and, subject to the regular notification procedures of the Committees on Appropriations, to combat such trafficking and to address sexual and gender-based violence, may be made available notwithstanding any other provision of law.

(b) TROPICAL FORESTRY AND BIODIVERSITY CONSERVATION ACTIVITIES.—Funds appropriated by this Act to carry out the provisions of sections 103 through 106, and chapter 4 of part II, of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and biodiversity conservation activities and energy programs aimed at reducing greenhouse gas emissions: Provided, That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) PERSONAL SERVICES CONTRACTORS.—Funds appropriated by this Act to carry out chapter 1 of part I, chapter 4 of part II, and section 667 of the Foreign Assistance Act of 1961, and title II of the Agricultural Trade Development and Assistance Act of 1954, may be used by the United States Agency for International Development to employ up to 25 personal services contractors in the United States, notwithstanding any other provision of law, for the purpose of providing direct, interim support for new or expanded overseas programs and activities managed by the agency until permanent direct hire personnel are hired and trained: Provided, That not more than 10 of such contractors shall be assigned to any bureau or office: Provided further, That such funds appropriated to carry out title II of the Agricultural Trade Development and Assistance Act of 1954, may be made available only for personal services contractors assigned to the Office of Food for Peace.

(d)(1) WAIVER.—The President may waive the provisions of section 1003 of Public Law 100–204 if the President determines and certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that it is important to the national security interests of the United States.

(2) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to paragraph (1) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(e) SMALL BUSINESS.—In entering into multiple award indefinite-quantity contracts with funds appropriated by this Act, the United States Agency for International Development may provide an exception to the fair opportunity process for placing task orders under such contracts when the order is placed with any category of small or small disadvantaged business.

(f) CONTINGENCIES.—During fiscal year 2005, the President may use up to $50,000,000 under the authority of section 451 of the Foreign Assistance Act of 1961, notwithstanding the funding ceiling in section 451(a).

(g) RECONSTITUTING CIVILIAN POLICE AUTHORITY.—In providing assistance with funds appropriated by this Act under section 660(b)(6) of the Foreign Assistance Act of 1961, support for a nation emerging from instability may be deemed to mean support for regional, district, municipal, or other sub-national entity emerging from instability, as well as a nation emerging from instability.

(h) WORLD FOOD PROGRAM.—Of the funds managed by the Bureau for Democracy, Conflict, and Humanitarian Assistance of the United States Agency for International Development, from this or any other Act, not less than $6,000,000 shall be made available as a general contribution to the World Food Program, notwithstanding any other provision of law.

(i) NATIONAL ENDOWMENT FOR DEMOCRACY.—Funds appropriated by this Act that are provided to the National Endowment for Democracy may be provided notwithstanding any other provision of law or regulation.

(j) SUDAN.—For the purposes of section 501 of Public Law 106–570, the terms "areas outside of control of the Government of Sudan" and "area in Sudan outside of control of the Government of Sudan" shall, upon conclusion of a peace agreement between the Government of Sudan and the Sudan People's Liberation Movement, have the same meaning and application as was the case immediately prior to the conclusion of such agreement.

(k) INDOCHINESE PAROLEES.—Section 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (8 U.S.C. 1255 note), as enacted into law by section 101(a) of Public Law 106–429, is amended—

(1) by striking "Attorney General" each place that term appears and inserting "Secretary of Homeland Security";

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "she" and inserting "the Secretary of Homeland Security"; and

(B) in paragraph (1), by striking "within three years after the date of promulgation by the Attorney General of regulations in connection with this title";

(3) in subsection (c), by striking "212(8)(A)" and inserting "212(a)(8)(A)";

(4) by striking subsection (d);

(5) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively;

(6) by adding at the end the following new subsection:

"(f) ADJUDICATION OF APPLICATIONS.—The Secretary of Homeland Security shall—

"(1) adjudicate applications for adjustment under this section, notwithstanding any limitation on the number of adjustments under this section or any deadline for such applications that previously existed in law or regulation; and

"(2) not charge a fee in addition to any fee that previously was submitted with such application."; and

(7) The amendments made by this subsection shall take effect as if enacted as part of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001.

(l) EXTENSION OF AUTHORITY.—Public Law 107–57, as amended, is further amended—

(1) in section 1(b) by striking "2004" wherever appearing (including in the caption), and inserting in lieu thereof "2005";

(2) in section 3(2), by striking "and "2004" and inserting in lieu thereof "2004 and 2005"; and

(3) in section 6, by striking "2004" and inserting in lieu thereof "2005".

(m) ENDOWMENTS.—

(1) Of the funds appropriated by this Act and prior Acts making appropriations for foreign operations, export financing, and related programs, that are available for assistance for Cambodia, the following amounts should be made available as follows:

(A) $5,000,000 for an endowment for a Cambodian nongovernmental organization to document genocide and crimes against humanity in Cambodia; and

(B) $3,750,000 for an endowment for an American nongovernmental organization to sustain rehabilitation programs in Cambodia for persons suffering from physical disabilities.

(2) Such organizations may place amounts made available under this subsection in interest bearing accounts and any interest earned on such investment shall be used for the purpose for which funds were made available under this subsection.

(3) Funds appropriated in subsequent Acts making appropriations for foreign operations, export financing, and related programs may also be used for purposes of this subsection.

(n) CONFORMITY OF LAWS.—Title 16, United States Code is amended—

(1) in section 3371(f), by inserting "or foreign country" after "indigenous to any State";

(2) in section 3371(f)(B), by inserting "or foreign" after "State";

(3) in section 3372(a)(2)(B), by inserting before the semicolon "or in violation of any foreign law"; and

(4) in section 3372(a)(3)(B), by inserting before the semicolon "or in violation of any foreign law".

(o) EXTENSION OF AUTHORITY.—Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11), is amended under the heading "Loan Guarantees to Israel"—

(1) by striking "During the period beginning March 1, 2003, and ending September 30, 2005," and inserting "During the period beginning March 1, 2003, and ending September 30, 2007,"; and

(2) by striking "That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2005," and inserting "That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2007,".

(p) AFFORDABLE HOUSING.—Section 607(b)(3)(B) of title VI of division D of the Consolidated Appropriations Act of 2004, P.L. 108–199, January 23, 2004, is amended by striking "and" under subparagraph (A), and inserting before the period in subparagraph (B): "; and (C) provide decent, affordable housing"

ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 5035. It is the sense of the Congress that—

(1) the Arab League boycott of Israel, and the secondary boycott of American firms that have commercial ties with Israel, is an impediment to peace in the region and to United States investment and trade in the Middle East and North Africa;

(2) the Arab League boycott, which was regrettably reinstated in 1997, should be immediately and publicly terminated, and the Central Office for the Boycott of Israel immediately disbanded;

(3) the three Arab League countries with diplomatic and trade relations with Israel should return their ambassadors to Israel, should refrain from downgrading their relations with Israel, and should play a constructive role in securing a peaceful resolution of the Israeli-Arab conflict;

(4) the remaining Arab League states should normalize relations with their neighbor Israel;

(5) the President and the Secretary of State should continue to vigorously oppose the Arab League boycott of Israel and find concrete steps to demonstrate that opposition by, for example, taking into consideration the participation of any recipient country in the boycott when determining to sell weapons to said country; and

(6) the President should report to Congress annually on specific steps being taken by the United States to encourage Arab League states to normalize their relations with Israel to bring about the termination of the Arab League boycott of Israel, including those to encourage allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ELIGIBILITY FOR ASSISTANCE

SEC. 5036. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, 11, and 12 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading "Assistance for Eastern Europe and the Baltic States": Provided, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: Provided further, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 2005, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: Provided, That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to the government of a country that violates internationally recognized human rights.

RESERVATIONS OF FUNDS

SEC. 5037. (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act: Provided, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the United States Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: Provided, That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

CEILINGS AND EARMARKS

SEC. 5038. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs. Earmarks or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this Act.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 5039. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of the enactment of this Act by the Congress: Provided, That not to exceed $750,000 may be made available to carry out the provisions of section 316 of Public Law 96–533.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 5040. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations or, from funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, the costs for participation of another country's delegation at international conferences held under the auspices of multilateral or international organizations.

NONGOVERNMENTAL ORGANIZATIONS—DOCUMENTATION

SEC. 5041. None of the funds appropriated or made available pursuant to this Act shall be available to a nongovernmental organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the United States Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 5042. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver authority of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES AND REAL PROPERTY TAXES OWED BY FOREIGN COUNTRIES

SEC. 5043. (a) Subject to subsection (c), of the funds appropriated by this Act that are made available for assistance for a foreign country, an amount equal to 110 percent of the total amount of the unpaid fully adjudicated parking fines and penalties and unpaid property taxes owed by the central government of such country shall be withheld from obligation for assistance for the central government of such country until the Secretary of State submits a certification to the appropriate congressional committees stating that such parking fines and penalties and unpaid property taxes are fully paid.

(b) Funds withheld from obligation pursuant to subsection (a) may be made available for other programs or activities funded by this Act, after consultation with and subject to the regulation notification procedures of the appropriate congressional committees, provided that no such funds shall be made available for assistance for the central government of a foreign country that has not paid the total amount of the fully adjudicated parking fines and penalties and upaid property taxes owed by such country.

(c) Subsection (a) shall not include amounts that have been withheld under any other provision of law.

(d)(1) The Secretary of State may waive the requirements set forth in subsection (a) with respect to parking fines and penalties no sooner than 60 days from the date of enactment of this Act, or at any time with respect to a particular country, if the Secretary determines that it is in the national interests of the United States to do so.

(2) the Secretary of State may waive the requirements set forth in subsection (a) with respect to the unpaid property taxes if the Secretary of State determines that it is in the national interests of the United States to do so.

(e) Not later than 6 months after the initial exercise of the waiver authority in subsection (d), the Secretary of State, after consultations with the City of New York, shall submit a report to the Committees on Appropriations describing a strategy, including a timetable and steps currently being taken, to collect the parking fines and penalties and unpaid property taxes and interest owed by nations receiving foreign assistance under this Act.

(f) In this section:

(1) The term "appropriate congressional committees" means the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives.

(2) The term "fully adjudicated" includes circumstances in which the person to whom the vehicle is registered—

(A)(i) has not responded to the parking violation summons; or

(ii) has not followed the appropriate adjudication procedure to challenge the summons; and

(B) the period of time for payment of or challenge to the summons has lapsed.

(3) The term "parking fines and penalties" means parking fines and penalties—

(A) owed to—

(i) the District of Columbia; or

(ii) New York, New York; and

(B) incurred during the period April 1, 1997 through September 30, 2004.

(4) The term 'unpaid property taxes' means the amount of unpaid taxes and interest on such taxes that have accrued on real property in the District of Columbia or New York, New York under applicable law.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 5044. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: Provided, That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

WAR CRIMES TRIBUNALS DRAWDOWN

SEC. 5045. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961 of up to $32,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish or authorize to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: Provided, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): Provided further, That the drawdown made under this section for any tribunal shall not be construed as an endorsement or precedent for the establishment of any standing or permanent international criminal tribunal or court: Provided further, That funds made available for tribunals other than Yugoslavia, Rwanda, or the Special Court for Sierra Leone shall be made available subject to the regular notification procedures of the Committees on Appropriations.

LANDMINES

SEC. 5046. Notwithstanding any other provision of law, demining equipment available to the United States Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 5047. None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: Provided, That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: Provided further, That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 5048. None of the funds appropriated or otherwise made available by this Act under the heading "International Military Education and Training" or "Foreign Military Financing Program" for Informational Program activities or under the headings "Child Survival and Health Programs Fund", "Development Assistance", and "Economic Support Fund" may be obligated or expended to pay for—

(1) alcoholic beverages; or

(2) entertainment expenses for activities that are substantially of a recreational character, including but not limited to entrance fees at sporting events, theatrical and musical productions, and amusement parks.

HAITI

SEC. 5049. (a) Of the funds appropriated by this Act, not less than the following amounts shall be made available for assistance for Haiti—

(1) $20,000,000 from "Child Survival and Health Programs Fund", including $2,000,000 for Zanmi Lasante;

(2) $25,000,000 from "Development Assistance", of which not less than $15,000,000 shall be made available for agriculture and environment programs, including $2,000,000 for the Hillside Agriculture Production program;

(3) $35,000,000 from "Economic Support Fund", $25,000,000 of which shall be made available for judicial reform programs, and $10,000,000 of which shall be made available to the Organization of American States for expenses related to the organization and holding of free and fair elections in Haiti in 2005; and

(4) $10,000,000 from "International Narcotics Control and Law Enforcement", which shall be made available for police training.

(b) The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the Coast Guard.

(c) Not later than 60 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations containing an assessment of the Haitian Government's role in the trial and acquittal of Louis Jodel Chamblain, and of the Haitian Government's efforts to prosecute and punish individuals responsible for gross violations of human rights.

(d) Not less than 90 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations which contains a detailed multi-year assistance strategy for Haiti.

(e) Not later than 180 days after enactment of this Act and after consultation with appropriate international development organizations and Haitian officials, organizations and communities, the Administrator of the United States Agency for International Development shall submit a report to the Committees on Appropriations setting forth a plan for the reforestation of areas in Haiti that are vulnerable to erosion which pose significant danger to human health and safety.

LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY

SEC. 5050. (a) PROHIBITION OF FUNDS.—None of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be obligated or expended with respect to providing funds to the Palestinian Authority.

(b) WAIVER.—The prohibition included in subsection (a) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that waiving such prohibition is important to the national security interests of the United States.

(c) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to subsection (b) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(d) REPORT.—Whenever the waiver authority pursuant to subsection (b) is exercised, the President shall submit a report to the Committees on Appropriations detailing the steps the Palestinian Authority has taken to arrest terrorists, confiscate weapons and dismantle the terrorist infrastructure. The report shall also include a description of how funds will be spent and the accounting procedures in place to ensure that they are properly disbursed.

LIMITATION ON ASSISTANCE TO SECURITY FORCES

SEC. 5051. None of the funds made available by this Act may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice: Provided, That nothing in this section shall be construed to withhold funds made available by this Act from any unit of the security forces of a foreign country not credibly alleged to be involved in gross violations of human rights: Provided further, That in the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign *government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.*

FOREIGN MILITARY TRAINING REPORT

SEC. 5052. The annual foreign military training report required by section 656 of the Foreign Assistance Act of 1961 shall be submitted by the Secretary of Defense and the Secretary of State to the Committees on Appropriations of the House of Representatives and the Senate by the date specified in that section.

AUTHORIZATION REQUIREMENT

SEC. 5053. Funds appropriated by this Act, except funds appropriated under the headings "Trade and Development Agency", "Millenium Challenge Corporation", and "Global HIV/AIDS Initiative", may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

CAMBODIA

SEC. 5054. (a) The Secretary of the Treasury should instruct the United States executive directors of the international financial institutions to use the voice and vote of the United States to oppose loans to the Central Government of Cambodia, except loans to meet basic human needs.

(b)(1) None of the funds appropriated by this Act may be made available for assistance for the Central Government of Cambodia.

(2) Paragraph (1) shall not apply to assistance for basic education, reproductive and maternal and child health, cultural and historic preservation, programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, malaria, polio and other infectious diseases, development and implementation of legislation and implementation of procedures on inter-country adoptions consistent with international standards, counternarcotics programs, programs to combat human trafficking that are provided through nongovernmental organizations, and for the Ministry of Women and Veterans Affairs to combat human trafficking.

(c) Notwithstanding subsection (b), of the funds appropriated by this Act under the heading "Economic Support Fund", up to $5,000,000 may be made available for activities to support democracy, including assistance for democratic political parties.

(d) Funds appropriated by this Act to carry out provisions of section 541 of the Foreign Assistance Act of 1961 may be made available notwithstanding subsection (b) only if at least 15 days prior to the obligation of such funds, the Secretary of State provides to the Committees on Appropriations a list of those individuals who have been credibly alleged to have ordered or carried out extrajudicial and political killings that occurred during the March 1997 grenade attack against the Khmer Nation Party.

(e) None of the funds appropriated or otherwise made available by this Act may be used to provide assistance to any tribunal established by the Government of Cambodia.

PALESTINIAN STATEHOOD

SEC. 5055. (a) LIMITATION ON ASSISTANCE.—None of the funds appropriated by this Act may be provided to support a Palestinian state unless the Secretary of State determines and certifies to the appropriate congressional committees that—

(1) a new leadership of a Palestinian governing entity has been democratically elected through credible and competitive elections;

(2) the elected governing entity of a new Palestinian state—

(A) has demonstrated a firm commitment to peaceful co-existence with the State of Israel;

(B) is taking appropriate measures to counter terrorism and terrorist financing in the West Bank and Gaza, including the dismantling of terrorist infrastructures;

(C) is establishing a new Palestinian security entity that is cooperative with appropriate Israeli and other appropriate security organizations; and

(3) the Palestinian Authority (or the governing body of a new Palestinian state) is working with other countries in the region to vigorously pursue efforts to establish a just, lasting, and comprehensive peace in the Middle East that will enable Israel and an independent Palestinian state to exist within the context of full and normal relationships, which should include—

(A) termination of all claims or states of belligerency;

(B) respect for and acknowledgement of the sovereignty, territorial integrity, and political independence of every state in the area through measures including the establishment of demilitarized zones;

(C) their right to live in peace within secure and recognized boundaries free from threats or acts of force;

(D) freedom of navigation through international waterways in the area; and

(E) a framework for achieving a just settlement of the refugee problem.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the newly elected governing entity should enact a constitution assuring the rule of law, an independent judiciary, and respect for human rights for its citizens, and should enact other laws and regulations assuring transparent and accountable governance.

(c) WAIVER.—The President may waive subsection (a) if he determines that it is important to the national security interests of the United States to do so.

(d) EXEMPTION.—The restriction in subsection (a) shall not apply to assistance intended to help reform the Palestinian Authority and affiliated institutions, or a newly elected governing entity, in order to help meet the requirements of subsection (a), consistent with the provisions of section 5050 of this Act ("Limitation on Assistance to the Palestinian Authority").

COLOMBIA

SEC. 5056. (a) DETERMINATION AND CERTIFICATION REQUIRED.—Notwithstanding any other provision of law, funds appropriated by this Act that are available for assistance for the Colombian Armed Forces, may be made available as follows:

(1) Up to 75 percent of such funds may be obligated prior to a determination and certification by the Secretary of State pursuant to paragraph (2).

(2) Up to 12.5 percent of such funds may be obligated only after the Secretary of State certifies and reports to the appropriate congressional committees that:

(A) The Commander General of the Colombian Armed Forces is suspending from the Armed Forces those members, of whatever rank who, according to the Minister of Defense or the Procuraduria General de la Nacion, have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations.

(B) The Colombian Government is vigorously investigating and prosecuting those members of the Colombian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations, and is promptly punishing those members of the Colombian Armed Forces found to have committed such violations of human rights or to have aided or abetted paramilitary organizations.

(C) The Colombian Armed Forces have made substantial progress in cooperating with civilian prosecutors and judicial authorities in such cases (including providing requested information, such as the identity of persons suspended from the Armed Forces and the nature and cause of the suspension, and access to witnesses, relevant military documents, and other requested information).

(D) The Colombian Armed Forces have made substantial progress in severing links (including denying access to military intelligence, vehicles, and other equipment or supplies, and ceasing other forms of active or tacit cooperation) at the command, battalion, and brigade levels, with paramilitary organizations, especially in regions where these organizations have a significant presence.

(E) The Colombian Government is dismantling paramilitary leadership and financial networks by arresting commanders and financial backers, especially in regions where these networks have a significant presence.

(3) The balance of such funds may be obligated after July 31, 2005, if the Secretary of State certifies and reports to the appropriate congressional committees, after such date, that the Colombian Armed Forces are continuing to meet the conditions contained in paragraph (2) and are conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(b) CONGRESSIONAL NOTIFICATION.—Funds made available by this Act for the Colombian Armed Forces shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) CONSULTATIVE PROCESS.—

(1) Prior to making the certifications required by subsection (a), the Secretary of State shall consult with the appropriate congressional committees, request the opinion of the Office of the United Nations High Commissioner for Human Rights in Colombia and consult with the International Committee of the Red Cross regarding each of the conditions specified in paragraphs (2)(A) through (E) of that subsection.

(2) Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter until September 30, 2006, the Secretary of State shall consult with internationally recognized human rights organizations regarding progress in meeting the conditions contained in that subsection.

(d) DEFINITIONS.—In this section:

(1) AIDED OR ABETTED.—The term "aided or abetted" means to provide any support to paramilitary groups, including taking actions which allow, facilitate, or otherwise foster the activities of such groups.

(2) PARAMILITARY GROUPS.—The term "paramilitary groups" means illegal self-defense groups and illegal security cooperatives.

ILLEGAL ARMED GROUPS

SEC. 5057. (a) DENIAL OF VISAS TO SUPPORTERS OF COLOMBIAN ILLEGAL ARMED GROUPS.—Subject to subsection (b), the Secretary of State shall not issue a visa to any alien who the Secretary determines, based on credible evidence—

(1) has willfully provided any support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Self-Defense Forces of Colombia (AUC), including taking actions or failing to take actions which allow, facilitate, or otherwise foster the activities of such groups; or

(2) has committed, ordered, incited, assisted, or otherwise participated in the commission of gross violations of human rights, including extra-judicial killings, in Colombia.

(b) WAIVER.—Subsection (a) shall not apply if the Secretary of State determines and certifies to the appropriate congressional committees, on a case-by-case basis, that the issuance of a visa to

the alien is necessary to support the peace process in Colombia or for urgent humanitarian reasons.

PROHIBITION ON ASSISTANCE TO THE PALESTINIAN BROADCASTING CORPORATION

SEC. 5058. None of the funds appropriated or otherwise made available by this Act may be used to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

WEST BANK AND GAZA PROGRAM

SEC. 5059. (a) OVERSIGHT.—For fiscal year 2005, 30 days prior to the initial obligation of funds for the bilateral West Bank and Gaza Program, the Secretary of State shall certify to the appropriate committees of Congress that procedures have been established to assure the Comptroller General of the United States will have access to appropriate United States financial information in order to review the uses of United States assistance for the Program funded under the heading "Economic Support Fund" for the West Bank and Gaza.

(b) VETTING.—Prior to the obligation of funds appropriated by this Act under the heading "Economic Support Fund" for assistance for the West Bank and Gaza, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual, private or government entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity. The Secretary of State shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this subsection and shall terminate assistance to any individual, entity, or educational institution which he has determined to be involved in or advocating terrorist activity.

(c) CERTIFICATION.—Prior to making an award of any grant or cooperative agreement obligating funds appropriated by this Act for assistance under the West Bank and Gaza program, the United States Agency for International Development shall obtain from the proposed recipient of such funds a certification to the effect that the recipient will take all reasonable steps to ensure that it does not, and will not, knowingly provide material support or resources to any individual or entity that engages in, or has engaged in, terrorist acts: Provided, That such certification shall also require that the proposed recipient will implement reasonable monitoring and oversight procedure to safeguard against assistance being diverted to support terrorist activity.

(d) PROHIBITION.—None of the funds appropriated by this Act for assistance under the West Bank and Gaza program may be made available for the purpose of recognizing or otherwise honoring individuals who commit, or have committed, acts of terrorism.

(e) AUDITS.—(1) The Administrator of the United States Agency for International Development shall ensure that Federal or non-Federal audits of all contractors and grantees, and significant subcontractors and subgrantees, under the West Bank and Gaza Program, are conducted at least on an annual basis to ensure, among other things, compliance with this section.

(2) Of the funds appropriated by this Act under the heading "Economic Support Fund" that are made available for assistance for the West Bank and Gaza, up to $1,000,000 may be used by the Office of the Inspector General of the United States Agency for International Development for audits, inspections, and other activities in furtherance of the requirements of this subsection. Such funds are in addition to funds otherwise available for such purposes.

CONTRIBUTIONS TO UNITED NATIONS POPULATION FUND

SEC. 5060. (a) LIMITATIONS ON AMOUNT OF CONTRIBUTION.—Of the amounts made available under "International Organizations and Programs" and "Child Survival and Health Programs Fund" for fiscal year 2005, $34,000,000 shall be made available for the United Nations Population Fund (hereafter in this section referred to as the "UNFPA"): Provided, That of this amount, not less than $25,000,000 shall be derived from funds appropriated under the heading "International Organizations and Programs".

(b) REPROGRAMMING OF FUNDS.—Of the funds appropriated in Public Law 108–199 that were available for the UNFPA, $25,000,000 shall be made available for the family planning, maternal, and reproductive health activities of the United States Agency for International Development in Albania, Azerbaijan, the Democratic Republic of the Congo, Ethiopia, Georgia, Haiti, Kazakhstan, Kenya, Nigeria, Romania, Russia, Rwanda, Tanzania, Uganda, and the Ukraine: Provided, That such programs and activities shall be deemed to have been justified to Congress.

(c) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under "International Organizations and Programs" may be made available for the UNFPA for a country program in the People's Republic of China.

(d) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under "International Organizations and Programs" for fiscal year 2005 for the UNFPA may not be made available to UNFPA unless—

(1) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

(2) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

(3) the UNFPA does not fund abortions.

(e) AVAILABILITY AND USE OF FUNDS.—Funds appropriated under the heading "International Organizations and Programs" that are not made available for UNFPA because of the operation of any provision of law shall remain available until September 30, 2006: Provided, That funds made available pursuant to this section may not be used for any other purpose, notwithstanding the authority contained in sections 451, 610 and 614 of the Foreign Assistance Act of 1961, or any other provision of law unless specifically authorized in subsequent legislation.

WAR CRIMINALS

SEC. 5061. (a)(1) None of the funds appropriated or otherwise made available pursuant to this Act may be made available for assistance, and the Secretary of the Treasury shall instruct the United States executive directors to the international financial institutions to vote against any new project involving the extension by such institutions of any financial or technical assistance, to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations to apprehend and transfer to the International Criminal Tribunal for the former Yugoslavia (the "Tribunal") all persons in their territory who have been indicted by the Tribunal and to otherwise cooperate with the Tribunal.

(2) The provisions of this subsection shall not apply to humanitarian assistance or assistance for democratization.

(b) The provisions of subsection (a) shall apply unless the Secretary of State determines and reports to the appropriate congressional committees that the competent authorities of such country, entity, or municipality are—

(1) cooperating with the Tribunal, including access for investigators to archives and witnesses, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension; and

(2) are acting consistently with the Dayton Accords.

(c) Not less than 10 days before any vote in an international financial institution regarding the extension of any new project involving financial or technical assistance or grants to any country or entity described in subsection (a), the Secretary of the Treasury, in consultation with the Secretary of State, shall provide to the Committees on Appropriations a written justification for the proposed assistance, including an explanation of the United States position regarding any such vote, as well as a description of the location of the proposed assistance by municipality, its purpose, and its intended beneficiaries.

(d) In carrying out this section, the Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of the Treasury shall consult with representatives of human rights organizations and all government agencies with relevant information to help prevent indicted war criminals from benefiting from any financial or technical assistance or grants provided to any country or entity described in subsection (a).

(e) The Secretary of State may waive the application of subsection (a) with respect to projects within a country, entity, or municipality upon a written determination to the Committees on Appropriations that such assistance directly supports the implementation of the Dayton Accords.

(f) DEFINITIONS.—As used in this section—

(1) COUNTRY.—The term "country" means Bosnia and Herzegovina, Croatia and Serbia.

(2) ENTITY.—The term "entity" refers to the Federation of Bosnia and Herzegovina, Kosovo, Montenegro and the Republika Srpska.

(3) MUNICIPALITY.—The term "municipality" means a city, town or other subdivision within a country or entity as defined herein.

(4) DAYTON ACCORDS.—The term "Dayton Accords" means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

USER FEES

SEC. 5062. The Secretary of the Treasury shall instruct the United States Executive Director at each international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act) and the International Monetary Fund to oppose any loan, grant, strategy or policy of these institutions that would require user fees or service charges on poor people for primary education or primary healthcare, including prevention and treatment efforts for HIV/AIDS, malaria, tuberculosis, and infant, child, and maternal well-being, in connection with the institutions' financing programs.

FUNDING FOR SERBIA

SEC. 5063. (a) Funds appropriated by this Act may be made available for assistance for the central Government of Serbia after May 31, 2005, if the President has made the determination and certification contained in subsection (c).

(b) After May 31, 2005, the Secretary of the Treasury should instruct the United States executive directors to the international financial institutions to support loans and assistance to the Government of Serbia and Montenegro subject to the conditions in subsection (c): Provided, That section 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as amended, shall not apply to the provision of loans and assistance to the Government of Serbia and Montenegro through international financial institutions.

(c) The determination and certification referred to in subsection (a) is a determination by the President and a certification to the Committees on Appropriations that the Government of Serbia and Montenegro is—

(1) cooperating with the International Criminal Tribunal for the former Yugoslavia including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension, including making all practicable efforts to apprehend and transfer Ratko Mladic;

(2) taking steps that are consistent with the Dayton Accords to end Serbian financial, political, security and other support which has served to maintain separate Republika Srpska institutions; and

(3) taking steps to implement policies which reflect a respect for minority rights and the rule of law.

(d) This section shall not apply to Montenegro, Kosovo, humanitarian assistance or assistance to promote democracy.

COMMUNITY-BASED POLICE ASSISTANCE

SEC. 5064. (a) AUTHORITY.—Funds made available by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be used, notwithstanding section 660 of that Act, to enhance the effectiveness and accountability of civilian police authority through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict, respond to disasters, and foster improved police relations with the communities they serve.

(b) NOTIFICATION.—Assistance provided under subsection (a) shall be subject to the regular notification procedures of the Committees on Appropriations.

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 5065. (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961;

(2) credits extended or guarantees issued under the Arms Export Control Act; or

(3) any obligation or portion of such obligation, to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89–808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95–501).

(b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to the funds appropriated by this Act under the heading "Debt Restructuring".

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for the purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 or section 321 of the International Development and Food Assistance Act of 1975.

AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 5066. (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make adjustment in its accounts to reflect the sale, reduction, or cancellation.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President should consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

BASIC EDUCATION

SEC. 5067. Of the funds appropriated by title II of this Act, not less than $335,000,000 should be made available for basic education.

RECONCILIATION PROGRAMS

SEC. 5068. Of the funds appropriated under the heading "Economic Support Fund", not less than $15,000,000 shall be made available to support reconciliation programs and activities which bring together individuals of different ethnic, religious, and political backgrounds from areas of civil conflict and war.

ENVIRONMENT PROGRAMS

SEC. 5069. (a) FUNDING.—Of the funds appropriated under the heading "Development Assistance", not less than $175,500,000 shall be made available for programs and activities which directly protect biodiversity, including forests, in developing countries, of which not less than $15,000,000 shall be made available to implement a regional strategy for biodiversity conservation in the countries comprising the Amazon basin of South America, including to improve the capacity of indigenous communities and local law enforcement agencies to protect the biodiversity of indigenous reserves, which amount shall be in addition to the amounts requested for biodiversity activities in these countries in fiscal year 2005: Provided, That funds appropriated under the heading "Andean Counterdrug Initiative" shall also be made available in fiscal year 2005 to support such strategy: Provided further, That of the funds appropriated by this Act, not less than $17,500,000 should be made available for the Congo Basin Forest Partnership, of which not less than $2,500,000 should be made available for the Great Apes Conservation Fund, administered by the United States Fish and Wildlife Service, for use in Central Africa: Provided further, That of the funds appropriated by this Act, not less than $180,000,000 shall be made available to support policies and programs in developing countries that directly (1) promote a wide range of energy conservation, energy efficiency and clean energy programs and activities, including the transfer of clean and environmentally sustainable energy technologies; (2) measure, monitor, and reduce greenhouse gas emissions; (3) increase carbon sequestration activities; and (4) enhance climate change mitigation and adaptation programs.

(b) CLIMATE CHANGE REPORT.—Not later than 45 days after the date on which the President's fiscal year 2006 budget request is submitted to Congress, the President shall submit a report to the Committees on Appropriations describing in detail the following—

(1) all Federal agency obligations and expenditures, domestic and international, for climate change programs and activities in fiscal year 2005, including an accounting of expenditures by agency with each agency identifying climate

change activities and associated costs by line item as presented in the President's Budget Appendix; and

(2) all fiscal year 2004 obligations and estimated expenditures, fiscal year 2005 estimated expenditures and estimated obligations, and fiscal year 2006 requested funds by the United States Agency for International Development, by country and central program, for each of the following: (i) to promote the transfer and deployment of a wide range of United States clean energy and energy efficiency technologies; (ii) to assist in the measurement, monitoring, reporting, verification, and reduction of greenhouse gas emissions; (iii) to promote carbon capture and sequestration measures; (iv) to help meet such countries' responsibilities under the Framework Convention on Climate Change; and (v) to develop assessments of the vulnerability to impacts of climate change and mitigation and adaptation response strategies.

CENTRAL ASIA

SEC. 5070. *(a) Funds appropriated by this Act may be made available for assistance for the central Government of Uzbekistan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uzbekistan is making substantial and continuing progress in meeting its commitments under the "Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America", including respect for human rights, establishing a genuine multi-party system, and ensuring free and fair elections, freedom of expression, and the independence of the media.*

(b) Funds appropriated by this Act may be made available for assistance for the Government of Kazakhstan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Kazakhstan has made significant improvements in the protection of human rights during the preceding 6 month period.

(c) The Secretary of State may waive subsection (b) if he determines and reports to the Committees on Appropriations that such a waiver is in the national security interest of the United States.

(d) Not later than October 1, 2005, the Secretary of State shall submit a report to the Committees on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives describing the following:

(1) The defense articles, defense services, and financial assistance provided by the United States to the countries of Central Asia during the 6-month period ending 30 days prior to submission of such report.

(2) The use during such period of defense articles, defense services, and financial assistance provided by the United States by units of the armed forces, border guards, or other security forces of such countries.

(e) For purposes of this section, the term "countries of Central Asia" means Uzbekistan, Kazakhstan, Kyrgyz Republic, Tajikistan, and Turkmenistan.

EXCESS DEFENSE ARTICLES FOR CENTRAL AND SOUTH EUROPEAN COUNTRIES AND CERTAIN OTHER COUNTRIES

SEC. 5071. *Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during fiscal year 2005, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavia Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.*

DISABILITY RIGHTS

SEC. 5072. *(a) Of the funds appropriated by this Act under the heading "Economic Support Fund", and in addition to funds made available pursuant to section 5026(c), not less than $5,000,000 shall be made available for a Fund for Inclusion, Leadership, and Human Rights of People with Disabilities, to be administered by the Bureau of Democracy, Human Rights, and Labor, Department of State, in consultation with the Administrator of the United States Agency for International Development ("USAID"): Provided, That such funds should be made available as grants to nongovernmental organizations that work on behalf of people with disabilities in developing countries: Provided further, That not to exceed 20 percent of such funds should be made available for a Disability Rights Fellowship Program at the Department of State and USAID, including the cost of necessary administrative and salary expenses.*

(b) The Secretary of State and the USAID Administrator shall designate within their respective agencies an individual to serve as "Disability Advisor", whose function it shall be to ensure that disability rights are addressed, where appropriate, in United States policies and programs.

(c) Funds made available under subsection (a) shall be made available for an international conference on the needs of people with disabilities, including disability rights, advocacy and access.

(d) The Secretary of State, the Secretary of the Treasury, and the USAID Administrator shall seek to ensure that the needs of people with disabilities are addressed, where appropriate, in democracy, human rights, and rule of law programs, projects and activities supported by the Department of State, Department of the Treasury, and USAID.

(e) The USAID Administrator shall seek to ensure that programs, projects and activities administered by USAID comply fully with USAID's "Policy Paper: Disability" issued on September 12, 1997: Provided, That not later than 90 days after enactment of this Act, USAID shall implement procedures to require that prospective grantees seeking funding from USAID specify, when relevant, how the proposed program, project or activity for which funding is being requested will protect the rights and address the needs of persons with disabilities.

ZIMBABWE

SEC. 5073. *The Secretary of the Treasury shall instruct the United States executive director to each international financial institution to vote against any extension by the respective institution of any loans or grants, to the Government of Zimbabwe, except to meet basic human needs or to promote democracy, unless the Secretary of State determines and certifies to the Committees on Appropriations that the rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association.*

TIBET

SEC. 5074. *(a) The Secretary of the Treasury should instruct the United States executive director to each international financial institution to use the voice and vote of the United States to support projects in Tibet if such projects do not provide incentives for the migration and settlement of non-Tibetans into Tibet or facilitate the transfer of ownership of Tibetan land and natural resources to non-Tibetans; are based on a thorough needs-assessment; foster self-sufficiency of the Tibetan people and respect Tibetan culture and traditions; and are subject to effective monitoring.*

(b) Notwithstanding any other provision of law, not less than $4,000,000 of the funds appropriated by this Act under the heading "Economic Support Fund" shall be made available to nongovernmental organizations to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in the Tibetan Autonomous Region and in other Tibetan communities in China, and not less than $250,000 shall be made available to the National Endowment for Democracy for programs and activities relating to Tibet.

INDONESIA

SEC. 5075. *(a) Funds appropriated by this Act under the heading "Foreign Military Financing Program" may be made available for assistance for Indonesia, and licenses may be issued for the export of lethal defense articles for the Indonesian Armed Forces, only if the President certifies to the appropriate congressional committees that—*

(1) the Indonesian Armed Forces are not committing gross violations of human rights;

(2) the Indonesia Minister of Defense is suspending from the Armed Forces those members, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, or to have aided or abetted militia groups;

(3) the Indonesian Government is prosecuting those members of the Indonesian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, or to have aided or abetted militia groups, and is punishing those members of the Indonesian Armed Forces found to have committed such violations of human rights or to have aided or abetted militia groups;

(4) the Indonesian Armed Forces are cooperating with civilian prosecutors and judicial authorities in Indonesia and with the joint United Nations-East Timor Serious Crimes Unit (SCU) in such cases (including extraditing those indicted by the SCU to East Timor and providing access to witnesses, relevant documents, and other requested information); and

(5) the Minister of Defense is making publicly available audits of receipts and expenditures of the Indonesian Armed Forces.

(b) Funds appropriated under the heading "International Military Education and Training" may be made available for assistance for Indonesia if the Secretary of State determines and reports to the Committees on Appropriations that the Indonesian Government and Armed Forces are cooperating with the Federal Bureau of Investigation's investigation into the August 31, 2002 murders of two American citizens and one Indonesian citizen in Timika, Indonesia.

UNIVERSITY PROGRAMS

SEC. 5076. *Of the funds appropriated by this Act under the headings "Child Survival and Health Programs Fund", "Development Assistance", "Economic Support Fund", "Assistance for Eastern Europe and the Baltic States", and "Assistance for the Independent States of the Former Soviet Union", $40,000,000 shall be made available to the Office of the Higher Education Community Liaison in the Bureau for Economic Growth, Agriculture and Trade of the United States Agency for International Development and used for projects and activities of United States-based colleges and universities: Provided, That these funds shall be in addition to funds otherwise available under this Act for such programs.*

NIGERIA

SEC. 5077. *The President shall submit a report to the Committees on Appropriations describing the involvement of the Nigerian Armed Forces in the incident in Benue State, the measures that are being taken to bring such individuals to justice, and whether any Nigerian Armed Forces* *units involved with the incident in Benue State are receiving United States assistance.*

DISCRIMINATION AGAINST MINORITY RELIGIOUS FAITHS IN THE RUSSIAN FEDERATION

SEC. 5078. None of the funds appropriated under this Act may be made available for the Government of the Russian Federation, after 180 days from the date of the enactment of this Act, unless the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation has implemented no statute, executive order, regulation or similar government action that would discriminate, or which has as its principal effect discrimination, against religious groups or religious communities in the Russian Federation in violation of accepted international agreements on human rights and religious freedoms to which the Russian Federation is a party.

NICARAGUA AND GUATEMALA

SEC. 5079. (a) Of the funds appropriated under the headings "Development Assistance" and "Child Survival and Health Programs Fund", not less than $36,000,000 shall be made available for assistance for Nicaragua and not less than $23,000,000 shall be made available for assistance for Guatemala.

(b) Not to exceed $2,000,000 in prior year "Military Assistance Program" funds that are available for Guatemala may be made available for non-lethal defense items for Guatemala if the Secretary of State certifies to the Committees on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House that—

(1) the role of the Guatemalan military has been limited, both in doctrine and in practice, to only those activities in defense of Guatemala's sovereignty and territorial integrity that are permitted by the 1996 Peace Accords, and the Government of Guatemala is taking steps to amend Article 244 of the Constitution to reflect such changes;

(2) the Guatemalan military is cooperating with civilian judicial authorities, including providing unimpeded access to witnesses, documents and classified intelligence files, in investigations and prosecutions of military personnel who have been implicated in human rights violations and other criminal activity;

(3) the Government of Guatemala is actively working with the United Nations to resolve legal impediments to the establishment of the Commission for the Investigation of Illegal Groups and Clandestine Security Organizations (CICIACS), so that CICIACS can effectively accomplish its mission of investigating and bringing to justice illegal groups and members of clandestine security organizations;

(4) the Government of Guatemala is continuing its efforts to make its military budget process transparent and accessible to civilian authorities and to the public of present and past expenditures;

(5) the Government of Guatemala has committed to facilitate the prompt establishment of an office in Guatemala of the United Nations High Commissioner for Human Rights; and

(6) the Government of Guatemala is taking steps to increase its efforts to combat narcotics trafficking and organized crime.

WAR CRIMES IN AFRICA

SEC. 5080. (a) The Congress recognizes the important contribution that the democratically elected Government of Nigeria has played in fostering stability in West Africa.

(b) The Congress reaffirms its support for the efforts of the International Criminal Tribunal for Rwanda (ICTR) and the Special Court for Sierra Leone (SCSL) to bring to justice individuals responsible for war crimes and crimes against humanity in a timely manner.

(c) Funds appropriated by this Act, including funds for debt restructuring, may be made available for assistance to the central government of a country in which individuals indicted by ICTR and SCSL are credibly alleged to be living, if the Secretary of State determines and reports to the Committees on Appropriations that such government is cooperating with ICTR and SCSL, including the surrender and transfer of indictees in a timely manner: Provided, That this subsection shall not apply to assistance provided under section 551 of the Foreign Assistance Act of 1961 or to project assistance under title II of this Act: Provided further, That the United States shall use its voice and vote in the United Nations Security Council to fully support efforts by ICTR and SCSL to bring to justice individuals indicted by such tribunals in a timely manner.

(d) The prohibition in subsection (c) may be waived on a country by country basis if the President determines that doing so is in the national security interest of the United States: Provided, That prior to exercising such waiver authority, the President shall submit a report to the Committees on Appropriations, in classified form if necessary, on (1) the steps being taken to obtain the cooperation of the government in surrendering the indictee in question to SCSL or ICTR; (2) a strategy for bringing the indictee before ICTR or SCSL; and (3) the justification for exercising the waiver authority.

ADMISSION OF REFUGEES

SEC. 5081. (a) The Secretary of State shall utilize private voluntary organizations with expertise in the protection needs of refugees in the processing of refugees overseas for admission and resettlement to the United States, and shall utilize such agencies in addition to the United Nations High Commissioner for Refugees in the identification and referral of refugees.

(b) The Secretary of State should maintain a system for accepting referrals of appropriate candidates for resettlement from local private, voluntary organizations and work to ensure that particularly vulnerable refugee groups receive special consideration for admission into the United States, including—

(1) long-stayers in countries of first asylum;

(2) unaccompanied refugee minors;

(3) refugees outside traditional camp settings; and

(4) refugees in woman-headed households.

(c) The Secretary of State shall give special consideration to—

(1) refugees of all nationalities who have close family ties to citizens and residents of the United States; and

(2) other groups of refugees who are of special concern to the United States.

(d) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps that have been taken to implement this section.

CODE OF CONDUCT

SEC. 5082. (a) None of the funds made available by title II under the heading "Migration and Refugee Assistance" or "Transition Initiatives" to provide assistance to refugees or internally displaced persons may be provided to an organization that has failed to adopt a code of conduct consistent with the Inter-Agency Standing Committee Task Force on Protection From Sexual Exploitation and Abuse in Humanitarian Crises six core principles for the protection of beneficiaries of humanitarian assistance.

(b) In administering the amounts made available for the accounts described in subsection (a), the Secretary of State and Administrator of the United States Agency for International Development shall incorporate specific policies and programs for the purpose of identifying specific needs of, and particular threats to, women and children at the various stages of humanitarian emergencies, especially at the onset of such emergency.

DISASTER SURGE CAPACITY

SEC. 5083. Funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961 may be used, in addition to funds otherwise available for such purposes, for the cost (including the support costs) of individuals detailed to or employed by the United States Agency for International Development whose primary responsibility is to carry out programs to address natural or manmade disasters or programs under the heading "Transition Initiatives".

DENIAL OF VISAS TO CORRUPT OFFICIALS

SEC. 5084. Not later than 60 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations setting forth procedures and guidelines for (1) implementing the President's Proclamation dated January 12, 2004, which established a policy of denying entry into the United States to corrupt current and former public officials and certain members of their families; and (2) for making public the names of those individuals who have been denied entry as a result of such Proclamation.

ASSISTANCE FOR VICTIMS OF TORTURE

SEC. 5085. Of the funds appropriated by this Act under the headings "Development Assistance" and "Economic Support Fund", not less than $15,000,000 shall be made available for programs and activities to assist victims of torture and cruel, inhuman or degrading treatment, including for centers for victims of torture that provide services consistent with the goals of the Torture Victims Relief Reauthorization Act of 1999.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT PILOT MANAGEMENT INITIATIVE

SEC. 5086. (a) PILOT ACTIVITIES.—Subject to subsection (b), the Administrator of the United States Agency for International Development may use up to $25,000,000 of the funds appropriated to carry out part I of the Foreign Assistance Act of 1961, including funds appropriated to carry out the Support for East European Democracy (SEED) Act of 1989, to pay administrative costs for fiscal year 2005, including salary, benefits, allowances, and overseas support costs of employees, of up to 2 overseas missions or offices of the agency.

(b) CONDITIONS.—

(1) The authority of subsection (a) may be exercised only if the Administrator submits a plan approved by the Office of Management and Budget and the Department of State to the Committees on Appropriations, that—

(A) identifies the overseas missions or offices for which this authority will be exercised, and explains the process by which these missions or offices were selected;

(B) contains separate estimates of the administrative costs for fiscal year 2005 of the different types of project assistance and nonproject assistance programs administered by such mission or office; and

(C) describes the bases for such estimates.

(2) Subsequent reports shall be submitted to the Committees on Appropriations by the Administrator at least every 60 days until January 15, 2006 to describe any changes made to the plan as originally submitted or later modified.

(c) INITIAL CHARGES.—Funds appropriated under the heading "Operating Expenses of the United States Agency for International Development" for fiscal year 2005 may be initially charged for the purposes of this section.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT HIRING AUTHORITY

SEC. 5087. (a) USE OF PROGRAM FUNDS.—Up to $12,500,000 of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 may be transferred to and consolidated with funds appropriated under the heading, "Operating Expenses of the United

States Agency for International Development" (USAID), and used by USAID to appoint and employ full-time Civil Service and full-time Foreign Service personnel, including to pay the costs of salaries, benefits, and allowances of such personnel: Provided, That the authority of this section may be used to appoint and employ not more than 50 individuals.

(b) CONDITIONS.—The authority of this section—

(1) may not be used until USAID completes a comprehensive workforce analysis that is approved by the USAID Administrator and submitted to the Office of Management and Budget and the Office of Personnel Management;

(2) may only be used to meet shortages in technical skill areas identified in the approved workforce analysis;

(3) may only be used to the extent that an equivalent number of positions that are filled by personal service contractors or other employees of USAID, who are compensated with funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, are eliminated; and

(4) may only be exercised after notification of the Committees on Appropriations and the Office of Management and Budget.

CERTAIN CLAIMS FOR EXPROPRIATION BY THE GOVERNMENT OF NICARAGUA

SEC. 5088. Section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2370(a)) is amended by adding at the end the following new subsection:

"(i) CERTAIN CLAIMS FOR EXPROPRIATION BY THE GOVERNMENT OF NICARAGUA.—

"(1) Any action of the types set forth in subparagraphs (A), (B), and (C) of subsection (a)(1) that was taken by the Government of Nicaragua during the period beginning on January 1, 1956, and ending on January 9, 2002, shall not be considered in implementing the prohibition under subsection (a) unless the action has been presented in accordance with the procedure set forth in paragraph (2).

"(2) An action shall be deemed presented for purposes of paragraph (1) if it is—

"(A) in writing; and

"(B) received by the United States Department of State on or before 120 days after the date specified in paragraph (3) at—

"(i) the headquarters of the United States Department of State in Washington, D.C.; or,

"(ii) the Embassy of the United States of America to Nicaragua.

"(3) The date to which paragraph (2) refers is a date after enactment of this subsection that is specified by the Secretary of State, in the Secretary's discretion, in a notice published in the Federal Register.".

OVERSEAS PRIVATE INVESTMENT CORPORATION AND EXPORT-IMPORT BANK RESTRICTIONS

SEC. 5089. (a) LIMITATION ON USE OF FUNDS BY OPIC.—None of the funds made available in this Act may be used by the Overseas Private Investment Corporation to insure, reinsure, guarantee, or finance any investment in connection with a project involving the mining, polishing or other processing, or sale of diamonds in a country that fails to meet the requirements of subsection (c).

(b) LIMITATION ON USE OF FUNDS BY THE EXPORT-IMPORT BANK.—None of the funds made available in this Act may be used by the Export-Import Bank of the United States to guarantee, insure, extend credit, or participate in an extension of credit in connection with the export of any goods to a country for use in an enterprise involving the mining, polishing or other processing, or sale of diamonds in a country that fails to meet the requirements of subsection (c).

(c) REQUIREMENTS.—The requirements referred to in subsections (a) and (b) are that the country concerned is implementing the recommendations, obligations and requirements developed by the Kimberley Process on conflict diamonds.

SECURITY IN ASIA

SEC. 5090. (a) Of the funds appropriated under the heading "Foreign Military Financing Program", not less than the following amounts shall be made available to enhance security in Asia, consistent with democratic principles and the rule of law—

(1) $55,000,000 for assistance for the Philippines;

(2) $6,000,000 for assistance for Indonesia;

(3) $2,000,000 for assistance for Bangladesh;

(4) $1,500,000 for assistance for the Democratic Republic of Timor-Leste;

(5) $2,000,000 for assistance for Mongolia;

(6) $5,000,000 for assistance for Nepal;

(7) $2,500,000 for assistance for Thailand;

(8) $1,000,000 for assistance for Sri Lanka;

(9) $1,000,000 for assistance for Cambodia;

(10) $500,000 for assistance for Fiji; and

(11) $250,000 for assistance for Tonga.

(b) Funds made available for assistance for Indonesia pursuant to subsection (a) may be made available notwithstanding section 5075 of this Act: Provided, That such funds may only be made available to the Indonesian navy for the purposes of enhancing maritime security: Provided further, That sections 5075(a)(1) and (4) of this Act shall apply with respect to the Indonesia navy for purposes of this section: Provided further, That such funds shall only be made available subject to the regular notification procedures of the Committees on Appropriations.

(c) Funds made available for assistance for Cambodia pursuant to subsection (a) shall be made available notwithstanding section 5054 of this Act: Provided, That such funds shall only be made available subject to the regular notification procedures of the Committees on Appropriations.

(d) Funds made available for assistance for Nepal pursuant to subsection (a) may be made available if the Secretary of State reports to the Committees on Appropriations that the Government of Nepal is: (1) complying promptly with habeas corpus orders issued by the Supreme Court of Nepal, including all outstanding orders; (2) cooperating with the National Human Rights Commission of Nepal to resolve all cases of disappearances; and (3) granting the National Human Rights Commission of Nepal unimpeded access to places of detention: Provided, That the Secretary of State may waive the requirements of this subsection if he determines and reports to the Committees on Appropriations that to do so is in the security interests of the United States.

COOPERATION WITH CUBA ON COUNTER-NARCOTICS MATTERS

SEC. 5091. (a) Subject to subsection (b), of the funds appropriated under the heading "International Narcotics Control and Law Enforcement", $5,000,000 should be made available for the purposes of preliminary work by the Department of State, or such other entity as the Secretary of State may designate, to establish cooperation with appropriate agencies of the Government of Cuba on counter-narcotics matters, including matters relating to cooperation, coordination, and mutual assistance in the interdiction of illicit drugs being transported through Cuba airspace or over Cuba waters.

(b) The amount in subsection (a) shall not be available if the President certifies that—

(1) Cuba does not have in place appropriate procedures to protect against the loss of innocent life in the air and on the ground in connection with the interdiction of illegal drugs; and

(2) there is evidence of involvement of the Government of Cuba in drug trafficking.

HIPC DEBT REDUCTION AND TRUST FUND

SEC. 5092. (a) Section 801(b)(1) of Public Law 106–429 is amended—

(1) by inserting "(i)" after "appropriated"; and

(2) by inserting before the period "; and (ii) for fiscal years 2004–2006, not more than $150,000,000, for purposes of additional United States contributions to the HIPC Trust Fund administered by the Bank, which are authorized to remain available until expended".

(b) Section 501(i) of Public Law 106–113 is amended by deleting "2003–2004" and inserting in lieu thereof "2000–2006".

ASSISTANCE TO MILLENNIUM CHALLENGE CANDIDATE COUNTRIES

SEC. 5093. Section 616(d) of the Millennium Challenge Act of 2003 (title VI of division D of Public Law 108–199) is amended to read as follows:

"(d) FUNDING.—For each of fiscal years 2004 and 2005 and every fiscal year thereafter, of the amounts appropriated pursuant to the authorization of appropriations under section 619(a), up to 10 percent is authorized to be made available to carry out this section.".

CHERNOBYL NUCLEAR POWER PLANT

SEC. 5094. None of the funds appropriated under this Act may be made available for assistance for the central Government of the Russian Federation if the Secretary of State certifies and reports to the Committees on Appropriations that the central Government of the Russian Federation has not pledged or is not contributing funds or other significant resources for the construction of the new shelter over the Chernobyl nuclear power plant: Provided, That this provision shall not apply to democracy, rule of law, child survival and health, and environment programs.

DEBT RESTRUCTURING AUTHORITY

SEC. 5095. (a) Of the funds appropriated under the heading "Iraq Relief and Reconstruction Fund" in title II of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106), $360,000,000 may be made available for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees for Iraq, without regard to the sectoral allocations and related provisos under that heading in such Act: Provided, That the authority of this section shall be used subject to prior consultation with the Committees on Appropriations: Provided further, That the obligation of funds pursuant to the authority provided in this section shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

(b) Title II, chapter 2 of Public Law 108–106 is amended under the heading "Other Bilateral Economic Assistance" by—

(1) in the first proviso, striking "10 percent" and inserting in lieu thereof "20 percent"; and

(2) in the first proviso, striking "by more than 20 percent" and inserting in lieu thereof "by more than 30 percent".

(c) Notwithstanding any other provision of law, the Overseas Private Investment Corporation is authorized to undertake any program authorized by title IV of the Foreign Assistance Act of 1961 in Iraq: Provided, That funds made available pursuant to the authority of this section shall be subject to the regular reprogramming notification procedures of the Committees on Appropriations.

COMPLIANCE WITH THE ALGIERS AGREEMENTS

SEC. 5096. None of the funds appropriated by this Act may be made available for assistance *for the central Governments of Ethiopia or Eritrea unless the Secretary of State certifies and reports to the Committees on Appropriations that such government is taking steps to comply with the terms of the Algiers Agreements: Provided, That this section shall not apply to democracy, rule of law, child survival and health, basic education, and agriculture programs.*

NORTH KOREA AND BURMA

SEC. 5097. None of the funds made available in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs as a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria may be made available for assistance for the Government of North Korea or the State Peace and Development Council in Burma, or affiliated groups and organizations.

THAILAND

SEC. 5098. (a) Funds appropriated by this Act that are available for the central Government of Thailand may be made available if the Secretary of State determines and reports to the Committees on Appropriations that the central Government of Thailand (1) supports the advancement of democracy in Burma; (2) is not hampering the delivery of humanitarian and other assistance to people in Thailand who have fled Burma; and (3) is not forcibly repatriating Burmese to Burma.

(b) Notwithstanding subsection (a), of the funds appropriated by this Act, not less than $4,000,000 shall be made available to promote democracy and human rights in Thailand, and not less than $1,000,000 shall be made available to promote and protect an independent media in Thailand.

(c) The Secretary of State may waive subsection (a) if he determines and reports to the Committees on Appropriations that to do so is in the national security interest of the United States.

ADMINISTRATIVE PROVISIONS RELATED TO MULTILATERAL DEVELOPMENT BANKS

SEC. 5099. (a) Section 1307 of the International Financial Institutions Act (22 U.S.C. 262m–7) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ASSESSMENT REQUIRED BEFORE FAVORABLE VOTE ON PROPOSAL.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank not to vote in favor of any proposal (including but not limited to any kind of proposed loan, credit, grant, guarantee, or policy) which would result or be likely to result in a significant impact on the environment, unless the Secretary, after consultation with the Secretary of State and the Administrators of the United States Agency for International Development and the Environmental Protection Agency, determines that for at least 120 days before the date of the vote—

"(1) an assessment analyzing the environmental impacts of the proposal, including associated and cumulative impacts, and of alternatives to the proposal, has been completed by the borrower or the bank, and has been made available to the board of directors of the bank;

"(2) the assessment (or a comprehensive summary of the assessment) and copies of any related draft loan, credit, grant, guarantee, or policy (with proprietary information redacted) have been made available to the bank, affected groups, and local nongovernmental organizations; and

"(3) environment and development agencies of the member countries of the bank are notified that the assessment (or a comprehensive summary of the assessment) and any related draft loan, credit, grant, guarantee, or policy are available on the bank's website."; and

(2) by striking subsection (g) and inserting the following:

"(g) MULTILATERAL DEVELOPMENT BANK DEFINED.—In this title, the term 'multilateral development bank' means the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the African Development Bank, the African Development Fund, the Asian Development Bank, the North American Development Bank, the Inter-American Development Bank, the Inter-American Investment Corporation, any other institution (other than the International Monetary Fund) specified in section 1701(c)(2), and any subsidiary of any such institution, and in section 1504, the term 'multilateral development institution' includes the North American Development Bank and any such subsidiary."

(b) Section 1303(b) of the International Financial Institutions Act (22 U.S.C. 262m–7) is amended by striking "International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank" and inserting in lieu thereof "multilateral development banks".

(c) Not more than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall issue temporary regulations to implement title XIII of the International Financial Institutions Act, as amended, and, after public notice and comment, final regulations not more than one year thereafter.

VIETNAMESE REFUGEES

SEC. 5100. (a) ELIGIBILITY FOR IN-COUNTRY REFUGEE PROCESSING IN VIETNAM.—For purposes of eligibility for in-country refugee processing for nationals of Vietnam during fiscal years 2004 and 2005, an alien described in subsection (b) shall be considered to be a refugee of special humanitarian concern to the United States (within the meaning of section 207 of the Immigration and Nationality Act (8 U.S.C. 1157)) and shall be admitted to the United States for resettlement if the alien would be admissible as an immigrant under the Immigration and Nationality Act (except as provided in section 207(c)(3) of that Act).

(b) ALIENS COVERED.—An alien described in this subsection is an alien who—

(1) is the son or daughter of a qualified national;

(2) is 21 years of age or older; and

(3) was unmarried as of the date of acceptance of the alien's parent for resettlement under the Orderly Departure Program or through the United States Consulate General in Ho Chi Minh City.

(c) QUALIFIED NATIONAL.—The term "qualified national" in subsection (b)(1) means a national of Vietnam who—

(1)(A) was formerly interned in a re-education camp in Vietnam by the Government of the Socialist Republic of Vietnam; or

(B) is the widow or widower of an individual described in subparagraph (A);

(2)(A) qualified for refugee processing under the Orderly Departure Program re-education subprogram; and

(B) is or was accepted under the Orderly Departure Program or through the United States Consulate General in Ho Chi Minh City—

(i) for resettlement as a refugee; or

(ii) for admission to the United States as an immediate relative immigrant; and

(3)(A) is presently maintaining a residence in the United States or whose surviving spouse is presently maintaining such a residence; or

(B) was approved for refugee resettlement or immigrant visa processing and is awaiting departure formalities from Vietnam or whose surviving spouse is awaiting such departure formalities.

EXTRACTION OF NATURAL RESOURCES

SEC. 5101. (a) The Secretary of the Treasury shall inform the managements of the international financial institutions and the public that it is the policy of the United States that any assistance by such institutions (including but not limited to any loan, credit, grant, or guarantee) for the extraction and export of oil, gas, coal, timber, or other natural resource should not be provided unless the government of the country has in place or is taking the necessary steps to establish functioning systems for (1) accurately accounting for revenues and expenditures in connection with the extraction and export of the type of natural resource to be extracted or exported; (2) the independent auditing of such accounts and the widespread public dissemination of the audits; and (3) verifying government receipts against company payments including widespread dissemination of such payment information in a manner that does not create competitive disadvantage or disclose proprietary information.

(b) Not later than 180 days after the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committees on Appropriations describing, for each international financial institution, the amount and type of assistance provided, by country, for the extraction and export of oil, gas, coal, timber, or other national resource since September 30, 2004.

ASSISTANCE FOR FOREIGN NONGOVERNMENTAL ORGANIZATIONS

SEC. 5102. Notwithstanding any other provision of law, regulation, or policy, in determining eligibility for assistance authorized under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), foreign nongovernmental organizations—

(1) shall not be ineligible for such assistance solely on the basis of health or medical services including counseling and referral services, provided by such organizations with non-United States Government funds if such services do not violate the laws of the country in which they are being provided and would not violate United States Federal law if provided in the United States; and

(2) shall not be subject to requirements relating to the use of non-United States Government funds for advocacy and lobbying activities other than those that apply to United States nongovernmental organizations receiving assistance under part I of such Act.

SUDAN

SEC. 5103. (a) Of the funds appropriated under the heading "Iraq Relief and Reconstruction Fund" of Public Law 108–106, $150,000,000 shall be made available by transfer for necessary expenses of the United States Agency for International Development to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 to respond to or prevent unforeseen complex foreign crises and to meet urgent humanitarian needs in Darfur, Sudan and the region.

(b) The entire amount in subsection (a) is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

(c) That such amount shall be available only to the extent that an official budget request for $150,000,000 that includes designation of the amount as an emergency requirement, as defined in S. Con. Res. 95 (108th Congress), is transmitted by the President to the Congress.

(d) If the President does not submit an official budget request required by subsection (c) within 30 days of enactment of the Act, the funds made available under this section shall revert back to the "Iraq Relief and Reconstruction Fund" of Public Law 108–106.

(e) It is the Sense of the Senate that the transfer authority that Congress included under chapter 2 of title II of Public Law 108–106, which authorized the transfer of up to 0.5 percent from funds made available under Chapter 2 for Sudan, should be triggered to provide funds to address the humanitarian disaster in Darfur, Sudan and region.

ADDITIONAL FUNDS FOR THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA

SEC. 5104. In addition, $150,000,000 is appropriated for "Child Survival and Health Programs Fund", which shall be made available for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria, in accordance with the provisions applicable to the Fund under that heading in this Act: Provided, That funds appropriated by this section are designated by the Congress as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287: Provided further, That such funds shall be divided evenly between malaria control programs and HIV/AIDS drug procurement and treatment: Provided further, That the malaria funds shall be only used in low income and least developed countries for grants (to be awarded through competitive procedures) for country malaria control programs in which not less than 50 percent of the grant amounts shall support indoor residual spraying interventions: Provided further, That no user fees or other fees may be charged by the government of a country concerned under a program funded utilizing such amount for any malaria intervention under such program: Provided further, That none of the funds appropriated by this section shall be expended for assistance for Burma or for any country officially designated by the United States Department of State as a state sponsor of terrorism.

SUPPORT FOR AFRICAN UNION MISSION IN DARFUR, SUDAN

SEC. 5105. (a) In addition, $75,000,000 is appropriated to the Department of State to carry out the provisions of section 551 of the Foreign Assistance Act of 1961 for the purpose of providing equipment, logistical, financial, material, and other resources necessary to support the rapid expansion of the African Union mission in Darfur, Sudan.

(b) The entire amount in subsection (a) is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

(c) That such amount shall be available only to the extent that an official budget request for $75,000,000 that includes designation of the amount as an emergency requirement, as defined in S. Con. Res. 95 (108th Congress), as made applicable to the Senate by section 14007 of Public Law 108–287, is transmitted by the President to the Congress.

IMPROVING SECURITY IN HAITI

SEC. 5106. (a) Congress makes the following findings:

(1) Haiti is important to the national security interests of the United States.

(2) The United States has contributed significant assistance to support the political, economic and social development of Haiti with limited and uneven results.

(3) The Haitian people are currently suffering from extreme poverty, threats from armed groups who control large areas of the country, and violations of human rights, including kidnappings.

(4) As of September 22, 2004, Tropical Storm Jeanne killed more than 1,000 people, with many hundreds remaining missing, in Gonaives and other areas of Haiti, and caused severe destruction of property.

(5) The Interim Government of Haiti under Prime Minister Gerard Latortue is attempting to initiate much needed reforms and bring political stability to the country prior to the reintroduction of anticipated democratically-elected governance in 2005.

(6) On July 19–20, 2004, the international community pledged $1,085,000,000 in assistance for Haiti, including $230,000,000 from the United States.

(7) The immediate challenges facing Haiti are (a) addressing the insecurity and instability caused by armed groups who are undermining the ability of the Interim Government of Haiti to combat poverty and create the conditions for free and fair elections; (b) establishing the rule of law; and (c) economic reactivation and job creation.

(8) On April 30, 2004, the United Nations Security Council authorized the United Nations Stabilization Mission in Haiti (MINUSTAH) 6,700 military personnel and 1,622 civilian police personnel, but as of July 31, 2004, only 2,259 military personnel and 224 civilian police personnel had been deployed.

(9) MINUSTAH is essential to efforts to restore stability and security, including countering the activities of rebels, ex-combatants and other armed groups.

(b) Congress—

(1) appreciates the contributions of military and civilian police personnel to MINUSTAH by Brazil and other nations;

(2) calls upon the Secretary of State to redouble his efforts to encourage contributions of additional personnel to MINUSTAH;

(3) calls upon MINUSTAH to assertively fulfill its mandate under Chapter VII of the United Nations Charter to "ensure a secure and stable environment within which the constitutional and political process in Haiti can take place", by confronting and resolving security threats to the Interim Government of Haiti and the people of Haiti;

(4) calls upon the United States and the international community, including the United Nations and the Organization of American States, to expedite the disbursement of sufficient assistance to enable the Interim Government of Haiti to—

(A) address Haiti's urgent humanitarian needs, including to assist Haitians affected by Tropical Storm Jeanne;

(B) increase employment and promote economic development; and

(C) carry out democratic elections in 2005;

(5) calls upon the Interim Government of Haiti to make every effort to ensure that all political parties can participate fully and freely in the electoral process; and

(6) notes that the failure to establish a secure and stable environment and to conduct credible and inclusive elections will likely result in Haiti's complete transition from a failed state to a criminal state.

REPORT ON GLOBAL POVERTY AND NATIONAL SECURITY

SEC. 5107. Not later than 180 days after the date of the enactment of this Act, the Secretary of State, in consultation with other relevant Federal agencies, shall submit a report to Congress on the impact of global poverty on the national security of the United States, which shall include: (1) an evaluation of the effects of global poverty on United States efforts to promote democracy, equitable economic development, and the rule of law in developing countries; (2) a description of the relationship between global poverty and political instability, civil conflict, and international terrorism; and (3) recommendations for improving the ability of the United States Government to effectively address the problems in (1) and (2) by combating global poverty, including possible organizational changes within the Federal government.

REPORT ON EDUCATION REFORM IN PAKISTAN

SEC. 5108 (a) Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees—

(1) describing the strategy of the Government of Pakistan to implement education reform in Pakistan, and the strategy of the Government of the United States to assist Pakistan to achieve that objective;

(2) providing information on the amount of funding—

(A) obligated and expended by the Government of Pakistan and the Government of the United States, respectively, for education reform in Pakistan, since January 1, 2002;

(B) expected to be provided by the Government of Pakistan and the Government of the United States, respectively, for education reform in Pakistan, including any assistance to be provided by the United States pursuant to the commitment of President Bush to provide $3,000,000,000 in assistance to Pakistan during fiscal year 2005 through fiscal year 2009; and

(3) discussing progress made in achieving education reform in Pakistan since January 1, 2002.

(b) DEFINITIONS.—In this section—

(1) the term "appropriate congressional committees" means—

(A) the Committees on Appropriations and International Relations of the House of Representatives; and

(B) the Committees on Appropriations and Foreign Relations of the Senate;

(2) the term "education reform" includes efforts to expand and improve the secular education system in Pakistan, and to develop and utilize a moderate curriculum for private religious schools in Pakistan.

UNITED NATIONS RESOLUTIONS ON ISRAEL

SEC. 5109. (a) The Senate makes the following findings:

(1) The United Nations General Assembly and United Nations Security Council have over a period of many years engaged in a pattern of enacting measures and resolutions castigating and condemning the state of Israel.

(2) Despite the myriad of challenges facing the world community, the United Nations General Assembly has devoted a disproportionate amount of time and resources to castigating Israel.

(3) During the fifty-seventh session of the United Nations General Assembly, the General Assembly adopted a total of 80 resolutions by roll call vote, 23 of which related to Israel and were opposed by the United States.

(4) The United States has a responsibility to promote fair and equitable treatment of all nations in the context of international organizations, including the United Nations.

(b) It is the sense of the Senate that the President, the United States Permanent Representative to the United Nations, and other appropriate United States officials should—

(1) work to dissuade member states of the United Nations from voting in support of United Nations General Assembly resolutions that unfairly castigate Israel; and

(2) promote within the United Nations General Assembly more balanced and constructive approaches to resolving the conflict in the Middle East.

(c) Section 406(b)(4) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 22 U.S.C. 2414a(b)(4)) is amended by inserting after "United States" the following: ", including a separate listing of all plenary votes cast by member countries of the United Nations in the General Assembly on resolutions specifically related to Israel that are opposed by the United States".

SENSE OF THE SENATE ON VIOLATIONS OF RELIGIOUS FREEDOM IN SAUDI ARABIA

SEC. 5110. It is the sense of the Senate that, in light of the designation of Saudi Arabia as a country of particular concern under section 402(b)(1)(A) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)(1)(A)) because the Government of Saudi Arabia has engaged in or tolerated particularly severe violations of religious freedom, the President should—

(1) under the authority in section 402(c)(2) and 405(c) of such Act, negotiate a binding agreement with the Government of Saudi Arabia that requires such Government to phase out any program, policy, or practice that contributes to the violations of religious freedom occurring or being tolerated in Saudi Arabia; or

(2) take an action described in one of the paragraphs (9) through (15) of 405(a) of such Act or a commensurate action under the authority in section 402(c)(1)(B) of such Act with respect to Saudi Arabia that the President determines is appropriate after consideration of the recommendations for United States policy made by the United States Commission on International Religious Freedom.

SUPPORT FOR THE POLITICAL INDEPENDENCE OF LEBANON

SEC. 5111. (a) The Senate makes the following findings:

(1) The United States has long supported the sovereignty, territorial integrity, and political independence of Lebanon and the sole and exclusive exercise by the Government of Lebanon of national governmental authority throughout that country.

(2) The continued presence in Lebanon of nongovernmental armed groups and militias, including Hizbollah, prevents the Government of Lebanon from exercising its full sovereignty over all territory in that country.

(3) The Government of Syria has had a military presence in Lebanon since 1976, and maintains approximately 20,000 troops in Lebanon.

(4) The Government of Syria continues to violate United Nations Security Council Resolution 520, adopted in 1982, which demands that "all non-Lebanese forces" leave Lebanon.

(5) Syria has, since 1979, been labeled by the Department of State as a state sponsor of terrorism.

(6) President George W. Bush signed an Executive order on May 11, 2004, that implements sanctions against the Government of Syria pursuant to the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Public Law 108–175; 22 U.S.C. 2151 note).

(7) United Nations Security Resolution 1559, approved on September 2, 2004, expressed support for a free and fair electoral process in the upcoming presidential election in Lebanon conducted according to constitutional rules adopted in Lebanon without foreign interference or influence.

(8) On September 3, 2004, the Government of Syria, according to numerous reports, exerted undue influence upon government officials in Lebanon to amend the constitution to extend the term of the President of Lebanon, Emile Lahoud, who is supported by the Government of Syria.

(b) It is the sense of the Senate that—

(1) the United Nations should seek a firm, negotiated schedule for the complete withdrawal from Lebanon of Syria armed forces in order to facilitate the restoration of the sovereignty, territorial integrity, and political independence of Lebanon;

(2) the Government of Syria should immediately withdraw its troops from Lebanon in accordance with United Nations resolutions;

(3) the Government of Syria should—

(A) cease its support and armament of terror groups such as Hizbollah; and

(B) facilitate efforts by the government and armed forces of Lebanon to disarm all nongovernmental armed groups and militias located in Lebanon and to extend central government authority throughout Lebanon; and

(4) the Government of Syria should cease efforts to derail the democratic process in Lebanon and to interfere with the legitimate electoral process in that country.

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005".

NATIONAL INTELLIGENCE REFORM ACT OF 2004—Continued

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Maine.

Ms. SNOWE. Mr. President, I rise today to speak to the monumental issue before us, the most profound, sweeping reform of our entire intelligence community in nearly 60 years, 3 years after the worst attack ever on American soil. As a member of the Senate Select Committee on Intelligence, I welcome this opportunity to discuss critical issues I believe must be addressed this year.

First, I thank the majority leader for his timely action and steadfast leadership ensuring that we have this legislation before us and we will complete action before we adjourn.

I also want to recognize my colleague, the chair of the Governmental Affairs Committee, the Senator from Maine, Ms. COLLINS, for her exceptional and tireless work over the past 2 months to produce this comprehensive legislation to reform our intelligence community, to rightly reflect the sense of urgency that this legislation deserves and certainly one we should consider. I applaud her for undertaking this historic effort and for guiding this legislation through her committee on a bipartisan basis.

As well, I want to express my appreciation to the ranking member, Senator LIEBERMAN, for his efforts in bringing us to this day. It truly was an enormous undertaking that was assigned to the Governmental Affairs Committee, and I want to thank them for all they have done to begin this debate this week on the intelligence reform bill.

As we begin these deliberations, I cannot help but be reminded that while the intelligence community reform has unquestionably taken on a new urgency, it is simply not a new issue. Since the first Hoover Commission in 1949, studies have been conducted, commissions have been established, and reports have been issued on how best to structure our intelligence community. Yet in spite of the over 50 years of debate on this issue, it was the morning of September 11 and all that followed that has resulted in us being where we are today on the Senate floor debating reform legislation and poised to accomplish what has alluded so many for so long.

To say that September 11 is a seminal moment for our Nation certainly would be an understatement. Indeed, that day will forever be etched in our minds and our national consciousness, just as it always will forever change the way we view the world. It was that day, more than any before, that catapulted us into a new era in which our Nation faced very different, more pervasive and inimical threats. It was a day that revealed in the starkest terms the truism that intelligence is now and must always be our best and first line of defense against a committed enemy who knows no borders, wears no uniform, and pledges allegiance only to causes and not states. It was a day that has proven that the intelligence community's old structure and old ways of doing business are insufficient for confronting the challenges of the 21st century.

But if September 11 provided the catalyst for reform, the failures in the prewar intelligence on Iraq's weapons of mass destruction programs provided even greater impetus for a major overhaul of the U.S. intelligence community, and that time for change is now upon us.

For over a year, the Senate Select Committee on Intelligence has focused intently on reviewing the prewar intelligence of Iraq's weapons of mass destruction program, the regime's ties to terrorism, Saddam Hussein's human rights abuses, and his regime's impact on regional stability. After the indepth analysis of 30,000 pages of intelligence assessment, source reporting, interviewing more than 200 individuals, the committee produced a report in early July that indisputably begs for intelligence community restructuring.

The report revealed a stunning lack of accountability and sound hands-on management practices throughout the community's chain of command. This lack of leadership and poor management allowed assumptions to go unchallenged, contributed to mischaracterizations of Iraq's weapons of mass destruction programs, and led to significant lapses in the intelligence community's responsibility to convey the uncertainties behind their assessments. In short, there was a lack of analytic rigor performed on one of the most critical and defining issues spanning more than a decade.

During our review, we learned that much of what analysts knew about Iraq's weapons of mass destruction program predated the gulf war, leaving them with little direct knowledge of the current state of those programs. The "group think" mentality that dominated analysis is just one of the intelligence failures this report illuminates.

Intelligence community managers, collectors, and analysts believed that Iraq had weapons of mass destruction, a notion that dates back to Iraq's pre-

1991 efforts to retain, build, and hide those programs, and in several circumstances the intelligence community made intelligence information fit into preconceived notions about Iraq's weapons of mass destruction programs. From our review, we know the intelligence community relied on sources that supported its predetermined ideas, and we also know that there was no alternative analysis or "red teaming" performed on such a critical issue. We also now know that most of the key judgments in the national intelligence estimate were overstated or were not supported by the underlying intelligence.

For example, the intelligence community insists that Iraq had chemical weapons. Yet this was based on a single stream of reporting. The intelligence community based its assessment that Iraq's biological warfare program was larger and more advanced than before the gulf war largely on a single source to whom the intelligence community never had direct access and with whom there were credibility problems. The intelligence community judged that Iraq was developing a UAV probably intended to deliver biological weapons. Yet there was significant evidence clearly indicating that nonbiological weapons delivery missions were more likely.

The committee's report also notes the lack of human intelligence on the Iraqi target and reveals, as the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001, also documented, that our intelligence community is averse to undertaking higher risk human intelligence operations, compelling our analysts to rely on inadequate, outdated, or unreliable intelligence.

The points raised form an inescapable indictment of the status quo. The facts speak for themselves, and they are a significant reason we are here today to debate issues of intelligence community reform. The men and women, the dedicated professionals of the intelligence community, who toil every day to protect our national security, must have a decisive, innovative, and centralized leadership and management structure as well as the requisite resources to perform this vital and often daunting task. While I acknowledge the need to be cautious and deliberate, in this era of unprecedented challenges, we must ensure our intelligence community is poised to confront these challenges, and we must act now. The status quo is clearly not an option.

On that note, I do happen to believe that we must create a national intelligence director and certainly that it would be a significant leap forward, and that is why I commend the committee for embracing this type of reform.

I also commend Senator FEINSTEIN for her leadership on this issue, and I am pleased to have joined with her several months ago, before the release of the September 11 Commission Report, in championing this idea of establishing a critical position, to be filled by a single person, independent from the day-to-day responsibilities of running a single intelligence agency and whose sole responsibility is to lead and manage the intelligence community. I believe our perspectives on the Senate Intelligence Committee and the work we did for more than a year and a half on Iraq's weapons of mass destruction program gave impetus to this notion and this idea that we clearly had to embark on major restructuring of the intelligence community.

I happen to believe that creating this central position is a significant component in the larger imperative of overall intelligence community reform because it simply just does not make sense today to have one person who is the Director of the Central Intelligence Agency also responsible for the entire intelligence community of the other 14 agencies. Rather, we need a national intelligence director whose dedicated leadership will ensure that consistent priorities are set and implemented, and that all the gears of our intelligence gathering, analysis, and reporting are synchronized and not ad hoc.

In fact, Dr. David Kay, who is the former director of the Iraq Survey Group, said such management changes in the intelligence community could have resulted in a very different national intelligence estimate than we received on Iraq weapons of mass destruction program. He noted that failures of analytic tradecraft, culture, management, and mismanagement of the information flow could have been alleviated with proper management and leadership.

Indeed, I asked Dr. Kay when he came before the committee in August:

> We know what went wrong. Could it have been a very different product?
>
> Could we have had a very different product in the NIE, if we had changes, organizationally, that we are speaking of?

That is a question posed of Dr. Kay. He responded:

> It could have been a very different product, in my judgment.

That is a very telling and significant statement. He said the national intelligence estimate, the estimate upon which we predicated war, upon which we made our decisions, based on the assessments that were included in that national intelligence estimate, could have been a very different product if we had an entirely different type of organization within the intelligence community.

I happen to believe that creating a national intelligence director would also facilitate a better atmosphere of objectivity, an element that has been sorely lacking in the intelligence community. Separating the Director of the Central Intelligence Agency from one specific organization would better allow the other 14 intelligence community agencies to be heard in the debates about the validity and veracity of intelligence information and analyses that have a direct effect on our national security.

A director of national intelligence would level the playing field when it comes to the competition of ideas and intelligence analysis. Currently, as the head of both the CIA, as well as the intelligence community, the DCI is the principal intelligence adviser to the President. This provides the CIA with unique access to policymakers. Although the goal of this structure was to coordinate the disparate elements of the intelligence community in order to provide the most accurate and objective analysis, this report reveals that in practice this arrangement actually undermines the provision of objective analysis.

Indeed, this committee's report on Iraq concluded:

> The CIA continues to excessively compartment sensitive human intelligence reporting and fails to share important information about [human intelligence] reporting and sources with Intelligence Community analysts who have a need to know.

Further the report concluded that:

> The CIA, in several significant instances, abused its unique position in the [intelligence community], particularly in terms of information sharing, to the detriment of the [intelligence community's] prewar analysis concerning Iraq's [weapons of mass destruction] programs.

One agency should not be able to control the presentation of information to policymakers, nor should an agency be able to exclude analyses from the other agencies. As the committee's report on the prewar intelligence on Iraq reveals, the Director of Central Intelligence was not aware of dissenting opinions within the intelligence community on the potential use for the aluminum tubes, despite the fact that the intelligence community had been debating the issue for well more than a year.

Since the Director was not aware of all the views of the intelligence agencies, he could only pass on the CIA's view to the President. This has to change. Policymakers must be aware of all views of all intelligence agencies on such crucial matters.

Some might say consolidating the leadership of the entire intelligence community under a national intelligence director might actually stifle healthy competition, that central planning will deprive decisionmakers of a full range of intelligence. I echo what Chairman Kean and Vice Chairman Hamilton have said:

> Competitive analysis is very important . . . no one can claim that the current structure fosters competitive analysis. Look at

> the Senate report on group-think with regard to Iraq. The current system encourages, we believe, group-think. . . .

In my view, to accomplish the task we have just discussed, the national intelligence director should be equipped with the authority commensurate with the responsibilities with which he is vested. We can no longer afford to have the Intelligence Committee unable to direct those resources.

As the Chairman of the 9/11 Commission indicated—he said in response to another question I posed when he testified before the Intelligence Committee with regard to George Tenet raising the red flag about the threat from al-Qaida:

> . . . a problem we have of communication between agencies . . . one of the best illustrations that hit me when I first heard about it is in 1998, when [the Director of the Central Intelligence Agency] George Tenet got it. What we are suggesting, I guess, is if you had that coordination and that declaration of war had been made under the system we recommend, the military, the diplomatic side, the intelligence side, they all would have gotten it.

If you can imagine when the Director of the Central Intelligence Agency had been talking about a major threat to the United States back in 1998, raising a red flag, going around Washington talking to whomever in order to get attention, to draw attention to this tremendous threat that al-Qaida and Osama bin Laden posed, that they were declaring war on the United States, and he could not get anyone's attention, never, ever again should we be in a position where the Director of Central Intelligence, now the director of the national intelligence community, should not be able to get the attention of the executive branch or of the Congress or of policymakers across the board within the intelligence community because he doesn't have the power to redirect resources or to redirect the attention or to make sure there is a collective focus on such a major threat.

There are a number of authorities that this legislation before us will provide the national director of intelligence. I think it is absolutely vital and critical that the national intelligence director have strong authority to redirect resources with respect to budget and personnel. There is no question that we must have a director of national intelligence who is vested with the kind of power and authority to command a centralized organization. This is not just about moving boxes around. It is vesting the authority within this individual to command the direction of the resources and the decisionmaking that is absolutely vital to establish the kind of strategic thinking across the intelligence community that heretofore has not been present.

Some have argued that providing the national intelligence director with these authorities equates to the loss of intelligence support to our warfighters. I do not dispute the fact that any successful intelligence reform must respect the military's necessity to maintain a robust organic tactical intelligence capability and to have rapid access to national intelligence assets and information.

I would argue that providing the national intelligence director with the authorities commensurate to his responsibilities, by providing him the ability to better coordinate and manage the entirety of our Nation's intelligence operations, could improve national support to our military operations, both strategically as well as tactically.

One of the national intelligence director's greatest responsibilities will be to secure national intelligence support to our warfighters and ensure that strategic information of tactical importance is expeditiously delivered to our soldiers, seamen, airmen and marines. There is no question but that the men and women of our Armed Forces deserve and must continue to receive the best, most timely actionable intelligence. So I believe that creating this position will also improve the accountability within the intelligence community, an issue that also has been a focus of mine for the past 20 years.

I saw firsthand the consequences of serious inadequacies in accountability during my 12 years as a member of the House Foreign Affairs International Operations Subcommittee and as chair of the International Operations Subcommittee of the Senate Foreign Relations Committee.

During the 99th Congress back in 1986, I worked to bring to the State Department an accountability review board as part of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986. I think about those times because accountability becomes a critical component as we ensure that our agencies are responsive to the threats that are posed to America, to Americans, to American interests here as well as abroad.

As a member of the Senate Intelligence Committee, I look back to that time. That is why I think it so critical to ensure that in every phase of the new challenges that we are facing we also incorporate the kind of accountability that compels our policymakers, our officials, and agencies responsive to those threats. As a member of the Senate Intelligence Committee, I continue to see that there is a stunning lack of accountability within the community.

The committee's review of the prewar intelligence on Iraq's weapons of mass destruction is replete with information-sharing failures, analytic failures, and collection failures. It is imperative that these failures, many of which were identified in the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, are not repeated. As former United Nations weapons inspector Dr. David Kay told the Intelligence Committee at one of our reform hearings, " . . . intelligence reform without accountability will not achieve the objective we all share to avoid repeating the clearly avoidable tragedy of 9/11 and the equally avoidable failures in analysis that marked the Iraq WMD program."

That is why back in 1986 we created an accountability review board in the State Department because of embassy security, because of the threat posed by terrorists back in the 1980s. We had the Inman Report in 1983, and we responded to that. We redesigned embassy security, both physical, perimeter security, intelligence security, and we didn't want any more lapses and failures in that regard. That is why we set up the accountability review board—so we can ensure that these measures put in place are implemented and strongly enforced.

I think the same is true here. We have to ensure there will be accountability. In the aftermath of the World Trade Center bombing in 1993, there was a failure of information sharing among the agencies. Again, it was another lapse in failure among agencies. Even after 9/11 we are now examining failures again of information sharing—replete with failure.

It seems to me that we have to redesign the system to ensure that we have the kind of accountability we should demand rightfully of those who are in positions of authority to implement these responsibilities and obligations. That is why I think it is critical that we incorporate these types of reforms which will be essential.

I concluded after my examination of what went wrong with our pre-war assessment concerning Iraq's WMD program and the reality posed to the military phase of Iraq that one way to prevent these lapses in the future is to inject more accountability into the intelligence community. That is why I introduced legislation in June to create the office of inspector general for intelligence.

The intelligence community lacks a single, overarching intelligence communitywide investigative entity that bridges the gap between and among all the various agencies in order to identify problem areas to ensure critical deficiencies are addressed before they become crises or tragedies, and to develop and ensure the implementation of the most efficient and effective methods of intelligence gathering and interpretation.

What is required, in my view, is an inspector general for the entire intelligence community. The agencies now have their own individual inspector generals. But I happen to believe that this newly created office would assist in instituting better management accountability and would help the national intelligence director resolve problems within the intelligence community.

I am very pleased that the legislation we are debating today includes—again I thank the leadership of the chair of the committee, Senator COLLINS, for including a provision to create an office of inspector general for the entire community. That inspector general has the ability to initiate and conduct independent investigations, including investigating current issues within the intelligence community, not just conduct "lessons learned" studies, not just a retrospective, but prospective to identify the problems that may be there, may be present in the intelligence community, and to have that strategic view of what is going wrong and make sure we can also prevent and preempt the problems before they take place.

This new office will seek to identify problem areas and identify the most efficient and effective business practices required to ensure that critical deficiencies can be addressed before it is too late, before we have another intelligence failure, and before lives are lost.

In short, an inspector general who can look across the entire community will help improve management and coordination, and cooperation and information sharing among the intelligence agencies—again, another dynamic that will help to ensure and enforce the kind of information sharing that clearly has been lacking up to this point.

The inspector general also will help break down the barriers that have perpetuated the parochial, stovepipe approaches to intelligence community management and operations.

Again, I commend the work of the authors of this underlying bill, Senator COLLINS for her dedication, and Senator LIEBERMAN for working together to include this recommendation of creating the inspector general in the office of the national intelligence director.

The authors of this bill have crafted extensive language creating and defining this vital agent of accountability. I look forward to further working with them to complete the creation of an independent IG, and to ensure that proper accountability to the director of the national intelligence, to the President and to Congress, and ultimately to the American people is carried forward.

In addition, I hope I can work with the committee on several other issues and amendments to enhance this legislation.

For example, as I have been reviewing this legislation, and as we look at the pre-war intelligence, it was apparent that the intelligence community relied on forces that supported this predetermined idea and found there was no alternative analysis or "red teaming" performed on critical issues, allowing assessments to go unchallenged year after year, and certainly for more than a decade with respect to Iraq.

While this bill includes provisions for an analysis review unit, I also think we must consider the ability for the community to look at alternatives in that area as well. It is very important to have that type of dynamic within the intelligence community, to think out of the box, to think creatively and innovatively and not just be confined to the assumptions that have been carried over, to preconceived notions that were so inherent in all of the pre-war assessments with respect to Iraq's WMD program.

This bill also mandates that the national intelligence council produce national intelligence estimates. I believe this process must be made a little more automatic and transparent and a little ad hoc. I believe that the national intelligence council should report to us what they can do to streamline that process.

I also believe we should have the National Counterterrorism Center report to us in a year about what they are doing and whether they are meeting the mark. This bill already requires a report from the national director of intelligence. But I think it would also be important to hear from the Director of the National Counterterrorism Center the lessons learned in the establishment of capability before we move to set up other centers. The creation of a national intelligence director and improving the community's accountability through the creation of an inspector general are but two of the many issues in the ongoing debate on intelligence community reform. Indeed, it has been an extremely challenging year for the intelligence community and those who work in it, one in which we saw every aspect of the intelligence process come to the fore at one time or another.

From the tactical collection and analysis of on-the-ground intelligence by our battlefield commanders in Iraq that led to the capture of Saddam Hussein, to the global search for the information that led to the exposure of Aq Khan's nuclear proliferation network, to the decision to commit troops to the field in Iraq, it became obvious to every American that timely and quality intelligence is imperative if we are to be successful in defeating the forces that have pledged themselves to the destruction of America.

I think all of these events highlight how abundantly crucial it is to ensure that we have the leadership with the requisite authority to ensure that the collection, analysis, and dissemination of intelligence information is as synchronized, accurate, and as comprehensive as it possibly can be, and that it represents the very best judgment of the intelligence community when it is provided to the national policymakers who rely on that information to make the most profound of decisions.

Of course, intelligence reform must include reforming oversight of not only the intelligence community. Ideally, this should have occurred in tandem. Congress must not abrogate its responsibility to seriously tackle the oversight issue. As 9/11 Commissioner Lehman said, it is like one hand clapping, if you only do the executive branch this year. Hopefully we will be able to pursue those initiatives shortly as well.

In the final analysis, it is apparent to me that the intelligence structure put in place over 50 years ago was one that focused primarily on developing intelligence to counter a military threat that is no longer sufficient for confronting the asymmetrical threats we are now confronting in the 21st century—a century in which our enemies no longer make distinctions between our battlefields and our backyards.

So, therefore, we must develop a lighter and more agile intelligence capability that can keep pace with the kind of enemy we are now fighting—one that is elusive, one that does not need a large land-based military capability to bring the fight to us.

This legislation will bring America the agility we require, the ability to reform our intelligence apparatus into an adaptable organization prepared to anticipate and prepare for future threats.

I look forward to working with my colleague again, the Senator from Maine, who I congratulate again for bringing this most timely, this most forthright, comprehensive, very sound framework for intelligence reform and working with them on the issues I might propose with my refinements and enhancements to the underlying bill.

I hope in due course of this week or the following week, however long it takes before we adjourn, to complete this process, to pass this legislation, not only in the Senate but the overall Congress, so the President can sign this legislation because clearly it must be done forthwith. This is something the American people and the future of this Nation deserve.

I yield the floor.

Ms. COLLINS. Mr. President, I congratulate the senior Senator from Maine for her comments and her work on this issue. As a member of the Intelligence Committee she has understood very early the need for significant intelligence reform. The provisions included in the Collins-Lieberman bill that created an inspector general for the new national intelligence authority are the direct result of the legislation sponsored by the senior Senator from Maine.

I thank the Senator for her expertise and her leadership. This is an area, as she indicated, on which she has been working for many years. We very much value her contributions to the debate.

I know of no other requests to speak tonight.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands in adjournment until 9:45 a.m., Tuesday, September 28, 2004.

Thereupon, the Senate, at 6:32 p.m., adjourned until Tuesday, September 28, 2004, at 9:45 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, September 28, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 29

9:30 a.m.

Indian Affairs

Business meeting to consider pending calendar business; to be followed by an oversight hearing on lobbying practices involving Indian tribes.

SH–216

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine recommendations of the 9/11 Commission, focusing on efforts to identify and combat terrorist financing.

SD–538

2 p.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine the controversy over embryonic stem cell research.

SR–253

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 2410, to promote wildland firefighter safety, H.R. 1651, to provide for the exchange of land within the Sierra National Forest, California, S. 2378, to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport, H.R. 2400, to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam, H.R. 3874, to convey for public purposes certain Federal lands in Riverside County, California, that have been identified for disposal, H.R. 4170, to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior, and S. Res. 387, commemorating the 40th Anniversary of the Wilderness Act.

SD–366

3 p.m.

Foreign Relations

To hold hearings to examine the nominations of Ryan C. Crocker, of Washington, to be Ambassador to the Islamic Republic of Pakistan, Marcie B. Ries, of the District of Columbia, to be Ambassador to the Republic of Albania, Catherine Todd Bailey, of Kentucky, to be Ambassador to the Republic of Latvia, and Douglas Menarchik, of Texas, to be an Assistant Administrator of the United States Agency for International Development.

SD–419

SEPTEMBER 30

9:30 a.m.

Judiciary

Business meeting to consider pending calendar business.

SD–226

10:30 a.m.

Energy and Natural Resources

To hold oversight hearings to examine issues related to low-level radioactive waste.

SD–366

Governmental Affairs

Financial Management, the Budget, and International Security Subcommittee

To hold oversight hearings to examine Section 529 College Savings Plans, focusing on fees, disclosure, state tax treatment and broker sales practices.

SD–342

2 p.m.

Veterans' Affairs

To hold hearings to examine the nominations of Mary J. Schoelen, of the District of Columbia, and William A. Moorman, of Virginia, each to be a Judge of the United States Court of Appeals for Veterans Claims, and Robert Allen Pittman, of Florida, to be an Assistant Secretary of Veterans Affairs for Human Resources and Administration.

SR–418

2:30 p.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold oversight hearings to examine the security of Internet Root Servers and the Domain Name System (DNS).

SR–253

OCTOBER 5

9:30 a.m.

Foreign Relations

To hold hearings to examine the progress of the Millennium Challenge Corporation.

SD–419

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Tuesday, September 28, 2004*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

King of our lives, in sunshine or in shadows, we belong to You. You speak to us in both our moments of joy and sadness. We hear Your whispers through our pain. You prepare the earth for harvest and Your rivers never run dry.

In an uncertain world, we can turn to You for security. Thank You for forgiving us and for chasing away our gloom. You confuse those who seek to harm us, and You shield us with Your amazing grace and love.

Continue to guide and bless our Senators. Give them a peace more profound than anything the world can offer. Use them to bless our Nation and world. Keep them from temptation and deliver them from evil, for the kingdom, the power, and the glory belong to You. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will begin a period of morning business for up to 60 minutes. The majority will control the first half of that time and the minority will control the remaining second half. Following the 1 hour of morning business, the Senate will resume the pending intelligence reform legislation.

I do once again congratulate the chairman and ranking member, Senators COLLINS and LIEBERMAN, for their opening remarks yesterday. I am pleased we are now underway on this historic bill. We had a good start yesterday. We had a number of Members participating in the debate yesterday. Three amendments were offered, and they are now pending.

It would be my hope we could continue to make progress on the bill over the course of today, continue the good progress from yesterday and dispose of a number of amendments in addition to the ones that have been offered. Thus, we can expect votes over the course of the day on the intelligence reform amendments.

As is usual on a Tuesday, we will be breaking from 12:30 to 2:15 for the weekly policy luncheons. Again, as I mentioned yesterday, as we all know, we have scheduling challenges over the course of the week during the nights, which in many ways is good because it means we absolutely must focus, beginning right up front in the morning, and work through the day to process the bill, to process amendments, and to, of course, vote.

Again, I think every evening this week there are major commitments by both caucuses and the caucuses working together. Thus, we really absolutely must continue to work aggressively over the course of the day. There are a lot of people with a whole range of amendments to offer. We have had a long time for people to both now look at the bill but also, since late July, to have Senators and their staffs address the important issues and the recommendations which were made public in late July by the 9/11 Commission and since that time through a lot of hearings during August in the Governmental Affairs Committee that had a superb markup where a number of amendments were offered, debated, and adopted.

It gave the Senators on that committee the opportunity to highlight the important issues, to dispose of a number of them, but also, I believe, to make it so on the floor, when we address amendments that are similar to and in some cases maybe even the same amendments, we can deal with those in very expeditious ways since so much groundwork has been laid.

I am going to encourage, with the leadership on both sides of the aisle, the managers to gather these amendments just as soon as possible. All 100 Senators need to recognize that we have very few days, really just a few more than a handful of days, before we depart on October 8. Although we have dealt with many of these issues over the last several days and weeks, it is critical that we see the amendments so we can plan out the next several days on the bill. I have encouraged all of our colleagues to bring those amendments to the managers today, this morning.

With that, I will close my remarks and turn to the Democratic leader either for general comments or comments on the course of the week.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

INTELLIGENCE REFORM AND SCHEDULE

Mr. DASCHLE. Mr. President, I confirm the schedule as Senator FRIST has laid it out. The majority leader has been very clear about the intent that we both have to try to finish this work as quickly yet as thoroughly as we can. I would hope that we could work on a finite list. I would hope that we could reach time agreements on amendments. This is a piece of legislation that should be familiar to all Senators. It has been out there. The committee has done very good and deliberative work on both sides. It has been one of the better demonstrations of the cooperation that we used to take for granted around here. I would hope that we could continue to show that same level of cooperation as we work through this bill.

I reiterate my strong support for what the majority leader has noted. He may have said this, and I just didn't catch it, but I know we have to take up some expiring legislation this week. We have a CR. We have a transportation bill. We have TANF. All of that has to be addressed this week as well. It is my hope that we can get agreements on those and not devote a good deal of time on the Senate floor to those and keep our focus first on 9/11 and then other agreements we could get on appropriations bills. We will work throughout the day to clarify the schedule with regard to those bills.

ENSURING A STRONG FARM CREDIT SYSTEM

Mr. DASCHLE. Mr. President, the Farm Credit System is a nationwide network of borrower-owned financial institutions consisting of four farm-credit banks, one agricultural-credit bank, and nearly 100 locally owned farm-credit associations.

These institutions were created as a result of the 1916 Farm Credit Act, whose fundamental purpose was to establish a network of government-sponsored enterprises that would provide America's farmers and ranchers with a reliable source of credit at fair and competitive interest rates.

Over the years, the Farm Credit System has provided critical credit and related services to farmers, ranchers, rural homeowners, farm-related businesses, and cooperatives, including rural utilities.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

In fact, the Farm Credit System provides over $90 billion in loans to more than a half-a-million producers, agribusiness, and agricultural cooperatives. Overall, more than 25 percent of the credit needs of American agriculture are met by these important farm credit institutions.

These institutions have the unique attribute of being organized as cooperative businesses, each owned by its member-borrower stockholders, who have the right to participate in director elections and vote on issues impacting business operations.

One of the largest farm-credit institutions serving South Dakota is Farm Credit Services of America, or FCSA. FCSA also provides services in Iowa, Nebraska, and Wyoming, and it holds nearly $8 billion in assets, which is about 8 percent of the entire Farm Credit System portfolio.

On July 30, the board of FCSA approved an agreement to be acquired by the Rabobank Group, a Dutch banking giant and international farm lender.

The agreement is subject to approval by the regulatory agency which oversees these institutions—the Farm Credit Administration or FCA. It is also subject to stockholder approval and the expiration or termination of antitrust waiting periods.

Under the agreement, FCSA would become a wholly-owned subsidiary of Rabobank and would seek to exit the Farm Credit System under the termination provisions of the FCA's regulations.

FCSA has over 51,000 farmer and rancher customers—thousands of which are in my State of South Dakota.

Having spent a great deal of time in South Dakota over the past few months, I can say without any doubt that this proposed sale of one of our leading Farm Credit System institutions to a foreign bank has created a whirlwind of confusion and uncertainty.

While the tentative deal would pay producer-members $600 million in patronage, FCSA would also have to pay the Federal Government an $800 million "exit fee," which is required should a member-institution pull out of the system.

The $800 million would go to the system's insurance fund. If the agreement is approved, FCSA would no longer exist.

At the same time, another banking interest—AgStar, which is also part of the Farm Credit System, and which operates out of Minnesota—has also sought to enter into a merger with FCSA.

Under AgStar's proposal, the new, merged AgStar would pay producers-owners $650 million in patronage—a full $50 million more than the Rabobank offer.

Plus, AgStar would not have to pay the $800 million termination fee that the Rabobank deal would require.

Finally, AgStar would make a commitment to provide future patronage payments to farmers and rancher-owners.

Looking solely at these figures, the Babobank offer appears questionable. But a decision like this should not be taken lightly, and more time is needed to fully analyze all the facts and determine what would be in the best interest of the producer-owners of FCSA, and in the best interest of the overall Farm Credit System.

Senator JOHNSON and I have sought to ensure that public hearings on these matters be held by both the FCA and the appropriate committees in Congress.

The FCA has said that they will hold at least one meeting or hearing. In addition, the first of what I hope could be several congressional hearings will be held by a House Agriculture Subcommittee tomorrow.

Unfortunately, the current time line under which the Farm Credit Administration must operate would require a decision within 60 days of FCSA's submission of a termination notice—a notice which could be filed as early as this week.

If the FCA approves the sale, a final vote by the FCSA shareholders could theoretically come before the end of the year, when Congress will likely be out of session.

It would be extremely difficult for the FCA to hold the public meetings or hearings that many of us think are needed, and make a thoughtful decision about the termination, within the initial 60-day time frame.

That is why, today, Senator JOHNSON and I are introducing legislation to ensure that when a Farm Credit System institution seeks to leave the system and terminate its status, the FCA will hold no less than one public meeting or hearing in each of the States in which that institution is chartered.

In this case there would be no less than one meeting or hearing in South Dakota, Iowa, Nebraska and Wyoming.

The bill would also require the FCA to wait at least six months before making a decision on the termination request by the institution—in this case, FCSA.

At best, the proposed sale of FCSA to Rabobank raises more questions than answers.

Farmers and ranchers in South Dakota and in the other impacted States fear they will have to vote on a deal before studying it and having all the appropriate information they need.

And the Farm Credit Administration, which is not a large agency, is at risk of being overburdened by an unrealistic time line.

A decision to leave the system is really monumental in the world of rural credit, and it could have a huge impact on rural America.

The Farm Credit System has served our Nation's rural communities exceedingly well for nearly 90 years.

Before any action is taken that may jeopardize that impressive record, we need to ensure that farmers, ranchers, and rural residents, as well as members of the FCA, have the time they need to analyze this profoundly important decision and reach the right conclusion.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SMITH). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee and the final 30 minutes under the control of the Democratic leader or his designee.

The PRESIDING OFFICER. The majority leader is recognized.

INTELLIGENCE REFORM

Mr. FRIST. Mr. President, on leader time—and we will come right into morning business shortly—I want to continue on the intelligence reform bill that is underway and make a very brief statement. Just a few minutes ago, the Democratic leader and I urged our colleagues to come forward and submit their amendments. We just had further discussion with the assistant Democratic leader. Over the course of the day, we must see these amendments.

Today, we continue debate on a bill to overhaul the intelligence community of the United States Government. It is a huge undertaking. The reforms are the most comprehensive since the National Security Act of 1947. But nothing less than the security of the United States of America is at stake.

We have determined enemies who will use any means available to take the lives of as many Americans as possible. They cheered when the Twin Towers fell. They dream of even larger calamities.

They must be stopped. And that requires an intelligence system that finds them, before they harm us.

Under the leadership of Senator COLLINS and Senator LIEBERMAN, the Government Affairs Committee has produced a bill that is worthy of this task. It was passed unanimously out of committee.

It has received support from the White House.

And it is supported by the Senate leadership.

The Senate will examine this legislation in a comprehensive and deliberate manner. We will be focused and expeditious.

We have a unanimous consent agreement that restricts amendments "to the subject matter of the bill or related to the 9/11 Commission recommendations."

I urge Senators that if they have, or are considering, amendments that they inform or file them with the manager today.

I am confident we will come to agreement on this package in a timely manner. I know that it is ambitious, but my hope is that we can complete this bill by the end of this week. This would give us time to conference with the House.

Reforming the executive branch and the legislative branch is key to improving the security of the American people and our great Nation.

I am proud to say that we have worked in a bipartisan manner at every level, from individual Members, through committees, to leadership.

We have also worked closely with the administration, which has embraced the findings and recommendations of the 9/11 Commission.

The administration has taken additional measures to further improve our counter-terrorism and intelligence efforts. These efforts deserve our praise.

The committee has worked to produce a bill that addresses fundamental issues facing our intelligence community. It contains a number of key recommendations consistent with the 9/11 report.

First, and most critically, the legislation creates a national intelligence director with robust budgetary and personnel authority over the intelligence community.

As recommended by the 9/11 report, the NID will be the President's primary intelligence advisor. This official will be Senate-confirmed and separate from the CIA Director. The NID's primary mission is to break down stovepipes, and knit the intelligence agencies into an agile and effective network.

The NID will develop and present to the President the annual budget request for the National Intelligence Program. Critically, the national intelligence director will receive the appropriation for the program.

The NID also will have parallel authority over major acquisitions funded through the appropriations that the NID will control.

The NID will have the authority to transfer funds within the National Intelligence Program. He or she will have authority to set our intelligence priorities.

The director will set standards for security, personnel, and information technology across the intelligence community.

The director will also play an active role in selecting the heads of the key entities in the National Intelligence Program.

Critically, the legislation requires the NID to provide intelligence that is independent of political considerations. To this end, the legislation establishes an analytic review unit to provide an independent and objective evaluation of the quality of analysis of national intelligence.

The NID will chair a cabinet-level Joint Intelligence Community Council. The purpose of the council is to advise the NID on setting requirements, financial management, and establishing policies across the intelligence community.

The council will help ensure the implementation of a joint, unified national intelligence effort to protect national security.

In addition to creating the national intelligence director post, the committee bill also establishes the National Counter Terrorism Center. Currently, our intelligence agencies are not maximally integrated in their efforts against terrorism. The committee seeks to remedy that through the creation of the counterterrorism center. The center will have a directorate of intelligence—in essence, a national intelligence center to integrate intelligence capabilities against terrorism.

The National Counterterrorism Center will also have a directorate of planning to develop interagency counterterrorism plans, assign agencies' responsibilities, and monitor implementation.

The center's directorate of planning will concentrate on developing joint counterterrorism plans, meaning plans that involve more than one agency. Such planning will be at both the strategic level, such as "winning hearts and minds" in the Muslim world, and at an operational level, such as hunting for bin Laden.

In addition to these two major reforms—the national intelligence director and the counterterrorism center—the legislation also includes provisions to strengthen the FBI and transform the CIA's capabilities.

The legislation before us is comprehensive. It is ambitious. And it contains the reforms that are critical to strengthening the intelligence community and protecting our country.

I am confident that this overhaul of our intelligence community—the largest since 1947—and the pending overhaul of the Senate oversight of intelligence—the largest in three decades—will make our country safer and more secure. We have no higher responsibility to our fellow Americans than protecting the homeland. Our lives, our freedoms, our liberties are at stake.

We have made tremendous progress in the days since 9/11. We've taken a hard look at our intelligence system, what it did right, where it went wrong. Many dedicated men and women have spent countless hours examining the facts and finding ways to fix the system. I am confident that the United States Senate will do our part to defend the homeland and make America more secure.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

WELFARE REFORM

Mr. SANTORUM. Mr. President, I will be offering a unanimous consent request to try to move forward on welfare reform and try to move this vitally important issue that affects millions of Americans out of the Senate and toward passage of an extension. Today, the House is going to pass an extension, and I hope we will also.

I think it is unfortunate that we are left in the position that we are not able to pass a welfare reform bill in the Senate, in spite of the fact that an amendment on the underlying bill passed $1.2 billion in new daycare spending. That has always been the mantra of those who oppose welfare reform and work requirements, that there wasn't enough money for daycare. Yet $1.2 billion was added to the welfare bill, and we had attempt after attempt to move that bill to conference. So far, we have not been able to do so. As a result, we are here for another extension.

We have had several extensions over the last 2 years. The problem with these extensions—let me make this point—is that the current welfare system was put into place in 1996. It had very tough work requirements. It had work requirements that were tied to caseload reduction. What happened is we have had such a successful program over the last 8 years that almost all of the States have met their caseload reduction and therefore no longer have work requirements.

So what we are seeing is that gradually, slowly, a lot of these States that have reduced their caseload are falling back under work requirement—not requiring work and not requiring the transformative value that this new welfare system that was put into place in 1996 has given to millions of women and children in poverty over the last 8 years. If we just continue the 1996 bill, which was great in its time—it achieved what it wanted to achieve and needed to achieve. Now we need to ratchet it up to make sure the work requirement is maintained and that we are still moving people out of poverty into work. So this extension I am going to offer does not accomplish that. That is disappointing.

I hope to later on maybe offer an opportunity to go to conference, but for now, I want to offer a unanimous consent request to extend the current welfare bill for another 6 months and add two minor provisions that the Senator from Indiana, Mr. BAYH, and I have been working on now for quite some time in a bipartisan fashion.

The two provisions deal with fatherhood, money that was not provided in the 1996 Welfare Act to encourage responsible fatherhood. There is $100 million for that provision and also $200 million to do a whole variety of things to try to educate and encourage responsible marriage, if you will; responsible fatherhood, responsible marriage, encourage fathers and mothers who are having children outside of wedlock.

Let me give at least one example of how this money could be used. There was a study done at Princeton University which said that when a mother would apply for welfare with a child born out of wedlock, 80 percent of the mothers who applied for welfare in this study, done by a liberal professor from Princeton, said they were in a relationship with the father of the child. When the father of the child was asked, 80 percent said they were interested in marriage. So we have a mother and a father who in 80 percent of these cases that were studied said they were in a relationship at the time that welfare was applied for, which is certainly after the child's birth, and they were interested in marriage. Yet within a year's time, less than 10 percent of those couples were together.

The point here is that Government does nothing, other than attach the father's wages for child support, to encourage that relationship or help that relationship prosper. All we are interested in is getting the money out of the hide of the father, which is not necessarily what nurtures a relationship.

All we are suggesting is that if a mother and a father come in and say, yes, we are in a relationship, and, yes, we are interested in marriage at the time we are having this child, cannot the Government do something to help that situation? It is a very difficult time in these two young people's lives. They are going through a lot of stresses and strains. It is hard enough to have a child when you are married, much less when you are not married, and the difficulties associated with that. Could we pay for counseling? Could we pay for a faith-based organization to bring them in and help them get through these difficult times to nurture this relationship so the child of these two parents could have an opportunity to have a mother and a father in the home in a stable relationship?

If we look at the benefits of marriage, they are overwhelming. Social scientist after social scientist has come in to testify before the Finance Committee in a hearing earlier this year from the left and the right and they said: There is no argument here, marriage is beneficial for children.

It is beneficial for children because they have better school performance and there are fewer dropouts, fewer emotional and behavior problems, less substance abuse, less abuse and neglect, less criminal activity, fewer out-of-wedlock births. Everything we look at, marriage is a benefit to children. Why is the Government neutral on marriage? Why, if a couple is interested in marriage, can't we at least provide them some of the resources they need to build that relationship instead of just saying: Here is childcare dollars; if you want to get married, that is fine, we don't really care one way or the other; here are your childcare dollars and here are your whatever other dollars and that is all we care about. That is a short-term help for moms and children, but to have a stable, loving father and mother relationship is the best long-term help we can provide. But we do nothing. We are silent.

What we are proposing here is to try to do something to provide some resources through responsible fatherhood programs to—in this case, these programs are trying to bring in fathers who have not been involved in their children's lives—find mentoring programs and other programs funded through the nonprofit arena to help bring fathers back into the lives of their children. Children need moms and dads, and responsible mothers and responsible fathers are optimal. Senator BAYH has been a leader on this issue, along with Senator DOMENICI. I have worked also to try to get more responsible fathers back into the lives of their children.

Look at the statistics when it comes to fathers involved in children's lives: A child is two times more likely to abuse drugs if the father is not in the home, two times more likely to be abused if the father is not in the home, two times more likely to be involved in crime, three times more likely to fail in school, three times more likely to commit suicide, and five times more likely to be in poverty. That is what fatherlessness does to children.

This extension I am asking for is a straight extension, no other changes, simply two modifications: One, $100 million to help bring fathers back into the lives of these children to help improve some of these horrendous statistics we see here, and, two, to simply have some support where Government is no longer neutral, I would argue even against by enabling, if you will—I won't say survival because it is beyond that—but enabling women and children to go forward without fathers. You can make an argument it is beyond neutral, that we are empowering through Government money mothers not to need fathers as much as they did before all these programs were out here.

What we are saying is let's at least, if they express an interest in marriage, see if we can help them through this process. It is a straight extension, plus $100 million for fatherhood and $200 million for marriage programs.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 714, S. 2830; that the bill be read a third time and passed and the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, we on this side note the intentions of the Senator from Pennsylvania. The two programs he talks about extending certainly have merit. I think if we had the opportunity to discuss them, offer amendments, and debate them, we could complete that very quickly.

The problem is that during the consideration of the welfare bill in March, the Senate passed a bipartisan amendment by a vote of 78 to 20 to put in $6 billion in childcare funding. It is my understanding the amendment my friend from Pennsylvania offers does not include that.

My question is, why should we create two new programs untested—but they appear to have some merit—without extending additional resources for childcare, something we know the Senate agrees to and we know parents need to succeed in the workplace?

I ask my friend, will the Senator modify his request to include the Snowe-Dodd amendment? If this were done, I think we could move forward on this very quickly.

Mr. SANTORUM. Mr. President, I would be willing to offer another unanimous consent request to take care of the very issue the Senator from Nevada has mentioned, which is I will offer another unanimous consent request to simply go to conference on the bill that is still pending in the Senate that has the $1.2 billion in the Dodd-Snowe amendment and send it to conference, and let's get this bill done.

So I am willing to go to conference on that bill. In fact, if we can first dispense with this first unanimous consent request, I would be happy to offer a second one.

The PRESIDING OFFICER. Is there objection to the first unanimous consent request?

Mr. REID. To the second?

The PRESIDING OFFICER. To the first.

Mr. REID. To the first? Yes.

The PRESIDING OFFICER. An objection is heard.

Mr. SANTORUM. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 305, H.R. 4; the committee substitute be agreed to; the bill, as amended, be read a third time and passed; and the motion to reconsider be laid upon the table. I further ask consent that the Senate insist upon its amendment, request a conference with the House, and the Chair be authorized to appoint conferees.

This is the welfare bill the Senator from Nevada described, the bill with

$1.2 billion in new child care funding per year in mandatory spending. We have had this thing bound up in the Senate. The Senator asked would I be willing to amend my request. I have, in essence, done that.

Now we can send this bill to conference. We can start working on it with the House and maybe we can get a new welfare bill instead of having an extension, which I would agree with the Senator from Nevada is not adequate because, in the eyes of the Senator, it does not provide enough daycare money. I would say it is not adequate because it does not require work anymore. Most States in the country now do not have to have work requirements because of the way the 1996 law was written.

I agree with the Senator, this is the better solution. So I ask that unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I did not quite get what the unanimous consent was.

Mr. SANTORUM. Mr. President, I would be happy to read it again, but in essence it is to take the bill on the calendar now, which has the Snowe-Dodd amendment in it.

Mr. REID. H.R. 4?

Mr. SANTORUM. H.R. 4. And send it to conference and ask for a conference with the House.

Mr. REID. Mr. President, reserving the right to object, we have the timeline on this bill so it is unnecessary to go through it. I ask unanimous consent that it be printed in the RECORD as to what has happened.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BILL SUMMARY AND STATUS

H.R. 4—WELFARE EXTENSION

2/13/2003, 2:35 p.m.: H. Amdt. 2—On agreeing to the Kucinich amendment (A001) Failed by recorded vote: 124–300 (Roll No. 27).

2/13/2003, 2:38 p.m.: H. Amdt. 3—Amendment (A002) in the nature of a substitute offered by Mr. Cardin (consideration: CF H530—546, H547–550; text: CR H530–542. Amendment in the nature of a substitute sought to expand state flexibility to provide training and education, increase to 70 percent the number that are required to be engaged in work related activities, provide states with an employment credit, maintain the current participation requirement, maintain the time limit on Temporary Assistance for Needy Families (TANF) benefits, increase child care funding by $11 billion over the next 5 years, and remove barriers to serving legal immigrants.

2/13/2003, 3:49 p.m.: H. Amdt. 3—On agreeing to the Cardin amendment (A002) Failed by recorded vote: 197–225 (Roll No. 28).

2/13/2003, 3:50 p.m.: Mr. Cardin moved to recommit with instructions to Ways and Means (consideration: CR H550–552; text: CR H550).

2/13/2003, 4:15 p.m.: On motion to recommit with instructions Failed by the Yeas and Nays: 197–221 (Roll No. 29).

2/13/2003, 4:21 p.m.: On passage Passed by the Yeas and Nays: 230–192 (Roll No. 30) (text: CR H499–513).

2/13/2003, 4:21 p.m.: Motion to reconsider laid on the table Agreed to without objection.

2/13/2003: Received in the Senate and Read twice and referred to the Committee on Finance.

9/10/2003: Committee on Finance. Ordered to be reported with an amendment in the nature of a substitute favorably (Markup report: National Journal, CQ).

10/3/2003: Committee on Finance. Reported by Senator Grassley with an amendment in the nature of a substitute. With written report No. 108–162. Minority views filed.

10/3/2003: Placed on Senate Legislative Calendar under General Orders. Calendar No. 305.

3/29/2004: Measure laid before Senate (consideration: CR S3219–3254, S3256–3278; text of measure as reported in Senate: CR S3219–3254).

3/29/2004: S. Amdt. 2937—Amendment SA 2937 proposed by Senator Grassley for Senator Snowe (consideration: CR S3260, S3273–3274). To provide additional funding for child care.

3/30/2004: Considered by Senate (consideration: CR S3324–3345).

3/30/2004: S. Amdt. 2937—Considered by Senate (consideration: SR S3324, S3334–3335).

3/30/2004: S. Amdt. 2937—Amendment SA 2937 agreed to in Senate by Yea-Nay Vote. 78–20. Record Vote No. 64.

3/30/2004: S. Amdt. 2945—Amendment SA 2945 proposed by Senator Boxer (consideration: CR S3336–3345; text: CR S3336). To amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

3/30/2004: Cloture motion on the committee substitute amendment presented in Senate (consideration: CR S3359; text: CR S3359).

3/31/2004: Considered by Senate (consideration: CR S3407–3448).

3/31/2004: S. Amdt. 2945—Considered by Senate (consideration: CR S3407).

4/1/2004: Considered by Senate (consideration: CR S3529–3538, S3544–3557).

4/1/2004: S. Amdt. 2945—Considered by Senate (consideration: CR S3529).

4/1/2004: Cloture motion on the committee substitute amendment not invoked in Senate by Yea-Nay Vote. 51–47. Record Vote No. 65 (consideration: CR S3538).

Mr. REID. Mr. President, at the time the debate was going forward on this most important bill, an amendment was offered by the Senator from California dealing with minimum wage. Immediately, cloture was filed. Cloture was not invoked.

We would have no problem going forward with the bill prior to going to conference, assuming the Senate seeks to resume H.R. 4 in the status it was when it was pulled from the floor which is, of course, the pendency of the Boxer amendment. So I ask my friend, the distinguished Senator from Pennsylvania, to modify his unanimous consent to allow us to proceed with H.R. 4 on the floor with the Boxer amendment pending.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I say to the Senator from Nevada that on March 30, I did that. I actually proposed the unanimous consent to allow a vote in relation to the Boxer amendment, with a substitute offered by Senator McCONNELL on the issue of minimum wage, which I know was an important issue at the time of this discussion. I offered that unanimous consent so we could move forward and dispose of those two amendments and then move the bill to conference, and that was objected to.

There was objection to the extension with some minor modifications to help marriage and fatherhood. There was an objection to a unanimous consent that puts $1.2 billion into new child care funding to go to conference. We have seen objections—I suspect this will be objected to again, if I would offer it, which is an opportunity to have a vote on minimum wage up or down, and a vote on our minimum wage proposal up or down, and then send it to conference.

I do not know how many times one has to say no to get the idea that maybe there is something other than trying to get votes on issues that are of concern to the minority, that there might be some underlying concern about having an extension of the welfare bill or a modification to it, and I think that is probably where we are.

It is unfortunate because it is important to reestablish work requirements. It is important to give people the best opportunity to succeed in America. We have seen, for example, in this country, as a result of welfare reform which passed in 1996, the lowest rate of black poverty in the history of the country, lowest ever as a result of requiring work and changing the dynamic in low-income families in America. So we have shown success.

It is unfortunate we are not going to be able to continue that success as a result of the blocking maneuvers on the side of the Democrats.

I yield the floor.

The PRESIDING OFFICER. Is there objection to the Senator's unanimous consent?

Mr. REID. I have a modification of the request pending.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. SANTORUM. Mr. President, I object to the modification.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. I object to the underlying request and ask the Senator to allow a clean extension for 6 months of this most important legislation.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. Mr. President, I will object for the moment. I understand the House is working on an extension right now. We may agree later today. Certainly, we need to do an extension and I will check with the leader on that.

The PRESIDING OFFICER. The objection is heard.

The Senator from Nevada.

Mr. REID. Mr. President, prior to my distinguished friend, the Senator from

Kentucky, taking the floor, I inquire as to how much time is remaining with the majority?

The PRESIDING OFFICER. There is 13 minutes.

Mr. REID. Mr. President, if I could on behalf of Senator DASCHLE yield 15 minutes when our time comes to Senator KENNEDY, 5 minutes to Senator DURBIN, and 5 minutes to Senator FEINGOLD.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Kentucky.

FOUR-PART PRESIDENTIAL PLAN FOR IRAQ

Mr. MCCONNELL. Mr. President, the Presidential campaign is heating up and after considerable flipping and flopping, Senator KERRY claims to have finally presented the American people with something resembling a firm position on Iraq. It is a four-part plan, and frankly it resembles the plan President Bush has been pursuing for the last year and a half. I call it Senator KERRY's "too little too late to gain credibility" plan.

Although Kerry has characterized the administration's policy as a failure, perhaps he simply believes it would be a success were he the one implementing it. I wonder. Let us take a look.

The first part of Senator KERRY's plan is to "internationalize because others must share the burden." Let's leave aside the inconvenient fact that Senator KERRY has denigrated the 19 countries that participated in the liberation of Iraq or the 34 helping to secure and rebuild that country today as a "trumped up and so-called coalition of the bribed, the coerced, the bought and the extorted."

This from the man who is so confident of his diplomatic skills.

Senator KERRY fails to understand that no amount of diplomacy will convince the countries whose interests compete with ours, or the nations that share our interests but lack our will or capacity to act, to join our efforts to bring security and freedom to the Middle East and the terrorists to their knees.

Senator KERRY wants to bring U.S. troops home within the first 6 months of his administration. So his plan is not to share the burden; it is to pass the buck. But to whom would he pass the buck?

The Financial Times reported yesterday that Germany and France will not send troops to Iraq even if JOHN KERRY is elected. Indeed, how could Senator KERRY convince any nation to send troops to a conflict he himself has called "the wrong war at the wrong time"?

It would be nice to see the United Nations pulling its own weight once in a while, but one would have to be living in a fantasy world to believe that it will do so. If it continues to allow tyrannies like Sudan to chair the Human Rights Commission, the U.N. will follow the League of Nations into permanent and deserved irrelevance.

The second part of Kerry's plan is to "train Iraqis because they must be responsible for their own security." Adding further confusion to his inconsistent claims that, first, the U.S. needs more troops in Iraq, that he would bring them home within the first 6 months of his administration, and that this would make America stronger at home and more respected in the world, Senator KERRY now claims the U.S. is not doing enough to train Iraqis to provide for their own security.

Well, about a year ago I traveled to Iraq and I stood with GEN David Petraeus in Mosul where I witnessed the graduation ceremony of an Iraqi security force, a unit trained by the 101st Airborne. I recall being impressed that so many Iraqis were willing to risk their lives to help secure their newly free country.

Petraeus completed his tour as the commanding general of the 101st Airborne in February of this year. After making sure his soldiers returned safely to Fort Campbell, KY, Dave Petraeus received his third star and went back to Baghdad, where he assumed responsibility for training Iraq's army and security forces. He is the right man for the job and, for me, his views carry enormous weight. He had an op-ed in the Washington Post this past Sunday that I would commend to my colleagues, in particular the junior Senator from Massachusetts. In it, he notes:

> Approximately 164,000 Iraqi police and soldiers . . . and an additional 74,000 facility protection forces are performing a wide variety of security missions.
>
> Equipment is being delivered. Training is on track and increasing in capacity. . . . Most important, Iraqi security forces are in the fight, so much so that they are suffering substantial casualties as they take on more and more of the burdens to achieve security in their country.

But he cautions that:

> Numbers alone cannot convey the full story. The human dimension of this effort is crucial. The enemies of Iraq recognize how much is at stake as Iraq reestablishes its security forces. Insurgents and foreign fighters continue to mount barbaric attacks against police stations, recruiting centers and military installations. . . . Yet despite the sensational attacks, there is no shortage of qualified recruits volunteering to join the Iraqi security forces.

This is David Petraeus.

So it would seem the training of Iraqis is well underway.

The third part of KERRY's plan is to "move forward with reconstruction, because that's an important way to stop the spread of terror."

I agree. When I spoke with General Petraeus in Iraq last year, he told me that: "Money is ammunition," and that it was critical to get the Iraqi economy working again in order to provide jobs for Iraqis who may otherwise turn to violence. I returned to Washington and lobbied my colleagues to vote for the $87 billion to supply our troops and for Iraqi reconstruction, because I had seen firsthand how important it was to get Iraq's economy back on track.

It is a shame Senator KERRY was not listening to General Petraeus when he voted against this $87 billion for our troops. In fact, Senator KERRY still does not seem to get it, because he complained just recently that too much money was being spent on reconstruction in Iraq and too little was being spent in America.

We won the debate on the $87 billion for our troops and reconstruction in spite of Senator KERRY's—and Senator EDWARDS'—opposition. And although I am heartened Senator KERRY has come to appreciate the importance of this aid, I hope he understands that Presidents, unlike Senators, do not often get second chances to make crucial decisions.

The fourth and final plan in Senator KERRY's plan is to: "help the Iraqis achieve a viable government, because it is up to them to run their own country."

You could call this the "Do as I say, not as I do" plan, because Senator KERRY may have undermined the credibility of Iraq's Prime Minister—who traveled to America to consult with President Bush, to deliver a speech to a Joint Session of Congress, and rebut the criticism of those who believe Iraq and the world are not better off with Saddam Hussein in an Iraqi jail.

KERRY's wrong-headed criticism of Ayad Allawi—who risks his life every day to bring peace and democracy to Iraq—was as repugnant as it was undiplomatic. If a President KERRY were to treat foreign leaders as disgracefully as he treated Prime Minister Allawi, he would find it difficult to live up his campaign promise of being "more respected in the world."

Yet, KERRY has already done diplomatic damage, in my view. By maligning the judgment of America's most important new ally in the Middle East, Senator KERRY has fired a political shot that will be heard more loudly in the streets of Baghdad or Tehran than in Boston or Orlando. His comments were intended to undercut President Bush's standing in the eyes of American voters, but they may have the consequence of undermining Prime Minister Allawi's position in Iraq.

If a potential President of the United States doesn't take the Iraqi Prime Minister seriously, why should the terrorists?

Writing about Iraq's transition from totalitarianism to democracy, General Petraeus concluded his op-ed with this line: It will not be easy, but few worthwhile things are.

Bringing democracy and stability to the heart of the Middle East is more than worthwhile. It is a critical component of our war against terrorists. For if we fail to offer an alternative to the corrupt theocracies and dictatorships of that region, we will forever be fighting the war against terrorism defensively, making it much more likely that we will be fighting terrorists in Chicago and New York than in the cities where they live and train.

We have an opportunity to fight side by side with our new Iraqi allies against the terrorists who share goals and tactics with those who hijacked planes on 9/11, who murdered hundreds of school children in Russia, and who bombed innocent civilians in Bali, Istanbul, Riyadh, Madrid, Jerusalem, and elsewhere. And if we fail to win this fight it will not be just Prime Minister Allawi's credibility that suffers, it will be our own.

Mr. President, I ask that General Petraeus's op-ed be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 26, 2004]

BATTLING FOR IRAQ

(By David H. Petraeus)

BAGHDAD.—Helping organize, train and equip nearly a quarter-million of Iraq's security forces is a daunting task. Doing so in the middle of a tough insurgency increases the challenge enormously, making the mission akin to repairing an aircraft while in flight—and while being shot at. Now, however, 18 months after entering Iraq, I see tangible progress. Iraqi security elements are being rebuilt from the ground up.

The institutions that oversee them are being reestablished from the top down. And Iraqi leaders are stepping forward, leading their country and their security forces courageously in the face of an enemy that has shown a willingness to do anything to disrupt the establishment of the new Iraq.

In recent months, I have observed thousands of Iraqis in training and then watched as they have conducted numerous operations. Although there have been reverses—not to mention horrific terrorist attacks—there has been progress in the effort to enable Iraqis to shoulder more of the load for their own security, something they are keen to do. The future undoubtedly will be full of difficulties, especially in places such as Fallujah. We must expect setbacks and recognize that not every soldier or policeman we help train will be equal to the challenges ahead.

Nonetheless, there are reasons for optimism. Today approximately 164,000 Iraqi police and soldiers (of which about 100,000 are trained and equipped) and an additional 74,000 facility protection forces are performing a wide variety of security missions. Equipment is being delivered. Training is on track and increasing in capacity. Infrastructure is being repaired. Command and control structures and institutions are being reestablished.

Most important, Iraqi security forces are in the fight—so much so that they are suffering substantial casualties as they take on more and more of the burdens to achieve security in their country. Since Jan. 1 more than 700 Iraqi security force members have been killed, and hundreds of Iraqis seeking to volunteer for the police and military have been killed as well.

Six battalions of the Iraqi regular army and the Iraqi Intervention Force are now conducting operations. Two of these battalions, along with the Iraqi commando battalion, the counterterrorist force, two Iraqi National Guard battalions and thousands of policemen recently contributed to successful operations in Najaf. Their readiness to enter and clear the Imam Ali shrine was undoubtedly a key factor in enabling Grand Ayatollah Ali Sistani to persuade members of the Mahdi militia to lay down their arms and leave the shrine.

In another highly successful operation several days ago, the Iraqi counterterrorist force conducted early morning raids in Najaf that resulted in the capture of several senior lieutenants and 40 other members of that militia, and the seizure of enough weapons to fill nearly four 7½-ton dump trucks.

Within the next 60 days, six more regular army and six additional Intervention Force battalions will become operational. Nine more regular army battalions will complete training in January, in time to help with security missions during the Iraqi elections at the end of that month.

Iraqi National Guard battalions have also been active in recent months. Some 40 of the 45 existing battalions—generally all except those in the Fallujah-Ramadi area—are conducting operations on a daily basis, most alongside coalition forces, but many independently. Progress has also been made in police training. In the past week alone, some 1,100 graduated from the basic policing course and five specialty courses. By early spring, nine academies in Iraq and one in Jordan will be graduating a total of 5,000 police each month from the eight-week course, which stresses patrolling and investigative skills, substantive and procedural legal knowledge, and proper use of force and weaponry, as well as pride in the profession and adherence to the police code of conduct.

Iraq's borders are long, stretching more than 2,200 miles. Reducing the flow of extremists and their resources across the borders is critical to success in the counterinsurgency. As a result, with support from the Department of Homeland Security, specialized training for Iraq's border enforcement elements began earlier this month in Jordan.

Regional academies in Iraq have begun training as well, and more will come online soon. In the months ahead, the 16,000-strong border force will expand to 24,000 and then 32,000. In addition, these forces will be provided with modern technology, including vehicle X-ray machines, explosive-detection devices and ground sensors.

Outfitting hundreds of thousands of new Iraqi security forces is difficult and complex, and many of the units are not yet fully equipped. But equipment has begun flowing. Since July 1, for example, more than 39,000 weapons and 22 million rounds of ammunition have been delivered to Iraqi forces, in addition to 42,000 sets of body armor, 4,400 vehicles, 16,000 radios and more than 235,000 uniforms.

Considerable progress is also being made in the reconstruction and refurbishing of infrastructure for Iraq's security forces. Some $1 billion in construction to support this effort has been completed or is underway, and five Iraqi bases are already occupied by entire infantry brigades.

Numbers alone cannot convey the full story. The human dimension of this effort is crucial. The enemies of Iraq recognize how much is at stake as Iraq reestablishes its security forces. Insurgents and foreign fighters continue to mount barbaric attacks against police stations, recruiting centers and military installations, even though the vast majority of the population deplores such attacks. Yet despite the sensational attacks, there is no shortage of qualified recruits volunteering to join Iraqi security forces. In the past couple of months, more than 7,500 Iraqi men have signed up for the army and are preparing to report for basic training to fill out the final nine battalions of the Iraqi regular army. Some 3,500 new police recruits just reported for training in various locations. And two days after the recent bombing on a street outside a police recruiting location in Baghdad, hundreds of Iraqis were once again lined up inside the force protection walls at another location—where they were greeted by interim Prime Minister Ayad Allawi.

I meet with Iraqi security force leaders every day. Though some have given in to acts of intimidation, many are displaying courage and resilience in the face of repeated threats and attacks on them, their families and their comrades. I have seen their determination and their desire to assume the full burden of security tasks for Iraq.

There will be more tough times, frustration and disappointment along the way. It is likely that insurgent attacks will escalate as Iraq's elections approach. Iraq's security forces are, however, developing steadily and they are in the fight. Momentum has gathered in recent months. With strong Iraqi leaders out front and with continued coalition—and now NATO—support, this trend will continue. It will not be easy, but few worthwhile things are.

Mr. REID. What is the time left for the majority?

The PRESIDING OFFICER. There is 3 minutes. The Senator from Mississippi.

EXTENSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that morning business be extended by 5 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I have no objection at all. I know Senator KENNEDY has been waiting a long time, but that is fine. Five minutes won't hurt him. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Mississippi is recognized.

Mr. REID. Mr. President, if I could, I will yield an additional 5 minutes to Senator DURBIN and an additional 5 minutes to Senator KENNEDY. That uses our entire 35 minutes.

The PRESIDING OFFICER. The Senator from Mississippi.

SENATOR KERRY AND AMERICA'S CHALLENGES

Mr. LOTT. Mr. President, as we look at the situation in America and in the world today, we face serious challenges. Obviously, the war on terrorism is one of the most serious challenges we have had in many decades, one that is different because there are no specific battles that are won or lost. There may not be a moment when we say it is over. Because we are dealing with a moving, shadowy element that uses the most dastardly types of attacks on individuals, innocent men, women, and children.

We have seen the situation in Florida, where the people there have been hit repeatedly by hurricanes and disasters. I guess you could say in many respects these are times that try men and women's souls.

We are under attack in a lot of ways. But, also, these are the times that require a certain trumpet. We cannot have uncertainty in terms of leadership. We cannot have an uncertain trumpet. We have to have direction, strong leadership, and courage to take a stand and follow it through. That is why I am very much worried about what I see in Senator KERRY and the positions he has taken, first on one side and then the other.

I was greatly distressed last week when we had the Prime Minister of Iraq here. He is a man who is showing strength, leadership, and great courage because his life is on the line every day with repeated assassination attempts directed at him. He came here. He said: Thank you, America. He said: We are going to have elections. We are going to have peace and freedom and democracy. We chose justice and the rule of law rather than chaos and anarchy. He did a magnificent job. I was inspired by what he is doing and by his speech.

Yet Senator KERRY attacked his speech before he even left town. Where are the basic courtesies that we have in the past extended to leaders of other countries?

President Bush, on the other hand, has shown strength, leadership, and courage. He is dealing with the issues of security. People see in him and hear in his voice a determination, a commitment, that will get us through this. But Senator KERRY has been flip-flopping back and forth on Iraq for not just the campaign but actually for years, going back to 2002 where he took one position and where now, in 2003 and 2004, he has taken a different position.

On September 20, 2004, he said that our most important task is to win the war on terrorism. On March 6, 2004, he balked at calling the war on terror an actual "war."

On September 20 he said Iraq was a "diversion from" the war on terror. Yet back in December of 2003 he said that Iraq is "critical" to the success of the war on terror.

In September of 2004 he said the evil of Saddam was enough to justify the war. Yet before that he agreed with the administration's goal of regime change. He also said that Saddam's "breach of international values" was a sufficient cause of war.

In 2004 he said Saddam's "downfall . . . has left America less secure." Yet in December of 2003 he questioned the judgment of those claiming Saddam's capture doesn't help American security.

The list goes on and on. I ask unanimous consent this list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FLIP FLOP #1: "MOST IMPORTANT TASK" IS TO WIN "WAR ON TERRORISM."

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

. . . the events of September 11 reminded every American of that obligation. That day brought to our shores the defining struggle of our times: the struggle between freedom and radical fundamentalism. And it made clear that our most important task is to fight . . . and to win . . . the war on terrorism.

"In His Words: John Kerry," The New York Times Website, www. nytimes. com, March 6, 2004, Kerry Balked at Calling War on Terror an Actual War:

The final victory in the war on terror depends on a victory in the war of ideas, much more than the war on the battlefield. And the war—not the war, I don't want to use that terminology. The engagement of economies, the economic transformation, the transformation to modernity of a whole bunch of countries that have been avoiding the future.

FLIP FLOP #2: IRAQ WAS "DIVERSION FROM" WAR ON TERROR.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

. . . Iraq was a profound diversion from that war and the battle against our greatest enemy, Osama bin Laden and the terrorists. Invading Iraq has created a crisis of historic proportions and, if we do not change course, there is the prospect of a war with no end in sight.

Fox News' "Special Report," December 15, 2003, Kerry Said Iraq "Is Critical" To Success of War on Terror:

Iraq may not be the war on terror itself, but it is critical to the outcome of the war on terror. And therefore any advance in Iraq is an advance forward in that.

FLIP FLOP #3: EVIL OF SADDAM WAS NOT ENOUGH TO JUSTIFY WAR.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

Saddam Hussein was a brutal dictator who deserves his own special place in hell. But that was not, in itself, a reason to go to war.

Senator John Kerry, Speech to the 2002 DLC National Conversation, New York, NY, July 29, 2002, Kerry Originally Agreed With Removing Saddam Hussein:

I agree completely with this Administration's goal of a regime change in Iraq—Saddam Hussein is a renegade and outlaw who turned his back on the tough conditions of his surrender put in place by the United Nations in 1991.

MSNBC's "Hardball," October 10, 2002, Kerry Cited Saddam's "Breach of International Values" as Cause for War.

I believe the record of Saddam Hussein's ruthless, reckless breach of international values and standards of behavior is cause enough for the world community to hold him accountable by use of force if necessary.

FLIP FLOP #4: SADDAM'S "DOWNFALL . . . HAS LEFT AMERICA LESS SECURE."

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

The satisfaction we take in his downfall does not hide this fact: we have traded a dictator for a chaos that has left America less secure.

Anne Q. Hoy, "Dean Faces More Criticism," [New York] Newsday, December 17, 2003, Kerry Questioned Judgment of Those Claiming Saddam's Capture Doesn't Help American Security:

Those who doubted whether Iraq or the world would be better off without Saddam Hussein, and those who believe we are not safer with his capture, don't have the judgment to be president or the credibility to be elected president.

FLIP FLOP #5: DECISION TO GO INTO IRAQ "COLOSSAL" FAILURE.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

"The President now admits to "miscalculations" in Iraq. That is one of the greatest understatements in recent American history. His were not the equivalent of accounting errors. They were colossal failures of judgment—and judgment is what we look for in a president. This is all the more stunning because we're not talking about 20/20 hindsight. Before the war, before he chose to go to war, bi partisan Congressional hearings . . . major outside studies . . . and even some in the administration itself . . . predicted virtually every problem we now face in Iraq.

CNN's "Inside Politics," August 9, 2004, in Response to Question About How He Would Have Voted if He Knew Then What He Knows Now, Kerry Confirmed That He Would Still Have Voted For Use Of Force Resolution:

Yes, I would have voted for the authority. I believe it's the right authority for a president to have. But I would have used that authority as I have said throughout this campaign, effectively. I would have done this very differently from the way President Bush has.

FLIP FLOP #6: "IRAQ WAS NOT "THREAT TO OUR SECURITY."

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

We now know that Iraq had no weapons of mass destruction and posed no imminent threat to our security.

Ronald Brownstein, "On Iraq, Kerry Appears Either Torn or Shrewd," Los Angeles Times, January 31, 2003, Kerry believed that Iraq had weapons of mass destruction and was a threat:

Kerry said, "If you don't believe . . . Saddam Hussein is a threat with nuclear weapons, then you shouldn't vote for me."

CNN's "Inside Politics," August 9, 2004, In Response to Question About How He Would Have Voted if He Knew Then What He Knows Now, Kerry Confirmed That He Would Still Have Voted for Use of Force Resolution.

Yes, I would have voted for the authority. I believe it's the right authority for a president to have. But I would have used that authority as I have said throughout this campaign, effectively. I would have done this very differently from the way President Bush has.

FLIP FLOP #7: IRAQ WAR TOOK "ATTENTION AND RESOURCES" AWAY FROM AFGHANISTAN.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

The President's policy in Iraq took our attention and resources away from other, more serious threats to America. Threats like . . . the increasing instability in Afghanistan.

CNN's "Larry King Live," December 14, 2001, Kerry Said War on Terror "Doesn't End With Afghanistan" and Suggested U.S. Move on To Addressing Menace of Saddam Hussein:

I think we clearly have to keep the pressure on terrorism globally. This doesn't end with Afghanistan by any imagination. And I think the president has made that clear. I think we have made that clear. Terrorism is a global menace. It's a scourge. And it is absolutely vital that we continue, for instance, Saddam Hussein.

FLIP FLOP #8: IRAQ NOT "SOURCE OF SERIOUS DISAGREEMENT WITH OUR ALLIES" BEFORE WAR.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

We know that while Iraq was a source of friction, it was not previously a source of serious disagreement with our allies in Europe and countries in the Muslim world.

CNN's "Crossfire," November 12, 1997, Kerry Questioned Where Russia and France's Backbone To Stand up to Saddam Was:

So clearly the allies may not like it, and I think that's our great concern—where's the backbone of Russia, where's the backbone of France, where are they in expressing their condemnation of such clearly illegal activity, but in a sense, they're now climbing into a box and they will have enormous difficulty not following up on this if there is not compliance by Iraq.

CNN's "Crossfire," November 12, 1997, Kerry Noted French Have Opposed U.S. on a Number of Foreign Policy Issues:

Well, John, frankly neither you nor I know that we did nothing. I don't know that for a fact. We certainly didn't publicly, I agree, but I don't know that we did nothing. But it's not the first time France has been very difficult, as the congressman said. I think a lot of us are very disappointed that the French haven't joined us in a number of other efforts with respect to China, with respect to other issues in Asia and elsewhere and also in Europe.

Fox News' "The O'Reilly Factor," May 22, 2002, Kerry says that Europeans are "Wrong On Iraq" and U.S. "Will Have To Do What We Need To Do."

Fox News' Bill O'Reilly: "The ambassador to Germany is basically saying what most people in Europe are saying, senator. They're afraid. They're afraid that if we go after Saddam Hussein, and all the Arabs get crazy, and the whole thing blows up, that Europe's going to take the brunt of this. I said you can't negotiate with tyrants out of fear. How do you feel about it?"

Senator John Kerry: "I agree with you. . . . [I] think that you're correct in making that judgment. And I think we've all reached a judgment that obviously the United States has to protect our national security interests. And we have to do what we think is right. I do think the European demonstrations are larger than just Iraq. I think they're concerned about other issues, like global warming. They're concerned about proliferation. They're concerned about—I mean, there are a whole host of issues. So I think it's a more confused bag than just Iraq, but I think they're wrong on Iraq. I mean, plain and simply, the United States will have to do what we need to do, and our best judgment to protect our national security. And quite frankly, if we do what we need to do, it will also wind up protecting Europe."

FLIP FLOP #9: PRESIDENT'S IRAQ POLICY "HAS WEAKENED" NATIONAL SECURITY.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

Let me put it plainly: The President's policy in Iraq has not strengthened our national security. It has weakened it.

Anne Q. Hoy, "Dean Faces More Criticism," [New York] Newsday, December 17, 2003, Kerry Questioned Judgment of Those Claiming Saddam's Capture Doesn't Help American Security:

Those who doubted whether Iraq or the world would be better off without Saddam Hussein, and those who believe we are not safer with his capture, don't have the judgment to be president or the credibility to be elected president.

FLIP FLOP #10: WOULD NOT HAVE INVADED IRAQ GIVEN WHAT HE KNOWS NOW.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

Yet today, President Bush tells us that he would do everything all over again, the same way. How can he possibly be serious? Is he really saying that if we knew there were no imminent threat, no weapons of mass destruction, no ties to Al Qaeda, the United States should have invaded Iraq? My answer is no—because a Commander-in-Chief's first responsibility is to make a wise and responsible decision to keep America safe.

CNN's "Inside Politics," August 9, 2004, In Response to Question About How He Would Have Voted if He Knew Then What He Knows Now, Kerry Confirmed That He Would Still Have Voted for Use of Force Resolution:

Yes, I would have voted for the authority. I believe it's the right authority for a president to have. But I would have used that authority as I have said throughout this campaign, effectively. I would have done this very differently from the way President Bush has.

FLIP FLOP #11: "'CAPABILITY' TO ACQUIRE WEAPONS" NOT REASON ENOUGH FOR WAR.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

Now the president, in looking for a new reason, tries to hang his hat on the 'capability' to acquire weapons. But that was not the reason given to the nation; it was not the reason Congress voted on; it's not a reason, it's an excuse.

Senator John Kerry, Congressional Record, October 9, 2002, page S10171, Kerry Called Those Who Would Leave Saddam Alone "Naïve to the Point of Grave Danger: "

It would be naïve to the point of grave danger not to believe that, left to his own devices, Saddam Hussein will provoke, misjudge, or stumble into a future, more dangerous confrontation with the civilized world.

CBS' "Face The Nation," September 15, 2002, Kerry Said Saddam's Miscalculations are Biggest Concern, Not "Actual" WMD:

I would disagree with John McCain that it's the actual weapons of mass destruction he may use against us, it's what he may do in another invasion of Kuwait or in a miscalculation about the Kurds or a miscalculation about Iran or particularly Israel. Those are the things that—that I think present the greatest danger. He may even miscalculate and slide these weapons off to terrorist groups to invite them to be a surrogate to use them against the United States. It's the miscalculation that poses the greatest threat.

FLIP FLOP #12: "CANNOT AFFORD" TO FAIL IN IRAQ.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

In Iraq, we have a mess on our hands. But we cannot throw up our hands. We cannot afford to see Iraq become a permanent source of terror that will endanger America's security for years to come.

October 17, 2003, S. 1689, CQ Vote #400: Passed 87–12: R 50–0; D 37–11; I 0–1, Kerry Voted Nay:

Kerry voted against the $87 billion supplemental supporting our troops and providing resources needed to win in Iraq.

FLIP FLOP #13: IRAQ WAR "MADE US LESS SECURE."

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

I believe the invasion of Iraq has made us less secure and weaker in the war against terrorism.

Anne Q. Hoy, "Dean Faces More Criticism," [New York] Newsday, December 17, 2003, Kerry Questioned Judgment of Those Claiming Saddam's Capture Doesn't Help American Security:

Those who doubted whether Iraq or the world would be better off without Saddam Hussein, and those who believe we are not safer with his capture, don't have the judgment to be president or the credibility to be elected president.

FLIP FLOP #14: WOULD HAVE CONTINUED CONTAINMENT OF SADDAM.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

I would have tightened the noose and continued to pressure and isolate Saddam Hussein—who was weak and getting weaker—so that he would pose no threat to the region or America.

Senator John Kerry, Committee on Armed Services and Committee on Foreign Relations, U.S. Senate, Joint Hearing, September 3, 1998, Kerry Expressed Opposition to "Policy of Containment:"

So we've got a major set of choices to make here. And we'd better make them. We've been sliding into a fundamental policy of containment, which I share with Major Ritter the notion is disastrous to our overall proliferation interests and disastrous with respect to the Middle East and our interests with respect to Saddam Hussein and Iraq. But we have to make a decision whether we're prepared to do what is necessary, and I mean to the point of a sustained targeting of the regime; not the Iraqi people, but the regime.

Mr. LOTT. But it goes beyond just the war on Iraq. What worries me is there is a pattern here, across the board, not only in that area that threatens our very security and our lives, the war on terrorism, but in area after area, issue after issue.

For instance, in 1991 Senator KERRY supported most-favored trade status for China and now he criticizes the

Bush administration for trading with China.

Which is it? You cannot be for it and against it when you talk about international trade. Trade is good. America can compete. We do need to enlarge the pie. We need to make sure we have fair trade. But you cannot vote one way on trade and then be critical of it on the other side.

In October 2003, Senator KERRY called the fence that is being built in Israel for security purposes a “barrier to peace.” He was critical of it. Yet in February of 2004, he calls the fence a “legitimate act of self-defense.” You can't get into a very dangerous and sensitive situation like this and say one thing and then the other. What is it? Which is it? An uncertain trumpet takes lives.

Even in the case of eliminating the marriage penalty for the middle class, Senator KERRY said he will fight to keep the tax relief for married couples. He said Democrats fought to end the marriage penalty tax. Yet in 1998, he voted against eliminating the marriage penalty relief for married taxpayers with a combined income of less than $50,000 a year. Last week when we actually extended the elimination of that marriage penalty tax, of course, he didn't vote.

He even flip-flopped on the PATRIOT Act. The PATRIOT Act is a favorite punching bag now.

I was here when the death debate occurred. I remember the broad unanimous support involved in passing that legislation. We needed to do some things to give our law enforcement people the ability to deal with these terrorists. If you look at what has transpired since then, this great fear of having your library card checked or a “knock in the night” is not occurring. So he voted for it, and now he attacks the PATRIOT Act. He said:

> We are a nation of laws, and liberties, not of a knock in the night. So it is time to end the era of John Ashcroft.

I think that is an unfair shot at our former colleague, the Attorney General of the United States. Again, Senator KERRY was for the Patriot Act and now he is against it.

On the gay marriage amendment, in 2002, Senator KERRY signed a letter urging the Massachusetts legislature to reject a constitutional amendment banning gay marriage. Yet now in 2004 he won't rule out supporting a similar amendment. Which is it? Is it one thing in Massachusetts and another here in Washington?

Also, I think when you get into other issues like the death penalty for terrorists, these are relevant issues we can't take the wrong position on. Yet, in 1996, he attacked Governor Weld of Massachusetts for supporting the death penalty for terrorists. But now he said he might support the death penalty for terrorists.

On the No Child Left Behind Act, he voted for it, and now he attacks it as a “mockery.” He trashed it as an “unfunded mandate” with “laudable goals.”

Let me tell you that I am a son of a schoolteacher. I was in public education all my life. I didn't go to some elite school. I went to public education. I stay in touch with teachers and administrators. And they tell me it is making a difference. We have goals and challenges. Teachers are doing better, students are doing better, and the money has been going up every year.

On issue after issue, he has flip-flopped.

I ask unanimous consent that the remainder of this lengthy list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FLIP-FLOPPED ON AFFIRMATIVE ACTION

In 1992, Kerry Called Affirmative Action “Inherently Limited and Divisive.”

[W]hile praising affirmative action as “one kind of progress” that grew out of civil rights court battles, Kerry said the focus on a rights-based agenda has “inadvertently driven most of our focus in this country not to the issue of what is happening to the kids who do not get touched by affirmative action, but . . . toward an inherently limited and divisive program which is called affirmative action.” That agenda is limited, he said, because it benefits segments of black and minority populations, but not all. And it is divisive because it creates a “perception and a reality of reverse discrimination that has actually engendered racism.” (Lynne Duke, “Senators Seek Serious Dialogue On Race,” The Washington Post, 4/8/92)

In 2004, Kerry Denied Ever Having Called Affirmative Action “Divisive.”

CNN's Kelly Wallace: “We caught up with the Senator, who said he never called affirmative action divisive, and accused Clark of playing politics.”

Senator Kerry: “That's not what I said. I said there are people who believe that. And I said mend it, don't end it. He's trying to change what I said, but you can go read the quote. I said very clearly I have always voted for it. I've always supported it. I've never, ever condemned it. I did what Jim Clyburn did and what Bill Clinton did, which is mend it. And Jim Clyburn wouldn't be supporting it if it were otherwise. So let's not have any politics here. Let's keep the truth.” (CNN's “Inside Politics,” 1/30/04)

FLIP-FLOPPED ON ETHANOL

Kerry Twice Voted Against Tax Breaks for Ethanol.

(S. Con. Res. 18, CQ Vote #44: Rejected 48–52: R 11–32; D 37–20, 3/23/93, Kerry Voted Nay; S. Con. Res. 18, CQ Vote #68: Motion Agreed To 55–43: R 2–40; D 53–3, 3/24/93, Kerry Voted Yea)

Kerry Voted Against Ethanol Mandates.

(H.R. 4624, CQ Vote #255: Motion Agreed To 51–50: R 19–25; D 31–25, 8/3/94, Kerry Voted Nay)

Kerry Voted Twice To Increase Liability on Ethanol, Making it Equal to Regular Gasoline.

(S. 517, CQ Vote #87: Motion Agreed To 57–42: R 38–10; D 18–32; I 1–0, 4/25/02 Kerry Voted Nay; S. 14, CQ Vote #208: Rejected 38–57: R 9–40; D 28–17; I 1–0, 6/5/03, Kerry Voted Yea)

On the Campaign Trail, Though, Kerry is for Ethanol.

Kerry: “I'm for ethanol, and I think it's a very important partial ingredient of the overall mix of alternative and renewable fuels we ought to commit to.” (MSNBC/DNC, Democrat Presidential Candidate Debate, Des Moines, IA, 11/24/03)

FLIP-FLOPPED ON CUBA SANCTIONS

Senator Kerry has Long Voted Against Stronger Cuba Sanctions.

(H.R. 927, CQ Vote #489, Motion Rejected 59–36: R 50–2; D 9–34, 10/17/95, Kerry Voted Nay; S. 955, CQ Vote #183: Rejected 38–61: R 5–49; D 33–12, 7/17/97, Kerry Voted Yea; S. 1234, CQ Vote #189, Motion Agreed To 55–43: R 43–10; D 12–33, 6/30/99, Kerry Voted Nay; S. 2549, CQ Vote #137: Motion Agreed To 59–41: R 52–3; D 7–38, 6/20/00, Kerry Voted Nay)

In 2000, Kerry Said Florida Politics is Only Reason Cuba Sanctions Still in Place.

Senator John F. Kerry, the Massachusetts Democrat and member of the Foreign Relations Committee, said in an interview that a reevaluation of relations with Cuba was “way overdue.” “We have a frozen, stalemated, counterproductive policy that is not in humanitarian interests nor in our larger credibility interest in the region,” Kerry said. . . . “It speaks volumes about the problems in the current American electoral process. . . . The only reason we don't reevaluate the policy is the politics of Florida.” (John Donnelly, “Policy Review Likely On Cuba,” The Boston Globe, 4/9/00)

Now Kerry Panders to Cuban Vote, Saying He Would Not Lift Embargo Against Cuba.

Tim Russert: “Would you consider lifting sanctions, lifting the embargo against Cuba?”

Senator Kerry: “Not unilaterally, not now, no.” (NBC's “Meet The Press,” 8/31/03)

Kerry Does Not Support “Opening Up the Embargo Wily Nilly.”

Kerry said he believes in “engagement” with the communist island nation but that does not mean, “Open up the dialogue.” He believes it “means travel and perhaps even remittances or cultural exchanges” but he does not support “opening up the embargo wily nilly.” (Daniel A. Ricker, “Kerry Says Bush Did Not Build A ‘Legitimate Coalition’ In Iraq,” The Miami Herald, 11/25/03)

FLIP-FLOPPED ON NAFTA

Kerry Voted for NAFTA.

(H.R. 3450, CQ Vote #395: Passed 61–38: R 34–10; D 27–28, 11/20/93, Kerry Voted Yea)

Kerry Recognized NAFTA Is Our Future.

NAFTA recognizes the reality of today's economy—globalization and technology,” Kerry said. “Our future is not in competing at the low-level wage job; it is in creating high-wage, new technology jobs based on our skills and our productivity.” (John Aloysius Farrell, “Senate's OK Finalizes NAFTA Pact,” The Boston Globe, 11/21/93)

Now, Kerry Expresses Doubt About NAFTA.

Kerry, who voted for NAFTA in 1993, expressed some doubt about the strength of free-trade agreements. “If it were before me today, I would vote against it because it doesn't have environmental or labor standards in it,” he said. (David Lightman, “Democrats Battle For Labor's Backing,” Hartford Courant, 8/6/03)

FLIP-FLOPPED ON SMALL BUSINESS INCOME TAXES

Kerry Voted Against Exempting Small Businesses and Family Farms From Clinton Income Tax Increase.

(S. Con. Res. 18, CQ Vote #79: Motion Agreed To 54–45: R 0–43; D 54 2, 3/25/93, Kerry Voted Yea)

Three Months Later, Kerry Voted in Favor of Proposal To Exclude Small Businesses From the Increased Income Tax.

(S. 1134, CQ Vote #171: Motion Rejected 56–42: R 43–0; D 13–42, 6/24/93, Kerry Voted Yea)

Kerry Claimed he Fought To Exempt Small Businesses From Income Tax Increases.

I worked to amend the reconciliation bill so that it would . . . exempt small businesses who are classified as subchapter S corporations from the increased individual income tax. (Sen. John Kerry, Congressional Record, 6/29/93, p. S 8268)

KERRY FLIP-FLOPPED ON 50-CENT GAS TAX INCREASE

In 1994, Kerry Backed Half-Dollar Increase in Gas Tax.

Kerry said [the Concord Coalition's scorecard] did not accurately reflect individual lawmakers' efforts to cut the deficit. "It doesn't reflect my $43 billion package of cuts or my support for a 50-cent increase in the gas tax," Kerry said. (Jill Zuckman, "Deficit-Watch Group Gives High Marks To 7 N.E. Lawmakers," The Boston Globe, 3/1/94)

Two Years Later, Kerry Flip-Flopped.

Kerry no longer supports the 50-cent [gas tax] hike, nor the 25-cent hike proposed by the [Concord] coalition. (Michael Grunwald, "Kerry Gets Low Mark On Budgeting," The Boston Globe, 4/30/96)

FLIP-FLOPPED ON LEAVING ABORTION UP TO STATES

Kerry Used To Say Abortion Should be Left up to States.

"I think the question of abortion is one that should be left for the states to decide," Kerry said during his failed 1972 Congressional bid. ("John Kerry On The Issues," The [Lowell, MA] Sun, 10/11/72)

Now Kerry Says Abortion is Law of Entire Nation.

The right to choose is the law of the United States. No person has the right to infringe on that freedom. Those of us who are in government have a special responsibility to see to it that the United States continues to protect this right, as it must protect all rights secured by the constitution. (Sen. John Kerry [D-MA], Congressional Record, 1/22/85)

FLIP-FLOPPED ON LITMUS TESTS FOR JUDICIAL NOMINEES

Kerry Used To Oppose Litmus Tests for Judicial Nominees.

Throughout two centuries, our federal judiciary has been a model institution, one which has insisted on the highest standards of conduct by our public servants and officials, and which has survived with undiminished respect. Today, I fear that this institution is threatened in a way that we have not seen before. . . . This threat is that of the appointment of a judiciary which is not independent, but narrowly ideological, through the systematic targeting of any judicial nominee who does not meet the rigid requirements of litmus tests imposed . . . (Sen. John Kerry, Congressional Record, 2/3/86, p. S864)

But Now Kerry Says he Would Only Support Supreme Court Nominees Who Pledge To Uphold Roe v. Wade.

The potential retirement of Supreme Court justices makes the 2004 presidential election especially important for women, Senator John F. Kerry told a group of female Democrats yesterday, and he pledged that if elected president he would nominate to the high court only supporters of abortion rights under its Roe v. Wade decision. . . . "Any president ought to appoint people to the Supreme Court who understand the Constitution and its interpretation by the Supreme Court. In my judgment, it is and has been settled law that women, Americans, have a defined right of privacy and that the government does not make the decision with respect to choice. Individuals do." (Glen Johnson, "Kerry Vows Court Picks To Be Abortion-Rights Supporters," The Boston Globe, 4/9/03)

FLIP-FLOPPED ON TAX CREDITS FOR SMALL BUSINESS HEALTH

In 2001, Kerry Voted Against Amendment Providing $70 Billion for Tax Credits for Small Business To Purchase Health Insurance.

(H. Con. Res. 83, CQ Vote #83: Rejected 49–51: R 48–2; D 1–49, 4/5/01, Kerry Voted Nay)

Now, Kerry Promises Refundable Tax Credits to Small Businesses for Health Coverage.

Refundable tax credits for up to 50 percent of the cost of coverage will be offered to small businesses and their employees to make health care more affordable. ("John Kerry's Plan To Make Health Care Affordable To Every American," John Kerry For President Website, www.johnkerry.com, Accessed 1/21/04)

FLIP-FLOPPED ON HEALTH COVERAGE

In 1994, Kerry Said Democrats Push Health Care Too Much.

[Kerry] said Kennedy and Clinton's insistence on pushing health care reform was a major cause of the Democratic Party's problems at the polls. (Joe Battenfeld, "Jenny Craig Hit With Sex Harassment Complaint—By Men," Boston Herald, 11/30/94)

But Now Kerry Calls Health Care His "Passion."

Senator John Kerry says expanding coverage is "my passion." (Susan Page, "Health Specifics Could Backfire On Candidates," USA Today, 6/2/03)

FLIP-FLOPS ON STOCK OPTIONS EXPENSING

Kerry Used To Oppose Expensing Stock Options.

Democratic Senator John F. Kerry was among those fighting expensing of stock options. (Sue Kirchhoff, "Senate Blocks Options," The Boston Globe, 7/16/02)

Kerry Said Expensing Options Would Not "Benefit the Investing Public."

Kerry: "Mr. President, the Financial Accounting Standards Board . . . has proposed a rule that will require companies to amortize the value of stock options and deduct them off of their earnings statements . . . I simply cannot see how the FASB rule, as proposed, will benefit the investing public." (Senator John Kerry, Congressional Record, 3/10/94, p. S2772)

But Now Kerry Says he Supports Carrying of Stock Options as Corporate Expense.

On an issue related to corporate scandals, Kerry for the first time endorsed the carrying of stock options as a corporate expense. The use of stock options was abused by some companies and contributed to overly optimistic balance sheets. Kerry applauded steps by Microsoft Corp. to eliminate stock options for employees and said all publicly traded companies should be required to expense such options. (Dan Balz, "Kerry Raps Bush Policy On Postwar Iraq," The Washington Post, 7/11/03)

FLIP-FLOPPED ON MEDICAL MARIJUANA

Kerry Said His "Personal Disposition is Open to the Issue of Medical Marijuana."

Aaron Houston of the Granite Staters for Medical Marijuana said that just a month ago Mr. Kerry seemed to endorse medical marijuana use, and when asked about the content of his mysterious study, said, "I am trying to find out. I don't know." Mr. Kerry did say his "personal disposition is open to the issue of medical marijuana" and that he'd stop Drug Enforcement Administration raids on patients using the stuff under California's medical marijuana law. (Jennifer Harper, "Inside Politics," The Washington Times, 8/8/03)

But Now Kerry Says he Wants To Wait for Study Analyzing Issue Before Making Final Decision.

The Massachusetts Democrat said Wednesday he'd put off any final decision on medical marijuana because there's "a study under way analyzing what the science is." (Jennifer Harper, "Inside Politics," The Washington Times, 8/8/03)

FLIP-FLOPPED ON PACS

Kerry Used To Decry "Special Interests And Their PAC Money."

"I'm frequently told by cynics in Washington that refusing PAC money is naive," Kerry told his supporters in 1985. "Do you agree that it is 'naïve' to turn down special interests and their PAC money?" (Glen Johnson, "In A Switch, Kerry Is Launching A PAC," The Boston Globe, 12/15/01)

But Now, Kerry Has Established His Own PAC.

A week after repeating that he has refused to accept donations from political action committees, Senator John F. Kerry announced yesterday that he was forming a committee that would accept PAC money for him to distribute to other Democratic candidates. . . . Kerry's stance on soft money, unregulated donations funneled through political parties, puts him in the position of raising the type of money that he, McCain, and others in the campaign-finance reform movement are trying to eliminate. (Glen Johnson, "In A Switch, Kerry Is Launching A PAC," The Boston Globe, 12/15/01)

FLIP-FLOPPED ON $10,000 DONATION LIMIT TO HIS PAC

When Kerry Established His PAC in 2001, he Instituted a $10,000 Limit on Donations.

A week after repeating that he has refused to accept donations from political action committees, Senator John F. Kerry announced yesterday that he was forming a committee that would accept PAC money for him to distribute to other Democratic candidates . . . The statement also declared that the new PAC would voluntarily limit donations of so-called soft money to $10,000 per donor per year and disclose the source and amount of all such donations. (Glen Johnson, "In A Switch, Kerry Is Launching A Pac," The Boston Globe, 12/15/01)

One Year Later, Kerry Started Accepting Unlimited Contributions.

Senator John F. Kerry, who broke with personal precedent last year when he established his first political action committee, has changed his fund-raising guidelines again, dropping a $10,000 limit on contributions from individuals, a cap he had touted when establishing the PAC. The Massachusetts Democrat said yesterday he decided to accept unlimited contributions, which has already allowed him to take in "soft money" donations as large as $25,000, because of the unprecedented fund-raising demands confronting him as a leader in the Senate Democratic caucus. (Glen Johnson, "Kerry Shifts Fund-Raising Credo For His Own PAC," The Boston Globe, 10/4/02)

FLIP-FLOPPED ON BALLISTIC MISSILE DEFENSE

Kerry Called for Cancellation of Missile Defense Systems in 1984 and has Voted Against Funding for Missile Defense at Least 53 Times Between 1985 and 2000.

("John Kerry On The Defense Budget," Campaign Position Paper, John Kerry For U.S. Senate, 1984; S. 1160, CQ Vote #99: Rejected 21–78: R 2–50; D 19–28, 6/4/85, Kerry Voted Yea; S. 1160, CQ Vote #100: Rejected 38–57: R 6–45; D 32–12, 6/4/85, Kerry Voted Yea; S. 1160, CQ Vote #101: Rejected 36–59: R 1–49; D 35–10, 6/4/85, Kerry Voted Yea; S. 1160, CQ Vote #103: Rejected 33–62: R 28–22; D 5–40, 6/4/85, Kerry Voted Nay; H.J. Res. 465, CQ Vote #365: Motion Agreed To 64–32: R 49–2; D 15–30, 12/10/85, Kerry Voted Nay; H.R. 4515, CQ Vote #122: Ruled Non-Germane 45–47: R 7–42; D 38–5, 6/6/86, Kerry Voted Yea; S. 2638, CQ Vote #176: Motion Agreed To 50–49: R 41–11; D 9–38, 8/5/86, Kerry Voted Nay; S. 2638, CQ Vote #177: Rejected 49–50: R 10–42; D 39–8, 8/5/86, Kerry Voted Yea; S. 1174, CQ Vote #248: Motion Agreed To 58–38: R 8–37; D 50–1, 9/17/87, Kerry Voted Yea; S. 1174, CQ Vote #259: Motion Agreed To 51–50: R 37–9; D 13–41, With Vice President Bush Casting An "Yea" Vote, 9/22/87, Kerry Voted Nay; S. 2355, CQ Vote #124: Motion Agreed To 66–29: R 38–6; D 28–23, 5/11/88, Kerry Voted Nay; S. 2355, CQ Vote #125: Motion Agreed To 50–46: R 38–7; D 12–39, 5/11/88, Kerry Voted Nay; S. 2355, CQ Vote #126: Motion Rejected 47–50: R 38–6; D 9–44, 5/11/88, Kerry Voted Nay; S. 2355, CQ Vote #128: Motion Rejected 48–50: R 6–39; D 42–11, 5/11/88, Kerry Voted Yea; S. 2355, CQ Vote #136: Motion Agreed To 56–37: R 9–34; D 47–3, 5/13/88, Kerry Voted Yea; S. 2355, CQ Vote #137: Motion Agreed To 51–43: R 38–5; D 13–38, 5/13/88, Kerry Voted Nay; H.R. 4264, CQ Vote #251: Motion Rejected 35–58: R 35–9; D 0–49, 7/14/88, Kerry Voted Nay; H.R. 4781, CQ Vote #296: Motion Agreed To 50–44: R 5–39; D 45–5, 8/5/88, Kerry Voted Yea; S. 1352, CQ Vote #148: Motion Agreed To 50–47: R 37–6; D 13–41, 7/27/89, Kerry Voted Nay; H.R. 3072, CQ Vote #202: Rejected 34–66: R 27–18; D 7–48, 9/26/89, Kerry Voted Nay; H.R. 3072, CQ Vote #213: Adopted 53–47: R 39–6; D 14–41, 9/28/89, Kerry Voted Nay; S. 2884, CQ Vote #223: Adopted 54–44: R 2–42; D 52–2, 8/4/90, Kerry Voted Yea; S. 2884, CQ Vote #225: Motion Agreed To 56–41: R 39–4; D 17–37, 8/4/90, Kerry Voted Nay; S. 2884, CQ Vote #226: Motion Agreed To 54–43: R 37–6; D 17–37, 8/4/90, Kerry Voted Nay; S. 3189, CQ Vote #273: Passed 79–16: R 37–5; D 42–11, 10/15/90, Kerry Voted Nay; H.R. 5803, CQ Vote #319: Adopted 80–17: R 37–6; D 43–11, 10/26/90, Kerry Voted Nay; H. R. 4739, CQ Vote #320: Adopted 80–17: R 37–6; D 43–11, 10/26/90, Kerry Voted Nay; S. 1507, CQ Vote #168: Rejected 39–60: R 4–39; D 35–21, 7/31/91, Kerry Voted Yea; S. 1507, CQ Vote #171: Motion Agreed To 60–38: R 40–3; D 20–35, 8/1/91, Kerry Voted Nay; S. 1507, CQ Vote #172: Motion Agreed To 64–34: R 39–4; D 25–30, 8/1/91, Kerry Voted Nay; S. 1507, CQ Vote #173: Rejected 46–52: R 5–38; D 41–14, 8/1/91, Kerry Voted Yea; H. R. 2521, CQ Vote #207: Motion Agreed To 50–49: R 38–5; D 12–44, 9/25/91, Kerry Voted Nay; S. 2403, CQ Vote #85: Adopted 61–38: R 7–36; D 54–2, 5/6/92, Kerry Voted Yea; H.R. 4990, CQ Vote #108: Adopted 90–9: R 34–9; D 56–0, 5/21/92, Kerry Voted Yea; S. 3114, CQ Vote #182: Motion Rejected 43–49: R 34–5; D 9–44, 8/7/92, Kerry Voted Nay; S. 3114, CQ Vote #214: Rejected 48–50: R 5–38; D 43–12, 9/17/92, Kerry Voted Yea; S. 3114, CQ Vote #215: Adopted 52–46: R 39–4; D 13–42, 9/17/92, Kerry Voted Nay; H.R. 5504, CQ Vote #228: Adopted 89–4: R 36–4: D 53–0, 9/22/92, Kerry Voted Yea; S. 1298, CQ Vote #251: Adopted 50–48: R 6–36; D 44–12, 9/9/93, Kerry Voted Yea; S. Con. Res. 63, CQ Vote #64: Rejected 40–59: R 2–42; D 38–17, 3/22/94, Kerry Voted Yea; S. 1026, CQ Vote #354: Motion Agreed To 51–48: R 47–6; D 4–42, 8/3/95, Kerry Voted Nay; S. 1087, CQ Vote #384: Rejected 45–54: R 5–49; D 40–5, 8/10/95, Kerry Voted Yea; S. 1087, CQ Vote #397: Passed 62–35: R 48–4; D 14–31, 9/5/95, Kerry Voted Nay; H.R. 1530, CQ Vote #399: Passed 64–34: R 50–3; D 14–31, 9/6/95, Kerry Voted Nay; H.R. 2126, CQ Vote #579: Adopted 59–39: R 48–5; D 11–34, 11/16/95, Kerry Voted Nay; H.R. 1530, CQ Vote #608: Adopted 51–43: R 47–2; D 4–41, 12/19/95, Kerry Voted Nay; S. 1635, CQ Vote #157: Rejected 53–46: R 52–0; D 1–46, 6/4/96, Kerry Voted Nay; S. 1745, CQ Vote #160: Rejected 44–53: R 4–49; D 40–4, 6/19/96, Kerry Voted Yea; S. 1745, CQ Vote #187: Passed 68–31: R 50–2; D 18–29, 7/10/96, Kerry Voted Nay; S. 936, CQ Vote #171: Rejected 43–56: R 2–53; D 41–3, 7/11/97, Kerry Voted Yea; S. 1873, CQ Vote #131: Motion Rejected 59–41: R 55–0; D 4–41, 5/13/98, Kerry Voted Nay; S. 1873, CQ Vote #262: Motion Rejected 59–41: R 55–0; D 4–41, 9/9/98, Kerry Voted Nay; S. 2549, CQ Vote #178: Motion Agreed To 52–48: R 52–3; D 0–45, 7/13/00, Kerry Voted Nay)

Kerry Then Claimed To Support Missile Defense.

I support the development of an effective defense against ballistic missiles that is deployed with maximum transparency and consultation with U.S. allies and other major powers. If there is a real potential of a rogue nation firing missiles at any city in the United States, responsible leadership requires that we make our best, most thoughtful efforts to defend against that threat. The same is true of accidental launch. If it were to happen, no leader could ever explain not having chosen to defend against the disaster when doing so made sense. (Peace Action Website, "Where Do The Candidates Stand On Foreign Policy?" http://www.peace-action.org/2004/Kerry.html, Accessed 3/10/04)

Now Kerry Campaign Says He Will Defund Missile Defense.

Fox News' Major Garrett: "Kerry would not say how much all of this would cost. A top military adviser said the Massachusetts Senator would pay for some of it by stopping all funds to deploy a national ballistic missile defense system, one that Kerry doesn't believe will work.

Kerry Advisor Rand Beers: He would not go forward at this time because there is not a proof of concept. (Fox News' "Special Report," 3/17/03)

FLIP-FLOPPED ON 1991 IRAQ WAR COALITION

At The Time, Kerry Questioned Strength of 1991 Coalition.

I keep hearing from people, "Well, the coalition is fragile, it won't stay together," and my response to that is, if the coalition is so fragile, then what are the vital interests and what is it that compels us to risk our young American's lives if the others aren't willing to stay the . . . course of peace? . . . I voted against the president, I'm convinced we're doing this the wrong way . . . " (CBS' "This Morning," 1/16/91)

Now Kerry has Nothing but Praise for 1991 Coalition.

Sen. John Kerry: "In my speech on the floor of the Senate I made it clear, you are strongest when you act with other nations. All presidents, historically, his father, George Herbert Walker Bush, did a brilliant job of building a legitimate coalition and even got other people to help pay for the war." (NBC's "Meet The Press," 1/11/04)

FLIP-FLOPPED ON VIEW OF WAR ON TERROR

Kerry Said War on Terror is "Basically a Manhunt."

Kerry was asked about Bush's weekend appearance on "Meet the Press" when he called himself a "war president." The senator, who watched the session, remarked: "The war on terrorism is a very different war from the way the president is trying to sell it to us. It's a serious challenge, and it is a war of sorts, but it is not the kind of war they're trying to market to America." Kerry characterized the war on terror as predominantly an intelligence gathering and law enforcement operation. "It's basically a manhunt," he said. "You gotta know who they are, where they are, what they're planning, and you gotta be able to go get 'em before they get us." (Katherine M. Skiba, "Bush, Kerry Turn Focus To Each Other," Milwaukee Journal Sentinel, 2/13/04)

Two Weeks Later, Kerry Flip-Flopped, Saying War on Terror is More Than "A Manhunt".

This war isn't just a manhunt—a checklist of names from a deck of cards. In it, we do not face just one man or one terrorist group. We face a global jihadist movement of many groups, from different sources, with separate agendas, but all committed to assaulting the United States and free and open societies around the globe." (Senator John Kerry, Remarks At University Of California At Los Angeles, Los Angeles, CA, 2/27/04)

FLIP FLOPPED ON INTERNET TAXATION

In 1998, Kerry Voted To Allow States To Continue Taxing Internet Access After Moratorium Took Effect.

Kerry voted against tabling an amendment that would extend the moratorium from two years to three years and allow states that currently impose taxes on Internet access to continue doing so after the moratorium takes effect. (S. 442, CQ Vote #306: Motion Rejected 28–69: R 27–27; D 1–42, 10/7/98, Kerry Voted Nay)

In 2001, Kerry Voted To Extend Internet Tax Moratorium Until 2005 and Allow States To Form Uniform Internet Tax System With Approval of Congress.

(H.R. 1552, CQ Vote #341: Motion Agreed To 57–43: R 35–14; D 22–28; I 10–1, 11/15/01, Kerry Voted Nay)

Kerry Said "We Do Not Support Any Tax on the Internet Itself."

"We do not support any tax on the Internet itself. We don't support access taxes. We don't support content taxes. We don't support discriminatory taxes. Many of us would like to see a permanent moratorium on all of those kinds of taxes. At the same time, a lot of us were caught in a place where we thought it important to send the message that we have to get back to the table in order to come to a consensus as to how we equalize the economic playing field in the United States in a way that is fair." (Senator John Kerry, Congressional Record, 11/15/01, p. S11902)

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, do I have 20 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I ask the Chair to remind me when I have 4 minutes left.

The PRESIDING OFFICER. The Senator will be notified.

THIRTEEN REASONS WHY WE ARE NOT SAFER

Mr. KENNEDY. Mr. President, my friend from Mississippi attempted to describe my friend and colleague's position on a variety of different issues. As we know around here, one of the favorite techniques—we have just seen it—is to distort and misrepresent someone's position and then differ with it. That is what has been done with regard to Senator KERRY's position on the issues we just heard about. I know about the No Child Left Behind Act. I know JOHN KERRY's position, and I know his position on health care. We talk about his position on health care. What he wants for the American people is the same thing President Bush has for himself. When he talks about the No Child Left Behind Act, the fact is 4⅕ million children aren't getting the benefits of it. He can defend himself.

It is always interesting to me to listen to distortions and misrepresentations on his record. Read the Web site.

I listened to the Senator from Kentucky talk about Senator KERRY on Iraq. The fact of the matter is this President can't solve that problem. He has had his turn, and it is time to have someone new. You can ask, Why? Because he has burned his bridges with the international community. He has insulted the world community and shattered and shredded all of the treaties of the United States with the world community on the matter of dealing with Iraq. They don't trust him. And they won't. And they will JOHN KERRY. You have had your time, Mr. President. You have had your turn to try to do it. JOHN KERRY has a plan to be able to do it. He has outlined that and it offers the best reason and the best hope for us to be able to achieve it.

Twenty-four years ago, the President of the United States, Ronald Reagan, posed the defining question to the American people in that election when he asked, "Are you better off today than you were 4 years ago?" That simple question is given greater relevance now than when Ronald Reagan asked it.

The defining issue today is national security. Especially in the post 9/11 world, people have the right to ask Ronald Reagan's question in a very specific and all- important way. Are we safer today because of the policies of President Bush?

Any honest assessment can lead to only one answer—and that answer is an emphatic no. President Bush is dead wrong and JOHN KERRY is absolutely right. We are not safer today and the reason we are not safer is because of the President's misguided war in Iraq. The President's handling of the war has been a toxic mix of ignorance, arrogance, and stubborn ideology. No amount of Presidential rhetoric or preposterous campaign spin can conceal the truth about the steady downward spiral in our national security since President Bush made that decision to go to war in Iraq.

No issue is more important today. The battle against terrorism is a battle we must win. Even those of us who opposed the war in Iraq understand that this is now an American commitment and we must see it through. But to remain silent in the face of mounting failures by this President and this White House is to weaken our security even further, and we cannot let that happen.

The President keeps saying America and the world are safer today and better off today because Saddam Hussein is gone. Let us count the ways that George Bush's war has not made America safer.

No. 1, Iraq has been a constant, perilous distraction from the real war on terrorism. There was no persuasive link between Saddam Hussein and al-Qaida. All you have to do is read the 9/11 Commission report. There it is on page 66.

> Nor have we seen evidence indicating that Iraq cooperated with al-Qaida in the development or carrying out any attacks against the United States.

There it is—9/11 Commission, Mr. CHENEY; 9/11 Commission, Mr. Bush.

It is stated in the staff commission report as well:

> Two senior bin Laden associates adamantly denied any ties between al-Qaida and Iraq. We have no credible evidence that Iraq and al-Qaida cooperated on attacks against the United States.

There it is. There it is, and this President indicates that this ties in.

We should have finished the job in Afghanistan. We should have finished the job with al-Qaida and the job with Osama bin Laden.

No. 2, the mismanagement of the war in Iraq has created a fertile and very dangerous new breeding ground for terrorists in Iraq and a powerful magnet for al-Qaida that didn't exist before the war. We can't go a day now without hearing of attacks in Iraq by insurgents and al-Qaida terrorists, and our troops are in far greater danger because of it.

In the month of August, 863 Americans were killed or wounded; 70 attacks every single day on American troops. And we hear the rosy picture of this administration, and the Secretary of Defense saying, "I am encouraged by the way things are going." The President of United States said only a week ago that it is just a handful of insurgents.

Let us get real. This is what is happening. That this violence would occur was abundantly clear before the war.

We find in today's New York Times, pre-war assessment on Iraq shows chance of strong divisions. Is this the same intelligence unit that produced a gloomy report in July that President Bush says is just a matter of guesswork by our intelligence agencies? He changed that to "estimate" but initially called it "guesswork."

About the prospect of growing instability in Iraq, the report "warned" the Bush administration about the "potential costly consequences of American-led invasion 2 months before the war began, Government officials said."

The assessments predicted that an American invasion of Iraq would "increase sympathy" and support for political Islam and would result in a deeply divided Iraqi society prone to violent internal conflict.

There it is. Give it to the President of the United States. We have 140,000 American boys over there, with no tie-in with al-Qaida? And the predictions are right there in front of us that we were going to have this kind of conflict over there. And this administration says: Oh, no, we are a lot better off than we were before.

We should have finished the job against al-Qaida. We should have finished the job in Afghanistan. We should have had Osama bin Laden behind bars instead of Saddam Hussein.

And what did the administration do? They put on their ideological blinders, ignored the intelligence, and rushed headlong into a misguided war that has put our troops in perilous danger.

Mr. President, if we had gone into Afghanistan, we could have either ended or damaged al-Qaida, and captured Osama bin Laden. But al-Qaida is like a cancer. It metastasized. We had an opportunity to grab it all when we battled in Afghanistan, but we did not. We stepped back. We went into Iraq. And what has happened? Like a cancer, it has metastasized all over the world—in Southeast Asia, in Saudi Arabia, as far as Morocco, all over. It is a fundamental and basic miscalculation, and the American people are in greater danger as a result of that decision not to close the door on al-Qaida.

No. 4, because of the war, the danger of terrorist attacks against America itself has become greater. Our preoccupation with Iraq has given al-Qaida 2 full years to regroup and plan murderous new assaults on us. We know al-Qaida will try to attack America again and again at home if it possibly can. Yet instead of staying focused on the real war on terror, President Bush rushed headlong into an unnecessary war in Iraq.

No. 5, and most ominously, the Bush administration's focus on Iraq has left us needlessly more vulnerable to an al-Qaida attack with a nuclear weapon. The greatest threat of all to our homeland is a nuclear attack. A mushroom cloud over any American city is the ultimate nightmare, and the risk is all too great. Osama bin Laden calls the acquisition of a nuclear device a "religious duty." Documents captured from a key al-Qaida aide 3 years ago reveal plans even then to smuggle high-grade radioactive materials into the United States in shipping containers.

If al-Qaida can obtain or assemble a nuclear weapon, they will use it on New York, Washington, or any American city. The greatest danger we face in the days and weeks ahead is a nuclear 9/11, and we hope and pray it is not already too late to prevent. The war in Iraq has made the mushroom cloud more likely, not less likely, and it never should have happened.

No. 6, the war in Iraq has provided a powerful worldwide recruiting tool for al-Qaida. We know al-Qaida is getting stronger because its attacks in other parts of the world are increasing. In the 8 years before 9/11, al-Qaida conducted three attacks. But in the 3 years since 9/11, it has carried out a dozen more attacks, killing hundreds in Spain, Pakistan, Indonesia, and elsewhere.

No. 7, because of the war, Afghanistan itself is still unstable. Taliban and al-Qaida elements roam the country. A dangerous border with Pakistan, where terrorists can easily cross, continues to be wide open. President Hamid Karzai is frequently forced to negotiate with warlords who control private armies in the tens of thousands. Opium production is at a record level and is being used to finance terrorism. Our troops there are in greater danger. Free and fair elections are in greater danger. The war in Iraq has stretched our troops thin to the point where we cannot provide enough additional forces to stop the rising drug trade and enable President Karzai to gain full control of the country and root out al-Qaida. How can we afford not to do that?

No. 8, we have alienated longtime friends and leaders in other nations, whom we heavily depend on for intelligence, for border enforcement, for shutting off funds to al-Qaida, and for many other types of support in the ongoing war against international terrorism. Mistrust of America has soared throughout the world, and we are especially hated in the Muslim world. In parts of it, the bottom has fallen out.

The past 2 years have seen the steepest and deepest fall from grace our country has ever suffered in the eyes of the world community in all our history. We remember the enormous goodwill that flowed to America in the aftermath of September 11, and we never should have squandered it.

Does President Bush ever learn? His chip-on-the-shoulder address to the United Nations last week was yet another missed opportunity to turn the page and start regaining the genuine support of the world community for a sensible policy on Iraq.

In fact, the President's arrogance toward the world community has left our soldiers increasingly isolated and alone. We have nearly 90 percent of the troops on the ground in Iraq, and more than 95 percent of those killed and wounded are Americans. Instead of other nations joining us, initially supportive nations are pulling out. The so-called coalition of the willing has become the coalition of the dwindling.

No. 9, our overall military forces are stretched to the breaking point because of the war in Iraq. As the Defense Science Board recently told Secretary Rumsfeld:

> Current and projected force structure will not sustain our current and projected global stabilization commitments.

LTG John Riggs said it clearly:

> I have been in the Army 39 years, and I've never seen the Army as stretched in that 39 years as I have today.

As Senator JOHN MCCAIN warned last week, if we have a problem in some other flash point in the world, "it's clear, at least to most observers, that we don't have sufficient personnel."

The war has also undermined the Guard and Reserve. Many Guard members are also first responders for any terrorist attack on the United States. Our homeland security, as well, is being weakened because of their loss.

No. 10, the war in Iraq has undermined the basic rule of international law that protects captured Americans. The Geneva Conventions are supposed to protect our forces, but the brutal interrogation techniques used at Abu Ghraib prison in Iraq have lowered the bar for treatment of POWs and endangered our soldiers throughout the world.

No. 11, while President Bush has been preoccupied with Iraq, not just one but two serious nuclear threats have been rising—from North Korea and Iran. Four years ago, North Korea's plutonium program was inactive. Its nuclear rods were under seal. Two years ago, as the Iraq debate became intense, North Korea expelled the international inspectors and began turning its fuel rods into nuclear weapons. At the beginning of the Bush administration, North Korea was already thought to have two such weapons. Now they may have eight or more, and the danger is far greater.

Iran, too, is now on a fast track that could produce nuclear weapons. The international inspectors found traces of highly enriched uranium at two nuclear sites, and Iran admitted last March that it had the centrifuges to enrich uranium. The international community might be more willing to act if President Bush had not abused the U.N. resolution passed on Iraq 2 years ago, when he took the words "serious consequences" as a license for launching his unilateral war in Iraq. Now, after that breach of faith with the world community, other nations now refuse to trust us enough to enact a similar U.N. resolution on Iran because they fear President Bush will use it to justify another reckless war.

No. 12, while we focused on the nonexistent nuclear threat from Saddam, we have not done enough to safeguard the vast amounts of unsecured nuclear material in the world. According to a joint report by the Nuclear Threat Initiative and Harvard's Managing-the-Atom Project, "scores of nuclear terrorist opportunities lie in wait in countries all around the world"—especially at sites in the former Soviet Union that contain enough nuclear material for a nuclear weapon and are poorly defended against terrorists and criminals.

As former Senator Sam Nunn said:

> The most effective, least expensive way to prevent nuclear terrorism is to secure nuclear weapons and materials at the source.

How loudly—how loudly—does the alarm bell have to ring before President Bush wakes up?

No. 13, the neglect of the Bush administration of all aspects of homeland security because of the war is frightening. All we have to do is look at today's paper.

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. KENNEDY. Mr. President, I ask the Chair to notify me when I have 1 minute remaining.

It says in the paper that the FBI is said to lag on translations. It talks about 3 years after 9/11 more than 120,000 hours of potentially valuable terrorism-related recordings have not been translated by the linguists at the FBI. Then it talks about that the al-Qaida messages "tomorrow is zero hour" and "the match is about to begin" were intercepted by the National Security Agency on September 10 but not translated until days afterwards.

Homeland security? Why aren't we getting this done in terms of securing our homeland? We are pouring nearly $5 billion a month into Iraq. We are grossly shortchanging the urgent need to strengthen our ability to prevent terrorist attacks at home and to strengthen our preparedness to respond to them if they occur.

As former Republican Senator Warren Rudman, chairman of the Independent Task Force on Emergency Responders, said: "Homeland security is terribly underfunded."

That is a Republican Senator who is saying that. That isn't a Democrat. "Terribly underfunded."

We see what happens as a result. Our hospitals are unprepared for a bioterrorist attack. Our land borders, our seaports, our shipping containers, our transit systems, our waterways, nuclear power—none of these have sufficient funds for protection against terrorist attacks, even though the Bush administration has put the Nation on high alert for such attacks five times in the last 3 years.

You can't pack all these reasons America is not safer into a 30-second television response ad or a news story or an editorial. But as anyone who cares about the issue can quickly learn, our President has no credibility—no credibility—when he keeps telling us that America and the world are safer because he went to war in Iraq and rid us of Saddam Hussein.

President Bush's record on Iraq is clearly costing American lives and endangering America and the world. Our President won't change or even admit how wrong he has been and still is. Despite the long line of mistaken blunders and outright deception, there has been no accountability. As election day draws closer, the buck is circling more and more closely over 1600 Pennsylvania Avenue. Only a new President can right the extraordinary wrongs of the Bush administration on our foreign policy and our national security.

On November 2, the American people will decide whether they still have confidence in this President's leadership. When we ask ourselves the fundamental question, whether President Bush has made us safer, there can only be one answer. No, he has not. That is why America needs new leadership. We could have been, and we should have been much safer than we are today.

We cannot afford to stay this very dangerous course. This election cannot come soon enough. As I have said before, the only thing America has to fear is 4 more years of George Bush.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Wisconsin.

THE 40TH ANNIVERSARY OF THE WILDERNESS ACT

Mr. FEINGOLD. Mr. President, September 3, 2004, marked the 40th anniversary of the Wilderness Act. I have introduced a resolution, S. Res. 387, commemorating this important milestone, and I hope the Senate will approve this resolution, which has 18 cosponsors, before we adjourn for the year.

I would like to take this opportunity to recognize the many people who have helped us preserve over 106 million acres of wilderness for future generations to hike, to hunt, to fish, and to enjoy.

People such as Howard Zahniser, Olaus and Mardy Murie, Ceila Hunter, and Bob Marshall had the vision to protect our wild places. Legislators such as John Saylor and Hubert Humphrey listened to them and made their vision a reality.

As a Senator from Wisconsin, I feel a special bond with this issue. My State has produced great wilderness thinkers and leaders, such as the writer and conservationist Aldo Leopold, whose "A Sand County Almanac" helped to galvanize the environmental movement; like Sierra Club founder John Muir; and like Sigurd Olson, one of the founders of the Wilderness Society.

Senator Clinton Anderson of New Mexico said that his support of the wilderness system was the direct result of discussions he had held almost 40 years before with Leopold. And then-Secretary of the Interior Stewart Udall referred to Leopold as the instigator of the modern wilderness movement.

For others, the ideas of Olson and Muir—particularly the idea that preserving wilderness is a way for us to better understand our country's history and the frontier experience—provided an important justification for the wilderness system.

I am privileged to hold the Senate seat held by Gaylord Nelson, a man for whom I have the greatest admiration and respect. He is a well-known and widely respected former Senator and two-term Governor of Wisconsin, and the founder of Earth Day. What I find so remarkable is that, even after a distinguished career in public service, he continues to work for conservation. He is currently devoting his time to the protection of wilderness by serving as a counselor to the Wilderness Society—an activity which is quite appropriate for someone who was a co-sponsor, along with former Senator Proxmire, of the bill that became the Wilderness Act.

I am proud of Wisconsin's part in making this legislation law, and I am proud to carry on that tradition through the Senate Wilderness Caucus.

I also wish to thank my colleagues the senior Senator from West Virginia, Mr. BYRD, the senior Senator from Massachusetts, Mr. KENNEDY, and the senior Senator from Hawaii, Mr. INOUYE, all of whom served in the Senate in 1964 and voted for the Wilderness Act.

That Act was the first piece of legislation in the world to preserve wild places. Forty years after the act passed, wilderness still enjoys widespread, bipartisan support. Just recently the Bush administration announced its recommendation for wilderness designation of the Apostle Islands National Lakeshore in Wisconsin, a place that is near and dear to my heart and to the hearts of many Wisconsinites. I thank my former staffer Mary Frances Repko, who for 9 years worked tirelessly to promote, protect, and push for a wilderness study for the Apostles Islands, and to preserve America's public lands.

In closing, I would like to remind colleagues of the words of Aldo Leopold in his 1949 book, "A Sand County Almanac." He said, "The outstanding scientific discovery of the twentieth century is not the television, or radio, but rather the complexity of the land organism. Only those who know the most about it can appreciate how little is known about it." We still have much to learn, but this anniversary of the Wilderness Act reminds us how far we have come and how the commitment to public lands that the Senate and the Congress demonstrated 40 years ago continues to benefit all Americans.

I yield the floor.

Mr. BYRD. Mr. President, I recently received a letter from Mrs. Margaret Baker of Hillsboro, WV, who wrote of "how important wilderness areas are to the quality of life in West Virginia." Writing about West Virginia's Cranberry Wilderness Area, she explains that, in this special place "you can take your children here and actually see what nature looks like when it's not in a neatly labeled museum exhibit, when the animals aren't in cages and the trees aren't trimmed into perfect little bricketts of shrubbery."

Mrs. Baker's letter continues:

> My husband and I hike in the Cranberry Wilderness and always see something that is astonishing, a forest of ferns, an abstract art work of lichen or sunset colored mushrooms. You can see a picture of a wilderness area but unless you smell it, and feel the mud under your boots, experience the light shining on it and hear the birds and crickets, you can't really appreciate how amazing the offerings of the planet are. I think West Virginians have a duty to preserve this reminder of what is good and wholesome and worth being optimistic about in our world. Help keep West Virginia wild.

I share that letter today for several reasons. The first is that Mrs. Baker's letter gives me the opportunity to boast of the natural beauty of West Virginia, which everyone knows I like to do. One should not doubt that areas like the Cranberry Wilderness are both beautiful and unique. This incredible area of 35,864 acres of broad and massive mountains and deep, narrow valleys is the State's largest wilderness area.

As Mrs. Baker's letter so movingly indicates, visitors to the Cranberry Wilderness directly and vividly experience nature. Its wildlife includes black bear, white-tailed deer, wild turkey, mink, bobcat, numerous varieties of birds, and many species of reptiles. The waters of the Cranberry Wilderness are home to brook trout and several species of amphibians. Vegetation in the area includes spruce and hemlock at the higher elevations and hardwood trees such as black cherry and yellow birch and thickets of rhododendrons and mountain laurel in the lower terrain.

How exciting and rewarding it is to know that individuals like Mrs. Baker are able to use and enjoy this great wilderness. I certainly agree with Mrs. Baker that we "have a duty to preserve this [and other] reminders of what is good and wholesome."

That brings me to my second reason for sharing Mrs. Baker's letter with you. This year, 2004, is the 40th anniversary of the Wilderness Act of 1964, which was enacted to ensure that special places like the Cranberry Wilderness would be protected for future generations. In an era of "an ever increasing population, accompanied by expanding settlement and growing mechanization," the Wilderness Act declared that we must secure the land where "the earth and its community of life are untrammeled by man and where man himself is a visitor."

My home State of West Virginia has certainly benefitted from the creation of wilderness areas, and the Cranberry Wilderness is just one of the five wilderness areas in my State. The others include Dolly Sods, Otter Creek, Laurel Fork North, and Laurel Fork South Wilderness Areas, and West Virginia remains wild and wonderful, in part, because of Congress's actions. Furthermore, our Nation's 662 wilderness areas have given Americans a freedom to explore. This freedom has been secured and protected so that future generations also may enjoy the beauty of God's creation.

Covered from end to end, and on all sides, by the ancient Appalachian Mountains, West Virginia is exquisite in its natural splendor. It is the most southern of the northern; the most northern of the southern; the most eastern of the western; and the most western of the eastern States. It is where the east says "good morning" to the west, and where Yankee Doodle and Dixie kiss each other goodnight.

It is only fitting that, on the celebration of the 40th anniversary of the Wilderness Act, we cast our eyes backward so that we might have insight into how to better prepare for future events. On a whole range of important issues, the Senate has always been blessed with Senators who were able to reach across party lines and consider, first and foremost, the national interest.

Our late colleague, Senator Hubert H. Humphrey was certainly such a person. He introduced the first wilderness bill in the Senate in 1956 and was there for its passage in 1964. Other former colleagues had this ability, including Senators Scoop Jackson, Clinton Anderson, Frank Church, Richard Russell, and Mike Mansfield. They understood the art of legislating, and they reveled in it. For this and other reasons, I am also honored to be associated with such Senators and to be the recipient of the Hubert H. Humphrey Wilderness Leadership Award that was presented to me earlier this month.

As we look back 40 years, we can see how the seeds of legislation have blossomed. This certainly rings true of the passage of the Wilderness Act. Through four Congresses, Members on both sides of the aisle worked through the key challenges and made the right compromises rather than simply succumbing to the purely political tactics and rhetoric that seem to dominate today. The debate on the Wilderness Act should serve as a great example of how Members of both parties in the Senate and the House of Representatives can come together to pass historic pieces of legislation.

It is hard for me to believe that 40 years have passed since Congress first approved the Wilderness Act. It is also hard to believe that only Senators INOUYE and KENNEDY and I remain in the Senate as Members who voted for that original legislation. Yet today we can proudly say that the original designation of 9.1 million acres in that first bill has expanded to more than 105 million acres in 44 States. I believe that this landmark legislation should serve as a lesson for those who are seeking guidance regarding other important measures before this and future Congresses.

In closing, I am reminded of the immortal words of one of America's foremost conservationists and outdoorsmen, John Muir:

> Oh, these vast, calm, measureless mountain days, inciting at once to work and rest! Days in whose light everything seems equally divine, opening a thousand windows to show us God. Nevermore, however weary, should one faint by the way who gains the blessing of one mountain day: whatever his fate, long life, short life, stormy or calm, he is rich forever. . . . I only went out for a walk, and finally concluded to stay out till sundown, for going out, I found, was going in.

Mr. REID. Mr. President, I rise today to recognize the 40th anniversary of the Wilderness Act.

From the days of the earliest settlers, wilderness has always been a defining part of our national heritage. Simply put, the American wilderness helped shape the American values of freedom, opportunity and independence.

As it did in 1964, Nevada still contains many of the wildest and least traveled places in the lower 48 States. The remote and untamed areas of Nevada represent a reservoir of challenges and opportunities for hunters, fishermen, birdwatchers, photographers, and other outdoorsmen.

We all play a stewardship role, and I am proud of the job our nation has done and continues to do in upholding these uniquely American values.

In particular, I would like to recognize four individuals from my home State of Nevada who are true wilderness heroes.

Marge Sill has advocated protecting wild places for more than 4 decades. She worked to pass the 1964 Act, as well as every Nevada wilderness bill since then. Marge helped establish the Friends of Nevada Wilderness, which celebrates its 20th anniversary this year, and has mentored multiple generations of wilderness advocates.

Hermie and John Hiatt have been leaders in Nevada conservation efforts for more than 2 decades. Their tireless advocacy for wilderness and environmental protection particularly in southern and eastern Nevada serves as inspiration for many. Their interest in and knowledge of the science behind conservation serves Nevada well.

Finally I would like to recognize Roger Scholl, who played a key role in the development of the 1989 Nevada Wilderness Protection Act. In a quiet but effective and reasonable manner, Roger has consistently sought to develop consensus wilderness proposals. From Mt. Moriah and the Schell Creek Range in White Pine County to Mr. Rose and High Rock Canyon in Washoe County, Roger's work on wilderness issues has benefited Nevada and our Nation. His counsel has served me well.

Through the work of these Nevadans the number of Nevada wildernesses has grown from one, the Jarbidge Wilderness, to more than 40 in 40 years. I commend them for their work on behalf of Nevada and the Nation.

As President Lyndon Johnson said upon signing the Wilderness Act, "If future generations are to remember us with gratitude rather than contempt, we must leave them something more than the miracles of technology. We must leave them a glimpse of the world as it was in the beginning."

With stewards such as these four great Nevadans, If know that our Nation's great wilderness heritage will be secure for generations to come.

Mrs. BOXER. Mr. President, forty years ago this month, President Lyndon Johnson signed the Wilderness Act, which set aside some of the most quintessential American landscapes in this vast country. This visionary law first protected about 9 million acres of public lands. Today, as a result of a bipartisan commitment by successive Congresses and Presidents, 105 million acres of land are protected in 44 States.

California is blessed to have nearly 14 million acres permanently protected as wilderness for the public to enjoy and as a legacy for future generations. These areas include some of the most spectacular lands and diverse ecosystems, including forests, deserts, coastal mountains and grasslands.

Americans have long recognized the need to protect our public lands and their vast resources. John Muir, along with U.S. presidents from both parties, including Teddy Roosevelt, foresaw the need for us to protect these precious lands, lest they be lost forever.

Wilderness provides a place of refuge from urban pressures. Millions of Americans retreat to wilderness to fish, hunt, horseback ride, cross-country ski, hike and pursue other recreational breaks from everyday life.

Wilderness protects watersheds that provide clean water to our cities and farms. Forests cleanse our air and provide habitat for countless plant and animal species, many of which are endangered. Wilderness provides something else that is harder to measure, solitude and peace. California's population of nearly 36 million will balloon to 50 million in the next 20 years, so space will become even more precious.

I am pleased to cosponsor Senator FEINGOLD's resolution honoring the 40th anniversary of the Wilderness Act. I am also pleased to be the author of the California Wild Heritage Act, which would protect approximately 2.5 million acres of public lands as wilderness. The areas that would be protected by this legislation include: the King Range on the Lost Coast in Northern California; the White Mountains in eastern California, home to the ancient Bristlecone Pines; and Eagle Peak in San Diego County, which includes the headwaters of the San Diego River and is home to great plant and animal diversity.

These and many other areas deserve the protection that was envisioned back in 1964, when the Wilderness Act was signed into law.

I believe that our beautiful and varied landscapes help make us the people that we are. Today, we look back and are thankful for those who worked to set aside the rich tapestry that is our wilderness heritage. But looking back is not enough. We must also dedicate ourselves to securing the irreplaceable remaining unprotected wilderness areas as our legacy for those who follow us.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, how much time remains on the Democratic side?

The PRESIDING OFFICER. There is 11 minutes.

CHALLENGES FACING AMERICA

Mr. DURBIN. Mr. President, I thank the Chair for this opportunity to speak on issues that go to the heart of the challenges facing America and the challenge we face in the upcoming election. Is there one of us who can forget 9/11, where we were, how our lives were changed, how America was changed?

I was in this building, evacuated in panic as the White House was being evacuated, wondering what would happen next. Senators, Congressmen were dispersing in every direction, trying to find some safe place with all the visitors in the Capitol.

I remember, as well, what happened during the course of that day. By the evening time, after the President had spoken to our country, Members of the Senate and House, Democrats and Republicans, in a remarkable, unprecedented move, stood together singing "God Bless America" on the steps of our Capitol—a sense of unity, a sense of purpose, a determination to avenge those who had attacked the United States and to protect Americans here and abroad.

Recall how the world reacted. Countries that had been barely friendly to the United States stood up and said they would be on our side in the war against terrorism, stood up and said they would help us to make sure such an attack never occurred again, a broad coalition of countries standing behind the United States, many of these same countries we had helped in years gone by. Now they were prepared to help us.

We came here on Capitol Hill and in a matter of hours did two very important things. First, we declared war on the clear enemy of the United States, al-Qaida. Of course, the Taliban in Afghanistan became the focus of our military effort. It was a bipartisan vote, an overwhelming vote. There were no partisan speeches. We were together. We had identified the enemy. We were moving forward. We were not going to forget what happened on 9/11 even as we buried our dead and honored the wounded and the heroes of America.

And then think what happened next. We said to our Government: We are going to give you the tools and resources you need to fight this war against terrorism, to wage this war in Afghanistan. Again, we stood in a bipartisan fashion.

It is hard to believe that was only 3 years ago. It seems like so much longer. What has happened in the meantime? Take a look around at the United States and the world community. Countries that stood with us after 9/11, determined to help us, have walked away from us. Americans who were determined to work together are divided. We find ourselves with scarce resources to really attack the enemies of the United States. We find ourselves counting the dead and wounded on a daily basis, with no end in sight.

What has happened to make the difference? What has happened is a decision by this administration to lose focus, to stop this intensive effort against the enemies of 9/11 and instead to wage a war in Iraq—a war which sadly goes on and on every single day, with no end in sight. For some in the administration, it was an answer to a prayer; 9/11 was the reason and the excuse that was needed to attack Iraq. This irrational passion to go after Saddam Hussein in Iraq, whatever the threat against the United States, has led us to a point where we find so many of our best and brightest and bravest Americans dying and facing severe injuries and wounds in Iraq every single day.

When the war began in Iraq, I said I wanted to call every family in Illinois who loses a soldier. I have not been able to do that. Some I could not get through to. I have to tell you, there is a stack of six names on my desk. Over 50 Illinoisans have been killed in this war and there is no end in sight.

I spoke to another family yesterday, the family of a 28-year-old marine from Pana, IL, a wonderful young man who was dedicated to this country. He lost his life a few days ago. How many times that story has been played out over and over again—over a thousand times American soldiers killed, over 7,000 gravely wounded.

I have been to Walter Reed and I have seen them with arms blown off, legs blown off, loss of both hands, head injuries, blinded, paraplegics. These are the wounded who come back from Iraq.

What do we know today? We know the case made by the Bush administration for the invasion of Iraq was wrong. We know the information given to the American people to justify the invasion of this country was wrong. How do we know that? The Senate Intelligence Committee, in a bipartisan report, came up with the clear conclusion that our intelligence was just plain wrong.

When the President told us we would find an arsenal of weapons of mass destruction, over a year and a half later we have found none. When the President told us we would find a stockpile of nuclear weapons threatening the Middle East and the United States, we have found none. When the President told us there was a linkage between Saddam Hussein and al-Qaida, the attackers of 9/11, we have found none. The list goes on and on.

The President has come back and retracted statements he made in the State of the Union Address, incorrectly saying that fissile materials, nuclear materials, were sent from Africa to Iraq. So the information given to the American people to justify the war turned out to be wrong.

Now, the question is, How were the American people misled? Was it deliberate? I personally believe that unless there is clear, credible, and convincing evidence that the President and his administration knew the information was wrong, you cannot say it was a deliberate deception of the American people. But this much you can say: People within this administration who continue to parrot these lines they know are false are, frankly, not only doing a great disservice to the American people, they have a wanton, reckless disregard for the truth.

Let me give you some quotes to back that up, so you understand what we are talking about. This is a statement made by President Bush at a press conference a few months ago:

> The reason that I keep insisting there was a relationship between Iraq and al-Qaida is because there is a relationship between Iraq and al-Qaida.

Look what Secretary of State Colin Powell said a few days ago:

> I have seen nothing that makes a direct connection between Saddam Hussein and that awful regime and what happened on 9/11.

That is his own Secretary of State who says the President is not telling the American people the facts.

Look at the 9/11 Commission report. This is a report prepared on a bipartisan basis, which has been lauded by everybody in Congress. This is what they say:

> We have no credible evidence that Iraq and al-Qaida cooperated on attacks against the United States.

Yet if you ask the American people, they will make the following argument: It is far better for us to be fighting terrorism in al-Qaida over there than to be fighting it here in the United States. These conclusions by the 9/11 Commission and Secretary of State Colin Powell tell you that statement is just plain wrong.

We are not fighting al-Qaida in Iraq. The al-Qaida forces, as Senator KENNEDY said earlier, have metastasized around the world. They are a threat to all of us.

Let us tell you what we know for sure. We have lost international cooperation in Iraq; the same cooperation that was there to help us fight terrorism is gone. Our coalition continues to dwindle and the losses are to American troops; 95 percent of those killed and wounded are American soldiers. If you want to know who is waging the war, how much commitment is being made by this coalition, that statistic tells it all.

Secondly, we were unprepared, we were not prepared, our troops did not have the necessary equipment and even training for what they faced after the initial military victory in Iraq.

Over the weekend, back home, officers in the Illinois National Guard told us their units are being asked to do things far beyond their training capability. We know our troops went into battle in the aftermath without the necessary body armor and that the Humvees were not properly equipped for what happened in Iraq. We know our helicopters didn't have the necessary defense equipment—this from an administration that received every penny it asked for from Congress to wage this war.

This Commander in Chief did not stand up for our troops, was not prepared to defend our troops, and we have seen what resulted: over 1,000 dead, over 7,000 wounded.

There is no end in sight.

There is a litany of quotes from Senator HAGEL, Senator MCCAIN, Senator LUGAR, and so many others on the Republican side who have joined on the Democratic side to say that, clearly, we are not winning the war in Iraq. This Commander in Chief cannot crow and brag about the great job in Iraq. We are there with no end in sight.

We have found now that we have been misled in going into Iraq, and we continue to be misled by statements from this administration about the reason for the war and what we can expect its outcome to be.

There are many who argue that JOHN KERRY should not be elected President because he cannot come up with a plan to extricate us from this complicated mess in Iraq. That, to me, is a curious position. This President, President Bush, drove our national bus into a cul-de-sac and now he can't turn it around, and he blames JOHN KERRY because he cannot explain how President Bush can get us out of this mess in Iraq.

What is wrong with that picture? This is a decision by President Bush to invade before the inspections were completed, before the U.N. had an opportunity to join us, to invade before the facts were in. The invasion took place and our military did its best. They are the best in the world. They conquered Saddam Hussein, but they left us in a position of vulnerability, with no end in sight. That is the choice facing American voters on November 2.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2845, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

Pending:

> McCain amendment No. 3702, to add title VII of S. 2774, 9/11 Commission Report Implementation Act, related to transportation security.
>
> Wyden amendment No. 3704, to establish an Independent National Security Classification Board in the executive branch.
>
> Collins amendment No. 3705, to provide for homeland security grant coordination and simplification.

AMENDMENT NO. 3705

Ms. COLLINS. Mr. President, last evening, on behalf of myself, Senator CARPER, and Senator LIEBERMAN, I offered an amendment to rewrite the formula for the Homeland Security Grant Program. The amendment we brought before the Senate was unanimously reported as a separate bill by the Governmental Affairs Committee.

We should always keep in mind that should there be another terrorist attack on our country, people will be calling 911; they will not be calling the Washington, DC, area code. It is our first responders—our firefighters, our police officers, our emergency medical personnel—who are always on the scene first. We know that from the tragic attacks of 9/11, and, as Secretary Ridge has pointed out many times, homeland security starts with the security of our hometowns. For this reason, we have come together in a bipartisan way, representing large States and small States, to draft the Homeland Security Grant Enhancement Act, and we have offered it as an amendment to this bill. It would streamline and strengthen the assistance we provide to our States, communities, and first responders who protect our homeland.

The underlying Homeland Security Act contains virtually no guidance on how the Department of Homeland Security is to assist State and local governments with their homeland security needs. In fact, the 187-page Homeland Security Act mentions the issue of grants to first responders in but a single paragraph. The decisions on how Federal dollars should be spent or how much money should be allocated to home were left to another day when Congress enacted that important legislation, but it is now time for Congress to finally address this critical issue.

We know that much of the burden for homeland security has fallen on the shoulders of State and local officials across America, those who are truly on the front lines. In crafting the amendment before us, the Governmental Affairs Committee listened first and foremost to our first responders. We held three hearings on this vital topic and negotiated for 2 years to produce the amendment that Senator CARPER, Senator LIEBERMAN, and I are offering. The bipartisan measure was approved by the Governmental Affairs Committee by a 16-to-0 vote, and it currently has 29 cosponsors, including the distinguished Presiding Officer.

There are several groups that are active with first responders who are supporting our legislation. They include the National Governor's Association, Advocates for EMS, National Council of State Legislators, Council of State Governments, the National Association of Counties, the National League of Cities, and the Fraternal Order of Police.

As you can see, Mr. President, our approach has widespread support. It is supported by Senators from big States, such as Michigan and Ohio—and I want to particularly commend the Senators from those States for their hard work on this legislation—and small States, such as my home State of Maine and the State of the Senator from Delaware.

The wide breadth of support demonstrates the balanced approach our amendment takes to homeland security funding. It recognizes that threat-based funding is a critical part of homeland security funding. It does so by almost tripling the homeland security funding awarded based on threat and risk. This has been a particular concern to Senator CLINTON, who has brought this issue before the Senate a couple of times.

The amendment, however, also recognizes that first responders in each and every State are on the front lines and have needs. Therefore, the bill maintains a minimum allocation for each State.

The legislation will also improve the coordination and the administration of homeland security funding by promoting one-stop shopping for homeland security funding opportunities. It establishes a clearinghouse to assist first responders and State and local governments in accessing homeland security grant information and other resources within the new department. This clearinghouse will help improve access to information, coordinate technical assistance for vulnerability and threat assessments, provide information regarding homeland security best practices, and compile information regarding homeland security equipment purchased with Federal funds.

Establishment of these improvements will mean first responders can spend more time training to save lives and less time filling out unnecessary paperwork.

This amendment will establish a fair and balanced approach to allocating this critical funding. I am very pleased to have worked with the Senator from Delaware on this and I yield to him for any comments he might have, unless, of course, the ranking member would like to speak first.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I appreciate the recognition. Senator COLLINS and I have to go a short walk to a meeting, so I take this opportunity and use it briefly to rise in support of the Collins-Carper amendment submitted by the chairman of the committee and the distinguished Senator from Delaware, who worked very hard on this very important topic and area before the 9/11 Commission Report was assigned to the Governmental Affairs Committee.

This is an important addition to the National Intelligence Reform Act, the underlying proposal that came out of our committee last week, because it would help ensure that in these dangerous times the needs of our States and local first responders are met in a reasonable and coordinated way.

In the past 3 years since September 11, beginning on September 11, our first responders and preventers have made real progress in boosting America's preparedness to deal with the threat of terrorism. But as an independent task force of the Council on Foreign Relations found last year: the United States has not reached a sufficient national level of emergency preparedness and remains dangerously unprepared to handle catastrophic attack on American soil—dangerously unprepared. That I take to refer particularly not to the law enforcers, who are the first preventers, but to the capacity of our total response system at the local and State level to respond to a catastrophic attack.

This amendment, unanimously approved by a total nonpartisan vote in our committee, is an important first step in ensuring that our local first responders get the resources they need. First, this amendment simplifies the existing homeland security grant process by creating an interagency committee to coordinate Federal requirements for homeland security planning and reporting, and it eliminates redundancies. It would establish a clearinghouse to offer local communities one-stop shopping for information on available Federal grants.

Second and most important, this amendment would reform the way homeland security grant money is currently distributed.

In crafting these funding provisions, the committee acted consistent with the recommendation of the 9/11 Commission to significantly increase the amount of homeland security funding distributed based on threats but, the judgment we reached, not to eliminate a minimum amount to go to every State. The reason for that is unfortunately the reality of the terrorist threat and the nature of our terrorist enemies. Yes, they have shown they will strike at visible national symbols, that to some extent they will focus on big cities, but the fact is that anyone who pays attention to the terrorist mode of operating around the world will see what they also do is to strike at unpredictable, undefended, vulnerable targets.

Remember, these people do not hold themselves to any rules of civilized or humane behavior, so they have no hesitancy to put a bomb on a bus occupied by families, men, women, children; to attack a school and wantonly slaughter children, in some cases their teachers. In a reality such as this, gruesome and chilling as it is, the fact is every part of America needs some help from the Federal Government in getting itself prepared to prevent and respond, and that is exactly what this amendment would do.

I continue to believe that this part of our own domestic army of preventers and responders in the war on terrorism is not adequately funded. This amendment does not of itself change that, but it does represent a sensible bipartisan approach and goes a long way to ensuring that whatever funding we do provide—and I hope that number will increase—is allocated in a manner that is best designed to protect all of the American people.

I thank Senator COLLINS and Senator CARPER for the extraordinary work they did on this issue in our committee. Senator CARPER, characteristic of himself, took hold of a complicated problem with difficult political ramifications to it but a real critical national need attached to it and worked very hard to bring about this result, which I feel very strongly deserves the overwhelming support of Members of the Senate.

I thank the chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, before the Senator from Delaware makes his comments, I ask unanimous consent that the Senator from Minnesota, Mr. COLEMAN, be added as a cosponsor to the underlying bill, S. 2845, and that he also be added as a cosponsor to the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, the Senator from Minnesota has been one of our most diligent committee members in attending all of the hearings we held throughout the August recess. He was an active member of the committee throughout the debate on this legislation, and I am very grateful to have his support and cosponsorship.

I say to the Senator from Connecticut that I think along with the cosponsorships we picked up yesterday, this is a sign that as people look at our legislation and learn more about it, it is gaining even more support.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, before the chairman of our committee and Senator LIEBERMAN head for their meeting, I want to say in plain view of everyone how proud I am of the leadership they have provided to our committee. At a time when much of Washington, DC, was taking the month of August off, they made sure that our committee did not. At a time when most Senators were scattered around the world, the country, and back in their own States, they made sure we were here, and not just for any purpose but to participate in a series of excellent hearings.

I believe, and correct me if I am wrong, we have had a total of eight hearings thus far in the last month on this subject, from all kinds of people within the CIA, folks who have been National Security Advisers, Secretaries of Defense, Secretaries of State, Secretaries of Homeland Security. We have heard from the Commissioners themselves, the cochairs of the Commission, and from their senior staff. It has been an extraordinary education. It has taken me a while to get my arms around these issues. As we finished our markup, I said to both Senator COLLINS and Senator LIEBERMAN that a lot had not been clear to me as we went through the course of those hearings, but as we went through the course of the markup a number of issues, questions that had not been in focus for me, came into focus.

I thank you for providing this extraordinary month and a half for us to prepare to offer this package to our colleagues in the Senate. You have done really good work. We are proud of you.

Mr. LIEBERMAN. Thank you.

Ms. COLLINS. Will the Senator yield on that point?

Mr. CARPER. I am happy to yield.

Ms. COLLINS. I thank the Senator for his generous comments. I know Senator LIEBERMAN joins me in commending the Senator from Delaware for his active participation in our hearings. I believe the Senator from Delaware, as the Senator from Minnesota, made an extraordinary effort to be there, to question the witnesses, and all of us now quote the Senator from Delaware in various places and occasions, in reminding our colleagues that:

> The main thing is to keep the main thing the main thing.

Those words have become inexorably linked to the debate on intelligence reform. We thank the Senator for that as well.

Mr. CARPER. Mr. President, the record should show those words should not be directly attributed to me. They are actually the words of a recently departed minister, Methodist minister from our State, Brooks Reynolds, who would have been 89 years old on election day. He used to give the opening prayer at the Delaware General Assembly. We would convene every January. Among the things he would say to all of us who would gather there in Dover in the legislative hall:

> The main thing is to keep the main thing the main thing.

With respect to the underlying legislation, we have done a good job of doing that. What we have come up with is legislation that I think is well designed to ensure that key decisionmakers—be it the President or the President's Cabinet, those of us who serve in the House and Senate, those who serve in the intelligence communities themselves—that we have the information we need to have, we have it in a timely way, and that we have the information objectively. That will enable us to better protect this country from terrorism in the 21st century. That is the main thing, and I believe the legislation before us today really does help us keep the main thing the main thing.

I wish to say a word or two, if I may today, about the amendment Senator COLLINS and I have offered. It seeks to address the issue of how to allocate funds to first responders, and to also enable the system of distribution that we have to move forward with a little less difficulty, a bit more smoothly, and maybe somewhat more efficiently.

First, I wish to say how much I have enjoyed working with Senator COLLINS. We have worked on it well over a year, and to express thanks to my staff and especially to John Kilvington on my staff for the great work he has done with me and with Senator COLLINS's team.

What we seek to do with this amendment before us today, I say to my colleagues, is to make a series of much needed reforms to the state of the Homeland Security Grant Program. As many of my colleagues are aware, funding under the State Homeland Security Grant Program today is distributed somewhat arbitrarily. Much of the money that is made available for grants each year is distributed on a per capita basis. It is based on a formula that is actually included in the PATRIOT Act.

Some have criticized our current homeland security grant formula saying it shortchanges larger States such as New York that are at the most risk for attack. I agree. No one here, though, disputes the fact that States such as New York and California deserve the biggest share of Federal funds.

But let me say clearly that funding should not be based on population alone. This may come as a surprise to some of you from big States such as Minnesota or Wyoming, but my home State of Delaware is not very big but we still have major vulnerabilities. We have a significant port on the Delaware River, the Port of Wilmington. Through that port, frankly, more bananas come than any other port on the east coast—grapes, Chilean fruit, and steel. Delaware has been known through its history as the chemical capital of the world, home to major companies such as DuPont and Hercules and others. We have a number of plants that dot the landscape. Delaware is a financial center for our country, in downtown Wilmington, DE.

A lot of people go through Delaware. If you do, you probably know I–95 passes through Delaware, one of the busiest highways in the country. Interstate 495 does as well. The Northeast corridor for Amtrak passes through Delaware. Both freight railroads, CSX and Norfolk Southern, two of the busiest railroads in America, pass through Delaware.

To our east, we have the Delaware River, a heavily trafficked river with some cargo, including some hazardous cargo that goes through our States, between our State and New Jersey on that river. On the other side of the Delaware is New Jersey and there is a nuclear powerplant in Summit, NJ. All of these factors tend to make our State a not unattractive target for terrorists.

We need to make sure that whatever we do, we protect States such as Delaware that may not be the most populous but do have real safety and security concerns. I believe—I might be wrong, but I believe with this amendment we have found a way to do that without shortchanging our sister States around the country.

The 9/11 Commission rightly pointed out that the current grant formula simply does not direct the Federal Government's scarce homeland security resources to the States and localities that need it the most. They called on Congress to create a new formula based on an assessment of threats and vulnerabilities that take into account real risk factors such as population density and the presence of critical infrastructure.

Our amendment does just that. The formula we have crafted ensures that the majority of Federal first responders' aid each year goes to the States most vulnerable to attack. In my judgment and the judgment of my colleagues, our cosponsors, the formula is a fair one. It would ensure that big States such as New York and California and smaller, less populated States such as Delaware, or less populous States such as Wyoming or Minnesota, receive our fair share of Federal homeland security dollars.

Large States will do much better under this formula in the amendment than they do under current law. This is especially true for States with large, densely populated cities or those that are located along an international border. It is my hope that this amendment will also better account for needs in States such as Delaware that have small populations but are located in risky parts of the country and have other significant vulnerabilities.

In addition, our amendment gives the Secretary of Homeland Security the authority to distribute a portion of each year's grant funding directly to large cities such as New York or Washington, DC, where we are gathered today, to help them meet their unique security needs.

We do all of this while preserving the small State minimum set out in current law. This will ensure that small States such as ours will continue to receive the resources they need, that we need, to protect our citizens from potential terrorist attack.

In addition to these important formula changes which have been alluded to by both Senator COLLINS and Senator LIEBERMAN, our amendment makes this Homeland Security Grant Program much more user friendly.

I don't know if our Presiding Officer or my colleague from Minnesota talked to their Governors recently or their mayors. Senator COLEMAN was once a mayor so he could be talking to himself on this one, I suppose. But any of us talking to our Governors or mayors or first responders over the last couple of years know how inefficient this program can be and how frustrating it can be to deal with. Under the current system, anyone seeking a grant is faced with, believe it or not, a 12-step application process—12 steps. Once this process is complete, first responders then have to sit around and wait, sometimes for months, before they see that first dime.

Our amendment dramatically streamlines this process; shortening the 12-step application process to 2 steps, requiring that States pass grant funds down to the local level within 60 days of receipt. Our amendment also ensures that cities and local governments are involved in their State's planning and application process. Our amendment also includes an important provision giving States significant new flexibility to use first responder aid they receive to meet their most pressing security needs.

Under the current system, States are given funding in four categories: No. 1, planning; No. 2, training; No. 3, they can use this money for exercises, and, No. 4, for equipment purchases. The States must spend a certain amount of money in each category, even if their homeland security plan calls for a different spending plan.

We propose, on the other hand, to give States the ability to apply for a waiver that would allow them to use unspent training money, for example, to purchase needed equipment, if that is where their needs were to lie or, frankly, the converse could be true.

Finally, our amendment creates a one-stop shop within the Department of Homeland Security. That one-stop shop would enable applicants to obtain grant information and other assistance. It also lays the groundwork for future reforms by authorizing a major review of all existing homeland security-related grant programs.

As part of this review, an interagency committee will look at planning, will look at application and paperwork requirements in an effort to ensure that the different programs are coordinated and do not impose duplicative requirements on applicants. The committee would then make recommendations for changes aimed not at eliminating programs but at making sure all of those programs work together in a coordinated fashion with as small an administrative burden on applicants as possible.

In conclusion, this amendment is based on bipartisan legislation reported out of the Governmental Affairs Committee unanimously this past June. It is a product of more than a year of debate on that committee about how we could better serve our first responders. The amendment enjoys the support of Democrat and Republican Senators from both large States and from small States, and when we have the opportunity to vote on this amendment, I will certainly urge our colleagues to vote for its adoption.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I want to congratulate my colleague, the Senator from Delaware, for the outstanding work he has done on this amendment and, in fact, as the Senator from Maine noted, his work involved in the series of hearings that we had to allow us to come before this body with a piece of legislation that will make America safer.

If I may reflect first on the process of the underlying bill, we had a series of I believe eight hearings. Sometimes folks say we move too slow in these hallowed halls. There was a concern that in less than 2 months we would come before this body with a bill that provides major restructuring of the way in which we handle the threat of terrorism in this country, that some might say we moved too hastily. But one wouldn't say that if they observed the process.

Within those eight hearings, we had a wellspring of information. We heard from heads of the CIA in the 1970s, 1980s, and 1990s across party lines. I think of that hearing. We talked about the "three wise men" who came before us. We heard from agents who were active in the field in hearings that were not open to the public in which in fact the names of the agents themselves were still kept confidential. We heard from members of the Commission. We heard from representatives of the families of the victims.

It was for me, relatively new in this body, who served as a mayor, as the Presiding Officer has served as a mayor, and involved in politics at what I call the bottom of the political food chain, a fascinating educational experience. I learned a lot. I think my colleagues, no matter how long they were in this body, learned a lot. We have all learned a lot in the post-September 11, 2001 world.

As a result of what we heard, we come before this body with some needed reform—reform that has broad bipartisan support. I believe the process we used represents the best of what this body is all about, working in a bipartisan way dealing with some difficult issues, issues of life and death, truly life and death, coming to some conclusions, and in the end making America a safer place.

I associate myself with the comments of my colleague from Delaware as he talked about the process because I shared that experience.

I also want to talk about the underlying amendment, the Collins-Lieberman-Carper amendment, again from the prospective of a former locally elected official who appreciates one-stop shopping. When I was dealing with licensing in the city of St. Paul, one of the things we did was set up one-stop shopping so folks didn't have to go to 16 different places to fill out where the application was, what had to be in it, who you had to talk to, and it made a difference. I talked with our consumers. I know because I talked to them. When you are mayor and go down the street, people will grab you by the elbow and tell you about the experience. They appreciated it.

With a matter as complex, as serious, and as profound as dealing with the issue of homeland security in a time when our Nation faces threats of terrorism, we managed in this amendment to do a number of things which I believe are very helpful. We simplified a process. We have taken something that was a 12-step process and made it a 2-step process.

We have accelerated the process requiring States to provide 80 percent for the homeland security resources they receive at the local level within 60 days without moving the money forward. There are needs out there. People deserve to know that the resources are there.

We provided flexibility, targeting the most vulnerable areas, and also making sure that all parts of the country and all States have an opportunity to do what needs to be done to provide a greater measure of safety against the threat of terrorism.

Minnesota is a big State. Wyoming is a big State geographically, but not a big State in population. Much of the area of Minnesota is rural. Yet within the State of Minnesota, which is a big State but not a highly-populated State, with about 5 million people, we have the Mall of America, probably one of the most frequented tourist places in the United States. Every year 35 million people visit the Mall of America.

We have, of course, the Mississippi River in Minnesota which starts as a little stream right up there in Itasca and becomes the great Mississippi of legend, of Mark Twain, and eventually finds its way to Louisiana and into the gulf.

Along the Mississippi, we have a nuclear powerplant on an Indian reservation, the Prairie Island Reservation right on the Mississippi River in Minnesota. We have Duluth, which is located on Lake Superior, which is the gateway to the Great Lakes and transatlantic shipping.

We have miles and miles of border between Minnesota and Canada, a border that is not heavily populated, that is easily crossed, a border which in certain conditions is pretty tough to police. It is pretty tough up in International Falls where it is minus 28 or 30 degrees Fahrenheit without wind chill. Border agents up there have to learn how to pull a trigger on a pistol when it is very cold. It is not that easy. They have to learn how to use snowmobiles and float planes, and all sorts of things that may not be seen in other parts of the country.

But we face challenges. Obviously, we heard from Delaware, and the Presiding Officer would be on the floor now talking about Wyoming. He would talk about the challenges that are faced there.

This is an amendment that provides the targeting of resources in the areas where clearly there is the greatest threat but provides the needed flexibility so that places such as International Falls in Minnesota or the Mall of America or a nuclear powerplant on the Mississippi River can also be protected.

This is an amendment that is a product of the process I talked about. It has bipartisan support. It has the support of Senators from large States and small States. It is something I believe my colleagues will and should overwhelmingly support.

I am honored to speak on behalf of this amendment and to urge its adoption. In doing so, I truly believe it will make this country a safer place and it will make it easier and make it quicker. It will make it much more practical for folks throughout this country to access the funds they need to provide a greater measure of protection against the threat of terrorism.

Mr. President, I yield the floor.

Mr. CARPER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COLEMAN. Mr. President, I would like to address two provisions in the underlying bill that were the subject of much debate, much discussion during our hearings on the 9/11 Commission recommendations. One of them had to do with the recommendation as to whether the national intelligence director should serve at the pleasure of the President or should serve a fixed term.

The 9/11 Commission recommended that the national intelligence director serve at the pleasure of the President. Some observers, however, have suggested that making the NID serve a fixed term would help preserve the independence of the national intelligence director. The Collins-Lieberman bill creates a NID who will be appointed by the President, confirmed by the Senate, and who will serve at the pleasure of the President. This is one of those discussions where the words of the Senator from Delaware ring true: the importance of making sure we keep the main thing the main thing.

We had come before us, as I indicated earlier, three former Directors of the Central Intelligence Agency: William Webster, James Woolsey, and Stansfield Turner. Each of them testified that among all the powers of the NID and the variables we needed to consider when deciding whether to create a national intelligence director, the most important quality, the most important variable for the national intelligence director to be effective is to have the support of the President of the United States.

The national intelligence director will be responsible for overseeing a broad range of intelligence functions and operations in this country. His ability to provide that kind of leadership and direction in many ways will be contingent upon having the support of the Commander in Chief, having the support of the President of the United States.

Robert Mueller, who served a 10-year term as FBI Director, testified that the NID should serve at the pleasure of the President. Director Mueller distinguished the FBI, which is expected to be an independent investigative agency, from the office of the NID, which will be responsible for advising the President on intelligence matters, and that advice will be shaping the President's policy decisions. Among the responsibilities of the NID is to be the principal adviser to the President himself.

Some believe that having the NID serve a fixed term could help insulate the national intelligence director from political pressure. However, what it would do is to insulate the national intelligence director from the President. We cannot afford, in these difficult and challenging times, at a time when America is under the threat of terrorist attack, to have the national intelligence director marginalized by a President who does not trust the national intelligence director.

The national intelligence director will be one of the most powerful individuals in the U.S. Government, and he will be one of the President's closest advisers. As such, the President has to be able to select his own national intelligence director. And all those in the intelligence operations, all those in other branches of Government who are involved in intelligence gathering, intelligence processing, and intelligence formulation of operation need to understand that the national intelligence director has the absolute confidence of the President of the United States.

There are a number of alternative mechanisms to protect the objectivity and the independence of the national intelligence director. But, again, I think it is critically important that the national intelligence director have the support of the President. And those thoughts are not just the thoughts of this Senator, but they were the expressed opinions of three former Directors of the Central Intelligence Agency who came before our committee and the opinion of the current head of the FBI who himself has a 10-year term.

One of the other issues that was the subject of a great deal of discussion and focus was what type of authority the national intelligence director should have to develop and execute the budget for national intelligence. It was said many times, whoever controls the money has the power.

We have made a judgment in this bill to have a strong national intelligence director, a national intelligence director who has the confidence of the President of the United States, but also a national intelligence director who will have control over the development of the budget for the national intelligence program, including the authority to coordinate, prepare, direct, and present to the President the annual budget for the national intelligence program.

This bill gives the NID the authority to manage and oversee the execution of the national intelligence program, including visibility and control over how money is spent. It ensures that the core national intelligence agencies—the CIA, NSA, NGA, NRO, FBI Office of Intelligence, and the Department of Homeland Security Directorate of Information Analysis and Infrastructure Protection—are entirely within the budgetary authority of the national intelligence director. And it gives the national intelligence director influence over the budgets of intelligence-related activities and organizations that are outside the national intelligence director.

Our approach is consistent with the recommendations of the 9/11 Commission, which said the NID must be given—and I quote—"control over the purse strings," including the power to submit a unified budget for national intelligence, to receive the appropriation for national intelligence, and to apportion the funds to the appropriate agencies in line with the budget.

The Commission viewed these budget authorities as absolutely essential to achieve the objectives of intelligence reform. One of the chairs of the Commission, Mr. Hamilton, said:

> We would not create the national intelligence director if he or she did not have strong budget authority.

Former Directors of the Central Intelligence Agency who testified before our committee also supported giving the national intelligence director strong budget authority.

William Webster, who was both head of the CIA and the FBI, said:

> Control of the budget is essential to effective management of the intelligence community.

James Woolsey, former Director of the CIA, said:

> If budget execution authority is given to the [national intelligence director], he will or she will have a much better ability to say to the Secretary of State or the Secretary of Defense, "Look, I sympathize. I understand. I know this fluent Arabic linguist is a very rare asset, but you did not hear me. I really need her or him."

Again, who controls the money has the power.

As Chairman Hamilton said: The Commission would not have created a national intelligence director if he or she did not have strong budget authority.

Senior officials in the Office of the Director of Central Intelligence also believe that stronger budget authority is needed in order for the national intelligence director to truly be in charge of the intelligence community.

John McLaughlin said the person responsible for the intelligence community should "have full authority to determine, reprogram and execute all funding for the core national intelligence agencies, principally CIA, NSA, the NGA and NRO."

On and on, the advice the committee received was very clear: If you want to have a strong national intelligence director, you must give him or her strong budget authority.

Consumers of intelligence also testified that it would be desirable for the national intelligence director to have strong budget authority. Secretary of State Colin Powell, at the hearing of our committee on September 13, 2004, said:

> The [Director of Central Intelligence] was there before, but the DCI did not have the kind of authority [needed]. And in this town, it's budget authority that counts. Can you move money? Can you set standards for people. So you have access to the President? The [national intelligence director] will have all of that, and so I think this is a far more powerful player. And that will help the State Department.

Some of those who have brought a different perspective have said that the Director of Central Intelligence already has the needed authority but simply has failed to use it, and that if budget execution authority is needed, it should be given to the national intelligence director by Executive order.

With respect to the NFIP budget, the testimony before our committee—much of it in closed session—demonstrated that the Director of Central Intelligence authorities in practice are considerably weaker than they might appear on paper. So what we heard was how things work in the real world. What we heard was the day-to-day reality of how authority can be used, how it can be challenged. If it is not crystal clear, if it is not absolutely clear, if it is not unequivocal, as laid out in this bill, then, in fact, it may not in practice be as strong as one would desire.

The testimony also demonstrated considerable confusion about the actual extent of the Director of Central Intelligence legal authority which I found to be quite interesting. We would have before us various members of the intelligence community, and there would actually be a cross-discussion going on as to whether there was, in fact, this authority that one person believed was there but that the other person didn't believe was there. What we do in this bill is to get rid of the confusion and make it clear. We clarify any ambiguity in the existing language and make unmistakably clear Congress's intent that the national intelligence director, not the Department heads, will have the final say in developing the national intelligence budget.

With respect to receiving the appropriation and budget execution, the Director of Central Intelligence clearly does not have these key authorities today. Neither the administration nor we believe these authorities could be given to the Director of Central Intelligence, much less the national intelligence director, which has not yet been created by Congress, without congressional action.

There is simply no excuse for Congress not to act. This bill provides the kind of action that was clearly laid out before our committee as needed, as supported by those both in the intelligence network and the system, those who are making the decisions and those who are working with the decisions that are being made.

I do hope this body supports the recommendation of the Commission, the recommendation that is part of the bill before us.

Mr. President, I ask unanimous consent that at 2:15, the Senate proceed to a vote in relation to the McCain amendment No. 3702, with no second degrees in order to the amendment prior to the vote; provided further that there be 2 minutes of debate equally divided prior to the vote. Finally, I ask consent that following the vote, Senator STEVENS be recognized in order to make a statement.

Mr. REID. Mr. President, would the Chair indicate, there are still two additional amendments that are pending?

The PRESIDING OFFICER. Under the Senator's request, there is just one amendment.

Mr. REID. I understand the unanimous consent request talks about one amendment, but if we dispose of that amendment, there would still be two amendments pending.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I would hope that following Senator STEVENS's statement, we could make arrangements to vote on those two as early as possible this afternoon and move on to other matters on this bill. All of these matters have been debated thoroughly. I would hope that after that, the majority leader can arrange a time to vote on these amendments. We are ready over here. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COLEMAN. We will talk to the Members over the lunch hour and see if we can work this out.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOMELAND SECURITY

Mr. SCHUMER. Mr. President, I am here today on the eve of the debate that will be occurring on Thursday evening. I know most Americans will be watching. I think they are probably the most important debates, certainly, since the Kennedy-Nixon debate, which was the first one.

The issue, of course, is related to the security of the country. I am going to focus my few remarks on security here at home, in terms of homeland security.

Whatever you think of the war on terror abroad—and there are many different views and we will hear some of those on Thursday night—my view—and I tend to be hawkish—is that hawks should be as angry or more angry with the President than doves, because the bottom line is that Iraq wasn't thought through. We don't have a plan and there is nowhere really to go. The idea of keeping faith and saying, well, there will be elections in January and that will make everything better, that is similar to the idea that we will win the war in 3 weeks and that will make everything better. It is simply not thought through and there are all these chimerical sort of wishes and hopes.

First, the election will not be held in many parts of the country. Second, I don't think it is going to make the basic problems go away. A devastating commentary on the war in Iraq is that we have been unable to spend money on infrastructure. One of the whole theories is that we were going to rebuild the country and show the Iraqis a better life. Because the terrorists who are there—who are despicable—have been able to do so much in terms of sabotage and criminal activities, in terms of taking those workers who would rebuild Iraq and treating them so brutally, it has made it basically impossible to rebuild. The President and his administration admitted as much when they took back the money for rebuilding and are now putting it into security.

Again, what everyone thinks about the war overseas—and there are many different views, and I believe JOHN KERRY will enunciate a view that is far more consonant with the American people than what President Bush has done so far. I say that as somebody who supported the $87 billion and the vote to go to war, because I believe we need a strong, aggressive foreign policy.

I believe the war on terror is the vital discussion of this decade and of our generation, probably. To win the war on terror, you need a good offense and a good defense. On defense, I regret to say, basically, this administration has not come close to doing what is necessary.

When you ask why, the bottom line is very simple: They don't want to spend the money. Their idea after idea after idea about air security, port security, rail security, truck security—we have the technology, not to make certain a terrorist attack doesn't occur but certainly to decrease the odds of it. When you go to the people in the agencies and ask why are you not doing this or that, they say: We don't have the money. When we come to the floor and argue about homeland security—as we just did when the Appropriations bill on homeland security came forward—we were told by my friend from Mississippi, the chairman, that we are spending enough. Let me tell you, we are not spending close to enough in any one of these areas.

Let's say, God willing, we manage to wipe out al-Qaida in the next year or two, and let's say the problems in Iraq subside—in my view, because KERRY will be elected and will handle them a lot better than President Bush has—we are still going to have new terrorist threats.

Terrorism can be described in a single sentence, which is that the very technology that has blessed our lives and accounted for so much of the prosperity we have seen over the last two decades has an evil underside; namely, that small groups of bad people can get ahold of that technology and use it for terrible purposes. So if al-Qaida is gone—and let's hope they will be—and if terrorism in Iraq greatly declines—and let's hope that occurs—there are going to be new groups that start using this terrorism and using it against us and trying to use it in our homeland. It could be Chechnians; maybe they will have a meeting and decide that instead of blowing up movie theaters and airplanes in Moscow, the real answer is to go after the United States. Maybe it will be East Timorese, who have been fighting for independence in east Asia. For all we know, it could be skinheads in Montana who decide to do this—a couple of them did it in Oklahoma City—but in a more structured and destructive way, God forbid. So we cannot even keep track of the various groups that could hurt us.

The sad fact is, if 500 random people around the world, with some leadership, were injected with an evil virus and they were to decide, fanatically, they would devote the next 5 years of their lives to figuring out how to hurt America and try to implement it, the odds are too high that they could succeed.

So do we need a good offense? Yes, we do. Do we need a good defense? You bet. On area after area after area, we are not doing enough. Let me catalog a few.

Air security, here we are doing something of a better job than we have done in the past. The screeners, for all the problems they have, are a lot better than they were before 9/11 when they were paid minimum wage by private security companies. Some didn't speak English adequately. We are inspecting cargo.

But probably the No. 1 way terrorists could now hurt us as we travel in the air is by using shoulder-held missiles. We know the terrorists have them, al-Qaida has them, and they are available on the black market. We are slow walking any attempt to put on our commercial airplanes the mechanism to deflect the rockets, the heat-seeking rockets that emerge from shoulder-held missiles.

Mr. REID. Will the Senator yield?

Mr. SCHUMER. Yes.

Mr. REID. Is the Senator aware that on at least five different occasions we have had votes on the Senate floor where we have asked for increased funding for homeland security and the Bush people have turned it down through various ways? I amplify that by saying these are all set forth in Senator BYRD's best-selling book. Is the Senator aware we tried to get money for real homeland security—not security in Iraq but security for the American people—and this has been turned down; is he aware of that?

Mr. SCHUMER. I am aware of it, and it frustrates me to no end. Senator BYRD has had amendments, Senator MURRAY has had amendments, Senator CORZINE has had amendments, Senator CLINTON and I have had amendments, one after the other, and they are turned down.

I say to my colleague from Nevada, I have asked people in the administration, both present and former—a few who quit in disgust—are President Bush and his people not aware of the dangers? They basically say, no, they are aware of the dangers, but they don't want to spend any money here at home. They would rather have all the money go to tax cuts, and so it is not that they do nothing in each of these areas; they do the bare minimum: Let's have a study and let it take 2 years. Let's decide on what to do down the road.

For every year we wait, we become more vulnerable.

Mr. REID. Being more specific, is the Senator aware we have tried to address rail security and Amtrak security? Turned down. On several occasions, port security, turned down. Is he aware we have tried to get specific money to first responders? Turned down. The Senator is aware of this and other measures—for example, hazardous chemicals security, which Senator CORZINE has pushed so much. The Senator is aware of each of these, and we have had votes and have been turned down on the floor by the majority on all requests.

Mr. SCHUMER. Mr. President, I am aware, to answer my good friend from Nevada, of this. I am frustrated by it, and, frankly, I am befuddled by it because an administration that is so aggressive when it comes to taking the war overseas and will ask us for billions and billions more at the drop of a hat——

The PRESIDING OFFICER. All time has expired.

Mr. SCHUMER. I thank the Presiding Officer.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

NATIONAL INTELLIGENCE REFORM ACT OF 2004—Continued

Mr. THOMAS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3702

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the McCain amendment.

The Senator from Arizona.

Mr. McCAIN. Mr. President, this amendment is designed to address transportation security-related recommendations of the 9/11 Commission. The amendment is almost identical to Title VII of S. 2774, the 9/11 Commission Report Implementation Act of 2004, which Senator LIEBERMAN and I introduced earlier this month.

The amendment implements the Commission's recommendations on transportation security in the following three ways: One, establishing a national strategy for transportation security; two, assigning responsibility for the "no-fly list" to the Transportation Security Administration; and, three, enhancing passenger and cargo screening.

This amendment is the next step in fulfilling the mandate of the 9/11 Commission recommendations and ensuring we move forward in addressing the vulnerabilities in our transportation systems. These provisions should not be controversial, and I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment which I cosponsored with Senator McCAIN. This is the first of several he and I will be introducing, along with other Members, which would implement recommendations of the 9/11 Commission not included in the underlying bill that Senator COLLINS and I have introduced which focuses on intelligence reform.

Mr. ROCKEFELLER. Mr. President, I am pleased to support my colleague's amendment to implement the 9/11 Commission's recommendations on improving aviation security. Senator McCAIN and I have worked closely over the last several years to strengthen our aviation security network. Although I strongly agree with the 9/11 Commission's recommendations for improving aviation security, I believe that Congress must go further than the Commission's recommendations if we are to continue to improve our aviation security system.

It is for this reason that I have filed my bill, S. 2393, the Aviation Security Advancement Act, as an amendment to this legislation as well. I would note that Senator McCAIN is a cosponsor of my bill. In addition, to incorporating the recommendations of the 9/11 Commission, my bill also includes specific requirements to improve air cargo and general aviation security, which I have long felt to be significant gaps in our security system and the 9/11 Commission specifically cited as a weakness. My bill also authorizes funding for these new security requirements.

This legislation was passed unanimously out of the Commerce Committee last week. This legislation is also supported by the airline industry. I hope that the Senate will consider this legislation later this week. My amendment is cosponsored by Senators HOLLINGS, LAUTENBERG, SNOWE, and SCHUMER.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to amendment No. 3702.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The result was announced—yeas 97, nays, 0, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—97

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—3

Akaka
Edwards
Kerry

The amendment (No. 3702) was agreed to.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, it is my understanding that Senator STEVENS no longer needs to use his time at this time. I believe he will be speaking later. So I ask unanimous consent to vitiate the order that reserved time for Senator STEVENS and instead have Senator HUTCHISON recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

AMENDMENT NO. 3711

Mrs. HUTCHISON. Mr. President, I call up amendment No. 3711, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 3711.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for air cargo safety, and for other purposes)

At the appropriate place, insert the following:

TITLE —AIR CARGO SAFETY

SEC. —01. SHORT TITLE.

This title may be cited as the "Air Cargo Security Improvement Act".

SEC. —02. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

"(f) CARGO.—

"(1) IN GENERAL.—The Secretary of Homeland Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

"(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

"(B) all-cargo aircraft in air transportation and intrastate air transportation.

"(2) STRATEGIC PLAN.—The Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

"(3) PILOT PROGRAM.—The Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.".

SEC. —03. AIR CARGO SHIPPING.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44925. Regular inspections of air cargo shipping facilities

"The Secretary of Homeland Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping facilities for cargo transported in air transportation to the United States.".

(b) ADDITIONAL INSPECTORS.—The Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"44925. Regular inspections of air cargo shipping facilities".

SEC. —04. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

"§ 44926. Air cargo security

"(a) DATABASE.—The Secretary of Homeland Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Secretary shall use the results of the pilot program to improve the known shipper program.

"(b) INDIRECT AIR CARRIERS.—

"(1) RANDOM INSPECTIONS.—The Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

"(2) ENSURING COMPLIANCE.—The Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

"(3) NOTICE OF FAILURES.—The Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

"(4) WITHDRAWAL OF SECURITY PROGRAM APPROVAL.—The Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Secretary if such failure threatens the security of air transportation or commerce. The affected indirect air carrier shall be given notice and the opportunity to correct its noncompliance unless the Secretary determines that an emergency exists. Any indirect air carrier that has the approval of its security program amended, modified, suspended, or revoked under this section may appeal the action in accordance with procedures established by the Secretary under this title.

"(5) INDIRECT AIR CARRIER.—In this subsection, the term 'indirect air carrier' has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

"(c) CONSIDERATION OF COMMUNITY NEEDS.—In implementing air cargo security requirements under this title, the Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.".

(b) ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.—The Secretary of Homeland Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 60 days after the date of enactment of this Act. The Secretary may submit the report and recommendations in classified form.

(c) REPORT TO CONGRESS ON RANDOM AUDITS.—The Secretary of Homeland Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following:

"44926. Air cargo security".

SEC. —05. TRAINING PROGRAM FOR CARGO HANDLERS.

The Secretary of Homeland Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

SEC. —06. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) PLAN REQUIREMENTS.—The plan shall include provisions for—

(1) security of each carrier's air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Secretary.

(c) CONFIDENTIAL INDUSTRY REVIEW AND COMMENT.—

(1) CIRCULATION OF PROPOSED PROGRAM.—The Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) COMMENT PERIOD.—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Secretary not more than 60 days after it was received.

(3) FINAL PROGRAM.—The Secretary of Homeland Security shall issue a final program under subsection (a) not later than 90 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) SUSPENSION OF PROCEDURAL NORMS.—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

SEC. —07. PASSENGER IDENTIFICATION VERIFICATION.

(a) PROGRAM REQUIRED.—The Secretary of Homeland Security may establish and carry out a program to require the installation and use at airports in the United States of the identification verification technologies the Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

(b) TECHNOLOGIES EMPLOYED.—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Secretary considers appropriate for purposes of the program.

(c) COMMENCEMENT.—If the Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Senator SNOWE be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I rise today to offer the Air Cargo Security Act as an amendment to the Intelligence Reform Act. This is a measure that we need to pass to answer some of the criticisms in the 9/11 Commission Report regarding cargo security.

I am going to talk further about this bill, but I would like to offer Senator MCCAIN some of the time to also talk because he was one of the cosponsors. It went through the Commerce Committee with his chairmanship. We all agree this is a bill that is needed to add to the security that is in the bill in accordance with the 9/11 Commission Report.

I yield to Senator MCCAIN for his remarks, and then I will finish my presentation.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Texas. She has been on this issue for at least 3 years that I know of. We passed this bill twice through the Senate. Under the chairmanship of Senator HUTCHISON, we had extensive hearings on this issue in the Commerce Committee.

I believe this is a very important issue. Senator HUTCHISON has many important aviation assets in her State, including major airports that are not only for passengers but for ports of entry as well.

I say to Senator HUTCHISON, thank you, because I think this is a very important bill. I tell my colleagues, it has been passed twice through the Senate. It is unfortunate that we have to go back and revisit it.

Finally, we made a commitment that we would try to address all 41 of the recommendations of the 9/11 Commission, not always in a positive fashion but at least have them addressed. This is one of the recommendations of the 9/11 Commission.

I thank Senator HUTCHISON, and I urge my colleagues to support this very important amendment. Air cargo, according to many experts, is a subject that certainly needs increased security and increased attention. I think this amendment does that. I thank my colleague from Texas, Senator HUTCHISON.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Commerce Committee, Senator MCCAIN, for adding his support to this bill. We would not have gotten it through the Commerce Committee without his support. I think it adds immeasurably to the bill that is before us today.

Congressional action following 9/11 quickly created the Transportation Security Administration to address the appalling security gaps exposed by terrorists. We took drastic but appropriate steps to considerably increase security of our airports and planes, and 3 years later we are light-years ahead of where we were on that horrific day.

I am pleased that the 9/11 Commission raises issues that are similar to those I have discussed since we enacted the Aviation and Transportation Security Act. The Commission report states:

Concerns also remain regarding the screening and transport of checked bags and cargo. More attention and resources should be directed to reducing or mitigating the threat posed by explosives in vessels' cargo holds.

I have worked since 2001 to enact stringent air cargo security standards and, along with Senator FEINSTEIN, introduced the Air Cargo Security Act to create a comprehensive system to secure shippers, freight forwarders, and carriers. The Senate has twice passed this bill unanimously, but it remains stalled in the House of Representatives.

The bottom line is this: Are we safer than on September 11? Absolutely. But have we done enough? Not yet. So I think we can do more. I think this is an opportunity for us to address this issue.

The Air Cargo Security Act will make a difference in our Nation's air security. One thing we have not provided since 9/11 is security in the belly of the aircraft equal to protections for passenger areas and airports. Cargo is shipped on passenger aircraft, in some cases, without being screened. That is why we need this amendment.

The Air Cargo Security Act would establish a reliable known-shipper program, mandate inspections of cargo facilities, and direct the Transportation Security Agency to work with foreign countries to institute regular inspections at facilities that bring cargo into the United States.

The legislation would develop a training program for air cargo handlers and give TSA the power to revoke the license of a shipper or freight forwarder whose practices are unsound. These provisions will go a long way toward further securing aircraft in our country. All of us want America to have the safest aviation system in the world. Closing the cargo loophole is an important step.

There is no doubt in my mind that the traveling public is considerably safer. We have made changes to ensure our screeners undergo background checks, training, and testing. Checked bags are scrutinized, flight crew training is constantly being improved, and we are traveling in a more secure system. But we must address the cargo issue.

Mr. President, 22 percent of all air cargo in the United States is carried on passenger flights, only a tiny fraction of which is inspected.

Beyond transport on passenger planes, there are other issues in the cargo arena. Identification cards used by workers are generally not secured with fingerprints or other biometric identifiers. Background checks for cargo employees are still inadequate.

Perhaps the weakest link in the cargo security chain is the freight forwarder. These are the middlemen who collect cargo from the shippers and deliver it to the air carrier. Regulations governing these companies are lax, and the TSA is finding security violations when it conducts inspections. Under current law, however, TSA lacks the authority to revoke the shipping privileges of freight forwarders that repeatedly violate security procedures. This air cargo security amendment would give TSA that power.

Air cargo security is not a new problem. In 1988, Pan Am 103 went down over Lockerbie, Scotland, because of explosives planted inside a radio in the cargo hold of a passenger airplane. The 1996 Valujet crash in the Everglades was caused by high-pressure tanks that never should have been put on a passenger aircraft in the first place.

My amendment will strengthen air cargo security on all commercial flights. It establishes a more reliable known shipper program by requiring inspections of facilities, creating an accessible shipper database, and providing for tamper-proof identification cards for airport personnel. It gives TSA the tools required to hold shippers accountable for the contents they ship by allowing the administration to revoke the license of a shipper or freight forwarder engaged in unsound or illegal practices. This is the most important part of the bill. The TSA has told me time and again they need to have this capability in order to revoke licenses when they find an unsafe situation.

I have had the support of my colleagues, such as Senator MCCAIN. Senator LOTT, the chairman of the Aviation Subcommittee, has worked with me on this bill. We have passed this bill twice in the Senate. It is a bill we have looked at, we have vetted. We have had hearings.

I see my colleague Senator LOTT, the chairman of the Aviation Subcommittee, is on the floor of the Senate. He knows this bill. He worked with me to perfect it. If we can put this amendment on this very important piece of legislation, it will add immeasurably to our aviation security. We will have the most secure aviation system in the world with this amendment on this particular legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I congratulate the Senator from Texas for her determination in this area. It is one of the places where there was a gap in our aviation security. It is one that she has been working on, thinking about, going back to the last Congress. I think one of the last things we did in the last Congress was the Senate let this issue go through, but we didn't get it completed. She has continued to work on it. There were some concerns. Those concerns have been worked on and developed and straightened out, and this is a good piece of legislation. It passed the full Commerce Committee overwhelmingly last week. It is supported by the industry. I want the record to show that it would not be happening if it were not for her determination and her leadership. It is good legislation.

The title of this bill is National Intelligence Reform Act. I want us to concentrate on the intelligence area and the reforms that are necessary to give the national intelligence director the real strength he or she may need to make sure our intelligence community does its job. It talks about the national counterintelligence center. This was done at the recommendation of the 9/11 Commission for intelligence and security reforms. So while I don't want this to just become a debate about various security areas, I would like us to focus on intelligence. This is an area where there clearly was a gap. This is an area where thoughtful legislation was available. I believe it is appropriate to be added.

I hope we will support the chairman of the committee and the ranking member who have worked hard to get this legislation through in a reasonable time. We will have some good debates, and we will have some disagreements. We will have some votes. But at the end of the day, we need to get this done because the Commission has made it clear where there are gaps and where there are problems, both in the executive branch and in the legislative branch. We also have to have the follow-on congressional reforms that will allow us to do a better job on oversight because we are part of the problem.

For those who have questions or have concerns or have amendments, my argument is, come forth. Let's have the amendments. Let's debate them in the light of day. Let's have a full debate and let's vote. But let's get this done because this is about real issues. A lot of times we debate, we vote on things that won't affect our lives immediately or affect people's ability to do the job under national security. But this legislation is about lives. It is about what happened on 9/11. It is about what will happen again if we don't step up to this important issue and make sure that our executive branch is set up in such a way as to do the job, that they have the right chain of command and that somebody is in charge, somebody who reports only to the President, somebody who can make a decision about the placement of satellites, somebody who will give us the information we need to know, not only about how much money is spent but where it is spent.

That has been one of our problems. The Congress has not been putting money in many instances where it should have gone so that our intelligence community would have had what they needed to do the job. Just this very day, we understand the FBI does not have the linguists they need to translate intercepts. Now it has become so voluminous it is uncontrollable. That is scary. But it is a real problem. We are not going to solve it just with this bill or just in this week. If we don't begin now, it will make the day even more inevitable or closer that we are going to have another disaster on our hands.

I am here today to tell the committee members I support their effort. They have done a good job. We can make it stronger, I believe. But I am going to be supporting getting this work completed.

I thank the chairman of the committee and I thank the sponsor of this amendment for the work she has done on this cargo security issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Aviation Subcommittee, the Senator from Mississippi. In fact, one of the unanimous consents we had when we took this intelligence reform bill to the floor was that all the amendments would have to be relevant to the 9/11 Commission. The amendment before us is relevant. I think because the Senate has acted on this, it will be a valuable contribution to the bill.

I appreciate the help and counsel of the Senator from Mississippi. I thank the distinguished chairman and ranking member of the Governmental Affairs Committee for bringing this bill to the Senate floor. We will pass this bill, and it will be a good bill. We are all going to work together to make that happen, which the distinguished chairman and ranking member have already proven.

I ask for the yeas and nays at the appropriate time for whenever it can be scheduled along the lines that the chairman and ranking member would schedule.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, before the Senator from Mississippi has to leave the floor, I want to thank him for his advice and his support as we bring this very important legislation before the Senate for consideration. I very much value the advice and support of the Senator, and I appreciate all he is doing to help move this legislation forward. He has been a very early voice in identifying the flaws in our current intelligence system and has been stalwart in his support for significant reform. I thank the Senator from Mississippi.

I also commend the Senator from Texas for her continued effort to examine the recommendations of the 9/11 Commission and to pursue legislative solutions, particularly in the area of improving the security of cargo and general aviation security in general. Senator HUTCHISON has been a longtime leader in this area. Her amendment encompasses a significant portion of S. 165 that the Senate passed by unanimous consent in May. I commend her for her foresight in recognizing areas of concern that have been singled out by the 9/11 Commission.

In the Commission's report, for example, the Commission noted that:

> Major vulnerabilities still exist in cargo and general aviation security.

The Commission went on to say that:

> The TSA and Congress must give priority attention to improving the ability of screening checkpoints to detect explosives.

The Commission says:

> More attention and resources should be directed to reducing or mitigating the threat posed by explosives in vessels' cargo holds.

These are all areas of weakness identified by the Commission that the Senator from Texas would address in her amendment. It will assist in implementing several of the Commission's recommendations and as a whole will help to make our Nation's air passengers, air carriers, and air cargo more secure. I would note that the Department of Homeland Security has no objections to the Senator's amendment. When the roll call does occur, I will be urging our colleagues to support her efforts.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment of Senator HUTCHISON. I thank her for proposing it. She was ahead of her time because she has been on this case, along with members of the Commerce Committee, at least since March of last year, when the bill came out of the Commerce Committee; in fact, the Senate passed this bill unanimously in May of 2003.

Unfortunately, there has been no action that meets up with this bill in the House. So Senator HUTCHISON is quite right to introduce this as an amendment to our underlying reform of the intelligence community. This is directly relevant to the 9/11 Commission's conclusion that "major vulnerability still exists in cargo and general aviation security. These, together within adequate screening and access controls, continue to present aviation security challenges." That comes from the 9/11 Commission.

The Commission concluded that we are safer than we were on September 11, 2001, but we are not yet safe. This underlying bill is aimed at reforming our intelligence community so we will be safe, so we can see the threats coming at us, hear them, and stop them before the terrorists are able to strike, but also that we may adopt other provisions of the 9/11 Commission report.

Senator MCCAIN and I introduced an amendment that was the first to pass a short while ago. I hope this amendment will pass as well, because it tightens existing weaknesses, loopholes in the screening of cargo transported in passenger aircraft, opening up a vulnerability that we all fear terrorists may exploit to strike at us.

I thank the Senator from Texas for not only being foresighted last year in seeing this weakness in our defenses to terrorism but for coming forth and introducing this amendment. It will strengthen the bill Senator COLLINS and I and other members of the Governmental Affairs Committee have brought out and, therefore, I urge its adoption.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, we are making very good progress on this significant bill that does focus on the safety and security of the American people. This morning the Democratic leader and I opened up stressing the importance of making very efficient use of our time on the floor.

A lot has been accomplished even since this morning, but we have a lot to do. This morning the leadership on both sides of the aisle talked, and we have talked in our caucuses, of the importance of collecting today all of the amendments that might potentially be offered on this bill. People have been studying the issue since August. The bill was marked up in committee in a very thorough way. A lot of amendments were offered and debated, some of which will be debated again on the floor. Because we need to finish the bill this week, if at all possible, it means, given the fact that there are a lot of evening commitments which will preclude us from doing a lot of voting tonight, we have to get this universe of amendments today.

Thus, I ask all of our colleagues to give us, through the managers, their potential amendments today, and if they plan on offering amendments, we absolutely must have them today.

We are not looking for amendments, but if people have serious amendments they feel need to be debated, if we have that list, and shortly thereafter—and it would be in all likelihood some time tomorrow—we will ask to have the complete language of each of those amendments.

The initial reaction by some is: you are moving too fast. Again, this is something we announced several weeks ago, that we would be going to the bill yesterday. We have made progress. The bill has been out, and people have had time to address it. We ask people over the next hour or couple of hours to let us know what amendments they may want to offer so we can have that list, and then shortly thereafter—not tonight, but shortly thereafter—we will have a deadline by which we need to have those amendments, to have the language. It is the only way we will have an orderly process to address the substance of this very important bill.

Mr. REID. Mr. President, will the Republican leader yield?

Mr. FRIST. I will.

Mr. REID. Mr. President, Senator DASCHLE announced in our caucus that he was in agreement with the majority leader. In conjunction with the Republican cloakroom, we are going to hotline this and tentatively have 9:30 or 10 o'clock in the morning—whenever the two cloakrooms agree they can get their work done, we will have a time for Members to let us know what amendments they might want to offer.

Senator DASCHLE is always very cautious to make sure we have ample time to offer amendments, but this is an extraordinary piece of legislation, and Senator DASCHLE agrees with the Republican leader that we should set a time shortly thereafter, either tomorrow evening—or I assume tomorrow evening, when Members will actually have to file their amendments.

The concept of the majority leader is certainly one with which Senator DASCHLE agrees. So we are ready to have our hotline go out, and theirs. We will look at amendments in the morning and find out what the universe of those amendments is, and then those people are going to have to step forward and offer amendments at a later time and enter into a consent agreement if at all possible later on tomorrow.

Mr. FRIST. Good. Mr. President, as you can hear, this is a bipartisan effort, with full cooperation back and forth between the managers and the leadership. We felt it was important to restate the sense of efficiency with which we have to address this bill. That is what we would like to see happen.

Again, please let us know your amendments in the next several hours.

Mr. President, I ask unanimous consent that the vote occur in relation to the pending amendment, that is, the Hutchison amendment No. 3711, at 4:30 p.m. today, with no amendments in order to the amendment prior to the vote; further, that there be 2 minutes equally divided for closing remarks prior to the vote.

Mr. REID. Reserving the right to object, if the leader can withhold for a minute, unless there is something that would cause us to vote at 4:30 p.m., we might be able to get that done a half hour earlier.

Mr. FRIST. From our side, because of various commitments, 4:30 p.m. is the best time.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, part of the scheduling is to do just that, so we can have another amendment fully considered and then yet even another amendment. For planning purposes, 4:30 p.m. seems to be the most appropriate time. We will continue to debate and vote on amendments. Then hopefully by 4:30 p.m., we will be able to schedule additional votes as well.

Again, I encourage all Members to come forward now and notify us of their amendments and to work through the managers to offer appropriate amendments.

Mr. REID. Mr. President, if the distinguished majority leader is finished, Senator NELSON is here and wishes to be recognized for 5 minutes to talk about the situation in Florida. Is that all right with the two managers?

Mr. LIEBERMAN. Mr. President, if I might say a word before that and then I will be happy to yield the floor to Senator NELSON. Maybe I should yield to the chairman who will probably say the same thing I will be saying.

I am very grateful to the Senate majority leader and to the Senate Democratic leader for this agreement and for the pace they are setting for consideration of this bill on a bipartisan basis. These are not ordinary times. This is not ordinary legislation. It goes to the heart of our security. We want to have thoughtful debate.

The chairman of the committee, Senator COLLINS, and I found in the committee that when we let some time for debate occur, people came to very thoughtful conclusions, totally without regard to party. The votes on all the amendments went all around the lot. I think people ultimately felt good about the process.

By setting these deadlines now for amendments to be noticed and then filed, we are going to expedite exactly that kind of thoughtful consideration so we can get this done with the same feeling of, well, confidence that we are doing the right thing. We are not only doing something we need to do quickly, but we are doing it the right way. So I thank the majority leader and Senator DASCHLE for their help on that matter and the help they have given to Senator COLLINS and me.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I, too, thank our leaders for their cooperation in moving this bill forward. The process they have outlined is a fair one. It will help us know how many amendments there are, and we will work with the sponsors of those amendments to ensure adequate debate.

If the Senator from Florida could tell me how much time he anticipates needing.

Mr. NELSON of Florida. Mr. President, if I take 1 minute per hurricane in Florida, that would be a total of 4 minutes.

Ms. COLLINS. Mr. President, we would be happy, in light of the devastation to his State, to give the Senator from Florida 10 minutes, if that would be helpful.

Mr. NELSON of Florida. Mr. President, to the distinguished Senator from Maine, it will not be necessary for 10 minutes, but the Chair of the committee is very gracious.

It seems all I talk about on the floor of the Senate is the hurricanes that have ravaged Florida. I would like to say to the leadership of the committee, I support their legislation. I am looking forward to voting for it. They have done a magnificent job. It is very timely, and I hope the wisdom they have displayed will be displayed by the House of Representatives so we can get a quick agreement and a conference and go about the process of reforming our intelligence apparatus. My congratulations.

FLORIDA HURRICANES

It does seem that I have spoken over and over about hurricanes and about the need for disaster assistance. Indeed, I am making that plea again. When we passed the Department of Homeland Security funding bill 2 weeks ago, the chairman of the Appropriations Committee had committed, in a colloquy on the Senate floor, that he would address it. I take him at his word, and I am sure his word is good.

Now that the President has requested additional funds, the question for us and Florida is speed in enacting this legislation quickly so that money can get to the people who desperately need it in direct, outright FEMA grants. They need assistance to rebuild their homes. They need Small Business Administration loans so that they can rebuild their lives and their businesses. Then there are a myriad of Federal disaster assistance programs to local governments so that we can rebuild our communities, so that we can pick up the debris.

There is one part of Florida where debris is all over our communities from three hurricanes that have hit the same place. We need to rebuild our roads and bridges, our airports, our military facilities, and NASA at the Kennedy Space Center. So time is of the essence, and I implore our leadership to get that message through to the White House and to the leadership at the other end of this Capitol to get these funds.

It is the intention of the chairman of the Appropriations Committee, who just told me this a few minutes ago, to attach this money to the Homeland Security bill, but if that bill gets hung up for whatever reason, then this emergency funding needs to come out of here like a rocket taking off at the Cape Canaveral Air Force Station so that it can get to our people.

Needless to say, after two hits, one wonders just what is in store, and how they are going to pick up the pieces of their lives. But when three hit, and then four, one can imagine how distressed our people are. Help us. We need speed. We need action now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that the following cosponsors be added to Collins-Carper-Lieberman-Coleman amendment No. 3705: Senators VOINOVICH, LEAHY, AKAKA, ROCKEFELLER, NELSON of Nebraska, and HAGEL.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, Senator VOINOVICH, along with Senator LEVIN, was very instrumental in helping to draft the compromise represented in this amendment. I talked earlier about the efforts of the Senator from Delaware and the Senator from Connecticut, but I also wanted to acknowledge that Senator VOINOVICH and Senator LEVIN worked very hard to help us strike the right balance in allocating funding so that large States with high-threat areas would receive additional funding. Yet we wanted to make sure that we recognize that every State, regardless of size or population, has certain vulnerabilities.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3706

Mr. SPECTER. Mr. President, I call up amendment No. 3706 on behalf of Senator SHELBY, Senator ROBERTS, Senator BOND, Senator WYDEN, Senator BAYH, Senator FEINSTEIN, and myself.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report.

The legislative clerk read as follows:

> The Senator from Pennsylvania (Mr. SPECTER), for himself, Mr. SHELBY, Mr. ROBERTS, Mr. BOND, Mr. WYDEN, Mr. BAYH, and Mrs. FEINSTEIN, proposes an amendment numbered 3706.

Mr. SPECTER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. SPECTER. Mr. President, this is one of two amendments which I intend to offer to strengthen the position of the national intelligence director. At the outset, I join many others in complimenting the chairwoman, Senator COLLINS, and the ranking member, Senator LIEBERMAN, for their leadership and their outstanding work in presenting the bill which is now on the floor.

This measure is a long time in coming for decision by the Congress. In my view, had there been a strong national intelligence director in existence prior to September 11, 2001, the attack on 9/11 might well have been prevented. There were many indicators present. Had they all been put together, I think there is a good chance we could have avoided the calamity of that day.

There is a famous FBI report from Phoenix about this suspicious character who wanted to learn how to fly an airplane but who was not interested in takeoffs or landings. That information never got to the appropriate authority in headquarters at the FBI. There were two al-Qaida suspects in Kuala Lumpur known to the Central Intelligence Agency, information not communicated to the INS, to Immigration, so that those two al-Qaida agents came into the United States and were among the 19 hijackers who perpetrated the atrocities of 9/11.

There was an extensive investigation conducted by the Minneapolis office of the FBI, the famous 13-page, single-spaced memorandum by special agent Coleen Rowley about Zacarias Moussaoui. Had those leads been followed, had there been an application for a warrant under the Foreign Intelligence Surveillance Act using the right standard—the FBI used the wrong standard—that would have produced a great deal of information which could have, in combination with other information, been pieced together to have warned us of the impending attack.

There is the information from NSA, where there was the tip that something was going to happen on 9/11 which was either not translated or not communicated to the Intelligence Committee.

There had been the information about Murad, an al-Qaida operative back in 1996, and his plans to fly an airplane into the CIA.

Those are only some of the threats. In combination and along with others, had we had all the information together, had we known what could have been pieced together, I think the likelihood is present that 9/11 could have been prevented.

During my tenure as chairman of the Senate Intelligence Committee during the 104th Congress, the Intelligence Committee reported a bill, S. 1718, which sought to lodge effective power in the Director of Central Intelligence. That position theoretically was in charge of all the intelligence community but, because of lack of authority, lack of budget control, the Director of the Central Intelligence Agency was never able to carry out the role of being the unifier, the real leader of the intelligence community.

In section 707 of that bill, it provided for:

> Enhancement of authority of Director of Central Intelligence to manage, budget, personnel, and activities of the intelligence community.

On a cross referral, by the time it got to the Armed Services Committee, the substance was taken out. There was a big turf battle and the effort to lodge authority in the Director of CIA to do effective direction and management of the Central Intelligence Agency went to naught.

Thirty days after 9/11, Senator LIEBERMAN and I introduced legislation to create the Department of Homeland Security. That was on October 11 of 2001. When special agent Coleen Rowley testified before the Judiciary Committee in June of 2002, there was finally impetus to get support from the administration to move ahead with a Department of Homeland Security, and when the matter was debated on the floor of the Senate, the effort was made to vest authority in the Secretary of Homeland Security to direct other intelligence agencies. It seemed to us that when we were creating a new department, Homeland Security, this was an opportune time to pick up the strands of what had been attempted by S. 1718 back in 1996, and by many others.

It wasn't my idea alone. The Scowcroft Commission had come up with similar recommendations. Others had called for real power and real authority in a national director. It seemed to us that that was the time, with the new Department of Homeland Security, to give this effective power to the newly created Secretary of Homeland Security.

Our efforts, again, were unsuccessful because of the turf battles, because of the interests of the CIA and the Department of Intelligence, DIA, Defense Intelligence Agency, and the Department of Defense and the FBI, and the other agencies to protect their own turf.

In October of 2002, the House of Representatives passed a bill and went home leaving the Senate with the alternative of either taking the bill or letting the matter go over until the next year. I was prepared at that time to offer the amendment to give the Secretary of Homeland Security authority to direct some real power. After talking to Secretary Ridge, talking with the Vice President, and talking with the President, rather than have no bill at all, it was decided to proceed and let the matter stand without having that kind of authority for the Secretary of Homeland Security.

There the matter languished until the families of the victims of September 11 became a powerful advocacy group, which led to the creation of the 9/11 Commission, and the 9/11 Commission report was filed in July of this year. There was very substantial momentum finally to create a national intelligence director with some real authority to really manage the entire community.

Senator McCain, Senator Lieberman, Senator Bayh, and I have produced a bill as had been recommended by the 9/11 Commission and then the Governmental Affairs Committee proceeded to have hearings, came back after the recess in late July, had hearirgs in August, marked up the bill, and passed it out of committee last week. So it is now on the floor in a context where there is considerable public pressure created by the 9/11 Commission report and what the families of the victims have done. And the momentum is present.

There has been very substantial opposition to moving at this time. There are those who say this legislation is precipitous, that it ought not to be passed on the eve of an election, that we have more of an eye on 11/2, the election date, than we have on 9/11.

I reject those contentions. This issue has been under study for decades, and personally on my behalf since I spent 8 years on the Intelligence Committee and chaired the committee during the 104th Congress.

The 9/11 Commission unanimously and emphatically has called for the creation of a national intelligence director. It is my view that is a proposition whose time has come.

When I offered the amendment in committee, which was rejected although we received five votes in the committee, there was very intense lobbying coming, as I understand it—you can never present competent evidence which would stand up in court but a lot of lobbying from the protectors of their turf.

My amendment to create the strength of the national intelligence director was deferred until this day. It is my hope and expectation that from this bill we will have a national intelligence director if it is the one proposed by amendment or if it is the one which is in the bill which has been reported by the committee.

It is my conclusion after very substantial study and after very substantial thought and after very substantial consideration that we need a very strong national intelligence director. We need an independent national intelligence director who will stand up to the executive branch, who will stand up to the Congress, who will tell the Congress exactly what is needed by way of resources, and who will have the stature and strength to get that job done.

There is an enormous controversy about the resolution to authorize the use of force which Congress passed and the President acted on—a lot of concern about the adequacy of the intelligence which led to that judgment, the 77 votes in this body joined by a majority of Democrats as well as Republicans. But there is no doubt that however one views the resolution for use of force, it would have been highly desirable to have better intelligence.

The amendment which is embodied in amendment No. 3706 would give substantial additional authority to the national intelligence director than is contained in the committee bill. It would put the CIA under the national intelligence director. The national intelligence director would have the authority to manage and oversee the intelligence community, including the CIA, the NSA, the National Security Agency, the NRO, the National Reconnaissance Office, the NGA, the National Geospacial Agency, and national collection from the Defense Intelligence Agency leaving tactical intelligence within the Department of Defense as it is now.

Valid considerations have been raised that tactical intelligence ought to be left in the Department of Defense so the Department of Defense can carry out its functions. My amendment would leave that important facet with the Department of Defense.

The national intelligence director under the committee bill has budget authority over the Federal Bureau of Investigation. After a great deal of thought, this amendment No. 3706 does not include the FBI under the supervision, direction, and control of the national intelligence director as the other agencies enumerated would have the national intelligence director with the authority to supervise, direct, and control which, in my judgment, would give the national intelligence director the authority to manage and oversee the national intelligence community in an effective way.

The essence of my bill was circulated to the Governmental Affairs Committee with a letter dated August 3 of this year. I put the bill into the Congressional Record on September 7. I introduced the bill on September 15 under the caption of S. 2081. The amendment embodied in No. 3706 is somewhat different, as I have described it.

We are dealing here with agencies where there are inbred cultures of concealment. It is very difficult to get information, even as chairman of the Senate Intelligence Committee.

My experience has shown it was very difficult for the Director of the Central Intelligence Agency to know fully and adequately what has happened within his own agency. One of the matters which I referred to during the committee hearings was information which was disseminated by the CIA Chief of Reports and Requirements in the Soviet East European Division of the Central Intelligence Agency. This was a man who was in the CIA from 1950 until 1991. He had information which was tainted by the Soviet Union—information where the individual conceded that he knew the intelligence came from Soviet-controlled sources and that he disseminated that information at the highest levels of government without disclosing that fact to the individuals whom he transmitted the information that it came from controlled or tainted sources.

That information was transmitted, including transmission on January 13 of 1993. So it went to President George Herbert Walker Bush and it went to President-elect Bill Clinton.

When I took his testimony and expressed shock at what he had done, the individual confidently responded that he had acted entirely properly because disclosure of the controlled source that the information was tainted would have made it even harder, as he put it, to sell the intelligence to policymakers; that there was no reason to believe the Soviets used deception was inaccurate, and no customer would use it unless he had concealed the fact it was tainted.

This was an extraordinary approach, as I saw it, but I think revealing as to what happens within the Central Intelligence Agency, within the Bureau, where the individuals have their empires, where they know better than anybody else, and transmit information to the President of the United States and the President-elect, knowing it to be tainted and not telling the President or President-elect that it was tainted because they then would not use it, and saying that the information was given because the CIA agent, the CIA individual, knew that it was correct. That is just the height of audacity but I think indicative of the kinds of problems we face with the cultures of concealment that we have in the intelligence agencies.

Another matter which I refer to, in the course of the committee hearings, is relevant for presentation; that is, the difficulty of having adequate oversight over the intelligence agencies and the duties that the intelligence agencies have to make disclosures to the oversight committee.

In the spring of 2002, when I chaired a subcommittee of oversight on the Department of Justice and had a wide-ranging subpoena, a document was presented which I ask unanimous consent be printed in the Record, Mr. President.

There being no objection, the material was ordered to be printed in the Record, as follows:

December 9, 1996.

To: Mr. Esposito.
From: Director.
Subject: Democratic National Campaign Matter.

As I related to you this morning, I met with the Attorney General on Friday, 12/6/96, to discuss the above-captioned matter.

I stated that DOJ had not yet referred the matter to the FBI to conduct a full, criminal

> investigation. It was my recommendation that this referral take place as soon as possible.
>
> I also told the Attorney General that since she had declined to refer the matter to an Independent Counsel it was my recommendation that she select a first rate DOJ legal team from outside Main Justice to conduct that inquiry. In fact, I said that these prosecutors should be "junk-yard dogs" and that in my view, PIS was not capable of conducting the thorough, aggressive kind of investigation which was required.
>
> I also advised the Attorney General of Lee Radek's comment to you that there was a lot of "pressure" on him and PIS regarding this case because the "Attorney General's job might hang in the balance" (or words to that effect). I stated that those comments would be enough for me to take him and the Criminal Division off the case completely.
>
> I also stated that it didn't make sense for PIS to call the FBI the "lead agency" in this matter while operating a "task force" with DOC IGs who were conducting interviews of key witnesses without the knowledge or participation of the FBI.
>
> I strongly recommended that the FBI and hand-picked DOJ attorneys from outside Main Justice run this case as we would any matter of such importance and complexity.
>
> We left the conversation on Friday with arrangements to discuss the matter again on Monday. The Attorney General and I spoke today and she asked for a meeting to discuss the "investigative team" and hear our recommendations. The meeting is now scheduled for Wednesday, 12/11/96, which you and Bob Litt will also attend.
>
> I intend to repeat my recommendations from Friday's meeting. We should present all of our recommendations for setting up the investigation—both AUSAs and other resources. You and I should also discuss and consider whether on the basis of all the facts and circumstances—including Huang's recently released letters to the President as well as Radek's comments—whether I should recommend that the Attorney General reconsider referral to an Independent Counsel.
>
> It was unfortunate that DOJ declined to allow the FBI to play any role in the Independent Counsel referral deliberations. I agree with you that based on the DOJ's experience with the Cisneros matter—which was only referred to an Independent Counsel because the FBI and I intervened directly with the Attorney General—it was decided to exclude us from this decision-making process.
>
> Nevertheless, based on information recently reviewed from PIS/DOC, we should determine whether or not an Independent Counsel referral should be made at this time. If so, I will make the recommendation to the Attorney General.

Mr. SPECTER. The essence of the document disclosed that there had been an effort by ranking officials in the Department of Justice to try to influence the FBI not to pursue an investigation on campaign finance irregularities in December of 1996 because at that time Attorney General Reno was under consideration for reappointment. The relevant part of this document from Director Freeh to Mr. Esposito, who was his deputy handling this matter:

> I also advised the Attorney General of Lee Radek's comment to you that there was a lot of "pressure" on him and PIS [Public Integrity Section] regarding this case because the "Attorney General's job might hang in the balance" (or words to that effect). I stated that those comments would be enough for me to take him and the Criminal Division off the case completely.

This matter was not brought to the attention of the Judiciary Committee as a matter of oversight. In my judgment, this is the kind of a matter which the Director, on his own, without request, without knowledge by the oversight committee, without subpoena, as it was disclosed some 4 years later, should have turned over as a matter of oversight.

Another amendment which I intend to offer would give the national intelligence director a 10-year term on the analogy to the Director of the Federal Bureau of Investigation. That would enable the director of national intelligence to have a substantial degree of independence since his term would outlast the term of the President—4 years or, with reelection, a total of 8 years.

We have seen in today's press reports of very substantial problems in the FBI, where there are inadequate translators and a great deal of information from al-Qaida has gone untranslated. I have talked to FBI Director Mueller, who tells me the information is dated, but there is still a significant problem in having sufficient translators to handle that important matter so we have our intelligence in hand.

The national intelligence director is going to have to be strong and independent, with enough stature, with a tenure of a 10-year term, to come to the Congress and be able to see to it that adequate funds are provided for the intelligence community.

The media reports are full of information that show very substantial problems on what would happen in Iraq after a military victory with the insurgents. The national intelligence director is going to have to be strong and independent and bring those matters to the attention of the Congress as well as to the executive branch.

It is my hope that in this legislation we will do a complete job and structure the responsibilities of the national intelligence director to give him the authority on budget and the authority on supervision, direction, and control to effectively manage and oversee the entire intelligence community.

That is an abbreviated statement of a great many considerations. At this time, I yield the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Maine.

Ms. COLLINS. Mr. President, Senator SPECTER is offering the first of what I anticipate will be many amendments to alter the authority of the national intelligence director. He is arguing that the Collins-Lieberman bill does not go far enough. Later on in this debate you will hear from those who believe our bill empowers the NID too far, with too much authority in the NID.

Our approach gives the national intelligence director full budget authority, including the authority to execute, reprogram, and transfer funds over the entire budgets of the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office, which are all now located within the Department of Defense.

Our bill also gives the NID enhanced tasking authority, the power to transfer personnel and authority over the selections of the heads of these agencies with concurrence from the Secretary of Defense.

What it does not do is sever the link between these agencies and the Secretary of Defense, nor does it give the NID exclusive control over these agencies. And that would be the impact of Senator SPECTER's amendment. He would sever the link between these agencies and the Secretary of Defense, and he would give the NID exclusive control over these agencies. I think that would be a mistake.

I believe our legislation strikes the right balance in the relationship that it sets forth between the NID and these agencies. I note that our approach is consistent with the recommendations of the 9/11 Commission. It is consistent with the recommendations of the administration. The 9/11 Commission, indeed, opposes adoption of Senator SPECTER's amendment. The Commission believes it would be a mistake to sever that link between these agencies and the Secretary of Defense.

In deciding to keep these agencies—the NSA, the NGA, and the NRO—within the Department of Defense, we were cognizant of the fact that the NSA and the NGA are designated as combat support agencies. We did not want to in any way weaken or break the bonds between these agencies and the military forces that serve in that capacity. Indeed, many current and former defense officials warned that taking such a step would be counterproductive and would risk breaking something that is working well for the military today.

For example, at our hearings, Secretary Powell said:

> We should not break the link between these intelligence organizations and the organizations that they are supporting, especially within the military context and the direct kind of support that the NRO and similar organizations give to the warfighter.

I would note that by severing that link, the Specter amendment would create some real anomalies. For example, in his proposal, he requires that every 2 years, the chairman of the Joint Chiefs of Staff would submit to the national intelligence director a report on the combat readiness of these organizations. Why would a report on combat readiness go to the national intelligence director rather than to the Secretary of Defense?

There are some other unanticipated consequences of the Specter amendment that illustrate how wholesale changes to the status of NGA, NRO, and the NSA might have completely unintended consequences. For example, title X, section 442(b) now provides that the National Geospatial-Intelligence Agency shall improve means of navigating vessels of the Navy and the merchant marine by providing, under the authority of the Secretary of Defense, accurate and inexpensive nautical charts, sailing directions, books on navigation, and manuals of instructions for the use of all vessels in the United States and of navigators generally. The Specter amendment, in changing the Secretary of Defense to the national intelligence director, would make the national intelligence director responsible for a navigation mapping responsibility that has nothing to do with intelligence. That is just an example of some of the unintended consequences.

Again, the approach taken by Senator SPECTER—and I know he has given this matter a great deal of thought—does not have the support of the 9/11 Commission. It does not have the support of the administration. It would sever the link between these combat support agencies and the Secretary of Defense.

I will note that these three agencies within the Pentagon do serve customers other than the Secretary of Defense. There are other consumers, such as the CIA, for the intelligence information they produce. That is why our legislation does give the NID significant authority over these agencies, including budget authority, the ability to transfer personnel, and the ability, with the concurrence of the Secretary of Defense, to name the heads of these agencies. That is the right balance. But to break that link between these agencies and the Secretary of Defense simply, in my judgment, does not make sense.

I urge opposition to the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, with great respect for Senator SPECTER, friend and colleague, I rise to oppose this amendment.

I want to say that Senator SPECTER has been a very constructive member of the Governmental Affairs Committee, not just on this matter but on so many others that come before the committee. He has contributed substantially to the strength of the bill that is before the Senate that Senator COLLINS and I have offered. He and I talked quite seriously about this earlier in the year, and ultimately my conclusion was that it would construct a bridge too far.

We have a crisis, which the 9/11 Commission documents, which is that we have an intelligence community, as we discussed yesterday and showed on the graphs, without a leader, without anyone in charge. It is so frustrating to the point of being infuriating to read the lengthy narrative at the beginning of the 9/11 Report to see documented the failure to connect the dots. The cases that Senator SPECTER mentioned—one agency knowing something, not telling it to another agency, which might well have either kept out some of the terrorists who struck us on September 11—should have—or would have opened our eyes to the plot that was being hatched that FBI agents came face to face with, this is a system, the American intelligence community, without a leader.

The most urgent recommendation, according to Governor Kean and Congressman Hamilton, that the Commission makes to us is to create a strong national intelligence director and then, right alongside that, a strong counterterrorism center—connect the dots. We have done this. Senator COLLINS documented the various powers we have given to the national intelligence director.

First, this has been a recommendation of commission after commission. Going back to the late 1940s, when the National Security Act was adopted and the Central Intelligence Agency was created, post Second World War, there was the creation of the Director of Central Intelligence who was supposed to be not just the head of the CIA but the overseer of our entire intelligence community. The position was taken but hamstrung. It was not given the power. The DCI was the same person as the head of the CIA. That contributed to the community being without a leader.

In this bill we separate these two positions. We create the overarching national intelligence director, separate from the head of the CIA, and we give that national intelligence director real budget authority, personnel authority and tasking, assignment coordinating authority, which we are convinced will make us a lot safer and stronger against the threat of terrorism here at home and against Americans and others throughout the world.

The Specter amendment goes further than that and would provide that not only would the national intelligence director in the underlying bill direct, oversee, and execute the budgets of these agencies, but he or she would also supervise, direct, and control their day-to-day operations. That approach would create a department in everything but name and put the national intelligence director in charge of multiple agencies on a day-to-day basis.

One of the witnesses before our committee was Philip Zelikow, Executive Director of the 9/11 Commission. We asked Dr. Zelikow: Did the Commission consider creating a department of intelligence, giving the national intelligence director the powers that the Specter amendment would give?

Dr. Zelikow said: Yes, the Commission considered creating such a department but decided against it on several bases.

And they are the bases of my opposition to the Specter amendment. First, the current job that the Director of Central Intelligence had—which was CIA Director, director of presumably the overall intelligence community and principle intelligence adviser to the President—was in itself more than one person could do. To give powers to the national intelligence director for day-to-day operations of the agencies under his or her control would again give more authority, more responsibility than the Commission decided was appropriate and manageable.

The Commission also opted for what they considered to be a more modern management approach. They didn't want to create another big Federal bureaucracy; they wanted to create, really patterned after some very large and very successful private corporations in this country, a central management system, strong as our national intelligence director would be, with budget, personnel, tasking authority, but not top heavy, agile, and not in response or in charge of the day-to-day decisions of all of the agencies under that position. That is what we have in the approach we are taking in this bill.

Senator COLLINS said some people will say—and you will hear of amendments on this floor, as the debate goes on, from Members and those outside the Chamber who feel the bill Senator COLLINS and I have put before the Senate gives the national intelligence director too much power. They will try to strip away that power or fuzz it up so that it is not clear and the status quo can remain. There will be plenty of opportunity to argue against that when those amendments are filed.

But here we are in the middle of a war on terrorism, struck as we were on September 11, under a continuing threat of attack, alerts all over, particularly in Washington and New York—real concern—and to do what looks like protecting the status quo of the particular authority of existing agencies doesn't make sense. There will be those who feel our bill goes too far.

I don't mean to put words into Senator SPECTER's mouth because he is very eloquent, but this amendment suggests we have not gone far enough. The Commission deliberately decided not to take the National Security Agency, National Geospatial Intelligence Agency, and National Reconnaissance Organization out of the Department of Defense. The Commission was concerned, Dr. Zelikow said, about the balance between national and departmental guidance, and they didn't want to tilt the balance too far away from defense. The Commission's executive director portrayed the Commission's idea of a lean, creative command center this way:

> Since terrorism poses such a revolutionary challenge to old ways of executive management in our national security bureaucracy, counterterrorism requires an innovative response.

I believe the underlying bill does exactly that: real authority, decision-making authority, but lean and, may I add, mean, because the people who are threatening us are very mean.

The other thing the kind of structure we have created does is make it harder for the problems that many in the Senate and Committee on Intelligence cited in its report on prewar intelligence are worried about, which is group-think. There is an increased danger that persons at the top of the daily operations of the organizations—there is a danger that you will begin to have not the competition of ideas we want to see in our intelligence community and that we feel strongly will be encouraged by the national intelligence director we are creating by the language in the bill, the focus on independence and objectivity of intelligence and by the national counterterrorism center, which is ultimately the place where everybody who knows anything about a particular problem—in this case terrorism—and maybe the director will create other centers on weapons of mass destruction for particularly problematic countries like Iran or North Korea. Everybody in the Government who knows anything about that will sit down together to share what they have collected in the way of intelligence, share their analysis of it, and then plan jointly on how to stop it, how to deal with the threat represented by those situations.

So I believe Senator SPECTER's intentions are very good, and I admire him for them. But I think at this moment they are a bridge too far, both in the substance of where he would take us and also, frankly, in terms of the probability of any such measure passing Congress. There is an urgency to our deliberations, as we have said over and over again. I think if we reach too far, we may end up with nothing and nothing maintains the status quo, which failed us on September 11 and will fail us again unless we act.

I oppose the amendment. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, by way of a very brief reply at this time, others will say the committee bill goes too far, and the committee bill stands between others who would reject any reorganization of the national intelligence community. The amendment I have offered doesn't go to that point.

The question is, what is the best way to reorganize the national intelligence community? When reference is made to the comments by Mr. Zelikow, the executive director of the 9/11 Commission, he made an analysis of S. 2811, which is a bill similar to the amendment now pending, but it is not the same. I think it is an overstatement to say that the 9/11 Commission rejects the amendment I have offered because it hasn't been considered by the Commission.

Former Senator Bob Kerrey, who was vice chairman of the Intelligence Committee during my tenure as chairman, called me, unsolicited, and said that he favored the elements which I had offered and thought it was preferable to have the national intelligence director with greater authority, which I was proposing.

I believe it is a fair statement to say that the 9/11 Commission would be pleased to see us move to establish a national intelligence director, whether it was along the lines of the committee report or whether it was along the lines of my amendment. I say, too, that it is important to establish a national intelligence director with as many powers as we can reasonably give the national intelligence director. I think that is what the 9/11 Commission is looking for. I don't think it can be accurately said that the 9/11 Commission rejects the substance of my amendment. Certainly, former Senator Bob Kerrey, who was a member of the 9/11 Commission, was not, as far as I can say from an unsolicited call. He said he liked the substance of what I was offering.

I think other Senators are going to be interested in participating in the debate. It was unknown, generally, what sequence would occur as to the offering of the amendment. But I think others will want to come and be heard.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I rise to oppose the amendment offered by Senator SPECTER. I do so with regret but with conviction. Regarding the phrase "direct and control their day-to-day operations," if somebody wants to make the national intelligence director strong, that will certainly do it. The question is, what does that mean? What are the implications? That goes into the law, and then people have to interpret what that law means. I think if there is anywhere we want to be quite clear, we want the American people, through public law, to understand how far the national intelligence director can go and, on the other hand, to what point can that particular person not go.

We give that person all kinds of authority, and I think the appropriate authority, but when we get into managing and direct control of the day-to-day operations, that is a phrase which concerns me greatly, and I say so not as one Senator from West Virginia but as vice chairman of the Intelligence Committee.

My understanding is that this was brought up in the Governmental Affairs Committee and was defeated by a vote of 12 to 5, which is not nip and tuck.

I think the recommendations that were central to the 9/11 Commission were very forthright, and Senator COLLINS and Senator LIEBERMAN have reflected in their bill, which I am proud to cosponsor, very strong measures: a unified budget—oh, there are some people around town who are not very happy about that, which is all right—personnel, management authority over the national intelligence programs.

But then we come back to the phrase "direct and control their day-to-day operations," and that makes me go to an argument which I am quite sure, since I was not on the floor, was used by both good Senators who are managing this bill. And that is, what I think they tried to do is they figured some people would want to have the national intelligence director stronger than what they proposed, and others would want to have the national intelligence director weaker than what they proposed. I heard cases on both sides.

As I hear those cases, I am drawn more back to the possibility of the one I think is the more sensible approach as a person who has been in government for a long time but also, quite frankly, I am interested in passing a bill and passing a bill that we are pretty sure will be doing no harm as a result of the passing of that bill. I am not sure the Specter amendment meets that particular test.

We have all these agencies, and we want to create some sense of order, but we do not want to get unnecessarily in the way in places where we should not of the combatant commanders, which Senator COLLINS mentioned in her excellent opening statement yesterday. There are some things which the military should be able to make decisions about outside of the national intelligence director, and they are allowed to so do on a modest basis, but on an important basis, by this bill.

The Collins-Lieberman bill strikes exactly the correct balance on this matter, and I think balance, generally speaking, is what works in this country and balance is generally what gets bills passed in a closely divided Senate.

Their bill explicitly acknowledges the connection and, at times, the tension with what I have just spoken about, and that is the needs of the military and the needs of the intelligence community.

The Collins-Lieberman bill accommodates the uniformed military's legitimate need to control its operations. I think that is right without shortchanging the consumers of the intelligence, such as the President of the United States, Congress, and senior officials throughout the Government, such as the Secretary of State and the Secretary of Homeland Security.

Their bill correctly recognizes the new national intelligence director will have to rely on the expertise of his newly created deputies which are left, to my way of thinking, in their bill very intelligently just floating a bit so that he can decide wisely how best to do that rather than decide everything in a period of a week or two.

I think Chairman Kean and Vice Chairman Hamilton have endorsed the approach contained in the Collins-Lieberman bill. That would be good enough for me on most matters, and it certainly is on this matter. The notion that the national intelligence director established under this bill would not be sufficiently empowered to effectively manage the intelligence community is not borne out when one reads this legislation, and that is what they are doing. They are doing the managing of the national intelligence aspect.

Without going on at great length, I like the balance. It is the nature of this body to seek out that kind of balance. We have to be realistic that we are faced in the days ahead with some fairly strong probable assaults upon this bill by those from the Armed Services Committee and perhaps some from other committees, and our strength in being able to get a bill passed, in knowing we passed a good bill, is by sticking to a moderate and centrist course which, in fact, is quite radical in terms of everything which has taken place since the National Security Act of 1947. This bill is an enormous update.

I just wish to be understood as being strongly for the approach of Senator COLLINS and Senator LIEBERMAN. I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from West Virginia for his excellent comments. He states the case very well.

There are two final points that I would like to make on Senator SPECTER's amendment, and that is, when we asked Philip Zelikow, the executive director of the 9/11 Commission, to comment on this, he gave us a history of why the Commission specifically rejected this approach, and we talked about many of the reasons.

But one other that he mentioned is that one damaging consequence of stripping NSA, NGA, and NRO out of the Department of Defense is that then the Pentagon might well feel obligated to recreate the capabilities within the Department at great expense and creating many more opportunities for bureaucratic conflict. That was a point made by the executive director in expressing his opposition to Senator SPECTER's amendment and in giving us an insight into why the Commission specifically rejected the route taken in this amendment.

I also note that Senator SPECTER's amendment, while it is intended to create clear lines of authority between the NID and the combat support agencies, in reality could well create much ambiguity and confusion. While the amendment gives the NID supervision, direction, and control over these combat support agencies, it keeps them housed in DOD buildings, on DOD land, and the amendment does not take away from the Secretary of Defense the direction and control he currently has over these agencies.

For example, the law that created the National Imagery and Mapping Agency, which is now the National Geospatial-Intelligence Agency, establishes that Agency under the authority, direction, and control of the Secretary of Defense. Yet under the Specter amendment, the NSA, the NGA, and the NRO would fall under the line authority of both Agencies. I think that would create tremendous confusion and ambiguity.

Mr. President, I see the time for the vote has arrived.

The PRESIDING OFFICER. The next 2 minutes will be equally divided by the proponents and opponents prior to the vote occurring at 4:30.

Mr. SPECTER. Parliamentary inquiry: I believe we have 2 more minutes until 4:30.

The PRESIDING OFFICER. And those 2 minutes will be equally divided.

Mr. SPECTER. I seek recognition to make a comment about the pending amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, we can get more into the details on rebuttal as to what Senator COLLINS has said. I do not think it is accurate that we are taking away key authority from the Department of Defense, but I want to print in the RECORD a letter signed by 14 Senators objecting to the committee bill saying that it "does not give the NID additional authorities will be required to provide the unity of leadership and accountability necessary for real intelligence reform. In particular, we feel strongly that the NID must have day-to-day operational control of all elements of the Intelligence Community performing national missions." It is signed by Senators ROBERTS, SHELBY, DEWINE, HATCH, LOTT, SNOWE, VOINOVICH, BAYH, GRAHAM, WYDEN, BOND, HAGEL, CHAMBLISS, and myself. There is the current chairman, Senator ROBERTS, and three prior chairmen, Senator SHELBY, Senator GRAHAM, and myself.

I ask unanimous consent that this be printed in the RECORD together with a memorandum from me to the members of the Senate Intelligence Committee dated December 5, 1995.

A December 9, 1996 memorandum has already been printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 20, 2004.
Hon. SUSAN COLLINS, *Chairman,*
Hon. JOSEPH LIEBERMAN, *Ranking Member,*
Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN COLLINS AND SENATOR LIEBERMAN: We would like to congratulate both of you for your hard work to draft legislation to reform and strengthen the Intelligence Community. We have covered much ground over the last few months, unraveling the complicated issue of intelligence reform. As a result of your outstanding leadership, we are close to enacting meaningful reform. We understand that your bill includes many important provisions, particularly the creation of a National Intelligence Director (NID) with strong budget authority.

We are writing to you, however, to express our serious concern that the current draft of the bill, as described by your summary and after review by Governmental Affairs Committee members and staff, does not give the NID additional authorities that will be required to provide the unity of leadership and accountability necessary for real intelligence reform. In particular, we feel strongly that the NID must have day-to-day operational control of all elements of the Intelligence Community performing national missions. To fulfill the historic intent of the National Security Act of 1947, we must provide the NID—as head of the Intelligence Community—the additional authorities necessary to match the position's responsibilities and to ensure accountability. To address these concerns, we request the opportunity to meet with you prior to any further committee action on the legislation.

In addition to day-to-day operational control of all elements of the Intelligence Community performing national missions, some members also believe that we must either explicitly create a new agency, or at least provide the NID with supervision, direction, and control similar to a department or independent agency head.

Clear lines of authority between the NID and our national intelligence agencies, extending beyond budgetary control, are critical to our success in countering 21st Century national security threats. There must be no doubt in anyone's mind that the NID is in charge and is accountable.

Thank you for you leadership under very challenging circumstances, and we look forward to meeting with you prior to the committee mark-up of intelligence reform legislation. Working together, we can achieve the real intelligence reform that we all seek.

Sincerely,
Pat Roberts, Mike DeWine, Trent Lott, George V. Voinovich, Bob Graham, Christopher S. Bond, Saxby Chambliss, Richard Shelby, Orrin Hatch, Olympia Snowe, Evan Bayh, Ron Wyden, Chuck Hagel, Arlen Specter.

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, December 5, 1995.

To: Members, Senate Select Committee on Intelligence.
From: Arlen Specter.
Re Ames Damage Assessment Inquiry.

On November 29, 1995, Charlie Battaglia, Fred Ward and I and Gerry Prevost, from CIA's Office of Inspector General, went to the home of L in Springfield, VA, to take his testimony because L advised that his medical condition was such that he could not come to the Committee. The deposition lasted about one hour and 45 minutes., The transcript is available for your review.

L began working for the CIA in 1950 and during the period from 1980 to 1991, L was Chief of Reports and Requirements in CIA's Soviet East European Division. He was responsible for determining the quality of Soviet sources, assessing the authenticity of the intelligence, and disseminating those reports to policymakers.

L readily conceded that he knew intelligence data came from Soviet controlled sources and that he disseminated such data to the highest levels of our government without disclosing the fact that it came from such controlled sources.

When I expressed shock at this, L confidently responded that he had acted entirely properly because disclosure of the controlled source would have made it even harder to "sell" the intelligence to policy makers, there was no reason to believe the Soviets used deception, no customer could use it unless his unit gave permission, and no customer would make any decision based on one or two documents.

L boasted that often U.S. general officers came to him directly for assessments of Soviet information much to the consternation of his division director.

When L was told that his successor, Z, denied knowing that such intelligence data came from a source known to be controlled by the Soviets, L responded "bullshit." Z received only a letter of reprimand for passing on intelligence data from Soviet controlled sources without appropriate disclosures.

It is had to comprehend: (1) how L failed to understand that his conduct posed a grave threat to U.S. national security and was an unconscionable arrogation of power unto himself; (2) how his superiors (some of whom reportedly knew what he was doing) could permit him to function in this manner for so long; and (3) why the Agency has not turned heaven and earth to root out this kind of attitude and conduct. From the Ames case and other matters, L's conduct and attitude appears to represent a deep-seated institutional problem for the Agency.

Detailed questioning must be undertaken of the supervisors of L and Z, including the Directors, to determine how this could have gone on so long. Extensive work remains to be done to trace to whom the controlled data went, what decisions such data influenced and what damage the U.S. sustained from such decisions.

AMENDMENT NO. 3711

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, do I have 1 minute remaining before the vote begins?

The PRESIDING OFFICER. The Senator has 1 minute.

Mrs. HUTCHISON. Mr. President, I hope my colleagues will support this air cargo security amendment. This is an amendment that the Senate has voted on twice and passed. It will add significantly to the security of our aviation community. The airports and the top of the airplane are very safe. We have done a super job of creating those safe areas, but what we have not done is matched that with cargo security, what is in the belly of the airplane. We want a seamless aviation system, and with this amendment I think we will have the safest aviation system in the world.

I am very proud to have the support of so many of my colleagues, and I hope we send a strong message that this amendment should be added to the final bill. I appreciate the support of the chairman, the ranking member, the chairman of the Commerce Committee, and the Aviation Subcommittee as well.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I urge support for Senator HUTCHISON's amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I ask unanimous consent to speak for not more than 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to support Senator HUTCHISON's amendment. It really strengthens the basic bill that we brought before the Chamber. It would reorganize our intelligence community to better deal with the threat of terrorism. We want this core proposal to be a vehicle for responding to the other recommendations of the 9/11 Commission and to close as many of the points of vulnerability that we have in America to terrorists as we possibly can.

The Commission said major vulnerabilities still exist in cargo and general aviation security. This amendment would go a long way toward ending those vulnerabilities. I thank the Senator from Texas, and I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask unanimous consent that following the conclusion of the vote I be recognized to speak in opposition to the Specter amendment for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to Hutchison amendment No. 3711. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—96

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—4

Akaka
Corzine
Edwards
Kerry

The amendment (No. 3711) was agreed to.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 10 minutes.

AMENDMENT NO. 3706

Mr. WARNER. Mr. President, I rise in opposition to the Specter amendment. I wish to compliment the managers of the bill, Senators COLLINS and LIEBERMAN. I thought their arguments were overwhelmingly persuasive in support of the President's position and indeed the 9/11 Commission that these agencies—the National Security Agency; the National Geospatial-Intelligence Agency, the former Mapping Agency, as we knew it; and the National Reconnaissance Office—have important intelligence functions. They are collection agencies. They must remain under the managerial supervision of the Secretary of Defense. I feel ever so strongly about that.

These three agencies are designated in law as combat support agencies, servicing our troops, the men and women of the Armed Forces wherever they are in the world facing harm's way, today, tomorrow, and in the future.

The President announced, on September 8, that these three agencies would not—I repeat, would not—be moved from the Department of Defense. This decision was based on two very important principles: One, no reform measures that the President advocates should disrupt ongoing operations in the war on terrorism. I am certain all colleagues fully appreciate the sensitivity of that extremely important decision and principle not to move these three agencies. Secondly, no ambiguity should be introduced in the chain of command, from the President through the Secretary of Defense down to the combatant commanders. That is vital to the war on terrorism and indeed other military operations.

These three agencies are designated combat support agencies providing direct intelligence support to the unified combatant commanders currently fighting in Iraq, Afghanistan, and in other theaters.

The Secretary of Defense is accountable to the President. Under law—I shall turn to the law momentarily. To ensure that these agencies provide the proper intelligence to our military customers, the Secretary of Defense must be able to direct them in executing their operational missions.

I would like to pause for a minute and draw to my colleagues' attention the law. It reads, for the Secretary of Defense:

> The Secretary of Defense, in consultation with the Director of Central Intelligence, shall—
>
> (1) ensure that the budgets of the elements of the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense. . . .

Further on down it reads:

> (4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces. . . .

I do not see how the amendment of my colleague from Pennsylvania modifies the existing law, and that is imperative if this amendment is to be effective.

I draw my colleagues' attention further to the law, and that is title 10 with respect to the Chairman of the Joint Chiefs. I read from section 193:

> (a) COMBAT READINESS.—(1) Periodically (and not less often than every two years), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense a report on the combat support agencies. Each such report shall include—
>
> (A) a determination with respect to the responsiveness and readiness of each such agency to support operating forces in the event of a war or threat to national security; and
>
> (B) any recommendations that the Chairman considers appropriate.

That law would have to be modified in some way were this amendment to be adopted.

So, in conclusion, Mr. President and colleagues, I foresee a potential disruption to operations were this amendment to become law. Numbers are classified, but approximately one-half of the employees of these agencies are Active-Duty military personnel.

In addition to national requirements, these agencies provide great volumes of tactical-level support to the warfighter.

Also, in existing law, I draw to my colleagues' attention that the Under Secretary of the Air Force is dual-hatted as a Director for the NRO. So that, too, would have to be amended and changed. Furthermore, the Director of the NSA is dual-hatted. He is a Deputy Commander of Strategic Command for Information, warfighting responsibility.

So in conclusion, I strongly support the position of the distinguished chairman and ranking member and urge colleagues to vote against this amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have listened with a keen interest, as I always do, when the Senator from Virginia speaks. The concerns which I have seen in my tenure on the Intelligence Committee and as chair—and I served with the Senator from Virginia on the Intelligence Committee—is the dominance of the Department of Defense on the budget and the lack of coordination with the other intelligence agencies, the Central Intelligence Agency, and the counterintelligence branch of the FBI.

The citations of authority which the Senator from Virginia raises can all be accommodated. In a very careful way, very carefully crafted, we have left the Department of Defense with the necessary intelligence gathering for them to perform their mission and their function.

When the national intelligence director has overall supervision and management, it does not mean that the Secretary of Defense will not have access to information from the NRO or the NSA or the other branches. When we hear those citations of authority, they can all be molded consistent with the amendment I have offered, which, as the most recent enactment, governs and dominates.

So I know the sincerity and I know the perspective of the chairman of the Armed Services Committee. When I had introduced S. 1718 back in April of 1996, and it was referred to the Armed Services Committee, it was emasculated, really, on a turf struggle. I think there is a very heavy overtone of the turf battle which is present here this afternoon at this moment.

Mr. WARNER. Mr. President, the one thing we want to avoid is patchwork legislation. I have drawn to the attention of my colleague—

Mr. SPECTER. Mr. President, I yield the floor. I had the floor, but I do yield it.

Mr. WARNER. I thank my colleague. But, I say to the Senator, I would be happy to enter into a colloquy with you on this point.

Mr. SPECTER. Then in that event I will stay standing.

Mr. WARNER. I would hope you do so.

I pointed out specific provisions of the law requiring certain accountability of the Secretary of Defense and the Chairman of the Joint Chiefs. We do not want to do patchwork legislation.

My understanding, after reading and studying your amendment, is you take these three entities out of the Department of Defense. I do not read into the amendment where there is a residual authority left in the Secretary to perform the functions as prescribed in title 10 and, to some extent, title 50.

Mr. SPECTER. Mr. President, through the Chair, I would inquire of the Senator from Virginia, what does he see which would stop those various officers from complying with those requirements and still allow the national intelligence director to have overall management? That is my question to the Senator from Virginia.

Mr. WARNER. I will wait for the Senator from West Virginia to answer. You directed it to the Senator from West Virginia.

Mr. SPECTER. I hadn't meant to promote Senator WARNER.

Mr. WARNER. I am trying to inject a little lightheartedness.

Mr. SPECTER. If you are confused on the substance of the question, maybe the court reporter could repeat it.

Mr. WARNER. I say to my good friend, a little humor now and then is well advised. But I understand precisely the question directed to me. Let us read your amendment. Would you read your amendment and show me where that residual authority under titles 10 and 50 are left in the Secretary of Defense?

Mr. SPECTER. There is nothing in the amendment which takes the so-called residual authority from the Secretary of Defense. The amendment gives to the national intelligence director management and supervision, but it does not undercut the directions of the statutes to which you have referred.

Mr. WARNER. I would draw that argument to the attention of the distinguished manager of the bill. My understanding, in reading some of your comments, is that I do not find in this amendment where there is a clear delineation of authority and that managerial responsibility, as required under titles 10 and 50, remains in the Secretary of Defense.

Ms. COLLINS. If the Senator will yield on that point, I think this points out the confusion and ambiguity I pointed out earlier due to the way the Specter amendment is drafted. I agree that it creates confusion and also that the implications of substituting the national intelligence director for the Secretary of Defense throughout the laws creating these agencies creates a lot of unintended problems. That is one reason I believe this amendment should be defeated.

Mr. SPECTER. Mr. President, the concept of unintended consequences is not an unusual argument. It can be attenuated in many directions. My submission to this body is that the amendment is plain on its face, that it seeks to create a national intelligence director who has the authority to manage the intelligence community. When the Senator from Virginia cites responsibilities in existing law, there is nothing in my amendment which undercuts that law, nothing at all. Ambiguity, like beauty, is in the eye of the beholder, and in this situation, on the face of the amendment, there is no ambiguity.

Mr. WARNER. Mr. President, I am reading from section 305, Defense Intelligence Agency. I believe that is clear on the DIA, but I do not see it with reference to the National Reconnaissance Office. "The Director of the National Reconnaissance Office shall be under the direction, supervision, and control of the NID." I just see no residual managerial authority left in the Secretary of Defense to fulfill his statutory requirements under titles 10 and 50.

"Line of authority: The Director of National Reconnaissance shall report directly to the national intelligence director regarding the activities of the National Reconnaissance Office." I mean, there is the clear English language.

I say to my good friend, he may be well intentioned, but I am somewhat at a loss to find any reference in this amendment that preserves that residual responsibility which you have represented to the Senate.

Mr. SPECTER. Mr. President, I regret the Senator from Virginia is at a loss, but that doesn't affect the plain language of the amendment and the fact that it doesn't disturb the responsibilities under the section cited by the Senator from Virginia.

Mr. WARNER. Might I just hand you the amendment and ask you to point to the language which you feel leaves the residual authority in the Secretary of Defense?

Mr. SPECTER. I think the amendment speaks for itself, I say to Senator WARNER.

Mr. WARNER. I have given every opportunity to my colleague. I stand by my representations to my colleagues and I support the managers of the bill in having this amendment defeated.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the bottom line of the Specter amendment is that it would sever the reporting relationship between the heads of these three combat support agencies and the Secretary of Defense. I don't think that makes sense. I understand these three agencies serve consumers of intelligence other than the Pentagon, other than the war fighters, but the Pentagon, the war fighter, is a very important consumer of the intelligence produced by these agencies, and that is why in our legislation we gave a lot of thought to how to handle the organization of these agencies and the reporting requirements.

We followed the advice of the 9/11 Commission. We kept a reporting relationship to the Secretary of Defense in acknowledgment of the combat support agency role played by these organizations. But in recognition of the fact that they also provide critical intelligence to the CIA and to a host of other agencies and to the President, we recognized that they are national as well.

What we have is a dual reporting responsibility to both the Secretary of Defense and the new national intelligence director. We do strengthen the control of the national intelligence director in significant ways in acknowledgment that these are national assets. We give the director control over the budget of these agencies. We allow the director to appoint the heads of these agencies with concurrence from the Secretary of Defense. The new national intelligence director can transfer personnel and funds. But we should not sever the link between those agencies and the Secretary of Defense. That would be a big mistake.

I urge my colleagues to oppose the Specter amendment.

I appreciate the support of the chairman of the Armed Services Committee.

Mr. WARNER. Mr. President, if the distinguished manager would yield for a question, the distinguished Senator from Pennsylvania, in support of his amendment, submitted for the record a letter dated September 20, 2004, signed by a number of colleagues. Here is a statement that I believe confirms the proposition I just enunciated, that the amendment would strip the Secretary of all of his responsibilities as existing in other statutes. I will read it:

> We are writing to you, however, to express our serious concern that current draft of the bill, as described by your summary and after review—

It is addressed to the chairman.

> —by the Governmental Affairs Committee members and staff, does not give the NID additional authorities that will be required to provide the unity of leadership and accountability necessary for real intelligence reform. In particular—

This is the operative sentence.

> —we feel strongly that the NID must have day-to-day operational control of all elements of the intelligence community performing national missions.

It goes on. So it is very clear.

I would say that they do single out the term "national missions," but these combat support agencies perform both national missions and tactical combat missions. They are not clearly separable. I mean the soldier, sailor, airman, and marine in the field today relies on satellite intelligence, which is a national mission of, say, the NRO, as well as the tactical support the NRO gives in various ways.

So I feel that as I read the amendment, it is totally contradictory of the desire of the 9/11 Commission, totally contradictory of the advice and counsel that the President has given the Congress, am I not correct?

Ms. COLLINS. The Senator is correct and his points are well taken. In reading to me the statement from that letter, the Senator has brought up another important point. Do we really believe that the national intelligence director should have line authority, day-to-day operational authority over all of those agencies? We know that the 9/11 Commission found that one reason the CIA Director was not as effective as he should be was he had too many jobs. He is head of the intelligence community, he runs the CIA, and he is the principal adviser to the President.

Under the formulation proposed by the Senator from Pennsylvania, we would be worsening that problem by giving the NID line authority, day-to-day operational authority. That person cannot possibly run all of those agencies and still coordinate, oversee, and manage the intelligence community.

So I believe this amendment goes too far. The Specter amendment essentially creates a de facto department of intelligence, as my colleague from Connecticut has pointed out, and that approach was specifically rejected by the 9/11 Commission. They specifically considered what should be the reporting relationships of these three combat support agencies. They rejected the approach taken by the Specter amendment. The administration also opposes that approach. Our committee rejected that approach. Our witnesses did not think that approach was wise.

I urge my colleagues to join in opposition to the amendment offered by Senator SPECTER.

Mr. WARNER. Mr. President, may I ask my distinguished colleague another question? This is a letter which is now submitted for the RECORD. It contains the names of about eight or nine other Senators. Have any of those Senators come to clarify this point? I would like to study what they have said.

Ms. COLLINS. Mr. President, in committee, some of the Senators who signed that letter participated in the debate. They did not convince the majority of the committee members. So far in this debate today, I don't believe that other advocates of this approach have yet been heard, but they may well be heard tomorrow. I know Senator BOND wants to speak. I think there are both proponents and opponents who still wish to be heard.

Mr. WARNER. I hope to be on the Senate floor when they do that. I wonder if the managers of the bill might acquaint them with the title 10 and title 50 provisions and ask where in the amendment those provisions are modified; otherwise, we are going to end up with a patchwork. That is one thing I know this chairman and ranking member do not wish to have.

Ms. COLLINS. The Senator's point is well taken.

Mr. LIEBERMAN. Mr. President, I thank Senator WARNER, who chairs the Armed Services Committee, which the chairman of our committee and this ranking member are privileged to serve on, for his statement, his reference to sections of statute that could be compromised and indeed overridden if this amendment of the Senator from Pennsylvania were adopted.

I thought that the colloquy between Senator WARNER and Senator COLLINS was very illuminating. I hope our colleagues had a chance to listen to it because it did, I believe, ultimately explain why this is a bridge too far, a motto from the Second World War, where the troops were sent to take one bridge too far—I have the feeling that Senator WARNER is going to know the background of this "bridge too far" reference—too far to hold the bridge and, as a result, the overall effort collapsed.

I am afraid this stretches too far and it weighs down the reforms we are trying to make. I believe the colloquy between Senator WARNER and Senator COLLINS is a great argument for the balance we have struck. We leave the line authority over these national intelligence agencies with the Defense Department. Without going into details—because it is classified—thousands of men and women in uniform serve in these agencies. So we want to leave that line authority with the Secretary of Defense but create a reporting authority to the national intelligence director because the NID will oversee the entire intelligence community.

This has been a wonderful learning experience for Senator COLLINS and me. We met with the head of the NSA, General Hayden, and the head of the NGA, General Clapper, and it was fascinating to hear the extent to which they are not only providing day-to-day technical military intelligence to help their personnel in the field at Central Command today, and other commands, but the way in which they are also providing, because of their extraordinary capabilities, daily assistance and intelligence security to law enforcement agencies. That is the balance we tried to strike.

Mr. WARNER. Mr. President, I will pose a question to both managers, also members of the Armed Services Committee. As we proceed with this legislation, I am sure you are bearing in mind that we recall the aftermath of the 1991 war in which we participated in liberating Kuwait. You will recall as a member of the committee that General Schwarzkopf came before us at that time as sort of an after-action report. He talked in some detail about what he felt were shortcomings, particularly in the tactical intelligence, as to what he needed as a warfighter, as commander of the forces. That sounded alarms throughout the system. It startled many of us that that shortfall existed to that extent. Immediately the then Secretary of Defense and the successive Secretary of Defense—particularly Secretary Rumsfeld—have done everything possible to strengthen and remove the weaknesses that were in the system at that time.

As we proceed on this bill, I hope we have been mindful of particular tactical strengths that have been built into the existing system. It would be my fervent hope that nothing in this bill would roll back that progress. I wonder if the managers might address that, since both are members of the Armed Services Committee and have experience with the gulf war and what has been done in the ensuing years.

Mr. LIEBERMAN. I thank the Senator for his question, my chairman of the Armed Services Committee. It is an important question, one that Senator COLLINS and I weighed as we went through this process of accepting the assignment from the bipartisan leadership to consider and recommend to the Senate on the 9/11 Commission Report. We both take not only our responsibility to protect America's security under the Constitution seriously, we take our membership on the Armed Services Committee seriously. We have a purpose here. We want to put somebody in charge. The 9/11 Commission Report says the intelligence community doesn't have a leader. They are not coordinating their effort. As we do that, we said we want to make sure we don't compromise the quality and availability of intelligence to our warfighters. In fact, we believe our proposal not only doesn't compromise the quality of intelligence, but will ultimately improve it because there will be better coordination.

Even from within some of these agencies, national assets under the Defense Department, high officials said to us that they don't benefit, they don't think the military benefits, the warfighters benefit from the current ambiguity. Make those lines clear, and all the customers, if I can use that term, of intelligence will benefit, including the military.

Senator WARNER knows that in specific regard to the so-called TIARA, or tactical intelligence budget of the military, that remains totally within the Defense Department, and so do most of the joint military intelligence programs. So the answer is a resounding yes. We understand the uncertainty, the anxiety because of our bill. The 9/11 Commission recommendations represent change. It does take the budget authority and put it under the national intelligence director for national intelligence programs, including these three within the Defense Department. So we understand the anxiety. But we think we put together a balanced system that will not only first provide the No. 1 customer of intelligence, the President of the United States, with the best intelligence, with the coordinated unity of effort that he requires, but do the same for the warfighters. That is our firm belief.

Mr. WARNER. Mr. President, that is reassuring. If I might further inquire of my distinguished colleague, I was given today, and I expect the managers maybe earlier received this, in any event, this is the September 28 communication from the Executive Office of the President to the Senate. It is entitled "Statement of Administration Policy." Has that been printed in the RECORD as yet today?

Ms. COLLINS. It has not.

Mr. WARNER. Mr. President, I ask unanimous consent, at this point in the debate or at the conclusion of our colloquy, to print this Statement of Administration Policy in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY

The Administration supports Senate passage of S. 2845, commends the Committee for its expeditious attention to these important intelligence reform issues, appreciates the Committee's efforts to include important provisions proposed by the Administration, including specific and detailed budget authorities for the National Intelligence Director (NID), and looks forward to working with the Congress to address the Administration's concerns outlined below. This measure will build upon actions already taken by the Administration, including in the President's recently issued Executive Orders, as well as upon the recommendations of the National Commission on Terrorist Attacks Upon the United States (9/11 Commission).

The Administration supports, in particular, the establishment of a NID with full, effective, and meaningful budget authorities and other authorities to manage the Intelligence Community including statutory authority for the newly created National Counterterrorism Center. The Administration will oppose any amendments that would weaken the full budget authority or any other authorities that the President has requested for the NID. The Administration will work in the legislative process to continue to strengthen and streamline intelligence reform legislation and to make adjustments to ensure that the President continues to have flexibility in combating terrorism and conducting intelligence activities.

The Administration is concerned about the excessive and unnecessary detail in the structure of the Office of the NID. In particular, provisions of S. 2845 would, in the aggregate, construct a cumbersome new bureaucracy in the office of the NID and in the Executive Office of the President with overlapping authorities. Legislatively mandated bureaucracy will hinder, not help, in the effort to strengthen U.S. intelligence capabilities and to preserve our constitutional rights. The Administration urges the Senate to delete or significantly revise these problematic provisions.

The Administration opposes the Committee's attempt to define in statute the programs that should be included in the National Intelligence Program; the Administration believes that further review is required. The Administration also believes that the Committee bill's provision relating to the NID's role in acquisition in major systems needs further study to ensure that the requirements of major consumers are met.

The Administration supports the strong information-sharing authorities granted to the

NID in the bill. The Administration is concerned that the extensive authorities and responsibilities granted to the Office of Management and Budget (OMB) to implement an information sharing network are both outside of OMB's usual responsibilities and are inconsistent with the goal of ensuring a NID with effective authority to manage the Intelligence Community. These responsibilities should be granted to the NID in such a way as to remain consistent with section 892 of the Homeland Security Act of 2002. The Administration also believes that the detail in which the legislation prescribes the network is excessive; the network would be more likely to accomplish its beneficial goal if the bill simply provided the authority necessary for its establishment while leaving the details to be worked out and altered as circumstances require.

The Administration is also very concerned about the provisions that would purport to reorganize the President's internal policy staff by merging the National Security Council and the Homeland Security Council. Based on the constitutional doctrine of separation of powers, the Congress should not legislate and make permanent the internal organization of the President's own Executive offices or otherwise limit the flexibility needed to respond quickly to threats or attacks.

The Administration is also concerned that the Committee bill mandates disclosure of sensitive information about the intelligence budget. The legislation should not compel disclosure, including to the Nation's enemies in war, for the amounts requested by the President, and provided by the Congress, for the conduct of the Nation's intelligence activities.

The Administration opposes the provision in the Committee bill purporting to require the President to select a single department or agency to conduct all security clearance investigations. Although the Administration supports improvements to the security clearance process, this provision would impermissibly interfere with the President's need for flexibility in conducting security clearance investigations and does not recognize the special needs of individual intelligence agencies.

The 9/11 Commission found that the creation of a NID and National Counterterrorism Center, "will not work if congressional oversight does not change too." The Administration notes that the bill does not address this vital reform component or the parallel recommendation to consolidate oversight for the Department of Homeland Security. The Administration believes the legislation should also address the Commission's recommendation to ensure rapid consideration by the Senate of national security appointments.

The Administration notes that the Committee bill did not include Section 6 ("Preservation of Authority and Accountability") of the Administration's proposal; the Administration supports inclusion of this provision in the Senate bill. The legislation should also recognize that its provisions would be executed to the extent consistent with the constitutional authority of the President: to conduct the foreign affairs of the United States; to withhold information the disclosure of which could impair the foreign relations, the national security, deliberative processes of the Executive, or the performance of the Executive's constitutional duties; to recommend for congressional consideration such measures as the President may judge necessary or expedient; and to supervise the unitary executive.

Mr. WARNER. Mr. President, I think it is a document that will be of value to all Members of the Senate if they have not received it.

I would like to draw the attention of the two managers to that operative paragraph 2:

> The Administration supports, in particular, the establishment of a NID with full, effective, and meaningful budget authorities and other authorities to manage the Intelligence Community including statutory authority for the newly created National Counterterrorism Center. The Administration will oppose any amendments that would weaken the full budget authority or any other authorities that the President has requested for the NID. The Administration will work in the legislative process to continue to strengthen and streamline intelligence reform legislation and to make adjustments to ensure that the President continues to have flexibility in combating terrorism and conducting intelligence activities.

It is the operative phrase that "the Administration will oppose any amendments that would weaken the full budget authority," and the preceding sentence where they said "a NID with full, effective, and meaningful budget authorities."

Mr. President, first, I would like to ask the two managers, is the purport of this paragraph consistent with all the several provisions in the bill that refer to budget authority, in their judgment?

Ms. COLLINS. Mr. President, to answer the question of the Senator from Virginia, I believe it is consistent. I direct the Senator's attention to the very first sentence of this Statement of Administration Policy where it states: "The Administration supports Senate passage of S. 2845." That is the bill before us. That is the bill that is also known as the Collins-Lieberman bill.

Mr. WARNER. Without diminishing in any way that very encouraging sentence, if you go on to read the totality of this communication, there are expressly in here some reservations, but I will not get into that at this point in time.

I want to go back to these words, "full, effective, and meaningful budget authorities." We just had a debate on the Specter amendment, which I believe, with no disrespect to my good friend and colleague, is an extreme viewpoint on this, and I am hopeful the Senate will not adopt it, but we do come back to this pivotal question, and tomorrow I hope to bring forth some amendments. Now that I see the expressed language and the Senator assured me her bill tracks this, I have to have some clarification—at least I shall seek clarification—of what is the remaining role of the Secretary of Defense with regard to those portions; namely, these three combat agencies, together with DIA, what is the residual area of collaboration, jointness, in the preparation of the budget—preparation is part 1—and then the execution of the budget after it goes through the authorization and appropriations process and begins to come back to the several departments and agencies.

So let's talk about what the Senator believes this language—which is consistent, as she says, with the language in the bill—I presume the Senator's language would not be modified or changed by this—what is left to the Secretary of Defense in regard to the budget authority?

Ms. COLLINS. Mr. President, to respond to the question of the Senator from Virginia, our bill makes very clear that the budgets for the tactical intelligence programs remain under the authority of the Secretary of Defense. That is consistent with the position of the administration, and it is also consistent with the position of the 9/11 Commission.

What we are seeking to do is to put national intelligence assets—the budget for those programs—under the national intelligence director and, indeed, much of the budget for these agencies is currently within the National Intelligence Program, or what is now known as the NFIP, the National Foreign Intelligence Program, because as the Senator is well aware, these agencies are providing intelligence not just to the combatant commanders, the troops, DOD, but as one of the generals with whom we met told us, he talks far more often to the Director of the CIA than he does to the Secretary of Defense.

Mr. WARNER. Mr. President, I really think that is an important representation the Senator has made, but I do not read in this language of the communication from the White House the distinction that she draws between tactical and national. Can I refer the Senator again to this language?

Ms. COLLINS. If we look at the administration's legislative language they have sent up, they, too, exclude the tactical intelligence assets. I think what this language is intended to convey is, as one of our witnesses said—as many of our witnesses said—the worst thing we could do is to create a national intelligence director who did not have budget authority. That power of the purse is arguably the most important authority given to the NID, but no one, to my knowledge, has advocated giving the NID authority over the tactical intelligence in the Department of Defense.

Mr. WARNER. I draw the attention of the distinguished managers to the words "the Administration will oppose any amendments that would weaken the full budget authority. . . ." It is the word "full."

Ms. COLLINS. Yes, that the President has requested for the NID.

Mr. WARNER. To me "full" is the whole basket. It could be interpreted that way.

Ms. COLLINS. What I am telling the Senator is that if he looks at the language sent up by the administration, he will see—and if he looks at the language in our bill, he will see there has never been discussion in putting tactical intelligence—

Mr. WARNER. Mr. President, I acknowledge that, the JMIP and the TIARA in the language sent up. But it seems to me the writer of this could have been somewhat more explicit in the communication because this is an important communication to guide Senators desiring to establish their voting pattern in connection with the Senator's bill.

Ms. COLLINS. Mr. President, I say to the Senator, I, obviously, am not the author—

Mr. WARNER. I think I pressed the point far enough and I think the Senator from Maine has been very courteous in her responses. I just want to bring to the attention of colleagues, when this says "full," it is your understanding it did not include the JMIP, the TIARA, and those programs; is that correct?

Ms. COLLINS. That is correct, other than there may be some programs that are now part of the JMIP that are not principally for—and I see my colleague from Michigan joined us; we had a long debate in committee about this—that are not principally used for joint military purposes, but rather are national intelligence assets, and an example of that would be DIA.

Mr. WARNER. I am privileged to be in this colloquy with my friends. I would like to have the assurance of the ranking member of the committee that he concurs in the statements just made by our distinguished Chair.

Mr. LIEBERMANN. Mr. President, my reflex is to say I do, but I must say I was distracted for a while, so I do not know everything the Senator said.

Mr. WARNER. The question is the language sent up by the administration did have a breakout of the budget authority as relates to certain parts of the overall programs performed by these combat agencies.

I ask our distinguished manager of the bill whether this language in the communication today which said the administration opposed any amendments, because I proposed to have an amendment tomorrow—it may be opposed by the administration, but I want to make sure that the phrase "full budget authorities" is not amending what they sent up by way of language.

Mr. LIEBERMAN. Mr. President, the sentence is subject to more than one interpretation. So I am not sure what the meaning of it is, but I can assure the Senator about what the intention of the underlying bill is and that is the way in which I look forward to continuing this discussion and debating any amendments the Senator might have.

I found a quote that may be reassuring to the Senator. It is from General Hayden, Director of the National Security Agency, when he testified before the House Select Committee on Intelligence on August 18 of this year about the 9/11 Commission recommendations. He said an empowered national intelligence director, with direct authority over the national agencies, including his own, should not be viewed as diminishing our ability or willingness to fulfill our responsibility as combat support agencies, which I found reassuring. That is certainly our intention and I hope the Senator from Virginia will find that reassuring as well. That, combined with the possibility that the administration might oppose one of the Senator's amendments, I hope will lead the Senator to reconsider.

Mr. WARNER. Well, time will tell. I ask unanimous consent to have printed at this point in the RECORD a copy of the administration—I think the Senator referred to it as a bill although it was never introduced—language they sent up which made a clear reference and distinction to what budget authority was given to the NID and what residual remains in the Secretary of Defense. Am I correct on that?

The PRESIDING OFFICER. Is there objection?

Ms. COLLINS. Mr. President, I have no objection. I think that would be helpful.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Reserving the right to object, and I will not object, my understanding is, as the Senator said, this is not a complete bill. It was legislative language for parts of what ultimately have been covered in our bill.

Mr. WARNER. Yes.

Mr. LIEBERMAN. I have no objection.

Mr. WARNER. It was a communication from the administration——

Mr. LIEBERMAN. Absolutely.

Mr. WARNER. I guess to the managers of the bill or the committee. Nevertheless, it is a document expressing the intentions, and the distinguished chairman has clearly indicated that her bill tracks that.

Ms. COLLINS. Mr. President, if the Senator will yield?

Mr. WARNER. Yes.

Ms. COLLINS. I do not want to give the impression that our legislation tracks the administration's legislation in all respects, because it does not. What I was saying to the Chair and to the Senator from Virginia is there has never been support for bringing the tactical intelligence assets, bringing the budget for those programs under the national intelligence director's control. Our legislation specifically carves them out and keeps them under the control of the Pentagon. So I am a bit perplexed by this debate because nobody is proposing what the Senator seems to be fearing.

Mr. WARNER. I asked that if a construction of this language we received today is full budget authority, it could lead someone to the conclusion that everything was transferred.

Ms. COLLINS. The full budget authority, in my view, applies to the national intelligence assets.

Mr. WARNER. Good. And if they had inserted that in there, it would have been clearer, I hasten to add. We are not going to debate this further. In fairness, having raised this question, I think the Senator has brought considerable clarification. It may be the administration may be more forthcoming about what they precisely meant by the use of full budget authority in the use of this communication, but let me proceed in my questioning with regard to the residual authority of the Secretary of Defense over those budgets in the combat agencies, and I would like to add DIA, which is also a combat agency.

As the Senator says in her bill, those sections which are tactical are in the discretion of the Secretary in the preparation of the budget, and he would collaborate with the NID in preparing those sections. Now, on the national intelligence collection, I think the chairman agrees with me that the soldiers, sailors, airmen, and marines utilize that in carrying out their tactical missions, although it classifies the NRO and the gathering in space as the national program. Am I correct? It does feed into the tactical portion?

Ms. COLLINS. The Senator is correct.

Mr. WARNER. So, therefore, should not the Secretary of Defense have a voice—and I would like to see how we can describe that voice—in the compilation of that budget for the national program which in part supports the efforts of the forces in the tactical missions?

Ms. COLLINS. I would say to the Senator that the Secretary already does have a voice. There is a requirement that as the national intelligence director develops the budget to be recommended to the President, he must do it in consultation with the Secretary of Defense and the Secretary of Energy for the part of the intelligence community that is under the Secretary of Energy's control, et cetera.

In addition, we create a new entity called the joint intelligence community council, which I think already has an acronym, on which the Secretary of Defense will serve, which serves as an advisory board to the national intelligence director.

I also point out to the distinguished Senator from Virginia that ultimately it is the President's call on the budget. These are recommendations made by the national intelligence director. It is the President who ultimately decides.

Mr. WARNER. Mr. President, that is very helpful. I wonder if the Senator's staff would provide for the RECORD at this point an insertion of those references in the bill which supports the Senator's very important representation to the Senate just now, that the Senator feels he has the consultation role and such other roles as to assure the Secretary of Defense that he has a voice in the preparation of the budget.

Ms. COLLINS. Those provisions are extremely clear in the bill. I do not see how they can be ambiguous.

Mr. WARNER. I just wanted to have the pages annotated. I think my colleague witnessed several colleagues today saying it would be helpful if we could get a clearer understanding of some things, and I think the RECORD today could be of help to those who want to see in the Senator's bill precisely those sections which underpin the Senator's important representation. I ask if the Senator might consider putting that into the RECORD.

Ms. COLLINS. I would be happy to put the provisions in the RECORD. I question why it is necessary when everybody has the bill available. It is on page 12, for example, lines 20 through 25, in describing what the national intelligence director shall do. It says:

> Developing and presenting to the President an annual budget for the National Intelligence Program after consultation with the heads of agencies or elements, and the heads of their respective departments . . .

I do not see how it could be clearer.

Mr. WARNER. Mr. President, I was not challenging the language. I was simply trying to get a reference. The Senator provided it, and I thank the chairman.

If I could transition to the second part of this, the budget is prepared and approved by the President. It is then acted upon by the Congress by authorization and appropriation and it goes to the NID. Am I correct?

Ms. COLLINS. After Congress acts.

Mr. WARNER. Yes.

Ms. COLLINS. And the law is signed by the President.

Mr. WARNER. Right.

Ms. COLLINS. The appropriation is received by the NID for the national intelligence program.

Mr. WARNER. Right.

Ms. COLLINS. Not for what is known as TIARA or JMIP.

Mr. WARNER. I thank the chairman. That portion of the budget then goes back to be administered by the Secretary of Defense; is that clear?

Ms. COLLINS. Which portion?

Mr. WARNER. That nonnational portion.

Ms. COLLINS. Correct.

Mr. WARNER. It goes back to the Secretary of Defense. I thank the distinguished chairman on that point.

I see on the floor my distinguished colleague, the ranking member of the Armed Services Committee. I wondered, since he followed this colloquy and I know he has worked very hard in this area with the Senator from Virginia, have some of his concerns which he has expressed to me been touched on in this colloquy?

Mr. LEVIN. I wonder if the Senator from Virginia has the floor. Who has the floor?

Mr. WARNER. I think I have the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Virginia has the floor.

Mr. LEVIN. I ask unanimous consent I be able to respond to the Senator from Virginia without his losing the right to the floor.

Mr. WARNER. Mr. President, I think I have the floor. I am quite happy to yield to my colleague to respond to my inquiry.

Mr. LEVIN. On the first part of the inquiry, what is interesting to me, and ironic, is the Director of Central Intelligence has that same authority the chairman just read from page 12, line 20, that is provided to the NID, which is to develop and present to the President the annual budget for the national intelligence program. That is the same authority as exists in current law to the intelligence director. So there is no change in terms of presenting and developing the budget.

Where the real changes take place are after the budget or after the appropriation is adopted, and then it depends—then the law will change who it is that executes that budget authority. That is where we get very complicated changes.

I think the discussion and debate is very important, that we analyze which specific programs, projects, and activities, budget execution—not presentation or preparation—but execution is transferred to the NID from where it currently is. That is where I think we all would benefit from a description of specific programs which are not transferred. There are some in the tactical area. But there are also some that are transferred—very few, perhaps 3 percent of the 80 percent of the budget that is transferred, in terms of budget execution to the NID—that in my judgment should not be transferred. A very tiny, few programs, including the intelligence—the J-2 programs that are out in the combatant commanders, including the communications infrastructure between the JCS and the combatant commanders. Those specific programs—and I know my good friend from Virginia knows these programs—those specific programs clearly belong in the Defense Department's budget execution, in my judgment. However, they are transferred.

To try to answer the Senator's question, I think it would be very illuminating, in addition to what he has asked for, if we could take some examples, and there are very few, of some programs where budget execution is transferred to the NID that should not be. I emphasize again, so this is not mischaracterized, I am talking here about less than 3 percent of the 80 percent of the budget which is transferred.

Ms. COLLINS. Mr. President, I apologize for interrupting the Senator.

Mr. LEVIN. No, I am done.

Ms. COLLINS. The leaders have been waiting for Senator LIEBERMAN and me since 5:30 for a meeting and they have summoned us again. I did not want to walk off the floor without explaining to my distinguished colleagues the fact that we have already kept our leaders waiting for more than 20 minutes.

Mr. ROBERTS. Will the distinguished Senator yield?

Mr. WARNER. Yes, if I could make a preliminary statement, and then I will be glad to yield. As a matter of fact, I will yield the floor. If you seek the floor, I am going to yield it momentarily.

Mr. ROBERTS. I was going to ask a question of the distinguished floor manager. I thank the distinguished Senator from Virginia for his courtesy.

It is my understanding we are not going to vote on the Specter amendment as of this evening; is that right?

Ms. COLLINS. I am sorry, I couldn't hear the Senator.

Mr. ROBERTS. It is my understanding we are not going to vote on the Specter amendment as of this evening; is that correct?

Ms. COLLINS. The Senator is correct. The vote will occur tomorrow.

Mr. ROBERTS. Do we have an idea approximately what time tomorrow morning?

Ms. COLLINS. We do not. We have not been able to determine how many people still want to speak on the amendment. We are trying to accommodate those who do wish to speak.

Mr. ROBERTS. One Senator who is asking you some questions now would like to speak, and I would like to have 20 to 25 minutes, if that would be all right, speaking as the chairman of the Intelligence Committee. If I could have an understanding? I know you will work very hard and I know there has been a lot spoken tonight; I understand that. But I would like to speak in favor of the Specter amendment, if in fact that could be arranged, or have that understanding with the Senator.

Ms. COLLINS. I would certainly welcome that. Perhaps we can try with the help of the floor staff to order the series of speakers. We will make sure the distinguished chairman of the Intelligence Committee is protected in that regard.

Mr. LEVIN. I ask unanimous consent also that I be given 5 minutes in opposition to the Specter amendment tomorrow morning, and if I am not here because of the full committee meeting we have at Armed Services, that my statement be made part of the record at that time.

Ms. COLLINS. We hope the Senator will be here.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, first I thank the distinguished manager and ranking member for engaging in I think a very important colloquy. I wanted to make a record for some colleagues who have asked a number of questions, and I think we made an interesting record here that will help in their deliberations and thought processes.

I will have amendments tomorrow, hopefully to clarify some things which I feel should be clarified. They are constructive amendments, I say to the distinguished chair and ranking member, because I want to be cooperative and supportive of the President and your efforts. But I do feel very strongly that there are some amendments.

My colleague, Senator LEVIN, and I have worked together. It may well be we will jointly put in some amendments tomorrow on this subject. Not in a manner of a turf battle. I am really quite in temper that that word continues to be brought up, because I personally am striving to do what is best for this country and to make our intelligence system stronger as a consequence of this legislative process. I think it can be achievable. But I have to get clarifications. The language in this message that came up today about full budget authority seems to be somewhat contradictory of some other things. But we will work it out.

I thank the distinguished managers and I yield the floor.

Mr. LIEBERMAN. Briefly, I thank Senator WARNER for his statement in opposition to the Specter amendment and for the questions which he raised which I think have been helpful and clarifying. No doubt this discussion will continue in the days ahead.

I thank the Chair.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, it is not very often that things come up that require an immediate fix, but I think one has.

First, I ask unanimous consent I be recognized to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. INHOFE pertaining to the introduction of S. 2855 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, I rise to address the critical issue that is before the Senate—reform of our intelligence community and restructuring of the Federal Government to enhance our ability to wage the global war on terror and protect our Nation from other threats.

I commend Senators COLLINS and LIEBERMAN and their staffs for their hard work and leadership on this issue, and I am proud to be a cosponsor of this legislation.

I also thank the Senate leadership for making this a priority. There is no issue more important for us to address. In fact, I believe this legislation is the most important I have worked on since coming to the Senate in 1999.

The war on terror is unlike any conflict we have fought—covert holy warriors seeking to infiltrate our society and those of our allies to do us grievous harm. Against this radical enemy, intelligence is of the greatest importance. We must do everything we can to strengthen our intelligence capabilities. If you think of what we need to do about terrorism, we need to attack, we need to prevent, and we need to prepare. Intelligence is the greatest weapon we have in all three of those categories.

Before I comment on this legislation before us, however, I would like to first offer some principles and thoughts that have guided my deliberations.

First, we must do no harm. Great progress has been made since September 11, 2001, to improve the operations of our intelligence community and make our country more secure. There is no greater evidence of that than when I travel in Ohio to various large urban areas. I am so impressed with the cooperation that now exists as contrasted to what was there before 9/11. Because we are making progress, we must be sure that we do not inadvertently set back our current efforts. We must implement additional improvements.

Second, we must not restructure the intelligence community to deal solely with the threat of terrorism caused by Islamic extremists, as pressing a concern as that is. There are many other threats that require close scrutiny by the intelligence community. Reform must address the threats that will confront America 10 and 20 years in the future in addition to those faced today.

For example, the United States must continue to monitor regional conflicts which have the potential to undermine stability in various parts of the world such as India, Pakistan, China, and Taiwan. Regional conflicts, such as between India and Pakistan, are motivated by political, social, and historical reasons unique to their own countries. In the event that regional conflicts should escalate to such proportions that chemical, biological, or even nuclear weapons would be used, as would be possible in the event of a conflict between India and Pakistan, U.S. interests certainly would be threatened. The intelligence community must remain keenly aware of what is happening in other areas of the world so that the U.S. is not only prepared and able to respond but so that we can do everything in our power to prevent such a crisis from happening.

The United States must also monitor threats presented by rogue nations such as North Korea, rogue states that have the ability to foster regional instability and harm U.S. interests. They, too, must be closely monitored as dictators such as Kim Chong-il look to enhance their power and position. If not, the U.S. risks strategic surprise which would be devastating to our national security interests.

Additionally, the United States must address the proliferation of weapons of mass destruction. These weapons have the ability to cause grave harm to Americans and life as we know it if found in the wrong hands. They could be used by terrorists against cities in the United States, they could be used in regional conflict, or they could be used by a rogue state to enhance its power.

Third, we should make it clear to the American people that the different perspectives presented on the Senate floor are legitimate. A review of the hearings held by various congressional committees during August and September demonstrated that many former Government officials who have had distinguished careers in senior national security posts hold contradictory opinions on the 9/11 Commission recommendations and related national security issues.

Fourth, reforming the Federal Government to address the challenges of global terrorism is going to take several years to accomplish. It is not going to happen that fast. It is my hope that during the next Congress we will address the critical challenges confronting the Federal law enforcement community, for example. For example, rationalizing responsibility and missions and personnel systems is vital to ensure that Federal law enforcement is best equipped to confront foreign terrorists operating in the United States.

I am pleased that we have addressed some of the needs of the Federal Bureau of Investigation in the legislation we are considering today. But much more remains to be done, and it is important for our national security to finish this job.

As my colleagues may know, I sponsored legislation that became law that requires the Office of Personnel Management to study Federal law enforcement personnel systems and recommend improvements. I was concerned that we were going forward with personnel changes and getting some coordination between those law enforcement agencies and the homeland security, but we were failing to do the same thing with law enforcement agencies that were outside of the Department of Homeland Security. The Office of Personnel Management has implemented that legislation. They have made some significant recommendations on how we can improve the relationships, classifications, and so forth, with those outside of Homeland Security. It would be my hope that we implement those recommendations.

Regarding the National Intelligence Reform Act of 2004, I strongly support creating a robust national intelligence director, but I have been wrestling with exactly how much authority we should give the new national intelligence director. I appreciate the balance that Senators COLLINS and LIEBERMAN were trying to achieve in their legislation. It is clear to me that these authorities should not be diminished.

In fact, in committee I offered an amendment that would give the national intelligence director reorganization authority over the national intelligence program so that the director could identify efficiencies and eliminate unnecessary duplication of effort. It is unfortunate that my amendment was weakened in committee, and I am still considering amendments to strengthen the management authority of the national intelligence director.

The intelligence community budget process is extremely complex. Indeed, the manner in which these agencies interact with each other is probably the most complicated interagency process in the Federal Government. The budgets of the 15 intelligence community agencies, including all those of the Armed Forces, are intertwined in the National Foreign Intelligence Program, the Joint Military Intelligence Program, the tactical intelligence and related activities.

The Collins-Lieberman legislation seeks to bring clarity to the situation by defining a national intelligence program. However, we may be able to improve this budget definition, and I will weigh all amendments to do so carefully.

At the same time, we must be careful not to erode the budget authority of the national intelligence director. I understand that some of my colleagues may offer amendments to give the national intelligence director a fixed term in an attempt to immunize this individual from political pressure. I would note that a host of other provisions, including a strong inspector general for the intelligence community and an ombudsman to specifically guard against political concerns, have been created to do exactly that.

Quite the contrary, a fixed term is unnecessary and could diminish the effectiveness of the national intelligence director. A close and trusting working relationship with the President is going to be key to the success of the effectiveness of the national intelligence director. We should not weaken this relationship by mandating a fixed-term appointment.

The Governmental Affairs Committee heard testimony from three former Directors of Central Intelligence, and all agreed that the national intelligence director should serve at the pleasure of the President. An incoming President should not be stuck with a national intelligence director from a previous administration.

I know that the Presiding Officer, in his former capacity as Governor of the State of Tennessee and as a member of the Bush Cabinet, understands that if this individual doesn't have the confidence of the President of the United States, his or her effectiveness is going to be diminished a great deal. So much of what this person can accomplish will have a lot to do with that relationship with the President because there are going to be situations where there are going to be differences of opinion. Finally, the boss has to decide them. If you have somebody there that has the job and doesn't have the confidence of the boss, we are in trouble.

Mr. President, although this legislation deals primarily with improving structured roles and missions, the human capital challenges confronting our intelligence community must not be overlooked.

In March of 2001—it seems like a long time ago—my Government Management Subcommittee held a hearing entitled "The National Security Implications of the Human Capital Crisis." The panel of distinguished witnesses that day included former Defense Secretary James Schlesinger, a member of the U.S. Commission on National Security in the 21st Century. Secretary Schlesinger concluded his testimony with these remarks:

> As it enters the 21st century, the United States finds itself on the brink of an unprecedented crisis of competence in Government. The maintenance of American power in the world depends on the quality of U.S. Government personnel, civil and military, at all levels. We must take immediate action in the personnel area to ensure that the United States can meet future challenges. That fixing of the personnel problem is a precondition for fixing virtually everything else that needs repair in the institutional edifice of U.S. national security policy.

He was so right. Secretary Schlesinger's insightful comments were reinforced by the 9/11 Commission on page 399 of the report. The Commission said "significant changes in the organization of the Government." The Commission went on to say:

> We know that the quality of people is more important than the quality of the wiring diagrams. Some of the saddest aspects of the 9/11 story are the outstanding efforts of so many individuals straining, often without success, against the boundaries of the possible. Good people can overcome bad structures, but they should not have to.

I will never forget that after 9/11 the first thing that came to my mind was we didn't have the right people with the right knowledge and skills at the right place at the right time. If you go back and look at all of the report, it gets back to that situation and also the fact that they weren't communicating with each other.

I am pleased that the Collins-Lieberman legislation includes some important human capital provisions. I offered an amendment in committee, which was unanimously accepted, that provides enhanced classification and pay flexibilities for intelligence analysts at the Federal Bureau of Investigation.

Specifically, my amendment enables the FBI to work with the OPM to develop new classification standards and pay rates for intelligence analysts. The amendment also allows the bureau to improve their performance management system for their intelligence analysts and establishes two congressional reporting requirements. The amendment was completely within the spirit of the 9/11 recommendations, which noted that the FBI should create a specialized and integrated national security workforce consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, rewarded, and retained to ensure the development of an institutional culture with strong experience in intelligence and national security throughout the organization.

I thought the other incredible thing after 9/11 was the cry that went out: Can anybody speak Farsi? Can anybody speak Arabic? You would have thought that after the Persian Gulf war there would have been a very aggressive effort, because of the instability of the area, for us to bring in people who could speak Farsi and Arabic. If you looked at the State Department a couple years ago, you would have found we had all kinds of linguists who could speak fluent Russian. But the threat had changed. We didn't have the capacity to change with that threat. Hopefully, with this new national intelligence director, we are going to be able to have that flexibility.

It is my hope that this amendment will provide the Federal Bureau of Investigation with essential human capital flexibilities specifically targeted to building an elite cadre of intelligence analysts. In addition, Senator LUGAR and I will offer another amendment to the bill to improve the Presidential appointment process, which has been broken for decades. Over the coming days, I want to work with Senators COLLINS and LIEBERMAN on this amendment.

This amendment addresses a critical recommendation in the 9/11 Commission Report. It is a problem I have been examining for years. During my time in the Senate, I have found political appointees to be dedicated and diligent professionals who want to make a difference for our country. They often leave high-paying corporate jobs only to find their commitment to our Nation requires an increase in workload and a decrease in salary.

I talked to one individual who filled out the financial disclosure form and all that was required. He said that it cost him $200,000 to pay the professional people to do all the things that were required in this disclosure form that is now currently in effect with the Federal Government. I suspect that the President, when he appointed the Secretary of Education, had to go through all these forms, and so forth, and wondered to himself whether he ought to do it. Before they even begin to work for the Government, however, as I mentioned, they must first navigate the complex, turbulent, and outdated Presidential appointment process—an area where reviews and recommendations for improvement have gone unheeded far too long.

In 1937, a committee issued the first report on improving the Presidential appointment process. During the 67 years since this inaugural report, the appointment process has been formally examined 14 additional times. After such extensive reviews, it is disconcerting for this Senator that we have not been able to enact meaningful reform in this area.

To capture the essence of the problem, understand first that the number of politically appointed positions has grown from 286 to 3,361 over the past 4 decades. This increase is straining an already overburdened system. And the time it takes to complete an appointment has increased through the years from just over 2 months during the Kennedy administration to 8 months in the current administration. I think Secretary Rumsfeld said his team didn't go into place until 6 months after he had been appointed as Secretary of Defense.

Mr. President, 8 months is simply too long to fill an appointed position. I am afraid that if we do not update the current system for processing Presidential appointees, we run the risk of driving good people away from appointed Government service. Progress has been made on this issue during the last several years.

First, on February 15, the Hart-Rudman commission issued their report entitled "The Roadmap for National Security Imperative for Change," which in part examined the Presidential appointment process. The Commission's final report observes: The ordeals to which outside nominees are subjected are so great, above and beyond whatever financial or career sacrifice is involved, so as to make it prohibitive for many individuals of talent and experience to accept public service.

Then on April 4 and 5, the Senate Committee on Governmental Affairs held 2 days of hearings on the state of the Presidential appointment process. During those hearings Paul Light from the Brookings Institution said:

> Past and potential Presidential appointees alike view the process of entering office with disdain, describing it as embarrassing, confusing, and unfair. They see the process as far more cumbersome and lengthy than it needs to be.

By the way, I held a hearing a couple weeks ago, and Paul Light was there, and he reiterated that same statement he made in 2001.

On May 16, 2001, the Governmental Affairs Committee passed Senator Fred Thompson's bipartisan bill to streamline the Presidential appointments process that I cosponsored with Senators AKAKA, DURBIN, LIEBERMAN, and LUGAR. Although it passed the Governmental Affairs Committee in the 107th Congress, it did not pass the full Senate. When Senator Fred Thompson left the Senate, I promised him I would continue to push for appointments reform. Therefore, in April of last year, I reintroduced the Presidential Appointments Improvement Act, and today I urge my colleagues to pass this important proposal.

What happens is that after the President comes in and he goes through this line of getting people appointed, they get off on other things, and they forget about the problems they went through to get all their appointees. So it kind of goes to the bottom of the stack in terms of priorities. This 9/11 Commission implementation by the Senate gives us a wonderful opportunity to do something about this problem that has lingered for so many years.

I am certain all my colleagues have read the recommendations in the 9/11 Commission report. As you recall, one of the recommendations underscored the importance of improving the Presidential appointment process. Specifically on page 422, the report states:

> Since a catastrophic attack could occur with little or no notice, we should minimize as much as possible the disruption of national security policymaking during the change of administration by accelerating the process for national security appointments. We think the process could be improved significantly so transitions can work more effectively and allow more new officials to assume their responsibilities as quickly as possible.

The 9/11 Commission report also noted that in 2001, the new administration, like others before it, did not have its team on the job until at least 6 months after it took office. In fact, I commented to people that after the length it took for the President to finally know he was President, we lost that period of time once the President was elected and started building his team; they were just concentrating on who was going to be the President. Once that was done, then they started to concentrate on who the people were going to be in the administration.

They did a great job of taking care of the initial people, but, as you know, it took a long time for them to start filling in that organization.

My amendment offers realistic governmentwide solutions to the problems identified by the 9/11 Commission and the 14 other Commission studies and reports that have detailed the importance of streamlining the Presidential appointment process.

The four main provisions of the amendment include streamlining the financial disclosure forms for executive branch employees. Two, requiring agencies to examine the number of Presidential-appointed positions and recommending to Congress which positions could be eliminated. We are asking them to do it. Three, allowing Presidential candidates to obtain a list of appointee positions 15 days after they receive their party's nomination so they will have an idea of the kind of people they have to look for if they are elected President of the United States. And four, requiring the Office of Government Ethics to review the conflict-of-interest laws.

The principles behind this amendment are simple, and given the bipartisan nature in which the original bill passed the Governmental Affairs Committee last Congress, I ask my colleagues to adopt this amendment. Although it will not solve all the problems with the appointments process outlined in the 9/11 Commission report, the amendment is an important first step for updating an outdated system.

I urge the Senate to support its adoption. Senator LUGAR and I will be working with Senator COLLINS and Senator LIEBERMAN to try to obtain their support for this amendment and to also work out any of the problems they may have with it.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I know the Senator from Kansas is waiting. I need to make a couple of very brief announcements, with the Senator's indulgence.

AMENDMENT NO. 3731 TO AMENDMENT NO. 3705

Ms. COLLINS. Mr. President, I have two amendments that have been cleared on both sides. Both of these amendments are second-degree amendments to my underlying amendment No. 3705 regarding Homeland Security grants. Therefore, I ask unanimous consent that the Inhofe-Jeffords second-degree amendment No. 3731, which is at the desk, be considered and agreed to, with the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3731) was agreed to, as follows:

(Purpose: To ensure the participation of the Under Secretary for Emergency Preparedness and Response in the Threat-Based Homeland Security Grant Program grantmaking process for nonlaw enforcement related grants)

In section 406 of the amendment, redesignate subsections (i) and (j) as subsections (j) and (k), respectively.

In section 406 of the amendment, insert after subsection (h) the following:

(i) PARTICIPATION OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—

(1) PARTICIPATION.—The Under Secretary for Emergency Preparedness and Response shall participate in the grantmaking process for the Threat-Based Homeland Security Grant Program for nonlaw enforcement-related grants in order to ensure that preparedness grants where appropriate, are consistent, and are not in conflict, with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) REPORTS.—The Under Secretary for Emergency Preparedness and Response shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes—

(A) the status of the Threat-Based Homeland Security Grant Program; and

(B) the impact of that program on programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

AMENDMENT NO. 3732 TO AMENDMENT NO. 3705

Ms. COLLINS. Mr. President, I further ask unanimous consent that the Levin second-degree amendment No. 3732, which is at the desk, now be considered and agreed to, with the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3732) was agreed to, as follows:

(Purpose: To give the Secretary of Homeland Security greater flexibility in allocating funds for discretionary grants to local governments)

On page 36, strike lines 3 through 21, and insert the following:

SEC. 409. CERTIFICATION RELATIVE TO THE SCREENING OF MUNICIPAL SOLID WASTE TRANSPORTED INTO THE UNITED STATES.

(a) DEFINED TERM.—In this section, the term "municipal solid waste" includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Bureau of Customs and Border Protection of the Department of Homeland Security shall submit a report to Congress that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport; and

(2) if the methodologies and technologies used to screen solid waste are less effective than those used to screen other commercial items, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of solid waste, including the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Bureau of Customs and Border Protection fails to fully implement the actions described in subsection (b)(2) before the earlier of 6 months after the date on which the report is due under subsection (b) or 6 months after the date on which such report is submitted, the Secretary of Homeland Security shall deny entry into the United States of any commercial motor vehicle (as defined in section 31101(1) of title 49, United States Code) carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in such waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport.

(d) EFFECTIVE DATE.—Notwithstanding section 341, this section shall take effect on the date of enactment of this Act.

Ms. COLLINS. Mr. President, I hope we can continue to work on the underlying amendment with the goal of having a vote on it shortly. I also want to announce to all of my colleagues that we do intend to vote on Senator SPECTER's amendment tomorrow. I recognize there are a few Senators who have not been heard on it who desire to be heard, but we do intend to conclude the debate and vote on Senator SPECTER's amendment tomorrow.

I thank the Chair.

AMENDMENT NO. 3731

Mr. JEFFORDS. Mr. President, I will never forget my visit to Ground Zero. I hope that September 11 is an event that will never be repeated, on any scale, in our country or anywhere in the world.

I share the goal of all my colleagues that our Nation be as prepared as possible, should such an event occur. However, in seeking to improve our capability to respond to terrorism, it is critical that we do not lose our capability to respond to natural disasters, which happen much more frequently than terrorist events.

The Inhofe-Jeffords second degree amendment to the Collins' amendment will ensure that as we seek to enhance our ability to respond to terrorist events, we do not lose our ability to respond to natural disasters.

I thank my colleagues, the chair and ranking member of the Government Affairs Committee and Senator CARPER, a cosponsor of the Collins amendment for agreeing to accept this amendment.

The role of a first responder, whether responding to a terrorist event or a natural disaster is, for the most part, the same. For decades, the Federal, State, and local governments in this Nation have partnered together to plan, prepare, respond, and recover from both minor and major natural disasters.

We have a robust system for responding to these events, authorized through the Stafford Act and executed through FEMA. My home State of Vermont has a long history with emergency management.

My colleague and friend, Senator Bob Stafford of Vermont, served as chairman of the Environment and Public Works Committee for many years and ushered the Stafford Act through Congress in 1974. The Stafford Act is the authorizing statute for emergency response activities at the Federal level, and it forms the basis for the emergency management system in this Nation. The Stafford Act gave structure to an emergency response process where virtually none existed in the past.

FEMA, which was formed in 1979 and incorporated into the Department of Homeland Security in the Homeland Security Act, is a robust agency, with extensive experience in all-hazards planning, preparing, response, and recovery. It has a tradition of providing quick response to people in immediate need.

As Chairman of the Environment and Public Works Committee during the 107th Congress, I recognized the need to provide assistance to our first responders. I was struck during my visits to the Pentagon and the World Trade Center in particular at the inability of first responders to communicate with each other. To combat this and the other shortcomings we observed, I introduced S. 2664, the Emergency Preparedness and Response Act of 2003 with my colleague Senator Bob Smith. The EPW Committee reported that bill on June 27, 2002.

During this Congress, Senator INHOFE and I worked together to introduce S. 930, the Emergency Preparedness and Response Act of 2003. The EPW Committee reported that bill favorably on July 30, 2003, by voice vote.

Before the formation of the Department of Homeland Security, I expressed grave concerns about the proposal to incorporate FEMA into the Department of Homeland Security. I was concerned at that time that the robust agency we saw jumping every hurdle after September 11, 2001 to provide assistance to World Trade Center and the Pentagon, and to hundreds of natural disasters each year, would give way under the pressure of the enormous bureaucracy of the Department of Homeland Security and lose its ability to respond quickly and effectively to disasters.

I remain concerned today. However, the administration prevailed and incorporated FEMA in DHS with the enactment of the Homeland Security Act of 2002.

Since the formation of DHS, FEMA has administered aid for 169 major disasters, 29 emergency declarations, and 172 fire management assistance declarations—all natural disasters. That is 370 communities that have received emergency assistance from the Federal Government and our Nation's first responders for natural disasters.

Over the last several weeks, we have seen record-breaking hurricanes rip through the southeast bringing high winds, flooding, tornadoes, and beach erosion. In my home State of Vermont, we recently had a disaster declared for extensive flooding throughout the State.

The Inhofe-Jeffords second degree amendment ensures that FEMA, the agency responsible for administering our Nation's disaster response programs, is involved in the distribution of funds to first responders and that grants made are consistent with the Stafford Act. This ensures that we will not lose the level of preparedness and response that we have seen at work in States like Florida over the last few weeks.

We obviously need to be prepared for the small percentage of the time when a terrorist event may occur, but we cannot ignore the day-to-day operations, which affect so many lives.

I thank my colleagues, the distinguished chair and ranking member of the subcommittee as well as Senator CARPER, a cosponsor of the Collins amendment, for working with us to incorporate our second degree into the underlying amendment.

The PRESIDING OFFICER. The Senator from Kansas.

NORTH KOREAN HUMAN RIGHTS ACT OF 2004

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the pending business be set aside and that the Foreign Relations Committee be discharged from further consideration of H. R. 4011 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4011) to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Brownback amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3728) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (H. R. 4011), as amended, was read the third time and passed.

Mr. BROWNBACK. Mr. President, for the information of my colleagues, what we are considering is something that has been negotiated extensively. It has passed the House of Representatives. It has been negotiated extensively in the Foreign Relations Committee amongst the members interested. It is on the issue of North Korean human rights, or the lack thereof, and U.S. policy.

This bill establishes for the first time—the first time in at least a generation—a human rights principle toward North Korea. Everybody is familiar with the six-party talks that are going on regarding North Korea and nuclear weapons and the threatening nature of the North Korean Government, of its testing missiles, of it moving military operations to threaten people around the country, in South Korea, in Japan, and in particular the United States to give them direct aid to guarantee their security, and issues mostly surrounding the nuclear weapons development.

This bill brings into focus a United States Government position on North Korean human rights abuses, which are extensive, probably the worst human rights abuses in the world. It is at least in the top two or three, and that is saying something when you consider what is taking place in the Sudan and Iran.

North Korea lost 10 percent of its population in the last 10 years to starvation. We think they have something around 150,000 people, maybe more, in the gulag system, political prisoners. There is trafficking of individuals taking place within that country. They are counterfeiting money. They are drug running. They are gunrunning. This is a criminal enterprise that is taking place.

This bill deals with the human rights issues. It brings it front and center. The bill requires a report to be issued. It requires the Secretary of State to put forward a person of high distinction to press the human rights agenda, and we hope to get the issue of human rights in North Korea elevated to the same level or in the level with the talks in the six-party system.

The North Korean Government, when it talks about nuclear weapons development, will bluster and talk a great deal and say they need to be able to do this and they are threatening, but when you raise the issue of human rights, they go silent because there is no response to the shame of what they have done to their own people.

We are elevating this issue and making clear the United States Government position on the issue of human rights in North Korea. This is a very important bill. I am delighted we passed it this evening.

I wanted to give that brief explanation of this bill as it moves through the process, now to go back to the House and to the President.

I thank my colleague from Maine for yielding the floor and giving me this time. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TALENT). Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent that there now be a period for morning business with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On August 16, 2000, in New Hope, PA, Douglas Trinkley, 21, and Larry Chroman, 36, were charged with assault, disorderly conduct and reckless endangerment of another person for allegedly attacking another man because of the man's sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS NATHAN E. STAHL

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man who grew up in Highland, IN. PFC Nathan E. Stahl, 20 years old, died on September 21, when the vehicle he was riding in was struck by a homemade roadside bomb in Iraq. With his entire life before him, Nathan chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A Highland native, Nathan graduated from Highland High School in 2003, and joined the Army shortly thereafter. Nathan was assigned to the 2nd Battalion, 75th Ranger Regiment, a special operations unit based in Fort Lewis, WA. Due to the nature of Nathan's assignments, he was never able to disclose exactly where he had been or where he was going to his family and friends. Despite these hardships, loved ones say Nathan was living his dream by serving his country. The last time Nathan saw his family was 3 months ago when he visited them for 9 days during a period of authorized leave. Nathan faced his frequent deployments willingly and fought bravely before sacrificing his life for the worthy cause of freedom.

Nathan was the 35th Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. This brave young soldier leaves behind his mother, Towina; his father; his stepfather, Rodney; and his two sisters, Nichol and Abigail.

Today, I join Nathan's family, his friends and all Americans in mourning his death. While we struggle to bear our sorrow over this tremendous loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Nathan, a memory that will burn brightly during these continuing days of conflict and grief.

Nathan was known for his dedicated spirit and his love of country. According to family and friends, joining the Armed Forces was something Nathan had wanted to do since he was a young boy. His mother, Towina, told the Times of Northwest Indiana that she remembers Nathan at 13 insisting that they visit an Army recruiter. He joined the Army only 6 years later. Aside from being a soldier, Nathan enjoyed weight lifting and working on cars. Today and always, Nathan will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Nathan's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Nathan's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Nathan E. Stahl in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Nathan's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Nathan.

OFHEO'S INVESTIGATION OF FANNIE MAE

Mr. HAGEL. Mr. President, the Office of Federal Housing Enterprise Oversight's, OFHEO, findings-to-date report on its "Special Examination of Fannie Mae" is deeply troubling. It raises serious doubts about the ability of Fannie Mae's management to correct the safety and soundness problems at Fannie Mae. What is most troubling is that OFHEO had to use subpoenas in order to conduct its congressionally authorized investigation of Fannie Mae. Fannie Mae's resistance to cooperate with this investigation is unacceptable.

Based on the findings in OFHEO's report, it is clear why OFHEO's requests were repeatedly rebuffed by a stonewall of silence and why Fannie Mae's management insisted on keeping its financial operations in a black box. OFHEO's report shows among other things that Fannie Mae's top management indulged in a windfall of bonuses after it improperly manipulated the company's annual earnings. If these actions are found to be deliberately linked, then the board of Fannie Mae needs to take appropriate action and address the problem, just as the board of Freddie Mac did last year.

The boards of both GSEs have a fiduciary responsibility to their shareholders and the public to ensure that any improper actions by management are dealt with swiftly and accordingly. The confidence in the GSEs has a direct impact on the stability of the American economy. The American people and the markets must have confidence in the operations of the congressionally chartered Fannie Mae and Freddie Mac.

We need to build upon legislation that several of my colleagues and I introduced last year. The Senate Banking Committee passed a watered down version of our legislation, but it is clear from OFHEO's findings that it is not adequate. To prevent these serious actions from occurring, the new GSE regulator must have at a minimum the same powers and resources as those of other financial regulators such as the Federal Reserve System, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency.

House Banking Subcommittee Chairman RICHARD BAKER has scheduled a hearing next week to examine the problems at Fannie Mae. There are still too many unanswered questions and I look forward to seeing the results of the House hearing. Given the frequency of the accounting problems, pattern of manipulation and questionable management actions at both Freddie Mac and Fannie Mae, Congress can no longer look the other way.

BOYS & GIRLS CLUB OF AMERICA REAUTHORIZATION

Mr. LEAHY. Mr. President, I am pleased to note that this evening the House of Representatives has considered and passed legislation that Senator HATCH and I introduced together to reauthorize and expand the Department of Justice grant program for the Boys & Girls Clubs of America. I thank Senator HATCH for his longtime commitment to our bipartisan legislation and thank the 46 Senators from both sides of the aisle who are cosponsors of our legislation to support the Boys & Girls Clubs of America.

I pay special thanks to House Judiciary Committee Chairman SENSENBRENNER and Ranking Member CONYERS for their leadership and commitment to shepherding this bill through the House and sending it to the President's desk for enactment into law.

Too often the public sees Republicans and Democrats disagreeing. But when it comes to the Boys & Girls Clubs of America there is no doubt that we see eye to eye: This bill shows the unified support of Republicans and Democrats for the good works of Boys & Girls Clubs across the Nation.

Children are the future of our country, and we have a responsibility to make sure they are safe and secure. I know firsthand how well Boys & Girls Clubs work and what topnotch organizations they are. When I was a prosecutor in Vermont, I was convinced of the great need for Boys & Girls Clubs because we rarely encountered children from these kinds of programs. In fact, after I became a U.S. Senator, a police chief was such a big fan that he asked me to help fund a Boys & Girls Club in his district rather than helping him get a couple more police officers.

In Vermont, Boys & Girls Clubs have succeeded in preventing crime and supporting our children. The first club was established in Burlington 62 years go. Now we have 20 club sites operating throughout the State in Addison, Chittenden, Orange, Rutland, Washington, Windham and Windsor Counties. There are also four new Boys & Girls Clubs in the works in Winooski, Brattleboro, Barre and Vergennnes. These clubs will serve well over 10,000 kids statewide.

As a senior member of the Senate Appropriations Committee, I have pushed for more Federal funding for Boys & Girls Clubs. Since 1998, Congress has increased Federal support for Boys & Girls Clubs from $20 million to $80 million in this year. Due in large part to this increase in funding, there now exist 3,300 Boys & Girls Clubs in all 50 States serving more than 3.6 million young people. Because of these successes, I was both surprised and disappointed to see that the President requested a reduction of $20 million for fiscal year 2005. That request will leave thousands of children and their clubs behind and we cannot allow such a thing to happen.

In the 107th Congress, Senator HATCH and I worked together to pass the 21st Century Department of Justice Appropriations Authorization Act, which included a provision to reauthorize Justice Department grants to establish new Boys & Girls Clubs nationwide. By authorizing $80 million in DOJ grants for each of the fiscal years through 2005, we sought to establish 1,200 additional Boys & Girls Clubs nationwide. This was to bring the number of Boys & Girls Clubs to 4,000, serving no less than 5 million young people.

The bill the House will pass today builds upon this: We authorize Justice Department grants at $80 million for fiscal year 2006, $85 million for fiscal year 2007, $90 million for fiscal year 2008, $95 million for fiscal year 2009 and $100 million for fiscal year 2010 to Boys & Girls Clubs to help establish 1,500 additional Boys & Girls Clubs across the Nation with the goal of having 5,000 Boys & Girls Clubs in operation by December 31, 2010.

If we had a Boys & Girls Club in every community, prosecutors in our country would have a lot less work to do because of the values that are being instilled in children from the Boys & Girls Clubs of America. Each time I visit a club in Vermont, I am approached by parents, educators, teachers, grandparents and law enforcement officers who tell me "Keep doing this! These clubs give our children the chance to grow up free of drugs, gangs and crime."

You cannot argue that these are just Democratic or Republican ideas, or conservative or liberal ideas—they are simply good sense ideas. We need safe havens where our youth—the future of our country—can learn and grow up free from the influences of drugs, gangs and crime. That is why Boys & Girls Clubs are so important to our children.

I look forward to the President signing into law as soon as possible our bipartisan bill to expand Federal support for the Boys & Girls Clubs of America. Our country's strength and ultimate success lies with our children. Our greatest responsibility is to help them inhabit this century the best way possible and we can help do that by supporting the Boys & Girls Clubs of America.

AGRICULTURE DISASTER FUNDING

Mr. JOHNSON. Mr. President, I rise to speak in support of the agricultural disaster assistance package that was included in the Senate Homeland Security Appropriations bill. Many farmers and ranchers in my home State of South Dakota are suffering from their third, fourth and even fifth year of drought. As House and Senate differences are reconciled, I urge the conferees to retain the important disaster provisions that were approved on such a wide bipartisan basis in the Senate.

The drought provisions I supported, along with Senator DASCHLE, will help farmers and ranchers survive a severe drought. While I would have hoped producers wouldn't be faced with a choice for assistance for either 2003 or 2004, I understand that money is short in these times of soaring budget deficits. The Senate disaster assistance plan will provide almost $2.9 billion to farmers and ranchers across the country who are suffering from agricultural disaster. The $475 million for the Livestock Assistance Program, in addition to the $2.464 billion for the Crop Disaster Program, are critical to my State.

This drought package was introduced by my colleagues, Senator BAUCUS and Senator BURNS, and with the help of Senator DASCHLE it was added as an amendment to the fiscal year 2005 Homeland Security funding bill by a voice vote. A voice vote reflects the overwhelming bipartisan support this drought aid package has. It is frustrating that there are members of the House majority party who would reduce or even eliminate disaster aid funding for ailing farmers and ranchers, or choose to gut other crucial agricultural programs to pay for this necessary assistance.

In 2002, Senator DASCHLE and I proposed a $6 billion drought package, which was opposed by the President and some Members of the House. That package was pared down to $3 billion before its passage. The current package is very similar to the package that was approved for the 2001–2002 drought. Thanks to my colleagues on both sides of the aisle, including Senator DASCHLE's efforts to secure an opportunity to address this issue, we have a drought package that will allow many family farmers and ranchers to stay in business through this extensive drought.

Over 23 groups expressed their support for the disaster assistance provisions in the Homeland Security funding bill for fiscal year 2005 at the beginning of this week, including the National Farmers Union, American Farm Bureau Federation, American Soybean Association, and National Association of Wheat Growers, to name a few. Such wide and strong support not only speaks to the number of producers who require assistance, but also to the merit of the provisions accepted in the Senate bill.

Drought is a real disaster and we must treat it as such. I am hopeful that my colleagues in the House realize how important this issue is for our agricultural producers, who are the economic engines of our rural communities and the backbone of our Nation. The Senate passed agricultural disaster assistance in a broad bipartisan manner, and I am hopeful that the House will show their support for America's producers by ensuring agricultural assistance remains at the levels authorized in the Senate bill.

SPINA BIFIDA AWARENESS MONTH

Mr. GRAHAM of South Carolina. Mr. President, I rise in recognition of October as Spina Bifida Awareness Month.

Spina bifida is the Nation's most common, permanently disabling birth defect. It is a neural tube defect that occurs when the central nervous system does not properly close during the early stages of pregnancy. Each year more than 4,000 pregnancies are affected and of these 1,500 babies are born with spina bifida. The most severe form of spina bifida occurs in 96 percent of children born with this disease. However, thanks to the good work that the Spina Bifida Association of America is carrying out to promote prevention and to enhance the lives of all affected by this condition, substantial progress is being made.

During Spina Bifida Awareness Month, a special effort is made to increase public awareness about spina bifida and its prevention. Simply by taking a daily dose of the B vitamin, folic acid, women of childbearing age have the power to reduce the incidence of spina bifida by up to 75 percent. Recent studies by the Centers for Disease Control and Prevention, CDC, show that 40 percent of women of childbearing age now report taking a vitamin containing folic acid every day. In addition, since the Food and Drug Administration, FDA, decision to fortify enriched grains with folic acid, CDC has documented a 26 percent decline in these birth defects. These simple changes that produce profound effects clearly demonstrate the importance of awareness.

In addition to educating the public about spina bifida, the Spina Bifida Association of America also addresses the needs of the spina bifida community. Founded in 1973, the association is the only national organization solely dedicated to advocating on behalf of the spina bifida community. Today, there are approximately 60 chapters serving over 125 communities nationwide.

I am honored to support the Spina Bifida Association and wish to commend them for all of their hard work to prevent and reduce suffering from this birth defect. I greatly appreciate their efforts to improve the lives of those 70,000 individuals living with spina bifida throughout our country. I wish the Spina Bifida Association of America the best of luck in its endeavors and urge all of my colleagues to support the association's efforts.

ADDITIONAL STATEMENTS

KARA SHERIDAN

• Mr. BUNNING. Mr. President, today I wish to honor Miss Kara Sheridan, the granddaughter of Mr. and Mrs. Carl White of Ludlowe, KY. Miss Sheridan is a most extraordinary young lady. As I speak, Miss Sheridan is representing the United States of America at the 2004 Paralympic Games. The Paralympic Games are the biggest competition in the world for athletes with a disability.

Miss Sheridan earned the honor of competing in the paralympics through hard work, perseverance and a spirit of hope. I believe that it is these three virtues which have also earned her a right to a place of honor here on the Senate floor and in the hearts of her countrymen. She has risen above the challenges posed by ostogenesis imperfecta, a rare genetic condition that she was born with, and showed the world that perseverance and hope will always be rewarded.

Kara's achievements have come in many different forms throughout the years. They include graduating from Wright State University magna cum laude last year, participating in competitive swimming events, serving on committees through the National Youth with Disabilities Council, and being awarded a scholarship to work on her master's degree from the University of Miami. But the greatest honor that Kara has earned is the accomplishment of a hope so great that it seems nothing can deter her.

Miss Sheridan has shown to America and to the world what it looks like to habitually do the right thing by hoping. Thanks to Miss Sheridan, we have already been reminded of that.•

IN REMEMBRANCE OF COLEEN JARVIS

• Mrs. BOXER. Mr. President, it is my honor to speak in memory of the late Coleen Jarvis, Vice Mayor of the City of Chico and strong advocate for women, children, and the less fortunate. She will always be remembered for her love of family, politics and the people whom she served so ably.

Coleen Jarvis dedicated her time and energy to improving her community. She fought to improve conditions for women, children, and the homeless. Coleen served as coordinate for the local rape crisis center and worked at Legal Services of Northern California, giving legal aid to those in need. "The community of Chico lost a resourceful, energetic, dedicated and smart leader in the too-soon death of Council Member Coleen Jarvis," said Butte County Supervisor Jane Doaln. "I first met Coleen when she worked on behalf of victims of rape and we continued our friendship and shared work on behalf of our loved community in many venues. Coleen had a deep commitment and worked very hard to improve our community and to remind us of our rightful duty to recognize and resolve the needs of the poor. We all were better representatives due to her efforts. She is sorely missed."

Coleen became an important community leader through her hard work. She was elected to the Chico City Council in 1966, and served almost 8 years. As a council member, she continued to fight for her progressive values. She was passionate about the issues and people she held dear. She was known by her colleagues and friends as a giving person who possessed great integrity, drive, intellect, and wit with an energy and spirit that drove her to fight for what she believed in. Chico Mayor Maureen Kirk reflected, "Coleen was a public servant full of integrity, passion, commitment, empathy, inclusion, tolerance, and intelligence. Her legacy is the Torres Community Homeless Shelter, the first step in her quest to find a solution for homelessness. Coleen will be sorely missed. In her 46 years, she accomplished more than 99 percent of us would accomplish in twice as many years.

Coleen Jarvis committed her life to her family and the world around her. She touched the lives of many, and her impact on her community will be long remembered.•

POLISH DAILY NEWS CELEBRATES 100 YEARS

• Ms. STABENOW. Mr. President, it is with great pride that I congratulate the Polish Daily News, Inc., which celebrates its 100th anniversary of publishing the Polish Weekly. On Saturday, October 2, 2004 the Polish community will celebrate this milestone at the American Polish Cultural Center in Troy. The Polish Weekly is a wonderful resource for the Polish-American community, providing a wealth of information on local issues as well as news from Poland.

Poles are the second largest immigrant ethnic group in Michigan. They have thrived in communities throughout our State and continue to maintain a strong connection to their rich heritage. Polish immigrants established themselves throughout Michigan in great numbers towards the end of the 19th century. In the pursuit of a better life for themselves and their families, they settled in Polonias, or Polish neighborhoods. Many arrived in search of job opportunities in our great automotive industry. By 1904, Polish Americans were the largest and one of the most influential ethnic groups in Detroit. By 1920, they made up nearly one-fifth of Detroit's population. Polish people have enriched Michigan's culture and made metro Detroit a better place to live.

There were many institutions important to this growing immigrant population including cultural organizations, churches and the Polish American press. The Polish Daily News has played a significant role in this history, devoting itself to sustaining Polish culture and language and connecting the immigrant community to the political, cultural and social life of America.

I am delighted to have the opportunity to congratulate the Polish Daily News on reaching this significant 100-year milestone. Gratulacje!•

MS. TAMARA BRICKMAN

• Mr. SMITH. Mr. President, today I wish to recognize a special individual who has been serving the great State of Oregon for years. Tamara Brickman, a legislative coordinator at the Oregon Employment Department, is devoted to improving the lives of Oregonians by increasing the efficiency of the State government and improving the quality of workforce training. Her knowledge of State and Federal labor laws is expansive and impressive. My staff and I rely on her expertise frequently when addressing workforce legislation in Congress.

Ms. Brickman is a native Oregonian, the fourth generation of her family to live in a small town named La Grande, not far from my hometown of Pendleton in the northeast corner of the State. She is a graduate of Eastern Oregon University and a former intern of my esteemed predecessor in the Senate, Senator Mark Hatfield. According to Ms. Brickman, it was in Senator Hatfield's office that her true passion for public service blossomed.

Ms. Brickman began her career working for Oregonians as a teacher in La Grande at an alternative high school and a job training facility for individuals receiving public assistance. In January 1993, Ms. Brickman took a job in the Senate Ethics, Elections, and Campaign Finance Reform Committee of the Oregon State Legislature. In fact, Ms. Brickman served as a staffer in the Oregon Capitol when I carried my first bill on the Senate floor as an Oregon State Senator.

Before heading to law school at the University of Oregon, Ms. Brickman furthered her strong reputation in workforce training by running a federally-funded youth summer employment training program in Union County in 1994 and 1995. The training program was part of the Job Training Partnership

Act, JTPA, now known as the Workforce Investment Act. Ms. Brickman taught disadvantaged youth in job skills and then found community job placements for those students in local businesses.

After passing the Oregon State bar in 1998, Ms. Brickman held a range of legislative positions for a State senator, member of the U.S. House of Representatives, and the Oregon University System Chancellor's office. For the last 3 years, Ms. Brickman has gone above and beyond the call of duty at the Oregon Employment Department to help members of our congressional delegation pass unemployment extension benefits and fiscal state relief. Ms. Brickman never fails to share important information about the state of the workforce in ways that allow me to craft timely legislation that responds to our State's needs. Her commitment to Oregon's workers and families shines through in her outstanding work.

There are thousands of dedicated State and local government employees across the country who serve their communities with the highest distinction. In my opinion, few could match the professionalism of Ms. Brickman. It is my honor and pleasure to take the time today to recognize Ms. Tamara Brickman for her dedication to Oregon.•

BALLOON FIESTA—CHARACTER COUNTS

• Mr. DOMENICI. Mr. President, I would like to discuss the good that occurs when a community joins together. This relates to a wonderful program I have been proud to promote in New Mexico for the past 10 years—Character Counts—and the support it gets from the business community.

We have had troubling and disappointing news over the past few years about corporate scandals and questionable ethics in the corporate world. So it is with great pleasure to be able to discuss a story about responsible and caring business behavior.

For the fourth straight year, Northrop Grumman has teamed with other local organizations to help at-risk youth experience the Albuquerque International Balloon Fiesta.

On October 7 through 8, eight elementary-age students in the Character Counts education program run through the Albuquerque YMCA and the Boys and Girls Clubs of Albuquerque and Rio Rancho will be treated to a field trip to the Balloon Fiesta courtesy of the Northrop Grumman and its partners—Meals on Wheels and the Albuquerque International Balloon Fiesta organization. The children and their chaperones will be treated to tethered balloon rides and generally feted throughout the day as special guests.

Now, this is more than just a simple do-good action by a major corporation. For these children it is a once-in-a-lifetime adventure linked to the Character Counts education program that builds into their lives the benefits of Respect, Responsibility, Trustworthiness, Citizenship, Fairness, and Caring. These are the six pillars of good character.

The Balloon Fiesta outing is a joint effort by these companies and organizations with the Albuquerque Character Counts Cooperative. We know these trips impact these children's lives. It is not only a reward for excelling at Character Counts, but also an entertaining way for them to broaden their horizons, meet community leaders and have a ballooning experience they might not have otherwise ever experienced.

Character Counts is an incredibly successful character education initiative. We are celebrating its 10-year history in New Mexico and these annual balloon fiesta field trips for outstanding students are a key component to helping youth become inspired by adults who are role models of the Character Counts pillars.

So I express my appreciation to the team of businesses and groups who have helped make the overall Character Counts program a success in New Mexico. In particular, I am pleased with Northrup Grumman, the YMCA, the Boys and Girls Clubs, Meals on Wheels and Albuquerque International Balloon Fiesta for broadening the horizons for children.•

CONGRATULATING MARGARET (PEG) CURTIN

• Mr. DODD. Mr. President, I wish a happy 70th birthday to an outstanding citizen and dear friend, Peg Curtin.

Peg was one of my earliest and strongest supporters when I first ran for Congress in 1974. Peg's family and mine have been close since the 1950s, when my father served in the House and then in the U.S. Senate.

For nearly three decades, Peg has compiled an outstanding record of public and community service in Connecticut. She has truly given her heart and soul to the people of our State.

From 1974 to 1977, Peg was a union organizer for the American Federation of State, County, and Municipal Employees and a member of the international staff of the AFL–CIO. In 1975, she was part of the transition team of one of our State's most beloved Governors, the late Ella T. Grasso. That year, Peg also began the first of 4 years as a member of the New London City Council, including one year as the city's mayor. Among her many accomplishments was the development and implementation of New London's first-ever affirmative action plan.

From 1979 to 1996, Peg devoted her time and energy to the State of Connecticut. For 12 years, she served as under secretary at the Office of Policy and Management's Division of Intergovernmental Relations. There, her talents enabled her to handle a demanding and diverse array of tasks, from state labor negotiations to emergency assistance during natural disasters. Peg then went on to manage labor relations for 6 years at the University of Connecticut Health Center. She retired in 1996 after once again winning a seat on the New London City Council, an office she continues to hold today.

Peg Curtin's public service is not limited to her official duties. She has been involved in numerous charitable causes. There are far too many for me to list here on the floor, but I will just mention a few: the Connecticut Special Olympics, the American Red Cross, and the March of Dimes. It is only fitting that at tonight's celebration of Peg's birthday, the proceeds for the events will benefit two of the causes about which Peg cares so deeply—the New London Youth Organization and the New London Parks Conservancy.

We in Connecticut are lucky to have Peg Curtin working on our behalf. There is no doubt in my mind that our State is a better place today because of her efforts. I am privileged to call her my friend, and I truly admire her commitment to service, charity, and community. It is my pleasure to wish Peg a very happy birthday, and to send her my best wishes for many, many more wonderful years.•

WALTER S. SMITH, JR., CHIEF UNITED STATES DISTRICT JUDGE

• Mrs. HUTCHISON. Mr. President, today I wish to recognize Chief Judge Walter S. Smith, Jr., of the Western District of Texas. Judge Smith has dedicated his life to public service and justice, and I am pleased to commend him on his 20th anniversary on the Federal bench.

Judge Smith was born on October 25, 1940, to Dr. Walter S. Smith and Mary Elizabeth Smith. He grew up in the central Texas town of Marlin. He attended Baylor University where he received his bachelor of arts and his juris doctorate. While in law school, Judge Smith was editor of the law review and served as president of the Phi Delta Phi law fraternity.

Judge Smith began his legal career in private practice in Waco, TX. In 1979, he was appointed by Gov. Bill Clements to the 54th Judicial District Court of McLennan County. Shortly thereafter, Judge Smith was appointed U.S. Magistrate Judge for the Western District of Texas.

In 1984, Senator John Tower recommended Judge Smith for an appointment to the Federal bench. President Ronald Reagan nominated him for the position and he received a unanimous Senate confirmation on October 4, 1984. Judge Smith was sworn into office on October 6, 1984, and has served since then as the first and only resident United States District Judge in the Waco Division. Judge Smith was elevated to the position of chief Judge of the Western District of Texas on June 1, 2003, a position he continues to hold.

During his legal career, Judge Smith has remained a member of the Texas Bar Association, the Texas Bar Foundation, the McLennan County Bar Association, and the American Judicature Society.

In addition to being admitted to practice in the State of Texas, Judge Smith was also admitted to practice in Federal district courts for the Western District of Texas, the Fifth Circuit Court of Appeals, and the United States Supreme Court. Judge Smith is particularly proud of his participation in the formation of the Abner V. McCall American Inns of Court, for which he served as the first president.

During his years on the Federal bench, Judge Smith has traveled throughout the Western and other Districts of Texas. In addition to Waco, he has held court in Austin, San Antonio, Pecos, El Paso, Midland, Laredo, Corpus Christi and Forth Worth.

Judge Smith is married to the former Brenda Derting. They have two daughters, five granddaughters, and two grandsons. He is an ordained elder in the First Presbyterian Church and has been actively involved in church activities and community service.

During his career, Judge Smith has demonstrated the dedication and patience we seek on our judges. He is respected for his fairness and commitment to justice. Judge Smith has been asked to make rulings on many difficult cases throughout the years and has risen to the many challenges with poise and dignity. His knowledge of the law and experience make him a great judge. His dedication to his community and to the rule of law make him a remarkable public servant. I thank him for his 20 years on the Federal bench in the Western District of Texas.●

MEASURES REFERRED

The following bill was ordered referred as indicated:

H.R. 3428. An Act to designate a portion of the United States courthouse located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building"; to the Committee on Environment and Public Works by unanimous consent.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 1084. An act to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

H.R. 1787. An act to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

S. 2852. A bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–9450. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Allethrin, Bendiocarb, Burkholderia cepacia, Fendidazon potassium, and Molinate; Tolerance Actions" (FRL#7679-7) received on September 28, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9451. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fenamidone; Pesticide Tolerance" (FRL#7681-3) received on September 28, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9452. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fludioxonil; Pesticide Tolerances" (FRL7682-3) received on September 28, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9453. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Methoxyfenozide; Pesticide Tolerances" (FRL#7681-6) received on September 28, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9454. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, transmitting, pursuant to law, the approval of wearing the insignia of the grade of rear admiral; to the Committee on Armed Services.

EC–9455. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary of the Army for Financial Management, received on September 28, 2004; to the Committee on Armed Services.

EC–9456. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a designation of acting officer and nomination for the position of Assistant Secretary of the Army for Financial Management, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9457. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a discontinuation of service in acting role for the position of Assistant Secretary of the Army for Financial Management, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9458. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Assistant Secretary of the Army for Financial Management, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9459. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a designation of acting officer for the position of Assistant Secretary of the Army for Installations and Environment, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9460. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Assistant Secretary of the Navy for Installations and Environment, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9461. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Under Secretary of Defense, Comptroller, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9462. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a discontinuation of service in acting role for the position of Under Secretary of Defense, Comptroller, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9463. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the designation of acting officer for the position of Assistant Secretary of Defense for Networks and Information Integration, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9464. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Annual Report on Commercial Activities at the Board; to the Committee on Armed Services.

EC–9465. A communication from the Deputy Chief of Naval Operations for Manpower and Personnel, Department of the Navy, transmitting, pursuant to law, the notification of a decision to implement performance by the Most Efficient Organization (MEO) for Research, Development, Test, and Evaluation Support Services in Philadelphia, PA; to the Committee on Armed Services.

EC–9466. A communication from the Deputy Chief of Naval Operations for Manpower and Personnel, Department of the Navy, transmitting, pursuant to law, the notification of a decision to implement performance by the Most Efficient Organization (MEO) for Retail Supply Southwest in San Diego, CA; to the Committee on Armed Services.

EC–9467. A communication from the Army Federal Register Liaison Officer, Department of the Army, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Publication of Rules Affecting the Public" (RIN0702–AA40) received on September 28, 2004; to the Committee on Armed Services.

EC–9468. A communication from the Deputy Secretary of the Treasury, transmitting, pursuant to law, a report on the national emergency declared in Executive Order 13224 of September 23, 2001 with respect to persons who commit, threaten to commit, or support terrorism; to the Committee on Banking, Housing, and Urban Affairs.

EC–9469. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determination; 69 FR 50324" (44 CFR 67) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9470. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determination; 69 FR 50320" (44 CFR 65) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9471. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determination; 69 FR 50320" (44 CFR 65) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9472. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determination; 69 FR 50331" (44 CFR 67) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9473. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determination; 69 FR 50332" (44 CFR 67) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9474. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determination; 69 FR 50325" (44 CFR 67) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9475. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determination; 69 FR 50325" (44 CFR 65) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9476. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility; 69 FR 42584" (44 CFR 64) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9477. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determination; 69 FR 50318" (44 CFR 65) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9478. A communication from the Assistant to the Board of Governors of the Federal Reserve, transmitting, pursuant to law, the report of a rule entitled "Rules of Practice for Hearings" received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9479. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to "allow the guarantee fee to be included in the single-family housing guaranteed loan"; to the Committee on Banking, Housing, and Urban Affairs.

EC–9480. A communication from the Chairman, Federal Communications Commission, transmitting, pursuant to law, the Commission's Auctions Expenditure Report for fiscal year 2003; to the Committee on Commerce, Science, and Transportation.

EC–9481. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Western Pacific Bottomfish and Seamount Groundfish Fishery; Fishing Moratorium" () received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9482. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Allow Processors to Use Offal from Salmon and Halibut Intended for Prohibited Species Donation Program" (RIN0648–AR64) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9483. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Notice of Closure of the Spring Commercial Red Snapper Component, Reef Fish Fishery of the Gulf of Mexico" received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9484. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #8—Adjustment of the Commercial Salmon Fishery from Humbug Mountain, Oregon to the Oregon-California Border" received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9485. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #6—Adjustments of the Commercial Fishery from the U.S.-Canada Border to Cape Falcon, Oregon" received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9486. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #7—Adjustments of the Recreational Fishery from the Queets River, Washington to Cape Falcon, Oregon" received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9487. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Remove a Harvest Restriction for the Harvest Limit Area Atka Mackerel Fishery in the Aleutian Islands Subarea" (RIN0648–AS10) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9488. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands; Closure and Openings" received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9489. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Advisory Board Member, Saint Lawrence Seaway Development Corporation, Department of Transportation, received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9490. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Adjustment of Recreational Retention Limits" received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9491. A communication from the Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Atlantic Shark Management Measures" (RIN0648–AS07) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 437. A bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes (Rept. No. 108–360).

S. 511. A bill to provide permanent funding for the Payment In Lieu of Taxes program, and for other purposes (Rept. No. 108–361).

S. 1614. A bill to designate a portion of White Salmon River as a component of the National Wild and Scenic Rivers System (Rept. No. 108–362).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1678. A bill to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes (Rept. No. 108–363).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1852. A bill to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin (Rept. No. 108–364).

S. 1876. A bill to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project (Rept. No. 108–365).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 2142. A bill to authorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes (Rept . No. 108–366).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 2181. A bill to adjust the boundary of Rocky Mountain National Park in the State of Colorado (Rept. No. 108–367).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 2334. A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System (Rept. No. 108–368).

By Mr. DODD, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2374. A bill to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes (Rept. No. 108–369).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2408. A bill to adjust the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in the State of Montana (Rept. No. 108–370).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment and an amendment to the title:

S. 2432. A bill to expand the boundaries of Wilson's Creek Battlefield National Park, and for other purposes (Rept. No. 108–371).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 2567. A bill to adjust the boundary of Redwood National Park in the State of California (Rept. No. 108–372).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2622. A bill to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico (Rept. No. 108–373).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1113. A bill to authorize an exchange of land at Fort Frederica National Monument, and for other purposes (Rept. No. 108–374).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1446. A bill to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes (Rept. No. 108–375).

H.R. 1964. To assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes (Rept. No. 108–376).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2010. A bill to protect the voting rights of members of the Armed Services in elections for the Delegate representing American Samoa in the United States House of Representatives, and for other purposes (Rept. No. 108–377).

H.R. 3706. A bill to adjust the boundary of the John Muir National Historic Site, and for other purposes (Rept. No. 108–378).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 4516. A bill to require the Secretary of Energy to carry out a program of research and development to advance high-end computing (Rept. No. 108–379).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1529. A bill to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees, and for other purposes (Rept. No. 108–380).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2603. A bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions (Rept. No. 108–381).

By Mr. GRASSLEY, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

S. 333. A bill to promote elder justice, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2851. A bill to amend the Farm Credit Act of 1971 to establish certain conditions under which a Farm Credit System institution can terminate its status as a System institution; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SANTORUM (for himself, Mr. REID, Mr. ALLEN, Mr. BINGAMAN, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. ENZI, Mr. GRASSLEY, Mr. HAGEL, Mrs. HUTCHISON, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MILLER, Ms. MURKOWSKI, Mr. REED, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Ms. STABENOW, Mr. TALENT, Mr. WARNER, Mr. STEVENS, and Mr. BENNETT):

S. 2852. A bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes; read the first time.

By Ms. SNOWE:

S. 2853. A bill to require a report on the methodologies utilized for National Intelligence Estimates; to the Select Committee on Intelligence.

By Ms. SNOWE:

S. 2854. A bill to facilitate alternative analyses of intelligence by the intelligence community; to the Select Committee on Intelligence.

By Mr. INHOFE:

S. 2855. A bill to amend chapter 25 of title 18, United States Code, to create a general provision similar to provisions found in chapter 47 of such title, to provide for criminal penalties for the act of forging Federal documents; to the Committee on the Judiciary.

By Mr. COCHRAN (for himself and Mr. HARKIN):

S. 2856. A bill to limit the transfer of certain Commodity Credit Coporation funds between conservation programs for technical assistance for the programs; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID:

S. Res. 436. A resolution designating the second Sunday in the month of December 2004 as "National Children's Memorial Day"; to the Committee on the Judiciary.

By Mr. LUGAR (for himself and Mr. BAYH):

S. Res. 437. A resolution celebrating the life of Joseph Irwin Miller of Columbus, Indiana; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. HATCH, Mr. KOHL, Mrs. BOXER, Mrs. CLINTON, Ms. STABENOW, Mr. DAYTON, Mr. CORZINE, Mr. JOHNSON, Mr. LAUTENBERG, Mr. CARPER, Mrs. MURRAY, Mr. REID, Mr. WYDEN, Mr. LEAHY, Mr. KYL, Mr. CORNYN, Mr. DASCHLE, Ms. MURKOWSKI, Mr. FEINGOLD, Mr. DURBIN, Ms. CANTWELL, and Mrs. FEINSTEIN):

S. Res. 438. A resolution supporting the goals and ideals of National Domestic Violence Awareness Month and expressing the sense of the Senate that Congress should raise awareness of domestic violence in the United States and its devastating effects on families; considered and agreed to.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. Res. 439. A resolution recognizing the contributions of Wisconsin Native Americans to the opening of the National Museum of the American Indian; considered and agreed to.

By Mr. HATCH:

S. Res. 440. A resolution designating Thursday, November 18, 2004, as "Feed America Thursday"; considered and agreed to.

ADDITIONAL COSPONSORS

S. 847

At the request of Mr. SMITH, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 1379

At the request of Mr. JOHNSON, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Kansas (Mr. ROBERTS), the Senator from Kansas (Mr. BROWNBACK), the Senator from Vermont (Mr. JEFFORDS), the Senator from Idaho (Mr. CRAPO) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1556

At the request of Mr. SMITH, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1556, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 2163

At the request of Mr. DURBIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2163, a bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 2489

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2489, a bill to establish a program within the National Oceanic and Atmospheric Administration to integrate Federal coastal and ocean mapping activities.

S. 2565

At the request of Mr. CRAPO, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2565, a bill to amend the Agriculture Adjustment Act to convert the dairy forward pricing program into a permanent program of the Department of Agriculture.

S. 2568

At the request of Mr. BIDEN, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from New Jersey (Mr. CORZINE), the Senator from Maryland (Ms. MIKULSKI), the Senator from Vermont (Mr. JEFFORDS), the Senator from California (Mrs. FEINSTEIN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2618

At the request of Mr. BAUCUS, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2618, a bill to amend title XIX of the Social Security Act to extend medicare cost-sharing for the medicare part B premium for qualifying individuals through September 2005.

S. 2672

At the request of Mr. WYDEN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2672, a bill to establish an Independent National Security Classification Board in the executive branch, and for other purposes.

S. 2707

At the request of Mr. LOTT, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2707, a bill to amend title XVIII of the Social Security Act to recognize the services of respiratory therapists under the plan of care for home health services.

S. 2713

At the request of Mr. DOMENICI, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2713, a bill to amend the Public Health Service Act to revise the amount of minimum allotments under the Projects for Assistance in Transition from Homelessness program.

S. 2759

At the request of Mr. ROCKEFELLER, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2759, a bill to amend title XXI of the Social Security Act to modify the rules relating to the availability and method of redistribution of unexpended SCHIP allotments, and for other purposes.

S. 2807

At the request of Mr. CRAPO, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 2807, a bill to amend the Internal Revenue Code of 1986 to exempt containers used primarily in potato farming from the excise tax on heavy trucks and trailers.

S. 2845

At the request of Ms. COLLINS, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from North Carolina (Mrs. DOLE) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. Con. Res. 8, a concurrent resolution designating the second week in may each year as "National Visiting Nurse Association Week".

AMENDMENT NO. 3704

At the request of Mr. WYDEN, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of amendment No. 3704 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3705

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Ohio (Mr. VOINOVICH), the Senator from Hawaii (Mr. AKAKA), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Nebraska (Mr. NELSON) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of amendment No. 3705 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

At the request of Mr. LEAHY, his name was added as a cosponsor of amendment No. 3705 proposed to S. 2845, supra.

AMENDMENT NO. 3706

At the request of Mr. SPECTER, the names of the Senator from Indiana (Mr. BAYH) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 3706 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2851. A bill to amend the Farm Credit Act of 1971 to establish certain conditions under which a Farm Credit System institution can terminate its status as a System institution; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2851

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERMINATION OF FARM CREDIT SYSTEM STATUS.

Section 7.10 of the Farm Credit Act of 1971 (12 U.S.C. 2279d) is amended by adding at the end the following:

"(c) CONDITIONS FOR CERTAIN TERMINATION.—Notwithstanding subsections (a) and (b), if the Farm Credit Administration Board receives an official notification that a Farm Credit System institution seeks to terminate its status as a System institution, the Farm Credit Administration—

"(1) shall hold not less than 1 public meeting or hearing in each of the States served, as of the date of receipt of the notification, by the institution; and

"(2) shall not approve or disapprove the termination of the institution as a System institution under subsection (a)(2) until on or after the date that is 180 days after the date of receipt of the notification.".

Mr. JOHNSON. Mr. President, I rise today in support of a bill I am cosponsoring with Senator DASCHLE. This important piece of legislation would affect the way the Farm Credit Administration, FCA, handles any possible sale of one of its member institutions. This bill would require the FCA to hold hearings in all the States affected by the sale, which is what my good colleague from South Dakota and I have been advocating since the time this proposed termination was announced. Additionally, the bill would prohibit the FCA from approving the termination plan no earlier than 6 months after the initial proposal is submitted. I am pleased to cosponsor this legislation with Senator DASCHLE as it will give the Farm Credit System, FCS, and affected parties adequate time to discern long-term implications and consequences of the possible sale of an FCS institution.

This bill is very timely, in that Rabobank, a Dutch bank, has made a bid to purchase Farm Credit Services of America, a Farm Credit System member bank. This transaction is moving ahead at a rapid pace without any hearings in the affected region of the country which happens to include my home State of South Dakota. One of my greatest concerns about the operation of the FCS is for farmers and ranchers to have the ability to ask questions about the transaction and decide if it is in their best interest to allow the transaction to occur. We must ensure that producers will always be able to have access to affordable credit, and that they are well-informed before they are obligated to vote on the potential termination of the Farm Credit Services of America, FCSA.

The Farm Credit System has been in operation in the United States for 88 years and has been serving farmers well. The system was formed to allow farmers and ranchers easy access to credit for purchases that are fundamental to their day-to-day operations. Given the myriad of challenges producers face in our agricultural communities across America, I am greatly concerned that this acquisition would place yet another burden on our ranchers and farmers. I am fully committed to ensuring our producers have adequate access to reliable credit, and support this legislation as a means to achieve that goal. I am hopeful that my Senate colleagues will support this commonsense and imperative legislation.

By Mr. SANTORUM (for himself, Mr. REID, Mr. ALLEN, Mr. BINGAMAN, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. ENZI, Mr. GRASSLEY, Mr. HAGEL, Mrs. HUTCHISON, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MILLER, Ms. MURKOWSKI, Mr. REED, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Ms. STABENOW, Mr. TALENT, Mr. WARNER, Mr. STEVENS, and Mr. BENNETT):

S. 2852. A bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes; read the first time.

Mr. SANTORUM. Mr. President, I rise today to introduce the Special Olympics Sports Empowerment Act. I am very pleased that Senator REID has joined me in introducing this legislation to authorize $15 million for Special Olympics programs. We are also joined by 31 other cosponsors, both Republican and Democrat, conservative, moderate, and liberal, demonstrating the wide range of support for this legislation.

According to the World Health Organization, there are 170 million individuals with mental retardation worldwide. Up to 7 million of these individuals live in the United States. Unfortunately, these individuals tend to have much shorter lives—by 10–20 years—in most countries. In developed countries, there is still significant preventable morbidity, pain and suffering. This population is also generally underemployed, stigmatized and many experience violence or abuse at some point in their lives.

Thirty-six years ago, Mrs. Eunice Kennedy Shriver, who had already been working for years with individuals with intellectual disabilities, founded Special Olympics. In July 1968, Special Olympics held its first games in Chicago, hosting 1,000 athletes. Over the years, Special Olympics has continued to serve many individuals with intellectual disabilities around the world by providing year-round sports training and competitive opportunities. Special Olympics now serves over 1.5 million individuals with intellectual disabilities, their families and communities.

Special Olympics recognizes the value and dignity of every life. As well as providing children and adults with intellectual disabilities with the opportunity of athletic training and competition, these programs provide participants with health screenings using the donated time of voluntary health care providers. In addition, they help to improve awareness throughout the world of the abilities and unique contributions that individuals with intellectual disabilities can make, thus helping to dispel negative stereotypes.

The Special Olympics Sports Empowerment Act will aid an organization that is already hard at work in assisting and providing affirmation to these individuals and their families. It does this by, for the first time, authorizing funding for Special Olympics over 5 years. It authorizes $15 million in fiscal year 2005, and such sums as necessary each year through fiscal year 2009. This bill recognizes the success Special Olympics has had, will ensure that their funding is more stable, and will help Special Olympics to continue to increase the number of athletes and families they serve each year.

I am pleased to be sponsoring this legislation and to have the support of so many of my colleagues. I am hopeful that the Senate and House will act to pass this legislation during the 108th Congress.

By Mr. INHOFE:

S. 2855. A bill to amend chapter 25 of title 18, United States Code, to create a general provision similar to provisions found in chapter 47 of such title, to provide for criminal penalties for the act of forging Federal documents; to the Committee on the Judiciary.

Mr. INHOFE. Mr. President, the recent CBS incident involving the record of President Bush's service in the Texas Air National Guard sheds light on the need for a Federal statute generally criminalizing the forgery of Federal Government documents. I believe that when it comes to crimes involving the fabrication of Federal documents or writings, the Federal Government has an obligation to step in and show the offenders there are serious consequences.

Many experts initially doubted the authenticity of the memos in question, which negatively and falsely characterized President Bush's time in the Texas Air National Guard. We now believe these memos were created on a modern word processing computer rather than the 1970-era typewriter, as alleged in the original CBS story.

LTC Jerry Killian was George Bush's commanding officer during his service in Vietnam. Unfortunately, Lieutenant Colonel Killian died in 1984 and therefore he could not defend his records that he so accurately discussed at that time about the quality of service of our President.q

I would say this, though: That Colonel Killian's secretary Marion Knox typed all of his correspondence between the years 1956 and 1979. Referring to the memos in question, she said, "I know I didn't type 'em'."

She was very clear. She didn't qualify it. She said, "I know I didn't type 'em'."

It is clear that the documents CBS shared with American voters were more than suspect. After the fact—since CBS cannot verify its reporting—I am pleased to see that CBS has belatedly retracted its story.

We also now know that the Kerry campaign was aware CBS was planning to air the story 4 or 5 days before it was aired, while the White House did not know about the airing of this story until the eve of the story breaking. That shows an obvious bias. I don't think anyone can deny it.

President Bush stands by his honorable service in the Air National Guard. He should not have to worry about the threat of nefarious and petty efforts to defame his character.

I appreciated Dan Rather's words: "I want to say personally and directly I am sorry," but saying I am sorry just doesn't cut it.

Under much pressure, CBS has appointed an independent panel to investigate its reporting of the President's service in the Texas Air National Guard. I understand this panel is to be headed by former Attorney General Dick Thornburg and former Associated Press chief executive and former Pennsylvania Governor Lou Boccardi.

I agree with many of my colleagues from the House of Representatives who were dismayed that CBS, a network that should be responsible for reporting objective news, involved itself in a campaign that misled the public and slandered the President. Therefore, I am proposing legislation to criminalize this type of action in general. Most people believe there is already a statute on the books that would have this criminalized.

After learning of the CBS scandal, I was curious about the penalty. I figured there had to be one for the forgery of Federal documents. In seeking the answer to this question, I called the Department of Justice. Their congressional relations office promptly responded: "It depends."

I ask unanimous consent that a copy of that communication be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INHOFE. Mr. President, the Justice Department stated that similar cases were often charged under the general sections of the fraud and false statements chapter of the United States Criminal Code. Those sections have proven quite useful to the prosecutors at the Department of Justice.

I learned of a loophole in the existing law regarding forgery and false statements. I learned there are no general sections of the United States Criminal Code for forgery in counterfeiting as there are in the other cases. Officials from the Department of Justice noted the absence of a general stand-alone statute that criminalizes the actions of those who would forge documents of the Federal Government, regardless of the end they seek to achieve or what these documents are. Currently, the prosecution of such actions depends completely on the context and how forged documents were the means to an end.

Chapter 25 of title 18 of the United States Code addresses various offenses in counterfeiting and forgery. The current 45 sections of the counterfeiting and forgery chapter essentially fall into four broad categories.

This is very important, because if forgery takes place and they do not fall into one of these four categories, then there is no penalty involved: No. 1, financial obligations. Obviously, this is not such a case; No. 2, military and naval discharge certificates; No. 3, transportation matters and motor vehicle documents; and No. 4, the seals of agencies, including courts, departments, and other agencies.

What we are saying is, if it doesn't fall into forgery, it doesn't fall into one of these four categories; there is no general statute that would offer a penalty.

The legislative history of the 45 sections of the counterfeiting and forgery chapter indicate that the sections were enacted piecemeal without a unifying, overarching section. If forgery takes place but does not fall into one of these sections, there is no penalty.

Chapter 47 of title 18 of the United States Code regarding the fraud and false statements chapter also contains disparate sections enacted piecemeal.

In contrast, however, the fraud and false statements chapter does have an overarching section, section 1001, that unifies its disparate, piecemeal parts as contrasted to the forgery statute.

In light of the recent situation involving President Bush's record, these broad, disparate sections need to include, in general, the fabrication of Federal writings or memos.

In speaking with officials from the Department of Justice, I have also become aware of concerns over whether the existing statute regarding fraud, 18 USCS 1001, can be used in this CBS incident. Chapter 47 on fraud and false statements specifically condemns false statements but only those with the intent to defraud the Federal Government. Again, this is talking about fraud and false statements, not the forgery statute.

There are questions as to whether the "intent to defraud the United States or any agency thereof" is applicable or whether it could successfully be argued that instead it was the voters of the United States who were initially defrauded, distinguishing in certain fashion the "United States" from voters or the like.

These concerns validate the need to criminalize the specific act of forging Federal documents. Technically, in the CBS incident, it could be argued that the forged Federal document did not monetarily or otherwise tangibly take away from the Federal Government. I would argue that it did harm the Federal Government by infringing on the Federal Government's copyright on its work. It certainly did affect millions of Americans by giving them a false and misleading impression about a Presidential candidate. But it needs to be clarified.

As placed under chapter 25 of title 18, my bill would criminalize general forgery of Federal Government documents, including those that characterize or purport to characterize official Federal activity, service, contract, obligation, duty, or property.

If someone attempts to forge in the name of an official of the Federal Government a document or memo that addresses an official Government duty or act, that person should be held accountable. There needs to be a Federal law prohibiting such forgery generally so prosecution of the same does not fall through the cracks.

Currently, there is no catchall section to address all forged Federal writings, such as a vote from one official to another about a Federal service.

I serve on the Senate Armed Services Committee and I honor those who serve in the National Guard. Not only has the CBS incident resulted in slander to the honorable National Guard service of President Bush, it also highlights the risk of the records of other military service members and, moreover, all Federal servants governmentwide alike.

A civil servant at the General Services Administration, which the Environment and Public Works Committee which I chair has to oversee, is equally deserving of being protected from a forgery of his or her work records. Right now there is no section in the forgery chapter of the United States Code that specifically addresses protection for General Services Administration personnel. This omission is a problem we must correct.

My legislation also includes language to condemn those who, knowingly or negligently failing to know, transmit or present any such forged Federal writing or record which characterizes official Federal activities or service. This general criminalization of publishing forged documents follows existing provisions of the forgery code. If a major news network broadcasts a story based on alleged Federal documents, they must take the responsibility to verify those records.

While CBS may not have taken part in the creation of the memo in question, and indeed I think I join all of us Americans in yearning to know who did forge these memos, the network still touted them as verified and broadcast the forged memos as truthful to millions of American voters. I look forward to a full criminal investigation of who did forge the documents.

I draw an analogy in distinguishing between murder and negligent homicide. Those are crimes. Murder is intentional and negligent homicide is not, but in both crimes someone has been killed. While CBS may not have had the intention to deceive its audience, the false information was communicated when it was negligently not verified and the damage was done nevertheless.

If it were not for the work of many astute people working through the Internet and otherwise, this travesty would not have been on its way to being exposed and fully prosecuted criminally. CBS and its surrogates pointedly disparaged the people who told the truth as mere second-class journalists of the Internet and table television and talk radio persuasions. Rather, it is CBS which has proven itself to be even less than second-class journalism.

I note that numerous pundits have been discussing recently the very vitality of the networks is faltering with the explosion of other media. Pundits have cited CBS's additional poor judgment in failing to cover the political conventions as well as other media outlets did. CBS owes a separate apology to those truth tellers whom it slandered and who have shown better judgment than CBS.

It can be difficult to communicate information without also conveying one's personal conviction on a matter. However, in a free society such as ours, the news media has a responsibility to work to be fair and balanced and to tell both sides of the story without letting a journalistic spin cloud their judgment.

Television, print, and the Internet are a powerful media. They shape our lives. They provide some part of the education of our children, whether we like it or not. The time has come for the media to take responsibility for its actions rather than manipulate public opinion to lobby the causes and politicians the media support. Facts, not conclusions or erroneous records, should be reported. Elections are a powerful example of why journalists must hold themselves to the highest of standards. People can then synthesize information for themselves.

In conclusion, I argue that the media has a grave responsibility to ensure that what it reports is a true and accurate representation of the facts. It could be argued that if CBS either forged the documents or knowingly represented forged documents as being true, there is no penalty under the law. We need to criminalize and establish the consequences for forging Federal documents. I urge my colleagues to stand with me. I cannot imagine anyone not supporting such a piece of legislation.

EXHIBIT I

There's no stand-alone federal offense for forging government documents.

The criminal penalties for the forgery would depend upon the circumstances, the context, basically the underlying facts of the matter—what type of document, for what purpose, what was done with it, what was intended—a lot of various factors that would influence the decision about how it would be charged and hence what the penalties would be.

There is no stand-alone forgery of government documents offense. It depends on the context of the matter.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2855

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FORGERY OF FEDERAL DOCUMENTS.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding at the end the following:

"§ 515. Federal records, documents, and writings, generally

"Any person who—

"(1) falsely makes, alters, forges, or counterfeits any Federal record, Federal document, Federal writing, or record, document, or writing characterizing, or purporting to characterize, official Federal activity, service, contract, obligation, duty, property, or chose;

"(2) utters or publishes as true, or possesses with intent to utter or publish as true, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

"(3) transmits to, or presents at any office, or to any officer, of the United States, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

"(4) attempts, or conspires to commit, any of the acts described in paragraphs (1) through (3); or

"(5) while outside of the United States, engages in any of the acts described in paragraphs (1) through (3), shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) CLERICAL AMENDMENT.—The table of contents for chapter 25 of title 18, United States Code, is amended by inserting after the item relating to section 514 the following:

"515. Federal records, documents, and writings, generally.".

By Mr. COCHRAN (for himself and Mr. HARKIN):

S. 2856. A bill to limit the transfer of certain Commodity Credit Corporation funds between conservation programs for technical assistance for the programs; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2856

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by striking subsection (b) and inserting the following:

"(b) TECHNICAL ASSISTANCE.—Effective for fiscal year 2005 and each subsequent fiscal year, Commodity Credit Corporation funds made available for each of the programs specified in paragraphs (1) through (7) of subsection (a)—

"(1) shall be available for the provision of technical assistance for the programs for which funds are made available; and

"(2) shall not be available for the provision of technical assistance for conservation programs specified in subsection (a) other than the program for which the funds were made available.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2004.

Mr. HARKIN. Mr. President, I am very pleased to join my colleague and Chairman of the Committee on Agriculture, Nutrition and Forestry, Mr. COCHRAN in introducing this piece of legislation to correct a continuing problem at the U.S. Department of Agriculture with funding for technical assistance for agricultural producers and landowners participating in agricultural conservation programs.

The 2002 farm bill contains a historic increase in funding for conservation programs, including for the Environmental Quality Incentives Program (EQIP), the Farm and Ranch Lands Protection Program (FRPP), the Wildlife Habitat Incentives Program (WHIP), the Wetlands Reserve Program (WRP), the Conservation Reserve Program (CRP), the Grassland Reserve Program (GRP) and the Conservation Security Program (CSP). These programs provide our nation's producers and landowners the financial and technical means to protect and enhance natural resources, including water, air, soil and wildlife habitat.

To realize the environmental benefits made possible by this large new investment in conservation, it is essential that farmers, ranchers and landowners receive professional technical assistance to help them plan, design and carry out effective and workable conservation practices in their specific operations. This technical assistance is provided by employees of USDA's Natural Resources Conservation Service and, under the 2002 farm bill, private sector providers.

Because technical assistance is so crucial to the effectiveness of conservation programs, the 2002 farm bill included sufficient money for technical assistance as an integral part of the mandatory funding provided for each of the conservation programs. The legislation requires USDA to use mandatory funds to carry out the conservation programs, "including the provision of technical assistance."

By providing funding in this manner, Congress acted to remedy the substantial and continuing shortfalls in technical assistance for mandatory conservation programs under the 1996 farm bill—which on several occasions necessitated limited stop-gap funding in appropriations measures. These shortfalls resulted from application of a limitation on transfers from the Commodity

Credit Corporation (CCC), often referred to as "the section 11 cap". The only conservation program not affected by this limitation was EQIP. That is because the statutory language creating and funding EQIP specifically identified technical assistance as an integral function of the program, thereby creating a funding stream through the program funds directly and outside the limitation on Section 11 transfers from CCC.

In drafting the 2002 farm bill, Congress was thus fully aware of the recurrent shortages of technical assistance funds which plagued the 1996 farm bill's mandatory conservation programs and the manner in which EQIP technical assistance had been exempted from the limitation on CCC transfers. The wording and structure of the 2002 bill closely track the 1996 bill's EQIP language to specify clearly that technical assistance is an integral part of the bill's mandatory funding for each of the conservation programs, and hence not subject to the limitation on CCC transfers. Further, the 2002 farm bill's statement of managers unmistakably indicates that technical assistance is an integral part of mandatory funding, following the model used for EQIP in the 1996 bill.

We believed that the language in the 2002 farm bill solved the problem by fully funding technical assistance through the mandatory program funds without the limitation on transfers from the CCC. Nevertheless, the administration, through the Office of Management and Budget and the Department of Justice, construed the bill so that all conservation technical assistance fell under the Section 11 cap—even for EQIP. The U.S. General Accounting Office disagreed with the Administration's position and concluded that under the farm bill technical assistance is a part of the mandatory funds for each conservation program and not within the limitation on CCC transfers.

The limitation on technical assistance under the administration's interpretation meant that much of the investment we made in the farm bill conservation programs would go unused for lack of technical assistance to plan for and carry out the conservation practices on the ground. To move beyond the impasse created by the misinterpretation of the farm bill by the administration, Congress added language to the 2003 Consolidated Appropriations Act specifying that certain transfers of funding from the CCC for technical assistance are not subject to the Section 11 cap if the funds come directly from the funds provided for several of the conservation programs.

This was only a partial solution. To limit the budget cost, technical assistance funds for all conservation programs (except CSP) are transferred from the funds provided for a subset of programs, namely EQIP, WHIP, GRP and FRPP, that have annual funding limits in the farm bill. As a result, technical assistance funds for WRP and CRP have been taken from the annual mandatory funds provided for the four dollar-limited programs. This has resulted in a diversion of over $200 million to pay for technical assistance for CRP and WRP that would otherwise have gone directly to agricultural producers and landowners through EQIP, WHIP, CRP and FRPP.

The legislation we are introducing today will take the next step and permanently fix the technical assistance funding problem. It will cure the shortage of technical assistance funding so funds will no longer be taken from EQIP, WHIP, GRP or FRPP to pay for technical assistance for CRP and WRP. And, it will finally restore the original intent of the 2002 farm bill to have technical assistance funding come out of the CCC funding provided for each conservation program.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 436—DESIGNATING THE SECOND SUNDAY IN THE MONTH OF DECEMBER 2004 AS "NATIONAL CHILDREN'S MEMORIAL DAY"

Mr. REID submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 436

Whereas approximately 80,000 infants, children, teenagers, and young adults of families living throughout the United States die each year from myriad causes;

Whereas the death of an infant, child, teenager, or young adult of a family is considered to be one of the greatest tragedies that a parent or family will ever endure during a lifetime;

Whereas a supportive environment, empathy, and understanding are considered critical factors in the healing process of a family that is coping with and recovering from the loss of a loved one; and

Whereas April is National Child Abuse Prevention month: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL CHILDREN'S MEMORIAL DAY.

The Senate—

(1) designates the second Sunday in the month of December 2004 as "National Children's Memorial Day"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe "National Children's Memorial Day" with appropriate ceremonies and activities in remembrance of the many infants, children, teenagers, and young adults of families in the United States who have died.

Mr. REID. Mr. President, I rise today to submit a resolution that would designate the second Sunday in December as "National Children's Memorial Day."

The resolution would set aside this day to remember all the children who die in the United States each year. While I realize the families of these children deal with the grief of their loss every day, I would like to commemorate the lives of these children with a special day as well.

The death of a child is a shattering experience for any family. I have had constituents share their heart-wrenching stories with me about the death of their son or daughter. I have heard heroic stories of kids battling cancer or diabetes, and tragic stories of car accidents and drownings.

Each of these families has had their own experience, but they must all continue with their lives and live with the incredible pain of losing a child. Establishing a day to remember children who passed away will lend encouragement and support to bereaved families as they work through their grief. It is important for these families to know that they are not alone.

SENATE RESOLUTION 437—CELEBRATING THE LIFE OF JOSEPH IRWIN MILLER OF COLUMBUS, INDIANA

Mr. LUGAR (for himself and Mr. BAYH) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 437

Whereas Joseph Irwin Miller devoted his entire life to the welfare of his family, the employees of Cummins, Inc., and his community;

Whereas Joseph Irwin Miller demonstrated his lifelong love of country by serving honorably and courageously in the United States Navy Air Corps during World War II;

Whereas Joseph Irwin Miller's prowess and integrity as a businessman fashioned Cummins, Inc., into a respected industry leader whose unyielding commitment to its employees and community established a superior legacy of excellence and civic stewardship that will endure for years to come;

Whereas Joseph Irwin Miller was instrumental in transforming the place of his birth, Columbus, Indiana, into a thriving center for architecture and the arts;

Whereas Joseph Irwin Miller gave unselfishly his time and treasure to numerous causes and foundations dear to his ideals through his role as trusted advisor and generous philanthropist;

Whereas Joseph Irwin Miller was a respected counselor to leaders at home and abroad, and made immeasurable contributions to the advancement of human rights everywhere; and

Whereas Joseph Irwin Miller will be remembered as a loving husband to his wife Xenia, a devoted father to his 5 children, and a caring grandfather to his 10 grandchildren: Now, therefore, be it

Resolved, That the Senate—

(1) has learned with profound sorrow of the death of Joseph Irwin Miller on August 16, 2004, and extends its condolences to the Miller family, especially his wife Xenia, and his children Margaret, Catherine, Elizabeth, Hugh, and William;

(2) expresses its profound gratitude to Joseph Irwin Miller for the services that he rendered to the United States in the Navy;

(3) recognizes Joseph Irwin Miller's distinguished achievements in industry, his contributions to the world of architecture, his promotion of the arts and humanities, and his advancement of human rights; and

(4) recognizes with respect Joseph Irwin Miller's integrity and guidance as a leader, his treatment of his fellow citizens with grace and humility, and his loyalty, contributions, and service to the City of Columbus, the State of Indiana, and the United States.

SENATE RESOLUTION 438—SUPPORTING THE GOALS AND IDEALS OF NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH AND EXPRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD RAISE AWARENESS OF DOMESTIC VIOLENCE IN THE UNITED STATES AND ITS DEVASTATING EFFECTS ON FAMILIES

Mr. BIDEN (for himself, Mr. HATCH, Mr. KOHL, Mrs. BOXER, Mrs. CLINTON, Ms. STABENOW, Mr. DAYTON, Mr. CORZINE, Mr. JOHNSON, Mr. LAUTENBERG, Mr. CARPER, Mrs. MURRAY, Mr. REID, Mr. WYDEN, Mr. LEAHY, Mr. KYL, Mr. CORNYN, Mr. DASCHLE, Ms. MURKOWSKI, Mr. FEINGOLD, Mr. DURBIN; Ms. CANTWELL, and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 438

Whereas 2004 marks the tenth anniversary of the enactment of the Violence Against Women Act of 1994 (Public Law 103–322, 108 Stat. 1902);

Whereas since the passage of the Violence Against Women Act of 1994, communities have made significant progress in reducing domestic violence such that between 1993 and 2001, the incidents of nonfatal domestic violence fell 49 percent;

Whereas since created by the Violence Against Women Act of 1994, the National Domestic Violence Hotline has answered over 1,000,000 calls;

Whereas States have passed over 660 State laws pertaining to domestic violence, stalking, and sexual assault;

Whereas the Violence Against Women Act of 1994 has helped make strides toward breaking the cycle of violence, but there remains much work to be done;

Whereas domestic violence affects women, men, and children of all racial, social, religious, ethnic, and economic groups in the United States;

Whereas on average, more than 3 women are murdered by their husbands or boyfriends in the United States every day;

Whereas women who have been abused are much more likely to suffer from chronic pain, diabetes, depression, unintended pregnancies, substance abuse, and sexually transmitted infections, including HIV/AIDS;

Whereas only about 10 percent of primary care physicians routinely screen for domestic violence during new patient visits, and 9 percent routinely screen during periodic checkups;

Whereas each year, about 324,000 pregnant women in the United States are battered by the men in their lives, leading to pregnancy complications, including low weight gain, anemia, infections, and first and second trimester bleeding;

Whereas every 2 minutes, someone in the United States is sexually assaulted;

Whereas almost 25 percent of women surveyed had been raped or physically assaulted by a spouse or boyfriend at some point in their lives;

Whereas in 2002 alone, 250,000 women and girls older than the age of 12 were raped or sexually assaulted;

Whereas 1 out of every 12 women has been stalked in her lifetime;

Whereas some cultural norms, economics, language barriers, and limited access to legal services and information may make some immigrant women particularly vulnerable to abuse;

Whereas 1 in 5 adolescent girls in the United States becomes a victim of physical or sexual abuse, or both, in a dating relationship;

Whereas 40 percent of girls ages 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend;

Whereas annually, approximately 8,800,000 children in the United States witness domestic violence;

Whereas witnessing violence is a risk factor for having long-term physical and mental health problems (including substance abuse), being a victim of abuse, and becoming a perpetrator of abuse;

Whereas a boy who witnesses his father's domestic violence is 10 times more likely to engage in domestic violence than a boy from a nonviolent home;

Whereas the cost of domestic violence, including rape, physical assault, and stalking, exceeds $5,800,000,000 each year, of which $4,100,000,000 is spent on direct medical and mental health care services;

Whereas 44 percent of the Nation's mayors identified domestic violence as a primary cause of homelessness;

Whereas 25 to 50 percent of abused women reported they lost a job due, in part, to domestic violence;

Whereas there is a need to increase the public awareness about, and understanding of, domestic violence and the needs of battered women and their children;

Whereas the month of October 2004 has been recognized as National Domestic Violence Awareness Month, a month for activities furthering awareness of domestic violence; and

Whereas the dedication and successes of those working tirelessly to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Domestic Violence Awareness Month; and

(2) expresses the sense of the Senate that Congress should continue to raise awareness of domestic violence in the United States and its devastating impact on families.

SENATE RESOLUTION 439—RECOGNIZING THE CONTRIBUTIONS OF WISCONSIN NATIVE AMERICANS TO THE OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

Mr. FEINGOLD (for himself and Mr. KOHL) submitted the following resolution; which was considered and agreed to:

S. RES. 439

Whereas the National Museum of the American Indian Act (20 U.S.C. 80q et seq.) established within the Smithsonian Institution the National Museum of the American Indian and authorized the construction of a facility to house the National Museum of the American Indian on the National Mall in the District of Columbia;

Whereas the National Museum of the American Indian officially opened on September 21, 2004;

Whereas the National Museum of the American Indian will be the only national museum devoted exclusively to the history and art of cultures indigenous to the Americas, and will give all Americans the opportunity to learn about the cultural legacy, historic grandeur, and contemporary culture of Native Americans, including the tribes that presently and historically occupy the State of Wisconsin;

Whereas the land that comprises the State of Wisconsin has been home to numerous Native American tribes for many years, including 11 federally recognized tribal governments: the Bad River Band of Lake Superior Chippewa Indians, the Forest County Potawatomi Indian Community, the Ho-Chunk Nation of Wisconsin, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, the Menominee Indian Tribe of Wisconsin, the Oneida Tribe of Indians of Wisconsin, the Red Cliff Band of Lake Superior Chippewa Indians, the Sokaogon Chippewa (Mole Lake) Community of Wisconsin, the St. Croix Chippewa Indians of Wisconsin, and the Stockbridge Munsee Community of Wisconsin; and

Whereas members of Native American tribes have greatly contributed to the unique culture and identity of Wisconsin by lending words from their languages to the names of many places in the State and by sharing their customs and beliefs with others who chose to make Wisconsin their home: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the official opening of the National Museum of the American Indian;

(2) recognizes the native people of Wisconsin, and of the entire United States, and their past, present, and future contributions to America's culture, history, and tradition; and

(3) requests that the Senate send an enrolled copy of this resolution to the chairpersons of Wisconsin's federally recognized tribes.

SENATE RESOLUTION 440—DESIGNATING THURSDAY, NOVEMBER 18, 2004, AS "FEED AMERICA THURSDAY"

Mr. HATCH submitted the following resolution; which was considered and agreed to:

S. RES. 440

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which our Nation was founded;

Whereas 33,000,000 Americans, including 13,000,000 children, continue to live in households that do not have an adequate supply of food;

Whereas almost 3,000,000 of those children experience hunger; and

Whereas selfless sacrifice breeds a genuine spirit of Thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

Resolved, That the Senate—

(1) designates Thursday, November 18, 2004, as "Feed America Thursday"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to sacrifice 2 meals on Thursday, November 18, 2004, and to donate the money that they would have spent on food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3709. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA 3710. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3711. Mrs. HUTCHISON (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 2845, supra.

SA 3712. Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Ms. SNOWE, Mr. LAUTENBERG, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3713. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3714. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3715. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3716. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3717. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3718. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3719. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3720. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3721. Mr. VOINOVICH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3722. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3723. Mrs. HUTCHISON (for herself and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3724. Mr. KYL (for himself, Mr. CORNYN, Mr. CHAMBLISS, and Mr. NICKLES) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3725. Mr. INHOFE (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3726. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3727. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3728. Mr. BROWNBACK (for himself and Mr. BAYH) proposed an amendment to the bill H.R. 4011, to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

SA 3729. Mr. FRIST (for Mr. HATCH (for himself and Mr. LEAHY)) submitted an amendment intended to be proposed by Mr. Frist to the bill S. 2742, to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court.

SA 3730. Mr. KYL (for himself, Mr. DOMENICI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 437, to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; which was ordered to lie on the table.

SA 3731. Ms. COLLINS (for Mr. INHOFE (for himself and Mr. JEFFORDS)) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3732. Ms. COLLINS (for Mr. LEVIN (for himself and Ms. COLLINS)) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra.

SA 3733. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3734. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3735. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3736. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3737. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3738. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3739. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3740. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3741. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3742. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3743. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3744. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3745. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3746. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3747. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3748. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3749. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3750. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3751. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3752. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3753. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3754. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3709. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —AIR CARGO SAFETY

SEC. —01. SHORT TITLE.

This title may be cited as the "Air Cargo Security Improvement Act".

SEC. —02. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

"(f) CARGO.—

"(1) In General.—The Under Secretary of Transportation for Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

"(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

"(B) all-cargo aircraft in air transportation and intrastate air transportation.

"(2) Strategic Plan.—The Under Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

"(3) Pilot Program.—The Under Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Under Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.".

SEC. —03. AIR CARGO SHIPPING.

(a) In General.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§44923. Regular inspections of air cargo shipping facilities

"The Under Secretary of Transportation for Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping facilities for cargo transported in air transportation to the United States.".

(b) Additional Inspectors.—The Under Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) Conforming Amendment.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"44923. Regular inspections of air cargo shipping facilities".

SEC. —04. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) In General.—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

"§ 44924. Air cargo security

"(a) Database.—The Under Secretary of Transportation for Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Under Secretary shall use the results of the pilot program to improve the known shipper program.

"(b) Indirect Air Carriers.—

"(1) Random Inspections.—The Under Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

"(2) Ensuring Compliance.—The Under Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

"(3) Notice of Failures.—The Under Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

"(4) Withdrawal of Security Program Approval.—The Under Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Under Secretary if such failure threatens the security of air transportation or commerce. The affected indirect air carrier shall be given notice and the opportunity to correct its noncompliance unless the Under Secretary determines that an emergency exists. Any indirect air carrier that has the approval of its security program amended, modified, suspended, or revoked under this section may appeal the action in accordance with procedures established by the Under Secretary under this title.

"(5) Indirect Air Carrier.—In this subsection, the term 'indirect air carrier' has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

"(c) Consideration of Community Needs.—In implementing air cargo security requirements under this title, the Under Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.".

(b) Assessment of Indirect Air Carrier Program.—The Under Secretary of Transportation for Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 60 days after the date of enactment of this Act. The Under Secretary may submit the report and recommendations in classified form.

(c) Report to Congress on Random Audits.—The Under Secretary of Transportation for Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) Conforming Amendment.—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following:

"44924. Air cargo security".

SEC. —05. TRAINING PROGRAM FOR CARGO HANDLERS.

The Under Secretary of Transportation for Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

SEC. —06. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.

(a) In General.—The Under Secretary of Transportation for Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) Plan Requirements.—The plan shall include provisions for—

(1) security of each carrier's air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Under Secretary.

(c) Confidential Industry Review and Comment.—

(1) Circulation of Proposed Program.—The Under Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) Comment Period.—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Under Secretary not more than 60 days after it was received.

(3) Final Program.—The Under Secretary of Transportation shall issue a final program under subsection (a) not later than 90 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) Suspension of Procedural Norms.—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

SEC. —07. PASSENGER IDENTIFICATION.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Under Secretary of Transportation for Security, in consultation with the Administrator of the Federal Aviation Administration, appropriate law enforcement, security, and terrorism experts, representatives of air carriers and labor organizations representing individuals employed in commercial aviation, shall develop guidelines to provide air carriers guidance for detecting false or fraudulent passenger identification. The guidelines may take into account new technology, current identification measures, training of personnel, and issues related to the types of identification available to the public. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any meeting held pursuant to this subsection.

(b) Air Carrier Programs.—Within 60 days after the Under Secretary issues the guidelines under subsection (a) in final form, the Under Secretary shall provide the guidelines to each air carrier and establish a joint government and industry council to develop recommendations on how to implement the guidelines.

(c) Report.—The Under Secretary of Transportation for Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act on the actions taken under this section.

SEC. —08. PASSENGER IDENTIFICATION VERIFICATION.

(a) Program Required.—The Under Secretary of Transportation for Security may establish and carry out a program to require the installation and use at airports in the United States of the identification verification technologies the Under Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

(b) TECHNOLOGIES EMPLOYED.—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Under Secretary considers appropriate for purposes of the program.

(c) COMMENCEMENT.—If the Under Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.

SA 3710. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, between lines 2 and 3, insert the following:

SEC. 207. UNIFIED COMBATANT COMMAND FOR MILITARY INTELLIGENCE.

(a) IN GENERAL.—Chapter 6 of title 10, United States Code, is amended by inserting after section 167a the following new section:

"§ 167b. Unified combatant command for military intelligence

"(a) ESTABLISHMENT.—(1) With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for military intelligence (hereinafter in this section referred to as the 'military intelligence command').

"(2) The principle functions of the military intelligence command are—

"(A) to coordinate all military intelligence activities;

"(B) to develop new military intelligence collection capabilities; and

"(C) to represent the Department of Defense in the intelligence community under the National Intelligence Director.

"(b) ASSIGNMENT OF FORCES AND CIVILIAN PERSONNEL.—(1) Unless otherwise directed by the Secretary of Defense, all active and reserve military intelligence forces of the armed forces within the elements of the Department of Defense referred to in subsection (i)(2) shall be assigned to the military intelligence command.

"(2) Unless otherwise directed by the Secretary of Defense, the civilian personnel of the elements of the Department of Defense referred to in subsection (i)(2) shall be under the military intelligence command.

"(c) GRADE OF COMMANDER.—The commander of the military intelligence command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed by the President, by and with the consent of the Senate, for service in that position.

"(d) DUTIES OF COMMANDER.—Unless otherwise directed by the President or the Secretary of Defense, the commander of the military intelligence command shall—

"(1) carry out intelligence collection and analysis activities in response to requests from the National Intelligence Director; and

"(2) serve as the principle advisor to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the National Intelligence Director on all matters relating to military intelligence.

"(e) AUTHORITY OF COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, all affairs of the command relating to military intelligence activities.

"(2) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, the following functions relating to military intelligence activities:

"(A) Developing strategy, doctrine, and tactics.

"(B) Preparing and submitting to the Secretary of Defense and the National Intelligence Director recommendations and budget proposals for military intelligence forces and activities.

"(C) Exercising authority, direction, and control over the expenditure of funds for personnel and activities assigned to the command.

"(D) Training military and civilian personnel assigned to or under the command.

"(E) Conducting specialized courses of instruction for military and civilian personnel assigned to or under the command.

"(F) Validating requirements.

"(G) Establishing priorities for military intelligence in harmony with national priorities established by the National Intelligence Director and approved by the President.

"(H) Ensuring the interoperability of intelligence sharing within the Department of Defense and within the intelligence community as a whole, as directed by the National Intelligence Director.

"(I) Formulating and submitting requirements to other commanders of the unified combatant commands to support military intelligence activities.

"(J) Recommending to the Secretary of Defense individuals to head the components of the command.

"(3) The commander of the military intelligence command shall be responsible for—

"(A) ensuring that the military intelligence requirements of the other unified combatant commanders are satisfied; and

"(B) responding to intelligence requirements levied by the National Intelligence Director.

"(4)(A) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct the development and acquisition of specialized technical intelligence capabilities.

"(B) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out the function under subparagraph (A), shall have authority to exercise the functions of the head of an agency under chapter 137 of this title.

"(f) INSPECTOR GENERAL.—The staff of the commander of the military intelligence command shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the command and such other inspector general functions as may be assigned.

"(g) BUDGET MATTERS.—(1) The commander of the military intelligence command shall, with guidance from the National Intelligence Director, prepare the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities program that are presented by the Secretary of Defense to the President.

"(2) In addition to the activities of a combatant commander for which funding may be requested under section 166(b) of this title, the budget proposal for the military intelligence command shall include requests for funding for—

"(A) development and acquisition of military intelligence collection systems; and

"(B) acquisition of other material, supplies, or services that are peculiar to military intelligence activities.

"(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the military intelligence command. The regulations shall include authorization for the commander of the command to provide for operational security of military intelligence forces, civilian personnel, and activities.

"(i) IDENTIFICATION OF MILITARY INTELLIGENCE FORCES.—(1) For purposes of this section, military intelligence forces are the following:

"(A) The forces of the elements of the Department of Defense referred to in paragraph (2) that carry out military intelligence activities.

"(B) Any other forces of the armed forces that are designated as military intelligence forces by the Secretary of Defense.

"(2) The elements of the Department of Defense referred to in this paragraph are as follows:

"(A) The Defense Intelligence Agency.

"(B) The National Security Agency.

"(C) The National Geospatial-Intelligence Agency.

"(D) The National Reconnaissance Office.

"(E) Any intelligence activities or units of the military departments designated by the Secretary of Defense for purposes of this section.

"(j) MILITARY INTELLIGENCE ACTIVITIES.—For purposes of this section, military intelligence activities include each of the following insofar as it relates to military intelligence:

"(1) Intelligence collection.

"(2) Intelligence analysis.

"(3) Intelligence information management.

"(4) Intelligence workforce planning.

"(5) Such other activities as may be specified by the President or the Secretary of Defense.".

"(k) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term 'intelligence community' means the elements of the intelligence community listed or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 167a the following new item:

"167b. Unified combatant command for military intelligence.".

SA 3711. Mrs. HUTCHISON (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —AIR CARGO SAFETY

SEC. —01. SHORT TITLE.

This title may be cited as the "Air Cargo Security Improvement Act".

SEC. —02. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

"(f) Cargo.—

"(1) In general.—The Secretary of Homeland Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

"(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

"(B) all-cargo aircraft in air transportation and intrastate air transportation.

"(2) Strategic plan.—The Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

"(3) Pilot program.—The Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.".

SEC. —03. AIR CARGO SHIPPING.

(a) In General.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§44925. Regular inspections of air cargo shipping facilities

"The Secretary of Homeland Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping facilities for cargo transported in air transportation to the United States.".

(b) Additional Inspectors.—The Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) Conforming Amendment.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"44925. Regular inspections of air cargo shipping facilities".

SEC. —04. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) In General.—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

"§ 44926. Air cargo security

"(a) Database.—The Secretary of Homeland Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Secretary shall use the results of the pilot program to improve the known shipper program.

"(b) Indirect air carriers.—

"(1) Random inspections.—The Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

"(2) Ensuring compliance.—The Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

"(3) Notice of failures.—The Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

"(4) Withdrawal of security program approval.—The Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Secretary if such failure threatens the security of air transportation or commerce. The affected indirect air carrier shall be given notice and the opportunity to correct its noncompliance unless the Secretary determines that an emergency exists. Any indirect air carrier that has the approval of its security program amended, modified, suspended, or revoked under this section may appeal the action in accordance with procedures established by the Secretary under this title.

"(5) Indirect air carrier.—In this subsection, the term 'indirect air carrier' has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

"(c) Consideration of Community Needs.—In implementing air cargo security requirements under this title, the Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.".

(b) Assessment of Indirect Air Carrier Program.—The Secretary of Homeland Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 60 days after the date of enactment of this Act. The Secretary may submit the report and recommendations in classified form.

(c) Report to Congress on Random Audits.—The Secretary of Homeland Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) Conforming Amendment.—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following:

"44926. Air cargo security".

SEC. —05. TRAINING PROGRAM FOR CARGO HANDLERS.

The Secretary of Homeland Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

SEC. —06. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.

(a) In General.—The Secretary of Homeland Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) Plan Requirements.—The plan shall include provisions for—

(1) security of each carrier's air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Secretary.

(c) Confidential Industry Review and Comment.—

(1) Circulation of proposed program.—The Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) Comment period.—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Secretary not more than 60 days after it was received.

(3) Final program.—The Secretary of Homeland Security shall issue a final program under subsection (a) not later than 90 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) Suspension of procedural norms.—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

SEC. —07. PASSENGER IDENTIFICATION VERIFICATION.

(a) Program Required.—The Secretary of Homeland Security may establish and carry out a program to require the installation and use at airports in the United States of the identification verification technologies the Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

(b) Technologies Employed.—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Secretary considers appropriate for purposes of the program.

(c) Commencement.—If the Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.

SA 3712. Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Ms. SNOWE, Mr. LAUTENBERG, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —AVIATION SECURITY

SEC. 01. IMPROVED PILOT LICENSES.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Aviation Administrator shall develop a system for the issuance of any pilot's license issued more than 180 days after the date of enactment of this Act that—

(1) are resistant to tampering, alteration, and counterfeiting;

(2) include a photograph of the individual to whom the license is issued; and

(3) are capable of accommodating a digital photograph, a biometric measure, or other unique identifier that provides a means of—

(A) ensuring its validity; and

(B) revealing whether any component or security feature of the license has been compromised.

(b) USE OF DESIGNEES.—The Administrator of the Federal Aviation Administration shall use designees to carry out subsection (a) to the extent feasible in order to minimize the burden of such requirements on pilots.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator for fiscal year 2005, $50,000,000 to carry out subsection (a).

SEC. 02. AIRCRAFT CHARTER CUSTOMER SCREENING.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall implement a procedure under which—

(1) any person engaged in the business of chartering fixed wing or rotary aircraft to the public may contact the Transportation Security Administration before permitting passengers to board the aircraft for the first time;

(2) the Transportation Security Administration immediately will compare information about the individual seeking to charter an aircraft and any passengers proposed to be transported onboard the aircraft with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(3) control of the aircraft will not be relinquished if the Transportation Security Agency determines that such individual, pilot, or passenger is identified as a flight security or terrorism risk.

(b) PRIVACY SAFEGUARDS.—Under the procedure, the Secretary shall ensure that—

(1) the person required to compare the information will not be given any information about the individual whose name is being checked other than whether permission to charter the aircraft is granted or denied; and

(2) an individual denied access to an aircraft under the procedure is given an opportunity to consult the Transportation Security Agency immediately, or as expeditiously as practicable, for the purpose of correcting mis-identification errors, resolving confusion resulting from names that are the same as or similar to names on the list, or addressing other erroneous information that may have resulted in the denial.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out the provisions of this section.

SEC. 03. AIRCRAFT RENTAL CUSTOMER SCREENING.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall implement a procedure under which—

(1) any person engaged in the business of renting fixed wing or rotary aircraft to the public may contact the Transportation Security Administration before permitting an individual seeking to rent an aircraft to have access to the aircraft for the first time;

(2) the Transportation Security Administration immediately will compare information about the individual seeking to rent the aircraft with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(3) the individual will not be permitted to take control of the aircraft if the Transportation Security Agency determines that the individual is a flight security or terrorism risk.

(b) PILOT PROGRAM.—Before fully implementing the program under subsection (a), the Secretary shall test the program through a demonstration project.

(c) PRIVACY SAFEGUARDS.—Under the procedure, the Secretary shall ensure that—

(1) the person required to compare the information will not be given any information about the individual whose name is being checked other than whether permission to rent the aircraft is granted or denied; and

(2) an individual denied access to an aircraft under the procedure is given an opportunity to consult the Transportation Security Agency immediately, or as expeditiously as practicable, for the purpose of correcting mis-identification errors, resolving confusion resulting from names that are the same as or similar to names on the list, or addressing other erroneous information that may have resulted in the denial.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out the provisions of this section.

SEC. 04. AVIATION SECURITY STAFFING.

(a) STAFFING LEVEL STANDARDS.—

(1) DEVELOPMENT OF STANDARDS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation and Federal Security Directors, shall develop standards for determining the appropriate aviation security staffing standards for all commercial airports in the United States necessary—

(A) to provide necessary levels of aviation security; and

(B) to ensure that the average aviation security-related delay experienced by airline passengers is minimized.

(2) GAO ANALYSIS.—The Comptroller General shall, as soon as practicable after the date on which the Secretary of Homeland Security has developed standards under paragraph (1), conduct an expedited analysis of the standards for effectiveness, administrability, ease of compliance, and consistency with the requirements of existing law.

(3) REPORT TO CONGRESS.—Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security and the Comptroller General shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the standards developed under paragraph (1), together with recommendations for further improving the efficiency and effectiveness of the screening process.

(b) INTEGRATION OF FEDERAL AIRPORT WORKFORCE AND AVIATION SECURITY.—The Secretary of Homeland Security shall conduct a study of the feasibility of combining operations of Federal employees involved in screening at commercial airports and aviation security related functions under the aegis of the Department of Homeland Security in order to coordinate security-related activities, increase the efficiency and effectiveness of those activities, and increase commercial air transportation security.

SEC. 05. IMPROVED AIR CARGO AND AIRPORT SECURITY.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the purpose of improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft—

(1) $200,000,000 for fiscal year 2005;

(2) $200,000,000 for fiscal year 2006; and

(3) $200,000,000 for fiscal year 2007.

(b) NEXT-GENERATION CARGO SECURITY GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and carry out a grant program to facilitate the development, testing, purchase, and deployment of next-generation air cargo security technology. The Secretary shall establish such eligibility criteria, establish such application and administrative procedures, and provide for such matching funding requirements, if any, as may be necessary and appropriate to ensure that the technology is deployed as fully and as rapidly as practicable.

(2) RESEARCH AND DEVELOPMENT; DEPLOYMENT.—To carry out paragraph (1), there are authorized to be appropriated to the Secretary for research and development related to next-generation air cargo security technology as well as for deployment and installation of next-generation air cargo security technology, such sums are to remain available until expended—

(A) $100,000,000 for fiscal year 2005;

(B) $100,000,000 for fiscal year 2006; and

(C) $100,000,000 for fiscal year 2007.

(c) AUTHORIZATION FOR EXPIRING AND NEW LOIS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary $150,000,000 for each of fiscal years 2005 through 2007 to fund projects and activities for which letters of intent are issued under section 44923 of title 49, United States Code, after the date of enactment of this Act.

(2) PERIOD OF REIMBURSEMENT.—Notwithstanding any other provision of law, the Secretary may provide that the period of reimbursement under any letter of intent may extend for a period not to exceed 10 years after the date that the Secretary issues such letter, subject to the availability of appropriations. This paragraph applies to letters of intent issued under section 44923 of title 49, United States Code, or section 367 of the Department of Transportation and Related Agencies Appropriation Act, 2003 (49 U.S.C. 47110 note).

(d) REPORTS.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

(1) the progress being made toward, and the status of, deployment and installation of

next-generation air cargo security technology under subsection (b); and

(2) the amount and purpose of grants under subsection (b) and the locations of projects funded by such grants.

SEC. 06. AIR CARGO SECURITY MEASURES.

(a) ENHANCEMENT OF AIR CARGO SECURITY.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop and implement a plan to enhance air cargo security at airports for commercial passenger and cargo aircraft that incorporates the recommendations made by the Cargo Security Working Group of the Aviation Security Advisory Committee.

(b) SUPPLY CHAIN SECURITY.—The Administrator of the Transportation Security Administration shall—

(1) promulgate regulations requiring the evaluation of indirect air carriers and ground handling agents, including background checks and checks against all Administration watch lists; and

(2) evaluate the potential efficacy of increased use of canine detection teams to inspect air cargo on passenger and all-cargo aircraft.

(c) INCREASED CARGO INSPECTIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall require that the volume of property screened or inspected is at least two-fold the volume that is screened or inspected on the date of enactment of this Act. For purposes of the preceding sentence, the term "property" means mail, cargo, and other articles carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation.

(c) ALL-CARGO AIRCRAFT SECURITY.—Subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

"§ 44925. All-cargo aircraft security

"(a) ACCESS TO FLIGHT DECK.—Within 180 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall—

"(1) issue an order (without regard to the provisions of chapter 5 of title 5)—

"(A) requiring, to the extent consistent with engineering and safety standards, that all cargo aircraft operators engaged in air transportation or intrastate air transportation maintain a barrier, which may include the use of a hardened cockpit door, between the aircraft flight deck and the aircraft cargo compartment sufficient to prevent unauthorized access to the flight deck from the cargo compartment, in accordance with the terms of a plan presented to and accepted by the Administrator of the Transportation Security Administration in consultation with the Federal Aviation Administrator; and

"(B) prohibiting the possession of a key to a flight deck door by any member of the flight crew who is not assigned to the flight deck; and

"(2) take such other action, including modification of safety and security procedures and flight deck redesign, as may be necessary to ensure the safety and security of the flight deck.

"(b) SCREENING AND OTHER MEASURES.—Within 1 year after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall issue an order (without regard to the provisions of chapter 5 of title 5) requiring—

"(1) all-cargo aircraft operators engaged in air transportation or intrastate air transportation to physically screen each person, and that person's baggage and personal effects, to be transported on an all-cargo aircraft engaged in air transportation or intrastate air transportation;

"(2) each such aircraft to be physically searched before the first leg of the first flight of the aircraft each day, or, for inbound international operations, at aircraft operator's option prior to the departure of any such flight for a point in the United States; and

"(3) each such aircraft that is unattended overnight to be secured or sealed or to have access stairs, if any, removed from the aircraft.

"(c) ALTERNATIVE MEASURES.—The Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, may authorize alternative means of compliance with any requirement imposed under this section.".

(d) CONFORMING AMENDMENT.—The subchapter analysis for subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

"44925. All-cargo aircraft security.".

SEC. 07. EXPLOSIVE DETECTION SYSTEMS.

(a) IN-LINE PLACEMENT OF EXPLOSIVE-DETECTION EQUIPMENT.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish a schedule for replacing trace-detection equipment used for in-line baggage screening purposes as soon as practicable where appropriate with explosive detection system equipment. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure of the schedule and provide an estimate of the impact of replacing such equipment, facility modification and baggage conveyor placement, on aviation security-related staffing needs and levels.

(b) NEXT GENERATION EDS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $100,000,000, in addition to any amounts otherwise authorized by law, for the purpose of research and development of next generation explosive detection systems for aviation security under section 44913 of title 49, United States Code. The Secretary shall develop a plan and guidelines for implementing improved explosive detection system equipment.

(c) PORTAL DETECTION SYSTEMS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $250,000,000, in addition to any amounts otherwise authorized by law, for research and development and installation of portal detection systems or similar devices for the detection of biological, radiological, and explosive materials. The Secretary of Homeland Security shall establish a pilot program at not more than 10 commercial service airports to evaluate the use of such systems.

(d) REPORTS.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on research and development projects funded under subsection (b) or (c), and the pilot program established under subsection (c), including cost estimates for each phase of such projects and total project costs.

SEC. 08. AIR MARSHAL PROGRAM.

(a) CROSS-TRAINING.—The Secretary of Homeland Security shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the potential for cross-training of individuals who serve as air marshals and on the need for providing contingency funding for air marshal operations.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the deployment of Federal Air Marshals under section 44917 of title 49, United States Code, $83,000,000 for the 3 fiscal year period beginning with fiscal year 2005, such sums to remain available until expended.

SEC. 09. TSA-RELATED BAGGAGE CLAIM ISSUES STUDY.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the present system for addressing lost, stolen, damaged, or pilfered baggage claims relating to air transportation security screening procedures. The report shall include—

(1) information concerning the time it takes to settle such claims under the present system,

(2) a comparison and analysis of the number, frequency, and nature of such claims before and after enactment of the Aviation and Transportation Security Act using data provided by the major United States airlines; and

(3) recommendations on how to improve the involvement and participation of the airlines in the baggage screening and handling processes and better coordinate the activities of Federal baggage screeners with airline operations.

SEC. 10. REPORT ON IMPLEMENTATION OF GAO HOMELAND SECURITY INFORMATION SHARING RECOMMENDATIONS.

Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the heads of Federal departments and agencies concerned, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on implementation of recommendations contained in the General Accounting Office's report titled "Homeland Security: Efforts To Improve Information Sharing Need To Be Strengthened" (GAO-03-760), August, 2003.

SEC. 11. AVIATION SECURITY RESEARCH AND DEVELOPMENT.

(a) BIOMETRICS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $20,000,000, in addition to any amounts otherwise authorized by law, for research and development of biometric technology applications to aviation security.

(b) BIOMETRICS CENTERS OF EXCELLENCE.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $1,000,000, in addition to any amounts otherwise authorized by law, for the establishment of competitive centers of excellence at the national laboratories.

SEC. 12. PERIMETER ACCESS TECHNOLOGY.

There are authorized to be appropriated to the Secretary of Homeland Security $100,000,000 for airport perimeter security technology, fencing, security contracts, vehicle tagging, and other perimeter security related operations, facilities, and equipment, such sums to remain available until expended.

SEC. 13. BEREAVEMENT FARES.

(a) In General.—Chapter 415 of title 49, United States Code, is amended by adding at the end the following:

"§ 41512. Bereavement fares.

"Air carriers shall offer, with appropriate documentation, bereavement fares to the public for air transportation in connection with the death of a relative or other relationship (as determined by the air carrier) and shall make such fares available, to the greatest extent practicable, at the lowest fare offered by the air carrier for the flight for which the bereavement fare is requested."

(b) Conforming Amendment.—The chapter analysis for chapter 415 is amended by inserting after the item relating to section 41511 the following:

"41512. Bereavement fares".

SEC. 14. REVIEW AND REVISION OF PROHIBITED ITEMS LIST.

Not later than 60 days after the date of enactment of this Act, the Transportation Security Administration shall complete a review of its Prohibited Items List, set forth in 49 C.F.R. 1540, and release a revised rule that—

(1) prohibits passengers from carrying butane lighters onboard passenger aircraft; and

(2) modifies the Prohibited Items List in such other ways as the agency may deem appropriate.

SEC. 15. REPORT ON PROTECTING COMMERCIAL AIRCRAFT FROM THE THREAT OF MAN-PORTABLE AIR DEFENSE SYSTEMS.

(a) Requirement.—The Secretary of Homeland Security, in coordination with the head of the Transportation Security Administration and the Under Secretary for Science and Technology, shall prepare a report on protecting commercial aircraft from the threat of man-portable air defense systems (referred to in this section as "MANPADS") .

(b) Content.—The report required by subsection (a) shall include the following:

(1) An estimate of the number of organizations, including terrorist organizations, that have access to MANPADS and a description of the risk posed by each organization.

(2) A description of the programs carried out by the Secretary of Homeland Security to protect commercial aircraft from the threat posed by MANPADS.

(3) An assessment of the effectiveness and feasibility of the systems to protect commercial aircraft under consideration by the Under Secretary for Science and Technology for use in phase II of the counter-MANPADS development and demonstration program.

(4) A justification for the schedule of the implementation of phase II of the counter-MANPADS development and demonstration program.

(5) An assessment of the effectiveness of other technology that could be employed on commercial aircraft to address the threat posed by MANPADS, including such technology that is—

(A) either active or passive;

(B) employed by the Armed Forces; or

(C) being assessed or employed by other countries.

(6) An assessment of alternate technological approaches to address such threat, including ground-based systems.

(7) A discussion of issues related to any contractor liability associated with the installation or use of technology or systems on commercial aircraft to address such threat.

(8) A description of the strategies that the Secretary may employ to acquire any technology or systems selected for use on commercial aircraft at the conclusion of phase II of the counter-MANPADS development and demonstration program, including—

(A) a schedule for purchasing and installing such technology or systems on commercial aircraft; and

(B) a description of—

(i) the priority in which commercial aircraft will be equipped with such technology or systems;

(ii) any efforts to coordinate the schedules for installing such technology or system with private airlines;

(iii) any efforts to ensure that aircraft manufacturers integrate such technology or systems into new aircraft; and

(iv) the cost to operate and support such technology or systems on a commercial aircraft.

(9) A description of the plan to expedite the use of technology or systems on commercial aircraft to address the threat posed by MANPADS if intelligence or events indicate that the schedule for the use of such technology or systems, including the schedule for carrying out development and demonstration programs by the Secretary, should be expedited.

(10) A description of the efforts of the Secretary to survey and identify the areas at domestic and foreign airports where commercial aircraft are most vulnerable to attack by MANPADS.

(11) A description of the cooperation between the Secretary and the Administrator of the Federal Aviation Administration to certify the airworthiness and safety of technology and systems to protect commercial aircraft from the risk posed by MANPADS in an expeditious manner.

(c) Transmission to Congress.—The report required by subsection (a) shall be transmitted to Congress along with the budget for fiscal year 2006 submitted by the President pursuant to section 1105(a) of title 31, United States Code.

SEC. 16. SCREENING DEVICES TO DETECT CHEMICAL AND PLASTIC EXPLOSIVES.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a report on the current status of efforts, and the additional needs, regarding passenger and carry-on baggage screening equipment at United States airports to detect chemical and plastic explosives. The report shall include the cost of and timetable for installing such equipment and any recommended legislative actions.

SEC. 17. REPORTS ON THE FEDERAL AIR MARSHALS PROGRAM.

Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a classified report on the number of individuals serving as Federal air marshals. Such report shall include the number of Federal air marshals who are women, minorities, or employees of departments or agencies of the United States Government other than the Department of Homeland Security, the percentage of domestic and international flights that have a Federal air marshal aboard, and the rate at which individuals are leaving service as Federal air marshals.

SEC. 18. SECURITY OF AIR MARSHAL IDENTITY.

(a) In General.—The Secretary of the Department of Homeland Security shall designate individuals and parties to whom Federal air marshals shall be required to identify themselves.

(b) Prohibition.—Notwithstanding any other provision of law, no procedure, guideline, rule, regulation, or other policy shall expose the identity of an air marshal to anyone other than those designated by the Secretary under subsection (a).

SEC. 19. SECURITY MONITORING CAMERAS FOR AIRPORT BAGGAGE HANDLING AREAS.

(a) In General.—The Under Secretary of Homeland Security for Border Transportation and Security shall provide assistance to public airports that have baggage handling areas that are not open to public view in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2005 such sums as may be necessary to carry out this section, such sums to remain available until expended.

SEC. 20. EFFECTIVE DATE.

This title takes effect on the date of enactment of this Act.

SA. 3713. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. Collins (for herself, Mr. Carper, and Mr. Lieberman) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 13 after line 9, insert the following:

"(a) In General.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:"

SA 3714. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, strike lines 1 through 10 and insert the following:

(6) The Officer for Civil Rights and Civil Liberties of the Intelligence Community.

(7) The Privacy Officer of the Intelligence Community.

(8) The Chief Information Officer of the Intelligence Community.

(9) The Chief Human Capital Officer of the Intelligence Community.

(10) The Chief Financial Officer of the Intelligence Community.

On page 52, strike line 21 and all that follows through page 53, line 7, and insert the following:

SEC. 126. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF THE INTELLIGENCE COMMUNITY.

(a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF INTELLIGENCE COMMUNITY.—There is an Officer for Civil Rights and Civil Liberties of the Intelligence Community who shall be appointed by the President.

(b) SUPERVISION.—The Officer for Civil Rights and Civil Liberties of the Intelligence Community shall report directly to the National Intelligence Director.

(c) DUTIES.—The Officer for Civil Rights and Civil Liberties of the Intelligence Community shall—

On page 53, beginning on line 14, strike "National Intelligence Authority;" and insert "elements of the intelligence community; and".

On page 53, beginning on line 18, strike "within the National Intelligence Program".

On page 53, strike lines 20 through 24.

On page 54, line 1, strike "the Authority" and insert "the elements of the intelligence community".

On page 54, line 11, strike "the Authority" and insert "the elements of the intelligence community".

On page 55, strike lines 1 through 15 and insert the following:

SEC. 127. PRIVACY OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) PRIVACY OFFICER OF INTELLIGENCE COMMUNITY.—There is a Privacy Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—(1) The Privacy Officer of the Intelligence Community shall have primary responsibility for the privacy policy of the intelligence community, including in the relationships among the elements of the intelligence community.

On page 56, strike lines 9 through 16 and insert the following:

SEC. 128. CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF INFORMATION OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Information Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Information Officer of the Intelligence Community shall—

On page 57, strike line 1 and all that follows through page 59, line 7, and insert the following:

SEC. 129. CHIEF HUMAN CAPITAL OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF HUMAN CAPITAL OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Human Capital Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Human Capital Officer of the Intelligence Community shall—

(1) have the functions and authorities provided for Chief Human Capital Officers under sections 1401 and 1402 of title 5, United States Code, with respect to the elements of the intelligence community; and

(2) otherwise advise and assist the National Intelligence Director in exercising the authorities and responsibilities of the Director with respect to the workforce of the intelligence community.

SEC. 130. CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF FINANCIAL OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Financial Officer of the Intelligence Community who shall be designated by the President, in consultation with the National Intelligence Director.

(b) DESIGNATION REQUIREMENTS.—The designation of an individual as Chief Financial Officer of the Intelligence Community shall be subject to applicable provisions of section 901(a) of title 31, United States Code.

(c) AUTHORITIES AND FUNCTIONS.—The Chief Financial Officer of the Intelligence Community shall have such authorities, and carry out such functions, with respect to the elements of the intelligence community as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law.

(d) COORDINATION WITH NIA COMPTROLLER.—(1) The Chief Financial Officer of the Intelligence Community shall coordinate with the Comptroller of the National Intelligence Authority in exercising the authorities and performing the functions provided for the Chief Financial Officer under this section.

(2) The National Intelligence Director shall take such actions as are necessary to prevent duplication of effort by the Chief Financial Officer of the Intelligence Community and the Comptroller of the National Intelligence Authority.

(e) INTEGRATION OF FINANCIAL SYSTEMS.—Subject to the supervision, direction, and control of the National Intelligence Director, the Chief Financial Officer of the Intelligence Community shall take appropriate actions to ensure the timely and effective integration of the financial systems of the elements of the intelligence community as soon as possible after the date of the enactment of this Act.

On page 60, strike lines 5 through 13 and insert the following:

SEC. 141. INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.

(a) OFFICE OF INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—There is within the National Intelligence Authority an Office of the Inspector General of the Intelligence Community.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the Intelligence Community is to—

On page 60, line 19, insert "and" at the end.

On page 60, line 22, strike "and" at the end.

On page 60, strike line 23 and all that follows through page 61, line 2.

On page 62, strike lines 1 through 7 and insert the following:

(c) INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

On page 62, beginning on line 12 strike "National Intelligence Authority" and insert "intelligence community".

On page 63, beginning on line 2, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 63, beginning on line 8, strike ", the relationships among" and all that follows through "the other elements of the intelligence community" and insert "and the relationships among the elements of the intelligence community".

On page 64, line 11, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 65, line 7, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 65, beginning on line 12, strike "the National Intelligence Authority, and of any other element of the intelligence community within the National Intelligence Program," and insert "any element of the intelligence community".

On page 66, line 2, strike "the National Intelligence Authority" and insert "an element of the intelligence community".

On page 67, beginning on line 9, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 68, line 9, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 69, line 3, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 69, line 22, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 70, line 1, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 70, beginning on line 12, strike "National Intelligence Authority" and insert "elements of the intelligence community".

On page 71, beginning on line 16, strike "the Authority" and insert "any element of the intelligence community".

On page 72, beginning on line 3, strike "the Authority" and all that follows through line 8 and insert "an element of the intelligence community or in a relationship between the elements of the intelligence community.".

On page 72, beginning on line 21, strike "Authority official who holds or held a position in the Authority" and insert "an official of an element of the intelligence community who holds or held in such element a position".

On page 73, strike line 24 and all that follows through page 74, line 5, and insert the following:

(5)(A) An employee of an element of the intelligence community, an employee of any entity other than an element of the intelligence community who is assigned or detailed to an element of the intelligence community, or an employee of a contractor of an element of the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

On page 77, beginning on line 17, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 77, strike line 19 and all that follows through page 78, line 2, and insert the following:

SEC. 142. OMBUDSMAN OF THE INTELLIGENCE COMMUNITY.

(a) OMBUDSMAN OF INTELLIGENCE COMMUNITY.—There is within the National Intelligence Authority an Ombudsman of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Ombudsman of the Intelligence Community shall—

On page 78, beginning on line 6, strike "the National Intelligence Authority" and all that follows through "National Intelligence Program," and insert "any element of the intelligence community".

On page 78, beginning on line 14, strike "the Authority" and all that follows through "National Intelligence Program," and insert "any element of the intelligence community".

On page 78, beginning on line 20, strike "the Authority" and all that follows through "National Intelligence Program," and insert "any element of the intelligence community".

On page 79, beginning on line 4, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 79, line 7, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 79, strike lines 18 through 25 and insert the following:

(B) The elements of the intelligence community, including the divisions, offices, programs, officers, and employees of such elements.

On page 80, line 8, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 80, beginning on line 14, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 80, beginning on line 20, strike "the National Intelligence Authority" and all that follows through "National Intelligence Program," and insert "any element of the intelligence community".

On page 81, beginning on line 9, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 204, strike lines 1 through 3 and insert the following:

SEC. 312. CONFORMING AMENDMENT RELATING TO CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.

SA 3715. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 46, strike lines 6 through 10.

SA 3716. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, line 22, strike "and" at the end.

On page 11, between lines 22 and 23, insert the following:

(5) to such officials of State and local governments having homeland security responsibilities as the President shall direct; and

On page 11, line 23, strike "(5)" and insert "(6)".

SA 3717. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike lines 8 through 11 and insert the following:

(c) Personnel Strength Level.—Congress shall authorize the personnel strength level for the National Intelligence Reserve Corps for each fiscal year.

SA 3718. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, line 4, insert "foreign intelligence" after "means".

On page 4, strike lines 5 through 16 and insert the following:

(2) The term "foreign intelligence" means information gathered, and activities conducted, relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term "counterintelligence" means—

(A) foreign intelligence gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities; and

(B) information gathered, and activities conducted, to prevent the interference by or disruption of foreign intelligence activities of the United States by foreign government or elements thereof, foreign organizations, or foreign persons, or international terrorists.

On page 6, line 12, strike "counterintelligence or".

On page 7, beginning on line 5, strike "the Office of Intelligence of the Federal Bureau of Investigation" and insert "the Directorate of Intelligence of the Federal Bureau of Investigation".

On page 8, between lines 6 and 7, insert the following:

(8) The term "counterespionage" means counterintelligence designed to detect, destroy, neutralize, exploit, or prevent espionage activities though identification, penetration, deception, and prosecution (in accordance with the criminal law) of individuals, groups, or organizations conducting, or suspected of conducting, espionage activities.

(9) The term "intelligence operation" means activities conducted to facilitate the gathering of foreign intelligence or the conduct of covert action (as that term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(10) The term "collection and analysis requirements" means any subject, whether general or specific, upon which there is a need for the collection of intelligence information or the production of intelligence.

(11) The term "collection and analysis tasking" means the assignment or direction of an individual or activity to perform in a specified way to achieve an intelligence objective or goal.

(12) The term "certified intelligence officer" means a professional employee of an element of the intelligence community engaged in intelligence activities who meets standards and qualifications set by the National Intelligence Director.

On page 120, beginning on line 17, strike ", subject to the direction and control of the President,".

On page 123, between lines 6 and 7, insert the following:

(e) Discharge of Improvements.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official as the Director of the Federal Bureau of Investigation designates as the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint direction, supervision, and control of the Attorney General and the National Intelligence Director.

(3) The Director of the Federal Bureau of Investigation shall report to both the Attorney General and the National Intelligence Director regarding the activities of the Federal Bureau of Investigation under subsections (b) through (d).

On page 123, line 7, strike "(e)" and insert "(f)".

On page 123, line 17, strike "(f)" and insert "(g)".

On page 126, between lines 20 and 21, insert the following:

SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) Directorate of Intelligence of Federal Bureau of Investigation.—The element of the Federal Bureau of Investigation known as of the date of the enactment of this Act is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) Head of Directorate.—The head of the Directorate of Intelligence shall be the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official within the Federal Bureau of Investigation as the Director of the Federal Bureau of Investigation shall designate.

(c) Responsibilities.—The Directorate of Intelligence shall be responsible for the following:

(1) The discharge by the Federal Bureau of Investigation of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403–5b).

(3) The oversight of Bureau field intelligence operations.

(4) Human source development and management by the Bureau.

(5) Collection by the Bureau against nationally-determined intelligence requirements.

(6) Language services.

(7) Strategic analysis.

(8) Intelligence program and budget management.

(9) The intelligence workforce.

(10) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) Staff.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

SA 3719. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 23, insert "tactical military" before "intelligence".

On page 8, between lines 6 and 7, insert the following:

(8) The term "tactical military intelligence" means foreign intelligence produced by an element of the Department of Defense and intended primarily to be responsive to the needs of military commanders in the field to maintain the readiness of operating forces for combat operations and to support the planning and conduct of combat operations.

On page 13, line 9, strike "military intelligence" and insert "tactical military intelligence".

On page 21, beginning on line 20, strike "military intelligence" and insert "tactical military intelligence".

On page 52, line 14, strike "military intelligence" and insert "tactical military intelligence".

SA 3720. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, between lines 8 and 9, insert the following:

SEC. 153. NATIONAL INTELLIGENCE UNIVERSITY.

(a) NATIONAL INTELLIGENCE UNIVERSITY.—The National Intelligence Director shall establish within the intelligence community an institution of higher education to be known as the National Intelligence University.

(b) PURPOSE.—The purpose of the National Intelligence University shall be to provide such higher education and training in matters relating to intelligence for personnel of the elements of the intelligence community as the National Intelligence Director shall prescribe.

(c) COMPONENT INSTITUTIONS.—The National Intelligence University shall consist of such component institutions as the National Intelligence Director shall prescribe.

(d) AUTHORITY TO AWARD DEGREES.—Each component institution of the National Intelligence University shall be authorized, upon the recommendation of the faculty of such institution, to award a degree in such fields as the National Intelligence Director shall prescribe to graduates of such institution who have fulfilled the requirements for such a degree.

(e) MODEL.—(1) In establishing the National Intelligence University, the National Intelligence Director shall adapt for use in the National Intelligence University such mechanisms and requirements with respect to the National Defense University under chapter 108 of title 10, United States Code, as the Director considers appropriate.

(2) The Director shall consult with the Secretary of Defense regarding the adaptation to the National Intelligence University of mechanisms and requirements of the National Defense University under paragraph (1).

(f) REGULATIONS.—The National Intelligence Director shall prescribe regulations for purposes of carrying out this section.

(g) REPORT.—(1) Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall submit to the congressional intelligence committees a report on the progress made as of the date of the report in the establishment of the National Intelligence University.

(2) The report shall include—

(A) a description of the progress made in the establishment of the University; and

(B) a proposal for such additional legislative actions, if any, as the Director considers appropriate to further the establishment of the University.

SA 3721. Mr. VOINOVICH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE —PRESIDENTIAL APPOINTMENTS IMPROVEMENT ACT OF 2004

SEC. 01. SHORT TITLE.

This title may be cited as the "Presidential Appointments Improvement Act of 2004".

SEC. 02. PURPOSES.

The purposes of this title are to—

(1) improve the Presidential appointment process without violating the spirit and letter of conflict of interest laws; and

(2) provide a newly elected President the ability to submit all nominations to the Senate for all Presidential appointments as expeditiously as possible after the President takes office.

SEC. 03. PUBLIC FINANCIAL DISCLOSURE FOR JUDICIAL AND LEGISLATIVE PERSONNEL.

Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended to read as follows:

"TITLE I—JUDICIAL AND LEGISLATIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

"SEC. 101. PERSONS REQUIRED TO FILE.

"(a) Within 30 days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section 102(b) unless the individual has left another position described in subsection (f) or section 201(f) within 30 days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

"(b)(1) Within 5 days of the transmittal by the President to the Senate of the nomination of an individual to a position in the legislative or judicial branch, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 102(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 102(a)(1)(A) with respect to income and honoraria received as of the date which occurs 5 days before the date of such hearing. Nothing in this Act shall prevent any congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

"(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

"(c) Within 30 days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of Member of Congress, or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent Member of Congress shall file a report containing the information described in section 102(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

"(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of 60 days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a).

"(e) Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 102(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in another position described in subsection (f) or section 201(f).

"(f) The officers and employees referred to in subsections (a), (d), and (e) are—

"(1) a Member of Congress as defined under section 109(10);

"(2) an officer or employee of the Congress as defined under section 109(11);

"(3) a judicial officer as defined under section 109(8); and

"(4) a judicial employee as defined under section 109(6).

"(g) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the supervising ethics office for each branch, but the total of such extensions shall not exceed 90 days.

"(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the congressional ethics committees or the Judicial Conference, is not reasonably expected to perform the duties of his office or position for more than 60 days in a calendar year, except that if such individual performs the duties of his office or position for more than 60 days in a calendar year—

"(1) the report required by subsections (a) and (b) shall be filed within 15 days of the sixtieth day, and

"(2) the report required by subsection (e) shall be filed as provided in such subsection.

"(i) The supervising ethics office for each branch may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than 130 days in a calendar year, but only if the supervising ethics office determines that—

"(1) such individual is not a full-time employee of the Government,

"(2) such individual is able to provide services specially needed by the Government,

"(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

"(4) public financial disclosure by such individual is not necessary in the circumstances.

"SEC. 102. CONTENTS OF REPORTS.

"(a) Each report filed pursuant to section 101 (d) and (e) shall include a full and complete statement with respect to the following:

"(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating $200 or more in value and the source, date, and amount of payments made to charitable organizations in lieu of honoraria, and the reporting individual shall simultaneously file with the applicable supervising ethics office, on a confidential basis, a corresponding list of recipients of all such payments, together with the dates and amounts of such payments.

“(B) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

“(i) Not more than $1,000.

“(ii) Greater than $1,000 but not more than $2,500.

“(iii) Greater than $2,500 but not more than $5,000.

“(iv) Greater than $5,000 but not more than $15,000.

“(v) Greater than $15,000 but not more than $50,000.

“(vi) Greater than $50,000 but not more than $100,000.

“(vii) Greater than $100,000 but not more than $1,000,000.

“(viii) Greater than $1,000,000 but not more than $5,000,000.

“(ix) Greater than $5,000,000.

“(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of $100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

“(B) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater and received during the preceding calendar year.

“(C) In an unusual case, a gift need not be aggregated under subparagraph (A) if a publicly available request for a waiver is granted.

“(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposits aggregating $5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

“(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed $10,000 at any time during the preceding calendar year, excluding—

“(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

“(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under this paragraph.

“(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

“(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

“(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

“(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the 2-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

“(B) If any person, other than the United States Government, paid a nonelected reporting individual compensation in excess of $5,000 in any of the 2 calendar years prior to the calendar year during which the individual files his first report under this title, the individual shall include in the report—

“(i) the identity of each source of such compensation; and

“(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

“(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to—

“(A) future employment;

“(B) a leave of absence during the period of the reporting individual's Government service;

“(C) continuation of payments by a former employer other than the United States Government; and

“(D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

“(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust, unless the trust instrument was executed prior to July 24, 1995, and precludes the beneficiary from receiving information on the total cash value of any interest in the qualified blind trust.

“(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 101 shall include a full and complete statement with respect to the information required by—

“(A) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year,

“(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than 31 days before the filing date, and

“(C) paragraphs (6) and (7) of subsection (a) as of the filing date but for periods described in such paragraphs.

“(2)(A) In lieu of filling out 1 or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the supervising ethics office for the branch in which such individual serves or pursuant to a specific written determination by such office for a reporting individual.

“(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

“(c) In the case of any individual described in section 101(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

“(d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), (5), and (8) of subsection (a) are—

“(A) not more than $15,000;

“(B) greater than $15,000 but not more than $50,000;

“(C) greater than $50,000 but not more than $100,000;

“(D) greater than $100,000 but not more than $250,000;

“(E) greater than $250,000 but not more than $500,000;

“(F) greater than $500,000 but not more than $1,000,000;

“(G) greater than $1,000,000 but not more than $5,000,000;

“(H) greater than $5,000,000 but not more than $25,000,000;

“(I) greater than $25,000,000 but not more than $50,000,000; and

“(J) greater than $50,000,000.

“(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

“(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 101 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

“(A) The source of items of earned income earned by a spouse from any person which exceed $1,000 and the source and amount of any honoraria received by a spouse, except that, with respect to earned income (other than honoraria), if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

“(B) All information required to be reported in subsection (a)(1)(B) with respect to income derived by a spouse or dependent child from any asset held by the spouse or dependent child and reported pursuant to subsection (a)(3).

“(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

“(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

“(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

“(F) For purposes of this section, categories with amounts or values greater than $1,000,000 set forth in sections 102 (a)(1)(B) and (d)(1) shall apply to the income, assets, or liabilities of spouses and dependent children only if the income, assets, or liabilities are held jointly with the reporting individual. All other income, assets, or liabilities of the spouse or dependent children required to be reported under this section in an amount or value greater than $1,000,000 shall be categorized only as an amount or value greater than $1,000,000.

Reports required by subsections (a), (b), and (c) of section 101 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

“(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

“(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

“(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

“(A) any qualified blind trust (as defined in paragraph (3));

“(B) a trust—

“(i) which was not created directly by such individual, his spouse, or any dependent child, and

“(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

“(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

“(3) For purposes of this subsection, the term ‘qualified blind trust’ includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

“(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

“(I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party;

“(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

“(III) is not a relative of any interested party.

“(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

“(I) is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

“(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

“(III) is not a relative of any interested party.

“(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

“(C) The trust instrument which establishes the trust provides that—

“(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

“(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

“(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

“(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

“(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

“(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

“(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

“(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

“(E) For purposes of this subsection, ‘interested party’ means a reporting individual, his spouse, and any minor or dependent child; ‘broker’ has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and ‘investment adviser’ includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

“(F) Any trust qualified by a supervising ethics office before January 1, 1991, shall continue to be governed by the law and regulations in effect immediately before such effective date.

“(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

“(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the supervising ethics office for such reporting individual finds that—

“(I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities;

“(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

“(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraph (3)(C) (iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

“(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

“(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust established prior to January 1, 1991, which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

“(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

“(5)(A) The reporting individual shall, within 30 days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

“(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

“(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

“(B) The reporting individual shall, within 30 days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

“(C) Within 30 days of the dissolution of a qualified blind trust, a reporting individual shall—

“(i) notify his supervising ethics office of such dissolution, and

“(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

“(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 105 and the provisions of that section shall apply with respect to such documents and lists.

“(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within 5 days of the date of the communication.

“(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

“(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

“(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $10,000.

“(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

“(7) Any trust may be considered to be a qualified blind trust if—

“(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

“(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the supervising ethics office, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

“(C) the supervising ethics office determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

“(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

“(A)(i) the fund is publicly traded; or

“(ii) the assets of the fund are widely diversified; and

“(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

“(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

“(h) A report filed pursuant to subsection (a), (d), or (e) of section 101 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

“(i) A reporting individual shall not be required under this title to report—

“(1) financial interests in or income derived from—

“(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

“(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

“(2) benefits received under the Social Security Act (42 U.S.C. 301 et seq.).

“SEC. 103. FILING OF REPORTS.

“(a) Each supervising ethics office shall develop and make available forms for reporting the information required by this title.

“(b)(1) The reports required under this title shall be filed by a reporting individual with—

“(A)(i)(I) the Clerk of the House of Representatives, in the case of a Representative in Congress, a Delegate to Congress, the Resident Commissioner from Puerto Rico, an officer or employee of the Congress whose compensation is disbursed by the Chief Administrative Officer of the House of Representatives, an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the Congressional Budget Office, the Government Printing Office, the Library of Congress, or the Copyright Royalty Tribunal (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico; and

“(II) the Secretary of the Senate, in the case of a Senator, an officer or employee of the Congress whose compensation is disbursed by the Secretary of the Senate, an officer or employee of the General Accounting

Office, or the Office of the Attending Physician (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Senator; and

"(ii) in the case of an officer or employee of the Congress as described under section 101(f)(2) who is employed by an agency or commission established in the legislative branch after November 30, 1989—

"(I) the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, as designated in the statute establishing such agency or commission; or

"(II) if such statute does not designate such committee, the Secretary of the Senate for agencies and commissions established in even numbered calendar years, and the Clerk of the House of Representatives for agencies and commissions established in odd numbered calendar years; and

"(B) the Judicial Conference with regard to a judicial officer or employee described under paragraphs (3) and (4) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position).

"(2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.

"(c) A copy of each report filed under this title by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk of the House of Representatives or Secretary of the Senate, as the case may be, to the appropriate State officer designated under section 312(a) of the Federal Election Campaign Act of 1971 of the State represented by the Member or in which the individual is a candidate, as the case may be, within the 30-day period beginning on the day the report is filed with the Clerk or Secretary.

"(d)(1) A copy of each report filed under this title with the Clerk of the House of Representatives shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the 7-day period beginning on the day the report is filed.

"(2) A copy of each report filed under this title with the Secretary of the Senate shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the 7-day period beginning on the day the report is filed.

"(e) In carrying out their responsibilities under this title with respect to candidates for office, the Clerk of the House of Representatives and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

"SEC. 104. FAILURE TO FILE OR FILING FALSE REPORTS.

"(a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $10,000.

"(b) Each congressional ethics committee or the Judicial Conference, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported. Whenever the Judicial Conference refers a name to the Attorney General under this subsection, the Judicial Conference also shall notify the judicial council of the circuit in which the named individual serves of the referral.

"(c) A congressional ethics committee and the Judicial Conference, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

"(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

"(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

"(B) if a filing extension is granted to such individual under section 101(g), the last day of the filing extension period, shall, at the direction of and pursuant to regulations issued by the supervising ethics office, pay a filing fee of $200. All such fees shall be deposited in the miscellaneous receipts of the Treasury.

"(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances.

"SEC. 105. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.

"(a) The supervising ethics office of the judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the public, in accordance with subsection (b), each report filed under this title with such office or with the Clerk or the Secretary of the Senate.

"(b)(1) Except as provided in the second sentence of this subsection, the supervising ethics office in the judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall, within 30 days after any report is received under this title by such office or by the Clerk or the Secretary of the Senate, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g). The office, Clerk, or Secretary of the Senate, as the case may be, may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

"(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

"(A) that person's name, occupation, and address;

"(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

"(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

"(3)(A) This section does not require the immediate and unconditional availability of reports filed by an individual described in section 109 (6) or (8) of this Act if a finding is made by the Judicial Conference, in consultation with United States Marshal Service, that revealing personal and sensitive information could endanger that individual.

"(B) A report may be redacted pursuant to this paragraph only—

"(i) to the extent necessary to protect the individual who filed the report; and

"(ii) for as long as the danger to such individual exists.

"(C) The Administrative Office of the United States Courts shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate an annual report with respect to the operation of this paragraph including—

"(i) the total number of reports redacted pursuant to this paragraph;

"(ii) the total number of individuals whose reports have been redacted pursuant to this paragraph; and

"(iii) the types of threats against individuals whose reports are redacted, if appropriate.

"(D) The Judicial Conference, in consultation with the Department of Justice, shall issue regulations setting forth the circumstances under which redaction is appropriate under this paragraph and the procedures for redaction.

"(E) This paragraph shall expire on December 31, 2005, and apply to filings through calendar year 2005.

"(c)(1) It shall be unlawful for any person to obtain or use a report—

"(A) for any unlawful purpose;

"(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

"(C) for determining or establishing the credit rating of any individual; or

"(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

"(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

"(d) Any report filed with or transmitted to a supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such office or by the Clerk or the Secretary of the Senate, as the case may be. Such report shall be made available to the public for a period of 6 years after receipt of the report. After such 6-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation.

“SEC. 106. REVIEW OF REPORTS.

“(a) Each congressional ethics committee and the Judicial Conference shall make provisions to ensure that each report filed under this title is reviewed within 60 days after the date of such filing.

“(b)(1) If after reviewing any report under subsection (a), a person designated by the congressional ethics committee or a person designated by the Judicial Conference, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

“(2) If a person designated by the congressional ethics committee, or a person designated by the Judicial Conference, after reviewing any report under subsection (a)—

“(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

“(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

“(3) If a person designated by a congressional ethics committee or a person designated by the Judicial Conference, reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official or committee shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official or committee be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

“(A) divestiture,

“(B) restitution,

“(C) the establishment of a blind trust,

“(D) request for an exemption under section 208(b) of title 18, United States Code, or

“(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the supervising ethics office may prescribe.

“(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position appointment to which requires the advice and consent of the Senate but removal authority resides in the President, the matter shall be referred to the President for appropriate action.

“(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the congressional ethics committee or the Judicial Conference, for appropriate action.

“(6) Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

“SEC. 107. CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS.

“(a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of the legislative or judicial branch shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, official codes of conduct or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 101 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 105 shall not apply with respect to any such report.

“(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

“(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

“(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

“(c) Nothing in this Act requiring reporting of information shall be deemed to authorize—

“(1) the receipt of income, gifts, or reimbursements;

“(2) the holding of assets, liabilities, or positions; or

“(3) the participation in transactions that are prohibited by law, rule, or regulation.

“SEC. 108. AUTHORITY OF COMPTROLLER GENERAL.

“(a) The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

“(b) Not later than December 31, 1992, and regularly thereafter, the Comptroller General shall conduct a study to determine whether the provisions of this title are being carried out effectively.

“SEC. 109. DEFINITIONS.

“For the purposes of this title, the term—

“(1) ‘congressional ethics committees’ means the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives;

“(2) ‘dependent child’ means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

“(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

“(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152);

“(3) ‘gift’ means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

“(A) bequest and other forms of inheritance;

“(B) suitable mementos of a function honoring the reporting individual;

“(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

“(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

“(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

“(F) consumable products provided by home-State businesses to the offices of a reporting individual who is an elected official, if those products are intended for consumption by persons other than such reporting individual;

“(4) ‘honoraria’ has the meaning given such term in section 505 of this Act;

“(5) ‘income’ means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

“(6) ‘judicial employee’ means any employee of the judicial branch of the Government, of the United States Sentencing Commission, of the Tax Court, of the Court of Federal Claims, of the Court of Appeals for Veterans Claims, or of the United States Court of Appeals for the Armed Forces, who is not a judicial officer and who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

“(7) ‘Judicial Conference’ means the Judicial Conference of the United States;

“(8) ‘judicial officer’ means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, Court of Federal Claims, Court of Appeals for Veterans Claims, United States Court of Appeals for the Armed Forces, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior;

“(9) ‘legislative branch’ includes—

“(A) the Architect of the Capitol;

“(B) the Botanic Gardens;

“(C) the Congressional Budget Office;

“(D) the General Accounting Office;

“(E) the Government Printing Office;

“(F) the Library of Congress;

“(G) the United States Capitol Police;

“(H) the Office of Compliance; and

“(I) any other agency, entity, office, or commission established in the legislative branch;

“(10) ‘Member of Congress’ means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

“(11) ‘officer or employee of the Congress’ means—

“(A) any individual described under subparagraph (B), other than a Member of Congress or the Vice President, whose compensation is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives;

“(B)(i) each officer or employee of the legislative branch who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; and

“(ii) at least 1 principal assistant designated for purposes of this paragraph by each Member who does not have an employee who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

“(12) ‘personal hospitality of any individual’ means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

“(13) ‘reimbursement’ means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

“(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

“(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

“(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

“(14) ‘relative’ means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

“(15) ‘supervising ethics office’ means—

“(A) the Select Committee on Ethics of the Senate, for Senators, officers and employees of the Senate, and other officers, or employees of the legislative branch required to file financial disclosure reports with the Secretary of the Senate pursuant to section 103(h) of this title;

“(B) the Committee on Standards of Official Conduct of the House of Representatives, for Members, officers, and employees of the House of Representatives and other officers or employees of the legislative branch required to file financial disclosure reports with the Clerk of the House of Representatives pursuant to section 103(h) of this title; and

“(C) the Judicial Conference for judicial officers and judicial employees; and

“(16) ‘value’ means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

“SEC. 110. NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS.

“(a) In any case in which an individual agrees with a Senate confirmation committee, a congressional ethics committee, or the Judicial Conference, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the appropriate committee of the Senate, the congressional ethics committee, or the Judicial Conference, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified.

“(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with the appropriate supervising ethics office within the time prescribed in the last sentence of subsection (a).

“SEC. 111. ADMINISTRATION OF PROVISIONS.

“The provisions of this title shall be administered by—

“(1) the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives, as appropriate, with regard to officers and employees described in paragraphs (1) and (2) of section 101(f); and

“(2) the Judicial Conference in the case of an officer or employee described in paragraphs (3) and (4) of section 101(f). The Judicial Conference may delegate any authority it has under this title to an ethics committee established by the Judicial Conference.”.

SEC. 04. PUBLIC FINANCIAL DISCLOSURE FOR THE EXECUTIVE BRANCH.

The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by inserting after title I the following:

“TITLE II—EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

“SEC. 201. PERSONS REQUIRED TO FILE.

“(a) Within 30 days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section 202(b) unless the individual has left another position described in subsection (f) of this section or section 101(f) of this Act within 30 days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

“(b)(1) Within 5 days of the transmittal by the President to the Senate of the nomination of an individual (other than an individual nominated for appointment to a position as a Foreign Service Officer or a grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O–6 or below) to a position in the executive branch, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 202(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 202(a)(1)(A) with respect to income and honoraria received as of the date which occurs 5 days before the date of such hearing. Nothing in this Act shall prevent any congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

“(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

“(c) Within 30 days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of President or Vice President or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent President or Vice President shall file a report containing the information described in section 202(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

“(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of 60 days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 202(a).

“(e) Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 202(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in or takes the oath of office for another position described in subsection (f) or section 101(f).

“(f) The officers and employees referred to in subsections (a), (d), and (e) are—

“(1) the President;

“(2) the Vice President;

“(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; each member of a uniformed service whose pay grade is at or in excess of O–7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;

“(4) each employee appointed pursuant to section 3105 of title 5, United States Code;

“(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

“(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service, each officer or employee of the United States Postal Service who is designated as a member of the Postal Career Executive Service (PCES I or II), and each officer or employee of the Postal Rate Commission who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

“(7) the Director of the Office of Government Ethics and each designated agency ethics official; and

“(8) any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than a special Government employee) who holds a commission of appointment from the President.

“(g)(1) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Office of Government Ethics, but the total of such extensions shall not exceed 90 days.

“(2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of—

“(i) the last day of the individual's service in such area during such designated period; or

“(ii) the last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area.

“(B) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.

“(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the designated agency ethics official or Secretary concerned (or in the case of a Presidential appointee under subsection (b), the Director of the Office of Government Ethics), is not reasonably expected to perform the duties of his office or position for more than 60 days in a calendar year, except that if such individual performs the duties of his office or position for more than 60 days in a calendar year—

“(1) the report required by subsections (a) and (b) shall be filed within 15 days of the sixtieth day, and

“(2) the report required by subsection (e) shall be filed as provided in such subsection.

“(i) The Director of the Office of Government Ethics may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than 130 days in a calendar year, but only if the Director determines that—

“(1) such individual is not a full-time employee of the Government,

“(2) such individual is able to provide services specially needed by the Government,

“(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

“(4) public financial disclosure by such individual is not necessary in the circumstances.

“SEC. 202. CONTENTS OF REPORTS.

“(a) Each report filed pursuant to section 201 (d) and (e) shall include a full and complete statement with respect to the following:

“(1)(A) The source, description, and category of amount of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), received during the preceding calendar year, aggregating more than $500 in value, except that honoraria received during Government service by an officer or employee shall include, in addition to the source, the exact amount and the date it was received.

“(B) The source, description, and category of amount or value of investment income which may include but is not limited to dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $500 in amount or value.

“(C) The categories for reporting the amount or value for income covered in subparagraphs (A) and (B) of this paragraph are—

“(i) greater than $500 but not more than $20,000;

“(ii) greater than $20,000 but not more than $100,000;

“(iii) greater than $100,000 but not more than $1,000,000;

“(iv) greater than $1,000,000 but not more than $2,500,000; and

“(v) greater than $2,500,000.

“(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of $100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

“(B) The identity of the source and a brief description (including dates of travel and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater and received during the preceding calendar year.

“(C) In an unusual case, a gift need not be aggregated under subparagraph (A) if a publicly available request for a waiver is granted.

“(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $5,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposit accounts aggregating $100,000 or less in a financial institution, or any Federal Government securities aggregating $100,000 or less.

“(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed $20,000 at any time during the preceding calendar year, excluding—

“(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

“(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $20,000 as of the close of the preceding calendar year need be reported under this paragraph.

“(5) Except as provided in this paragraph, a brief description of any real property, other than property used solely as a personal residence of the reporting individual or his spouse, and stocks, bonds, commodities futures, and other forms of securities, if—

“(A) purchased, sold, or exchanged during the preceding calendar year;

“(B) the value of the transaction exceeded $5,000; and

“(C) the property or security is not already required to be reported as a source of income pursuant to paragraph (1)(B) or as an asset pursuant to paragraph (3) of this section. Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

“(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the 1-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

“(B) If any person, other than a person reported as a source of income under paragraph (1)(A) or the United States Government, paid a nonelected reporting individual compensation in excess of $25,000 in the calendar year prior to or the calendar year in which the individual files his first report under this title, the individual shall include in the report—

“(i) the identity of each source of such compensation; and

“(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

“(C) Subparagraph (B) shall not require any individual to include in such report any information—

“(i) with respect to a person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless the individual was directly involved in the provision of such services;

“(ii) that is protected by a court order or is under seal; or

“(iii) that is considered confidential as a result of—

“(I) a privileged relationship established by a confidentiality agreement entered into at the time the person retained the services of the individual;

“(II) a grand jury proceeding or a non-public investigation, if there are no public filings, statements, appearances, or reports that identify the person for whom such individual is providing services; or

“(III) an applicable rule of professional conduct that prohibits disclosure of the information and that can be enforced by a professional licensing body.

“(7) A description of parties to and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer. The description of any formal agreement for future employment shall include the date of that agreement.

“(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust.

“(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 201 shall include a full and complete statement with respect to the information required by—

“(A) paragraphs (1) and (6) of subsection (a) for the year of filing and the preceding calendar year,

“(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than 31 days before the filing date, and

“(C) paragraph (7) of subsection (a) as of the filing date but for periods described in such paragraph.

“(2)(A) In lieu of filling out 1 or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the Office of Government Ethics or pursuant to a specific written determination by the Director for a reporting individual.

“(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

“(c) In the case of any individual referred to in section 201(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

“(d)(1) The categories for reporting the amount or value of the items covered in paragraph (3) of subsection (a) are—

“(A) greater than $5,000 but not more than $15,000;

“(B) greater than $15,000 but not more than $100,000;

“(C) greater than $100,000 but not more than $1,000,000;

“(D) greater than $1,000,000 but not more than $2,500,000; and

“(E) greater than $2,500,000.

“(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

“(3) The categories for reporting the amount or value of the items covered in paragraphs (4) and (8) of subsection (a) are—

“(A) greater than $20,000 but not more than $100,000,

“(B) greater than $100,000 but not more than $500,000;

“(C) greater than $500,000 but not more than $1,000,000; and

“(D) greater than $1,000,000.

“(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 201 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

“(A) The sources of earned income earned by a spouse, including honoraria, which exceed $500, except that, with respect to earned income, if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

“(B) All information required to be reported in subsection (a)(1)(B) with respect to investment income derived by a spouse or dependent child.

“(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

“(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

“(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items which the reporting individual certifies (i) represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) are ones from which he neither derives, nor expects to derive, any financial or economic benefit.

“(F) Reports required by subsections (a), (b), and (c) of section 201 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

“(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

“(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

“(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

“(A) any qualified blind trust (as defined in paragraph (3));

“(B) a trust—

“(i) which was not created directly by such individual, his spouse, or any dependent child, and

“(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

“(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

“(3) For purposes of this subsection, the term ‘qualified blind trust’ includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

“(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

“(I) is independent of and not affiliated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party;

‘‘(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

‘‘(III) is not a relative of any interested party.

‘‘(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

‘‘(I) is independent of and not affiliated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

‘‘(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

‘‘(III) is not a relative of any interested party.

‘‘(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the Office of Government Ethics.

‘‘(C) The trust instrument which establishes the trust provides that—

‘‘(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

‘‘(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

‘‘(iii) the trustee shall promptly notify the reporting individual and the Office of Government Ethics when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

‘‘(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

‘‘(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

‘‘(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

‘‘(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

‘‘(D) The proposed trust instrument and the proposed trustee is approved by the Office of Government Ethics.

‘‘(E) For purposes of this subsection, ‘interested party’ means a reporting individual, his spouse, and any minor or dependent child; ‘broker’ has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and ‘investment adviser’ includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

‘‘(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

‘‘(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the Office of Government Ethics finds that—

‘‘(I) the assets placed in the trust consist of a widely-diversified portfolio of readily marketable securities;

‘‘(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

‘‘(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraph (3)(C) (iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

‘‘(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

‘‘(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

‘‘(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

‘‘(5)(A) The reporting individual shall, within 30 days after a qualified blind trust is approved by the Office of Government Ethics, file with such office a copy of—

‘‘(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

‘‘(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

‘‘(B) The reporting individual shall, within 30 days of transferring an asset (other than cash) to a previously established qualified blind trust, notify the Office of Government Ethics of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

‘‘(C) Within 30 days of the dissolution of a qualified blind trust, a reporting individual shall—

‘‘(i) notify the Office of Government Ethics of such dissolution; and

‘‘(ii) file with such office and his Designated Agency Ethics Official a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

‘‘(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 205 and the provisions of that section shall apply with respect to such documents and lists.

‘‘(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the Office of Government Ethics within 5 days of the date of the communication.

‘‘(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

‘‘(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

‘‘(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $11,000.

‘‘(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,500.

‘‘(7) Any trust may be considered to be a qualified blind trust if—

“(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

“(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the Office of Government Ethics, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

“(C) the Director of the Office of Government Ethics determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

“(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

“(A)(i) the fund is publicly traded; or

“(ii) the assets of the fund are widely diversified; and

“(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

“(9)(A) A reporting individual described in subsection (a), (b), or (c) of section 201 shall not be required to report the assets or sources of income of any publicly available investment fund if—

“(i) the identity of such assets and sources of income is not provided to investors;

“(ii) the reporting individual neither exercises control over nor has the ability to exercise control over the fund; and

“(iii) the reporting individual—

“(I) does not otherwise have knowledge of the individual assets of the fund and provides written certification by the fund manager that individual assets of the fund are not disclosed to investors; or

“(II) has executed a written ethics agreement that contains a commitment to divest the interest in the investment fund no later than 90 days after the date of the agreement.

The reporting individual shall file the written certification by the fund manager as an attachment to the report filed pursuant to section 201.

“(B)(i) The provisions of subparagraph (A) shall apply to an individual described in subsection (d) or (e) of section 201 if—

“(I) the interest in the trust or investment fund is acquired involuntarily during the period to be covered by the report, such as through marriage or inheritance, and

“(II) for an individual described in subsection (d), the individual executes a written ethics agreement containing a commitment to divest the interest no later than 90 days after the date on which the report is due.

“(ii) An agreement described under clause (i)(II) shall be attached to the public financial disclosure which would otherwise include a listing of the holdings or sources of income from this trust or investment fund.

“(iii) Failure to divest within the time specified or within an extension period granted by the Director of the Office of Government Ethics for good cause shown shall result in an immediate requirement to report as specified in paragraph (1) of this subsection.

“(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

“(h) A report filed pursuant to subsection (a), (d), or (e) of section 201 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

“(i) A reporting individual shall not be required under this title to report—

“(1) financial interests in or income derived from—

“(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

“(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

“(2) benefits received under the Social Security Act (42 U.S.C. 301 et seq.).

“(j)(1) Every month each designated agency ethics officer shall submit to the Office of Government Ethics notification of any waiver of criminal conflict of interest laws granted to any individual in the preceding month with respect to a filing under this title that is not confidential.

“(2) Every month the Office of Government Ethics shall make publicly available on the Internet—

“(A) all notifications of waivers submitted under paragraph (1) in the preceding month; and

“(B) notification of all waivers granted by the Office of Government Ethics in the preceding month.

“(k) A full copy of any waiver of criminal conflict of interest laws granted shall be included with any filing required under this title with respect to the year in which the waiver is granted.

“(l) The Office of Government Ethics shall provide upon request any waiver on file for which notice has been published.

“SEC. 203. FILING OF REPORTS.

“(a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 201(e), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

“(b) The President, the Vice President and independent counsel and persons appointed by independent counsel under chapter 40 of title 28, United States Code shall file reports required under this title with the Director of the Office of Government Ethics.

“(c) Copies of the reports required to be filed under this title by the Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal Service, designated agency ethics officials, employees described in section 105(a)(2) (A) or (B), 106(a)(1) (A) or (B), or 107 (a)(1)(A) or (b)(1)(A)(i), of title 3, United States Code, candidates for the office of President or Vice President and officers and employees in (and nominees to) offices or positions within the executive branch which require confirmation by the Senate shall be transmitted to the Director of the Office of Government Ethics. The Director shall forward a copy of the report of each nominee to the congressional committee considering the nomination.

“(d) Reports required to be filed under this title by the Director of the Office of Government Ethics shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.

“(e) Each individual identified in section 201(c) who is a candidate for nomination or election to the Office of President or Vice President shall file the reports required by this title with the Federal Election Commission.

“(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

“(g) The Office of Government Ethics shall develop and make available forms for reporting the information required by this title.

“SEC. 204. FAILURE TO FILE OR FILING FALSE REPORTS.

“(a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 202. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $11,000 or order the individual to file or report any information required by section 202 or both.

“(b) The head of each agency, each Secretary concerned, or the Director of the Office of Government Ethics, as the case may be, shall refer to the Attorney General the name of any individual which such official has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

“(c) The President, the Vice President, the Secretary concerned, or the head of each agency may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

“(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

“(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

“(B) if a filing extension is granted to such individual under section 201(g), the last day of the filing extension period,

shall, at the direction of and pursuant to regulations issued by the Office of Government Ethics, pay a filing fee of $500. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the Office of Government Ethics to other agencies in the executive branch.

“(2) The Office of Government Ethics may waive the filing fee under this subsection for good cause shown.

"SEC. 205. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.

"(a) Each agency and the Office of Government Ethics shall make available to the public, in accordance with subsection (b), each report filed under this title with such agency or Office except that this section does not require public availability of a report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds or has found that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, by revealing the identity of the individual or other sensitive information, compromise the national interest of the United States; and such individuals may be authorized, notwithstanding section 204(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds or has found that such filing is necessary in the national interest.

"(b)(1) Except as provided in the second sentence of this subsection, each agency and the Office of Government Ethics shall, within 30 days after any report is received under this title by such agency or Office, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 201(g). The agency or the Office of Government Ethics may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

"(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

"(A) that person's name, occupation, and address;

"(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

"(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

"(c)(1) It shall be unlawful for any person to obtain or use a report—

"(A) for any unlawful purpose;

"(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

"(C) for determining or establishing the credit rating of any individual; or

"(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

"(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $11,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

"(d) Any report filed with or transmitted to an agency or the Office of Government Ethics pursuant to this title shall be retained by such agency or Office, as the case may be. Such report shall be made available to the public for a period of 6 years after receipt of the report. After such 6-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 201(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 201(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President or Vice President unless needed in an ongoing investigation.

"SEC. 206. REVIEW OF REPORTS.

"(a) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within 60 days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within 60 days after the date of transmittal.

"(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

"(2) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official after reviewing any report under subsection (a)—

"(A) believes additional information is required to be submitted to complete the report or to perform a conflict of interest analysis, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

"(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

"(3) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

"(A) divestiture,

"(B) restitution,

"(C) the establishment of a blind trust,

"(D) request for an exemption under section 208(b) of title 18, United States Code, or

"(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the Office of Government Ethics may prescribe.

"(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position in the executive branch (other than in the Foreign Service or the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

"(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the Foreign Service or the uniformed services, the Secretary concerned shall take appropriate action.

"(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the head of the appropriate agency for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the designated agency ethics official of the United States Postal Service shall notify the Director of the Office of Government Ethics, who then shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.

"(7) The Office of Government Ethics may render advisory opinions interpreting this title. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

"SEC. 207. CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS.

"(a)(1) The Office of Government Ethics may require officers and employees of the executive branch (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as it may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the Office of Government Ethics, and may be less extensive than otherwise required by this title, or more extensive when determined by the Office of Government Ethics to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 201 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 205 shall not apply with respect to any such report.

"(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

"(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

"(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

"(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

"SEC. 208. AUTHORITY OF COMPTROLLER GENERAL.

"The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

"SEC. 209. DEFINITIONS.

"For the purposes of this title, the term—

"(1) 'dependent child' means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

"(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

"(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152);

"(2) 'designated agency ethics official' means an officer or employee who is designated to administer the provisions of this title within an agency;

"(3) 'executive branch' includes each Executive agency (as defined in section 105 of title 5, United States Code), other than the General Accounting Office, and any other entity or administrative unit in the executive branch;

"(4) 'gift' means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

"(A) bequest and other forms of inheritance;

"(B) suitable mementos of a function honoring the reporting individual;

"(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

"(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

"(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

"(F) items that are accepted pursuant to or are required to be reported by the reporting individual under section 7342 of title 5, United States Code.

"(5) 'honoraria' means a payment of money or anything of value for an appearance, speech, or article;

"(6) 'income' means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; prizes and awards; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

"(7) 'personal hospitality of any individual' means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

"(8) 'reimbursement' means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

"(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

"(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

"(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

"(9) 'relative' means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

"(10) 'Secretary concerned' has the meaning set forth in section 101(a)(9) of title 10, United States Code, and, in addition, means—

"(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration;

"(B) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service; and

"(C) the Secretary of State, with respect to matters concerning the Foreign Service; and

"(11) 'value' means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

"SEC. 210. NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS.

"(a) In any case in which an individual agrees with that individual's designated agency ethics official, the Office of Government Ethics, or a Senate confirmation committee, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, or the appropriate committee of the Senate, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified. If all actions agreed to have not been completed by the date of this notification, such notification shall continue on a monthly basis thereafter until the individual has met the terms of the agreement.

"(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual's designated agency ethics official or the Office of Government Ethics not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified.

"SEC. 211. ADMINISTRATION OF PROVISIONS.

"The Office of Government Ethics shall issue regulations, develop forms, and provide such guidance as is necessary to implement and interpret this title.".

SEC. 05. TRANSMITTAL OF RECORD RELATING TO PRESIDENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL CANDIDATES.

(a) DEFINITION.—In this section, the term "major party" has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986.

(b) TRANSMITTAL.—

(1) IN GENERAL.—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidentially appointed positions.

(2) OTHER CANDIDATES.—After making transmittals under paragraph (1), the Office of Personnel Management may transmit an electronic record on Presidentially appointed positions to any other candidate for President.

(c) CONTENT.—The record transmitted under this section shall provide—

(1) all positions which are appointed by the President, including the title and description of the duties of each position;

(2) the name of each person holding a position described under paragraph (1);

(3) any vacancy in the positions described under paragraph (1), and the period of time any such position has been vacant;

(4) the date on which an appointment made after the applicable Presidential election for any position described under paragraph (1) is necessary to ensure effective operation of the Government; and

(5) any other information that the Office of Personnel Management determines is useful in making appointments.

SEC. 06. REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.

(a) DEFINITION.—In this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(b) REDUCTION PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—

(A) the President;

(B) the Committee on Governmental Affairs of the Senate; and

(C) the Committee on Government Reform of the House of Representatives.

(2) CONTENT.—The plan under this subsection shall provide for the reduction of—

(A) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(B) the number of levels of such positions within that agency.

SEC. 07. OFFICE OF GOVERNMENT ETHICS REVIEW OF CONFLICT OF INTEREST LAW.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Attorney General of the United States, shall conduct a comprehensive review of conflict of interest laws relating to Federal employment and submit a report to—

(1) the President;

(2) the Committee on Governmental Affairs of the Senate;

(3) the Committee on the Judiciary of the Senate;

(4) the Committee on Government Reform of the House of Representatives; and

(5) the Committee on the Judiciary of the House of Representatives.

(b) CONTENT.—The report under this section shall—

(1) examine all Federal criminal conflict of interest laws relating to Federal employment, including the relevant provisions of chapter 11 of title 18, United States Code; and

(2) related civil conflict of interest laws, including regulations promulgated under section 402 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

SEC. 08. EFFECTIVE DATE.

(a) AMENDMENTS TO ETHICS IN GOVERNMENT ACT OF 1978.—

(1) IN GENERAL.—Subject to subsection (b), the amendments made by sections 03 and 04 shall take effect on January 1 of the year following the date of enactment of this title.

(2) LATER DATE.—If the date of enactment of this title is on or after July 1 of any calendar year, the amendments made by sections 03 and 04 shall take effect on July 1 in the year following the date of enactment of this title.

(b) OTHER PROVISIONS.—Sections 01, 02, 05, 06, and 07 shall take effect on the date of enactment of this title.

SA 3722. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, add the following:

SEC. . USE OF UNITED STATES COMMERCIAL REMOTE SENSING SPACE CAPABILITIES FOR IMAGERY AND GEOSPATIAL INFORMATION REQUIREMENTS.

(a) IN GENERAL.—The National Intelligence Director shall take appropriate actions to ensure, to the maximum extent practicable, the utilization of United States commercial remote sensing space capabilities to fulfill the imagery and geospatial information requirements of the intelligence community.

(b) PROCEDURES FOR UTILIZATION.—The National Intelligence Director may prescribe procedures for the purpose of meeting the requirement in subsection (a).

(c) DEFINITIONS.—In this section, the terms "imagery" and "geospatial information" have the meanings given such terms in section 467 of title 10, United States Code.

SA 3723. Mrs. HUTCHISON (for herself and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, between lines 17 and 18, insert the following:

(4) The Director shall establish a national intelligence center under this section to be known as the Center for Alternative Intelligence Analysis. The Center for Alternative Intelligence Analysis shall have the mission specified in subsection (e).

On page 97, between lines 4 and 5, insert the following:

(e) MISSION OF CENTER FOR ALTERNATIVE INTELLIGENCE ANALYSIS.—(1) Notwithstanding subsection (d), the mission of the Center for Alternative Intelligence Analysis under subsection (a)(4) shall be to subject each National Intelligence Estimate (NIE), before the completion of such estimate, to a thorough examination of all facts and assumptions utilized in or underlying any analysis, estimation, plan, evaluation, or recommendation contained in such estimate.

(2)(A) The Center may also subject each document referred to in subparagraph (B), before the completion of such document, to a thorough examination as described in paragraph (1).

(B) The documents referred to in this subparagraph are as follows:

(i) A Senior Executive Intelligence Brief (SEIB).

(ii) An Indications and Warning (I&W) report.

(iii) Any other intelligence estimate, brief, survey, assessment, or report designated by the National Intelligence Director for purposes of this subsection.

(3)(A) The purpose of an evaluation of an estimate or document under this subsection shall be to provide an independent analysis of any underlying facts, assumptions, and recommendations contained in such estimate or document and to present alternative conclusions, if any, arising from such facts or assumptions or with respect to such recommendations.

(B) In order to meet the purpose set forth in subparagraph (A), the Center shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community and such other reports and information as the Director considers appropriate.

(4) The evaluation of an estimate or document under this subsection shall be known as a "CAIA analysis" of such estimate or document.

(5) The result of each examination of an estimate or document under this subsection shall be submitted to the following:

(A) The National Intelligence Director.

(B) The heads of other departments, agencies, and elements of the intelligence community designated by the President or the National Intelligence Director for purposes of this subsection.

(C) The congressional intelligence committees.

(6)(A) An examination under this subsection shall accompany each National Intelligence Estimate and any other document, report, assessment, or survey designated by the Director for purposes of this subsection.

(B) Not later than 180 days after the date of the enactment of this Act, the Director shall submit to the congressional intelligence committees a report on the documents, reports, assessments, and surveys, if any, designated by the Director under subparagraph (A).

On page 97, line 5, strike "(e)" and insert "(f)".

On page 97, line 19, strike "(f)" and insert "(g)".

On page 99, line 21, strike "(g)" and insert "(h)".

On page 99, line 22, insert "(other than the Center for Alternative Intelligence Analysis)" after "a national intelligence center".

SA 3724. Mr. KYL (for himself, Mr. CORNYN, Mr. CHAMBLISS, and Mr. NICKLES) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE IV—TOOLS TO FIGHT TERRORISM ACT OF 2004

SEC. 401. SHORT TITLE.

This title may be cited as the "Tools to Fight Terrorism Act of 2004".

Subtitle A—Anti-Terrorism Investigative Tools Improvement Act

SEC. 411. SHORT TITLE.

This subtitle may be cited as the "Anti-terrorism Investigative Tools Improvement Act of 2004".

SEC. 412. FISA WARRANTS FOR LONE-WOLF TERRORISTS.

Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following:

"(C) engages in international terrorism or activities in preparation therefore; or".

SEC. 413. ADDING TERRORIST OFFENSES TO STATUTORY PRESUMPTION OF NO BAIL.

Section 3142 of title 18, United States Code, is amended—

(1) in the flush language at the end of subsection (e) by inserting before the period at the end the following: ", or an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code"; and

(2) in subsections (f)(1)(A) and (g)(1), by inserting after "violence" the following: "or an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by

intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code,".

SEC. 414. MAKING TERRORISTS ELIGIBLE FOR LIFETIME POST-RELEASE SUPERVISION.

Section 3583(j) of title 18, United States Code, is amended by striking ", the commission" and all that follows through "person,".

SEC. 415. JUDICIALLY ENFORCEABLE SUBPOENAS IN TERRORISM INVESTIGATIONS.

(a) In General.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332f the following:

"§2332g. Judicially enforceable terrorism subpoenas

"(a) Authorization of Use.—

"(1) In general.—In any investigation concerning a Federal crime of terrorism (as defined under section 2332b(g)(5)), the Attorney General may issue in writing and cause to be served a subpoena requiring the production of any records or other materials that the Attorney General finds relevant to the investigation, or requiring testimony by the custodian of the materials to be produced concerning the production and authenticity of those materials.

"(2) Contents.—A subpoena issued under paragraph (1) shall describe the records or items required to be produced and prescribe a return date within a reasonable period of time within which the records or items can be assembled and made available.

"(3) Attendance of witnesses and production of records.—

"(A) In general.—The attendance of witnesses and the production of records may be required from any place in any State, or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing.

"(B) Limitation.—A witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpoena.

"(C) Reimbursement.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

"(b) Service.—

"(1) In general.—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.

"(2) Service of subpoena.—

"(A) Natural person.—Service of a subpoena upon a natural person may be made by personal delivery of the subpoena to that person, or by certified mail with return receipt requested.

"(B) Business entities and associations.—Service of a subpoena may be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

"(C) Proof of service.—The affidavit of the person serving the subpoena entered by that person on a true copy thereof shall be sufficient proof of service.

"(c) Enforcement.—

"(1) In general.—In the case of the contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or the subpoenaed person resides, carries on business, or may be found, to compel compliance with the subpoena.

"(2) Order.—A court of the United States described under paragraph (1) may issue an order requiring the subpoenaed person, in accordance with the subpoena, to produce records or other materials, or to give testimony concerning the production and authenticity of those materials. Any failure to obey the order of the court may be punished by the court as contempt thereof.

"(3) Service of process.—Any process under this subsection may be served in any judicial district in which the person may be found.

"(d) Nondisclosure Requirement.—

"(1) In general.—Notwithstanding any other provision of law, if the Attorney General certifies that otherwise there may result a danger to the national security of the United States, no person shall disclose to any other person that a subpoena was received or records were provided pursuant to this section, other than to—

"(A) those persons to whom such disclosure is necessary in order to comply with the subpoena;

"(B) an attorney to obtain legal advice with respect to testimony or the production of records in response to the subpoena; or

"(C) other persons as permitted by the Attorney General.

"(2) Notice of nondisclosure requirement.—The subpoena, or an officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed of the nondisclosure requirements under paragraph (1).

"(3) Further applicability of nondisclosure requirements.—Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

"(4) Enforcement of nondisclosure requirement.—Whoever knowingly violates paragraph (1) or (3) shall be imprisoned for not more than 1 year, and if the violation is committed with the intent to obstruct an investigation or judicial proceeding, shall be imprisoned for not more than 5 years.

"(5) Termination of nondisclosure requirement.—If the Attorney General concludes that a nondisclosure requirement no longer is justified by a danger to the national security of the United States, an officer, employee, or agency of the United States shall notify the relevant person that the prohibition of disclosure is no longer applicable.

"(e) Judicial Review.—

"(1) In general.—At any time before the return date specified in a summons issued under this section, the person or entity summoned may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the summons.

"(2) Modification of nondisclosure requirement.—Any court described under paragraph (1) may modify or set aside a nondisclosure requirement imposed under subsection (d) at the request of a person to whom a subpoena has been directed, unless there is reason to believe that the nondisclosure requirement is justified because otherwise there may result a danger to the national security of the United States.

"(3) Review of government submissions.—In all proceedings under this subsection, the court shall review the submission of the Federal Government, which may include classified information, ex parte and in camera.

"(f) Immunity From Civil Liability.—Any person, including officers, agents, and employees of a non-natural person, who in good faith produce the records or items requested in a subpoena, shall not be liable in any court of any State or the United States to any customer or other person for such production, or for nondisclosure of that production to the customer or other person.

"(g) Reporting Requirement.—The Attorney General shall submit to the Select Committee on Intelligence of the Senate and the permanent Select Committee on Intelligence of the House of Representatives each year a report setting forth with respect to the 1-year period ending on the date of such report—

"(1) the aggregate number of subpoenas issued under this section; and

"(2) the circumstances under which each such subpoena was issued.

"(h) Guidelines.—The Attorney General shall, by rule, establish such guidelines as are necessary to ensure the effective implementation of this section.".

(b) Amendment to Table of Sections.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332f the following:

"2332g. Judicially enforceable terrorism subpoenas.".

SEC. 416. HOAXES RELATING TO TERRORIST OFFENSES.

(a) Prohibition on Hoaxes.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1037 the following:

"§1038. False information and hoaxes

"(a) Criminal Violation.—

"(1) In general.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed, and where such information indicates that an activity has taken, is taking, or will take place that would constitute an offense listed under section 2332b(g)(5)(B) of this title—

"(A) be fined under this title or imprisoned not more than 5 years, or both;

"(B) if serious bodily injury (as defined in section 1365 of this title, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title) results, be fined under this title or imprisoned not more than 25 years, or both; and

"(C) if death results, shall be punished by death or imprisoned for any term of years or for life.

"(2) Armed forces.—Whoever, without lawful authority, makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States during a war or armed conflict in which the United States is engaged, shall—

"(A) be fined under this title or imprisoned not more than 5 years, or both;

"(B) if serious bodily injury (as defined in section 1365 of this title, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title) results, be fined under this title or imprisoned not more than 25 years, or both; and

"(C) if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) Civil Action.—Whoever knowingly engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49 is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

"(c) REIMBURSEMENT.—

"(1) IN GENERAL.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

"(2) LIABILITY.—A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

"(3) CIVIL JUDGMENT.—An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

"(d) ACTIVITIES OF LAW ENFORCEMENT.—This section shall not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections of chapter 47 of title 18, United States Code, is amended by adding after the item relating to section 1037 the following:

"1038. False information and hoaxes.".

SEC. 417. INCREASED PENALTIES FOR OBSTRUCTION OF JUSTICE IN TERRORISM CASES.

(a) ENHANCED PENALTY.—Sections 1001(a) and 1505 of title 18, United States Code, are amended by striking "be fined under this title or imprisoned not more than 5 years, or both" and inserting "be fined under this title, imprisoned not more than 5 years or, if the matter relates to international or domestic terrorism (as defined in section 2331), imprisoned not more than 10 years, or both".

(b) SENTENCING GUIDELINES.—Not later than 30 days after the date of enactment of this section, the United States Sentencing Commission shall amend the Sentencing Guidelines to provide for an increased offense level for an offense under sections 1001(a) and 1505 of title 18, United States Code, if the offense involves a matter relating to international or domestic terrorism, as defined in section 2331 of such title.

SEC. 418. AUTOMATIC PERMISSION FOR EX PARTE REQUESTS FOR PROTECTION UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.

The second sentence of section 4 of the Classified Information Procedures Act (18 U.S.C. App. 3) is amended—

(1) by striking "may" and inserting "shall"; and

(2) by striking "a written statement to be inspected" and inserting "a statement to be considered".

SEC. 419. USE OF FISA INFORMATION IN IMMIGRATION PROCEEDINGS.

The following provisions of the Foreign Intelligence Surveillance Act of 1978 are each amended by inserting "(other than in proceedings or other civil matters under the immigration laws (as that term is defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)))" after "authority of the United States":

(1) Subsections (c), (e), and (f) of section 106 (50 U.S.C. 1806).

(2) Subsections (d), (f), and (g) of section 305 (50 U.S.C. 1825).

(3) Subsections (c), (e), and (f) of section 405 (50 U.S.C. 1845).

SEC. 420. EXPANDED DEATH PENALTY FOR TERRORIST MURDERS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

"§ 2339D. Terrorist offenses resulting in death

"(a) PENALTY.—A person who, in the course of committing a terrorist offense, engages in conduct that results in the death of a person, shall be punished by death, or imprisoned for any term of years or for life.

"(b) TERRORIST OFFENSE DEFINED.—In this section, the term 'terrorist offense' means—

"(1) international or domestic terrorism as defined in section 2331;

"(2) a Federal crime of terrorism as defined in section 2332b(g);

"(3) an offense under—

"(A) this chapter;

"(B) section 175, 175b, 229, or 831; or

"(C) section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

"(4) an attempt or conspiracy to commit an offense described in paragraph (1), (2), or (3).".

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

"2339D. Terrorist offenses resulting in death.".

(c) AGGRAVATING FACTORS.—

(1) IN GENERAL.—Section 3591(a)(1) of title 18, United States Code, is amended by striking "or section 2381" and inserting ", 2339D, or 2381".

(2) CONFORMING AMENDMENT.—Section 3592(b) of title 18, United States Code, is amended—

(A) in the section heading, by striking "AND TREASON" and inserting ", TREASON, AND TERRORISM"; and

(B) in paragraph (1)—

(i) in the section heading, by striking "OR TREASON" and inserting ", TREASON, OR TERRORISM"; and

(ii) by striking "or treason" and inserting ", treason, or terrorism".

(d) DEATH PENALTY IN CERTAIN AIR PIRACY CASES.—Section 60003(b) of the Violent Crime Control and Law Enforcement Act of 1994, (Public Law 103–322), is amended, as of the time of its enactment, by adding at the end the following:

"(2) DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual convicted of violating section 46502 of title 49, United States Code, or its predecessor, may be sentenced to death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), but after the enactment of the Antihijacking Act of 1974 (Public Law 93–366), it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States Code, or its predecessor, has been proven by the Government to exist, beyond a reasonable doubt, and that none of the factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the information. The meaning of the term 'especially heinous, cruel, or depraved', as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its predecessor, shall be narrowed by adding the limiting language 'in that it involved torture or serious physical abuse to the victim', and shall be construed as when that term is used in section 3592(c)(6) of title 18, United States Code.".

SEC. 421. DENIAL OF FEDERAL BENEFITS TO CONVICTED TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by this Act, is further amended by adding at the end the following:

"§ 2339E. Denial of Federal benefits to terrorists

"(a) IN GENERAL.—Any individual who is convicted of a Federal crime of terrorism (as defined in section 2332b(g)) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

"(b) FEDERAL BENEFIT DEFINED.—As used in this section, 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act (21 U.S.C. 862(d)).".

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

"2339E. Denial of Federal benefits to terrorists.".

SEC. 422. UNIFORM STANDARDS FOR INFORMATION SHARING ACROSS FEDERAL AGENCIES.

(a) TELEPHONE RECORDS.—Section 2709(d) of title 18, United States Code, is amended by striking "for foreign" and all that follows through "such agency".

(b) CONSUMER INFORMATION UNDER 15 U.S.C. 1681u.—Section 625(f) of the Fair Credit Reporting Act (15 U.S.C. 1681u(f)) is amended to read as follows:

"(f) DISSEMINATION OF INFORMATION.—The Federal Bureau of Investigation may disseminate information obtained pursuant to this section only as provided in guidelines approved by the Attorney General.".

(c) CONSUMER INFORMATION UNDER 15 U.S.C. 1681v.—Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

"(d) DISSEMINATION OF INFORMATION.—The Federal Bureau of Investigation may disseminate information obtained pursuant to this section only as provided in guidelines approved by the Attorney General.".

(d) FINANCIAL RECORDS.—Section 1114(a)(5)(B) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(B)) is amended by striking "for foreign" and all that follows through "such agency".

(e) RECORDS CONCERNING CERTAIN GOVERNMENT EMPLOYEES.—Section 802(e) of the National Security Act of 1947 (50 U.S.C. 436(e)) is amended—

(1) by striking "An agency" and inserting the following: "The Federal Bureau of Investigation may disseminate records or information received pursuant to a request under

this section only as provided in guidelines approved by the Attorney General. Any other agency''; and

(2) in paragraph (3), by striking ''clearly''.

SEC. 423. AUTHORIZATION TO SHARE NATIONAL-SECURITY AND GRAND-JURY INFORMATION WITH STATE AND LOCAL GOVERNMENTS.

(a) Information Obtained in National Security Investigations.—Section 203(d) of the USA PATRIOT ACT (50 U.S.C. 403–5d) is amended—

(1) in paragraph (1), by striking ''criminal investigation'' each place it appears and inserting ''criminal or national security investigation''; and

(2) by amending paragraph (2) to read as follows:

''(2) Definitions.—As used in this subsection—

''(A) the term 'foreign intelligence information' means—

''(i) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

''(I) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

''(II) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

''(III) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

''(ii) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

''(I) the national defense or the security of the United States; or

''(II) the conduct of the foreign affairs of the United States; and

''(B) the term 'national security investigation'—

''(i) means any investigative activity to protect the national security; and

''(ii) includes—

''(I) counterintelligence and the collection of intelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)); and

''(II) the collection of foreign intelligence information.''.

(b) Rule Amendments.—Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)(ii), by striking ''or state subdivision or of an Indian tribe'' and inserting '', state subdivision, Indian tribe, or foreign government'';

(B) in subparagraph (D)—

(i) by inserting after the first sentence the following: ''An attorney for the government may also disclose any grand-jury matter involving a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate Federal, State, state subdivision, Indian tribal, or foreign government official for the purpose of preventing or responding to such a threat.''; and

(ii) in clause (i)—

(I) by striking ''federal''; and

(II) by adding at the end the following: ''Any State, state subdivision, Indian tribal, or foreign government official who receives information under Rule 6(e)(3)(D) may use the information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''; and

(C) in subparagraph (E)—

(i) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(ii) by inserting after clause (ii) the following:

''(iii) at the request of the government, when sought by a foreign court or prosecutor for use in an official criminal investigation;''; and

(iii) in clause (iv), as redesignated—

(I) by striking ''state or Indian tribal'' and inserting ''State, Indian tribal, or foreign''; and

(II) by striking ''or Indian tribal official'' and inserting ''Indian tribal, or foreign government official''; and

(2) in paragraph (7), by inserting '', or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6,'' after ''Rule 6''.

(c) Conforming Amendment.—Section 203(c) of the USA PATRIOT ACT (18 U.S.C. 2517 note) is amended by striking ''Rule 6(e)(3)(C)(i)(V) and (VI)'' and inserting ''Rule 6(e)(3)(D)''.

SEC. 424. PROVIDING MATERIAL SUPPORT TO TERRORISM.

(a) In General.—Section 2339A(a) of title 18, United States Code, is amended—

(1) by striking ''Whoever'' and inserting the following:

''(1) In general.—Any person who'';

(2) by striking ''A violation'' and inserting the following:

''(3) Prosecution.—A violation'';

(3) by inserting after paragraph (1) the following:

''(2) Additional offense.—

''(A) In general.—Any person who provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of international or domestic terrorism, or in the preparation for, or in carrying out, the concealment or escape from the commission of any such act, or attempts or conspires to do so, shall be punished as provided under paragraph (1) for an offense under that paragraph.

''(B) Jurisdiction.—There is Federal jurisdiction over an offense under this paragraph if—

''(i) the offense occurs in or affects interstate or foreign commerce;

''(ii) the act of terrorism is an act of international or domestic terrorism that violates the criminal law of the United States;

''(iii) the act of terrorism is an act of domestic terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government;

''(iv) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States or outside the territorial jurisdiction of the United States, is—

''(I) a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(II) an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(III) a stateless person whose habitual residence is in the United States;

''(v) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States, is an alien;

''(vi) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States, and an offender, acting outside the territorial jurisdiction of the United States, is an alien; or

''(vii) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under this paragraph or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under this paragraph.''; and

(4) by inserting ''act or'' after ''underlying''.

(b) Definitions.—Section 2339A(b) of title 18, United States Code, is amended to read as follows—

''(b) Definitions.—As used in this section—

''(1) the term 'material support or resources' means any property (tangible or intangible) or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

''(2) the term 'training' means instruction or teaching designed to impart a specific skill, rather than general knowledge; and

''(3) the term 'expert advice or assistance' means advice or assistance derived from scientific, technical, or other specialized knowledge.''.

(c) Material Support to Foreign Terrorist Organization.—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking ''Whoever, within the United States or subject to the jurisdiction of the United States,'' and inserting the following:

''(A) In general.—Any person who''; and

(2) by adding at the end the following:

''(B) Knowledge requirement.—A person cannot violate this paragraph unless the person has knowledge that the organization referred to in subparagraph (A)—

''(i) is a terrorist organization;

''(ii) has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); or

''(iii) has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).''.

(d) Jurisdiction.—Section 2339B(d) of title 18, United States Code, is amended to read as follows:

''(d) Jurisdiction.—

''(1) In general.—There is jurisdiction over an offense under subsection (a) if—

''(A) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act);

''(B) an offender is a stateless person whose habitual residence is in the United States;

''(C) an offender is brought in or found in the United States after the conduct required for the offense occurs, even if such conduct occurs outside the United States;

"(D) the offense occurs in whole or in part within the United States;

"(E) the offense occurs in or affects interstate or foreign commerce; or

"(F) an offender aids or abets any person, over whom jurisdiction exists under this paragraph, in committing an offense under subsection (a) or conspires with any person, over whom jurisdiction exists under this paragraph, to commit an offense under subsection (a).

"(2) Extraterritorial jurisdiction.—There is extraterritorial Federal jurisdiction over an offense under this section.".

(e) Provision of Personnel.—Section 2339B of title 18, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by adding after subsection (f) the following:

"(g) Provision of Personnel.—No person may be prosecuted under this section in connection with the term 'personnel' unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include that person) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Any person who acts entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction or control.".

SEC. 425. RECEIVING MILITARY TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.

(a) Prohibition as to Citizens and Residents.—

(1) In general.—Chapter 113B of title 18, United States Code, is amended by adding after section 2339E the following:

"§ 2339F. Receiving military-type training from a foreign terrorist organization

"(a) Offense.—

"(1) In general.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)) as a foreign terrorist organization, shall be fined under this title, imprisoned for ten years, or both.

"(2) Knowledge requirement.—To violate paragraph (1), a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).

"(b) Jurisdiction.—

"(1) In general.—There is jurisdiction over an offense under subsection (a) if—

"(A) an offender is a national of the United States (as defined in 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

"(B) an offender is a stateless person whose habitual residence is in the United States;

"(C) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

"(D) the offense occurs in whole or in part within the United States;

"(E) the offense occurs in or affects interstate or foreign commerce; and

"(F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a), or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

"(2) Extraterritorial jurisdiction.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(c) Definitions.—In this section:

"(1) Military-type training.—The term 'military-type training' means training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2)).

"(2) Serious bodily injury.—The term 'serious bodily injury' has the meaning given that term in section 1365(h)(3).

"(3) Critical infrastructure.—The term 'critical infrastructure' means systems and assets vital to national defense, national security, economic security, public health, or safety, including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned. Examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports).

"(4) Foreign terrorist organization.—The term 'foreign terrorist organization' means an organization designated as a terrorist organization under section 219 (a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)).".

(2) Technical and conforming amendment.—The table of sections for chapter 113B of title 18, United States Code, is amended by adding at the end the following:

"2339F. Receiving military-type training from a foreign terrorist organization.".

(b) Inadmissibility of Aliens Who Have Received Military-Type Training From Terrorist Organizations.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) by striking "is inadmissable. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity."; and

(2) by inserting after subclause (VII) the following:

"(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi), is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.".

(c) Inadmissibility of Representatives and Members of Terrorist Organizations.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (IV), by striking item (aa) and inserting the following:

"(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi), or"; and

(2) by striking subclause (V) and inserting the following:

"(V) is a member of—

"(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi); or

"(bb) an organization which the alien knows or should have known is a terrorist organization,".

(d) Deportation of Aliens Who Have Received Military-Type Training From Terrorist Organizations.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

"(E) Recipient of military-type training.—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi), is deportable.".

(e) Retroactive Application.—The amendments made by subsections (b), (c), and (d) shall apply to the receipt of military training occuring before, on, or after the date of enactment of this Act.

SEC. 426. WEAPONS OF MASS DESTRUCTION.

(a) Expansion of Jurisdictional Bases and Scope.—Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (2) and inserting the following:

"(2)(A) against any person or property within the United States; and

"(B)(i) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

"(ii) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce;

"(iii) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or

"(iv) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;";

(B) in paragraph (3), by striking the comma at the end and inserting "; or"; and

(C) by adding at the end the following:

"(4) against any property within the United States that is owned, leased, or used by a foreign government,"; and

(2) in subsection (c)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) the term 'property' includes all real and personal property.".

(b) Restoration of the Coverage of Chemical Weapons.—

(1) In general.—Section 2332a of title 18, United States Code, as amended by this Act, is further amended by—

(A) in the section heading, by striking "CERTAIN";

(B) in subsection (a), by striking "(other than a chemical weapon as that term is defined in section 229F)"; and

(C) in subsection (b), by striking "(other than a chemical weapon (as that term is defined in section 229F))".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is amended in the matter relating to section 2332a by striking "certain".

(c) EXPANSION OF CATEGORIES OF RESTRICTED PERSONS SUBJECT TO PROHIBITIONS RELATING TO SELECT AGENTS.—Section 175b(d)(2) of title 18, United States Code, is amended—

(1) in subparagraph (G)—

(A) by inserting "(i)" after "(G)";

(B) by striking "or" after the semicolon; and

(C) by adding at the end the following:

"(ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph;"; and

(2) in subparagraph (H), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization (as that term is defined under section 212(a)(3)B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)))."

(d) CONFORMING AMENDMENT TO REGULATIONS.—

(1) IN GENERAL.—Section 175b(a)(1) of title 18, United States Code, is amended by striking "as a select agent in Appendix A" and all that follows through the period and inserting "as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective.

SEC. 427. PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.

(a) ATOMIC ENERGY ACT.—Section 57(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)) is amended by striking "in the production of any special nuclear material" and inserting "or participate in the development or production of any special nuclear material or atomic weapon".

(b) NUCLEAR WEAPON AND WMD THREATS.—

(1) IN GENERAL.—Chapter 39 of title 18, United States Code, is amended by adding at the end the following:

"§838. Participation in nuclear and weapons of mass destruction threats to the United States

"(a) IN GENERAL.—Whoever, within the United States, or subject to the jurisdiction of the United States, willfully participates in or provides material support or resources (as that term is defined under section 2339A) to a nuclear weapons program, or other weapons of mass destruction program of a foreign terrorist power, or attempts or conspires to do so, shall be imprisoned for not more than 20 years.

"(b) JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(c) DEFINITIONS.—As used in this section—

"(1) FOREIGN TERRORIST POWER.—The term 'foreign terrorist power' means a terrorist organization designated under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189), or a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405), or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

"(2) NUCLEAR WEAPON.—The term 'nuclear weapon' means any weapon that contains or uses nuclear material (as that term is defined under section 831(f)(1)).

"(3) NUCLEAR WEAPONS PROGRAM.—The term 'nuclear weapons program' means a program or plan for the development, acquisition, or production of any nuclear weapon or weapons.

"(4) WEAPONS OF MASS DESTRUCTION PROGRAM.—The term 'weapons of mass destruction program' means a program or plan for the development, acquisition, or production of any weapon or weapons of mass destruction (as that term is defined in section 2332a(c)).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 39 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 838. Participation in nuclear and weapons of mass destruction threats to the United States.".

(c) ACT OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.—Section 2332b(g)(5)(B)(i) of title 18, United States Code, is amended by inserting "832 (relating to participation in nuclear and weapons of mass destruction threats to the United States)" after "nuclear materials),".

Subtitle B—Prevention of Terrorist Access to Special Weapons Act

SEC. 431. SHORT TITLE.

This subtitle may be cited as the "Prevention of Terrorist Access to Special Weapons Act of 2004".

SEC. 432. MISSILE SYSTEMS DESIGNED TO DESTROY AIRCRAFT.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2332g, as added by this Act, the following:

"§2332h. Missile systems designed to destroy aircraft

"(a) UNLAWFUL CONDUCT.—

"(1) IN GENERAL.—Except as provided in paragraph (3), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

"(A) an explosive or incendiary rocket or missile that is guided by any system designed to enable the rocket or missile to—

"(i) seek or proceed toward energy radiated or reflected from an aircraft or toward an image locating an aircraft; or

"(ii) otherwise direct or guide the rocket or missile to an aircraft;

"(B) any device designed or intended to launch or guide a rocket or missile described in subparagraph (A); or

"(C) any part or combination of parts designed or redesigned for use in assembling or fabricating a rocket, missile, or device described in subparagraph (A) or (B).

"(2) NONWEAPON.—Paragraph (1)(A) does not apply to any device that is neither designed nor redesigned for use as a weapon.

"(3) EXCLUDED CONDUCT.—This subsection does not apply with respect to—

"(A) conduct by or under the authority of the United States or any department or agency thereof or of a State or any department or agency thereof; or

"(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof or with a State or any department or agency thereof.

"(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

"(1) the offense occurs in or affects interstate or foreign commerce;

"(2) the offense occurs outside of the United States and is committed by a national of the United States;

"(3) the offense is committed against a national of the United States while the national is outside the United States;

"(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

"(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

"(c) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

"(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

"(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.

"(d) DEFINITION.—As used in this section, the term 'aircraft' has the definition set forth in section 40102(a)(6) of title 49, United States Code.".

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

"2332h. Missile systems designed to destroy aircraft.".

SEC. 433. ATOMIC WEAPONS.

(a) PROHIBITIONS.—Section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) is amended by—

(1) inserting at the beginning "a." before "It";

(2) inserting "knowingly" after "for any person to";

(3) striking "or" before "export";

(4) striking "transfer or receive in interstate or foreign commerce," before "manufacture";

(5) inserting "receive," after "acquire,";

(6) inserting ", or use, or possess and threaten to use," before "any atomic weapon";

(7) inserting at the end the following:

"b. Conduct prohibited by subsection a. is within the jurisdiction of the United States if—

"(1) the offense occurs in or affects interstate or foreign commerce; the offense occurs outside of the United States and is committed by a national of the United States;

"(2) the offense is committed against a national of the United States while the national is outside the United States;

"(3) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

"(4) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.".

(b) VIOLATIONS.—Section 222 of the Atomic Energy Act of 1954 (42 U.S.C. 2272) is amended by—

(1) inserting at the beginning "a." before "Whoever";

(2) striking ", 92,"; and

(3) inserting at the end the following:

"b. Any person who violates, or attempts or conspires to violate, section 92 shall be fined not more than $2,000,000 and sentenced to a term of imprisonment not less than 30 years or to imprisonment for life. Any person who, in the course of a violation of section 92, uses, attempts or conspires to use, or possesses and threatens to use, any atomic weapon shall be fined not more than $2,000,000 and imprisoned for life. If the death of another results from a person's violation of section 92, the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.".

SEC. 434. RADIOLOGICAL DISPERSAL DEVICES.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2332h, as added by this Act, the following:

"§ 2332i. Radiological dispersal devices

"(a) UNLAWFUL CONDUCT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

"(A) any weapon that is designed or intended to release radiation or radioactivity at a level dangerous to human life; or

"(B) any device or other object that is capable of and designed or intended to endanger human life through the release of radiation or radioactivity.

"(2) EXCEPTION.—This subsection does not apply with respect to—

"(A) conduct by or under the authority of the United States or any department or agency thereof; or

"(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof.

"(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

"(1) the offense occurs in or affects interstate or foreign commerce;

"(2) the offense occurs outside of the United States and is committed by a national of the United States;

"(3) the offense is committed against a national of the United States while the national is outside the United States;

"(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

"(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

"(c) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

"(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

"(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.".

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

"2332i. Radiological dispersal devices.".

SEC. 435. VARIOLA VIRUS.

(a) IN GENERAL.—Chapter 10 of title 18, United States Code, is amended by inserting after section 175b the following:

"§ 175c. Variola virus

"(a) UNLAWFUL CONDUCT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, engineer, synthesize, acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use, variola virus.

"(2) EXCEPTION.—This subsection does not apply to conduct by, or under the authority of, the Secretary of Health and Human Services.

"(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

"(1) the offense occurs in or affects interstate or foreign commerce;

"(2) the offense occurs outside of the United States and is committed by a national of the United States;

"(3) the offense is committed against a national of the United States while the national is outside the United States;

"(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

"(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

"(c) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

"(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

"(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.

"(d) DEFINITION.—As used in this section, the term 'variola virus' means a virus that can cause human smallpox or any derivative of the variola major virus that contains more than 85 percent of the gene sequence of the variola major virus or the variola minor virus.".

(b) CHAPTER ANALYSIS.—The table of sections of chapter 10 of title 18, United States Code, is amended by inserting at the end the following:

"175c. Variola virus.".

SEC. 436. INTERCEPTION OF COMMUNICATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (a), by inserting "2122 and" after "sections";

(2) in paragraph (c), by inserting "section 175c (relating to variola virus)," after "section 175 (relating to biological weapons),";

(3) in paragraph (q), by inserting "2332h, 2332i," after "2332f,"; and

(4) in paragraph (q), by striking "or 2339C" and inserting "2339C, or 2339E".

SEC. 437. AMENDMENTS TO SECTION 2332b(g)(5)(B) OF TITLE 18, UNITED STATES CODE.

Section 2332b(g)(5)(B) of title 18, United States Code, is amended—

(1) in clause (i)—

(A) by inserting before "2339 (relating to harboring terrorists)" the following: "2332h (relating to missile systems designed to destroy aircraft), 2332i (relating to radiological dispersal devices),";

(B) by inserting "175c (relating to variola virus)," after "175 or 175b (relating to biological weapons),"; and

(C) by inserting "2339E (receiving military-type training from a foreign terrorist organization)," after "2339C (relating to financing of terrorism),"; and

(2) in clause (ii)—

(A) by striking "section" and inserting "sections 92 (relating to prohibitions governing atomic weapons) or"; and

(B) by inserting "2122 or" before "2284".

SEC. 438. AMENDMENTS TO SECTION 1956(c)(7)(D) OF TITLE 18, UNITED STATES CODE.

Section 1956(c)(7)(D), title 18, United States Code, is amended—

(1) by inserting after "section 152 (relating to concealment of assets; false oaths and claims; bribery)," the following: "section 175c (relating to the variola virus),";

(2) by inserting after "section 2332(b) (relating to international terrorist acts transcending national boundaries)," the following: "section 2332h (relating to missile systems designed to destroy aircraft), section 2332i (relating to radiological dispersal devices),"; and

(3) striking "or" after "any felony violation of the Foreign Agents Registration Act of 1938," and after "any felony violation of the Foreign Corrupt Practices Act", striking ";" and inserting ", or section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons)".

SEC. 439. EXPORT LICENSING PROCESS.

Section 38(g)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(1) by striking "or" before "(xi)"; and

(2) by inserting after clause (xi) the following: "or (xii) section 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, relating to missile systems designed to destroy aircraft (18 U.S.C. 2332g), prohibitions governing atomic

weapons (42 U.S.C. 2122), radiological dispersal devices (18 U.S.C. 2332h), and variola virus (18 U.S.C. 175b);''.

Subtitle C—Railroad Carriers and Mass Transportation Protection Act

SEC. 441. SHORT TITLE.

This subtitle may be cited as the ''Railroad Carriers and Mass Transportation Protection Act of 2004''.

SEC. 442. ATTACKS AGAINST RAILROAD CARRIERS, PASSENGER VESSELS, AND MASS TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

''§ 1992. Terrorist attacks and other violence against railroad carriers, passenger vessels, and against mass transportation systems on land, on water, or through the air

''(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

''(1) wrecks, derails, sets fire to, or disables railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

''(2) with intent to endanger the safety of any passenger or employee of a railroad carrier, passenger vessel, or mass transportation provider, or with a reckless disregard for the safety of human life, and without previously obtaining the permission of the railroad carrier, mass transportation provider, or owner of the passenger vessel—

''(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment, a passenger vessel, or a mass transportation vehicle; or

''(B) releases a hazardous material or a biological agent or toxin on or near the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider;

''(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

''(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, without previously obtaining the permission of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment;

''(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without previously obtaining the permission of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider; or

''(C) structure, supply, or facility used in the operation of, or in the support of the operation of, a passenger vessel, without previously obtaining the permission of the owner of the passenger vessel, and with intent to, or knowing or having reason to know that such activity would likely disable or wreck a passenger vessel;

''(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the rail carrier or mass transportation provider;

''(5) with intent to endanger the safety of any passenger or employee of a railroad carrier, owner of a passenger vessel, or mass transportation provider or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

''(6) engages in conduct, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider that is used for railroad or mass transportation purposes;

''(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

''(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) in a circumstance in which—

''(1) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

''(2) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

''(3) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

''(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

''(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

''(4) the offense results in the death of any person;

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2), the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4), the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

''(c) CRIMES AGAINST PUBLIC SAFETY OFFICER.—Whoever commits an offense under subsection (a) that results in death or serious bodily injury to a public safety officer while the public safety officer was engaged in the performance of official duties, or on account of the public safety officer's performance of official duties, shall be imprisoned for a term of not less than 20 years and, if death results, shall be imprisoned for life and be subject to the death penalty.

''(d) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance referred to in subsection (a) is any of the following:

''(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider, owner of a passenger vessel, or railroad carrier engaged in or affecting interstate or foreign commerce.

''(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

''(e) NONAPPLICABILITY.—Subsection (a) does not apply to the conduct with respect to a destructive substance or destructive device that is also classified under chapter 51 of title 49 as a hazardous material in commerce if the conduct—

''(1) complies with chapter 51 of title 49 and regulations, exemptions, approvals, and orders issued under that chapter, or

''(2) constitutes a violation, other than a criminal violation, of chapter 51 of title 49 or a regulation or order issued under that chapter.

''(f) DEFINITIONS.—In this section—

''(1) the term 'biological agent' has the meaning given to that term in section 178(1);

''(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

''(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4);

''(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

''(5) the term 'hazardous material' has the meaning given to that term in chapter 51 of title 49;

''(6) the term 'high-level radioactive waste' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

''(7) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

''(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

''(9) the term 'public safety officer' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b);

''(10) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

''(11) the term 'railroad' has the meaning given to that term in chapter 201 of title 49;

''(12) the term 'railroad carrier' has the meaning given to that term in chapter 201 of title 49;

''(13) the term 'serious bodily injury' has the meaning given to that term in section 1365;

''(14) the term 'spent nuclear fuel' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

''(15) the term 'State' has the meaning given to that term in section 2266;

"(16) the term 'toxin' has the meaning given to that term in section 178(2);

"(17) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air; and

"(18) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.".

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking "**RAILROADS**" in the chapter heading and inserting "**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**";

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

"1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.".

(2) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

"97. Railroad carriers and mass transportation systems on land, on water, or through the air .... 1991".

(3) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking "1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems)," and inserting "1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),";

(B) in section 2339A, by striking "1993,"; and

(C) in section 2516(1)(c) by striking "1992 (relating to wrecking trains)," and inserting "1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),".

Subtitle D—Reducing Crime and Terrorism at America's Seaports Act

SEC. 451. SHORT TITLE.

This subtitle may be cited as the "Reducing Crime and Terrorism at America's Seaports Act of 2004".

SEC. 452. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "or" at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) any secure or restricted area (as that term is defined under section 2285(c)) of any seaport; or";

(2) in subsection (b)(1), by striking "5" and inserting "10";

(3) in subsection (c)(1), by inserting ", captain of the seaport," after "airport authority"; and

(4) in the section heading, by inserting "or seaport" after "airport".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18 is amended by striking the matter relating to section 1036 and inserting the following:

"1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.".

(c) DEFINITION OF SEAPORT.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"§ 26. Definition of seaport

"As used in this title, the term 'seaport' means all piers, wharves, docks, and similar structures to which a vessel may be secured, areas of land, water, or land and water under and in immediate proximity to such structures, and buildings on or contiguous to such structures, and the equipment and materials on such structures or in such buildings.".

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 18 is amended by inserting after the matter relating to section 25 the following:

"26. Definition of seaport.".

SEC. 453. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information

"(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

"(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

"(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law, or to resist a lawful arrest; or

"(B) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows is false.

"(b) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Undersecretary for Border and Transportation Security of the Department of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

"(c) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

"(d) In this section—

"(1) the term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

"(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

"(3) the term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)); and

"(4) the term 'vessel of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)).

"(e) Any person who intentionally violates the provisions of this section shall be fined under this title, imprisoned for not more than 5 years, or both.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

"2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.".

SEC. 454. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES, AND MALICIOUS DUMPING.

(a) VIOLENCE AGAINST MARITIME NAVIGATION.—Section 2280(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (H), by striking "(G)" and inserting "(H)";

(B) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (G), (H), and (I), respectively; and

(C) by inserting after subparagraph (E) the following:

"(F) destroys, seriously damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship;"; and

(2) in paragraph (2) by striking "(C) or (E)" and inserting "(C), (E), or (F)".

(b) PLACEMENT OF DESTRUCTIVE DEVICES.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding after section 2280 the following:

"§ 2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce

"(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or substance which is likely to destroy or cause damage to a vessel or its cargo, or cause interference with the safe navigation of vessels, or interference with maritime commerce, such as by damaging or destroying marine terminals, facilities, and any other marine structure or entity used in maritime commerce, with the intent of causing such destruction or damage, or interference with the safe navigation of vessels or with maritime commerce, shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited under this subsection, may be punished by death.

"(b) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding after the item related to section 2280 the following:

“2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.”.

(c) MALICIOUS DUMPING.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

“§ 2282. Knowing discharge or release

“(a) ENDANGERMENT OF HUMAN LIFE.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjoining shoreline with the intent to endanger human life, health, or welfare shall be fined under this title and imprisoned for any term of years or for life.

“(b) ENDANGERMENT OF MARINE ENVIRONMENT.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjacent shoreline with the intent to endanger the marine environment shall be fined under this title, imprisoned not more than 30 years, or both.

“(c) DEFINITIONS.—In this section:

“(1) DISCHARGE.—The term ‘discharge’ means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

“(2) HAZARDOUS MATERIAL.—The term ‘hazardous material’ has the meaning given the term in section 2101(14) of title 46, United States Code.

“(3) MARINE ENVIRONMENT.—The term ‘marine environment’ has the meaning given the term in section 2101(15) of title 46, United States Code.

“(4) NAVIGABLE WATERS.—The term ‘navigable waters’ has the meaning given the term in section 1362(7) of title 33, and also includes the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.

“(5) NOXIOUS LIQUID SUBSTANCE.—The term ‘noxious liquid substance’ has the meaning given the term in the MARPOL Protocol defined in section 2(1) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding at the end the following:

“2282. Knowing discharge or release.”.

SEC. 455. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by this Act, is amended by adding at the end the following:

“§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials

“(a) IN GENERAL.—Any person who knowingly and willfully transports aboard any vessel within the United States, on the high seas, or having United States nationality, an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited by this subsection, may be punished by death.

“(b) DEFINITIONS.—In this section:

“(1) BIOLOGICAL AGENT.—The term ‘biological agent’ means any biological agent, toxin, or vector (as those terms are defined in section 178).

“(2) BY-PRODUCT MATERIAL.—The term ‘by-product material’ has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

“(3) CHEMICAL WEAPON.—The term ‘chemical weapon’ has the meaning given that term in section 229F.

“(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term ‘explosive or incendiary device’ has the meaning given the term in section 232(5).

“(5) NUCLEAR MATERIAL.—The term ‘nuclear material’ has the meaning given that term in section 831(f)(1).

“(6) RADIOACTIVE MATERIAL.—The term ‘radioactive material’ means—

“(A) source material and special nuclear material, but does not include natural or depleted uranium;

“(B) nuclear by-product material;

“(C) material made radioactive by bombardment in an accelerator; or

“(D) all refined isotopes of radium.

“(7) SOURCE MATERIAL.—The term ‘source material’ has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

“(8) SPECIAL NUCLEAR MATERIAL.—The term ‘special nuclear material’ has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

“§ 2284. Transportation of terrorists

“(a) IN GENERAL.—Any person who knowingly and willfully transports any terrorist aboard any vessel within the United States, on the high seas, or having United States nationality, knowing that the transported person is a terrorist, shall be fined under this title, imprisoned for any term of years or for life, or both.

“(b) DEFINED TERM.—In this section, the term ‘terrorist’ means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 2332b(g)(5)(B).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

“2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials.

“2284. Transportation of terrorists.”.

SEC. 456. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 111 the following:

“CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

“Sec.

“2290. Jurisdiction and scope.

“2291. Destruction of vessel or maritime facility.

“2292. Imparting or conveying false information.

“2293. Bar to prosecution.

“§ 2290. Jurisdiction and scope

“(a) JURISDICTION.—There is jurisdiction over an offense under this chapter if the prohibited activity takes place—

“(1) within the United States or within waters subject to the jurisdiction of the United States; or

“(2) outside United States and—

“(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(B) the activity involves a vessel in which a national of the United States was on board; or

“(C) the activity involves a vessel of the United States (as that term is defined under section 2(c) of the Maritime Drug Law Enforcement Act (42 App. U.S.C. 1903(c)).

“(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

“§ 2291. Destruction of vessel or maritime facility

“(a) OFFENSE.—Whoever willfully—

“(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

“(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), or destructive substance, as defined in section 13, in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

“(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any maritime facility, including but not limited to, any aid to navigation, lock, canal, or vessel traffic service facility or equipment, or interferes by force or violence with the operation of such facility, if such action is likely to endanger the safety of any vessel in navigation;

“(4) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

“(5) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

“(6) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365, in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

“(7) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

“(8) attempts or conspires to do anything prohibited under paragraphs (1) through (7): shall be fined under this title or imprisoned not more than 20 years, or both.

“(b) LIMITATION.—Subsection (a) shall not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the lawful transportation of hazardous materials.

“(c) PENALTY.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under title 18, imprisoned for a term up to life, or both.

“(d) Penalty When Death Results.—Whoever is convicted of any crime prohibited by subsection (a), which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

“(e) Threats.—Whoever willfully imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title, imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

“§ 2292. Imparting or conveying false information

“(a) In General.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

“(b) Malicious Conduct.—Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be fined under this title, imprisoned not more than 5 years, or both.

“(c) Jurisdiction.—

“(1) In general.—Except as provided under paragraph (2), section 2290(a) shall not apply to any offense under this section.

“(2) Jurisdiction.—Jurisdiction over an offense under this section shall be determined in accordance with the provisions applicable to the crime prohibited by this chapter, or by chapter 2, 97, or 111 of this title, to which the imparted or conveyed false information relates, as applicable.

“§ 2293. Bar to prosecution

“(a) In General.—It is a bar to prosecution under this chapter if—

“(1) the conduct in question occurred within the United States in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed; or

“(2) such conduct is prohibited as a misdemeanor under the law of the State in which it was committed.

“(b) Definitions.—In this section:

“(1) Labor dispute.—The term ‘labor dispute’ has the same meaning given that term in section 113(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

“(2) State.—The term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”.

(b) Technical and Conforming Amendment.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

“111A. Destruction of, or interference with, vessels or maritime facilities ..... 2290”.

SEC. 457. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.

(a) Theft of Interstate or Foreign Shipments.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting “trailer,” after “motortruck,”;

(B) by inserting “air cargo container,” after “aircraft,”; and

(C) by inserting “, or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility,” after “air navigation facility”;

(2) in the fifth undesignated paragraph, by striking “one year” and inserting “3 years”; and

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: “For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transhipment or otherwise.”.

(b) Stolen Vessels.—

(1) In general.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

“‘Vessel’ means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.”.

(2) Transportation and sale of stolen vessels.—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking “motor vehicle or aircraft” and inserting “motor vehicle, vessel, or aircraft”.

(c) Review of Sentencing Guidelines.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this Act.

(d) Annual Report of Law Enforcement Activities.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this Act.

(e) Reporting of Cargo Theft.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by no later than December 31, 2005.

SEC. 458. INCREASED PENALTIES FOR NON-COMPLIANCE WITH MANIFEST REQUIREMENTS.

(a) Reporting, Entry, Clearance Requirements.—Section 436(b) of the Tariff Act of 1930 (19 U.S.C. 1436(b)) is amended by—

(1) striking “or aircraft pilot” and inserting “, aircraft pilot, operator, owner of such vessel, vehicle or aircraft or any other responsible party (including non-vessel operating common carriers)”;

(2) striking “$5,000” and inserting “$10,000”; and

(3) striking “$10,000” and inserting “$25,000”.

(b) Criminal Penalty.—Section 436(c) of the Tariff Act of 1930 (19 U.S.C. 1436(c)) is amended by striking “$2,000” and inserting “$10,000”.

(c) Falsity or Lack of Manifest.—Section 584(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(1)) is amended by striking “$1,000” in each place it occurs and inserting “$10,000”.

SEC. 459. STOWAWAYS ON VESSELS OR AIRCRAFT.

Section 2199 of title 18, United States Code, is amended by striking “Shall be fined under this title or imprisoned not more than one year, or both.” and inserting the following:

“(1) shall be fined under this title, imprisoned not more than 5 years, or both;

“(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs (as defined under section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242) to any person other than a participant as a result of a violation of this section, shall be fined under this title, imprisoned not more than 20 years, or both; and

“(3) if an individual commits an act proscribed by this section, with the intent to cause death, and if the death of any person other than a participant occurs as a result of a violation of this section, shall be fined under this title, imprisoned for any number of years or for life, or both.”.

SEC. 460. BRIBERY AFFECTING PORT SECURITY.

(a) In General.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

“§ 226. Bribery affecting port security

“(a) In General.—Whoever knowingly—

“(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent—

“(A) to commit international or domestic terrorism (as that term is defined under section 2331);

“(B) to influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or

“(C) to induce any official or person to do or omit to do any act in violation of the fiduciary duty of such official or person which affects any secure or restricted area or seaport; or

“(2) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

“(A) being influenced in the performance of any official act affecting any secure or restricted area or seaport; and

“(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism;

shall be fined under this title, imprisoned not more than 15 years, or both.

“(b) Definition.—In this section, the term ‘secure or restricted area’ has the meaning given that term in section 2285(c).”.

(b) Technical and Conforming Amendment.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

“226. Bribery affecting port security.”.

Subtitle E—Combating Money Laundering and Terrorist Financing Act

SEC. 471. SHORT TITLE.

This subtitle may be cited as the “Combating Money Laundering and Terrorist Financing Act of 2004”.

SEC. 472. SPECIFIED ACTIVITIES FOR MONEY LAUNDERING.

(a) RICO Definitions.—Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting "burglary, embezzlement," after "robbery,";

(2) in subparagraph (B), by—

(A) inserting "section 1960 (relating to illegal money transmitters)," before "sections 2251";

(B) striking "1591" and inserting "1592";

(C) inserting "and 1470" after "1461–1465"; and

(D) inserting "2252A," after "2252,";

(3) in subparagraph (D), by striking "fraud in the sale of securities" and inserting "fraud in the purchase or sale of securities"; and

(4) in subparagraph (F), by inserting "and 274A" after "274".

(b) MONETARY INVESTMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting ", or section 2339C (relating to financing of terrorism)" before "of this title"; and

(2) striking "or any felony violation of the Foreign Corrupt Practices Act" and inserting "any felony violation of the Foreign Corrupt Practices Act, or any violation of section 208 of the Social Security Act (42 U.S.C. 408) (relating to obtaining funds through misuse of a social security number)".

(c) CONFORMING AMENDMENTS.—

(1) MONETARY INSTRUMENTS.—Section 1956(e) of title 18, United States Code, is amended to read as follows:

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, with respect to the offenses over which the Social Security Administration has jurisdiction, as the Commissioner of Social Security may direct, and with respect to offenses over which the United States Postal Service has jurisdiction, as the Postmaster General may direct. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, the Postmaster General, and the Attorney General. Violations of this section involving offenses described in subsection (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.".

(2) PROPERTY FROM UNLAWFUL ACTIVITY.—Section 1957(e) of title 18, United States Code, is amended to read as follows:

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postmaster General. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postmaster General, and the Attorney General.".

SEC. 473. ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) TECHNICAL AMENDMENTS.—Section 1960 of title 18, United States Code, is amended—

(1) in the caption by striking "unlicensed" and inserting "illegal";

(2) in subsection (a), by striking "unlicensed" and inserting "illegal";

(3) in subsection (b)(1), by striking "unlicensed" and inserting "illegal"; and

(4) in subsection (b)(1)(C), by striking "to be used to be used" and inserting "to be used".

(b) PROHIBITION OF UNLICENSED MONEY TRANSMITTING BUSINESSES.—Section 1960(b)(1)(B) of title 18, United States Code, is amended by inserting the following before the semicolon: ", whether or not the defendant knew that the operation was required to comply with such registration requirements".

(c) AUTHORITY TO INVESTIGATE.—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

"(c) Violations of this section may be investigated by the Attorney General, the Secretary of the Treasury, and the Secretary of the Department of Homeland Security.".

SEC. 474. ASSETS OF PERSONS COMMITTING TERRORIST ACTS AGAINST FOREIGN COUNTRIES OR INTERNATIONAL ORGANIZATIONS.

Section 981(a)(1)(G) of title 18, United States Code, is amended by—

(1) striking "or" at the end of clause (ii);

(2) striking the period at the end of clause (iii) and inserting "; or"; and

(3) inserting after clause (iii) the following:

"(iv) of any individual, entity, or organization engaged in planning or perpetrating any act of international terrorism (as defined in section 2331) against any international organization (as defined in section 209 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4309(b))) or against any foreign government. Where the property sought for forfeiture is located beyond the territorial boundaries of the United States, an act in furtherance of such planning or perpetration must have occurred within the jurisdiction of the United States.".

SEC. 475. MONEY LAUNDERING THROUGH INFORMAL VALUE TRANSFER SYSTEMS.

Section 1956(a) of title 18, United States Code, is amended by adding at the end the following:

"(4) A transaction described in paragraph (1), or a transportation, transmission, or transfer described in paragraph (2) shall be deemed to involve the proceeds of specified unlawful activity, if the transaction, transportation, transmission, or transfer is part of a single plan or arrangement whose purpose is described in either of those paragraphs and one part of such plan or arrangement actually involves the proceeds of specified unlawful activity.".

SEC. 476. FINANCING OF TERRORISM.

(a) CONCEALMENT.—Section 2339C(c)(2) of title 18, United States Code, is amended to read as follows:

"(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support, or resources, or any funds or proceeds of such funds—

"(A) knowing or intending that the support or resources are to be provided, or knowing that the support or resources were provided, in violation of section 2339B; or

"(B) knowing or intending that any such funds are to be provided or collected, or knowing that the funds were provided or collected, in violation of subsection (a),

shall be punished as prescribed in subsection (d)(2).".

(b) DEFINITION.—Section 2339C(e) of title 18, United States Code, is amended—

(1) in paragraph (12), by striking "and" at the end;

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following:

"(13) the term 'material support or resources' has the same meaning as in section 2339B(g)(4); and".

SEC. 477. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) CRIMINAL FORFEITURE.—Section 982(b)(2) of title 18, United States Code, is amended, by striking "The substitution" and inserting "With respect to a forfeiture under subsection (a)(1), the substitution".

(b) TECHNICAL AMENDMENTS TO SECTIONS 1956 AND 1957.—

(1) UNLAWFUL ACTIVITY.—Section 1956(c)(7)(F) of title 18, United States Code, is amended by inserting ", as defined in section 24" before the period.

(2) PROPERTY FROM UNLAWFUL ACTIVITY.—Section 1957 of title 18, United States Code, is amended—

(A) in subsection (a), by striking "engages or attempts to engage in" and inserting "conducts or attempts to conduct"; and

(B) in subsection (f), by inserting the following after paragraph (3):

"(4) the term 'conducts' has the same meaning as it does for purposes of section 1956 of this title.".

(c) OBSTRUCTION OF JUSTICE.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by striking "or" the first time it appears and inserting ", a subpoena issued pursuant to section 1782 of title 28, or".

(d) INTERNATIONAL TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by inserting ")" after "2339C (relating to financing of terrorism".

Subtitle F—Effective Date

SEC. 481. EFFECTIVE DATE.

Notwithstanding section 341, this title shall take effect on the date of enactment of this Act.

SA 3725. Mr. INHOFE (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

In section 406 of the amendment, redesignate subsections (i) and (j) as subsections (j) and (k), respectively.

In section 406 of the amendment, insert after subsection (h) the following:

(i) PARTICIPATION OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—

(1) PARTICIPATION.—The Under Secretary for Emergency Preparedness and Response shall participate in the grantmaking process for the Threat-Based Homeland Security Grant Program for nonlaw enforcement-related grants in order to ensure that preparedness grants where appropriate, are consistent, and are not in conflict, with the

Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Reports.—The Under Secretary for Emergency Preparedness and Response shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes—

(A) the status of the Threat-Based Homeland Security Grant Program; and

(B) the impact of that program on programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SA 3726. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 129, strike line 21 and all that follows through page 137, line 23, and insert the following:

(6) The United States needs to implement the recommendations of the National Commission on Terrorist Attacks Upon the United States to adopt a unified incident command system and significantly enhance communications connectivity between and among civilian authorities, local first responders, and the National Guard. The unified incident command system should enable emergency managers and first responders to manage, generate, receive, evaluate, share, and use information in the event of a terrorist attack or a significant national disaster.

(7) A new approach to the sharing of intelligence and homeland security information is urgently needed. An important conceptual model for a new "trusted information network" is the Systemwide Homeland Analysis and Resource Exchange (SHARE) Network proposed by a task force of leading professionals assembled by the Markle Foundation and described in reports issued in October 2002 and December 2003.

(8) No single agency can create a meaningful information sharing system on its own. Alone, each agency can only modernize stovepipes, not replace them. Presidential leadership is required to bring about governmentwide change.

(c) Information Sharing Network.—

(1) Establishment.—The President shall establish a trusted information network and secure information sharing environment to promote sharing of intelligence and homeland security information in a manner consistent with national security and the protection of privacy and civil liberties, and based on clearly defined and consistently applied policies and procedures, and valid investigative, analytical or operational requirements.

(2) Attributes.—The Network shall promote coordination, communication and collaboration of people and information among all relevant Federal departments and agencies, State, tribal, and local authorities, and relevant private sector entities, including owners and operators of critical infrastructure, by using policy guidelines and technologies that support—

(A) a decentralized, distributed, and coordinated environment that connects existing systems where appropriate and allows users to share information among agencies, between levels of government, and, as appropriate, with the private sector;

(B) the sharing of information in a form and manner that facilitates its use in analysis, investigations and operations;

(C) enabling connectivity between Federal and State agencies and civilian authorities and local first responders in the event of a terrorist attack or significant national disaster;

(D) building upon existing systems capabilities currently in use across the Government;

(E) utilizing industry best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible;

(F) employing an information access management approach that controls access to data rather than to just networks;

(G) facilitating the sharing of information at and across all levels of security by using policy guidelines and technologies that support writing information that can be broadly shared;

(H) providing directory services for locating people and information;

(I) incorporating protections for individuals' privacy and civil liberties;

(J) incorporating strong mechanisms for information security and privacy and civil liberties guideline enforcement in order to enhance accountability and facilitate oversight, including—

(i) multifactor authentication and access control;

(ii) strong encryption and data protection;

(iii) immutable audit capabilities;

(iv) automated policy enforcement;

(v) perpetual, automated screening for abuses of network and intrusions; and

(vi) uniform classification and handling procedures;

(K) compliance with requirements of applicable law and guidance with regard to the planning, design, acquisition, operation, and management of information systems; and

(L) permitting continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(d) Immediate Actions.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Executive Council, shall—

(1) submit to the President and to Congress a description of the technological, legal, and policy issues presented by the creation of the Network described in subsection (c), and the way in which these issues will be addressed;

(2) establish electronic directory services to assist in locating in the Federal Government intelligence and homeland security information and people with relevant knowledge about intelligence and homeland security information; and

(3) conduct a review of relevant current Federal agency capabilities, including—

(A) a baseline inventory of current Federal systems that contain intelligence or homeland security information;

(B) the money currently spent to maintain those systems; and

(C) identification of other information that should be included in the Network.

(e) Guidelines and Requirements.—As soon as possible, but in no event later than 180 days after the date of the enactment of this Act, the President shall—

(1) in consultation with the Executive Council—

(A) issue guidelines for acquiring, accessing, sharing, and using information, including guidelines to ensure that information is provided in its most shareable form, such as by separating out data from the sources and methods by which that data are obtained; and

(B) on classification policy and handling procedures across Federal agencies, including commonly accepted processing and access controls;

(2) in consultation with the Privacy and Civil Liberties Oversight Board established under section 211, issue guidelines that—

(A) protect privacy and civil liberties in the development and use of the Network; and

(B) shall be made public, unless, and only to the extent that, nondisclosure is clearly necessary to protect national security; and

(3) require the heads of Federal departments and agencies to promote a culture of information sharing by—

(A) reducing disincentives to information sharing, including overclassification of information and unnecessary requirements for originator approval; and

(B) providing affirmative incentives for information sharing, such as the incorporation of information sharing performance measures into agency and managerial evaluations, and employee awards for promoting innovative information sharing practices.

(f) Enterprise Architecture and Implementation Plan.—Not later than 270 days after the date of the enactment of this Act, the Director of Management and Budget shall submit to the President and to Congress an enterprise architecture and implementation plan for the Network. The enterprise architecture and implementation plan shall be prepared by the Director of Management and Budget, in consultation with the Executive Council, and shall include—

(1) a description of the parameters of the proposed Network, including functions, capabilities, and resources;

(2) a delineation of the roles of the Federal departments and agencies that will participate in the development of the Network, including identification of any agency that will build the infrastructure needed to operate and manage the Network (as distinct from the individual agency components that are to be part of the Network), with the delineation of roles to be consistent with—

(A) the authority of the National Intelligence Director under this Act to set standards for information sharing and information technology throughout the intelligence community; and

(B) the authority of the Secretary of Homeland Security and the role of the Department of Homeland Security in coordinating with State, tribal, and local officials and the private sector;

(3) a description of the technological requirements to appropriately link and enhance existing networks and a description of the system design that will meet these requirements;

(4) an enterprise architecture that—

(A) is consistent with applicable laws and guidance with regard to planning, design, acquisition, operation, and management of information systems;

(B) will be used to guide and define the development and implementation of the Network; and

(C) addresses the existing and planned enterprise architectures of the departments and agencies participating in the Network;

(5) a description of how privacy and civil liberties will be protected throughout the design and implementation of the Network;

(6) objective, systemwide performance measures to enable the assessment of progress toward achieving full implementation of the Network;

(7) a plan, including a time line, for the development and phased implementation of the Network;

(8) total budget requirements to develop and implement the Network, including the estimated annual cost for each of the 5 years following the date of the enactment of this Act;

(9) an estimate of training requirements needed to ensure that the Network will be adequately implemented and property utilized;

(10) an analysis of the cost to State, tribal, and local governments and private sector entities for equipment and training needed to effectively utilize the Network; and

(11) proposals for any legislation that the Director of Management and Budget determines necessary to implement the Network.

SA 3727. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AMENDMENTS TO CLINGER-COHEN PROVISIONS TO ENHANCE AGENCY PLANNING FOR INFORMATION SECURITY NEEDS.

Chapter 113 of title 40, United States Code, is amended—

(1) in section 11302(b), by inserting "security," after "use,";

(2) in section 11302(c), by inserting ", including information security risks," after "risks" both places it appears;

(3) in section 11312(b)(1), by striking "information technology investments" and inserting "investments in information technology (including information security needs)"; and

(4) in section 11315(b)(2), by inserting ", secure," after "sound".

SA 3728. Mr. BROWNBACK (for himself and Mr. BAYH) proposed an amendment to the bill H.R. 4011, to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "North Korean Human Rights Act of 2004".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Purposes.
Sec. 5. Definitions.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

Sec. 101. Sense of Congress regarding negotiations with North Korea.
Sec. 102. Support for human rights and democracy programs.
Sec. 103. Radio broadcasting to North Korea.
Sec. 104. Actions to promote freedom of information.
Sec. 105. United Nations Commission on Human Rights.
Sec. 106. Establishment of regional framework.
Sec. 107. Special Envoy on Human Rights in North Korea.

TITLE II—ASSISTING NORTH KOREANS IN NEED

Sec. 201. Report on United States humanitarian assistance.
Sec. 202. Assistance provided inside North Korea.
Sec. 203. Assistance provided outside of North Korea.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

Sec. 301. United States policy toward refugees and defectors.
Sec. 302. Eligibility for refugee or asylum consideration.
Sec. 303. Facilitating submission of applications for admission as a refugee.
Sec. 304. United Nations High Commissioner for Refugees.
Sec. 305. Annual reports.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) According to the Department of State, the Government of North Korea is "a dictatorship under the absolute rule of Kim Jong Il" that continues to commit numerous, serious human rights abuses.

(2) The Government of North Korea attempts to control all information, artistic expression, academic works, and media activity inside North Korea and strictly curtails freedom of speech and access to foreign broadcasts.

(3) The Government of North Korea subjects all its citizens to systematic, intensive political and ideological indoctrination in support of the cult of personality glorifying Kim Jong Il and the late Kim Il Sung that approaches the level of a state religion.

(4) The Government of North Korea divides its population into categories, based on perceived loyalty to the leadership, which determines access to food, employment, higher education, place of residence, medical facilities, and other resources.

(5) According to the Department of State, "[t]he [North Korean] Penal Code is [d]raconian, stipulating capital punishment and confiscation of assets for a wide variety of 'crimes against the revolution,' including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing 'reactionary' letters, and possessing reactionary printed matter".

(6) The Government of North Korea executes political prisoners, opponents of the regime, some repatriated defectors, some members of underground churches, and others, sometimes at public meetings attended by workers, students, and schoolchildren.

(7) The Government of North Korea holds an estimated 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, and in which many prisoners also die from disease, starvation, and exposure.

(8) According to eyewitness testimony provided to the United States Congress by North Korean camp survivors, camp inmates have been used as sources of slave labor for the production of export goods, as targets for martial arts practice, and as experimental victims in the testing of chemical and biological poisons.

(9) According to credible reports, including eyewitness testimony provided to the United States Congress, North Korean Government officials prohibit live births in prison camps, and forced abortion and the killing of newborn babies are standard prison practices.

(10) According to the Department of State, "[g]enuine religious freedom does not exist in North Korea" and, according to the United States Commission on International Religious Freedom, "[t]he North Korean state severely represses public and private religious activities" with penalties that reportedly include arrest, imprisonment, torture, and sometimes execution.

(11) More than 2,000,000 North Koreans are estimated to have died of starvation since the early 1990s because of the failure of the centralized agricultural and public distribution systems operated by the Government of North Korea.

(12) According to a 2002 United Nations-European Union survey, nearly one out of every ten children in North Korea suffers from acute malnutrition and four out of every ten children in North Korea are chronically malnourished.

(13) Since 1995, the United States has provided more than 2,000,000 tons of humanitarian food assistance to the people of North Korea, primarily through the World Food Program.

(14) Although United States food assistance has undoubtedly saved many North Korean lives and there have been minor improvements in transparency relating to the distribution of such assistance in North Korea, the Government of North Korea continues to deny the World Food Program forms of access necessary to properly monitor the delivery of food aid, including the ability to conduct random site visits, the use of native Korean-speaking employees, and travel access throughout North Korea.

(15) The risk of starvation, the threat of persecution, and the lack of freedom and opportunity in North Korea have caused large numbers, perhaps even hundreds of thousands, of North Koreans to flee their homeland, primarily into China.

(16) North Korean women and girls, particularly those who have fled into China, are at risk of being kidnapped, trafficked, and sexually exploited inside China, where many are sold as brides or concubines, or forced to work as prostitutes.

(17) The Governments of China and North Korea have been conducting aggressive campaigns to locate North Koreans who are in China without permission and to forcibly return them to North Korea, where they routinely face torture and imprisonment, and sometimes execution.

(18) Despite China's obligations as a party to the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, China routinely classifies North Koreans seeking asylum in China as mere "economic migrants" and returns them to North Korea without regard to the serious threat of persecution they face upon their return.

(19) The Government of China does not provide North Koreans whose asylum requests are rejected a right to have the rejection reviewed prior to deportation despite its obligations under the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

(20) North Koreans who seek asylum while in China are routinely imprisoned and tortured, and in some cases killed, after they are returned to North Korea.

(21) The Government of China has detained, convicted, and imprisoned foreign aid workers attempting to assist North Korean refugees in proceedings that did not comply with Chinese law or international standards.

(22) In January 2000, North Korean agents inside China allegedly abducted the Reverend Kim Dong-shik, a United States permanent resident and advocate for North Korean refugees, whose condition and whereabouts remain unknown.

(23) Between 1994 and 2003, South Korea has admitted approximately 3,800 North Korean refugees for domestic resettlement, a number that is small in comparison with the total number of North Korean escapees but far greater than the number legally admitted in any other country.

(24) Although the principal responsibility for North Korean refugee resettlement naturally falls to the Government of South Korea, the United States should play a leadership role in focusing international attention on the plight of these refugees, and formulating international solutions to that profound humanitarian dilemma.

(25) In addition to infringing the rights of its own citizens, the Government of North Korea has been responsible in years past for the abduction of numerous citizens of South Korea and Japan, whose condition and whereabouts remain unknown.

SEC. 4. PURPOSES.

The purposes of this Act are—

(1) to promote respect for and protection of fundamental human rights in North Korea;

(2) to promote a more durable humanitarian solution to the plight of North Korean refugees;

(3) to promote increased monitoring, access, and transparency in the provision of humanitarian assistance inside North Korea;

(4) to promote the free flow of information into and out of North Korea; and

(5) to promote progress toward the peaceful reunification of the Korean peninsula under a democratic system of government.

SEC. 5. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on International Relations of the House of Representatives; and

(B) the Committee on Foreign Relations of the Senate.

(2) CHINA.—The term "China" means the People's Republic of China.

(3) HUMANITARIAN ASSISTANCE.—The term "humanitarian assistance" means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies, clothing, and shelter.

(4) NORTH KOREA.—The term "North Korea" means the Democratic People's Republic of Korea.

(5) NORTH KOREANS.—The term "North Koreans" means persons who are citizens or nationals of North Korea.

(6) SOUTH KOREA.—The term "South Korea" means the Republic of Korea.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

SEC. 101. SENSE OF CONGRESS REGARDING NEGOTIATIONS WITH NORTH KOREA.

It is the sense of Congress that the human rights of North Koreans should remain a key element in future negotiations between the United States, North Korea, and other concerned parties in Northeast Asia.

SEC. 102. SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY PROGRAMS.

(a) SUPPORT.—The President is authorized to provide grants to private, nonprofit organizations to support programs that promote human rights, democracy, rule of law, and the development of a market economy in North Korea. Such programs may include appropriate educational and cultural exchange programs with North Korean participants, to the extent not otherwise prohibited by law.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

SEC. 103. RADIO BROADCASTING TO NORTH KOREA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should facilitate the unhindered dissemination of information in North Korea by increasing its support for radio broadcasting to North Korea, and that the Broadcasting Board of Governors should increase broadcasts to North Korea from current levels, with a goal of providing 12-hour-per-day broadcasting to North Korea, including broadcasts by Radio Free Asia and Voice of America.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report that—

(1) describes the status of current United States broadcasting to North Korea; and

(2) outlines a plan for increasing such broadcasts to 12 hours per day, including a detailed description of the technical and fiscal requirements necessary to implement the plan.

SEC. 104. ACTIONS TO PROMOTE FREEDOM OF INFORMATION.

(a) ACTIONS.—The President is authorized to take such actions as may be necessary to increase the availability of information inside North Korea by increasing the availability of sources of information not controlled by the Government of North Korea, including sources such as radios capable of receiving broadcasting from outside North Korea.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out subsection (a).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, and in each of the 3 years thereafter, the Secretary of State, after consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees a report, in classified form, on actions taken pursuant to this section.

SEC. 105. UNITED NATIONS COMMISSION ON HUMAN RIGHTS.

It is the sense of Congress that the United Nations has a significant role to play in promoting and improving human rights in North Korea, and that—

(1) the United Nations Commission on Human Rights (UNCHR) has taken positive steps by adopting Resolution 2003/10 and Resolution 2004/13 on the situation of human rights in North Korea, and particularly by requesting the appointment of a Special Rapporteur on the situation of human rights in North Korea; and

(2) the severe human rights violations within North Korea warrant country-specific attention and reporting by the United Nations Working Group on Arbitrary Detention, the Working Group on Enforced and Involuntary Disappearances, the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, the Special Rapporteur on the Right to Food, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Special Rapporteur on Freedom of Religion or Belief, and the Special Rapporteur on Violence Against Women.

SEC. 106. ESTABLISHMENT OF REGIONAL FRAMEWORK.

(a) FINDINGS.—The Congress finds that human rights initiatives can be undertaken on a multilateral basis, such as the Organization for Security and Cooperation in Europe (OSCE), which established a regional framework for discussing human rights, scientific and educational cooperation, and economic and trade issues.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United Sates should explore the possibility of a regional human rights dialogue with North Korea that is modeled on the Helsinki process, engaging all countries in the region in a common commitment to respect human rights and fundamental freedoms.

SEC. 107. SPECIAL ENVOY ON HUMAN RIGHTS IN NORTH KOREA.

(a) SPECIAL ENVOY.—The President shall appoint a special envoy for human rights in North Korea within the Department of State (hereafter in this section referred to as the "Special Envoy"). The Special Envoy should be a person of recognized distinction in the field of human rights.

(b) CENTRAL OBJECTIVE.—The central objective of the Special Envoy is to coordinate and promote efforts to improve respect for the fundamental human rights of the people of North Korea.

(c) DUTIES AND RESPONSIBILITIES.—The Special Envoy shall—

(1) engage in discussions with North Korean officials regarding human rights;

(2) support international efforts to promote human rights and political freedoms in North Korea, including coordination and dialogue between the United States and the United Nations, the European Union, North Korea, and the other countries in Northeast Asia;

(3) consult with non-governmental organizations who have attempted to address human rights in North Korea;

(4) make recommendations regarding the funding of activities authorized in section 102;

(5) review strategies for improving protection of human rights in North Korea, including technical training and exchange programs; and

(6) develop an action plan for supporting implementation of the United Nations Commission on Human Rights Resolution 2004/13.

(d) REPORT ON ACTIVITIES.—Not later than 180 days after the date of the enactment of this Act, and annually for the subsequent 5 year-period, the Special Envoy shall submit to the appropriate congressional committees a report on the activities undertaken in the preceding 12 months under subsection (c).

TITLE II—ASSISTING NORTH KOREANS IN NEED

SEC. 201. REPORT ON UNITED STATES HUMANITARIAN ASSISTANCE.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, and in each of the 2 years thereafter, the Administrator of the United States Agency for International Development, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that describes—

(1) all activities to provide humanitarian assistance inside North Korea, and to North Koreans outside of North Korea, that receive United States funding;

(2) any improvements in humanitarian transparency, monitoring, and access inside North Korea during the previous 1-year period, including progress toward meeting the conditions identified in paragraphs (1) through (4) of section 202(b); and

(3) specific efforts to secure improved humanitarian transparency, monitoring, and access inside North Korea made by the United States and United States grantees, including the World Food Program, during the previous 1-year period.

(b) FORM.—The information required by subsection (a)(1) may be provided in classified form if necessary.

SEC. 202. ASSISTANCE PROVIDED INSIDE NORTH KOREA.

(a) HUMANITARIAN ASSISTANCE THROUGH NONGOVERNMENTAL AND INTERNATIONAL ORGANIZATIONS.—It is the sense of the Congress that—

(1) at the same time that Congress supports the provision of humanitarian assistance to the people of North Korea on humanitarian grounds, such assistance also should be provided and monitored so as to minimize the possibility that such assistance could be diverted to political or military use, and to maximize the likelihood that it will reach the most vulnerable North Koreans;

(2) significant increases above current levels of United States support for humanitarian assistance provided inside North Korea should be conditioned upon substantial improvements in transparency, monitoring, and access to vulnerable populations throughout North Korea; and

(3) the United States should encourage other countries that provide food and other humanitarian assistance to North Korea to do so through monitored, transparent channels, rather than through direct, bilateral transfers to the Government of North Korea.

(b) UNITED STATES ASSISTANCE TO THE GOVERNMENT OF NORTH KOREA.—It is the sense of Congress that—

(1) United States humanitarian assistance to any department, agency, or entity of the Government of North Korea shall—

(A) be delivered, distributed, and monitored according to internationally recognized humanitarian standards;

(B) be provided on a needs basis, and not used as a political reward or tool of coercion;

(C) reach the intended beneficiaries, who should be informed of the source of the assistance; and

(D) be made available to all vulnerable groups in North Korea, no matter where in the country they may be located; and

(2) United States nonhumanitarian assistance to North Korea shall be contingent on North Korea's substantial progress toward—

(A) respect for the basic human rights of the people of North Korea, including freedom of religion;

(B) providing for family reunification between North Koreans and their descendants and relatives in the United States;

(C) fully disclosing all information regarding citizens of Japan and the Republic of Korea abducted by the Government of North Korea;

(D) allowing such abductees, along with their families, complete and genuine freedom to leave North Korea and return to the abductees' original home countries;

(E) reforming the North Korean prison and labor camp system, and subjecting such reforms to independent international monitoring; and

(F) decriminalizing political expression and activity.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Agency for International Development shall submit to the appropriate congressional committees a report describing compliance with this section.

SEC. 203. ASSISTANCE PROVIDED OUTSIDE OF NORTH KOREA.

(a) ASSISTANCE.—The President is authorized to provide assistance to support organizations or persons that provide humanitarian assistance to North Koreans who are outside of North Korea without the permission of the Government of North Korea.

(b) TYPES OF ASSISTANCE.—Assistance provided under subsection (a) should be used to provide—

(1) humanitarian assistance to North Korean refugees, defectors, migrants, and orphans outside of North Korea, which may include support for refugee camps or temporary settlements; and

(2) humanitarian assistance to North Korean women outside of North Korea who are victims of trafficking, as defined in section 103(14) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(14)), or are in danger of being trafficked.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the President $20,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

SEC. 301. UNITED STATES POLICY TOWARD REFUGEES AND DEFECTORS.

(a) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of State, in consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate a report that describes the situation of North Korean refugees and explains United States Government policy toward North Korean nationals outside of North Korea.

(b) CONTENTS.—The report shall include—

(1) an assessment of the circumstances facing North Korean refugees and migrants in hiding, particularly in China, and of the circumstances they face if forcibly returned to North Korea;

(2) an assessment of whether North Koreans in China have effective access to personnel of the United Nations High Commissioner for Refugees, and of whether the Government of China is fulfilling its obligations under the 1951 Convention Relating to the Status of Refugees, particularly Articles 31, 32, and 33 of such Convention;

(3) an assessment of whether North Koreans presently have unobstructed access to United States refugee and asylum processing, and of United States policy toward North Koreans who may present themselves at United States embassies or consulates and request protection as refugees or asylum seekers and resettlement in the United States;

(4) the total number of North Koreans who have been admitted into the United States as refugees or asylees in each of the past five years;

(5) an estimate of the number of North Koreans with family connections to United States citizens; and

(6) a description of the measures that the Secretary of State is taking to carry out section 303.

(c) FORM.—The information required by paragraphs (1) through (5) of subsection (b) shall be provided in unclassified form. All or part of the information required by subsection (b)(6) may be provided in classified form, if necessary.

SEC. 302. ELIGIBILITY FOR REFUGEE OR ASYLUM CONSIDERATION.

(a) PURPOSE.—The purpose of this section is to clarify that North Koreans are not barred from eligibility for refugee status or asylum in the United States on account of any legal right to citizenship they may enjoy under the Constitution of the Republic of Korea. It is not intended in any way to prejudice whatever rights to citizenship North Koreans may enjoy under the Constitution of the Republic of Korea, or to apply to former North Korean nationals who have availed themselves of those rights.

(b) TREATMENT OF NATIONALS OF NORTH KOREA.—For purposes of eligibility for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or for asylum under section 208 of such Act (8 U.S.C. 1158), a national of the Democratic People's Republic of Korea shall not be considered a national of the Republic of Korea.

SEC. 303. FACILITATING SUBMISSION OF APPLICATIONS FOR ADMISSION AS A REFUGEE.

The Secretary of State shall undertake to facilitate the submission of applications under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) by citizens of North Korea seeking protection as refugees (as defined in section 101(a)(42) of such Act (8 U.S.C. 1101(a)(42)).

SEC. 304. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.

(a) ACTIONS IN CHINA.—It is the sense of Congress that—

(1) the Government of China has obligated itself to provide the United Nations High Commissioner for Refugees (UNHCR) with unimpeded access to North Koreans inside its borders to enable the UNHCR to determine whether they are refugees and whether they require assistance, pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and Article III, paragraph 5 of the 1995 Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China (referred to in this section as the "UNHCR Mission Agreement");

(2) the United States, other UNHCR donor governments, and UNHCR should persistently and at the highest levels continue to urge the Government of China to abide by its previous commitments to allow UNHCR unimpeded access to North Korean refugees inside China;

(3) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally employ as professionals or Experts on Mission persons with significant experience in humanitarian assistance work among displaced North Koreans in China;

(4) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally contract with appropriate nongovernmental organizations that have a proven record of providing humanitarian assistance to displaced North Koreans in China;

(5) the UNHCR should pursue a multilateral agreement to adopt an effective "first asylum" policy that guarantees safe haven and assistance to North Korean refugees; and

(6) should the Government of China begin actively fulfilling its obligations toward North Korean refugees, all countries, including the United States, and relevant international organizations should increase levels of humanitarian assistance provided inside China to help defray costs associated with the North Korean refugee presence.

(b) ARBITRATION PROCEEDINGS.—It is further the sense of Congress that—

(1) if the Government of China continues to refuse to provide the UNHCR with access to North Koreans within its borders, the UNHCR should initiate arbitration proceedings pursuant to Article XVI of the UNHCR Mission Agreement and appoint an arbitrator for the UNHCR; and

(2) because access to refugees is essential to the UNHCR mandate and to the purpose of a UNHCR branch office, a failure to assert those arbitration rights in present circumstances would constitute a significant abdication by the UNHCR of one of its core responsibilities.

SEC. 305. ANNUAL REPORTS.

(a) IMMIGRATION INFORMATION.—Not later than 1 year after the date of the enactment of this Act, and every 12 months thereafter for each of the following 5 years, the Secretary of State and the Secretary of Homeland Security shall submit a joint report to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate on the operation of this title during the previous year, which shall include—

(1) the number of aliens who are nationals or citizens of North Korea who applied for political asylum and the number who were granted political asylum; and

(2) the number of aliens who are nationals or citizens of North Korea who applied for refugee status and the number who were granted refugee status.

(b) COUNTRIES OF PARTICULAR CONCERN.—The President shall include in each annual report on proposed refugee admission pursuant to section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)), information about specific measures taken to facilitate access to the United States refugee program for individuals who have fled countries of particular concern for violations of religious freedom, identified pursuant to section 402(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)). The report shall include, for each country of particular concern, a description of access of the nationals or former habitual residents of that country to a refugee determination on the basis of—

(1) referrals by external agencies to a refugee adjudication;

(2) groups deemed to be of special humanitarian concern to the United States for purposes of refugee resettlement; and

(3) family links to the United States.

SA 3729. Mr. FRIST (for Mr. HATCH (for himself and Mr. LEAHY)) submitted an amendment intended to be proposed by Mr. FRIST to the bill S. 2742, to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court; as follows:

On page 2, lines 22 and 23, strike "for the purpose of aiding or facilitating the work of the United States Supreme Court," and insert "pertaining to the history of the United States Supreme Court or its justices,".

SA 3730. Mr. KYL (for himself, Mr. DOMENICI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 437, to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; which was ordered to lie on the table; as follows:

In the table of contents, insert after the item relating to section 402 the following:

Sec. 403. Authorization of appropriations.

In section 2(26)(B)(ii), insert "consistent with section 203(a) or as approved by the Secretary" before the period at the end.

In section 3, strike subsections (a) and (b) and insert the following:

(a) NO PARTICIPATION BY THE UNITED STATES.—

(1) IN GENERAL.—No arbitration decision rendered pursuant to subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River agreement (including the joint control board agreement attached to exhibit 20.1) shall be considered invalid solely because the United States failed or refused to participate in such arbitration proceedings that resulted in such arbitration decision, so long as the matters in arbitration under subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River Agreement concern aspects of the water rights of the Community, the San Carlos Irrigation Project, or the Miscellaneous Flow Lands (as defined in subparagraph 2.18A of the UVD agreement) and not the water rights of the United States in its own right, any other rights of the United States, or the water rights or any other rights of the United States acting on behalf of or for the benefit of another tribe.

(2) ARBITRATION INEFFECTIVE.—If an issue otherwise subject to arbitration under subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River Agreement cannot be arbitrated or if an arbitration decision will not be effective because the United States cannot or will not participate in the arbitration, then the issue shall be submitted for decision to a court of competent jurisdiction, but not a court of the Community.

(b) PARTICIPATION BY THE SECRETARY.—Notwithstanding any provision of any agreement, exhibit, attachment, or other document ratified by this Act, if the Secretary is required to enter arbitration pursuant to this Act or any such document, the Secretary shall follow the procedures for arbitration established by chapter 5 of title 5, United States Code.

In section 403(f)(2)(A) of the Colorado River Basin Project Act (as amended by section 107(a) of the Committee amendment), insert "in accordance with clause 8(d)(i)(1)(i) of the Repayment Stipulation (as defined in section 2 of the Arizona Water Settlements Act)" before the semicolon at the end;

In section 403(f)(2)(D) of the Colorado River Basin Project Act (as amended by section 107(a) of the Committee amendment), strike clauses (vi) and (vii) and insert the following:

"(vi) to pay a total of not more than $250,000,000 to the credit of the Future Indian Water Settlement Subaccount of the Lower Colorado Basin Development Fund, for use for Indian water rights settlements in Arizona approved by Congress after the date of enactment of this Act, subject to the requirement that, notwithstanding any other provision of this Act, any funds credited to the Future Indian Water Settlement Subaccount that are not used in furtherance of a congressionally approved Indian water rights settlement in Arizona by December 31, 2030, shall be returned to the main Lower Colorado Basin Development Fund for expenditure on authorized uses pursuant to this Act, provided that any interest earned on funds held in the Future Indian Water Settlement Subaccount shall remain in such subaccount until disbursed or returned in accordance with this section;

"(vii) to pay costs associated with the installation of gages on the Gila River and its tributaries to measure the water level of the Gila River and its tributaries for purposes of the New Mexico Consumptive Use and Forbearance Agreement in an amount not to exceed $500,000; and

"(viii) to pay the Secretary's costs of implementing the Central Arizona Project Settlement Act of 2004;

In section 107(c), strike paragraphs (1) through (4) and insert the following:

(1) in section 403(g), by striking "clause (c)(2)" and inserting "subsection (c)(2)"; and

(2) in section 403(e), by deleting the first word and inserting "Except as provided in subsection (f), revenues".

In section 203(c), strike paragraphs (1) and (2) and insert the following:

(1) ENVIRONMENTAL COMPLIANCE.—In implementing the Gila River agreement, the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(2) EXECUTION OF THE GILA RIVER AGREEMENT.—Execution of the Gila River agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the Gila River agreement.

In section 203(d)(4)(B), strike clause (i) and insert the following:

(i) in accomplishing the work under the supplemental repayment contract—

(I) the San Carlos Irrigation and Drainage District—

(aa) may use locally accepted engineering standards and the labor and contracting authorities that are available to the District under State law; and

(bb) shall be subject to the value engineering program of the Bureau of Reclamation established pursuant to OMB Circular A–131; and

(II) in accordance with FAR Part 48.101(b), the incentive returned to the contractor through this "Incentive Clause" shall be 55 percent after the Contractor is reimbursed for the allowable costs of developing and implementing the proposal and the Government shall retain 45 percent of such savings in the form of reduced expenditures;

In section 204(a)(4)(B), strike "or the United States".

In section 207(a)(4)(A), strike clauses (iv) and (v) and insert the following:

(iv)(I) past and present claims for subsidence damage occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land, or fee land arising from time immemorial through the enforceability date; and

(II) claims for subsidence damage arising after the enforceability date occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land or fee land resulting from the diversion of underground water in a manner not in violation of the Gila River agreement or applicable law;

(v) past and present claims for failure to protect, acquire, or develop water rights for or on behalf of the Community and Community members arising before December 31, 2002; and

(vi) past, present, and future claims relating to failure to assert any claims expressly waived pursuant to section 207(a)(1) (C) through (E).

In section 207(a)(5)(A)(ii)(I), insert "injuries to" after "claims for".

In section 207(a)(5)(A)(iii)(I), insert "for injuries to water rights" after "claims".

In section 207(a)(5)(B)(iii)(I), insert "for injuries to water rights" after "claims".

In the matter preceding clause (i) of section 207(a)(5)(C), strike "and the extent" and all that follows through "Globe Equity Decree" and insert the following: "and to the extent the United States holds legal title to (but not the beneficial interest in) the water rights as described in article V or VI of the Globe Equity Decree (but not on behalf of the San Carlos Apache Tribe pursuant to article VI(2) of the Globe Equity Decree)".

In section 207(a)(5)(C)(iii)(I), insert "for injuries to water rights" after "claims".

In section 212(h), strike paragraphs (1) and (2) and insert the following:

(1) ENVIRONMENTAL COMPLIANCE.—Upon execution of the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement, the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(2) EXECUTION OF THE NEW MEXICO CONSUMPTIVE USE AND FORBEARANCE AGREEMENT AND THE NEW MEXICO UNIT AGREEMENT.—Execution of the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement.

In section 309(h)(3) of the Southern Arizona Water Rights Settlement Act of 1982 (as amended by section 301 of the Committee amendment), strike subparagraphs (A) and (B) and insert the following:

"(A) ENVIRONMENTAL COMPLIANCE.—In implementing an agreement described in paragraph (2), the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

"(B) EXECUTION OF AGREEMENT.—Execution of an agreement described in paragraph (2) by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing an agreement described in paragraph (2).

Strike section 401 and insert the following:

SEC. 401. EFFECT OF TITLES I, II, AND III.

None of the provisions of title I, II, or III or the agreements, attachments, exhibits, or stipulations referenced in those titles shall be construed to—

(1) amend, alter, or limit the authority of—

(A) the United States to assert any claim against any party, including any claim for water rights, injury to water rights, or injury to water quality in its capacity as trustee for the San Carlos Apache Tribe, its members and allottees, or in any other capacity on behalf of the San Carlos Apache Tribe, its members, and allottees, in any judicial, administrative, or legislative proceeding; or

(B) the San Carlos Apache Tribe to assert any claim against any party, including any claim for water rights, or injury to water rights, or injury to water quality in its own behalf or on behalf of its members and allottees in any judicial, administrative, or legislative proceeding consistent with title XXXVII of Public Law 102–575 (106 Stat. 4600, 4740); or

(2) amend or alter the CAP Contract for the San Carlos Apache Tribe dated December 11, 1980, as amended April 29, 1999.

At the end, add the following:

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

(a) SAN CARLOS APACHE TRIBE.—There is authorized to be appropriated to assist the San Carlos Apache Tribe in completing comprehensive water resources negotiations leading to a comprehensive Gila River water settlement for the Tribe, including soil and water technical analyses, legal, paralegal, and other related efforts, $150,000 for fiscal year 2006.

(b) WHITE MOUNTAIN APACHE TRIBE.—There is authorized to be appropriated to assist the White Mountain Apache Tribe in completing comprehensive water resources negotiations leading to a comprehensive water settlement for the Tribe, including soil and water technical analyses, legal, paralegal, and other related efforts, $150,000 for fiscal year 2006.

(c) OTHER ARIZONA INDIAN TRIBES.—There is authorized to be appropriated to the Secretary to assist Arizona Indian tribes (other than those specified in subsections (a) and (b)) in completing comprehensive water resources negotiations leading to a comprehensive water settlement for the Arizona Indian tribes, including soil and water technical analyses, legal, paralegal, and other related efforts, $300,000 for fiscal year 2006.

(d) NO LIMITATION ON OTHER FUNDING.—Amounts made available under subsections (a), (b), and (c) shall not limit, and shall be in addition to, other amounts available for Arizona tribal water rights negotiations leading to comprehensive water settlements.

SA 3731. Ms. COLLINS (for Mr. INHOFE (for himself and Mr. JEFFORDS)) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

In section 406 of the amendment, redesignate subsections (i) and (j) as subsections (j) and (k), respectively.

In section 406 of the amendment, insert after subsection (h) the following:

(i) PARTICIPATION OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—

(1) PARTICIPATION.—The Under Secretary for Emergency Preparedness and Response shall participate in the grantmaking process for the Threat-Based Homeland Security Grant Program for nonlaw enforcement-related grants in order to ensure that preparedness grants where appropriate, are consistent, and are not in conflict, with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) REPORTS.—The Under Secretary for Emergency Preparedness and Response shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes—

(A) the status of the Threat-Based Homeland Security Grant Program; and

(B) the impact of that program on programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SA 3732. Ms. COLLINS (for Mr. LEVIN (for himself and Ms. COLLINS)) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 36, strike lines 3 through 21, and insert the following:

SEC. 409. CERTIFICATION RELATIVE TO THE SCREENING OF MUNICIPAL SOLID WASTE TRANSPORTED INTO THE UNITED STATES.

(a) DEFINED TERM.—In this section, the term "municipal solid waste" includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Bureau of Customs and Border Protection of the Department of Homeland Security shall submit a report to Congress that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport; and

(2) if the methodologies and technologies used to screen solid waste are less effective than those used to screen other commercial items, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of solid waste, including the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Bureau of Customs and Border Protection fails to fully implement the actions described in subsection (b)(2) before the earlier of 6 months after the date on which the report is due under subsection (b) or 6 months after the date on which such report is submitted, the Secretary of Homeland Security shall deny entry into the United States of any commercial motor vehicle (as defined in section 31101(1) of title 49, United States Code) carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in such waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport.

(d) Effective Date.—Notwithstanding section 341, this section shall take effect on the date of enactment of this Act.

SA 3733. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. UTILIZATION OF COMMERCIAL AND OTHER DATABASES.

(a) Limitation.—(1) Notwithstanding any other provision of law, no element of the intelligence community may conduct a search or other analysis for national security or intelligence purposes of a database based solely on a hypothetical scenario or hypothetical supposition of who may pose a threat to national security.

(2) The limitation in paragraph (1) shall not be construed to endorse or allow any other activity that involves use or access of databases referred to in subsection (b)(2)(A).

(b) Report on Use of Databases.—(1) The National Intelligence Director shall prepare, submit to the appropriate committees of Congress, and make available to the public a report, in writing, containing a detailed description of any use by any element of the intelligence community of any database that was obtained from or remain under the control of a non-Federal entity, or that contain information that was acquired initially by another department, agency, or element of the United States Government for purposes other than national security or intelligence purposes, regardless of whether any compensation was paid for such database.

(2) The report under paragraph (1) shall include—

(A) a list of all contracts, memoranda of understanding, or other agreements entered into by element of the intelligence community for the use of, access to, or analysis of any database that was obtained from or remain under the control of a non-Federal entity, or that contain information that was acquired initially by another department, agency, or element of the United States Government for purposes other than national security or intelligence purposes;

(B) the duration and dollar amount of such contracts;

(C) the types of data contained in each database referred to in subparagraph (A);

(D) the purposes for which each such database is used, analyzed, or accessed;

(E) the extent to which each such database is used, analyzed, or accessed;

(F) the extent to which information from each such database is retained by any element of the intelligence community, including how long the information is retained and for what purpose;

(G) a thorough description, in unclassified form, of any methodologies being used or developed by the element of the intelligence community concerned, to search, access, or analyze any such database;

(H) an assessment of the likely efficacy of such methodologies in identifying or locating criminals, terrorists, or terrorist groups, and in providing practically valuable predictive assessments of the plans, intentions, or capabilities of terrorists, or terrorist groups;

(I) a thorough discussion of the plans for the use of such methodologies;

(J) a thorough discussion of the activities of the personnel, if any, of the department, agency, or element concerned while assigned to the National Counterterrorism Center; and

(K) a thorough discussion of the policies, procedures, guidelines, regulations, and laws, if any, that have been or will be applied in the access, analysis, or other use of the databases referred to in subparagraph (A), including—

(i) the personnel permitted to access, analyze, or otherwise use such databases;

(ii) standards governing the access, analysis, or use of such databases;

(iii) any standards used to ensure that the personal information accessed, analyzed, or used is the minimum necessary to accomplish the intended legitimate Government purpose;

(iv) standards limiting the retention and redisclosure of information obtained from such databases;

(v) procedures ensuring that such data meets standards of accuracy, relevance, completeness, and timeliness;

(vi) the auditing and security measures to protect against unauthorized access, analysis, use, or modification of data in such databases;

(vii) applicable mechanisms by which individuals may secure timely redress for any adverse consequences wrongfully incurred due to the access, analysis, or use of such databases;

(viii) mechanisms, if any, for the enforcement and independent oversight of existing or planned procedures, policies, or guidelines; and

(ix) an outline of enforcement mechanisms for accountability to protect individuals and the public against unlawful or illegitimate access or use of databases.

(c) Definitions.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The term "database" means any collection or grouping of information about individuals that contains personally identifiable information about individuals, such as individual's names, or identifying numbers, symbols, or other identifying particulars associated with individuals, such as fingerprints, voice prints, photographs, or other biometrics. The term does not include telephone directories or information publicly available on the Internet without fee.

SA 3734. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

TITLE

SECTION 1. SHORT TITLE.

This title may be cited as the "Terrorism Victim Compensation Equity Act".

SEC. 2. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered a reference to the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note).

SEC. 3. COMPENSATION FOR VICTIMS OF TERRORIST ACTS.

(a) Definitions.—Section 402(4) is amended by inserting ", related to the bombings of United States embassies in East Africa on August 7, 1998, related to the attack on the U.S.S. Cole on October 12, 2000, or related to the attack on the World Trade Center on February 26, 1993" before the period.

(b) Purpose.—Section 403 is amended by inserting " or killed as a result of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993" before the period.

(c) Determination of Eligibility for Compensation.—

(1) Claim form contents.—Section 405(a)(2)(B) is amended—

(A) in clause (i), by inserting ", the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993" before the semicolon;

(B) in clause (ii), by inserting "or bombings" before the semicolon; and

(C) in clause (iii), by inserting "or bombings" before the period.

(2) Limitation.—Section 405(a)(3) is amended by striking "2 years" and inserting "4 years".

(3) Collateral compensation.—Section 405(b)(6) is amended by inserting ", the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993" before the period.

(4) Eligibility.—

(A) Individuals.—Section 405(c)(2)(A) is amended—

(i) in clause (i), by inserting ", was present at the United States Embassy in Nairobi, Kenya, or the United States Embassy in Dar es Salaam, Tanzania, at the time, or in the immediate aftermath, of the bombings of United States embassies in East Africa on August 7, 1998, was on the U.S.S. Cole on October 12, 2000, or was present at the World Trade Center on February 26, 1993 at the time of the bombings of that building" before the semicolon; and

(ii) by striking clause (ii) and inserting the following:

"(ii) suffered death as a result of such an air crash or suffered death as a result of such a bombing;".

(B) Requirements.—Section 405(c)(3) is amended—

(i) in the heading for subparagraph (B) by inserting "RELATING TO SEPTEMBER 11TH TERRORIST ACTS" before the period; and

(ii) by adding at the end the following:

"(C) Limitation on civil action relating to other terrorist acts.—

"(i) In general.—Upon the submission of a claim under this title, the claimant involved waives the right to file a civil action (or to be a party to an action) in any Federal or

State court for damages sustained by the claimant as a result of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993. The preceding sentence does not apply to a civil action to recover any collateral source obligation based on contract, or to a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

"(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 4 of the Terrorism Victim Compensation Equity Act.

"(D) INDIVIDUALS WITH PRIOR COMPENSATION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual is not an eligible individual for purposes of this subsection if the individual, or the estate of that individual, has received any compensation from a civil action or settlement based on tort related to the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993.

"(ii) EXCEPTION.—Clause (i) shall not apply to compensation received from a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

"(E) VICTIMS OF BOMBINGS OF UNITED STATES EMBASSIES IN EAST AFRICA.—An individual who suffered death as a result of a bombing or attack described in subparagraph (C)(i) shall not be an eligible individual by reason of that bombing or attack, unless that individual is or was a United States citizen.".

(C) INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.—Section 405(c) is amended by adding at the end the following:

"(4) INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.—An individual, or a representative of that individual, shall not be eligible to receive compensation under this title if that individual is identified by the Attorney General to have been a participant or conspirator in the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993.".

(D) ELIGIBILITY OF MEMBERS OF THE UNIFORMED SERVICES.—Section 405(c) (as amended by subparagraph (C)) is further amended by adding at the end the following:

"(5) ELIGIBILITY OF MEMBERS OF THE UNIFORMED SERVICES.—An individual who is a member of the uniformed services shall not be excluded from being an eligible individual by reason of being such a member.".

SEC. 4. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out the amendments made by this Act, including regulations with respect to—

(1) forms to be used in submitting claims under this Act;

(2) the information to be included in such forms;

(3) procedures for hearing and the presentation of evidence;

(4) procedures to assist an individual in filing and pursuing claims under this Act; and

(5) other matters determined appropriate by the Attorney General.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if enacted as part of the September 11th Victims Compensation Fund of 2001 (Public Law 107-42; 49 U.S.C. 40101 note).

SA 3735. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . NATIONWIDE INTEROPERABLE BROADBAND MOBILE COMMUNICATIONS NETWORK.

(a) IN GENERAL.—Not later than June 1, 2005, the Secretary of Homeland Security shall develop technical and operational specifications and protocols for a nationwide interoperable broadband mobile communications network (referred to in this section as the "Network") to be used by Federal, State, and local public safety and homeland security personnel.

(b) CONSULTATION AND USE OF EXISTING TECHNOLOGIES.—In developing the Network, the Secretary of Homeland Security shall—

(1) seek input from representatives of the user communities regarding the operation and administration of the Network; and

(2) make use of existing commercial wireless technologies to the greatest extent practicable.

(c) SPECTRUM ALLOCATION.—

(1) PLAN.—The Assistant Secretary for Communications and Information, acting as the Administrator of the National Telecommunications and Information Administration (referred to in this section as the "Administrator"), in cooperation with the Federal Communications Commission, other Federal agencies with responsibility for managing radio frequency spectrum, and the Secretary of Homeland Security, shall develop, not later than June 1, 2005, a plan to dedicate sufficient radio frequency spectrum for the Network.

(2) SOURCE OF SPECTRUM.—The spectrum dedicated under paragraph (1)—

(A) may be reclaimed from existing Federal, State, or local public safety users;

(B) may be comprised of spectrum which is not currently being utilized; or

(C) may be comprised of any combination of spectrum described in subparagraphs (A) and (B).

(d) REPORTING REQUIREMENT.—Not later than January 31, 2005, the Administrator, in consultation with the Secretary of Homeland Security, shall submit a report to Congress that—

(1) describes any statutory changes that are necessary to deploy the Network;

(2) identifies the required spectrum allocation for the Network; and

(3) describes the progress made in carrying out the provisions of this section.

SA 3736. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 10 through 16 and insert the following:

(3) The term "counterintelligence" means information gathered, and activities conducted to protect against—

(A) international terrorist activities;

(B) espionage, economic espionage, other intelligence activities, the proliferation of weapons of mass destruction, racketeering, international narcotics trafficking, unauthorized computer access, sabotage, or assassination conducted by or on behalf of any foreign government or element thereof, foreign organization, or foreign person; or

(C) any other criminal activities involved in or related to such threats to the national security.

On page 6, strike lines 7 through 18 and insert the following:

(5) The terms "national intelligence" and "intelligence related to the national security" each refer to all intelligence (regardless of the source from which derived, including information gathered within or without the United States) that pertains to more than one department or agency of the United States Government and that involves—

(A) threats to the United States, its people, property, or interests;

(B) activities associated with the development, proliferation, or use of weapons of mass destruction; or

(C) any other matter bearing on the national security or homeland security of the United States.

On page 196, beginning on line 20, strike "**FOREIGN INTELLIGENCE AND COUNTERINTELLIGENCE**" and insert "**FOREIGN INTELLIGENCE, COUNTERINTELLIGENCE, AND NATIONAL INTELLIGENCE**".

On page 197, strike lines 4 through 7 and insert the following:

(2) by striking paragraph (3) and inserting the following new paragraph (3):

"(3) The term 'counterintelligence' means information gathered, and activities conducted to protect against—

"(A) international terrorist activities;

"(B) espionage, economic espionage, other intelligence activities, the proliferation of weapons of mass destruction, racketeering, international narcotics trafficking, unauthorized computer access, sabotage, or assassination conducted by or on behalf of any foreign government or element thereof, foreign organization, or foreign person; or

"(C) any other criminal activities involved in or related to such threats to the national security."; and

(3) by striking paragraph (5) and insert the following new paragraph (5):

"(5) The terms 'national intelligence' and 'intelligence related to the national security' each refer to all intelligence (regardless of the source from which derived, including information gathered within or without the United States) that pertains to more than one department or agency of the United States Government and that involves—

"(A) threats to the United States, its people, property, or interests;

"(B) activities associated with the development, proliferation, or use of weapons of mass destruction; or

"(C) any other matter bearing on the national security or homeland security of the United States.".

SA 3737. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, strike lines 21 through 23 and insert the following:

(A)(i) refers to all national intelligence programs, projects, and activities of the elements of the intelligence community, including (but not limited to) all programs, projects, and activities of the elements of the intelligence community that are within the National Foreign Intelligence Program as of the date of the enactment of this Act;

SA 3738. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, beginning on line 18, strike ", including any program, project, or activity of the Defense Intelligence Agency that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act,".

SA 3739. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, between lines 19 and 20, insert the following:

(11) direct an element or elements of the intelligence community to conduct competitive analysis of analytic productions, particularly products having national importance;

(12) implement policies and procedures to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community and to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

On page 17, line 20, strike "(11)" and insert "(13)".

On page 17, line 22, strike "(12)" and insert "(14)".

On page 18, line 1, strike "(13)" and insert "(15)".

On page 18, between lines 3 and 4, insert the following:

(16) ensure that intelligence (including unevaluated intelligence), the source of such intelligence, and the method used to collect such intelligence is disseminated in a timely and efficient manner that promotes comprehensive all-source analysis by appropriately cleared officers and employees of the United States Government, notwithstanding the element of the intelligence community that collected such intelligence or the location of such collection;

On page 18, line 4, strike "(14)" and insert "(17)".

On page 18, line 7, strike "(15)" and insert "(18)".

On page 18, line 14, strike "(16)" and insert "(19)".

On page 18, line 17, strike "(17)" and insert "(20)".

On page 18, line 20, strike "(18)" and insert "(21)".

On page 19, line 5, strike "(19)" and insert "(22)".

On page 19, line 7, strike "(20)" and insert "(23)".

On page 20, strike lines 12 through 14 and insert the following:

shall have access to all intelligence and, consistent with subsection (k), any other information which is collected by, possessed by, or under the control of any department, agency, or other element of the United States Government when necessary to carry out the duties and responsibilities of the Director under this Act or any other provision of law.

On page 31, line 1, strike "112(a)(16)" and insert "112(a)(19)".

On page 31, strike line 22 and insert the following:

ensures information-sharing, including direct, continuous, and automated access to unevaluated intelligence data in its earliest understandable form.

On page 32, beginning on line 3, strike "information-sharing" and all that follows through line 4 and insert "information-sharing, including direct, continuous, and automated access to unevaluated intelligence data in its earliest understandable form.".

On page 32, line 16, insert "AND ANALYSIS" after "COLLECTION".

On page 32, line 19, insert "and analysis" after "collection".

On page 32, beginning on line 21, strike "the head of each element of the intelligence community" and insert "the head of any department, agency, or element of the United States Government, and the components and programs thereof,".

On page 56, line 20, strike "(15) and (16)" and insert "(18) and (19)".

On page 194, line 9, strike "112(a)(11)" and insert "112(a)(13)".

On page 195, line 16, strike "112(a)(11)" and insert "112(a)(13)".

On page 195, line 23, strike "112(a)(11)" and insert "112(a)(13)".

On page 196, line 7, strike "112(a)(11)" and insert "112(a)(13)".

SA 3740. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 9 line 13, insert "and intelligence" after "counterterrorism".

SA 3741. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, line 1, strike "may require modifications" and insert "may modify, or may require modifications,".

SA 3742. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, line 17, strike "or" and insert "and".

On page 33, between lines 2 and 3, insert the following:

SEC. 114. FUNDING OF INTELLIGENCE ACTIVITIES.

(a) FUNDING OF ACTIVITIES.—(1) Notwithstanding any other provision of law, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(A) those funds were specifically authorized by the Congress for use for such activities;

(B) in the case of funds from the Reserve for Contingencies of the National Intelligence Director, and consistent with the provisions of section 503 of the National Security Act of 1947 (50 U.S.C. 413b) concerning any significant anticipated intelligence activity, the National Intelligence Director has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

(C) in the case of funds specifically authorized by the Congress for a different activity—

(i) the activity to be funded is a higher priority intelligence or intelligence-related activity; and

(ii) the National Intelligence Director, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity.

(2) Nothing in this subsection prohibits the obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31, United States Code.

(b) APPLICABILITY OF OTHER AUTHORITIES.—Notwithstanding any other provision of this Act, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence, intelligence-related, or other activity only if such obligation or expenditure is consistent with subsections (b), (c), and (d) of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

(c) DEFINITIONS.—In this section:

(1) The term "intelligence agency" means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities.

(2) The term "appropriate congressional committees" means—

(A) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives; and

(B) the Select Committee on Intelligence and the Committee on Appropriations of the Senate.

(3) The term "specifically authorized by the Congress" means that—

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

On page 33, line 3, strike "**114.**" and insert "**115.**".

On page 35, line 1, strike "**115.**" and insert "**116.**".

On page 38, line 21, strike "**116.**" and insert "**117.**".

On page 40, line 10, strike "**117.**" and insert "**118.**".

On page 43, line 1, strike "**118.**" and insert "**119.**".

On page 200, between line 18 and 19, insert the following:

SEC. 309. CONFORMING AMENDMENT ON FUNDING OF INTELLIGENCE ACTIVITIES.

Section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended—

(1) in subparagraph (A), by adding "and" at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

On page 200, line 19, strike "**309.**" and insert "**310.**".

On page 201, line 11, strike "**310.**" and insert "**311.**".

On page 203, line 9, strike "**311.**" and insert "**312.**".

On page 204, line 1, strike "**312.**" and insert "**313.**".

SA 3743. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 32, beginning on line 8, strike "oversee and direct" and all that follows through line 10 and insert "direct and coordinate".

On page 32, between lines 19 and 20, insert the following:

(k) HUMAN INTELLIGENCE OVERSIGHT AND COORDINATION.—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence through human sources;

(2) provide overall direction for and coordinate the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection; and

(3) coordinate with other departments, agencies, and elements of the United States Government which are authorized to undertake such collection and ensure that the most effective use is made of the resources of such departments, agencies, and elements with respect to such collection, and resolve operational conflicts regarding such collection.

On page 32, line 20, strike "(k)" and insert "(l)".

On page 43, after line 20, add the following:

(e) TERMINATION.—Upon the transfer under subsection (d) of all unobligated balances of the Reserve for Contingencies of the Central Intelligence Agency, the Reserve for Contingencies of the Central Intelligence Agency shall be terminated.

On page 179, strike lines 1 through 4 and insert the following:

"(b) SUPERVISION.—(1) The Director of the Central Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director.

"(2) The Director of the Central Intelligence Agency shall report directly to the National Intelligence Director regarding the activities of the Central Intelligence Agency.

On page 179, line 20, add "and" at the end.

On page 179, strike line 21 and all that follows through page 180, line 6.

On page 180, line 7, strike "(4)" and insert "(3)".

On page 181, strike lines 1 through 10.

SA 3744. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, line 17, strike "or" and insert "and".

On page 112, beginning on line 12, strike "Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives" and insert "Select Committee on Intelligence and the Committee on Governmental Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Government Reform of the House of Representatives".

On page 172, strike line 18 and all that follows through page 174, line 23, and insert the following:

SEC. 224. COMMUNICATIONS WITH CONGRESS.

SA 3745. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, strike lines 4 through 9 and insert the following:

(B) The Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.

(C) The Assistant Secretary of State for Intelligence and Research.

(D) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.

(E) The Assistant Secretary for Terrorist Financing of the Department of the Treasury.

(F) The Director of the Defense Intelligence Agency.

(G) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

(H) The Executive Assistant Director for Counterterrorism and Counterintelligence of the Federal Bureau of Investigation.

(I) The Director of the Office of Intelligence of the Department of Energy.

(J) The Director of the Office of Counterintelligence of the Department of Energy.

(K) The Assistant Commandant of the Coast Guard for Intelligence.

SA 3746. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 32, between lines 19 and 20, insert the following:

(k) TERMINATION OR REASSIGNMENT OF OFFICERS AND EMPLOYEES WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1)(A) Notwithstanding any other provision of law, the National Intelligence Director may, at the discretion of the Director, terminate the employment of any civilian officer or employee of any element of the intelligence community within the National Intelligence Program whenever the Director considers the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

(B) Any termination of employment of an officer or employee under subparagraph (A) shall not affect the right of the officer or employee to seek or accept employment in any department or agency of the United States Government if declared eligible for such employment by the Office of Personnel Management.

(2) The Secretary of Defense shall, upon the request of the Director, reassign any member of the Armed Forces serving in a position in an element of the intelligence community within the National Intelligence Program to a position outside the National Intelligence Program whenever the Director considers the reassignment of such member necessary or advisable in the interests of the United States.

(3) Before taking any action under paragraph (1) or (2), the Director shall provide reasonable notice to the head of the element of the intelligence community to which the civilian officer or employee concerned, or member of the Armed Forces concerned, is assigned. The head of the element of the intelligence community concerned may recommend alternative actions to termination or reassignment, and the Director may take such recommendations into account in taking any such action.

(4) The Director may delegate an authority of the Director under this subsection only to the Principal Deputy National Intelligence Director.

(5) Any action of the Director, or the delegee of the Director, under this subsection shall not be subject to judicial review.

On page 32, line 20, strike "(k)" and insert "(l)".

SA 3747. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 20, add the following:

SEC. 119. ADMINISTRATIVE AUTHORITIES.

(a) EXERCISE OF ADMINISTRATIVE AUTHORITIES.—Notwithstanding any other provision of law, the National Intelligence Director may exercise with respect to the National Intelligence Authority any authority of the Director of the Central Intelligence Agency with respect to the Central Intelligence Agency under a provision of the Central Intelligence Agency Act of 1949 specified in subsection (c).

(b) DELEGATION OF ADMINISTRATIVE AUTHORITIES.—Notwithstanding any other provision of law, the National Intelligence Director may delegate to the head of any other element of the intelligence community with a program, project, or activity within the National Intelligence Program for purposes of such program, project or activity any authority of the Director of the Central Intelligence Agency with respect to the Central Intelligence Agency under a provision of the Central Intelligence Agency Act of 1949 specified in subsection (c).

(c) SPECIFIED AUTHORITIES.—The authorities of the Director of the Central Intelligence Agency specified in this subsection are the authorities under the Central Intelligence Agency Act of 1949 as follows:

(1) Section 3 (50 U.S.C. 403c), relating to procurement.

(2) Section 4 (50 U.S.C. 403e), relating to travel allowances and related expenses.

(3) Section 5 (50 U.S.C. 403f), relating to administration of funds.

(4) Section 6 (50 U.S.C. 403g), relating to exemptions from certain information disclosure requirements.

(5) Section 8 (50 U.S.C. 403j), relating to availability of appropriations.

(6) Section 11 (50 U.S.C. 403k), relating to payment of death gratuities.

(7) Section 12 (50 U.S.C. 403l), relating to acceptance of gifts, devises, and bequests.

(8) Section 21 (50 U.S.C. 403u), relating to operation of a central services program.

(d) EXERCISE OF DELEGATED AUTHORITY.—Notwithstanding any other provision of law, the head of an element of the intelligence community delegated an authority under subsection (b) with respect to a program, project, or activity may exercise such authority with respect to such program, project, or activity to the same extent that the Director of the Central Intelligence Agency may exercise such authority with respect to the Central Intelligence Agency.

On page 108, line 12, strike "(1)".

On page 108, line 19, strike "(2)" and insert "(b) DEPOSIT OF PROCEEDS.—".

On page 108, strike line 23 and all that follows through page 109, line 3.

SA 3748. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 78, line 19, insert "regular and detailed" before "reviews".

On page 79, strike lines 1 and 2 and insert the following:

political considerations, based upon all sources available to the intelligence community, and performed in a manner consistent with sound analytic methods and tradecraft, including reviews for purposes of determining whether or not—

(A) such product or products state separately, and distinguish between, the intelligence underlying such product or products and the assumptions and judgments of analysts with respect to the intelligence and such product or products;

(B) such product or products describe the quality and reliability of the intelligence underlying such product or products;

(C) such product or products present and explain alternative conclusions, if any, with respect to the intelligence underlying such product or products;

(D) such product or products characterizes the uncertainties, if any, and the confidence in such product or products; and

(E) the analyst or analysts responsible for such product or products had appropriate access to intelligence information from all sources, regardless of the source of the information, the method of collection of the information, the elements of the intelligence community that collected the information, or the location of such collection.

On page 80, line 1, insert "(A)" after "(5)".

On page 80, line 3, strike ", upon request,".

On page 80, between lines 5 and 6, insert the following:

(B) The results of the evaluations under paragraph (4) shall also be distributed as appropriate throughout the intelligence community as a method for training intelligence community analysts and promoting the development of sound analytic methods and tradecraft. To ensure the widest possible distribution of the evaluations, the Analytic Review Unit shall, when appropriate, produce evaluations at multiple classification levels.

(6) Upon completion of the evaluations under paragraph (4), the Ombudsman may make recommendations to the National Intelligence Director, and to the heads of the elements of the intelligence community, for such personnel actions as the Ombudsman considers appropriate in light of the evaluations, including awards, commendations, reprimands, additional training, or disciplinary action.

On page 80, line 6, strike "INFORMATION.—" and insert "INFORMATION AND PERSONNEL.—(1)".

On page 80, line 8, insert ", the Analytic Review Unit, and other staff of the Office of the Ombudsman of the National Intelligence Authority" after "Authority".

On page 80 line 10, insert "operational and" before "field reports".

On page 80, between lines 13 and 14, insert the following:

(2) The Ombudsman, the Analytic Review Unit, and other staff of the Office shall have access to any employee, or any employee of a contractor, of the intelligence community whose testimony is needed for the performance of the duties of the Ombudsman.

SA 3749. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 51, strike lines 19 through 24 and insert the following:

(c) SCOPE OF POSITION.—(1) The General Counsel of the National Intelligence Authority is the chief legal officer of the National Intelligence Authority and the National Intelligence Program and for the relationships between any element of the intelligence community within the National Intelligence Program and any other element of the intelligence community.

(2) The General Counsel shall, in coordination with the Attorney General, serve as the chief legal authority of the executive branch on the effect on intelligence and intelligence-related activities of the United States Government of the Constitution, laws, regulations, Executive orders and implementing guidelines of the United States and of any other law, regulation, guidance, policy, treaty, or international agreement.

(d) DUTIES AND RESPONSIBILITIES.—The General Counsel of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in carrying out the responsibilities of the Director to ensure that—

(A) the intelligence community is operating as authorized by the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States;

(B) the intelligence community is operating in compliance with any directives, policies, standards, and guidelines issued by the Director; and

(C) the intelligence community has all authorities necessary to provide timely and relevant intelligence information to the President, other policymakers, and military commanders;

(2) coordinate the legal programs of the elements of the intelligence community within the National Intelligence Program;

(3) coordinate with the Department of Justice to ensure that the activities of the intelligence community are consistent with the obligations of the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States;

(4) in consultation with the Department of Justice, interpret, and resolve all conflicts in the interpretation or application of, the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States to the intelligence and intelligence-related activities of the United States Government;

(5) recommend to the Director directives, policies, standards, and guidelines relating to the activities of the intelligence community;

(6) review, on an annual basis, in coordination with the heads of the elements of the intelligence community, the legal programs of each element of the intelligence community to determine if charges or modifications to authorities under such programs are required;

(7) provide legal guidance, which shall be dispositive within the executive branch, to the Department of State, the Department of Justice, and other departments, agencies, and elements of the United States Government on the effect of the implementation and interpretation of treaties and other international agreements on the intelligence and intelligence-related activities of the United States Government; and

(8) perform such other duties as the Director may specify.

On page 53, line 8, insert "in consultation with the General Counsel of the National Intelligence Authority,".

SA 3750. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 87, line 16, strike "and" at the end.

On page 87 between lines 16 and 17, insert the following:

(D) ensure that intelligence (including unevaluated intelligence) concerning suspected terrorists, their organizations, and their capabilities, plans, and intentions, the source of such intelligence, and the method used to collect such intelligence is disseminated in a timely and efficient manner that promotes comprehensive all-source analysis with the Directorate and by appropriately cleared officers and employees of the United States Government, notwithstanding the element of the intelligence community that collected such intelligence or the location of such collection;

(E) conduct, or direct through the National Intelligence Director an element or elements of the intelligence community to conduct, competitive analyses of intelligence products relating to suspected terrorists, their organizations, and their capabilities, plans, and intentions, particularly products having national importance;

(F) implement policies and procedures to encourage coordination by all elements of the intelligence community that conduct analysis of intelligence regarding terrorism of all Directorate products of national importance and, as appropriate, other products, before their final dissemination;

(G) ensure the dissemination of Directorate intelligence products to the President, to Congress, to the heads of other departments and agencies of the executive branch, to the Chairman of the Joint Chiefs of Staff and senior military commanders, and to such other persons or entities as the President shall direct; and

On page 87, line 17, strike "(D)" and insert "(H)".

On page 96, line 16, strike "foreign".

SA 3751. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 200, strike lines 5 through 11 and insert the following:

SEC. 307. CONFORMING AMENDMENTS ON RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO NATIONAL INTELLIGENCE PROGRAM.

Section 105(a) of the National Security Act of 1947 (50 U.S.C. 403-5(a)) is amended—

(1) in paragraph (1), by striking "ensure" and inserting "assist the Director in ensuring"; and

(2) in paragraph (2), by striking "appropriate".

SA 3752. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 32, between lines 15 and 16, insert the following:

(k) HUMAN INTELLIGENCE OVERSIGHT AND COORDINATION.—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence through human sources;

(2) provide overall direction for and coordinate the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection; and

(3) coordinate with other departments, agencies, and elements of the United States Government which are authorized to undertake such collection and ensure that the most effective use is made of the resources of such departments, agencies, and elements with respect to such collection, and resolve operational conflicts regarding such collection.

On page 32, line 20, strike "(k)" and insert "(l)".

On page 179, strike line 21 and all that follows through page 180, line 6.

SA 3753. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 32, beginning on line 8, strike "oversee and direct" and all that follows through line 10 and insert "direct and coordinate".

On page 181, strike lines 1 through 10.

SA 3754. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, between lines 3 and 4, insert the following:

(d) RESPONSIBILITY FOR PERFORMANCE OF SPECIFIC FUNCTIONS.—In carrying out responsibilities under this section, the National Intelligence Director shall ensure—

(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

(2) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of human intelligence activities (other than activities of the defense attaches, which shall remain under the direction of the Secretary of Defense) and other national intelligence collection activities performed by the Defense Intelligence Agency;

(3) through the National Geospatial-Intelligence Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization—

(A) for carrying out tasking of imagery collection;

(B) for the coordination of imagery processing and exploitation activities;

(C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and

(D) notwithstanding any other provision of law and consistent with the policies, procedures, standards, and other directives of the National Intelligence Director and the Chief Information Officer of the National Intelligence Authority, for—

(i) prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and

(ii) developing and fielding systems of common concern related to imagery intelligence and geospatial information; and

(4) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research, development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community.

(e) NATIONAL INTELLIGENCE COLLECTION.—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence using technical means, human sources, and other lawful techniques;

(2) provide overall direction for and coordinate the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection; and

(3) coordinate with other departments, agencies, and elements of the United States Government which are authorized to undertake such collection and ensure that the most effective use is made of the resources of such departments, agencies, and elements with respect to such collection, and resolve operational conflicts regarding such collection.

On page 20, line 4, strike "(d)" and insert "(f)".

On page 32, beginning on line 8, strike "oversee and direct" and all that follows through line 10 and insert "direct and coordinate".

On page 179, strike lines 1 through 4 and insert the following:

"(b) SUPERVISION.—(1) The Director of the Central Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director.

"(2) The Director of the Central Intelligence Agency shall report directly to the National Intelligence Director regarding the activities of the Central Intelligence Agency.

On page 179, line 20, add "and" at the end.

On page 179, strike line 21 and all that follows through page 180, line 6.

On page 180, line 7, strike "(4)" and insert "(3)".

On page 181, strike lines 1 through 10.

On page 200, strike lines 5 through 11 and insert the following:

SEC. 307. CONFORMING AMENDMENTS ON RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO NATIONAL INTELLIGENCE PROGRAM.

Section 105 of the National Security Act of 1947 (50 U.S.C. 403-5) is amended—

(1) in subsection (a)(1), by striking "ensure" and inserting "assist the Director in ensuring"; and

(2) in subsection (b)—

(A) by striking paragraphs (1), (2), and (3);

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (1), (2), and (3) respectively;

(C) in paragraph (1), as so redesignated, by striking "or the National Security Council)" and inserting ", the National Security Council, or the National Intelligence Director (when exercising the responsibilities and authorities provided under this Act, the National Intelligence Reform Act of 2004, or any other provision of law))"; and

(D) in paragraph (2), as so redesignated, by striking "Department of Defense human intelligence activities, including".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 28, 2004, at 10 a.m., to conduct a hearing on "policies to enforce the bank secrecy act and prevent money laundering in money services businesses and the gaming industry."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and

Transportation be authorized to meet on September 28, 2004, at 9:30 a.m. on Media Ownership.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 28, 2004, at 2:30 p.m. to hold a hearing on Combating Corruption in the Multilateral Development Banks (III).

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Tuesday, September 28, 2004, from 10 a.m.–12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on September 28, 2004, at 2:30 p.m. on Effectiveness of Media Ratings Systems.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEED AMERICA THURSDAY

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 440, which was submitted earlier today by Senator HATCH.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 440) designating Thursday, November 18, 2004, as Feed America Thursday.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 440) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 440

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which our Nation was founded;

Whereas 33,000,000 Americans, including 13,000,000 children, continue to live in households that do not have an adequate supply of food;

Whereas almost 3,000,000 of those children experience hunger; and

Whereas selfless sacrifice breeds a genuine spirit of Thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

Resolved, That the Senate—

(1) designates Thursday, November 18, 2004, as "Feed America Thursday"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to sacrifice 2 meals on Thursday, November 18, 2004, and to donate the money that they would have spent on food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

CONTRIBUTIONS OF WISCONSIN NATIVE AMERICANS TO OPENING OF NATIONAL MUSEUM OF AMERICAN INDIANS

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 439 submitted earlier today by Senators FEINGOLD and KOHL.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 439) recognizing the contributions of Wisconsin Native Americans to the opening of the National Museum of the American Indian.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, without intervening action or debate, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 439) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 439

Whereas the National Museum of the American Indian Act (20 U.S.C. 80q et seq.) established within the Smithsonian Institution the National Museum of the American Indian and authorized the construction of a facility to house the National Museum of the American Indian on the National Mall in the District of Columbia;

Whereas the National Museum of the American Indian officially opened on September 21, 2004;

Whereas the National Museum of the American Indian will be the only national museum devoted exclusively to the history and art of cultures indigenous to the Americas, and will give all Americans the opportunity to learn about the cultural legacy, historic grandeur, and contemporary culture of Native Americans, including the tribes that presently and historically occupy the State of Wisconsin;

Whereas the land that comprises the State of Wisconsin has been home to numerous Native American tribes for many years, including 11 federally recognized tribal governments: the Bad River Band of Lake Superior Chippewa Indians, the Forest County Potawatomi Indian Community, the Ho-Chunk Nation of Wisconsin, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, the Menominee Indian Tribe of Wisconsin, the Oneida Tribe of Indians of Wisconsin, the Red Cliff Band of Lake Superior Chippewa Indians, the Sokaogon Chippewa (Mole Lake) Community of Wisconsin, the St. Croix Chippewa Indians of Wisconsin, and the Stockbridge Munsee Community of Wisconsin; and

Whereas members of Native American tribes have greatly contributed to the unique culture and identity of Wisconsin by lending words from their languages to the names of many places in the State and by sharing their customs and beliefs with others who chose to make Wisconsin their home: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the official opening of the National Museum of the American Indian;

(2) recognizes the native people of Wisconsin, and of the entire United States, and their past, present, and future contributions to America's culture, history, and tradition; and

(3) requests that the Senate send an enrolled copy of this resolution to the chairpersons of Wisconsin's federally recognized tribes.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 438 submitted earlier today by Senators BIDEN, HATCH, KOHL, and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 438) supporting the goals and ideals of National Domestic Violence Awareness Month and expressing the sense of the Senate that Congress should raise awareness of domestic violence in the United States and its devastating effects on families.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, without intervening action or debate, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 438) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 438

Whereas 2004 marks the tenth anniversary of the enactment of the Violence Against Women Act of 1994 (Public Law 103–322, 108 Stat. 1902);

Whereas since the passage of the Violence Against Women Act of 1994, communities have made significant progress in reducing domestic violence such that between 1993 and 2001, the incidents of nonfatal domestic violence fell 49 percent;

Whereas since created by the Violence Against Women Act of 1994, the National Domestic Violence Hotline has answered over 1,000,000 calls;

Whereas States have passed over 660 State laws pertaining to domestic violence, stalking, and sexual assault;

Whereas the Violence Against Women Act of 1994 has helped make strides toward breaking the cycle of violence, but there remains much work to be done;

Whereas domestic violence affects women, men, and children of all racial, social, religious, ethnic, and economic groups in the United States;

Whereas on average, more than 3 women are murdered by their husbands or boyfriends in the United States every day;

Whereas women who have been abused are much more likely to suffer from chronic pain, diabetes, depression, unintended pregnancies, substance abuse, and sexually transmitted infections, including HIV/AIDS;

Whereas only about 10 percent of primary care physicians routinely screen for domestic violence during new patient visits, and 9 percent routinely screen during periodic checkups;

Whereas each year, about 324,000 pregnant women in the United States are battered by the men in their lives, leading to pregnancy complications, including low weight gain, anemia, infections, and first and second trimester bleeding;

Whereas every 2 minutes, someone in the United States is sexually assaulted;

Whereas almost 25 percent of women surveyed had been raped or physically assaulted by a spouse or boyfriend at some point in their lives;

Whereas in 2002 alone, 250,000 women and girls older than the age of 12 were raped or sexually assaulted;

Whereas 1 out of every 12 women has been stalked in her lifetime;

Whereas some cultural norms, economics, language barriers, and limited access to legal services and information may make some immigrant women particularly vulnerable to abuse;

Whereas 1 in 5 adolescent girls in the United States becomes a victim of physical or sexual abuse, or both, in a dating relationship;

Whereas 40 percent of girls ages 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend;

Whereas annually, approximately 8,800,000 children in the United States witness domestic violence;

Whereas witnessing violence is a risk factor for having long-term physical and mental health problems (including substance abuse), being a victim of abuse, and becoming a perpetrator of abuse;

Whereas a boy who witnesses his father's domestic violence is 10 times more likely to engage in domestic violence than a boy from a nonviolent home;

Whereas the cost of domestic violence, including rape, physical assault, and stalking, exceeds $5,800,000,000 each year, of which $4,100,000,000 is spent on direct medical and mental health care services;

Whereas 44 percent of the Nation's mayors identified domestic violence as a primary cause of homelessness;

Whereas 25 to 50 percent of abused women reported they lost a job due, in part, to domestic violence;

Whereas there is a need to increase the public awareness about, and understanding of, domestic violence and the needs of battered women and their children;

Whereas the month of October 2004 has been recognized as National Domestic Violence Awareness Month, a month for activities furthering awareness of domestic violence; and

Whereas the dedication and successes of those working tirelessly to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Domestic Violence Awareness Month; and

(2) expresses the sense of the Senate that Congress should continue to raise awareness of domestic violence in the United States and its devastating impact on families.

ENCOURAGING THE INTERNATIONAL OLYMPIC COMMITTEE TO SELECT NEW YORK CITY AS THE SITE OF THE 2012 OLYMPIC GAMES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 475, at the desk, and just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 475) encouraging the International Olympic Committee to select New York City as the site of the 2012 Olympic Games.

There being no objection, the Senate proceeded to consideration of the concurrent resolution.

Mr. FRIST. I ask unanimous consent the concurrent resolution and preamble be agreed to en bloc, any statements be printed in the RECORD, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 475) was agreed to.

The preamble was agreed to.

COASTAL BARRIER RESOURCES

Mr. FRIST. Mr. President, I ask unanimous consent the Chair now lay before the Senate the House message to accompany S. 1663.

The PRESIDING OFFICER laid before the Senate the following message:

S. 1663

Resolved, That the bill from the Senate (S. 1663) entitled "An Act to replace certain Coastal Barrier Resources System maps", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. REPLACEMENT OF CERTAIN COASTAL BARRIER RESOURCES SYSTEM MAPS.

(a) IN GENERAL.—The 2 maps subtitled "NC-07P", relating to the Coastal Barrier Resources System unit designated as Coastal Barrier Resources System Cape Fear Unit NC-07P, that are included in the set of maps entitled "Coastal Barrier Resources System" and referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)), are hereby replaced by 2 other maps relating to those units entitled "Coastal Barrier Resources System Cape Fear Unit, NC-07P" and dated May 5, 2004.

(b) AVAILABILITY.—The Secretary of the Interior shall keep the maps referred to in subsection (a) on file and available for inspection in accordance with the provisions of section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

Mr. FRIST. I ask unanimous consent that the Senate concur in the House amendment, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAUTHORIZATION OF THE TROPICAL FOREST CONSERVATION ACT OF 1998

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 4654 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4654) to authorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4654) was read the third time and passed.

MEASURES READ THE FIRST TIME—S. 2852, H.R. 1084, AND H.R. 1787

Mr. FRIST. Mr. President, I understand there are three bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title en bloc.

The legislative clerk read as follows:

A bill (S. 2852) to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

A bill (H.R. 1084) to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

A bill (H.R. 1787) to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

Mr. FRIST. Mr. President, I now ask for their second reading, and in order to place the bills on the calendar under provisions of rule XIV, I object to my own request en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will receive their second reading on the next legislative day.

SUPREME COURT AUTHORIZATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 707, S. 2742.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2742) to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased to be an original cosponsor of S. 2742, which is a short but important piece of legislation that Senator HATCH and I have cosponsored at the request of the Supreme Court. This legislation would renew authority to provide security for the Justices when they leave the Supreme Court. Recent reports of the assault of Justice Souter when he was outside of the Supreme Court highlight the importance of security for Justices. If no congressional action is taken, the authority of Supreme Court police to protect Justices off court grounds will expire at the end of this year.

Another provision in this legislation allows the Supreme Court to accept gifts "pertaining to the history of the Supreme Court of the United States or its justices." The Administrative Office of the Courts currently has statutory authority to accept gifts on behalf of the judiciary. This provision would grant the Supreme Court authority to accept gifts but it would narrow the types of gifts that can be received to historical items. I think this provision strikes the proper balance.

Finally, this legislation also would provide an additional venue for the prosecution of offenses that occur on the Supreme Court grounds. Currently, the DC Superior Court is the only place of proper venue despite the uniquely Federal interest at stake. This legislation would allow suit to be brought in United States District Court in the District of Columbia.

Mr. FRIST. Mr. President, I ask unanimous consent that the Hatch amendment at the desk be agreed to, that the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3729) was agreed to, as follows:

(Purpose: To provide for authority to accept gifts pertaining to the history of the Supreme Court, and for other purposes)

On page 2, lines 22 and 23, strike "for the purpose of aiding or facilitating the work of the United States Supreme Court," and insert "pertaining to the history of the United States Supreme Court or its justices,".

The bill (S. 2742), as amended, was read the third time and passed, as follows:

S. 2742

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITY FOR THE UNITED STATES SUPREME COURT POLICE TO PROTECT COURT OFFICIALS OFF THE SUPREME COURT GROUNDS.

Section 6121(b)(2) of title 40, United States Code, is amended by striking "2004" and inserting "2008".

SEC. 2. VENUE FOR PROSECUTIONS RELATING TO THE UNITED STATES SUPREME COURT BUILDING AND GROUNDS.

Section 6137 of title 40, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) VENUE AND PROCEDURE.—Prosecution for a violation described in subsection (a) shall be in the United States District Court for the District of Columbia or in the Superior Court of the District of Columbia, on information by the United States Attorney or an Assistant United States Attorney.".

SEC. 3. GIFTS TO THE UNITED STATES SUPREME COURT.

The Chief Justice or his designee is authorized to accept, hold, administer, and utilize gifts and bequests of personal property pertaining to the history of the United States Supreme Court or its justices, but gifts or bequests of money shall be covered into the Treasury.

MEASURE REFERRED—H.R. 3428

Mr. FRIST. I ask unanimous consent that H.R. 3428, a bill to designate a portion of the U.S. courthouse located at 2100 Jamieson Avenue in Alexandria, VA, as the "Justin W. Williams United States Attorney's Building" which is on the calendar, be referred to the committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's calendar: No. 690 and all nominations on the Secretary's desk with NOAA and the Public Health Service.

I further ask unanimous consent that the nominations be confirmed en bloc, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NOMINATIONS PLACED ON THE SECRETARY'S DESK

DEPARTMENT OF DEFENSE

Dionel M. Aviles, of Maryland, to be Under Secretary of the Navy.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PN1977 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (124) beginning Jonathan W. Bailey, and ending Richard A. Edmundson, which nominations were received by the Senate and appeared in the Congressional Record of September 20, 2004.

PN1978 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (29) beginning Timothy J. Gallagher, and ending Bernerd R. Archer, which nominations were received by the Senate and appeared in the Congressional Record of September 20, 2004.

PUBLIC HEALTH SERVICE

PN1511 PUBLIC HEALTH SERVICE nominations (224) beginning Terence L. Chorba, and ending Parmjeet S. Saini, which nominations were received by the Senate and appeared in the Congressional Record of April 8, 2004.

PN1632 PUBLIC HEALTH SERVICE nominations (2) beginning Daniel Molina, and ending James D. Warner, which nominations were received by the Senate and appeared in the Congressional Record of May 17, 2004.

PN1633 PUBLIC HEALTH SERVICE nominations (8) beginning Songhai Barclift, and ending Gregory Woitte, which nominations were received by the Senate and appeared in the Congressional Record of May 17, 2004.

PN1634 PUBLIC HEALTH SERVICE nominations (652) beginning Alvin Abrams, and ending Ariel E. Vidales, which nominations were received by the Senate and appeared in the Congressional Record of May 17, 2004.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR WEDNESDAY, SEPTEMBER 29, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, September 29. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of S. 2845, the intelligence reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, tomorrow the Senate will resume consideration of the intelligence reform bill. We had very good debate on the bill today, disposing of two very important amendments. We also had good debate on the pending Specter intelligence consolidation amendment today as well. We would like to get a reasonable time agreement for that amendment and vote early tomorrow morning. Tomorrow we will lock in an amendment list to this bill. This is the first step in the process for the Senate to show the commitment to finish this bill.

Further, we need to reach an agreement to have amendments filed at the desk so that all Members will be able to see legislative text. We will do this at some point, I am quite sure, late tomorrow afternoon. I have talked about the scheduling changes that confront the Senate this week. In order to complete this important bill, we will need Senators to make themselves available to offer their amendments and to agree to reasonable debate times.

I will continue consulting with the Democratic leader as to the voting schedule for the remainder of the week and next week. It is clear that this cannot be business as usual. It is a very important bill before the Senate. We have a number of issues in terms of appropriations, continuing resolutions, extensions on other bills that have to be dealt with over the coming days. I continue to ask all our Members to be prepared to adapt their schedules for this extraordinary piece of legislation that is in the Senate as well as these other pieces of legislation coming before the Senate.

I had the opportunity over the course of today to talk to the Democratic leadership as well as members of our caucus and other Members of the Senate, and it is clear that we have a lot of work to do in a short period of time. Thus, even though we will do our very best to work around individual Members' schedules, we will have to change the pace of the last several weeks or several months, meaning the potential for voting on Friday, voting for sure on Monday. Suggestions have even come forward that in order to meet all of our objectives on all these bills before our departure on October 8 we should even consider working through this Saturday and Sunday.

I mention all of those, and no decisions have been made except that the fact that so many people are coming forward to say we have a lot to do means we will have to vote through this week every day starting right at 9:30. We will not have morning business tomorrow. We will go straight into the bill and continue through Wednesday, Thursday, Friday and, clearly, have a full working day on Monday as well.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I say through the Chair, Senator DASCHLE has met with Senator FRIST on more than one occasion today. These are extraordinary times. Not only do we have a Presidential election, but these are extraordinary times because of the threat facing our country.

This legislation, the two leaders believe, should be expedited. It deals with that very threat. Everyone should listen very closely to what the majority leader said. That is, we have to take a look at Friday, weekend, Monday. This is for real. We are running out of time. The two leaders agree that we have to work very hard to complete the agenda we have ahead of us, which is a lot in a very short period of time.

Mr. FRIST. Mr. President, in closing, I thank Chairman WARNER for assisting in getting the Under Secretary of the Navy confirmed today—tonight. The Under Secretary reported out on May 12, 2004. I thank our distinguished colleague for working so hard and assisting in getting this accomplished tonight.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:22 p.m., adjourned until Wednesday, September 29, 2004, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 28, 2004:

DEPARTMENT OF DEFENSE

DIONEL M. AVILES, OF MARYLAND, TO BE UNDER SECRETARY OF THE NAVY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING JONATHAN W. BAILEY AND ENDING RICHARD A. EDMUNDSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 20, 2004.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING TIMOTHY J. GALLAGHER AND ENDING BERNERD R. ARCHER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 20, 2004.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING TERENCE L. CHORBA AND ENDING PARMJEET S. SAINI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 8, 2004.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING DANIEL MOLINA AND ENDING JAMES D. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 17, 2004.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING SONGHAI BARCLIFT AND ENDING GREGORY WOITTE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 17, 2004.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING ALVIN ABRAMS AND ENDING ARIEL E. VIDALES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 17, 2004.

HOUSE OF REPRESENTATIVES—*Tuesday, September 28, 2004*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mrs. BIGGERT).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
SEPTEMBER 24, 2004.

I hereby appoint the Honorable JUDY BIGGERT to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

CLEAN WATER AND SANITATION RESOLUTION

Mr. BLUMENAUER. Madam Speaker, on the floor of the House we regularly deal with problems and tragedies. Recently, we have been contending with the horrible consequences of the hurricanes in Florida. But the greatest tragedy in the world today is seldom mentioned here on this floor. Between 2 and 5 million people each year die needlessly because of a lack of access to clean water and adequate sanitation, up to 10,000 people a day and even more tragically over 4,000 children each and every day. Eighty percent of all illness in the developing world is water related, and at any given time, half the population is sick from water-related disease.

Inadequate sanitation makes worse the problems of poverty, disease, biodiversity loss, climate change impact and general environmental degradation.

In the developing world, 90 to 95 percent of household wastes are released untreated into streams, open drains, lake, rivers and coastal waters and lead to wider environmental problems. Many young women in the developing world are not able to go to school because of how much time they spend just getting the water supply for their family.

The magnitude is difficult to comprehend. More than 1.1 billion people lack access to safe drinking water. One in six of the world's population and more than 2.3 billion, one in three, lack access to adequate sanitation.

We have established under the United Nations' Sustainable Development Conference goals, that we are going to reduce by one-half the people in this desperate status. In order to achieve the targets we are going to have to supply 175,000 people a day for the next 10 years with drinking water and sanitation targets for 400,000 people a day. Yet this is a problem that can be solved. We know what to do. We know how to do it. Yes, it will cost tens of billions of dollars. But just in the United States each year, we spend $61 billion on soft drinks, $71 billion on beer, $23 billion on bottled water.

Do we think that the United States can help provide 4 cents a day per person to be able to stop the ravages of water borne disease? Indeed, if the developing world would step up to do its share, it would not even be 4 cents a day because, already, in these troubled countries people are spending an inordinate amount of money on inadequate water supplies. It would be just 2 cents a day extra if the developed world would meet its responsibilities, less than the price of a take-out pizza every year.

I urge Members of the House to consider this issue. This month marks the second anniversary of the World Summit on Sustainable Development in Johannesburg when we made this commitment—the United States and 185 other countries to reduce the population in need by one-half.

We have a resolution, H. Res. 782, that reaffirms this commitment, commending the President's initiative, Water For the Poor. It calls for increased efforts by the United States and all developed countries for allocating water aid to the communities with the greatest need and to communities where it can make the largest difference. It requests the administration to report to Congress on efforts that we make to keep this commitment.

On the second anniversary of the resolution, it is important for us to keep our eye on the ball, to make progress in incremental steps to help prevent tragedy on this global proportion. The resolution has already been bipartisan sponsorship of over 25 Members. We urge Members to cosponsor H. Res. 782.

HARD CHALLENGES FACING THE NATION

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Texas (Mr. DELAY) is recognized during morning hour debates.

Mr. DELAY. Madam Speaker, John F. Kennedy once defined America's audacious priorities at home, abroad and in space by saying, "We choose to do these things not because they were easy, but because they are hard."

He was right, about the 1960s and about America at all times.

In America, there are always challenging issues facing the future of our country. The only choice we have in the matter is whether to tackle them or leave them for future generations. For the last few decades, many have unfortunately preferred to put political expedience over responsible governance and allow major issues to be decided by someone else. For too long Congress has ceded its legislative authority to the executive branch and to the courts.

But, Madam Speaker, article 1 of the Constitution says the buck stops right here. And this week, the House will do its duty by the Constitution and the American people and make our voices heard on two of the toughest challenges facing our Nation today.

First, we will take up the District of Columbia Personal Protection Act which would guarantee the second amendment rights of District residents. For years American citizens in Washington, D.C., have had their right to self-protection denied them, and it is time to set things right. Washington residents are American citizens and, therefore, deserve the same right to bear arms, to defend themselves, as much as anyone else. The homes of this city will be safer when its law-abiding citizens are on a equal footing with its violent criminals.

Second, we will take up the Marriage Protection Amendment which would reaffirm the definition of marriage as the union between one man and one woman. The marriage issue, like too many issues these days, is being forced upon the American people by judicial activists overstepping their authority. Congress must assert itself. The voice of the people must be heard.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

It is our job to make the laws in this country. And as easy as life would be for us if the most controversial bill we had to vote on was to rename a post office, that is not what we were elected to do. We were elected to deliberate over difficult issues, to come down on one side or the other and to ultimately defend our decisions in open debate before the American people.

That is how the framers wanted it. And this week, Madam Speaker, that is how it is going to be.

BUYOUT AND FDA

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from North Carolina (Mr. ETHERIDGE) is recognized during morning hour debates for 5 minutes.

Mr. ETHERIDGE. Madam Speaker, I have just had a number of farmers leave my office this morning, and they are not real sure they are going to be farming this year. So I rise today because tobacco farmers, growers and allotment holders desperately need a tobacco buyout, and they expect Congress to pass one before leaving in October.

Without a buyout, approximately half of North Carolina's tobacco growers could go out of business this year. A buyout means a difference between bankruptcy and solvency, between being forced out of business and retiring with dignity, and between surrendering everything to creditors or having a legacy to leave to the next generation.

A buyout would pump almost $4 billion into rural North Carolina at a time when they are really hurting. This infusion of capital would launch our agriculture sector into a new era of growth and development and provide greater stability to those who wish to continue to farm.

Because the buyout is so critical to North Carolina's farm families and to the continued strength of North Carolina's agriculture sector, it is time for Congress to make the tough decisions necessary to ensure the buyout's success. Now, in the past several months, it has become increasingly clear that the ultimate success of a tobacco buyout is directly tied to the inclusion of FDA regulation.

Madam Speaker, tobacco growers do not want us to have a prolonged fight over FDA. That is what they have told me over and over again. They want a buyout today, and they are fully prepared to pay the price of FDA regulation to ensure and expedite the buyout package.

I have long opposed FDA regulation of tobacco, but let me state clearly, if inclusion of FDA regulation gets us to the goal of enacting buyout legislation before we leave town this year, so be it.

Madam Speaker, I know you are being asked by many people to separate FDA regulations from the buyout. They promise that a buyout can become law without FDA. Madam Speaker, I warn you here and now, if you choose that path and the buyout is defeated, either in the House or the Senate, for any reason, you and they will be responsible for that failure.

The Senate buyout/FDA amendment garnered an incredible 78 votes, more than enough to override a filibuster or overcome a veto. The Senate Republican leader and Senate Republican Whip have said FDA is needed for a buyout to become law, so have Republican Senators DOLE, DEWINE and MCCAIN. Today, we have seen one of the Senate conferees, the chairman of the Senate Committee on Health, Education, Labor and Pension, Senator GREGG, will insist that FDA remain a part of the buyout package.

Madam Speaker, tobacco growers and allotment holders are at the end of their rope. Failure is not an option. Congress must pass the buyout without further delay, and it is time to make the tough choices necessary to get it done.

Madam Speaker, let us do right by our tobacco-farming families. Let us stop making promises and start delivering results. Let us get the buyout to our farmers and quota holders before the election this year. They deserve nothing less.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair cautions all Members against making improper references to Senators.

IRAQI ELECTIONS MUST GO FORWARD

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Madam Speaker, a country was looking for free, democratic elections. Yet, a violent insurgency controlled about one-third of the nation's territory. Insurgents mined roads to prevent transportation and potential voters had to dodge sniper fire just to vote. Yet people by the hundreds of thousands risked their lives to have the opportunity a chance to vote, a chance for freedom.

For those that may not recognize this piece of history, the year is 1982, and the country is El Salvador, and 2 years later the people of that country had to risk the same peril to vote. This situation sounds familiar, does it not.

I doubt many can forget the horrible atrocities committed during the Civil War in El Salvador that claimed over 75,000 lives. The insurgents in that day were no less ruthless than those at the interim government that Afghanistan and Iraq are facing. Violent efforts were increased before and on the day of election to prevent the people of El Salvador from choosing their destiny. The reason was simple. Elections, as pointed out in a recent New York Times article, "suck the oxygen from a rebel army."

Interim Prime Minister Allawi knows this as well as Afghanistan President Karzai. Prime Minister Allawi was on this floor last week and stated emphatically that despite the naysayers in the media, and the supporters of Senator KERRY, Iraq will have free elections next year. Yet, not a day goes by that some pundit or some strategist talks about conditions in Iraq and says that the country is not ready for elections.

However, Madam Speaker, I think it would be worthwhile for those who say they are experts to listen to the Iraqi people. According to some Arab news media reports and Iraqi blogs, only a small portion of Iraq is under control of the insurgents. We are talking about a country that is roughly the size of California, and only a small portion remains vulnerable to the insurgencies.

Allawi is right to move forward with the elections. Iraqis are beyond fed up with these terrorist acts and may surprise many with their resilience in the face of these attacks.

Look at the Iraqi police and National Guard. Despite being persistent targets of these extremists, Iraqi citizens continue to risk their lives to sign up for the change to help bring peace to their nation.

I think these so-called experts on elections in Iraq and Afghanistan are in for a rude awakening. Afghanistan's elections are set for October 9. Also, next month, Iraqis will begin registering to vote with election scheduled for January of next year. Will it be difficult? Most definitely. Will the insurgents try to disrupt this process? Yes. We have already seen that they will increase their attacks.

But the fact is the insurgents are scared. They know that a legitimately elected leader can put an end to this illegitimate insurgency. An elected leader can offer his people peace, stability and prosperity. Insurgents can only offer hate, fear and death.

An elected leader can undermine an insurgency by reaching out and addressing the perceived ills for which they are supposedly fighting for, or expose their motives as pure extremism. An elected leader can transform his country for the better.

Madam Speaker, it will not happen overnight. It took years for El Salvador but it can happen. It is a task that the United States must continue to support without hesitation.

Let me refer to two other examples. Violence and unrest were prevalent in Indonesia. Yet, recently, Indonesia conducted its direct presidential elections, orderly, peacefully, without disruption to voters' access.

Finally, I think we can all remember the problems in Serbia with Milosovic and what happened with his military action. On June 13 and 27 of 2004 this year, Serbia held presidential elections which is a welcome change in the political direction of Serbia and its relationship with the international community.

Remember what Prime Minister Tony Blair said when he addressed this body. Here is his quote which I think rings a very positive note: "How hollow would the charges of American imperialism be when these failed countries are seen to be transformed from states of terror to nations of prosperity, from governments of dictatorship to examples of democracy, from sources of instability to beacons of calm." He went on to say, "Why America? The only answer is because destiny put her in this place in history at this moment of time and the task is ours to do."

We must take these words to heart and stand with a universal toughness. Democratic institutions continue to spread in the world. They are our true defense against the illegitimate attempts of Islamic fanatics to force their own distorted views of the world.

[From the New York Times, Sept. 28, 2004]

THE INSURGENCY BUSTER

(By David Brooks)

Conditions were horrible when Salvadorans went to the polls on March 28, 1982. The country was in the midst of a civil war that would take 75,000 lives. An insurgent army controlled about a third of the nation's territory. Just before election day, the insurgents stepped up their terror campaign. They attacked the National Palace, staged highway assaults that cut the nation in two and blew up schools that were to be polling places.

Yet voters came out in the hundreds of thousands. In some towns, they had to duck beneath sniper fire to get to the polls. In San Salvador, a bomb went off near a line of people waiting outside a polling station. The people scattered, then the line reformed. "This nation may be falling apart," one voter told The Christian Science Monitor, "but by voting we may help to hold it together."

Conditions were scarcely better in 1984, when Salvadorans got to vote again. Nearly a fifth of the municipalities were not able to participate in the elections because ,they were under guerrilla control. The insurgents mined the roads to cut off bus service to 40 percent of the country. Twenty bombs were planted around the town of San Miguel. Once again, people voted with the sound of howitzers in the background.

Yet these elections proved how resilient democracy is, how even in the most chaotic circumstances, meaningful elections can be held.

They produced a National Assembly, and a president, José Napoleón Duarte. They gave the decent majority a chance to display their own courage and dignity. War, tyranny and occupation sap dignity, but voting restores it.

The elections achieved something else: They undermined the insurgency. El Salvador wasn't transformed overnight. But with each succeeding election into the early '90s, the rebels on the left and the death squads on the right grew weaker, and finally peace was achieved, and the entire hemisphere felt the effects.

I mention this case study because we are approaching election day in Afghanistan on Oct. 9. Six days later, voter registration begins in Iraq. Conditions in both places will be tense and chaotic. And in Washington, a mood of bogus tough-mindedness has swept the political class. As William Raspberry wrote yesterday in The Washington Post, "the new consensus seems to be that bringing American-style democracy to Iraq is no longer an achievable goal." We should just settle for what JOHN KERRY calls "stability." We should be satisfied if some strongman comes in who can restore order.

The people who make this argument pat themselves on the back for being hard-headed, but the fact is they are naïve. They've got things exactly backward. The reason we should work for full democracy in Iraq and Afghanistan is not just because it's noble, but because it's practical. It is easier to defeat an insurgency and restore order with elections than without.

As we saw in El Salvador and as Iraqi insurgents understand, elections suck the oxygen from a rebel army. They refute the claim that violence is the best way to change things. Moreover, they produce democratic leaders who are much better equipped to win an insurgency war.

It's hard to beat an illegitimate insurgency with an illegitimate dictatorship. Strongmen have to whip up ethnic nationalism to lure soldiers to their side. They end up inciting blood feuds and reaping the whirlwind.

A democratically elected leader, on the other hand, can do what Duarte did. He can negotiate with rebels, invite them into the political process and co-opt any legitimate grievances. He can rally people on all sides of the political spectrum, who are united by their attachment to the democratic idea. In Iraq, he can exploit the insurgents' greatest weakness: they have no positive agenda.

Of course the situation in El Salvador is not easily compared to the situations in Afghanistan or Iraq. On the other hand, over the past 30-odd years, democracy has spread at the rate of one and a half nations per year. It has spread among violence-racked nations and to 18 that are desperately poor. And it has spread not only because it inspires, but also because it works.

It's simply astounding that in the United States, the home of the greatest and most effective democratic revolution, so many people have come to regard democracy as a luxury-brand vehicle, suited only for the culturally upscale, when it's really a sturdy truck, effective in conditions both rough and smooth.

LITTLE SAFETY IN BAGHDAD

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Massachusetts (Mr. FRANK) is recognized during morning hour debates for 5 minutes.

Mr. FRANK of Massachusetts. Madam Speaker, let me begin on a note of agreement with my predecessor in the well. I do think what we are seeing in Serbia has been very encouraging. And I am glad that President Clinton persevered in doing that over the opposition of a large number of Republicans in this chamber who sought to prevent him from carrying out that policy. But I want to talk now about Iraq.

We went into Iraq, I thought, unwisely and unnecessarily. I believe that my vote against that was the right vote. But even those who voted for it have a hard time dealing with what has been one of the most incompetently executed major national security policies in the history of this country. And one sign of that is the consistently wrong predictions this administration has made.

They said that when we went into Iraq and when they won the war, and the military part was won very easily, despite what President Bush had earlier said, he inherited from President Clinton a superb military regime that won easily the military parts of the efforts in both Afghanistan and Iraq. But we were told that once the military part was over, the people of Iraq would be so welcoming, that it would be fairly easy. Indeed, this administration punished General Shinseki for predicting that it would be a difficult occupation. And, of course, it was a very difficult occupation.

But then we were told, well, when we capture Saddam Hussein that will take the energy out of the resistance and things will get calmer. And we captured Saddam Hussein, fortunately; but unfortunately things did not get better. And then we were told, well, we will turn over the government of Iraq to an Iraqi set of officials and then things will get better. And we turned over the government to an Iraqi set of officials and things have gotten worse.

Now, we are accused by those who do not think debating public policy is appropriate in a democracy. Apparently, they have this very odd idea that the more important the issue, the less appropriate it is to debate it. Democracy in their minds should be conducted about trivia; but when we are talking about important issues of war and peace and the lives of our young people and the national security, somehow it becomes inappropriate to engage in the democratic debate that is at the nature of our governance.

But we have an additional witness to the argument that Iraq remains sadly unsafe in many places for this government and its supporters, the United States government. And we are not just talking about Fallujah or the Sunni Triangle. We are talking about Baghdad. We recently had, and I read this in the New York Times last Thursday, a wire service article, the United States government last week, or at least I learned of it last week, recently gave asylum to a 15-year-old Iraqi girl who asked for asylum on the ground that her support for the American military made it unsafe for her to live in Baghdad.

In other words, we now have an official recognition by the United States immigration officials that being a supporter of the American military in Baghdad is so dangerous as to justify the extraordinary act that is a grant of asylum. This is not critics of the administration saying that. This is not Fallujah. This is Baghdad. This is a sad statement, and I am terribly troubled by this. I am glad we gave this young woman asylum given those circumstances.

A young woman who expressed her support for the American military now tells us that it is unsafe for her to go to Baghdad. Well, if in fact things are calmer, let us talk about an election. They are going to have an election throughout the country. Baghdad is one of the places where we are told things are fairly secure.

Well, if it is secure enough to have a free election, why is it so insecure as to say that a 15-year-old has to be given asylum in the United States because it is not safe for her to remain in her own country because she sided with America.

What is clear is that the result of the Bush administration's Iraqi policy has been a sad deterioration, in my view, of the true national security policy of this country; and the misinformation, the self-delusion, the inaccuracy, the infighting, the inconsistency that have marked this policy have resulted in a very, very sad situation. And as long as the President and his chief advisors insist on defying reality and blaming the messengers who bring forward the evidence of this sad reality, it is unlikely that things will get better. The self-deluded are rarely the self-correcting.

[From the New York Times, Sept. 23, 2004]

U.S. ASYLUM FOR IRAQI GIRL, 15

WASHINGTON—A 15-year-old Iraqi girl who claimed persecution in Baghdad because her family cooperated with the United States military has been granted political asylum here. The case is believed to be among the first instances of an Iraqi seeking political asylum in such circumstances.

The girl and her mother, who asked not to be identified for fear of retaliation against other family members still in Iraq, received the letter on Thursday from the Citizenship and Immigration Services, according to Jeff Sullivan, their Washington lawyer. The girl came to the United States last year with her mother for treatment of a cancerous growth in her cervix. The two subsequently applied for political asylum. The mother is pursuing asylum for the father and three other children still in Baghdad, Mr. Sullivan said.

FREE ELECTIONS FOR IRAQ

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from California (Mr. DREIER) is recognized during morning hour debates for 5 minutes.

Mr. DREIER. Madam Speaker, I find it very interesting and probably somewhat unusual that during morning hour debate three speeches in a row are on the exact same topic.

I listened to the statement of my friend, the gentleman from Florida (Mr. STEARNS). I just listened to the gentleman from Massachusetts (Mr. FRANK). And I will state that it is important for us to spend some time engaged in debate and focusing on the very important elections that are going to be taking place on October 9 in Afghanistan, and then as was said earlier, six days later the registration process begins for elections that are scheduled to do take place in Iraq this coming January.

The gentleman from Florida (Mr. STEARNS) earlier referred to an op-ed piece that actually is what led me to come to take the well this afternoon and that is a piece by David Brooks in today's New York Times in which he talked about the challenge that lies ahead as we deal with the prospect of elections, as I said, on October 9 in Afghanistan and then elections to take place in Iraq. But he used a historical context which I think is very important.

That historical context does go back to March of 1982 when we saw the elections take place in El Salvador. Now, the gentleman from Massachusetts (Mr. FRANK) and I were elected to the House together in 1980. And during that decade we saw great struggles take place, really throughout the world as we saw nations move from totalitarianism to self-determination, political pluralism. Of course, we saw that in the latter part of the 1980s in Eastern and Central Europe. Really throughout most of that decade we saw the struggle take place in Central America, in primarily Nicaragua and El Salvador.

In El Salvador it was in large part a civil war, a civil war that was fueled with resources that came from Communists in the region and from the Soviet Union, but it still was an upheaval that was taking place. And yet in 1982, as Mr. Brooks pointed out in his piece today, with 75,000 lives being lost, an attack taking place on the national palace, people actually bombing those in line standing to vote, elections proceeded.

There was a statement that he has in this piece in which he says that one person who was in line said, "This nation," in referring to El Salvador, "may be falling apart, but by voting we may help to hold it together."

Now, it is true that things have not gone perfectly in the war to liberate the people of Iraq. Everyone acknowledges that. But this is a war. There are no guarantees. There are no there is no absolute certainty. But we do know this: Saddam Hussein is no longer in power; and if he were still in power, if he were still in power he would be providing, as the international terrorist that he was, $25,000 to the families responsible for the bombings of buses that took place in Israel just a few weeks ago. And he would be involved in the kinds of repressive policies and the threat to destabilize his region and other parts of the world that he had been involved in.

We do know that we brought an end to that. There still are terrorist forces in Iraq. But I will say, Madam Speaker, that as we head to this election on October 9 in Afghanistan and then in January in Iraq, it is important to know that it is not going to be a perfect election.

We learned in 2000 that democracy is a work in progress. But as we begin with these elections in October and January, it is very important to note that that will be the beginning point as we move down the road towards the right of people to choose their own leaders, self-determination, political pluralism, the rule of law, those democratic institutions which we have a tendency to take for granted here in the United States.

So I would like to say, let us learn from history. Standing firm to proceed with some kind of election is the right thing for us to do. And I am very pleased that this administration and a majority in this United States Congress are dedicated to doing just that.

DISARRAY ON IRAQ

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Madam Speaker, how can we expect President Bush and his administration to win the war in Iraq if they continue to deny the realities our troops and the Iraqi people face on the ground?

Last week provides several examples of a Bush administration in disarray: Cabinet officials contradicting each other on a daily basis and a President who continues to live in denial. Not only is the President in denial, but his hand-picked Iraqi Prime Minister appeared to be reading off the exact same page when he visited Washington last week.

During a press conference in the Rose Garden President Bush claimed that "these have been months of steady progress." And in this House chamber last week Prime Minister Allawi echoed the President, reminding my colleagues "not to forget the progress we are making in Iraq."

President Bush and Prime Minister Allawi can say we are making progress in Iraq, but the facts simply do not support their claims. Attacks against Iraqis and U.S. military personnel over the last couple of weeks are dramatically higher than they were in the weeks after the handover of power to the interim Iraqi government. Today on average 70 attacks occur on a daily basis, compared to 40 to 50 in July. Over the past 2 weeks these attacks have killed more than 250 Iraqis and 29 U.S. military personnel. How in the world is that progress, Madam Speaker?

President Bush also ignores the real dangers surrounding the scheduled Iraqi elections in January. At his press conference last week, the President said the elections are still possible based on the situation on the ground. His reason is "because the Prime Minister told me they are."

Well, neither the President nor the Prime Minister could provide any evidence to support their steadfast belief that the January elections must proceed despite the realities on the ground.

That same day, Iraq's most powerful Shiite leader threatened to withdraw his support for the elections. And UN Secretary General Annan also voiced concern that elections may need to be delayed due to security concerns on the ground.

Madam Speaker, even President Bush's cabinet is providing contradictory information regarding the January elections. Last week at a Senate hearing, Defense Secretary Rumsfeld raised the possibility that some areas of Iraq might be excluded from voting in January. Secretary Rumsfeld said, "Let's say you tried to have an election and you could have it in three-quarters or four-fifths of the country, but in some places you couldn't because the violence was too great. Well, so be it. Nothing's perfect in life."

That is what Rumsfeld said. Image that.

How could Secretary Rumsfeld conclude that the Iraqi people would consider such an election legitimate if a significant portion of the Iraqi people were not allowed to participate?

Fortunately, there has one member of the President's Cabinet that is not afraid to put aside the President's talking points and speak the truth. This weekend, Secretary of State Powell refuted the President's claims that progress is being made in Iraq. Not only did Secretary Powell say the insurgency in Iraq is getting worse, he also supported Senator KERRY's contentions that the U.S. occupation of Iraq has increased anti-American sentiment in Muslim countries.

Secretary Powell also refuted Secretary Rumsfeld's outrageous statements about the January election. What Powell said is, "For the elections to have complete credibility and stand the test of international scrutiny, I think what we have to do is to give all the people of Iraq an opportunity to participate."

Now, I obviously agree with what Secretary Powell says, but it is no wonder the situation in Iraq is so tenable. We have a President who either refuses to believe there is a problem in Iraq or does not think it is a problem to mislead the American people about how serious the situation currently is.

We also have an administration that never seems to be on the same page. One cabinet official is saying one thing while another one is saying just the opposite.

So, Madam Speaker, this is no way to lead a war, clearly. It is a flawed rationale for the war to begin with, in failing to have a plan once Baghdad fell, and President Bush's record essentially has not been good. It has been a failure.

He failed to provide the troops with the equipment they needed, and he also failed to implement his reconstruction plans in Iraq, and he has left, essentially, Iraq in chaos. I do not think the world can afford another four years of this failed leadership on behalf of the Bush administration.

HONORING IRVING HARRIS

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentlewoman from Connecticut (Ms. DELAURO) is recognized during morning hour debates for 5 minutes.

Ms. DELAURO. Madam Speaker, I rise to honor the extraordinary legacy of a dear friend who passed away this past week. An advocate, philanthropist and leading voice for children, Irving Harris left an indelible mark on our society.

Recognizing early on that the key to children's success lay in their most formative years, birth through three. Inspiring, developing and supporting scores of programs and organizations dedicated to improving the lives of disadvantaged youngsters across the Nation, he founded the Erickson Institute, a child development graduate school and the Ounce of Prevention Fund, a public-private partnership that created and promoted community-based initiatives to improve early childhood development.

He also helped create and fund the Yale Child Study Center which is nationally recognized as leaders in the field of children's trauma, addressing those children who have been exposed to violence.

Irving was also a leader in the development of Zero to Three, the national center for infants, toddlers, and families, whose work to support families and promote the healthy development of babies and toddlers had a tremendous impact in communities across the Nation.

Irving's work rightly brought him national recognition as a leading voice for children across the country.

Irving Harris was one of those rare individuals with roots in the world of business and finance, who used his hard-won wealth and influence to help others less fortunate. His work and his diligence and dedication was not only remarkable but it was unceasing, a reflection of all that we strive to be. His sincerity was marked by the principles he instilled in his own family, in his children and grandchildren who today carry on his work on behalf of the other children of America.

Through education, public policy development, grant making and advocacy, Irving Harris' vision and leadership earned him recognition and many honors and awards over the years. He served many organizations, including the National Commission on Children and the Carnegie Corporations' New York task force on meeting the needs of young children.

It was for me personally an enormous privilege to work with Irving Harris over the years, and working now with his son, Bill, and with his grandson, David. Irving Harris knew that our young people represent the future and that we as a community and a Nation must give them the tools that they need in order to succeed. He recognized this simple fact many years ago and dedicated his life to fulfilling that important goal.

I say today, thank you, Irving, for the difference that you have made in this country, and the millions of lives that you have made better through your vision, your passion, and your generous spirit of mind. You have been an inspiration to all of us.

Today my thoughts and my prayers and love are with the Harris family.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 6 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the SPEAKER pro tempore (Mr. ISSA) at 2 p.m.

PRAYER

The Rev. Thomas K. Spence, Jr., Retired Pastor, Presbyterian Church, Sanford, North Carolina, offered the following prayer:

What do You require from us, O Lord? Is it not to do justice, to love kindness, and to walk humbly with You? Show us what justice and kindness mean in a broken and troubled world, where hunger, violence, and oppression are so pervasive. Teach us what it means to be humble in a world where we take ourselves too seriously and where wisdom and truth are often scorned.

You gave these men and women such noble intentions when they first took the oath of office. Put it into their hearts to be more than good Republicans and good Democrats, O Lord. Let them be lovers of justice and peace. Do not let them become weary in well doing. Renew their strength when they labor long hours. Lift their hearts when they are discouraged. When their vision fails, keep before them the ideals that have made us a great Nation. Let them be faithful and steadfast in all their labors, that Your benediction may rest upon them all. We pray in the name of all that is holy.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina (Mr. ETHERIDGE) come forward and lead the House in the Pledge of Allegiance.

Mr. ETHERIDGE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendment in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4818. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4818) "An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MCCONNELL, Mr. SPECTER, Mr. GREGG, Mr. SHELBY, Mr. BENNETT, Mr. CAMPBELL, Mr. BOND, Mr. DEWINE, Mr. STEVENS, Mr. LEAHY, Mr. INOUYE, Mr. HARKIN, Ms. MIKULSKI, Mr. DURBIN, Mr. JOHNSON, Ms. LANDRIEU, and Mr. BYRD, to be the conferees on the part of the Senate.

H.R. 4850. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4850) "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DEWINE, Mrs. HUTCHISON, Mr. BROWNBACK, Mr. STEVENS, Ms. LANDRIEU, Mr. DURBIN, and Mr. INOUYE, to be the conferees on the part of the Senate.

WELCOMING THE REV. THOMAS K. SPENCE, JR.

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise today with great pride to introduce and present to this august body the Reverend Thomas Spence as today's Guest Chaplain in the U.S. House of Representatives.

Reverend Spence is the pastor of Leaflet Presbyterian Church, my home church in Broadway, North Carolina; and I am honored he has been with us today in the people's House. Reverend Spence possesses rare eloquence; and as a long-time congregant and friend, I can tell Members he is a unique individual whose interest and activism stretches far more broadly than his congregation. He has truly lived a life according to Jesus' example to tend to the least among us.

Like me, Reverend Spence grew up on a farm in rural North Carolina, he in Harnett County; and I grew up in the adjacent county of Johnston. The life lessons one learns growing up on a working farm shape your world view and instill what we refer to as good North Carolina values of hard work, faith in God, love of family and friends, and devotion to duty to those around us and to our world as a whole. Reverend Spence has lived North Carolina values every day of his life and has served the people of his congregation with great distinction and accomplishment. I am pleased, proud, and honored to introduce North Carolina's own Reverend Thomas Spence to the House.

BIDDING FAREWELL TO AMBASSADOR JAZAIRY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, it is with great sadness that I rise today to share with my colleagues that Ambassador Idriss Jazairy of Algeria will be leaving us soon at the end of a very successful tour of duty in the United States.

It has been a privilege working with this gentleman as Algeria's ambassador to the United States for the past 4 years. His eloquent professionalism, great confidence, and his deep care for his family and country have all been reflected in his life and service here.

Ambassador Jazairy is a true diplomat. He builds bridges and facilitates reconciliation. He has been an eloquent spokesman for his country and the causes of peace and goodwill in the world. He, indeed, is what one would call a peacemaker. He represents his nation's interests with great dignity and has been a wonderful man to work with and call a friend. We will miss him.

Mr. Speaker, I wish the ambassador the very best as he begins his new tour of duty in Geneva as an ambassador to the United Nations, and hope our paths will cross soon.

REMEMBERING NEW MEXICO'S WAR DEAD

(Mr. UDALL of New Mexico asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to pay tribute to the men from New Mexico who have died in Iraq. Five New Mexicans and more than 1,000 American military servicemen and -women have made the supreme sacrifice for their Nation on the battlefields of Iraq.

The five are Lance Corporal Christopher Ramos of Albuquerque; Sergeant Moses Rocha of Roswell; Sergeant Lee Duane Todacheene of Farmington; Specialist James H. Pirtle of La Mesa; and Sergeant Tommy L. Gray of Roswell. All five have been part of the ultimate sacrifice.

No words can ever express adequately the gratitude and reverence that Americans feel for these men. Nor can we ever repay the debt incurred to them and their families, whose anguish can only inadequately be tempered by a grateful Nation.

Mr. Speaker, I ask my colleagues to join me in remembering that five New Mexicans and more than 1,000 fellow Americans stood and fell for all of us. My prayers go out to the families of these fallen heroes, and I hope they know this country honors their sacrifices and recognizes their passing.

APPLAUDING CONGRESSIONAL CONFERENCE ON CIVIC EDUCATION

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, it is vitally important that our children have an understanding of the fundamental principles and values of our constitutional democracy.

Last September, the first annual Congressional Conference on Civic Education was held. The conference was sponsored by the Alliance For Representative Democracy and co-hosted by the four leaders of the U.S. Congress.

The conference established State delegations that returned to their States to advocate for better civic education. I would like to recognize Cindy Coker and Paul Horne, the facilitators of the South Carolina action team, for their efforts to improve civic education in South Carolina in the tradition of Sara Bookhart at the High School of Charleston in 1964.

The South Carolina action team activities include advocating civic education programs and curricula, hosting a conference on the civic mission of schools, participating in the review of social studies standards, which includes civic education, and providing input on the value of civic education on the State's school report card.

I ask my colleagues to join me in thanking all of the participants of the Congressional Conference on Civic Education and wishing them further success during their next conference in December.

In conclusion, may God bless our troops and we will never forget September 11.

REPORTS DISCOVERED ON IRAQ

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, today the New York Times uncovered two classified reports prepared for President Bush in the months leading up to the war in Iraq. These documents warned the President that "an American-led invasion of Iraq would result in a deeply divided Iraqi society prone to violent internal conflict." Officials told the Times that a second report warns of a possible insurgency, saying the rogue elements from Saddam Hussein's government could work with existing terrorist groups or act independently to wage guerrilla warfare.

Sounds exactly like the situation our U.S. troops face today in Iraq. Unfortunately, President Bush and his administration did not listen to these warnings. Vice President CHENEY said we would be greeted with flowers, and President Bush egged insurgents on by telling them to "bring it on."

Today's report is just another example of the President's failed policies in Iraq. He had a flawed rationale for going to war. He did not have a plan to win the peace. He failed to implement his reconstruction plans for Iraq, leaving the country in chaos. And now we learn that he ignored intelligence estimates that warned of problems after the fall of Baghdad. The world cannot afford another 4 years of this failed leadership.

POLL FINDS MEDIA BIAS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, this week no single media organization will receive the media bias award. However, the public has made clear its views of the media as an institution. The American people feel standards of journalism have eroded. Advocacy has replaced objectivity.

After conducting an opinion poll, the Gallup organization recently found that fewer than half of Americans have confidence in the media's ability to fairly report the news. And an astounding three times as many people believe the media is more liberal than conservative. To quote Gallup, "Media Credibility Reaches Lowest Point in Three Decades."

Mr. Speaker, what we should expect from the media, as both Americans and consumers of news, are the facts, objectively and fairly reported.

HEALTH CARE COSTS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, in the last 4 years the Republican majority of this House and the Bush administration have failed to address the skyrocketing cost of health care. Today's news shows this problem has rapidly deteriorated into a crisis.

Let me quote The Washington Post: "Higher Costs, Less Care. Nationwide, workers' cost for health insurance has risen by 36 percent since 2000, dwarfing the average 12.4 percent increase in their wages since President Bush took office."

In a study by Families USA, they found the cost of health care increased three times what the average household's earnings have increased since the year 2000; 14.3 million Americans are now spending more than a quarter of their income on medical costs, an increase of 2.7 million people. There are 5 million fewer jobs providing health benefits, and small businesses are seeing the sharpest decline. This is a problem that affects every middle-class family in the Nation.

Today, we have cancer patients who determine for themselves whether their chances of survival are good enough to invest in the more effective and expensive treatments because they do not want to burden their family with costs.

Mr. Speaker, we are in the midst of a health care crisis. This administration and this Republican majority have nothing to say about it and have thwarted efforts to bring down those costs.

☐ 1415

FREEDOM OF SPEECH IN THE PULPIT

(Mr. PEARCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEARCE. Mr. Speaker, this weekend I attended the dedication of a new sanctuary service at Church on the Move in Roswell, New Mexico. As I sat there watching the efforts of Pastor Troy Smotherman come to a culmination of just building his congregation and extending it, I thought of the labors of all pastors across the country, like Dr. Dean Mathis whom my wife and I have studied with for over 20 years, and realize that the work of these good and decent individuals to exhort their members toward justice, kindness, peace, faith, love and just quiet living of decent lives is indeed a tribute to this Nation.

It is entirely appropriate that, at this point where we are going to discuss the Federal marriage amendment on the floor of the House in front of the people, that we recognize that these quiet ministers building congregations across the country do not have the right or the freedom to speak from their pulpits about this very important subject.

Mr. Speaker, I would recommend and request that the House and the Senate consider the language that stifles conversation from the pulpits of this Nation.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. ISSA) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 28, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on September 28, 2004 at 9:37 a.m.:

That the Senate passed without amendment H. Con. Res. 161.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

APPOINTMENT OF MEMBER TO PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore. Pursuant to clause 11 of rule X, clause 11 of rule I, and the order of the House of December 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Permanent Select Committee on Intelligence to fill the existing vacancy thereon:

Mr. THORNBERRY, Texas.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

RECORD votes on postponed questions will be taken after 6:30 p.m. today.

REVISING AND EXTENDING BOYS AND GIRLS CLUBS OF AMERICA

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2363) to revise and extend the Boys and Girls Clubs of America.

The Clerk read as follows:

S. 2363

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOYS AND GIRLS CLUBS OF AMERICA.

Section 401 of the Economic Espionage Act of 1996 (42 U.S.C. 13751 note) is amended—

(1) in subsection (a)(2)—

(A) by striking "1,200" and inserting "1,500";

(B) by striking "4,000" and inserting "5,000"; and

(C) by striking "December 31, 2005" and inserting "December 31, 2010";

(2) in subsection (c)—

(A) in paragraph (1), by striking "2002, 2003, 2004, 2005, and 2006" and inserting "2006, 2007, 2008, 2009, and 2010"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "1,200" and inserting "1,500"; and

(ii) in subparagraph (B)—

(I) by striking "4,000" and inserting "5,000"; and

(II) by striking "2007" and inserting "2010"; and

(3) in subsection (e), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $80,000,000 for fiscal year 2006;

"(B) $85,000,000 for fiscal year 2007;

"(C) $90,000,000 for fiscal year 2008;

"(D) $95,000,000 for fiscal year 2009; and

"(E) $100,000,000 for fiscal year 2010.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. SCHIFF) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2363 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation and urge my colleagues to vote for S. 2363, a bill to revise and extend the authorization of appropriations for the Boys and Girls Clubs of America. Both the Senate Committee on the Judiciary and the full Senate passed this bill without amendment by unanimous consent. Following Senate action, the bill was referred to the House Committee on the Judiciary where the bill was reported favorably by voice vote without amendment.

The Boys and Girls Clubs of America had its first beginnings almost 150 years ago. The first club was organized in 1860 by a group of women who believed disadvantaged boys should have access to a positive, structured environment outside of school. By 1906, several boys clubs had joined together and formed the Federated Boys Club in Boston. In 1956, the Boys Clubs of America received a congressional charter and celebrated its 50th anniversary.

Recognizing that girls are also a vital part of the Clubs' membership, the name was changed to the Boys and Girls Clubs of America in 1990.

The Boys and Girls Clubs of America continue to provide a positive learning environment for children throughout this country. The Clubs have numerous nationally recognized programs that address issues pertinent to today's youth. More than 25 programs are available to youngsters on topics including education, leadership development, the arts and substance-abuse prevention. Of the several million children that benefit from the Boys and Girls Clubs of America, a large majority live in our inner cities and urban areas. These programs are essential to providing resources and nourishing skills necessary for young people to become successful, productive adults.

The Economic Espionage Act of 1996 established a program to provide Department of Justice grant support for starting new Boys and Girls Clubs in distressed areas. The current version of the law calls for the establishment of 1,200 new clubs by the end of 2005. S. 2363 will increase that number by 300 to a total of 1,500. Current law also calls for a goal of 4,000 total clubs by January 1, 2007. S. 2363 increases that goal to at least 5,000 such facilities in operation by January 1, 2010.

Additionally, the bill extends through fiscal year 2010 the authority of the director of the Bureau of Justice Assistance of the Department of Justice to make grants to the organization to establish such facilities. It authorizes appropriations of $80 million for fiscal year 2006 and increasing each year by increments of $5 million, reaching $100 million in fiscal year 2010.

In an effort to further the positive mission of the Boys and Girls Clubs of America, I urge my colleagues to join me in supporting this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of S. 2363, legislation extending the authorization for annual grants from the Department of Justice to the Boys and Girls Club of America. This legislation authorizes the Boys and Girls Club of America to receive funds through 2010 at $80 million for fiscal year 2006, $85 million for 2007, $90 million for 2008, $95 million for 2009, culminating in $100 million for fiscal year 2010. It also authorizes an increase in the number of clubs in existence to 5,000 by 2010 which will increase the number of children served to over 5 million.

Founded in 1860, the Boys and Girls Club of America has been in existence for over 100 years and provides young people with a positive alternative to drugs, gangs and crime. At clubs across America and throughout the world at our military bases, youth ages 6 to 18 find a positive adult influence and a safe environment in which to learn and grow. There are currently 3,500 clubs that serve 3.6 million children.

It is with firsthand knowledge that many of us can attest to the success and opportunity provided to the youth that participate in the Boys and Girls Club programs. The Boys and Girls Clubs of Burbank, Pasadena and West San Gabriel Valley serve children in my district, and I have had the opportunity to visit and see firsthand the great work of this organization. In fact, many of the young people at this fine Boys and Girls Club organization in my district provided cards and letters and posters which I recently had the chance to deliver, along with my colleague from Guam (Ms. BORDALLO), to our troops serving in Iraq, Afghanistan and elsewhere.

I have seen in the computer training in the Burbank facility, the recreational activities, the arts and crafts, what a tremendous environment the Boys and Girls Club can provide for young people. The Boys and Girls Club dinner in Burbank every year is one of the best attended in the city. The last time I visited the Boys and Girls Club in Burbank, I got a very superb lesson in foosball from some very talented 6-, 7- and 8-year-olds.

S. 2363 is necessary to continue the much-needed mission of the Club, and we know all too well the consequences of not providing such preparation. While it costs taxpayers $25,000 to $75,000 per year to keep one young person in jail, it costs just $200 per year to provide Boys and Girls Club programming for one youth.

I want to compliment my chairman and my colleagues for their sponsorship of this legislation and urge my colleagues to support this worthwhile endeavor.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding me this time. I am not here to argue about the value of the Boys and Girls Clubs. In fact, they do very good work in my home State of Arizona, a lot of good work.

What I am here to raise a concern about is the increased level of authorization in this bill. Over the life of this authorization, 2006 to 2010, we will be authorizing $450 million for the Boys and Girls Clubs. Unless a vote is called here today, this will go through without any vote in the Senate or the House as to this increased authorization. In an era where we are facing increased deficits and a huge debt, I think we owe it to our constituents and others to vote on measures like this that spend so much money.

In the year 2010, there will be nearly $100 million authorized for this purpose. That is a fivefold increase over the original amount authorized in the 104th Congress. That is significant. If we were not increasing the authorization, I do not think we would have many people wanting to call a roll call vote on this or even raising a red flag, but we are here. I would urge defeat of this measure until we can come in with the same level of authorization and not an increase.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the comments from the gentleman from Arizona. But, of course, there is an opportunity cost for not investing in our youth as well. If it costs $200 to keep a youth productively engaged in a Boys and Girls Club, but it costs 100 times that to incarcerate a youth, I think the decision becomes very simple: $100 million invested in the Boys and Girls Club to keep countless tens of thousands of children gainfully occupied after school, on weekends, versus potentially billions of dollars in corrections costs.

I have seen in my own State of California the benefit that we have derived from a proactive juvenile justice policy. Working with one of my colleagues in the State legislature, Tony Cardenas, I introduced legislation some years ago to invest as much in preventive programs as in suppression of crime, and we have found that proactive preventive work has paid enormous dividends, has saved us on the back end countless costs of incarceration and countless victims of crime.

This is an incredibly worthwhile investment. It is an investment in our most cherished resource, that of our young people.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, to begin, let me associate myself with the remarks of the gentleman from California. He is dead right in saying that an investment in groups like these will pay off in saving a big bundle of money, of the costs of dealing with kids who get in trouble. These types of prevention programs and effectively giving an outlet for young people to associate with one another during afterschool and weekend activities is something that should be encouraged because it is cost-effective.

But I would like to add one other point in response to the comments of my good friend from Arizona. If this bill is voted down today, the money will go to the Boys and Girls Clubs anyhow because the appropriators will continue to fund those requests through the State-Justice-Commerce appropriation bill. Voting down this bill is not going to stop the appropriators from appropriating money to the Boys and Girls Clubs. The way that it gets stopped is the defeat of the relevant appropriation bill.

But if the authorization for the Boys and Girls Clubs is permitted to expire, then the authorizing committees, the Judiciary Committee in this House and the other body, will lose a valuable tool to do oversight over the Boys and Girls Clubs to make sure that this money is being effectively spent. Unauthorized programs are basically oversight-free programs. The consequence of the gentleman from Arizona, while well-intentioned, succeeding in bringing this bill down is going to mean less congressional oversight over how this money is being spent. That is a step backwards, and that is why this bill ought to pass.

Mr. Speaker, I ask for an "aye" vote.

Mr. KILDEE. Mr. Speaker, I urge my colleagues to support S. 2363, to revise and extend the Boys and Girls Clubs of America. Congress first granted the Boys and Girls Clubs a charter back in 1991, but these clubs have been helping their communities for nearly one hundred years.

There are currently 3,500 Boys and Girls Clubs across America, serving over 3.6 million children, ages 6–18.

Over 70 percent of those children who benefit from the Boys and Girls Clubs of America live in America's inner cities. Almost half of the club members come from single parent homes.

The clubs offer young people a safe place to learn and grow in the clubs.

This bill authorizes the clubs to receive funds through 2010 and increases the number of clubs in existence. By 2010, there will be 5,000 clubs nationwide serving over 5 million young people.

I urge my colleagues to support this important reauthorization.

I would also like to recognize Thomas (T.J.) Rancour of Bay County, Michigan, who last week won the Boys and Girls Club National Youth of the Year Award.

T.J. won the national title after delivering an excellent speech about how the Boys and Girls Club has changed his life.

T.J. overcame many personal obstacles in life because of his determination and perseverance. T.J. has a bright future ahead of him because he has a good heart and a good head.

Mr. LANGEVIN. Mr. Speaker, I rise today in strong support of S. 2363, the Boys and Girls Clubs Reauthorization. I am pleased to support a measure that would not only ensure the continued existence of this already successful organization, but that would increase its authorized funding to $100 million over the next 6 years and allow for the establishment of an additional 1,500 facilities. I thank my colleagues, Chairman SENSENBRENNER and Ranking Member CONYERS, for their much-needed leadership and attention to this issue affecting children throughout our country.

My connection to the Boys and Girls Clubs of Rhode Island begins on a personal level. My mother and father worked hard to create a positive and nurturing home environment for their four children and extend that warmth, generosity, and caring as foster parents to over 20 other children. Yet at the same time, my mother recognized that there were countless children in Rhode Island for whom the home was not a positive place, and she became a founding member of the Boys and Girls Clubs in my hometown of Warwick.

Today, the Boys and Girls Clubs of Warwick represent one of the few safe havens managed by caring adults where school-aged children can avoid the dangers of the street and the pitfalls of an unsupervised home. In Warwick, and throughout America, the Boys and Girls Clubs provide invaluable programs on education, leadership, the arts, and alcohol and drug prevention.

Again, I thank my colleagues for their continued support of the Boys and Girls Clubs of America, and I urge quick passage of this bill.

Mr. REYES. Mr. Speaker, I rise today in strong support of S. 2363, to revise and extend the authorization for the Boys and Girls Clubs of America.

For almost a century, the Boys and Girls Clubs of America have provided underprivileged youth across our country with a safe environment in which they can grow and learn to become well-rounded, responsible, and productive citizens. These youth are surrounded by caring adults who encourage them to reach their fullest potential and provide them with a range of experiences to enhance their lives and build character. This organization is a very worthy and positive influence in the lives of many underprivileged young people.

My district has greatly benefitted from the Boys and Girls Clubs of America. For the last 75 years, this organization has provided thousands of El Paso youths with programs dedicated to their educational and social well-being. El Paso is fortunate to have five locations throughout the community, all led by an exemplary professional staff. The authorization of additional Boys and Girls Clubs facilities throughout the country would be a positive step toward ensuring a bright and hopeful future for our youth. Organizations such as the Boys and Girls Clubs of America should always be able to count on our support, for they are instrumental in shaping our country's future.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the legislation sponsored by my colleague, Mr. HATCH of the Senate on April 29, 2004.

As Chair of the Congressional Children's Caucus, it pleases me to see this bi-partisan legislation move through Congress with such success despite the President's request for a reduction of the program by $20 million for fiscal year 2005 in his budget.

Since 1998, Congress has worked to increase support for the Boys and Girls Clubs from $20 million to $80 million this year. As a direct result of this commitment, we now see 3,300 clubs in all 50 States that serve more than 3.6 million young men and women. The legislation that we consider now, S. 2363, calls for the establishment of 1,500 new clubs by the end of 2005 with a goal of 4,000 total by January 1, 2007 versus the current law that calls for the establishment of 1,200 new clubs for a total of 5,000 by that time. Furthermore, this bill's extension through fiscal year 2010 of the Director of the Bureau of Justice Assistance's authority to make grants to the clubs will allow this proposed growth to happen.

The mission statement of the Boys and Girls Club of Greater Houston is:

> to inspire and enable all young people, especially those from disadvantaged circumstances, to realize their full potential as productive, caring and responsible citizens. To [reach] children at an early age and [provide] positive activities and encouragement, . . . [providing] a compelling alternative to youth crime, gang membership, drugs, and other negative influences that effect our youth today.

The result of this important mission is to help the children of Houston to: Enjoy their interests; nurture their talents; dissolve their prejudices; express their personality; develop friendships; build self esteem; contribute to society; and achieve personal success.

This great organization espouses the philosophy of author James A. Autry in his book entitled Servant Leader to build the foundation of true leadership by first learning to serve your peers. By learning to become a functional part of the group, these young men and women obtain the necessary tools to develop into effective leaders who really understood how best to guide the team to success.

The Boys and Girls Club of Greater Houston began in 1951 as a project led by the Variety Club of Houston and the vision of R.E. "Bob" Smith and George Strake, Sr. This branch of the organization transformed from the Variety Club to what is known as the Boys and Girls Clubs of Greater Houston when the Rotary Club reorganized its corporate structure in 1989. I also served as a Board member of the Houston Boys and Girls Club in the past.

Fortunately, the branch opened it eighth location in Fort Bend, Texas, named the Fort Bend unit in 2002, and within two months, the location grew to over 2,500 members.

Specific programs offered by the Greater Houston Boys and Girls Clubs include: Character & Leadership—Education and Career Development; Health and Life Skills; the Arts; and Sports, Fitness and Recreation.

Therefore, it is through the fortification of the mind and the body that this organization empowers our young men and women. By offering this service in addition to or in lieu of that provided by the parents, we ensure that our children are able to follow the leadership tract suggested by author James A. Autry in Servant Leader.

Mr. Speaker, I wholeheartedly support S. 2363 and would encourage my colleagues to join me.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 2363.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. FLAKE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 1430

TITLE 46 CODIFICATION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4319) to complete the codification of title 46, United States Code, "Shipping", as positive law, as amended.

The Clerk read as follows:

H.R. 4319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Title 46 Codification Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Title analysis.
Sec. 3. Subtitle I of title 46.
Sec. 4. Subtitle II of title 46.
Sec. 5. Subtitle III of title 46.
Sec. 6. Subtitle IV of title 46.
Sec. 7. Subtitle V of title 46.
Sec. 8. Subtitle VI of title 46.
Sec. 9. Subtitle VII of title 46.
Sec. 10. Subtitle VIII of title 46.
Sec. 11. Maritime Administration.
Sec. 12. Amendments relating to Maritime Security Act of 2003.
Sec. 13. Amendments to partially restated provisions.
Sec. 14. Additional amendments to title 46.
Sec. 15. Conforming amendments to other laws.
Sec. 16. Legislative construction and transitional provisions.
Sec. 17. Repeals.
Sec. 18. Effective date.

SEC. 2. TITLE ANALYSIS.

The title analysis of title 46, United States Code, is amended to read as follows:

"Subtitle	*Sec.*
"I. GENERAL	***101***
"II. VESSELS AND SEAMEN	***2101***
"III. MARITIME LIABILITY	***30101***
"IV. REGULATION OF OCEAN SHIPPING	***40101***
"V. MERCHANT MARINE	***50101***
"VI. CLEARANCE, TONNAGE TAXES, AND DUTIES	***60101***
"VII. SECURITY AND DRUG ENFORCEMENT	***70101***
"VIII. MISCELLANEOUS	***80101".***

SEC. 3. SUBTITLE I OF TITLE 46.

Title 46, United States Code, is amended by inserting after the title analysis the following:

"Subtitle I—General

"Chapter	*Sec.*
"1. Definitions	***101***
"3. Federal Maritime Commission	***301***
"5. Other General Provisions	***501***

"CHAPTER 1—DEFINITIONS

"Sec.
"101. Agency.
"102. Barge.
"103. Boundary Line.
"104. Citizen of the United States.
"105. Consular officer.
"106. Documented vessel.
"107. Exclusive economic zone.
"108. Fisheries.
"109. Foreign commerce or trade.
"110. Foreign vessel.
"111. Numbered vessel.
"112. State.
"113. Undocumented.
"114. United States.
"115. Vessel.
"116. Vessel of the United States.

"§ 101. Agency

"In this title, the term 'agency' means a department, agency, or instrumentality of the United States Government.

"§ 102. Barge

"In this title, the term 'barge' means a non-self-propelled vessel.

"§ 103. Boundary Line

"In this title, the term 'Boundary Line' means a line established under section 2(b) of the Act of February 19, 1895 (33 U.S.C. 151).

"§ 104. Citizen of the United States

"In this title, the term 'citizen of the United States', when used in reference to a natural person, means an individual who is a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"§ 105. Consular officer

"In this title, the term 'consular officer' means an officer or employee of the United States Government designated under regulations to issue visas.

"§ 106. Documented vessel

"In this title, the term 'documented vessel' means a vessel for which a certificate of documentation has been issued under chapter 121 of this title.

"§ 107. Exclusive economic zone

"In this title, the term 'exclusive economic zone' means the zone established by Presidential

Proclamation 5030 of March 10, 1983 (16 U.S.C. 1453 note).

"§ 108. Fisheries

"In this title, the term 'fisheries' includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone.

"§ 109. Foreign commerce or trade

"(a) IN GENERAL.—In this title, the terms 'foreign commerce' and 'foreign trade' mean commerce or trade between a place in the United States and a place in a foreign country.

"(b) CAPITAL CONSTRUCTION FUNDS AND CONSTRUCTION-DIFFERENTIAL SUBSIDIES.—In the context of capital construction funds under chapter 535 of this title, and in the context of construction-differential subsidies under title V of the Merchant Marine Act, 1936, the terms 'foreign commerce' and 'foreign trade' also include, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in a manner that will permit United States-flag bulk vessels to compete freely with foreign-flag bulk vessels in their operation or competition for charters, subject to regulations prescribed by the Secretary of Transportation.

"§ 110. Foreign vessel

"In this title, the term 'foreign vessel' means a vessel of foreign registry or operated under the authority of a foreign country.

"§ 111. Numbered vessel

"In this title, the term 'numbered vessel' means a vessel for which a number has been issued under chapter 123 of this title.

"§ 112. State

"In this title, the term 'State' means a State of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

"§ 113. Undocumented

"In this title, the term 'undocumented' means not having and not required to have a certificate of documentation issued under chapter 121 of this title.

"§ 114. United States

"In this title, the term 'United States', when used in a geographic sense, means the States of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

"§ 115. Vessel

"In this title, the term 'vessel' has the meaning given that term in section 3 of title 1.

"§ 116. Vessel of the United States

"In this title, the term 'vessel of the United States' means a vessel documented under chapter 121 of this title, numbered under chapter 123 of this title, or titled under the law of a State.

"CHAPTER 3—FEDERAL MARITIME COMMISSION

"Sec.
"301. General organization.
"302. Quorum.
"303. Record of meetings and votes.
"304. Delegation of authority.
"305. Regulations.
"306. Annual report.
"307. Expenditures.

"§ 301. General organization

"(a) ORGANIZATION.—The Federal Maritime Commission is an independent establishment of the United States Government.

"(b) COMMISSIONERS.—

"(1) COMPOSITION.—The Commission is composed of 5 Commissioners, appointed by the President by and with the advice and consent of the Senate. Not more than 3 Commissioners may be appointed from the same political party.

"(2) TERMS.—The term of each Commissioner is 5 years, with each term beginning one year apart. An individual appointed to fill a vacancy is appointed only for the unexpired term of the individual being succeeded. A vacancy shall be filled in the same manner as the original appointment. When the term of a Commissioner ends, the Commissioner may continue to serve until a successor is appointed and qualified.

"(3) REMOVAL.—The President may remove a Commissioner for inefficiency, neglect of duty, or malfeasance in office.

"(c) CHAIRMAN.—

"(1) DESIGNATION.—The President shall designate one of the Commissioners as Chairman.

"(2) GENERAL AUTHORITY.—The Chairman is the chief executive and administrative officer of the Commission. In carrying out the duties and powers of the Commission (other than under paragraph (3)), the Chairman is subject to the policies, regulatory decisions, findings, and determinations of the Commission.

"(3) PARTICULAR DUTIES.—

"(A) IN GENERAL.—The Chairman shall—

"(i) appoint and supervise officers and employees of the Commission;

"(ii) appoint the heads of major organizational units, but only after consultation with the other Commissioners;

"(iii) distribute the business of the Commission among personnel and organizational units;

"(iv) supervise the expenditure of money for administrative purposes; and

"(v) assign Commission personnel, including Commissioners, to perform duties and powers delegated by the Commission under section 304 of this title.

"(B) NONAPPLICATION.—Subparagraph (A) (other than clause (v)) does not apply to personnel employed regularly and full-time in the offices of Commissioners other than the Chairman.

"(4) DELEGATION.—The Chairman may designate officers and employees under the Chairman's jurisdiction to perform duties and powers of the Chairman, subject to the Chairman's supervision and direction.

"(d) SEAL.—The Commission shall have a seal which shall be judicially recognized.

"§ 302. Quorum

"A vacancy or vacancies in the membership of the Federal Maritime Commission do not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the Commissioners serving on the Commission is required to dispose of any matter before the Commission.

"§ 303. Record of meetings and votes

"The Federal Maritime Commission, through its secretary, shall keep a record of its meetings and the votes taken on any action, order, contract, or financial transaction of the Commission.

"§ 304. Delegation of authority

"(a) DELEGATION.—The Federal Maritime Commission, by published order or regulation, may delegate to a division of the Commission, an individual Commissioner, an employee board, or an officer or employee of the Commission, any of its duties or powers, including those relating to hearing, determining, ordering, certifying, reporting, or otherwise acting on any matter. This subsection does not affect section 556(b) of title 5.

"(b) REVIEW.—The Commission may review any action taken under a delegation of authority under subsection (a). The review may be taken on the Commission's own initiative or on the petition of a party to or an intervenor in the action, within the time and in the manner prescribed by the Commission. The vote of a majority of the Commission, less one member, is sufficient to bring an action before the Commission for review.

"(c) DEEMED ACTION OF COMMISSION.—If the Commission declines review, or if review is not sought, within the time prescribed under subsection (b), the action taken under the delegation of authority is deemed to be the action of the Commission.

"§ 305. Regulations

"The Federal Maritime Commission may prescribe regulations to carry out its duties and powers.

"§ 306. Annual report

"(a) IN GENERAL.—Not later than April 1 of each year, the Federal Maritime Commission shall submit a report to Congress. The report shall include the results of its investigations, a summary of its transactions, the purposes for which all of its expenditures were made, and any recommendations for legislation.

"(b) REPORT ON FOREIGN LAWS AND PRACTICES.—The Commission shall include in its annual report to Congress—

"(1) a list of the 20 foreign countries that generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States;

"(2) an analysis of conditions described in section 42302(a) of this title being investigated or found to exist in foreign countries;

"(3) any actions being taken by the Commission to offset those conditions;

"(4) any recommendations for additional legislation to offset those conditions; and

"(5) a list of petitions filed under section 42302(b) of this title that the Commission rejected and the reasons for each rejection.

"§ 307. Expenditures

"The Federal Maritime Commission may make such expenditures as are necessary in the performance of its functions from funds appropriated or otherwise made available to it, which appropriations are authorized.

"CHAPTER 5—OTHER GENERAL PROVISIONS

"Sec.
"501. Waiver of navigation and vessel-inspection laws.
"502. Cargo exempt from forfeiture.
"503. Notice of seizure.
"504. Remission of fees and penalties.
"505. Penalty for violating regulation or order.

"§ 501. Waiver of navigation and vessel-inspection laws

"(a) ON REQUEST OF SECRETARY OF DEFENSE.—On request of the Secretary of Defense, the head of an agency responsible for the administration of the navigation or vessel-inspection laws shall waive compliance with those laws to the extent the Secretary considers necessary in the interest of national defense.

"(b) BY HEAD OF AGENCY.—When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the individual may waive compliance with those laws to the extent, in the manner, and on the terms the individual prescribes.

"(c) TERMINATION OF AUTHORITY.—The authority granted by this section shall terminate at such time as the Congress by concurrent resolution or the President may designate.

"§ 502. Cargo exempt from forfeiture

"Cargo on a vessel is exempt from forfeiture under this title if—

"(1) the cargo is owned in good faith by a person not the owner, master, or crewmember of the vessel; and

"(2) the customs duties on the cargo have been paid or secured for payment as provided by law.

"§ 503. Notice of seizure

"When a forfeiture of a vessel or cargo accrues, the official of the United States Government required to give notice of the seizure of the vessel or cargo shall include in the notice, if they are known to that official, the name and the place of residence of the owner or consignee at the time of the seizure.

"§ 504. Remission of fees and penalties

"Any part of a fee, tax, or penalty paid or a forfeiture incurred under a law or regulation relating to vessels or seamen may be remitted if—

"(1) application for the remission is made within one year after the date of the payment or forfeiture; and

"(2) it is found that the fee, tax, penalty, or forfeiture was improperly or excessively imposed.

"§ 505. Penalty for violating regulation or order

"A person convicted of knowingly and willfully violating a regulation or order of the Federal Maritime Commission or the Secretary of Transportation under subtitle IV or V of this title, for which no penalty is expressly provided, shall be fined not more than $500. Each day of a continuing violation is a separate offense.".

SEC. 4. SUBTITLE II OF TITLE 46.

Chapter 121 of title 46, United States Code, is amended to read as follows:

"CHAPTER 121—DOCUMENTATION OF VESSELS

"SUBCHAPTER I—GENERAL

"Sec.
"12101. Definitions.
"12102. Vessels requiring documentation.
"12103. General eligibility requirements.
"12104. Applications for documentation.
"12105. Issuance of documentation.
"12106. Surrender of title and number.
"12107. Wrecked vessels.

"SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

"12111. Registry endorsement.
"12112. Coastwise endorsement.
"12113. Fishery endorsement.
"12114. Recreational endorsement.
"12115. Temporary endorsement for vessels procured outside the United States.
"12116. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands.
"12117. Oil spill response vessels.
"12118. Owners engaged primarily in manufacturing or mineral industry.
"12119. Owners engaged primarily in leasing or financing transactions.
"12120. Liquified gas tankers.
"12121. Small passenger vessels and uninspected passenger vessels.

"SUBCHAPTER III—MISCELLANEOUS

"12131. Command of documented vessels.
"12132. Loss of coastwise trade privileges.
"12133. Duty to carry certificate on vessel and allow examination.
"12134. Evidentiary uses of documentation.
"12135. Invalidation of certificates of documentation.
"12136. Surrender of certificates of documentation.
"12137. Recording of vessels built in the United States.
"12138. List of documented vessels.
"12139. Reports.

"SUBCHAPTER IV—PENALTIES

"12151. Penalties.
"12152. Denial or revocation of endorsement for non-payment of civil penalty.

"SUBCHAPTER I—GENERAL

"§ 12101. Definitions

"(a) REBUILT IN THE UNITED STATES.—In this chapter, a vessel is deemed to have been rebuilt in the United States only if the entire rebuilding, including the construction of any major component of the hull or superstructure, was done in the United States.

"(b) RELATED TERMS IN OTHER LAWS.—When the following terms are used in a law, regulation, document, ruling, or other official act referring to the documentation of a vessel, the following definitions apply:

"(1) REGISTRY ENDORSEMENT.—The terms 'certificate of registry', 'register', and 'registry' mean a certificate of documentation with a registry endorsement issued under this chapter.

"(2) COASTWISE ENDORSEMENT.—The terms 'license', 'enrollment and license', 'license for the coastwise (or coasting) trade', and 'enrollment and license for the coastwise (or coasting) trade' mean a certificate of documentation with a coastwise endorsement issued under this chapter.

"(3) YACHT.—The term 'yacht' means a recreational vessel even if not documented.

"§ 12102. Vessels requiring documentation

"(a) IN GENERAL.—Except as otherwise provided, a vessel may engage in a trade only if the vessel has been issued a certificate of documentation with an endorsement for that trade under this chapter.

"(b) VESSELS LESS THAN 5 NET TONS.—A vessel of less than 5 net tons may engage in a trade without being documented if the vessel otherwise satisfies the requirements to engage in the particular trade.

"(c) BARGES.—A barge qualified to engage in the coastwise trade may engage in the coastwise trade, without being documented, on rivers, harbors, lakes (except the Great Lakes), canals, and inland waters.

"§ 12103. General eligibility requirements

"(a) IN GENERAL.—Except as otherwise provided, a certificate of documentation for a vessel may be issued under this chapter only if the vessel is—

"(1) wholly owned by one or more individuals or entities described in subsection (b);

"(2) at least 5 net tons as measured under part J of this subtitle; and

"(3) not documented under the laws of a foreign country.

"(b) ELIGIBLE OWNERS.—For purposes of subsection (a)(1), the following are eligible owners:

"(1) An individual who is a citizen of the United States.

"(2) An association, trust, joint venture, or other entity if—

"(A) each of its members is a citizen of the United States; and

"(B) it is capable of holding title to a vessel under the laws of the United States or a State.

"(3) A partnership if—

"(A) each general partner is a citizen of the United States; and

"(B) the controlling interest in the partnership is owned by citizens of the United States.

"(4) A corporation if—

"(A) it is incorporated under the laws of the United States or a State;

"(B) its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States; and

"(C) no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum.

"(5) The United States Government.

"(6) The government of a State.

"(c) TEMPORARY CERTIFICATES PRIOR TO MEASUREMENT.—Notwithstanding subsection (a)(2), the Secretary may issue a temporary certificate of documentation for a vessel before it is measured.

"§ 12104. Applications for documentation

"(a) IN GENERAL.—An application for a certificate of documentation or endorsement under this chapter must be filed by the owner of the vessel. The application must be filed in the manner, be in the form, and contain the information prescribed by the Secretary.

"(b) APPLICANT'S IDENTIFYING INFORMATION.—The Secretary shall require the applicant to provide—

"(1) if the applicant is an individual, the individual's social security number; or

"(2) if the applicant is an entity—

"(A) the entity's taxpayer identification number; or

"(B) if the entity does not have a taxpayer identification number, the social security number of an individual who is a corporate officer, general partner, or individual trustee of the entity and who signs the application.

"§ 12105. Issuance of documentation

"(a) IN GENERAL.—Except as provided in section 12152 of this title, the Secretary, on receipt of a proper application, shall issue a certificate of documentation or a temporary certificate of documentation for a vessel satisfying the requirements of section 12103 of this title. The certificate shall contain each endorsement under subchapter II of this chapter for which the owner applies and the vessel is eligible.

"(b) TEMPORARY CERTIFICATES FOR RECREATIONAL VESSELS.—The Secretary may delegate, subject to the supervision and control of the Secretary and under terms prescribed by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel eligible under section 12103 of this title. A temporary certificate issued under this subsection is valid for not more than 30 days.

"(c) INFORMATION TO BE INCLUDED IN CERTIFICATE.—A certificate of documentation shall—

"(1) identify and describe the vessel;

"(2) identify the owner of the vessel; and

"(3) contain additional information prescribed by the Secretary.

"(d) PROCEDURES TO ENSURE INTEGRITY AND ACCURACY.—The Secretary shall prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation.

"§ 12106. Surrender of title and number

"(a) IN GENERAL.—A documented vessel may not be titled by a State or required to display numbers under chapter 123 of this title, and any certificate of title issued by a State for a documented vessel shall be surrendered as provided by regulations prescribed by the Secretary.

"(b) VESSELS COVERED BY PREFERRED MORTGAGE.—The Secretary may approve the surrender under subsection (a) of a certificate of title for a vessel covered by a preferred mortgage under section 31322(d) of this title only if the mortgagee consents.

"§ 12107. Wrecked vessels

"(a) REQUIREMENTS.—A vessel is a wrecked vessel under this chapter if it—

"(1) was wrecked on a coast of the United States or adjacent waters; and

"(2) has undergone repairs in a shipyard in the United States equal to at least 3 times the appraised salvage value of the vessel.

"(b) APPRAISALS.—The Secretary may appoint a board of three appraisers to determine whether a vessel satisfies subsection (a)(2). The costs of the appraisal shall be paid by the owner of the vessel.

"SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

"§ 12111. Registry endorsement

"(a) REQUIREMENTS.—A registry endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

"(b) AUTHORIZED ACTIVITY.—A vessel for which a registry endorsement is issued may engage in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

"(c) CERTAIN VESSELS OWNED BY TRUSTS.—

"(1) NONAPPLICATION OF BENEFICIARY CITIZENSHIP REQUIREMENT.—For the issuance of a certificate of documentation with only a registry endorsement, the beneficiaries of a trust are not required to be citizens of the United States if the trust qualifies under paragraph (2) and the vessel is subject to a charter to a citizen of the United States.

"(2) REQUIREMENTS FOR TRUST TO QUALIFY.—

"(A) IN GENERAL.—Subject to subparagraph (B), a trust qualifies under this paragraph with respect to a vessel only if—

"(i) each trustee is a citizen of the United States; and

"(ii) the application for documentation of the vessel includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

"(B) AUTHORITY OF NON-CITIZENS.—If any person that is not a citizen of the United States has authority to direct or participate in directing a trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this paragraph unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.

"(C) OWNERSHIP BY NON-CITIZENS.—Subparagraphs (A) and (B) do not prohibit a person that is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

"(3) CITIZENSHIP OF PERSON CHARTERING VESSEL.—If a person chartering a vessel from a trust that qualifies under paragraph (2) is a citizen of the United States under section 50501 of this title, the vessel is deemed to be owned by a citizen of the United States for purposes of that section and related laws, except subtitle B of title VI of the Merchant Marine Act, 1936.

"§ 12112. Coastwise endorsement

"(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

"(1) satisfies the requirements of section 12103 of this title;

"(2)(A) was built in the United States; or

"(B) if not built in the United States—

"(i) was captured in war by citizens of the United States and lawfully condemned as prize;

"(ii) was adjudged to be forfeited for a breach of the laws of the United States; or

"(iii) qualifies as a wrecked vessel under section 12107 of this title; and

"(3) otherwise qualifies under the laws of the United States to engage in the coastwise trade.

"(b) AUTHORIZED ACTIVITY.—Subject to the laws of the United States regulating the coastwise trade, a vessel for which a coastwise endorsement is issued may engage in the coastwise trade.

"§ 12113. Fishery endorsement

"(a) REQUIREMENTS.—A fishery endorsement may be issued for a vessel that—

"(1) satisfies the requirements of section 12103 of this title and, if owned by an entity, the entity satisfies the ownership requirements in subsection (c);

"(2) was built in the United States;

"(3) if rebuilt, was rebuilt in the United States;

"(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and

"(5) otherwise qualifies under the laws of the United States to engage in the fisheries.

"(b) AUTHORIZED ACTIVITY.—

"(1) IN GENERAL.—Subject to the laws of the United States regulating the fisheries, a vessel for which a fishery endorsement is issued may engage in the fisheries.

"(2) USE BY PROHIBITED PERSONS.—A fishery endorsement is invalid immediately if the vessel for which it is issued is used as a fishing vessel while it is chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement.

"(c) OWNERSHIP REQUIREMENTS FOR ENTITIES.—

"(1) IN GENERAL.—A vessel owned by an entity is eligible for a fishery endorsement only if at least 75 percent of the interest in the entity, at each tier of ownership and in the aggregate, is owned and controlled by citizens of the United States.

"(2) DETERMINING 75 PERCENT INTEREST.—In determining whether at least 75 percent of the interest in the entity is owned and controlled by citizens of the United States under paragraph (1), the Secretary shall apply section 50501(d) of this title, except that for this purpose the terms 'control' or 'controlled'—

"(A) include the right to—

"(i) direct the business of the entity;

"(ii) limit the actions of or replace the chief executive officer, a majority of the board of directors,.any general partner, or any person serving in a management capacity of the entity; or

"(iii) direct the transfer, operation, or manning of a vessel with a fishery endorsement; but

"(B) do not include the right to simply participate in the activities under clause (A), or the exercise of rights under loan or mortgage covenants by a mortgagee eligible to be a preferred mortgagee under section 31322(a) of this title, except that a mortgagee not eligible to own a vessel with a fishery endorsement may only operate such a vessel to the extent necessary for the immediate safety of the vessel or for repairs, drydocking, or berthing changes.

"(3) EXCEPTIONS.—This subsection does not apply to a vessel when it is engaged in the fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council established under section 302(a)(1)(H) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(H)) or to a purse seine vessel when it is engaged in tuna fishing in the Pacific Ocean outside the exclusive economic zone or pursuant to the South Pacific Regional Fisheries Treaty, provided that the owner of the vessel continues to comply with the eligibility requirements for a fishery endorsement under the Federal law that was in effect on October 1, 1998. A fishery endorsement issued pursuant to this paragraph is valid for engaging only in the activities described in this paragraph.

"(d) REQUIREMENTS BASED ON LENGTH, TONNAGE, OR HORSEPOWER.—

"(1) APPLICATION.—This subsection applies to a vessel that—

"(A) is greater than 165 feet in registered length;

"(B) is more than 750 gross registered tons as measured under chapter 145 of this title or 1,900 gross registered tons as measured under chapter 143 of this title; or

"(C) has an engine or engines capable of producing a total of more than 3,000 shaft horsepower.

"(2) REQUIREMENTS.—A vessel subject to this subsection is not eligible for a fishery endorsement unless—

"(A)(i) a certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997;

"(ii) the vessel is not placed under foreign registry after October 21, 1998; and

"(iii) if the fishery endorsement is invalidated after October 21, 1998, application is made for a new fishery endorsement within 15 business days of the invalidation; or

"(B) the owner of the vessel demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)) has recommended after October 21, 1998, and the Secretary of Commerce has approved, conservation and management measures in accordance with the American Fisheries Act (Public Law 105–277, div. C, title II) (16 U.S.C. 1851 note) to allow the vessel to be used in fisheries under the council's authority.

"(e) VESSELS MEASURING 100 FEET OR GREATER.—

"(1) IN GENERAL.—The Administrator of the Maritime Administration shall administer subsections (c) and (d) with respect to vessels 100 feet or greater in registered length. The owner of each such vessel shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with the Administrator on an annual basis to demonstrate compliance with those provisions.

"(2) REGULATIONS.—Regulations to implement this subsection shall conform to the extent practicable with the regulations establishing the form of citizenship affidavit set forth in part 355 of title 46, Code of Federal Regulations, as in effect on September 25, 1997, except that the form of the statement shall be written in a manner to allow the owner of the vessel to satisfy any annual renewal requirements for a certificate of documentation for the vessel and to comply with this subsection and subsections (c) and (d), and shall not be required to be notarized.

"(3) TRANSFER OF OWNERSHIP.—Transfers of ownership and control of vessels subject to subsection (c) or (d), which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of those provisions, with particular attention given to—

"(A) leases, charters, mortgages, financing, and similar arrangements;

"(B) the control of persons not eligible to own a vessel with a fishery endorsement under subsection (c) or (d), over the management, sales, financing, or other operations of an entity; and

"(C) contracts involving the purchase over extended periods .of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

"(f) VESSELS MEASURING LESS THAN 100 FEET.—The Secretary shall establish reasonable and necessary requirements to demonstrate compliance with subsections (c) and (d), with respect to vessels measuring less than 100 feet in registered length, and shall seek to minimize the administrative burden on individuals who own and operate those vessels.

"(g) VESSELS PURCHASED THROUGH FISHING CAPACITY REDUCTION PROGRAM.—A vessel purchased by the Secretary of Commerce through a *fishing capacity reduction program under the Magnuson-Stevens Fishery Conservation Management Act (16 U.S.C. 1801 et seq.) or section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.*

"(h) REVOCATION OF ENDORSEMENTS.—The Secretary shall revoke the fishery endorsement of any vessel subject to subsection (c) or (d) whose owner does not comply with those provisions.

"(i) REGULATIONS.—Regulations to implement subsections (c) and (d) and sections 12151(c) and 31322(b) of this title shall prohibit impermissible transfers of ownership or control, specify any transactions that require prior approval of an implementing agency, identify transactions that do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of that industry, and to the opportunity to form fishery cooperatives.

"§ 12114. Recreational endorsement

"(a) REQUIREMENTS.—A recreational endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

"(b) AUTHORIZED ACTIVITY.—A vessel operating under a recreational endorsement may be operated only for pleasure.

"(c) APPLICATION OF CUSTOMS LAWS.—A vessel for which a recreational endorsement is issued may proceed between a port of the United States and a port of a foreign country without entering or clearing with the Secretary of Homeland Security. However, a recreational vessel is subject to the requirements for reporting arrivals under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433), and individuals on the vessel are subject to applicable customs regulations.

"§ 12115. Temporary endorsement for vessels procured outside the United States

"(a) GENERAL AUTHORITY.—The Secretary and the Secretary of State, acting jointly, may provide for the issuance of a certificate of documentation with an appropriate endorsement for a vessel procured outside the United States and meeting the ownership requirements of section 12103 of this title.

"(b) AUTHORIZED ACTIVITY.—Subject to limitations the Secretary may prescribe, a vessel documented under this section may proceed to the United States and engage en route in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

"(c) APPLICATION OF UNITED STATES JURISDICTION AND LAWS.—A vessel documented under this section is subject to the jurisdiction and laws of the United States. However, if the Secretary considers it to be in the public interest, the Secretary may suspend for a period of not more than 6 months the application of a vessel inspection law carried out by the Secretary or regulations prescribed under that law.

"(d) SURRENDER OF CERTIFICATE.—On the vessel's arrival in the United States, the certificate of documentation shall be surrendered as provided by regulations prescribed by the Secretary.

"§ 12116. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands

"(a) ENDORSEMENTS.—A vessel satisfying the requirements of subsection (b) may be issued—

"(1) a coastwise endorsement to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands; or

"(2) a fishery endorsement to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands.

"(b) REQUIREMENTS.—An endorsement may be issued under subsection (a) for a vessel that—

"(1) satisfies the requirements of section 12103 of this title;

"(2) was not built in the United States, except that for an endorsement under subsection (a)(2), the vessel must not have been built or rebuilt in the United States;

"(3) is less than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

"(4) otherwise qualifies under the laws of the United States to engage in the coastwise trade or the fisheries, as the case may be.

"§ 12117. Oil spill response vessels

"(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

"(1) satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section;

"(2) is owned by a not-for-profit oil spill response cooperative or by members of such a cooperative that dedicate the vessel to use by the cooperative;

"(3) is at least 50 percent owned by individuals or entities described in section 12103(b) of this title; and

"(4) is to be used only for—

"(i) deploying equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters of the United States or the exclusive economic zone; or

"(ii) training exercises to prepare to respond to such a discharge.

"(b) DEEMED OWNED BY CITIZENS.—A vessel satisfying subsection (a) is deemed to be owned only by citizens of the United States under sections 12103, 12132, and 50501 of this title.

"§ 12118. Owners engaged primarily in manufacturing or mineral industry

"(a) DEFINITIONS.—In this section:

"(1) BOWATERS CORPORATION.—The term 'Bowaters corporation' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that—

"(A) the corporation is incorporated under the laws of the United States or a State;

"(B) a majority of the officers and directors of the corporation are individuals who are citizens of the United States;

"(C) at least 90 percent of the employees of the corporation are residents of the United States;

"(D) the corporation is engaged primarily in a manufacturing or mineral industry in the United States;

"(E) the total book value of the vessels owned by the corporation is not more than 10 percent of the total book value of the assets of the corporation; and

"(F) the corporation buys or produces in the United States at least 75 percent of the raw materials used or sold in its operations.

"(2) PARENT.—The term 'parent' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

"(A) is incorporated under the laws of the United States or a State; and

"(B) controls, directly or indirectly, at least 50 percent of the voting stock of a Bowaters corporation.

"(3) SUBSIDIARY.—The term 'subsidiary' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

"(A) is incorporated under the laws of the United States or a State; and

"(B) has at least 50 percent of its voting stock controlled, directly or indirectly, by a Bowaters corporation or its parent.

"(b) DEEMED CITIZEN.—A Bowaters corporation is deemed to be a citizen of the United States for purposes of chapters 121, 551, and 561 and section 80104 of this title.

"(c) ISSUANCE OF DOCUMENTATION.—A certificate of documentation and appropriate endorsement may be issued for a vessel that—

"(1) is owned by a Bowaters corporation;

"(2) was built in the United States; and

"(3)(A) is self-propelled and less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; or

"(B) is not self-propelled.

"(d) EFFECTS OF DOCUMENTATION.—

"(1) IN GENERAL.—Subject to paragraph (2)—

"(A) a vessel documented under this section may engage in the coastwise trade; and

"(B) the vessel and its owner and master are entitled to the same benefits and are subject to the same requirements and penalties as if the vessel were otherwise documented or exempt from documentation under this chapter.

"(2) TRANSPORTATION OF PASSENGERS OR MERCHANDISE.—A vessel documented under this section may transport passengers or merchandise for hire in the coastwise trade only—

"(A) as a service for a parent or subsidiary of the corporation owning the vessel; or

"(B) when under a demise or bareboat charter, at prevailing rates for use not in the domestic noncontiguous trades, from the corporation owning the vessel to a carrier that—

"(i) is subject to jurisdiction under subchapter II of chapter 135 of title 49;

"(ii) otherwise qualifies as a citizen of the United States under section 50501 of this title; and

"(iii) is not owned or controlled, directly or indirectly, by the corporation owning the vessel.

"(e) VALIDITY OF CORPORATE CERTIFICATE.—A certificate filed by a corporation under this section remains valid only as long as the corporation continues to satisfy the conditions required of the corporation by this section. When a corporation no longer satisfies those conditions, the corporation loses its status under this section and immediately shall surrender to the Secretary any documents issued to it based on that status.

"(f) PENALTIES.—

"(1) FALSIFYING MATERIAL FACT.—If a corporation knowingly falsifies a material fact in a certificate filed under subsection (a), the vessel (or its value) documented or operated under this section shall be forfeited.

"(2) TRANSPORTING MERCHANDISE.—If a vessel transports merchandise for hire in violation of this section, the merchandise shall be forfeited to the United States Government.

"(3) TRANSPORTING PASSENGERS.—If a vessel transports passengers for hire in violation of this section, the vessel is liable for a penalty of $200 for each passenger so transported.

"(4) REMISSION OR MITIGATION.—A penalty or forfeiture incurred under this subsection may be remitted or mitigated under section 2107(b) of this title.

"§ 12119. Owners engaged primarily in leasing or financing transactions

"(a) DEFINITIONS.—In this section:

"(1) AFFILIATE.—The term 'affiliate' means, with respect to any person, any other person that is—

"(i) directly or indirectly controlled by, under common control with, or controlling that person; or

"(ii) named as being part of the same consolidated group in any report or other document submitted to the United States Securities and Exchange Commission or the Internal Revenue Service.

''(2) CARGO.—The term 'cargo' does not include cargo to which title is held for non-commercial reasons and primarily for the purpose of evading the requirements of subsection (c)(3).

''(3) OIL.—The term 'oil' has the meaning given that term in section 2101(20) of this title.

''(4) PASSIVE INVESTMENT.—The term 'passive investment' means an investment in which neither the investor nor any affiliate of the investor is involved in, or has the power to be involved in, the formulation, determination, or direction of any activity or function concerning the management, use, or operation of the asset that is the subject of the investment.

''(5) QUALIFIED PROPRIETARY CARGO.—The term 'qualified proprietary cargo' means—

''(A) oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that submits to the Secretary an application or annual certification under subsection (c)(3), or by an affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on a vessel owned by that person;

''(B) oil, petroleum products, petrochemicals, or liquefied natural gas cargo not beneficially owned by the person that submits to the Secretary an application or an annual certification under subsection (c)(3), or by an affiliate of that person, but which is carried in coastwise trade by a vessel owned by that person and which is part of an arrangement in which vessels owned by that person and at least one other person are operated collectively as one fleet, to the extent that an equal amount of oil, petroleum products, petrochemicals, or liquefied natural gas cargo beneficially owned by that person, or by an affiliate of that person, is carried in coastwise trade on one or more other vessels, not owned by that person, or by an affiliate of that person, if the other vessel or vessels are also part of the same arrangement;

''(C) in the case of a towing vessel associated with a non-self-propelled tank vessel where both vessels function as a single self-propelled vessel, oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that owns both the towing vessel and the non-self-propelled tank vessel, or any United States affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on either of those vessels; or

''(D) any oil, petroleum products, petrochemicals, or liquefied natural gas cargo carried on any vessel that is either a self-propelled tank vessel having a length of at least 210 meters or a tank vessel that is a liquefied natural gas carrier that—

''(i) was delivered by the builder of the vessel to the owner of the vessel after December 31, 1999; and

''(ii) was purchased by a person for the purpose, and with the reasonable expectation, of transporting on the vessel liquefied natural gas or unrefined petroleum beneficially owned by the owner of the vessel, or an affiliate of the owner, from Alaska to the continental United States.

''(6) UNITED STATES AFFILIATE.—The term 'United States affiliate' means, with respect to any person, an affiliate the principal place of business of which is located in the United States.

''(b) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel if—

''(1) the vessel satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section;

''(2) the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) meets the requirements of subsection (c);

''(3) the vessel is under a demise charter to a person that certifies to the Secretary that the person is a citizen of the United States under section 50501 of this title for engaging in the coastwise trade; and

''(4) the demise charter is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary.

''(c) OWNERSHIP CERTIFICATION.—

''(1) IN GENERAL.—A person meets the requirements of this subsection if the person transmits to the Secretary each year the certification required by paragraph (2) or (3) with respect to a vessel.

''(2) INVESTMENT CERTIFICATION.—To meet the certification requirement of this paragraph, a person shall certify that it—

''(A) is a leasing company, bank, or financial institution;

''(B) owns, or holds the beneficial interest in, the vessel solely as a passive investment;

''(C) does not operate any vessel for hire and is not an affiliate of any person that operates any vessel for hire; and

''(D) is independent from, and not an affiliate of, any charterer of the vessel or any other person that has the right, directly or indirectly, to control or direct the movement or use of the vessel.

''(3) CERTAIN TANK VESSELS.—

''(A) IN GENERAL.—To meet the certification requirement of this paragraph, a person shall certify that—

''(i) the aggregate book value of the vessels owned by the person and United States affiliates of the person does not exceed 10 percent of the aggregate book value of all assets owned by the person and its United States affiliates;

''(ii) not more than 10 percent of the aggregate revenues of the person and its United States affiliates is derived from the ownership, operation, or management of vessels;

''(iii) at least 70 percent of the aggregate tonnage of all cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement is qualified proprietary cargo;

''(iv) any cargo other than qualified proprietary cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement consists of oil, petroleum products, petrochemicals, or liquified natural gas;

''(v) no vessel owned by the person or any of its United States affiliates and documented with a coastwise endorsement carries molten sulphur; and

''(vi) the person owned one or more vessels documented under this section as of August 9, 2004.

''(B) APPLICATION ONLY TO CERTAIN VESSELS.—A person may make a certification under this paragraph only with respect to—

''(i) a tank vessel having a tonnage of at least 6,000 gross tons, as measured under section 14502 of this title (or an alternative tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title); or

''(ii) a towing vessel associated with a non-self-propelled tank vessel that meets the requirements of clause (i), where both vessels function as a single self-propelled vessel.

''(d) FILING OF DEMISE CHARTER.—The demise charter and any amendments to the charter shall be filed with the certification required by subsection (b)(3) or within 10 days after filing an amendment to the charter. The charter and amendments shall be made available to the public.

''(e) CONTINUATION OF ENDORSEMENT AFTER TERMINATION OF CHARTER.—When a charter required by subsection (b)(3) is terminated for default by the charterer, the Secretary may continue the coastwise endorsement for not more than 6 months on terms and conditions the Secretary may prescribe.

''(f) DEEMED OWNED BY CITIZENS.—A vessel satisfying the requirements of this section is deemed to be owned only by citizens of the United States under sections 12103 and 50501 of this title.

“§ 12120. Liquified gas tankers

''Notwithstanding any agreement with the United States Government, the Secretary may issue a certificate of documentation with a coastwise endorsement for a vessel to transport liquified natural gas or liquified petroleum gas to Puerto Rico from other ports in the United States, if the vessel—

''(1) is a foreign built vessel that was built before October 19, 1996; or

''(2) was documented under this chapter before that date, even if the vessel is placed under a foreign registry and subsequently redocumented under this chapter for operation under this section.

“§ 12121. Small passenger vessels and uninspected passenger vessels

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE VESSEL.—The term 'eligible vessel' means a vessel that—

''(A) was not built in the United States and is at least 3 years old; or

''(B) if rebuilt, was rebuilt outside the United States at least 3 years before the certificate requested under subsection (b) would take effect.

''(2) SMALL PASSENGER VESSEL; UNINSPECTED PASSENGER VESSEL; PASSENGER FOR HIRE.—The terms 'small passenger vessel', 'uninspected passenger vessel', and 'passenger for hire' have the meaning given those terms in section 2101 of this title.

''(b) ISSUANCE OF CERTIFICATE AND ENDORSEMENT.—Notwithstanding sections 12112, 12113, 55102, and 55103 of this title, the Secretary may issue a certificate of documentation with an appropriate endorsement for employment in the coastwise trade as a small passenger vessel or an uninspected passenger vessel in the case of an eligible vessel authorized to carry no more than 12 passengers for hire if the Secretary of Transportation, after notice and an opportunity for public comment, determines that the employment of the vessel in the coastwise trade will not adversely affect—

''(1) United States vessel builders; or

''(2) the coastwise trade business of any person that employs vessels built in the United States in that business.

''(c) REVOCATION.—

''(1) FOR FRAUD.—The Secretary shall revoke a certificate or endorsement issued under subsection (b) if the Secretary of Transportation, after notice and an opportunity for a hearing, determines that the certificate or endorsement was obtained by fraud.

''(2) OTHER PROVISIONS NOT AFFECTED.—Paragraph (1) does not affect—

''(A) the criminal prohibition on fraud and false statements in section 1001 of title 18; or

''(B) any other authority of the Secretary to revoke a certificate or endorsement issued under subsection (b).

''SUBCHAPTER III—MISCELLANEOUS

“§ 12131. Command of documented vessels

''(a) IN GENERAL.—Except as provided in subsection (b), a documented vessel may be placed under the command only of a citizen of the United States.

''(b) EXCEPTIONS.—Subsection (a) does not apply to—

''(1) a vessel with only a recreational endorsement; or

''(2) an unmanned barge operating outside of the territorial waters of the United States.

“§ 12132. Loss of coastwise trade privileges

''A vessel having a lawful right to engage in the coastwise trade is permanently prohibited *from engaging in the coastwise trade if the vessel is—*

"(1)(A) more than 200 gross tons as measured under chapter 143 of this title; and

"(B) sold foreign or placed under foreign registry; or

"(2) rebuilt outside the United States.

"§12133. Duty to carry certificate on vessel and allow examination

"(a) DUTY TO CARRY.—The certificate of documentation of a vessel shall be carried on the vessel unless the vessel is exempt by regulation from carrying the certificate.

"(b) AVAILABILITY.—The owner or individual in charge of a vessel required to carry its certificate of documentation shall make the certificate available for examination at the request of an officer enforcing the revenue laws or as otherwise required by law or regulation.

"(c) CRIMINAL PENALTY.—A person willfully violating subsection (b) shall be fined under title 18, imprisoned for not more than one year, or both.

"§12134. Evidentiary uses of documentation

"A certificate of documentation is—

"(1) conclusive evidence of nationality for international purposes, but not in a proceeding conducted under the laws of the United States;

"(2) conclusive evidence of qualification to engage in a specified trade; and

"(3) not conclusive evidence of ownership in a proceeding in which ownership is in issue.

"§12135. Invalidation of certificates of documentation

"A certificate of documentation or an endorsement on the certificate is invalid if the vessel for which it is issued—

"(1) no longer meets the requirements of this chapter and regulations prescribed under this chapter applicable to the certificate or endorsement; or

"(2) is placed under the command of an individual not a citizen of the United States in violation of section 12131 of this title.

"§12136. Surrender of certificates of documentation

"(a) SURRENDER.—An invalid certificate of documentation, or a certificate with an invalid endorsement, shall be surrendered as provided by regulations prescribed by the Secretary.

"(b) CONDITIONS FOR SURRENDER.—

"(1) VESSELS OVER 1,000 TONS.—The Secretary may condition approval of the surrender of the certificate of documentation for a vessel over 1,000 gross tons.

"(2) VESSELS COVERED BY MORTGAGE.—The Secretary may approve the surrender of the certificate of documentation of a vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.

"(3) NOTICE OF LIEN.—The Secretary may not refuse to approve the surrender of the certificate of documentation for a vessel solely on the basis that a notice of a claim of a lien on the vessel has been recorded under section 31343(a) of this title.

"(c) CONTINUED APPLICATION OF CERTAIN LAWS.—

"(1) IN GENERAL.—Notwithstanding subsection (a), until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

"(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

"(B) sections 56101 and 56102(a)(2) and chapter 563 of this title; and

"(C) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

"(2) EXCEPTION.—This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

"§12137. Recording of vessels built in the United States

"The Secretary may provide for recording and certifying information about vessels built in the United States that the Secretary considers to be in the public interest.

"§12138. List of documented vessels

"(a) IN GENERAL.—The Secretary shall publish periodically a list of all documented vessels and information about those vessels that the Secretary considers pertinent or useful. The list shall contain a notation clearly indicating all vessels classed by the American Bureau of Shipping.

"(b) VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR.—

"(1) IN GENERAL.—The Secretary of Transportation shall develop, maintain, and periodically update an inventory of vessels that are documented under this chapter, are at least 200 feet in length, and have the capability to lay, maintain, or repair a submarine cable, without regard to whether a particular vessel is classed as a cable ship or cable vessel.

"(2) INFORMATION TO BE INCLUDED.—For each vessel listed in the inventory, the Secretary of Transportation shall include in the inventory—

"(A) the name, length, beam, depth, and other distinguishing characteristics of the vessel;

"(B) the abilities and limitations of the vessel with respect to laying, maintaining, and repairing a submarine cable; and

"(C) the name and address of the person to whom inquiries regarding the vessel may be made.

"(3) PUBLICATION.—The Secretary of Transportation shall publish in the Federal Register an updated inventory every 6 months.

"§12139. Reports

"(a) IN GENERAL.—To ensure compliance with this chapter and laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners, masters, and charterers of documented vessels to submit reports in any reasonable form and manner the Secretary may prescribe.

"(b) VESSELS REBUILT OUTSIDE UNITED STATES.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if a vessel exceeding the tonnage specified in paragraph (2) and documented or last documented under the laws of the United States is rebuilt outside the United States, the owner or master shall submit a report of the rebuilding to the Secretary.

"(2) TONNAGE.—The tonnage referred to in paragraph (1) is—

"(A) 500 gross tons as measured under section 14502 of this title; or

"(B) an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.

"(3) TIMING OF SUBMISSION.—If the rebuilding is completed in the United States, the report shall be submitted when the rebuilding is completed. If the rebuilding is completed outside the United States, the report shall be submitted when the vessel first arrives at a port in the customs territory of the United States.

"SUBCHAPTER IV—PENALTIES

"§12151. Penalties

"(a) IN GENERAL.—A person that violates this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $10,000. Each day of a continuing violation is a separate violation.

"(b) SEIZURE AND FORFEITURE OF VESSELS.—A vessel and its equipment are liable to seizure by and forfeiture to the Government if—

"(1) the owner of the vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation, about the documentation of the vessel or in applying for documentation of the vessel;

"(2) a certificate of documentation is knowingly and fraudulently used for the vessel;

"(3) the vessel is operated after its endorsement has been denied or revoked under section 12152 of this title;

"(4) the vessel is employed in a trade without an appropriate endorsement;

"(5) the vessel has only a recreational endorsement and is operated other than for pleasure;

"(6) the vessel is a documented vessel and is placed under the command of a person not a citizen of the United States, except as authorized by section 12131(b) of this title; or

"(7) the vessel is rebuilt outside the United States and a report of the rebuilding is not submitted as required by section 12139(b) of this title.

"(c) ENGAGING IN FISHING AFTER FALSIFYING ELIGIBILITY.—In addition to other penalties under this section, the owner of a documented vessel for which a fishery endorsement has been issued is liable to the Government for a civil penalty of not more than $100,000 for each day the vessel engages in fishing (as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) within the exclusive economic zone, if the owner or the representative or agent of the owner knowingly falsified or concealed a material fact, or knowingly made a false statement or representation, about the eligibility of the vessel under section 12113(c) or (d) of this title in applying for or applying to renew the fishery endorsement.

"§12152. Denial or revocation of endorsement for non-payment of civil penalty

"If the owner of a vessel fails to pay a civil penalty imposed by the Secretary, the Secretary may deny the issuance or renewal of an endorsement, or revoke the endorsement, on a certificate of documentation issued for the vessel under this chapter.".

SEC. 5. SUBTITLE III OF TITLE 46.

(a) SUBTITLE ANALYSIS.—The analysis of subtitle III of title 46, United States Code, is amended to read as follows:

"Chapter	*Sec.*
"301. General Liability Provisions	***30101***
"303. Death on the High Seas	***30301***
"305. Exoneration and Limitation of Liability	***30501***
"307. Liability of Water Carriers	***30701***
"309. Suits in Admiralty Against United States Government	***30901***
"311. Suits Involving Public Vessels	***31101***
"313. Commercial Instruments and Maritime Liens	***31301".***

(b) REPEALS.—Title 46, United States Code, is amended by striking chapter 301 and the lines appearing immediately before and immediately after chapter 313 indicating that certain chapters are reserved.

(c) CHAPTERS 301–311.—Title 46, United States Code, is amended by inserting after the analysis of subtitle III the following:

"CHAPTER 301—GENERAL LIABILITY PROVISIONS

"Sec.

"30101. Extension of jurisdiction to cases of damage or injury on land.

"30102. Liability to passengers.

"30103. Liability of master, mate, engineer, and pilot.

"30104. Personal injury to or death of seamen.

"30105. Restriction on recovery by non-citizens and non-resident aliens for incidents in waters of other countries.

''30106. *Time limit on bringing action.*

"§30101. Extension of jurisdiction to cases of damage or injury on land

''(a) IN GENERAL.—The admiralty and maritime jurisdiction of the United States extends to and includes cases of injury or damage, to person or property, caused by a vessel on navigable waters, even though the injury or damage is done or consummated on land.

''(b) PROCEDURE.—A civil action in a case under subsection (a) may be brought in rem or in personam according to the principles of law and the rules of practice applicable in cases where the injury or damage has been done and consummated on navigable waters.

''(c) ACTIONS AGAINST UNITED STATES.—

''(1) EXCLUSIVE REMEDY.—In a civil action against the United States Government for injury or damage done or consummated on land by a vessel on navigable waters, chapter 309 or 311 of this title, as appropriate, provides the exclusive remedy.

''(2) ADMINISTRATIVE CLAIM.—A civil action described in paragraph (1) may not be brought until the expiration of the 6 month period after the claim has been presented in writing to the agency owning or operating the vessel causing the injury or damage.

"§30102. Liability to passengers

''(a) LIABILITY.—The owner and master of a vessel, and the vessel, are liable for personal injury to a passenger or damage to a passenger's baggage caused by—

''(1) a neglect or failure to comply with part B or F of subtitle II of this title; or

''(2) a known defect in the steaming apparatus or hull of the vessel.

''(b) NOT SUBJECT TO LIMITATION.—A liability imposed under this section is not subject to limitation under chapter 305 of this title.

"§30103. Liability of master, mate, engineer, and pilot

''A person may bring a civil action against a master, mate, engineer, or pilot of a vessel, and recover damages, for personal injury or loss caused by the master's, mate's, engineer's, or pilot's—

''(1) negligence or willful misconduct; or

''(2) neglect or refusal to obey the laws governing the navigation of vessels.

"§30104. Personal injury to or death of seamen

''(a) CAUSE OF ACTION.—A seaman injured in the course of employment or, if the seaman dies from the injury, the personal representative of the seaman may elect to bring a civil action at law, with the right of trial by jury, against the employer. Laws of the United States regulating recovery for personal injury to, or death of, a railway employee apply to an action under this section.

''(b) VENUE.—An action under this section shall be brought in the judicial district in which the employer resides or the employer's principal office is located.

"§30105. Restriction on recovery by non-citizens and non-resident aliens for incidents in waters of other countries

''(a) DEFINITION.—In this section, the term 'continental shelf' has the meaning given that term in article I of the 1958 Convention on the Continental Shelf.

''(b) RESTRICTION.—Except as provided in subsection (c), a civil action for maintenance and cure or for damages for personal injury or death may not be brought under a maritime law of the United States if—

''(1) the individual suffering the injury or death was not a citizen or permanent resident alien of the United States at the time of the incident giving rise to the action;

''(2) the incident occurred in the territorial waters or waters overlaying the continental shelf of a country other than the United States; and

''(3) the individual suffering the injury or death was employed at the time of the incident by a person engaged in the exploration, development, or production of offshore mineral or energy resources, including drilling, mapping, surveying, diving, pipelaying, maintaining, repairing, constructing, or transporting supplies, equipment, or personnel, but not including transporting those resources by a vessel constructed or adapted primarily to carry oil in bulk in the cargo spaces.

''(c) NONAPPLICATION.—Subsection (b) does not apply if the individual bringing the action establishes that a remedy is not available under the laws of—

''(1) the country asserting jurisdiction over the area in which the incident occurred; or

''(2) the country in which the individual suffering the injury or death maintained citizenship or residency at the time of the incident.

"§30106. Time limit on bringing action

''Except as otherwise provided by law, a civil action for damages for personal injury or death arising out of a maritime tort must be brought within 3 years after the cause of action arose.

"CHAPTER 303—DEATH ON THE HIGH SEAS

''Sec.
''30301. Short title.
''30302. Cause of action.
''30303. Amount and apportionment of recovery.
''30304. Contributory negligence.
''30305. Death of plaintiff in pending action.
''30306. Foreign cause of action.
''30307. Commercial aviation accidents.
''30308. Nonapplication.

"§30301. Short title

''This chapter may be cited as the 'Death on the High Seas Act'.

"§30302. Cause of action

''When the death of an individual is caused by wrongful act, neglect, or default occurring on the high seas beyond a marine league from the shore of the United States, the personal representative of the decedent may bring a civil action in admiralty against the person or vessel responsible. The action shall be for the exclusive benefit of the decedent's spouse, parent, child, or dependent relative.

"§30303. Amount and apportionment of recovery

''The recovery in an action under this chapter shall be a fair compensation for the pecuniary loss sustained by the individuals for whose benefit the action is brought. The court shall apportion the recovery among those individuals in proportion to the loss each has sustained.

"§30304. Contributory negligence

''In an action under this chapter, contributory negligence of the decedent is not a bar to recovery. The court shall consider the degree of negligence of the decedent and reduce the recovery accordingly.

"§30305. Death of plaintiff in pending action

''If a civil action in admiralty is pending in a court of the United States to recover for personal injury caused by wrongful act, neglect, or default described in section 30302 of this title, and the individual dies during the action as a result of the wrongful act, neglect, or default, the personal representative of the decedent may be substituted as the plaintiff and the action may proceed under this chapter for the recovery authorized by this chapter.

"§30306. Foreign cause of action

''When a cause of action exists under the law of a foreign country for death by wrongful act, neglect, or default on the high seas, a civil action in admiralty may be brought in a court of the United States based on the foreign cause of action, without abatement for the amount for which recovery is authorized.

"§30307. Commercial aviation accidents

''(a) DEFINITION.—In this section, the term 'nonpecuniary damages' means damages for loss of care, comfort, and companionship.

''(b) BEYOND 12 NAUTICAL MILES.—In an action under this chapter, if the death resulted from a commercial aviation accident occurring on the high seas beyond 12 nautical miles from the shore of the United States, additional compensation is recoverable for nonpecuniary damages for wrongful death, but punitive damages are not recoverable.

''(c) WITHIN 12 NAUTICAL MILES.—This chapter does not apply if the death resulted from a commercial aviation accident occurring on the high seas 12 nautical miles or less from the shore of the United States.

"§30308. Nonapplication

''(a) STATE LAW.—This chapter does not affect the law of a State regulating the right to recover for death.

''(b) INTERNAL WATERS.—This chapter does not apply to the Great Lakes, waters within the territorial limits of a State, or navigable waters in the Panama Canal.

"CHAPTER 305—EXONERATION AND LIMITATION OF LIABILITY

''Sec.
''30501. Definition.
''30502. Application.
''30503. Declaration of nature and value of goods.
''30504. Loss by fire.
''30505. General limit of liability.
''30506. Limit of liability for personal injury or death.
''30507. Apportionment of losses.
''30508. Provisions requiring notice of claim or limiting time for bringing action.
''30509. Provisions limiting liability for personal injury or death.
''30510. Vicarious liability for medical malpractice.
''30511. Action by owner for limitation.
''30512. Liability as master, officer, or seaman not affected.

"§30501. Definition

''In this chapter, the term 'owner' includes a charterer that mans, supplies, and navigates a vessel at the charterer's own expense or by the charterer's own procurement.

"§30502. Application

''Except as otherwise provided, this chapter (except section 30503) applies to seagoing vessels and vessels used on lakes or rivers or in inland navigation, including canal boats, barges, and lighters.

"§30503. Declaration of nature and value of goods

''(a) IN GENERAL.—If a shipper of an item named in subsection (b), contained in a parcel, package, or trunk, loads the item as freight or baggage on a vessel, without at the time of loading giving to the person receiving the item a written notice of the true character and value of the item and having that information entered on the bill of lading, the owner and master of the vessel are not liable as carriers. The owner and master are not liable beyond the value entered on the bill of lading.

''(b) ITEMS.—The items referred to in subsection (a) are precious metals, gold or silver plated articles, precious stones, jewelry, trinkets, watches, clocks, glass, china, coins, bills, securities, printings, engravings, pictures, stamps, maps, papers, silks, furs, lace, and similar items of high value and small size.

“§30504. Loss by fire

“The owner of a vessel is not liable for loss or damage to merchandise on the vessel caused by a fire on the vessel unless the fire resulted from the design or neglect of the owner.

“§30505. General limit of liability

“(a) IN GENERAL.—Except as provided in section 30506 of this title, the liability of the owner of a vessel for any claim arising from any cause, on account of that ownership, without the privity or knowledge of the owner shall not exceed the value of the vessel and pending freight. If the vessel has more than one owner, the proportionate share of the liability of any one owner shall not exceed that owner's proportionate interest in the vessel and pending freight.

“(b) NONAPPLICATION.—This section does not apply to a claim for wages.

“§30506. Limit of liability for personal injury or death

“(a) APPLICATION.—This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

“(b) MINIMUM LIABILITY.—If the amount of the vessel owner's liability determined under section 30505 of this title is such that the portion available to pay claims for personal injury or death is less than $420 times the tonnage of the vessel, that portion shall be increased to $420 times the tonnage of the vessel. That portion may be used only to pay claims for personal injury or death.

“(c) CALCULATION OF TONNAGE.—Under subsection (b), the tonnage of a self-propelled vessel is the gross tonnage without deduction for engine room, and the tonnage of a sailing vessel is the tonnage for documentation. However, space for the use of seamen is excluded.

“(d) CLAIMS ARISING ON DISTINCT OCCASIONS.—Separate limits of liability apply to claims for personal injury or death arising on distinct occasions.

“(e) PRIVITY OR KNOWLEDGE.—In a claim for personal injury or death, the privity or knowledge of the master or managing agent, at or before the beginning of each voyage, is imputed to the owner.

“§30507. Apportionment of losses

“If the amount determined under sections 30505 and 30506 of this title is insufficient to pay all claimants, the claimants shall be paid in proportion to their respective losses.

“§30508. Provisions requiring notice of claim or limiting time for bringing action

“(a) APPLICATION.—This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

“(b) MINIMUM TIME LIMITS.—The owner, master, manager, or agent of a vessel transporting passengers or property between ports in the United States, or between a port in the United States and a port in a foreign country, may not limit by regulation, contract, or otherwise the period for—

“(1) giving notice of, or filing a claim for, personal injury or death to less than 6 months after the date of the injury or death; or

“(2) bringing a civil action for personal injury or death to less than one year after the date of the injury or death.

“(c) EFFECT OF FAILURE TO GIVE NOTICE.—When notice of a claim for personal injury or death is required by a contract, the failure to give the notice is not a bar to recovery if—

“(1) the court finds that the owner, master, or agent of the vessel had knowledge of the injury or death and the owner has not been prejudiced by the failure;

“(2) the court finds there was a satisfactory reason why the notice could not have been given; or

“(3) the owner of the vessel fails to object to the failure to give the notice.

“(d) TOLLING OF PERIOD TO GIVE NOTICE.—If a claimant is a minor or mental incompetent, or if a claim is for wrongful death, any period provided by a contract for giving notice of the claim is tolled until the earlier of—

“(1) the date a legal representative is appointed for the minor, incompetent, or decedent's estate; or

“(2) 3 years after the injury or death.

“§30509. Provisions limiting liability for personal injury or death

“(a) PROHIBITION.—

“(1) IN GENERAL.—The owner, master, manager, or agent of a vessel transporting passengers between ports in the United States, or between a port in the United States and a port in a foreign country, may not include in a regulation or contract a provision limiting—

“(A) the liability of the owner, master, or agent for personal injury or death caused by the negligence or fault of the owner or the owner's employees or agents; or

“(B) the right of a claimant for personal injury or death to a trial.

“(2) VOIDNESS.—A provision described in paragraph (1) is void.

“(b) EMOTIONAL DISTRESS, MENTAL SUFFERING, AND PSYCHOLOGICAL INJURY.—

“(1) IN GENERAL.—Subsection (a) does not prohibit a provision in a contract or in ticket conditions of carriage with a passenger that relieves an owner, master, manager, agent, operator, or crewmember of a vessel from liability for infliction of emotional distress, mental suffering, or psychological injury so long as the provision does not limit such liability when the emotional distress, mental suffering, or psychological injury is—

“(A) the result of physical injury to the claimant caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator;

“(B) the result of the claimant having been at actual risk of physical injury, and the risk was caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator; or

“(C) intentionally inflicted by a crewmember or the owner, master, manager, agent, or operator.

“(2) SEXUAL OFFENSES.—This subsection does not limit the liability of a crewmember or the owner, master, manager, agent, or operator of a vessel in a case involving sexual harassment, sexual assault, or rape.

“§30510. Vicarious liability for medical malpractice

“In a civil action by any person in which the owner or operator of a vessel or employer of a crewmember is claimed to have vicarious liability for medical malpractice with regard to a crewmember occurring at a shoreside facility, and to the extent the damages resulted from the conduct of any shoreside doctor, hospital, medical facility, or other health care provider, the owner, operator, or employer is entitled to rely on any statutory limitations of liability applicable to the doctor, hospital, medical facility, or other health care provider in the State of the United States in which the shoreside medical care was provided.

“§30511. Action by owner for limitation

“(a) IN GENERAL.—The owner of a vessel may bring a civil action in a district court of the United States for limitation of liability under this chapter. The action must be brought within 6 months after a claimant gives the owner written notice of a claim.

“(b) CREATION OF FUND.—When the action is brought, the owner shall—

“(1) deposit with the court, for the benefit of claimants—

“(A) an amount equal to the value of the owner's interest in the vessel and pending freight, or approved security; and

“(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter; or

“(2) transfer to a trustee appointed by the court, for the benefit of claimants—

“(A) the owner's interest in the vessel and pending freight; and

“(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter.

“(c) CESSATION OF OTHER ACTIONS.—When an action has been brought under this section and the owner has complied with subsection (b), all claims and proceedings against the owner related to the matter in question shall cease.

“§30512. Liability as master, officer, or seaman not affected

“This chapter does not affect the liability of an individual as a master, officer, or seaman, even though the individual is also an owner of the vessel.

“CHAPTER 307—LIABILITY OF WATER CARRIERS

“Sec.
“30701. Definition.
“30702. Application.
“30703. Bills of lading.
“30704. Loading, stowage, custody, care, and delivery.
“30705. Seaworthiness.
“30706. Defenses.
“30707. Civil penalty.

“§30701. Definition

“In this chapter, the term ‘carrier’ means the owner, manager, charterer, agent, or master of a vessel.

“§30702. Application

“(a) IN GENERAL.—Except as otherwise provided, this chapter applies to a carrier engaged in the carriage of goods to or from any port in the United States.

“(b) RELATION TO COGSA.—The relationship between this chapter and the Carriage of Goods By Sea Act shall be the same as the relationship that existed between the Act of February 13, 1893 (ch. 105, 27 Stat. 445) (commonly known as the Harter Act) and the Carriage of Goods By Sea Act, prior to the repeal of the Harter Act.

“(c) LIVE ANIMALS.—Sections 30703 and 30704 of this title do not apply to the carriage of live animals.

“§30703. Bills of lading

“(a) ISSUANCE.—A carrier shall issue to a shipper a bill of lading or shipping document.

“(b) CONTENTS.—The bill of lading or shipping document shall include a statement of—

“(1) the marks necessary to identify the goods;

“(2) the number of packages, or the quantity or weight, and whether it is carrier's or shipper's weight; and

“(3) the apparent condition of the goods.

“(c) PRIMA FACIE EVIDENCE OF RECEIPT.—A bill of lading or shipping document issued under this section is prima facie evidence of receipt of the goods described.

“§30704. Loading, stowage, custody, care, and delivery

“A carrier may not insert in a bill of lading or shipping document a provision relieving the carrier from liability for loss or damage arising from improper loading, stowage, custody, care, or delivery. Any such provision is void.

"§ 30705. Seaworthiness

"(a) PROHIBITION.—A carrier may not insert in a bill of lading or shipping document a provision lessening or avoiding its obligation to exercise due diligence to—

"(1) make the vessel seaworthy; and

"(2) properly man, equip, and supply the vessel.

"(b) VOIDNESS.—A provision described in subsection (a) is void.

"§ 30706. Defenses

"(a) DUE DILIGENCE.—If a carrier has exercised due diligence to make the vessel in all respects seaworthy and to properly man, equip, and supply the vessel, the carrier and the vessel are not liable for loss or damage arising from an error in the navigation or management of the vessel.

"(b) OTHER DEFENSES.—A carrier and the vessel are not liable for loss or damage arising from—

"(1) dangers of the sea or other navigable waters;

"(2) acts of God;

"(3) public enemies;

"(4) seizure under legal process;

"(5) inherent defect, quality, or vice of the goods;

"(6) insufficiency of package;

"(7) act or omission of the shipper or owner of the goods or their agent; or

"(8) saving or attempting to save life or property at sea, including a deviation in rendering such a service.

"§ 30707. Civil penalty

"(a) IN GENERAL.—A carrier that violates this chapter is liable for a civil penalty of not more than $2,000.

"(b) LIEN.—The amount of the penalty and costs for the violation constitute a lien on the vessel engaged in the carriage. A civil action in rem to enforce the lien may be brought in the district court of the United States for any district in which the vessel is found.

"(c) DISPOSITION OF PENALTY.—Half of the penalty shall be paid to the person injured by the violation and half to the United States Government.

"CHAPTER 309—SUITS IN ADMIRALTY AGAINST UNITED STATES GOVERNMENT

"Sec.

"30901. Short title.
"30902. Definition.
"30903. Waiver of immunity.
"30904. Exclusive remedy.
"30905. Period for bringing action.
"30906. Venue.
"30907. Security.
"30908. Procedure for hearing and determination.
"30909. Exoneration and limitation.
"30910. Costs and interest.
"30911. Arbitration, compromise, or settlement.
"30912. Payment of judgment or settlement.
"30913. Exemption from arrest or seizure.
"30914. Release of privately owned vessel after seizure.
"30915. Seizures and other proceedings in foreign jurisdictions.
"30916. Recovery by United States Government for salvage services.
"30917. Disposition of amounts recovered by United States Government.
"30918. Reports.

"§ 30901. Short title

"This chapter may be cited as the 'Suits in Admiralty Act'.

"§ 30902. Definition

"In this chapter, the term 'federally-owned corporation' means a corporation in which the United States Government owns all the outstanding capital stock.

"§ 30903. Waiver of immunity

"(a) IN GENERAL.—In a case in which, if a vessel were privately owned or operated, or if cargo were privately owned or possessed, or if a private person or property were involved, a civil action in admiralty could be maintained, a civil action in personam may be brought against the United States Government or a federally-owned corporation. In a civil action in admiralty brought by the Government or a federally-owned corporation, an admiralty claim in personam may be filed or a setoff claimed against the Government or corporation.

"(b) NON-JURY.—A claim against the Government or a federally-owned corporation under this section shall be tried without a jury.

"§ 30904. Exclusive remedy

"If a remedy is provided by this chapter, it shall be exclusive of any other action arising out of the same subject matter against the officer, employee, or agent of the United States Government or the federally-owned corporation whose act or omission gave rise to the claim.

"§ 30905. Period for bringing action

"A civil action under this chapter must be brought within 2 years after the cause of action arose.

"§ 30906. Venue

"(a) IN GENERAL.—A civil action under this chapter shall be brought in the district court of the United States for the district in which—

"(1) any plaintiff resides or has its principal place of business; or

"(2) the vessel or cargo is found.

"(b) TRANSFER.—On a motion by a party, the court may transfer the action to any other district court of the United States.

"§ 30907. Security

"Neither the United States Government nor a federally-owned corporation may be required to give a bond or admiralty stipulation in a civil action under this chapter.

"§ 30908. Procedure for hearing and determination

"(a) IN GENERAL.—A civil action under this chapter shall proceed and be heard and determined according to the principles of law and the rules of practice applicable in like cases between private parties.

"(b) IN REM.—

"(1) REQUIREMENTS.—The action may proceed according to the principles of an action in rem if—

"(A) the plaintiff elects in the complaint; and

"(B) it appears that an action in rem could have been maintained had the vessel or cargo been privately owned and possessed.

"(2) EFFECT ON RELIEF IN PERSONAM.—An election under paragraph (1) does not prevent the plaintiff from seeking relief in personam in the same action.

"§ 30909. Exoneration and limitation

"The United States Government is entitled to the exemptions from and limitations of liability provided by law to an owner, charterer, operator, or agent of a vessel.

"§ 30910. Costs and interest

"(a) IN GENERAL.—A judgment against the United States Government or a federally-owned corporation under this chapter may include costs and interest at the rate of 4 percent a year until satisfied. Interest shall run as ordered by the court, except that interest is not allowable for the period before the action is filed.

"(b) CONTRACT PROVIDING FOR INTEREST.—Notwithstanding subsection (a), if the claim is based on a contract providing for interest, interest may be awarded at the rate and for the period provided in the contract.

"§ 30911. Arbitration, compromise, or settlement

"The Secretary of a department of the United States Government, or the board of trustees of a federally-owned corporation, may arbitrate, compromise, or settle a claim authorized by this chapter.

"§ 30912. Payment of judgment or settlement

"(a) IN GENERAL.—The proper accounting officer of the United States Government shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy.

"(b) SOURCE OF PAYMENT.—Payment shall be made from an appropriation or fund available specifically for the purpose. If no appropriation or fund is specifically available, there is hereby appropriated, out of money in the Treasury not otherwise appropriated, an amount sufficient to pay the judgment, award, or settlement.

"§ 30913. Exemption from arrest or seizure

"The following are not subject to arrest or seizure by judicial process in the United States:

"(1) A vessel owned by, possessed by, or operated by or for the United States Government or a federally-owned corporation.

"(2) Cargo owned or possessed by the Government or a federally-owned corporation.

"§ 30914. Release of privately owned vessel after seizure

"If a privately owned vessel not in the possession of the United States Government or a federally-owned corporation is arrested or attached in a civil action arising or alleged to have arisen from prior ownership, possession, or operation by the Government or corporation, the vessel shall be released without bond or stipulation on a statement by the Government, through the Attorney General or other authorized law officer, that the Government is interested in the action, desires release of the vessel, and assumes liability for the satisfaction of any judgment obtained by the plaintiff. After the vessel is released, the action shall proceed against the Government in accordance with this chapter.

"§ 30915. Seizures and other proceedings in foreign jurisdictions

"(a) IN GENERAL.—If a vessel or cargo described in section 30913 or 30914 of this title is arrested, attached, or otherwise seized by judicial process in a foreign country, or if an action is brought in a court of a foreign country against the master of such a vessel for a claim arising from the ownership, possession, or operation of the vessel, or the ownership, possession, or carriage of such cargo, the Secretary of State, on request of the Attorney General or another officer authorized by the Attorney General, may direct the United States consul residing at or nearest the place at which the action was brought—

"(1) to claim the vessel or cargo as immune from arrest, attachment, or other seizure, and to execute an agreement, stipulation, bond, or undertaking, for the United States Government or federally-owned corporation, for the release of the vessel or cargo and the prosecution of any appeal; or

"(2) if an action has been brought against the master of such a vessel, to enter the appearance of the Government or corporation and to pledge the credit of the Government or corporation to the payment of any judgment and costs in the action.

"(b) ARRANGING BOND OR STIPULATION.—The Attorney General may—

"(1) arrange with a bank, surety company, or other person, whether in the United States or a foreign country, to execute a bond or stipulation; and

"(2) pledge the credit of the Government to secure the bond or stipulation.

"(c) PAYMENT OF JUDGMENT.—The appropriate accounting officer of the Government or corporation may pay a judgment in an action described in subsection (a) on presentation of a

copy of the judgment if certified by the clerk of the court and authenticated by—

"(1) the certificate and seal of the United States consul claiming the vessel or cargo, or by the consul's successor; and

"(2) the certificate of the Secretary as to the official capacity of the consul.

"(d) Right To Claim Immunity Not Affected.—This section does not affect the right of the Government to claim immunity of a vessel or cargo from foreign jurisdiction.

"§30916. Recovery by United States Government for salvage services

"(a) Civil Action.—The United States Government, and the crew of a merchant vessel owned or operated by the Government, or a federally-owned corporation, may bring a civil action to recover for salvage services provided by the vessel and crew.

"(b) Deposit of Amounts Recovered.—Any amount recovered under this section by the Government for its own benefit, and not for the benefit of the crew, shall be deposited in the Treasury to the credit of the department of the Government, or the corporation, having control of the possession or operation of the vessel.

"§30917. Disposition of amounts recovered by United States Government

"Amounts recovered in a civil action brought by the United States Government on a claim arising from the ownership, possession, or operation of a merchant vessel, or the ownership, possession, or carriage of cargo, shall be deposited in the Treasury to the credit of the department of the Government, or the federally-owned corporation, having control of the vessel or cargo, for reimbursement of the appropriation, insurance fund, or other fund from which the compensation for which the judgment was recovered was or will be paid.

"§30918. Reports

"The Secretary of each department of the United States Government, and the board of trustees of each federally-owned corporation, shall report to Congress at each session thereof all arbitration awards and settlements agreed to under this chapter since the previous session, for which the time to appeal has expired or been waived.

"CHAPTER 311—SUITS INVOLVING PUBLIC VESSELS

"Sec.
"31101. Short title.
"31102. Waiver of immunity.
"31103. Applicable procedure.
"31104. Venue.
"31105. Security when counterclaim filed.
"31106. Exoneration and limitation.
"31107. Interest.
"31108. Arbitration, compromise, or settlement.
"31109. Payment of judgment or settlement.
"31110. Subpoenas to officers or members of crew.
"31111. Claims by nationals of foreign countries.
"31112. Lien not recognized or created.
"31113. Reports.

"§31101. Short title

"This chapter may be cited as the 'Public Vessels Act'.

"§31102. Waiver of immunity

"(a) In General.—A civil action in personam in admiralty may be brought, or an impleader filed, against the United States Government for—

"(1) damages caused by a public vessel of the United States; or

"(2) compensation for towage and salvage services, including contract salvage, rendered to a public vessel of the United States.

"(b) Counterclaim or Setoff.—If the Government brings a civil action in admiralty for damages caused by a privately owned vessel, the owner of the vessel, or the successor in interest, may file a counterclaim in personam, or claim a setoff, against the Government for damages arising out of the same subject matter.

"§31103. Applicable procedure

"A civil action under this chapter is subject to the provisions of chapter 309 of this title except to the extent inconsistent with this chapter.

"§31104. Venue

"(a) In General.—A civil action under this chapter shall be brought in the district court of the United States for the district in which the vessel or cargo is found within the United States.

"(b) Vessel or Cargo Outside Territorial Waters.—If the vessel or cargo is outside the territorial waters of the United States—

"(1) the action shall be brought in the district court of the United States for any district in which any plaintiff resides or has an office for the transaction of business; or

"(2) if no plaintiff resides or has an office for the transaction of business in the United States, the action may be brought in the district court of the United States for any district.

"§31105. Security when counterclaim filed

"If a counterclaim is filed for a cause of action for which the original action is filed under this chapter, the respondent to the counterclaim shall give security in the usual amount and form to respond to the counterclaim, unless the court for cause shown orders otherwise. The proceedings in the original action shall be stayed until the security is given.

"§31106. Exoneration and limitation

"The United States Government is entitled to the exemptions from and limitations of liability provided by law to an owner, charterer, operator, or agent of a vessel.

"§31107. Interest

"A judgment in a civil action under this chapter may not include interest for the period before the judgment is issued unless the claim is based on a contract providing for interest.

"§31108. Arbitration, compromise, or settlement

"The Attorney General may arbitrate, compromise, or settle a claim authorized by this chapter if the claim actually has been filed.

"§31109. Payment of judgment or settlement

"The proper accounting officer of the United States shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy. Payment shall be made from any money in the Treasury appropriated for the purpose.

"§31110. Subpoenas to officers or members of crew

"An officer or member of the crew of a public vessel may not be subpoenaed in a civil action under this chapter without the consent of—

"(1) the Secretary of the department or the head of the independent establishment having control of the vessel at the time the cause of action arose; or

"(2) the master or commanding officer of the vessel at the time the subpoena is issued.

"§31111. Claims by nationals of foreign countries

"A national of a foreign country may not maintain a civil action under this chapter unless it appears to the satisfaction of the court in which the action is brought that the government of that country, in similar circumstances, allows nationals of the United States to sue in its courts.

"§31112. Lien not recognized or created

"This chapter shall not be construed as recognizing the existence of or as creating a lien against a public vessel of the United States.

"§31113. Reports

"The Attorney General shall report to Congress at each session thereof all claims settled under this chapter.".

SEC. 6. SUBTITLE IV OF TITLE 46.

Title 46, United States Code, is amended by inserting after subtitle III the following:

"Subtitle IV—Regulation of Ocean Shipping

"Part A—Ocean Shipping

"Chapter	*Sec.*
"401. General	**40101**
"403. Agreements	**40301**
"405. Tariffs, Service Contracts, Refunds, and Waivers	**40501**
"407. Controlled Carriers	**40701**
"409. Ocean Transportation Intermediaries	**40901**
"411. Prohibitions and Penalties	**41101**
"413. Enforcement	**41301**
"Part B—Actions To Address Foreign Practices	
"421. Regulations Affecting Shipping in Foreign Trade	**42101**
"423. Foreign Shipping Practices	**42301**
"Part C—Miscellaneous	
"441. Evidence of Financial Responsibility for Passenger Transportation	**44101**

"Part A—Ocean Shipping

"CHAPTER 401—GENERAL

"Sec.
"40101. Purposes.
"40102. Definitions.
"40103. Administrative exemptions.
"40104. Reports filed with the Commission.

"§40101. Purposes

"The purposes of this part are to—

"(1) establish a nondiscriminatory regulatory process for the common carriage of goods by water in the foreign commerce of the United States with a minimum of government intervention and regulatory costs;

"(2) provide an efficient and economic transportation system in the ocean commerce of the United States that is, insofar as possible, in harmony with, and responsive to, international shipping practices;

"(3) encourage the development of an economically sound and efficient United States-flag liner fleet capable of meeting national security needs; and

"(4) promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.

"§40102. Definitions

"In this part:

"(1) Agreement.—The term 'agreement'—

"(A) means a written or oral understanding, arrangement, or association, and any modification or cancellation thereof; but

"(B) does not include a maritime labor agreement.

"(2) Antitrust laws.—The term 'antitrust laws' means—

"(A) the Sherman Act (15 U.S.C. 1 et seq.);

"(B) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8, 9);

"(C) the Clayton Act (15 U.S.C. 12 et seq.);

"(D) the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a);

"(E) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(F) the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.); and

"(G) Acts supplementary to those Acts.

"(3) Assessment agreement.—The term 'assessment agreement' means an agreement, whether part of a collective bargaining agreement or negotiated separately, to the extent the

agreement provides for the funding of collectively bargained fringe-benefit obligations on other than a uniform worker-hour basis, regardless of the cargo handled or type of vessel or equipment used.

“(4) BULK CARGO.—The term 'bulk cargo' means cargo that is loaded and carried in bulk without mark or count.

“(5) CHEMICAL PARCEL-TANKER.—The term 'chemical parcel-tanker' means a vessel that has—

“(A) a cargo-carrying capability consisting of individual cargo tanks for bulk chemicals that—

“(i) are a permanent part of the vessel; and

“(ii) have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination; and

“(B) a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk.

“(6) COMMON CARRIER.—The term 'common carrier'—

“(A) means a person that—

“(i) holds itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation;

“(ii) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and

“(iii) uses, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country; but

“(B) does not include a carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker, or by vessel when primarily engaged in the carriage of perishable agricultural commodities—

“(i) if the carrier and the owner of those commodities are wholly-owned, directly or indirectly, by a person primarily engaged in the marketing and distribution of those commodities; and

“(ii) only with respect to the carriage of those commodities.

“(7) CONFERENCE.—The term 'conference'—

“(A) means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to use a common tariff; but

“(B) does not include a joint service, consortium, pooling, sailing, or transshipment agreement.

“(8) CONTROLLED CARRIER.—The term 'controlled carrier' means an ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by a government, with ownership or control by a government being deemed to exist for a carrier if—

“(A) a majority of the interest in the carrier is owned or controlled in any manner by that government, an agency of that government, or a public or private person controlled by that government; or

“(B) that government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier.

“(9) DEFERRED REBATE.—The term 'deferred rebate' means a return by a common carrier of any freight money to a shipper, where the return is—

“(A) consideration for the shipper giving all or any portion of its shipments to that or any other common carrier over a fixed period of time;

“(B) deferred beyond the completion of the service for which it was paid; and

“(C) made only if the shipper has agreed to make a further shipment with that or any other common carrier.

“(10) FOREST PRODUCTS.—The term 'forest products' includes lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, and paper and paper board in rolls or in pallet or skid-sized sheets.

“(11) INLAND DIVISION.—The term 'inland division' means the amount paid by a common carrier to an inland carrier for the inland portion of through transportation offered to the public by the common carrier.

“(12) INLAND PORTION.—The term 'inland portion' means the charge to the public by a common carrier for the non-ocean portion of through transportation.

“(13) LOYALTY CONTRACT.—The term 'loyalty contract' means a contract with an ocean common carrier or agreement providing for—

“(A) a shipper to obtain lower rates by committing all or a fixed portion of its cargo to that carrier or agreement; and

“(B) a deferred rebate arrangement.

“(14) MARINE TERMINAL OPERATOR.—The term 'marine terminal operator' means a person engaged in the United States in the business of providing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of title 49.

“(15) MARITIME LABOR AGREEMENT.—The term 'maritime labor agreement'—

“(A) means—

“(i) a collective bargaining agreement between an employer subject to this part, or a group of such employers, and a labor organization representing employees in the maritime or stevedoring industry;

“(ii) an agreement preparatory to such a collective bargaining agreement among members of a multi-employer bargaining group; or

“(iii) an agreement specifically implementing provisions of such a collective bargaining agreement or providing for the formation, financing, or administration of a multi-employer bargaining group; but

“(B) does not include an assessment agreement.

“(16) NON-VESSEL-OPERATING COMMON CARRIER.—The term 'non-vessel-operating common carrier' means a common carrier that—

“(A) does not operate the vessels by which the ocean transportation is provided; and

“(B) is a shipper in its relationship with an ocean common carrier.

“(17) OCEAN COMMON CARRIER.—The term 'ocean common carrier' means a vessel-operating common carrier.

“(18) OCEAN FREIGHT FORWARDER.—The term 'ocean freight forwarder' means a person that—

“(A) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

“(B) processes the documentation or performs related activities incident to those shipments.

“(19) OCEAN TRANSPORTATION INTERMEDIARY.—The term 'ocean transportation intermediary' means an ocean freight forwarder or a non-vessel-operating common carrier.

“(20) SERVICE CONTRACT.—The term 'service contract' means a written contract, other than a bill of lading or receipt, between one or more shippers, on the one hand, and an individual ocean common carrier or an agreement between or among ocean common carriers, on the other, in which—

“(A) the shipper or shippers commit to providing a certain volume or portion of cargo over a fixed time period; and

“(B) the ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features.

“(21) SHIPMENT.—The term 'shipment' means all of the cargo carried under the terms of a single bill of lading.

“(22) SHIPPER.—The term 'shipper' means—

“(A) a cargo owner;

“(B) the person for whose account the ocean transportation of cargo is provided;

“(C) the person to whom delivery is to be made;

“(D) a shippers' association; or

“(E) a non-vessel-operating common carrier that accepts responsibility for payment of all charges applicable under the tariff or service contract.

“(23) SHIPPERS' ASSOCIATION.—The term 'shippers' association' means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group to obtain carload, truckload, or other volume rates or service contracts.

“(24) THROUGH RATE.—The term 'through rate' means the single amount charged by a common carrier in connection with through transportation.

“(25) THROUGH TRANSPORTATION.—The term 'through transportation' means continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States port or point and a foreign port or point.

“§40103. Administrative exemptions

“(a) IN GENERAL.—The Federal Maritime Commission, on application or its own motion, may by order or regulation exempt for the future any class of agreements between persons subject to this part or any specified activity of those persons from any requirement of this part if the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. The Commission may attach conditions to an exemption and may, by order, revoke an exemption.

“(b) OPPORTUNITY FOR HEARING.—An order or regulation of exemption or revocation of an exemption may be issued only if the Commission has provided an opportunity for a hearing to interested persons and departments and agencies of the United States Government.

“§40104. Reports filed with the Commission

“(a) IN GENERAL.—The Federal Maritime Commission may require a common carrier or an officer, receiver, trustee, lessee, agent, or employee of the carrier to file with the Commission a periodical or special report, an account, record, rate, or charge, or a memorandum of facts and transactions related to the business of the carrier. The report, account, record, rate, charge, or memorandum shall be made under oath if the Commission requires, and shall be filed in the form and within the time prescribed by the Commission.

“(b) CONFERENCE MINUTES.—Conference minutes required to be filed with the Commission under this section may not be released to third parties or published by the Commission.

“CHAPTER 403—AGREEMENTS

“Sec.
“40301. Application.
“40302. Filing requirements.
“40303. Content requirements.
“40304. Commission action.
“40305. Assessment agreements.
“40306. Nondisclosure of information.
“40307. Exemption from antitrust laws.

“§40301. Application

“(a) OCEAN COMMON CARRIER AGREEMENTS.—This part applies to an agreement between or among ocean common carriers to—

“(1) discuss, fix, or regulate transportation rates, including through rates, cargo space accommodations, and other conditions of service;

"(2) pool or apportion traffic, revenues, earnings, or losses;

"(3) allot ports or regulate the number and character of voyages between ports;

"(4) regulate the volume or character of cargo or passenger traffic to be carried;

"(5) engage in an exclusive, preferential, or cooperative working arrangement between themselves or with a marine terminal operator;

"(6) control, regulate, or prevent competition in international ocean transportation; or

"(7) discuss and agree on any matter related to a service contract.

"(b) Marine Terminal Operator Agreements.—This part applies to an agreement between or among marine terminal operators, or between or among one or more marine terminal operators and one or more ocean common carriers, to—

"(1) discuss, fix, or regulate rates or other conditions of service; or

"(2) engage in exclusive, preferential, or cooperative working arrangements, to the extent the agreement involves ocean transportation in the foreign commerce of the United States.

"(c) Acquisitions.—This part does not apply to an acquisition by any person, directly or indirectly, of any voting security or assets of any other person.

"(d) Maritime Labor Agreements.—This part does not apply to a maritime labor agreement. However, this subsection does not exempt from this part any rate, charge, regulation, or practice of a common carrier that is required to be set forth in a tariff or is an essential term of a service contract, whether or not the rate, charge, regulation, or practice arises out of, or is otherwise related to, a maritime labor agreement.

"(e) Assessment Agreements.—This part (except sections 40305 and 40307(a)) does not apply to an assessment agreement.

"§40302. Filing requirements

"(a) In General.—A true copy of every agreement referred to in section 40301(a) or (b) of this title shall be filed with the Federal Maritime Commission. If the agreement is oral, a complete memorandum specifying in detail the substance of the agreement shall be filed.

"(b) Exceptions.—Subsection (a) does not apply to—

"(1) an agreement related to transportation to be performed within or between foreign countries; or

"(2) an agreement among common carriers to establish, operate, or maintain a marine terminal in the United States.

"(c) Regulations.—The Commission may by regulation prescribe the form and manner in which an agreement shall be filed and any additional information and documents necessary to evaluate the agreement.

"§40303. Content requirements

"(a) Ocean Common Carrier Agreements.—

"(1) Restrictions.—An ocean common carrier agreement may not—

"(A) prohibit or restrict a member of the agreement from engaging in negotiations for a service contract with a shipper;

"(B) require a member of the agreement to disclose a negotiation on a service contract, or the terms of a service contract, other than those terms required to be published under section 40502(d) of this title; or

"(C) adopt mandatory rules or requirements affecting the right of an agreement member to negotiate and enter into a service contract.

"(2) Voluntary guidelines.—An ocean common carrier agreement may provide authority to adopt voluntary guidelines relating to the terms and procedures of an agreement member's service contracts if the guidelines explicitly state the right of members of the agreement not to follow the guidelines. Any guidelines adopted shall be submitted confidentially to the Federal Maritime Commission.

"(b) Conference Agreements.—Each conference agreement must—

"(1) state its purpose;

"(2) provide reasonable and equal terms for admission and readmission to conference membership for any ocean common carrier willing to serve the particular trade or route;

"(3) permit any member to withdraw from conference membership on reasonable notice without penalty;

"(4) at the request of any member, require an independent neutral body to police fully the obligations of the conference and its members;

"(5) prohibit the conference from engaging in conduct prohibited by section 41105(1) or (3) of this title;

"(6) provide for a consultation process designed to promote—

"(A) commercial resolution of disputes; and

"(B) cooperation with shippers in preventing and eliminating malpractices;

"(7) establish procedures for promptly and fairly considering requests and complaints of shippers; and

"(8) provide that—

"(A) any member of the conference may take independent action on a rate or service item on not more than 5 days' notice to the conference; and

"(B) except for an exempt commodity not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item.

"(c) Interconference Agreements.—Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier. Each agreement between conferences must provide the right of independent action for each conference.

"(d) Vessel Sharing Agreements.—

"(1) In general.—An ocean common carrier that is the owner, operator, or bareboat, time, or slot charterer of a United States-flag liner vessel documented under section 12103 or 12111(c) of this title may agree with an ocean common carrier described in paragraph (2) to which it charters or subcharters the vessel or space on the vessel that the charterer or subcharterer may not use or make available space on the vessel for the carriage of cargo reserved by law for United States-flag vessels.

"(2) Carrier described.—An ocean common carrier described in this paragraph is one that is not the owner, operator, or bareboat charterer for at least one year of United States-flag liner vessels that are eligible to be included in the Maritime Security Fleet Program and are enrolled in an Emergency Preparedness Program under chapter 531 of this title.

"§40304. Commission action

"(a) Notice of Filing.—Within 7 days after an agreement is filed, the Federal Maritime Commission shall transmit a notice of the filing to the Federal Register for publication.

"(b) Preliminary Review and Rejection.—After preliminary review, the Commission shall reject an agreement that it finds does not meet the requirements of sections 40302 and 40303 of this title. The Commission shall notify in writing the person filing the agreement of the reason for rejection.

"(c) Review and Effective Date.—Unless rejected under subsection (b), an agreement (other than an assessment agreement) is effective—

"(1) on the 45th day after filing, or on the 30th day after notice of the filing is published in the Federal Register, whichever is later; or

"(2) if additional information or documents are requested under subsection (d)—

"(A) on the 45th day after the Commission receives all the additional information and documents; or

"(B) if the request is not fully complied with, on the 45th day after the Commission receives the information and documents submitted and a statement of the reasons for noncompliance with the request.

"(d) Request for Additional Information.—Before the expiration of the period specified in subsection (c)(1), the Commission may request from the person filing the agreement any additional information and documents the Commission considers necessary to make the determinations required by this section.

"(e) Modification of Review Period.—

"(1) Shortening.—On request of the party filing an agreement, the Commission may shorten a period specified in subsection (c), but not to a date that is less than 14 days after notice of the filing of the agreement is published in the Federal Register.

"(2) Extension.—The period specified in subsection (c)(2) may be extended only by the United States District Court for the District of Columbia in a civil action brought by the Commission under section 41307(c) of this title.

"(f) Fixed Terms.—The Commission may not limit the effectiveness of an agreement to a fixed term.

"§40305. Assessment agreements

"(a) Filing Requirement.—An assessment agreement shall be filed with the Federal Maritime Commission and is effective on filing.

"(b) Complaints.—If a complaint is filed with the Commission within 2 years after the date of an assessment agreement, the Commission shall disapprove, cancel, or modify the agreement, or an assessment or charge pursuant to the agreement, that the Commission finds, after notice and opportunity for a hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports. The Commission shall issue its final decision in the proceeding within one year after the date the complaint is filed.

"(c) Adjustments of Assessments and Charges.—To the extent that the Commission finds under subsection (b) that an assessment or charge is unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall adjust the assessment or charge for the period between the filing of the complaint and the final decision by awarding prospective credits or debits to future assessments and charges. However, if the complainant has ceased activities subject to the assessment or charge, the Commission may award reparations.

"§40306. Nondisclosure of information

"Information and documents (other than an agreement) filed with the Federal Maritime Commission under this chapter are exempt from disclosure under section 552 of title 5 and may not be made public except as may be relevant to an administrative or judicial proceeding. This section does not prevent disclosure to either House of Congress or to a duly authorized committee or subcommittee of Congress.

"§40307. Exemption from antitrust laws

"(a) In General.—The antitrust laws do not apply to—

"(1) an agreement (including an assessment agreement) that has been filed and is effective under this chapter;

"(2) an agreement that is exempt under section 40103 of this title from any requirement of this part;

"(3) an agreement or activity within the scope of this part, whether permitted under or prohibited by this part, undertaken or entered into with a reasonable basis to conclude that it is—

"(A) pursuant to an agreement on file with the Federal Maritime Commission and in effect when the activity takes place; or

"(B) exempt under section 40103 of this title from any filing or publication requirement of this part;

"(4) an agreement or activity relating to transportation services within or between foreign countries, whether or not via the United States, unless the agreement or activity has a direct, substantial, and reasonably foreseeable effect on the commerce of the United States;

"(5) an agreement or activity relating to the foreign inland segment of through transportation that is part of transportation provided in a United States import or export trade;

"(6) an agreement or activity to provide wharfage, dock, warehouse, or other terminal facilities outside the United States; or

"(7) an agreement, modification, or cancellation approved before June 18, 1984, by the Commission under section 15 of the Shipping Act, 1916, or permitted under section 14b of that Act, and any properly published tariff, rate, fare, or charge, or classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.

"(b) Exceptions.—This part does not extend antitrust immunity to—

"(1) an agreement with or among air carriers, rail carriers, motor carriers, or common carriers by water not subject to this part relating to transportation within the United States;

"(2) a discussion or agreement among common carriers subject to this part relating to the inland divisions (as opposed to the inland portions) of through rates within the United States;

"(3) an agreement among common carriers subject to this part to establish, operate, or maintain a marine terminal in the United States; or

"(4) a loyalty contract.

"(c) Retroactive Effect of Determinations.—A determination by an agency or court that results in the denial or removal of the immunity to the antitrust laws under subsection (a) does not remove or alter the antitrust immunity for the period before the determination.

"(d) Relief Under Clayton Act.—A person may not recover damages under section 4 of the Clayton Act (15 U.S.C. 15), or obtain injunctive relief under section 16 of that Act (15 U.S.C. 26), for conduct prohibited by this part.

"CHAPTER 405—TARIFFS, SERVICE CONTRACTS, REFUNDS, AND WAIVERS

"Sec.
"40501. General rate and tariff requirements.
"40502. Service contracts.
"40503. Refunds and waivers.

"§40501. General rate and tariff requirements

"(a) Automated Tariff System.—

"(1) In general.—Each common carrier and conference shall keep open to public inspection in an automated tariff system, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established. However, a common carrier is not required to state separately or otherwise reveal in tariffs the inland divisions of a through rate.

"(2) Exceptions.—Paragraph (1) does not apply with respect to bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste.

"(b) Contents of Tariffs.—A tariff under subsection (a) shall—

"(1) state the places between which cargo will be carried;

"(2) list each classification of cargo in use;

"(3) state the level of compensation, if any, of any ocean freight forwarder by a carrier or conference;

"(4) state separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules that in any way change, affect, or determine any part or the total of the rates or charges;

"(5) include sample copies of any bill of lading, contract of affreightment, or other document evidencing the transportation agreement; and

"(6) include copies of any loyalty contract, omitting the shipper's name.

"(c) Electronic Access.—A tariff under subsection (a) shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations. A reasonable fee may be charged for such access, except that no fee may be charged for access by a Federal agency.

"(d) Time-Volume Rates.—A rate contained in a tariff under subsection (a) may vary with the volume of cargo offered over a specified period of time.

"(e) Effective Dates.—

"(1) Increases.—A new or initial rate or change in an existing rate that results in an increased cost to a shipper may not become effective earlier than 30 days after publication. However, for good cause, the Federal Maritime Commission may allow the rate to become effective sooner.

"(2) Decreases.—A change in an existing rate that results in a decreased cost to a shipper may become effective on publication.

"(f) Marine Terminal Operator Schedules.—A marine terminal operator may make available to the public a schedule of rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public is enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions.

"(g) Regulations.—

"(1) In general.—The Commission shall by regulation prescribe the requirements for the accessibility and accuracy of automated tariff systems established under this section. The Commission, after periodic review, may prohibit the use of any automated tariff system that fails to meet the requirements established under this section.

"(2) Remote terminals.—The Commission may not require a common carrier to provide a remote terminal for electronic access under subsection (c).

"(3) Marine terminal operator schedules.—The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published.

"§40502. Service contracts

"(a) In General.—An individual ocean common carrier or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of this part.

"(b) Filing Requirements.—

"(1) In general.—Each service contract entered into under this section by an individual ocean common carrier or an agreement shall be filed confidentially with the Federal Maritime Commission.

"(2) Exceptions.—Paragraph (1) does not apply to contracts regarding bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste.

"(c) Essential Terms.—Each service contract shall include—

"(1) the origin and destination port ranges;

"(2) the origin and destination geographic areas in the case of through intermodal movements;

"(3) the commodities involved;

"(4) the minimum volume or portion;

"(5) the line-haul rate;

"(6) the duration;

"(7) service commitments; and

"(8) the liquidated damages for nonperformance, if any.

"(d) Publication of Certain Terms.—When a service contract is filed confidentially with the Commission, a concise statement of the essential terms specified in clauses (1), (3), (4), and (6) of subsection (c) shall be published and made available to the general public in tariff format.

"(e) Disclosure of Certain Terms.—

"(1) Definitions.—In this subsection, the terms 'dock area' and 'within the port area' have the same meaning and scope as in the applicable collective bargaining agreement between the requesting labor organization and the carrier.

"(2) Disclosure.—An ocean common carrier that is a party to or is otherwise subject to a collective bargaining agreement with a labor organization shall, in response to a written request by the labor organization, state whether it is responsible for the following work at a dock area or within a port area in the United States with respect to cargo transportation under a service contract:

"(A) The movement of the shipper's cargo on a dock area or within the port area or to or from railroad cars on a dock area or within the port area.

"(B) The assignment of intraport carriage of the shipper's cargo between areas on a dock or within the port area.

"(C) The assignment of the carriage of the shipper's cargo between a container yard on a dock area or within the port area and a rail yard adjacent to the container yard.

"(D) The assignment of container freight station work and container maintenance and repair work performed at a dock area or within the port area.

"(3) Within reasonable time.—The common carrier shall provide the information described in paragraph (2) to the requesting labor organization within a reasonable period of time.

"(4) Existence of collective bargaining agreement.—This subsection does not require the disclosure of information by an ocean common carrier unless there exists an applicable and otherwise lawful collective bargaining agreement pertaining to that carrier. A disclosure by an ocean common carrier may not be deemed an admission or an agreement that any work is covered by a collective bargaining agreement. A dispute about whether any work is covered by a collective bargaining agreement and the responsibility of an ocean common carrier under a collective bargaining agreement shall be resolved solely in accordance with the dispute resolution procedures contained in the collective bargaining agreement and the National Labor Relations Act (29 U.S.C. 151 et seq.), and without reference to this subsection.

"(5) Effect under other laws.—This subsection does not affect the lawfulness or unlawfulness under this part or any other Federal or State law of any collective bargaining agreement or element thereof, including any element that constitutes an essential term of a service contract.

"(f) Remedy for Breach.—Unless the parties agree otherwise, the exclusive remedy for a breach of a service contract is an action in an appropriate court. The contract dispute resolution forum may not be controlled by or in any way affiliated with a controlled carrier or by the government that owns or controls the carrier.

"§40503. Refunds and waivers

"The Federal Maritime Commission, on application of a carrier or shipper, may permit a common carrier or conference to refund a portion of the freight charges collected from a shipper, or

to waive collection of a portion of the charges from a shipper, if—

"(1) there is an error in a tariff, a failure to publish a new tariff, or an error in quoting a tariff, and the refund or waiver will not result in discrimination among shippers, ports, or carriers;

"(2) the common carrier or conference, before filing an application for authority to refund or waive any charges for an error in a tariff or a failure to publish a tariff, has published a new tariff setting forth the rate on which the refund or waiver would be based; and

"(3) the application for the refund or waiver is filed with the Commission within 180 days from the date of shipment.

"CHAPTER 407—CONTROLLED CARRIERS

"Sec.
"40701. Rates.
"40702. Rate standards.
"40703. Effective date of rates.
"40704. Commission review.
"40705. Presidential review of Commission orders.
"40706. Exceptions.

"§40701. Rates

"(a) IN GENERAL.—A controlled carrier may not—

"(1) maintain a rate or charge in a tariff or service contract, or charge or assess a rate, that is below a just and reasonable level; or

"(2) establish, maintain, or enforce in a tariff or service contract a classification, rule, or regulation that results, or is likely to result, in the carriage or handling of cargo at a rate or charge that is below a just and reasonable level.

"(b) COMMISSION PROHIBITION.—The Federal Maritime Commission, at any time after notice and opportunity for a hearing, may prohibit the publication or use of a rate, charge, classification, rule, or regulation that a controlled carrier has failed to demonstrate is just and reasonable.

"(c) BURDEN OF PROOF.—In a proceeding under this section, the burden of proof is on the controlled carrier to demonstrate that its rate, charge, classification, rule, or regulation is just and reasonable.

"(d) VOIDNESS.—A rate, charge, classification, rule, or regulation that has been suspended or prohibited by the Commission is void and its use is unlawful.

"§40702. Rate standards

"(a) DEFINITION.—In this section, the term 'constructive costs' means the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade.

"(b) STANDARDS.—In determining whether a rate, charge, classification, rule, or regulation of a controlled carrier is just and reasonable, the Federal Maritime Commission—

"(1) shall take into account whether the rate or charge that has been published or assessed, or that would result from the pertinent classification, rule, or regulation, is below a level that is fully compensatory to the controlled carrier based on the carrier's actual costs or constructive costs; and

"(2) may take into account other appropriate factors, including whether the rate, charge, classification, rule, or regulation is—

"(A) the same as, or similar to, those published or assessed by other carriers in the same trade;

"(B) required to ensure movement of particular cargo in the same trade; or

"(C) required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.

"§40703. Effective date of rates

"Notwithstanding section 40501(e) of this title and except for service contracts, a rate, charge, classification, rule, or regulation of a controlled carrier may not become effective, without special permission of the Federal Maritime Commission, until the 30th day after publication.

"§40704. Commission review

"(a) REQUEST FOR JUSTIFICATION.—On request of the Federal Maritime Commission, a controlled carrier shall file with the Commission, within 20 days of the request, a statement of justification that sufficiently details the carrier's need and purpose for an existing or proposed rate, charge, classification, rule, or regulation and upon which the Commission may reasonably base a determination of its lawfulness.

"(b) DETERMINATION.—Within 120 days after receipt of information requested under subsection (a), the Commission shall determine whether the rate, charge, classification, rule, or regulation may be unjust and unreasonable.

"(c) SHOW CAUSE ORDER.—Whenever the Commission is of the opinion that a rate, charge, classification, rule, or regulation published or assessed by a controlled carrier may be unjust and unreasonable, the Commission shall issue an order to the controlled carrier to show cause why the rate, charge, classification, rule, or regulation should not be prohibited.

"(d) SUSPENSION PENDING DETERMINATION.—

"(1) NOT YET EFFECTIVE.—Pending a determination of the lawfulness of a rate, charge, classification, rule, or regulation in a proceeding under subsection (c), the Commission may suspend the rate, charge, classification, rule, or regulation at any time before its effective date.

"(2) ALREADY EFFECTIVE.—If a rate, charge, classification, rule, or regulation has already become effective, the Commission, on issuance of an order to show cause, may suspend the rate, charge, classification, rule, or regulation on at least 30 days' notice to the controlled carrier.

"(3) MAXIMUM SUSPENSION.—A period of suspension under this subsection may not exceed 180 days.

"(e) REPLACEMENT DURING SUSPENSION.—Whenever the Commission has suspended a rate, charge, classification, rule, or regulation under this section, the controlled carrier may publish a new rate, charge, classification, rule, or regulation to take effect immediately during the suspension in lieu of the suspended rate, charge, classification, rule, or regulation. However, the Commission may reject the new rate, charge, classification, rule, or regulation if the Commission believes it is unjust and unreasonable.

"§40705. Presidential review of Commission orders

"(a) TRANSMISSION TO PRESIDENT.—The Federal Maritime Commission shall transmit to the President, concurrently with publication thereof, each order of suspension or final order of prohibition issued under section 40704 of this title.

"(b) PRESIDENTIAL REQUEST AND COMMISSION ACTION.—Within 10 days after receipt or the effective date of a Commission order referred to in subsection (a), the President, in writing, may request the Commission to stay the effect of the order if the President finds that the stay is required for reasons of national defense or foreign policy. The reasons shall be specified in the request. The Commission shall immediately grant the request by issuing an order in which the President's request shall be described. During a stay, the President shall, whenever practicable, attempt to resolve the matter by negotiating with representatives of the applicable foreign governments.

"§40706. Exceptions

"This chapter does not apply to—

"(1) a controlled carrier of a foreign country whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment; or

"(2) a trade served only by controlled carriers.

"CHAPTER 409—OCEAN TRANSPORTATION INTERMEDIARIES

"Sec.
"40901. License requirement.
"40902. Financial responsibility.
"40903. Suspension or revocation of license.
"40904. Compensation by common carriers.

"§40901. License requirement

"(a) IN GENERAL.—A person in the United States may not act as an ocean transportation intermediary unless the person holds an ocean transportation intermediary's license issued by the Federal Maritime Commission. The Commission shall issue a license to a person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.

"(b) EXCEPTION.—A person whose primary business is the sale of merchandise may forward shipments of the merchandise for its own account without an ocean transportation intermediary's license.

"§40902. Financial responsibility

"(a) IN GENERAL.—A person may not act as an ocean transportation intermediary unless the person furnishes a bond, proof of insurance, or other surety—

"(1) in a form and amount determined by the Federal Maritime Commission to insure financial responsibility; and

"(2) issued by a surety company found acceptable by the Secretary of the Treasury.

"(b) SCOPE OF FINANCIAL RESPONSIBILITY.—A bond, insurance, or other surety obtained under this section—

"(1) shall be available to pay any penalty assessed under section 41109 of this title or any order for reparation issued under section 41305 of this title;

"(2) may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities—

"(A) with the consent of the insured ocean transportation intermediary and subject to review by the surety company; or

"(B) when the claim is deemed valid by the surety company after the ocean transportation intermediary has failed to respond to adequate notice to address the validity of the claim; and

"(3) shall be available to pay any judgment for damages against an ocean transportation intermediary arising from its transportation-related activities, if the claimant has first attempted to resolve the claim under paragraph (2) and the claim has not been resolved within a reasonable period of time.

"(c) REGULATIONS ON COURT JUDGMENTS.—The Commission shall prescribe regulations for the purpose of protecting the interests of claimants, ocean transportation intermediaries, and surety companies with respect to the process of pursuing claims against ocean transportation intermediary bonds, insurance, or sureties through court judgments. The regulations shall provide that a judgment for monetary damages may not be enforced except to the extent that the damages claimed arise from the transportation-related activities of the insured ocean transportation intermediary, as defined by the Commission.

"(d) RESIDENT AGENT.—An ocean transportation intermediary not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

"§40903. Suspension or revocation of license

"(a) FAILURE TO MAINTAIN QUALIFICATIONS OR TO COMPLY.—The Federal Maritime Commission, after notice and opportunity for a hearing, *shall suspend or revoke an ocean transportation intermediary's license if the Commission finds that the ocean transportation intermediary—*

“(1) is not qualified to provide intermediary services; or

“(2) willfully failed to comply with a provision of this part or with an order or regulation of the Commission.

“(b) FAILURE TO MAINTAIN BOND, PROOF OF INSURANCE, OR OTHER SURETY.—The Commission may revoke an ocean transportation intermediary's license for failure to maintain a bond, proof of insurance, or other surety as required by section 40902(a) of this title.

“§40904. Compensation by common carriers

“(a) CERTIFICATION OF LICENSE AND SERVICES.—A common carrier may compensate an ocean freight forwarder for a shipment dispatched for others only when the ocean freight forwarder has certified in writing that it holds an ocean transportation intermediary's license (if required under section 40901 of this title) and has—

“(1) engaged, booked, secured, reserved, or contracted directly with the carrier or its agent for space aboard a vessel or confirmed the availability of the space; and

“(2) prepared and processed the ocean bill of lading, dock receipt, or other similar document for the shipment.

“(b) DUAL COMPENSATION.—A common carrier may not pay compensation for services described in subsection (a) more than once on the same shipment.

“(c) BENEFICIAL INTEREST SHIPMENTS.—An ocean freight forwarder may not receive compensation from a common carrier for a shipment in which the ocean freight forwarder has a direct or indirect beneficial interest. A common carrier may not knowingly pay compensation on that shipment.

“(d) LIMITS ON AUTHORITY OF CONFERENCE OR GROUP.—A conference or group of two or more ocean common carriers in the foreign commerce of the United States that is authorized to agree on the level of compensation paid to an ocean freight forwarder may not—

“(1) deny a member of the conference or group the right, upon notice of not more than 5 days, to take independent action on any level of compensation paid to an ocean freight forwarder; or

“(2) agree to limit the payment of compensation to an ocean freight forwarder to less than 1.25 percent of the aggregate of all rates and charges applicable under a tariff and assessed against the cargo on which the services of the ocean freight forwarder are provided.

“CHAPTER 411—PROHIBITIONS AND PENALTIES

“Sec.
“41101. Joint ventures and consortiums.
“41102. General prohibitions.
“41103. Disclosure of information.
“41104. Common carriers.
“41105. Concerted action.
“41106. Marine terminal operators.
“41107. Monetary penalties.
“41108. Additional penalties.
“41109. Assessment of penalties.

“§41101. Joint ventures and consortiums

“In this chapter, a joint venture or consortium of two or more common carriers operating as a single entity is deemed to be a single common carrier.

“§41102. General prohibitions

“(a) OBTAINING TRANSPORTATION AT LESS THAN APPLICABLE RATES.—A person may not knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or any other unjust or unfair device or means, obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise apply.

“(b) OPERATING CONTRARY TO AGREEMENT.—A person may not operate under an agreement required to be filed under section 40302 or 40305 of this title if—

“(1) the agreement has not become effective under section 40304 of this title or has been rejected, disapproved, or canceled; or

“(2) the operation is not in accordance with the terms of the agreement or any modifications to the agreement made by the Federal Maritime Commission.

“(c) PRACTICES IN HANDLING PROPERTY.—A common carrier, marine terminal operator, or ocean transportation intermediary may not fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property.

“§41103. Disclosure of information

“(a) PROHIBITION.—A common carrier, marine terminal operator, or ocean freight forwarder, either alone or in conjunction with any other person, directly or indirectly, may not knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier, without the consent of the shipper or consignee, if the information—

“(1) may be used to the detriment or prejudice of the shipper, the consignee, or any common carrier; or

“(2) may improperly disclose its business transaction to a competitor.

“(b) EXCEPTIONS.—Subsection (a) does not prevent providing the information—

“(1) in response to legal process;

“(2) to the Federal Maritime Commission or an agency of the United States Government; or

“(3) to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this part.

“(c) DISCLOSURE FOR DETERMINING BREACH OR COMPILING STATISTICS.—An ocean common carrier that is a party to a conference agreement approved under this part, a receiver, trustee, lessee, agent, or employee of the carrier, or any other person authorized by the carrier to receive information—

“(1) may give information to the conference or any person or agency designated by the conference, for the purpose of—

“(A) determining whether a shipper or consignee has breached an agreement with the conference or its member lines;

“(B) determining whether a member of the conference has breached the conference agreement; or

“(C) compiling statistics of cargo movement; and

“(2) may not prevent the conference or its designee from soliciting or receiving information for any of those purposes.

“§41104. Common carriers

“A common carrier, either alone or in conjunction with any other person, directly or indirectly, may not—

“(1) allow a person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff or service contract by means of false billing, false classification, false weighing, false measurement, or any other unjust or unfair device or means;

“(2) provide service in the liner trade that is—

“(A) not in accordance with the rates, charges, classifications, rules, and practices contained in a tariff published or a service contract entered into under chapter 405 of this title, unless excepted or exempted under section 40103 or 40501(a)(2) of this title; or

“(B) under a tariff or service contract that has been suspended or prohibited by the Federal Maritime Commission under chapter 407 or 423 of this title;

“(3) retaliate against a shipper by refusing, or threatening to refuse, cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier, or has filed a complaint, or for any other reason;

“(4) for service pursuant to a tariff, engage in any unfair or unjustly discriminatory practice in the matter of—

“(A) rates or charges;

“(B) cargo classifications;

“(C) cargo space accommodations or other facilities, with due regard being given to the proper loading of the vessel and the available tonnage;

“(D) loading and landing of freight; or

“(E) adjustment and settlement of claims;

“(5) for service pursuant to a service contract, engage in any unfair or unjustly discriminatory practice in the matter of rates or charges with respect to any port;

“(6) use a vessel in a particular trade for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;

“(7) offer or pay any deferred rebates;

“(8) for service pursuant to a tariff, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage;

“(9) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any port;

“(10) unreasonably refuse to deal or negotiate;

“(11) knowingly and willfully accept cargo from or transport cargo for the account of an ocean transportation intermediary that does not have a tariff as required by section 40501 of this title and a bond, insurance, or other surety as required by section 40902 of this title; or

“(12) knowingly and willfully enter into a service contract with an ocean transportation intermediary that does not have a tariff as required by section 40501 of this title and a bond, insurance, or other surety as required by section 40902 of this title, or with an affiliate of such an ocean transportation intermediary.

“§41105. Concerted action

“A conference or group of two or more common carriers may not—

“(1) boycott or take any other concerted action resulting in an unreasonable refusal to deal;

“(2) engage in conduct that unreasonably restricts the use of intermodal services or technological innovations;

“(3) engage in any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade of a common carrier not a member of the conference, a group of common carriers, an ocean tramp, or a bulk carrier;

“(4) negotiate with a non-ocean carrier or group of non-ocean carriers (such as truck, rail, or air operators) on any matter relating to rates or services provided to ocean common carriers within the United States by those non-ocean carriers, unless the negotiations and any resulting agreements are not in violation of the antitrust laws and are consistent with the purposes of this part, except that this clause does not prohibit the setting and publishing of a joint through rate by a conference, joint venture, or association of ocean common carriers;

“(5) deny in the export foreign commerce of the United States compensation to an ocean freight forwarder or limit that compensation to less than a reasonable amount;

"(6) allocate shippers among specific carriers that are parties to the agreement or prohibit a carrier that is a party to the agreement from soliciting cargo from a particular shipper, except as—

"(A) authorized by section 40303(d) of this title;

"(B) required by the law of the United States or the importing or exporting country; or

"(C) agreed to by a shipper in a service contract;

"(7) for service pursuant to a service contract, engage in any unjustly discriminatory practice in the matter of rates or charges with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary; or

"(8) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary.

"§41106. Marine terminal operators

"A marine terminal operator may not—

"(1) agree with another marine terminal operator or with a common carrier to boycott, or unreasonably discriminate in the provision of terminal services to, a common carrier or ocean tramp;

"(2) give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person; or

"(3) unreasonably refuse to deal or negotiate.

"§41107. Monetary penalties

"(a) IN GENERAL.—A person that violates this part or a regulation or order of the Federal Maritime Commission issued under this part is liable to the United States Government for a civil penalty. Unless otherwise provided in this part, the amount of the penalty may not exceed $5,000 for each violation or, if the violation was willfully and knowingly committed, $25,000 for each violation. Each day of a continuing violation is a separate violation.

"(b) LIEN ON CARRIER'S VESSELS.—The amount of a civil penalty imposed on a common carrier under this section constitutes a lien on the vessels operated by the carrier. Any such vessel is subject to an action in rem to enforce the lien in the district court of the United States for the district in which it is found.

"§41108. Additional penalties

"(a) SUSPENSION OF TARIFFS.—For a violation of section 41104(1), (2), or (7) of this title, the Federal Maritime Commission may suspend any or all tariffs of the common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed 12 months.

"(b) OPERATING UNDER SUSPENDED TARIFF.—A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended, or after its right to use that tariff has been suspended, is liable to the United States Government for a civil penalty of not more than $50,000 for each shipment.

"(c) FAILURE TO PROVIDE INFORMATION.—

"(1) PENALTIES.—If the Commission finds, after notice and opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 41303 of this title, the Commission may—

"(A) suspend any or all tariffs of the carrier or the carrier's right to use any or all tariffs of conferences of which it is a member; and

"(B) request the Secretary of Homeland Security to refuse or revoke any clearance required for a vessel operated by the carrier, and when so requested, the Secretary shall refuse or revoke the clearance.

"(2) DEFENSE BASED ON FOREIGN LAW.—If, in defense of its failure to comply with a subpoena or discovery order, a common carrier alleges that information or documents located in a foreign country cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of the failure to comply and of the allegation relating to foreign laws. On receiving the notification, the Secretary of State shall promptly consult with the government of the nation within which the information or documents are alleged to be located for the purpose of assisting the Commission in obtaining the information or documents.

"(d) IMPAIRING ACCESS TO FOREIGN TRADE.—If the Commission finds, after notice and opportunity for a hearing, that the action of a common carrier, acting alone or in concert with another person, or a foreign government has unduly impaired access of a vessel documented under the laws of the United States to ocean trade between foreign ports, the Commission shall take action that it finds appropriate, including imposing any of the penalties authorized by this section. The Commission also may take any of the actions authorized by sections 42304 and 42305 of this title.

"(e) SUBMISSION OF ORDER TO PRESIDENT.—Before an order under this section becomes effective, it shall be submitted immediately to the President. The President, within 10 days after receiving it, may disapprove it if the President finds that disapproval is required for reasons of national defense or foreign policy.

"§41109. Assessment of penalties

"(a) GENERAL AUTHORITY.—Until a matter is referred to the Attorney General, the Federal Maritime Commission may, after notice and opportunity for a hearing, assess a civil penalty provided for in this part. The Commission may compromise, modify, or remit, with or without conditions, a civil penalty.

"(b) FACTORS IN DETERMINING AMOUNT.—In determining the amount of a civil penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, and other matters justice may require.

"(c) EXCEPTION.—A civil penalty may not be imposed for conspiracy to violate section 41102(a) or 41104(1) or (2) of this title or to defraud the Commission by concealing such a violation.

"(d) PROHIBITED BASIS OF PENALTY.—The Commission or a court may not order a person to pay the difference between the amount billed and agreed upon in writing with a common carrier or its agent and the amount set forth in a tariff or service contract by that common carrier for the transportation service provided.

"(e) TIME LIMIT.—A proceeding to assess a civil penalty under this section must be commenced within 5 years after the date of the violation.

"(f) REVIEW OF CIVIL PENALTY.—A person against whom a civil penalty is assessed under this section may obtain review under chapter 158 of title 28.

"(g) CIVIL ACTIONS TO COLLECT.—If a person does not pay an assessment of a civil penalty after it has become final or after the appropriate court has entered final judgment in favor of the Commission, the Attorney General at the request of the Commission may seek to collect the amount assessed in an appropriate district court of the United States. The court shall enforce the order of the Commission unless it finds that the order was not regularly made and duly issued.

"CHAPTER 413—ENFORCEMENT

"Sec.
"41301. Complaints.
"41302. Investigations.
"41303. Discovery and subpoenas.
"41304. Hearings and orders.
"41305. Award of reparations.
"41306. Injunctive relief sought by complainants.
"41307. Injunctive relief sought by the Commission.
"41308. Enforcement of subpoenas and orders.
"41309. Enforcement of reparation orders.

"§41301. Complaints

"(a) IN GENERAL.—A person may file with the Federal Maritime Commission a sworn complaint alleging a violation of this part, except section 41307(b)(1). If the complaint is filed within 3 years after the claim accrues, the complainant may seek reparations for an injury to the complainant caused by the violation.

"(b) NOTICE AND RESPONSE.—The Commission shall provide a copy of the complaint to the person named in the complaint. Within a reasonable time specified by the Commission, the person shall satisfy the complaint or answer it in writing.

"(c) IF COMPLAINT NOT SATISFIED.—If the complaint is not satisfied, the Commission shall investigate the complaint in an appropriate manner and make an appropriate order.

"§41302. Investigations

"(a) IN GENERAL.—The Federal Maritime Commission, on complaint or its own motion, may investigate any conduct or agreement that the Commission believes may be in violation of this part. The Commission may by order disapprove, cancel, or modify any agreement that operates in violation of this part.

"(b) EFFECTIVENESS OF AGREEMENT DURING INVESTIGATION.—Unless an injunction is issued under section 41306 or 41307 of this title, an agreement under investigation by the Commission remains in effect until the Commission issues its order.

"(c) DATE FOR DECISION.—Within 10 days after the initiation of a proceeding under this section or section 41301 of this title, the Commission shall set a date by which it will issue its final decision. The Commission by order may extend the date for good cause.

"(d) SANCTIONS FOR DELAY.—If, within the period for final decision under subsection (c), the Commission determines that it is unable to issue a final decision because of undue delay caused by a party to the proceeding, the Commission may impose sanctions, including issuing a decision adverse to the delaying party.

"(e) REPORT.—The Commission shall make a written report of every investigation under this part in which a hearing was held, stating its conclusions, decisions, findings of fact, and order. The Commission shall provide a copy of the report to all parties and publish the report for public information. A published report is competent evidence in a court of the United States.

"§41303. Discovery and subpoenas

"(a) IN GENERAL.—In an investigation or adjudicatory proceeding under this part—

"(1) the Federal Maritime Commission may subpoena witnesses and evidence; and

"(2) a party may use depositions, written interrogatories, and discovery procedures under regulations prescribed by the Commission that, to the extent practicable, shall conform to the Federal Rules of Civil Procedure (28 App. U.S.C.).

"(b) WITNESS FEES.—Unless otherwise prohibited by law, a witness is entitled to the same fees and mileage as in the courts of the United States.

"§41304. Hearings and orders

"(a) OPPORTUNITY FOR HEARING.—The Federal Maritime Commission shall provide an opportunity for a hearing before issuing an order

relating to a violation of this part or a regulation prescribed under this part.

"(b) MODIFICATION OF ORDER.—The Commission may reverse, suspend, or modify any of its orders.

"(c) REHEARING.—On application of a party to a proceeding, the Commission may grant a rehearing of the same or any matter determined in the proceeding. Except by order of the Commission, a rehearing does not operate as a stay of an order.

"(d) PERIOD OF EFFECTIVENESS.—An order of the Commission remains in effect for the period specified in the order or until suspended, modified, or set aside by the Commission or a court of competent jurisdiction.

"§41305. Award of reparations

"(a) DEFINITION.—In this section, the term 'actual injury' includes the loss of interest at commercial rates compounded from the date of injury.

"(b) BASIC AMOUNT.—If the complaint was filed within the period specified in section 41301(a) of this title, the Federal Maritime Commission shall direct the payment of reparations to the complainant for actual injury caused by a violation of this part, plus reasonable attorney fees.

"(c) ADDITIONAL AMOUNTS.—On a showing that the injury was caused by an activity prohibited by section 41102(b), 41104(3) or (6), or 41105(1) or (3) of this title, the Commission may order the payment of additional amounts, but the total recovery of a complainant may not exceed twice the amount of the actual injury.

"(d) DIFFERENCE BETWEEN RATES.—If the injury was caused by an activity prohibited by section 41104(4)(A) or (B) of this title, the amount of the injury shall be the difference between the rate paid by the injured shipper and the most favorable rate paid by another shipper.

"§41306. Injunctive relief sought by complainants

"(a) IN GENERAL.—After filing a complaint with the Federal Maritime Commission under section 41301 of this title, the complainant may bring a civil action in a district court of the United States to enjoin conduct in violation of this part.

"(b) VENUE.—The action must be brought in the judicial district in which—

"(1) the Commission has brought a civil action against the defendant under section 41307(a) of this title; or

"(2) the defendant resides or transacts business, if the Commission has not brought such an action.

"(c) REMEDIES BY COURT.—After notice to the defendant, and a showing that the standards for granting injunctive relief by courts of equity are met, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the complaint.

"(d) ATTORNEY FEES.—A defendant prevailing in a civil action under this section shall be allowed reasonable attorney fees to be assessed and collected as part of the costs of the action.

"§41307. Injunctive relief sought by the Commission

"(a) GENERAL VIOLATIONS.—In connection with an investigation under section 41301 or 41302 of this title, the Federal Maritime Commission may bring a civil action to enjoin conduct in violation of this part. The action must be brought in the district court of the United States for any judicial district in which the defendant resides or transacts business. After notice to the defendant, and a showing that the standards for granting injunctive relief by courts of equity are met, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the issues under investigation.

"(b) REDUCTION IN COMPETITION.—

"(1) ACTION BY COMMISSION.—If, at any time after the filing or effective date of an agreement under chapter 403 of this title, the Commission determines that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost, the Commission, after notice to the person filing the agreement, may bring a civil action in the United States District Court for the District of Columbia to enjoin the operation of the agreement. The Commission's sole remedy with respect to an agreement likely to have such an effect is an action under this subsection.

"(2) REMEDIES BY COURT.—In an action under this subsection, the court may issue—

"(A) a temporary restraining order or a preliminary injunction; and

"(B) a permanent injunction after a showing that the agreement is likely to have the effect described in paragraph (1).

"(3) BURDEN OF PROOF AND THIRD PARTIES.—In an action under this subsection, the burden of proof is on the Commission. The court may not allow a third party to intervene.

"(c) FAILURE TO PROVIDE INFORMATION.—If a person filing an agreement, or an officer, director, partner, agent, or employee of the person, fails substantially to comply with a request for the submission of additional information or documents within the period provided in section 40304(c) of this title, the Commission may bring a civil action in the United States District Court for the District of Columbia. At the request of the Commission, the Court—

"(1) may order compliance;

"(2) shall extend the period specified in section 40304(c)(2) of this title until there has been substantial compliance; and

"(3) may grant other equitable relief that the court decides is appropriate.

"(d) REPRESENTATION.—The Commission may represent itself in a proceeding under this section in—

"(1) a district court of the United States, on notice to the Attorney General; and

"(2) a court of appeals of the United States, with the approval of the Attorney General.

"§41308. Enforcement of subpoenas and orders

"(a) CIVIL ACTION.—If a person does not comply with a subpoena or order of the Federal Maritime Commission, the Attorney General, at the request of the Commission, or an injured party, may seek enforcement in a district court of the United States having jurisdiction over the parties. If, after hearing, the court determines that the subpoena or order was regularly made and duly issued, the court shall enforce the subpoena or order.

"(b) TIME LIMIT ON BRINGING ACTIONS.—An action under this section to enforce an order of the Commission must be brought within 3 years after the date the order was violated.

"§41309. Enforcement of reparation orders

"(a) CIVIL ACTION.—If a person does not comply with an order of the Federal Maritime Commission for the payment of reparation, the person to whom the award was made may seek enforcement of the order in a district court of the United States having jurisdiction over the parties.

"(b) PARTIES AND SERVICE OF PROCESS.—All parties in whose favor the Commission has made an award of reparation by a single order may be joined as plaintiffs, and all other parties in the order may be joined as defendants, in a single action in a judicial district in which any one plaintiff could maintain an action against any one defendant. Service of process against a defendant not found in that district may be made in a district in which any office of that defendant is located or in which any port of call on a regular route operated by that defendant is located. Judgment may be entered for any plaintiff against the defendant liable to that plaintiff.

"(c) NATURE OF REVIEW.—In an action under this section, the findings and order of the Commission are prima facie evidence of the facts stated in the findings and order.

"(d) COSTS AND ATTORNEY FEES.—The plaintiff is not liable for costs of the action or for costs of any subsequent stage of the proceedings unless they accrue on the plaintiff's appeal. A prevailing plaintiff shall be allowed reasonable attorney fees to be assessed and collected as part of the costs of the action.

"(e) TIME LIMIT ON BRINGING ACTIONS.—An action under this section to enforce an order of the Commission must be brought within 3 years after the date the order was violated.

"PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES

"CHAPTER 421—REGULATIONS AFFECTING SHIPPING IN FOREIGN TRADE

"Sec.
"42101. Regulations of the Commission.
"42102. Regulations of other agencies.
"42103. No preference to Government-owned vessels.
"42104. Information, witnesses, and evidence.
"42105. Disclosure to public.
"42106. Other actions to remedy unfavorable conditions.
"42107. Refusal of clearance and entry.
"42108. Penalty for operating under suspended tariff or service contract.
"42109. Consultation with other agencies.

"§42101. Regulations of the Commission

"(a) UNFAVORABLE CONDITIONS.—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime Commission shall prescribe regulations affecting shipping in foreign trade, not in conflict with law, to adjust or meet general or special conditions unfavorable to shipping in foreign trade, whether in a particular trade or on a particular route or in commerce generally, including intermodal movements, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations, and other activities and services integral to transportation systems, and which arise out of or result from laws or regulations of a foreign country or competitive methods, pricing practices, or other practices employed by owners, operators, agents, or masters of vessels of a foreign country.

"(b) INITIATION OF REGULATION.—A regulation under subsection (a) may be initiated by the Commission on its own motion or on the petition of any person, including another component of the United States Government.

"§42102. Regulations of other agencies

"(a) REQUEST TO AGENCY.—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime Commission shall request the head of a department, agency, or instrumentality of the United States Government to suspend, modify, or annul any existing regulations, or to make new regulations, affecting shipping in the foreign trade, except regulations relating to the Public Health Service, the Consular Service, or the inspection of vessels.

"(b) PRIOR REVIEW AND APPROVAL.—A department, agency, or instrumentality of the Government may not prescribe a regulation affecting shipping in the foreign trade (except a regulation affecting the Public Health Service, the Consular Service, or the inspection of vessels) until the regulation has been submitted to the Commission for its approval and final action has been taken by the Commission or the President.

"(c) SUBMISSION TO PRESIDENT.—If the head of a department, agency, or instrumentality of the Government refuses to comply with a request under subsection (a) or objects to a decision of the Commission under subsection (b), the Commission or the head of the department, agency, or instrumentality may submit the facts to the President. The President may establish, suspend, modify, or annul the regulation.

"§42103. No preference to Government-owned vessels

"A regulation may not give a vessel owned by the United States Government a preference over a vessel owned by citizens of the United States and documented under the laws of the United States.

"§42104. Information, witnesses, and evidence

"(a) ORDER TO SUPPLY INFORMATION.—In carrying out section 42101 of this title, the Federal Maritime Commission may order any person (including a common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean transportation intermediary, or marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee thereof) to file with the Commission a report, answers to questions, documentary material, or other information the Commission considers necessary or appropriate. The Commission may require the response to any such order to be made under oath. The response shall be provided in the form and within the time specified by the Commission.

"(b) SUBPOENAS AND DISCOVERY.—In carrying out section 42101 of this title, the Commission may—

"(1) subpoena witnesses and evidence; and

"(2) authorize a party to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, conform to the Federal Rules of Civil Procedure (28 App. U.S.C.).

"(c) WITNESS FEES.—Unless otherwise prohibited by law, and subject to funds being appropriated, a witness in a proceeding under section 42101 of this title is entitled to the same fees and mileage as in the courts of the United States.

"(d) PENALTIES.—For failure to supply information ordered to be produced or compelled by subpoena under this section, the Commission may—

"(1) after notice and opportunity for a hearing, suspend tariffs and service contracts of a common carrier or the common carrier's right to use tariffs of conferences and service contracts of agreements of which it is a member; or

"(2) assess a civil penalty of not more than $5,000 for each day that the information is not provided.

"(e) ENFORCEMENT.—If a person does not comply with an order or subpoena of the Commission under this section, the Commission may seek enforcement in a district court of the United States having jurisdiction over the parties. If, after hearing, the court determines that the order or subpoena was regularly made and duly issued, the court shall enforce the order or subpoena.

"§42105. Disclosure to public

"Notwithstanding any other provision of law, the Federal Maritime Commission may refuse to disclose to the public a response or other information submitted to it under this chapter.

"§42106. Other actions to remedy unfavorable conditions

"If the Federal Maritime Commission finds that conditions unfavorable to shipping in foreign trade as described in section 42101 of this title exist, the Commission may—

"(1) limit voyages to and from United States ports or the amount or type of cargo carried;

"(2) suspend, in whole or in part, tariffs and service contracts for carriage to or from United States ports, including a common carrier's right to use tariffs of conferences and service contracts of agreements in United States trades of which it is a member for any period the Commission specifies;

"(3) suspend, in whole or in part, an ocean common carrier's right to operate under any agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenue with other ocean common carriers;

"(4) impose a fee not to exceed $1,000,000 per voyage; or

"(5) take any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

"§42107. Refusal of clearance and entry

"At the request of the Federal Maritime Commission—

"(1) the Secretary of Homeland Security shall—

"(A) refuse the clearance required by section 60105 of this title to a vessel of a country that is named in a regulation prescribed by the Commission under section 42101 of this title; and

"(B) collect any fees imposed by the Commission under section 42106(4) of this title; and

"(2) the Secretary of the department in which the Coast Guard is operating shall—

"(A) deny entry, for purposes of oceanborne trade, of a vessel of a country that is named in a regulation prescribed by the Commission under section 42101 of this title, to a port or place in the United States or the navigable waters of the United States; or

"(B) detain the vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

"§42108. Penalty for operating under suspended tariff or service contract

"A common carrier that accepts or handles cargo for carriage under a tariff or service contract that has been suspended under section 42104(d)(1) or 42106(2) of this title, or after its right to use another tariff or service contract has been suspended under those provisions, is liable to the United States Government for a civil penalty of not more than $50,000 for each day that it is found to be operating under a suspended tariff or service contract.

"§42109. Consultation with other agencies

"The Federal Maritime Commission may consult with, seek the cooperation of, or make recommendations to other appropriate agencies of the United States Government prior to taking any action under this chapter.

"CHAPTER 423—FOREIGN SHIPPING PRACTICES

"Sec.
"42301. Definitions.
"42302. Investigations.
"42303. Information requests.
"42304. Action against foreign carriers.
"42305. Refusal of clearance and entry.
"42306. Submission of determinations to President.
"42307. Review of regulations and orders.

"§42301. Definitions

"(a) DEFINED IN PART A.—In this chapter, the terms 'common carrier', 'marine terminal operator', 'ocean common carrier', 'ocean transportation intermediary', 'shipper', and 'shippers' association' have the meaning given those terms in section 40102 of this title.

"(b) OTHER DEFINITIONS.—In this chapter:

"(1) FOREIGN CARRIER.—The term 'foreign carrier' means an ocean common carrier a majority of whose vessels are documented under the laws of a foreign country.

"(2) MARITIME SERVICES.—The term 'maritime services' means port-to-port transportation of cargo by vessels operated by an ocean common carrier.

"(3) MARITIME-RELATED SERVICES.—The term 'maritime-related services' means intermodal operations, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates for themselves and others.

"(4) UNITED STATES CARRIER.—The term 'United States carrier' means an ocean common carrier operating vessels documented under the laws of the United States.

"(5) UNITED STATES OCEANBORNE TRADE.—The term 'United States oceanborne trade' means the carriage of cargo between the United States and a foreign country, whether directly or indirectly, by an ocean common carrier.

"§42302. Investigations

"(a) IN GENERAL.—The Federal Maritime Commission shall investigate whether any laws, rules, regulations, policies, or practices of a foreign government, or any practices of a foreign carrier or other person providing maritime or maritime-related services in a foreign country, result in the existence of conditions that—

"(1) adversely affect the operations of United States carriers in United States oceanborne trade; and

"(2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

"(b) INITIATION OF INVESTIGATION.—An investigation under subsection (a) may be initiated by the Commission on its own motion or on the petition of any person, including another component of the United States Government.

"(c) TIME FOR DECISION.—The Commission shall complete an investigation under this section and render a decision within 120 days after it is initiated. However, the Commission may extend this 120-day period for an additional 90 days if the Commission is unable to obtain sufficient information to determine whether a condition specified in subsection (a) exists. A notice providing an extension shall state clearly the reasons for the extension.

"§42303. Information requests

"(a) IN GENERAL.—To further the purposes of section 42302(a) of this title, the Federal Maritime Commission may order any person (including a common carrier, shipper, shippers' association, ocean transportation intermediary, or marine terminal operator, or an officer, receiver, trustee, lessee, agent or employee thereof) to file with the Commission any periodic or special report, answers to questions, documentary material, or other information the Commission considers necessary or appropriate. The Commission may require the response to any such order to be made under oath. The response shall be provided in the form and within the time specified by the Commission.

"(b) SUBPOENAS.—In an investigation under section 42302 of this title, the Commission may subpoena witnesses and evidence.

"(c) NONDISCLOSURE.—Notwithstanding any other provision of law, the Commission may determine that any information submitted to it in response to a request under this section, or otherwise, shall not be disclosed to the public.

“§ 42304. Action against foreign carriers

“(a) In General.—Subject to section 42306 of this title, whenever the Federal Maritime Commission, after notice and opportunity for comment or hearing, determines that the conditions specified in section 42302(a) of this title exist, the Commission shall take such action to offset those conditions as it considers necessary and appropriate against any foreign carrier that is a contributing cause, or whose government is a contributing cause, to those conditions. The action may include—

“(1) limitations on voyages to and from United States ports or on the amount or type of cargo carried;

“(2) suspension, in whole or in part, of any or all tariffs and service contracts, including an ocean common carrier's right to use any or all tariffs and service contracts of conferences in United States trades of which it is a member for any period the Commission specifies;

“(3) suspension, in whole or in part, of an ocean common carrier's right to operate under any agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenue with other ocean common carriers; and

“(4) a fee not to exceed $1,000,000 per voyage.

“(b) Consultation.—The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate agencies of the United States Government prior to taking any action under subsection (a).

“§ 42305. Refusal of clearance and entry

“Subject to section 42306 of this title, whenever the Federal Maritime Commission determines that the conditions specified in section 42302(a) of this title exist, then at the request of the Commission—

“(1) the Secretary of Homeland Security shall refuse the clearance required by section 60105 of this title to a vessel of a foreign carrier that is identified by the Commission under section 42304 of this title; and

“(2) the Secretary of the department in which the Coast Guard is operating shall—

“(A) deny entry, for purposes of oceanborne trade, of a vessel of a foreign carrier that is identified by the Commission under section 42304 of this title, to a port or place in the United States or the navigable waters of the United States; or

“(B) detain the vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

“§ 42306. Submission of determinations to President

“Before a determination under section 42304 of this title becomes effective or a request is made under section 42305 of this title, the determination shall be submitted immediately to the President. The President, within 10 days after receiving it, may disapprove it in writing, setting forth the reasons for the disapproval, if the President finds that disapproval is required for reasons of national defense or foreign policy.

“§ 42307. Review of regulations and orders

“A regulation or final order of the Federal Maritime Commission under this chapter is reviewable exclusively in the same forum and in the same manner as provided in section 2342(3)(B) of title 28.

“PART C—MISCELLANEOUS

“CHAPTER 441—EVIDENCE OF FINANCIAL RESPONSIBILITY FOR PASSENGER TRANSPORTATION

“Sec.
“44101. Application.
“44102. Financial responsibility to indemnify passengers for nonperformance of transportation.
“44103. Financial responsibility to pay liability for death or injury.
“44104. Civil penalty.
“44105. Refusal of clearance.
“44106. Conduct of proceedings.

“§ 44101. Application

“This chapter applies to a vessel that—

“(1) has berth or stateroom accommodations for at least 50 passengers; and

“(2) boards passengers at a port in the United States.

“§ 44102. Financial responsibility to indemnify passengers for nonperformance of transportation

“(a) Filing Requirement.—A person in the United States may not arrange, offer, advertise, or provide transportation on a vessel to which this chapter applies unless the person has filed with the Federal Maritime Commission evidence of financial responsibility to indemnify passengers for nonperformance of the transportation.

“(b) Satisfactory Evidence.—To satisfy subsection (a), a person must file—

“(1) information the Commission considers necessary; or

“(2) a copy of a bond or other security, in such form as the Commission by regulation may require.

“(c) Authorized Issuer of Bond.—If a bond is filed, it must be issued by a bonding company authorized to do business in the United States.

“§ 44103. Financial responsibility to pay liability for death or injury

“(a) General Requirement.—The owner or charterer of a vessel to which this chapter applies shall establish, under regulations prescribed by the Federal Maritime Commission, financial responsibility to meet liability for death or injury to passengers or other individuals on a voyage to or from a port in the United States.

“(b) Amounts.—

“(1) In general.—The amount of financial responsibility required under subsection (a) shall be based on the number of passenger accommodations as follows:

“(A) $20,000 for each of the first 500 passenger accommodations.

“(B) $15,000 for each additional passenger accommodation between 501 and 1,000.

“(C) $10,000 for each additional passenger accommodation between 1,001 and 1,500.

“(D) $5,000 for each additional passenger accommodation over 1,500.

“(2) Multiple vessels.—If the owner or charterer is operating more than one vessel subject to this chapter, the amount of financial responsibility shall be based on the number of passenger accommodations on the vessel with the largest number of passenger accommodations.

“(c) Availability To Pay Judgment.—The amount determined under subsection (b) shall be available to pay a judgment for damages (whether less than or more than $20,000) for death or injury to a passenger or other individual on a voyage to or from a port in the United States.

“(d) Means of Establishing.—Financial responsibility under this section may be established by one or more of the following if acceptable to the Commission:

“(1) Insurance.

“(2) Surety bond issued by a bonding company authorized to do business in the United States.

“(3) Qualification as a self-insurer.

“(4) Other evidence of financial responsibility.

“§ 44104. Civil penalty

“A person that violates section 44102 or 44103 of this title is liable to the United States Government for a civil penalty of not more than $5,000, plus $200 for each passage sold, to be assessed by the Federal Maritime Commission. The Commission may remit or mitigate the penalty on terms the Commission considers proper.

“§ 44105. Refusal of clearance

“The Secretary of Homeland Security shall refuse the clearance required by section 60105 of this title, at the port or place of departure from the United States, of a vessel that is subject to this chapter and does not have evidence issued by the Federal Maritime Commission of compliance with sections 44102 and 44103 of this title.

“§ 44106. Conduct of proceedings

“Part A of this subtitle applies to proceedings conducted by the Federal Maritime Commission under this chapter.”.

SEC. 7. SUBTITLE V OF TITLE 46.

(a) Subtitle Analysis.—The analysis of subtitle V of title 46, United States Code, is amended to read as follows:

“Chapter	*Sec.*
“PART A—GENERAL	
“501. Policy, Studies, and Reports	***50101***
“503. Administrative	***50301***
“505. Other General Provisions	***50501***
“PART B—MERCHANT MARINE SERVICE	
“511. General	***51101***
“513. United States Merchant Marine Academy	***51301***
“515. State Maritime Academy Support Program	***51501***
“517. Other Support for Merchant Marine Training	***51701***
“519. Merchant Marine Awards	***51901***
“521. Miscellaneous	***52101***
“PART C—FINANCIAL ASSISTANCE PROGRAMS	
“531. Maritime Security Fleet	***53101***
“533. Construction Reserve Funds	***53301***
“535. Capital Construction Funds	***53501***
“537. Loans and Guarantees	***53701***
“539. War Risk Insurance	***53901***
“PART D—PROMOTIONAL PROGRAMS	
“551. Coastwise Trade	***55101***
“553. Passenger and Cargo Preferences	***55301***
“555. Miscellaneous	***55501***
“PART E—CONTROL OF MERCHANT MARINE CAPABILITIES	
“561. Restrictions on Transfers	***56101***
“563. Emergency Acquisition of Vessels	***56301***
“565. Essential Vessels Affected by Neutrality Act	***56501***
“PART F—GOVERNMENT-OWNED MERCHANT VESSELS	
“571. General Authority	***57101***
“573. Vessel Trade-In Program	***57301***
“575. Construction, Charter, and Sale of Vessels	***57501***
“PART G—RESTRICTIONS AND PENALTIES	
“581. Restrictions and Penaltics	***58101”.***

(b) Chapters Preceding Chapter 531.—Subtitle V of title 46, United States Code, is amended by inserting after the subtitle analysis the following:

“PART A—GENERAL

“CHAPTER 501—POLICY, STUDIES, AND REPORTS

“Sec.
“50101. Objectives and policy.
“50102. Survey of merchant marine.
“50103. Determinations of essential services.
“50104. Studies of general maritime problems.
“50105. Studies and cooperation relating to the construction of vessels.
“50106. Studies on the operation of vessels.
“50107. Studies on marine insurance.

"50108. Studies on cargo carriage and cargo containers.
"50109. Miscellaneous studies.
"50110. Securing preference to vessels of the United States.
"50111. Reports to Congress.
"50112. National Maritime Enhancement Institutes.
"50113. Use and performance reports by operators of vessels.

"§50101. Objectives and policy

"(a) OBJECTIVES.—It is necessary for the national defense and the development of the domestic and foreign commerce of the United States that the United States have a merchant marine—

"(1) sufficient to carry the waterborne domestic commerce and a substantial part of the waterborne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of the waterborne domestic and foreign commerce at all times;

"(2) capable of serving as a naval and military auxiliary in time of war or national emergency;

"(3) owned and operated under United States flag by citizens of the United States insofar as practicable;

"(4) composed of the best-equipped, safest, and most suitable types of vessels, built in the United States and manned with a trained and efficient citizen personnel; and

"(5) supplemented by efficient facilities for building and repairing vessels.

"(b) POLICY.—It is the policy of the United States Government to encourage and aid the development and maintenance of a merchant marine satisfying the objectives described in subsection (a).

"§50102. Survey of merchant marine

"(a) IN GENERAL.—The Secretary of Transportation shall survey the merchant marine of the United States to determine whether replacements and additions are required to carry out the objectives and policy of section 50101 of this title. The Secretary shall study, perfect, and adopt a long-range program for replacements and additions that will result, as soon as practicable, in—

"(1) an adequate and well-balanced merchant fleet, including vessels of all types, that will provide shipping service essential for maintaining the flow of foreign commerce by vessels designed to be readily and quickly convertible into transport and supply vessels in a time of national emergency;

"(2) ownership and operation of the fleet by citizens of the United States insofar as practicable;

"(3) vessels designed to afford the best and most complete protection for passengers and crew against fire and all marine perils; and

"(4) an efficient capacity for building and repairing vessels in the United States with an adequate number of skilled personnel to provide an adequate mobilization base.

"(b) COOPERATION WITH SECRETARY OF NAVY.—In carrying out subsection (a)(1), the Secretary of Transportation shall cooperate closely with the Secretary of the Navy as to national defense requirements.

"§50103. Determinations of essential services

"(a) ESSENTIAL SERVICES, ROUTES, AND LINES.—

"(1) IN GENERAL.—The Secretary of Transportation shall investigate, determine, and keep current records of the ocean services, routes, and lines from ports in the United States, or in the territories and possessions of the United States, to foreign markets, which the Secretary determines to be essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States. In making such a determination, the Secretary shall consider and give due weight to—

"(A) the cost of maintaining each line;

"(B) the probability that a line cannot be maintained except at a heavy loss disproportionate to the benefit to foreign trade;

"(C) the number of voyages and types of vessels that should be employed in a line;

"(D) the intangible benefit of maintaining a line to the foreign commerce of the United States, the national defense, and other national requirements; and

"(E) any other facts and conditions a prudent business person would consider when dealing with the person's own business.

"(2) SAINT LAWRENCE SEAWAY.—For purposes of paragraph (1), the Secretary shall establish services, routes, and lines that reflect the seasonal closing of the Saint Lawrence Seaway and provide for alternate routing of vessels through a different range of ports during that closing to maintain continuity of service on a year-round basis.

"(b) BULK CARGO CARRYING SERVICES.—The Secretary shall investigate, determine, and keep current records of the bulk cargo carrying services that should be provided by United States-flag vessels (whether or not operating on particular services, routes, or lines) for the promotion, development, expansion, and maintenance of the foreign commerce of the United States and the national defense or other national requirements.

"(c) TYPES OF VESSELS.—The Secretary shall investigate, determine, and keep current records of the type, size, speed, method of propulsion, and other requirements of the vessels, including express-liner or super-liner vessels, that should be employed in—

"(1) the services, routes, or lines described in subsection (a), and the frequency and regularity of the voyages of the vessels, with a view to furnishing adequate, regular, certain, and permanent service; and

"(2) the bulk cargo carrying services described in subsection (b).

"§50104. Studies of general maritime problems

"The Secretary of Transportation shall study all maritime problems arising in carrying out the policy in section 50101 of this title.

"§50105. Studies and cooperation relating to the construction of vessels

"(a) RELATIVE COSTS AND NEW DESIGNS.—The Secretary of Transportation shall investigate, determine, and keep current records of—

"(1) the relative cost of construction of comparable vessels in the United States and in foreign countries; and

"(2) new designs, new methods of construction, and new types of equipment for vessels.

"(b) RULES, CLASSIFICATIONS, AND RATINGS.—The Secretary shall examine the rules under which vessels are constructed abroad and in the United States and the methods of classifying and rating the vessels.

"(c) COLLABORATION WITH OWNERS AND BUILDERS.—The Secretary shall collaborate with vessel owners and shipbuilders in developing plans for the economical construction of vessels and their propelling machinery, of most modern economical types, giving thorough consideration to all well-recognized means of propulsion and taking into account the benefits from standardized production where practicable and desirable.

"(d) EXPRESS-LINER AND SUPER-LINER VESSELS.—The Secretary shall study and cooperate with vessel owners in devising means by which there may be constructed, by or with the aid of the United States Government, express-liner or super-liner vessels comparable to those of other nations, especially with a view to their use in a national emergency, and the use of transoceanic aircraft service in connection with or in lieu of those vessels.

"§50106. Studies on the operation of vessels

"(a) RELATIVE COSTS.—The Secretary of Transportation shall investigate, determine, and keep current records of the relative cost of marine insurance, maintenance, repairs, wages and subsistence of officers and crews, and all other items of expense, in the operation of comparable vessels under the laws and regulations of the United States and those of the foreign countries whose vessels are substantial competitors of American vessels.

"(b) SHIPYARDS.—The Secretary shall investigate, determine, and keep current records of the number, location, and efficiency of shipyards in the United States.

"(c) NAVIGATION LAWS.—The Secretary shall examine the navigation laws and regulations of the United States and make such recommendations to Congress as the Secretary considers proper for the amendment, improvement, and revision of those laws and for the development of the merchant marine of the United States.

"§50107. Studies on marine insurance

"The Secretary of Transportation shall—

"(1) examine into the subject of marine insurance, the number of companies in the United States, domestic and foreign, engaging in marine insurance, the extent of the insurance on hulls and cargoes placed or written in the United States, and the extent of reinsurance of American maritime risks in foreign companies; and

"(2) ascertain what steps may be necessary to develop an ample marine insurance system as an aid in the development of the merchant marine of the United States.

"§50108. Studies on cargo carriage and cargo containers

"(a) STUDIES.—The Secretary of Transportation shall study—

"(1) the methods of encouraging the development and implementation of new concepts for the carriage of cargo in the domestic and foreign commerce of the United States; and

"(2) the economic and technological aspects of the use of cargo containers as a method of carrying out the policy in section 50101 of this title.

"(b) RESTRICTION.—In carrying out subsection (a) and the policy in section 50101 of this title, the United States Government may not give preference as between carriers based on the length, height, or width of cargo containers or the length, height, or width of cargo container cells. This restriction applies to all existing container vessels and any container vessel to be constructed or rebuilt.

"§50109. Miscellaneous studies

"(a) FOREIGN SUBSIDIES.—The Secretary of Transportation shall investigate, determine, and keep current records of the extent and character of the governmental aid and subsidies granted by foreign governments to their merchant marine.

"(b) LAWS APPLICABLE TO AIRCRAFT.—The Secretary shall investigate, determine, and keep current records of the provisions of law relating to shipping that should be made applicable to aircraft engaged in foreign commerce to further the policy in section 50101 of this title, and any appropriate legislation in this regard.

"(c) AID FOR COTTON, COAL, LUMBER, AND CEMENT.—The Secretary shall investigate, determine, and keep current records of the advisability of enactment of suitable legislation authorizing the Secretary, in an economic or commercial emergency, to aid farmers and producers of cotton, coal, lumber, and cement in any section of the United States in the transportation and landing of their products in any foreign *port, which products can be carried in dry-cargo vessels by reducing rates, by supplying additional tonnage to any American operator, or by operation of vessels directly by the Secretary, until the Secretary considers the special rate reduction and operation unnecessary for the benefit of those farmers and producers.*

''(d) INTERCOASTAL AND INLAND WATER TRANSPORTATION.—The Secretary shall investigate, determine, and keep current records of intercoastal and inland water transportation, including their relation to transportation by land and air.

''(e) OBSOLETE TONNAGE AND TRAMP SERVICE.—The Secretary shall make studies and reports to Congress on—

''(1) the scrapping or removal from service of old or obsolete merchant tonnage owned by the United States Government or in use in the merchant marine; and

''(2) tramp shipping service and the advisability of citizens of the United States participating in that service with vessels under United States registry.

''(f) MORTGAGE LOANS.—The Secretary shall investigate the legal status of mortgage loans on vessel property, with a view to the means of improving the security of those loans and of encouraging investment in American shipping.

"§50110. Securing preference to vessels of the United States

''(a) POSSIBILITIES OF PROMOTING CARRIAGE.—The Secretary of Transportation shall investigate, determine, and keep current records of the possibilities of promoting the carriage of United States foreign trade in vessels of the United States.

''(b) INDUCEMENTS TO IMPORTERS AND EXPORTERS.—The Secretary shall study and cooperate with vessel owners in devising means by which the importers and exporters of the United States can be induced to give preference to vessels of the United States.

''(c) LIAISON WITH AGENCIES AND ORGANIZATIONS.—The Secretary shall establish and maintain liaison with such other agencies of the United States Government, and with such representative trade organizations throughout the United States, as may be concerned, directly or indirectly, with any movement of commodities in the waterborne export and import foreign commerce of the United States, for the purpose of securing preference to vessels of the United States in the shipment of those commodities.

"§50111. Reports to Congress

''(a) IN GENERAL.—Not later than April 1 of each year, the Secretary of Transportation shall submit a report to Congress. The report shall include, with respect to activities of the Secretary under this subtitle, the results of investigations, a summary of transactions, a statement of all expenditures and receipts, the purposes for which all expenditures were made, and any recommendations for legislation.

''(b) ADMINISTERED AND OVERSIGHT FUNDS.—The Secretary, in the report under subsection (a) and in the annual budget estimate for the Maritime Administration submitted to Congress, shall state separately the amount, source, intended use, and nature of any funds (other than funds appropriated to the Administration or to the Secretary of Transportation for use by the Administration) administered, or subject to oversight, by the Administration.

''(c) ADDITIONAL RECOMMENDATIONS FOR LEGISLATION.—The Secretary, from time to time, shall make recommendations to Congress for legislation the Secretary considers necessary to better achieve the objectives and policy of section 50101 of this title.

"§50112. National Maritime Enhancement Institutes

''(a) DESIGNATION.—The Secretary of Transportation may designate National Maritime Enhancement Institutes.

''(b) ACTIVITIES.—Activities undertaken by an institute may include—

''(1) conducting research about methods to improve the performance of maritime industries;

''(2) enhancing the competitiveness of domestic maritime industries in international trade;

''(3) forecasting trends in maritime trade;

''(4) assessing technological advancements;

''(5) developing management initiatives and training;

''(6) analyzing economic and operational impacts of regulatory policies and international negotiations or agreements pending before international bodies;

''(7) assessing the compatibility of domestic maritime infrastructure systems with overseas transport systems;

''(8) fostering innovations in maritime transportation pricing; and

''(9) improving maritime economics and finance.

''(c) APPLICATION FOR DESIGNATION.—An institution seeking designation as a National Maritime Enhancement Institute shall submit an application under regulations prescribed by the Secretary.

''(d) CRITERIA FOR DESIGNATION.—The Secretary shall designate an institute under this section on the basis of the following criteria:

''(1) The demonstrated research and extension resources available to the applicant for carrying out the activities specified in subsection (b).

''(2) The ability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate problems of the domestic maritime industry.

''(3) The existence of an established program of the applicant encompassing research and training directed to enhancing maritime industries.

''(4) The demonstrated ability of the applicant to assemble and evaluate pertinent information from national and international sources and to disseminate results of maritime industry research and educational programs through a continuing education program.

''(5) The qualification of the applicant as a nonprofit institution of higher learning.

''(e) FINANCIAL AWARDS.—The Secretary may make awards on an equal matching basis to an institute designated under subsection (a) from amounts appropriated. The aggregate annual amount of the Federal share of the awards by the Secretary may not exceed $500,000.

''(f) UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—The Secretary may make a grant under section 5505 of title 49 to an institute designated under subsection (a) for maritime and maritime intermodal research under that section as if the institute were a university transportation center. In making a grant, the Secretary, through the Research and Special Programs Administration, shall advise the Maritime Administration on the availability of funds for the grants and consult with the Administration on making the grants.

"§50113. Use and performance reports by operators of vessels

''(a) FILING REQUIREMENT.—The Secretary of Transportation by regulation may require the operator of a vessel in the waterborne foreign commerce of the United States to file such report, account, record, or memorandum on the use and performance of the vessel as the Secretary considers desirable to assist in carrying out this subtitle. The report, account, record, or memorandum shall be signed and verified, and be filed at the times and in the manner, as provided by regulation.

''(b) CIVIL PENALTY.—An operator not filing a report, account, record, or memorandum required by the Secretary under this section is liable to the United States Government for a civil penalty of $50 for each day of the violation. A penalty imposed under this section on the operator of a vessel constitutes a lien on the vessel involved in the violation. A civil action in rem to enforce the lien may be brought in the district court of the United States for any district in which the vessel is found. The Secretary may remit or mitigate any penalty imposed under this section.

"CHAPTER 503—ADMINISTRATIVE

''Sec.
''50301. Vessel Operations Revolving Fund.
''50302. Port development.
''50303. Operating property and extending term of notes.
''50304. Sale and transfer of property.
''50305. Appointment of trustee or receiver and operation of vessels.
''50306. Requiring testimony and records in investigations.

"§50301. Vessel Operations Revolving Fund

''(a) IN GENERAL.—There is a 'Vessel Operations Revolving Fund' for use by the Secretary of Transportation in carrying out duties and powers related to vessel operations, including charter, operation, maintenance, repair, reconditioning, and improvement of merchant vessels under the jurisdiction of the Secretary. The Fund has a working capital of $20,000,000, to remain available until expended.

''(b) RELATIONSHIP TO OTHER LAWS.—Notwithstanding any other law, rates for shipping services provided under the Fund shall be prescribed by the Secretary and the Fund shall be credited with receipts from vessel operations conducted under the Fund. Sections 1(a) and (c), 3(c), and 4 of the Act of March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294), apply to those operations and to seamen employed through general agents as employees of the United States Government. Notwithstanding any other law on the employment of persons by the Government, the seamen may be employed in accordance with customary commercial practices in the maritime industry.

''(c) ADVANCEMENTS.—With the approval of the Director of the Office of Management and Budget, the Secretary may advance amounts the Secretary considers necessary, but not more than 2 percent of vessel operating expenses, from the Fund to the appropriation 'Salaries and Expenses' in carrying out duties and powers related to vessel operations, without regard to the limitations on amounts stated in that appropriation.

''(d) TRANSFERS.—The unexpended balances of working funds or of allocation accounts established after January 1, 1951, for the activities provided for in subsection (a), and receipts received from those activities, may be transferred to the Fund, which shall be available for the purposes of those working funds or allocation accounts.

''(e) LIMITATION.—

''(1) IN GENERAL.—Amounts made available to the Secretary for maritime activities by this section or any other law may not be used to pay for a vessel described in paragraph (2) unless the compensation to be paid is computed under section 56303 of this title as that section is interpreted by the Comptroller General.

''(2) APPLICABLE VESSELS.—Paragraph (1) applies to a vessel—

''(A) the title to which is acquired by the Government by requisition or purchase;

''(B) the use of which is taken by requisition or agreement; or

''(C) lost while insured by the Government.

''(3) NONAPPLICABLE VESSELS.—Paragraph (1) does not apply to a vessel under a construction-differential subsidy contract.

“(f) Availability for Additional Purposes.—The Fund is available for—

“(1) necessary expenses incurred in the protection, preservation, maintenance, acquisition, or use of vessels involved in mortgage foreclosure or forfeiture proceedings instituted by the Government, including payment of prior claims and liens, expenses of sale, or other related charges;

“(2) necessary expenses incident to the redelivery and lay-up, in the United States, of vessels chartered as of June 20, 1956, under agreements not calling for their return to the Government;

“(3) the activation, repair, and deactivation of merchant vessels chartered for limited emergency purposes during fiscal year 1957 under the jurisdiction of the Secretary; and

“(4) payment of expenses of custody and maintenance of Government-owned vessels not in the National Defense Reserve Fleet.

“(g) Expenses and Receipts Related to Charter Operations.—The Fund is available for expenses incurred in activating, repairing, and deactivating merchant vessels chartered under the jurisdiction of the Secretary. Receipts from charter operations of Government-owned vessels under the jurisdiction of the Secretary shall be credited to the Fund.

“§ 50302. Port development

“(a) General Requirements.—With the objective of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which the Secretary of Transportation has jurisdiction, the Secretary, in cooperation with the Secretary of the Army, shall—

“(1) investigate territorial regions and zones tributary to ports, taking into consideration the economies of transportation by rail, water, and highway and the natural direction of the flow of commerce;

“(2) investigate the causes of congestion of commerce at ports and applicable remedies;

“(3) investigate the subject of water terminals, including the necessary docks, warehouses, and equipment, to devise and suggest the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between water carriers and rail carriers;

“(4) consult with communities on the appropriate location and plan of construction of wharves, piers, and water terminals;

“(5) investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and

“(6) investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight that naturally would pass through those ports.

“(b) Submission of Findings to Surface Transportation Board.—After an investigation under subsection (a), if the Secretary of Transportation believes that the rates or practices of a rail carrier subject to the jurisdiction of the Surface Transportation Board are detrimental to the objective specified in subsection (a), or that new rates or practices, new or additional port terminal facilities, or affirmative action by a rail carrier is necessary to promote that objective, the Secretary may submit findings to the Board for action the Board considers appropriate under existing law.

“§ 50303. Operating property and extending term of notes

“(a) General Authority.—The Secretary of Transportation-may—

“(1) operate or lease docks, wharves, piers, or real property under the Secretary's control; and

“(2) make extensions and accept renewals of—

“(A) promissory notes and other evidences of indebtedness on property; and

“(B) mortgages and other contracts securing the property.

“(b) Terms of Transactions.—A transaction under subsection (a) shall be on terms the Secretary considers necessary to carry out the purposes of this subtitle, but consistent with sound business practice.

“(c) Availability of Amounts.—Amounts received by the Secretary from a transaction under this section are available for expenditure by the Secretary as provided in this subtitle.

“§ 50304. Sale and transfer of property

“(a) Authority To Sell.—The Secretary of Transportation may sell property (other than vessels transferred under section 4 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 990)) on terms the Secretary considers appropriate.

“(b) Transfers From Military to Civilian Control.—When the President considers it in the interest of the United States, the President may transfer to the Secretary of Transportation possession and control of property described in the second paragraph of section 17 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 994), as originally enacted, that is possessed and controlled by the Secretary of a military department.

“(c) Transfers From Civilian to Military Control.—When the President considers it necessary, the President by executive order may transfer to the Secretary of a military department possession and control of property described in section 17 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 994), as originally enacted, that is possessed and controlled by the Secretary of Transportation. The President's order shall state the need for the transfer and the period of the need. When the President decides that the need has ended, the possession and control shall revert to the Secretary of Transportation. The property may not be sold except as provided by law.

“§ 50305. Appointment of trustee or receiver and operation of vessels

“(a) Appointment of Trustees and Receivers.—

“(1) Appointment of Secretary.—In a proceeding in a court of the United States in which a trustee or receiver may be appointed for a corporation operating a vessel of United States registry between the United States and a foreign country, on which the United States Government holds a mortgage, the court may appoint the Secretary of Transportation as the sole trustee or receiver (subject to the direction of the court) if—

“(A) the court finds that the appointment will—

“(i) inure to the advantage of the estate and the parties in interest; and

“(ii) tend to carry out the purposes of this subtitle; and

“(B) the Secretary expressly consents to the appointment.

“(2) Appointment of Other Person.—The appointment of another person as trustee or receiver without a hearing becomes effective when ratified by the Secretary, but the Secretary may demand a hearing.

“(b) Operation of Vessels.—

“(1) In General.—If the court is unwilling to allow the trustee or receiver to operate the vessel in foreign commerce without financial aid from the Government pending termination of the proceeding, and the Secretary certifies to the court that the continued operation of the vessel is essential to the foreign commerce of the United States and is reasonably calculated to carry out the purposes of this subtitle, the court may allow the Secretary to operate the vessel, either directly or through a managing agent or operator employed by the Secretary. The Secretary must agree to comply with terms imposed by the court sufficient to protect the parties in interest. The Secretary also must agree to pay all operating losses resulting from the operation. The operation shall be for the account of the trustee or receiver.

“(2) Payment of Operating Losses and Other Amounts.—The Secretary has no claim against the corporation, its estate, or its assets for operating losses paid by the Secretary, but the Secretary may pay amounts for depreciation the Secretary considers reasonable and other amounts the court considers just. The payment of operating losses and the other amounts and compliance with terms imposed by the court shall be in satisfaction of any claim against the Secretary resulting from the operation of the vessel.

“(3) Deemed Operation by Government.—A vessel operated by the Secretary under this subsection is deemed to be a vessel operated by the Government under chapter 309 of this title.

“§ 50306. Requiring testimony and records in investigations

“(a) In General.—In conducting an investigation that the Secretary of Transportation considers necessary and proper to carry out this subtitle, the Secretary may administer oaths, take evidence, and subpoena persons to testify and produce documents relevant to the matter under investigation. Persons may be required to attend or produce documents from any place in the United States at any designated place of hearing.

“(b) Fees and Mileage.—Persons subpoenaed by the Secretary under subsection (a) shall be paid the same fees and mileage paid to witnesses in the courts of the United States.

“(c) Enforcement of Subpoenas.—If a person disobeys a subpoena issued under subsection (a), the Secretary may seek an order enforcing the subpoena from the district court of the United States for the district in which the person resides or does business. Process may be served in the judicial district in which the person resides or is found. The court may issue an order to obey the subpoena and punish a refusal to obey as a contempt of court.

“CHAPTER 505—OTHER GENERAL PROVISIONS

“Sec.

“50501. Entities deemed citizens of the United States.
“50502. Applicability to receivers, trustees, successors, and assigns.
“50503. Oceanographic research vessels.
“50504. Sailing school vessels.

“§ 50501. Entities deemed citizens of the United States

“(a) In General.—In this subtitle, a corporation, partnership, or association is deemed to be a citizen of the United States only if the controlling interest is owned by citizens of the United States. However, if the corporation, partnership, or association is operating a vessel in the coastwise trade, at least 75 percent of the interest must be owned by citizens of the United States.

“(b) Additional Requirements for Corporations.—In this subtitle, a corporation is deemed to be a citizen of the United States only if, in addition to satisfying the requirements in subsection (a)—

“(1) it is incorporated under the laws of the United States or a State;

“(2) its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States; and

“(3) no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum.

“(c) Determination of Controlling Corporate Interest.—The controlling interest in a corporation is owned by citizens of the United States under subsection (a) only if—

“(1) title to the majority of the stock in the corporation is vested in citizens of the United States free from any trust or fiduciary obligation in favor of a person not a citizen of the United States;

“(2) the majority of the voting power in the corporation is vested in citizens of the United States;

“(3) there is no contract or understanding by which the majority of the voting power in the corporation may be exercised, directly or indirectly, in behalf of a person not a citizen of the United States; and

“(4) there is no other means by which control of the corporation is given to or permitted to be exercised by a person not a citizen of the United States.

“(d) DETERMINATION OF 75 PERCENT CORPORATE INTEREST.—At least 75 percent of the interest in a corporation is owned by citizens of the United States under subsection (a) only if—

“(1) title to at least 75 percent of the stock in the corporation is vested in citizens of the United States free from any trust or fiduciary obligation in favor of a person not a citizen of the United States;

“(2) at least 75 percent of the voting power in the corporation is vested in citizens of the United States;

“(3) there is no contract or understanding by which more than 25 percent of the voting power in the corporation may be exercised, directly or indirectly, in behalf of a person not a citizen of the United States; and

“(4) there is no other means by which control of more than 25 percent of any interest in the corporation is given to or permitted to be exercised by a person not a citizen of the United States.

“§50502. Applicability to receivers, trustees, successors, and assigns

“This subtitle applies to receivers, trustees, successors, and assigns of any person to whom this subtitle applies.

“§50503. Oceanographic research vessels

“An oceanographic research vessel (as defined in section 2101 of this title) is deemed not to be engaged in trade or commerce.

“§50504. Sailing school vessels

“(a) DEFINITIONS.—In this section, the terms ‘sailing school instructor’, ‘sailing school student’, and ‘sailing school vessel’ have the meaning given those terms in section 2101 of this title.

“(b) NOT SEAMEN.—A sailing school student or sailing school instructor is deemed not to be a seaman under—

“(1) parts B, F, and G of subtitle II of this title; or

“(2) the maritime law doctrines of maintenance and cure or warranty of seaworthiness.

“(c) NOT MERCHANT VESSEL OR ENGAGED IN TRADE OR COMMERCE.—A sailing school vessel is deemed not to be—

“(1) a merchant vessel under section 11101(a)–(c) of this title; or

“(2) a vessel engaged in trade or commerce.

“(d) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The owner or charterer of a sailing school vessel shall maintain evidence of financial responsibility to meet liability for death or injury to sailing school students and sailing school instructors on a voyage on the vessel. The amount of financial responsibility shall be at least $50,000 for each student and instructor. Financial responsibility under this subsection may be evidenced by insurance or other adequate financial resources.

“PART B—MERCHANT MARINE SERVICE

“CHAPTER 511—GENERAL

“Sec.
“51101. Policy.
“51102. Definitions.
“51103. General authority of Secretary of Transportation.
“51104. General authority of Secretary of the Navy.

“§51101. Policy

“It is the policy of the United States Government that merchant marine vessels of the United States should be operated by highly trained and efficient citizens of the United States and that the United States Navy and the merchant marine of the United States should work closely together to promote the maximum integration of the total seapower forces of the United States.

“§51102. Definitions

“In this part:

“(1) ACADEMY.—The term ‘Academy’ means the United States Merchant Marine Academy located at Kings Point, New York, and maintained under chapter 513 of this title.

“(2) COST OF EDUCATION PROVIDED.—The term ‘cost of education provided’ means the financial costs incurred by the United States Government for providing training or financial assistance to students at the Academy and the State maritime academies, including direct financial assistance, room, board, classroom academics, and other training activities.

“(3) MERCHANT MARINE OFFICER.—The term ‘merchant marine officer’ means an individual issued a license by the Coast Guard authorizing service as—

“(A) a master, mate, or pilot on a documented vessel that—

“(i) is of at least 1,000 gross tons as measured under section 14502 of this title or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

“(ii) operates on the oceans or the Great Lakes; or

“(B) an engineer officer on a documented vessel propelled by machinery of at least 4,000 horsepower.

“(4) STATE MARITIME ACADEMY.—The term ‘State maritime academy’ means—

“(A) a State maritime academy or college sponsored by a State and assisted under chapter 515 of this title; and

“(B) a regional maritime academy or college sponsored by a group of States and assisted under chapter 515 of this title.

“§51103. General authority of Secretary of Transportation

“(a) EDUCATION AND TRAINING.—The Secretary of Transportation may provide for the education and training of citizens of the United States for the safe and efficient operation of the merchant marine of the United States at all times, including operation as a naval and military auxiliary in time of war or national emergency.

“(b) SURPLUS PROPERTY FOR INSTRUCTIONAL PURPOSES.—

“(1) IN GENERAL.—The Secretary may cooperate with and assist the institutions named in paragraph (2) by making vessels, shipboard equipment, and other marine equipment, owned by the United States Government and determined to be excess or surplus, available to those institutions for instructional purposes, by gift, loan, sale, lease, or charter on terms the Secretary considers appropriate.

“(2) INSTITUTIONS.—The institutions referred to in paragraph (1) are—

“(A) the United States Merchant Marine Academy;

“(B) a State maritime academy; and

“(C) a nonprofit training institution jointly approved by the Secretary of Transportation and the Secretary of the department in which the Coast Guard is operating as offering training courses that meet Federal regulations for maritime training.

“(c) ASSISTANCE FROM OTHER AGENCIES.—

“(1) IN GENERAL.—The Secretary of Transportation may secure directly from an agency, on a reimbursable basis, information, facilities, and equipment necessary to carry out this part.

“(2) DETAILING PERSONNEL.—At the request of the Secretary, the head of an agency (including a military department) may detail, on a reimbursable basis, personnel from the agency to the Secretary to assist in carrying out this part.

“(d) ACADEMY PERSONNEL.—To carry out this part, the Secretary may—

“(1) employ an individual as a professor, lecturer, or instructor at the Academy, without regard to the provisions of title 5 governing appointments in the competitive service; and

“(2) pay the individual without regard to chapter 51 and subchapter III of chapter 53 of title 5.

“§51104. General authority of Secretary of the Navy

“The Secretary of the Navy, in cooperation with the Maritime Administrator and the head of each State maritime academy, shall ensure that—

“(1) the training of future merchant marine officers at the United States Merchant Marine Academy and at State maritime academies includes programs for naval science training in the operation of merchant vessels as a naval and military auxiliary; and

“(2) naval officer training programs for future officers, insofar as possible, are maintained at designated maritime academies consistent with Navy standards and needs.

“CHAPTER 513—UNITED STATES MERCHANT MARINE ACADEMY

“Sec.
“51301. Maintenance of the Academy.
“51302. Nomination and competitive appointment of cadets.
“51303. Non-competitive appointments.
“51304. Additional appointments from particular areas.
“51305. Prohibited basis for appointment.
“51306. Cadet commitment agreements.
“51307. Places of training.
“51308. Uniforms, textbooks, and transportation allowances.
“51309. Academic degree.
“51310. Deferment of service obligation under cadet commitment agreements.
“51311. Midshipman status in the Naval Reserve.
“51312. Board of Visitors.
“51313. Advisory Board.

“§51301. Maintenance of the Academy

“The Secretary of Transportation shall maintain the United States Merchant Marine Academy to provide instruction to individuals to prepare them for service in the merchant marine of the United States.

“§51302. Nomination and competitive appointment of cadets

“(a) REQUIREMENTS.—An individual may be nominated for a competitive appointment as a cadet at the United States Merchant Marine Academy only if the individual—

“(1) is a citizen or national of the United States; and

“(2) meets the minimum requirements that the Secretary of Transportation shall establish.

“(b) NOMINATORS.—Nominations for competitive appointments for the positions allocated under subsection (c) may be made as follows:

“(1) A Senator may nominate residents of the State represented by that Senator.

“(2) A Member of the House of Representatives may nominate residents of the State in which the congressional district represented by that Member is located.

“(3) A Delegate to the House of Representatives from the District of Columbia, the Virgin

Islands, Guam, or American Samoa may nominate residents of the jurisdiction represented by that Delegate.

"(4) The Resident Commissioner to the United States from Puerto Rico may nominate residents of Puerto Rico.

"(5) The Governor of the Northern Mariana Islands may nominate residents of the Northern Mariana Islands.

"(6) The Panama Canal Commission may nominate—

"(A) residents, or sons or daughters of residents, of an area or installation in Panama and made available to the United States under the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979; and

"(B) sons or daughters of personnel of the United States Government and the Panama Canal Commission residing in Panama.

"(c) ALLOCATION OF POSITIONS.—Positions for competitive appointments shall be allocated each year as follows:

"(1) Positions shall be allocated for residents of each State nominated by the Members of Congress from that State in proportion to the representation in Congress from that State.

"(2) Four positions shall be allocated for residents of the District of Columbia nominated by the Delegate to the House of Representatives from the District of Columbia.

"(3) One position each shall be allocated for residents of the Virgin Islands, Guam, and American Samoa nominated by the Delegates to the House of Representatives from the Virgin Islands, Guam, and American Samoa, respectively.

"(4) One position shall be allocated for a resident of Puerto Rico nominated by the Resident Commissioner to the United States from Puerto Rico.

"(5) One position shall be allocated for a resident of the Northern Mariana Islands nominated by the Governor of the Northern Mariana Islands.

"(6) Two positions shall be allocated for individuals nominated by the Panama Canal Commission.

"(d) COMPETITIVE SYSTEM FOR APPOINTMENT.—

"(1) ESTABLISHMENT OF SYSTEM.—The Secretary shall establish a competitive system for selecting individuals nominated under subsection (b) to fill the positions allocated under subsection (c). The system must determine the relative merit of each individual based on competitive examinations, an assessment of the individual's academic background, and other effective indicators of motivation and probability of successful completion of training at the Academy.

"(2) APPOINTMENTS BY JURISDICTION.—The Secretary shall appoint individuals to fill the positions allocated under subsection (c) for each jurisdiction in the order of merit of the individuals nominated from that jurisdiction.

"(3) REMAINING UNFILLED POSITIONS.—If positions remain unfilled after the appointments are made under paragraph (2), the Secretary shall appoint individuals to fill the positions in the order of merit of the remaining individuals nominated from all jurisdictions.

"§51303. Non-competitive appointments

"The Secretary of Transportation may appoint each year without competition as cadets at the United States Merchant Marine Academy not more than 40 qualified individuals with qualities the Secretary considers to be of special value to the Academy. In making these appointments, the Secretary shall try to achieve a national demographic balance at the Academy.

"§51304. Additional appointments from particular areas

"(a) OTHER COUNTRIES IN WESTERN HEMISPHERE.—The President may appoint individuals from countries in the Western Hemisphere other than the United States to receive instruction at the United States Merchant Marine Academy. Not more than 12 individuals may receive instruction under this subsection at the same time, and not more than 2 individuals from the same country may receive instruction under this subsection at the same time.

"(b) OTHER COUNTRIES GENERALLY.—

"(1) APPOINTMENT.—The Secretary of Transportation, with the approval of the Secretary of State, may appoint individuals from countries other than the United States to receive instruction at the Academy. Not more than 30 individuals may receive instruction under this subsection at the same time.

"(2) REIMBURSEMENT.—The Secretary of Transportation shall ensure that the country from which an individual comes under this subsection will reimburse the Secretary for the cost (as determined by the Secretary) of the instruction and allowances received by the individual.

"(c) PANAMA.—

"(1) APPOINTMENT.—The Secretary of Transportation, with the approval of the Secretary of State, may appoint individuals from Panama to receive instruction at the Academy. Individuals appointed under this subsection are in addition to those appointed under any other provision of this chapter.

"(2) REIMBURSEMENT.—The Secretary of Transportation shall be reimbursed for the cost (as determined by the Secretary) of the instruction and allowances received by an individual appointed under this subsection.

"(d) ALLOWANCES AND REGULATIONS.—Individuals receiving instruction under this section are entitled to the same allowances and are subject to the same regulations on admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as cadets at the Academy appointed from the United States.

"§51305. Prohibited basis for appointment

"Preference may not be given to an individual for appointment as a cadet at the United States Merchant Marine Academy because one or more members of the individual's immediate family are alumni of the Academy.

"§51306. Cadet commitment agreements

"(a) AGREEMENT REQUIREMENTS.—A citizen of the United States appointed as a cadet at the United States Merchant Marine Academy must sign, as a condition of the appointment, an agreement to—

"(1) complete the course of instruction at the Academy;

"(2) fulfill the requirements for a license as an officer in the merchant marine of the United States before graduation from the Academy;

"(3) maintain a valid license as an officer in the merchant marine of the United States for at least 6 years after graduation from the Academy, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;

"(4) apply for, and accept if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the Academy;

"(5) serve the foreign and domestic commerce and the national defense of the United States for at least 5 years after graduation from the Academy—

"(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

"(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary of Transportation), if the Secretary determines that service under subclause (A) is not available to the individual;

"(C) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

"(D) by a combination of the service alternatives referred to in subclauses (A)–(C); and

"(6) report to the Secretary on compliance with this subsection.

"(b) FAILURE TO COMPLETE COURSE OF INSTRUCTION.—

"(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual who has attended the Academy for at least 2 years has failed to fulfill the part of the agreement described in subsection (a)(1), the individual may be ordered by the Secretary of Defense to serve on active duty in one of the armed forces of the United States for a period of not more than 2 years. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

"(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the cost of education provided by the Government.

"(c) FAILURE TO CARRY OUT OTHER REQUIREMENTS.—

"(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual has failed to fulfill any part of the agreement described in subsection (a)(2)–(6), the individual may be ordered to serve on active duty for a period of at least 3 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (a)(5). The Secretary of Transportation, in consultation with the Secretary of Defense, shall determine in which service the individual shall serve. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

"(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the cost of education provided. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

"(d) ACTIONS TO RECOVER COST.—To aid in the recovery of the cost of education provided by the Government under a commitment agreement under this section, the Secretary of Transportation may—

"(1) request the Attorney General to bring a civil action against the individual; and

"(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

“§51307. Places of training

“The Secretary of Transportation may provide for the training of cadets at the United States Merchant Marine Academy—

“(1) on vessels owned or subsidized by the United States Government;

“(2) on other documented vessels, with the permission of the owner; and

“(3) in shipyards or plants and with industrial or educational organizations.

“§51308. Uniforms, textbooks, and transportation allowances

“The Secretary of Transportation shall provide cadets at the United States Merchant Marine Academy—

“(1) all required uniforms and textbooks; and

“(2) allowances for transportation (including reimbursement of traveling expenses) when traveling under orders as a cadet.

“§51309. Academic degree

“(a) BACHELOR'S DEGREE.—

“(1) IN GENERAL.—The Superintendent of the United States Merchant Marine Academy may confer the degree of bachelor of science on an individual who—

“(A) has met the conditions prescribed by the Secretary of Transportation; and

“(B) if a citizen of the United States, has passed the examination for a merchant marine officer's license.

“(2) EFFECT OF PHYSICAL DISQUALIFICATION.—An individual not allowed to take the examination for a merchant marine officer's license only because of physical disqualification may not be denied a degree for not taking the examination.

“(b) MASTER'S DEGREE.—The Superintendent of the Academy may confer a master's degree on an individual who has met the conditions prescribed by the Secretary. A master's degree program may be funded through non-appropriated funds. To maintain the appropriate academic standards, the program shall be accredited by the appropriate accreditation body. The Secretary may prescribe regulations necessary to administer such a program.

“(c) GRADUATION NOT ENTITLEMENT TO HOLD LICENSE.—Graduation from the Academy does not entitle an individual to hold a license authorizing service on a merchant vessel.

“§51310. Deferment of service obligation under cadet commitment agreements

“The Secretary of Transportation may defer the service commitment of an individual under section 51306(a)(5) of this title (as specified in the cadet commitment agreement) for not more than 2 years if the individual is engaged in a graduate course of study approved by the Secretary. However, deferment of service as a commissioned officer under section 51306(a)(5) must be approved by the Secretary of the military department that has jurisdiction over the service or by the Secretary of Commerce for service with the National Oceanic and Atmospheric Administration.

“§51311. Midshipman status in the Naval Reserve

“(a) APPLICATION REQUIREMENT.—Before being appointed as a cadet at the United States Merchant Marine Academy, a citizen of the United States must agree to apply for midshipman status in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

“(b) APPOINTMENT.—

“(1) IN GENERAL.—A citizen of the United States appointed as a cadet at the Academy shall be appointed by the Secretary of the Navy as a midshipman in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

“(2) RIGHTS AND PRIVILEGES.—The Secretary of the Navy shall provide for cadets of the Academy who are midshipmen in the United States Naval Reserve to be—

“(A) issued an identification card (referred to as a 'military ID card'); and

“(B) entitled to all rights and privileges in accordance with the same eligibility criteria as apply to other members of the Ready Reserve of the reserve components of the armed forces.

“(3) COORDINATION.—The Secretary of the Navy shall carry out paragraphs (1) and (2) in coordination with the Secretary of Transportation.

“§51312. Board of Visitors

“(a) IN GENERAL.—A Board of Visitors to the United States Merchant Marine Academy shall be established, for a term of 2 years commencing at the beginning of each Congress, to visit the Academy annually on a date determined by the Secretary of Transportation and to make recommendations on the operation of the Academy.

“(b) APPOINTMENT.—

“(1) IN GENERAL.—The Board shall be composed of—

“(A) 2 Senators appointed by the chairman of the Committee on Commerce, Science, and Transportation of the Senate;

“(B) 3 Members of the House of Representatives appointed by the chairman of the Committee on Armed Services of the House of Representatives;

“(C) 1 Senator appointed by the Vice President;

“(D) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

“(E) the chairmen of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives, as ex officio members.

“(2) SUBSTITUTE APPOINTMENT.—If an appointed member of the Board is unable to visit the Academy as provided in subsection (a), another individual may be appointed as a substitute in the manner provided in paragraph (1).

“(c) STAFF.—The chairmen of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives may designate staff members of their committees to serve without reimbursement as staff for the Board.

“(d) TRAVEL EXPENSES.—When serving away from home or regular place of business, a member of the Board or a staff member designated under subsection (c) shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

“§51313. Advisory Board

“(a) IN GENERAL.—An Advisory Board to the United States Merchant Marine Academy shall be established to visit the Academy at least once during each academic year, for the purpose of examining the course of instruction and management of the Academy and advising the Maritime Administrator and the Superintendent of the Academy.

“(b) APPOINTMENT AND TERMS.—The Board shall be composed of not more than 7 individuals appointed by the Secretary of Transportation. The individuals must be distinguished in education and other fields related to the Academy. Members of the Board shall be appointed for terms of not more than 3 years and may be reappointed. The Secretary shall designate one of the members as chairman.

“(c) TRAVEL EXPENSES.—When serving away from home or regular place of business, a member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

“(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the Board.

“CHAPTER 515—STATE MARITIME ACADEMY SUPPORT PROGRAM

“Sec.

“51501. General support program.
“51502. Detailing of personnel.
“51503. Regional maritime academies.
“51504. Use of training vessels.
“51505. Annual payments for maintenance and support.
“51506. Conditions to receiving payments and use of vessels.
“51507. Places of training.
“51508. Allowances for students.
“51509. Student incentive payment agreements.
“51510. Deferment of service obligation under student incentive payment agreements.
“51511. Midshipman status in the Naval Reserve.

“§51501. General support program

“(a) ASSISTANCE TO STATE MARITIME ACADEMIES.—The Secretary of Transportation shall cooperate with and assist State maritime academies in providing instruction to individuals to prepare them for service in the merchant marine of the United States.

“(b) COURSE DEVELOPMENT.—The Secretary shall provide to each State maritime academy guidance and assistance in developing courses on the operation and maintenance of new vessels, on equipment, and on innovations being introduced to the merchant marine of the United States.

“§51502. Detailing of personnel

“At the request of the Governor of a State, the President may detail, without reimbursement, personnel of the Navy, the Coast Guard, and the Maritime Service to a State maritime academy to serve as a superintendent, professor, lecturer, or instructor at the academy.

“§51503. Regional maritime academies

“The Governors of the States cooperating to sponsor a regional maritime academy shall designate in writing one of those States to conduct the affairs of that academy. A regional maritime academy is eligible for assistance from the United States Government on the same basis as a State maritime academy sponsored by a single State.

“§51504. Use of training vessels

“(a) APPLICATIONS TO USE VESSELS.—The Governor of a State sponsoring a State maritime academy (or the Governor of the State designated to conduct the affairs of a regional maritime academy) may apply in writing to the Secretary of Transportation to obtain the use of a training vessel for the academy. A vessel provided under this section remains the property of the United States Government.

“(b) GENERAL AUTHORITY.—Subject to subsection (c), the Secretary may provide to a State maritime academy, for use as a training vessel, a suitable vessel under the control of the Secretary or made available to the Secretary under subsection (e). If a suitable vessel is not available, the Secretary may build and provide a suitable vessel.

“(c) APPROVAL REQUIREMENTS.—The Secretary may provide a vessel under this section only if—

“(1) an application has been made under subsection (a);

“(2) the State maritime academy satisfies section 51506(a) of this title; and

“(3) a suitable port will be available for the safe mooring of the vessel while the academy is using the vessel.

“(d) PREPARATION AND MAINTENANCE.—A vessel provided under this section shall be—

“(1) repaired, reconditioned, and equipped (with all apparel, charts, books, and instruments of navigation) as necessary for use as a training vessel; and

“(2) maintained in good repair by the Secretary.

"(e) AGENCY VESSELS.—An agency may provide to the Secretary, for use by a State maritime academy, a vessel (including equipment) that—

"(1) is suitable for training purposes; and

"(2) can be provided without detriment to the service to which the vessel is assigned.

"(f) FUEL COSTS.—The Secretary may pay to a State maritime academy the costs of fuel used by a vessel provided under this section while used for training.

"(g) REMOVING VESSELS FROM SERVICE AND VESSEL SHARING.—The Secretary may not—

"(1) take a vessel, currently in use as a training vessel under this section, out of service to implement an alternative program (including vessel sharing) unless the vessel is incapable of being maintained in good repair as required by subsection (d); or

"(2) implement a program requiring a State maritime academy to share its training vessel with another State maritime academy, except with the express consent of Congress.

"§51505. Annual payments for maintenance and support

"(a) PAYMENT AGREEMENTS.—The Secretary of Transportation may make an agreement (effective for not more than 4 years) with the following academies to provide annual payments to those academies for their maintenance and support:

"(1) One State maritime academy in each State that satisfies section 51506(a) of this title.

"(2) Each regional maritime academy that satisfies section 51506(a) of this title.

"(b) PAYMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), an annual payment to an academy under subsection (a) shall be at least equal to the amount given to the academy for its maintenance and support by the State in which it is located, or, for a regional maritime academy, by all States cooperating to sponsor the academy.

"(2) MAXIMUM.—The amount under paragraph (1) may not be more than $25,000. However, if the academy satisfies section 51506(b) of this title, the amount shall be—

"(A) $100,000 for a State maritime academy; and

"(B) $200,000 for a regional maritime academy.

"§51506. Conditions to receiving payments and use of vessels

"(a) GENERAL CONDITIONS.—As conditions of receiving an annual payment or the use of a vessel under this chapter, a State maritime academy must—

"(1) provide courses of instruction on navigation, marine engineering (including steam and diesel propulsion), the operation and maintenance of new vessels and equipment, and innovations being introduced to the merchant marine of the United States;

"(2) agree in writing to conform to the standards for courses, training facilities, admissions, and instruction that the Secretary of Transportation may establish after consultation with the superintendents of State maritime academies; and

"(3) agree in writing to require, as a condition for graduation, that each individual who is a citizen of the United States and who is attending the academy in a merchant marine officer preparation program pass the examination required for the issuance of a license under section 7101 of this title.

"(b) ADDITIONAL CONDITION TO PAYMENTS OF MORE THAN $25,000.—As a condition of receiving an annual payment of more than $25,000 under section 51505 of this title, a State maritime academy also must agree to admit each year a number of citizens of the United States who meet its admission requirements and reside in a State not supporting that academy. The Secretary shall determine the number of individuals to be admitted by each academy under this subsection. The number may not be more than one-third of the total number of individuals attending the academy at any time.

"§51507. Places of training

"The Secretary of Transportation may provide for the training of students attending a State maritime academy—

"(1) on vessels owned or subsidized by the United States Government;

"(2) on other documented vessels, with the permission of the owner; and

"(3) in shipyards or plants and with industrial or educational organizations.

"§51508. Allowances for students

"Under regulations prescribed by the Secretary of Transportation, a student at a State maritime academy shall receive from the Secretary allowances for transportation (including reimbursement of traveling expenses) when traveling under orders to receive training under section 51507 of this title.

"§51509. Student incentive payment agreements

"(a) GENERAL AUTHORITY.—If a State maritime academy has an agreement with the Secretary of Transportation under section 51505 of this title, the Secretary may make an agreement with a student at the academy who is a citizen of the United States to make student incentive payments to the individual. An agreement with a student may not be effective for more than 4 academic years. The Secretary shall allocate payments under this section among the various State maritime academies in an equitable manner.

"(b) PAYMENTS.—Payments under an agreement under this section shall be equal to $4,000 each academic year and be paid, as prescribed by the Secretary, while the individual is attending the academy. The payments shall be used for uniforms, books, and subsistence.

"(c) MIDSHIPMAN AND ENLISTED RESERVE STATUS.—An agreement under this section shall require the student to accept midshipman and enlisted reserve status in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve) before receiving any payments under the agreement.

"(d) AGREEMENT REQUIREMENTS.—An agreement under this section shall require the student to—

"(1) complete the course of instruction at the academy the individual is attending;

"(2) take the examination for a license as an officer in the merchant marine of the United States before graduation from the academy and fulfill the requirements for such a license within 3 months after graduation from the academy;

"(3) maintain a valid license as an officer in the merchant marine of the United States for at least 6 years after graduation from the academy, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;

"(4) accept, if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the academy;

"(5) serve the foreign and domestic commerce and the national defense of the United States for at least 3 years after graduation from the academy—

"(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

"(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under subclause (A) is not available to the individual;

"(C) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

"(D) by a combination of the service alternatives referred to in subclauses (A)–(C); and

"(6) report to the Secretary on compliance with this subsection.

"(e) FAILURE TO COMPLETE COURSE OF INSTRUCTION.—

"(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual who has accepted the payments described in subsection (b) for a minimum of 2 academic years has failed to fulfill the part of the agreement described in subsection (d)(1), the individual may be ordered by the Secretary of Defense to serve on active duty in the armed forces of the United States for a period of not more than 2 years. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

"(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

"(f) FAILURE TO CARRY OUT OTHER REQUIREMENTS.—

"(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual has failed to fulfill any part of the agreement described in subsection (d)(2)–(6), the individual may be ordered to serve on active duty for a period of at least 2 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (d)(5). The Secretary of Transportation, in consultation with the Secretary of Defense, shall determine in which service the individual shall serve. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

"(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

"(g) ACTIONS TO RECOVER COST.—To aid in the recovery of the cost of education provided by the Government under a commitment agreement under this section, the Secretary of Transportation may—

"(1) request the Attorney General to bring a civil action against the individual; and

"(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

"§51510. Deferment of service obligation under student incentive payment agreements

"The Secretary of Transportation may defer the service commitment of an individual under section 51509(d)(5) of this title (as specified in the agreement under section 51509) for not more than 2 years if the individual is engaged in a graduate course of study approved by the Secretary. However, deferment of service as a commissioned officer on active duty must be approved by the Secretary of the affected military department (or the Secretary of Commerce, for service with the National Oceanic and Atmospheric Administration).

"§51511. Midshipman status in the Naval Reserve

"A citizen of the United States attending a State maritime academy may be appointed by the Secretary of the Navy as a midshipman in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

"CHAPTER 517—OTHER SUPPORT FOR MERCHANT MARINE TRAINING

"Sec.
"51701. United States Maritime Service.
"51702. Civilian nautical schools.
"51703. Additional training.
"51704. Training for maritime oil pollution prevention, response, and clean-up.

"§51701. United States Maritime Service

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may establish and maintain a voluntary organization, to be known as the United States Maritime Service, for the training of citizens of the United States to serve on merchant vessels of the United States.

"(b) SPECIFIC AUTHORITY.—The Secretary may—

"(1) determine the number of individuals to be enrolled for training and reserve purposes in the Service;

"(2) fix the rates of pay and allowances of the individuals without regard to chapter 51 or subchapter III of chapter 53 of title 5;

"(3) prescribe the course of study and the periods of training for the Service; and

"(4) prescribe the uniform of the Service and the rules on providing and wearing the uniform.

"(c) RANKS, GRADES, AND RATINGS.—The ranks, grades, and ratings for personnel of the Service shall be the same as those prescribed for personnel of the Coast Guard.

"(d) MEDALS AND AWARDS.—The Secretary may establish and maintain a medals and awards program to recognize distinguished service, superior achievement, professional performance, and other commendable achievement by personnel of the Service.

"§51702. Civilian nautical schools

"(a) DEFINITION.—In this section, the term 'civilian nautical school' means a school operated in the United States (except the United States Merchant Marine Academy, a State maritime academy, or another school operated by the United States Government) that offers instruction to individuals quartered on a vessel primarily to train them for service in the merchant marine.

"(b) INSPECTION.—Each civilian nautical school is subject to inspection by the Secretary of Transportation.

"(c) RATING AND CERTIFICATION.—The Secretary may, under regulations the Secretary may prescribe, provide for the rating and certification of civilian nautical schools as to the adequacy of their course of instruction, the competence of their instructors, and the suitability of the equipment used in their course of instruction.

"§51703. Additional training

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may provide additional training on maritime subjects to supplement other training opportunities and make the training available to the personnel of the merchant marine of the United States and individuals preparing for a career in the merchant marine of the United States.

"(b) EQUIPMENT, SUPPLIES, AND CONTRACTS.—The Secretary may—

"(1) prepare or buy equipment or supplies required for the additional training; and

"(2) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), make contracts for services the Secretary considers necessary to prepare the equipment and supplies and to supervise and administer the additional training.

"§51704. Training for maritime oil pollution prevention, response, and clean-up

"(a) ASSISTANCE IN ESTABLISHING PROGRAM.—The Secretary of Transportation shall assist maritime training institutions approved by the Secretary in establishing a training program for maritime oil pollution prevention, response, and clean-up.

"(b) PROVIDING TRAINING VESSELS.—Subject to subsection (c), the Secretary may provide, with title free of all liens, to maritime training institutions that have a program established under subsection (a), offshore supply vessels and tug/supply vessels that were built in the United States and are in the possession of the Maritime Administration because of a default on a loan guaranteed under chapter 537 of this title.

"(c) REQUIREMENTS.—In addition to any other requirements the Secretary considers appropriate, the following requirements apply to vessels provided under this section:

"(1) The vessel shall be offered to the institution at a location selected by the Secretary.

"(2) The institution shall use the vessel to train students and appropriate maritime industry personnel in oil spill prevention, response, clean-up, and related skills.

"(3) The institution shall make the vessel and qualified students available to appropriate Federal, State, and local oil spill response authorities when there is a maritime oil spill.

"(4) The institution may not sell, trade, charter, donate, scrap, or in any way alter or dispose of the vessel without prior approval of the Secretary.

"(5) The institution may not use the vessel in competition with a privately-owned vessel documented under chapter 121 of this title or titled under the law of a State, unless necessary to carry out this section.

"(6) When the institution can no longer use the vessel for its training program, the institution shall return the vessel to the Secretary. The Secretary shall take possession at the institution and thereafter may provide the vessel to another institution under this section or dispose of the vessel.

"CHAPTER 519—MERCHANT MARINE AWARDS

"Sec.
"51901. Awards for individual acts or service.
"51902. Gallant Ship Award.
"51903. Multiple awards.
"51904. Presentation to representatives.
"51905. Flags and grave markers.
"51906. Special certificates for civilian service to armed forces.
"51907. Manufacture and sale of awards and replacements.
"51908. Prohibition against unauthorized manufacture, sale, possession, or display of awards.

"§51901. Awards for individual acts or service

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may award decorations and medals of appropriate design (including ribbons, ribbon bars, emblems, rosettes, miniature facsimiles, plaques, citations, or other suitable devices or insignia) for individual acts or service in the merchant marine of the United States. The design may be similar to the design of a decoration or medal authorized for members of the armed forces for similar acts or service.

"(b) SPECIFIC AUTHORITY.—The Secretary may award—

"(1) a Merchant Marine Distinguished Service Medal to an individual for outstanding acts, conduct, or valor beyond the line of duty;

"(2) a Merchant Marine Meritorious Service Medal to an individual for meritorious acts, conduct, or valor in the line of duty, but not of the outstanding character that would warrant the award of the Merchant Marine Distinguished Service Medal;

"(3) a decoration or medal to an individual for service during a war, national emergency proclaimed by the President or Congress, or operations by the armed forces outside the continental United States under conditions of danger to life and property; and

"(4) a decoration or medal to an individual for other acts or service of conspicuous gallantry, intrepidity, and extraordinary heroism under conditions of danger to life and property that would warrant a similar decoration or medal for a member of the armed forces.

"§51902. Gallant Ship Award

"(a) AWARDS TO VESSELS.—The Secretary of Transportation may award a Gallant Ship Award and a citation to a vessel (including a foreign vessel) participating in outstanding or gallant action in a marine disaster or other emergency to save life or property at sea. The Secretary may award a plaque to the vessel, and a replica of the plaque may be preserved as a permanent historical record.

"(b) AWARDS TO CREWS.—The Secretary of Transportation may award an appropriate citation ribbon bar to the master and each individual serving, at the time of the action, on a vessel issued an award under subsection (a).

"(c) CONSULTATION.—The Secretary of Transportation shall consult with the Secretary of State before awarding an award or citation to a foreign vessel or its crew under this section.

"§51903. Multiple awards

"An individual may not be awarded more than one of any type of decoration or medal under this chapter. For each succeeding act or service justifying the same decoration or medal, a suitable device may be awarded to be worn with the decoration or medal.

"§51904. Presentation to representatives

"If an individual to be issued an award under this chapter is unable to accept the award personally, the Secretary of Transportation may present the award to an appropriate representative.

"§51905. Flags and grave markers

"Except as authorized under another law, the Secretary of Transportation may issue, at no cost, a flag of the United States and a grave marker to the family or personal representative of a deceased individual who served in the merchant marine of the United States in support of the armed forces of the United States or its allies during a war or national emergency.

"§51906. Special certificates for civilian service to armed forces

"(a) GENERAL AUTHORITY.—The Maritime Administrator may issue a special certificate to an individual, or the personal representative of an individual, in recognition of service of that individual in the merchant marine of the United States, if the service has been determined to be active duty under section 401 of the GI Bill Improvement Act of 1977 (Public Law 95–202; 38 U.S.C. 106 note).

"(b) RELATIONSHIP TO OTHER LAWS.—Issuance of a certificate under subsection (a) does not entitle an individual to any rights, privileges, or benefits under a law of the United States.

"§51907. Manufacture and sale of awards and replacements

"The Secretary of Transportation may—

"(1) authorize private persons to manufacture decorations and medals authorized under this chapter or a prior law; and

"(2) provide at cost, or authorize private persons to sell at reasonable prices, replacements for those decorations and medals.

"§51908. Prohibition against unauthorized manufacture, sale, possession, or display of awards

"(a) PROHIBITION.—Except as authorized under this chapter, a person may not manufacture, sell, possess, or display a decoration or medal provided for in this chapter.

"(b) CIVIL PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than $2,000.

"CHAPTER 521—MISCELLANEOUS

"Sec.
"52101. Reemployment rights for certain merchant seamen.

"§52101. Reemployment rights for certain merchant seamen

"(a) IN GENERAL.—An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to reemployment rights and other benefits substantially equivalent to the rights and benefits provided for by chapter 43 of title 38 for any member of a reserve component of the armed forces of the United States who is ordered to active duty.

"(b) TIME FOR APPLICATION.—An individual may submit an application for certification under subsection (c) to the Secretary not later than 45 days after the date the individual completes a period of employment described in subsection (c)(1)(A) with respect to which the dpplication is submitted.

"(c) CERTIFICATION DETERMINATION.—Not later than 20 days after the date the Secretary receives from an individual an application for certification under this subsection, the Secretary shall—

"(1) determine whether the individual—

"(A) was employed in the activation or operation of a vessel—

"(i) in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) in a period in which the vessel was in use or being activated for use under subsection (b) of that section;

"(ii) requisitioned or purchased under chapter 563 of this title; or

"(iii) owned, chartered, or controlled by the United States Government and used by the Government for a war, armed conflict, national emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance); and

"(B) during the period of that employment, possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or 73 of this title; and

"(2) if the Secretary makes affirmative determinations under paragraph (1)(A) and (B), certify that individual under this subsection.

"(d) EQUIVALENCE TO MILITARY SELECTIVE SERVICE ACT CERTIFICATE.—For purposes of reemployment rights and benefits provided by this section, a certification under subsection (c) shall be considered to be the equivalent of a certificate described in section 9(a) of the Military Selective Service Act (50 App. U.S.C. 459(a)).

"PART C—FINANCIAL ASSISTANCE PROGRAMS".

(c) CHAPTERS FOLLOWING CHAPTER 531.—Subtitle V of title 46, United States Code, is amended by adding at the end the following:

"CHAPTER 533—CONSTRUCTION RESERVE FUNDS

"Sec.
"53301. Definitions.
"53302. Authority for construction reserve funds.
"53303. Persons eligible to establish funds.
"53304. Vessel ownership.
"53305. Eligible fund deposits.
"53306. Recognition of gain for tax purposes.
"53307. Basis for determining gain or loss and for depreciating new vessels.
"53308. Order and proportions of deposits and withdrawals.
"53309. Accumulation of deposits.
"53310. Obligation of deposits and period for construction of certain vessels.
"53311. Taxation of deposits on failure of conditions.
"53312. Assessment and collection of deficiency tax.

"§53301. Definitions

"(a) IN GENERAL.—In this chapter:

"(1) CONSTRUCTION CONTRACT.—The term 'construction contract' includes, for a taxpayer constructing a new vessel in a shipyard owned by that taxpayer, an agreement between the taxpayer and the Secretary of Transportation for that construction containing provisions the Secretary considers advisable to carry out this chapter.

"(2) NEW VESSEL.—The term 'new vessel' means—

"(A) a vessel—

"(i) constructed in the United States after December 31, 1939, constructed with a construction-differential subsidy under title V of the Merchant Marine Act, 1936, or constructed with financing or a financing guarantee under chapter 537 or 575 of this title;

"(ii) documented or agreed with the Secretary to be documented under the laws of the United States; and

"(iii)(I) of a type, size, and speed that the Secretary determines is suitable for use on the high seas or Great Lakes in carrying out this subtitle, but not less than 2,000 gross tons or less than 12 knots speed unless the Secretary certifies in each case that a vessel of lesser tonnage or speed is desirable for use by the United States Government in case of war or national emergency; or

"(II) constructed to replace a vessel bought or requisitioned by the Government; and

"(B) a vessel reconstructed or reconditioned for use only on the Great Lakes, including the Saint Lawrence River and Gulf, if the Secretary finds that the reconstruction or reconditioning will promote the objectives of this subtitle.

"(b) ADDITIONAL TAX-RELATED TERMS.—Other terms used in this chapter have the same meaning as in chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

"§53302. Authority for construction reserve funds

"(a) GENERAL AUTHORITY.—An eligible person under section 53303 of this title may establish a construction reserve fund for the construction, reconstruction, reconditioning, or acquisition of a new vessel or for other purposes authorized by this chapter.

"(b) APPLICATION OF CERTAIN LAWS AND REGULATIONS.—The fund shall be established, maintained, expended, and used as provided by this chapter and regulations prescribed jointly by the Secretary of Transportation and the Secretary of the Treasury.

"§53303. Persons eligible to establish funds

"A construction reserve fund may be established by a citizen of the United States that—

"(1) is operating a vessel in the foreign or domestic commerce of the United States or in the fisheries;

"(2) owns, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries;

"(3) was operating a vessel in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the United States Government;

"(4) owned, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government; or

"(5) had acquired or was having constructed a vessel to operate in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government.

"§53304. Vessel ownership

"In this chapter, a vessel is deemed to be constructed or acquired by a taxpayer if constructed or acquired by a corporation when the taxpayer owns at least 95 percent of each class of stock of the corporation.

"§53305. Eligible fund deposits

"A construction reserve fund may include deposits of—

"(1) the proceeds from the sale of a vessel;

"(2) indemnities for the loss of a vessel;

"(3) earnings from the operation of a documented vessel and from services incident to the operation; and

"(4) interest or other amounts accrued on deposits in the fund.

"§53306. Recognition of gain for tax purposes

"(a) DEFINITIONS.—In this section, the terms 'net proceeds' and 'net indemnity' mean the sum of—

"(1) the adjusted basis of the vessel; and

"(2) the amount of gain the taxpayer would recognize without regard to this section.

"(b) RECOGNITION OF GAIN.—In computing net income under the income or excess profits tax laws of the United States, a taxpayer does not recognize a gain on the sale or the actual or constructive total loss of a vessel if the taxpayer—

"(1) deposits an amount equal to the net proceeds of the sale or the net indemnity for the loss in a construction reserve fund within 60 days after receiving the payment of proceeds or indemnity; and

"(2) elects under this section not to recognize the gain.

"(c) WHEN ELECTION MUST BE MADE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the taxpayer must make the election referred to in subsection (b) in the taxpayer's income tax return for the taxable year in which the gain was realized.

"(2) RECEIPT AFTER TAXABLE YEAR.—If the vessel is bought or requisitioned by the United States Government, or is lost, and the taxpayer receives payment for the vessel or indemnity for the loss from the Government after the end of the taxable year in which it was bought, requisitioned, or lost, the taxpayer must make the election referred to in subsection (b) within 60 days after receiving the payment or indemnity, on a form prescribed by the Secretary of the Treasury.

"(d) EFFECT OF STATUTE OF LIMITATION.—If the taxpayer makes an election under subsection (c)(2), and computation or recomputation under this section is otherwise allowable but is prevented by a statute of limitation on the date the election is made or within 6 months thereafter, the computation or recomputation nevertheless shall be made notwithstanding the statute if the taxpayer files a claim for the computation or recomputation within 6 months after the date of making the election.

"§ 53307. Basis for determining gain or loss and for depreciating new vessels

"Under the income or excess profits tax laws of the United States, the basis for determining a gain or loss and for depreciation of a new vessel constructed, reconstructed, reconditioned, or acquired by the taxpayer, or for which purchase-money indebtedness is liquidated as provided in section 53310 of this title, with amounts from a construction reserve fund, shall be reduced by that part of the deposits in the fund expended in the construction, reconstruction, reconditioning, acquisition, or liquidation of purchase-money indebtedness of the new vessel that represents a gain not recognized for tax purposes under section 53306 of this title.

"§ 53308. Order and proportions of deposits and withdrawals

"In this chapter—

"(1) if the net proceeds of a sale or the net indemnity for a loss is deposited in more than one deposit, the amount consisting of the gain shall be deemed to be deposited first;

"(2) amounts expended, obligated, or otherwise withdrawn shall be applied against the amounts deposited in the fund in the order of deposit; and

"(3) if a deposit consists in part of a gain not recognized under section 53306 of this title, any expenditure, obligation, or withdrawal applied against that deposit shall be deemed to be a gain in the proportion that the part of the deposit consisting of a gain bears to the total amount of the deposit.

"§ 53309. Accumulation of deposits

"For any taxable year, amounts on deposit in a construction reserve fund on the last day of the taxable year, for which the requirements of section 53310 of this title have been satisfied (to the extent they apply on the last day of the taxable year), are deemed to have been retained for the reasonable needs of the business within the meaning of section 537(a) of the Internal Revenue Code of 1986 (26 U.S.C. 537(a)).

"§ 53310. Obligation of deposits and period for construction of certain vessels

"(a) APPLICATION OF SECTIONS 53306 AND 53309.—Sections 53306 and 53309 of this title apply to a deposit in a construction reserve fund only if, within 3 years after the date of the deposit (and any extension under subsection (c))—

"(1)(A) a contract is made for the construction or acquisition of a new vessel or, with the approval of the Secretary of Transportation, for a part interest in a new vessel or for the reconstruction or reconditioning of a new vessel;

"(B) the deposit is expended or obligated for expenditure under that contract;

"(C) at least 12.5 percent of the construction or contract price of the vessel is paid or irrevocably committed for payment; and

"(D) the plans and specifications for the vessel are approved by the Secretary to the extent the Secretary considers necessary; or

"(2) the deposit is expended or obligated for expenditure for the liquidation of existing or subsequently incurred purchase-money indebtedness to a person not a parent company of, or a company affiliated or associated with, the mortgagor on a new vessel.

"(b) ADDITIONAL REQUIREMENTS FOR CERTAIN VESSELS.—In addition to the requirements of subsection (a)(1), for a vessel not constructed under a construction-differential subsidy contract or not bought from the Secretary of Transportation—

"(1) at least 5 percent of the construction (or, if the contract covers more than one vessel, at least 5 percent of the construction of the first vessel) must be completed within 6 months after the date of the construction contract (or within the period of an extension under subsection (c)), as estimated by the Secretary and certified by the Secretary to the Secretary of the Treasury; and

"(2) construction under the contract must be completed with reasonable dispatch thereafter.

"(c) EXTENSIONS.—The Secretary of Transportation may grant extensions of the period within which the deposits must be expended or obligated or within which the construction must have progressed to the extent of 5 percent completion under this section. However, the extensions may not be for a total of more than 2 years for the expenditure or obligation of deposits or one year for the progress of construction.

"§ 53311. Taxation of deposits on failure of conditions

"A deposited gain, if otherwise taxable income under the law applicable to the taxable year in which the gain was realized, shall be included in gross income for that taxable year, except for purposes of the declared value excess profits tax and the capital stock tax, if—

"(1) the deposited gain is not expended or obligated within the appropriate period under section 53310 of this title;

"(2) the deposited gain is withdrawn before the end of that period;

"(3) the construction related to that deposited gain has not progressed to the extent of 5 percent of completion within the appropriate period under section 53310 of this title; or

"(4) the Secretary of Transportation finds and certifies to the Secretary of the Treasury that, for causes within the control of the taxpayer, the entire construction related to that deposited gain is not completed with reasonable dispatch.

"§ 53312. Assessment and collection of deficiency tax

"Notwithstanding any other provision of law, a deficiency in tax for a taxable year resulting from the inclusion of an amount in gross income as provided by section 53311 of this title, and the amount to be treated as a deficiency under section 53311 instead of as an adjustment for the declared value excess profits tax, may be assessed or a civil action may be brought to collect the deficiency without assessment, at any time. Interest on a deficiency or amount to be treated as a deficiency does not begin until the date the deposited gain or part of the deposited gain in question is required to be included in gross income under section 51111.

"CHAPTER 535—CAPITAL CONSTRUCTION FUNDS

"Sec.
"53501. Definitions.
"53502. Regulations.
"53503. Establishing a capital construction fund.
"53504. Deposits and withdrawals.
"53505. Ceiling on deposits.
"53506. Investment and fiduciary requirements.
"53507. Nontaxation of deposits.
"53508. Separate accounts within a fund.
"53509. Qualified withdrawals.
"53510. Tax treatment of qualified withdrawals and basis of property.
"53511. Tax treatment of nonqualified withdrawals.
"53512. FIFO and LIFO withdrawals.
"53513. Corporate reorganizations and partnership changes.
"53514. Relationship of old fund to new fund.
"53515. Records and reports.
"53516. Termination of agreement after change in regulations.
"53517. Reports.

"§ 53501. Definitions

"In this chapter:

"(1) AGREEMENT VESSEL.—The term 'agreement vessel' means—

"(A) an eligible vessel or a qualified vessel that is subject to an agreement under this chapter; and

"(B) a barge or container that is part of the complement of a vessel described in subclause (A) if provided for in the agreement.

"(2) ELIGIBLE VESSEL.—The term 'eligible vessel' means—

"(A) a vessel—

"(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

"(ii) documented under the laws of the United States; and

"(iii) operated in the foreign or domestic trade of the United States or in the fisheries of the United States; and

"(B) a commercial fishing vessel—

"(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

"(ii) of at least 2 net tons but less than 5 net tons;

"(iii) owned by a citizen of the United States;

"(iv) having its home port in the United States; and

"(v) operated in the commercial fisheries of the United States.

"(3) JOINT REGULATIONS.—The term 'joint regulations' means regulations prescribed jointly by the Secretary and the Secretary of the Treasury under section 53502(b) of this title.

"(4) NONCONTIGUOUS TRADE.—The term 'noncontiguous trade' means—

"(A) trade between—

"(i) one of the contiguous 48 States; and

"(ii) Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

"(B) trade between—

"(i) a place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

"(ii) another place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States.

"(5) QUALIFIED VESSEL.—The term 'qualified vessel' means—

"(A) a vessel—

"(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

"(ii) documented under the laws of the United States; and

"(iii) agreed, between the Secretary and the person maintaining the capital construction fund established under section 53503 of this title, to be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States; and

"(B) a commercial fishing vessel—

"(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

"(ii) of at least 2 net tons but less than 5 net tons;

"(iii) owned by a citizen of the United States;

"(iv) having its home port in the United States; and

"(v) operated in the commercial fisheries of the United States.

"(6) SECRETARY.—The term 'Secretary' means—

"(A) the Secretary of Commerce with respect to an eligible vessel or a qualified vessel operated or to be operated in the fisheries of the United States; and

"(B) the Secretary of Transportation with respect to other vessels.

"(7) UNITED STATES FOREIGN TRADE.—The term 'United States foreign trade' includes those areas in domestic trade in which a vessel built with a construction-differential subsidy is allowed to operate under the first sentence of section 506 of the Merchant Marine Act, 1936.

"(8) VESSEL.—The term 'vessel' includes—

"(A) cargo handling equipment that the Secretary determines is intended for use primarily on the vessel; and

"(B) an ocean-going towing vessel, an ocean-going barge, or a comparable towing vessel or barge operated on the Great Lakes.

"§53502. Regulations

"(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall prescribe regulations to carry out this chapter.

"(b) TAX LIABILITY.—The Secretary and the Secretary of the Treasury shall prescribe joint regulations for the determination of tax liability under this chapter.

"§53503. Establishing a capital construction fund

"(a) IN GENERAL.—A citizen of the United States owning or leasing an eligible vessel may make an agreement with the Secretary under this chapter to establish a capital construction fund for the vessel.

"(b) ALLOWABLE PURPOSE.—The purpose of the agreement shall be to provide replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States, for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

"§53504. Deposits and withdrawals

"(a) REQUIRED DEPOSITS.—An agreement to establish a capital construction fund shall provide for the deposit in the fund of the amounts agreed to be appropriate to provide for qualified withdrawals under section 53509 of this title.

"(b) APPLICABLE REQUIREMENTS.—Deposits in and withdrawals from the fund are subject to the requirements included in the agreement or prescribed by the Secretary by regulation. However, the Secretary may not require a person to deposit in the fund for a taxable year more than 50 percent of that portion of the person's taxable income for that year (as determined under section 53505(a)(1) of this title) that is attributable to the operation of an agreement vessel.

"§53505. Ceiling on deposits

"(a) MAXIMUM DEPOSITS.—The amount deposited in a capital construction fund for a taxable year may not exceed the sum of—

"(1) that portion of the taxable income of the owner or lessee for the taxable year (computed under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) but without regard to the carryback of net operating loss or net capital loss or this chapter) that is attributable to the operation of agreement vessels in the foreign or domestic trade of the United States or in the fisheries of the United States;

"(2) the amount allowable as a deduction under section 167 of such Code (26 U.S.C. 167) for the taxable year for agreement vessels;

"(3) if the transaction is not taken into account for purposes of clause (1), the net proceeds (as defined in joint regulations) from the disposition of an agreement vessel or from insurance or indemnity attributable to an agreement vessel; and

"(4) the receipts from the investment or reinvestment of amounts held in the fund.

"(b) REDUCTIONS FOR LESSEES.—For a lessee, the maximum amount that may be deposited for an agreement vessel under subsection (a)(2) for any period shall be reduced by any amount the owner is required or permitted, under the capital construction fund agreement, to deposit for that period for the vessel under subsection (a)(2).

"§53506. Investment and fiduciary requirements

"(a) IN GENERAL.—Amounts in a capital construction fund shall be kept in the depository specified in the agreement and shall be subject to trustee and other fiduciary requirements prescribed by the Secretary. Except as provided in subsection (b), amounts in the fund may be invested only in interest-bearing securities approved by the Secretary.

"(b) STOCK INVESTMENTS.—

"(1) IN GENERAL.—With the approval of the Secretary, an agreed percentage (but not more than 60 percent) of the assets of the fund may be invested in the stock of domestic corporations that—

"(A) is fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange; and

"(B) would be acquired by a prudent investor seeking a reasonable income and the preservation of capital.

"(2) PREFERRED STOCK.—The preferred stock of a corporation is deemed to satisfy the requirements of this subsection, even though it may not be registered and listed because it is nonvoting stock, if the common stock of the corporation satisfies the requirements and the preferred stock otherwise would satisfy the requirements.

"(c) MAINTAINING AGREED PERCENTAGE.—If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in a way that tends to restore the fair market value of the stock to not more than the agreed percentage.

"§53507. Nontaxation of deposits

"(a) TAX TREATMENT.—Subject to subsection (b), under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)—

"(1) taxable income (determined without regard to this chapter and section 7518 of such Code (26 U.S.C. 7518)) for the taxable year shall be reduced by the amount deposited for the taxable year out of amounts referred to in section 53505(a)(1) of this title;

"(2) a gain from a transaction referred to in section 53505(a)(3) of this title shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from the transaction is deposited in the fund;

"(3) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account;

"(4) the earnings and profits of a corporation (within the meaning of section 316 of such Code (26 U.S.C. 316)) shall be determined without regard to this chapter and section 7518 of such Code (26 U.S.C. 7518); and

"(5) in applying the tax imposed by section 531 of such Code (26 U.S.C. 531), amounts held in the fund shall not be taken into account.

"(b) CONDITION.—This section applies to an amount only if the amount is deposited in the fund under the agreement within the time provided in joint regulations.

"§53508. Separate accounts within a fund

"(a) IN GENERAL.—A capital construction fund shall have three accounts:

"(1) The capital account.

"(2) The capital gain account.

"(3) The ordinary income account.

"(b) CAPITAL ACCOUNT.—The capital account shall consist of—

"(1) amounts referred to in section 53505(a)(2) of this title;

"(2) amounts referred to in section 53505(a)(3) of this title, except that portion representing a gain not taken into account because of section 53507(a)(2) of this title;

"(3) the percentage applicable under section 243(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 243(a)(1)) of any dividend received by the fund for which the person maintaining the fund would be allowed (were it not for section 53507(a)(3) of this title) a deduction under section 243 of such Code (26 U.S.C. 243); and

"(4) interest income exempt from taxation under section 103 of such Code (26 U.S.C. 103).

"(c) CAPITAL GAIN ACCOUNT.—The capital gain account shall consist of—

"(1) amounts representing capital gains on assets held for more than 6 months and referred to in section 53505(a)(3) or (4) of this title; minus

"(2) amounts representing capital losses on assets held in the fund for more than 6 months.

"(d) ORDINARY INCOME ACCOUNT.—The ordinary income account shall consist of—

"(1) amounts referred to in section 53505(a)(1) of this title;

"(2)(A) amounts representing capital gains on assets held for not more than 6 months and referred to in section 53505(a)(3) or (4) of this title; minus

"(B) amounts representing capital losses on assets held in the fund for not more than 6 months;

"(3) interest (except tax-exempt interest referred to in subsection (b)(4)) and other ordinary income (except any dividend referred to in clause (5)) received on assets held in the fund;

"(4) ordinary income from a transaction described in section 53505(a)(3) of this title; and

"(5) that portion of any dividend referred to in subsection (b)(3) not taken into account under subsection (b)(3).

"(e) WHEN LOSSES ALLOWED.—Except on termination of a fund, capital losses referred to in subsection (c) or (d)(2) shall be allowed only as an offset to gains referred to in subsection (c) or (d)(2), respectively.

"§53509. Qualified withdrawals

"(a) IN GENERAL.—Subject to subsection (b), a withdrawal from a capital construction fund is a qualified withdrawal if it is made under the terms of the agreement and is for—

"(1) the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel; or

"(2) the payment of the principal on indebtedness incurred in the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel.

"(b) BARGES AND CONTAINERS.—Except as provided in regulations prescribed by the Secretary, subsection (a) applies to a barge or container only if it is constructed in the United States.

"(c) TREATMENT AS NONQUALIFIED WITHDRAWAL.—Under joint regulations, if the Secretary determines that a substantial obligation under an agreement is not being fulfilled, the Secretary, after notice and opportunity for a hearing to the person maintaining the fund, may treat any amount in the fund as an amount withdrawn from the fund in a nonqualified withdrawal.

"§53510. Tax treatment of qualified withdrawals and basis of property

"(a) ORDER OF WITHDRAWALS.—A qualified withdrawal from a capital construction fund shall be treated as made—

"(1) first from the capital account;

"(2) second from the capital gain account; and

"(3) third from the ordinary income account.

"(b) ORDINARY INCOME ACCOUNT WITHDRAWALS.—If a portion of a qualified withdrawal for a vessel, barge, or container is made

from the ordinary income account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that portion.

"(c) CAPITAL GAIN ACCOUNT WITHDRAWALS.—If a portion of a qualified withdrawal for a vessel, barge, or container is made from the capital gain account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that portion.

"(d) WITHDRAWALS TO PAY PRINCIPAL.—If a portion of a qualified withdrawal to pay the principal on indebtedness is made from the ordinary income account or the capital gain account, an amount equal to the total reduction that would be required by subsections (b) and (c) if the withdrawal were a qualified withdrawal for a purpose described in those subsections shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. The remaining amount of the withdrawal shall be treated as a nonqualified withdrawal.

"(e) GAIN ON PROPERTY WITH REDUCED BASIS.—If property, the basis of which was reduced under subsection (b), (c), or (d), is disposed of, any gain realized on the disposition, to the extent it does not exceed the total reduction in the basis of the property under those subsections, shall be treated as an amount referred to in section 53511(c)(1) of this title withdrawn on the date of disposition of the property. Subject to conditions prescribed in joint regulations, this subsection does not apply to a disposition if there is a redeposit, in an amount determined under joint regulations, that restores the fund as far as practicable to the position it was in before the withdrawal.

"§53511. Tax treatment of nonqualified withdrawals

"(a) IN GENERAL.—Except as provided in section 53513 of this title, a withdrawal from a fund that is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

"(b) ORDER OF WITHDRAWALS.—A nonqualified withdrawal shall be treated as made—

"(1) first from the ordinary income account;

"(2) second from the capital gain account; and

"(3) third from the capital account.

"(c) TAX TREATMENT.—For purposes of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)—

"(1) a nonqualified withdrawal from the ordinary income account shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made;

"(2) a nonqualified withdrawal from the capital gain account shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during that year from the disposition of an asset held for more than 6 months; and

"(3) for the period through the last date prescribed for payment of tax for the taxable year in which the withdrawal is made—

"(A) no interest shall be payable under section 6601 of such Code (26 U.S.C. 6601) and no addition to the tax shall be payable under section 6651 of such Code (26 U.S.C. 6651);

"(B) interest on the amount of the additional tax attributable to an amount treated as a nonqualified withdrawal from the ordinary income account or the capital gain account shall be paid at the rate determined under subsection (d) from the last date prescribed for payment of the tax for the taxable year for which the amount was deposited in the fund; and

"(C) no interest shall be payable on amounts treated as withdrawn on a last-in-first-out basis under section 53512 of this title.

"(d) INTEREST RATE.—The rate of interest under subsection (c)(3)(B) for a nonqualified withdrawal made in a taxable year beginning after 1971 shall be determined and published jointly by the Secretary and the Secretary of the Treasury. The rate shall be such that its relationship to 8 percent is comparable, as determined by the Secretaries under joint regulations, to the relationship between—

"(1) the money rates and investment yields for the calendar year immediately before the beginning of the taxable year; and

"(2) the money rates and investment yields for the calendar year 1970.

"(e) NONQUALIFIED WITHDRAWALS.—

"(1) IN GENERAL.—The following applicable percentage of any amount that remains in a capital construction fund at the close of the following specified taxable year following the taxable year for which the amount was deposited shall be treated as a nonqualified withdrawal:

"If the amount remains in the fund at the close of the—	**The applicable percentage is—**
"26th taxable year	20 percent
"27th taxable year	40 percent
"28th taxable year	60 percent
"29th taxable year	80 percent
"30th taxable year	100 percent.

"(2) EARNINGS.—The earnings of a capital construction fund for any taxable year (except net gains) shall be treated under this subsection as an amount deposited for the taxable year.

"(3) CONTRACT FOR QUALIFIED WITHDRAWAL.—Under paragraph (1), an amount shall not be treated as remaining in a capital construction fund at the close of a taxable year to the extent there is a binding contract at the close of the taxable year for a qualified withdrawal of the amount for an identified item for which the withdrawal may be made.

"(4) EXCESS EARNINGS.—If the Secretary determines that the balance in a capital construction fund exceeds the amount appropriate to meet the vessel construction program objectives of the person that established the fund, the amount of the excess shall be treated as a nonqualified withdrawal under paragraph (1) unless the person develops appropriate program objectives within 3 years to dissipate the excess.

"(5) AMOUNTS IN FUND ON JANUARY 1, 1987.—Under this subsection, amounts in a capital construction fund on January 1, 1987, shall be treated as having been deposited in that fund on that date.

"(f) TAX DETERMINATIONS.—

"(1) IN GENERAL.—For a taxable year for which there is a nonqualified withdrawal (including an amount treated as a nonqualified withdrawal under subsection (e)), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) shall be determined by—

"(A) excluding the withdrawal from gross income; and

"(B) increasing the tax imposed by chapter 1 of such Code by the product of the amount of the withdrawal and the highest tax rate specified in section 1 (or section 11 for a corporation) of such Code (26 U.S.C. 1, 11).

"(2) MAXIMUM TAX RATE.—For that portion of a nonqualified withdrawal made from the capital gain account during a taxable year to which section 1(h) or 1201(a) of such Code (26 U.S.C. 1(h), 1201(a)) applies, the tax rate used under subparagraph (A)(ii) may not exceed 15 percent (or 34 percent for a corporation).

"(3) TAX BENEFIT RULE.—If any portion of a nonqualified withdrawal is properly attributable to deposits (except earnings on deposits) made by the taxpayer in a taxable year that did not reduce the taxpayer's liability for tax under chapter 1 of such Code (26 U.S.C. ch. 1) for a taxable year before the taxable year in which the withdrawal occurs—

"(A) that portion shall not be taken into account under paragraph (1); and

"(B) an amount equal to that portion shall be allowed as a deduction under section 172 of such Code (26 U.S.C. 172) for the taxable year in which the withdrawal occurs.

"(4) COORDINATION WITH DEDUCTION FOR NET OPERATING LOSSES.—A nonqualified withdrawal excluded from gross income under paragraph (1) shall be excluded in determining taxable income under section 172(b)(2) of such Code (26 U.S.C. 172(b)(2)).

"§53512. FIFO and LIFO withdrawals

"(a) FIFO.—Except as provided in subsection (b), an amount withdrawn from an account under this chapter shall be treated as withdrawn on a first-in-first-out basis.

"(b) LIFO.—An amount withdrawn from an account under this chapter shall be treated as withdrawn on a last-in-first-out basis if it is—

"(1) a nonqualified withdrawal for research, development, and design expenses incident to new and advanced vessel design, machinery, and equipment; or

"(2) an amount treated as a nonqualified withdrawal under section 53510(d) of this title.

"§53513. Corporate reorganizations and partnership changes

"Under joint regulations—

"(1) a transfer of a capital construction fund from one person to another person in a transaction to which section 381 of the Internal Revenue Code of 1986 (26 U.S.C. 381) applies may be treated as if the transaction is not a nonqualified withdrawal; and

"(2) a similar rule shall be applied to a continuation of a partnership (within the meaning of subchapter K of chapter 1 of such Code (26 U.S.C. 701 et seq.)).

"§53514. Relationship of old fund to new fund

"(a) DEFINITION.—In this section, the term 'old fund' means a capital construction fund maintained before October 21, 1970.

"(b) ELECTION TO MAINTAIN OLD FUND.—A person maintaining an old fund may elect to continue the old fund, but may not—

"(1) hold amounts in the old fund beyond the expiration date provided in the agreement under which the old fund is maintained (determined without regard to an extension or renewal made after April 14, 1970); or

"(2) maintain simultaneously the old fund and a new fund established under this chapter.

"(c) APPLICATION OF NEW FUND AGREEMENT TO OLD FUND AMOUNTS.—If a person makes an agreement under this chapter to establish a new fund, the person may agree to extend the agreement to some or all of the amounts in an old fund. Each item in the old fund to be transferred shall be transferred in a nontaxable transaction to the appropriate account in the new fund. For purposes of section 53511(c)(3) of this title, the date of the deposit of an item so transferred shall be July 1, 1971, or the date of the deposit in the old fund, whichever is later.

"§53515. Records and reports

"A person maintaining a fund under this chapter shall keep records and make reports as required by the Secretary or the Secretary of the Treasury.

"§53516. Termination of agreement after change in regulations

"If, after an agreement has been made under this chapter, a change is made either in the joint regulations or in the regulations prescribed by the Secretary under this chapter that could have a substantial effect on the rights or duties of a person maintaining a fund under this chapter, that person may terminate the agreement.

"§53517. Reports

"(a) In General.—Within 120 days after the close of each calendar year, the Secretary of Transportation and the Secretary of Commerce each shall provide the Secretary of the Treasury a written report on the capital construction funds under the particular Secretary's jurisdiction for the calendar year.

"(b) Contents.—The report shall state the name and taxpayer identification number of each person—

"(1) establishing a capital construction fund during the calendar year;

"(2) maintaining a capital construction fund on the last day of the calendar year;

"(3) terminating a capital construction fund during the calendar year;

"(4) making a deposit to or withdrawal from a capital construction fund during the calendar year, and the amount of the deposit or withdrawal; or

"(5) having been determined during the calendar year to have failed to fulfill a substantial obligation under a capital construction fund agreement to which the person is a party.

"CHAPTER 537—LOANS AND GUARANTEES

"SUBCHAPTER I—GENERAL

"Sec.
"53701. Definitions.
"53702. General authority.
"53703. Application procedures.
"53704. Funding limits.
"53705. Pledge of United States Government.
"53706. Eligible purposes of obligations.
"53707. Findings related to obligors and operators.
"53708. Findings related to economic soundness.
"53709. Amount of obligations.
"53710. Contents of obligations.
"53711. Security interest.
"53712. Monitoring financial condition and operations of obligor.
"53713. Administrative fees.
"53714. Guarantee fees.
"53715. Escrow fund.
"53716. Deposit fund.
"53717. Management of funds in the Treasury.
"53718. Annual report to Congress.

"SUBCHAPTER II—DEFAULT PROVISIONS

"53721. Rights of obligee.
"53722. Actions by Secretary.
"53723. Payments by Secretary and issuance of obligations.
"53724. Rights to secured property.
"53725. Actions against obligor.

"SUBCHAPTER III—PARTICULAR PROJECTS

"53731. Commercial demonstration ocean thermal energy conversion facilities and plantships.
"53732. Eligible export vessels.
"53733. Shipyard modernization and improvement.
"53734. Replacement of vessels because of changes in operating standards.
"53735. Fisheries financing and capacity reduction.

"SUBCHAPTER I—GENERAL

"§53701. Definitions

"In this chapter:

"(1) Actual cost.—The term 'actual cost' means the sum of—

"(A) all amounts paid by or for the account of the obligor as of the date on which a determination is made under section 53715(d)(1) of this title; and

"(B) all amounts that the Secretary reasonably estimates the obligor will become obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of the vessel, including guarantee fees that will become payable under section 53714 of this title in connection with all obligations issued for construction, reconstruction, or reconditioning of the vessel or equipment to be delivered, and all obligations issued for the delivered vessel or equipment.

"(2) Construction, reconstruction, and reconditioning.—The terms 'construction', 'reconstruction', and 'reconditioning' include designing, inspecting, outfitting, and equipping.

"(3) Depreciated actual cost.—The term 'depreciated actual cost' of a vessel means—

"(A) if the vessel was not reconstructed or reconditioned, the actual cost of the vessel depreciated on a straight line basis over the useful life of the vessel as determined by the Secretary, not to exceed 25 years from the date of delivery by the builder; or

"(B) if the vessel was reconstructed or reconditioned, the sum of—

"(i) the actual cost of the vessel depreciated on a straight line basis from the date of delivery by the builder to the date of the reconstruction or reconditioning, using the original useful life of the vessel, and from the date of the reconstruction or reconditioning, using a useful life of the vessel determined by the Secretary; and

"(ii) any amount paid or obligated to be paid for the reconstruction or reconditioning, depreciated on a straight line basis using a useful life of the vessel determined by the Secretary.

"(4) Eligible export vessel.—The term 'eligible export vessel' means a vessel that—

"(A) is constructed, reconstructed, or reconditioned in the United States for use in worldwide trade; and

"(B) will, on delivery or redelivery, become or remain documented under the laws of a country other than the United States.

"(5) Fishery facility.—

"(A) In general.—Subject to paragraph (B), the term 'fishery facility' means—

"(i) for operations on land—

"(I) a structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from a fishery;

"(II) the land necessary for the structure or appurtenance; and

"(III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in clause (I);

"(ii) for operations not on land, a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, the processing of fish; or

"(iii) for aquaculture, including operations on land or elsewhere—

"(I) a structure or appurtenance thereto designed for aquaculture;

"(II) the land necessary for the structure or appurtenance;

"(III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in clause (I); and

"(IV) a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, aquaculture.

"(B) Required ownership.—Under paragraph (A), the structure, appurtenance, land, equipment, or vessel must be owned by—

"(i) an individual who is a citizen of the United States; or

"(ii) an entity that is a citizen of the United States under section 50501 of this title and that is at least 75 percent owned (as determined under that section) by citizens of the United States.

"(6) Fishing vessel.—The term 'fishing vessel' has the meaning given that term in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802), and any reference in this chapter to a vessel designed principally for commercial use in the fishing trade or industry is deemed to be a reference to a fishing vessel.

"(7) Mortgage.—The term 'mortgage' includes—

"(A) a preferred mortgage as defined in section 31301 of this title; and

"(B) a mortgage on a vessel that will become a preferred mortgage when filed or recorded under chapter 313 of this title.

"(8) Obligation.—The term 'obligation' means an instrument of indebtedness issued for a purpose described in section 53706 of this title, except—

"(A) an obligation issued by the Secretary under section 53723 of this title; and

"(B) an obligation eligible for investment of funds under section 53715(f) or 53717 of this title.

"(9) Obligee.—The term 'obligee' means the holder of an obligation.

"(10) Obligor.—The term 'obligor' means a party primarily liable for payment of the principal of or interest on an obligation.

"(11) Ocean thermal energy conversion facility or plantship.—The term 'ocean thermal energy conversion facility or plantship' means an at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, that uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes—

"(A) equipment installed on the facility or vessel to use the electricity or other form of energy to produce, process, refine, or manufacture a product;

"(B) a cable or pipeline used to deliver the electricity, freshwater, or product to shore; and

"(C) other associated equipment and appurtenances of the facility or vessel to the extent they are located seaward of the high water mark.

"(12) Secretary.—The term 'Secretary' means—

"(A) the Secretary of Commerce with respect to fishing vessels and fishery facilities; and

"(B) the Secretary of Transportation with respect to other vessels and general shipyard facilities (as defined in section 53733(a) of this title).

"(13) Vessel.—The term 'vessel' means any type of vessel, whether in existence or under construction, including—

"(A) a cargo vessel;

"(B) a passenger vessel;

"(C) a combination cargo and passenger vessel;

"(D) a tanker;

"(E) a tug or towboat;

"(F) a barge;

"(G) a dredge;

"(H) a floating drydock with a capacity of at least 35,000 lifting tons and a beam of at least 125 feet between the wing walls;

"(I) an oceanographic research vessel;

"(J) an instruction vessel;

"(K) a pollution treatment, abatement, or control vessel;

"(L) a fishing vessel whose ownership meets the citizenship requirements under section 50501 of this title for documenting vessels to operate in the coastwise trade; and

"(M) an ocean thermal energy conversion facility or plantship that is or will be documented under the laws of the United States.

"§53702. General authority

"(a) In General.—The Secretary, on terms the Secretary may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation *eligible to be guaranteed under this chapter. A guarantee or commitment to guarantee shall cover 100 percent of the principal and interest.*

"(b) DIRECT LOANS FOR FISHERIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this chapter, any obligation involving a fishing vessel, fishery facility, aquaculture facility, individual fishing quota, or fishing capacity reduction program issued under this chapter after October 11, 1996, shall be a direct loan obligation for which the Secretary shall be the obligee, rather than an obligation issued to an obligee other than the Secretary and guaranteed by the Secretary. A direct loan obligation under this subsection shall be treated in the same manner and to the same extent as an obligation guaranteed under this chapter except with respect to provisions of this chapter that by their nature can only be applied to obligations guaranteed under this chapter.

"(2) INTEREST RATE.—Notwithstanding any other provision of this chapter, the annual rate of interest an obligor shall pay on a direct loan obligation under this subsection is 2 percent plus the additional percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan.

"§53703. Application procedures

"(a) TIME FOR DECISION.—

"(1) IN GENERAL.—The Secretary shall approve or deny an application for a loan guarantee under this chapter within 270 days after the date on which the signed application is received by the Secretary.

"(2) EXTENSION.—On request by an applicant, the Secretary may extend the 270-day period in paragraph (1) to a date not later than 2 years after the date on which the signed application was received by the Secretary.

"(b) CERTIFICATION OF REVIEW.—The Secretary may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary certifies that a full and fair consideration of all the regulatory requirements, including economic soundness and financial requirements applicable to the obligor and related parties, and a thorough assessment of the technical, economic, and financial aspects of the loan application, has been made.

"§53704. Funding limits

"(a) GENERAL LIMITATIONS.—The total unpaid principal amount of obligations guaranteed under this chapter and outstanding at one time may not exceed $12,000,000,000. Of that amount—

"(1) $850,000,000 shall be limited to obligations related to fishing vessels and fishery facilities; and

"(2) $3,000,000,000 shall be limited to obligations related to eligible export vessels.

"(b) ADDITIONAL LIMITATIONS.—Additional limitations may not be imposed on new commitments to guarantee loans for any fiscal year, except in amounts established in advance by annual authorization laws. A vessel eligible for a guarantee under this chapter may not be denied eligibility because of its type.

"(c) LIMITS BASED ON RISK FACTORS.—

"(1) DEFINITION.—In this subsection, the term 'cost' has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

"(2) SYSTEM OF RISK CATEGORIES.—The Secretary shall—

"(A) establish, and update annually, a system of risk categories for obligations guaranteed under this chapter that categorizes the relative risk of guarantees based on the risk factors set forth in paragraph (4);

"(B) determine annually for each risk category a subsidy rate equivalent to the cost of obligations in the category, expressed as a percentage of the amount guaranteed for obligations in the category; and

"(C) ensure that each risk category is comprised of loans that are relatively homogeneous in cost and share characteristics predictive of defaults and other costs, given the facts known at the time of obligation or commitment, using a risk category system that is based on historical analysis of program data and statistical evidence concerning the likely costs of defaults or other costs that are expected to be associated with the loans in the category.

"(3) USE OF SYSTEM.—

"(A) PLACING OBLIGATION IN CATEGORY.—Before making a guarantee under this chapter for an obligation, and annually for projects subject to a guarantee, the Secretary shall apply the risk factors specified in paragraph (4) to place the obligation in a risk category established under paragraph (2).

"(B) REDUCTION OF AVAILABLE AMOUNT.—The Secretary shall consider the total amount available to the Secretary for making guarantees under this chapter to be reduced by the amount determined by multiplying—

"(i) the amount guaranteed under this chapter for an obligation; by

"(ii) the subsidy rate for the category in which the obligation is placed under subparagraph (A).

"(C) ESTIMATED COST.—The estimated cost to the United States Government of a guarantee under this chapter for an obligation is deemed to be the amount determined under subparagraph (B) for the obligation.

"(D) RESTRICTION ON FURTHER GUARANTEES.—The Secretary may not guarantee obligations under this chapter after the total amount available to the Secretary under appropriations laws for the cost of loan guarantees is considered to be reduced to zero under subparagraph (B).

"(4) RISK FACTORS.—The risk factors referred to in this subsection are—

"(A) if applicable, the country risk for each eligible export vessel financed or to be financed by an obligation;

"(B) the period for which an obligation is guaranteed or to be guaranteed;

"(C) the amount of an obligation guaranteed or to be guaranteed in relation to the total cost of the project financed or to be financed by the obligation;

"(D) the financial condition of an obligor or applicant for a guarantee;

"(E) if applicable, other guarantees related to the project;

"(F) if applicable, the projected employment of each vessel or equipment to be financed with an obligation;

"(G) if applicable, the projected market that will be served by each vessel or equipment to be financed with an obligation;

"(H) the collateral provided for a guarantee for an obligation;

"(I) the management and operating experience of an obligor or applicant for a guarantee;

"(J) whether a guarantee under this chapter is or will be in effect during the construction period of the project; and

"(K) the concentration risk presented by an unduly large percentage of loans outstanding by any one borrower or group of affiliated borrowers.

"§53705. Pledge of United States Government

"(a) FULL FAITH AND CREDIT.—The full faith and credit of the United States Government is pledged to the payment of a guarantee made under this chapter, for both principal and interest, including interest (as may be provided for in the guarantee) accruing between the date of default under a guaranteed obligation and the date of payment in full of the guarantee.

"(b) INCONTESTABILITY.—A guarantee or commitment to guarantee made under this chapter is conclusive evidence of the eligibility of the obligation for the guarantee. The validity of a guarantee or commitment to guarantee made under this chapter is incontestable.

"§53706. Eligible purposes of obligations

"(a) IN GENERAL.—To be eligible for a guarantee under this chapter, an obligation must aid in any of the following:

"(1)(A) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning of a vessel (including an eligible export vessel) designed principally for research, or for commercial use—

"(i) in the coastwise or intercoastal trade;

"(ii) on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States;

"(iii) in foreign trade as defined in section 109(b) of this title;

"(iv) as an ocean thermal energy conversion facility or plantship;

"(v) as a floating drydock in the construction, reconstruction, reconditioning, or repair of vessels; or

"(vi) as an eligible export vessel in worldwide trade.

"(B) A guarantee under subparagraph (A) may not be made more than one year after delivery of the vessel (or redelivery if the vessel was reconstructed or reconditioned) unless the proceeds of the obligation are used to finance the construction, reconstruction, or reconditioning of a vessel or of facilities or equipment related to marine operations.

"(2) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a vessel owned by citizens of the United States and designed principally for research, or for commercial use in the fishing industry.

"(3) Financing the purchase, reconstruction, or reconditioning of a vessel or fishery facility—

"(A) for which an obligation was guaranteed under this chapter; and

"(B) that, under subchapter II of this chapter—

"(i) is a vessel or fishery facility for which an obligation was accelerated and paid;

"(ii) was acquired by the Federal Ship Financing Fund or successor account under section 53717 of this title; or

"(iii) was sold at foreclosure begun by the Secretary.

"(4) Financing any part of the repayment to the United States Government of any amount of a construction-differential subsidy paid for a vessel.

"(5) Refinancing an existing obligation (regardless of whether guaranteed under this chapter) issued for a purpose described in clauses (1)–(4), including a short-term obligation incurred to obtain temporary funds with the intention of refinancing.

"(6) Financing or refinancing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a fishery facility.

"(7) Financing or refinancing (including reimbursement of an obligor for expenditures previously made for) the purchase of an individual fishing quota in accordance with section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)).

"(b) NON-VESSELS TREATED AS VESSELS.—An obligation guaranteed under subsection (a)(6) or (7) shall be treated, for purposes of this chapter, in the same manner and to the same extent as an obligation that aids in financing the construction, reconstruction, reconditioning, or purchase of a vessel, except with respect to provisions that by their nature can only be applied to vessels.

"(c) PRIORITIES FOR CERTAIN VESSELS.—In guaranteeing or making a commitment to guarantee an obligation under this chapter, the Secretary shall give priority to—

"(1) a vessel that is otherwise eligible for a guarantee and is constructed with assistance under subtitle D of the Maritime Security Act of 2003 (46 U.S.C. 53101 note); and

"(2) after applying clause (1), a vessel that is otherwise eligible for a guarantee and that the Secretary of Defense determines—

"(A) is suitable for service as a naval auxiliary in time of war or national emergency; and

"(B) meets a shortfall in sealift capacity or capability.

"§53707. Findings related to obligors and operators

"(a) RESPONSIBLE OBLIGOR.—The Secretary may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds that the obligor is responsible and has the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of each vessel that will serve as security for the guarantee.

"(b) OPERATORS OF LINER VESSELS.—The Secretary of Transportation may not guarantee or make a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a liner vessel under this chapter unless the Chairman of the Federal Maritime Commission certifies that the operator of the vessel has not been found by the Commission to have committed, within the previous 5 years—

"(1) a violation of part A of subtitle IV of this title that involves unjust or unfair discriminatory treatment or undue or unreasonable prejudice or disadvantage with respect to a United States shipper, ocean transportation intermediary, ocean common carrier, or port; or

"(2) a violation of part B of subtitle IV of this title.

"(c) OPERATORS OF FISHING VESSELS.—The Secretary of Commerce may not guarantee or make a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a fishing vessel under this chapter if the operator of the vessel has been—

"(1) held liable or liable in rem for a civil penalty under section 1858 of title 16 and not paid the penalty;

"(2) found guilty of an offense under section 1859 of title 16 and not paid the assessed fine or served the assessed sentence;

"(3) held liable for a civil or criminal penalty under section 1375 of title 16 and not paid the assessed fine or served the assessed sentence; or

"(4) held liable for a civil penalty by the Coast Guard under this title or title 33 and not paid the assessed fine.

"(d) WAIVERS CONCERNING FINANCIAL CONDITION.—The Secretary shall prescribe regulations concerning circumstances under which waivers of, or exceptions to, otherwise applicable regulatory requirements concerning financial condition can be made. The regulations shall require that—

"(1) the economic soundness requirements in section 53708(a) of this title are met after the waiver of the financial condition requirement; and

"(2) the waiver shall provide for the imposition of other requirements on the obligor designed to compensate for the increased risk associated with the obligor's failure to meet regulatory requirements applicable to financial condition.

"§53708. Findings related to economic soundness

"(a) BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds that the property or project for which the obligation will be executed will be economically sound. In making that finding, the Secretary shall consider—

"(1) the need in the particular segment of the maritime industry for new or additional capacity, including any impact on existing equipment for which a guarantee under this chapter is in effect;

"(2) the market potential for employment of the vessel over the life of the guarantee;

"(3) projected revenues and expenses associated with employment of the vessel;

"(4) any charter, contract of affreightment, transportation agreement, or similar agreement or undertaking relevant to the employment of the vessel;

"(5) other relevant criteria; and

"(6) for inland waterways, the need for technical improvements, including increased fuel efficiency or improved safety.

"(b) BY SECRETARY OF COMMERCE.—The Secretary of Commerce may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds, at or prior to the time the commitment is made or the guarantee becomes effective, that—

"(1) the property or project for which the obligation will be executed will be economically sound; and

"(2) for a fishing vessel, the purpose of the financing or refinancing is consistent with—

"(A) the wise use of the fisheries resources and the development, advancement, management, conservation, and protection of the fisheries resources; or

"(B) the need for technical improvements, including increased fuel efficiency or improved safety.

"(c) USED FISHING VESSELS AND FACILITIES.—The Secretary of Commerce may not guarantee or make a commitment to guarantee an obligation under this chapter for the purchase of a used fishing vessel or used fishery facility unless the vessel or facility will be—

"(1) reconstructed or reconditioned in the United States and will contribute to the development of the United States fishing industry; or

"(2) used—

"(A) in the harvesting of fish from an underused fishery; or

"(B) for a purpose described in the definition of 'fishery facility' in section 53701 of this title with respect to an underused fishery.

"(d) INDEPENDENT ANALYSIS.—The Secretary may make a determination that aspects of an application under this chapter require independent analysis to be conducted by third party experts due to risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary. Any independent analysis conducted under this subsection shall be performed by a party chosen by the Secretary.

"(e) ADDITIONAL EQUITY BECAUSE OF INCREASED RISKS.—Notwithstanding any other provision of this chapter, the Secretary may make a determination that an application under this title requires additional equity because of increased risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary.

"§53709. Amount of obligations

"(a) IN GENERAL.—The principal of an obligation may not be guaranteed in an amount greater than the amount determined by multiplying the percentage applicable under subsection (b) by—

"(1) the amount paid by or for the account of the obligor (as determined by the Secretary, which determination shall be conclusive) for the construction, reconstruction, or reconditioning of the vessel used as security for the guarantee; or

"(2) if the obligor creates an escrow fund under section 53715 of this title, the actual cost of the vessel.

"(b) LIMITATIONS ON AMOUNT BORROWED.—

"(1) IN GENERAL.—Except as otherwise provided, the principal amount of an obligation guaranteed under this chapter may not exceed 75 percent of the actual cost or depreciated actual cost, as determined by the Secretary, of the vessel used as security for the guarantee.

"(2) CERTAIN APPROVED VESSELS.—The principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost if—

"(A) the size and speed of the vessel are approved by the Secretary;

"(B) the vessel is or would have been eligible for mortgage aid for construction under section 509 of the Merchant Marine Act, 1936, or would have been eligible except that the vessel was built with a construction-differential subsidy and the subsidy has been repaid; and

"(C) the vessel is of a type described in that section for which the minimum down payment required by that section is 12.5 percent of the cost of the vessel.

"(3) BARGES.—For a barge constructed without a construction-differential subsidy or for which the subsidy has been repaid, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost.

"(4) FISHING VESSELS AND FISHERY FACILITIES.—For a fishing vessel or fishery facility, the principal amount may not exceed 80 percent of the actual cost or depreciated actual cost. However, debt for the vessel or facility may not be placed through the Federal Financing Bank.

"(5) OTEC.—For an ocean thermal energy conversion facility or plantship constructed without a construction-differential subsidy, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost of the facility or plantship.

"(6) ELIGIBLE EXPORT VESSELS.—For an eligible export vessel, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost.

"(c) SECURITY INVOLVING MULTIPLE VESSELS.—The principal amount of an obligation having more than one vessel as security for the guarantee may not exceed the sum of the principal amounts allowable for all the vessels.

"(d) PROHIBITION ON UNIFORM PERCENTAGE LIMITATIONS.—The Secretary may not establish a percentage under any provision of subsection (b) that is to be applied uniformly to all guarantees or commitments to guarantee made under that provision.

"(e) PROHIBITION ON MINIMUM PRINCIPAL AMOUNT.—The Secretary may not establish, as a condition of eligibility for a guarantee under this chapter, a minimum principal amount for an obligation covering the reconstruction or reconditioning of a fishing vessel or fishery facility. For purposes of this chapter, the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility.

"§53710. Contents of obligations

"(a) IN GENERAL.—An obligation guaranteed under this chapter must—

"(1) provide for payments by the obligor satisfactory to the Secretary;

"(2) provide for interest (exclusive of guarantee fees and other fees) at a rate not more than the annual rate on the unpaid principal that the Secretary determines is reasonable, considering the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary;

"(3) have a maturity date satisfactory to the Secretary, but—

"(A) not more than 25 years after the date of delivery of the vessel used as security for the guarantee; or

''(B) if the vessel has been reconstructed or reconditioned, not more than the later of—

''(i) 25 years after the date of delivery of the vessel; or

''(ii) the remaining years of useful life of the vessel as determined by the Secretary; and

''(4) provide, or a related agreement must provide, that if the vessel used as security for the guarantee is a delivered vessel, the vessel shall be—

''(A) in class A–1, American Bureau of Shipping, or meet other standards acceptable to the Secretary, with all required certificates, including marine inspection certificates of the Coast Guard or, in the case of an eligible export vessel, of the appropriate national flag authorities under a treaty, convention, or other international agreement to which the United States Government is a party, and with all outstanding requirements and recommendations necessary for class retention accomplished, unless the Secretary permits a deferment of repairs necessary to meet these requirements; and

''(B) well equipped, in good repair, and in every respect seaworthy and fit for service.

''(b) PROVISIONS FOR CERTAIN PASSENGER VESSELS.—

''(1) IN GENERAL.—With the Secretary's approval, if the vessel used as security for the guarantee is a passenger vessel having the tonnage, speed, passenger accommodations, and other characteristics described in section 503 of the Merchant Marine Act, 1936, an obligation guaranteed under this chapter or a related agreement may provide that—

''(A) the only recourse by the Government against the obligor for payments under the guarantee will be repossession of the vessel and assignment of insurance claims; and

''(B) the obligor's liability for payments under the guarantee will be satisfied and discharged by the surrender of the vessel and all interest in the vessel to the Government in the condition described in paragraph (2).

''(2) SURRENDER OF VESSEL.—

''(A) IN GENERAL.—On surrender, the vessel must be—

''(i) free and clear of all liens and encumbrances except the security interest conveyed to the Secretary under this chapter;

''(ii) in class; and

''(iii) in as good order and condition (ordinary wear and tear excepted) as when acquired by the obligor.

''(B) COVERING DEFICIENCIES BY INSURANCE.—To the extent covered by insurance, a deficiency related to a requirement in subparagraph (A) may be satisfied by assignment of the obligor's insurance claims to the Government.

''(c) OTHER PROVISIONS TO PROTECT SECURITY INTERESTS.—An obligation guaranteed under this chapter and any related agreement must contain other provisions for the protection of the security interests of the Government (including acceleration, assumption, and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payment of taxes, and other matters that the Secretary may prescribe.

"§53711. Security interest

''(a) IN GENERAL.—The Secretary may guarantee an obligation under this chapter only if the obligor conveys or agrees to convey to the Secretary a security interest the Secretary considers necessary to protect the interest of the United States Government.

''(b) MULTIPLE VESSELS AND TYPES OF SECURITY.—The security interest may relate to more than one vessel and may consist of more than one type of security. If the security interest relates to more than one vessel, the obligation may have the latest maturity date allowable under section 53710(a)(3) of this title for any of the vessels used as security for the guarantee. However, the Secretary may require such payments of principal prior to maturity, with respect to all related obligations, as the Secretary considers necessary to maintain adequate security for the guarantee.

"§53712. Monitoring financial condition and operations of obligor

''(a) IN GENERAL.—The Secretary shall monitor the financial condition and operations of the obligor on a regular basis during the term of the guarantee. The Secretary shall document the results of the monitoring on an annual or quarterly basis depending on the condition of the obligor. If the Secretary determines that the financial condition of the obligor warrants additional protections to the Secretary, the Secretary shall take appropriate action under subsection (b). If the Secretary determines that the financial condition of the obligor jeopardizes its continued ability to perform its responsibilities in connection with the guarantee of an obligation by the Secretary, the Secretary shall make an immediate determination whether default should take place and whether further measures described in subsection (b) should be taken to protect the interests of the Secretary while ensuring that program objectives are met.

''(b) CONTRACT PROVISIONS TO PROTECT SECRETARY.—The Secretary shall include provisions in a loan agreement with an obligor that provides additional authority to the Secretary to take action to limit potential losses in connection with a defaulted loan or a loan that is in jeopardy due to the deteriorating financial condition of the obligor. These provisions include requirements for additional collateral or greater equity contributions that are effective upon the occurrence of verifiable conditions relating to the obligor's financial condition or the status of the vessel or shipyard project.

"§53713. Administrative fees

''(a) IN GENERAL.—The Secretary shall charge and collect from the obligor fees the Secretary considers reasonable for—

''(1) investigating an application for a guarantee;

''(2) appraising property offered as security for a guarantee;

''(3) issuing a commitment;

''(4) providing services related to an escrow fund under section 53715 of this title; and

''(5) inspecting property during construction, reconstruction, or reconditioning.

''(b) TOTAL FEE LIMITATION.—The total fees under subsection (a) may not exceed 0.5 percent of the original principal amount of the obligations to be guaranteed.

''(c) FEES FOR INDEPENDENT ANALYSIS.—The Secretary may charge and collect fees to cover the costs of independent analysis under section 53708(d) of this title. Notwithstanding section 3302 of title 31, any fee collected under this subsection shall—

''(1) be credited as an offsetting collection to the account that finances the administration of the loan guarantee program;

''(2) be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

''(3) remain available until expended.

"§53714. Guarantee fees

''(a) REGULATIONS.—Subject to this section, the Secretary shall prescribe regulations to assess a fee for guaranteeing an obligation under this chapter.

''(b) COMPUTATION OF FEE.—

''(1) IN GENERAL.—The amount of the fee for a guarantee under this chapter shall be equal to the sum of the amounts determined under paragraph (2) for the years in which the guarantee is in effect.

''(2) PRESENT VALUE FOR EACH YEAR.—The amount referred to in paragraph (1) for a year in which the guarantee is in effect is the present value of the amount calculated under paragraph (3). To determine the present value, the Secretary shall apply a discount rate determined by the Secretary of the Treasury, considering current market yields on outstanding obligations of the United States Government having periods to maturity comparable to the period to maturity for the guaranteed obligation.

''(3) CALCULATION OF AMOUNT.—The amount referred to in paragraph (2) shall be calculated by multiplying—

''(A) the estimated average unpaid principal amount of the obligation that will be outstanding during the year (excluding the average amount, other than interest, on deposit during the year in an escrow fund under section 53715 of this title); by

''(B) the fee rate set under paragraph (4).

''(4) SETTING FEE RATES.—To set the fee rate referred to in paragraph (3)(B), the Secretary shall establish a formula that—

''(A) takes into account the security provided for the guaranteed obligation; and

''(B) is a sliding scale based on the creditworthiness of the obligor, using—

''(i) the lowest allowable rate under paragraph (5) for the most creditworthy obligors; and

''(ii) the highest allowable rate under paragraph (5) for the least creditworthy obligors.

''(5) PERMISSIBLE RANGE OF RATES.—The fee rate set under paragraph (4) shall be—

''(A) for a delivered vessel or equipment, at least 0.5 percent and not more than 1 percent; and

''(B) for a vessel to be constructed, reconstructed, or reconditioned or equipment to be delivered, at least 0.25 percent and not more than 0.5 percent.

''(c) WHEN FEE COLLECTED.—A fee for the guarantee of an obligation under this chapter shall be collected not later than the date on which an amount is first paid on the obligation.

''(d) FINANCING THE FEE.—A fee paid under this section is eligible to be financed under this chapter and shall be included in the actual cost of the obligation guaranteed.

''(e) NOT REFUNDABLE.—A fee paid under this section is not refundable. However, an obligor shall receive credit for the amount paid for the remaining term of the obligation if the obligation is refinanced and guaranteed under this chapter after the refinancing.

"§53715. Escrow fund

''(a) IN GENERAL.—If the proceeds of an obligation guaranteed under this chapter are to be used to finance the construction, reconstruction, or reconditioning of a vessel that will serve as security for a guarantee under this chapter, the Secretary may accept and hold in escrow, under an escrow agreement with the obligor, a portion of the proceeds of all obligations guaranteed under this chapter whose proceeds are to be so used which is equal to—

''(1) the excess of—

''(A) the principal amount of all obligations whose proceeds are to be so used; over

''(B) 75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title, of the amount paid by or for the account of the obligor for the construction, reconstruction, or reconditioning of the vessel; plus

''(2) any interest the Secretary may require on the amount described in clause (1).

''(b) SECURITY INVOLVING BOTH UNCOMPLETED AND DELIVERED VESSELS.—If the security for the guarantee of an obligation relates both to a vessel to be constructed, reconstructed, or reconditioned and to a delivered vessel, the principal amount of the obligation shall be prorated for purposes of subsection (a) under regulations prescribed by the Secretary.

''(c) DISBURSEMENT BEFORE TERMINATION OF AGREEMENT.—

"(1) PURPOSES.—The Secretary shall disburse amounts in the escrow fund, as specified in the escrow agreement, to—

"(A) pay amounts the obligor is obligated to pay for—

"(i) the construction, reconstruction, or reconditioning of a vessel used as security for the guarantee; and

"(ii) interest on the obligations;

"(B) redeem the obligations under a refinancing guarantee under this chapter; and

"(C) pay any excess interest deposits to the obligor at times provided for in the escrow agreement.

"(2) MANNER OF PAYMENT.—If a payment becomes due under the guarantee before the termination of the escrow agreement, the amount in the escrow fund at the time the payment becomes due, including realized income not yet paid to the obligor, shall be paid into the appropriate account under section 53717 of this title. The amount shall be credited against amounts due or to become due from the obligor to the Secretary on the guaranteed obligations or, to the extent not so required, be paid to the obligor.

"(d) PAYMENTS REQUIRED BEFORE DISBURSEMENT.—

"(1) IN GENERAL.—No disbursement shall be made under subsection (c) to any person until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12.5 percent, whichever is applicable under section 53709(b) of this title, of the aggregate actual cost of the vessel, as previously approved by the Secretary. If the aggregate actual cost of the vessel has increased since the Secretary's initial approval or if it increases after the first disbursement is permitted under this subsection, then no further disbursements shall be made under subsection (c) until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12.5 percent, as applicable, of the increase, as determined by the Secretary, in the aggregate actual cost of the vessel. This paragraph does not require the Secretary to consent to finance any increase in actual cost unless the Secretary determines that such an increase in the obligation meets all the terms and conditions of this chapter or other applicable law.

"(2) DOCUMENTED PROOF OF PROGRESS REQUIREMENT.—The Secretary shall, by regulation, establish a transparent, independent, and risk-based process for verifying and documenting the progress of projects under construction before disbursing guaranteed loan funds. At a minimum, the process shall require documented proof of progress in connection with the construction, reconstruction, or reconditioning of a vessel or vessels before disbursements are made from the escrow fund. The Secretary may require that the obligor provide a certificate from an independent party certifying that the requisite progress in construction, reconstruction, or reconditioning has taken place.

"(e) DISBURSEMENT ON TERMINATION OF AGREEMENT.—

"(1) IN GENERAL.—If a payment has not become due under the guarantee before the termination of the escrow agreement, the balance of the escrow fund at the time of termination shall be disbursed to—

"(A) prepay the excess of—

"(i) the principal amount of all obligations whose proceeds are to be used to finance the construction, reconstruction, or reconditioning of the vessel used or to be used as security for the guarantee; over

"(ii) 75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title, of the actual cost of the vessel to the extent paid; and

"(B) pay interest on that prepaid amount of principal.

"(2) REMAINING BALANCE.—Any remaining balance of the escrow fund shall be paid to the obligor.

"(f) INVESTMENT.—The Secretary may invest and reinvest any part of an escrow fund in obligations of the United States Government with maturities such that the escrow fund will be available as required for purposes of the escrow agreement. Investment income shall be paid to the obligor when received.

"(g) TERMS TO PROTECT GOVERNMENT.—The escrow agreement shall contain other terms the Secretary considers necessary to protect fully the interests of the Government.

"§53716. Deposit fund

"(a) IN GENERAL.—There is a deposit fund in the Treasury for purposes of this section. The Secretary, in accordance with an agreement under subsection (b), may deposit into and hold in the fund cash belonging to an obligor to serve as collateral for a guarantee made under this chapter with respect to the obligor.

"(b) AGREEMENT.—The Secretary and an obligor shall make a reserve fund or other collateral account agreement to govern the deposit, withdrawal, retention, use, and reinvestment of cash of the obligor held in the fund. The agreement shall contain—

"(1) terms and conditions required by this section;

"(2) terms that grant to the United States Government a security interest in all amounts deposited into the fund; and

"(3) any additional terms considered by the Secretary to be necessary to protect fully the interests of the Government.

"(c) INVESTMENT.—The Secretary may invest and reinvest any part of the amounts in the fund in obligations of the Government with maturities such that amounts in the fund will be available as required for purposes of the agreement under subsection (b). Cash balances in the fund in excess of current requirements shall be maintained in a form of uninvested funds, and the Secretary of the Treasury shall pay interest on these funds.

"(d) WITHDRAWALS.—

"(1) IN GENERAL.—Cash deposited into the fund may not be withdrawn without the consent of the Secretary.

"(2) USE OF INCOME.—Subject to paragraph (3), the Secretary may pay any income earned on cash of an obligor deposited into the fund in accordance with the agreement with the obligor under subsection (b).

"(3) RETENTION AGAINST DEFAULT.—The Secretary may retain and offset any or all of the cash of an obligor in the fund, and any income realized thereon, as part of the Secretary's recovery against the obligor in case of a default by the obligor on an obligation.

"§53717. Management of funds in the Treasury

"(a) DEFINITION.—In this section, the term 'FCRA' means the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

"(b) LOAN GUARANTEES BY SECRETARY OF TRANSPORTATION.—

"(1) WHEN NOT SUBJECT TO FCRA.—The Secretary of Transportation shall account for payments and disbursements involving obligations guaranteed under this chapter and not subject to FCRA in an account in the Treasury entitled the Federal Ship Financing Fund Liquidating Account (a liquidating account as defined in FCRA).

"(2) WHEN SUBJECT TO FCRA.—The Secretary of Transportation shall account for payments and disbursements involving obligations guaranteed under this chapter and subject to FCRA in a separate account in the Treasury entitled the Federal Ship Financing Guaranteed Loan Financing Account (a financing account as defined in FCRA).

"(c) LOAN GUARANTEES BY SECRETARY OF COMMERCE.—

"(1) WHEN NOT SUBJECT TO FCRA.—The Secretary of Commerce shall account for payments and disbursements involving obligations guaranteed under this chapter and not subject to FCRA in a separate account in the Treasury established for this purpose.

"(2) WHEN SUBJECT TO FCRA.—The Secretary of Commerce shall account for payments and disbursements involving obligations guaranteed under this chapter and subject to FCRA in a separate account in the Treasury established for this purpose.

"(d) DIRECT LOANS BY SECRETARY OF COMMERCE.—The Secretary of Commerce shall account for payments and disbursements involving direct loans made under this chapter in a separate account in the Treasury established for this purpose.

"§53718. Annual report to Congress

"The Secretary of Transportation shall report to Congress annually on the loan guarantee program under this chapter. Each report shall include—

"(1) the size, in dollars, of the portfolio of loans guaranteed;

"(2) the size, in dollars, of projects in the portfolio facing financial difficulties;

"(3) the number and type of projects covered;

"(4) a profile of pending loan applications;

"(5) the amount of appropriations available for new guarantees;

"(6) a profile of each project approved since the last report; and

"(7) a profile of any defaults since the last report.

"SUBCHAPTER II—DEFAULT PROVISIONS

"§53721. Rights of obligee

"(a) DEMANDS BY OBLIGEES.—Except as provided in subsection (c), if an obligor has continued in default for 30 days in the payment of principal or interest on an obligation guaranteed under this chapter, the obligee or the obligee's agent may demand that the Secretary pay the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. The demand must be made within the earlier of—

"(1) a period that may be specified in the guarantee or a related agreement; or

"(2) 90 days from the date of the default.

"(b) PAYMENTS BY SECRETARY.—

"(1) IN GENERAL.—If a demand is made under subsection (a), the Secretary shall pay to the obligee or the obligee's agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

"(A) a period that may be specified in the guarantee or a related agreement; or

"(B) 30 days from the date of the demand.

"(2) IF NO EXISTING DEFAULT.—The Secretary is not required to make payment under this subsection if, within the appropriate period under paragraph (1), the Secretary finds that the obligor was not in default or that the default was remedied before the demand.

"(c) ASSUMPTION OF RIGHTS AND OBLIGATIONS BEFORE DEMAND.—An obligee or the obligee's agent may not demand payment under this section if the Secretary, before the demand and on terms that may be provided in the obligation or a related agreement, has assumed the obligor's rights and duties under the obligation and any related agreement and made any payment in default. However, the guarantee of the obligation remains in effect after the Secretary's assumption.

"§53722. Actions by Secretary

"(a) GENERAL AUTHORITY.—On default under an obligation or related agreement between the

Secretary and the obligor, the Secretary, on terms that may be provided in the obligation or agreement, may—

"(1) assume the obligor's rights and duties under the obligation or agreement, make any payment in default, and notify the obligee or the obligee's agent of the default and the Secretary's assumption; or

"(2) notify the obligee or the obligee's agent of the default.

"(b) DEMANDS BY OBLIGEES.—

"(1) DEMAND.—If the Secretary proceeds under subsection (a)(2), the obligee or the obligee's agent may demand that the Secretary pay the unpaid principal amount of the obligation and the unpaid interest on the obligation. The demand must be made within the earlier of—

"(A) a period that may be specified in the guarantee or a related agreement; or

"(B) 60 days from the date of the Secretary's notice.

"(2) PAYMENT.—If a demand is made under paragraph (1), the Secretary shall pay to the obligee or the obligee's agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

"(A) a period that may be specified in the guarantee or a related agreement; or

"(B) 30 days from the date of the demand.

"(c) CONTINUED EFFECT OF GUARANTEE.—A guarantee of an obligation remains in effect after an assumption of the obligation by the Secretary.

"(d) ADDITIONAL RESPONSES.—If there is a default on an obligation, the Secretary shall conduct operations under this chapter in a manner that—

"(1) maximizes the net present value return from the sale or disposition of assets associated with the obligation, including prompt referral to the Attorney General for collection as appropriate;

"(2) minimizes the amount of any loss realized in the resolution of the guarantee;

"(3) ensures adequate competition and fair and consistent treatment of offerors; and

"(4) requires appraisal of assets by an independent appraiser.

"§53723. Payments by Secretary and issuance of obligations

"(a) CASH PAYMENT.—Amounts required to be paid by the Secretary under section 53721 or 53722 of this title shall be paid in cash.

"(b) ISSUANCE OF OBLIGATIONS.—If amounts in the appropriate account under section 53717 of this title are not sufficient to make a payment required under section 53721 or 53722 of this title, the Secretary may issue obligations to the Secretary of the Treasury. The Secretary, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations, considering the current average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

"(c) PURCHASE OF OBLIGATIONS.—The Secretary of the Treasury shall purchase the obligations issued under this section. To purchase the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include the purchase of obligations under this subsection. The Secretary of the Treasury may sell obligations purchased under this section. A redemption, purchase, or sale of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

"(d) DEPOSITS AND REDEMPTIONS.—The Secretary shall deposit amounts borrowed under this section in the appropriate account under section 53717 of this title and make redemptions of the obligations from that account.

"§53724. Rights to secured property

"(a) ACQUISITION OF SECURITY RIGHTS.—When the Secretary makes a payment on, or assumes, an obligation under section 53721 or 53722 of this title, the Secretary acquires the rights under the security agreement with the obligor in the security held by the Secretary to guarantee the obligation.

"(b) USE AND DISPOSITION OF SECURED PROPERTY.—Notwithstanding any other law relating to the acquisition, handling, or disposal of property by the United States Government, the Secretary has the right, in the Secretary's discretion, to complete, reconstruct, recondition, renovate, repair, maintain, operate, charter, or sell any property acquired under a security agreement with an obligor, or to place a vessel so acquired in the National Defense Reserve Fleet. The terms of a sale under this subsection shall be as approved by the Secretary.

"§53725. Actions against obligor

"(a) IN GENERAL.—For a default under a guaranteed obligation or related agreement, the Secretary may take any action against the obligor or another liable party that the Secretary considers necessary to protect the interests of the United States Government. A civil action may be brought in the name of the Government or the obligee. The obligee shall make available to the Government all records and evidence necessary to prosecute the action.

"(b) TITLE, POSSESSION, AND PURCHASE.—

"(1) IN GENERAL.—The Secretary may—

"(A) accept a conveyance of title to and possession of property from the obligor or another party liable to the Secretary; and

"(B) purchase the property for an amount not greater than the unpaid principal amount of the obligation and interest thereon.

"(2) PAYMENT OF EXCESS.—If, through the sale of property, the Secretary receives an amount of cash greater than the unpaid principal amount of the obligation, the unpaid interest on the obligation, and the expenses of collecting those amounts, the Secretary shall pay the excess to the obligor.

"SUBCHAPTER III—PARTICULAR PROJECTS

"§53731. Commercial demonstration ocean thermal energy conversion facilities and plantships

"(a) IN GENERAL.—Under subchapter I of this chapter, the Secretary may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning of a commercial demonstration ocean thermal energy conversion facility or plantship. This section may be used to guarantee obligations for a total of not more than 5 separate facilities and plantships or a demonstrated 400 megawatt capacity, whichever comes first.

"(b) APPLICABILITY OF OTHER PROVISIONS.—Except as otherwise provided in this section, a guarantee or commitment to guarantee under this section is subject to all the provisions applicable to a guarantee or commitment to guarantee under subchapter I of this chapter.

"(c) ECONOMIC SOUNDNESS.—The required determination of economic soundness under section 53708 of this title applies to a guarantee or commitment to guarantee for that portion of a facility or plantship not to be supported with appropriated Federal funds.

"(d) REASONABLENESS OF RISK.—A guarantee or commitment to guarantee may not be made under this section unless the Secretary of Energy, in consultation with the Secretary, certifies to the Secretary that, for the facility or plantship for which the guarantee or commitment to guarantee is sought, there is sufficient guarantee of performance and payment to lower the risk to the United States Government to a reasonable level. In deciding whether to issue such a certification, the Secretary of Energy shall consider—

"(1) the successful demonstration of the technology to be used in the facility at a scale sufficient to establish the likelihood of technical and economic viability in the proposed market; and

"(2) the need of the United States to develop new and renewable sources of energy and the benefits to be realized from the construction and successful operation of the facility or plantship.

"(e) AMOUNT OF OBLIGATION.—The total principal amount of an obligation guaranteed under this section may not exceed 87.5 percent of—

"(1) the actual cost or depreciated actual cost of the facility or plantship; or

"(2) if the facility or plantship is supported with appropriated Federal funds, the total principal amount of that portion of the actual cost or depreciated actual cost for which the obligor is obligated to secure financing under the agreement between the obligor and the Department of Energy or other Federal agency.

"(f) OTEC DEMONSTRATION FUND.—

"(1) IN GENERAL.—There is a special subaccount, known as the OTEC Demonstration Fund, in the account established under section 53717(b)(1) of this title.

"(2) USE AND OPERATION.—The OTEC Demonstration Fund shall be used for obligation guarantees authorized under this section that do not qualify under subchapter I of this chapter. Except as otherwise provided in this section, the OTEC Demonstration Fund shall be operated in the same manner as the parent account. However—

"(A) amounts received by the Secretary under subchapter I of this chapter related to guarantees or commitments to guarantee made under this section shall be deposited only in the OTEC Demonstration Fund; and

"(B) when obligations issued by the Secretary under section 53723 of this title related to the OTEC Demonstration Fund are outstanding, any amount received by the Secretary under subchapter I of this chapter related to ocean thermal energy conversion facilities or plantships shall be deposited in the OTEC Demonstration Fund.

"(3) TRANSFERS.—Assets in the OTEC Demonstration Fund may be transferred to the parent account when and to the extent the balance in the OTEC Demonstration Fund exceeds the total guarantees or commitments to guarantee made under this section then outstanding, plus obligations issued by the Secretary under section 53723 of this title related to the OTEC Demonstration Fund.

"(4) LIABILITY.—The parent account is not liable for a guarantee or commitment to guarantee made under this section.

"(5) MAXIMUM UNPAID PRINCIPAL AMOUNT.—The total unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time may not exceed $1,650,000,000.

"(g) ISSUANCE AND PAYMENT OF OBLIGATIONS.—Section 53723 of this title applies to the OTEC Demonstration Fund. However, obligations issued by the Secretary under that section related to the OTEC Demonstration Fund shall be payable only from proceeds realized by the OTEC Demonstration Fund.

"(h) TAXATION OF INTEREST.—Interest on an obligation guaranteed under this section shall be included in gross income under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

"§53732. Eligible export vessels

"(a) APPLICABLE TERMS.—The Secretary may guarantee an obligation for an eligible export vessel in accordance with—

"(1) the terms applicable under this chapter for vessels documented under the laws of the United States; or

"(2) other terms the Secretary determines are more favorable than those terms and compatible with export credit terms offered by foreign governments for the sale of vessels built in foreign shipyards.

"(b) INTERAGENCY COUNCIL.—

"(1) ESTABLISHMENT.—There is an interagency council to carry out this section.

"(2) COMPOSITION.—The council is composed of the following individuals or their designees:

"(A) The Secretary of Transportation, who is the chairman of the council.

"(B) The Secretary of the Treasury.

"(C) The Secretary of State.

"(D) The Assistant to the President for Economic Policy.

"(E) The United States Trade Representative.

"(F) The President and Chairman of the Export-Import Bank of the United States.

"(3) FUNCTIONS.—The council shall—

"(A) obtain information on shipbuilding loan guarantees, direct and indirect subsidies, and other favorable treatment of shipyards provided by foreign governments to shipyards in competition with United States shipyards;

"(B) consult regularly with United States shipbuilders to obtain the essential information about international shipbuilding competition on which to set terms for loan guarantees under subsection (a)(2); and

"(C) provide guidance to the Secretary in establishing terms for loan guarantees under subsection (a)(2).

"(4) ANNUAL REPORT.—Not later than January 31 of each year, the Secretary shall submit to Congress a report on activities of the Secretary under this section during the preceding year. The report shall include—

"(A) documentation of sources of information about assistance by governments of other countries to shipyards in those countries; and

"(B) a summary of recommendations made to the Secretary during the preceding year about applications submitted to the Secretary during that year for loan guarantees to construct eligible export vessels.

"(c) REQUIRED FINDINGS.—

"(1) BENEFIT TO SHIPBUILDING INDUSTRY.—The Secretary may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the Secretary finds that the construction, reconstruction, or reconditioning of the vessel will aid in the transition of United States shipyards to commercial activities or will preserve shipbuilding assets that would be essential in time of war or national emergency.

"(2) PRIORITY OF DOCUMENTED VESSELS.—The Secretary may not make a commitment to guarantee an obligation for an eligible export vessel unless the Secretary determines that making the commitment will not result in denial of an economically sound application for a commitment to guarantee an obligation for a vessel documented under the laws of the United States and operating in the domestic or foreign commerce of the United States. The Secretary has sole discretion in making the determination. In making the determination, the Secretary shall consider—

"(A) the status and economic soundness of pending applications for commitments to guarantee obligations for vessels documented under the laws of the United States that are operating or will be operating in the domestic or foreign commerce of the United States; and

"(B) the amount of guarantee authority available.

"(d) RESTRICTION ON TRANSFER OF VESSEL.—The Secretary may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the owner of the vessel agrees with the Secretary that the vessel will not be transferred to a country designated by the Secretary of Defense as a country whose interests are hostile to the interests of the United States.

"(e) REVIEW BY SECRETARY OF DEFENSE.—

"(1) NOTIFICATION.—The Secretary shall promptly notify the Secretary of Defense of the receipt of an application for a loan guarantee for an eligible export vessel.

"(2) DISAPPROVAL.—The Secretary of Defense, within 30 days after receiving the notice, may disapprove the guarantee based on an assessment of the potential use of the vessel in a manner that may harm the national security interests of the United States. The Secretary may not disapprove a guarantee solely because of the type of vessel to be constructed.

"(3) DELEGATION.—The authority of the Secretary of Defense to disapprove a guarantee under this subsection may be delegated only to a civilian officer of the Department of Defense appointed by the President by and with the advice and consent of the Senate.

"(4) PROHIBITION.—The Secretary may not make a loan guarantee disapproved by the Secretary of Defense under this subsection.

"(f) EXPIRATION OF AUTHORITY.—The Secretary may not issue a commitment to guarantee an obligation for an eligible export vessel under this chapter after the last date on which such a commitment may be issued under any treaty or convention entered into after November 30, 1993, that prohibits guarantee of such an obligation.

"§53733. Shipyard modernization and improvement

"(a) DEFINITIONS.—In this section:

"(1) ADVANCED SHIPBUILDING TECHNOLOGY.—The term 'advanced shipbuilding technology' includes—

"(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving shipbuilding and related industrial production that advance the state-of-the-art; and

"(B) novel techniques and processes designed to improve shipbuilding quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

"(2) GENERAL SHIPYARD FACILITY.—The term 'general shipyard facility' means—

"(A) for operations on land—

"(i) a structure or appurtenance thereto designed for the construction, reconstruction, repair, rehabilitation, or refurbishment of a vessel, including a graving dock, building way, ship lift, wharf, or pier crane;

"(ii) the land necessary for the structure or appurtenance; and

"(iii) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in subclause (i); and

"(B) for operations not on land, a vessel, floating drydock, or barge built in the United States and used for, equipped to be used for, or of a type normally used for, performing a function referred to in subclause (A)(i).

"(3) MODERN SHIPBUILDING TECHNOLOGY.—The term 'modern shipbuilding technology' means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of shipyards.

"(b) GENERAL AUTHORITY.—Under subchapter I of this chapter, the Secretary may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation for advanced shipbuilding technology and modern shipbuilding technology of a general shipyard facility in the United States. Only a private shipyard is eligible to receive a guarantee.

"(c) APPLICABILITY OF OTHER PROVISIONS.—Except as otherwise provided in this section, a guarantee or commitment to guarantee under this section is subject to all the provisions applicable to a guarantee or commitment to guarantee under subchapter I of this chapter.

"(d) AMOUNT OF OBLIGATION.—The principal amount of an obligation guaranteed under this chapter may not exceed 87.5 percent of the actual cost of the advanced shipbuilding technology or modern shipbuilding technology.

"(e) TRANSFER OF AMOUNTS.—The Secretary may accept the transfer of amounts from a department, agency, or instrumentality of the United States Government and may use those amounts to cover the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of making guarantees or commitments to guarantee under this section.

"§53734. Replacement of vessels because of changes in operating standards

"(a) GENERAL AUTHORITY.—Notwithstanding any other provision of this chapter, the Secretary, on terms the Secretary may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing or refinancing (including reimbursement of an obligor for expenditures previously made for) a contract for the construction or reconstruction of a vessel if—

"(1) the vessel is designed and to be used for commercial use in coastwise, intercoastal, or foreign trade;

"(2) the construction or reconstruction is necessary to replace a vessel that cannot continue to be operated because of a change required by law in the standards for the operation of vessels, and the applicant for the guarantee or commitment would not otherwise legally be able to continue operating vessels in the trades in which the applicant operated vessels before the change;

"(3) the applicant is presently engaged in transporting cargoes in vessels of the type and class that will be constructed or reconstructed under this section and agrees to employ vessels constructed or reconstructed under this section as replacements only for vessels made obsolete by the change in operating standards;

"(4) the capacity of the vessels to be constructed or reconstructed under this section will not increase the cargo carrying capacity of the vessels being replaced;

"(5) the Secretary has not determined that the market demand for the vessel over its useful life will diminish so as to make granting the guarantee fiduciarily imprudent;

"(6) the vessel, if to be reconstructed, will have a useful life of at least 15 years after the reconstruction; and

"(7) the Secretary has considered the criteria specified in section 53708(a)(3)–(5) of this title.

"(b) TERM AND AMOUNT OF OBLIGATION.—

"(1) TERM.—The term of an obligation guaranteed under this section may not exceed 25 years.

"(2) AMOUNT.—The amount of an obligation guaranteed under this section may not exceed 87.5 percent of the actual cost or depreciated actual cost to the applicant for the construction or reconstruction of the vessel. The Secretary may not establish a percentage under this paragraph that is to be applied uniformly to all guarantees or commitments to guarantee made under this section.

‘‘(c) APPLICABILITY OF OTHER PROVISIONS.—A guarantee or commitment to guarantee under this section is also subject to sections 53701, 53702(a), 53704, 53705, 53707(a), 53708(d) and (e), 53709(a), 53710(a)(1), (2), and (4) and (c), 53711(a), 53713, 53714, 53717, and 53721–53725 of this title.

‘‘(d) SECURITY AGAINST DEFAULT.—The Secretary shall require by regulation that an applicant under this section provide adequate security against default.

‘‘(e) GUARANTEE FEES.—The Secretary may establish a fee for the guarantee of an obligation under this section that is in addition to the fee established under section 53714 of this title. The fee may be—

‘‘(1) an annual fee of not more than an additional 1 percent added to the fee established under section 53714 of this title; or

‘‘(2) a fee based on the amount of the obligation versus the percentage of the obligor's fleet being replaced by vessels constructed or reconstructed under this section.

“§ 53735. Fisheries financing and capacity reduction

‘‘(a) DEFINITION.—In this section, the term ‘program’ means a fishing capacity reduction program established under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a).

‘‘(b) GUARANTEE AUTHORITY.—The Secretary may guarantee the repayment of debt obligations issued by entities under this section. Debt obligations to be guaranteed may be issued by any entity that has been approved by the Secretary and has agreed with the Secretary to conditions the Secretary considers necessary for this section to achieve the objective of the program and to protect the interest of the United States.

‘‘(c) REQUIREMENTS OF OBLIGATIONS.—A debt obligation guaranteed under this section shall—

‘‘(1) be treated in the same manner and to the same extent as other obligations guaranteed under this chapter, except with respect to provisions of this chapter that by their nature cannot be applied to obligations guaranteed under this section;

‘‘(2) have the fishing fees established under the program paid into a separate subaccount of the fishing capacity reduction fund established under this section;

‘‘(3) not exceed $100,000,000 in an unpaid principal amount outstanding at any one time for a program;

‘‘(4) have such maturity (not to exceed 20 years), take such form, and contain such conditions as the Secretary determines necessary for the program to which they relate;

‘‘(5) have as the exclusive source of repayment (subject to the second sentence of subsection (d)(2)) and as the exclusive payment security, the fishing fees established under the program; and

‘‘(6) at the discretion of the Secretary be issued in the public market or sold to the Federal Financing Bank.

‘‘(d) FISHING CAPACITY REDUCTION FUND.—

‘‘(1) IN GENERAL.—There is a separate account in the Treasury, known as the Fishing Capacity Reduction Fund. Within the Fund, at least one subaccount shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

‘‘(2) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available, without appropriation or fiscal year limitation, to the Secretary to pay the cost of the program, including payments to financial institutions to pay debt obligations incurred by entities under this section. Funds available for this purpose from other amounts available for the program may also be used to pay those debt obligations.

‘‘(3) INVESTMENT.—Amounts in the Fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States Government.

‘‘(e) REGULATIONS.—The Secretary shall prescribe regulations the Secretary considers necessary to carry out this section.

“CHAPTER 539—WAR RISK INSURANCE

‘‘Sec.
‘‘53901. Definitions.
‘‘53902. Authority to provide insurance.
‘‘53903. Insurable interests.
‘‘53904. Liability insurance for persons involved in war or defense efforts.
‘‘53905. Agency insurance.
‘‘53906. Hull insurance valuation.
‘‘53907. Reinsurance.
‘‘53908. Additional insurance privately obtained.
‘‘53909. War risk insurance revolving fund.
‘‘53910. Administrative.
‘‘53911. Civil actions for losses.
‘‘53912. Expiration date.

“§ 53901. Definitions

‘‘In this chapter:

‘‘(1) AMERICAN VESSEL.—The term ‘American vessel’ includes—

‘‘(A) a documented vessel with a registry or coastwise endorsement under chapter 121 of this title;

‘‘(B) an undocumented vessel owned or chartered by or made available to the United States Government; and

‘‘(C) a tug, barge, or other watercraft (whether or not documented) owned by a citizen of the United States and used in essential water transportation or in the fisheries, except only for sport fishing.

‘‘(2) CARGO.—The term ‘cargo’ includes a loaded or empty container on a vessel.

‘‘(3) TRANSPORTATION IN THE WATERBORNE COMMERCE OF THE UNITED STATES.—The term ‘transportation in the waterborne commerce of the United States’ includes the operation of a vessel in the fisheries, except only for sport fishing.

‘‘(4) WAR RISKS.—The term ‘war risks’ includes, to the extent the Secretary of Transportation determines—

‘‘(A) any part of a loss excluded from marine insurance coverage under a ‘free of capture or seizure’ clause or analogous clause; and

‘‘(B) any other loss from a hostile act, including confiscation, expropriation, nationalization, or deprivation.

“§ 53902. Authority to provide insurance

‘‘(a) IN GENERAL.—With the approval of the President, and after such consultation with interested agencies of United States Government as the President may require, the Secretary of Transportation may provide insurance and reinsurance against loss or damage from war risks as provided by this chapter whenever it appears to the Secretary that insurance adequate for the needs of the waterborne commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do insurance business in a State of the United States.

‘‘(b) CONSIDERATION OF RISK.—Insurance or reinsurance under this chapter shall be based, insofar as practicable, on consideration of the risk involved.

‘‘(c) AVAILABILITY OF VESSEL DURING WAR OR NATIONAL EMERGENCY.—Insurance or reinsurance for a vessel may be provided under this chapter only on the condition that the vessel will be available to the Government in time of war or national emergency.

“§ 53903. Insurable interests

‘‘(a) IN GENERAL.—The Secretary of Transportation may provide insurance and reinsurance under this chapter for—

‘‘(1) an American vessel, including a vessel under construction;

‘‘(2) a foreign vessel—

‘‘(A) owned by a citizen of the United States; or

‘‘(B) engaged in transportation in the waterborne commerce of the United States or in such other transportation by water or such other services as the Secretary considers to be in the interest of the national defense or national economy of the United States, when so engaged;

‘‘(3) cargo—

‘‘(A) shipped or to be shipped on a vessel insurable under this section, including by express or registered mail;

‘‘(B) owned by a citizen or resident of the United States;

‘‘(C) imported to or exported from the United States, or sold or purchased by a citizen or resident of the United States, under a contract of sale or purchase the terms of which provide that the risk of loss by war risks or the obligation to provide insurance against war risks is on a citizen or resident of the United States; or

‘‘(D) shipped between ports in the United States;

‘‘(4) disbursements, including advances to masters and general average disbursements, and freight and passage money of a vessel insurable under this section;

‘‘(5) personal effects of an individual on a vessel insurable under this section;

‘‘(6) loss of life, injury, or detention by an enemy of the United States after capture, with respect to an individual on a vessel insurable under this section; and

‘‘(7) statutory or contractual obligations or other liabilities of a vessel insurable under this section or of the owner or charterer of such a vessel, of a nature customarily covered by insurance.

‘‘(b) CONSIDERATIONS FOR FOREIGN VESSELS.—In determining whether to provide insurance or reinsurance for a foreign vessel, the Secretary shall consider the characteristics, employment, and general management of the vessel by the owner or charterer.

‘‘(c) NON-WAR RISKS.—Insurance of a risk under subsection (a)(5)–(7), insofar as it involves a liability related to an individual on the vessel, may include risks other than war risks to the extent the Secretary considers advisable.

“§ 53904. Liability insurance for persons involved in war or defense efforts

‘‘(a) IN GENERAL.—The Secretary of Transportation may provide insurance under this chapter against legal liability that a person may incur in providing services or facilities for a vessel if, in the opinion of the Secretary, the insurance—

‘‘(1) is required in prosecuting a war or for national defense; and

‘‘(2) cannot be obtained at reasonable rates or on reasonable terms and conditions from approved companies authorized to do insurance business in a State of the United States.

‘‘(b) LIMITATIONS.—Employer liability insurance and worker compensation insurance against legal liability to employees may not be provided under this section.

“§ 53905. Agency insurance

‘‘(a) IN GENERAL.—With the approval of the President, an agency of the United States Government may obtain insurance provided for by this chapter from the Secretary of Transportation, except as provided in sections 17302 and 17303 of title 40.

‘‘(b) PREMIUM WAIVERS.—With the approval of the President, the Secretary of Transportation may provide insurance under this chapter at the request of the Secretary of Defense and other agencies the President may prescribe, without payment of an insurance premium if the Secretary of Defense or agency agrees to indemnify the Secretary of Transportation against loss covered by the insurance. The Secretary of Defense and agencies may make such an indemnity agreement.

"(c) PRESIDENTIAL APPROVAL.—The signature of the President (or an official designated by the President) on the agreement shall be treated as the approval required by section 53902(a) of this title.

"§53906. Hull insurance valuation

"(a) STATED VALUATION.—The valuation in a hull insurance policy for actual or constructive total loss of the insured vessel shall be a stated valuation determined by the Secretary of Transportation. The stated valuation—

"(1) shall exclude national defense features paid for by the United States Government; and

"(2) may not exceed the amount that would be payable if the ownership of the vessel had been requisitioned under chapter 563 of this title at the time the insurance attached under the policy.

"(b) REJECTING STATED VALUATION.—Within 60 days after the insurance attaches under a policy referred to in subsection (a) or within 60 days after the Secretary determines the valuation, whichever is later, the insured may reject the valuation and pay, at the rate provided in the policy, premiums based on the asserted valuation the insured specifies at the time of rejection. However, the asserted valuation is not binding on the Government in any subsequent action on the policy.

"(c) AMOUNT OF CLAIM.—If a vessel is actually or constructively totally lost and the insured under a policy referred to in subsection (a) has not rejected the stated valuation determined by the Secretary, the amount of a claim adjusted, compromised, settled, adjudged, or paid may not exceed the stated valuation. However, if the insured has rejected the valuation, the insured—

"(1) shall be paid, as a tentative advance only, 75 percent of the stated valuation; and

"(2) may bring a civil action against the Government in a court having jurisdiction of the claim to recover a valuation equal to the just compensation the court determines would have been payable if the ownership of the vessel had been requisitioned under chapter 563 of this title at the time the insurance attached under the policy.

"(d) ADJUSTING PREMIUMS.—If a court makes a determination as provided under subsection (c)(2), premiums paid under the policy shall be adjusted based on the court's determination and the rates provided for in the policy.

"§53907. Reinsurance

"(a) IN GENERAL.—To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may provide reinsurance to a company authorized to do insurance business in a State of the United States. The Secretary may obtain reinsurance from such a company for any insurance provided by the Secretary under this chapter.

"(b) RATES.—The Secretary may not provide reinsurance at rates less than, nor obtain reinsurance at rates more than, the rates established by the Secretary on the same or similar risks or the rates charged by the insurance company for the insurance reinsured, whichever is more advantageous to the Secretary. However, the Secretary may provide an allowance to the insurance company for the costs of services and facilities the company provides, in an amount the Secretary considers reasonable according to good business practice. The allowance to the company may not include any amount for soliciting or stimulating insurance business.

"§53908. Additional insurance privately obtained

"With the approval of the Secretary of Transportation, a person having an insurable interest in a vessel may obtain insurance on the vessel with other underwriting agents in addition to the insurance with the Secretary. The Secretary is not entitled to the benefit of the additional insurance.

"§53909. War risk insurance revolving fund

"(a) IN GENERAL.—There is a war risk insurance revolving fund in the Treasury.

"(b) DEPOSITS.—There shall be deposited in the fund amounts appropriated to carry out this chapter and amounts received in carrying out this chapter.

"(c) PAYMENTS.—There shall be paid from the fund amounts for return premiums, losses, settlements, judgments, and all liabilities incurred by the United States Government under this chapter.

"(d) INVESTMENT.—On request of the Secretary of Transportation, the Secretary of the Treasury may invest or reinvest any part of the fund in securities of the Government or securities whose principal and interest are guaranteed by the Government. Interest and benefits from the securities shall be deposited in the fund.

"§53910. Administrative

"(a) ACCORDANCE WITH COMMERCIAL PRACTICE.—In carrying out this chapter, the Secretary of Transportation may act in accordance with commercial practice in the marine insurance business.

"(b) REGULATIONS.—The Secretary may prescribe regulations the Secretary considers appropriate to carry out this chapter.

"(c) POLICIES, RATES, AND ANNUAL FEES.—The Secretary may prescribe and change forms and policies, and fix and change the amounts insured and rates of premium, under this chapter.

"(d) ANNUAL FEES.—The Secretary may charge and collect an annual fee in an amount calculated to cover the expenses of processing applications for insurance, employing underwriting agents, and appointing experts under this chapter.

"(e) PAYMENT OF CLAIMS AND JUDGMENTS.—The Secretary may settle and pay claims, and pay judgments against the United States Government, related to insurance under this chapter.

"(f) UNDERWRITING AGENTS.—

"(1) IN GENERAL.—The Secretary may, and when the Secretary finds it practical to do so shall, employ a domestic company or group of domestic companies, authorized to do marine insurance business in a State of the United States, to act as underwriting agent for the Secretary. The services of an underwriting agent may be used in adjusting claims, but a claim may not be paid until approved by the Secretary.

"(2) COMPENSATION.—The Secretary may allow the company or group of companies reasonable compensation for services as the underwriting agent. The compensation may include an allowance for expenses reasonably incurred by the agent, but may not include any amount for soliciting or stimulating business.

"(g) FEES FOR ARRANGING INSURANCE.—Except as provided in subsection (f)(2), the Secretary may not pay an insurance broker or other person acting in a similar intermediary capacity a fee or other consideration for participating in arranging insurance when the Secretary directly insures any of the risk.

"(h) EMPLOYMENT OF MARINE INSURANCE EXPERTS.—The Secretary, without regard to the laws and regulations on the employment of Federal employees, may appoint and prescribe the duties of experts in marine insurance as the Secretary considers necessary to carry out this chapter.

"(i) SERVICES OF OTHER GOVERNMENT AGENCIES.—With the consent of another Government agency, the Secretary may use information, services, facilities, officers, and employees of the agency in carrying out this chapter.

"(j) VESSEL LOCATION REPORTING.—The Secretary may prescribe by regulation vessel location reporting requirements for a vessel insured under this chapter.

"§53911. Civil actions for losses

"(a) IN GENERAL.—If there is a disagreement about a loss insured under this chapter, a civil action in admiralty may be brought against the United States Government in the district court of the United States for the district in which the plaintiff or the plaintiff's agent resides. If the plaintiff has no residence in the United States, the action may be brought in the United States District Court for the District of Columbia or in the district court for any district in which the Attorney General agrees to accept service. Any person who may have an interest in the insurance may be made a party, either initially or on the motion of either party.

"(b) EXCLUSIVE REMEDY.—A civil action against the Government under this section is exclusive of any other action by reason of the same subject matter against an officer, employee, or agent employed or retained by the Government under this chapter.

"(c) PROCEDURE.—A civil action under this section shall be heard and determined under chapter 309 of this title.

"(d) TOLLING OF LIMITATIONS PERIOD.—If a claim is filed with the Secretary of Transportation, the running of the limitations period for bringing a civil action is suspended until the Secretary denies the claim, and for 60 days thereafter. The Secretary is deemed to have denied the claim if the Secretary does not act on the claim within 6 months after the claim is filed, unless the Secretary for good cause shown agrees with the claimant on a different period for the Secretary to act on the claim.

"(e) INTERPLEADER.—If the Secretary acknowledges the indebtedness of the Government under the insurance and there is a dispute about the persons entitled to receive payment, the Government may bring a civil action interpleading those persons. The action shall be brought in the United States District Court for the District of Columbia or in the district court for the district in which any of those persons resides. A person not residing or found in the district may be made a party by service in any reasonable manner the court directs. If the court is satisfied that unknown persons might make a claim under the insurance, the court may direct service on those unknown persons by publication in the Federal Register. Judgment after service by publication in the Federal Register discharges the Government from further liability to all persons.

"§53912. Expiration date

"The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter expires on June 30, 2005.

"PART D—PROMOTIONAL PROGRAMS

"CHAPTER 551—COASTWISE TRADE

"Sec.
"55101. Application of coastwise laws.
"55102. Transportation of merchandise.
"55103. Transportation of passengers.
"55104. Transportation of passengers between Puerto Rico and other ports in the United States.
"55105. Transportation of hazardous waste.
"55106. Merchandise transferred between barges.
"55107. Empty cargo containers and barges.
"55108. Platform jackets.
"55109. Dredging.
"55110. Transportation of dredged material.
"55111. Towing.
"55112. Vessel escort operations and towing assistance.

"55113. Use of foreign documented oil spill response vessels.
"55114. Unloading fish from foreign vessels.
"55115. Supplies on fish processing vessels.
"55116. Canadian rail lines.
"55117. Great Lakes rail route.
"55118. Foreign railroads whose road enters by ferry, tugboat, or towboat.
"55119. Yukon River.
"55120. Transshipment of imported merchandise intended for immediate exportation.

"§55101. Application of coastwise laws

"(a) IN GENERAL.—Except as provided in subsection (b), the coastwise laws apply to the United States, including the island territories and possessions of the United States.

"(b) EXCEPTIONS.—The coastwise laws do not apply to—

"(1) the Virgin Islands until the President declares by proclamation that the coastwise laws apply to the Virgin Islands; or

"(2) American Samoa.

"§55102. Transportation of merchandise

"(a) DEFINITION.—In this section, the term 'merchandise' includes—

"(1) merchandise owned by the United States Government, a State, or a subdivision of a State; and

"(2) valueless material.

"(b) REQUIREMENTS.—Except as otherwise provided in this chapter or chapter 121 of this title, a vessel may not provide any part of the transportation of merchandise by water, or by land and water, between points in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel—

"(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

"(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

"(c) PENALTY.—Merchandise transported in violation of subsection (b) is liable to seizure by and forfeiture to the Government. Alternatively, an amount equal to the value of the merchandise (as determined by the Secretary of Homeland Security) or the actual cost of the transportation, whichever is greater, may be recovered from any person transporting the merchandise or causing the merchandise to be transported.

"§55103. Transportation of passengers

"(a) IN GENERAL.—Except as otherwise provided in this chapter or chapter 121 of this title, a vessel may not transport passengers between ports or places in the United States, either directly or via a foreign port, unless the vessel—

"(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

"(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

"(b) PENALTY.—The penalty for violating subsection (a) is $300 for each passenger transported and landed.

"§55104. Transportation of passengers between Puerto Rico and other ports in the United States

"(a) DEFINITIONS.—In this section:

"(1) CERTIFICATE.—The term 'certificate' means a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation issued by the Federal Maritime Commission under section 44102 of this title.

"(2) PASSENGER VESSEL.—The term 'passenger vessel' means a vessel of similar size, or offering similar service, as any other vessel transporting passengers under subsection (b).

"(b) EXEMPTION.—Except as otherwise provided in this section, a vessel not qualified to engage in the coastwise trade may transport passengers between a port in Puerto Rico and another port in the United States.

"(c) EXPIRATION OF EXEMPTION.—

"(1) WHEN COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.—On a showing to the Secretary of the department in which the Coast Guard is operating, by the vessel owner or charterer, that a United States passenger vessel qualified to engage in the coastwise trade is offering or advertising passenger service between a port in Puerto Rico and another port in the United States pursuant to a certificate, the Secretary shall notify the owner or operator of each vessel transporting passengers under subsection (b) to terminate that transportation within 270 days after the Secretary's notification. Except as provided in subsection (d), the authority to transport passengers under subsection (b) expires at the end of that 270-day period.

"(2) WHEN NON-COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.—On a showing to the Secretary, by the vessel owner or charterer, that a United States passenger vessel not qualified to engage in the coastwise trade is offering or advertising passenger service between a port in Puerto Rico and another port in the United States pursuant to a certificate, the Secretary shall notify the owner or operator of each foreign vessel transporting passengers under subsection (b) to terminate that transportation within 270 days after the Secretary's notification. Except as provided in subsection (d), the authority of a foreign vessel to transport passengers under subsection (b) expires at the end of that 270-day period.

"(d) DELAYING EXPIRATION.—If the vessel offering or advertising the service described in subsection (c) has not begun that service within 270 days after the Secretary's notification, the expiration provided by subsection (c) is delayed until 90 days after the vessel offering or advertising the service begins that service.

"(e) REINSTATEMENT OF EXEMPTION.—If the Secretary finds that the service on which an expiration was based is no longer available, the expired authority to transport passengers is reinstated.

"§55105. Transportation of hazardous waste

"(a) IN GENERAL.—The transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a point in the United States to sea for incineration is deemed to be transportation of merchandise under section 55102 of this title.

"(b) NONAPPLICATION TO CERTAIN FOREIGN VESSELS.—

"(1) IN GENERAL.—Subsection (a) does not apply to transportation performed by a foreign-flag ocean incineration vessel owned by or under construction on May 1, 1982, for a corporation wholly owned by citizens of the United States under section 50501(a)–(c) of this title.

"(2) STANDARDS FOR INCINERATION EQUIPMENT.—Incineration equipment on a vessel described in paragraph (1) must meet standards of the Coast Guard and the Environmental Protection Agency.

"(3) INSPECTION.—A vessel described in paragraph (1) shall be inspected by the Coast Guard, regardless of whether inspected by the flag nation. The inspection shall be the same as would be required of a vessel of the United States, including drydock inspection and internal examination of tanks and void spaces. The inspection may be made concurrently with an inspection by the flag nation or within one year after the initial issuance or next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making the inspection, the Coast Guard shall refer to the condition of the hull and superstructure established by the initial foreign certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of fittings, material, apparatus, equipment, and appliances different from those required for vessels of the United States if satisfied they are equivalent and at least as effective as those required for vessels of the United States. A satisfactory inspection under this paragraph shall be certified in writing by the Secretary of the department in which the Coast Guard is operating.

"(c) EFFECTIVE DATE.—Subsection (a) is not effective until an appropriate vessel has been built and documented under chapter 121 of this title.

"§55106. Merchandise transferred between barges

"(a) IN GENERAL.—On terms and conditions the Secretary of Homeland Security may prescribe by regulation, the Secretary may suspend the application of section 55102 of this title to the transportation of merchandise that is transferred, when moving in the foreign trade of the United States, from a barge certified by the owner or operator as designed specifically for carriage on a vessel and carried regularly on a vessel in foreign trade, to another such barge owned or leased by the same owner or operator. However, this subsection does not apply to transportation between the continental United States and noncontiguous States, territories, or possessions to which the coastwise laws apply.

"(b) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section applies to a vessel of foreign registry only if the Secretary of Homeland Security finds, based on information from the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States.

"§55107. Empty cargo containers and barges

"(a) IN GENERAL.—Subject to subsections (b) and (c), and on terms and conditions the Secretary of Homeland Security may prescribe by regulation, section 55102 of this title does not apply to the transportation of—

"(1) empty cargo vans, empty lift vans, or empty shipping tanks;

"(2) equipment for use with cargo vans, lift vans, or shipping tanks;

"(3) empty barges specifically designed for carriage aboard a vessel and equipment (except propulsion equipment) for use with those barges;

"(4) empty instruments for international traffic exempted from the customs laws under section 322(a) of the Tariff Act of 1930 (19 U.S.C. 1322(a)); or

"(5) stevedoring equipment and material.

"(b) CONDITIONS.—

"(1) CLAUSES (1)–(4).—Clauses (1)–(4) of subsection (a) apply only if the items named are owned or leased by the owner or operator of the vessel and transported for its use in handling its cargo in foreign trade.

"(2) CLAUSE (5).—Clause (5) of subsection (a) applies only if the items named are—

"(A) owned or leased by the owner or operator of the vessel or by the stevedoring company having the contract for the loading or unloading of the vessel; and

"(B) transported without charge for use in the handling of cargo in foreign trade.

"(c) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section applies to a vessel of foreign registry only if the Secretary of Homeland Security finds, based on information from the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States.

“§55108. Platform jackets

“(a) DEFINITIONS.—In this section:

“(1) COASTWISE QUALIFIED VESSEL.—The term ‘coastwise qualified vessel’ means a vessel that has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title.

“(2) PLATFORM JACKET.—The term ‘platform jacket’ refers to a single physical component and includes any type of offshore exploration, development, or production structure or component thereof, including—

“(A) platform jackets;

“(B) tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure);

“(C) hull (including vertical legs and connecting pontoons or vertical cylinder);

“(D) tower and base sections of a platform jacket;

“(E) jacket structures; and

“(F) deck modules (known as ‘topsides’).

“(b) AUTHORIZED TRANSPORTATION.—Section 55102 of this title does not apply to the transportation of a platform jacket in or on a non-coastwise qualified launch barge between two points in the United States, at one of which there is an installation or other device within the meaning of section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), if—

“(1) the launch barge was built before December 31, 2000, and has a launch capacity of at least 12,000 long tons; and

“(2) the Secretary of Transportation makes a determination, in accordance with procedures established under subsection (c), that a suitable coastwise qualified vessel is not available for use in the transportation and, if needed, launch or installation of a platform jacket.

“(c) PROCEDURES TO MAXIMIZE USE OF COASTWISE QUALIFIED VESSELS.—The Secretary of Transportation shall adopt procedures implementing this section that are reasonably designed to provide timely information so as to maximize the use of coastwise qualified vessels. The procedures shall, among other things, establish that for purposes of this section, a coastwise qualified vessel shall be deemed to be not available only if—

“(1) on application by an owner or operator for the use of a non-coastwise qualified launch barge for transportation of a platform jacket under this section (which application shall include all relevant information, including engineering details and timing requirements), the Secretary promptly publishes a notice in the Federal Register—

“(A) describing the project and the platform jacket involved;

“(B) advising that all relevant information reasonably needed to assess the transportation requirements for the platform jacket will be made available to interested parties on request; and

“(C) requesting that information on the availability of coastwise qualified vessels be submitted within 30 days after publication of that notice; and

“(2)(A) no information is submitted to the Secretary within that 30 day period; or

“(B) the owner or operator of a coastwise qualified vessel submits information to the Secretary asserting that the owner or operator has a suitable coastwise qualified vessel available for the transportation, but the Secretary determines, within 90 days after the notice is first published, that the coastwise qualified vessel is not suitable or reasonably available for the transportation.

“§55109. Dredging

“(a) IN GENERAL.—Except as provided in subsection (b), a vessel may engage in dredging in the navigable waters of the United States only if—

“(1) the vessel is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade;

“(2) the charterer, if any, is a citizen of the United States for purposes of engaging in the coastwise trade; and

“(3) the vessel has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

“(b) DREDGING OF GOLD IN ALASKA.—A documented vessel with a registry endorsement may engage in the dredging of gold in Alaska.

“(c) PENALTY.—If a vessel is operated in knowing violation of this section, the vessel and its equipment are liable to seizure by and forfeiture to the United States Government.

“§55110. Transportation of dredged material

“Section 55102 of this title applies to the transportation of valueless material or dredged material, regardless of whether it has commercial value, from a point in the United States or on the high seas within the exclusive economic zone, to another point in the United States or on the high seas within the exclusive economic zone.

“§55111. Towing

“(a) IN GENERAL.—Except when towing a vessel in distress, a vessel may not do any part of any towing described in subsection (b) unless the towing vessel—

“(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

“(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

“(b) APPLICABLE TOWING.—Subsection (a) applies to the towing of—

“(1) a vessel between ports or places in the United States to which the coastwise laws apply, either directly or via a foreign port or place;

“(2) a vessel from point to point within the harbors of ports or places to which the coastwise laws apply; or

“(3) a vessel transporting valueless material or dredged material, regardless of whether it has commercial value, from a point in the United States or on the high seas within the exclusive economic zone, to another point in the United States or on the high seas within the exclusive economic zone.

“(c) PENALTIES.—

“(1) OWNER AND MASTER.—The owner and master of a vessel towing another vessel in violation of this section are each liable for a penalty of at least $350 but not more than $1,100. A penalty under this paragraph constitutes a lien on the vessel. The lien is enforceable in a district court of the United States for any district in which the vessel is found. Clearance may not be granted to the vessel until the penalties have been paid.

“(2) VESSEL.—In addition to the penalties under paragraph (1), the towing vessel is liable for a penalty of $60 per ton based on the tonnage of each towed vessel.

“§55112. Vessel escort operations and towing assistance

“(a) IN GENERAL.—Except in the case of a vessel in distress, only a vessel of the United States may perform the following escort vessel operations within the navigable waters of the United States:

“(1) Operations that commence or terminate at a port or place in the United States.

“(2) Operations required by United States law or regulation.

“(3) Operations provided in whole or in part within or through navigation facilities owned, maintained, or operated by the United States Government or the approaches to those facilities, other than facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

“(b) ESCORT VESSELS.—For purposes of this section, an escort vessel is—

“(1) any vessel that is assigned and dedicated to assist another vessel, whether or not tethered to that vessel, solely as a safety precaution to assist in controlling the speed or course of the assisted vessel in the event of a steering or propulsion equipment failure, or any other similar emergency circumstance, or in restricted waters where additional assistance in maneuvering the vessel is required to ensure its safe operation; and

“(2) in the case of a vessel being towed under section 55111 of this title, any vessel that is assigned and dedicated to the vessel being towed in addition to any towing vessel required under that section.

“(c) RELATIONSHIP TO OTHER LAW.—This section does not affect section 55111 of this title.

“(d) PENALTY.—A person violating this section is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs.

“§55113. Use of foreign documented oil spill response vessels

“Notwithstanding any other provision of law, an oil spill response vessel documented under the laws of a foreign country may operate in waters of the United States on an emergency and temporary basis, for the purpose of recovering, transporting, and unloading in a United States port oil discharged as a result of an oil spill in or near those waters, if—

“(1) an adequate number and type of oil spill response vessels documented under the laws of the United States cannot be engaged to recover oil from an oil spill in or near those waters in a timely manner, as determined by the Federal On-Scene Coordinator for a discharge or threat of a discharge of oil; and

“(2) the foreign country has by its laws accorded to vessels of the United States the same privileges accorded to vessels of the foreign country under this section.

“§55114. Unloading fish from foreign vessels

“(a) PROHIBITIONS.—Except as otherwise provided by this section or a treaty or convention to which the United States Government is a party, a foreign vessel may not unload, in a port of the United States—

“(1) its catch of fish taken on board on the high seas or fish products processed from that catch of fish; or

“(2) fish or fish products taken on board that vessel on the high seas from a vessel engaged in fishing operations or the processing of fish or fish products.

“(b) REGULATIONS ON OBTAINING INFORMATION.—The Secretary of Commerce may prescribe regulations the Secretary considers necessary to obtain information on the transportation of fish products by vessels of the United States for foreign fish processing vessels to points in the United States.

“(c) VIRGIN ISLANDS EXEMPTION.—A foreign vessel of not more than 50 feet overall in length may unload its catch of fresh fish (whole or with the heads, viscera, or fins removed, but not frozen, otherwise processed, or further advanced) in a port of the Virgin Islands for immediate consumption in those islands. Fish unloaded under this subsection may be sold or transferred only for immediate consumption. In the absence of satisfactory evidence that a sale or transfer to an agent, representative, or employee of a freezer or cannery is for immediate consumption, the sale or transfer is deemed not to be for immediate consumption. This subsection does not prohibit the freezing, smoking,

or other processing of fresh fish by the ultimate consumer of the fish.

"(d) SEIZURE, FORFEITURE, AND PENALTY.—Fish unloaded in the Virgin Islands that are retained, sold, or transferred, except as allowed by subsection (c), are liable to seizure by and forfeiture to the Government. A person retaining, selling, transferring, buying, or receiving the fish is liable to the Government for a civil penalty of not more than $1,000 for each violation. A penalty or forfeiture under this section may be compromised, modified, or remitted under section 2107(b) of this title.

"§ 55115. Supplies on fish processing vessels

"Section 55102 of this title does not apply to supplies aboard a United States documented fish processing vessel that are necessary and used for processing or assembling fishery products aboard such a vessel.

"§ 55116. Canadian rail lines

"Section 55102 of this title does not apply to the transportation of merchandise between points in the continental United States, including Alaska, over through routes in part over Canadian rail lines and connecting water facilities if the routes have been recognized by the Surface Transportation Board and rate tariffs for the routes have been filed with the Board.

"§ 55117. Great Lakes rail route

"Section 55102 of this title does not apply to the transportation of merchandise loaded on a railroad car or to a motor vehicle with or without a trailer, and with its passengers or contents when accompanied by the operator, when the railroad car or motor vehicle is transported in a railroad car ferry operated between fixed terminals on the Great Lakes as part of a rail route, if—

"(1) the car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Surface Transportation Board;

"(2) the stock of the common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920;

"(3) the stock of the common carrier owning the car ferry is, with the approval of the Board, now owned or controlled by a common carrier by rail; and

"(4) the car ferry is built in and documented under the laws of the United States.

"§ 55118. Foreign railroads whose road enters by ferry, tugboat, or towboat

"A foreign railroad, whose road enters the United States by ferry, tugboat, or towboat, may own and operate a vessel not having a coastwise endorsement in connection with the water transportation of the passenger, freight, express, baggage, and mail cars used by that road, together with the passengers, freight, express matter, baggage, and mails transported in those cars. However, the foreign railroad is subject to the same restrictions imposed by law on a vessel of the United States entering a port of the United States from the same foreign country. Except as otherwise authorized by this chapter, the ferry, tugboat, or towboat may not, under penalty of forfeiture, be used in the transportation of merchandise between ports or places in the United States to which the coastwise laws apply.

"§ 55119. Yukon River

"Section 55102 of this title does not apply to the transportation of merchandise on the Yukon River until the Alaska Railroad is completed and the Secretary of Transportation finds that proper facilities will be available for transportation by citizens of the United States to properly handle the traffic.

"§ 55120. Transshipment of imported merchandise intended for immediate exportation

"The Secretary of Homeland Security may prescribe regulations for the transshipment and transportation of merchandise that is imported into the United States by sea for immediate exportation to a foreign port by sea, or by a river, the right to ascend or descend which for the purposes of commerce is secured by treaty to the citizens of the United States and the subjects of a foreign power.

"CHAPTER 553—PASSENGER AND CARGO PREFERENCES

"SUBCHAPTER I—GENERAL

"Sec.
"55301. Priority loading for coal.
"55302. Transportation of United States Government personnel.
"55303. Motor vehicles owned by United States Government personnel.
"55304. Exports financed by the United States Government.
"55305. Cargoes procured, furnished, or financed by the United States Government.

"SUBCHAPTER II—EXPORT TRANSPORTATION OF AGRICULTURAL COMMODITIES

"55311. Findings and purposes.
"55312. Determining prevailing world market price.
"55313. Exemption of certain agricultural exports from cargo preference provisions.
"55314. Transportation requirements for certain exports sponsored by the Secretary of Agriculture.
"55315. Minimum tonnage.
"55316. Financing the transportation of agricultural commodities.
"55317. Termination of subchapter.
"55318. Effect on other law.

"SUBCHAPTER III—AMERICAN GREAT LAKES VESSELS

"55331. Definitions.
"55332. Designating American Great Lakes vessels.
"55333. Exemption from restriction on transporting certain cargo.
"55334. Restrictions on operations.
"55335. Revocations and terminations of designations.
"55336. Civil penalty.

"SUBCHAPTER I—GENERAL

"§ 55301. Priority loading for coal

"A vessel engaged in the coastwise transportation of coal produced in the United States, from a port in the United States to another port in the United States, shall be given priority in loading at any of those ports ahead of a waiting vessel engaged in the export transportation of coal produced in the United States. However, if the Secretary of Transportation finds that it is in the national interest, the Secretary may eliminate this priority loading at any port. The Secretary shall report to Congress within 30 days an action eliminating priority loading under this section.

"§ 55302. Transportation of United States Government personnel

"(a) IN GENERAL.—An officer or employee of the United States Government traveling by sea on official business overseas or to or from a territory or possession of the United States shall travel and transport personal effects on a vessel documented under the laws of the United Sates if such a vessel is available, unless the necessity of the mission requires the use of a foreign vessel.

"(b) REGULATIONS.—The Administrator of General Services shall prescribe regulations under which agencies may not pay for or reimburse an officer or employee for travel or transportation expenses incurred on a foreign vessel in the absence of satisfactory proof of the necessity of using the vessel.

"§ 55303. Motor vehicles owned by United States Government personnel

"Notwithstanding any other law, privately-owned American shipping services may be used to transport motor vehicles owned by personnel of the United States Government whenever transportation of those vehicles at Government expense is otherwise authorized by law.

"§ 55304. Exports financed by the United States Government

"It is the sense of Congress that any loans made by an instrumentality of the United States Government to foster the exporting of agricultural or other products shall provide that the products may be transported only on vessels of the United States unless, as to any or all of those products, the Secretary of Transportation, after investigation, certifies to the instrumentality that vessels of the United States are not available in sufficient number, in sufficient tonnage capacity, on necessary schedules, or at reasonable rates.

"§ 55305. Cargoes procured, furnished, or financed by the United States Government

"(a) DEFINITION.—In this section, the term 'privately-owned United States-flag commercial vessel' does not include a vessel that, after September 21, 1961, was built or rebuilt outside the United States or documented under the laws of a foreign country, until the vessel has been documented under the laws of the United States for at least 3 years.

"(b) MINIMUM TONNAGE.—When the United States Government procures, contracts for, or otherwise obtains for its own account, or furnishes to or for the account of a foreign country without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or advances funds or credits, or guarantees the convertibility of foreign currencies in connection with the furnishing of the equipment, materials, or commodities, the appropriate agencies shall take steps necessary and practicable to ensure that at least 50 percent of the gross tonnage of the equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels is transported on privately-owned United States-flag commercial vessels, to the extent those vessels are available at fair and reasonable rates for United States-flag commercial vessels, in a manner that will ensure a fair and reasonable participation of United States-flag commercial vessels in those cargoes by geographic areas.

"(c) WAIVERS.—The President, the Secretary of Defense, or Congress (by concurrent resolution or otherwise) may waive this section temporarily by—

"(1) declaring the existence of an emergency justifying a waiver; and

"(2) notifying the appropriate agencies of the waiver.

"(d) PROGRAMS OF OTHER AGENCIES.—An agency having responsibility under this section shall administer its programs with respect to this section under regulations prescribed by the Secretary of Transportation. The Secretary shall review the administration of those programs and report annually to Congress on their administration.

"SUBCHAPTER II—EXPORT TRANSPORTATION OF AGRICULTURAL COMMODITIES

"§ 55311. Findings and purposes

"(a) FINDINGS.—Congress finds that—

‘‘(1) a productive and healthy agricultural industry and a strong and active United States maritime industry are vitally important to the economic well-being and security of the United States;

‘‘(2) both industries must compete in international markets increasingly dominated by foreign trade barriers and the subsidization practices of foreign governments; and

‘‘(3) increased agricultural exports and the use of merchant vessels of the United States contribute positively to the United States balance of trade and generate employment opportunities in the United States.

‘‘(b) PURPOSES.—The purposes of this subchapter are to—

‘‘(1) enable the Secretary of Agriculture to plan export programs effectively, by clarifying the ocean transportation requirements applicable to those programs;

‘‘(2) take immediate and positive steps to promote the growth of the cargo-carrying capacity of the United States merchant marine;

‘‘(3) expand international trade in United States agricultural commodities and products and develop, maintain, and expand markets for United States agricultural exports;

‘‘(4) improve the efficiency of administration of both the commodity purchasing and selling activities and the ocean transportation activities associated with export programs sponsored by the Secretary;

‘‘(5) stimulate and promote the agricultural and maritime industries of the United States and encourage cooperative efforts by both industries to address their common problems; and

‘‘(6) provide for the appropriate disposition of these findings and purposes.

‘‘§55312. Determining prevailing world market price

‘‘(a) AGRICULTURAL COMMODITIES AND PRODUCTS.—The prevailing world market price for agricultural commodities or their products shall be determined under this subchapter under procedures prescribed by the Secretary of Agriculture. The Secretary shall prescribe the procedures by regulation, with notice and opportunity for public comment under section 553 of title 5.

‘‘(b) SERVICES AND NON-AGRICULTURAL COMMODITIES AND PRODUCTS.—If a determination of the prevailing world market price of any other type of materials, goods, equipment, or service is required to determine whether a barter or exchange transaction is subject to section 55314(b)(6) or (7) of this title, the determination shall be made by the Secretary of Agriculture in consultation with the heads of other appropriate agencies.

‘‘§55313. Exemption of certain agricultural exports from cargo preference provisions

‘‘Sections 55304 and 55305 of this title do not apply to export activities of the Secretary of Agriculture or the Commodity Credit Corporation under which—

‘‘(1) agricultural commodities or their products acquired by the Corporation are made available to United States exporters, users, processors, or foreign purchasers for the purpose of developing, maintaining, or expanding export markets for United States agricultural commodities or their products at prevailing world market prices;

‘‘(2) payments are made available to United States exporters, users, or processors or, except as provided in section 55314 of this title, cash grants are made available to foreign purchasers, for the purpose described in clause (1);

‘‘(3) commercial credit guarantees are blended with direct credits from the Corporation to reduce the effective rate of interest on export sales of United States agricultural commodities or their products;

‘‘(4) credit or credit guarantees for not more than 3 years are extended by the Corporation to finance or guarantee export sales of United States agricultural commodities or their products; or

‘‘(5) agricultural commodities or their products owned or controlled by or under loan from the Corporation are exchanged or bartered for materials, goods, equipment, or services at least equal in value to the agricultural commodities or their products for which they are exchanged or bartered (determined on the basis of prevailing world market prices at the time of the exchange or barter), but this clause does not exempt from the cargo preference provisions referred to in section 55314(b) of this title any requirement otherwise applicable to the materials, goods, equipment, or services imported under the transaction.

‘‘§55314. Transportation requirements for certain exports sponsored by the Secretary of Agriculture

‘‘(a) MINIMUM TONNAGE.—

‘‘(1) IN GENERAL.—In addition to the requirement under section 55305 of this title for the transportation of a percentage of gross tonnage on United States-flag vessels, 25 percent of the gross tonnage of agricultural commodities or their products specified in subsection (b) shall be transported each calendar year on United States-flag commercial vessels that—

‘‘(A) are necessary for national security; and

‘‘(B) if more than 25 years old, were rebuilt within the last 5 years and certified by the Secretary of Transportation as having a useful life of at least 5 years after that rebuilding.

‘‘(2) CALENDAR YEAR.—To provide for effective and equitable administration of the cargo preference laws, the calendar year for the purpose of compliance with minimum percentage requirements is the 12-month period beginning October 1 of each year.

‘‘(b) APPLICABLE EXPORT ACTIVITY.—This section applies to export activity (except inspection or weighing activities, other activities carried out for health or safety, or technical assistance provided in the handling of commercial transactions) of the Secretary of Agriculture or the Commodity Credit Corporation—

‘‘(1) carried out under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

‘‘(2) carried out under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

‘‘(3) carried out under the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1);

‘‘(4) under which agricultural commodities or their products are—

‘‘(A) donated through foreign governments or private or public agencies, including intergovernmental organizations; or

‘‘(B) sold for foreign currencies or for dollars on credit terms of more than 10 years;

‘‘(5) under which agricultural commodities or their products are made available for emergency food relief at less than prevailing world market prices;

‘‘(6) under which a cash grant is made directly or through an intermediary to a foreign purchaser to enable the purchaser to obtain United States agricultural commodities or their products in an amount greater than the difference between the prevailing world market price and the United States market price, free along side vessel at a United States port; or

‘‘(7) under which agricultural commodities owned or controlled by or under loan from the Corporation are exchanged or bartered for materials, goods, equipment, or services produced in foreign countries, except export activities described in section 55313(5) of this title.

‘‘(c) ADDITIONAL REQUIREMENTS.—

‘‘(1) APPLICATION OF SECTION 55305.—The requirement for United States-flag transportation under subsection (a) is subject to the same terms and conditions as provided in section 55305 of this title.

‘‘(2) ALLOCATION OF COMMODITIES.—Subject to paragraph (3), in carrying out this section and section 55305 of this title, the Corporation shall take steps necessary and practicable, and consistent with this section and section 55305, without detriment to any port range to allocate, on the principle of lowest landed cost without regard to the country of documentation of the vessel, 25 percent of the bagged, processed, or fortified commodities provided under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

‘‘(3) CALCULATIONS.—In carrying out paragraph (2), first there shall be calculated the allocation of 100 percent of the quantity to be procured on an overall lowest landed cost basis without regard to the country of documentation of the vessel, and then there shall be allocated to the Great Lakes port range any cargoes for which it has the lowest landed cost under that calculation. The requirements for United States-flag transportation under this section and section 55305 of this title do not apply to commodities allocated to the Great Lakes port range under paragraph (2). To the extent that the Great Lakes port range is used to furnish and transport less than 25 percent of the total annual tonnage of commodities to which paragraph (2) applies, the commodities allocated to the Great Lakes port range under paragraph (2) may not be reallocated or diverted to another port range to meet the requirements for United States-flag transportation under this section and section 55305 of this title.

‘‘(4) AWARDING CONTRACTS.—In awarding a contract for the transportation by vessel of commodities from the Great Lakes port range pursuant to an export activity referred to in subsection (b), an agency—

‘‘(A) shall consider expressions of freight interest for any vessel from a vessel operator who meets reasonable requirements for financial and operational integrity; and

‘‘(B) may not deny award of the contract to a person based on the type of vessel on which the transportation would be provided (including on the basis that the transportation would not be provided on a liner vessel, as that term is used in the Shipping Act of 1984, as in effect on November 14, 1995), if the person otherwise satisfies reasonable requirements for financial and operational integrity.

‘‘(5) NONAVAILABILITY OF VESSELS.—A determination of nonavailability of United States-flag vessels resulting from the application of this subsection may not reduce the gross tonnage of commodities required by this section and section 55305 of this title to be transported on United States-flag vessels.

‘‘§55315. Minimum tonnage

‘‘(a) DEFINITION.—In this section, the term ‘base period’ means the 5-year period running from the sixth through the second prior fiscal years.

‘‘(b) REQUIREMENT.—For each fiscal year, the minimum quantity of agricultural commodities to be exported under programs subject to section 55314 of this title is the average of the tonnage exported under those programs during the base period, discarding the high and low years.

‘‘(c) WAIVERS.—The President may waive the minimum quantity for a fiscal year under this section if the President determines and reports to Congress, together with reasons, that the quantity cannot be used effectively for the purposes of those programs or, based on a certification by the Secretary of Agriculture, that the commodities are not available for reasons that include the unavailability of funds.

“§55316. Financing the transportation of agricultural commodities

“(a) FINANCING OF INCREASED CHARGES.—The Secretary of Transportation shall finance any increased ocean freight charges incurred in any fiscal year that result from the application of section 55314 of this title.

“(b) REIMBURSEMENT OF INCREASED CHARGES.—

“(1) IN GENERAL.—The Secretary of Transportation shall reimburse the Secretary of Agriculture and the Commodity Credit Corporation for the amount by which, in any fiscal year—

“(A) the total cost of ocean freight and ocean freight differential for which obligations are incurred by the Secretary of Agriculture and the Corporation on exports of agricultural commodities and their products under the agricultural export programs specified in section 55314(b) of this title; exceeds

“(B) 20 percent of the value of the commodities and their products and the cost of the ocean freight and ocean freight differential on which obligations are incurred by the Secretary of Agriculture and the Corporation during that fiscal year.

“(2) COMMODITIES SHIPPED FROM INVENTORY.—For purposes of this subsection, commodities shipped from the inventory of the Corporation shall be valued as provided in section 412(d) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f(d)).

“(c) ISSUANCE AND PURCHASE OF OBLIGATIONS.—

“(1) ISSUANCE.—To meet the expenses required to be assumed under subsections (a) and (b), the Secretary of Transportation shall issue obligations to the Secretary of the Treasury. The Secretary of Transportation, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations, considering the average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

“(2) PURCHASE.—The Secretary of the Treasury shall purchase the obligations issued under this subsection. To purchase the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include the purchase of obligations under this subsection. A redemption or purchase of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

“(d) SOURCE OF FUNDS FOR REIMBURSEMENT.—Reimbursement of the Secretary of Transportation for costs incurred under this section shall be made with appropriated funds rather than through cancellation of notes.

“(e) APPROPRIATIONS.—

“(1) AUTHORIZATION.—Each fiscal year, there is authorized to be appropriated an amount sufficient to reimburse the Secretary of Transportation for the costs incurred under this section, including administrative expenses and the principal and interest due on obligations issued to the Secretary of the Treasury.

“(2) APPROPRIATION FOR ADMINISTRATIVE EXPENSES.—Each fiscal year, such amounts as may be necessary are hereby appropriated to pay interest and to liquidate debt on obligations issued to the Secretary of the Treasury under this section.

“(f) NOTIFICATION TO CONGRESS OF INSUFFICIENCY.—If the Secretary of Transportation is unable to obtain the funds necessary to finance the increased ocean freight charges resulting from the requirements of subsections (a) and (b) and section 55314(a) of this title, the Secretary shall notify Congress within 10 working days of the discovery of the insufficiency.

“§55317. Termination of subchapter

“This subchapter terminates 90 days after the date on which a notification is made under section 55316(f) of this title, except for shipments of agricultural commodities and their products subject to contracts made before the end of that 90-day period, unless within that 90-day period the Secretary of Transportation proclaims that funds are available to finance increased freight charges resulting from the requirements of sections 55314(a) and 55316(a) and (b) of this title. On the termination of this subchapter under this section—

“(1) this subchapter does not exempt export activities from, or subject export activities to, the cargo preference laws; and

“(2) the 50-percent requirement in section 55305 of this title remains in effect.

“§55318. Effect on other law

“This subchapter does not affect chapter 5 of title 5.

“SUBCHAPTER III—AMERICAN GREAT LAKES VESSELS

“§55331. Definitions

“In this subchapter:

“(1) AMERICAN GREAT LAKES VESSEL.—The term ‘American Great Lakes vessel’ means a vessel so designated under section 55332 of this title, but only during the period the designation is in effect.

“(2) GREAT LAKES.—The term ‘Great Lakes’ means Lake Superior, Lake Michigan, Lake Huron, Lake Erie, Lake Ontario, the Saint Lawrence River west of Saint Regis, New York, and their connecting and tributary waters.

“(3) GREAT LAKES SHIPPING SEASON.—The term ‘Great Lakes shipping season’ means the period each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation.

“§55332. Designating American Great Lakes vessels

“(a) DESIGNATIONS.—The Secretary of Transportation shall designate a vessel as an American Great Lakes vessel if—

“(1) an application for designation is submitted to the Secretary under regulations prescribed by the Secretary;

“(2) the vessel is documented under the laws of the United States;

“(3) the vessel, on the effective date of the designation, is—

“(A) at least 1, but not more than 6, years old; or

“(B) at least 1, but not more than 11, years old if the Secretary finds that suitable vessels are not available to provide the type of service for which the vessel will be used after the designation;

“(4) the vessel has not previously been designated as an American Great Lakes vessel; and

“(5) the owner makes an agreement as provided under subsection (b).

“(b) AGREEMENTS.—A vessel may be designated as an American Great Lakes vessel only if the person that will be the owner of the vessel at the time of the designation makes an agreement with the Secretary providing that if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government will have an exclusive right, during the 120-day period following the date of a revocation of the designation under section 55335 of this title, to purchase the vessel for a price equal to the greater of—

“(1) the approximate world market value of the vessel; or

“(2) the cost of the vessel to the owner less a reasonable amount for depreciation.

“(c) CERTAIN FOREIGN DOCUMENTATION AND SALE NOT PROHIBITED.—Notwithstanding any other law, if the Government does not exercise its right of purchase under an agreement under subsection (b), the owner of the vessel is not prohibited from—

“(1) documenting the vessel under the laws of a foreign country; or

“(2) selling the vessel to a person not a citizen of the United States.

“(d) REGULATIONS.—The Secretary shall prescribe regulations establishing requirements for submitting applications under this section.

“§55333. Exemption from restriction on transporting certain cargo

“The 3-year documentation requirement of section 55305(a) of this title does not apply to a vessel designated as an American Great Lakes vessel during the period of its designation.

“§55334. Restrictions on operations

“(a) PROHIBITIONS.—Except as provided in subsection (b), an American Great Lakes vessel may not be used to—

“(1) engage in trade—

“(A) from a port in the United States that is not located on the Great Lakes; or

“(B) between ports in the United States;

“(2) transport bulk cargo (as defined in section 40102 of this title) that is subject to section 55305 or 55314 of this title or section 2631 of title 10; or

“(3) provide a service (except ocean freight service) as—

“(A) a contract carrier; or

“(B) a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign trade of the United States.

“(b) OFF-SEASON EXCEPTION.—An American Great Lakes vessel may be used for not more than 90 days during any 12-month period to engage in trade prohibited by subsection (a)(1)(A), except during the Great Lakes shipping season.

“§55335. Revocations and terminations of designations

“(a) REVOCATIONS.—After notice and an opportunity for a hearing, the Secretary of Transportation may revoke a designation of a vessel as an American Great Lakes vessel if the Secretary finds that—

“(1) the vessel does not meet a requirement for the designation;

“(2) the vessel has been operated in violation of this subchapter; or

“(3) the owner or operator of the vessel has violated an agreement made under section 55332(b) of this title.

“(b) TERMINATIONS.—On petition and a showing of good cause by the owner of a vessel, the Secretary may terminate the designation of a vessel as an American Great Lakes vessel. The Secretary may impose conditions in a termination order to prevent significant adverse effects on other operators of United States-flag vessels.

“§55336. Civil penalty

“After notice and an opportunity for a hearing, the Secretary of Transportation may impose a civil penalty of not more than $1,000,000 on the owner of an American Great Lakes vessel for any act for which the designation may be revoked under section 55335 of this title.

“CHAPTER 555—MISCELLANEOUS

“Sec.
“55501. Mobile trade fairs.

“§55501. Mobile trade fairs

“(a) IN GENERAL.—The Secretary of Commerce shall encourage and promote the development and use of mobile trade fairs designed to show and sell the products of United States business and agriculture at foreign ports and at other commercial centers throughout the world where *the operators of the fairs use, insofar as practicable, vessels and aircraft of the United States in transporting their exhibits.*

"(b) TECHNICAL AND FINANCIAL ASSISTANCE.—When the Secretary determines that a mobile trade fair provides an economical and effective means of promoting export sales, the Secretary may provide to the operator of the fair—

"(1) technical assistance and support; and

"(2) financial assistance to defray certain expenses incurred outside the United States, except the cost of transportation on foreign vessels and aircraft.

"(c) USE OF FOREIGN CURRENCIES.—To carry out this section, the President may use, in addition to amounts appropriated to carry out trade promotion activities, foreign currencies owned by or owed to the United States Government.

"PART E—CONTROL OF MERCHANT MARINE CAPABILITIES

"CHAPTER 561—RESTRICTIONS ON TRANSFERS

"Sec.
"56101. Approval required to transfer vessel to noncitizen.
"56102. Additional controls during war or national emergency.
"56103. Conditional approvals.
"56104. Penalty for false statements.
"56105. Forfeiture procedure.

"§ 56101. Approval required to transfer vessel to noncitizen

"(a) RESTRICTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this section, section 12119 of this title, or section 611 of the Merchant Marine Act, 1936, a person may not, without the approval of the Secretary of Transportation—

"(A) sell, lease, charter, deliver, or in any other manner transfer, or agree to sell, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States, an interest in or control of—

"(i) a documented vessel owned by a citizen of the United States; or

"(ii) a vessel last documented under the laws of the United States; or

"(B) place under foreign registry, or operate under the authority of a foreign country, a documented vessel or a vessel last documented under the laws of the United States.

"(2) EXCEPTIONS.—Paragraph (1)(A) does not apply to a vessel that has been operated only for pleasure or only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of this title).

"(b) APPROVAL BEFORE DOCUMENTATION.—To promote financing with respect to a vessel to be documented under chapter 121 of this title, the Secretary may grant approval under subsection (a) before the vessel is documented.

"(c) EXCEPTIONS.—Notwithstanding any other provision of this subtitle, the Merchant Marine Act, 1936, or any contract with the Secretary made under this subtitle or that Act, a person may place a vessel under foreign registry without the approval of the Secretary if—

"(1)(A) the Secretary, in conjunction with the Secretary of Defense, determines that at least one replacement vessel of equal or greater military capability and of a capacity that is equivalent or greater, as measured by deadweight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of this title by the owner of the vessel placed under foreign registry; and

"(B) the replacement vessel is not more than 10 years old on the date of that documentation; or

"(2) an operating agreement covering the vessel under chapter 531 of this title has expired.

"(d) STATUS OF PROHIBITED TRANSACTION.—A charter, sale, or transfer of a vessel, or of an interest in or control of a vessel, in violation of this section is void.

"(e) PENALTIES.—

"(1) CRIMINAL PENALTY.—A person that knowingly sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(2) CIVIL PENALTY.—A person that sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

"(3) FORFEITURE.—A documented vessel may be seized by and forfeited to the Government if, in violation of this section, a person—

"(A) knowingly sells, charters, or transfers the vessel or an interest in or control of the vessel; or

"(B) places the vessel under foreign registry or operates the vessel under the authority of a foreign country.

"§ 56102. Additional controls during war or national emergency

"(a) IN GENERAL.—During war, or a national emergency declared by Presidential proclamation, a person may not, without the approval of the Secretary of Transportation—

"(1) place under foreign registry or flag a vessel owned in whole or in part by a citizen of the United States or a corporation incorporated under the laws of the United States or of a State;

"(2) sell, mortgage, lease, charter, deliver, or in any other manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States—

"(A) a vessel owned as described in clause (1), or an interest therein;

"(B) a vessel documented under the laws of the United States, or an interest therein; or

"(C) a facility for building or repairing vessels, or an interest therein;

"(3) issue, assign, or transfer to a person not a citizen of the United States an instrument of indebtedness secured by a mortgage of a vessel to a trustee, by an assignment of an owner's interest in a vessel under construction to a trustee, or by a mortgage of a facility for building or repairing vessels to a trustee, unless the trustee or a substitute trustee is approved by the Secretary under subsection (b);

"(4) enter into an agreement or understanding to construct a vessel in the United States for, or to be delivered to, a person not a citizen of the United States without expressly stipulating that construction will not begin until after the war or national emergency has ended;

"(5) enter into an agreement or understanding whereby there is vested in, or for the benefit of, a person not a citizen of the United States the controlling interest in a corporation that is incorporated under the laws of the United States or a State and that owns a vessel or facility for building or repairing vessels; or

"(6) cause or procure a vessel, constructed in whole or in part in the United States and never cleared for a foreign port, to depart from a port of the United States before it has been documented under the laws of the United States.

"(b) TRUSTEES.—

"(1) APPROVAL.—The Secretary shall approve a trustee or substitute trustee under subsection (a)(3) if and only if the trustee is a bank or trust company that—

"(A) is organized as a corporation, and is doing business, under the laws of the United States or a State;

"(B) is authorized under those laws to exercise corporate trust powers;

"(C) is a citizen of the United States;

"(D) is subject to supervision or examination by Federal or State authority; and

"(E) has a combined capital and surplus (as set forth in its most recent published report of condition) of at least $3,000,000.

"(2) DISAPPROVAL.—If a trustee or substitute trustee ceases to meet the conditions in paragraph (1), the Secretary shall disapprove the trustee or substitute trustee. After the disapproval, the restrictions on transfer or assignment without the Secretary's approval in subsection (a)(3) apply.

"(3) OPERATION OF VESSEL.—During a period when subsection (a) applies, a trustee referred to in subsection (a)(3), even though approved as a trustee by the Secretary, may not operate the vessel under the mortgage or assignment without the Secretary's approval.

"(c) STATUS OF PROHIBITED TRANSACTION.—A transaction in violation of this section is void.

"(d) RECOVERY OF CONSIDERATION.—

"(1) IN GENERAL.—A person that deposited or paid consideration in connection with a transaction prohibited by this section may recover the consideration after tender of the vessel, facility, stock, or other security, or interest therein, to the person entitled to it, or the forfeiture thereof to the United States Government.

"(2) EXCEPTION.—Paragraph (1) does not apply if the person in whose interest the consideration was deposited, or to whom it was paid, entered into the transaction in the belief that the person depositing or paying the consideration was a citizen of the United States.

"(e) PENALTIES.—

"(1) CRIMINAL PENALTY.—A person that violates, or attempts or conspires to violate, this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(2) FORFEITURE.—The following shall be forfeited to the Government:

"(A) A vessel, a facility for building or repairing vessels, or an interest in a vessel or such a facility, that is sold, mortgaged, leased, chartered, delivered, transferred, or documented, or agreed to be sold, mortgaged, leased, chartered, delivered, transferred, or documented, in violation of this section.

"(B) Stock and other securities sold or transferred, or agreed to be sold or transferred, in violation of this section.

"(C) A vessel departing in violation of subsection (a)(6).

"§ 56103. Conditional approvals

"(a) IN GENERAL.—In approving an act or transaction under section 56101 or 56102 of this title, the Secretary of Transportation may do so absolutely or upon conditions the Secretary considers advisable. The Secretary shall state the conditions in the notice of approval.

"(b) VIOLATIONS.—A violation of a condition of approval is subject to the same penalties as a violation resulting from an act done without the required approval. The violation occurs at the time the condition is violated.

"§ 56104. Penalty for false statements

"A person that knowingly makes a false statement of a material fact to the Secretary of Transportation or another officer, employee, or agent of the Department of Transportation, to obtain the Secretary's approval under section 56101 or 56102 of this title, shall be fined under title 18, imprisoned for not more than 5 years, or both.

"§ 56105. Forfeiture procedure

"(a) IN GENERAL.—A forfeiture under this chapter may be enforced in the same way as a forfeiture under the laws on the collection of duties. However, such a forfeiture may be remitted without seizure of the vessel.

"(b) PRIOR CONVICTIONS.—In a proceeding under this chapter to enforce a forfeiture, a prior criminal conviction of a person for a violation of this chapter with respect to the subject matter of the forfeiture is prima facie evidence of the violation against the person convicted.

"CHAPTER 563—EMERGENCY ACQUISITION OF VESSELS

''Sec.
''56301. General authority.
''56302. Charter terms.
''56303. Compensation.
''56304. Disputed compensation.
''56305. Vessel encumbrances.
''56306. Use and transfer of vessels.
''56307. Return of vessels.

"§ 56301. General authority

''During a national emergency declared by Presidential proclamation, or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may requisition or purchase, or requisition or charter the use of, a vessel owned by citizens of the United States, a documented vessel, or a vessel under construction in the United States.

"§ 56302. Charter terms

''(a) IN GENERAL.—If a vessel is requisitioned for use but not ownership under this chapter, the Secretary of Transportation, at the time of requisition or as soon thereafter as the situation allows, shall offer the person entitled to possession of the vessel a charter containing—

''(1) the terms the Secretary believes should govern the relationship between the United States Government and the person; and

''(2) the rate of hire the Secretary considers just compensation for the use of the vessel and the services required under the charter.

''(b) REFUSAL TO ACCEPT.—If the person does not accept the charter and rate of hire, the parties shall proceed as provided in section 56304 of this title.

"§ 56303. Compensation

''(a) IN GENERAL.—As soon as practicable, the Secretary of Transportation shall determine and pay just compensation for a vessel requisitioned under this chapter.

''(b) FACTORS NOT AFFECTING VALUE.—The value of a vessel may not be considered enhanced by the circumstances requiring its requisition. Consequential damages arising from the requisition may not be paid.

''(c) EFFECT OF CONSTRUCTION-DIFFERENTIAL SUBSIDY.—

''(1) IF PAID.—If a construction-differential subsidy has been paid for the vessel, the value of the vessel at the time of requisition shall be determined under section 802 of the Merchant Marine Act, 1936.

''(2) IF NOT PAID.—If a construction-differential subsidy has not been paid for the vessel, the value of any national defense features previously paid for by the United States Government shall be excluded.

''(d) LOSS OR DAMAGE DURING CHARTER.—If a vessel is lost or damaged by a risk assumed by the Government under the charter, but a valuation for the vessel or a means of compensation has not been agreed to, the Secretary shall pay just compensation for the loss or damage, to the extent the person is not reimbursed through insurance.

"§ 56304. Disputed compensation

''If the person entitled to compensation disputes the amount of just compensation determined by the Secretary of Transportation under this chapter, the Secretary shall pay the person, as a tentative advance, 75 percent of the amount determined. The person may bring a civil action against the United States Government to recover just compensation. If the tentative advance paid under this section is greater than the amount of the court's judgment, the person shall refund the difference.

"§ 56305. Vessel encumbrances

''(a) IN GENERAL.—The existence of an encumbrance on a vessel does not prevent the requisition of the vessel under this chapter.

''(b) DEPOSIT IN TREASURY.—

''(1) IN GENERAL.—If an encumbrance exists, the Secretary of Transportation may deposit part of the compensation or advance of compensation to be paid under this chapter (but not more than the total amount of all encumbrances) in a fund in the Treasury. The Secretary shall publish notice of the creation of the fund in the Federal Register.

''(2) AVAILABILITY OF AMOUNTS DEPOSITED.—Amounts deposited in the fund shall be available to pay the compensation or any of the encumbrances (including encumbrances stipulated to in a court of the United States or a State) existing at the time the vessel was requisitioned.

''(c) CIVIL ACTION.—

''(1) IN GENERAL.—Within 6 months after publication of notice under subsection (b), the holder of an encumbrance may bring a civil action in admiralty, according to the principles of libels in rem, against the fund.

''(2) VENUE.—The action must be brought in the district court of the United States—

''(A) from whose custody the vessel was or may be requisitioned; or

''(B) in whose district the vessel was located when it was requisitioned.

''(3) SERVICE OF PROCESS.—Service of process shall be made on the appropriate United States Attorney, the Attorney General, and the Secretary, in the manner provided by the Federal Rules of Civil Procedure (28 App. U.S.C.). Notice of the action shall be given to all interested persons as ordered by the court.

''(4) AS BETWEEN PRIVATE PARTIES.—The action shall proceed and be determined according to the principles of law and the rules of practice applicable in like cases between private parties.

"§ 56306. Use and transfer of vessels

''(a) IN GENERAL.—The Secretary of Transportation may repair, recondition, reconstruct, operate, or charter for operation, a vessel acquired under this chapter.

''(b) TRANSFER TO OTHER AGENCIES.—The Secretary may transfer the possession or control of a vessel acquired under this chapter to another department or agency of the United States Government on terms and conditions approved by the President. The department or agency shall promptly reimburse the Secretary for expenditures for just compensation, purchase price, charter hire, repairs, reconditioning, or reconstruction.

"§ 56307. Return of vessels

''When a vessel requisitioned for use but not ownership is returned to the owner, the Secretary of Transportation shall—

''(1) return the vessel in a condition at least as good as when taken, less ordinary wear and tear; or

''(2) pay the owner an amount sufficient to recondition the vessel to that condition, less ordinary wear and tear.

"CHAPTER 565—ESSENTIAL VESSELS AFFECTED BY NEUTRALITY ACT

''Sec.
''56501. Definition.
''56502. Adjusting obligations and arranging maintenance.
''56503. Types of adjustments and arrangements.
''56504. Changes in adjustments and arrangements.

"§ 56501. Definition

''In this chapter, the term 'essential vessel' means a vessel that is—

''(1)(A) security for a mortgage indebtedness to the United States Government; or

''(B) constructed under this subtitle or required by a contract under this subtitle to be operated on a certain essential foreign trade route; and

''(2) necessary in the interests of commerce and national defense to be maintained in condition for prompt use.

"§ 56502. Adjusting obligations and arranging maintenance

''(a) GENERAL AUTHORITY.—On written application, the Secretary of Transportation may adjust obligations and arrange for maintenance of an essential vessel as provided in this chapter if the Secretary determines, after any investigation or proceeding the Secretary considers desirable, that—

''(1) the operation of the vessel in the service, route, or line to which it is assigned under this subtitle, or in which it otherwise would be operated, is not—

''(A) lawful under the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or a proclamation issued under that Act; or

''(B) compatible with maintaining the availability of the vessel for national defense and commerce;

''(2) it is not feasible under existing law to employ the vessel in any other service or operation in foreign or domestic trade (except temporary or emergency operation under section 56503(b)(5) of this title); and

''(3) the applicant, because of the restrictions of the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or the withdrawal of vessels for national defense under clause (1), is not earning or will not earn a reasonable return on the capital necessarily employed in its business.

''(b) EFFECTIVE PERIOD.—Adjustments and arrangements under subsection (a) shall continue in effect only as long as the circumstances described in subsection (a) continue to exist.

"§ 56503. Types of adjustments and arrangements

''(a) SUSPENSION REQUIREMENTS.—An adjustment or arrangement under this chapter shall include suspension of—

''(1) the requirement to operate the vessel in foreign trade under the applicable operating-differential or construction-differential subsidy contract or mortgage or other agreement; and

''(2) the right to operating-differential subsidy for the vessel.

''(b) DISCRETIONARY ADJUSTMENTS AND ARRANGEMENTS.—To the extent the Secretary of Transportation considers appropriate to carry out the purposes of this subtitle, an adjustment or arrangement under this chapter may include any of the following:

''(1) Lay-up of the vessel by the owner or in the custody of the Secretary, with payment or reimbursement by the Secretary of necessary and proper expenses (including reasonable overhead and insurance) or a fixed periodic allowance instead of payment or reimbursement.

''(2) Postponement, for not more than the total period of the lay-up, of the maturity date of each installment of the principal of obligations to the United States Government for the vessel (regardless of whether the maturity date is during a lay-up period), or rearrangement of those maturities.

''(3) Postponement or cancellation of interest accruing on the obligations during a lay-up period.

''(4) Extension, for not more than the total period of the lay-up, of the 20-year life limitation for the vessel and other limitations and provisions of this subtitle based on a 20-year life.

''(5) Provision for temporary or emergency employment of the vessel (instead of lay-up) as may be practicable, with such arrangements for management of the vessel, payment of expenses, and application of the proceeds of the employment, as the Secretary may approve, with any period of operation being included as part of the lay-up period.

''(6) Payment to the Secretary, on termination of the arrangements with the applicant, of the *applicant's net profits (earned while the arrangements were in effect) in excess of 10 percent a year on the capital necessarily employed in the applicant's business, as reimbursement for obligations postponed or canceled and expenses incurred or paid by the Secretary under this section.*

"(c) LAID-UP VESSELS.—Under subsection (b)(6), capital of the applicant represented by a vessel of the applicant laid-up or operated under this section shall be included in capital necessarily employed in the applicant's business. The Secretary may require a vessel laid-up or operated under this section to be security for reimbursement.

"§56504. Changes in adjustments and arrangements

"The Secretary of Transportation may change an adjustment or arrangement made under this chapter as the Secretary considers necessary to carry out this chapter.

"PART F—GOVERNMENT-OWNED MERCHANT VESSELS

"CHAPTER 571—GENERAL AUTHORITY

"Sec.
"57101. Placement of vessels in National Defense Reserve Fleet.
"57102. Disposition of vessels not worth preserving.
"57103. Sale of obsolete vessels in National Defense Reserve Fleet.
"57104. Acquisition of vessels from sale of obsolete vessels.
"57105. Acquisition of vessels for essential services, routes, or lines.
"57106. Maintenance, improvement, and operation of vessels.
"57107. Vessels for other agencies.
"57108. Consideration of ballast and equipment in determining selling price.
"57109. Operation of vessels purchased, chartered, or leased from Secretary of Transportation.

"§57101. Placement of vessels in National Defense Reserve Fleet

"(a) IN GENERAL.—Any vessel acquired by the Maritime Administration shall be placed in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).

"(b) REMOVAL FROM FLEET.—A vessel placed in the Fleet under subsection (a) may not be traded out or sold from the Fleet, except as provided in section 57102, 57103, or 57104 or chapter 533, 537, 573, or 575 of this title.

"§57102. Disposition of vessels not worth preserving

"(a) IN GENERAL.—If the Secretary of Transportation determines that a vessel owned by the Maritime Administration is of insufficient value for commercial or military operation to warrant its further preservation, the Secretary moy scrap the vessel or sell the vessel for cash.

"(b) SELLING PROCEDURE.—The sale of a vessel under subsection (a) shall be made on the basis of competitive sealed bids, after an appraisal and due advertisement. The purchaser does not have to be a citizen of the United States. The purchaser shall provide a surety bond, with a surety approved by the Secretary, to ensure that the vessel will not be operated in the foreign trade of the United States at any time within 10 years after the sale, in competition with a vessel owned by a citizen of the United States and documented under the laws of the United States.

"§57103. Sale of obsolete vessels in National Defense Reserve Fleet

"(a) IN GENERAL.—The Secretary of Transportation may convey the right, title, and interest of the United States Government in any vessel of the National Defense Reserve Fleet that has been identified by the Secretary as an obsolete vessel of insufficient value to warrant its further preservation, if the recipient—

"(1) is a non-profit organization, a State, or a municipal corporation or political subdivision of a State;

"(2) agrees not to use, or allow others to use, the vessel for commercial transportation purposes;

"(3) agrees to make the vessel available to the Government whenever the Secretary indicates that it is needed by the Government;

"(4) agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, lead paint, or other hazardous substances after conveyance of the vessel, except for claims arising from use of the vessel by the Government;

"(5) has a conveyance plan and a business plan that describes the intended use of the vessel, each of which has been submitted to and approved by the Secretary;

"(6) has provided proof, as determined by the Secretary, of resources sufficient to accomplish the transfer, necessary repairs and modifications, and initiation of the intended use of the vessel; and

"(7) agrees that when the recipient no longer requires the vessel for use as described in the business plan required under clause (5)—

"(A) the recipient will, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

"(B) if the Board of Trustees of the recipient has decided to dissolve the recipient according to the laws of the State in which the recipient is incorporated, then—

"(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), or to the Federal Government or a State or local government for a public purpose; and

"(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes.

"(b) OTHER EQUIPMENT.—At the Secretary's discretion, additional equipment from other obsolete vessels of the Fleet may be conveyed to assist the recipient with maintenance, repairs, or modifications.

"(c) ADDITIONAL TERMS.—The Secretary may require any additional terms the Secretary considers appropriate.

"(d) DELIVERY OF VESSEL.—If conveyance is made under this section, the vessel shall be delivered to the recipient at a time and place to be determined by the Secretary. The vessel shall be conveyed in an 'as is' condition.

"(e) LIMITATIONS.—If at any time prior to delivery of the vessel to the recipient, the Secretary determines that a different disposition of the vessel would better serve the interests of the Government, the Secretary shall pursue the more favorable disposition of the obsolete vessel and shall not be liable for any damages that may result from an intended recipient's reliance upon a proposed transfer.

"(f) REVERSION.—The Secretary shall include in any conveyance under this section terms under which all right, title, and interest conveyed by the Secretary shall revert to the Government if the Secretary determines the vessel has been used other than as described in the business plan required under subsection (a)(5).

"§57104. Acquisition of vessels from sale of obsolete vessels

"(a) IN GENERAL.—The Secretary of Transportation may acquire suitable documented vessels with amounts in the Vessel Operations Revolving Fund derived from the sale of obsolete vessels in the National Defense Reserve Fleet.

"(b) VALUATION.—The acquired and obsolete vessels shall be valued at their scrap value in domestic or foreign markets as of the date of the acquisition for or sale from the Fleet. However, the value assigned to those vessels shall be determined on the same basis, with consideration given to the fair value of the cost of moving the vessel sold from the Fleet to the place of scrapping.

"(c) COSTS INCIDENT TO LAY-UP.—Costs incident to the lay-up of the vessel acquired under this section may be paid from amounts in the Fund.

"(d) TRANSFERS TO NON-CITIZENS.—A vessel sold from the Fleet under this section may be scrapped in an approved foreign market without obtaining additional separate approval from the Secretary to transfer the vessel to a person not a citizen of the United States.

"§57105. Acquisition of vessels for essential services, routes, or lines

"(a) IN GENERAL.—The Secretary of Transportation may acquire a vessel, by purchase or otherwise, if—

"(1) the Secretary considers the vessel necessary to establish, maintain, improve, or serve as a replacement on an essential service, route, or line in the foreign commerce of the United States, as determined under section 50103 of this title;

"(2) the vessel was constructed in the United States; and

"(3) the Secretary of the Navy has certified to the Secretary of Transportation that the vessel is suitable for economical and speedy conversion into a naval or military auxiliary or otherwise suitable for use by the United States Government in time of war or national emergency.

"(b) PRICE.—The price paid for the vessel shall be based on a fair and reasonable valuation. However, the price may not exceed by more than 5 percent the cost of the vessel to the owner (excluding any construction-differential subsidy and the cost of national defense features paid by the Secretary of Transportation) plus the actual cost previously expended for reconditioning, less depreciation based on a 25-year life for a dry-cargo or passenger vessel and a 20-year life for a tanker or other liquid bulk carrier vessel.

"(c) DOCUMENTATION.—A vessel acquired under this section that is not documented under the laws of the United States at the time of acquisition shall be so documented as soon as practicable.

"§57106. Maintenance, improvement, and operation of vessels

"(a) IN GENERAL.—The Secretary of Transportation may maintain, repair, recondition, remodel, and improve vessels owned by the United States Government and in the possession or under the control of the Secretary, to equip them adequately for competition in the foreign trade of the United States. The Secretary may operate such a vessel or charter the vessel on terms and conditions the Secretary considers appropriate to carry out the purposes of this subtitle.

"(b) DOCUMENTATION AND RESTRICTIONS ON OPERATION.—A vessel reconditioned, remodeled, or improved under subsection (a) shall be documented under the laws of the United States and remain so documented for at least 5 years after completion of the reconditioning, remodeling, or improvement. During that period, it shall be operated on voyages that are not exclusively coastwise.

"§57107. Vessels for other agencies

"(a) IN GENERAL.—The Secretary of Transportation may construct, reconstruct, repair, equip,

and outfit, by contract or otherwise, vessels or parts thereof, for any other department or agency of the United States Government to the extent the other department or agency is authorized by law to do so for its own account.

"(b) EFFECT ON CONTRACT AUTHORIZATION.—An obligation incurred or expenditure made by the Secretary under this section does not affect any contract authorization of the Secretary, but instead shall be charged against the existing appropriation or contract authorization of the department or agency.

"§57108. Consideration of ballast and equipment in determining selling price

"The Maritime Administration may not sell a vessel until its ballast and equipment have been inventoried and their value considered in determining the selling price of the vessel.

"§57109. Operation of vessels purchased, chartered, or leased from Secretary of Transportation

"Unless otherwise authorized by the Secretary of Transportation, a vessel purchased, chartered, or leased from the Secretary may be operated only under a certificate of documentation with a registry or coastwise endorsement. Such a vessel, while employed solely as a merchant vessel, is subject to the laws, regulations, and liabilities governing merchant vessels, whether the United States Government has an interest in the vessel as an owner or holds a mortgage, lien, or other interest.

"CHAPTER 573—VESSEL TRADE-IN PROGRAM

"Sec.
"57301. Definitions.
"57302. Authority to acquire vessels.
"57303. Utility value and tonnage requirements.
"57304. Eligible acquisition dates.
"57305. Determination of trade-in allowance.
"57306. Payment of trade-in allowance.
"57307. Recognition of gain for tax purposes.
"57308. Use of vessels at least 25 years old.

"§57301. Definitions

"In this chapter:

"(1) NEW VESSEL.—The term 'new vessel' means a vessel—

"(A) constructed under this subtitle and acquired within 2 years after the date of completion; or

"(B) constructed in a domestic shipyard on private account and not under this subtitle, and documented under the laws of the United States.

"(2) OBSOLETE VESSEL.—The term 'obsolete vessel' means a vessel that—

"(A) is of at least 1,350 gross tons;

"(B) the Secretary of Transportation believes should, because of its age, obsolescence, or other reasons, be replaced in the public interest; and

"(C) has been owned by a citizen of the United States for at least 3 years immediately before its acquisition under this chapter.

"§57302. Authority to acquire vessels

"To promote the construction of new, safe, and efficient vessels to carry the domestic and foreign waterborne commerce of the United States, the Secretary of Transportation may acquire an obsolete vessel in exchange for an allowance of credit toward the cost of construction or purchase of a new vessel as provided in this chapter.

"§57303. Utility value and tonnage requirements

"(a) UTILITY VALUE.—The utility value of a new vessel to be acquired under this chapter for operation in the domestic or foreign commerce of the United States may not be substantially less than that of the obsolete vessel acquired in exchange under this chapter.

"(b) TONNAGE.—If the Secretary of Transportation finds that the new vessel will have a utility value at least equal to that of the obsolete vessel, the new vessel may be of lesser gross tonnage than the obsolete vessel. However, the gross tonnage of the new vessel must be at least one-third the gross tonnage of the obsolete vessel.

"§57304. Eligible acquisition dates

"At the option of the owner, the acquisition of an obsolete vessel under this chapter shall occur—

"(1) when the owner contracts for the construction or purchase of a new vessel; or

"(2) within 5 days of the actual date of delivery of the new vessel to the owner.

"§57305. Determination of trade-in allowance

"(a) IN GENERAL.—The Secretary of Transportation shall determine the trade-in allowance for an obsolete vessel at the time of acquisition of the vessel. The allowance shall be the fair value of the vessel. In determining the value, the Secretary shall consider—

"(1) the scrap value of the obsolete vessel in American and foreign markets;

"(2) the depreciated value based on a 20-year or 25-year life, whichever applies to the obsolete vessel; and

"(3) the market value of the obsolete vessel for operation in world commerce or in the domestic or foreign commerce of the United States.

"(b) USE OF OBSOLETE VESSELS.—If acquisition of the obsolete vessel occurs when the owner contracts for the construction of the new vessel, and the owner uses the obsolete vessel during the period of construction of the new vessel, the Secretary shall reduce the trade-in allowance by an amount representing the fair value of that use. The Secretary shall establish the rate for use of the obsolete vessel when the contract for construction of the new vessel is made.

"§57306. Payment of trade-in allowance

"(a) ACQUISITION AT TIME OF CONTRACT.—If acquisition of an obsolete vessel under this chapter occurs when the owner contracts for the construction or purchase of the new vessel, the Secretary of Transportation shall apply the trade-in allowance to the purchase price of the new vessel rather than paying it to the owner. If the new vessel is constructed under this subtitle, the Secretary may apply the trade-in allowance to the required cash payments on terms and conditions the Secretary may prescribe. If the new vessel is not constructed under this subtitle, the Secretary shall pay the trade-in allowance to the builder of the vessel for the account of the owner when the Secretary acquires the obsolete vessel.

"(b) ACQUISITION AT TIME OF DELIVERY.—If acquisition of the obsolete vessel occurs when the new vessel is delivered to the owner, the Secretary shall deposit the trade-in allowance in the owner's capital construction fund.

"§57307. Recognition of gain for tax purposes

"The owner of an obsolete vessel does not recognize a gain under the Federal income tax laws when the vessel is transferred to the Secretary of Transportation in exchange for a trade-in allowance under this chapter. The basis of the new vessel acquired with the allowance is the same as the basis of the obsolete vessel—

"(1) increased by the difference between the cost of the new vessel and the trade-in allowance of the obsolete vessel; and

"(2) decreased by the amount of loss recognized on the transfer.

"§57308. Use of vessels at least 25 years old

"An obsolete vessel acquired under this chapter that is or becomes at least 25 years old may not be used for commercial operation. However, the vessel may be used—

"(1) during a period in which vessels may be requisitioned under chapter 563 of this title; or

"(2) except as otherwise provided in this subtitle, on trade routes serving only the foreign trade of the United States.

"CHAPTER 575—CONSTRUCTION, CHARTER, AND SALE OF VESSELS

"SUBCHAPTER I—GENERAL

"Sec.
"57501. Completion of long-range program.
"57502. Construction, reconditioning, and remodeling of vessels.
"57503. Competitive bidding.
"57504. Charter or sale of vessels acquired by Department of Transportation.
"57505. Employment of vessels on foreign trade routes.
"57506. Minimum selling price of vessels.

"SUBCHAPTER II—CHARTERS

"57511. Demise charters.
"57512. Competitive bidding.
"57513. Minimum bid.
"57514. Qualifications of bidders.
"57515. Awarding of charters.
"57516. Operating-differential subsidies.
"57517. Recovery of excess profits.
"57518. Performance bond.
"57519. Insurance.
"57520. Vessel maintenance.
"57521. Termination of charter during national emergency.

"SUBCHAPTER III—MISCELLANEOUS

"57531. Construction and charter of vessels for unsuccessful routes.
"57532. Operation of experimental vessels.

"SUBCHAPTER I—GENERAL

"§57501. Completion of long-range program

"Whenever the Secretary of Transportation determines that the objectives and policies declared in sections 50101 and 50102 of this title cannot be fully realized within a reasonable time under titles V and VI of the Merchant Marine Act, 1936, and the President approves the determination, the Secretary, in accordance with this chapter, shall complete the long-range program described in section 50102 of this title.

"§57502. Construction, reconditioning, and remodeling of vessels

"(a) IN GENERAL.—The Secretary of Transportation may have new vessels constructed, and have old vessels reconditioned or remodeled, as the Secretary determines necessary to carry out the objectives of this subtitle.

"(b) PLACE OF WORK.—Construction, reconditioning, and remodeling of vessels under subsection (a) shall take place in shipyards in the continental United States (including Alaska and Hawaii). However, if satisfactory contracts cannot be obtained from private shipbuilders, the Secretary may have the work done in navy yards.

"(c) APPLICABILITY OF CONSTRUCTION-DIFFERENTIAL SUBSIDY PROVISIONS.—Contracts for the construction, reconstruction, or reconditioning of a vessel by a private shipbuilder under this chapter are subject to the provisions of title V of the Merchant Marine Act, 1936, applicable to a contract with a private shipbuilder for the construction of a vessel under title V of that Act.

"§57503. Competitive bidding

"(a) ADVERTISEMENT AND BIDDING.—The Secretary of Transportation may make a contract with a private shipbuilder for the construction of a new vessel, or for the reconstruction or reconditioning of an existing vessel, only after due advertisement and upon sealed competitive bids.

"(b) OPENING OF BIDS.—Bids required under this section shall be opened at the time and place stated in the advertisement for bids. All interested persons, including representatives of

the press, shall be permitted to attend. The results of the bidding shall be publicly announced.

"§57504. Charter or sale of vessels acquired by Department of Transportation

"Vessels transferred to or otherwise acquired by the Department of Transportation in any manner may be chartered or sold by the Secretary of Transportation as provided in this chapter.

"§57505. Employment of vessels on foreign trade routes

"(a) IN GENERAL.—The Secretary of Transportation shall arrange for the employment of the Department of Transportation's vessels in steamship lines on such trade routes, exclusively serving the foreign trade of the United States, as the Secretary determines are essential for the development and maintenance of the commerce of the United States and the national defense. However, the Secretary shall first determine that those routes are not being adequately served by existing steamship lines privately owned and operated by citizens of the United States and documented under the laws of the United States.

"(b) POLICY TO ENCOURAGE PRIVATE OPERATION.—The Secretary shall have a policy of encouraging private operation of each essential steamship line now owned by the United States Government by—

"(1) selling the line to a citizen of the United States; or

"(2) demising the Secretary's vessels on bareboat charter to citizens of the United States who agree to maintain the line in the manner provided in this chapter.

"§57506. Minimum selling price of vessels

"(a) IN GENERAL.—A vessel constructed under this subtitle or the Merchant Marine Act, 1936, may not be sold by the Secretary of Transportation for less than the price specified in this section.

"(b) OPERATION IN FOREIGN TRADE.—If the vessel is to be operated in foreign trade, the minimum price is the estimated foreign construction cost (exclusive of national defense features) determined as of the date the construction contract is executed, less depreciation under subsection (d).

"(c) OPERATION IN DOMESTIC TRADE.—If the vessel is to be operated in domestic trade, the minimum price is the cost of construction in the United States (exclusive of national defense features), less depreciation under subsection (d).

"(d) DEPRECIATION.—Depreciation under subsections (b) and (c) shall be based on—

"(1) a 25-year life for dry-cargo and passenger vessels; and

"(2) a 20-year life for tankers and other bulk liquid carrier vessels.

"SUBCHAPTER II—CHARTERS

"§57511. Demise charters

"A charter by the Secretary of Transportation under this chapter shall demise the vessel to the charterer subject to all usual conditions contained in a bareboat charter. The charter shall be for a term the Secretary considers to be in the best interest of the United States Government and the merchant marine.

"§57512. Competitive bidding

"(a) IN GENERAL.—The Secretary of Transportation may charter a vessel of the Department of Transportation to a private operator only on the basis of competitive sealed bidding. The bids must be submitted in strict compliance with the terms and conditions of a public advertisement soliciting the bids.

"(b) ADVERTISEMENT FOR BIDS.—An advertisement for bids shall state—

"(1) the number, type, and tonnage of the vessels being offered for bareboat charter for operation as a steamship line on a designated trade route;

"(2) the minimum number of sailings required;

"(3) the length of time of the charter;

"(4) the right of the Secretary to reject all bids; and

"(5) other information the Secretary considers necessary for the information of prospective bidders.

"(c) OPENING OF BIDS.—Bids required under this section shall be opened at the time and place stated in the advertisement for bids. All interested persons, including representatives of the press, shall be permitted to attend. The results of the bidding shall be publicly announced.

"§57513. Minimum bid

"The Secretary of Transportation shall reject any bid for the charter under this subchapter of a vessel constructed under this subtitle or the Merchant Marine Act, 1936, if the charter hire offered is lower than the minimum charter hire would be if the vessel were chartered under section 57531 of this title.

"§57514. Qualifications of bidders

"(a) CONSIDERATIONS.—In deciding whether to award a charter to a bidder, the Secretary of Transportation shall consider—

"(1) the bidder's financial resources, credit standing, and practical experience in operating vessels; and

"(2) other factors a prudent business person would consider in entering into a transaction involving a large capital investment.

"(b) DISQUALIFICATIONS.—The Secretary may not charter a vessel to a person appearing to lack sufficient capital, credit, and experience to operate the vessel successfully over the period covered by the charter.

"§57515. Awarding of charters

"(a) IN GENERAL.—The Secretary of Transportation shall award the charter to the bidder proposing to pay the highest monthly charter hire. However, the Secretary may reject the highest or most advantageous or any other bid if the Secretary considers the charter hire offered too low or determines that the bidder lacks the qualifications required by section 57514 of this title.

"(b) HIGHEST BID REJECTED.—If the Secretary rejects the highest bid, the Secretary may—

"(1) award the charter to the next highest bidder; or

"(2) reject all bids and either readvertise the line or operate the line until conditions appear more favorable to reoffer the line for private charter.

"(c) REASON FOR REJECTION.—On request of a bidder, the reason for rejection shall be stated in writing to the bidder.

"§57516. Operating-differential subsidies

"If the Secretary of Transportation considers it necessary, the Secretary may make a contract with a charterer of a vessel owned by the Secretary for payment of an operating-differential subsidy, on the same terms and conditions, and subject to the same limitations and restrictions, as otherwise provided with respect to payment of operating-differential subsidies to operators of privately-owned vessels.

"§57517. Recovery of excess profits

"(a) IN GENERAL.—A charter under this chapter shall provide that if, at the end of a calendar year subsequent to the execution of the charter, the cumulative net voyage profit (after payment of the charter hire reserved in the charter and payment of the charterer's fair and reasonable overhead expenses applicable to operation of the chartered vessel) exceeds 10 percent a year of the charterer's capital necessarily employed in the business of the chartered vessel, the charterer shall pay to the Secretary of Transportation, as additional charter hire, half the cumulative net voyage profit in excess of 10 percent a year. However, any cumulative net voyage profit accounted for under this subsection is not to be included in the calculation of cumulative net voyage profit in any subsequent year.

"(b) TERMS TO BE DEFINED AND USED.—The Secretary shall define the terms 'net voyage profit', 'fair and reasonable overhead expenses', and 'capital necessarily employed' for this section. Each advertisement for bids and each charter shall contain these definitions, stating the formula for determining each of these three amounts.

"§57518. Performance bond

"The Secretary of Transportation shall require a charterer of a vessel of the Secretary to deposit with the Secretary an undertaking, with approved sureties, in such amount as the Secretary may require as security for the faithful performance of the terms of the charter, including indemnity against liens on the chartered vessel.

"§57519. Insurance

"A charter under this chapter shall require the charterer to carry, at the charterer's expense, insurance on the chartered vessel covering all marine and port risks, protection and indemnity risks, and all other hazards and liabilities, adequate to cover damages claimed against and losses sustained by the chartered vessel arising during the term of the charter. The insurance shall be in such form, in such amount, and with such companies as the Secretary of Transportation may require. In accordance with law, any of the insurance risks may be underwritten by the Secretary.

"§57520. Vessel maintenance

"(a) IN GENERAL.—A charter under this chapter shall require the charterer, at the charterer's expense, to—

"(1) keep the chartered vessel in good repair and efficient operating condition; and

"(2) make any repairs required by the Secretary of Transportation.

"(b) INSPECTION.—The charter shall provide that the Secretary has the right to inspect the vessel at any time to ascertain its condition.

"§57521. Termination of charter during national emergency

"A charter under this chapter shall provide that during a national emergency proclaimed by the President or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may terminate the charter without cost to the United States Government on such notice to the charterer as the President determines.

"SUBCHAPTER III—MISCELLANEOUS

"§57531. Construction and charter of vessels for unsuccessful routes

"(a) IN GENERAL.—If the Secretary of Transportation finds that a trade route determined to be essential under section 50103 of this title cannot be successfully developed and maintained and the Secretary's replacement program cannot be achieved under private operation of the trade route by a citizen of the United States with vessels documented under the laws of the United States, without further aid by the United States Government in addition to the financial aid authorized under titles V and VI of the Merchant Marine Act, 1936, the Secretary, without advertisement or competition, may—

"(1) have constructed, in private shipyards or in navy yards, vessels of the types necessary for the trade route; and

"(2) demise those new vessels or bareboat charter them to the American-flag operator established on the trade route.

"(b) AMOUNT OF CHARTER HIRE.—

"(1) IN GENERAL.—The annual charter hire under subsection (a) shall be at least 4 percent of the price (referred to in this section as the 'foreign cost') at which the vessel would be sold if constructed under title V of the Merchant Marine Act, 1936, plus—

"(A) a percentage of the depreciated foreign cost computed annually determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the Government with remaining periods to maturity comparable to the term of the charter, adjusted to the nearest one-eighth percent; and

"(B) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs.

"(2) DEPRECIATION.—Depreciation under paragraph (1)(A) shall be based on—

"(A) a 25-year life for dry-cargo and passenger vessels; and

"(B) a 20-year life for tankers and other bulk liquid carrier vessels.

"(c) OPTION TO PURCHASE.—The charter may contain an option to the charterer to purchase the vessels from the Secretary of Transportation within 5 years after delivery under the charter, on the same terms and conditions as provided in title V of the Merchant Marine Act, 1936, for the purchase of new vessels from the Secretary. However—

"(1) the purchase price shall be the foreign cost less depreciation to the date of purchase based on the useful life specified in subsection (b)(2);

"(2) the required cash payment payable at the time of the purchase shall be 25 percent of the purchase price;

"(3) the charter may provide that any part of the charter hire paid in excess of the minimum charter hire provided for in this section may be credited against the cash payment payable at the time of the purchase;

"(4) the balance of the purchase price shall be paid within the remaining years of useful life (as specified in subsection (b)(2)) after the date of delivery of the vessel under the charter and in approximately equal annual installments, except that the first installment, which shall be payable on the next ensuing anniversary date of the delivery under the charter, shall be a proportionate part of the annual installment; and

"(5) interest shall be payable on the unpaid balances from the date of purchase, at a rate not less than—

"(A) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the Government with remaining periods to maturity comparable to the average maturities of the loans, adjusted to the nearest one-eighth percent; plus

"(B) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs.

"(d) OPERATION OF VESSEL.—

"(1) PERMISSIBLE VOYAGES.—The charter shall provide for operation of the vessel exclusively—

"(A) in foreign trade;

"(B) on a round-the-world voyage;

"(C) on a round voyage from the west coast of the United States to a European port that includes an intercoastal port of the United States;

"(D) on a round voyage from the Atlantic coast of the United States to the Orient that includes an intercoastal port of the United States; or

"(E) on a voyage in foreign trade on which the vessel may stop at Hawaii or an island territory or possession of the United States.

"(2) DOMESTIC TRADE.—The charter shall provide if the vessel is operated in domestic trade on any of the services specified in paragraph (1), the charterer will pay annually to the Secretary of Transportation that proportion of $^{1}/_{25}$ of the difference between the domestic and foreign cost of the vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year.

"§57532. Operation of experimental vessels

"(a) DEFINITION.—In this section, the term 'experimental vessel' means a vessel owned by the United States Government (including a vessel in the National Defense Reserve Fleet) that has been constructed, reconditioned, or remodeled for experimental or testing purposes.

"(b) AUTHORITY TO OPERATE.—The Secretary of Transportation, for the purpose of practical development, trial, and testing, may operate an experimental vessel under a bareboat charter or general agency agreement in the foreign or domestic trade of the United States or for use for the account of a department or agency of the Government, without regard to other provisions of this subtitle and other laws related to chartering and general agency operations. Not more than 10 vessels may be operated and tested under this section in any one year.

"(c) TERMS OF OPERATION.—Operation of a vessel under this section shall be on terms the Secretary considers appropriate to carry out the purposes of this subtitle. A bareboat charter under this section shall be at reasonable rates and include restrictions the Secretary considers appropriate to protect the public interest, including provisions for recapture of profits under section 57517 of this title. A charter or general agency agreement under this section shall be reviewed annually to determine whether conditions exist to justify continuance of the charter or agreement.

"(d) RIGHTS OF SEAMEN.—A seaman engaged in vessel operations of the Secretary under this section and employed through a general agent in connection with a charter or agreement under this section is entitled to all the rights and remedies provided in sections 1(a) and (c), 3(c), and 4 of the Act of March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294).

"PART G—RESTRICTIONS AND PENALTIES

"CHAPTER 581—RESTRICTIONS AND PENALTIES

"Sec.
"58101. Operating in domestic intercoastal or coastwise service.
"58102. Default on payment or maintenance of reserves.
"58103. Employing another person as managing or operating agent.
"58104. Willful violation constitutes breach of contract or charter.
"58105. Preferences for cargo in which charterer has interest.
"58106. Concerted discriminatory activities.
"58107. Discrimination at ports by water common carriers.
"58108. Charges for transportation subject to subtitle IV of title 49.
"58109. Penalties.

"§58101. Operating in domestic intercoastal or coastwise service

"(a) PROHIBITION.—A subsidy may not be awarded or paid to a contractor under the operating-differential subsidy program, and a vessel may not be chartered to a person under chapter 575 of this title, if the contractor or charterer, or a holding company, subsidiary, affiliate, or associate of the contractor or charterer, or an officer, director, agent, or executive thereof, directly or indirectly—

"(1) owns, charters, or operates a vessel engaged in the domestic intercoastal or coastwise service; or

"(2) owns a pecuniary interest in a person that owns, charters, or operates a vessel in the domestic intercoastal or coastwise service.

"(b) WAIVER.—A person may apply to the Secretary of Transportation for a waiver of subsection (a). Before deciding on the waiver, the Secretary shall give the applicant and other interested persons an opportunity for a hearing. The Secretary may not grant the waiver if the Secretary finds it would—

"(1) result in unfair competition to a person operating exclusively in the domestic intercoastal or coastwise service; or

"(2) be prejudicial to the objectives and policy of this subtitle.

"(c) CONTINUOUS OPERATION SINCE 1935.—The Secretary shall grant an application under subsection (b) without requiring further proof that the public interest and convenience will be served and without further proceedings as to the competition in the route or trade, if the contractor or other person, or a predecessor in interest, was in bona-fide operation as a common carrier by water in the domestic intercoastal or coastwise trade in 1935 over the route or in the trade for which the application is made and has so operated since that time or, if engaged in furnishing seasonal service only, was in bona-fide operation in 1935 during the season ordinarily covered by its operation, except in either event as to interruptions of service over which the applicant or its predecessor in interest had no control.

"(d) DIVERSION INTO INTERCOASTAL OR COASTWISE OPERATIONS.—If an application under subsection (b) is approved, a person referred to in this section may not divert, directly or indirectly, money, property, or any other thing of value, used in a foreign-trade operation for which a subsidy is paid by the United States Government, into intercoastal or coastwise operations.

"§58102. Default on payment or maintenance of reserves

"The Secretary of Transportation may supervise the number and compensation of all officers and employees of a contractor under the operating-differential subsidy program or a charterer under chapter 575 of this title, receiving an operating-differential subsidy, if the contractor or charterer—

"(1) is in default on a mortgage, note, purchase contract, or other obligation to the Secretary; or

"(2) has not maintained, in a manner satisfactory to the Secretary, all of the reserves provided for in this subtitle.

"§58103. Employing another person as managing or operating agent

"(a) PROHIBITION.—Except with the written consent of the Secretary of Transportation, a contractor holding a contract under the operating-differential subsidy program or under chapter 575 of this title may not—

"(1) employ another person as the managing or operating agent of the operator; or

"(2) charter a vessel, on which an operating-differential subsidy is to be paid, for operation by another person.

"(b) APPLICABILITY OF PROVISIONS TO CHARTERER.—If a charter prohibited by this section is made, the person operating the chartered vessel is subject to all the provisions of this subtitle and the operating-differential subsidy program, including limitations of profits and salaries.

"§58104. Willful violation constitutes breach of contract or charter

"A willful violation of any provision of sections 58101–58103 of this title constitutes a breach of the contract or charter. On determining that a violation has occurred, the Secretary of Transportation may declare the contract or charter rescinded.

“§58105. Preferences for cargo in which charterer has interest

“A contractor receiving an operating-differential subsidy, or a charterer under chapter 575 of this title, may not unjustly discriminate in any manner so as to give preference, directly or indirectly, to cargo in which the contractor or charterer has a direct or indirect ownership, purchase, or vending interest.

“§58106. Concerted discriminatory activities

“(a) PROHIBITION.—A contractor receiving an operating-differential subsidy, or a charterer under chapter 575 of this title, may not continue as a party to or conform to an agreement with another carrier by water, or engage in a practice in concert with another carrier by water, that is unjustly discriminatory or unfair to any other citizen of the United States operating a common carrier by water employing only vessels documented under the laws of the United States on an established trade route from and to a United States port.

“(b) GOVERNMENT PAYMENT PROHIBITED.—No payment or subsidy of any kind may be paid, directly or indirectly, out of funds of the United States Government to a contractor or charterer that has violated subsection (a).

“(c) CIVIL ACTION.—A person whose business or property is injured by a violation of subsection (a) may bring a civil action in the district court of the United States for the district in which the defendant resides, is found, or has an agent. If the person prevails, the person shall be awarded—

“(1) 3 times the damages; and

“(2) costs, including reasonable attorney fees.

“§58107. Discrimination at ports by water common carriers

“(a) PROHIBITION.—A common carrier by water may not, directly or indirectly, through an agreement, conference, association, understanding, or otherwise, prevent or attempt to prevent any other common carrier by water from serving any port described in subsection (b) at the same rates the first carrier charges at the nearest port already regularly served by it.

“(b) PORTS.—A port referred to in subsection (a) is one that is—

“(1) designed for the accommodation of ocean-going vessels;

“(2) located on an improvement project authorized by law or by a Federal agency; and

“(3) located within the continental limits of the United States.

“(c) OTHER AUTHORITY NOT LIMITED.—This section does not limit the authority otherwise vested in the Secretary of Transportation and the Federal Maritime Commission.

“§58108. Charges for transportation subject to subtitle IV of title 49

“(a) PROHIBITION.—A carrier may not charge, collect, or receive for transportation subject to subtitle IV of title 49 of persons or property, under any joint rate, fare, or charge, or under any export, import, or other proportional rate, fare, or charge, that is based in whole or in part on the fact that the persons or property affected are to be transported to, or have been transported from, a port in a territory or possession of the United States or in a foreign country, by a carrier by water in foreign commerce, any lower rate, fare, or charge than the carrier charges, collects, or receives for the transportation of persons or similar property for the same distance, in the same direction, and over the same route, in commerce wholly within the United States, unless the vessel used for the transportation is or was at the time of the transportation documented under the laws of the United States.

“(b) SUSPENSION OF PROHIBITION.—Whenever the Secretary of Transportation believes that adequate shipping facilities to or from any port in a territory or possession of the United States or a foreign country are not being provided by vessels documented under the laws of the United States, the Secretary shall certify this fact to the Surface Transportation Board. On receiving the certification, the Board may by order suspend the operation of subsection (a) with respect to the rates, fares, and charges for the transportation by rail of persons and property transported from or to be transported to those ports, for such time and under such terms and conditions as the Secretary may specify in the order or in any supplemental order.

“(c) TERMINATION OF SUSPENSION.—Whenever the Secretary believes that adequate shipping facilities are being provided to those ports by vessels documented under the laws of the United States, and certifies that fact to the Board, the Board may order the termination of the suspension.

“§58109. Penalties

“(a) INDIVIDUALS.—An individual convicted of violating section 58101(d), 58103, or 58105 of this title shall be fined under title 18, imprisoned for at least one year but not more than 5 years, or both.

“(b) ORGANIZATIONS.—An organization convicted of committing an act prohibited by this subtitle shall be fined under title 18.

“(c) INELIGIBILITY TO RECEIVE BENEFITS.—An individual or organization convicted of violating a section referred to in subsection (a) is ineligible, at the discretion of the Secretary of Transportation, to receive any benefit under the construction-differential subsidy or operating-differential subsidy programs, or a charter under chapter 575 of this title, for 5 years after the conviction.”.

SEC. 8. SUBTITLE VI OF TITLE 46.

(a) REDESIGNATION.—Title 46, United States Code, is amended by redesignating subtitle VI as subtitle VII.

(b) NEW SUBTITLE.—Title 46, United States Code, is amended by inserting after subtitle V the following:

“Subtitle VI—Clearance, Tonnage Taxes, and Duties

“Chapter	*Sec.*
“601. Arrival and Departure Requirements	***60101***
“603. Tonnage Taxes and Light Money	***60301***
“605. Discriminating Duties and Reciprocal Privileges	***60501***

“CHAPTER 601—ARRIVAL AND DEPARTURE REQUIREMENTS

“Sec.

“60101. Boarding arriving vessels before inspection.

“60102. Production of certificate on entry.

“60103. Oath of ownership on entry.

“60104. Depositing certificates of documentation with consular officers.

“60105. Clearance of vessels.

“60106. State inspection laws.

“60107. Payment of fees on departing vessel.

“60108. Duty to transport tendered cargo.

“60109. Duty to transport money and securities of the United States Government.

“§60101. Boarding arriving vessels before inspection

“(a) REGULATIONS.—The Secretary of Homeland Security shall prescribe and enforce regulations on the boarding of a vessel arriving at a port of the United States before the vessel has been inspected and secured.

“(b) CRIMINAL PENALTY.—A person violating a regulation prescribed under this section shall be fined under title 18, imprisoned for not more than 6 months, or both.

“(c) RELATIONSHIP TO OTHER LAW.—This section shall be construed as supplementary to section 2279 of title 18.

“§60102. Production of certificate on entry

“On entry of a vessel documented under chapter 121 of this title, the master or other individual in charge of the vessel shall produce the certificate of documentation to the customs officer at the place where the vessel is entered. If the certificate is not produced, the vessel is not entitled to the privileges of a documented vessel.

“§60103. Oath of ownership on entry

“(a) REQUIRED STATEMENT.—On entry of a vessel of the United States from a foreign port, the individual designated under subsection (b) shall state under oath that—

“(1) the vessel's certificate of documentation contains the names of all the owners of the vessel; or

“(2) part of the ownership has been transferred since the certificate was issued and, to the best of the individual's knowledge and belief, the vessel is still owned only by citizens of the United States.

“(b) PERSON TO MAKE STATEMENT.—The statement under subsection (a) shall be made by—

“(1) an owner if one resides at the port of entry; or

“(2) the master if an owner does not reside at the port of entry.

“(c) CONSEQUENCE OF NOT MAKING STATEMENT.—If the appropriate individual does not make the statement required by this section, the vessel is not entitled to the privileges of a vessel of the United States.

“§60104. Depositing certificates of documentation with consular officers

“(a) REQUIREMENT OF MASTER.—When a vessel owned by citizens of the United States, on a voyage from a port in the United States, arrives at a foreign port, the master of the vessel shall deposit the vessel's certificate of documentation with a consular officer at the foreign port if there is a consular officer at that port.

“(b) RETURN OF CERTIFICATE.—When the master produces a clearance from the appropriate officer of the foreign port, the consular officer shall return the certificate of documentation to the master if the master has complied with the provisions of law related to the discharge of seamen in a foreign country and the payment of fees of consular officers.

“(c) CIVIL PENALTY AND COLLECTION.—The master of a vessel failing to deposit the certificate of documentation as required by subsection (a) is liable to the United States Government for a civil penalty of $500. The consular officer shall bring an action to recover the penalty in any court of competent jurisdiction. The action shall be brought in the name of the consular officer for the benefit of the Government.

“§60105. Clearance of vessels

“(a) VESSELS OF THE UNITED STATES.—Except as otherwise provided by law, a vessel of the United States shall obtain clearance from the Secretary of Homeland Security before proceeding from a port or place in the United States—

“(1) for a foreign port or place;

“(2) for another port or place in the United States if the vessel has on board foreign merchandise for which entry has not been made; or

“(3) outside the territorial sea to visit a hovering vessel or to receive merchandise while outside the territorial sea.

“(b) OTHER VESSELS.—Except as otherwise provided by law, a vessel that is not a vessel of the United States shall obtain clearance from the Secretary before proceeding from a port or place in the United States—

“(1) for a foreign port or place;

“(2) for another port or place in the United States; or

“(3) outside the territorial sea to visit a hovering vessel or to receive or deliver merchandise while outside the territorial sea.

“(c) REGULATIONS.—The Secretary may by regulation—

“(1) prescribe the manner in which clearance under this section is to be obtained, including the documents, data, or information which shall be submitted or transmitted, pursuant to an authorized data interchange system, to obtain the clearance;

“(2) permit clearance to be obtained before all requirements for clearance are complied with, but only if the owner or operator of the vessel files a bond in an amount set by the Secretary conditioned on the compliance by the owner or operator with all specified requirements for clearance within a time period (not exceeding 4 business days) established by the Secretary; and

“(3) permit clearance to be obtained at a place other than a designated port of entry, under conditions the Secretary may prescribe.

“§ 60106. State inspection laws

“When State law requires a certificate of inspection for goods carried on a vessel, a vessel transporting the goods may not be cleared until the certificate is produced.

“§ 60107. Payment of fees on departing vessel

“A departing vessel may be cleared only when all legal fees that have accrued on the vessel are paid and proof of payment is presented to the individual granting the clearance.

“§ 60108. Duty to transport tendered cargo

“Clearance may be refused to a vessel or vehicle transporting cargo destined for a domestic or foreign port when the owner, master, or other individual in charge refuses to accept cargo tendered in good condition, with proper charges, for the same or an intermediate port by a citizen of the United States. This section does not apply if the vessel or vehicle is already fully loaded (giving appropriate consideration to its proper loading) or is not adaptable to transport the tendered cargo.

“§ 60109. Duty to transport money and securities of the United States Government

“Before being given clearance, a vessel owned by a citizen of the United States and bound on a voyage from a port in the United States to another port in the United States or in a foreign country, or on a voyage from a port in a foreign country to a port in the United States, shall receive on board any bullion, coin, notes, bonds, or other securities of the United States Government that an agency, consular officer, or other agent of the Government offers. The vessel shall transport the items securely and deliver them promptly to the proper authorities or consignees on arriving at the port of destination. Compensation shall be paid for services provided under this section that is equal to compensation paid to other carriers in the ordinary transaction of business.

“CHAPTER 603—TONNAGE TAXES AND LIGHT MONEY

“Sec.
“60301. Regular tonnage taxes.
“60302. Special tonnage taxes.
“60303. Light money.
“60304. Presidential suspension of tonnage taxes and light money.
“60305. Vessels in distress.
“60306. Vessels not engaged in trade.
“60307. Vessels engaged in coastwise trade or the fisheries.
“60308. Vessels engaged in Great Lakes trade.
“60309. Passenger vessels making trips between ports of the United States and foreign ports.
“60310. Vessels making daily trips on interior waters.
“60311. Hospital vessels in time of war.
“60312. Rights under treaties preserved.

“§ 60301. Regular tonnage taxes

“(a) LOWER RATE.—A tax is imposed at the rate of 2 cents per ton (but not more than a total of 10 cents per ton per year) at each entry in a port of the United States of—

“(1) a vessel entering from a foreign port or place in North America, Central America, the West Indies Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering the Caribbean Sea; or

“(2) a vessel returning to the same port or place in the United States from which it departed, and not entering the United States from another port or place, except—

“(A) a vessel of the United States;

“(B) a recreational vessel (as defined in section 2101 of this title); or

“(C) a barge.

“(b) HIGHER RATE.—A tax is imposed at the rate of 6 cents per ton (but not more than a total of 30 cents per ton per year) on a vessel at each entry in a port of the United States from a foreign port or place not named in subsection (a)(1).

“(c) EXCEPTION FOR VESSELS ENTERING OTHER THAN BY SEA.—Subsection (a) does not apply to a vessel entering other than by sea from a foreign port or place at which tonnage, lighthouse, or other equivalent taxes are not imposed on vessels of the United States.

“§ 60302. Special tonnage taxes

“(a) ENTRY FROM FOREIGN PORT OR PLACE.—Regardless of whether a tax is imposed under section 60301 of this title, a tax is imposed on a vessel at each entry in a port of the United States from a foreign port or place at the following rates:

“(1) 30 cents per ton on a vessel built in the United States but owned in any part by a subject of a foreign country.

“(2) 50 cents per ton on other vessels not of the United States.

“(3) 50 cents per ton on a vessel of the United States having an officer who is not a citizen of the United States.

“(4) $2 per ton on a foreign vessel entering from a foreign port or place at which vessels of the United States are not ordinarily allowed to enter and trade.

“(b) VESSELS NOT OF THE UNITED STATES TRANSPORTING PROPERTY BETWEEN DISTRICTS.—Regardless of whether a tax is imposed under section 60301 of this title, a tax of 50 cents per ton is imposed on a vessel not of the United States at each entry in one customs district from another district when transporting goods loaded in one district to be delivered in another district.

“(c) EXCEPTION FOR VESSELS BECOMING DOCUMENTED.—The tax of 50 cents per ton under this section does not apply to a vessel that—

“(1) is owned only by citizens of the United States; and

“(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

“§ 60303. Light money

“(a) IMPOSITION OF TAX.—A tax of 50 cents per ton, to be called ‘light money’, is imposed on a vessel not of the United States at each entry in a port of the United States. This tax shall be imposed and collected under the same regulations that apply to tonnage taxes.

“(b) EXCEPTION FOR VESSELS OWNED BY CITIZENS.—

“(1) IN GENERAL.—Subsection (a) does not apply to a vessel owned only by citizens of the United States if—

“(A) the vessel is carrying a regular document issued by a customhouse of the United States proving the vessel to be owned only by citizens of the United States; and

“(B) on entry of the vessel from a foreign port, the individual designated under paragraph (2) states under oath that—

“(i) the document contains the names of all the owners of the vessel; or

“(ii) part of the ownership has been transferred since the document was issued and, to the best of that individual's knowledge and belief, the vessel is still owned only by citizens of the United States.

“(2) PERSON TO MAKE STATEMENT.—The statement under paragraph (1)(B) shall be made by—

“(A) an owner if one resides at the port of entry; or

“(B) the master if an owner does not reside at the port of entry.

“(c) EXCEPTION FOR VESSELS BECOMING DOCUMENTED.—Subsection (a) section does not apply to a vessel that—

“(1) is owned only by citizens of the United States; and

“(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

“§ 60304. Presidential suspension of tonnage taxes and light money

“If the President is satisfied that the government of a foreign country does not impose discriminating or countervailing duties to the disadvantage of the United States, the President shall suspend the imposition of special tonnage taxes and light money under sections 60302 and 60303 of this title on vessels of that country.

“§ 60305. Vessels in distress

“A vessel is exempt from tonnage taxes and light money when it enters because it is in distress.

“§ 60306. Vessels not engaged in trade

“A vessel is exempt from tonnage taxes and light money when not engaged in trade.

“§ 60307. Vessels engaged in coastwise trade or the fisheries

“A vessel with a registry endorsement or a coastwise endorsement, trading from one port in the United States to another port in the United States or employed in the bank, whale, or other fisheries, is exempt from tonnage taxes and light money.

“§ 60308. Vessels engaged in Great Lakes trade

“A documented vessel with a registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada, does not become subject to tonnage taxes or light money because of that trade.

“§ 60309. Passenger vessels making trips between ports of the United States and foreign ports

“A passenger vessel making at least 3 trips per week between a port of the United States and a foreign port is exempt from tonnage taxes and light money.

“§ 60310. Vessels making daily trips on interior waters

“A vessel making regular daily trips between a port of the United States and a port of Canada only on interior waters not navigable to the ocean is exempt from tonnage taxes and light money, except on its first clearing each year.

“§ 60311. Hospital vessels in time of war

“In time of war, a hospital vessel is exempt from tonnage taxes, light money, and pilotage charges in the ports of the United States if the vessel is one for which the conditions of the international convention for the exemption of hospital ships from taxation in time of war, concluded at The Hague on December 21, 1904, are satisfied. The President by proclamation shall name the vessels for which the conditions are satisfied and state when the exemption begins and ends.

“§ 60312. Rights under treaties preserved

“This chapter and chapter 605 of this title do not affect a right or privilege of a foreign country relating to tonnage taxes or other duties on

vessels under a law or treaty of the United States.

"CHAPTER 605—DISCRIMINATING DUTIES AND RECIPROCAL PRIVILEGES

"Sec.
"60501. Vessels allowed to import.
"60502. Discriminating duty on goods imported in foreign vessels or from contiguous countries.
"60503. Reciprocal suspension of discriminating duties.
"60504. Reciprocal privileges for recreational vessels.
"60505. Retaliatory suspension of commercial privileges.
"60506. Retaliation against British dominions of North America.
"60507. Suspension of free passage through Saint Marys Falls Canal.

"§ 60501. Vessels allowed to import

"(a) In General.—Except as otherwise provided by treaty, goods may be imported into the United States from a foreign port or place only in—

"(1) a vessel of the United States; or

"(2) a foreign vessel owned only by citizens or subjects of the country—

"(A) in which the goods are grown, produced, or manufactured; or

"(B) from which the goods can only be, or most usually are, first shipped for transportation.

"(b) Exception for Vessels of Countries Not Maintaining Similar Restrictions.—Subsection (a) does not apply to a vessel of a foreign country that does not maintain a similar restriction against United States documented vessels.

"(c) Exception for Vessels Becoming Documented.—Subsection (a) does not apply to a vessel that—

"(1) is owned only by citizens of the United States; and

"(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

"(d) Seizure and Forfeiture.—If goods are imported in violation of this section, the goods and the vessel in which they are imported, along with its equipment and other cargo, may be seized by and forfeited to the United States Government.

"§ 60502. Discriminating duty on goods imported in foreign vessels or from contiguous countries

"(a) Imposition of Duty.—A discriminating duty of 10 percent ad valorem (in addition to other duties imposed by law) is imposed on goods—

"(1) imported in a vessel not of the United States unless the vessel—

"(A) is entitled by law or treaty to enter the ports of the United States on payment of the same duties as are payable on goods imported in a vessel of the United States; or

"(B)(i) is owned only by citizens of the United States; and

"(ii) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port; or

"(2) produced or manufactured in a foreign country not contiguous to the United States and imported from a country contiguous to the United States, unless imported in the usual course of strictly retail trade.

"(b) Seizure and Forfeiture.—If goods are imported without payment of the duty required by this section, the goods and the vessel in which they are imported may be seized by, and forfeited to, the United States Government.

"§ 60503. Reciprocal suspension of discriminating duties

"(a) General Authority.—On receiving satisfactory proof from the government of a foreign country that it has suspended, in any part, the imposition of discriminating duties for any class of vessels owned by citizens of the United States or goods imported in those vessels, the President may proclaim a reciprocal suspension of discriminating duties for the same class of vessels owned by citizens of that country or goods imported in those vessels.

"(b) Effective and Expiration Dates.—A suspension under this section takes effect retroactively from the date the President received the proof from the foreign government, and expires when that government stops granting the reciprocal suspension.

"§ 60504. Reciprocal privileges for recreational vessels

"When the President is satisfied that yachts owned by residents of the United States and used only for pleasure are allowed to arrive at, depart from, and cruise in the waters of a foreign port without entering, clearing, or paying any duties or fees (including cruising license fees), the Secretary of Homeland Security may allow yachts from that foreign port used only for pleasure to arrive at and depart from the ports of the United States and to cruise in the waters of the United States without paying any duties or fees. However, the Secretary may require foreign yachts to obtain a license to cruise in the waters of the United States. The license shall be in the form prescribed by the Secretary and contain limitations about length of time, direction, place of cruising and action, and other matters the Secretary considers appropriate. The license shall be issued without cost to the yacht.

"§ 60505. Retaliatory suspension of commercial privileges

"(a) General Authority.—The President may proclaim a suspension of commercial privileges to vessels of a foreign country when—

"(1) vessels of that country have been given the same commercial privileges in the ports and waters of the United States given to vessels of the United States (except the privilege of engaging in coastwise commerce); and

"(2) vessels of the United States are denied commercial privileges in the ports or waters of that country given to vessels of that country.

"(b) Application.—A suspension under this section shall apply to the same commercial privileges denied to vessels of the United States in the ports or waters of the foreign country, and to the same class of vessels of that country as the class of vessels of the United States denied the privileges.

"(c) Effective Date.—The President shall designate the effective date of the suspension in the proclamation.

"(d) Penalties.—

"(1) Seizure and forfeiture.—If the master, officer, or agent of a vessel of a foreign country does an act for the vessel in the ports or waters of the United States in violation of a proclamation issued under this section, the vessel and the goods on the vessel may be seized by, and forfeited to, the United States Government.

"(2) Fine or imprisonment.—A person opposing an official of the Government enforcing this section shall be fined under title 18, imprisoned for not more than 2 years, or both.

"§ 60506. Retaliation against British dominions of North America

"(a) General Authority.—The President by proclamation may prohibit vessels of the British dominions of North America, their masters and crews, and products of or coming from those dominions, from entering waters, ports, or places of the United States when the President is satisfied that—

"(1) fishermen or fishing vessels of the United States in waters, ports, or places of the British dominions of North America are being or recently have been—

"(A) denied rights provided by law or treaty;

"(B) subjected to unreasonable restrictions in the exercise of those rights; or

"(C) otherwise harassed;

"(2) fishermen or fishing vessels of the United States, having a permit under the laws of the United States to dock or trade at a port or place in the British dominions of North America, are being or recently have been—

"(A) denied the privilege of entering the port or place in the same manner and under the same regulations applicable to trading vessels of the most-favored-nation;

"(B) prevented from buying supplies allowed to be sold to trading vessels of the most-favored-nation; or

"(C) otherwise harassed; or

"(3) other vessels of the United States or their masters or crews in waters, ports, or places of the British dominions of North America are being or recently have been—

"(A) denied privileges given to vessels of the most-favored-nation or their masters or crews; or

"(B) otherwise harassed.

"(b) Coverage and Exceptions.—The President may apply a proclamation under this section to any of the subjects named, and may include exceptions for vessels in distress or need of supplies. The President may change, revoke, and renew the proclamation.

"(c) Penalties.—A person violating a proclamation issued under this section shall be fined under title 18, imprisoned for not more than 2 years, or both. A vessel or goods found in waters, ports, or places of the United States in violation of the proclamation may be seized by, and forfeited to, the United States Government.

"§ 60507. Suspension of free passage through Saint Marys Falls Canal

"(a) Purpose.—The purpose of this section is to secure reciprocal advantages for the citizens, ports, and vessels of the United States.

"(b) General Authority.—When the President is satisfied that vessels of the United States, or passengers or cargo being transported to a port of the United States, are prohibited from passing through a canal or lock connected with the navigation of the Saint Lawrence River, the Great Lakes, or their connecting waterways, or burdened in that passage by tolls or other means that are unreasonable in view of the free passage through the Saint Marys Falls Canal allowed to vessels of all countries, the President by proclamation may suspend the right of free passage through the Saint Marys Falls Canal for vessels owned by subjects of the country imposing the prohibition, tolls, or other burdens and for passengers and cargo being transported to the ports of that country, even when carried in vessels of the United States. The suspension shall apply to the extent and for the time the President considers appropriate.

"(c) Imposition of Toll.—

"(1) In general.—During a suspension under this section, the President shall impose a toll of not more than $2 per ton on cargo and not more than $5 on each passenger.

"(2) Exceptions.—Notwithstanding paragraph (1), a toll may not be imposed on passengers or cargo landed at Ogdensburg, New York, or any port west of Ogdensburg and south of a line drawn from the northern boundary of New York through the Saint Lawrence River, the Great Lakes, and their connecting channels to the northern boundary of Minnesota.

"(d) Collection of Toll.—

"(1) In general.—A toll imposed under this section shall be collected under regulations prescribed by the Secretary of Homeland Security. The Secretary may require the master of a vessel to provide a sworn statement of the amount and kind of cargo, the number of passengers, and the destination of the passengers and cargo.

"(2) PROOF OF LANDING.—When applicable, the Secretary also may require satisfactory proof that the passengers and cargo were landed at a port described in subsection (c)(2). Until that proof is provided, the Secretary may assume the passengers and cargo were not landed at such a port, and the amount of a toll that otherwise would be imposed is a lien enforceable against the vessel when found in the waters of the United States.".

SEC. 9. SUBTITLE VII OF TITLE 46.

Subtitle VII of title 46, United States Code, as redesignated by section 8(a) of this Act, is amended as follows:

(1) The subtitle heading and analysis are amended to read as follows:

"Subtitle VII—Security and Drug Enforcement

"Chapter Sec.
"701. Port Security 70101
"703. Maritime Security 70301
"705. Maritime Drug Law Enforcement .... 70501".

(2) Add after chapter 701 the following:

"CHAPTER 703—MARITIME SECURITY

"Sec.
"70301. Definitions.
"70302. International measures for seaport and vessel security.
"70303. Security standards at foreign ports.
"70304. Travel advisories on security at foreign ports.
"70305. Suspension of passenger services.
"70306. Report on terrorist threats.

"§ 70301. Definitions

"In this chapter:

"(1) COMMON CARRIER.—The term 'common carrier' has the meaning given that term in section 40102 of this title.

"(2) PASSENGER VESSEL.—The term 'passenger vessel' has the meaning given that term in section 2101 of this title.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

"§ 70302. International measures for seaport and vessel security

"Congress encourages the President to continue to seek agreement on international seaport and vessel security through the International Maritime Organization. In developing an agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. The agreement would establish seaport and vessel security measures and could include—

"(1) seaport screening of cargo and baggage similar to that done at airports;

"(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

"(3) additional security on board vessels;

"(4) licensing or certification of compliance with appropriate security standards; and

"(5) other appropriate measures to prevent unlawful acts against passengers and crews on vessels.

"§ 70303. Security standards at foreign ports

"(a) GENERAL REQUIREMENTS.—The Secretary shall develop and implement a plan to assess the effectiveness of the security measures maintained at foreign ports that the Secretary, in consultation with the Secretary of State, determines pose a high risk of acts of terrorism against passenger vessels. In carrying out this subsection, the Secretary shall consult with the Secretary of State about the terrorist threat that exists in each country and poses a high risk of acts of terrorism against passenger vessels.

"(b) NOTICE AND RECOMMENDATIONS TO OTHER COUNTRIES.—If the Secretary, after implementing the plan under subsection (a), determines that a port does not maintain and administer effective security measures, the Secretary of State (after being informed by the Secretary) shall—

"(1) notify the appropriate government authorities of the country in which the port is located of the determination; and

"(2) recommend steps necessary to bring the security measures at that port up to the standard used by the Secretary in making the assessment under subsection (a).

"(c) ANTITERRORISM ASSISTANCE.—The President is encouraged to provide antiterrorism assistance related to maritime security under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) to foreign countries, especially for a port that the Secretary determines under subsection (b) does not maintain and administer effective security measures.

"§ 70304. Travel advisories on security at foreign ports

"(a) GENERAL REQUIREMENTS.—On being notified by the Secretary that the Secretary has determined that a condition exists that threatens the safety or security of passengers, passenger vessels, or crew traveling to or from a foreign port that the Secretary has determined under section 70303(b) of this title does not maintain and administer effective security measures, the Secretary of State immediately shall issue a travel advisory for that port. The Secretary of State shall take the necessary steps to widely publicize the travel advisory.

"(b) LIFTING ADVISORIES.—A travel advisory issued under subsection (a) may be lifted only if the Secretary, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the port.

"(c) NOTICE TO CONGRESS.—The Secretary of State shall notify Congress immediately of any change in the status of a travel advisory issued under this section.

"§ 70305. Suspension of passenger services

"(a) GENERAL AUTHORITY.—Whenever the President determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training for, or as a sanctuary for, or in any way arms, aids, or abets, a terrorist or terrorist group that knowingly uses the illegal seizure of passenger vessels or the threat thereof as an instrument of policy, the President may suspend the right of any passenger vessel common carrier to operate to or from, and the right of any passenger vessel of the United States to use, a port in that foreign nation for passenger service. The suspension may be without notice or hearing and for as long as the President determines is necessary to ensure the security of passenger vessels against unlawful seizure.

"(b) PROHIBITION.—A passenger vessel common carrier, or a passenger vessel of the United States, may not operate in violation of a suspension under this section.

"(c) PENALTIES.—

"(1) DENIAL OF ENTRY.—If a person operates a vessel in violation of this section, the Secretary may deny the vessels of that person entry to ports of the United States.

"(2) CIVIL PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than $50,000. Each day a vessel uses a prohibited port is a separate violation.

"§ 70306. Report on terrorist threats

"(a) CONTENT.—Not later than February 28 of each year, the Secretary shall submit a report to Congress on the threat from acts of terrorism to United States ports and vessels operating from those ports. The Secretary shall include a description of activities undertaken under title I of the Maritime Transportation Security Act of 2002 (Public Law 107–295, 116 Stat. 2066) and an analysis of the effect of those activities on port security against acts of terrorism.

"(b) SUBMISSION.—The report shall be submitted to the Committee on International Relations and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate. Any classified information in the report shall be submitted separately as an addendum.

"CHAPTER 705—MARITIME DRUG LAW ENFORCEMENT

"Sec.
"70501. Findings and declarations.
"70502. Definitions.
"70503. Manufacture, distribution, or possession of controlled substances on vessels.
"70504. Jurisdiction and venue.
"70505. Failure to comply with international law as a defense.
"70506. Penalties.
"70507. Forfeitures.

"§ 70501. Findings and declarations

"Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem, is universally condemned, and presents a specific threat to the security and societal well-being of the United States.

"§ 70502. Definitions

"(a) APPLICATION OF OTHER DEFINITIONS.—The definitions in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to this chapter.

"(b) VESSEL OF THE UNITED STATES.—In this chapter, the term 'vessel of the United States' means—

"(1) a vessel documented under chapter 121 of this title or numbered as provided in chapter 123 of this title;

"(2) a vessel owned in any part by an individual who is a citizen of the United States, the United States Government, the government of a State or political subdivision of a State, or a corporation incorporated under the laws of the United States or of a State, unless—

"(A) the vessel has been granted the nationality of a foreign nation under article 5 of the 1958 Convention on the High Seas; and

"(B) a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States who is authorized to enforce applicable provisions of United States law; and

"(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

"(c) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—

"(1) IN GENERAL.—In this chapter, the term 'vessel subject to the jurisdiction of the United States' includes—

"(A) a vessel without nationality;

"(B) a vessel assimilated to a vessel without nationality under paragraph (2) of article 6 of the 1958 Convention on the High Seas;

"(C) a vessel registered in a foreign nation if the flag nation has consented or waived objection to the enforcement of United States law by the United States;

"(D) a vessel in the customs waters of the United States;

"(E) a vessel in the territorial waters of a foreign nation if the nation consents to the enforcement of United States law by the United States; and

"(F) a vessel in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999 (43 U.S.C. 1331 note), that—

"(i) is entering the United States;

"(ii) has departed the United States; or

"(iii) is a hovering vessel as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

"(2) CONSENT OR WAIVER OF OBJECTION.—Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under paragraph (1)(C) or (E)—

"(A) may be obtained by radio, telephone, or similar oral or electronic means; and

"(B) is proved conclusively by certification of the Secretary of State or the Secretary's designee.

"(d) VESSEL WITHOUT NATIONALITY.—

"(1) IN GENERAL.—In this chapter, the term 'vessel without nationality' includes—

"(A) a vessel aboard which the master or individual in charge makes a claim of registry that is denied by the flag nation whose registry is claimed;

"(B) a vessel aboard which the master or individual in charge fails, on request of an officer of the United States authorized to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel; and

"(C) a vessel aboard which the master or individual in charge makes a claim of registry and for which the claimed nation of registry does not affirmatively and unequivocally assert that the vessel is of its nationality.

"(2) CLAIM OF REGISTRY.—A claim of registry under paragraph (1)(A) or (C) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such a claim by the claimed flag nation is proved conclusively by certification of the Secretary of State or the Secretary's designee.

"(e) CLAIM OF NATIONALITY OR REGISTRY.—A claim of nationality or registry under this section includes only—

"(1) possession on board the vessel and production of documents evidencing the vessel's nationality as provided in article 5 of the 1958 Convention on the High Seas;

"(2) flying its flag nation's ensign or flag; or

"(3) a verbal claim of nationality or registry by the master or individual in charge of the vessel.

"§ 70503. Manufacture, distribution, or possession of controlled substances on vessels

"(a) PROHIBITIONS.—An individual may not knowingly or intentionally manufacture or distribute, or possess with intent to manufacture or distribute, a controlled substance on board—

"(1) a vessel of the United States or a vessel subject to the jurisdiction of the United States; or

"(2) any vessel if the individual is a citizen of the United States or a resident alien of the United States.

"(b) EXTENSION BEYOND TERRITORIAL JURISDICTION.—Subsection (a) applies even though the act is committed outside the territorial jurisdiction of the United States.

"(c) NONAPPLICATION.—

"(1) IN GENERAL.—Subject to paragraph (2), subsection (a) does not apply to—

"(A) a common or contract carrier or an employee of the carrier who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business; or

"(B) a public vessel of the United States or an individual on board the vessel who possesses or distributes a controlled substance in the lawful course of the individual's duties.

"(2) ENTERED IN MANIFEST.—Paragraph (1) applies only if the controlled substance is part of the cargo entered in the vessel's manifest and is intended to be imported lawfully into the country of destination for scientific, medical, or other lawful purposes.

"(d) BURDEN OF PROOF.—The United States Government is not required to negative a defense provided by subsection (c) in a complaint, information, indictment, or other pleading or in a trial or other proceeding. The burden of going forward with the evidence supporting the defense is on the person claiming its benefit.

"§ 70504. Jurisdiction and venue

"(a) JURISDICTION.—Jurisdiction of the United States with respect to a vessel subject to this chapter is not an element of an offense. Jurisdictional issues arising under this chapter are preliminary questions of law to be determined solely by the trial judge.

"(b) VENUE.—A person violating section 70503 of this title shall be tried in the district court of the United States for—

"(1) the district at which the person enters the United States; or

"(2) the District of Columbia.

"§ 70505. Failure to comply with international law as a defense

"A person charged with violating section 70503 of this title does not have standing to raise a claim of failure to comply with international law as a basis for a defense. A claim of failure to comply with international law in the enforcement of this chapter may be made only by a foreign nation. A failure to comply with international law does not divest a court of jurisdiction and is not a defense to a proceeding under this chapter.

"§ 70506. Penalties

"(a) VIOLATIONS.—A person violating section 70503 of this title shall be punished as provided in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960). However, if the offense is a second or subsequent offense as provided in section 1012(b) of that Act (21 U.S.C. 962(b)), the person shall be punished as provided in section 1012 of that Act (21 U.S.C. 962).

"(b) ATTEMPTS AND CONSPIRACIES.—A person attempting or conspiring to violate section 70503 of this title is subject to the same penalties as provided for violating section 70503.

"§ 70507. Forfeitures

"(a) IN GENERAL.—Property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under section 70503 of this title may be seized and forfeited in the same manner that similar property may be seized and forfeited under section 511 of that Act (21 U.S.C. 881).

"(b) PRIMA FACIE EVIDENCE OF VIOLATION.—Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under section 70503 of this title, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, such an offense:

"(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

"(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

"(B) the presence of any compartment or equipment that is built or fitted out for smuggling, not including items such as a safe or lockbox reasonably used for the storage of personal valuables;

"(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

"(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

"(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

"(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

"(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

"(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

"(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

"(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

"(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

"(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

"(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on an individual aboard the vessel, of a quantity or other nature that reasonably indicates manufacturing or distribution activity.

"(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

"(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.".

SEC. 10. SUBTITLE VIII OF TITLE 46.

Title 46, United States Code, is amended by adding after subtitle VII the following:

"Subtitle VIII—Miscellaneous

"Chapter	*Sec.*
"801. Wrecks and Salvage	***80101***
"803. Ice and Derelicts	***80301***
"805. Safe Containers for International Cargo	***80501***

"CHAPTER 801—WRECKS AND SALVAGE

"Sec.

"80101. Vessel stranded on foreign coast.

"80102. License to salvage on Florida coast.

"80103. Property on Florida coast to be taken to port of entry.

"80104. Salvaging operations by foreign vessels.

"80105. Canadian vessels aiding vessels in United States waters.

"80106. International agreement on derelicts.

"80107. Salvors of life to share in remuneration.

"§ 80101. Vessel stranded on foreign coast

"(a) DUTIES OF CONSULAR OFFICER.—When a vessel of the United States is stranded on a coast of a foreign country, the consular officer in that country shall take proper measures, to the extent the laws of that country allow, to—

"(1) save and secure the vessel and property on the vessel; and

"(2) prepare an inventory of the property that is saved.

"(b) DELIVERY TO OWNER.—After deducting the expenses, the consular officer shall deliver the property, with an inventory, to the owner of the property.

"(c) LIMITATION ON TAKING POSSESSION.—A consular officer may not take possession of property under this section when the owner, master, or consignee is present or able to take possession of the property.

"§ 80102. License to salvage on Florida coast

"(a) LICENSING REQUIREMENTS.—To be regularly employed in the business of salvaging on the coast of Florida, a vessel and its master each must have a license issued by a judge of the district court of the United States for a judicial district of Florida.

"(b) JUDICIAL FINDINGS.—Before issuing a license under this section, the judge must be satisfied, when the license is for—

"(1) a vessel, that the vessel is seaworthy and properly equipped for the business of saving property shipwrecked and in distress; or

"(2) a master, that the master is trustworthy and innocent of any fraud or misconduct related to property shipwrecked or saved on the coast.

"§ 80103. Property on Florida coast to be taken to port of entry

"(a) IN GENERAL.—Property taken from a wreck, the sea, or a key or shoal, on the coast of Florida and within the jurisdiction of the United States, shall be brought to a port of entry of the United States.

"(b) SEIZURE AND FORFEITURE.—A vessel transporting property described in subsection (a) to a foreign port may be seized by, and forfeited to, the United States Government. A forfeiture under this subsection accrues half to the informer and half to the Government.

"§ 80104. Salvaging operations by foreign vessels

"(a) PROHIBITION.—Except as provided in this section or section 80105 of this title, a foreign vessel may not, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico.

"(b) WHEN SUITABLE VESSEL NOT AVAILABLE.—The Secretary of Homeland Security may authorize a foreign vessel to engage in salvaging operations in a particular locality if, on investigation, the Secretary is satisfied that there is not available in that locality a suitable vessel that is—

"(1) owned only by citizens of the United States (including a Bowaters corporation under section 12118 of this title); and

"(2) documented under chapter 121 of this title or numbered under chapter 123 of this title.

"(c) OPERATIONS AUTHORIZED BY TREATY.—This section does not prohibit or restrict assistance to vessels or salvaging operations authorized by treaty, including—

"(1) article II of the Treaty between the United States and Great Britain concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage, signed at Washington, May 18, 1908 (35 Stat. 2036); or

"(2) the Treaty between the United States of America and Mexico to facilitate assistance to and salvage of vessels in territorial waters, signed at Mexico City, June 13, 1935 (49 Stat. 3359).

"§ 80105. Canadian vessels aiding vessels in United States waters

"(a) IN GENERAL.—Canadian vessels and wrecking equipment may give aid to Canadian or other vessels and property wrecked, disabled, or in distress in the waters of the United States contiguous to Canada, including—

"(1) the canal and improvement of the waters between Lake Erie and Lake Huron; and

"(2) the Saint Marys River and canal.

"(b) RECIPROCITY.—This section does not apply after the President proclaims that privileges reciprocal to those under subsection (a) have been withdrawn or rendered inoperative by the Government of Canada.

"§ 80106. International agreement on derelicts

"The President may make an international agreement with other governments interested in the navigation of the North Atlantic Ocean, providing for the reporting, marking, and removal of dangerous wrecks, derelicts, and other menaces to navigation outside the coast waters of the countries bordering the North Atlantic Ocean.

"§ 80107. Salvors of life to share in remuneration

"(a) ENTITLEMENT OF SALVORS.—A salvor of human life, who gave aid following an accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salvaging the vessel or other property or preventing or minimizing damage to the environment.

"(b) COMMON OWNERSHIP OF VESSELS.—The right to remuneration for aid or salvage services is not affected by common ownership of the vessels giving and receiving the aid or salvage services.

"(c) TIME LIMIT ON BRINGING ACTIONS.—A civil action to recover remuneration for giving aid or salvage services must be brought within 2 years after the date the aid or salvage services were given, unless the court in which the action is brought is satisfied that during that 2-year period there had not been a reasonable opportunity to seize the aided or salvaged vessel within the jurisdiction of the court or within the territorial waters of the country of the plaintiff's residence or principal place of business.

"(d) NONAPPLICATION.—This section does not apply to a vessel of war or a vessel owned by the United States Government appropriated only to a public service.

"CHAPTER 803—ICE AND DERELICTS

"Sec.
"80301. International agreements.
"80302. Patrol services.
"80303. Speed of vessel in ice region.

"§ 80301. International agreements

"(a) GENERAL AUTHORITY.—The President may make agreements with interested maritime countries to—

"(1) maintain in the North Atlantic Ocean a service of ice patrol, of study and observation of ice and current conditions, and of assistance to vessels and their crews requiring assistance within the limits of the patrol;

"(2) maintain a service of study and observation of ice and current conditions in the waters affecting the set and drift of ice in the North Atlantic Ocean; and

"(3) take all practicable steps to ensure the destruction or removal of derelicts in the northern part of the Atlantic Ocean, east of the line drawn from Cape Sable to a point in latitude 34 degrees north, longitude 70 degrees west, if the destruction or removal is necessary.

"(b) PAYMENT BETWEEN COUNTRIES.—The President may include in an agreement under subsection (a) a provision for—

"(1) payment to the United States Government by other countries for their proportionate share of the expense of maintaining the services; or

"(2) contribution by the Government for its proportionate share if the agreement provides for another country to maintain the services.

"§ 80302. Patrol services

"(a) GENERAL REQUIREMENTS.—Unless the agreements made under section 80301 of this title provide otherwise, an ice patrol shall be maintained during the entire ice season in guarding the southeastern, southern, and southwestern limits of the region of icebergs in the vicinity of the Grand Banks of Newfoundland. The patrol shall inform trans-Atlantic and other passing vessels by radio and other available means of the ice conditions and the extent of the dangerous region. During the ice season, there shall be maintained a service of study of ice and current conditions, a service of providing assistance to vessels and crews requiring assistance, and a service of removing and destroying derelicts. Any of these services may be maintained during the remainder of the year as may be advisable.

"(b) WARNINGS TO VESSELS.—An ice patrol vessel shall warn any vessel known to be approaching a dangerous area and recommend safe routes.

"(c) RECORDING AND REPORTING INCIDENTS.—

"(1) RECORDING.—An ice patrol vessel shall record the name of a vessel and the facts of the case when the patrol observes or knows that the vessel—

"(A) is on other than a regular recognized or advertised route crossing the North Atlantic Ocean;

"(B) has crossed the fishing banks of Newfoundland north of latitude 43 degrees north during the fishing season; or

"(C) has passed through regions known or believed to be endangered by ice when proceeding to and from ports of North America.

"(2) REPORTING.—The name of the vessel and all pertinent information about the incident shall be reported to the government of the country to which the vessel belongs if that government requests.

"(d) ADMINISTRATION.—The Commandant of the Coast Guard, under the direction of the Secretary of the department in which the Coast Guard is operating, shall carry out the services provided for in this section and shall assign necessary vessels, material, and personnel of the Coast Guard. On request of such Secretary, the head of an agency may detail personnel, lend or contribute material or equipment, or otherwise assist in carrying out the services provided for in this section.

"(e) ANNUAL REPORT.—The Commandant shall publish an annual report of the activities of the services provided for in this section. A copy of the report shall be provided to each interested foreign government and to each agency assisting in the work.

"§ 80303. Speed of vessel in ice region

"(a) REQUIREMENT.—The master of a vessel of the United States, when ice is reported on or near the vessel's course, shall proceed at a moderate speed or change the course of the vessel to go well clear of the danger zone.

"(b) CIVIL PENALTY.—A master violating this section is liable to the United States Government for a civil penalty of not more than $500.

"CHAPTER 805—SAFE CONTAINERS FOR INTERNATIONAL CARGO

"Sec.
"80501. Definitions.
"80502. Application of Convention.
"80503. General authority of the Secretary.
"80504. Approval and examination.
"80505. Enforcement.
"80506. Delegation of authority.
"80507. Employee protection.
"80508. Amendments to Convention.
"80509. Civil penalty.

"§ 80501. Definitions

"In this chapter:

"(1) CONTAINER.—The term 'container' has the meaning given that term in the Convention.

"(2) CONVENTION.—The term 'Convention' means the International Convention for Safe Containers, and its annexes, done at Geneva, Switzerland, December 2, 1972.

"(3) INTERNATIONAL TRANSPORT.—The term 'international transport' means the transportation of a container between—

"(A) a place in a foreign country and a place in the jurisdiction of the United States; or

"(B) two places outside the United States by United States carriers.

"(4) OWNER.—The term 'owner' includes the lessee or bailee of a container if a written lease or bailment provides for the lessee or bailee to exercise the owner's responsibility for maintaining and examining the container.

"(5) SAFETY APPROVAL PLATE.—The term 'safety approval plate' has the meaning given that term in annex I of the Convention.

"§80502. Application of Convention

"The Convention applies to an owner of a container used in international transport if the owner is domiciled or has its principal office in the United States.

"§80503. General authority of the Secretary

"(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall carry out the Convention and this chapter in the United States.

"(b) REGULATIONS.—The Secretary shall prescribe regulations to carry out this chapter. The regulations shall—

"(1) establish procedures for testing, inspecting, and initially approving containers and designs for containers, including procedures for attaching, invalidating, and removing safety approval plates for containers;

"(2) establish procedures to be followed by the owners of containers for the periodic examination of containers as provided in the Convention; and

"(3) provide a method for developing, collecting, and disseminating information about container safety and the international transport of containers.

"(c) SAFETY APPROVAL PLATES.—If the owner of a container without a safety approval plate establishes that the container satisfies the standards of the Convention, the Secretary may authorize a safety approval plate to be attached to the container.

"(d) SCHEDULE OF FEES.—The Secretary may prescribe a schedule of fees for services performed by the Secretary, or by a person delegated authority under section 80506 of this title, for the testing, inspection, and initial approval of containers and container designs.

"(e) ENCOURAGING INTERMODAL TRANSPORT.—To the maximum extent possible, the Secretary shall encourage the development and use of intermodal transport, using containers built to facilitate economical, safe, and expeditious handling of containerized cargo without intermediate reloading when it is being transported over land, air, and sea areas.

"§80504. Approval and examination

"(a) DOMICILE AND PRINCIPAL OFFICE IN UNITED STATES.—A container owner domiciled and having its principal office in the United States shall have the container—

"(1) approved initially under procedures prescribed by the Secretary of the department in which the Coast Guard is operating or by the government of another country that is a party to the Convention; and

"(2) examined periodically as provided in the Convention under procedures prescribed by the Secretary.

"(b) DOMICILE OR PRINCIPAL OFFICE IN UNITED STATES.—A container owner domiciled or having its principal office in the United States shall have the container—

"(1) approved initially under procedures prescribed by the Secretary or by the government of another country that is a party to the Convention; and

"(2) examined periodically as provided in the Convention, under procedures prescribed by the government of the country in which the owner is domiciled or has its principal office, as long as that country is a party to the Convention.

"(c) NEITHER DOMICILE NOR PRINCIPAL OFFICE IN UNITED STATES.—A container owner neither domiciled nor having its principal office in the United States or another country that is a party to the Convention may submit a container for initial approval and periodic examination under procedures prescribed by the Secretary.

"§80505. Enforcement

"(a) IN GENERAL.—To enforce the Convention, this chapter, and regulations prescribed under this chapter, the Secretary of the department in which the Coast Guard is operating may—

"(1) examine, or require to be examined, containers in international transport;

"(2) approve designs for containers;

"(3) inspect and test containers being manufactured;

"(4) issue a detention order removing or excluding a container from service until the container owner satisfies the Secretary that the container meets the standards of the Convention, if the container—

"(A) does not have a safety approval plate attached to it; or

"(B) has a safety approval plate attached but there is significant evidence that the container is in a condition that creates an obvious risk to safety;

"(5) take other appropriate action, including issuing necessary orders, to remove a container from service or restrict its use if the container is not in compliance with the Convention, this chapter, or regulations prescribed under this chapter, but does not present an obvious risk to safety; and

"(6) allow a container found to be unsafe or without a safety approval plate to be moved to another location for repair or other disposition, under restrictions consistent with the intent of the Convention.

"(b) PAYMENT OF EXPENSES.—

"(1) EXAMINATION.—The owner of a container involved in an action by the Secretary under this section related to an examination of the container shall pay or reimburse the Secretary for the expenses arising from that action, except for the costs of routine examinations of the container or a safety approval plate.

"(2) TESTING, INSPECTION, AND INITIAL APPROVAL.—The owner of a container submitted to the procedure established by the Secretary for testing, inspection, and initial approval, and the manufacturer of a container that submits a design to the procedure established by the Secretary for testing, inspection, and initial approval, shall pay or reimburse the Secretary for the expenses arising from the testing, inspection, or approval.

"(3) CREDIT TO APPROPRIATION.—Amounts received by the Secretary as reimbursement shall be credited to the appropriation for operating expenses of the Coast Guard.

"(c) PRESUMPTION BASED ON SAFETY APPROVAL PLATE.—A container bearing a safety approval plate authorized by a country that is a party to the Convention is presumed to be in a safe condition unless there is significant evidence that the container is in a condition that creates an obvious risk to safety.

"(d) NOTICE OF ORDERS.—

"(1) IN GENERAL.—When the Secretary issues a detention or other order under this section, the Secretary promptly shall notify in writing—

"(A) the owner of the container;

"(B) the owner's agent; or

"(C) if the identity of the owner is not apparent from the container or shipping documents, the custodian.

"(2) INFORMATION TO INCLUDE.—The notification shall identify the container involved, give the location of the container, and describe the condition or situation giving rise to the order.

"(e) DURATION OF ORDERS.—An order issued by the Secretary under this section remains in effect until—

"(1) the Secretary declares the container to be in compliance with the standards of the Convention; or

"(2) the container is removed permanently from service.

"(f) NOTICE OF DEFECTIVE CONTAINER TO COUNTRY ISSUING SAFETY APPROVAL PLATE.—If the Secretary has reason to believe that a container bearing a safety approval plate issued by another country was defective at the time of approval, the Secretary shall notify that country.

"§80506. Delegation of authority

"(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may delegate to any person, including a public or private agency or nonprofit organization, authority to grant initial approval for containers and designs and to attach safety approval plates.

"(b) REGULATIONS.—Before making a delegation under this section, the Secretary shall prescribe regulations establishing—

"(1) criteria to be followed in selecting a person to whom authority is to be delegated;

"(2) a detailed description of the duties and powers to be carried out by the person to whom authority is delegated, including the records the person shall keep; and

"(3) the review the Secretary will conduct to decide whether the person is carrying out the delegated duties and powers properly.

"(c) INSPECTION OF RECORDS.—A person delegated authority under this section shall make available to the Secretary for inspection, on request, records the person is required to keep.

"(d) PENALTIES AND ORDERS.—A person delegated authority under this section may not—

"(1) assess or collect, or attempt to assess or collect, a penalty for violation of the Convention, this chapter, or an order issued by the Secretary under this chapter; or

"(2) issue or attempt to issue a detention or other order.

"(e) PUBLICATION.—The Secretary shall publish in the Federal Register or other appropriate publication—

"(1) the name and address of each person to whom authority is delegated;

"(2) the duties and powers delegated; and

"(3) the period of the delegation.

"(f) REVOCATION.—The Secretary may revoke a delegation of authority under this section at any time.

"§80507. Employee protection

"(a) PROHIBITION.—A person may not discharge or discriminate against an employee because the employee has reported the existence of an unsafe container or a violation of this chapter or a regulation prescribed under this chapter.

"(b) COMPLAINTS.—An employee alleging to have been discharged or discriminated against in violation of subsection (a) may file a complaint with the Secretary of Labor. The complaint must be filed within 60 days after the violation.

"(c) ENFORCEMENT.—The Secretary of Labor may investigate the complaint. If the Secretary of Labor finds there has been a violation, the Secretary of Labor may bring a civil action in an appropriate district court of the United States. The court has jurisdiction to restrain violations of subsection (a) and order appropriate relief, including reinstatement of the employee to the employee's former position with back pay.

"(d) NOTICE TO COMPLAINANT.—Within 30 days after receiving a complaint under this section, the Secretary of Labor shall notify the complainant of the intended action on the complaint.

"§ 80508. Amendments to Convention

"(a) PROPOSALS BY UNITED STATES GOVERNMENT.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating, may propose amendments to the Convention or request a conference for amending the Convention as provided in article IX of the Convention.

"(b) PROPOSALS BY OTHER COUNTRIES.—An amendment communicated to the United States Government under article IX(2) of the Convention may be accepted for the Government by the President, with the advice and consent of the Senate. The President may declare that the Government does not accept an amendment.

"(c) AMENDMENTS TO ANNEXES.—

"(1) IN GENERAL.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating—

"(A) may propose amendments to the annexes to the Convention;

"(B) may propose a conference for amending annexes to the Convention; and

"(C) shall consider and act on amendments to the annexes to the Convention adopted by the Maritime Safety Committee of the International Maritime Organization and communicated to the Government under article X(2) of the Convention.

"(2) ACTION FOLLOWING APPROVAL OR OBJECTION.—If a proposed amendment to an annex is approved by the Government, the amendment shall enter into force as provided in article X of the Convention. If a proposed amendment is objected to, the Secretary of State promptly shall communicate the objection as provided in article X(3) of the Convention.

"(d) APPOINTMENT OF ARBITRATOR.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating, shall appoint an arbitrator when one is required to resolve a dispute within the meaning of article XIII of the Convention.

"§ 80509. Civil penalty

"(a) IN GENERAL.—An owner, agent, or custodian who has been notified of an order issued under section 80505 of this title and fails to take reasonable and prompt action to prevent or stop a container subject to the order from being moved in violation of the order is liable to the United States Government for a civil penalty of not more than $5,000 for each container moved. Each day the container remains in service while the order is in effect is a separate violation.

"(b) ASSESSMENT AND COLLECTION.—

"(1) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary of the department in which the Coast Guard is operating shall assess and collect any penalty under this section.

"(2) FACTORS TO CONSIDER.—In determining the amount of the penalty, the Secretary shall consider the gravity of the violation, the hazards involved, and the record of the person charged with respect to violations of the Convention, this chapter, or regulations prescribed under this chapter.

"(3) REMISSION, MITIGATION, OR COMPROMISE.—The Secretary may remit, mitigate, or compromise a penalty under this section.

"(4) ENFORCEMENT.—If a person fails to pay a penalty under this section, the Secretary shall refer the matter to the Attorney General for collection in an appropriate district court of the United States.".

SEC. 11. MARITIME ADMINISTRATION.

Section 109 of title 49, United States Code, is amended to read as follows:

"§ 109. Maritime Administration

"(a) ORGANIZATION.—The Maritime Administration is an administration in the Department of Transportation.

"(b) MARITIME ADMINISTRATOR.—The head of the Maritime Administration is the Maritime Administrator, who is appointed by the President by and with the advice and consent of the Senate. The Administrator shall report directly to the Secretary of Transportation and carry out the duties prescribed by the Secretary.

"(c) DEPUTY MARITIME ADMINISTRATOR.—The Maritime Administration shall have a Deputy Maritime Administrator, who is appointed in the competitive service by the Secretary, after consultation with the Administrator. The Deputy Administrator shall carry out the duties prescribed by the Administrator. The Deputy Administrator shall be Acting Administrator during the absence or disability of the Administrator and, unless the Secretary designates another individual, during a vacancy in the office of Administrator.

"(d) DUTIES AND POWERS VESTED IN SECRETARY.—All duties and powers of the Maritime Administration are vested in the Secretary.

"(e) REGIONAL OFFICES.—The Maritime Administration shall have regional offices for the Atlantic, Gulf, Great Lakes, and Pacific port ranges, and may have other regional offices as necessary. The Secretary shall appoint a qualified individual as Director of each regional office. The Secretary shall carry out appropriate activities and programs of the Maritime Administration through the regional offices.

"(f) INTERAGENCY AND INDUSTRY RELATIONS.—The Secretary shall establish and maintain liaison with other agencies, and with representative trade organizations throughout the United States, concerned with the transportation of commodities by water in the export and import foreign commerce of the United States, for the purpose of securing preference to vessels of the United States for the transportation of those commodities.

"(g) DETAILING OFFICERS FROM ARMED FORCES.—To assist the Secretary in carrying out duties and powers relating to the Maritime Administration, not more than five officers of the armed forces may be detailed to the Secretary at any one time, in addition to details authorized by any other law. During the period of a detail, the Secretary shall pay the officer an amount that, when added to the officer's pay and allowances as an officer in the armed forces, makes the officer's total pay and allowances equal to the amount that would be paid to an individual performing work the Secretary considers to be of similar importance, difficulty, and responsibility as that performed by the officer during the detail.

"(h) CONTRACTS AND AUDITS.—

"(1) CONTRACTS.—In the same manner that a private corporation may make a contract within the scope of its authority under its charter, the Secretary may make contracts for the United States Government and disburse amounts to—

"(A) carry out the Secretary's duties and powers under this section and subtitle V of title 46; and

"(B) protect, preserve, and improve collateral held by the Secretary to secure indebtedness.

"(2) AUDITS.—The financial transactions of the Secretary under paragraph (1) shall be audited by the Comptroller General. The Comptroller General shall allow credit for an expenditure shown to be necessary because of the nature of the business activities authorized by this section or subtitle V of title 46. At least once a year, the Comptroller General shall report to Congress any departure by the Secretary from this section or subtitle V of title 46.

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, there are authorized to be appropriated such amounts as may be necessary to carry out the duties and powers of the Secretary relating to the Maritime Administration.

"(2) LIMITATIONS.—Only those amounts specifically authorized by law may be appropriated for the use of the Maritime Administration for—

"(A) acquisition, construction, or reconstruction of vessels;

"(B) construction-differential subsidies incident to the construction, reconstruction, or reconditioning of vessels;

"(C) costs of national defense features;

"(D) payments of obligations incurred for operating-differential subsidies;

"(E) expenses necessary for research and development activities, including reimbursement of the Vessel Operations Revolving Fund for losses resulting from expenses of experimental vessel operations;

"(F) the Vessel Operations Revolving Fund;

"(G) National Defense Reserve Fleet expenses;

"(H) expenses necessary to carry out part B of subtitle V of title 46; and

"(I) other operations and training expenses related to the development of waterborne transportation systems, the use of waterborne transportation systems, and general administration.

"(3) TRAINING VESSELS.—Amounts may not be appropriated for the purchase or construction of training vessels for State maritime academies unless the Secretary has approved a plan for sharing training vessels between State maritime academies.".

SEC. 12. AMENDMENTS RELATING TO MARITIME SECURITY ACT OF 2003.

(a) AMENDMENTS TO CHAPTER 531.—Chapter 531 of title 46, United States Code, is amended as follows:

(1) In section 53102—

(A) in the headings of paragraphs (1), (2), and (4) of subsection (c), strike "SECTION 2" and substitute "SECTION 50501";

(B) in subsection (c)(1), (2)(A)(i) and (ii)(II) and (B), and (4)(B), strike "section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)" and substitute "section 50501 of this title";

(C) in subsection (d), strike "the first section of Public Law 81–891 (64 Stat. 1120; 46 U.S.C. App. note prec. 3)" and substitute "section 501 of this title"; and

(D) in subsection (e)(1)—

(i) strike "a documented vessel (as that term is defined in section 12101 of this title)" and substitute "documented under chapter 121 of this title,"; and

(ii) in clause (B), strike "a documented vessel (as defined in that section)" and substitute "documented under chapter 121".

(2) In section 53103(c)—

(A) in the heading of paragraph (1)(C), strike "SECTION 2" and substitute "SECTION 50501";

(B) in paragraphs (1)(A)(iii) and (C)(i) and (ii), strike "section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)" and substitute "section 50501 of this title";

(C) in paragraph (1)(B), strike "subparagraphs" and substitute "subparagraph"; and

(D) in paragraph (3)(B), strike "agreement" and substitute "agreements".

(3) In section 53104—

(A) in subsection (c)(3)(B)(ii)(I) and (II), strike "section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)" and substitute "section 50501 of this title";

(B) in subsection (e)(2), strike "section 9 of the Shipping Act, 1916 (46 U.S.C. App. 808)" and substitute "section 56101 of this title"; and

(C) in subsection (e)(3), strike "section 902 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1242)" and "section 902 of such Act" and substitute "chapter 563 of this title" and "chapter 563", respectively.

(4) In section 53105—

(A) in subsection (a)(1)(A), strike "section 12105" and substitute "section 12111"; and

(B) in subsection (f), strike "approve" and substitute "approves".

(5) In section 53106—

(A) in subsection (d)(1), strike "section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)" and substitute "section 55302(a), 55304, 55305, or 55314 of this title, section 2631 of title 10";

(B) in subsection (d)(2), strike "section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)," and substitute "section 55302(a), 55305, or 55314 of this title"; and

(C) in subsection (e)(2), strike "section 2(c) of the Shipping Act, 1916 (46 U.S.C. App. 802(c))" and substitute "section 50501 of this title, applying the 75 percent ownership requirement of that section".

(6) In section 53107(f)—

(A) strike "section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)" and substitute "section 55302(a), 55304, 55305, or 55314 of this title, section 2631 of title 10"; and

(B) strike "section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), and sections 901(a), 901(b), and 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), and 1241b)" and substitute "sections 55302(a), 55304, 55305; and 55314 of this titie and section 2631 of title 10"; and

(7) In section 53108(b), strike "section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1))" and substitute "section 55305(a) of this title".

(b) Other Conforming Amendments.—

(1) Section 12111.—

(A) Amendment.—Section 12111(c)(3) of title 46, United States Code, as enacted by this Act, is amended by striking "subtitle B of title VI of the Merchant Marine Act, 1936" and substituting "chapter 531 of this title".

(B) Effective Date.—The amendment made by subparagraph (A) is effective the date of enactment of this Act, or the effective date of section 3534(b)(1) of the Maritime Security Act of 2003 (117 Stat. 1818), whichever is later.

(2) Repeal.—If this Act takes effect before the amendment made by section 3534(b)(1) of the Maritime Security Act of 2003 (Public Law 108–136, 117 Stat. 1818), such section 3534(b)(1) is repealed.

SEC. 13. AMENDMENTS TO PARTIALLY RESTATED PROVISIONS.

(a) Section 2793 of the Revised Statutes (19 U.S.C. 288, 46 App. U.S.C. 111, 123) is amended by striking "or tonnage tax".

(b) Section 809(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1213(a)), is amended by striking "and section 211(a)".

SEC. 14. ADDITIONAL AMENDMENTS TO TITLE 46.

Title 46, United States Code, is amended as follows:

(1) The analysis of subtitle II is amended as follows:

(A) In each chapter item, capitalize the first letter of each word containing 4 or more letters.

(B) Strike the item for chapter 39.

(C) The item for chapter 45 is amended to read as follows:

"45. Uninspected Commercial Fishing Industry Vessels .... 4501".

(2) Section 2101 is amended as follows:

(A) Clauses (2), (3), (3a), (6), (10), (10a), (12), (17b), (36), (41), (44), (45), and (46) are repealed.

(B) In clause (8a), insert "Prevention" after "Abuse".

(C) In clause (18), strike "those".

(D) In clause (34)—

(i) strike ", except in part H,"; and

(ii) strike "head" and substitute "Secretary".

(3) In section 2102—

(A) in subsection (a)(2), strike "section 2101(36) and (44)" and substitute "chapter 1"; and

(B) in subsection (b), strike "West" and "East" and substitute "west" and "east", respectively.

(4) In section 2106, strike "a district court of the United States" and substitute "the district court of the United States for any district".

(5) Section 2108 is repealed.

(6) In section 2110—

(A) in subsection (a)(2), strike "part B of this title" and substitute "part B of this subtitle";

(B) in subsection (b)(2)(A)(iii), strike the period at the end and substitute "; and";

(C) in subsection (b)(5), strike "fees" and substitute "fee";

(D) In subsection (f), strike "Secretary of the Treasury shall deny the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)" and substitute "Secretary of Homeland Security shall deny the clearance required by section 60105 of this title"; and

(E) In subsection (j), strike "state" and substitute "State".

(7) In section 2301, strike "section" and substitute "sections 2304 and".

(8) In section 2304—

(A) insert the paragraph designation "(1)" after "(a)"; and

(B) insert at the end of subsection (a) the following new paragraph:

"(2) Paragraph (1) does not apply to a vessel of war or a vessel owned by the United States Government appropriated only to a public service.".

(9) In section 2306(a)(2), strike "section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a)," and substitute "section 50113 of this title".

(10) In section 3205(d), strike "Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91)" and substitute "Secretary of Homeland Security shall withhold or revoke the clearance required by section 60105 of this title".

(11) In section 3302—

(A) in subsection (b), insert a comma after "fishing vessel";

(B) in subsection (j)(2)(B), strike "section 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c)" and substitute "chapter 515 of this title"; and

(C) in subsection (l)(1)(C), strike "Inc.." and substitute "Inc.".

(12) In section 3306(d), strike "section 1302(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295a(3))" and substitute "section 51102 of this title".

(13) In section 3318(f), strike the period after "felony".

(14) In section 3505, strike "section 3303(a)" and substitute "section 3303".

(15) In the analysis of chapter 37, the item for section 3719 is amended to read as follows:

"3719. Reduction of oil spills from single hull non-self-propelled tank vessels.".

(16) In paragraphs (1)(C), (2), and (3) of section 3703a(c), strike "documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14)" and substitute "documentation as a wrecked vessel under section 12112 of this title".

(17) In section 3704, strike "section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883)," and substitute "chapter 551 of this title".

(18) In section 3718(e)(1), strike "Secretary of the Treasury" and "section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)" and substitute "Secretary of Homeland Security" and "section 60105 of this title", respectively.

(19) In section 4702, strike the subsection "(a)" designation.

(20) In section 4705—

(A) strike "subcontractor not" and substitute "subcontractor are not";

(B) strike "(a)(1)" and substitute "(a)";

(C) strike "(2) Paragraph (1)" and substitute "(b) Subsection (a)";

(D) strike "(A)" and substitute "(1)"; and

(E) strike "(B)" and substitute "(2)".

(21) In section 5113(b), strike "section 4197 of the Revised Statutes (46 App. U.S.C. 91)" and substitute "section 60105 of this title".

(22) In section 6101, redesignate the second subsection (g) and subsection (h) as subsections (h) and (i), respectively.

(23) In section 8103(a), strike "Only" and substitute "Except as otherwise provided in this title, only".

(24) In section 9307(b)(2)(A), strike "The" and substitute "the".

(25) In section 12503(a), in the matter before clause (1), strike "delegee" and substitute "delegate".

(26) In section 13102(a), insert "(26 U.S.C. 9504)" after "Internal Revenue Code of 1986".

(27) In section 14305(a)—

(A) in clause (1), strike "and sections 12106(c) and 12108(c)" and substitute "of this subtitle and section 12116";

(B) in clause (5), strike "section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183)" and substitute "section 30506 of this title";

(C) in clause (6), strike "sections 27 and 27A of the Act of June 5, 1920 (46 App. U.S.C. 883 and 883–1)" and substitute "sections 12118 and 12132 of this title"; and

(D) in clause (7), strike "Act of July 14, 1956 (46 App. U.S.C. 883a)" and substitute "section 12139(b) of this title".

(28) In section 31306(a), strike "section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835)" and substitute "section 56102 or 56103 of this title".

(29) In section 31308, strike "title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.)" and substitute "chapter 537 of this title".

(30) In section 31322—

(A) in subsection (a)(4)(A), strike "section 12102(c)" and substitute "section 12113(c)";

(B) in subsection (a)(4)(E), strike "under section 12102(a)" and substitute "for purposes of documentation under section 12103";

(C) in subsection (f)(2), strike "section 12102(c)" and substitute "section 12113(c)".

(31) In section 31325(b)(3)(B), strike "section 9 or 37 of the Shipping Act, 1936 (46 App. U.S.C. 808, 835)" and substitute "section 56101 or 56102 of this title".

(32) In section 31326(b)—

(A) in clause (1), strike "title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)" and substitute "chapter 537 of this title,"; and

(B) in clause (2), strike "title XI of that Act" and substitute "chapter 537 of this title".

(33) In section 31329—

(A) in subsection (a)(1), strike "section 12102" and substitute "section 12103"; and

(B) in subsection (b)—

(i) in clause (2), strike "section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242)" and substitute "chapter 563 of this title"; and

(ii) in clause (3), strike "sale foreign within the terms of the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883)" and substitute "sale to a person not a citizen of the United States under section 12132 of this title".

(34)(A) Sections 70118 and 70119, as added by section 801 of the Coast Guard and Maritime Transportation Act of 2004 (Public Law 108–293, 118 Stat. 1078), are redesignated as sections 70117 and 70118, respectively, and moved to appear immediately after section 70116 of title 46, United States Code.

(B) Sections 70117 and 70118, as added by section 802 of such Act, are redesignated as sections 70120 and 70121, respectively, and moved to appear immediately after section 70119 of title 46, United States Code.

(C) In section 70120(a) (as redesignated by subparagraph (B)), strike "section 70120" and substitute "section 70119".

(D) In section 70121(a) (as redesignated by subparagraph (B))—

(i) strike "section 70120" and substitute "section 70119"; and

(ii) strike "section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)" and substitute "section 60105 of this title".

(E) In the analysis of chapter 701, strike the items relating to sections 70117–70119 and substitute the following:

"70117. Firearms, arrests, and seizure of property.
"70118. Enforcement by State and local officers.
"70119. Civil penalty.
"70120. In rem liability for civil penalties and certain costs.
"70121. Withholding of clearance.".

SEC. 15. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) TITLE 10.—Title 10, United States Code, is amended as follows:

(1) In section 374(b)(4)(A)(iv), strike "The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "Chapter 705 of title 46"

(2) In section 2218(d)(2), strike "sections 508 and 510 of the Merchant Marine Act of 1936 (46 U.S.C. App. 1158, 1160), shall be deposited in the Fund" and substitute "sections 57101–57104 and chapter 573 of title 46".

(3) In section 2350b(g)(2), strike "section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))" and substitute "section 55305 of title 46".

(4) In section 2645—

(A) in subsection (c), strike "the second sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a))" and substitute "section 53909(b) of title 46";

(B) in subsection (h)(1), strike "title XII of the Merchant Marine Act, 1936 (46 U.S.C. App. 1281 et seq.)," and substitute "chapter 539 of title 46"; and

(C) in subsection (h)(2), strike "the first sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a))" and substitute "section 53909(a) of title 46".

(5) In section 2664(a)(3), strike "transferred to the Secretary of Transportation under section 3 of the Maritime Act of 1981 (46 U.S.C. App. 1602)" and substitute "of the Secretary of Transportation relating to the Maritime Administration".

(6) In section 5985, strike "section 1304 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295c)," and substitute "chapter 515 of title 46".

(7) In section 7721(a), strike "the Act of March 3, 1925 (commonly referred to as the 'Public Vessels Act') (46 U.S.C. App. 781–790)" and substitute "chapter 311 of title 46".

(b) TITLE 11.—Title 11, United States Code, is amended as follows:

(1) In section 362(b)—

(A) in clause (12), strike "section 207 or title XI of the Merchant Marine Act, 1936" and substitute "chapter 537 of title 46 or section 109(h) of title 49"; and

(B) in clause (13), strike "section 207 or title XI of the Merchant Marine Act, 1936" and substitute "chapter 537 of title 46".

(2) In section 1110(a)(3)(A)(ii), strike "documented vessel (as defined in section 30101(1) of title 46)" and substitute "vessel documented under chapter 121 of title 46".

(c) TITLE 14.—Sections 821(b) and 823a(b) of title 14, United States Code, are each amended by striking clauses (3)–(5) and substituting the following:

"(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

"(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

"(5) Chapter 311 of title 46 (known as the Public Vessels Act).".

(d) TITLE 18.—Title 18, United States Code, is amended as follows:

(1) In section 229F(9)(C), strike "section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b))" and substitute "section 70502(b) of title 46, United States Code".

(2) In section 507—

(A) in the first paragraph, strike "recording, registry, or enrollment of any vessel, in the office of any collector of the customs, or a license to any vessel for carrying on the coasting trade or fisheries of the United States" and substitute "documentation of any vessel";

(B) in the first paragraph, strike "collector or other"; and

(C) in the second paragraph, strike "license,".

(3) In section 924—

(A) in subsections (c)(2), (e)(2)(A)(i), (g)(2), and (k)(1), strike "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "chapter 705 of title 46"; and

(B) in subsection (g)(2), strike "802 et seq." and substitute "801 et seq.".

(4) In section 929(a)(2), strike "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "chapter 705 of title 46".

(5) In section 965(a), strike "section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)" and substitute "section 60105 of title 46".

(6) In section 2277(a), strike "registered, enrolled, or licensed" and substitute "documented".

(7) In section 3142(e) and (f)(1)(C), strike "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "chapter 705 of title 46".

(e) INTERNAL REVENUE CODE OF 1986.—The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 56(c)(2)—

(A) strike "section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177)" and substitute "chapter 535 of title 46, United States Code"; and

(B) in clauses (A) and (B), strike "such section 607" substitute "such chapter 535".

(2) In section 140(a)(4), strike "section 607(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1177)" and substitute "section 53507 of title 46, United States Code".

(3) In section 543(a)(1)(B), strike "section 511 or 607 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1161 or 1177)" and substitute "chapter 533 or 535 of title 46, United States Code".

(4) In section 1023(2), strike "section 511 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1161)" and substitute "chapter 533 of title 46, United States Code".

(5) In section 1061—

(A) in clause (1), strike "section 510 of the Merchant Marine Act, 1936, see subsection (e) of that section, as amended August 4, 1939 (46 U.S.C. App. 1160)" and substitute "chapter 573 of title 46, United States Code, see section 57307 of title 46";

(B) in clause (2), strike "section 511 of such Act, as amended (46 U.S.C. App. 1161)" and substitute "chapter 533 of title 46, United States Code"; and

(C) strike clause (3).

(6) In section 7518—

(A) in subsection (a)(1), strike "section 607 of the Merchant Marine Act, 1936" and substitute "chapter 535 of title 46 of the United States Code";

(B) in subsections (a)(2) and (c)(1)(A) and (D), strike "section 607 of the Merchant Marine Act, 1936" and substitute "chapter 535 of title 46, United States Code"; and

(C) in subsection (g)(3)(C)(iii), strike "Merchant Marine Act of 1936" and substitute "Merchant Marine Act, 1936,".

(f) TITLE 28.—Title 28, United States Code, is amended as follows:

(1) In section 994(h)(1)(B) and (2)(B), strike "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "chapter 705 of title 46".

(2) In section 1605(d), strike "the Ship Mortgage Act, 1920 (46 U.S.C. 911 and following)" and "that Act" and substitute "section 31301 of title 46" and "chapter 313 of title 46", respectively.

(3) In section 2342(3)—

(A) in clause (A), strike "section 2, 9, 37, or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a)" and substitute "section 50501, 50502, 56101–56104, or 57109 of title 46"; and

(B) strike clause (B) and substitute the following:

"(B) the Federal Maritime Commission issued pursuant to section 305, 41304, 41308, or 41309 or chapter 421 or 441 of title 46;".

(4) In section 2680(d), strike "sections 741–752, 781–790 of Title 46," and substitute "chapter 309 or 311 of title 46".

(g) TITLE 40.—Title 40, United States Code, is amended as follows:

(1) In section 548, strike "the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)," and substitute "part F of subtitle V of title 46".

(2) In section 3134(b), strike "the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)" and substitute "subtitle V of title 46".

(h) TITLE 49.—Title 49, United States Code, is amended as follows:

(1) In section 5122(c)(1), strike "Secretary of the Treasury" and "section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)" and substitute "Secretary of Homeland Security" and "section 60105 of title 46", respectively.

(2) In section 5901(3)(B), strike "section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)" and substitute "section 40102 of title 46".

(i) MISCELLANEOUS.—Section 5501(a) of the Oceans Act of 1992 (Public Law 102–587, 106 Stat. 5084) is amended by adding the following:

"(3) The exceptions provided by paragraph (2) shall apply under section 55109 of title 46, United States Code, to the same extent as under former section 1 of the Act of May 28, 1906, as amended by paragraph (1)."

SEC. 16. LEGISLATIVE CONSTRUCTION AND TRANSITIONAL PROVISIONS.

(a) IN GENERAL.—The purpose of this Act is to complete the codification of title 46, United States Code, "Shipping", as positive law, in accordance with section 285b(1) of title 2, United States Code.

(b) CONFORMITY WITH ORIGINAL INTENT.—In the codification of laws encompassed by this Act, the intent is to conform to the understood policy, intent, and purpose of the Congress in the original enactments, with such amendments and corrections as will remove ambiguities, contradictions, and other imperfections both of substance and of form.

(c) CUTOFF DATE.—This Act codifies certain laws enacted as of August 31, 2004. Any law enacted after that date that is inconsistent with *this Act, including any law purporting to amend or repeal a provision that is repealed by this Act, supersedes this Act to the extent of the inconsistency.*

(d) ORIGINAL DATE OF ENACTMENT UNCHANGED.—For purposes of determining whether one provision of law supersedes another based on enactment later in time, the date of enactment of a provision codified by this Act is deemed to remain unchanged, continuing to be the date of enactment of the underlying provision that is codified.

(e) REFERENCES IN OTHER PROVISIONS.—A reference to a provision of law codified by this Act, including a reference in another law or in a rule, regulation, or order, is deemed to refer to the corresponding provision enacted by this Act.

(f) SAVINGS PROVISIONS.—

(1) RULES, REGULATIONS, AND ORDERS.—A rule, regulation, or order in effect under a provision of law codified by this Act continues in effect under the corresponding provision enacted by this Act.

(2) ACTIONS TAKEN AND OFFENSES COMMITTED.—An action taken or an offense committed under a provision of law codified by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

SEC. 17. REPEALS.

The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, or proceedings that were begun before the date of enactment of this Act:

Revised Statutes

Revised Statutes Section	United States Code	
	Title	Section
2792	46 App.	124
4136	46 App.	14
4173	46 App.	42
4184	46 App.	57
4188	46 App.	59
4197	46 App.	91
4202	46 App.	97
4204	46 App.	98
4206	46 App.	100
4219	46 App.	121
4220	46 App.	122
4221	46 App.	125
4225	46 App.	128
4226	46 App.	129
4227	46 App.	135
4228	46 App.	141
4238	46 App.	721
4239	46 App.	722
4240	46 App.	723
4241	46 App.	724
4281	46 App.	181
4282	46 App.	182
4283	46 App.	183
4283A	46 App.	183b
4283B	46 App.	183c
4284	46 App.	184
4285	46 App.	185
4286	46 App.	186
4287	46 App.	187
4289	46 App.	188
4309	46 App.	354
4310	46 App.	355
4311	46 App.	251
4320	46 App.	262
4336	46 App.	277
4370	46 App.	316
4373	46 App.	321
4374	46 App.	322
4375	46 App.	323
4376	46 App.	324
4378	46 App.	326
4379	46 App.	327
4380	46 App.	328
4493	46 App.	491

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (46 App. unless otherwise specified)
			Volume	Page	
1874 Apr. 18	110		18	31	336
1878 June 19	324		20	175	725
1884 June 26	121	14	23	57	121
		18	23	57	189
July 5	221	3	23	119	3
		8(c)			9
1886 June 19	421	8	24	81	289
		9	24	81	320
		17	24	82	142
1887 Mar. 3	339		24	475	143
1892 July 26	248	1	27	267	144
		2	27	268	145
1893 Feb. 13	105	1	27	445	190
		2	27	445	191
		3	27	445	192
		4	27	445	193
		5	27	446	194
		6	27	446	196
		7	27	446	195
		8	27	446	190 nt
Oct. 31	No. 13		28	13	726
1898 Feb. 17	26	1	30	248	290
		3	30	248	291
1900 Mar. 31	120	1–3	31	58	163

Statutes at Large—Continued

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (46 App. unless otherwise specified)
			Volume	Page	
1906 May 28	2566	1 (except as may be applicable under section 5501(a)(2) of Pub. L. 102–587).	34	204	292
1908 Mar. 24	96	1	35	46	133
		2	35	46	134
May 28	212	5	35	425	104
1909 Aug. 5	6	36	36	111	121
1910 Mar. 8	86		36	234	132
1912 Aug. 1	268	1	37	242	727
		3	37	242	729
		4	37	242	730
		5	37	242	731
1913 Oct. 3	16	IV(J)(1)–(3)	38	195	19 U.S.C. 128, 130, 131; 46 App. 146
1915 Mar. 4	153	20	38	1185	688
	171		38	1193	19 U.S.C. 128, 131; 46 App. 121, 128, 146
1916 Sept. 7	451	1	39	728	801
		2(a)–(c)	39	729	802
		2(d)	39	729	803
		9	39	730	808
		12	39	732	811
		34	39	738	833
		36	39	738	834
		37	......		835
		38	......		836
		39	......		837
		41	......		839
		46	......		842
1920 Mar. 9	95	1	41	525	741
		2	41	525	742
		3	41	526	743
		4	41	526	744
		5	41	526	745, 745 nt
		6	41	527	746
		7	41	527	747
		8	41	527	748
		9	41	527	749
		10	41	528	750
		11	41	528	751
		12	41	528	752
Mar. 30	111	1	41	537	761
		2	41	537	762
		4	41	537	764
		5	41	537	765
		6	41	537	766
		7	41	538	767
		8	41	538	768
June 5	250	1	41	988	861
		6	41	991	865
		7	41	991	866
		8	41	992	867
		9	41	992	868
		10	41	992	869
		12	41	993	871
		13	41	993	872
		17	41	994	875
		19	41	995	876
		21	41	997	877
		27	41	999	883
		27A	......		883–1
		28	41	999	884
		36	41	1007	887
		37	41	1008	888
		39	41	1008	889
1925 Mar. 3	428	1	43	1112	781
		2	43	1112	782
		3	43	1112	783
		4	43	1112	784
		5	43	1113	785
		6	43	1113	786
		7	43	1113	787
		8	43	1113	788
		9	43	1113	789
		10	43	1113	790
1928 May 22	675	1	45	689	891
		202	45	690	891b
		203	45	690	891c
		703	45	698	891u
		704	45	698	891v
		705	45	698	891w
		706	45	698	891x
1932 June 30	314	306	47	408	804a
	315		47	420	743a, 745
1934 Mar. 26	90		48	500	1241–1
June 28	523		48	963	48 U.S.C. 1664

Statutes at Large—Continued

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (46 App. unless otherwise specified)
			Volume	Page	
1936 June 25	807	1	49	1922	738
		2	49	1922	738a
		4	49	1923	738c
June 29	858	101	49	1985	1101
		201	49	1985	1111
		202	49	1986	1112
		204	49	1987	1114
		205	49	1987	1115
		206	49	1987	1116
		207	49	1988	1117
		208	49	1988	1118
		209	49	1988	1119
		210	49	1989	1120
		211	49	1989	1121
		212	49	1990	1122
		212(A)			1122a
		212(B)			1122b
		213	49	1991	1123
		214	49	1991	1124
		215			1125
		302			1132
		508	49	2000	1158
		510			1160
		511 (added by Act Oct. 10, 1940)			1161
		607	49	2005	1177
		701	49	2008	1191
		702	49	2008	1192
		703	49	2008	1193
		704	49	2008	1194
		705	49	2009	1195
		706	49	2009	1196
		707	49	2009	1197
		708	49	2009	1198
		709	49	2010	1199
		710	49	2010	1200
		711	49	2010	1201
		712	49	2010	1202
		713	49	2010	1203
		714	49	2011	1204
		715			1205
		805	49	2012	1223
		806(b)–(d)	49	2014	1228
		808	49	2015	1226
		809(b)			1213
		810	49	2015	1227
		901	49	2015	1241
		901a			1241e
		901b			1241f
		901c			1241g
		901d			1241h
		901e			1241i
		901f			1241j
		901g			1241k
		901h			1241l
		901i			1241m
		901j			1241n
		901k			1241o
		902	49	2015	1242
		905	49	2016	1244
		906 (1st sentence)	49	2016	1245
		908			1247
		1101			1271
		1102			1272
		1103			1273
		1104A			1274
		1104B			1274a
		1105			1275
		1108			1279a
		1109			1279b
		1110			1279c
		1111			1279d
		1111			1279f
		1112			1279e
		1112			1279g
		1201			1281
		1202			1282
		1203			1283
		1204			1284
		1205			1285
		1206			1286
		1207			1287
		1208			1288
		1209			1289
		1210			1290
		1211			1291
		1212			1292
		1213			1293
		1214			1294
		1301			1295
		1302			1295a
		1303			1295b
		1304			1295c
		1305			1295d
		1306			1295e
		1307			1295f
		1308			1295g
1938 June 25	681	1st proviso on p. 1119	52	1119	1111a
1940 June 29	442		54	684	1242a
1941 Feb. 6	5	4	55	6	1125a

Statutes at Large—Continued

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (46 App. unless otherwise specified)
			Volume	Page	
1947 Mar. 22	20	proviso under heading "Independent Offices"	61	18	1116a
1948 June 19	526		62	496	740
June 30	775	101 (last proviso on p. 1199)	62	1199	864a
1949 June 29	281	1 (proviso)	63	349	864b
1950 Dec. 27	1155	1, 2	64	1120	3 nt prec.
1951 June 2	121	pars. under heading "Vessel Operations Revolving Fund"	65	59	1241a
Nov. 1	664	par. under heading "War-Risk Insurance Revolving Fund"	65	746	1288a
1956 June 20	415	101 (par. beginning with "Vessel operations revolving fund")	70	319	1241b, 1241b nt
July 14	600	2	70	544	883a
		3	70	544	883b
Aug. 1	846		70	897	1241c
1957 June 13	85–52	101 (1st proviso on p. 73)	71	73	1177a
1958 June 25	85–469	101 (par. under heading "Federal Ship Mortgage Insurance Fund")	72	231	1280
1960 June 12	86–518	9	74	217	1125 nt
1961 Sept. 13	87–220	2	75	493	251a
		3	75	493	251b
1965 June 30	89–56		79	195	1111 nt
July 30	89–99	1	79	424	441
		3	79	424	443
		4	79	424	444
1966 Nov. 6	89–777	2	80	1356	817d
		3	80	1357	817e
1976 July 14	94–361	603	90	929	1126–1
Oct. 4	94–455	807	90	1606	1177–1
1977 Dec. 13	95–208	1	91	1475	1501 nt
		2	91	1475	1501
		3	91	1476	1502
		4	91	1476	1503
		5	91	1477	1504
		6	91	1478	1505
		7	91	1479	1506
		8	91	1479	1507
1980 Sept. 15	96–350	1	94	1159	1901
		2	94	1160	1902
		3	94	1160	1903
		4	94	1160	1904
Oct. 6	96–382	1	94	1525	763a
Oct. 7	96–387	5	94	1546	1121–1
1981 Aug. 6	97–31	2	95	151	1601
		3	95	151	1602
		4	95	151	1603
		5	95	151	1604
		6	95	151	1605
		8	95	152	1607
		9	95	152	1608
1982 Oct. 15	97–322	201	96	1588	446 nt
		204	96	1589	446
		205	96	1589	446a
		206	96	1590	446b
		207	96	1590	446c
1984 Mar. 20	98–237	1	98	67	1701 nt
		2	98	67	1701
		3	98	67	1702
		4	98	70	1703
		5	98	70	1704
		6	98	72	1705
		7	98	73	1706
		8	98	74	1707
		9	98	76	1708
		10	98	77	1709
		11	98	80	1710
		12	98	81	1711
		13	98	82	1712
		14	98	83	1713
		15	98	84	1714
		16	98	84	1715
		17	98	84	1716
		19	98	87	1718
		20(e)	98	90	1719
Oct. 5	98–454	302	98	1734	808a
Oct. 30	98–563		98	2916	289c
1985 Dec. 23	99–198	1141	99	1490	1241d
		1143	99	1496	1241p
1986 Aug. 27	99–399	902	100	889	1801

Statutes at Large—Continued

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (46 App. unless otherwise specified)
			Volume	Page	
		905	100	890	1802
		907	100	891	1803
		908	100	891	1804
		909	100	892	1805
		910	100	892	1806
		911	100	892	1807
		912	100	892	1808
		913	100	892	1809
1987					
Dec. 22	100–202	101(a) [title V (par. under heading "Ocean Freight Differential")]	101	1329, 1329–27	1241h nt
		101(a) [title V (4th proviso on p. 1329-28)]	101	1329, 1329–28	1295c–1
1988					
May 30	100–324	1	102	576	2001 nt
		2	102	576	2001
		3	102	576	2002
		4	102	576	2003
		5	102	576	2004
		6	102	577	2005
		7	102	577	2006
		8	102	577	2007
Aug. 23	100–418	10002	102	1570	1710a
1989					
Oct. 13	101–115	4	103	692	1295c nt
		8	103	694	1121–2
1990					
Nov. 28	101–624	1521	104	3665	1241q
		1522	104	3665	1241r
		1523	104	3666	1241s
		1524	104	3667	1241t
		1526	104	3668	1241u
		1527	104	3668	1241v
1993					
Nov. 30	103–160	1358	107	1816	1280a
1996					
Oct. 19	104–324	1117	110	3973	46 U.S.C. 12101 nt
		1120(f)	110	3978	883 nt
1998					
Oct. 14	105–258	401	112	1916	1273a
Oct. 21	105–277	203(b)–(e)	112	2681–619	46 U.S.C. 12102 nt
Nov. 13	105–383	502–504	112	3445	46 U.S.C. 12106 nt
2000					
Oct. 30	106–398	1 [§ 3506]	114	1654, 1654A–494	1118 nt
2002					
Nov. 25	107–295	403	116	2114	46 U.S.C. 12119 nt
		404	116	2114	316a
2003					
Nov. 24	108–136	3527	117	1802	1280b

Reorganization Plans

Year	Plan No.	Section	Statutes at Large	
			Volume	Page
1949	6		63	1069
1950	21	201, 203, 204	64	1276
1961	7	101–105, 201, 301, 302	75	840, 842

SEC. 18. EFFECTIVE DATE.

This Act shall take effect on October 1, 2004, or the date of enactment of this Act, whichever is later.

The SPEAKER pro tempore (Mr. ISSA). Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. SCHIFF) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4319, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, the Title 46 Codification Act of 2004, completes the codification of title 46, United States Code, relating to shipping as positive law. The gentleman from Michigan (Mr. CONYERS), ranking member, and I jointly introduced this legislation on May 10, 2004.

The bill was prepared by the Office of the Law Revision Counsel as a part of the program required by 2 U.S.C., section 285(b), to prepare and submit to the Committee on the Judiciary, one title at a time, a complete complication, restatement, and revision of the general and permanent laws of the United States. This bill makes no substantive change in existing law. Rather, the bill removes ambiguities, contradictions, and other imperfections from existing law and it repeals obsolete, superfluous, and superseded provisions.

After introduction, the bill was circulated for comment to interested parties, including committees of the Congress and agencies of the government. All comments were to be submitted no later than 45 days after the bill was introduced. The Federal Maritime Commission and the Department of Transportation provided extensive comments on the bill. Several other agencies and departments of the government also provided comments.

The Office of the Law Revision Counsel reviewed and considered all comments, contacting the interested parties to resolve outstanding questions. Some comments proposing changes to improve the organization and clarity were incorporated in the restatement. Other comments, either suggesting substantive changes to existing law or expressing opposition to the substance of existing law, could not be incorporated in the restatement. This bill makes no substantive change in existing law and is not intended to do so. That is not the function of Law Revision Counsel bills. They reorganize and clean up the law and do not change the substance. Thus, Members should understand that because of the nature of this bill, supporting it does not imply support of the underlying provisions that are being reorganized and cleaned up.

At committee I offered a substitute amendment prepared by the Office of the Law Revision Counsel which incorporated additional changes to the Code which were recommended as a result of the review and comment process. That is the text that is before us today. The Law Revision Counsel has indicated that he is satisfied that the substitute text makes no substantive change to existing law and that no additional cost to the government would be incurred as a result of the enactment of H.R. 4319.

I would like to express the committee's appreciation for the work of the Law Revision Counsel and his staff on this bill. I urge all Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

Today I rise in support of H.R. 4319, the Title 46 Codification Act of 2004. This bill, which is sponsored by the chairman and ranking member of the Committee on the Judiciary, enacts into positive law title 46 of the U.S. Code, entitled "shipping." In addition H.R. 4319 also sets forth organizational and administrative provisions regarding the Federal Maritime Commission.

Title 46 of the U.S. Code has been partially codified and enacted by Congress into law. The partial revision, as it currently exists, was begun in 1983. However, while certain laws concerning marine safety and maritime liability were codified, overall revision of title 46 was not completed. Specifically, the extensive portions of title 46 that have not been codified appear as an appendix to the title, but much of the appendix consists of numerous public laws that have been enacted over the last century with little attention to the organization of maritime law as a single body of law. As a result, the current format of title 46 is disjointed, confusing, and often without apparent logic.

This legislation is necessary largely because of the many laws that comprise the appendix date back to the late 1800s and early 1900s and are written in language that is archaic and difficult to understand. There is also a significant amount of redundancy and obsolete material within the appendix. This bill would eliminate those redundancies, obsolete provisions, and unnecessary archaic verbiage. Overall, H.R. 4319 makes significant improvements to the organization, accuracy, and clarity of title 46. I urge my colleagues to vote "yes" on this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 4319, a piece of legislation introduced by Chairman SENSENBRENNER and Ranking Member CONYERS to complete the codification of title 46 of the United States Code.

Codification of this legislation is important because it integrates the myriad of Federal, State, local and private law enforcement agencies overseeing the security of the international borders at our seaports. Furthermore, it authorizes more security officers, more screening equipment, and the building of important security infrastructure at seaports.

U.S. seaports—especially high volume ports such as the Port of Houston with major multimodal hubs—are especially vulnerable to terrorist attacks because we do not have security mechanisms in place between modes, for example the interface between aircraft and ship. We must spend wisely to improve personnel and technology as are called for in the Secure COAST Act.

Terrorists could cause mass casualties and serious damage to the economy if a weapon of mass destruction (WMD) is detonated in a container or if a large passenger vessel is attacked. Ports serve as America's gateways to the global economy. The Nation's economic prosperity rests on the ability of containerized and bulk cargo to arrive at their destination ports unimpeded to support the "just in time" delivery system that underpins the manufacturing and retail sectors. In addition, a large majority of America's energy sources arrive in large oil and gas tankers, which are prime targets for the terrorists.

Recent reports state that Al-Qaida may be planning a maritime terrorist attack. The Department of Homeland Security has several initiatives dedicated to preventing terrorists from attacking America's ports. Despite these efforts, many security gaps remain. That is why I have joined my Democratic colleagues in co-sponsoring and introducing the secure Containers from Overseas And Seaports from Terrorism Act—or Secure COAST Act. This new proposal would supplement the Maritime Security Act, which H.R. 4319 codifies.

Seven million containers arrive at U.S. seaports, many times sealed with only a padlock or lead tag, making them vulnerable to tampering. There are currently no sealing standards for containers or a process to verify that seals have not been disturbed. The Secure COAST Act would require DHS to develop sealing standards for containers and a verification process to ensure containers have not been tampered with.

Currently, only two seaports in the entire country have the ability to screen for nuclear material entering our country. One of these ports—the Port of Norfolk—had to purchase the portal monitor itself.

The Coast Guard estimates that ports will need to spend $1.1 billion over the next year to comply with new security regulations put in place by the Bush administration, but the president has requested only $46 million for grant funding since 9/11.

The U.S. Coast Guard fleet is the third oldest naval fleet in the world and its force size is comparable to the manpower level in 1966. We must authorize and implement provisions to supplement H.R. 4319 to accelerate the completion of the Coast Guard's Deepwater program to provide new ships to the fleet from 22 to 10 years and authorize an end-strength to 50,000 people, almost a 25 percent increase from current levels. It is time that the proper funding and appropriate resources are allocated for this vital mission to truly protect the American public.

I support this legislation, H.R. 4319, and I urge my colleagues to do the same.

Mr. SCHIFF. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4319, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PIRACY DETERRENCE AND EDUCATION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4077) to enhance criminal enforcement of the copyright laws, to educate the public about the application of copyright law to the Internet, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PIRACY DETERRENCE IN EDUCATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Piracy Deterrence and Education Act of 2004".

SEC. 102. FINDINGS.

The Congress finds as follows:

(1) The Internet, while changing the way our society communicates, has also changed the nature of many crimes, including the theft of intellectual property.

(2) Trafficking in infringing copyrighted works through increasingly sophisticated electronic means, including peer-to-peer file trading networks, Internet chat rooms, and news groups, threatens lost jobs, lost income for creators, lower tax revenue, and higher prices for honest purchasers.

(3) The most popular peer-to-peer file trading software programs have been downloaded by computer users over 600,000,000 times. At any one time there are over 3,000,000 users simultaneously using just one of these services. Each month, on average, over 2,300,000,000 digital-media files are transferred among users of peer-to-peer systems.

(4) Many computer users simply believe that they will not be caught or prosecuted for their conduct.

(5) The security and privacy threats posed by certain peer-to-peer networks extend beyond users inadvertently enabling a hacker to access files. Millions of copies of one of the most popular peer-to-peer networks contain software that could allow an independent company to take over portions of users' computers and Internet connections and has the capacity to keep track of users' online habits.

(6) In light of these considerations, Federal law enforcement agencies should actively pursue criminals who steal the copyrighted works of others, and prevent such activity through enforcement and awareness. The public should be educated about the security and privacy risks associated with being connected to certain peer-to-peer networks.

SEC. 103. VOLUNTARY PROGRAM OF DEPARTMENT OF JUSTICE.

(a) VOLUNTARY PROGRAM.—The Attorney General is authorized to establish a program under which the Department of Justice, in cases where persons who are subscribers of Internet service providers appear to the Department of Justice to be engaging in copyright infringing conduct in the course of using such Internet service, would send to the Internet service providers warning letters that warn such persons of the penalties for such copyright infringement. The Internet service providers may forward the warning letters to such persons.

(b) LIMITATIONS ON PROGRAM.—

(1) EXTENT AND LENGTH OF PROGRAM.—The program under subsection (a) shall terminate at the end of the 18-month period beginning on the date of the enactment of this Act and shall be limited to not more than 10,000 warning letters.

(2) PRIVACY PROTECTIONS.—No Internet service provider that receives a warning letter from the Department of Justice under subsection (a) may disclose to the Department any identifying information about the subscriber that is the subject of the warning letter except pursuant to court order or other applicable legal process that requires such disclosure.

(c) REIMBURSEMENT OF INTERNET SERVICE PROVIDERS.—The Department of Justice shall reimburse Internet service providers for all reasonable direct costs incurred by such service providers in identifying the proper recipients of the warning letters under subsection (a) and forwarding the letters.

(d) REPORTS TO CONGRESS.—The Attorney General shall submit to the Congress a report on the program established under subsection (a) both at the time the program is initiated and at the conclusion of the program.

(e) INADMISSIBILITY OF EVIDENCE.—The fact that an Internet service provider participated in the program under subsection (a), received a warning letter from the Department of Justice, was aware of the contents of the warning letter, or forwarded the warning letter to a subscriber, shall not be admissible in any legal proceeding brought against the Internet service provider.

(f) CONSTRUCTION.—Nothing in this section shall be construed to affect the ability of a court to consider, in a legal proceeding brought against an Internet service provider, notifications of claimed infringement as described in section 512(c)(3) of title 17, United States Code, or any other relevant evidence, other than that described in subsection (e).

SEC. 104. DESIGNATION AND TRAINING OF AGENTS IN COMPUTER HACKING AND INTELLECTUAL PROPERTY UNITS.

(a) DESIGNATION OF AGENTS IN CHIPS UNITS.—The Attorney General shall ensure that any unit in the Department of Justice responsible for investigating computer hacking or responsible for investigating intellectual property crimes is assigned at least one agent to support such unit for the purpose of investigating crimes relating to the theft of intellectual property.

(b) TRAINING.—The Attorney General shall ensure that each agent assigned under subsection (a) has received training in the investigation and enforcement of intellectual property crimes.

SEC. 105. EDUCATION PROGRAM.

(a) ESTABLISHMENT.—There shall be established within the Office of the Associate Attorney General of the United States an Internet Use Education Program.

(b) PURPOSE.—The purpose of the Internet Use Education Program shall be to—

(1) educate the general public concerning the value of copyrighted works and the effects of the theft of such works on those who create them; and

(2) educate the general public concerning the privacy, security, and other risks of using the Internet to obtain illegal copies of copyrighted works.

(c) SECTOR SPECIFIC MATERIALS.—The Internet Use Educational Program shall, to the extent appropriate, develop materials appropriate to Internet users in different sectors of the general public where criminal copyright infringement is a concern. The Attorney General shall consult with appropriate interested parties in developing such sector-specific materials.

(d) CONSULTATIONS.—The Attorney General shall consult with the Register of Copyrights and the Secretary of Commerce in developing the Internet Use Education Program under this section.

(e) PROHIBITION ON USE OF CERTAIN FUNDS.—The program created under this section shall not use funds or resources of the Department of Justice allocated for criminal investigation or prosecution.

(f) ADDITIONAL PROHIBITION ON THE USE OF FUNDS.—The program created under this section shall not use any funds or resources of the Department of Justice allocated for the Civil Rights Division of the Department, including any funds allocated for the enforcement of civil rights or the Voting Rights Act of 1965.

SEC. 106. ACTIONS BY THE GOVERNMENT OF THE UNITED STATES.

Section 411(a) of title 17, United States Code, is amended in the first sentence by striking "Except for" and inserting "Except for an action brought by the Government of the United States or by any agency or instrumentality thereof, or".

SEC. 107. AUTHORIZED APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice for fiscal year 2005 not less than $15,000,000 for the investigation and prosecution of violations of title 17, United States Code.

SEC. 108. CRIMINAL PENALTIES FOR UNAUTHORIZED RECORDING OF MOTION PICTURES IN A MOTION PICTURE EXHIBITION FACILITY.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding after section 2319A the following new section:

"§ 2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility

"(a) OFFENSE.—Any person who, without the authorization of the copyright owner, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, from a performance of such work in a motion picture exhibition facility, shall—

"(1) be imprisoned for not more than 3 years, fined under this title, or both; or

"(2) if the offense is a second or subsequent offense, be imprisoned for no more than 6 years, fined under this title, or both.

The possession by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in any proceeding to determine whether that person committed an offense under this subsection, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

"(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of an offense under subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided, order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other audiovisual works protected under title 17, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

"(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized investigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or by a person acting under a contract with the United States, a State, or a political subdivision of a State.

"(d) IMMUNITY FOR THEATERS AND AUTHORIZED PERSONS.—With reasonable cause, the owner or lessee of a motion picture facility where a motion picture is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture being exhibited, or the agent or employee of such licensor—

"(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of committing an offense under this section for the purpose of questioning that person or summoning a law enforcement officer; and

"(2) shall not be held liable in any civil or criminal action by reason of a detention under paragraph (1).

"(e) VICTIM IMPACT STATEMENT.—

"(1) IN GENERAL.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure, victims of an offense under this section shall be permitted to submit to the probation officer a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

"(2) CONTENTS.—A victim impact statement submitted under this subsection shall include—

"(A) producers and sellers of legitimate works affected by conduct involved in the offense;

"(B) holders of intellectual property rights in the works described in subparagraph (A); and

"(C) the legal representatives of such producers, sellers, and holders.

"(f) DEFINITIONS.—In this section:

"(1) AUDIOVISUAL WORK, COPY, ETC.—The terms 'audiovisual work', 'copy', 'copyright owner', 'motion picture', and 'transmit' have, respectively, the meanings given those terms in section 101 of title 17.

"(2) AUDIOVISUAL RECORDING DEVICE.—The term 'audiovisual recording device' means a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.

"(3) Motion picture exhibition facility.—The term 'motion picture exhibition facility' means a movie theater, screening room, or other venue that is being used primarily for the exhibition of a copyrighted motion picture, if such exhibition is open to the public or is made to an assembled group of viewers outside of a normal circle of a family and its social acquaintances.

"(g) State Law Not Preempted.—Nothing in this section may be construed to annul or limit any rights or remedies under the laws of any State.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319A the following:

"2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility.".

SEC. 109. SENSE OF THE CONGRESS ON NEED TO TAKE STEPS TO PREVENT ILLEGAL ACTIVITY ON PEER-TO-PEER SERVICES.

(a) Findings.—The Congress finds as follows:

(1) The most popular publicly accessible peer-to-peer file sharing software programs combined have been downloaded worldwide over 600,000,000 times.

(2) The vast majority of software products, including peer-to-peer technology, do not pose an inherent risk. Responsible persons making software products should be encouraged and commended for the due diligence and reasonable care they take including by providing instructions, relevant information in the documentation, disseminating patches, updates, and other appropriate modifications to the software.

(3) Massive volumes of illegal activity, including the distribution of child pornography, viruses, and confidential personal information, and copyright infringement occur on publicly accessible peer-to-peer file sharing services every day. Some publicly accessible peer-to-peer file sharing services expose consumers, particularly children, to serious risks, including legal liability, loss of privacy, threats to computer security, and exposure to illegal and inappropriate material.

(4) Several studies and reports demonstrate that pornography, including child pornography, is prevalent on publicly available peer-to-peer file sharing services, and children are regularly exposed to pornography when using such peer-to-peer file sharing services.

(5) The full potential of peer-to-peer technology to benefit consumers has yet to be realized and will not be achieved until these problems are adequately addressed.

(6) To date, the businesses that run publicly accessible file-sharing services have refused or failed to voluntarily and sufficiently address these problems.

(7) Many users of publicly available peer-to-peer file-sharing services are drawn to these systems by the lure of obtaining "free" music and movies.

(8) While some users use parental controls to protect children from pornography available on the Internet and search engines, not all such controls work on publicly accessible peer-to-peer networks.

(9) Businesses that run publicly accessible peer-to-peer file sharing services have openly acknowledged, and numerous studies and reports have established, that these services facilitate and profit from massive amounts of copyright infringement, causing enormous damage to the economic well-being of the copyright industries whose works are being illegally "shared" and downloaded.

(10) The legitimate digital music marketplace offers consumers a wide and growing array of choices for obtaining music legally, without exposure to the risks posed by publicly accessible peer-to-peer file sharing services.

(11) The Federal Trade Commission issued a Consumer Alert in July of 2003 warning consumers that some file-sharing services contain damaging viruses and worms and, without the computer user's knowledge or consent, install spyware to monitor a user's browsing habits and send data to third parties or automatically open network connections.

(12) Publicly available peer-to-peer file-sharing services can and should adopt reasonable business practices and use technology in the marketplace to address the existing risks posed to consumers by their services and facilitate the legitimate use of peer-to-peer file sharing technology and software.

(b) Sense of Congress.—It is the sense of the Congress that—

(1) responsible software developers should be commended, recognized, and encouraged for their efforts to protect consumers;

(2) currently the level of ongoing and persistent illegal and dangerous activity on publicly accessible peer-to-peer file sharing services is harmful to consumers, minors, and the economy; and

(3) therefore, the Congress and the executive branch should consider all appropriate measures to protect consumers and children, and prevent such illegal activity.

SEC. 110. ENHANCEMENT OF CRIMINAL COPYRIGHT INFRINGEMENT.

(a) Criminal Infringement.—Section 506 of title 17, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Criminal Infringement.—Any person who—

"(1) infringes a copyright willfully and for purposes of commercial advantage or private financial gain,

"(2) infringes a copyright willfully by the reproduction or distribution, including by the offering for distribution to the public by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than $1,000, or

"(3) infringes a copyright by the knowing distribution, including by the offering for distribution to the public by electronic means, with reckless disregard of the risk of further infringement, during any 180-day period, of—

"(A) 1,000 or more copies or phonorecords of 1 or more copyrighted works,

"(B) 1 or more copies or phonorecords of 1 or more copyrighted works with a total retail value of more than $10,000, or

"(C) 1 or more copies or phonorecords of 1 or more copyrighted pre-release works,

shall be punished as provided under section 2319 of title 18. For purposes of this subsection, evidence of reproduction or distribution of a copyrighted work, by itself, shall not be sufficient to establish the necessary level of intent under this subsection."; and

(2) by adding at the end the following:

"(g) Limitation on Liability of Service Providers.—No legal entity shall be liable for a violation of subsection (a)(3) by reason of performing any function described in subsection (a), (b), (c), or (d) of section 512 if such legal entity would not be liable for monetary relief under section 512 by reason of performing such function. Except for purposes of determining whether an entity qualifies for the limitation on liability under subsection (a)(3) of this section, the legal conclusion of whether an entity qualifies for a limitation on liability under section 512 shall not be considered in a judicial determination of whether the entity violates subsection (a) of this section.

"(h) Definitions.—In this section:

"(1) Pre-release work.—The term 'pre-release work' refers to a work protected under this title which has a commercial and economic value and which, at the time of the act of infringement that is the basis for the offense under subsection (a)(3), the defendant knew or should have known had not yet been made available by the copyright owner to individual members of the general public in copies or phonorecords for sale, license, or rental.

"(2) Retail value.—The 'retail value' of a copyrighted work is the retail price of that work in the market in which it is sold. In the case of an infringement of a copyright by distribution, if the retail price does not adequately reflect the economic value of the infringement, then the retail value may be determined using other factors, including but not limited to suggested retail price, wholesale price, replacement cost of the item, licensing, or distribution-related fees.".

(b) Penalties.—Section 2319 of title 18, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(2) by inserting after subsection (c) the following:

"(d) Any person who commits an offense under section 506(a)(3) of title 17—

"(1) shall be imprisoned not more than 3 years, or fined in the amount set forth in this title, or both, or, if the offense was committed for purposes of commercial advantage or private financial gain, imprisoned for not more than 5 years, or fined in the amount set forth in this title, or both; and

"(2) shall, if the offense is a second or subsequent offense under paragraph (1), be imprisoned not more than 6 years, or fined in the amount set forth in this title, or both, or, if the offense was committed for purposes of commercial advantage or private financial gain, imprisoned for not more than 10 years, or fined in the amount set forth in this title, or both."; and

(3) in subsection (f), as so redesignated—

(A) in paragraph (1), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(3) the term 'financial gain' has the meaning given that term in section 101 (relating to definitions) of title 17.".

(c) Civil Remedies for Infringement of a Commercial Pre-Release Copyrighted Work.—Section 504(b) of title 17, United States Code, is amended—

(1) by striking "The copyright owner" and inserting the following:

"(1) In general.—The copyright owner"; and

(2) by adding at the end the following:

"(2) Damages for pre-release infringement.—

"(A) In general.—In the case of any pre-release work, actual damages shall be presumed conclusively to be no less than $10,000 per infringement, if a person—

"(i) distributes such work by making it available on a computer network accessible to members of the public; and

"(ii) knew or should have known that the work was intended for commercial distribution.

"(B) Definition.—For purposes of this subsection, the term 'pre-release work' has the meaning given that term in section 506(h).".

SEC. 111. AMENDMENT OF FEDERAL SENTENCING GUIDELINES REGARDING THE INFRINGEMENT OF COPYRIGHTED WORKS AND RELATED CRIMES.

(a) Amendment to the Sentencing Guidelines.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of intellectual property rights crimes, including sections 2318, 2319, 2319A, 2319B, 2320 of title 18, United States Code, and sections 506, 1201, and 1202 of title 17, United States Code.

(b) Factors.—In carrying out this section, the Sentencing Commission shall—

(1) take all appropriate measures to ensure that the sentencing guidelines and policy statements applicable to the offenses described in subsection (a) are sufficiently stringent to deter and adequately reflect the nature of such offenses;

(2) consider whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a) when the conduct involves the display, performance, publication, reproduction, or distribution of a copyrighted work before the time when the copyright owner has authorized the display, performance, publication, reproduction, or distribution of the original work, whether in the media format used by the infringing good or in any other media format;

(3) consider whether the definition of "uploading" contained in Application Note 3 to Guideline 2B5.3 is adequate to address the loss attributable to people broadly distributing copyrighted works over the Internet without authorization; and

(4) consider whether the sentencing guidelines and policy statements applicable to the offenses described in subsection (a) adequately reflect any harm to victims from infringement in circumstances where law enforcement cannot determine how many times copyrighted material is reproduced or distributed.

(c) Promulgation.—The Commission may promulgate the guidelines or amendments under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

SEC. 112. EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES.

(a) Short Title.—This section may be cited as the "Family Movie Act of 2004".

(b) Exemption From Copyright and Trademark Infringement for Skipping of Audio or Video Content of Motion Pictures.—Section 110 of title 17, United States Code, is amended—

(1) in paragraph (9), by striking "and" after the semicolon at the end;

(2) in paragraph (10), by striking the period at the end and inserting "; and";

(3) by inserting after paragraph (10) the following:

"(11) the making imperceptible, by or at the direction of a member of a private household, of limited portions of audio or video content of a motion picture during a performance in or transmitted to that household for private home viewing, from an authorized copy of the motion picture, or the creation or provision of a computer program or other technology that enables such making imperceptible and that is designed and marketed for such use at the direction of a member of a private household, if—

"(A) no fixed copy of the altered version of the motion picture is created by such computer program or other technology; and

"(B) no changes, deletions or additions are made by such computer program or other technology to commercial advertisements, or to network or station promotional announcements, that would otherwise be performed or displayed before, during or after the performance of the motion picture."; and

(4) by adding at the end the following:

"For purposes of paragraph (11), the term 'making imperceptible' does not include the addition of audio or video content that is performed or displayed over or in place of existing content in a motion picture.".

(c) Exemption From Trademark Infringement.—Section 32 of the Trademark Act of 1946 (15 U.S.C. 1114) is amended by adding at the end the following:

(c) Exemption From Trademark Infringement.—Section 32 of the Trademark Act of 1946 (15 U.S.C. 1114) is amended by adding at the end the following:

"(3)(A) Any person who engages in the conduct described in paragraph (11) of section 110 of title 17, United States Code, and who complies with the requirements set forth in that paragraph is not liable on account of such conduct for a violation of any right under this Act. This subparagraph does not preclude liability of a person for conduct not described in paragraph (11) of section 110 of title 17, United States Code, even if that person also engages in conduct described in paragraph (11) of section 110 of such title.

"(B) A manufacturer, licensee, or licensor of technology that enables the making of limited portions of audio or video content of a motion picture imperceptible that is authorized under subparagraph (A) is not liable on account of such manufacture or license for a violation of any right under this Act, if such manufacturer, licensee, or licensor ensures that the technology provides a clear and conspicuous notice at the beginning of each performance that the performance of the motion picture is altered from the performance intended by the director or copyright holder of the motion picture. Subparagraph (A) shall not apply to a manufacturer, licensee, or licensor of technology that fails to comply with this subparagraph.

"(C) The requirement under subparagraph (B) to provide notice shall apply only with respect to technology manufactured after the end of the 180-day period beginning on the date of the enactment of the Family Movie Act of 2004.".

(d) Definition.—In this section, the term "Trademark Act of 1946" means the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.).

TITLE II—MISCELLANEOUS

SEC. 201. DESIGNATION OF NATIONAL TREE.

(a) Designation.—Chapter 3 of title 36, United States Code, is amended by adding at the end the following:

"§ 305. National tree

"The tree genus Quercus, commonly known as the oak tree, is the national tree.".

(b) Conforming Amendments.—Such title is amended—

(1) in the table of contents for part A of subtitle I, by striking "**, and March**" and inserting "**March, and Tree**";

(2) in the chapter heading for chapter 3, by striking ", AND MARCH" and inserting "MARCH, AND TREE"; and

(3) in the table of sections for chapter 3, by adding at the end the following:

"305. National tree.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. Sensenbrenner) and the gentleman from California (Mr. Schiff) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. Sensenbrenner).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4077, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation addresses the growing piracy problem facing our Nation's creative community. New technologies have made copyright piracy an even easier activity to undertake than before. The number of pirating files continues to increase. Although the technology is not the problem, our Nation's laws need to be updated to reflect the impact of this new technology.

In response to the increase in piracy, the copyright community has been investing time and money in campaigns to educate America about the need to respect copyrights. The Attorney General and other senior administration officials have spoken publicly about the piracy problem and their efforts to fight it in our court system. Schools and universities have begun requiring incoming freshmen to attend copyright education programs before granting them access to the university computer networks.

Yet there seems to be a belief among America's youth, and even some of their parents, that copyright piracy is either an acceptable activity or one that carries low risk of penalties. This needs to change.

Under existing legal authority, the Department of Justice has identified problems that prevent it from pursuing high-volume file sharers. Section 10 of this legislation provides new legal authority to pursue those making available 1,000 or more files. The content community sees government-run public service campaigns as an important counterpart to their education effort. Section 5 provides for such a government-run campaign.

Parents want to be able to learn of illegal activity by their children before they are sued by a copyright owner or the Department of Justice. Section 3 of this legislation creates a voluntary warning system that will allow parents to receive a warning like the kind that still occurs in small towns today. When a child is doing something wrong, the local cop on the beat tells his or her parents about it. Once alerted to their child's behavior by a friendly warning from the local cop, the parents can put a stop to behavior then and there. I believe that a DOJ warning letter sent to the parents will have the same impact on them and their child's behavior as the policeman's friendly warning.

Finally, H.R. 4077 contains the Family Movie Act that clarifies that existing copyright and trademark law cannot be used to prevent a parent from deciding what their children see in the privacy of their own home. I do not take kindly to those who would presume to tell parents how they decide what is best for their children.

In addition, because of the limited floor time at this time of year, the bill also includes the text of H.R. 1775. This bill designates the oak tree as the national tree.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 4077, the Piracy Deterrence and Education Act of 2004, as amended today by the chairman of the Committee on the Judiciary. I urge my colleagues to join me in voting to pass this important and worthy piece of legislation.

Prior to reporting H.R. 4077 by voice vote earlier this month, the Committee on the Judiciary gave this bill great deliberation. This bill and its precursors, H.R. 2517 and H.R. 2752, were the subject of several subcommittee hearings and a subcommittee markup. Through the extensive process given to this bill, the Committee on the Judiciary crafted a measure that makes important contributions and advances in the fight against widespread electronic theft of copyrighted works.

Intellectual property theft has become a rampant and serious threat to the livelihoods of all copyright creators. Digital technologies like the CD burner, the Internet, and the MP3 audio-compression standard, while enhancing the consumer experience, have greatly facilitated copyright theft and led to an explosion in its prevalence. Studies indicate that at any given time more than 850 million copyright-infringing files are being illegally offered for distribution through just one peer-to-peer, file-swapping network. Innumerable Web sites, file transfer protocol servers, Internet affinity groups, and Internet relay chat channels also constitute havens for copyright theft.

Copyright theft injures copyright creators of all types, whether they are songwriters, photojournalists, graphic designers, software engineers, or musicians. On the human level, illegal downloads of songs supplant legal downloads and thus deny songwriters the 8 cents they are due for each legal download. At the macro level, the worldwide software industry alone is estimated to have suffered $29 billion in packaged software loss due to piracy during 2003.

While not a panacea, the changes made by H.R. 4077 will play an important role in addressing the piracy problem. It has become clear that law enforcement authorities need additional resources, statutory authority, and incentives to become productive participants in the antipiracy battle. H.R. 4077 is designed to address these needs.

Specifically, sections 103 and 105 of the bill engage Federal law enforcement agencies in the effort to deter and educate the public about copyright crimes. Section 103 establishes a voluntary program through which the FBI, with cooperation from Internet service providers, can inform Internet users about suspected infringement. Section 105 directs the Department of Justice, in conjunction with the U.S. Copyright Office, to establish an Internet use education program. Section 106 enables criminal prosecution of copyright infringement involving unregistered works.

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This will assist copyright owners, such as photographers, who generally cannot register their copyrighted works, and, as a result, effectively cannot afford to bring civil actions against infringers. By raising the possibility of criminal prosecution, section 106 would create a credible deterrent against the theft of unregistered works.

Section 108 deals with the growing phenomenon of copyright thieves who use portable digital video recorders to record movies off theater screens during public exhibitions. I was recently in Pakistan, and on the hotel TVs they showed "Catwoman," still out in theaters; and as you watched, you could hear people coughing in the background, or indeed standing up to get popcorn. Plainly, not a legitimately copyrighted exhibition.

Organized piracy rings widely distribute copies of these surreptitious recordings, both online and on the street. Section 108 clarifies that it is a felony to surreptitiously record a move in a theater.

Section 110 makes the potential criminal prosecution a more credible deterrent to egregious infringements by otherwise judgment-proof infringers. Section 110 does this by ensuring that criminal copyright prosecutions can be brought against copyright infringers who knowingly distribute massive amounts of copyrighted works or enormously valuable copyrighted works with reckless disregard of the risk of further infringement.

Section 112 of H.R. 4077 did generate some concern during the Committee on the Judiciary consideration because it resolves a legal question at the heart of a pending Federal litigation. While many members of the Committee on the Judiciary believe section 112 inappropriately intervenes in this Federal legislation, support for the balance of H.R. 4077 convinced these members to support the bill as a whole.

Thus, H.R. 4077 is, on balance, a well-crafted bill that will provide valuable and targeted assistance in the battle against copyright piracy.

It is worth noting that while not universally embraced, H.R. 4077 has garnered widespread consensus support. Groups as diverse as the Professional Photographers Association, the Video Software Dealers Association, and needlepoint designers have written in support.

The widespread support is a credit to its sponsors, who worked assiduously during committee consideration to address many of the concerns raised. In fact, H.R. 4077 itself was introduced as a replacement for H.R. 2517 and H.R. 2752, both of which contained several more controversial provisions.

During consideration of this bill, it has been amended to include changes sought by Internet service providers, universities, theater owners, broadcast networks, consumer groups, parallel importers, the Department of Justice, and the Bureau of Immigration and Customs Enforcement. While I would not go so far as to say that H.R. 4077 has the affirmative endorsement of all concerned, I do believe that most of the legitimate concerns have been accommodated:

In summary, this bill as amended today advances important and necessary objectives, and I encourage my colleagues to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. SMITH), the Chair of the subcommittee and the principal author of the bill.

Mr. SMITH of Texas. Mr. Speaker, first of all I want to thank the gentleman from Wisconsin, the chairman of the Committee on the Judiciary, for yielding me time.

Also at the outset I want to acknowledge that this legislation represents a genuine bipartisan and cooperative effort. The gentleman from California (Mr. BERMAN), who I understand is on his way to the House floor from the airport, was a partner in the effort to write this legislation and has contributed many good ideas to the final product. So I want to acknowledge his good work as well as his input and say that I appreciate his support.

Mr. Speaker, piracy of intellectual property over the Internet, especially on peer-to-peer networks, has reached alarming levels. Millions of pirated movies, music, software, game and other copyrighted files are now available for free download from suspect peer-to-peer networks. This piracy harms everyone, from those looking for legitimate sources of content, to those who create it.

I have heard from songwriters, video store owners, software publishers, and game developers who feel the impact of such piracy every day. They have urged Congress to help them educate the public about the harms of piracy while also warning and penalizing those who continue to steal from others.

Peer-to-peer technology is an essential development of our Nation's high-tech economy. However, like all new technologies, peer-to-peer technologies have been abused by those who want to commit crimes. Our Nation's laws need to be updated to reflect the harms that can be caused by this new technology, without penalizing the technology itself.

This legislation addresses P2P piracy by better educating the public about copyright law, authorizing the creation of a system to warn online users of potential infringement, penalizing those who bring camcorders into movie theaters for the purpose of making pirated DVDs, assisting Federal law enforcement authorities in their efforts to investigate and prosecute intellectual property crimes, and designating designated intellectual crime agents within DOJ Computer Hacking and Intellectual Property Sections to prosecute cybercrimes. The Internet has revolutionized how Americans locate information, shop and communicate. We must not let new Internet technologies become a haven for criminals.

Mr. Speaker, also included in H.R. 4077 is an updated version of H.R. 4586, the Family Movie Act of 2004, which the committee reported out in July. Parents should have the right to watch any movie they want and to skip over or mute any content they find objectionable. This legislation ensures that parents have the final say in what their children watch in the privacy of their own home and that parents can act in the best interests of their children. Parents need all the help they can get in protecting their children from the sex, violence, and profanity found in many movies; and parents should be able to determine what their children see on the screen. Technology that helps parents accomplish this should be applauded, and H.R. 4077 ensures that this technology will not face continued legal challenges.

Mr. Speaker, I urge my colleagues to pass this important piece of legislation.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wanted to join my colleague in congratulating my colleague, the gentleman from California (Mr. BERMAN), who I know wanted to be here to manage the floor time on our side of the aisle, for his great contributions to this legislation and protection of intellectual property.

I also want to thank the chairman of the subcommittee, the gentleman from Texas (Mr. SMITH), for his extraordinary job during these 2 years in advancing the cause of protecting, really, the one industry that has a positive balance of trade with every other country in the world, and that is the intellectual property industry.

So I want to thank our subcommittee chairman and thank our full committee chairman for their work on this bill today and more generally on the issue of protecting intellectual property theft.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the bill, H.R. 4077, the Piracy Deterrence and Education Act of 2004; however, I join my colleagues in the Committee on the Judiciary in raising serious concerns about Section 12 as reported. Section 12 adds to H.R. 4077 the text of H.R. 4586, the "Family Movie Act of 2004." With the purported goal of sanitizing undesired content in motion pictures, section 12 immunizes from copyright and trademark liability any for-profit companies that develop movie-editing software to make content imperceptible without permission from the movies' creators. Section 12 favors one party in a private lawsuit, interferes with marketplace negotiations, fails to achieve its goal, is unnecessary and overbroad, may increase the level of undesired content, and impinges on artistic freedom and rights.

As Chair of the Congressional Children's Caucus, I appreciate the fact that one of the drafter's intentions was to protect children. Purportedly, parts of Section 12 are about whether children should be forced to watch undesired content. However, the issue in this debate is about who should make editorial decisions about what movie content children should see: parents or a for-profit company.

Supporters of Section 12 believe companies should be allowed to do the editing for profit, and without permission of film creators, while opponents believe parents are the best qualified to know what their children should not see. The legislation would accomplish little beyond inflaming the debate over indecent content in popular media and interfering with marketplace solutions to parental concerns.

Regardless of the outcome of the pending litigation, this legislation should not be brought before the House because it is unnecessary. Its supposed rationale is to make it easier for parents and children to avoid watching motion pictures with undesired content, but parents and children already have such options.

At the outset, there is an obvious marketplace solution to undesired content in that consumers can merely elect not to view it. As the Register of Copyrights testified at a hearing on the bill underlying the amendment:

> I cannot accept the proposition that not to permit parents to use such products means that they are somehow forced to expose their children (or themselves) to unwanted depictions of violence, sex and profanity. There is an obvious choice—one which any parent can and should make: don't let your children watch a movie unless you approve of the content of the entire movie.

The motion picture industry has even enhanced the ability of consumers to exercise this choice. For decades and on a voluntary basis, it has implemented a rating system for its products that indicates the level of sexual or violent content and the target audience age. Each and every major motion picture released in theaters or on DVD or VHS bears such a rating. Such ratings effectively enable parents to steer their children away from movies they consider inappropriate.

Mr. Speaker, for the reasons stated above, I support this legislation, but reserve my comments regarding Section 12 as issues that should be addressed alternatively.

Mr. GREEN of Texas. Mr. Speaker, I rise in support of H.R. 4077 today because I feel it is important for Congress to keep pace with those who use new technology to defraud consumers.

As a co-sponsor with our colleague HEATHER WILSON of the Anti-SPAM bill, I'd like to also thank my colleagues on the Energy and Commerce and Judiciary Committees for taking action on this legislation.

We live in an age when technological breakthroughs bring us better, more efficient lives. However, these breakthroughs also entice people to take advantage of others for personal and financial gain.

Congress needs to address these types of issues quickly because as we all know, the fast pace of technological growth will always bring with it new issues for Congress.

During our experience with the Anti-SPAM bill, we all came to an understanding that technology itself is not the problem—it is the way some entities use technology that is harmful to consumers.

This legislation balances consumer protections against Spyware with the need to allow industry to use software technology to provide useful products and services to consumers.

I'm glad to stand with colleagues from both sides of the isle on this issue and rise to support this legislation. This bill will protect us from spy ware and get our law enforcement agencies involved in helping make the internet a more secure place to conduct business, communicate and learn.

Mr. CONYERS. Mr. Speaker, I rise in support of the bill but with strong opposition to section 112. While the bill contains numerous anti-copyright piracy provisions that I helped draft, I oppose section 112 because it is an anti-copyright, special interest provision that will interfere in a pending lawsuit.

The content industries provide this country's number one export; in fact, copyrighted content provides a positive trade balance of approximately $89 billion. Clearly, our content is a valuable resource that deserves protection.

Unfortunately, the same technologies that have enhanced our lives and globalized trade have made it possible to obtain digital content for free; the same technology that enhanced the lives of so many is harming the lives of people—the artists, musicians, writers, etc.—whose work we value so much.

While there are laws on the books that protect copyrighted content from theft, they do not go quite far enough. New file swapping programs and sites appear every day on the Internet, each one better than its predecessor. These sites do not develop their own content but rely upon the popularity of content created by others and allow that content to be distributed to millions with the click of a mouse. These sites also create security and privacy risks, in that they open up the entire hard drives of average consumers for the world to see, financial and personal information included.

I was a cosponsor of Chairman SMITH's bill, H.R. 2517, but felt that we could do even more to thwart piracy. That is why Ranking Member BERMAN and I introduced H.R. 2752, which provided for increased enforcement of the piracy laws. For the past several months, we have been working in bipartisan fashion to craft language that is non-controversial and workable.

In that regard, I am pleased that the compromise bill incorporates numerous provisions from the original Conyers-Berman bill. H.R. 4077 clarifies that it is a federal offense to camcord a movie in a theater. This is a major means by which movies end up on the Internet for free. I think we can all agree there is little legitimate reason for engaging in this conduct and need to send a clear message that we will not tolerate this theft. It also ensures that theaters owners are exempt from liability if they attempt to enforce this prohibition.

The bill contains a sense of the Congress recognizing the potential dangers of misused peer-to-peer services (such as spreading worms, viruses, making personal computer files available to the public).

Third, the bill provides additional tools to prosecute those who upload copyrighted content to the Internet unlawfully, and I was pleased the content and Internet industries were able to compromise on this provision. It also provides an authorization of $15 million for the Justice Department's piracy fighting efforts, an increase over the traditional $10 million.

Finally, the legislation includes language similar to a provision in an earlier bill of mine, H.R. 4643 from the 107th Congress, saying the distribution of unpublished or pre-release works can constitute infringement. This is important for industries whose content ends up on the Internet before it is even released to the public.

Unfortunately, I am disappointed that our year-long bipartisan effort has been tainted by the addition of section 112, which is identical to H.R. 4586. H.R. 4586, the "Family Movie Act of 2004," is an anti-content creator proposal that interferes in a private lawsuit. It puts Congress on one side of a private business dispute that is properly left to the litigants and the court.

I urge my colleagues to vote "yes" on this legislation.

Mr. SCHIFF. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4077, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 752, H.R. 3954, H.R. 4066, H.R. 4469, H.R. 4579, H.R. 4596, H.R. 4683, H.R. 4808, S. 643, S. 1687, S. 2052, H.R. 3247, H.R. 4617, H.R. 4827, H.R. 4838, S. 1537, S. 1778, S. 2180, H.R. 3210, H.R. 3597, H.R. 4606, H.R. 5009, H.R. 5016, S. 2508, H.J. Res. 102, H. Res. 737, H.R. 2941, and H.R. 3479.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

EXPRESSING CONTINUED SUPPORT FOR CONSTRUCTION OF VICTIMS OF COMMUNISM MEMORIAL

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 752) expressing continued support for the construction of the Victims of Communism Memorial.

The Clerk read as follows:

H. RES. 752

Whereas section 905 of the FRIENDSHIP Act (40 U.S.C. 1003 note) authorizes the construction of a memorial to honor the victims of communism;

Whereas in 2004, a location for the Victims of Communism Memorial is to be selected and construction of the Memorial in the District of Columbia is scheduled to begin;

Whereas construction of the Memorial is supported by the Baltic-American community and other ethnic communities in the United States; and

Whereas it is necessary for the people of the United States to be reminded of the importance of the Memorial and continue to support its progression: Now, therefore, be it

Resolved, That the House of Representatives expresses continued support for the construction of the Victims of Communism Memorial.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 752 introduced by the gentleman from Illinois (Mr. SHIMKUS) would express the continued support of the House of Representatives for the construction for the Victims of Communism Memorial in the Nation's capital. I urge adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. SOUDER. Mr. Speaker, today I rise in support of H. Res. 752, expressing continued support for the construction of the Victims of Communism Memorial.

In 1993, recognizing "the deaths of over 100,000,000 victims in an unprecedented imperial communist holocaust," Congress authorized the construction of the Victims of Communism Memorial in our Nation's capital, "so that never again will nations and peoples allow so evil a tyranny to terrorize the world."

Today, H. Res. 752 reaffirms the importance of the Victims of Communism Memorial and reminds our nation that the men and women whose sacrifice the memorial honors must not be forgotten.

Over the past year, significant strides have been made toward the realization of the memorial, including the consideration of a potential location. Several months ago, the National Park Service recommended a site for the Victims of Communism Memorial at Maryland and Constitution Avenues, NE. In July, I and 26 other Members of Congress wrote to the chairman of the National Capital Memorial Commission, encouraging the commission to approve this site for the memorial. Later that month, the commission met to consider this location for the memorial. Citizens representing the Baltic-American, Vietnamese-American and Polish-American communities expressed their strong support for the memorial. They spoke of its importance both for their own communities in commemorating those who have suffered under communist oppression and for our whole nation, which has shared in the struggle against communism.

That day, the commission unanimously approved the site for the Victims of Communism Memorial.

The Victims of Communism Memorial continues to make its way through the approved process for its site and design. Now that the National Capital Memorial Commission has approved a location, the site must also be approved by Neighborhood Advisory Commission 6–C for Capitol Hill, the Commission on Fine Arts, and the National Capital Planning Commission. The Memorial must then go through the same procedure for design approval.

These are important and exciting steps on the way to establishing the memorial to honor over 100 million victims of communism. It is vital that we as Americans remember the sacrifice so many brave men and women have made in the hope of achieving freedom from communist tyranny. Our Nation has long struggled along with them as the leader in fighting communism. This history is also very personal for the estimated 26 million Americans who trace their heritage to former communist countries. When the Victims of Communism Memorial is constructed, it will provide our Nation with a place to commemorate the lives and heroism of those the memorial honors, and to remember the terrible cost of communism.

This is a message that neither we nor future generations of Americans can afford to forget.

I urge my colleagues to support the efforts to establish the Victims of Communism Memorial and H. Res. 752.

Ms. BORDALLO. Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and agree to the resolution, H. Res. 752.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

RANCHO EL CAJON BOUNDARY RECONCILIATION ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3954) to authorize the Secretary of the Interior to resolve boundary discrepancies in San Diego County, California, arising from an erroneous survey conducted by a Government contractor in 1881 that resulted in overlapping boundaries for certain lands, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rancho El Cajon Boundary Reconciliation Act".

SEC. 2. RESOLUTION OF BOUNDARY DISCREPANCIES, SAN DIEGO COUNTY, CALIFORNIA.

(a) RESOLUTION OF BOUNDARY DISCREPANCIES.—The Secretary of the Interior shall provide compensation to any landowner whose title to land in lots 1 and 2 of section 9, township 15 south, range 1 east, San Bernardino Meridian, in San Diego County, California, is based on an erroneous survey conducted by a Government contractor in 1881 and is rendered void because that title is inferior to the title to the same land established by a survey of the Rancho El Cajon conducted in 1872 and approved by the Commissioner of the General Land Office in 1876.

(b) FORMS OF COMPENSATION.—Compensation under subsection (a) shall be mutually agreed upon by the Secretary and the landowner and shall consist of—

(1) public lands in San Diego or Imperial Counties, California, selected jointly by the Secretary and the landowner and conveyed by the Secretary to the landowner;

(2) a cash payment to the landowner; or

(3) a combination of a conveyance under paragraph (1) and a cash payment under paragraph (2).

(c) EQUAL VALUE.—Compensation provided under subsection (a) for a parcel of land whose title was rendered void, as described in such subsection, may not exceed the fair market value of the land, as determined by an appraisal satisfactory to the Secretary and the landowner.

(d) SOURCE OF FUNDS.—The Secretary may make payments under subsection (a) using funds available to the Secretary to equalize land exchanges under section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(e) PUBLIC LANDS DEFINED.—In this section, the term "public lands" has the meaning given the term in section 103(e) of the Federal Land Policy and Management Act of 1976 (7 U.S.C. 1702(e)).

SEC. 3. REVOCATION OF PUBLIC LAND ORDER WITH RESPECT TO LANDS ERRONEOUSLY INCLUDED IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA.

(a) REVOCATION.—Public Land Order 3442, dated August 21, 1964, is revoked insofar as it applies to the following described lands: San Bernardino Meridian, T11S, R22E, sec. 6, all of lots 1, 16, and 17, and SE¼ of SW¼ in Imperial County, California, aggregating approximately 140.32 acres.

(b) RESURVEY AND NOTICE OF MODIFIED BOUNDARIES.—The Secretary of the Interior shall, by not later than 6 months after the date of the enactment of this Act—

(1) resurvey the boundaries of the Cibola National Wildlife Refuge, as modified by the revocation under section 1;

(2) publish notice of, and post conspicuous signs marking, the boundaries of the refuge determined in such resurvey; and

(3) prepare and publish a map showing the boundaries of the refuge.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3954, introduced by the gentleman from California (Mr. HUNTER) and amended by the Committee on Resources, would authorize the Secretary of the Interior to resolve boundary discrepancies in San Diego County, California, arising from an 1881 erroneous survey conducted by a government contractor. The survey resulted in overlapping boundaries for certain lands.

In addition, section 3 of the bill incorporates the text of H.R. 417, which revokes a portion of a public land order affecting the Cibola National Wildlife Refuge. H.R. 417 passed the House unanimously on March 19, 2003. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. HUNTER. Mr. Speaker, when Fred Gruner returned from World War II he did what we encourage all of our young veterans to do, invested his money and planned for his family's future. Mr. Gruner chose to build equity by purchasing land in San Diego County. Unfortunately, due to an erroneous Federal Government survey that resulted in overlapping boundaries for certain lands, Mr. Gruner is now told that he does not, in fact, own the land that he paid for and on which he has been paying taxes for over 40 years. Although the Department of the Interior recognizes the mistake, they have communicated to me that they are not authorized to provide the necessary compensation for Mr. Gruner. H.R. 3954 simply allows the Secretary of the Interior to provide compensation through conveyance of lands or cash payment.

The error dates back to an 1881 survey which failed to correctly locate the El Cajon northern boundary thereby creating a 1,100 foot overlap of land, essentially creating land on paper that did not exist. Nevertheless, titles were sold or passed on and taxes were assessed as if it did. Though he purchased his property in good faith in 1962, Mr. Gruner eventually learned of the overlap. When a recent survey was completed by the Department of the Interior in response to Mr. Gruner's concerns, the full scope of his problem was discovered. According to the survey, lots one and two of Section nine fell into the overlap and as a result, the 23 acres no longer belong to him.

Part of the mission of the Federal Government agencies is to set standards and uphold them where the private sector is not able. This is one of those situations. The main mission of the General Land Office (the Interior agency that completed the 1881 survey) was the survey and sale of public lands. When a well-intentioned citizen that has served his country seeks to purchase a piece of land, he ought to be able to trust that the existing Federal Government survey of the land is reliable. Mr. Gruner worked his entire life to build this nest-egg. He has spent over 20 years fighting to protect it. This is his last recourse. Please join me in doing what is right. I urge my colleagues to join with me in supporting H.R. 3954.

I would like to thank Chairman POMBO and Subcommittee Chairman RADANOVICH for their leadership on this issue and their dedication to righting this wrong.

Ms. BORDALLO. Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 3954, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CHICKASAW NATIONAL RECREATION AREA LAND EXCHANGE ACT OF 2004

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4066) to provide for the conveyance of certain land to the United States and to revise the boundary of

Chickasaw National Recreation Area, Oklahoma, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Chickasaw National Recreation Area Land Exchange Act of 2004".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) By provision 64 of the agreement between the United States and the Choctaws and Chickasaws dated March 21, 1902 (32 Stat. 641, 655–56), approved July 1, 1902, 640 acres of property were ceded to the United States for the purpose of creating Sulphur Springs Reservation, later known as Platt National Park, to protect water and other resources and provide public access.

(2) In 1976, Platt National Park, the Arbuckle Recreation Area, and additional lands were combined to create Chickasaw National Recreation Area to protect and expand water and other resources as well as to memorialize the history and culture of the Chickasaw Nation.

(3) More recently, the Chickasaw Nation has expressed interest in establishing a cultural center inside or adjacent to the park.

(4) The Chickasaw National Recreation Area's Final Amendment to the General Management Plan (1994) found that the best location for a proposed Chickasaw Nation Cultural Center is within the Recreation Area's existing boundary and that the selected cultural center site should be conveyed to the Chickasaw Nation in exchange for land of equal value.

(5) The land selected to be conveyed to the Chickasaw Nation holds significant historical and cultural connections to the people of the Chickasaw Nation.

(6) The City of Sulphur, Oklahoma, is a key partner in this land exchange through its donation of land to the Chickasaw Nation for the purpose of exchange with the United States.

(7) The City of Sulphur, Oklahoma, has conveyed fee simple title to the non-Federal land described as Tract 102–26 to the Chickasaw Nation by Warranty Deed.

(8) The National Park Service, the Chickasaw Nation, and the City of Sulphur, Oklahoma, have signed a preliminary agreement to effect a land exchange for the purpose of the construction of a cultural center.

(b) PURPOSE.—The purpose of this Act is to authorize, direct, facilitate, and expedite the land conveyance in accordance with the terms and conditions of this Act.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) FEDERAL LAND.—The term "Federal land" means the Chickasaw National Recreational Area lands and interests therein, identified as Tract 102–25 on the Map.

(2) NON-FEDERAL LAND.—The term "non-Federal land" means the lands and interests therein, formerly owned by the City of Sulphur, Oklahoma, and currently owned by the Chickasaw Nation, located adjacent to the existing boundary of Chickasaw National Recreation Area and identified as Tract 102–26 on the Map.

(3) MAP.—The term "Map" means the map entitled "Proposed Land Exchange and Boundary Revision, Chickasaw National Recreation Area", dated September 8, 2003, and numbered 107/800035a.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. CHICKASAW NATIONAL RECREATION AREA LAND CONVEYANCE.

(a) LAND CONVEYANCE.—Not later then 6 months after the Chickasaw Nation conveys all right, title, and interest in and to the non-Federal land to the United States, the Secretary shall convey all right, title, and interest in and to the Federal land to the Chickasaw Nation.

(b) VALUATION OF LAND TO BE CONVEYED.—The fair market values of the Federal land and non-Federal land shall be determined by an appraisal acceptable to the Secretary and the Chickasaw Nation. The appraisal shall conform with the Federal appraisal standards, as defined in the Uniform Appraisal Standards for Federal Land Acquisitions developed by the Interagency Land Acquisition Conference, 1992, and any amendments to these standards.

(c) EQUALIZATION OF VALUES.—If the fair market values of the Federal land and non-Federal land are not equal, the values may be equalized by the payment of a cash equalization payment by the Secretary or the Chickasaw Nation, as appropriate.

(d) CONDITIONS.—

(1) IN GENERAL.—Notwithstanding subsection (a), the conveyance of the non-Federal land authorized under subsection (a) shall not take place until the completion of all items included in the Preliminary Exchange Agreement among the City of Sulphur, the Chickasaw Nation, and the National Park Service, executed on July 16, 2002, except as provided in paragraph (2).

(2) EXCEPTION.—The item included in the Preliminary Exchange Agreement among the City of Sulphur, the Chickasaw Nation, and the National Park Service, executed on July 16, 2002, providing for the Federal land to be taken into trust for the benefit of the Chickasaw Nation shall not apply.

(e) ADMINISTRATION OF ACQUIRED LAND.—Upon completion of the land exchange authorized under subsection (a), the Secretary—

(1) shall revise the boundary of Chickasaw National Recreation Area to reflect that exchange; and

(2) shall administer the land acquired by the United States in accordance with applicable laws and regulations.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield time as he may consume to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE. Mr. Speaker, I rise today in support of H.R. 4066, the Chickasaw National Recreation Area Land Exchange Act of 2004. This legislation finalizes a land exchange agreement that will allow the Chickasaw Nation to develop a cultural center which celebrates their long history and many contributions to our society.

Mr. Speaker, this legislation will benefit the city of Sulphur, Murray County, the Chickasaw Nation and all of South Central Oklahoma. The cultural center will bring additional tourism to the area, create new jobs and expand educational opportunities for citizens all over the surrounding area.

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It is a model of cooperation between the Federal Government, local government and tribal government.

I want to extend my gratitude to the gentleman from California (Chairman POMBO), the gentleman from West Virginia (Ranking Member RAHALL), the gentleman from California (Chairman RADANOVICH), the gentlewoman from the Virgin Islands (Ranking Member CHRISTENSEN), as well as to the staff of the Committee on Resources, for helping the people of the fourth district of Oklahoma and the members of the Chickasaw Nation across our country achieve the goal of creating this cultural center and for guiding this bill through the legislative process.

Mr. Speaker, I urge Members to support the passage of this bill, H.R. 4066.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of H.R. 4066, the Chickasaw National Recreation Area Land Exchange Act of 2004.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4066, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANGEL ISLAND IMMIGRATION STATION RESTORATION AND PRESERVATION ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4469) to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

The Clerk read as follows:

H.R. 4469

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Angel Island Immigration Station Restoration and Preservation Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Angel Island Immigration Station, also known as the Ellis Island of the West, is a National Historic Landmark.

(2) Between 1910 and 1940, the Angel Island Immigration Station processed more than 1,000,000 immigrants and emigrants from around the world.

(3) The Angel Island Immigration Station contributes greatly to our understanding of our Nation's rich and complex immigration history.

(4) The Angel Island Immigration Station was built to enforce the Chinese Exclusion Act of 1882 and subsequent immigration laws, which unfairly and severely restricted Asian immigration.

(5) During their detention at the Angel Island Immigration Station, Chinese detainees

carved poems into the walls of the detention barracks. More than 140 poems remain today, representing the unique voices of immigrants awaiting entry to this country.

(6) More than 50,000 people, including 30,000 schoolchildren, visit the Angel Island Immigration Station annually to learn more about the experience of immigrants who have traveled to our shores.

(7) The restoration of the Angel Island Immigration Station and the preservation of the writings and drawings at the Angel Island Immigration Station will ensure that future generations also have the benefit of experiencing and appreciating this great symbol of the perseverance of the immigrant spirit, and of the diversity of this great Nation.

SEC. 3. RESTORATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior $15,000,000 for restoring the Angel Island Immigration Station in the San Francisco Bay, in coordination with the Angel Island Immigration Station Foundation and the California Department of Parks and Recreation.

(b) PRIORITY.—(1) Except as provided in paragraph (2), the funds appropriated pursuant to this Act shall be used for the restoration of the Immigration Station Hospital on Angel Island.

(2) Any remaining funds in excess of the amount required to carry out paragraph (1) shall be used solely for the restoration of the Angel Island Immigration Station.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH)

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4469, introduced by the gentlewoman from California (Ms. WOOLSEY) would authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

The restoration of this battered structure known as the "Ellis Island of the West" is important to our Nation's history as it was the first place that more than 1 million immigrants entered the United States between 1910 and 1940, many of whom became U.S. citizens.

Mr. Speaker, I urge adoption of the bill, and I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the sponsor of this bill, the gentlewoman from California (Ms. WOOLSEY) for bringing forth this most important measure.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I want to thank the gentleman from California (Chairman POMBO) and the gentleman from West Virginia (Ranking Member RAHALL), the gentlewoman from Guam (Ranking Member BORDALLO) and the chairman of the subcommittee, the gentleman from California (Chairman RADANOVICH) and the House leadership for allowing us to consider this piece of legislation. This is legislation that is very important to my district and to the San Francisco Bay Area.

As my colleagues may know, I have worked for the past 2 years with the Angel Island Immigration Station Foundation and the gentlewoman from California (Leader PELOSI) in an effort to preserve the historic Angel Island Immigration Station located just east of Sausalito in the San Francisco Bay.

This landmark is a high priority because of what it means to Asian Americans. Many of my colleagues are familiar with the symbolism of Ellis Island to European Americans. Well, the same feelings of history and pride can be equated to the Americans of Asian heritage on the west coast, because Angel Island was the first American soil most Asian immigrants stepped on.

With over 1 million people being processed through the site, millions of Asian descendants nationwide are eager to see their roots in this country honored in the same way that we honor Ellis Island.

In addition, Angel Island Immigration Station also houses a unique literary display of Asian American culture. The walls of the main building hold layers of poetry reflecting the record of hardship endured and the indignities suffered by the early Chinese as they were being processed into America. If these walls crumble, we would lose this one-of-a-kind documentation forever.

Because of its rich history, the site is currently used as a teaching tool for students and a museum for visitors. Hundreds of schoolchildren and researchers make the trip out to the site each year by ferry, by the way, to learn about its rich history.

Mr. Speaker, I have worked with the Foundation to find additional sources of funding for the restoration project to ensure future generations can learn from this site. The current estimate to preserve it is over $30 million. With $16 million already raised through grants, State funding and private donations, $15 million is still needed. With no more grants to pursue and the State of California contributing close to half of the funding, it is important that we allow the Federal Government to become a part of this preservation effort, and that is what we are doing today, and I thank my colleagues for that.

The Angel Island Immigration Station Restoration and Preservation Act, with over 45 bipartisan cosponsors, will simply allow the Angel Island Immigration Station to retain its status as a State-owned facility, while allowing the preservation project to receive Federal dollars. Passing this legislation will put us one step closer to protecting this site forever.

Among the strongest supporters in this effort are the gentlewoman from California (Minority Leader PELOSI) and the gentleman from Indiana (Mr. SOUDER). Also, I would like to acknowledge the tireless work of Katherine Toy and Irene Bueno on behalf of the Angel Island Immigration Station Foundation. All of their hard work on this bill has been critical to moving it forward. In addition, I would like to thank Senator FEINSTEIN and Senator BOXER for introducing identical legislation in the other body.

Mr. Speaker, I thank my colleagues again for allowing us to debate this important bill. The supporters are dedicated to this project and will continue to work passionately to help others learn and understand the story of the Angel Island Immigration Station. We urge our colleagues to join us and vote yes on H.R. 4469.

Mr. HONDA. Mr. Speaker, I rise today to support H.R. 4469, the Angel Island Immigration Station Restoration and Preservation Act.

I would like to recognize my colleagues Representative LYNN WOOSLEY from California for her steadfast leadership in ensuring Angel Island Immigration Station is preserved and restored.

As Chair of the Congressional Asian Pacific American Caucus, CAPAC, I support a Federal authorization of $15 million for the preservation and restoration of Angel Island, where people from China, Japan, Russia, India, Korea, Australia, and the Philippines entered the United States to start a new life.

Mr. Speaker, Angel Island Immigration Station is appropriately known as the "Ellis Island of the West." Located in the San Francisco Bay, Angel Island served as a processing and detainment center for 1 million immigrants between 1910 and 1940. Of those 1 million people, 175,000 were Chinese immigrants and 150,000 were Japanese immigrants.

For the 30 years that Angel Island was in existence, detainees experienced overcrowded facilities, humiliating medical examinations, intense interrogations, and countless days—even years—waiting until approval of their applications of deportation. Although conditions could be deplorable, Angel Island was an entry point to a better future for so many immigrants.

Angel Island Immigration Station was closed in 1940 when a fire destroyed the administration building. In 1963, California State Parks assumed the role of stewardship of the site when Angel Island became a State park.

In the 1970s, the site was set for demolition until a park ranger discovered etched writings on the walls. Etched by detainees, the writings and drawings on the wall reflect their hardships and hopes of detainees during the uncertain period in which they awaited decisions on their immigration applications. The cultural and historical value of these etchings sparked efforts to save this site, and in 1997, Angel Island Immigration Station became a National Historic Landmark.

More than 50,000 people continue to visit Angel Island Immigration Station yearly, but sadly, the history of Angel Island is often left out of classroom lectures. With greater Federal support, however, we can restore the island's historic buildings, preserve irreplaceable immigration records, and keep alive the stories and memories of those who were detained on the island.

While preserving the Angel Island Immigration Station is important to Asian Americans, it should be a priority for all Americans. Just as Ellis Island is a critical part of our Nation's history, Angel Island offers American's a richer and more comprehensive understanding of our history and the diversity we celebrate in this Nation.

Mr. Speaker, I wholeheartedly support H.R. 4469 and its authorization of $15 million to restore and preserve historic buildings at Angel Island Immigration Station. I urge my colleagues to vote for this important piece of legislation.

Ms. BORDALLO. Mr. Speaker, I rise in support of H.R. 4469, the Angel Island Immigration Station Restoration and Preservation Act and I want to thank Congresswoman WOOLSEY for spearheading this effort to preserve this historic landmark.

The Angel Island Immigration Station is important to our country's immigration history. Considered the "Ellis Island of the West" it was originally built as a detention center to enforce the Chinese Exclusion Act of 1882, which limited immigration on the basis of nationality and race. Immigrants from China and other parts of Asia who were sent to the station for processing were treated far differently from immigrants arriving at Ellis Island. Often the Asian immigrants, particularly the Chinese, were subjected to extended periods of detention and isolation and which often resulted in denial of entry. During their detention, many would carve poems and drawings into the walls of their barracks, giving voice to their anger and frustration and providing first hand accounts of Asian immigrant struggles to reach America. It is these voices that H.R. 4469 seeks to preserve, and in doing so, honor their painful journey.

Mr. Speaker, each May we honor the contributions of Asian Americans to our Nation. We have come a long way since Angel Island, but we cannot forget what it took to bring us to this point. I encourage my colleagues to support H.R. 4469 to ensure that the experiences of these immigrants will be remembered.

Mr. SOUDER. Mr. Speaker, I rise in support of H.R. 4469, the Angel Island Immigration Station Restoration and Preservation Act.

Historic preservation is the key to remembering our past. Without key places and artifacts from our history, it would be impossible to tell future generations of Americans how, when and where our country came to be what it is. Whenever a place or object is lost, a piece of history is gone forever. It is our duty to ensure that history is preserved.

The Angel Island Immigration Station Restoration and Preservation Act aims to preserve part of our history. Known as the Ellis Island of the West, Angel Island was the primary entry point for hundreds of thousands of immigrants from the Pacific Rim, including Australia and New Zealand, Canada, Mexico, Central and South America, Russia, and in particular Asia. During Angel Island's years of operation, 1910–1940, an estimated 175,0000 Chinese immigrants were processed through Angel Island.

In 1940, Angel Island Immigration Station closed after a fire destroyed the Administration Building. Following the Army's departure from Angel Island, the structures fell into disrepair. Many were removed by the Army Corps of Engineers and California State Parks. Of the original Immigration Station structures, only the Detention Barracks, Hospital, Power House, Pump House and Mule Barn remain. Today, these structures are in various states of disrepair; hence the need for this legislation.

Without H.R. 4469, the structures on Angel Island will fall further into decay. Many of the buildings are crumbling and leak; consequently, many poems written by the Chinese immigrants detained at Angel Island are in danger of being destroyed. State, private, and local entities have already contributed mightily to this project; sadly, they have not been able to complete the project. This bill will authorize $15 million in funding so that this unique aspect of our history can be preserved for future generations. Compared to the $156 million spent to restore Ellis Island, this restoration project is a bargain and of no less significance.

Millions of people journey to Ellis Island every year in order to see where their ancestors came ashore. This bill would allow descendants of Angel Island arrivals the same opportunity to visit the place where their ancestors' American Dreams started.

Although the status of Angel Island as part of the California State Parks system sets it apart from many other historic sites that receive Federal funding, the importance of the site and its contribution to the United States makes its official designation irrelevant. Our Nation's history must be preserved regardless of official status.

I urge my colleagues to support the passage of H.R. 4469, the Angel Island Immigration Station Restoration and Preservation Act. Keeping our immigration heritage in good repair is essential if the United States is to maintain its unique status as a beacon of democracy and opportunity.

Ms. BORDALLO. Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4469.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TRUMAN FARM HOME EXPANSION ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4579) to modify the boundary of the Harry S Truman National Historic Site in the State of Missouri, and for other purposes.

The Clerk read as follows:

H.R. 4579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This section may be cited as the "Truman Farm Home Expansion Act".

SEC. 2. HARRY S TRUMAN NATIONAL HISTORIC SITE BOUNDARY MODIFICATION.

The first section of Public Law 98–32 (16 U.S.C. 461 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) ACQUISITION OF ADDITIONAL LAND.—

"(1) IN GENERAL.—The Secretary may acquire, by donation, purchase with donated or appropriated funds, transfer from another Federal agency, or any other means, the land described in paragraph (2) for inclusion in the Harry S Truman National Historic Site.

"(2) DESCRIPTION OF LAND.—The land referred to in paragraph (1) consists of the approximately 5 acres of land (including the structure located south of the Truman Farm Home site), as generally depicted on the map entitled 'Harry S Truman National Historic Site Proposed Boundary', numbered 492/80,027, and dated April 17, 2003.

"(3) BOUNDARY MODIFICATION.—On acquisition of the land under this subsection, the Secretary shall modify the boundary of the Harry S Truman National Historic Site to reflect the acquisition of the land.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4579, introduced by the gentlewoman from Missouri (Ms. MCCARTHY), would authorize a modification of the boundary of the Harry S Truman National Historic Site, which includes the Truman Home in Independence, Missouri, and the Truman Farm Home in Grandview, Missouri. The Harry S Truman National Historic Site was established on May 3, 1983. The site was expanded in 1993 when the Truman Farm Home in Grandview, Missouri, was added.

Mr. Speaker, H.R. 4579 would add approximately 5 acres that abuts the site on its south side. The additional acreage would preserve the historic integrity of the site and prevent the growing need for development of nearby lands from encroaching into the immediate Truman Farm Home.

Mr. Speaker, I urge adoption of the legislation, and I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the sponsor of this bill, the gentlewoman from Missouri (Ms. McCARTHY) for bringing forth this very important measure.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Missouri (Ms. McCARTHY).

Ms. McCARTHY of Missouri. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I rise in support of passage of H.R. 4579, the Truman Farm Home Expansion Act. My Missouri colleagues on both sides of the aisle join me in urging support of this bill.

Harry Truman is one of our Nation's greatest presidents. President Truman was instrumental in the signing of the United Nations charter, negotiating the creation of a NATO military alliance, carrying out the Marshall Plan to rebuild a war-torn Europe, conducting a massive airlift to aid the western sectors of Berlin following the Russian blockade in 1948, and he laid the foundation for an unprecedented level of American prosperity. During Truman's tenure, the United States was widely respected as a beacon of freedom and a nation willing to work with anyone across the globe to promote peaceful democratic governments.

One of the many ways we honor his life is to preserve his farm that instilled in him the values of hard work, commitment and teamwork that guided him throughout his life and inspired others who followed.

The farm has a very rich history. The Truman family purchased the land in 1840, and a young Harry Truman farmed the land from 1906 until 1917 when he left to fight as an artillery captain in the First World War. While working the farm, Truman courted the love of his life, Bess Wallace, who later became Mrs. Truman. His early experience as a farmer formed the core of his values. His mother once said that life on the farm is where Harry got his famous common sense, and Truman himself said that the best 10 years of his life were spent trying to run the 600-acre farm successfully.

This past July, the House Committee on Resources heard from Grandview Mayor Harry Wilson that historians believe the years Truman spent living and working on his farm were the most formative, developing the character of the future President. Truman himself stated, "Riding one of those plows all day, day after day, gives one time to think. I have settled all of the ill of mankind in one way or another while riding along, seeing that each animal pulled his part of the load." The late publisher of the Jackson County Advocate, Jim Turnbaugh, recounted for readers a story when, after leaving the farm, Truman attended a function where he was asked to sign the guest register. Then former President Truman, he signed in as "Harry S Truman, retired farmer."

This legislation would preserve the historical integrity of Harry Truman's home by adding 5 acres to the current site for educational purposes. The farm originally sat on 600 acres, but because of commercial development, the farm now encompasses only 5.2 acres. The Park Service has secured the support of two local landowners who own 5 acres bordering the farm and are interested in selling. The Park Service needs authorization from Congress to acquire the land and protect the "viewshed" and the character of the farm as Truman knew it.

The National Park Service and the Office of Management and Budget support this proposal. In fact, it is the only presidential-related bill endorsed by the National Park Service this session.

The Truman Farm Home and Expansion Act will help America preserve and enhance the legacy of one of our favorite sons and most revered leaders. I ask the House to support this legislation.

I would like to thank the Committee on Resources chairman, the gentleman from California (Mr. POMBO), the gentleman from West Virginia (Ranking Member RAHALL), the chairman of the Subcommittee on National Parks, Recreation, and Public Lands, the gentleman from California (Chairman RADANOVICH), the gentlewoman from the Virgin Islands (Ranking Member CHRISTENSEN) and the gentlewoman from Guam (Ms. BORDALLO) for their support.

Mr. Speaker, I rise in support of H.R. 4579, the Truman Farm Home Expansion Act. My Missouri colleagues on both sides of the aisle join me in urging passage of this bill.

Harry S Truman is one of our Nation's greatest Presidents. As President, Truman pledged to secure the free world from the spread of communism. President Truman was instrumental in the signing of the United Nations charter, negotiated the creation of the NATO military alliance, carried out the Marshall Plan to rebuild a war torn Europe, conducted a massive airlift to aid the western sectors of Berlin following the Russian blockade in 1948, and laid the foundation for an unprecedented level of American prosperity. During Truman's tenure the United States was widely respected as a beacon for freedom and a Nation willing to work with anyone across the globe to promote peaceful democratic governments. One of the many ways we honor his life is to preserve the farm that instilled in him the values of hard work, commitment, and teamwork that guided him throughout his life, and inspired others who followed.

The farm has a very rich history. The Truman family purchased the land in 1840, and a young Harry Truman farmed the land from 1906 until 1917, when he left to fight as an artillery captain in the First World War. While working the farm, Truman courted the love of his life, Bess Wallace, who later became Mrs. Truman. His early experiences as a farmer formed the core of his values. His mother once said that life on the farm is where Harry got his famous common sense and Truman himself said that the best 10 years of his life were spent trying to run the 600-ace farm successfully.

This past July, the House Resource Committee heard from Grandview Mayor, Harry Wilson, that historians believe the years Truman spent living and working on his farm were the most formative in developing the character of the future President. Truman himself stated: "Riding one of these plows all day, day after day, gives one time to think. I've settled all the ills of mankind in one way and another while riding along seeing that each animal pulled his part of the load." The late publisher of the Jackson County Advocate, James D. Turnbaugh Jr., recounted for readers the story of former President Truman attending a function where he was asked to sign a guest register. He signed in as "Harry S Truman, retired farmer."

Truman's mother, Martha Truman, and sister, Mary Jones Truman, lived at the farm until 1940. The farm home remained in the Truman family until 1980. The speculation that the Truman's would be forced to sell the remaining house and five acres to commercial interests compelled a group of concerned citizens to form the Harry S Truman Farm Foundation in an effort to save the farm. Their efforts proved successful and Jackson County assumed control of the farm. In 1994, the county transferred the farm to the US Park Service.

H.R. 4579 will preserve the historical integrity of Harry Truman's home by adding five acres to the current site for educational purposes. Today the farm only encompasses 5.2 acres due to commercial development. The Park Service has secured the support of local landowners who are interested in selling the five acres bordering the farm. The Park Service needs authorization from Congress to acquire the land, and protect the "viewshed" and the character of the farm as Truman knew it.

H.R. 4579 authorizes the Secretary of the Interior to expand the park boundary to appropriately preserve the site. It does not specifically request an additional appropriation of funds to acquire the land, however it does give the Secretary the flexibility to use donated and private funds to meet this objective. The National Park Service and the Office of Management and Budget support this proposal. In fact, it is the only Presidential related bill endorsed by the National Park Service this session.

President Truman remains a hero and an inspiration for all Americans and visitors from around the world. The Truman farm offers a deeply personal connection to his legacy. Currently, Park Service employees are housed in a screened porch on the side of the house because there is no permanent area for them to be located. On average, over 5,000 vehicles drive through the farm annually and the National Park Service estimates that visitation levels will increase with the development of a new visitor center. A visitor center could be constructed with restrooms, a parking lot, drinking fountains, and facilities that the farm currently lacks. School groups, bus tours, and families from around the country and world would benefit greatly from the improved facilities.

The Truman Farm Home Expansion Act will help America preserve and enhance the legacy of one of our favorite sons and most revered leaders. I urge my colleagues to support this legislation. I would like to thank Resources Committee Chairman POMBO, Ranking Member RAHALL, National Parks Recreation and Public Lands Subcommittee Chairman RADANOVICH, Ranking Member CHRISTENSEN, and Representative BORDALLO for their support.

Ms. BORDALLO. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. SKELTON)

Mr. SKELTON. Mr. Speaker, I rise in strong support of this legislation, and I certainly commend the gentlewoman from Kansas City, Missouri, the fifth district of our State, for her foresight and her effort to expand the boundaries of the Harry Truman Farm.

As we all know, Harry Truman is very special to us in the State of Missouri, and expanding the farm is all the more important because the Park Service wishes to continue to build and preserve the land and to make it a historical part of the farm area. The land will be used to plant vegetation and to shield the site from encroaching modern development.

The Truman Farm was Harry Truman's home in his younger days when he was forming his character and opinions behind the plow. The Truman family purchased this land in 1840. He farmed it from 1906 to 1917. In 1980, there was speculation that financial difficulties would force land to be sold, compelling a group of concerned citizens to form the Harry S Truman Farm Foundation which saved the farm.

We certainly hope that this body will pass this legislation. It is very important to the State of Missouri. I think it is very important to the history and to the memory of the great President from the State of Missouri, Harry Truman, and I again compliment the gentlewoman from Missouri (Ms. MCCARTHY) for her foresight in this legislation.

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Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

I wish to go on record to thank the sponsor of this measure, the gentlewoman from Missouri (Ms. MCCARTHY) and the very distinguished gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services.

Mr. MOORE. Mr. Speaker, I rise today in support of H.R. 4579, legislation that would authorize the Interior Department to purchase approximately five acres of land, including a structure north of the Truman Farm House in Independence, Missouri, for inclusion in the Harry S Truman National Historic Site. This addition would modify the current boundary by approximately five acres, to include the acquired lands.

The Truman family purchased the land that now makes up the Truman Farm Home in 1840. Harry Truman farmed it from 1906–1917. In 1980, due to speculation that financial difficulties would force the sale of the land, a group of concerned citizens formed the Harry S Truman Farm Foundation, which received a grant to purchase the land. The Foundation turned the land over to Jackson County, Missouri, in 1991, which transferred the farm to the National Park Service in 1994.

This measure has the support of local landowners and will preserve the viewshed and the historical character of the farm area. The purchase will include a retail paint store that the Park Service will convert into a visitors' center, providing rest room facilities and a paved parking area. I expect the Interior Department will seek appropriations in fiscal year 2006, or see, private donations to pay for implementation of the legislation. The 5.2 acres in question is the only undeveloped land remaining that borders the Site. Over the past six years, the Site has averaged over 5000 vehicles driving through each year. With the improvements planned under H.R. 4579, the Park Service expects an increase in the number of visitors, due to the addition of a visitors' center and paved parking.

I commend my fellow Kansas City Representative, from the other side of State Line Road, KAREN MCCARTHY, for the leadership she has taken in moving this important measure forward, in concert with Senator TALENT, who has introduced a companion bill, S. 2499.

Mr. Speaker, the preservation and expansion of the Truman Farm Home is an important way to preserve and enhance the legacy of our great 33rd President. As he once said, "Do your duty and history will do you justice."

The late President Truman left an extensive record of quoted wisdom. In conclusion, I would like to share with you, Mr. Speaker, four comments of Harry S Truman's—which are as relevant today as they were when he said them several decades ago—that I came across when preparing these remarks: "I have always defined politics to means the science of government, perhaps the most important science, because it involves the art and ability of people to live together." "I've always believed that religion is something to live by and not talk about." "No government is perfect. One of the chief virtues of a democracy, however, is that its defects are always visible and under democratic processes can be pointed out and corrected."

And finally, "The greatest orators have been the men who understood what they wanted to say, said it in short sentences and said it quickly and then got out of there before people fell asleep."

Mr. BLUNT. Mr. Speaker, I rise today in support of H.R. 4579, the Truman Farm Home Expansion Act. This bill would allow the Secretary of the Interior to acquire approximately five acres of land surrounding the Truman Farm Home in Grandview, Missouri, preserving an historic site enjoyed by more than five thousand families each year.

Built in 1894, the Truman Home sits on 5.25 acres of the family's former 600-acre farm where President Truman lived and worked from 1906 to 1917. Acquisition of the five additional acres will prevent future commercial development and save the farm's original setting and character. The National Park service plans to utilize the land to plant vegetation shielding the home from surrounding buildings, in addition to converting one building presently on the property into a visitor's center. These much needed improvements will increase the site's accessibility and secure its authenticity, attracting more visitors to the former President's Grandview home.

By adopting H.R. 4579, we will not only protect a significant part of our history, but will honor a great President who faithfully served America during a time of international unrest. Similar to today's global war against terrorism, President Truman stood firm in the face of an enemy which sought to deter democracy. Out of honor to President Truman and with great appreciation for the historical importance of his Grandview home, I fully support passage of the Truman Farm Home Expansion Act.

Ms. BORDALLO. Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4579.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EASTERN WASHINGTON UNIVERSITY LAND TRANSFER AUTHORIZATION EXTENSION

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4596) to amend Public Law 97–435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009, as amended.

The Clerk read as follows:

H.R. 4596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EASTERN WASHINGTON UNIVERSITY LAND TRANSFER AUTHORIZATION EXTENSION.

The first section of Public Law 97-435 (96 Stat. 2281) is amended in subsection (c) by striking "five years after the enactment of this Act" and inserting "on December 31, 2009".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4596, introduced by the gentleman from Washington (Mr.

NETHERCUTT), simply amends Public Law 97–435 to extend the authorization for the Secretary of the Interior to permit Eastern Washington University to release certain lands in order to acquire other lands more suitable for educational or recreational purposes.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of this measure, H.R. 4596.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4596, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GULLAH/GEECHEE CULTURAL HERITAGE ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4683) to enhance the preservation and interpretation of the Gullah/Geechee cultural heritage, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4683

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gullah/Geechee Cultural Heritage Act".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) recognize the important contributions made to American culture and history by African-Americans known as the Gullah/Geechee who settled in the coastal counties of South Carolina and Georgia;

(2) assist State and local governments and public and private entities in the South Carolina and Georgia in interpreting the story of the Gullah/Geechee and preserving Gullah/Geechee folklore, arts, crafts, and music; and

(3) assist in identifying and preserving sites, historical data, artifacts, and objects associated with the Gullah/Geechee for the benefit and education of the public.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Gullah/Geechee Cultural Heritage Corridor Commission established under this Act.

(2) HERITAGE CORRIDOR.—The term "Heritage Corridor" means the Gullah/Geechee Cultural Heritage Corridor established by this Act.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established the Gullah/Geechee Cultural Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The Heritage Corridor shall be comprised of those lands and waters generally depicted on a map entitled "Gullah/Geechee Cultural Heritage Corridor" numbered GGCHC/80,000, and dated September 2004. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service and in an appropriate State office in each of the States included in the Heritage Corridor. The Secretary shall publish in the Federal Register, as soon as practicable after the date of enactment of this Act a detailed description and map of the boundaries established under this subsection.

(2) REVISIONS.—The boundaries of the heritage corridor may be revised if the revision is—

(A) proposed in the management plan developed for the Heritage Corridor;

(B) approved by the Secretary in accordance with this Act; and

(C) placed on file in accordance with paragraph (1).

(c) ADMINISTRATION.—The Heritage Corridor shall be administered in accordance with the provisions of this Act.

SEC. 5. GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as "Gullah/Geechee Cultural Heritage Corridor Commission" whose purpose shall be to assist Federal, State, and local authorities in the development and implementation of a management plan for those land and waters specified in section 4.

(b) MEMBERSHIP.—The Commission shall be composed of 9 members appointed by the Secretary as follows:

(1) 4 individuals nominated by the State Historic Preservation Officer of South Carolina and 2 individuals nominated by the State Historic Preservation Officer of Georgia and appointed by the Secretary.

(2) 2 individuals from South Carolina and 1 individual from Georgia who are recognized experts in historic preservation, anthropology, and folklore, appointed by the Secretary.

(c) TERMS.—Members of the Commission shall be appointed to terms not to exceed 3 years. The Secretary may stagger the terms of the initial appointments to the Commission in order to assure continuity of operation. Any member of the Commission may serve after the expiration of their term until a successor is appointed. A vacancy shall be filled in the same manner in which the original appointment was made.

(d) TERMINATION.—The Commission shall terminate 10 years after the date of enactment of this Act.

SEC. 6. OPERATION OF THE COMMISSION.

(a) DUTIES OF THE COMMISSION.—To further the purposes of the Heritage Corridor, the Commission shall—

(1) prepare and submit a management plan to the Secretary in accordance with section 7;

(2) assist units of local government and other persons in implementing the Approved management plan by—

(A) carry out programs and projects that recognize, protect, and enhance important resource values within the Heritage Corridor;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Corridor;

(C) developing recreational and educational opportunities in the Heritage Corridor;

(D) increasing public awareness of and appreciation for the historical, cultural, natural, and scenic resources of the Heritage Corridor;

(E) protecting and restoring historic sites and buildings in the Heritage Corridor that are consistent with heritage corridor themes;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are posted throughout the Heritage Corridor; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Corridor;

(3) consider the interests of diverse units of government, business, organizations, and individuals in the Heritage Corridor in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least quarterly regarding the development and implementation of the management plan;

(5) submit an annual report to the Secretary for any fiscal year in which the Commission receives Federal funds under this Act, setting forth its accomplishments, expenses, and income, including grants made to any other entities during the year for which the report is made;

(6) make available for audit for any fiscal year in which it receives Federal funds under this Act, all information pertaining to the expenditure of such funds and any matching funds, and require all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organization make available for audit all records and other information pertaining to the expenditure of such funds; and

(7) encourage by appropriate means economic viability that is consistent with the purposes of the Heritage Corridor.

(b) AUTHORITIES.—The Commission may, for the purposes of preparing and implementing the management plan, use funds made available under this Act to—

(1) make grants to, and enter into cooperative agreements with the States of South Carolina and Georgia, political subdivisions of those States, a nonprofit organization, or any person;

(2) hire and compensate staff;

(3) obtain funds from any source including any that are provided under any other Federal law or program; and

(4) contract for goods and services.

SEC. 7. MANAGEMENT PLAN.

(a) IN GENERAL.—The management plan for the Heritage Corridor shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, management, and development of the Heritage Corridor;

(2) take into consideration existing State, county, and local plans in the development of the management plan and its implementation;

(3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the historical, cultural, and natural resources of the Heritage Corridor;

(4) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Corridor in the first 5 years of implementation;

(5) include an inventory of the historical, cultural, natural, resources of the Heritage

Corridor related to the themes of the Heritage Corridor that should be preserved, restored, managed, developed, or maintained;

(6) recommend policies and strategies for resource management that consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental and interagency cooperative agreements to protect the Heritage Corridor's historical, cultural, and natural resources;

(7) describe a program for implementation of the management plan including plans for resources protection, restoration, construction, and specific commitments for implementation that have been made by the Commission or any government, organization, or individual for the first 5 years of implementation;

(8) include an analysis and recommendations for the ways in which Federal, State, or local programs may best be coordinated to further the purposes of this Act; and

(9) include an interpretive plan for the Heritage Corridor.

(b) SUBMITTAL OF MANAGEMENT PLAN.—The Commission shall submit the management plan to the Secretary for approval not later than 3 years after funds are made available for this Act.

(c) FAILURE TO SUBMIT.—If the Commission fails to submit the management plan to the Secretary in accordance with subsection (b), the Heritage Corridor shall not qualify for Federal funding until the management plan is submitted.

(d) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall approve or disapprove the management plan not later than 90 days after receiving the management plan.

(2) CRITERIA.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the Commission has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan;

(B) the resource preservation and interpretation strategies contained in the management plan would adequately protect the cultural and historic resources of the Heritage Corridor; and

(C) the Secretary has received adequate assurances from appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local aspects of the plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan, the Secretary shall advise the Commission in writing of the reasons therefore and shall make recommendations for revisions to the management plan. The Secretary shall approve or disapprove a proposed revision not later than 60 days after the date it is submitted.

(4) APPROVAL OF AMENDMENTS.—Substantial amendments to the management plan shall be reviewed and approved by the Secretary in the same manner as provided in the original management plan. The Commission shall not use Federal funds authorized by this Act to implement any amendments until the Secretary has approved the amendments.

SEC. 8. TECHNICAL AND FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Upon a request of the Commission, the Secretary may provide technical and financial assistance for the development and implementation of the management plan.

(b) PRIORITY FOR ASSISTANCE.—In providing assistance under subsection (a), the Secretary shall give priority to actions that assist in—

(1) conserving the significant cultural, historical, and natural resources of the Heritage Corridor; and

(2) providing educational and interpretive opportunities consistent with the purposes of the Heritage Corridor.

(c) SPENDING FOR NON-FEDERAL PROPERTY.—

(1) IN GENERAL.—The Commission may expend Federal funds made available under this Act on nonfederally owned property that is—

(A) identified in the management plan; or

(B) listed or eligible for listing on the National Register for Historic Places.

(2) AGREEMENTS.—Any payment of Federal funds made pursuant to this Act shall be subject to an agreement that conversion, use, or disposal of a project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States to compensation of all funds made available to that project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

SEC. 9. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal agency conducting or supporting activities directly affecting the Heritage Corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner in which the Commission determines will not have an adverse effect on the Heritage Corridor.

SEC. 10. COASTAL HERITAGE CENTERS.

In furtherance of the purposes of this Act and using the authorities made available under this Act, the Commission shall establish one or more Coastal Heritage Centers at appropriate locations within the Heritage Corridor in accordance with the preferred alternative identified in the Record of Decision for the Low Country Gullah Culture Special Resource Study and Environmental Impact Study, December 2003.

SEC. 11. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this Act shall be construed to require any private property owner to permit public access (including Federal, State, or local government access) to such private property. Nothing in this Act shall be construed to modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) LIABILITY.—Designation of the Heritage Corridor shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this Act shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE CORRIDOR.—Nothing in this Act shall be construed to require the owner of any private property located within the boundaries of the Heritage Corridor to participate in or be associated with the Heritage Corridor.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Corridor represent the area within which Federal funds appropriated for the purpose of this Act shall be expended. The establishment of the Heritage Corridor and its boundaries shall not be construed to provide any non-existing regulatory authority on land use within the Heritage Corridor or its viewshed by the Secretary or the management entity.

(f) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Corridor until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(g) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the Heritage Corridor shall have their property immediately removed from within the boundary by submitting a written request to the management entity.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated for the purposes of this Act not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Corridor under this Act.

(b) COST SHARE.—Federal funding provided under this Act may not exceed 50 percent of the total cost of any activity for which assistance is provided under this Act.

(c) IN-KIND CONTRIBUTIONS.—The Secretary may accept in-kind contributions as part of the non-Federal cost share of any activity for which assistance is provided under this Act.

SEC. 13. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this Act shall terminate on the day occurring 15 years after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4683, introduced by the gentleman from South Carolina (Mr. CLYBURN), and as amended by the Committee on Resources, would establish the Gullah/Geechee Cultural Heritage Corridor comprised of lands and waters important to preserving this unique culture in parts of South Carolina and Georgia.

By way of background, throughout the early 1800s, the Gullah/Geechee settled in the coastal counties of South Carolina, Georgia, and northern Florida and, due largely to their isolated location, have remarkably maintained a great deal of their West African heritage.

This bill would assist State and local governments with preserving and interpreting the story of the Gullah/Geechee culture and its wonderful folklore, arts, crafts and music.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the sponsor of this bill, the gentleman from South Carolina (Mr. CLYBURN) for bringing forth this most important measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. CLYBURN).

Mr. CLYBURN. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, I rise today in strong support of H.R. 4683, the Gullah/Geechee Cultural Heritage Act, a bill that would create a Gullah/Geechee National Heritage Corridor and one or more coastal heritage centers along the coasts of Georgia and South Carolina.

When I introduced this bill in June, I hoped, but did not believe, we would see this important legislation on the floor so quickly. I wish to thank the gentleman from California (Chairman POMBO) and the gentleman from West Virginia (Ranking Member RAHALL) and the gentleman from California (Chairman RADANOVICH) and the gentlewoman from the Virgin Islands (Ranking Member CHRISTENSEN) for their sensitive and prompt treatment of this legislation. I would also like to thank my good friend the gentleman from South Carolina (Mr. BROWN) for his cosponsorship and the gentleman from Georgia (Mr. KINGSTON) for his strong support of this legislation.

Gullah/Geechee people are descendants of enslaved Africans who were forced to labor on plantations along the coasts of North and South Carolina, Georgia, and Florida. They have a rich and distinctive cultural heritage, a culture born of African roots, yet nurtured and developed in the southeastern United States.

Gullah/Geechee people are a proud and independent people who do not want their culture relegated to a museum or a history book. Instead, they want to keep their culture and language alive, to tell their stories in their own words, and share their heritage and experiences with the world. H.R. 4683 would help them to do so.

For the past 4 years, the National Park Service and partnering agencies, Gullah/Geechee communities, and grassroots organizations have worked diligently to create a plan for the protection, preservation, and interpretation of the Gullah/Geechee language and culture. This bill reflects the findings of a 3-year study and input of Gullah/Geechee citizens.

I believe wholeheartedly that this bill would help to lay the groundwork for keeping the culture alive and providing a means not just for the preservation, protection, and reinvigoration of Gullah/Geechee communities and cultural landscapes, but for making those unique experiences an integral part of the future social and economic activities in the southeastern United States. The coastal heritage centers described in the bill will provide places where all Americans can learn of the many contributions Gullah/Geechee ancestors made to American heritage.

Mr. Speaker, I urge support for the passage of this bill, and once again, thank my colleagues for making this day possible.

Ms. BORDALLO. Mr. Speaker, again I would like to commend the sponsor of this bill, the gentleman from South Carolina.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4683, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

LAND EXCHANGE INVOLVING PRIVATE AND PUBLIC LAND IN VICINITY OF HOLLOMAN AIR FORCE BASE, NEW MEXICO

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4808) to provide for a land exchange involving private land and Bureau of Land Management land in the vicinity of Holloman Air Force Base, New Mexico, for the purpose of removing private land from the required safety zone surrounding munitions storage bunkers at Holloman Air Force Base, as amended.

The Clerk read as follows:

H.R. 4808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND EXCHANGE, PRIVATE AND PUBLIC LAND IN VICINITY OF HOLLOMAN AIR FORCE BASE, NEW MEXICO.

(a) CONVEYANCE OF PUBLIC LAND.—In exchange for the land described in subsection (b), the Secretary of the Interior shall convey to Randal, Jeffrey, and Timothy Rabon of Otero County, New Mexico (in this section referred to as the "Rabons"), all right, title, and interest of the United States in and to certain public land administered by the Secretary through the Bureau of Land Management consisting of a total of approximately 320 acres, as depicted on the map entitled "Alamogordo Rabon Land Exchange" and dated September 24, 2004, and more specifically described as follows:

(1) SE1/4 of section 6, township 17 south, range 10 east, New Mexico principal meridian.

(2) N1/2N1/2 of section 7, township 17 south, range 10 east, New Mexico principal meridian.

(b) CONSIDERATION.—As consideration for the conveyance of the real property under subsection (a), the Rabons shall convey to the United States all right, title, and interest held by the Rabons in and to three parcels of land depicted on the map referred to in subsection (a), which consists of approximately 241 acres, is contiguous to Holloman Air Force Base, New Mexico, and is located within the required safety zone surrounding munitions storage bunkers at the installation. The Secretary shall assume jurisdiction over the land acquired under this subsection. The three parcels are more specifically described as follows:

(1) Lot 4 in the S1/2 of section 30, township 16 south, range 9 east, New Mexico principal meridian, consisting of approximately 17.6 acres.

(2) E1/2SW1/4 of section 31, township 16 south, range 9 east, New Mexico principal meridian, consisting of approximately 80 acres.

(3) Lots 1, 2, 3, and 4 of section 31, township 16 south, range 9 east, New Mexico principal meridian, consisting of approximately 143 acres.

(c) INTERESTS INCLUDED IN EXCHANGE.—Subject to valid existing rights, the land exchange under this section shall include conveyance of all surface, subsurface, mineral, and water rights in the lands.

(d) COMPLIANCE WITH EXISTING LAW.—(1) The Secretary shall carry out the land exchange under this section in the manner provided in section 206 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1716). Notwithstanding subsection (b) of such section, if necessary, a cash equalization payment may be made in excess of 25 percent of the appraised value the public land to be conveyed under subsection (a).

(2) The cost of the appraisals performed as part of the land exchange shall be borne by the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the land exchange under this section as the Secretary considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield 2½ minutes to the gentleman from New Mexico (Mr. PEARCE), the author of the bill.

Mr. PEARCE. Mr. Speaker, I rise in strong support of H.R. 4808 and would like to thank the gentleman from California (Chairman POMBO) and the gentleman from West Virginia (Ranking Member RAHALL), the gentleman from California (Mr. RADANOVICH), the subcommittee chairman, and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), the ranking member, for working with me on this important legislation and for moving it expeditiously. I also appreciate the bipartisan support from the Committee on Resources members in reaching a compromise that is reflected in this legislation.

The need for Congress to pass H.R. 4808 arose when a munitions storage bunker was built at Holloman Air Force Base in 1997 and 1998. Holloman Air Force Base serves both the United States' and the German Air Force's training and readiness functions, with Holloman being the home to the F–117 stealth fighter. The Holloman air-to-ground training ranges consist of 1,385,262 acres, almost exclusively in Federal land, and air-to-air training ranges provide 8,352,878 acres of airspace for national security and training. The total military training routes at Holloman Air Force Base is 8,657,964 acres, which includes DOD, DOI, USDA and private lands.

Without an explosive clear zone, Holloman Air Force Base is unable to fully utilize the designed capacity of the bunker, and it adversely impacts the storage quantity of munitions required for training and operations. This directly impacts the ability of Holloman Air Force Base to fully meet its mission of training, readiness, and national security, as well as training our NATO partner, Germany. The cost to replace the munitions storage area is estimated by the Air Force to be $40 million.

The problem is the proposed explosive clear zone encroaches on private property. The Federal Government originally sought to take the private property through condemnation, leaving little choice but for the property owners to vigorously defend their private property rights. This bill resolves the issue and protects both private property and the investment made by the Air Force, and would simply exchange Federal lands in close proximity to ranch boundaries.

Mr. Speaker, this bill reverses a history of over 50 years of the Federal Government either coercing, cajoling, or confiscating property from the landowners. I am proud that the 2nd District has so much land to offer to the Federal Government. I will tell my colleagues that we should not continue to get it through confiscation.

I would like to thank the committee staff members, both minority and majority, for working with my staff member Matt Meagher over the weekend, through the nights, and through very difficult hurdles to solve this bill. This bill protects our national security, saves the taxpayers a minimum $40 million, protects private property, guarantees the Federal Government will receive value for value given, and is fair to all the parties concerned.

I urge my colleagues to support H.R. 4808.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of this measure.

Ms. WILSON of New Mexico. Mr. Speaker, I rise today to support S. 643, the Hibben Center Act. S. 643 is identical to H.R. 3258, a bill that I introduced on November 7, 2003 and that was favorable reported by the House Resources Committee on September 9, 2004.

For six centuries, massive prehistoric structures lay untouched in a remote area of northwestern New Mexico. Chaco Canyon was the home of many indigenous southwestern peoples from between A.D. 850 and 1250. The Pueblo peoples of New Mexico, the Hopi of Arizona, and the Navajo consider Chaco Canyon to be part of their ancestral homelands.

In recognition of its significance, President Theodore Roosevelt designated Chaco Canyon a national monument in 1907 and Congress changed the park's designation to a national historical park in 1980.

The University of New Mexico (UNM) has participated in exploring, preserving, and documenting Chaco Canyon's extensive archaeological sites since Chaco Canyon National Monument was founded in 1907. In 1949, UNM deeded its lands in Chaco Canyon National Monument to the United States Government in exchange for continued rights to conduct scientific research in the area. Since then, UNM and the National Park Service (NPS) have been partners in researching and reserving the Chaco Canyon collection.

S. 643 is an authorization bill, allowing the NPS to spend money away from Park Service lands for this collection. Specifically, this bill will allow the Park Service to design and construct a museum, storage facility, and workspace in the Hibben Archaeological Research Center on the University of New Mexico campus in Albuquerque, New Mexico. Funding for this project has already been appropriated in the National Park Service Line Item Construction Program 5-year budget, for funding in FY 2006. This project will require no additional or new money from Congress.

Continuing the longstanding relationship with UNM, the shell of the Hibben Center and academic spaces have already been built by UNM with an area unfinished for the Park Service to build out for its Chaco Collection if Congress authorizes it.

Additionally, there will be no ongoing operational costs for the Park Service because UNM has agreed to be responsible for 100 percent of the ongoing utilities, maintenance, and operation costs associated with the project.

Over 5 million artifacts excavated from Chaco Canyon are stored at UNM. Unfortunately, they are currently housed in three substandard facilities that have water pipes that leak on the collection; inadequate or non-existent security and fire protection systems; and no environmental controls. In one instance, the tin roofing was blown off a storage facility exposing artifacts to leaking tar.

A primary component of the project is to create a single storage facility for the artifacts that will provide enhanced security, environmental controls such as proper temperature and humidity levels, and a fire detection and suppression system. In addition to storing the Chaco Canyon collection, the Hibben Center will provide Chacoan descendents, researchers, and students a single location from which to access artifacts, archives, and data collections.

In closing, I would like to thank Chairman POMBO and Subcommittee Chairman RADANOVICH for a their work on this bill and for moving this bill through the House Resources Committee. I urge swift passage of this legislation.

Ms. BORDALLO. Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4808, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HIBBEN CENTER ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 643) to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes, as amended.

The Clerk read as follows:

S. 643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hibben Center Act".

SEC. 2. LEASE AGREEMENT.

(a) AUTHORIZATION.—The Secretary of the Interior may enter into an agreement with the University of New Mexico to lease space in the Hibben Center for Archaeological Research at the University of New Mexico for research on, and curation of, the archaeological research collections of the National Park Service relating to the Chaco Culture National Historical Park and Aztec Ruins National Monument.

(b) TERM; RENT.—The lease shall provide for a term not exceeding 40 years and a nominal annual lease payment.

(c) IMPROVEMENTS.—The lease shall permit the Secretary to make improvements and install furnishings and fixtures related to the use and curation of the collections.

SEC. 3. GRANT.

Upon execution of the lease, the Secretary may contribute to the University of New Mexico:

(1) up to 37 percent of the cost of construction of the Hibben Center, not to exceed $1,750,000; and

(2) the cost of improvements, not to exceed $2,488,000.

SEC. 4. COOPERATIVE AGREEMENT.

The Secretary may enter into cooperative agreements with the University of New Mexico, Federal agencies, and Indian tribes for the curation of and conduct of research on artifacts, and to encourage collaborative management of the Chacoan archaeological artifacts associated with northwestern New Mexico.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary for the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

S. 643, as amended by the Committee on Resources, would authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico.

The gentlewoman from New Mexico (Mrs. WILSON) has authored the House companion bill, H.R. 3258, and we are amending the Senate version to reflect the contents of her bill.

This important project is the latest in a longstanding partnership between the university and the National Park Service and would significantly benefit the research and curation of the archaeological collections of the National Park Service currently being stored at the university. The gentlewoman from New Mexico (Mrs. WILSON) should be commended for her tireless work on behalf of her constituents.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 643, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1530

MANHATTAN PROJECT NATIONAL HISTORICAL PARK STUDY ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S.1687) to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

The Clerk read as follows:

S. 1687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Manhattan Project National Historical Park Study Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STUDY.—The term "study" means the study authorized by section 3(a).

(3) STUDY AREA.—

(A) IN GENERAL.—The term "study area" means the historically significant sites associated with the Manhattan Project.

(B) INCLUSIONS.—The term "study area" includes—

(i) Los Alamos National Laboratory and townsite in the State of New Mexico;

(ii) the Hanford Site in the State of Washington; and

(iii) Oak Ridge Reservation in the State of Tennessee.

SEC. 3. SPECIAL RESOURCE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall conduct a special resource study of the study area to assess the national significance, suitability, and feasibility of designating 1 or more sites within the study area as a unit of the National Park System in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

(2) ADMINISTRATION.—In conducting the study, the Secretary shall—

(A) consult with interested Federal, State, tribal, and local officials, representatives of organizations, and members of the public;

(B) evaluate, in coordination with the Secretary of Energy, the compatibility of designating 1 or more sites within the study area as a unit of the National Park System with maintaining the security, productivity, and management goals of the Department of Energy and public health and safety; and

(C) consider research in existence on the date of enactment of this Act by the Department of Energy on the historical significance and feasibility of preserving and interpreting the various sites and structures in the study area.

(b) REPORT.—Not later than 2 years after the date on which funds are made available to carry out the study, the Secretary shall submit to Congress a report that describes the findings of the study and the conclusions and recommendations of the Secretary.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore (Mr. ISSA). Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S.1687, introduced by Senator BINGAMAN of New Mexico, would direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project, such as Los Alamos National Laboratory in New Mexico or the Hanford site in Washington State. The gentleman from Washington (Mr. HASTINGS) has authored the House companion bill, H.R. 3207, and has asked us to move the Senate bill in the interest of time, and I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the sponsor of this bill, Senator BINGAMAN of New Mexico, and urge its favorable consideration.

Mr. HASTINGS of Washington. Mr. Speaker, as the author of the House version of the "Manhattan Project National Historical Study Act" I rise today to offer my support for this legislation. Senator CANTWELL and I have worked together across party lines to develop this proposal because it's important to the people of Central Washington. And, because it presents a unique opportunity to share a piece of our Nation's history. I am pleased that our plan has been brought up for consideration today and I encourage my colleagues to support it.

By providing for a study of our nation's Manhattan Project Sites, we take an important first step towards the goal of making Hanford's B Reactor into a museum. This is the first step in preserving the historic B Reactor for generations to come.

In 1943, only months after Enrico Fermi first demonstrated that controlled nuclear reaction was possible, ground was broken on the B Reactor—which went on to become the first full-scale plutonium production reactor. An integral part of the Manhattan Project, B Reactor produced the plutonium for the bomb dropped on Nagasaki that helped win World War II.

From a scientific standpoint, the B Reactor is a testament to American ingenuity and innovation. From a historical standpoint it represents a part of Central Washington's past and our Nation's past that should not be forgotten. For those who didn't live through World War II—the B Reactor helps tell the story of a workforce that contributed to our Nation's defense for so many years.

Walking through the B Reactor is like catching a glimpse into the 1940's. Because it has been left largely intact, the tour gives you a very real sense of what it might have been like to work at the B Reactor.

The B Reactor Museum Association and the local community are driving forces behind this project. I share their enthusiasm for preservation of the B Reactor and I believe this proposal is a great step towards making this project a reality.

It is especially appropriate that the House consider this proposal today because the local community will be celebrating B Reactor's 60th Anniversary on October 9th. I can think of no better way to commemorate this anniversary and honor those who worked at B Reactor than approving this bill and sending it to the President's desk.

As an author of this bipartisan plan, I encourage my colleagues to support the "Manhattan Project National Historical Study Act" so that we can begin studying how best to share the story of the B Reactor, and the Nation's other Manhattan Project Sites with future generations.

Ms. BORDALLO. Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 1687.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2052) to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Trail.

The Clerk read as follows:

S. 2052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "El Camino Real de los Tejas National Historic Trail Act".

SEC. 2. DESIGNATION OF EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

"(24) EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL.—

"(A) IN GENERAL.—El Camino Real de los Tejas (the Royal Road to the Tejas) National Historic Trail, a combination of historic routes (including the Old San Antonio Road) totaling approximately 2,580 miles, extending from the Rio Grande near Eagle Pass and Laredo, Texas, to Natchitoches, Louisiana, as generally depicted on the map entitled 'El Camino Real de los Tejas' contained in the report entitled 'National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de los Tejas, Texas-Louisiana', dated July 1998.

"(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the appropriate offices of the National Park Service.

"(C) ADMINISTRATION.—(i) The Secretary of the Interior (referred to in this paragraph as 'the Secretary') shall administer the trail.

"(ii) The Secretary shall administer those portions of the trail on non-Federal land only with the consent of the owner of such land and when such trail portion qualifies for certification as an officially established component of the trail, consistent with section 3(a)(3). An owner's approval of a certification agreement shall satisfy the consent requirement. A certification agreement may be terminated at any time.

"(iii) The designation of the trail does not authorize any person to enter private property without the consent of the owner.

"(D) CONSULTATION.—The Secretary shall consult with appropriate State and local agencies in the planning and development of the trail.

"(E) COORDINATION OF ACTIVITIES.—The Secretary may coordinate with United States and Mexican public and nongovernmental organizations, academic institutions, and, in consultation with the Secretary of State, the Government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

"(F) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-administered area without the consent of the owner of the land or interest in land.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2052, introduced by Senator HUTCHISON of Texas, would amend the National Trail System to designate the El Camino Real de los Tejas, or the Royal Road of Texas, as a National Historic Trail. Originally linking Mexico City through modern-day Texas and Louisiana, the El Camino Real provided missionaries, explorers, traders, ranchers and military passageway through the rugged unconquered terrain of North America, and I urge adoption of this Senate bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I thank the gentlewoman from Guam for yielding me this time, and I am honored to rise to support Senate bill 2052, the Camino Real de los Tejas National Historic Trail Act.

This bill is the Senate version of the legislation I introduced, recognizing the historical and cultural heritage of what has become known as the Camino Real de los Tejas. The Camino Real de los Tejas is a series of trails extending from the Rio Grande through San Antonio, and ending in Louisiana, covering nearly 2,600 miles in all.

For more than 150 years, these trail systems served as critical trade routes, post roads, cattle trails and military highways. These roads were also, prior to the Spanish, were the trails the Native Americans utilized for almost 500 years.

The history of the United States is often taught as the western migration and the settlements of this continent. That history is, of course, central to our national experience. But there is another history that deserves our attention and recognition. That history is the south-to-north migration of the Spanish, the Native Americans, and the peoples of Mexico and Latin America.

The Spanish and the Mexican exploration and development of Texas followed these patterns from the late 1600s to the time of Texas independence in 1836. Even today, that pattern continues as people from Latin America trade with the United States, visit our country, and migrate here seeking new lives.

The Camino Real de los Tejas National Historic Trail will give us the tools to remember that critical history and will provide local communities and organizations with the opportunity to develop cultural tourism in cooperation with the National Park Service. The Camino Real de los Tejas trail system was an important commercial and cultural trade corridor that helped define the history of Texas.

Mr. Speaker, I first introduced the legislation to establish El Camino de los Tejas Trail in 1998. During these past 6 years, I and my staff have worked closely with local community leaders and other Members of Congress to craft a bill that would recognize the history of the trail while absolutely protecting the private property rights. I am proud this legislation enjoys bipartisan support in both the Senate and House.

I want to recognize the support and the work of Senator KAY BAILEY HUTCHISON, the senior Senator from Texas, who introduced this companion bill earlier this year and successfully negotiated its passage in the Senate. I want to personally thank her, because without her efforts, we would not be where we are at now.

I also want to thank the staff who worked on this bill in the committee and in our personal offices, including Laura Marquez of my office, and I especially want to thank my chief of staff, Jeff Mendelsohn, who has spearheaded our efforts to pass this bill during the past 6 years. His focus and dedication to the project has made today's passage possible.

I also want to thank Al Notzon, back home in San Antonio, who has worked and gotten some 30 or 40 letters from cities and counties and a multitude of individuals throughout the State of Texas and Louisiana to come forth.

The beauty of this piece of legislation is that it allows us to get a good recognition of our history. One important thing I would like to mention, Mr. Speaker, is that during the War of 1812, whether you know it or not, through this trail came 10,000 head of cattle. If it had not been for those Mexican cows coming through there, no telling what would have happened in 1812. But we were able to pull it off in that war, and that is one of the little tidbits of history that is there regarding this trail and which was so significant to the making of this country.

Ms. BORDALLO. Mr. Speaker, I thank my colleague, the gentleman from Texas (Mr. RODRIGUEZ) for his comments on this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 2052.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

TRAIL RESPONSIBILITY AND ACCOUNTABILITY FOR THE IMPROVEMENT OF LANDS ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3247) to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies, to clarify the purposes for which collected fines may be used, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trail Responsibility and Accountability for the Improvement of Lands Act" or "TRAIL Act".

SEC. 2. CONSISTENT ENFORCEMENT AUTHORITY REGARDING NATIONAL PARK SYSTEM LANDS, NATIONAL FOREST LANDS, AND OTHER PUBLIC LANDS.

(a) Lands Under Jurisdiction of Bureau of Land Management.—Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking the second sentence; and

(3) by adding at the end the following new paragraphs:

"(2) Any person who knowingly violates or fails to comply with any of the provisions of this Act or any regulation issued under this Act shall be guilty of a Class A misdemeanor, subject to fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both.

"(3) Any person who otherwise violates or fails to comply with any of the provisions of this Act or any regulation issued under this Act shall be guilty of a Class B misdemeanor, subject to fine or imprisonment, or both, as provided in such sections. A person who violates any such provision or regulation may also be adjudged to pay all costs of the proceedings.".

(b) National Park System Lands.—

(1) Enforcement.—Section 3 of the Act of August 25, 1916 (popularly known as the National Park Service Organic Act; 16 U.S.C. 3) is amended—

(A) by striking "That the Secretary" the first place it appears and inserting "(a) Regulations for Use and Management of National Park System; Enforcement.—(1) The Secretary";

(B) by striking "Service," and all that follows through "proceedings." and inserting "Service."; and

(C) by inserting after the first sentence the following new paragraphs:

"(2) Any person who knowingly violates or fails to comply with any rule or regulation issued under this section shall be guilty of a Class A misdemeanor, subject to fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both.

"(3) Any person who otherwise violates or fails to comply with any such rule or regulation shall be guilty of a Class B misdemeanor, subject to fine or imprisonment, or both, as provided in such sections. A person who violates any such rule or regulation may also be adjudged to pay all costs of the proceedings.".

(2) Conforming Amendments.—Such section is further amended—

(A) by striking "He may also" the first place it appears and inserting the following: "(b) Special Management Authorities.—The Secretary of the Interior may";

(B) by striking "He may also" the second place it appears and inserting "The Secretary may"; and

(C) by striking "No natural," and inserting the following:

"(c) Lease and Permit Authorities.—No natural".

(c) National Wildlife Refuge System Lands.—Section 4(f) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(f)) is amended—

(1) in paragraph (1), by striking "fined under title 18, United States Code, or imprisoned for not more than 1 year, or both." and inserting "guilty of a Class A misdemeanor, subject to fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both. A person who violates any such provision or regulation may also be adjudged to pay all costs of the proceedings.";

(2) in paragraph (2), by striking "fined under title 18, United States Code, or imprisoned not more than 180 days, or both." and inserting "guilty of a Class B misdemeanor, subject to fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both. A person who violates any such provision or regulation may also be adjudged to pay all costs of the proceedings.".

(d) National Forest System Lands.—The eleventh undesignated paragraph under the heading "Surveying the Public Lands" of the Act of June 4, 1897 (16 U.S.C. 551), is amended to read as follows:

"SEC. 551. PROTECTION OF NATIONAL FORESTS; REGULATIONS.

"(a) Regulations for Use and Protection of National Forest System.—The Secretary of Agriculture shall make provisions for the protection of the National Forest System (as defined in section 11 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609)) against destruction by fire and depredations. The Secretary may issue such regulations and establish such service as will insure the objects of the National Forest System, namely, to regulate their occupancy and use and to preserve the forests therein from destruction.

"(b) Violations; Penalties.—(1) Any person who knowingly violates any regulation issued under subsection (a) shall be guilty of a Class A misdemeanor. Any person who otherwise violates any such regulation shall be guilty of a Class B misdemeanor. A person who violates any such regulation shall be subject to a fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both.

"(2) A person who violates any regulation issued under subsection (a) may also be adjudged to pay all costs of the proceedings.

"(c) Procedure.—Any person charged with the violation of a regulation issued under subsection (a) may be tried and sentenced by any United States magistrate judge specially designated for that purpose by the court by which the magistrate judge was appointed, in the same manner and subject to the same conditions as provided for in subsections (b) through (e) of section 3401 of title 18, United States Code.".

SEC. 3. ESTABLISHMENT OF MINIMUM FINE FOR VIOLATION OF PUBLIC LAND FIRE REGULATIONS DURING FIRE BAN.

(a) Lands Under Jurisdiction of Bureau of Land Management.—Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), as amended by section 2(a), is further amended by adding at the end the following new paragraph:

"(4) In the case of a regulation issued under this section regarding the use of fire by individuals on the public lands, if the violation of the regulation was the result of reckless conduct, occurred in an area subject to a complete ban on open fires, and resulted in damage to public or private property, the fine may not be less than $500.".

(b) National Park System Lands.—Subsection (a) of section 3 of the Act of August 25, 1916 (popularly known as the National Park Service Organic Act; 16 U.S.C. 3), as designated and amended by section 2(b), is further amended by adding at the end the following new paragraph:

"(4) In the case of a rule or regulation issued under this subsection regarding the use of fire by individuals on such lands, if the violation of the rule or regulation was the result of reckless conduct, occurred in an area subject to a complete ban on open fires, and resulted in damage to public or private property, the fine may not be less than $500.".

(c) National Forest System Lands.—Subsection (b) of section 551 of the Act of June 4, 1897 (16 U.S.C. 551), as designated and amended by section 2(d), which before such designation and amendment was the eleventh undesignated paragraph under the heading "Surveying the Public Lands" of such Act, is further amended by adding at the end the following new paragraph:

"(3) In the case of a regulation issued under subsection (a) regarding the use of fire by individuals on National Forest System lands, if the violation of the regulation was the result of reckless conduct, occurred in an area subject to a complete ban on open fires, and resulted in damage to public or private property, the fine may not be less than $500.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, introduced by the gentleman from Colorado (Mr. TANCREDO), H.R. 3247, the Trail Responsibility and Accountability for Improvement of Lands, or TRAIL Act, would provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands.

Additionally, it creates a minimum fine of $500 for anyone who knowingly starts a fire during a fire ban. The bill shares bipartisan support, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of H.R. 3247.

Mr. TANCREDO. Mr. Speaker, I thank the House leadership for moving this legislation, which I introduced nearly one year ago. It stiffens the penalties for folks who willfully destroy our public lands, and standardizes them across most Federal lands. In addition, the bill includes provisions of H.R. 1038, which I also introduced, setting a tough, minimum fine of $500 for individuals who violate fire regulations on public lands when a complete ban on open fires is in place.

I want to recognize and thank Chairman POMBO, Chairmen MCINNIS and WALDEN, Chairman RADANOVICH, Chairman GOODLATTE, and Chairman SENSENBRENNER for their efforts over the last two fire seasons in finally getting this legislation to the floor. I'd also like to thank another colleague from Colorado, Mr. UDALL, who was instrumental in helping to make passage of this legislation possible today.

Those of us privileged to represent western States here in the Congress know of the long running battle between Federal land agencies and private interests—mainly because the Federal Government is the landlord of so much of the land in the western part of the United States. Over the years, issues of contention have ranged from grazing rights, to forest management, and energy development. Today, the public lands debate is also characterized by access to public lands for different recreational activities—all of which have an enormous and positive economic impact on the communities that we represent.

In the last 20 years, Americans have found new ways to enjoy their public lands and waterways beyond just hiking, horseback riding, or powerboats. Today, mountain bikers, ATVs, SUVs, and snowmobilers also use our public lands. Many of these vehicles represent the only access to the great outdoors to a whole segment of our population—folks like senior citizens and the disabled—that might not otherwise be able to get out and visit beautiful places like the Pike National Forest in my district.

The economic impact for Colorado of these kinds of recreational activities contributes more than $200 million to our economy, creating more than 3,100 jobs. With those economic benefits however, have come conflicts and irresponsible people.

No one here will say that there haven't been problems with certain individuals and groups abusing, misusing and in some instances, destroying valuable property on our Federal lands. Because of the actions of these thoughtless people, future generations have been deprived of the opportunity to view and enjoy our public lands.

Recreation on our public lands and waterways will continue to grow—and it should. This bill will help equip our land managers with the means to appropriately and evenhandedly enforce land use regulations against those few bad apples who spoil the whole bunch. The TRAIL Act accomplishes this by creating consistent fines and penalties among all of our land use agencies. In doing so, the bill also increases fines and penalties substantially for people who knowingly engage in inappropriate behavior.

The second section of the bill addresses the growing problem of human caused wildfires on our public lands. Over the last 10 years, human carelessness has been responsible for the ignition of just over one million wildfires on our public lands. By comparison, lightning has caused only about one-tenth that many fires over the same time period.

The current penalties for violating fire regulations vary from agency to agency. In a practical sense, however, the fines are generally assessed at a far lower level. In fact, under current law, fines—or "collaterals" as they are called, are set as low as $25—little more than the cost of a seatbelt ticket in most states. I believe, as I think most people do, that these weak penalties lack any real deterrent value for would-be violators. In fact, one district ranger in Colorado related a story to me about a would-be visitor to the Pike National Forest who called to inquire if he could pay the puny fine in advance.

In 2002, well after the imposition of the fire ban by both the Governor of Colorado and the Forest Supervisor—I was flying over Hayman Fire with the same district ranger. In addition to having a birds-eye view of the largest wildfire in State history, the two of us also had an excellent view of several campfires dotting the landscape outside its perimeter. He told me that even in the midst of a fire season like the one we had in Colorado—where some 800 human caused wildfires destroyed over a quarter of a million acres—that enforcing the ban was a continuing problem in large part because the fine is so small.

Enhancing the penalties for those who chose to disregard the directives of our land managers may be one way we can reduce both the number of human caused wildfires and the terrible destruction they leave in their wake by creating a deterrent. This bill would accomplish that by imposing a minimum fine of $500 for individuals who violate fire regulations during period when declared fire bans are in effect.

I hope the House will pass the bill, and ask for your support.

Ms. BORDALLO. Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 3247, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A Bill to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies, and for other purposes.".

A motion to reconsider was laid on the table.

SMALL TRACTS ACT AMENDMENTS

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4617) to amend the Small Tracts Act to facilitate the exchange of small tracts of land, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4617

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND EXCHANGES, TAHOE NATIONAL FOREST, CALIFORNIA.

(a) CHRISTENSEN EXCHANGE AUTHORIZED.—Notwithstanding section 3 of Public Law 97-465 (16 U.S.C. 521e; commonly known as the Small Tracts Act), the Secretary of Agriculture may use the authority of such Act to convey to Irving N. Christensen all right, title, and interest of the United States in and to a parcel of National Forest System land lying north of California State Highway 49 within the N½N½ of section 17 of township 19 north, range 9 east, Mount Diablo meridian, in exchange for lands owned by Irving N. Christensen, as of the date of the enactment of this Act, in that portion of the SW¼NW¼ of section 16 of township 19 north, range 9 east, Mount Diablo meridian, lying southwest of California State Highway 49 and that portion of S½NE¼ of section 17 of township 19 north, range 9 east, Mount Diablo meridian, lying southwest of California State Highway 49 and northeast of the North Fork Yuba River.

(b) MCCREARY EXCHANGE AUTHORIZED.—For purposes of Public Law 97–465 (16 U.S.C. 521c et seq.; commonly known as the Small Tracts Act), the land exchange authorized by this subsection is deemed to involve a mineral survey fraction. Using the authority of such Act, the Secretary of Agriculture may convey to Dennis W. McCreary and Cindy M. McCreary all right, title, and interest of the United States in and to a parcel of National Forest System land in Lot 121 of section 35 of township 20 north, range 10 east, Mount Diablo meridian, in exchange for lands owned by Dennis W. McCreary and Cindy M. McCreary, as of the date of the enactment of this Act, in Lot 19 of such section 35.

(c) WITHDRAWAL.—Subject to valid existing rights, all lands to be exchanged under this section are withdrawn from location, entry, and patent under the mining laws of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4617 would facilitate the exchange of two small tracts of land under the Small Tracts Act in the Tahoe National Forest in California.

The first would exchange 3 acres of mineral rights from the Forest Service to the owner of the surface in exchange for 7 acres of land adjacent to a Forest Service campground.

The second would provide for the exchange of less than 1 acre owned by the Forest Service and located in the back yard of the property owner, with a parcel of less than an acre near a Forest Service trailhead. The Forest Service has indicated its interest and support for these exchanges in correspondence to the landowners, and I urge support of this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of H.R. 4617.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4617, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A Bill to authorize the Secretary of Agriculture to carry out certain land exchanges involving small parcels of National Forest System land in the Tahoe National Forest in the State of California, and for other purposes.".

A motion to reconsider was laid on the table.

McINNIS CANYONS NATIONAL CONSERVATION AREA

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4827) to amend the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 to rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area.

The Clerk read as follows:

H.R. 4827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MCINNIS CANYONS NATIONAL CONSERVATION AREA.

(a) PURPOSE.—The Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 (16 U.S.C. 460mmm et seq.) is amended in section 2(b) by striking "Colorado Canyons" and inserting "McInnis Canyons".

(b) DEFINITIONS.—Section 3 of such Act is amended—

(1) in paragraph (1), by striking "Colorado" and inserting "McInnis"; and

(2) in paragraph (2), by striking "Colorado" and inserting "McInnis".

(c) COLORADO CANYONS NATIONAL CONSERVATION AREA.—Section 4 of such Act is amended—

(1) in the heading, by striking "COLORADO" and inserting "MCINNIS"; and

(2) in subsection (a), by striking "Colorado Canyons" and inserting "McInnis Canyons".

(d) ADVISORY COUNCIL.—Section 8(a) of such Act is amended by striking "Colorado Canyons" and inserting "McInnis Canyons".

(e) SHORT TITLE.—Section 1 of such Act is amended by striking "Colorado" and inserting "McInnis".

(f) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the "Colorado Canyons National Conservation Area" shall be deemed to be a reference to the "McInnis Canyons National Conservation Area".

(g) EFFECTIVE DATE.—This section and the amendments made by this section take effect on January 1, 2005.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation, introduced by the gentleman from Oregon (Mr. WALDEN), would rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area.

Later this year, our colleague, the gentleman from Colorado (Mr. MCINNIS), will retire after over 22 years of public service. Throughout that time, SCOTT MCINNIS has achieved a great deal on behalf of the people of Colorado.

The Colorado Canyons National Conservation Area is 122,000 acres of pristine and rugged canyon lands located just outside the Grand Junction home of the gentleman from Colorado (Mr. MCINNIS). Four years ago, the gentleman from Colorado was the driving force behind the legislation that led to the preservation of these Colorado canyons. Mr. Speaker, as the gentleman from Colorado (Mr. MCINNIS) returns home to the State and the people he adores, I can think of no more fitting tribute.

Mr. Speaker, I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I consume.

Mr. Speaker, again we have no objection to the consideration of this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4827.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HEALTHY FOREST YOUTH CONSERVATION CORPS ACT OF 2004

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4838) to establish a Healthy Forest Youth Conservation Corps to provide a means by which young adults can carry out rehabilitation and enhancement projects to prevent fires and suppress fires, rehabilitate public land affected or altered by fires, and provide disaster relief, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Healthy Forest Youth Conservation Corps Act of 2004".

SEC. 2. FINDINGS.

Congress finds that—

(1) the natural fire regimes of forested public land have been altered by intensive fire suppression;

(2) fire suppression has led to increased risk of unnaturally severe wildfires that in recent years have destroyed thousands of homes, devastated agricultural crops and livestock, reduced biodiversity, and scorched thousands of areas of soil and natural resources;

(3) catastrophic wildfires pose a particular threat to communities and wildlife living close to forested wildland, known as the "wildland-urban interface";

(4) each year millions of dollars are spent to fight severe wildfires and protect communities where municipal water supplies, human lives, and property are threatened;

(5) contracts and cooperative agreements between Federal agencies and State and local governments and other entities empower communities and are cost-effective tools that provide positive social and environmental benefits, and the use of such contracts and agreements should be encouraged as a means to prevent unnaturally severe fires, rehabilitate public land affected or altered by fires, and enhance and maintain environmentally important land and water; and

(6) joint collaborations between the Federal agencies and service and conservation corps composed of young adults are particularly beneficial, as the collaborations provide—

(A) young adults the opportunity to prepare for productive lives while engaged in meaningful and educational public service opportunities; and

(B) the public with cost-saving human resources to assist in conserving, maintaining, and protecting public land.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to allow service and conservation corps to enter into agreements with public land management agencies to perform rehabilitation and enhancement projects to prevent fire, rehabilitate public land affected or altered by fires, and suppress fires, and provide disaster relief;

(2) to offer young adults who are members of a service and conservation corps, particularly young adults who are at-risk or economically disadvantaged, a chance to obtain skills and experience in forest restoration, so that they are better equipped to gain productive employment in the expanding workforce being deployed on National Forest System lands in fuels reduction, post-fire rehabilitation, and other forest health projects, and so that the pool of trained workers in forest restoration is expanded to satisfy the existing and increasing need for such workers;

(3) to provide those young adults the opportunity to serve their communities and their country; and

(4) to expand educational opportunities by rewarding individuals who participate in the Healthy Forest Youth Conservation Corps with an increased ability to pursue higher education or employment.

SEC. 4. HEALTHY FOREST YOUTH CONSERVATION CORPS.

(a) Establishment.—There is established a Healthy Forest Youth Conservation Corps.

(b) Participants.—The Corps shall consist of young adults who are enrolled as members of a service and conservation corps covered by a contract or cooperative agreement entered into under subsection (c).

(c) Contracts or Agreements.—The Secretary concerned may enter into contracts or cooperative agreements directly with—

(1) any service and conservation corps to carry out a rehabilitation and enhancement project described in subsection (d); or

(2) a department of natural resources, agriculture, or forestry (or an equivalent department) of any State that has entered into a contract or cooperative agreement with a service and conservation corps to carry out a rehabilitation and enhancement project described in subsection (d).

(d) Authorized Projects.—Under a contract or cooperative agreement entered into under subsection (c), a service and conservation corps may carry out a rehabilitation and enhancement project to prevent fire and suppress fires, rehabilitate public land affected or altered by fires, and provide disaster relief, including—

(1) a project relating to the National Fire Plan;

(2) a project relating to the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.); and

(3) other activities allowed under—

(A) a national forest and grassland land management plan; or

(B) a Bureau of Land Management land use plan.

(e) Priority Projects.—In entering into a contract or cooperative agreement under subsection (c), the Secretary concerned shall give priority to rehabilitation and enhancement projects that will—

(1) reduce hazardous fuels on public land;

(2) restore public land affected or imminently threatened by disease or insect infestation;

(3) rehabilitate public land affected or altered by fires;

(4) assess windthrown public land or public land at high risk of reburn;

(5) work to address public land located within relative proximity to a municipal watershed and municipal water supply;

(6) provide related emergency assistance, such as natural disaster relief and the rescue of lost or injured persons;

(7) instill in members of the service and conservation corps a work ethic and a sense of personal responsibility;

(8) be labor-intensive; and

(9) be planned and initiated promptly.

(f) Activities Performed by Corps Members Who Are Under 18.—A young adult under the age of 18 who is enrolled as a member of a service and conservation corps covered by a contract or cooperative agreement entered into under subsection (c) may perform the following types of activities as part of a rehabilitation and enhancement project carried out under the contract or cooperative agreement:

(1) Performance of logistical support at fire caches or with the supply unit in support of a fire suppression project.

(2) Conducting pre-treatment inventory and other preparatory work, such as building control lines with hand tools, in advance of a prescribed fire project, and conducting post-treatment evaluation and monitoring of the project.

(3) Participation in fire-prevention patrols and the dissemination of fire prevention information.

(4) Performance of certain aspects of a Burned Area Emergency Rehabilitation project, approved by the Secretary, if not on site, then in a support role receiving and distributing materials and supplies.

(g) Supportive Services.—The Secretary concerned may provide such services as the Secretary considers to be necessary to carry out this Act, including technical assistance, oversight, monitoring, and evaluation to or for—

(1) State departments of natural resources and agriculture (or equivalent agencies);

(2) service and conservation corps;

(3) in the case of Indian lands, the applicable Indian tribe;

(4) in the case of Hawaiian home lands, the applicable State agency in the State of Hawaii; and

(5) in the case of land under the jurisdiction of an Alaska Native Corporation, the applicable Alaska Native Corporation.

(h) Other Uses of Funds.—Funds made available under this Act may be used to support implementation, monitoring, training, technical assistance, and administrative work of service and conservation corps covered by a contract or cooperative agreement entered into under subsection (c).

SEC. 5. NONCOMPETITIVE HIRING STATUS.

The Secretary may grant a person who is a former member of the Healthy Forest Youth Conservation Corps with credit for time served as a member of the Corps toward future Federal hiring and may provide the person with a noncompetitive hiring status for not more than 120 days beginning on the date on which the person completed service as a member of the Corps.

SEC. 6. NONDISPLACEMENT.

The nondisplacement requirements of section 177(b) of the National and Community Service Act of 1990 (42 U.S.C. 12637(b)) shall apply to activities carried out under this Act.

SEC. 7. DEFINITIONS.

In this Act:

(1) Alaska native corporation.—The term "Alaska Native Corporation" means a Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(2) Hawaiian home lands.—The term "Hawaiian home lands" has the meaning given the term in section 203 of Public Law 91–378 (commonly known as the Youth Conservation Corps Act of 1970; 16 U.S.C. 1722).

(3) Indian lands.—The term "Indian lands" has the meaning given the term in section 203 of Public Law 91–378 (commonly known as the Youth Conservation Corps Act of 1970; 16 U.S.C. 1722).

(4) Public land.—The term "public land" means—

(A) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)));

(B) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) and other land administered by the Secretary of the Interior through the United States Fish and Wildlife Service;

(C) land owned by a State or local agency;

(D) Indian lands, with the approval of the applicable Indian tribe;

(E) Hawaiian home lands, with the approval of the applicable State agency in the State of Hawaii; and

(F) land under the jurisdiction of an Alaska Native Corporation, with the approval of the applicable Alaska Native Corporation.

(5) Secretary concerned.—The term "Secretary concerned" means—

(A) the Secretary of Agriculture, with respect to land of the National Forest System described in subparagraph (A) of paragraph (4);

(B) the Secretary of the Interior, with respect to public land described in subparagraph (B) of such paragraph; and

(C) the Secretary of Agriculture and the Secretary of the Interior jointly, with respect to land described in subparagraphs (C) through (F) of such paragraph.

(6) Service and conservation corps.—The term "service and conservation corps" means any organization established by a State or local government, nonprofit organization, or Indian tribe that—

(A) has a research-validated demonstrable capability to provide productive work to individuals;

(B) gives participants a combination of work experience, basic and life skills, education, training, and support services; and

(C) provides participants with the opportunity to develop citizenship values through service to their communities and the United States.

(7) STATE.—The term "State" means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands;

(G) the Federated States of Micronesia;

(H) the Republic of the Marshall Islands;

(I) the Republic of Palau; and

(J) the United States Virgin Islands.

(8) YOUNG ADULT.—The term "young adult" means an individual between 16 and 25 years of age.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $5,000,000 for each of fiscal years 2005 through 2009.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4838, introduced by the gentleman from Oregon (Mr. WALDEN), would authorize the Secretary of the Interior and Agriculture to enter into contracts with nonprofit youth conservation corps to carry out land management initiatives relating to the Healthy Forest Restoration Act.

This legislation was originally included in the Healthy Forest Restoration Act, but was removed during negotiations. This bill shares bipartisan support and will allow youth conservation corps to perform service projects related to forest health, restoration, and community protection from wildfire. I urge adoption of the bill.

Mr. Speaker, I submit for the RECORD letters to and from the Committee on Resources and the Committee on Agriculture regarding this piece of legislation:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, September 27, 2004.
Hon. ROBERT GOODLATTE,
Chairman, Committee on Agriculture, 1301 Longworth HOB, Washington, DC.

DEAR MR. CHAIRMAN: On September 15, 2004, the Committee on Resources reported with amendments H.R. 4838, the Healthy Forest Youth Conservation Corps Act of 2004. The bill was referred primarily to the Committee on Resources, with an additional referral to the Committee on Agriculture because it affects activities in forests not created from the public domain.

Staffs from both of our Committee's have been working diligently on further amending the bill in the form of an amendment in the nature of a substitute for consideration under suspension of the rules on the House floor. The amendment they have crafted should address your concerns. First, it reduces the authorization of appropriations from $25 million per fiscal year to $5 million for each fiscal year 2005 through 2009. Additionally, the amendment will address Administration concerns by limiting the type of work performed by 16 and 17 year olds.

Knowing that the 108th Congress is rapidly drawing to a close, I ask that you allow the Committee on Agriculture to be discharged from further consideration of the bill so that it may be scheduled under suspension of the rules tomorrow.

This discharge in no way affects your jurisdiction over the subject matter of the bill and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Agriculture represented on the conference committee. Thank you for your consideration of my request.

Sincerely,
RICHARD W. POMBO,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, September 27, 2004.
Hon. RICHARD POMBO,
Chairman, House Committee on Resources, 1324 Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for forwarding a draft copy of H.R. 4838, the "Healthy Forest Youth Conservation Corps Act of 2004", as ordered reported by your Committee on September 15, 2004. As you are aware, the Committee on Agriculture was granted an additional referral of this legislation on those provisions that fall within the jurisdiction of this Committee.

Knowing of your interest in expediting this legislation and in maintaining the continued consultation between our Committees on these matters, I will agree to discharge H.R. 4838 from further consideration by the Committee on Agriculture. I do so with the understanding that by discharging the bill, the Committee on Agriculture does not waive any future jurisdictional claim over these or similar measures. In addition, in the event a conference with Senate is requested on this matter, the Committee on Agriculture reserves the right to seek appointment of conferees, if it should become necessary.

Once again, I am grateful for the cooperative spirit in which you have worked regarding this matter and others between our respect committees.

Sincerely,
BOB GOODLATTE,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the cosponsor of this legislation, the gentleman from New Mexico (Mr. UDALL) for bringing forth this very important measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Speaker, I thank the gentleman from Arizona for yielding me this time and for his leadership on the Committee on Resources and on this bill. I also want to thank the chairman for his leadership and also the gentleman from Oregon (Mr. WALDEN), who I have worked very closely with on this bill, the Healthy Forest Youth Conservation Corps.

This legislation will allow the Secretaries of Agriculture and Interior to contract directly with the youth service and conservation corps to carry out rehabilitation and enhancement projects in our parks and forests, placing a priority on those projects that prevent and suppress forest fires. This partnership between the Federal Government and the Nation's service and conservation corps will provide cost-effective assistance in preventing forest fires and restoring damaged forests lands.

□ 1545

In addition to providing additional resources to control forest fires, the program will offer important work experience to low-income, disadvantaged, and often minority youth between the ages of 16 and 24 who, through the corps, will develop the skills and habits they need to become productive citizens. Research has shown that youth who complete corps programs have higher rates of employment and earn more than their counterparts. Corps members also score higher on measures of personal and social responsibility and are more likely to earn a college degree.

Finally, not even taking into account the obvious financial benefits to society from protecting at-risk youth, corps generates $1.60 in immediate benefits for every $1 in cost. I encourage my colleagues to vote for passage of the Healthy Forest Youth Conservation Corps Act to enable local youth corps to work with the Federal Government to protect their communities. This is an opportunity to utilize cost-saving human resources to conserve, maintain, and protect Federal land. It is an investment in our environment and our country's youth.

Mr. GRIJALVA. Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4838, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NEW HOPE CEMETERY ASSOCIATION LAND CONVEYANCE

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1537) to direct the Secretary of Agriculture to convey to the New Hope Cemetery Association certain land in the State of Arkansas for use as a cemetery.

The Clerk read as follows:

S. 1537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF PROPERTY IN POPE COUNTY, ARKANSAS.

(a) Conveyance on Condition Subsequent.—Not later than 90 days after the date of enactment of this Act, subject to valid existing rights and the condition stated in subsection (c), the Secretary of Agriculture, acting through the Chief of the Forest Service (referred to in this section as the "Secretary"), shall convey to the New Hope Cemetery Association (referred to in this section as the "association"), for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) Description of Land.—The parcel of land referred to in subsection (a) is the parcel of National Forest System land (including any improvements on the land) that—

(1) is known as "New Hope Cemetery Tract 6686c";

(2) consists of approximately 1.1 acres; and

(3) is more particularly described as a portion of the SE ¼ of the NW ¼ of section 30, T. 11, R. 17W, Pope County, Arkansas.

(c) Condition on Use of Land.—

(1) In general.—The association shall use the parcel conveyed under subsection (a) as a cemetery.

(2) Reversion.—If the Secretary, after notice to the association and an opportunity for a hearing, makes a finding that the association has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1), and the association fails to discontinue that use, title to the parcel shall, at the option of the Secretary, revert to the United States, to be administered by the Secretary.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1537, introduced by Senator BLANCHE LINCOLN, would direct the Secretary of Agriculture to convey to the New Hope Cemetery Association certain land in the State of Arkansas for use as a cemetery. The gentleman from Arkansas (Mr. BOOZMAN) introduced the companion bill in the House, but in the interest of time has requested the Senate bill be moved.

The existing cemetery is about 5 acres and nearing full capacity. The Forest Service initially tried to facilitate this trade without legislation, but the land was appraised for far more than the cemetery association could afford. The conveyance would not create additional management boundaries for the Forest Service, and the agency has no need for the land. As such, the Forest Service would convey the 1.1 acres for free. I urge Members to support this important measure.

Mr. Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the sponsor of the bill, Senator LINCOLN, for bringing forth this vital legislation, and urge its favorable consideration.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 1537.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

CRAIG RECREATION LAND PURCHASE ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1778) to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes.

The Clerk read as follows:

S. 1778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Craig Recreation Land Purchase Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) City.—The term "City" means the City of Craig, Alaska.

(2) Secretary.—The term "Secretary" means the Secretary of Agriculture.

SEC. 3. CONVEYANCE TO SECRETARY OF AGRICULTURE.

(a) In General.—If, not later than 180 days after the date on which the City receives a copy of the appraisal conducted under subsection (c), the City offers to convey to the Secretary all right, title, and interest of the City in and to the parcels of non-Federal land described in subsection (b), the Secretary, subject to the availability of appropriations, shall—

(1) accept the offer; and

(2) on conveyance of the land to the Secretary, pay to the City an amount equal to the appraised value of the land, as determined under subsection (c).

(b) Description of Land.—The non-Federal land referred to in subsection (a) consists of—

(1) the municipal land identified on the map entitled "Informational Map, Sunnahae Trail and Recreation Parcel and Craig Cannery Property" and dated August 2003;

(2) lots 1 and 1A, Block 11–A, as identified on the City of Craig Subdivision Plat, Craig Tideland Addition, Patent # 155 (Inst. 69–982, Ketchikan Recording Office), dated April 21, 2004, consisting of approximately 22,353 square feet of land; and

(3) the portion of Beach Road eastward of a projected line between the southwest corner of lot 1, Block 11, USS 1430 and the northwest corner of lot 1, Block 11–A, as identified on the City of Craig Subdivision Plat, Craig Tideland Addition, Patent # 155 (Inst. 69–982, Ketchikan Recording Office), dated April 21, 2004, consisting of approximately 4,700 square feet of land.

(c) Appraisals.—

(1) In general.—Before conveying the land under subsection (a), the Secretary shall—

(A) conduct an appraisal of the land, in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions;

(ii) the Uniform Standards of Professional Appraisal Practice; and

(iii) Forest Service Appraisal Directives; and

(B) submit to the City a copy of the appraisal.

(2) Payment of costs.—

(A) City.—The City shall pay the costs of appraising the land described in subsection (b)(1).

(B) Secretary.—The Secretary shall pay the costs of appraising the land described in paragraphs (2) and (3) of subsection (b).

(d) Management.—Any land acquired under subsection (a) shall be—

(1) included in the Tongass National Forest; and

(2) administered by the Secretary in accordance with the laws (including regulations) and forest plan applicable to the Tongass National Forest.

SEC. 4. ACQUISITION OF LAND BY THE CITY OF CRAIG.

The amount received by the City under section 3(a)(2) shall be used by the City to acquire the Craig cannery property, as depicted on the map entitled "Informational Map, Sunnahae Trail and Recreation Parcel and Craig Cannery Property" and dated August 2003.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Forest Service for the reconstruction of the Sunnahae Trail, $250,000; and

(2) such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1778, introduced by Senator LISA MURKOWSKI, would authorize a land conveyance between the Secretary of Agriculture and the City of Craig, Alaska. The gentleman from Florida (Mr. YOUNG) has the House companion bill.

This legislation authorizes the Secretary of Agriculture to acquire approximately 350 acres of land from the city of Craig, Alaska, for addition to the Tongass National Forest. The city would then use the proceeds to acquire 10 acres in downtown Craig to expand its harbor for commercial development. I urge Members to support this important measure.

Mr. Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 1778.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

ARAPAHO AND ROOSEVELT NATIONAL FORESTS LAND EXCHANGE ACT OF 2004

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2180) to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

The Clerk read as follows:

S. 2180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arapaho and Roosevelt National Forests Land Exchange Act of 2004".

SEC. 2. LAND EXCHANGE, ARAPAHO AND ROOSEVELT NATIONAL FORESTS, COLORADO.

(a) CONVEYANCE BY CITY OF GOLDEN.—

(1) NON-FEDERAL LAND DESCRIBED.—The land exchange directed by this section shall proceed if, not later than 30 days after the date of enactment of this Act, the City of Golden, Colorado (referred to in this section as the "City"), offers to convey title acceptable to the Secretary of Agriculture (referred to in this section as the "Secretary") to the following non-Federal land:

(A) Certain land located near the community of Evergreen in Park County, Colorado, comprising approximately 80 acres, as generally depicted on the map entitled "Non-Federal Lands—Cub Creek Parcel", dated June 2003.

(B) Certain land located near Argentine Pass in Clear Creek and Summit Counties, Colorado, comprising approximately 55.909 acres, as generally depicted on the map entitled "Argentine Pass/Continental Divide Trail Lands", dated September 2003.

(2) CONDITIONS OF CONVEYANCE.—

(A) VIDLER TUNNEL.—The conveyance of land under paragraph (1)(B) to the Secretary shall be subject to the continuing right of the City to permanently enter on, use, and occupy so much of the surface and subsurface of the land as reasonably is necessary to access, maintain, modify, or otherwise use the Vidler Tunnel to the same extent that the City would have had that right if the land had not been conveyed to the Secretary and remained in City ownership.

(B) ADVANCE APPROVAL.—The exercise of that right shall not require the City to secure any permit or other advance approval from the United States except to the extent that the City would have been required had the land not been conveyed to the Secretary and remained in City ownership.

(C) WITHDRAWAL.—On acquisition by the Secretary, the land is permanently withdrawn from all forms of entry and appropriation under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(b) FEDERAL LAND DESCRIBED.—On receipt of title to the non-Federal land identified in subsection (a) that is acceptable to the Secretary, the Secretary shall simultaneously convey to the City all right, title, and interest of the United States in and to certain Federal land, comprising approximately 9.84 acres, as generally depicted on the map entitled "Empire Federal Lands—Parcel 12", dated June 2003.

(c) EQUAL VALUE EXCHANGE.—

(1) APPRAISAL.—

(A) IN GENERAL.—The values of the Federal land identified in subsection (b) and the non-Federal land identified in subsection (a)(1)(A) shall be determined by the Secretary through appraisals performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(B) DONATION.—Except as provided in paragraph (3), the conveyance of the non-Federal land identified in subsection (a)(1)(B) shall be considered a donation for all purposes of law.

(2) SURPLUS OF NON-FEDERAL VALUE.—If the final appraised value (as approved by the Secretary) of the non-Federal land identified in subsection (a)(1)(A) exceeds the final appraised value (as approved by the Secretary) of the Federal land identified in subsection (b), the values may be equalized by—

(A) reducing the acreage of the non-Federal land identified in subsection (a)(1)(A) to be conveyed, as determined appropriate and acceptable by the Secretary and the City;

(B) making a cash equalization payment to the City, including a cash equalization payment in excess of the amount authorized by section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)); or

(C) a combination of acreage reduction and cash equalization.

(3) SURPLUS OF FEDERAL VALUE.—

(A) APPRAISAL.—If the final appraised value (as approved by the Secretary) of the Federal land identified in subsection (b) exceeds the final appraised value (as approved by the Secretary) of the non-Federal land identified in subsection (a)(1)(A), the Secretary shall—

(i) conduct an appraisal in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice for the non-Federal land to be conveyed pursuant to subsection (a)(1)(B); and

(ii) use the value to the extent necessary to equalize the values of the non-Federal land identified in subsection (a)(1)(A) and the Federal land identified in subsection (b).

(B) CASH EQUALIZATION PAYMENT.—If the Secretary declines to accept the non-Federal land identified in subsection (a)(1)(B) for any reason or if the value of the Federal land described in subsection (b) exceeds the value of all of the non-Federal land described in subsection (a)(1), the City may make a cash equalization payment to the Secretary, including a cash equalization payment in excess of the amount authorized by section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(d) EXCHANGE COSTS.—The City shall pay for—

(1) any necessary land surveys; and

(2) the costs of the appraisals, on approval of the appraiser and the issuance of appraisal instructions.

(e) TIMING AND INTERIM AUTHORIZATION.—

(1) TIMING.—It is the intent of Congress that the land exchange directed by this Act shall be completed not later than 180 days after the date of enactment of this Act.

(2) INTERIM AUTHORIZATION.—Pending completion of the land exchange, not later than 45 days after the date of enactment of this Act, subject to applicable law, the Secretary shall authorize the City to construct approximately 140 feet of water pipeline on or near the existing course of the Lindstrom ditch through the Federal land identified in subsection (b).

(f) ALTERNATIVE SALE AUTHORITY.—

(1) IN GENERAL.—If the land exchange is not completed for any reason, the Secretary shall sell the Federal land identified in subsection (b) to the City at the final appraised value of the land, as approved by the Secretary.

(2) SISK ACT.—Public Law 90-171 (commonly known as the "Sisk Act") (16 U.S.C. 484a) shall, without further appropriation, apply to any cash equalization payment received by the United States under this section.

(g) INCORPORATION, MANAGEMENT, AND STATUS OF ACQUIRED LAND.—

(1) INCORPORATION.—Land acquired by the United States under the land exchange shall become part of the Arapaho and Roosevelt National Forests.

(2) BOUNDARY.—The exterior boundary of the Forests is modified, without further action by the Secretary, as necessary to incorporate—

(A) the non-Federal land identified in subsection (a); and

(B) approximately an additional 80 acres as depicted on the map entitled "Arapaho and Roosevelt National Forest Boundary Adjustment—Cub Creek", dated June 2003.

(3) ADMINISTRATION.—On acquisition, land or interests in land acquired under this section shall be administered in accordance with the laws (including rules and regulations) generally applicable to the National Forest System.

(4) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Arapaho and Roosevelt National Forests (as adjusted by this subsection) shall be deemed to be the boundaries of the Forests as of January 1, 1965.

(h) TECHNICAL CORRECTIONS.—The Secretary, with the agreement of the City, may make technical corrections or correct clerical errors in the maps referred to in this section.

(i) REVOCATION OF ORDERS AND WITHDRAWAL.—

(1) REVOCATION OF ORDERS.—Any public orders withdrawing any of the Federal land identified in subsection (b) from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(2) WITHDRAWAL.—On the date of enactment of this Act, if not already withdrawn or segregated from entry and appropriation under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), the Federal land identified in subsection (b) is withdrawn until the date of the conveyance of the Federal land to the City.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. BEAUPREZ).

Mr. BEAUPREZ. Mr. Speaker, occasionally on this floor we get to do win/win proposals, and this is clearly one of them.

This legislation is almost identical to legislation adopted by this Chamber earlier this session which I, the gentleman from Colorado (Mr. UDALL), and the gentleman from Colorado (Mr. TANCREDO) introduced. The difference is, this legislation actually is better. It is better in that it provides the United States Forest Service a 45-day window of opportunity to do their due diligence before the transfer actually takes place, and it also increases the acreage that the city of Golden is willing to trade to the government to accomplish this mission.

What is this mission? The mission is the city of Golden gets to increase its water storage capacity by 40 percent, which is critical to this small town in my district, in exchange for 10 acres to connect a pipeline to the reservoir, the storage reservoir. The United States Forest Service will acquire 80 acres near the city of Evergreen which will stay perpetually green, maintaining pristine wilderness, and also an additional 56 acres that includes a portion of the Continental Divide Trail. Yes, the Continental Divide, that place where east and west divide and a pristine wilderness trail that is critical not only to our State but to much of the Nation as we connect from our southern border clear to our northern border.

Mr. Speaker, it is a privilege to see this legislation before this body. It is a privilege to rise in support of it. I thank the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 2180.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

LITTLE BUTTE/BEAR CREEK SUBBASINS WATER FEASIBILITY ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3210) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte/Bear Creek Subbasins in Oregon, as amended.

The Clerk read as follows:

H.R. 3210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LITTLE BUTTE/BEAR CREEK SUBBASINS, OREGON, WATER RESOURCE STUDY.

(a) SHORT TITLE.—This section may be cited as the "Little Butte/Bear Creek Subbasins Water Feasibility Act".

(b) AUTHORIZATION.—The Secretary of the Interior, acting through the Bureau of Reclamation, may conduct the Water for Irrigation, Streams and the Economy Project water management feasibility study and environmental impact statement in accordance with the "Memorandum of Agreement Between City of Medford and Bureau of Reclamation for the Water for Irrigation, Streams, and the Economy Project", dated July 2, 2004.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $500,000 to carry out this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

H.R. 3210, authored by the gentleman from Oregon (Mr. WALDEN), authorizes the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water management feasibility study and environmental impact statement to evaluate integrated water resource management and supply needs in the Little Butte/Bear Creek Subbasins near Medford, Oregon.

The underlying water management effort is a collaborative Federal/State/local partnership to improve the health of the subbasins and increase the water-use efficiency of the three local irrigation districts. The studies will be completed in accordance with a memorandum of agreement between the bureau and the city of Medford. Today, Congress has the opportunity to make this collaborative effort come true for these Oregon watersheds. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 3210, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING FEASIBILITY STUDY ON ALDER CREEK WATER STORAGE AND CONSERVATION PROJECT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3597) to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on the Alder Creek water storage and conservation project in El Dorado County, California, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3597

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY AND REPORT.

(a) STUDY.—Pursuant to the Reclamation Act of 1902 (32 Stat. 388) and Acts amendatory thereof and supplemental thereto, the Secretary of the Interior (referred to in this section as the "Secretary"), through the Bureau of Reclamation, and in consultation and cooperation with the El Dorado Irrigation District, is authorized to conduct a study to determine the feasibility of constructing a project on Alder Creek in El Dorado County, California, to store water and provide water supplies during dry and critically dry years for consumptive use, recreation, instream flows, irrigation, and power production.

(b) REPORT.—

(1) TRANSMISSION.—Upon completion of the study authorized by subsection (a), the Secretary shall transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the results of the study.

(2) CONTENTS OF REPORT.—The report shall contain appropriate cost sharing options for the implementation of the project based upon the use and possible allocation of any stored water.

(3) USE OF AVAILABLE MATERIALS.—In developing the report under this section, the Secretary shall use reports and any other relevant information supplied by the El Dorado Irrigation District.

(c) COST SHARE.—

(1) FEDERAL SHARE.—The Federal share of the costs of the feasibility study authorized by this section shall not exceed 50 percent of the total cost of the study.

(2) IN-KIND CONTRIBUTION FOR NON-FEDERAL SHARE.—The Secretary may accept as part of the non-Federal cost share the contribution such in-kind services by the El Dorado Irrigation District as the Secretary determines will contribute to the conduct and completion of the study.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 to carry out this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3597, authored by the gentleman from California (Mr. DOOLITTLE), authorizes the Secretary of the Interior to conduct a feasibility study on constructing a water storage project on Alder Creek in El Dorado County in California. The goal of the storage project is to provide water supplies during dry and critically dry years.

Like many areas in the western United States, El Dorado County faces constant water supply shortages. In light of drought and growing environment and human needs, many believe more traditional storage is needed. Supporters believe this project, in conjunction with water conservation measures, will augment the local water district's water supply, increase downstream habitat flows, and add hydropower resources. This project is an excellent example of a local agency working to secure safe and dependable water supplies for future generations. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 3597, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SOUTHERN CALIFORNIA GROUNDWATER REMEDIATION ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4606) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southern California Groundwater Remediation Act".

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) Groundwater remediation.—The term "groundwater remediation" means actions that are necessary to prevent, minimize, clean up, or mitigate damage to groundwater.

(2) Local water authority.—The term "local water authority" means a currently existing (on the the date of the enactment of this Act) public water district, public water utility, public water planning agency, municipality, or Indian Tribe located within the natural watershed of the Santa Ana River in the State of California.

(3) Remediation fund.—The term "Remediation Fund" means the Southern California Groundwater Remediation Fund established pursuant to section 3(a).

(4) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. SOUTHERN CALIFORNIA GROUNDWATER REMEDIATION.

(a) Southern California Groundwater Remediation.—

(1) Establishment of remediation fund.—There shall be established within the Treasury of the United States an interest bearing account to be known as the "Southern California Groundwater Remediation Fund".

(2) Administration of remediation fund.—The Remediation Fund shall be administered by the Secretary, acting through the Bureau of Reclamation. The Secretary shall administer the Remediation Fund in cooperation with the local water authority.

(3) Purposes of remediation fund.—

(A) In general.—Subject to subparagraph (B), the amounts in the Remediation Fund, including interest accrued, shall be used by the Secretary to provide grants to the local water authority to reimburse the local water authority for the Federal share of the costs associated with designing and constructing groundwater remediation projects to be administered by the local water authority.

(B) Cost-sharing limitation.—

(i) In general.—The Secretary may not obligate any funds appropriated to the Remediation Fund in a fiscal year until the Secretary has deposited into the Remediation Fund an amount provided by non-Federal interests sufficient to ensure that at least 35 percent of any funds obligated by the Secretary for a groundwater remediation project are from funds provided to the Secretary for that project by the non-Federal interests.

(ii) Non-federal responsibility.—Each local water authority shall be responsible for providing the non-Federal amount required by clause (i) for projects under that local water authority. The State of California, local government agencies, and private entities may provide all or any portion of the non-Federal amount.

(iii) Credits toward non-federal share.—For purposes of clause (ii), the Secretary shall credit the appropriate local water authority with the value of all prior expenditures by non-Federal interests made after January 1, 2000, that are compatible with the purposes of this section, including—

(I) all expenditures made by non-Federal interests to design and construct groundwater remediation projects, including expenditures associated with environmental analyses, and public involvement activities that were required to implement the groundwater remediation projects in compliance with applicable Federal and State laws; and

(II) all expenditures made by non-Federal interests to acquire lands, easements, rights-of-way, relocations, disposal areas, and water rights that were required to implement a groundwater remediation project.

(b) Compliance With Applicable Law.—In carrying out the activities described in this section, the Secretary shall comply with any applicable Federal and State laws.

(c) Relationship to Other Activities.—Nothing in this section shall be construed to affect other Federal or State authorities that are being used or may be used to facilitate remediation and protection of the groundwater the natural watershed of the Santa Ana River in the State of California. In carrying out the activities described in this section, the Secretary shall integrate such activities with ongoing Federal and State projects and activities. None of the funds made available for such activities pursuant to this section shall be counted against any Federal authorization ceiling established for any previously authorized Federal projects or activities.

(d) Financial Statements and Audits.—The Secretary shall ensure that all funds obligated and disbursed under this Act and expended by a local water authority, are accounted for in accordance with generally accepted accounting principles and are subjected to regular audits in accordance with applicable procedures, manuals, and circulars of the Department of the Interior and the Office of Management and Budget.

(e) Authorization of Appropriations.—There is authorized to be appropriated to the Remediation Fund $50,000,000. Such funds shall remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4606, authored by the gentleman from California (Mr. BACA), authorizes the Secretary of the Interior to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California. H.R. 4606 establishes the Southern California Basins Groundwater Remediation Fund within the U.S. Treasury to provide Federal cost-share monies to remediate groundwater supplies in the Santa Ana watershed. I urge adoption of this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend first the sponsor of the bill, the gentleman from California (Mr. BACA), for bringing forth this very important measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. BACA).

Mr. BACA. Mr. Speaker, I rise in support of H.R. 4606, the Southern California Groundwater Remediation Act.

First of all, I would like to thank our minority leader and our majority leader for supporting this bill. Our majority leader happened to go in the Inland Empire to see what is going on in that area, and I appreciate that.

The Southern California Groundwater Remediation Act is a long-term solution to helping cities in Southern California remove perchlorate from their drinking water. Perchlorate groundwater contamination has become a crisis in Southern California. This includes my hometown of Rialto in California.

Perchlorate is a main ingredient in rocket fuel. It has been found in drinking water supplies in 40 States, including California. It has been linked to thyroid damage and may be especially harmful to infants and developing fetuses and the 1.2 million women of childbearing age in San Bernardino, Riverside, and Orange counties.

It is also harmful to those with weak immune systems, such as seniors and AIDS patients. There is a legal and moral obligation to provide safe and healthy water. Today, these obligations are in jeopardy. The hard-working families in these areas are not at fault and should not have to pay for these problems. We must protect the consumer. Southern California, and particularly the Inland Empire, has been greatly impacted by perchlorate. Perchlorate has been detected in 182 sources in the counties served by the Santa Ana River watershed.

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There is a perchlorate plume in the Inland Empire in California that is 7 miles long. It has affected 20 wells in San Bernardino County and jeopardized the water supplies of 500,000 residents. The economic burden on these communities is almost as much of a concern as the potential health effects.

H.R. 4606 authorizes $50 million in much-needed assistance. It is modeled after a successful program in the San Gabriel Basin in southern California that has also suffered from perchlorate-polluted water. And it is similar to H.R. 4459, a bill introduced by the gentleman from California (Mr. POMBO) that deals with perchlorate in northern California and passed this House last week.

I urge my colleagues to support this urgent bill for southern California so we can tell these communities that help is on the way. I would like to thank the gentleman from California (Mr. POMBO), the gentleman from West Virginia (Mr. RAHALL), the gentleman from California (Mr. CALVERT), and the gentlewoman from California (Mrs. NAPOLITANO) for their support of H.R. 4606 and for moving this legislation forward quickly.

Mr. GRIJALVA. Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4606, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MONTANA WATER CONTRACTS EXTENSION ACT OF 2004

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5009) to extend water contracts between the United States and specific irrigation districts and the City of Helena in Montana, and for other purposes.

The Clerk read as follows:

H.R. 5009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Montana Water Contracts Extension Act of 2004".

SEC. 2. EXTENSION OF WATER CONTRACTS.

(a) AUTHORITY TO EXTEND.—The Secretary of the Interior may extend each of the water contracts listed in subsection (b) until the earlier of—

(1) the expiration of the 2-year period beginning on the date on which the contract would expire but for this section; or

(2) the date on which a new long-term water contract is executed by the parties to the contract listed in subsection (b).

(b) EXTENDED CONTRACTS.—The water contracts referred to in subsection (a) are the following:

(1) Contract Number 14–06–600–2078, as amended, for purchase of water between the United States of America and the City of Helena, Montana.

(2) Contract Number 14–06–600–2079, as amended, between the United States of America and the Helena Valley Irrigation District for water service.

(3) Contract Number 14–06–600–8734, as amended, between the United States of America and the Toston Irrigation District for water service.

(4) Contract number 14–06–600–3592, as amended, between the United States and the Clark Canyon Water Supply Company, Inc., for water service and for a supplemental supply.

(5) Contract number 14–06–600–3593, as amended, between the United States and the East Bench Irrigation District for water service.

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Madam Speaker, I yield myself such time as I may consume.

H.R. 5009, authored by our distinguished committee colleague from Montana (Mr. REHBERG), extends five Bureau of Reclamation water service contracts with the city of Helena, Montana, and nearby irrigation districts for up to 2 years. These extensions are needed mainly to complete necessary Endangered Species Act studies on the Missouri River. Furthermore, these extensions will allow for continued water deliveries while providing more time for the Federal Government and contract holders to negotiate new long-term contracts.

I urge the adoption of the bill.

Madam Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we have no objection to the consideration of this measure.

Madam Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 5009.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AINSWORTH UNIT, NEBRASKA WATER CONTRACT EXTENSION

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5016) to extend the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska.

The Clerk read as follows:

H.R. 5016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AINSWORTH UNIT, SANDHILLS DIVISION, PICK-SLOAN MISSOURI BASIN PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior shall extend for the period described in subsection (b) the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska, consisting of—

(1) the water service contract entered into by the Secretary of the Interior under—

(A) section 9(e) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(e));

(B) section 9(c) of the Act of December 22, 1944 (58 Stat. 887, chapter 665);

(C) the Act of August 21, 1954 (68 Stat. 757, chapter 781); and

(D) the Act of May 18, 1956 (70 Stat. 160, chapter 285); and

(2) the water service contract for the set project located in Cherry, Brown, and Rock Counties, Nebraska, for the use of a part of the waters of the Snake River, a tributary of the Niobrara River.

(b) PERIOD OF EXTENSION.—The water service contract described in subsection (a) shall be extended for 4 years after the date on which the contract expires under the water service contract and law in existence before the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Madam Speaker, I yield myself such time as I may consume. H.R. 5106, authored by the gentleman from Nebraska (Mr. OSBORNE), authorizes the extension of water service contracts between the Bureau of Reclamation and the Ainsworth Irrigation District for up to 4 years.

The district has requested the transfer of project facilities from Federal ownership to the district. The 4-year extension would allow the district ample time to complete the necessary actions for finalizing the facility transfer. The contract extension would provide for continued water service during the title transfer process under current terms and conditions.

Madam Speaker, I urge the adoption of the bill.

Madam Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we have no objection to the consideration of this measure.

Madam Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 5016.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

LAKE NIGHTHORSE REDESIGNATION ACT

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 2508) to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse.

The Clerk read as follows:

S. 2508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENAMING OF RESERVOIR.

The reservoir known as the "Ridges Basin Reservoir" located on Basin Creek, a tributary of the Animas River in Colorado, constructed under section 6(a) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (102 Stat. 2975; 114 Stat. 2763A–260), shall be known and designated as "Lake Nighthorse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the reservoir referred to in section 1 shall be deemed to be a reference to Lake Nighthorse.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Madam Speaker, I yield myself such time as I may consume. S. 2508, authored by our distinguished Senate colleague, Mr. DOMENICI, redesignates the reservoir known as the Ridges Basin Reservoir located on Basin Creek, a tributary of the Animas River in Colorado, as Lake Nighthorse. The reservoir is being constructed as a provision of the Colorado Ute Indian Water Settlement Act of 1988. This designation will honor the service of retiring Senator Ben Nighthorse Campbell who was instrumental in the enactment of this act among many others important to the western United States during his long career in public service.

I urge the adoption of the bill.

Madam Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we have no objection to the favorable consideration of this measure.

Madam Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 2508.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

RECOGNIZING 60TH ANNIVERSARY OF BATTLE OF PELELIU

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 102) recognizing the 60th anniversary of the Battle of Peleliu and the end of Imperial Japanese control of Palau during World War II and urging the Secretary of the Interior to work to protect the historic sites of the Peleliu Battlefield National Historic Landmark and to establish commemorative programs honoring the Americans who fought there.

The Clerk read as follows:

H.J. RES. 102

Whereas on December 7, 1941, Imperial Japan bombed the United States fleet at Pearl Harbor, Hawaii, forcing the United States to declare war on Japan;

Whereas by 1944, United States victories in the Southwest and Central Pacific were bringing the war ever closer to Japan;

Whereas on September 15, 1944, after three days of naval gunfire, United States forces landed on the beaches of Peleliu, in the Palau islands chain, with the objective of capturing a vital air field;

Whereas the battle for Peleliu lasted more than two months, during which the United States suffered over 10,000 casualties, including an estimated 1,250 Marines and 540 soldiers killed in action;

Whereas George H.W. Bush, the 41st President of the United States, served as a torpedo-bomber pilot in the Navy and sank an armed Japanese trawler during Operation Snapshot, an operation to weaken Japenese defenses on Peleliu before United States Marines invaded the island in September 1944;

Whereas former Secretary of State George P. Shultz served as an officer in the Marine Corps detached to the 81st Infantry Division of the Army during the Battle of Peleliu and participated in the seizure, occupation, and defense of Angaur Island in the Palau islands chain;

Whereas on February 4, 1985, the Secretary of the Interior officially designated the Peleliu battlefield as the "Peleliu Battlefield National Historic Landmark";

Whereas the landmark plaque has been mounted and is now displayed in a prominent place in the village of Kloulkubed;

Whereas that designation as a national historic landmark attests not only to the significance of the battlefield site, but also to the integrity of the site;

Whereas the Peleliu battlefield today has considerable physical evidence of the battle, including about 100 identified individual cave sites occupied by the defending Japanese troops, as well as pill boxes, casemates, and large military equipment, both American and Japanese, which played a direct role in the battle for Peleliu; and

Whereas thanks to the sacrifices of members of the United States Armed Forces who participated in the Battle of Peleliu, the Republic of Palau today is an independent, democratic nation and a strong ally of the United States: Now, therefore, be it—

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress recognizes the bravery and courage of the members of the United States Armed Forces who participated in the Battle of Peleliu and of all veterans who fought in the Pacific Theater during World War II.

SEC. 2. The Congress urges the Secretary of the Interior—

(1) to recognize the year 2004 as the 60th anniversary of the Battle of Peleliu and the end of Imperial Japanese control of Palau during World War II;

(2) to work to protect the historic sites of the Peleliu Battlefield National Historic Landmark; and

(3) to establish commemorative programs honoring the Americans who fought at those sites.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Madam Speaker, I yield myself such time as I may consume.

My colleague from Arizona (Mr. FLAKE) has introduced legislation that seeks to honor an important anniversary marking a battle that took place in the Pacific theater during World War II. His resolution, H.J. Res. 102, commemorates the 60th anniversary of the Battle of Peleliu in the Palau island chain.

In particular, H.J. Res. 102 will recognize the admirable bravery and courage that thousands of United States Armed Forces members displayed during this battle. The actual formal date of the 60th anniversary of the Battle of Peleliu was on September 15, 2004, which makes the movement of this legislation even more timely. The unique history our country has with this freely associated state is one that should not be forgotten and continues strongly to this day. I am thus hopeful that the House can support the gentleman from Arizona's bill so that we may show our support of the many U.S. Armed Forces veterans and families who help us to remember this important time in history.

I urge the adoption of this joint resolution.

Madam Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Madam Speaker, I yield such time as he may consume to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Madam Speaker, I certainly would like to commend the gentlemen from California and the gentleman from Arizona for their management of this proposed legislation.

Madam Speaker, I rise today in support of H.J. Res. 102 as offered by my good friend from Arizona (Mr. FLAKE) in recognition of the 60th anniversary of the Battle of Peleliu and the end of Japanese control of the Pacific islands of Palau.

The Battle of Peleliu was one of the bloodiest in the Pacific theater in World War II, lasting more than 2 months, during which the United States suffered over 10,000 casualties. As a result of this momentous battle, Japanese control of Palau was ended. Today, Palau is an independent, democratic country and a strong ally of our Nation.

As we are all well aware, Madam Speaker, freedom is not free. The price of freedom was paid in blood, and we owe a great debt of gratitude to the American forces who sacrificed their lives at the Battle of Peleliu so that Palau can enjoy freedom today. By this resolution, we in Congress will acknowledge the bravery and courage shown by the members of the United States Armed Forces in the Battle of Peleliu and work to ensure their sacrifices are never forgotten.

Over the years, it was my privilege, along with my colleagues in the House, to personally visit and meet with the leaders of the Republic of Palau. Although small in numbers as far as population goes, the Republic of Palau along with the Republic of the Marshall Islands and the Federated States of Micronesia are a strategically important region for our national security and defense.

Madam Speaker, I urge my colleagues to support this legislation and, again, commend my good friend from Arizona (Mr. FLAKE) for sponsoring this proposed legislation.

Mr. RADANOVICH. Madam Speaker, I yield 4 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Madam Speaker, I thank the gentleman for yielding me this time and I thank the gentleman from American Samoa for speaking so eloquently on this bill. I appreciate the opportunity to offer this bill today, and I want to thank Chairman POMBO for including it on our floor action. The Battle of Peleliu, as mentioned by the gentleman from American Samoa, was one of the bloodiest in the Pacific theater in World War II. It lasted more than 2 months during which the United States suffered over 10,000 casualties, including an estimated 1,250 Marines and 540 soldiers killed in action in an attempt to capture a vital airfield from the Imperial Japanese.

In honor of that historic battle, myself, the gentlewoman from Guam (Ms. BORDALLO) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) introduced this bill to recognize the service and sacrifice of the brave men who fought to end Imperial Japanese control over the Palau islands chain and all American servicemen who fought in the Pacific theater. It is important to note that one of those present at the battle was President George Herbert Walker Bush, the 41st President of the United States, who served as a torpedo bomber pilot in the Navy at that time. During the battle, then Navy Lieutenant Bush sank an armed Japanese trawler during operations to weaken Japanese defenses on Peleliu before United States Marines invaded the island. In addition, former Secretary of State George P. Shultz served as an officer in the Marine Corps detached to the 81st Infantry Division during the battle and participated in the seizure, occupation and defense of Angaur Island in the Palau islands chain.

In recognition of the battle's importance during the war, the Secretary of the Interior officially designated the Peleliu battlefield as the Peleliu Battlefield National Historic Landmark on February 4, 1985. The battlefield today has considerable evidence of the battle, including cave sites occupied by the defending Japanese troops as well as pillboxes, casemates and large military equipment.

This resolution urges the Secretary of the Interior to recognize the 60th anniversary of the Battle of Peleliu and work to protect the important sites of that battlefield. It is important to note that the battlefield is located in what is today the Republic of Palau. The Republic of Palau today is an independent, democratic nation with a strong ally in the United States. This is due in part to the sacrifices of the members of the United States Armed Forces who participated in the Battle of Peleliu 60 years ago. We honor them today.

Mr. GRIJALVA. Madam Speaker, I urge the favorable consideration of this measure.

Madam Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the joint resolution, H.J. Res. 102.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

RECOGNIZING 60TH ANNIVERSARY OF LIBERATION OF GUAM DURING WORLD WAR II

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 737) recognizing the 60th anniversary of the Liberation of Guam during World War II.

The Clerk read as follows:

H. RES. 737

Whereas Guam was attacked by Imperial Japanese Forces on December 8, 1941, at the same time that Pearl Harbor, Hawaii, was attacked, the different dates owing to the International Date Line;

Whereas Guam was subsequently invaded by enemy forces on December 10, 1941, and occupied until liberation on July 21, 1944;

Whereas the people of Guam suffered a brutal occupation due to their steadfast loyalty to the United States;

Whereas, during the 32-month occupation, the people of Guam suffered atrocities, such as forced labor, forced march, internment, injury, and death, including public executions; and

Whereas the loyalty and courage of the people of Guam during this period in American history serves as an inspiration for all Americans: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the year 2004 as the 60th anniversary of the Liberation of Guam during World War II;

(2) recognizes the extraordinary heroism and steadfast loyalty exhibited by the people of Guam who endured the occupation;

(3) recognizes the bravery and courage of all members of the United States Armed Forces who participated in the battle to recapture and liberate Guam, and all veterans

who fought in the Pacific Theater during World War II;

(4) encourages the American people to commemorate the Liberation of Guam and to observe the anniversary of the significant battles of the Pacific Theater during World War II; and

(5) requests the Secretary of the Interior to establish commemorative programs honoring the liberators and the people of Guam at the War in the Pacific National Historical Park in Guam.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Madam Speaker, I yield myself such time as I may consume.

The gentlewoman from Guam (Ms. BORDALLO) has introduced legislation that is poignant to the people of her territory and thousands of United States veterans. The United States' presence on this island traces back to 1898. But one of the most significant days that the U.S. and Guam share in our unique history is that of December 7, 1941. While the Japanese were attacking Pearl Harbor in Hawaii, they were also preparing an attack and invasion of Guam just hours later.

I urge the adoption of this bill.

Madam Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Madam Speaker, I yield myself such time as I may consume. I would like to commend the sponsor of this bill, the gentlewoman from Guam (Ms. BORDALLO), for bringing forward this most important measure.

Madam Speaker, I yield such time as she may consume to the gentlewoman from Guam (Ms. BORDALLO).

Ms. BORDALLO. Madam Speaker, I thank my good friend from Arizona for yielding me the time to speak briefly on this resolution which I introduced on July 21 to coincide with the 60th anniversary of the landing of U.S. forces on the beaches of Asan and Agat in southern Guam to liberate the only American community to have been occupied by a foreign power since the War of 1812.

□ 1615

As many of my colleagues realize, Guam was attacked by the Imperial Japanese forces only hours after Pearl Harbor was bombed. The people of Guam endured a 32-month occupation at the hands of the enemy. U.S. forces returned in 1944 to liberate the people of Guam, who remained extraordinarily loyal to the United States of America during the occupation.

The liberation of Guam is a defining moment in our history and in Guam's relationship with the United States. The valor of the U.S. forces who participated in the liberation of Guam is of special significance. The courage of our people of Guam who experienced the war is profoundly noteworthy. Theirs is a story which deserves to be told to all Americans. It is a story of great sacrifice and dignity.

As commemorations of the 60th anniversary of the end of the war in Pacific nears, I am pleased we were able to take the time today to bring recognition to Guam and Peleliu. I thank the gentleman from California (Chairman POMBO) and the gentleman from West Virginia (Mr. RAHALL), ranking member, for their support. I also extend thanks to the gentleman from Arizona (Mr. FLAKE) and the gentleman from American Samoa (Mr. FALEOMAVAEGA), cochairmen of this resolution, for bringing recognition to these events. I thank the many other cosponsors and urge unanimous agreement.

Mr. GRIJALVA. Madam Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Madam Speaker, let me take this opportunity to thank the gentleman from Arizona and especially the gentlewoman from Guam for bringing forth this resolution.

Having visited that wonderful territory on two different occasions and having participated in a veterans' ceremony there in Guam, I know how very important it is that this piece of legislation commemorate the courage of the Guamanians in their struggle for freedom. I think it is certainly fitting and appropriate. I thank the gentleman for this opportunity to speak in favor of the measure.

Mr. RADANOVICH. Madam Speaker, I yield 1 minute to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Madam Speaker, I thank the gentleman from California for yielding me this time.

I want to thank the gentlewoman from Guam (Ms. BORDALLO) for bringing this forward. We had the opportunity earlier this year to go to Guam and visit the beautiful island and stand on the overlook overlooking Asan Beach where over 12,000 Americans died retaking that island. As the gentlewoman from Guam (Ms. BORDALLO) said, the people of Guam were extremely loyal during that period of occupation and have been ever since. It is a pleasure to work with her on these issues of importance to people of Guam, and I urge agreement of this resolution.

Mr. RADANOVICH. Madam Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Madam Speaker, I yield such time as he may consume to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I too would like to echo the sentiments expressed earlier by the gentleman from Arizona (Mr. FLAKE).

One wonders what does a landlocked State like Arizona have in common with the Island of Guam? I say it quite simply, Madam Speaker: We are all Americans. And I certainly commend the gentleman's sentiments and his remarks concerning the celebration of the 60th anniversary of the liberation of Guam as expressed by House Resolution 737 offered by the gentlewoman from Guam (Ms. BORDALLO).

I also would like to extend my appreciation to the gentleman from California for his management of this legislation. I thank the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL) as chairman and the ranking member of the Committee on Resources. And I would be remiss if I did not also express my appreciation to the gentleman from Missouri (Mr. SKELTON), ranking member of the Committee on Armed Services for his compliments concerning this proposed legislation.

One of the things that I would like to share with my colleagues about this occasion, the 60th anniversary of the liberation of Guam, and it is one of the dark pages of our history, the fact that the U.S. nationals, Chamorros, who were militarily under the Imperial Japanese forces for some 2 years and 8 months, the question has always come to mind why these U.S. nationals who owed allegiance to the United States were never evacuated along with U.S. citizens before the oncoming forces of the Imperial Japanese naval and armed forces coming to this island? I need to remind my colleagues of the atrocities that were committed against these U.S. nationals, Chamorros. I recall rather distinctly our former colleague, the gentleman from Guam, Bob Underwood's relatives who were summarily executed by the Japanese in the occupation for 2 years and 8 months before, finally, U.S. forces came to liberate these loyal Americans.

I sincerely hope that perhaps we need to look at this with greater depth and appreciation of what the sacrifices that these U.S. nationals, who owed permanent allegiance to the United States, had suffered and why we never were able to evacuate them as we should have along with all the U.S. citizens who were on that island.

Again I want to thank the gentlewoman from Guam (Ms. BORDALLO) for proposing this resolution and thank the members of the Committee on Resources and the gentleman from California for his support of this legislation.

I urge my colleagues to agree to House Resolution 737.

Mr. GRIJALVA. Madam Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and agree to the resolution, H. Res. 737.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

COLORADO RIVER INDIAN RESERVATION BOUNDARY CORRECTION ACT

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2941) to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, FINDINGS, PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the "Colorado River Indian Reservation Boundary Correction Act".

(b) FINDINGS.—Congress finds the following:

(1) The Act of March 3, 1865, created the Colorado River Indian Reservation (hereinafter "Reservation") along the Colorado River in Arizona and California for the "Indians of said river and its tributaries".

(2) In 1873 and 1874, President Grant issued Executive Orders to expand the Reservation southward and to secure its southern boundary at a clearly recognizable geographic location in order to forestall non-Indian encroachment and conflicts with the Indians of the Reservation.

(3) In 1875, Mr. Chandler Robbins surveyed the Reservation (hereinafter "the Robbins Survey") and delineated its new southern boundary, which included approximately 16,000 additional acres (hereinafter "the La Paz lands"), as part of the Reservation.

(4) On May 15, 1876, President Grant issued an Executive Order that established the Reservation's boundaries as those delineated by the Robbins Survey.

(5) In 1907, as a result of increasingly frequent trespasses by miners and cattle and at the request of the Bureau of Indian Affairs, the General Land Office of the United States provided for a resurvey of the southern and southeastern areas of the Reservation.

(6) In 1914, the General Land Office accepted and approved a resurvey of the Reservation conducted by Mr. Guy Harrington in 1912 (hereinafter the "Harrington Resurvey") which confirmed the boundaries that were delineated by the Robbins Survey and established by Executive Order in 1876.

(7) On November 19, 1915, the Secretary of the Interior reversed the decision of the General Land Office to accept the Harrington Resurvey, and upon his recommendation on November 22, 1915, President Wilson issued Executive Order No. 2273 ". . . to correct the error in location said southern boundary line . . ."—and thus effectively excluded the La Paz from the Reservation.

(8) Historical evidence compiled by the Department of the Interior supports the conclusion that the reason given by the Secretary in recommending that the President issue the 1915 Executive Order—"to correct an error in locating the southern boundary"—was itself in error and that the La Paz lands should not have been excluded from the Reservation.

(9) The La Paz lands continue to hold cultural and historical significance, as well as economic development potential, for the Colorado River Indian tribes, who have consistently sought to have such lands restored to their Reservation.

(c) PURPOSES.—The purposes of this Act are:

(1) To correct the south boundary of the Reservation by reestablishing such boundary as it was delineated by the Robbins Survey and affirmed by the Harrington Resurvey.

(2) To restore the La Paz lands to the Reservation, subject to valid existing rights under Federal law and to provide for continued reasonable public access for recreational purposes.

(3) To provide for the Secretary of the Interior to review and ensure that the corrected Reservation boundary is resurveyed and marked in conformance with the public system of surveys extended over such lands.

SEC. 2. BOUNDARY CORRECTION, RESTORATION, DESCRIPTION.

(a) BOUNDARY.—The boundaries of the Colorado River Indian Reservation are hereby declared to include those boundaries as were delineated by the Robbins Survey, affirmed by the Harrington Survey, and described as follows: The approximately 15,375 acres of Federal land described as "Lands Identified for Transfer to Colorado River Indian Tribes" on the map prepared by the Bureau of Land Management entitled "H.R. 2981, Colorado River Indian Reservation Boundary Correction Act, and dated May 14, 2004", (hereinafter referred to as the "Map")

(b) MAP.—The Map shall be available for review at the Bureau of Land Management.

(c) RESTORATION.—Subject to valid existing rights under Federal law, all right, title, and interest of the United States to those lands within the boundaries declared in subsection (a) that were excluded from the Colorado River Indian Reservation pursuant to Executive Order No. 2273 (November 22, 1915) are hereby restored to the Reservation and shall be held in trust by the United States on behalf of the Colorado River Indian Tribes.

(d) EXCLUSION.—Excluded from the lands restored to trust status on behalf of the Colorado River Indian Tribes that are described in subsection (a) are 2 parcels of Arizona State Lands identified on the Map as "State Lands" and totaling 320 acres and 520 acres.

SEC. 3. RESURVEY AND MARKING.

The Secretary of the Interior shall ensure that the boundary for the restored lands described in section 2(a) is surveyed and clearly marked in conformance with the public system of surveys extended over such lands.

SEC. 4. WATER RIGHTS.

The restored lands described in section 2(a) and shown on the Map shall have no Federal reserve water rights to surface water or ground water from any source.

SEC. 5. PUBLIC ACCESS.

Continued access to the restored lands described in section (2)(a) for hunting and other existing recreational purposes shall remain available to the public under reasonable rules and regulations promulgated by the Colorado River Indian Tribes.

SEC. 6. ECONOMIC ACTIVITY.

(a) IN GENERAL.—The restored lands described in section (2)(a) shall be subject to all rights-of-way, easements, leases, and mining claims existing on the date of the enactment of this Act. The United States reserves the right to continue all Reclamation projects, including the right to access and remove mineral materials for Colorado River maintenance on the restored lands described in section (2)(a).

(b) ADDITIONAL RIGHTS-OF-WAY.—Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way, expansions, or renewals of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners or existing right-of-way holders, or their successors and assigns, if—

(1) the proposed right-of-way is necessary to the needs of the applicant;

(2) the proposed right-of-way acquisition will not cause significant and substantial harm to the Colorado River Indian Tribes; and

(3) the proposed right-of-way complies with the procedures in part 169 of title 25, Code of Federal Regulations consistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests on trust lands, except that section 169.3 of those regulations shall not be applicable to expansions or renewals of existing rights-of-way for roads and utilities.

(c) FEES.—The fees charged for the renewal of any valid lease, easement, or right-of-way subject to this section shall not be greater than the current Federal rate for such a lease, easement, or right-of-way at the time of renewal if the holder has been in substantial compliance with all terms of the lease, easement, or right-of-way.

SEC. 7. GAMING.

Land taken into trust under this Act shall neither be considered to have been taken into trust for gaming nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Madam Speaker, I yield myself such time as I may consume.

H.R. 2941, which is sponsored by the gentleman from Arizona (Mr. GRIJALVA), would restore about 16,000 acres of public lands in Arizona to the Colorado River Indian Reservation. Passage of this bill takes us one step closer to righting an historic injustice to the Colorado River Indian Tribes.

I urge passage of the bill, and I will now allow the author to further explain the bill.

Madam Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the Colorado River Indian Reservation Boundary Correction Act, as amended, will correct a longstanding injustice. In the early part of the 20th century, nearly 16,000 acres of land was stripped from the Colorado River Indian Tribes' reservation in response to heavy lobbying from a private mining company that wanted to open up a silver mine in the lands.

The Tribes were never provided with an opportunity to challenge the decision, nor were they ever compensated for the loss their lands. Subsequent reviews by the Department of Interior concluded that the lands were inappropriately removed from the reservation and should be returned to the Tribes.

This legislation does just that. Almost 90 years after the removal of the land, as amended, it would return that land to the reservation for the possibility of economic development, sacred and cultural importance to the Tribes. And it just strikes me that it is a very fitting bill. Just 1 week ago after the opening of the National Museum of the American Indian, which honors the indigenous people of this continent, this bill also honors our agreements and commitments to the native peoples of this land.

I wish to thank all my colleagues and the leadership within the Committee on Resources and the staff for making this bill a priority for passage this session.

Madam Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 2941, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

BROWN TREE SNAKE CONTROL AND ERADICATION ACT OF 2004

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3479) to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Brown Tree Snake Control and Eradication Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) BROWN TREE SNAKE.—The term "brown tree snake" means the species of the snake Boiga irregularis.

(2) COMPACT OF FREE ASSOCIATION.—The term "Compact of Free Association" means the Compacts of Free Association entered into between the United States and the governments of the Federated States of Micronesia and the Republic of the Marshall Islands, as approved by and contained in Public Law 108–188 (117 Stat. 2720; 48 U.S.C. 1921 et seq.), and the Compact of Free Association entered into between the United States and the government of the Republic of Palau, as approved by and contained in Public Law 99–658 (100 Stat. 3673; 48 U.S.C. 1931 et seq.).

(3) FREELY ASSOCIATED STATES.—The term "Freely Associated States" means the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

(4) INTRODUCTION.—The terms "introduce" and "introduction" refer to the expansion of the brown tree snake outside of the range where this species is endemic.

(5) SECRETARY.—The term "Secretary concerned" means—

(A) the Secretary of the Interior, with respect to matters under the jurisdiction of the Department of the Interior; and

(B) the Secretary of Agriculture, with respect to matters under the jurisdiction of the Department of Agriculture.

(6) SECRETARIES.—The term "Secretaries" means both the Secretary of the Interior and the Secretary of Agriculture.

(7) TECHNICAL WORKING GROUP.—The term "Technical Working Group" means Brown Tree Snake Technical Working Group established under the authority of section 1209 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4728).

(8) TERRITORIAL.—The term "territorial", when used to refer to a government, means the Government of Guam, the Government of American Samoa, and the Government of the Commonwealth of the Northern Mariana Islands, as well as autonomous agencies and instrumentalities of such a government.

(9) UNITED STATES.—The term "United States", when used in the geographic sense, means the several States, the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the United States Virgin Islands, any other possession of the United States, and any waters within the jurisdiction of the United States.

SEC. 3. SENSE OF CONGRESS REGARDING NEED FOR IMPROVED AND BETTER COORDINATED FEDERAL POLICY FOR BROWN TREE SNAKE INTRODUCTION, CONTROL, AND ERADICATION.

It is the sense of Congress that there exists a need for improved and better coordinated control, interdiction, research, and eradication of the brown tree snake on the part of the United States and other interested parties.

SEC. 4. BROWN TREE SNAKE CONTROL, INTERDICTION, RESEARCH AND ERADICATION.

(a) FUNDING AUTHORITY.—Subject to the availability of appropriations to carry out this section, the Secretaries shall provide funds to support brown tree snake control, interdiction, research, and eradication efforts carried out by the Department of the Interior and the Department of Agriculture, other Federal agencies, States, territorial governments, local governments, and private sector entities. Funds may be provided through grants, contracts, reimbursable agreements, or other legal mechanisms available to the Secretaries for the transfer of Federal funds.

(b) AUTHORIZED ACTIVITIES.—Brown tree snake control, interdiction, research, and eradication efforts authorized by this section shall include at a minimum the following:

(1) Expansion of science-based eradication and control programs in Guam to reduce the undesirable impact of the brown tree snake in Guam and reduce the risk of the introduction or spread of any brown tree snake to areas in the United States and the Freely Associated States in which the brown tree snake is not established.

(2) Expansion of interagency and intergovernmental rapid response teams in Guam, the Commonwealth of the Northern Mariana Islands, Hawaii, and the Freely Associated States to assist the governments of such areas with detecting the brown tree snake and incipient brown tree snake populations.

(3) Expansion of efforts to protect and restore native wildlife in Guam or elsewhere in the United States damaged by the brown tree snake.

(4) Establishment and sustained funding for an Animal Plant and Health Inspection Service, Wildlife Services, Operations Program State Office located in Hawaii dedicated to vertebrate pest management in Hawaii and United States Pacific territories and possessions. Concurrently, the Animal Plant and Health Inspection Service, Wildlife Services Operations Program shall establish and sustain funding for a District Office in Guam dedicated to brown tree snake control and managed by the Hawaii State Office.

(5) Continuation, expansion, and provision of sustained research funding related to the brown tree snake, including research conducted at institutions located in areas affected by the brown tree snake.

(6) Continuation, expansion, and provision of sustained research funding for the Animal Plant and Health Inspection Service, Wildlife Services, National Wildlife Research Center of the Department of Agriculture related to the brown tree snake, including the establishment of a field station in Guam related to the control and eradication of the brown tree snake.

(7) Continuation, expansion, and provision of sustained research funding for the Fort Collins Science Center of the United States Geological Survey related to the brown tree snake, including the establishment of a field station in Guam related to the control and eradication of the brown tree snake.

(8) Expansion of long-term research into chemical, biological, and other control techniques that could lead to large-scale reduction of brown tree snake populations in Guam or other areas where the brown tree snake might become established.

(9) Expansion of short, medium, and long-term research, funded by all Federal agencies interested in or affected by the brown tree snake, into interdiction, detection, and early control of the brown tree snake.

(10) Provision of planning assistance for the construction or renovation of centralized multi-agency facilities in Guam to support Federal, State, and territorial brown tree snake control, interdiction, research and eradication efforts, including office space, laboratory space, animal holding facilities, and snake detector dog kennels.

(11) Provision of technical assistance to the Freely Associated States on matters related to the brown tree snake through the mechanisms contained within a Compact of Free Association dealing with environmental, quarantine, economic, and human health issues.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretaries to carry out this section (other than subsection (b)(10)) the following amounts:

(1) For activities conducted through the Animal and Plant Health Inspection Service, Wildlife Services, Operations, not more than $2,600,000 for each of the fiscal years 2006 through 2010.

(2) For activities conducted through the Animal and Plant Health Inspection Service, Wildlife Services, National Wildlife Research Center, Methods Development, not more than $1,500,000 for each of the fiscal years 2006 through 2010.

(3) For activities conducted through the Office of Insular Affairs, not more than $3,000,000 for each of the fiscal years 2006 through 2010.

(4) For activities conducted through the Fish and Wildlife Service, not more than $2,000,000 for each of the fiscal years 2006 through 2010.

(5) For activities conducted through the United States Geological Survey, Biological Resources, not more than $1,500,000 for each of the fiscal years 2006 through 2010.

(d) PLANNING ASSISTANCE.—There is authorized to be appropriated to the Secretary of Agriculture and the Secretary of the Interior such amounts as may be required to carry out subsection (b)(10).

SEC. 5. ESTABLISHMENT OF QUARANTINE PROTOCOLS TO CONTROL THE INTRODUCTION AND SPREAD OF THE BROWN TREE SNAKE.

(a) ESTABLISHMENT OF QUARANTINE PROTOCOLS.—Not later than two years after the date of the enactment of this Act, but subject to the memorandum of agreement required by subsection (b) with respect to Guam, the Secretaries shall establish and cause to be operated at Federal expense a system of pre-departure quarantine protocols for cargo and other items being shipped from Guam and any other United States location where the brown tree snake may become established to prevent the introduction or spread of the brown tree snake. The Secretaries shall establish the quarantine protocols system by regulation. Under the quarantine protocols system, Federal quarantine, natural resource, conservation, and law enforcement officers and inspectors may enforce State and territorial laws regarding the illegal transportation, possession, or introduction of any brown tree snake.

(b) COOPERATION AND CONSULTATION.—The activities of the Secretaries under subsection (a) shall be carried out in cooperation with other Federal agencies and the appropriate State and territorial quarantine, natural resource, conservation, and law enforcement officers. In the case of Guam, as a precondition on the establishment of the system of pre-departure quarantine protocols under such subsection, the Secretaries shall enter into a memorandum of agreement with the Government of Guam to obtain the assistance and cooperation of the Government of Guam in establishing the system of predeparture quarantine protocols.

(c) IMPLEMENTATION.—The system of, predeparture quarantine protocols to be established under subsection (a) shall not be implemented until funds are specifically appropriated for that purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section the following amounts:

(1) To the Secretary of Agriculture, not more than $3,000,000 for each of the fiscal years 2006 through 2010.

(2) To the Secretary of the Interior, not more than $1,000,000 for each of the fiscal years 2006 through 2010.

SEC. 6. TREATMENT OF BROWN TREE SNAKES AS NONMAILABLE MATTER.

A brown tree snake constitutes nonmailable matter under section 3015 of title 39, United States Code.

SEC. 7. ROLE OF BROWN TREE SNAKE TECHNICAL WORKING GROUP.

(a) PURPOSE.—The Technical Working Group shall ensure that Federal, State, territorial, and local agency efforts concerning the brown tree snake are coordinated, effective, complementary, and cost-effective.

(b) SPECIFIC DUTIES AND ACTIVITIES.—The Technical Working Group shall be responsible for the following:

(1) The evaluation of Federal, State, and territorial activities, programs and policies that are likely to cause or promote the introduction or spread of the brown tree snake in the United States or the Freely Associated States and the preparation of recommendations for governmental actions to minimize the risk of introduction or further spread of the brown tree snake.

(2) The preparation of recommendations for activities, programs, and policies to reduce and eventually eradicate the brown tree snake in Guam or other areas within the United States where the snake may be established and the monitoring of the implementation of those activities, programs, and policies.

(3) Any revision of the Brown Tree Snake Control Plan, originally published in June 1996, which was prepared to coordinate Federal, State, territorial, and local government efforts to control, interdict, eradicate or conduct research on the brown tree snake.

(c) REPORTING REQUIREMENT.—

(1) REPORT.—Subject to the availability of appropriations for this purpose, the Technical Working Group shall prepare a report describing—

(A) the progress made toward a large-scale population reduction or eradication of the brown tree snake in Guam or other sites that are infested by the brown tree snake;

(B) the interdiction and other activities required to reduce the risk of introduction of the brown tree snake or other nonindigenous snake species in Guam, the Commonwealth of the Northern Mariana Islands, Hawaii, American Samoa, and the Freely Associated States;

(C) the applied and basic research activities that will lead to improved brown tree snake control, interdiction and eradication efforts conducted by Federal, State, territorial, and local governments; and

(D) the programs and activities for brown tree snake control, interdiction, research and eradication that have been funded, implemented, and planned by Federal, State, territorial, and local governments.

(2) PRIORITIES.—The Technical Working Group shall include in the report a list of priorities, ranked in high, medium, and low categories, of Federal, State, territorial, and local efforts and programs in the following areas:

(A) Control.

(B) Interdiction.

(C) Research.

(D) Eradication.

(3) ASSESSMENTS.—Technical Working Group shall include in the report the following assessments:

(A) An assessment of current funding shortfalls and future funding needs to support Federal, State, territorial, and local government efforts to control, interdict, eradicate, or conduct research on the brown tree snake.

(B) An assessment of regulatory limitations that hinder Federal, State, territorial, and local government efforts to control, interdict, eradicate or conduct research on the brown tree snake.

(4) SUBMISSION.—Subject to the availability of appropriations for this purpose, the Technical Working Group shall submit the report to Congress not later than one year after the date of the enactment of this Act.

(d) MEETINGS.—The Technical Working Group shall meet at least annually.

(e) INCLUSION OF GUAM.—The Secretaries shall ensure that adequate representation is afforded to the government of Guam in the Technical Working Group.

(f) SUPPORT.—To the maximum extent practicable, the Secretaries shall make adequate resources available to the Technical Working Group to ensure its efficient and effective operation. The Secretaries may provide staff to assist the Technical Working Group in carrying out its duties and functions.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to each of the Secretaries not more than $450,000 for each of the fiscal years 2006 through 2010 to carry out this section.

SEC. 8. MISCELLANEOUS MATTERS.

(a) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated under this Act shall remain available until expended.

(b) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated to carry out this Act for a fiscal year, the Secretaries may expend not more than five percent to cover the administrative expenses necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Madam Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST), chairman of the Fisheries Conservation, Wildlife and Oceans Subcommittee of the Committee on Resources, to explain this legislation.

Mr. GILCHREST. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, H.R. 3479, the Brown Tree Snake Control and Eradication Act of 2004, introduced by the distinguished gentlewoman from Guam (Ms. BORDALLO), has wide support.

This particular species, the brown tree snake, has been an awful nemesis on Guam for 50 years. It has virtually eradicated all of the local bird population that nests on the ground. It has been a problem for many decades, and the gentlewoman from Guam (Ms. BORDALLO) has been relentless to bring that to our attention to do something about it.

This particular bill offers a number of approaches and solutions. It broadens the level of Federal involvement and research in the brown tree snake programs in Guam. It requires the establishment of predeparture quarantine protocols so the brown tree snake does not go anywhere else in the South Pacific. It declares that the brown tree snake is nonmaleable, thank goodness for that; clarifies the role of the brown tree snake technical working group, and authorized an enhanced level of Federal financial assistance. So basically the gentlewoman from Guam (Ms. BORDALLO) has created a structure upon which it is possible, and many people thought it was impossible up to this point, to actually eradicate the brown tree snake.

In my district in Maryland we have had a problem with an invasive species called the nutria, a rat that weighs about 30 pounds, from South America. It has been a significant problem for about the same period of time, but because of a similar proposal structure, Federal involvement, State involvement, and so on, we have neared the time where we are eradicating that particular species.

So I want to compliment the gentlewoman from Guam. We will work with her until the day that there are no brown tree snakes in Guam at all.

Mr. GRIJALVA. Madam Speaker, I yield myself such time as I may consume.

I would like to commend the gentlewoman from Guam (Ms. BORDALLO), the sponsor of this bill, for bringing forth this very important legislation.

Madam Speaker, I yield such time as she may consume to the gentlewoman from Guam (Ms. BORDALLO).

Ms. BORDALLO. Madam Speaker, first I would like to thank the gentleman from Maryland (Chairman GILCHREST) for his very kind words in support of this measure.

As this is the last in a number of the Committee on Resources' bills to come to the floor today, I want to also take the opportunity to thank the gentleman from California (Chairman POMBO) and the gentleman from West Virginia (Mr. RAHALL), ranking member, for the largely bipartisan and cooperative nature by which they conduct the committee's business. Such has been my experience as a freshman, and I am very proud to serve on the committee with them.

I want to especially thank them and their staff for their assistance with this bill. The Brown Tree Snake Control and Eradication Act of 2004 will bring more Federal attention and cooperative support for dealing with the critical ecological threat in the Pacific region, the brown tree snake, a harmful invasive species. The cooperation directed in this legislation will actually save the Federal Government money by coordinating Federal activities more efficiently and focusing on the goal of eradication.

H.R. 3479 has been a joint and collaborative effort between myself and the gentleman from Hawaii (Mr. CASE) and the gentleman from Hawaii (Mr. ABERCROMBIE). Together we have worked successfully with stakeholders in our district to produce a good bill.

Again, I want to thank the gentleman from Maryland (Chairman GILCHREST) for his support and the gentleman from New Jersey (Mr. PALLONE), ranking member, and their staff, for their support and due diligence in this process.

□ 1630

I also want to extend my appreciation to the gentleman from Virginia (Chairman GOODLATTE); the ranking member, the gentleman from Texas (Mr. STENHOLM); and their staff for working with us on the provisions under the Committee on Agriculture's jurisdiction.

H.R. 3479 recognizes that a coordinated effort on the part of the public and private sectors with requisite accountability is essential to the successful prevention, control, and management of the brown tree snake. With the support of the House today, we can get the direction and resources needed to step up the level of protection for the ecological and economic interests of Guam, the Northern Marianas Islands, Hawaii, and the mainland of the United States.

Mr. CASE. Madam Speaker, I urge my colleagues to support House passage of H.R. 3479, the Brown Tree Snake Control and Eradication Act of 2004.

Last November I was pleased to join with my colleagues from Guam, Congresswoman MADELEINE Z. BORDALLO, and Congressman NEIL ABERCROMBIE from Hawaii, in introducing this important legislation.

This bill proposes a long-overdue comprehensive approach, through the Departments of Interior and Agriculture, to eradicate the brown tree snake in Guam and to prevent its introduction to jurisdictions in the Pacific, including my home state of Hawaii. There are other Federal agencies, particularly the Departments of Defense and Homeland Security, that are crucial to our efforts, and I am fully supportive of resources and funding expended by or given to these agencies in combating the brown tree snake.

I greatly appreciate the assistance of my colleagues on the House Resources and Agriculture Committees for their hard work on bringing this bill to the floor: House Resources Committee Chairman RICHARD POMBO and Ranking Member NICK RAHALL; House Resources Subcommittee on Fisheries Conservation, Wildlife and Oceans Chairman WAYNE GILCHREST and Ranking Member FRANK PALLONE; House Agriculture Committee Chairman BOB GOODLATTE and Ranking Member CHARLES STENHOLM; and House Agriculture Subcommittee on Livestock and Horticulture Chairman ROBIN HAYES and Ranking Member MIKE ROSS.

The devastating ecological, economic, and human health impacts of the brown tree snake have been long known among the affected jurisdictions in the Pacific and the federal, state, and territorial agencies charged with implementing brown tree snake preventative control and eradication programs.

However, it is clear that unless we address this challenge with a long-term, coordinated, and comprehensive approach, Guam will continue to struggle with the adverse impacts of the brown tree snake, and we in Hawaii will increasingly risk the introduction of the snake into our fragile environment. A total of eight brown tree snakes have been found live or dead in Hawaii since the mid-1980s. All have been associated with the movement of civilian and military vehicles or cargo from Guam.

Most recently, I joined my colleagues from the Hawaii Congressional delegation in expressing our concerns to and seeking funding assistance from Secretary of Defense Donald Rumsfeld in response to the proposed reduction in inspection and trapping services at and around Guam military and civilian ports by up to 50 percent this November. These operations, which are run by APHIS Wildlife Services, annually interdict 6,000–7,000 snakes. Since the DOD benefits significantly from such operations, and is expected to increase its own presence in activities and movements to and from Guam as much as three times in the next five years, it is imperative that all military operational expansion and construction planning on Guam should include brown tree snake control and interdiction design measures and protocols. DOD should consider such funding as part of its base operational and readiness plans.

As background, the brown tree snake was accidentally introduced into Guam in the late 1940s and 1950s, likely via U.S. military cargo, from an area in the Pacific where the snakes are native. Unfortunately, because Guam had no natural predator but abundant prey, the brown tree snake population spread throughout the island.

Because the brown tree snake's preferred prey is birds, it is directly responsible for the extinction of 9 of 134 native forest birds and 3 of 12 native lizards on Guam. Economically, the snakes have caused more than 1,600 power outages over a 20-year period in Guam, costing the island $4.5 million per year without considering their impact on transformers, and damages inside electrical substations. The disruptions affect all aspects of everyday life in homes and work, as well as for the government and the business community.

In Hawaii, the brown tree snake represents one of the greatest terrestrial ecological threats due to its potential impact on our endangered bird species, which are found nowhere else on earth. As a result of Hawaii's geographical isolation and lush environment, there were more than 140 endemic bird species in the islands prior to human contact. Today, among the remaining 71 endemic forms, 30 are federally listed as endangered, and 15 of these are on the brink of extinction. Any negative impact on our native bird species in Hawaii will inevitably impact our native flora as well. Hawaii has the highest known number of endemic terrestrial plants of any major island group.

Economically, a University of Hawaii study estimates that the introduction of the brown tree snakes to Hawaii will cause between $28 million and $450 million annually in electrical power outages. This does not include the potential devastation to our agriculture industry. In Guam, the brown tree snake has contributed to the decline in production of the island's agriculture industry, particularly the commercial poultry industry, because the snakes eat eggs and chicks. The snake has also impacted the growing of fruits and vegetables because insects that are no longer naturally controlled by birds and lizards inflict increased damage on crops.

To address the brown tree snake problem, a Brown Tree Snake Control Committee was established subsequent to provisions in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. A multi-agency Memorandum of Agreement on Brown Tree Snake Control was also signed in 1992 and renewed in 1999. However, it expired in March of this year.

The Brown Tree Snake Control and Eradication Act will statutorily authorize a process to ensure the ongoing activities of federal agencies, enhance their effectiveness, provide the necessary resources from agencies actually conducting the work, and strengthen the coordination between federal and regional stakeholder in Hawaii and the Pacific in a more systemic fashion.

Among the authorized activities is the expansion of science-based eradication and control programs in Guam; the expansion of interagency and intergovernmental rapid response teams in Guam, the Commonwealth of the Northern Mariana Islands, and Hawaii; the expansion of efforts to protect and restore native wildlife in Guam or elsewhere damaged by the brown tree snake; continuation and expansion of sustained research funding from the Animal Plant and Health Inspection Service (APHIS), Wildlife Services, and National Wildlife Research Center, including the establishment of an APHIS, Wildlife Services, Operations Program State Office located in Hawaii; and the expansion of long-term research into chemical and biological control techniques that could lead to large-scale reduction of brown tree snake populations in Guam.

H.R 3497 is a product of collaboration between my office, the offices of Congresswoman BORDALLO and Congressman ABERCROMBIE, and the key Federal, State, and territorial stakeholders in the region. While the brown tree snake is just one of the more serious of many invasive species threats to Hawaii, the mechanisms strengthened and established under H.R. 3479 can serve as an exemplary model for addressing other invasive species issues, not just in Hawaii, but in our whole country.

The bill is supported by the Hawaii Department of Agriculture, the Hawaii Department of Land and Natural Resources, the Hawaii Invasive Species Council, the Nature Conservancy of Hawaii, the Coordinating Group on Alien Species, and others. Such coordinated support in Hawaii is illustrative of the seriousness that we take this issue and the assistance the federal government can anticipate receiving after enactment of this bill. Hawaii's stakeholders will not be silent and passive partners in this effort.

I am specially proud about the establishment of the Hawaii Invasive Species Council, which includes key State, county and Federal head officials in Hawaii, by legislation approved by the 2003 Hawaii State Legislature and Hawaii Governor Linda Lingle.

I understand that Hawaii is now only one of seven states in the country to establish such a council in addressing invasive species prevention and response measures at the State level.

Again, I urge my colleagues to support this important legislation.

Mr. ABERCROMBIE. Madam Speaker, I rise today in support of H.R. 3479, the Brown Tree Snake Control and Eradication Act of 2004. This measure will not only ensure continued security for Hawaii and Guam, but the entire Pacific region.

The Hawai'i Biological Survey has documented that an average of 177 alien species arrive in the State of Hawai'i each year. Out of all the possible alien plants and animals that could make their way to the Hawaiian Islands, one of the most feared is the brown tree snake.

The brown tree snake arrived in Guam on military materiel transport from the Solomon Islands after World War II. Because Guam has no natural predator for the brown tree snake, the snakes have been able to flourish and have been recorded as high as 10,000 snakes per acre. The brown tree snake is blamed for the extinction of 9 out of 11 bird species native to Guam. These snakes also cause frequent and costly power outages and are known to bite humans. Like Guam, Hawaii has no native snakes and no natural predators for snakes. Only one pregnant brown tree snake needs to reach Hawaii in order for the State to experience the same catastrophic consequences as Guam.

Wildlife Services under the Animal and Plant Health Inspection Service in the Department of Agriculture provides brown tree snake control on Guam by inspecting outgoing military and civilian cargo and providing trapping services at Guam's ports. These services interdict 6,000 to 7,000 snakes annually and have proved to be very successful in keeping the brown tree snake out of Hawaii.

For the past 10 years, the funding for these services has remained fixed. The program was able to make up for inflation and increasing costs by stopgap measures that have enabled them to continue services. However, this is no longer possible. Unforeseen vehicle repair or replacement costs, critical travel associated with program delivery, required training for staff, increased costs of operations and growing containment responsibilities are forcing significant reductions in operations. Compounding the problem, Wildlife Services has been informed by Anderson Air Force Base that it will have to begin to pay for in-kind services that have been provided to the program at no cost since 1994. To compensate for this additional unanticipated financial burden, further reductions in staffing are anticipated in early fiscal year 2005.

H.R. 3479 would begin to resolve these problems by recognizing the seriousness of the threat posed by the brown tree snake. This legislation authorizes the Departments of Agriculture and Interior to fund brown tree snake interdiction and control efforts and provide grants for these efforts. Just as important, this measure would support research efforts to control and eventually eradicate this harmful species from Guam. Current funding does not allow for in depth research that could lead to less labor intensive solutions than the current bait and trap method. This legislation also requires the establishment of pre-departure quarantine protocols for persons and cargo traveling from Guam. This will ensure that this species is not able to spread to other Pacific destinations.

Madam Speaker, this legislation is being considered at a crucial point in time. I urge my colleagues to support this bill and thank Chairman POMBO and Ranking Member RAHALL for their continued efforts to address the problems of the distant Pacific. I would also like to thank Congresswoman BORDALLO and her staff. Without the effort of all of these parties, this legislation would not be before the House today.

Mr. GRIJALVA. Madam Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 3479, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. SAXTON. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MS. PELOSI

Ms. PELOSI. Madam Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Ms. Pelosi moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4200 be instructed to agree to the provisions contained in title XXXIV of the Senate amendment (relating to the enhancement of local law enforcement and the prohibition of hate crimes).

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentlewoman from California (Ms. PELOSI) and the gentleman from Florida (Mr. FEENEY) each will control 30 minutes.

The Chair recognizes the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today to offer a motion to instruct conferees to the defense authorization bill to agree to the hate crimes prevention provisions contained in the Senate bill.

I thank the gentleman from Missouri (Mr. SKELTON), our ranking member on the Committee on Armed Services, for his commitment to including hate crimes prevention provisions in this bill.

Before I speak to the motion, I want to speak to the excellent credentials of the gentleman from Missouri (Mr. SKELTON). Every man and woman in uniform in our country, whether regular service or Reserves or National Guard, owes a deep debt of gratitude, as does our entire country, for his commitment to the national security of our country and to his commitment for the well-being of our troops in the United States and certainly in harm's way.

I have seen firsthand the respect that they have for him, both at Whiteman Air Force Base in Missouri, in his own district, and in Iraq and Afghanistan, where we have seen them in the theater of war. I say to the gentleman from Missouri (Mr. SKELTON), thank you for your magnificent leadership and service to our country.

Madam Speaker, hate crimes have no place in America. I think we can all agree to that. All Americans have a right to feel safe in their communities. Yet FBI statistics continue to demonstrate a high level of hate crimes in our country. Federal hate crimes prevention legislation is the right thing to do, and it is long overdue.

Some opponents argue that there is no need for Federal hate crimes prevention legislation because assault and murder are already crimes. However, when individuals are targeted for violence because of their race, sexual orientation, religion, national origin, gender or disability, the assailant intends to send a message to all members of that community. The message is, you are not welcome.

When violence is visited upon people because of who they are, the color of their skin, how they worship and who they love, we all suffer. When this happens to one of us, it happens to all of us.

We all will remember very sadly the brutal murders of James Byrd in Texas, Matthew Shepard in Wyoming, Waqar Hasan in Texas, and Gwen Araujo in my own State of California.

Current law limits Federal jurisdictions to "federally protected" activities such as voting and does not permit Federal jurisdiction over violent crimes motivated by bias against the victim's sexual orientation, gender, or disability.

The gentleman from Michigan (Mr. CONYERS), our distinguished ranking member on the Committee on the Judiciary and a great leader in civil liberties and protecting the American people and public safety, has introduced H.R: 4204, the Local Law Enforcement Hate Crimes Act, to expand Federal jurisdiction to include hate crimes. Along with 175 of my colleagues, I am proud to cosponsor his bill; and I commend the gentleman from Michigan (Mr. CONYERS) for his untiring leadership and commitment to this and so many other issues. Thank you for your leadership.

When State and local law enforcement do not have the capacity to prosecute hate crimes, this bill would permit Federal prosecution regardless of whether a federally protected activity is involved.

This legislation would increase the ability of local, State, and Federal law enforcement agencies to solve and prevent a wide range of violent hate crimes. Numerous law enforcement organizations, including the International Association of Chiefs of Police, support the need for Federal hate crimes legislation.

Four years ago, both Houses of Congress supported the hate crimes prevention provisions on a bipartisan basis as part of the defense authorization bill, only to see those provisions stripped by the conference committee. We cannot let that happen again.

This June the Senate, the other body, adopted an amendment to include language identical to H.R. 4204 in its version of the defense authorization bill on a strong bipartisan vote.

Today we have the opportunity to put the House on record in favor of Federal hate crimes prevention provisions. We must not allow the provisions to be stripped in conference again. We must continue to fight for justice, hope, and freedom by ensuring that hate crimes prevention provisions are enacted into law. That would be a true and fitting memorial to James Byrd, Matthew Shepard, Waqar Hasan, Gwen Araujo and so many others who have died because of ignorance and intolerance.

I urge my colleagues to support this motion to instruct.

Madam Speaker, I yield the balance of my time to the gentleman from Michigan (Mr. CONYERS) and ask unanimous consent that he control said time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mr. FEENEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, whatever any one of us thinks about the merits of the specific language, it does not belong in a defense authorization bill. If these provisions were introduced as a freestanding piece of legislation, they would have been referred to the Committee on the Judiciary; and that is where they should appropriately be dealt with, not in a conference on a wholly unrelated topic.

Second and more importantly, let me address the merits of the proposal before us. All of us, as the gentlewoman from California pointed out, all of us deplore hate crimes. The perpetrators of such crimes deserve the harshest punishment under the law as the law allows. The evidence indicates that they are receiving such punishments under the current law in a wide majority of the cases.

However, this really is misnamed as a hate crimes piece of legislation. What it ought to be called is an unequal protection proposal, because what this bill basically does is to say that the dignity and the property and the person and the life of some Americans gets less protection under the law if we pass this amendment than other American lives. That sort of unequal treatment is exactly what the 14th amendment was designed to prohibit, in my view.

I completely understand the positions of those who want this legislation, but I fear they have not fully thought through the potential consequences of adopting this legislation.

When someone is murdered because the killer does not like the color of their skin, that killer deserves harsh punishment; but the killer deserves it because the victim is a human, not because of the killer's hateful thoughts.

We must honor the victim's humanity and do justice, irrespective of the race, gender, the sexual orientation, or any other given trait. It is the victim's humanity that matters here. Nothing that the killer has thought about the victim can alter the value of that human's life which has been taken.

This proposal does not target hate crimes; it just specifies certain types of hate crimes for special treatment. I think we go down the wrong road here when we value certain lives differently because of race, gender or other factors, and believe that the hate crimes provisions tend to do that. That road leads to all sorts of mischief that I do not like to think the well-meaning sponsors of this proposal intend to accomplish.

So I ask that we continue to honor the value that all human life is precious, and value it no matter what the person's skin color is, no matter what some vicious criminal thought of that person's skin color.

Justice ultimately ought to turn on the fundamental worth of the human being and not the thoughts of the specific criminal. Article XIV of our Constitution guarantees equal protection under the law. But in this regard, I would ask what about other groups that have not been targeted for special protection under this piece of legislation? What about children? What about senior citizens? What about the infirm, disabled, teachers, seniors, mailmen, women, veterans, and even public servants who may be the victims of the ultimate hate crime, terrorism?

The same spirit that hate compels a criminal to commit a crime due to one's race, gender or religious persuasion also may compel him or her to commit a crime against anyone in these and many other groups. Yet these others are excluded from protection. Under this hate crime proposal, they are protected and they are treated unequally.

So we oppose the inclusion of these provisions. The so-called hate crimes provision is a political feel-good statement that is anti-prosecution and anti-law enforcement and makes it less likely that violent criminals will ultimately be convicted and punished.

The bill will make it easier for criminals to create a shadow of a doubt and evade conviction for certain types of crimes if the prosecutor decides to roll the dice and include the necessity to prove the burden of intent based on race or the other special categories set out in the bill. It increases the burden on the prosecution to prove one additional element, and it increases the opportunities that criminals and their defense attorneys will have to create that certain shadow of a doubt and ultimately escape justice altogether.

Madam Speaker, I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I am delighted to yield such time as he may consume to the distinguished gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services.

Mr. SKELTON. Madam Speaker, I thank the gentleman from Michigan for yielding me time.

I do rise in support of this motion to instruct conferees on the National Defense Authorization Act.

Madam Speaker, our Nation has seen far too many cases of violent criminal acts related to prejudice, bigotry, and intolerance. The Federal Bureau of Investigation has reported a significant number of cases involving violence directed against a member of a religious, ethnic, disabled, race-based, or gender-specific association. Statistics show that nearly 8,000 acts of violence have occurred annually since 1994. Society cannot and should not tolerate the cowardly, mean-spirited, and hateful acts that we call hate crimes.

Indeed, such hate-based acts have a deeper impact on society than many other crimes. They are injurious to the community, and they are often committed by offenders affiliated with large extended groups operating across State lines.

I think all of us at one point or another in our lives have seen the ugly face of prejudice, bigotry, and discrimination. When hatred is a motivating factor in the commission of a crime, I believe it should be an aggravating factor that is taken into account in the sentencing process.

Moreover, Madam Speaker, as a former trial lawyer and State prosecuting attorney, I do not view the Senate proposal lightly. Although the ability to prosecute crimes against individuals exists today, the Senate bill would provide prosecutors with more tools with which to fight crimes and in which bias, prejudice, and discrimination are motivating factors.

The Senate bill is narrowly tailored. A hate crime would occur only if the person charged deliberately committed or tried to commit an act of violence resulting in bodily injury to another person. In addition, the Senate language only speaks to crimes involving the use of fire, a firearm, an explosive, or an incendiary device. So this is not a case which would criminalize free speech or would address a broad range of conduct.

Madam Speaker, agreeing to the Senate language is simply the right thing to do, and I urge my colleagues to support this instruction.

Mr. FEENEY. Madam Speaker, before I yield, I yield myself such time as I may consume.

Madam Speaker, I appreciate the esteemed gentleman from Missouri's comments. I happen to agree that in terms of sentencing, there ought to be consideration of certain aggravating factors like hate and bigotry, as he expressed.

□ 1645

I believe that under the current Federal sentencing guidelines for virtually all, if not all Federal crimes, that is exactly what the guidelines permit now, but they do not create the burden of a separate element.

Madam Speaker, I yield 4 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Madam Speaker, I thank the gentleman for yielding me this time.

This is an issue, I think, that moves some of us to come to the floor to talk about it, because it sends us down a path that is awfully hard to get back from.

One of the questions that we need to answer here before this Congress is, what is a hate crime? And that question seems real simple, but the answer to that question is almost always, any crime committed against any individual, especially a violent crime, which requires a certain amount of hatred or jealously, a certain kind of emotional attachment or emotional reaction from the perpetrator towards the victim. I do not know how you could assault or murder or rape someone without having anger or hatred or fury in you.

So I will say that any of these crimes here that we are talking about with regard to this are all hate crimes.

The question is, what is not a hate crime? I do not have much of an answer to that, unless it be a crime against property rather than people, but I do not believe you can commit a crime against people and not feel an emotional effect one way or another on their personality.

So we have two significant cases here that were mentioned by the gentlewoman, the Minority Leader, the James Byrd case and the Matthew Shepard case. In both of those cases, there were murders committed in a most violent, hateful fashion. Also, there have been many other murders committed in this country in a violent, hateful fashion, but the perpetrators of those crimes, the murderers of James Byrd and Matthew Shepard, were quickly apprehended, prosecuted and sentenced to death. What more would we choose to do to people who have committed hate crimes than sentence them to the ultimate penalty, which I believe they deserve most vigorously?

Another misconception that I believe is here is that the list of those categories that would be used to define hate crimes, that list is: actual or perceived race, color, religion, national origin, ethnicity, gender, disability or sexual orientation of any person. That list sounds suspiciously like title VII of the Civil Rights Act, except it has been amended in a couple of places. In one place, it has replaced the word "sex" with the word "gender." Gender is what you think you are; sex is what you physiologically are. So only the person who is the bearer of gender can know what their gender is, and anything else that can be an independently verified, immutable characteristic is what sex is. Sexual orientation is another thing. That is self-identifying.

So we would put people in jail or potentially execute them for crimes committed when they may not even know the circumstances. Those two words are not legally sustainable, and they send us down a very dangerous path.

There is a question of federalism. The States are to be reserved everything that is not specifically designed in the Constitution, and yet we are reaching into the States' province here and stepping across them and saying, but we know better here in Congress, better than you know in Wyoming, better than you know in Texas, better than you know in Iowa. I believe it is better off left up to the States. But I would oppose hate crimes in the States because they are discriminatory in their nature. They discriminate in favor of certain groups and against other groups, and sometimes, they backlash.

If we look statistically, and I have seen some of those in my internet blog searches, about how the hate crimes have backlashed, and there are more Caucasians now, American whites, that are using hate crimes against minorities. Where you have a prosecutor who is willing to go down that path, you are going to see this happen. There will also be the backlash on the prosecutor. When that prosecutor chooses to prosecute a crime and call it a hate crime, some of the people in the public will say, no, that is racist, that is bigoted for one reason or another. Or, if he chooses not to, there is going to be the challenge that he decided not to for discriminatory reasons. It opens up a whole other world here.

I would just boil it down to this, that we are all equal under the law. This Nation is a nation of equal rights for individuals. When God created us, he did not draw a distinction between us, and neither should we in our Federal law.

Mr. CONYERS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this is the only civil rights measure that we will be considering in this Congress, and it is the first civil rights measure, as distinguished from voter rights, that we have handled on this floor since 1968 when 18 U.S.C. 242 was amended.

Please, let us understand that we have witnessed a dramatic increase in hate-motivated violence. The definitions are very clear. To my friends who have wondered what a hate crime is, there are 8,000 hate crimes each year.

I want my colleagues to know that we have already approved of this. The House has voted on this measure. The Senate has voted on this measure. And now, we are doing the same thing again.

For all of my colleagues who want to know where law enforcement stands on this, please know that the Police Foundation endorses the measure. The National Sheriff's Association endorses this measure. The International Association of Chiefs of Police endorses the measure. The Police Executive Research Forum likewise. So we have law enforcement realizing that we need a comprehensive law banning hate crimes, and what this bill essentially does is modify the Federal nexus that is connected with it.

Please, let us understand that this is the only opportunity we will have to go on record to show that we want to assist States in prosecuting their hate crimes by re-endorsing and re-supporting this measure.

Madam Speaker, I reserve the balance of my time.

Mr. FEENEY. Madam Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Madam Speaker, I thank the gentleman from Florida for yielding me this time.

I rise in opposition to this motion by the gentlewoman from California. I believe sincerely all violent crimes are hate crimes regardless of race or any other classification.

My concern is, today, that as we begin to move down this road, what will happen to freedom of speech in this country? Some people might say, well, you are missing the big picture. Maybe I am, but I can tell my colleagues what has happened in Sweden already. A minister who spoke from the Bible and talked about certain lifestyles not being acceptable in the Bible spent a month in jail for speaking out and preaching.

I believe in compassion. I believe in respect. I believe in the civil rights of each and every one of us who lives in this great Nation. But my concern sincerely is that we might have it one day, as they do in other countries that have outlawed the use of Roman Catholic teachings and also Islamic teachings about certain lifestyles that are not acceptable based on their religion, and I would hate to see that happen in this great Nation.

Yes, I want to see every crime that is committed against any American, no matter what their lifestyle is, I want to see that person who committed the crime to go to jail. I believe in the death penalty, as my voting record would say. But I am saying here today, if we pass this motion and send this back, the Senate language, we will begin to go down the road of where one day, I am afraid; it has happened in Canada, it has happened in Sweden. I am afraid, one day, what we will see happen in this country is that certain religious leaders will have their free speech threatened, and I do not want to see that happen.

Mr. CONYERS. Madam Speaker, I am pleased to yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK), a senior member of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Madam Speaker, I am torn. I cannot decide which argument has less merit. There was the gentleman from Florida who said, do not take it up on this bill; it is in the jurisdiction of the Committee on the Judiciary. It is in the dungeon of the Committee on the Judiciary. I envy the gentleman's ability to say that without smiling. This bill is introduced, and it is sent to the Committee on the Judiciary. And that committee, of which he is a member, consistently refuses to take any action on it. Of course, it would be better if the Committee on the Judiciary did its duty and had a markup and let us vote on the bill.

The Committee on the Judiciary tyrannically refuses to deal with the bill. That is bad enough. But it literally adds insult to the democratic process to injury of the democratic process to refuse to act on the bill, and then complain when people find another way around. This is like locking somebody up, and she escapes through your backyard, and you charge her with trespassing. We have found a way out of your prison, and that bothers you. How can anyone seriously argue that, having refused to let the bill be subjected to the normal processes, we are the ones who are at fault because we have found another way to bring it up?

And then we have the gentleman from North Carolina who said this is a violation of free speech. I guess it is easy when you do not read the bill. This bill criminalizes actions that consist of violence against individuals. It allows the Attorney General to enter under certain limited circumstances, if it is a Federal crime of violence under the Federal U.S. Code. It allows certain other things if there is an act of bodily injury or an attempt to cause bodily injury. Nothing in here criminalizes speech. In fact, when people start talking about Sweden, it is a pretty good indication that they do not have anything to talk about with regard to the law that we are voting on in America. By the way, America, unlike Sweden, has a first amendment, and the Supreme Court would have banned that if anybody tried to.

Finally, to refute that argument, which is without any merit whatsoever; I mean, sometimes we get close questions here. That one has no merit. There is nothing remotely in this bill that threatens anybody's speech. But here is the proof of it, and it also is a sign of the gross inconsistency of those on the other side. We are not starting down any path today, except the path of their illogic. What we are doing is adding a category to existing Federal categories. There are already on the books laws that create hate crimes. It is not the case that every crime is treated equally.

By the way, there was one category of people, and violence against them is much more seriously treated than violence against anybody else. If you are so offended by that, where is your motion to amend the law and take away the statute that says it is a super Federal crime to assault one of us. If a Member of Congress and a private citizen are walking down the street and they are both assaulted, it is a much more serious crime against the Member of Congress. Where is your consistency? If you mean what you say, why have you not gone after that, or is it okay if you are protected, Madam Speaker?

And then we have race on the books, and we have religion. Has anybody ever found a case where they say, well, once you do this, someone's free speech will be impugned? Are you telling me there are no racists in America? Are you telling me that no one makes racially offensive remarks? People do. And none of them, none of them have ever been prosecuted for hate speech.

So, in fact, you deny the reality, Madam Speaker, when people say this, that there are already on the books certain categories that are treated as hate crimes. None of them have led to there being any impugning of people's free speech.

Then the question is, why do we want to do this? In the first place, no one is saying that if you were violently assaulted, you will not be protected by the law. Why do we add an additional element if it is a hate crime? And here is the reason: When people are going out and singling out people because of their race or their color; and, by the way, if people who are white are being assaulted by people of another race because of their race, that is a hate crime, and it ought to be treated as such. I do not share the view that that is a bad thing. It is wrong for thugs to tyrannize people because of that, and it is worse than another crime for this reason.

If some individual is walking down the street and is randomly assaulted, he or she is traumatized. But if another individual is singled out because of her race or religion or sexual orientation or gender, then it is not simply the individual who has been assaulted but others who share that characteristic who are put in fear.

We do have a particular problem. The gentleman said, well, you are saying gender instead of sex. Yes, there are people who are transgendered in our society. They are sadly often victimized. They are often victims of violence. Yes, I think it is a good idea to come to their aid. And if the gentleman thinks it is a mistake to go to the aid of people who are transgendered who are more often than others victimized and who are put in fear for that, then we do disagree, and I welcome the chance to vote on it.

□ 1700

Mr. FEENEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, in addition to the other arguments that we have put forth saying that it is just wrong to treat people unequally in terms of the protection we give victims, focusing on victims, I want to tell my colleagues a lot of us believe very deeply that, as with respect to every individual American before the law and before God, we are equal and ought to be treated equal and certainly our laws ought to include that.

What we oppose is the fact that what this bill does is specifies certain people for extra protection under the law. It necessarily says other people are not going to get that extra protection, and it tends to do the very things that a lot of my friends on the other side say they do not want to do. It tends to divide Americans. It tends to Balkanize Americans. It tends to separate Americans. It tends to put hyphens in front of all Americans, because if one does not have a hyphen in front their name they are not eligible for protection under this piece of legislation.

Once again, this is misnamed. This is not a hate crimes proposal. This is an unequal protection under the law proposal.

Madam Speaker, I yield 30 seconds to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Madam Speaker, I thank the gentleman for the time.

Does he then seek to undo the Federal law that singles out race and religion currently for a protection of this sort? If he thinks it is wrong to do division, does he oppose the existence of those laws and do we expect to see a law repealing these?

Mr. FEENEY. Madam Speaker, I yield myself such time as I may consume.

No, but I will support my colleague when he files the bill to take away the special protections of Members.

Mr. FRANK of Massachusetts. Well, why not race and religion?

Mr. FEENEY. Madam Speaker, I thank the gentleman for his question.

The point of this is that we should not be giving certain people special protections that we are not giving all Americans, and the gentleman earlier stated that he thinks it is very different for a thug to come along and batter, for example, somebody because of their race or their color or their ethnicity than it is to beat up somebody just on the street because of the fear it creates.

Madam Speaker, I can tell my colleagues that a lot of senior citizens, a lot of little old ladies carrying their purses from and to the market, one example, who are not protected by this bill live in fear every time they have to go out on to the streets. All of us deserve equal protection.

What we want to do in opposing this is make sure all Americans get the equal protection they are entitled to under the law.

Madam Speaker, I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I am delighted to yield 2¼ minutes to the gentlewoman from Wisconsin (Ms. BALDWIN), an excellent member of the Committee on the Judiciary.

Ms. BALDWIN. Madam Speaker, I rise in support of our Democratic leader's motion.

It is tragic that hate crimes occur, but they do; and it is irresponsible and naive to deny that there are people out there who seek to commit violence against others because they are gay, lesbian or transgender, because they are female, because they have a disability. It happens far too often, and we must not be silent about it.

Enactment of Federal hate crimes protections is important for both substantive and symbolic reasons. The legal protections are essential to our system of ordered justice; but on a symbolic basic, it is important that Congress enunciate clearly that hate-motivated violence based on gender, sexual orientation, or disability is wrong. Because, quite frankly, too much of what we have been doing in this Chamber conveys the message that we really do not believe in full equality for all, and it is sort of like a wink and a nod that maybe a little discrimination is okay.

I want to speak briefly about why hate crimes differ from other violent crimes. A senior Republican Member of the other body said a few years ago, "A crime committed not just to harm an individual, but out of motive of sending a message of hatred to an entire community is appropriately punished more harshly, or in a different manner, than other crimes."

Hate crimes are different than other violent crimes because they seek to instill fear and terror throughout a whole community, be it burning a cross in someone's yard, the burning of a synagogue, or a rash of physical assaults near a gay community center. This sort of domestic terrorism demands a strong Federal response because this country was founded on the premise that persons should be free to be who they are without fear of violence.

The Local Law Enforcement Enhancement Act should stay in the defense authorization bill. For too long this body has failed to act to prevent or respond to hate crimes. We have the opportunity today to say something and do something about it.

I urge my colleagues to vote in support of this motion.

Mr. FEENEY. Madam Speaker, I yield myself such time as I may consume.

I agree with the gentlewoman from Wisconsin that the Americans she cited ought to be free from the fear of violence whether it is because of their color, their ethnicity, their race, their religious beliefs. But what about American veterans? Should they not be free from the fear of violence? What about senior citizens? They are not protected by this bill. How about America's children as they come to and from school every day. Is there anything in this that gives same protection it gives the special treated classes? Is there anything that protects our teachers in this bill and then protects the police officers that patrol our streets in this bill? Is there anything that protects a lot of Americans who have served their country and are just going about their business every day?

Madam Speaker, it is the position of those who oppose this unequal protection proposal that all Americans deserve equal protection under the law.

Madam Speaker, I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I am delighted to yield 3 minutes to the gentleman from Rhode Island (Mr. LANGEVIN), a former Secretary of State in his State.

Mr. LANGEVIN. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, as a member of the House Committee on Armed Services, I rise today to register my strong support to maintain the Senate's hate crimes provisions in the defense authorization conference report.

The brutal murders of Matthew Shepard and James Byrd graphically demonstrated to the Nation the horrors of violence motivated by hate and bigotry. In 2002 alone, law enforcement agencies reported 7,462 bias-motivated criminal incidents. Nearly half of those crimes were targeted at the victim's race with biases against religion, sexual orientation and ethnicity, also common reasons for violence. Fifty people were even harmed because of a physical or mental disability.

Unfortunately, four States have no laws against hate crimes, and the statutes in another 17 States fall far short of full protection. Even in a State such as Rhode Island, where we have strong laws against hate crimes, law enforcement officials recorded 38 cases of bias-motivated offenses in 2002. Because current Federal hate crimes laws cover only crimes motivated by racial, religious or ethnic prejudice, Congress simply must expand the definition to include violence based on gender, sexual orientation and disability, and promote the aggressive prosecution of all hate crimes.

Madam Speaker, no American should be targeted for violence based on prejudice; and we must, therefore, pass the Local Law Enforcement Hate Crimes Prevention Act which would provide Federal assistance to State and local authorities in prosecuting hate crimes. Additionally, the legislation would expand the Federal definition of hate crimes.

As a person with a disability, one of the categories that would be covered under the expanded definition, I know how important it is that our Nation protect all those that could be singled out for violence based on personal characteristics.

Madam Speaker, I urge all of my colleagues to vote for this motion to instruct conferees.

Mr. FEENEY. Madam Speaker, I yield 9¼ minutes to the distinguished gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Madam Speaker, I thank the chairman for the time, and let me start by saying that we all are opposed to hate crimes. They are a terrible thing, and any legislation that had a positive effect on stopping hate crimes I would be here supporting.

I sincerely believe by looking at this legislation that this legislation could not only interfere with our ability to, as a practical matter and in an effective manner, prosecute hate crimes; it also would have some serious consequences for our enforcement of other laws which now exist.

I say also say that, first of all, there is already Federal hate crime legislation on the book, and I think it is well and narrowly drafted and takes care of the situation. So saying that, let me give my colleagues reasons why I feel that this legislation is a step back, not a step forward.

Look at this legislation. Hate crime, the language is so overbroad that hate is not even required. Nowhere in the legislation does it talk about hate. What that would do is that hate or any other type of animus is not even an element of this so-called hate crime legislation. It is not even in here. So if someone commits some certain broadly defined acts, and it says because if someone commits an act because of someone's race, sex, disability or sexual orientation, it violates this vague law.

If someone commits a crime because of someone's race because of someone's sex, is not all rape committed because of someone's sex? Could not that argument be made? So are we suddenly saying that all rape cases, almost all rape cases will be federalized? I mean, only a few rapists at the very most are indifferent to the sex of their victims. So we would be federalizing all rape cases.

Even assume that there is a need for a Federal hate crimes law. This is a poorly drafted bill. It should be debated. It should be amended significantly in committee before it is considered by the full House and the Senate because of this one thing, because we are fixing to federalize all rape cases.

Second, I believe that this actually could have a negative effect on our national security. Let me tell my colleagues why I believe that. This proposed legislation would swamp Federal law enforcement responsibilities; and in doing so, it would certainly distract them from some of our national goals. Now, more than ever, Federal law enforcement officers and prosecutors must concentrate their scarce resources on combating national threats or uniquely Federal crimes, and hate crime, there is not anything uniquely Federal about that. Those that commit them are doing it because of hate, not because of some Federal jurisdiction.

Terrorism, we have got our hands full of terrorism. On the Federal level with kidnapping cases, with auto theft, with espionage cases, to divert all our resources over to hate crimes and take them away from our State and local prosecutors and our State prosecutors is a tremendous redeployment of our resources.

I also fear that Federal officials might selectively enforce the law. The only other option for Federal officials other than seriously abandoning their other vital responsibilities is to enforce hate crime laws in a highly selective way. That increases the risk of politicizing prosecutions. If we federalize all these vague types of crimes, like all rape cases, they are going to have to pick and choose which ones they prosecute. Using the criminal enforcement agencies for political or ideological purposes, picking and choosing which cases to prosecute, by its very definition that is tyrannical.

A very important point, I think this legislation is going to undermine State and local criminal enforcement. Because of the broad expanse of Federal hate crime laws in this definition, I think it undermines State and local efforts to fight crime in several ways. It would undermine the morale of our frontline State and local law enforcement officials because it tells them they cannot handle this traditional role that they have been handling, prosecuting rape cases, prosecuting murder cases, prosecuting assault cases.

All of the sudden we are telling them this is such a serious problem, they are doing such a lousy job, we are going to take jurisdiction away from the State, and only the Federal Government has the ability to prosecute these cases. As I said, there is already a narrowly and well-constructed Federal hate law, and I have looked at this. Every one of these acts, and maybe the gentleman could respond to this, defined in this already constitutes hate crimes and are prosecuted by State courts today. Not a one of these things is a new crime.

Mr. CONYERS. Madam Speaker, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Michigan.

Mr. CONYERS. Madam Speaker, I just wonder if the gentleman is aware that many States have asked for this assistance; that this merely amends the Federal nexus that already exists; and that the civil rights organizations and more than half a dozen police and law enforcement organizations have all strongly supported the request and the Department of Justice has not taken the point of view that is brilliantly argued by my friend from Alabama?

Mr. BACHUS. Madam Speaker, I think that is actually predictable and let me tell my colleague why.

Some States, but not all of them, but some of them already have hate crimes statutes, and they can already prosecute these cases; but all States, all of them, prosecute murder cases. They all prosecute assault cases. They all prosecute assault with intent to murder cases. They all today prosecute a battery case as a battery, assault as assault, rape as rape, murder as murder.

What this would do is it would expand the jurisdiction. In every one of those cases, a person could go to Federal court or State court, every one of them, and, yes, the States are strapped for money. The counties are strapped for money. Sure, they would like for us to come in and pass a law that suddenly says that every crime out there, even armed robbery with a pistol or robbery, all of those, but particularly rape, murder, assault, battery cases, assault with intent to murder, suddenly these are all Federal cases, yes.

I mean, from a money standpoint, how many Federal courts are we going to build? We would have to double the size of the Federal court, and sure, there are States that would just as soon take all these responsibilities away from them. There are other States, other law enforcement agencies, that think that their States are doing a good job.

As I said, all of these acts defined by this thing are today prosecuted by the States and prosecuted in State court. The only difference is we are going to let all of them go to Federal court now, and I do not think that is a good idea. Maybe this is an indictment saying the State courts are doing a horrible job. I do not know which States are doing a horrible job.

☐ 1715

Final point. Murderers who face the death penalty under State law, now listen to this, murderers who face the death penalty under State law are not going to be deterred by an additional Federal hate crime law, especially a proposed Federal law that does not have the death penalty.

We are going to pass this, and we are going to end up with somebody being prosecuted in Federal Court that could have gotten the death penalty in State court and we will not be able to give the death penalty in Federal Court. Now, a lot of Members think that is just fine because it does away with the death penalty in a number of cases. It does in this.

And last, it is no less horrible for someone to be molested or murdered because the murderer liked him or her or than because the murderer hated him or her. If somebody kills me and they liked me, or at one time they were a friend of mine, I am just as dead. And I do not think that part of every case ought to be a day or two where we determine how much hate there was involved in the case.

Let us prosecute and convict them and get them off the streets and quit this tremendous shift to Federal jurisdiction.

Mr. CONYERS. Madam Speaker, I am delighted to yield 3½ minutes to the gentleman from Maryland (Mr. HOYER), the whip of the Democrats, who has been a strong civil rights advocate throughout his career, and who I have been pleased to work with.

Mr. HOYER. Madam Speaker, I thank my distinguished friend, the chairman-in-waiting of the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), for yielding me this time.

Madam Speaker, I support this motion to instruct conferees on the DOD authorization bill to keep the Senate-passed hate crimes legislation in the conference report. This straightforward legislation would provide assistance to State and local law enforcement officials to investigate and prosecute hate crimes. It also would add gender, disability, and sexual orientation to the existing Federal hate crimes law and clarify the conditions under which such crimes could be federally investigated and prosecuted.

Enacting these important additions to existing law will send, I believe, a very powerful message that crimes committed against any American just because of who he or she is are absolutely unacceptable and that the Federal Government stands ready to assist or, yes, step in to assure that perpetrators of these crimes are brought to justice.

While the heinous murder of Matthew Shepard and James Byrd, Jr., will never be forgotten, thousands of other brutal crimes are committed every year that may not command the Nation's attention, yet nonetheless strike fear among entire communities in which they occur. That is exactly what makes forcefully addressing hate crimes so essential.

This legislation should have become law 4 years ago, when the Senate added hate crimes legislation to the Department of Defense authorization bill and the House, on a strong bipartisan vote, instructed conferees to accept the Senate's position. Unfortunately, however, because the Republicans' leadership opposed such a move, the hate crimes provisions was dropped in the conference, thus opposing the will of the majority of the House and the Senate.

Let us right that wrong this year. We should adopt this motion to instruct. And if the motion succeeds, I urge the leadership of this House and of the Senate to include it in the conference report.

In conclusion, Madam Speaker, let me say this. Why do we include hate crime as a specific and distinct crime? Clearly, if one knocks me over the head, he or she commits an assault. That is a crime at the State and local level. It is also a crime at the Federal level. Why should there be a specific crime if the motivation for hitting me over the head is that I am, well, I used to say blond, like my grandson, but gray haired?

The reason for that is that this Nation holds as a principle truth that all men and women are created equal and endowed by their creator with certain inalienable rights. Therefore, because we believe that every individual is entitled to rights, an assault on that individual is a crime; but if it is because of the class to which that person belongs, it is the undermining of the very essence of America, of our welcoming of diversity, of our rejecting prejudice and bigotry, of assuring every American equal protection of the laws. That is why this is a distinct and different crime.

We have found all over the world that hate is dangerous, that bigotry is dangerous. It undermines democracy. It undermines the safety and security of individuals. Let us pass this motion to instruct.

Mr. FEENEY. Madam Speaker, I am glad to yield 3 minutes to the gentleman from Indiana (Mr. PENCE), my great friend.

Mr. PENCE. Madam Speaker, I rise in the midst of, I think, a very important debate on the floor of this Congress, although I am sure many of my constituents in Indiana wonder why we are debating such a contentious social issue in the midst of a critical National Defense Authorization Act. Nevertheless, we are here, and I am grateful for the opportunity to speak.

I deplore violence for any reason against any person; and I believe, without hesitation, that that is the view of the good and decent men and women who serve on the floor of this Congress. But I oppose the motion to instruct and hope our conferees will remove the so-referenced hate crimes language because in addition to questioning whether this issue has a place in the defense bill, I consider it, as many have argued more eloquently than me, unnecessary, repetitive of State jurisdiction, and it is constitutionally suspect, claiming as its constitutional basis the 13th amendment, which would likely be rejected in the courts, as the gentleman from Florida (Mr. FEENEY) has argued.

But I rise today, Madam Speaker, as a member of the House Committee on the Judiciary and a civil libertarian deeply concerned over the issue of creating a crime for thought. It is difficult for me to understand how the governing of thought in any way, Madam Speaker, is consistent with the principles underlying a free society. That the Kennedy bill serves to punish thought per se is nowhere more obvious than in how, if passed, it will discredit the public mores of tens of millions of Americans on matters of sex and sexuality.

Specifically, the Kennedy language in the bill that we are considering includes a prohibition against gender-based and sexual-orientation-based crimes. As the 2001 committee report of the Senate committee on the bill made clear, the use of the term "gender," instead of the proper term "sex," is a deliberate effort to extend the law's protections to individuals in the categories of transvestites and those who have undergone sex change operations.

Obviously, Madam Speaker, it goes without saying that a great many Americans have deeply felt, sincerely held moral beliefs about homosexuality and about the various derivatives thereof. And make no mistake about it, the language in this legislation condemns implicitly those thoughts.

We all condemn actions that take the form of crimes, whatever their motivation. Crimes of violence are to be deplored, and they have been eloquently deplored by my colleagues on the other side of the aisle today. But legislation that focuses on the thoughts of Americans who have moral reservations about certain behavioral choices ought not to be a crime.

Mr. CONYERS. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER), a civil rights leader from California.

Mrs. TAUSCHER. Madam Speaker, I take that as a high compliment from the gentleman from Michigan (Mr. CONYERS), and I thank him for yielding me this time.

Madam Speaker, at a time when the House has so much important work to do, I am deeply disappointed that I have to arise to address the political posturing occurring on what should be one of the most important bipartisan bills before us, the defense authorization bill.

As a member of the House Committee on Armed Services, I strongly support the motion to instruct offered by the gentleman from Michigan (Mr. CONYERS) and to agree and to accede to the language passed in the other body that includes this hate crimes legislation.

We have been here before. I am also a proud cosponsor of the gentleman's Local Law Enforcement Hate Crimes Prevention Act. Congress needs to be on the record supporting State, local, and tribal governments in their efforts to combat crimes committed against people based solely on their race, gender, sexual orientation, or religion.

□ 1730

I support including this hate crimes provision in the final version of the defense bill and urge the conferees to do so, as they have done before. We have included this vitally important language in previous defense bills with bipartisan support, only to have the Republican leadership strip it out in the end.

Mr. Speaker, it is irresponsible and unacceptable that Congress has not been assisting those in need in the fight to eradicate these crimes. Now is the chance to improve upon our previous actions and work with the conferees to allow this hate crime legislation to become law. Please support the Conyers motion to instruct.

Mr. FEENEY. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, in the 1 minute that I have, I would like to seek to illustrate what goes wrong if hate crimes legislation is implemented into law.

One example would be just a little over a week ago I used the phrase "cultural continuity" on the floor of this Congress. Within hours, there was a press release out declaring I was a racist. Now cultural continuity does not define anything other than this great unity of America, but the Members on the other side leaped to that conclusion, and I would ask the body would people who simultaneously pass public judgment be the same kind of people who would decide a case of hate crimes as jurors. If that is the case, I submit that prejudice is so great there cannot be an objective decision made.

The SPEAKER pro tempore (Mr. CULBERSON). The gentleman from Michigan (Mr. CONYERS) has 5 minutes remaining. The gentleman from Florida (Mr. FEENEY) has 3 minutes remaining.

Mr. FEENEY. Mr. Speaker, just as a parliamentary inquiry, does the gentleman from Michigan have the right to close?

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) has the right to close.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY) who has worked with the civil rights community in her State and Nation since she has come to Congress.

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me this time.

Mr. CONYERS. Mr. Speaker, will the gentlewoman yield?

Ms. WOOLSEY. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I want to assure the gentleman from Iowa (Mr. KING) that his position is a perfectly legitimate one, and for anyone to attack him as a racist on that regard I would take issue with. I want the gentleman to know that would not be the sentiments of anyone I know here in the Congress on this side of the aisle, and we apologize for any misunderstanding which may have resulted from that.

Ms. WOOLSEY. Mr. Speaker, every day at least four hate crimes are reported in the United States, at least four. But even worse are the crimes that are not reported. They are not reported out of fear of retaliation or feeling that law enforcement just will not follow through.

That is why we need tough Federal hate crime language to protect all Americans, and we need to include it in the Department of Defense authorization bill. If we do that, then the lack of response will change because no one in this country should live in fear, even for one day, because of his or her ethnic background, his or her religious affiliation, gender, disability, or sexual preference.

Mr. Speaker, that is why it is so important to pass meaningful hate crimes legislation and pass it now, today; and today we can send a message to all Americans that hateful behavior is wrong and will not be tolerated any longer. It is clear that existing Federal law is inadequate to vigorously fight and prosecute hate crimes.

Too often our law enforcement officials lack the resources and/or the education required to deal with these crimes. They do not have what they need within their own communities to step up to these criminal charges.

In California, for example, a report called "Reporting Hate Crimes," a study commissioned by Attorney General Bill Lockyear, reveals there is a general lack of understanding by California law enforcement agencies on how to deal with hate crimes in local communities. The study found that in some communities, and this is horrible, in some communities public officials and business leaders actually discourage law enforcement officers from reporting hate crimes for fear of adverse publicity.

If law enforcement officers do not report hate crimes, what in the world happens to their credibility when they are supposed to be addressing the problem in the first place? Their credibility diminishes.

What is even more alarming is that hate crimes based on gender and disability are generally not reported at all. It is obvious we need hate crimes language in the Department of Defense authorization bill. We need it now. We need not have one person ever faced with a hate crime based on who they are. I urge my colleagues to support this motion to instruct.

Mr. FEENEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to close in opposition to this motion, I would say again that the arguments against this proposal being added by the conferees are very strong. This is a Department of Defense authorization bill. It is about defending our country, and we are interjecting an extra issue that we should not be dealing with here. This needs to go to the Committee on the Judiciary.

Number two, States can and often do prosecute these types of crimes. We ought to preserve the 10th amendment and allow traditional State crimes to be prosecuted at the State level.

Number three, this gives enormous prosecutorial discretion. Prosecutors could add this as a bargaining chip to threaten that they are going to bring a hate crimes allegation when in fact really are just trying to impose a stiffer sentence through the plea bargaining process.

Number four, we have not discussed how freedom of speech, as the gentleman from Indiana (Mr. PENCE) so eloquently argued, can be tied up in who should be charged with a hate crimes allegation and who should be charged with just a typical crime allegation. Often it is political correctness that determines who gets punished and who does not.

Finally, the most important reason is this is misnamed as a hate crimes proposal. This is an unequal protection proposal.

Since before 1868 in this country, since before the 14th amendment, sadly some Americans got less protections under the law than other Americans. Fortunately, since 1868 we have made a lot of progress in that regard.

What this proposal does is to give certain Americans more protections than others, exactly what we tried to do in 1868 with the 14th amendment. This does nothing to give protection to children, veterans, teachers, police, or to our many seniors throughout the country; and that why it is fatally and morally flawed, despite the best of intentions by the proposer.

This proposal divides America. It hyphenates America, it balkanizes America, and you get special protection if you are a member of a special class under this bill.

Mr. Speaker, criminals are like wolves. They are like lions. They prey on those who get the least protection from the herd. If we say children and seniors and veterans should not get the same protection, we need to be aware what the criminals will do. They will prey on those left unprotected.

Finally, Mr. Speaker, I would say to my friends on the other side of the aisle, the way to fight hate in America is to teach, it is to preach, it is to love, and it is to respect. It is not to divide, to balkanize, to hyphenate Americans and to grant special privileges and protections.

Mr. Speaker, I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I appreciate the debate we have had here today. I close with a reminder from the International Association of Chiefs of Police in the United States: this is not a door-opener for State prosecutors to get rid of cases or get into the Federal jurisdiction. They can only bring these cases if the Department of Justice agrees that they can be brought. Without that, the Department of Justice wants to make sure that they need this help and in some cases will grant programs to the State and local law enforcement to cover the costs of investigating and prosecuting.

So this hate crimes law will greatly assist law enforcement officers in investigating hate crimes.

Mr. Speaker, 175 organizations, law enforcement, civil rights, Hispanic national law groups, the Presbyterian Church, the Episcopal Church, Anti-Defamation League, Leadership Conference on Civil Rights, the NAACP, National Council of La Raza, American-Arab Anti-Discrimination Committee, National Asian Pacific American Legal Consortium, Sikh Mediawatch and Resource Task Force, Human Rights Campaign, the American Association of People With Disabilities, and the National Center For Victims of Crime pray that we will take action today.

Mr. FARR. Mr. Speaker, I rise today in support of the motion to instruct conferees on the DOD Authorization bill to accept the bipartisan Senate-passed provisions on hate crimes.

The purpose of the Senate provisions is to strengthen and close loopholes in current law by making it easier for federal authorities to prosecute or assist local authorities in prosecuting crimes motivated by race, religion or ethnicity when appropriate. In addition, these provisions expand current law to include gender, disability, and sexual orientation. The Senate provisions are overwhelmingly supported by both the civil rights community and law enforcement organizations.

Many of my colleagues have questioned the relevance of these hate crimes provision in the DOD Authorization bill. However, it is naïve to presume that the military need not concern itself with hate crimes, and there is devastating evidence that hate crimes occur in the military. I am referring to the July 5, 1998 murder of Pfc. Barry Winchell at Fort Campbell, KY. Twenty-one year old Private First Class Barry Winchell was beaten to death while he slept by a fellow soldier. During the court-martial trial, testimony from other soldiers showed that Pfc. Winchell's murderer engaged in harassment, rumor-mongering and prying into Pfc. Winchell's personal life in direct violation of the Don't Ask Don't Tell policy. The horrible murder of Pfc. Winchell is a lasting reminder of the need for vigilance in fiercely opposing and prosecuting all hate crimes and for providing our law enforcement organizations with the ability to prosecute these heinous crimes.

Every American, regardless of their race, religion, ethnicity, gender, disability, and sexual orientation deserves the right to live life to the fullest without the fear of bullying, persecution, or violence. I urge my colleagues to support this motion to instruct conferees on the DOD Authorization bill to accept the bipartisan Senate-passed provisions on hate crimes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of the Motion to Instruct Conferees on agreeing to the Local Law Enforcement Enhancement provision of H.R. 4200, the Department of Defense Authorization bill for fiscal year 2005. Since the 105th Congress in 1997 there has been legislation introduced that is designed to enhance the ability of local law enforcement to fight hate crimes more effectively. Hate crimes legislation passed the Senate during the 107th Congress as part of the Department of Defense Authorization bill. Similarly, it was approved by the House pursuant to a motion to instruct on a 232–192 vote. Despite these bicameral, bipartisan votes, the hate crimes provisions were stripped from the Department of Defense bill in 2001. We must use the powers on Congress to fight hate crimes in all its forms and this motion will put a much needed piece of legislation into effect.

I am proud to be a cosponsor of the hate crimes bill that we introduced this Congress, which is identical to the Senate's amendment and has 177 bipartisan cosponsors. The Senate also supported this legislation as a bipartisan effort, with a 65–33 vote to include the Local Law Enforcement Enhancement Act as an amendment to the Department of Defense Authorization bill. Clearly, it has been the will of Congress to include this hate crimes legislation. Let us not waver and wait another day as Americans continue to be attacked and intimated by those who commit hate crimes.

There may be those out there who say that effective hate crimes legislation is no longer necessary, they would be dead wrong. From 2000 to 2002 alone, there were over 25,000 hate crime incidents. That alone should be a staggering enough number to make us want to act immediately. With this legislation, state and local authorities will have the enhanced support of the federal government when prosecuting hate crimes as the Justice Department will provide them with technical, forensic, or prosecutorial assistance. The Attorney General can also make grants to state and local law enforcement agencies which have incurred extraordinary expenses associated with the investigation and prosecution of hate crimes. Finally, this legislation will ensure that state and local authorities continue to take the lead on this issue and prosecute the overwhelming majority of hate crimes by mandating that high ranking DOJ official approve all federal prosecutions under this law. It is truly the responsibility of the federal government to make sure that those who commit hate crimes are punished to the full extent of the law. Otherwise, we will only be showing a sign of weakness to those bigots and racists who have no qualms about violating people's basic human rights.

It saddens me but even to this day we see hate crimes in our own neighborhoods. Recently, I have seen a rash of hate crimes against Muslims in the state of Texas. There was an incident a week ago in which a man was arrested after allegedly throwing two home-made gasoline bombs into a mosque courtyard in El Paso during Friday Prayers. The bombs landed in a play area and splattered gasoline on children, luckily neither firebomb ignited. There was also an incident in the Houston area in July where a home-made bomb exploded in the mailbox of the Champions Mosque in Spring, Texas, again it was in the vicinity of children. In August, law enforcement authorities in McAllen, Texas were asked to investigate an intentionally-set fire at a Muslim store as a possible hate crime. The fire followed two separate incidents in which unknown parties painted the phrase "Go Home" on the door of the store. The hate-graffiti appeared just after the store began running advertisement on local television that featured a Muslim woman wearing an Islamic head scarf. Earlier this year, a man was arrested for threatening the same El Paso Islamic center targeted in the October 2nd incident. In San Antonio, Chief Albert Ortiz said a series of arsons, all at Muslim-owned businesses, were probably hate crimes. The Associated Press reported: "The first fire was set March 24 at a store in the northwest corner of the city near the University of Texas at San Antonio. The second came five days later in north central San Antonio. The third blaze occurred on Monday off Interstate 35 in southwest San Antonio. Clearly the great majority of people in Texas are not hateful. Clearly, law enforcement is doing all it can to prevent future attacks against the Muslim community, but they can use all the help they can get against this scourge.

There can be no doubt that this legislation we hope to attach to the Defense Authorization will help in our fight against hate crimes. After the terrible murder of Paul Byrd our nation awakened to fact that our nation is not free of unthinkable hatred. After the terrible murder of Mathew Shephard our nation realized that hate is not just directed at those who are racially different. Now, after Sept. 11th we realize that even at times when our nation came together there will be those who will use hatred to try to tear us apart. My point is that Hate Crimes do not affect any one people and they have not disappeared from our great nation. It is time we pass this needed legislation so that those who commit these heinous crimes will know that their hate has no refuge in the United States.

Mr. DELAHUNT. Mr. Speaker, I rise in support of the Motion to Instruct.

As this debate goes on, the memory is still fresh of the vicious attack on the Jewish Community Center in Los Angeles, and the brutal slayings of Matthew Shepard in Wyoming, James Byrd in Texas, Arthur Warren in West Virginia, and Joseph Ileto in California.

These episodes are tragic illustrations of the price we pay in human lives for hatred and ignorance—and powerful testimony of the need for hate crimes legislation.

Some have said that hate crimes legislation punishes thoughts rather than deeds. I disagree. It punishes neither thoughts nor words, but actions. Actions whose defining characteristic is that the victim is selected—singled out—as a proxy for the social group to which he or she belongs. Actions whose express purpose is to send a message of hatred and intolerance to an entire community.

When such actions take place in other countries—when individuals are persecuted because of their membership in a "social group"—U.S. law recognizes that it is no ordinary crime and grants them a remedy. We entitle them to petition for asylum. Why would we do less to protect our own citizens from the very same crimes?

Some have said we shouldn't pass this law because hate crimes are a local matter. I agree. The authors of this legislation agree. The vast majority of these crimes are investigated and prosecuted at the State and local level. And if this measure is enacted they will continue to be.

Federal hate crimes laws have been on the books for 36 years. All this legislation will do is ensure that when local authorities request assistance, or are unable or unwilling to act, Federal law enforcement agencies will have the ability to come to their aid.

That's why the legislation is supported by the National Sheriff's Association, the International Association of Chiefs of Police, the Federal Law Enforcement Officers Association, and other major law enforcement organizations.

And that's why we need the Hate Crimes Prevention Act. For all the Matthew Shepards and James Byrds and Joseph Iletos who can still be saved.

Mr. STARK. Mr. Speaker, I rise in strong support of the Motion to Instruct Conferees on the National Defense Authorization Act for Fiscal Year 2005. This motion would instruct conferees to include the hate crimes bill in the conference report, to stop the perpetration of violence against Americans merely because of who they are.

The fact is that while there has been a significant drop in overall crime in this country, the number of hate crimes continues to grow. Hate crimes send a chilling message that some Americans are second-class citizens who should fear for their lives because of their race, religion, gender, sexual orientation, or disability. These crimes target entire communities with the message that others in the community could be next.

The hate crimes bill would seriously address this oppression by expanding existing Federal law involving acts of violence motivated by bias against race, religion, or national origin. In addition, the bill would broaden Federal jurisdiction to include offenses that are motivated by bias against gender, sexual preference, or disability.

Mr. Speaker, we should be embarrassed that we're having this vote today, because in 2000, in response to several shocking hate crimes that received national attention, 232 Republicans and Democrats in the House and a bipartisan group of 57 Senators voted to pass the hate crimes law. It was later taken out of the defense bill at the insistence of the Republican leadership in closed-door negotiations. So for 4 years, thousands of American hate crime victims have gone without the protection of their government because the will of the majority was subverted. I urge all of my colleagues to right this wrong and vote "yes" on the motion.

Mr. MEEHAN. Mr. Speaker, I rise today to express my strong support for the Motion to Instruct Conferees to the National Defense Authorization Act on hate crimes.

As a member of the Conference Committee and a cosponsor of the hate crimes legislation, I will urge my fellow conferees to retain the Local Law Enforcement Enhancement Act language.

According to the FBI, more than 7,400 hate crimes were reported in 2002. Hate crimes based on racial bias represented nearly half of all of those reported; sexual orientation-based hate crimes constituted nearly 17 percent; and nearly 15 percent were the result of bias against one's ethnicity or national origin.

In addition, many hate crimes go unreported. The Southern Poverty Law Center estimates that the actual number of hate crimes committed in the U.S. each year is closer to 50,000.

Hate crimes terrorize more than a single individual. Instead, they victimize an entire community.

Current Federal law on hate crimes is out of date. It does not cover hate crimes based on sexual orientation, gender, or disability. Also it severely limits the Justice Department's ability to respond to hate crimes against religious, racial and ethnic groups.

The Local Law Enforcement Enhancement Act will strengthen the ability of Federal, State and local governments to investigate and prosecute these vicious crimes. Cooperation between State, local, and Federal law enforcement officials offers the best chance of bringing perpetrators of hate crimes to justice.

The Local Law Enforcement Enhancement Act is supported by more than 175 law enforcement, civil rights, civic and religious organizations.

I urge Members to support this Motion to Instruct.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from California (Ms. PELOSI).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CONYERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and 9 of rule XX, further proceedings on this motion will be postponed.

AUTHORIZING PRINTING OF COMMEMORATIVE DOCUMENT IN MEMORY OF PRESIDENT RONALD WILSON REAGAN

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 135) authorizing the printing of a commemorative document in memory of the late President of the United States, Ronald Wilson Reagan, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LARSON of Connecticut. Mr. Speaker, I reserve the right to object, although it is not my intention to object; and I turn to the gentleman from California for an explanation of his request.

Mr. DOOLITTLE. Mr. Speaker, will the gentleman yield?

Mr. LARSON of Connecticut. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Speaker, I rise today to support this resolution which authorizes the printing of a commemorative document in memory of the late President of the United States, Ronald Wilson Reagan. I will be offering an amendment that will require the document to be printed under the direction of the Joint Committee on Printing, to be compiled by both bodies of Congress for the use of the full Congress.

Mr. LARSON of Connecticut. Mr. Speaker, I thank the gentleman for that explanation. Clearly, Congress most recently published tributes to President Nixon and in the past President Johnson and President Truman, and I am in concurrence with our distinguished gentleman from California.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 135

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. COMMEMORATIVE DOCUMENT AUTHORIZED.

A commemorative document in memory of the late President of the United States, Ronald Wilson Reagan, consisting of the eulogies and encomiums for Ronald Wilson Reagan, as expressed in the Senate and the House of Representatives, together with the texts of the state funeral ceremony at the United States Capitol Rotunda, the national funeral service held at the Washington National Cathedral, Washington, District of Columbia, and the interment ceremony at the Ronald Reagan Presidential Library, Simi Valley, California, shall be printed as a Senate document, with illustrations and suitable binding.

SEC. 2. PRINTING OF DOCUMENT.

In addition to the usual number of copies printed, there shall be printed the lesser of—

(1) 32,500 copies of the commemorative document, of which 22,150 copies shall be for the use of the House of Representatives and 10,350 copies shall be for the use of the Senate; or

(2) such number of copies of the commemorative document that does not exceed a production and printing cost of $1,000,000, with distribution of the copies to be allocated in the same proportion as described in paragraph (1).

AMENDMENT OFFERED BY MR. DOOLITTLE

Mr. DOOLITTLE. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DOOLITTLE:

In section 1, strike "Senate document, with illustrations and suitable binding" and insert "House document, with illustrations and suitable binding, under the direction of the Joint Committee on Printing".

The amendment was agreed to.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. Con. Res. 135.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

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AMENDING CONGRESSIONAL ACCOUNTABILITY ACT TO PERMIT SECOND TERM FOR BOARD OF DIRECTORS OF OFFICE OF COMPLIANCE

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the bill (H.R. 5122) to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from California?

Mr. LARSON of Connecticut. Mr. Speaker, I reserve the right to object, though it is not my intention to object, and I yield to my distinguished colleague from California for an explanation.

Mr. DOOLITTLE. I thank the gentleman for yielding.

Mr. Speaker, I offer this bill which would amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve two terms instead of one. The committee believes that amending the act to allow for the reappointment of members of the Board of Directors to a second term will improve the efficient operation of the Office of Compliance.

Mr. LARSON of Connecticut. Mr. Speaker, I thank the gentleman for his explanation. I applaud the effort to bring this forward. I think it covers four basic principles. First, fairness requires that congressional employees be accorded the same rights and protections as other employees. Second, if the law is right, it should apply to Congress as well as the private sector. Third, if Congress lives by the same laws it applies elsewhere, it will write better laws. And, fourth, the constitutional separation of powers doctrine must be respected.

Mr. Speaker, I do hope, however, that we are able at a future time to revisit a GAO recommendation. GAO recommends strongly that the executive director, general counsel and the two deputy executive directors be reappointed to serve subsequent terms in either the same or different positions if warranted. I think that this makes sense, and it is my hope and intent that the committee in working with the chairman can bring this to the floor at a future date.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMITTING SECOND TERM FOR BOARD OF DIRECTORS OF OFFICE OF COMPLIANCE.

(a) IN GENERAL.—The second sentence of section 301(e)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)(1)) is amended to read as follows: "A member of the Board may be reappointed, but no individual may serve as a member for more than 2 terms.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to individuals serving on the Board of Directors of the Office of Compliance on or after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of H.R. 5122.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 47 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

☐ 1832

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HAYES) at 6 o'clock and 32 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 and 9 of rule XX, proceedings will resume on the following motions:

Motion to instruct on H.R. 4200, by the yeas and nays;

Motion to close the conference on H.R. 4200, if offered, by the yeas and nays; and

Motion to suspend the rules on S. 2363 de novo.

The first electronic vote will be conducted as a 15-minute vote. The remaining votes in the series will be 5-minute votes.

MOTION TO INSTRUCT CONFEREES ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore. The pending business is the question on the motion to instruct conferees on H.R. 4200 offered by the gentlewoman from

California (Ms. PELOSI) on which the yeas and nays are ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from California (Ms. PELOSI).

The vote was taken by electronic device, and there were—yeas 213, nays 186, not voting 33, as follows:

[Roll No. 473]

YEAS—213

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bass
Becerra
Bell
Berkley
Berman
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Bono
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Burns
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Farr
Ferguson
Filner
Foley
Ford
Frank (MA)
Frelinghuysen
Frost
Gerlach
Gilchrest
Gonzalez
Gordon
Green (TX)
Greenwood
Grijalva
Harman
Herseth
Hill
Hinchey
Hinojosa
Holden
Holt
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Platts
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Shimkus
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Waters
Watson
Watt
Waxman
Weiner
Weller
Wexler
Woolsey
Wu
Wynn

NAYS—186

Aderholt
Akin
Alexander
Bachus
Baker
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Feeney
Flake
Forbes
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hyde
Issa
Istook
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kline
Knollenberg
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Sherwood
Shuster
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walsh
Wamp
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—33

Ballenger
Barrett (SC)
Boehlert
Burr
Cannon
Cubin
DeMint
Dooley (CA)
Fattah
Gephardt
Gutierrez
Hastings (FL)
Hoeffel
Honda
Hunter
Isakson
John
Jones (OH)
Kingston
Majette
Meeks (NY)
Murtha
Nethercutt
Payne
Putnam
Rogers (KY)
Sánchez, Linda T.
Sanders
Shays
Tauzin
Tiahrt
Weldon (FL)
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HAYES) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1902

Messrs. MCINTYRE, GALLEGLY, GIBBONS, OSBORNE, BOYD and WALSH changed their vote from "yea" to "nay."

Messrs. WELLER, WALDEN of Oregon, GILCHREST and MARIO DIAZ-BALART of Florida changed their vote from "nay" to "yea."

So the motion to instruct conferees was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005, WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. SAXTON. Mr. Speaker, pursuant to clause 12 of rule XX, I move that the meetings of the conference between the House and the Senate on H.R. 4200, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense for military construction and for defense activities of the Department of Energy to prescribe personnel strengths for such fiscal year for the armed forces, and for other purposes, be closed to the public at such times as classified national security information may be broached, provided that any sitting Member of the Congress shall be entitled to attend any meeting of the conference.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SAXTON).

Pursuant to clause 12 of rule XXII, the motion is not debatable and the vote must be taken by the yeas and nays.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 396, nays 0, not voting 36, as follows:

[Roll No. 474]

YEAS—396

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo

Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—36

Ballenger
Barrett (SC)
Boehlert
Burr
Cannon
Castle
Cubin
DeMint
Diaz-Balart, L.
Dooley (CA)
Fattah
Gephardt
Gutierrez
Hastings (FL)
Hoeffel
Honda
Hunter
Isakson
John
Jones (OH)
Kingston
Majette
Meeks (NY)
Murtha
Nethercutt
Payne
Pelosi
Putnam
Rogers (KY)
Sánchez, Linda T.
Sanders
Shays
Stark
Tauzin
Weldon (FL)
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1911

So the motion was agreed to.

The result of the vote was announced as above recorded.

REVISING AND EXTENDING BOYS AND GIRLS CLUBS OF AMERICA

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 2363.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 2363.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

RECORDED VOTE

Mr. FLAKE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 374, noes 19, not voting 39, as follows:

[Roll No. 475]

AYES—374

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weller
Wexler
Whitfield
Wicker

Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—19

Akin
Culberson
Deal (GA)
Flake
Franks (AZ)
Garrett (NJ)
Hensarling
Istook
Johnson, Sam
Jones (NC)
King (IA)
Manzullo
Miller (FL)
Norwood
Otter
Paul
Pence
Shadegg
Toomey

NOT VOTING—39

Ballenger
Barrett (SC)
Boehlert
Burr
Cannon
Collins
Cubin
DeMint
Diaz-Balart, L.
Dooley (CA)
Fattah
Feeney
Gephardt
Gutierrez
Hastings (FL)
Hoeffel
Honda
Houghton
Hunter
Isakson
John
Jones (OH)
Kingston
Majette
Meeks (NY)
Murtha
Nethercutt
Ose
Payne
Pelosi
Putnam
Rogers (KY)
Sánchez, Linda T.
Sanders
Shays
Stark
Tauzin
Weldon (FL)
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

☐ 1919

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent this evening from this Chamber. I would like the record to show that, had I been present, I would have voted "yea" on rollcall votes 473, 474, and 475.

APPOINTMENT OF CONFEREES ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore (Mr. HAYES). Without objection, the Chair appoints the following conferees:

From the Committee on Armed Services, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. HUNTER, WELDON of Pennsylvania, HEFLEY, SAXTON, MCHUGH, EVERETT, BARTLETT of Maryland, MCKEON, THORNBERRY, HOSTETTLER, JONES of North Carolina, RYUN of Kansas, GIBBONS, HAYES, Mrs. WILSON of New Mexico, Messrs. CALVERT, SIMMONS, SKELTON, SPRATT, ORTIZ, EVANS, TAYLOR of Mississippi, ABERCROMBIE, MEEHAN, REYES, SNYDER, TURNER of Texas, SMITH of Washington, Ms. LORETTA SANCHEZ of California, and Mr. HILL.

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X: Mr. HOEKSTRA, Mr. LAHOOD and Ms. HARMAN.

From the Committee on Agriculture, for consideration of section 1076 of the Senate amendment, and modifications committed to conference: Messrs. GOODLATTE, BURNS, and STENHOLM.

From the Committee on Education and the Workforce, for consideration of sections 590, 595, 596, 904, and 3135 of the House bill, and sections 351, 352, 532, 533, 707, 868, 1079, 3143, and 3151–3157 of the Senate amendment, and modifications committed to conference: Messrs. CASTLE, SAM JOHNSON of Texas, and BISHOP of New York.

From the Committee on Energy and Commerce, for consideration of sections 596, 601, 3111, 3131, 3133, and 3201 of the House bill, and sections 321–323, 716, 720, 1084–1089, 1091, 2833, 3116, 3119, 3141, 3142, 3145, 3201, and 3503 of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, UPTON, and DINGELL.

From the Committee on Government Reform, for consideration of sections 801, 806, 807, 825, 1061, 1101–1104, 2833, 2842, and 2843 of the House bill, and sections 801, 805, 832, 851, 852, 869, 870, 1034, 1059B, 1091, 1101 1103–1107, 1110, 2823, 2824, 2833, and 3121 of the Senate amendment, and modifications committed to conference: Messrs. TOM DAVIS of Virginia, SHAYS, and WAXMAN.

From the Committee on House Administration, for consideration of the sections 572 and 1065 of the Senate amendment, and modifications committed to conference: Messrs. NEY, EHLERS, and LARSON of Connecticut.

From the Committee on International Relations, for consideration of sections 811, 1013, 1031, 1212, 1215, title XIII, sections 1401–1405, 1411, 1412, 1421, and 1422 of the House bill, and sections 1014, 1051–1053, 1058, 1059A, 1059B, 1070, title XII, sections 3131 and 3132 of the Senate amendment, and modifications committed to conference: Messrs. HYDE, LEACH, and LANTOS.

From the Committee on the Judiciary, for consideration of sections 551, 573, 616, 652, 825, 1075, 1078, 1105, 2833, 2842, and 2843 of the House bill, and sections 620, 842, 1063, 1068, 1074, 1080–1082, 1101, 1106, 1107, 2821, 2823, 2824, 3143, 3146, 3151–3157, 3401–3410 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas, and CONYERS.

From the Committee on Resources, for consideration of sections 601 and 2834 of the House bill, and section 1076 of the Senate amendment, and modifications committed to conference: Messrs. POMBO, WALDEN of Oregon, and INSLEE.

From the Committee on Science, for consideration of section 596 of the House bill, and sections 1034, 1092, and title XXXV of the Senate amendment, and modifications committed to conference: Messrs. BOEHLERT, SMITH of Michigan, and GORDON.

From the Committee on Small Business, for consideration of sections 807 and 3601 of the House bill, and sections 805, 822, 823, 912, and 1083 of the Senate amendment, and modifications committed to conference: Mr. MANZULLO, Mrs. KELLY, and Ms. VELÁZQUEZ.

From the Committee on Transportation and Infrastructure, for consideration of sections 555, 558, 596, 601, 905, 1051, 1063, 1072, and 3502 of the House bill, and section 321, 323, 325, 717, 1066, 1076, 1091, 2828, 2833–2836, and title XXXV of the Senate amendment, and modifications committed to conference: Messrs. YOUNG of Alaska, DUNCAN, and CAPUANO.

From the Committee on Veterans' Affairs, for consideration of the sections 2810 and 2831 of the House bill, and sections 642, 2821, and 2823 of the Senate amendment, and modifications committed to conference: Messrs. SMITH of New Jersey, BROWN of South Carolina, and MICHAUD.

From the Committee on Ways and Means, for consideration of section 585 of the House bill, and section 653 of the Senate amendment, and modifications committed to conference: Messrs. SHAW, CAMP, and RANGEL.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

COMMENDING RESILIENCY OF PEOPLE OF THE STATE OF FLORIDA AND WORK OF INDIVIDUALS WHO ASSISTED WITH RECOVERY EFFORTS AFTER HURRICANES CHARLEY, FRANCES, AND IVAN

Mr. MICA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 784) commending the resiliency of the people of the State of Florida and the work of those individuals who have assisted with the recovery efforts after the devastation caused by Hurricanes Charley, Frances, and Ivan, as amended.

The Clerk read as follows:

H. RES. 784

Whereas on August 13, 2004, Hurricane Charley reached landfall and blasted the southwest region of the State of Florida with 145 mile per hour winds and 10-foot storm surges;

Whereas on September 4, 2004, Hurricane Frances reached landfall and battered the east coast and central region of Florida with 105 mile per hour winds and up to 17 inches of rain;

Whereas on September 16, 2004, Hurricane Ivan reached landfall and devastated the panhandle region of Florida with 130 mile per hour winds and estimated 16-foot storm surges;

Whereas on September 26, 2004, Hurricane Jeanne reached landfall and struck the east coast of Florida with 120 mile per hour winds;

Whereas in Florida, 27 people lost their lives due to Hurricane Charley, 30 people lost their lives from the devastation caused by Hurricane Frances, 21 people lost their lives from the destruction of Hurricane Ivan, and 6 people lost their lives as a result of Hurricane Jeanne;

Whereas tens of thousands of homes and businesses were damaged or destroyed by the four hurricanes;

Whereas insured property losses from Hurricane Charley are estimated at almost $7,000,000,000, losses from Hurricane Frances are estimated at up to $4,000,000,000, and losses from Hurricane Ivan are estimated at up to $10,000,000,000;

Whereas more than 20,000 farms were in the path of Hurricane Frances, resulting in more than $2,000,000,000 in damage to the Florida agriculture community;

Whereas the travel and tourism industry in Florida faces billions of dollars in lost revenue;

Whereas power outages caused by the hurricanes have affected more than 6,000,000 people;

Whereas Florida Governor Jeb Bush took immediate action by declaring a major disaster for the entire State of Florida and deploying necessary resources to deal with this crisis;

Whereas the Florida Division of Emergency Management officials did an outstanding job coordinating efforts among Federal, State, and local entities;

Whereas Michael D. Brown, Under Secretary of Homeland Security for Emergency Preparedness and Response, responded quickly to each of the disasters;

Whereas the Federal Emergency Management Agency has more than 2,700 agency workers helping with recovery efforts;

Whereas State, local, and municipal elected officials in Florida diligently voiced the concerns and needs of their respective communities;

Whereas State and local police officers, firefighters, and first responders went above and beyond the call of duty in responding to the four hurricanes;

Whereas Florida Emergency Operations Center personnel worked tirelessly to direct relief efforts;

Whereas the National Guard was quick to mobilize more than 4,100 troops to help in the relief effort;

Whereas doctors, nurses, and medical personnel worked expeditiously to ensure that hospitals and medical centers continued providing necessary care to their communities;

Whereas the American Red Cross and other volunteer organizations and charities are supplying hurricane victims with food, water, and shelter;

Whereas utility companies have worked around-the-clock shifts to restore electric, phone, cable, and water service to damaged areas;

Whereas the Army Corps of Engineers has worked to reinforce thousands of homes with roof damage;

Whereas the National Oceanic and Atmospheric Administration did an extraordinary job providing accurate forecasts of these four devastating storms; and

Whereas thousands of volunteers from across the country have donated their time and resources to help with recovery efforts: Now, therefore, be it

Resolved, That the House of Representatives commends the resiliency of the people of the State of Florida and the work of those individuals who have assisted with the recovery efforts after the devastation caused by Hurricanes Charley, Frances, Ivan, and Jeanne.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the people of the great State of Florida, as we all have seen during the past days, have endured one of the deadliest and most overwhelming hurricane seasons in history. This past weekend, Hurricane Jeanne ravaged Florida's Atlantic coast and became the fourth storm to hammer my State in 6 weeks. For the fourth time, thousands of Floridians were forced into shelters to outlast another powerful hurricane. They lost power, they lost possessions, and they emerged to salvage a few belongings from their damaged homes.

Those Floridians stood in lines waiting for meals, ice; and now they have begun the difficult task to repair their damaged or destroyed homes, to save and put together, find their belongings, all while tolerating Florida's most difficult heat.

But worse than all these inconveniences the storms brought, unfortunately, many Floridians again learned that another storm had taken some of their family, some of their friends, and some of their neighbors. We extend our deepest sympathy to all those who lost their loved ones in these natural tragedies.

The chronology of the Sunshine State's August and September goes like this, and it is an unbelievable scenario: first, Hurricane Charley pounded Florida's southwest coast with nearly 150-mile-an-hour winds on Friday, August 13. It caused approximately some $7 billion in damage.

Then on September 4, Hurricane Frances punished practically the entire State as it moved in a very slow fashion across the entire peninsula during Labor Day weekend. Property damage from Frances is estimated to cost some $4 billion.

Still reeling from the first two storms, Hurricane Ivan, nicknamed Ivan the Terrible, blasted Alabama and Florida's panhandle on Thursday, September 16.

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Ivan left behind an astonishing $10 billion worth of damage and cost for residents to sustain.

Finally, and almost unbelievably, we had one final natural disaster this past weekend. Hurricane Jeanne claimed 6 lives and devastated huge parts of central Florida on Sunday. I am sure many people watched it as it followed the track of a previous hurricane. In Daytona Beach, an area that I represent, the storm washed out sea walls, destroyed beach ramps and scattered tons of debris everywhere. Of course, hard hit were the areas in Martin County and Stuart. Jeanne will cost affected communities another estimated $10 billion, and it knocked out power to more than 2 million residents.

Amazingly, all four of these storms rank in the top ten most expensive hurricanes in American history. But these statistics of losses, while devastating for many families, businesses, farms, the tourism industry, our Florida workforce and others, are ultimately just numbers. The real tragedy of these storms is that they have killed some 79 people in Florida alone, not to mention the 1,500 estimated deaths in Haiti. Jeanne's fury killed six Floridians just this past weekend. These four storms constitute an absolute major tragedy, and our most sincere thoughts and our prayers remain with the individuals and families of those affected by the hurricanes.

Mr. Speaker, the people of Florida have been through an exhausting month and a half. But amid the tragedy and loss, Floridians have responded with an absolute awe-inspiring support and resistance. Relief efforts have been massive. State officials have reported that relief workers and emergency responders have distributed more than 16 million meals, 9 million gallons of water and 60 million pounds of ice over the past 6 weeks. Everyone, and I do say everyone, from the Federal level, the State level and the local level, FEMA, the Florida Emergency Management Division, the National Guard, the American Red Cross, the Army Corps of Engineers and so many other government agencies, private groups and countless individuals have pitched in when residents needed help. Neighbors helped neighbors, hundreds of thousands of acts of kindness and help. The work continues as we speak. But this resolution tonight praises the help of all these selfless people.

Mr. Speaker, it has been an exhausting end to the summer in Florida. Residents are tired and weary but are certainly not defeated. I commend tonight all Floridians in the wake of these four terrible hurricanes. I also want to take this opportunity to thank my good friend from Florida (Mr. FOLEY), whose district was hard hit, for offering House Resolution 784 on behalf of all of the Florida delegation.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleague from Florida (Mr. MICA) in consideration of H. Res. 784 which commends the resiliency of the people of Florida and the work of those individuals who have assisted with the recovery efforts after the devastation caused by Hurricanes Charley, Frances and Ivan.

As residents of Florida return to their homes to rebuild their lives and communities, they demonstrate the very resilient character of the American people. It is impossible to know why we Americans embody this characteristic. Perhaps it has been passed down to us from our ancestors who survived the most difficult of circumstances upon their arrival here. They were tested fiercely, and we as Americans find ourselves tested again and again. But rather than back down from these challenges, it seems that we are at our finest during times of difficulty and in times of crisis. Our spirit is resolute, our generosity is seemingly boundless, and our determination is unyielding.

The devastation caused by Hurricanes Charley, Frances and Ivan, not to mention Jeanne, have left many people in Florida to repair damaged homes or to rebuild their lives. Despite the frustration and sadness they feel, the residents of Florida have proven to us once again that they can prevail over tragedy and hardship by working together. Whether a family member lends shelter and food to another family member in need or a neighbor helps another salvage keepsakes from a destroyed home, or a person offers a bottle of water or the use of a phone to a stranger, the people of Florida are bravely doing what is necessary to help one another get through this tragedy.

We Americans can be proud of the people of Florida, so I am pleased to join my colleague as we offer words of support, words of comfort and words to know that no matter how difficult the circumstances, Florida will continue to rise and rise and rise again.

Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Florida (Mr. FOLEY), the sponsor of House Resolution 784, commending the people of Florida.

Mr. FOLEY. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) and the gentleman from Florida (Mr. MICA). I never thought I would leave Florida today and find the remnants of Jeanne here in our Nation's capital, but so it be.

One of my interns, Adrian Sferle, has basically done what I think is an outstanding map; it was not prepared by NOAA. It was prepared by a college intern, that tracks the four hurricanes that the gentleman from Florida (Mr. MICA) so eloquently described, the hardships they have created, the damage they have wrought and the injuries they have inflicted to a fragile Florida. The purpose today is not necessarily to recount the damage, the totals, the numbers, because they are all stark and they all bring weight to the human spirit because they have endured and caused great pain, great physical, emotional, exhausting pain. People in some parts of Florida, my friend Jeff Miller knows from Pensacola, Adam Putnam, virtually every member of the delegation has had these four storms hit parts or portions of their district. I had the distinction of having three: Charley, Jeanne, Frances, Jeanne and Frances entering almost at the exact same spot in Martin County, Florida; Charley hitting Punta Gorda; Ivan hitting Pensacola, then through Alabama. And, of course, those storms have wrought great tragedy. But the beautiful thing about a storm of this magnitude, if there can be a positive outcome, it is what the gentleman from Illinois (Mr. DAVIS) described, and that is the spirit of America coming forward to aid and assist their fellow man in time of need. The gentleman from Florida (Mr. MICA) mentioned the organizations, American Red Cross, United Way, Salvation Army, among many who have stood up with leadership, compassion and capability to bring Florida back together again. Spending time in emergency operating centers of several counties, we have seen volunteers, professionals, firefighters, Corps of Engineers, you name it, police, sheriff, county administrators, county commissioners, soldiering on and dealing with the pre-hurricane preparedness and the after-hurricane response. Insurance agencies coming down quickly to solve the problems of those that have been injured. Corps of Engineers and their blue tarp program working expeditiously to secure the roof of those who have lost their roofs. FEMA. The tremendous response by Mike Brown, Under Secretary of Homeland Security, and his entire team. Over 4,000-plus people from FEMA are working in the State of Florida. The Governor of our great State, Jeb Bush, has spent the last 7 weeks tirelessly dealing with the needs of the citizens of Florida. The bipartisan spirit of our delegation has been superb. Our two Senators have worked so hard and have fashioned resolutions to deal with the aftermath of these storms. The President coming to Florida on three occasions and will again be in Florida tomorrow to deal with the after-effects of the disaster, ordering FEMA and other Federal agencies to prepare not only in advance of the storms but after to remedy the needs of Floridians.

But we could not do it without the volunteers, the people who have assembled to hand out ice and water. Today, I was in West Palm at the fair grounds. There were kids who were remanded to the drug court that were participating. There were several Miami Dolphin football players participating. There were people from all walks of life, doctors and nurses who were there on the scene, taking time out of their own lives when they had their own homes to rehabilitate, when they had their own homes and families to deal with. Nonetheless, they stood shoulder-to-shoulder in the blazing Florida sun to make certain no person was left behind without the basic, necessary essentials. These are the heroes that I come to the floor today to commend.

We would have never expected four storms in Florida. Maybe we should, because Florida is in the tropics, and we are in a way where storms will make their progress and path toward our State. But we will bounce back. We will be better. We will be stronger. And we will be united. Storms know no partisanship. They certainly know no direction. They find their way, and they do their devastation. But humanity rises to the call and to the occasion. I am deeply gratified for everyone in the process who has worked so hard. I know we will bounce back in the travel and tourism industry. I know we will bounce back in some of the other things that we are going to deal with. There are many measures we are sponsoring on regional emergency energy reserves, on review of energy repair efforts after a disaster, on insurance disaster relief reserves using IRA accounts and so many other things. But I do not want to cloud this resolution with a lot of future endeavors but to thank those who took time out of their lives to share with their fellow Floridians the hard work and handiwork that they are bringing to bear to relieve the suffering of our constituents.

I thank first the gentleman from Virginia (Mr. TOM DAVIS) for giving me an opportunity to proceed out of order. I thank the gentleman from Florida (Mr. MICA) and his committee for giving us the chance to have this resolution heard.

Mr. MICA. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, this past weekend, once again, Floridians were tested. This is the year that I decided to buy waterfront property, so I, too, was there. I, too, learned the fear of the very harsh winds that came, the wonder if everything was secured properly, only to wake up yesterday morning to find water in my first floor once again. What happens is neighbors come together. They help each other, and Floridians are resilient. They will again be rebuilding, rebuilding better, safer structures. But because we love our State and we love, certainly, the Sunshine State, and I predict that, come January or February, when the snow is high up here, that even us Floridians will look back upon this as just a time of test.

Whether it was Charley, Frances, Ivan or, this past weekend, Jeanne, we saw communities come together. We saw people helping each other. We might have lost our power. We might have lost some of our possessions and certainly our pride because we never could relate to what it meant to be homeless, but there are so many people who are now homeless as a result of this storm.

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The simple things such as taking a nice warm shower, these amenities obviously were missing. The Red Cross as well as the Salvation Army moved in some shower units so that while people were waiting for the power to come back on, at least they could take a shower. They provided water, ice, food, and certainly comfort. Many of the churches also opened their doors to provide hot meals to people.

Floridians will survive this storm this past weekend as we survived the ones in the past. Neighbors are helping neighbors. Certainly the sheriffs' offices are to be commended. We have heroes out there, everyday people in the communities who are stepping forward to help individuals whose property may have been damaged by these storms. We need to remember these very brave people, whether they are firefighters, whether they are the road deputies, or whether they are the neighbor next door who comes forth with a chain saw and is willing to help somebody who has had a tree fall on their property. Floridians are a hearty group and certainly we need to commend them.

And I want to thank the gentleman from Florida (Mr. FOLEY) for introducing this resolution.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

To conclude, Mr. Speaker, I commend the gentleman from Florida (Mr. FOLEY), the author of this resolution, commending the people of Florida on their response, their attitude, their resilience in a time they have faced of unprecedented natural disasters.

I again would close by saying that we owe a great deal of thanks to President Bush, who has responded first with a recommendation of $2 billion. Most recently with $7.1 billion in Federal assistance that will supplement insurance and other assistance from the private sector to people who have been seriously affected, who have lost their homes, their possessions, their businesses in this horrible series of natural disasters.

I want to thank Jeb Bush. Rarely has any Governor responded with such commanding presence to assist his people than the Governor of Florida, Jeb Bush. Of course we all want to thank Federal, State, local volunteers, workers, and people who came from other States to assist us in our time of need, and neighbors who helped neighbors.

We have lost a lot of things in Florida, but one thing we did not lose was our sense of humor. And I must close with we have a local columnist in the Orlando Sentinel. I believe this was ten things that he pointed out that Floridians learned from the hurricanes and disasters, and I will point out two of them. Again, Floridians did not lose their sense of humor, but ten things we learned. Two of them: One, we learned that no matter how great the hurricane-force winds, the political signs did not blow away. Also, and again I think it was Mike Thomas of the Sentinel, one of the things we learned, it is one's God-given right as a Floridian, when they have had a hurricane, to sit on their back porch by candlelight eating Chinese food in their underwear. And again one can only appreciate that if they are a Floridian and have had to go through a very traumatic time without power in a very hot time of the summer. So we have not lost our resilience. We have not lost our sense of humor.

Finally, I will announce that Florida is open for business. Our tourist attractions are open and we welcome people. The best way people can help the people of Florida now is to, in fact, visit Florida, continue with their plans. While we have some areas that have been hard hit, a simple call will confirm that most of Florida, and particularly the tourist areas, are open for business. And people can help us, again, with economic recovery by not abandoning their plans to visit Florida.

So with that, Mr. Speaker, I am pleased to support House Resolutions 784 by the gentleman from Florida (Mr. FOLEY).

Mr. Speaker, how much time do I have left?

The SPEAKER pro tempore (Mr. KLINE). The gentleman from Florida (Mr. MICA) has 30 seconds remaining.

Mr. MICA. Mr. Speaker, I yield the balance of my time to the gentlewoman from Florida (Ms. HARRIS).

Ms. HARRIS. Mr. Speaker, during the last month and a half, the worst of circumstances has summoned the best of humanity. As I have visited emergency operation centers, Red Cross shelters, and temporary housing sites throughout Florida's 13th Congressional District, I have truly been amazed by the courage, determination, and compassion I have witnessed.

Just last weekend the gentleman from Ohio (Mr. NEY) joined me in visiting some of the worst-hit areas in my district, in DeSoto and Hardee Counties, just hours before Hurricane Jeanne became the third hurricane in 6 weeks to devastate this economically challenged region.

And what was the attitude of those residents as a disaster of already historic proportions threatened to become even worse? Not bitterness or even despair, but unbelievable selflessness as they said that they were glad the hurricane approached, as they had lost everything, it would not be damaging anyone else in its wake.

Storms like Charley, Frances, Ivan, and Jeanne can destroy the property of our State's valiant people. They can even test Florida's enormous reserve of physical and emotional energy, but they will not break our will or steal our heart.

As we consider legislation to assist hurricane victims, may we act in the same spirit and with the same courage and determination.

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of H. Res. 784, which commends the resiliency of the people of the State of Florida and the work of those individuals who have assisted with the recovery efforts after the devastation caused by Hurricanes Charley, Frances, and Ivan. As a Floridian and cosponsor of this resolution, I am proud to stand here today.

Florida is the most hurricane-prone State in the Nation. This season alone we have witnessed destruction from Hurricanes Charley, Frances, Ivan and, most recently, Jeanne. Homes have been damaged and in some cases destroyed. Power outages continue to plague many throughout the State. The agricultural industry has taken a beating by the devastation caused to crops and livestock.

And the hurricane season is far from over.

Mr. Speaker, Floridians are tired and many are hurting as a result of these hurricanes. But they don't give up. They rally together to help those in need, volunteering their time and resources to help their neighbors. Even individuals who are faced with repairing their own homes and businesses take time to help those with greater need first. This is a testament to the good will and hopeful spirit that I have come to admire and expect in the people of our great State.

I commend Floridians for persevering during this trying hurricane season, and I applaud all those who have assisted in recovery efforts. Governor Jeb Bush has done a great job leading, encouraging, and comforting the weather-weary citizens of our State, and he is one player among a cast of thousands that is worthy of our praise. Mr. Speaker, I wish to thank the Federal Emergency Management Agency (FEMA) representatives who have spent much time and many resources assisting Floridians. I also commend our local and State law enforcement officials, emergency workers, and public safety personnel for keeping order, directing traffic and rescuing stranded individuals.

There are too many people to thank to name them, but they know who they are. I encourage all Floridians to keep persevering and to keep helping one another. You are an inspiration to us all.

Mr. Speaker, passage of H. Res. 784 would show the people of Florida that the House of Representatives recognizes and values the manner by which they have dealt with this busy hurricane season. I urge all of my colleagues to support this resolution to commend Floridians for their hard work and patience during this difficult time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the resolution, H. Res. 784, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The title of the resolution was amended so as to read: "Commending the resiliency of the people of the State of Florida and the work of those individuals who have assisted with the recovery efforts after the devastation caused by Hurricanes Charley, Frances, Ivan, and Jeanne.".

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 106, PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES RELATING TO MARRIAGE

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–705) on the resolution (H. Res. 801) providing for consideration of the joint resolution (H.J. Res. 106) proposing an amendment to the Constitution of the United States relating to marriage, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 107, MAKING CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2005

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–706) on the resolution (H. Res. 802) providing for consideration of the joint resolution (H.J. Res. 107) making continuing appropriations for the fiscal year 2005, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3193, DISTRICT OF COLUMBIA PERSONAL PROTECTION ACT

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–707) on the resolution (H. Res. 803) providing for consideration of the bill (H.R. 3193) to restore second amendment rights in the District of Columbia, which was referred to the House Calendar and ordered to be printed.

DISTRICT OF COLUMBIA RETIREMENT PROTECTION IMPROVEMENT ACT OF 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4657) to amend the Balanced Budget Act of 1997 to improve the administration of Federal pension benefit payments for District of Columbia teachers, police officers, and fire fighters, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Retirement Protection Improvement Act of 2004".

SEC. 2. ESTABLISHMENT OF DISTRICT OF COLUMBIA FEDERAL PENSION FUND FOR PAYMENT OF FEDERAL BENEFIT PAYMENTS TO DISTRICT OF COLUMBIA TEACHERS, POLICE OFFICERS, AND FIRE FIGHTERS.

(a) IN GENERAL.—Subtitle A of title XI of the Balanced Budget Act of 1997 (sec. 1—801.01 et seq., D.C. Official Code) is amended—

(1) by redesignating chapter 9 as chapter 10;

(2) by redesignating sections 11081 through 11087 as sections 11091 through 11097; and

(3) by inserting after chapter 8 the following new chapter:

"CHAPTER 9—DISTRICT OF COLUMBIA FEDERAL PENSION FUND

"SEC. 11081. CREATION OF FUND.

"(a) ESTABLISHMENT.—There is established on the books of the Treasury the District of Columbia Teachers, Police Officers, and Firefighters Federal Pension Fund (hereafter referred to as the 'D.C. Federal Pension Fund'), consisting of the following:

"(1) The assets transferred pursuant to section 11083.

"(2) The annual Federal payments deposited pursuant to section 11084.

"(3) Any amounts otherwise appropriated to such Fund.

"(4) Any income earned on the investment of the assets of such Fund pursuant to subsection (b).

"(b) INVESTMENT OF ASSETS.—The Secretary shall invest such portion of the assets of the D.C. Federal Pension Fund as is not in the judgment of the Secretary required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the D.C. Federal Pension Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(c) RECORDKEEPING FOR ACTUARIAL STATUS.—The Secretary shall provide for the keeping of such records as are necessary for determining the actuarial status of the D.C. Federal Pension Fund.

"SEC. 11082. USES OF AMOUNTS IN FUND.

"(a) IN GENERAL.—Amounts in the D.C. Federal Pension Fund shall be used—

"(1) to make Federal benefit payments under this subtitle;

"(2) subject to subsection (b), to cover the reasonable and necessary administrative expenses incurred by any person in administering the D.C. Federal Pension Fund and carrying out this chapter;

"(3) for the accumulation of funds in order to finance obligations of the Federal Government for future benefits; and

"(4) for such other purposes as are specified in this subtitle.

"(b) BUDGETING, CERTIFICATION, AND APPROVAL OF ADMINISTRATIVE EXPENSES.—The administrative expenses of the D.C. Federal Pension Fund shall be paid in accordance with an annual budget set forth by the Pension Fund Trustee which shall be subject to certification and approval by the Secretary.

"SEC. 11083. TRANSFER OF ASSETS AND OBLIGATIONS OF TRUST FUND AND FEDERAL SUPPLEMENTAL FUND.

"(a) TRANSFER OF OBLIGATIONS.—Effective October 1, 2004, all obligations to make Federal benefit payments shall be transferred from the Trust Fund to the D.C. Federal Pension Fund.

"(b) TRANSFER OF ASSETS.—Effective October 1, 2004, all assets of the Trust Fund and all assets of the Federal Supplemental Fund as of such date shall be transferred to the D.C. Federal Pension Fund.

"SEC. 11084. DETERMINATION OF ANNUAL FEDERAL PAYMENTS INTO D.C. FEDERAL PENSION FUND.

"(a) ANNUAL AMORTIZATION AMOUNT.—

"(1) IN GENERAL.—At the end of each fiscal year (beginning with fiscal year 2005), the Secretary shall promptly pay into the D.C. Federal Pension Fund from the general fund of the Treasury an amount equal to the annual amortization amount for the year (which may not be less than zero).

"(2) DETERMINATION OF AMOUNT.—For purposes of paragraph (1)—

"(A) the 'original unfunded liability' is the present value as of the effective date of this Act of expected future benefits payable from the Federal Supplemental Fund; and

"(B) the 'annual amortization amount' means the amount determined by the enrolled actuary to be necessary to amortize in equal annual installments (until fully amortized)—

"(i) the original unfunded liability over a 30-year period,

"(ii) a net experience gain or loss over a 10-year period, and

"(iii) any other changes in actuarial liability over a 20-year period.

"(3) SCHEDULE FOR AMORTIZATION.—In determining the annual amortization amount under paragraph (2)(B), the enrolled actuary shall include amounts necessary to complete the amortization schedules used for determining the annual amortization amount for payments into the Federal Supplemental Fund under section 11053 (as in effect prior to the enactment of this chapter).

"(b) ADMINISTRATIVE EXPENSES.—During each fiscal year (beginning with fiscal year 2009), the Secretary shall pay into the D.C. Federal Pension Fund from the general fund of the Treasury the amounts necessary to pay the reasonable and necessary administrative expenses described in section 11082(a)(2) for the year.

"SEC. 11085. ADMINISTRATION THROUGH PENSION FUND TRUSTEE.

"(a) IN GENERAL.—The Secretary shall select a Pension Fund Trustee to carry out the responsibilities and duties specified in this subtitle in accordance with the contract described in subsection (b).

"(b) CONTRACT.—The Secretary shall enter into a contract with the Pension Fund Trustee to provide for the auditing of D.C. Federal Pension Fund assets, the making of Federal benefit payments under this subtitle from the D.C. Federal Pension Fund, and such other matters as the Secretary deems appropriate. The Secretary shall enforce the provisions of the contract and otherwise monitor the administration of the D.C. Federal Pension Fund.

"(c) SUBCONTRACTS.—Notwithstanding any provision of a District Retirement Program or any other law, rule, or regulation, the Pension Fund Trustee may, with the approval of the Secretary, enter into one or more subcontracts with the District Government or any person to provide services to the Pension Fund Trustee in connection with its performance of the contract. The Pension Fund Trustee shall monitor the performance of any such subcontract and enforce its provisions.

"(d) DETERMINATION BY THE SECRETARY.—Notwithstanding subsection (b) or any other provision of this subtitle, the Secretary may determine, with respect to any function otherwise to be performed by the Pension Fund Trustee, that in the interest of economy and efficiency such function shall be performed by the Secretary rather than the Pension Fund Trustee.

"(e) REPORTS.—The Pension Fund Trustee shall report to the Secretary, in a form and manner and at such intervals as the Secretary may prescribe, on any matters under the responsibility of the Pension Fund Trustee as the Secretary may prescribe.

"SEC. 11086. APPLICABILITY OF OTHER PROVISIONS TO D.C. FEDERAL PENSION FUND.

"The following provisions of this subtitle shall apply with respect to the D.C. Federal Pension Fund in the same manner as such provisions applied with respect to the Trust Fund prior to October 1, 2004:

"(1) Section 11023(b) (relating to the repayment by the District Government of costs attributable to errors or omissions in transferred records).

"(2) Section 11034 (relating to the treatment of the Trust Fund under certain laws).

"(3) Section 11061 (relating to annual valuations and reports by the enrolled actuary), except that in applying section 11061(b) to the D.C. Federal Pension Fund, the annual report required under such section shall include a determination of the annual payment to the D.C. Federal Pension Fund under section 11084.

"(4) Section 11062 (relating to reports by the Comptroller General).

"(5) Section 11071 (relating to judicial review).

"(6) Section 11074 (relating to the treatment of misappropriation of Trust Fund amounts as a Federal crime).".

(b) TERMINATION OF CURRENT FUNDS.—

(1) DISTRICT OF COLUMBIA FEDERAL PENSION LIABILITY TRUST FUND.—Chapter 4 of subtitle A of title XI of such Act (sec. 1—807.01 et seq., D.C. Official Code) is amended by adding at the end the following new section:

"SEC. 11036. TERMINATION OF TRUST FUND.

"Effective upon the transfer of the obligations and assets of the Trust Fund to the D.C. Federal Pension Fund under section 11083—

"(1) the Trust Fund shall terminate; and

"(2) the obligation to make Federal benefit payments from the Trust Fund, and any duty imposed on any person with respect to the Trust Fund, shall terminate.".

(2) FEDERAL SUPPLEMENTAL DISTRICT OF COLUMBIA PENSION FUND.—Chapter 6 of subtitle A of title XI of such Act (sec. 1—811.01 et seq., D.C. Official Code) is amended by adding at the end the following new section:

"SEC. 11056. TERMINATION OF FEDERAL SUPPLEMENTAL FUND.

"Effective upon the transfer of the assets of the Federal Supplemental Fund to the D.C. Federal Pension Fund under section 11083—

"(1) the Federal Supplemental Fund shall terminate; and

"(2) any duty imposed on any person with respect to the Federal Supplemental fund shall terminate.".

(c) CONFORMING DEFINITIONS.—

(1) TRUSTEE.—Section 11003(16) of such Act (sec. 1—801.02(16), D.C. Official Code) is amended by striking the period at the end and inserting the following: ", or, beginning October 1, 2004, the Pension Fund Trustee selected by the Secretary under section 11085.".

(2) D.C. FEDERAL PENSION FUND.—Section 11003 of such Act (sec. 1—801.02, D.C. Official Code) is amended—

(A) by redesignating paragraphs (3) through (16) as paragraphs (4) through (17); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) The term 'D.C. Federal Pension Fund' means the District of Columbia Teachers, Police Officers, and Firefighters Federal Pension Fund established under section 11081.".

(d) OTHER CONFORMING AMENDMENT.—Section 11041(b) of such Act (sec. 1—809.01(b), D.C. Official Code) is amended in the heading by striking "FROM TRUST FUND".

(e) CLERICAL AMENDMENTS.—The table of contents of subtitle A of title XI of such Act is amended—

(1) by adding at the end of the items relating to chapter 4 the following:

"Sec. 11036. Termination of Trust Fund.";

(2) by adding at the end of the items relating to chapter 6 the following:

"Sec. 11056. Termination of Federal Supplemental Fund.";

(3) by redesignating the item relating to chapter 9 as relating to chapter 10;

(4) by redesignating the items relating to sections 11081 through 11087 as relating to sections 11091 through 11097; and

(5) by inserting after the items relating to chapter 8 the following:

"CHAPTER 9—DISTRICT OF COLUMBIA FEDERAL PENSION FUND

"Sec. 11081. Creation of Fund.
"Sec. 11082. Uses of Amounts in Fund.
"Sec. 11083. Transfer of Assets and Obligations of Trust Fund and Federal Supplemental Fund.
"Sec. 11084. Determination of Annual Federal Payment Into D.C. Federal Pension Fund.
"Sec. 11085. Administration Through Pension Fund Trustee.
"Sec. 11086. Applicability of Other Provisions to D.C. Federal Pension Fund.".

SEC. 3. ADMINISTRATION OF DISTRICT OF COLUMBIA JUDICIAL RETIREMENT AND SURVIVORS ANNUITY FUND.

(a) PROCEDURES FOR RESOLVING DENIED BENEFIT CLAIMS.—

(1) IN GENERAL.—Section 11—1570(c), D.C. Official Code, is amended by adding at the end the following new paragraph:

"(3)(A) In accordance with procedures approved by the Secretary, the Secretary shall provide to any individual whose claim for a benefit under this subchapter has been denied in whole or in part—

"(i) adequate written notice of such denial, setting forth the specific reasons for the denial in a manner calculated to be understood by the average participant in the program of benefits under this subchapter; and

"(ii) a reasonable opportunity for a full and fair review of the decision denying such claim.

"(B) Any factual determination made by the Secretary pursuant to this paragraph shall be presumed correct unless rebutted by clear and convincing evidence. The Secretary's interpretation and construction of the benefit provisions of this subchapter shall be entitled to great deference. ".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to claims for benefits which are made after the date of the enactment of this Act.

(b) TREATMENT OF MISAPPROPRIATION OF FUND AMOUNTS AS FEDERAL CRIME.—

(1) IN GENERAL.—Section 11—1570, D.C. Official Code, is amended by adding at the end the following new subsection:

"(l) The provisions of section 664 of title 18, United States Code (relating to theft or embezzlement from employee benefit plans), shall apply to the Fund.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 4. ADMINISTRATION OF RETIREMENT PROGRAM FOR POLICE OFFICERS, FIRE FIGHTERS, AND TEACHERS BY OTHER THAN CHIEF FINANCIAL OFFICER.

(a) IN GENERAL.—Section 424(c)(21) of the District of Columbia Home Rule Act (sec. 1—204.24c(21), D.C. Official Code) is amended by striking "systems" and inserting the following: "systems (other than the retirement system for police officers, fire fighters, and teachers)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 4657, a bill to improve the administration of Federal pension benefit payments for District of Columbia teachers, police officers, and firefighters. This simple reform will streamline the pension process for these individuals and the Federal Government. H.R. 4657 will transfer pension benefit assets that are currently held in two Federal trust funds to a single, newly created trust fund.

The bill also extends to retired judges the same rights of review of benefit denials. These rights include the same review standards for benefits that currently apply to retirees in the D.C. Police Officers' and Firefighters' Retirement Plan.

Mr. Speaker, the bottom line is the Treasury Department presently uses unnecessary resources to maintain two pension funds when only one is needed. H.R. 4657 corrects this. This bill is budget neutral, and I support the passage and am pleased to be joined tonight by the distinguished gentlewoman from the District of Columbia (Ms. NORTON) and the gentleman from Maryland (Mr. HOYER), who are also cosponsors of this legislation.

Under the Balanced Budget Act of 1997, the Treasury Department and the District of Columbia share responsibility for the D.C. Police Officers' and Firefighters' Retirement Plan and under the defined benefit retirement plan for all District judges.

Originally two separate retirement funds, the Supplemental Fund and the Trust Fund, were created. Unlike the Trust Fund, the assets of the Supplemental Fund had to be invested in public debt securities. This provision was dropped 2 years later as part of an appropriations act, thereby eliminating the primary reason for having two separate funds. So instead of administering two similar funds, the passage of this legislation promotes greater efficiency in the management of D.C. pensions. It also extends to retired judges the same rights of review of benefits denial that currently apply to those in the D.C. Police Officers' and Firefighters' Retirement Plan. This is a matter of fairness and transparency. The retired judges would receive the same standards of review for factual determinations, interpretations, and construction of benefit provisions.

Finally, H.R. 4657 would also transfer administration of the retirement plans from the District of Columbia Office of Financial Operations and Systems in the Chief Financial Officer's Office to the District of Columbia Retirement Board.

The passage of this bill is beneficial to pensioners and the Treasury Department as it promotes more efficient accounting and investing and extends similar treatment to pensioners in all three retirement programs.

I urge my colleagues to support it, and I thank my colleagues for working with me on it.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4657, the District of Columbia Retirement Protection Improvement Act of 2004. I agree with the gentleman from Virginia (Mr. TOM DAVIS) that the time has come to simply provide protection, and the best of protection, to those individuals in the District of Columbia who are in need of reform of their pension.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me this time and for his help and support and work on this bill. And I want to thank the gentleman from Virginia (Mr. TOM DAVIS), chairman of the full committee, for his help on this bill and his help on so many other bills that enabled the District to function more efficiently.

H.R. 4657 is a significant management efficiency win for the District of Columbia because the bill streamlines the administration of what has been a very complicated pension benefit system for D.C. teachers, police, and firefighters.

I want to thank the chairman and the gentleman from Maryland (Mr. HOYER), Democratic whip, both for their leadership in bringing this important piece of legislation forward.

The legislation promotes more efficient investment, accounting, and financial reporting of two pension funds, the D.C. Federal Pension Liability Trust Fund and the Federal Supplemental D.C. Pension Fund, simply by combining the two funds into a newly created D.C. Teachers, Police, and Firefighters Pension Fund.

The bill also puts into law the appeal rights of those covered by the judges' retirement plan. Employees covered by this plan already have by regulation the same appeal rights as police officers, firefighters, and teachers. This legislation simply codifies those regulations.

In 1997 the Department of Treasury assumed responsibility for the D.C. Teachers' Retirement Plan and the Police Officers' and Firefighters' Retirement Plan. These plans, combined, cover over 11,000 people who retired as of June 30, 1997. Since 1997 about 2,000 additional people have retired and approximately 9,000 teachers, police officers, and firefighters are still working. These individuals are covered by the D.C. Retirement Fund. Currently the District of Columbia Retirement Board has oversight of the investment of the fund while the D.C. Office of Pay and Retirement Services, which is under the Chief Financial Officer, and the D.C. Office of Personnel share oversight of the noninvestment benefit administration functions, including pension benefit determinations and calculations and informing the employees about the retirement fund and counseling them on their benefits and sending out the checks.

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What I just said shows you how this issue has simply grown topsy without anybody thinking through how to bring it together and make it more efficient, because that was almost indecipherable. Imagine if you had to administer this fund trying to figure that out.

Thanks to your leadership, Mr. Chairman, and your willingness to amend this act, the bill now includes a critical provision that will create significant management efficiency for the D.C.-administered retirement plan by giving the D.C. Retirement Board oversight authority over both the investment and the non-investment activities.

This change in law brings the District in line with most State and local retirement plans. This change in local benefits administration was enacted into law by the Mayor and D.C. City Council. Because it amends the Home Rule Charter, congressional action was also required.

I thank you again, Mr. Chairman. I want to thank my colleagues for their work and support on this bill, and urge them to support and vote for H.R. 4657.

Mr. HOYER. Mr. Speaker, I am pleased to support The District of Columbia Retirement Protection Improvement Act of 2004, which I sponsored with Representative TOM DAVIS. This bill makes simple and commonsense improvements to streamline the administration of pension benefits for District of Columbia teachers, police officers, and firefighters.

This legislation eliminates duplication and promotes efficiency in the investment and accounting of D.C. pension funds. In 1997 Congress created two separate funds that operated under different rules. However, Congress has long since acted to eliminate the distinctions between the two funds. This legislation will take the logical next step of consolidating the two funds and replacing them with the newly created D.C. Teachers, Police, and Firefighters Pension Fund.

I am also pleased that we were able to include provisions supported by Congresswoman ELEANOR HOLMES NORTON and the City government to transfer administration of retirement programs for D.C. Police Officers, Firefighters, and Teachers from the office of the Chief Financial Officer to the D.C. Retirement Board. This provision will consolidate responsibility of retirement benefits and has already been approved by the D.C. Government, but can only go into effect with Congressional action.

Last year, I was pleased to join Congressman DAVIS in sponsoring another bill affecting retirement funds for D.C. Police Officers and Firefighters, the D.C. Military Retirement Equity Act, which was signed into law on November 22, 2003. That law allowed retired D.C. Police Officers, Firefighters, Park Police Officers, and Secret Service employees to "buy back" military service time and credit it toward their retirement in order to avoid cost reductions in their monthly benefit payments.

These changes today will improve the management of pension funds for D.C. Police Officers, Firefighters, and Teachers, many of whom work in the District of Columbia but reside in my home State of Maryland. Police Officers, Firefighters, and Teachers serve our communities every day to ensure that our children are educated, our streets are safer, and our neighborhoods are protected. I am pleased to take this small step to improve the administration of pension benefits for these workers.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KLINE). The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the bill, H.R. 4657, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MARTHA PENNINO POST OFFICE BUILDING

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5133) to designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the "Martha Pennino Post Office Building".

The Clerk read as follows:

H.R. 5133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARTHA PENNINO POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, shall be known and designated as the "Martha Pennino Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Martha Pennino Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5133.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5133, sponsored by my friend and colleague, the gentleman from Virginia (Mr. MORAN), designates the postal facility in Reston, Virginia, as the Martha Pennino Post Office. The entire Virginia delegation supports this legislation, and I am pleased to join them tonight.

On September 17, Virginia's Fairfax County, which I represent, lost one of its most influential community leaders, Martha Pennino. I rise tonight to honor and remember Martha Virginia Pennino, a former vice chairman of the Fairfax County Board of Supervisors, with whom I served for 12 years on the board.

Mrs. Pennino died September 17, 2004, at Inova Fairfax Hospital at the age of 86, leaving a long and lasting legacy.

Known as Mother Fairfax, Mrs. Pennino was born in 1918 in Roanoke, Virginia, and was raised in Gloucester, Massachusetts. She received a bachelor's degree from Emerson College in Boston.

Mrs. Pennino served three terms on the Vienna Town Council prior to being elected to the Fairfax County Board of Supervisors in November 1967, representing what was then the Centreville District.

From 1968 to 1991, Mrs. Pennino was at the center of nearly every major decision made in Fairfax County. She was involved with such projects as the Dulles Toll Road, the Reston Hospital Center, South Lakes High School, the Reston Community Center, and the Reston Regional Library.

Mrs. Pennino played an instrumental role in the planned community of Reston, which was taking shape when she took office and was also critical in getting Interstate 66 built inside the beltway.

During her years on the Fairfax County Board of Supervisors, Mrs. Pennino was deeply committed to helping the poor and homeless. She pushed for the building of the Embry Rucker shelter for the homeless, supported building low-cost housing, and buying and renovating the rundown Stonegate apartment complex. Prior to the construction of the shelter, she even provided cots in her supervisor's office and opened it at night for people with nowhere else to go.

Mrs. Pennino received many accolades for her work in Fairfax County. In 1985, she was awarded the Tom Bradley Regional Leadership Award from the National Association of Regional Councils. The group cited her efforts in developing the first energy policy for a metropolitan area, the region's carpool program, and a fair-share housing program. Washingtonian Magazine named her Washingtonian of the Year.

Mrs. Pennino was also involved with many community boards and foundations. She was a member of the Advisory Board of the Northern Virginia Youth Services Coalition, director of the Northern Virginia Community Foundation, a commissioner on the Northern Virginia Regional Commission, and a member of the Board of Visitors of George Mason University.

Additionally, Mrs. Pennino served as President of the Virginia Association of Counties of the Virginia Municipal League and was a member of the Board of Directors of the Metropolitan Washington Council of Governments for 17 years, holding posts of president and chairman.

Mr. Speaker, in closing, I want to express my gratitude to Martha Virginia Pennino for her service to Fairfax County and the mark she has left on her community. She will be sorely missed. In recognition of her dedicated service, I ask that the Reston Post Office be renamed in her honor.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. MORAN), the sponsor of this legislation.

Mr. MORAN of Virginia. Mr. Speaker, I very much thank my friend and colleague, the gentleman from Illinois (Mr. DAVIS), and the gentleman from Virginia (Mr. TOM DAVIS), the chairman of the committee, who I know felt very strongly about Martha, having served with her, and was a close friend to her.

As my friend said, on September 17, Fairfax County lost one of its most important and influential citizens ever. Martha Pennino was known as Mother Fairfax. Through her leadership, Martha Pennino helped oversee development of Fairfax County into one the most successful jurisdictions in the entire country. She was a kind and compassionate public servant who made sure that all people were treated fairly, regardless of their circumstance.

Born in Roanoke, Virginia, as the gentleman from Virginia (Mr. TOM DAVIS) said, she grew up in Gloucester, Massachusetts. She lived for many years in Massachusetts and went to Emerson College in Boston.

Early on she had dreams of becoming a ballerina or an actress. She did have a flare for the dramatic. But her plans changed upon meeting Walter Pennino. She says she knew at the outset that she would be with him for life. They moved to Vienna, Virginia, in the 1950s after her husband took a job at the Pentagon and began searching for a typically American place to live.

What she did not know when she moved to the small town of Vienna, Virginia, in Fairfax County was that through her work she would help transform the county into one of the premier locations, attracting thousands of families from all over the country.

Knowing that she wanted to get involved in her community, not just wanting to stand on the sidelines, Martha Pennino began her public life by serving three terms on the Vienna Town Council. In 1968 she was elected to the Fairfax County Board of Supervisors as a representative of the Centreville District. As the gentleman from Virginia (Mr. TOM DAVIS) said, she served for many years with him. At the time of her election, though, she was only the seventh woman elected to office in Virginia, paving the way for women throughout Northern Virginia.

She continued to serve on the Board of Supervisors until 1991, including 17 years as vice chairman. By the time she left the board, she was the longest-serving woman in office in Virginia. During her tenure, she was involved in most of the major decisions affecting the county and was instrumental in seeing Reston develop into a successful planned community. From the moment she saw Reston as conceived by its founder, Robert E. Simon, she was determined that Reston would be a place where all people would be welcomed and no one would be excluded.

Through her commitment, she saw the very rapid development of projects that included the Dulles Toll Road, South Lakes High School, and the Reston Regional Library, among many other things. She helped create a true sense of community for all those living in this new area.

Martha Pennino also helped establish the Fairfax County Human Rights Commission to help fight discrimination throughout the county. Having lived through the Jim Crow era, she knew that too often people were being treated differently because of their income level or their race, and Martha wanted to ensure that past discrimination had no place in her community.

Martha Pennino will best be remembered by the citizens of Fairfax County for her commitment to the poor and to the homeless in her community. As the gentleman from Virginia (Mr. TOM DAVIS) has said, she opened her office at night for people without a home and provided them a bed and a warm place to rest. She also ensured that with the enormous development occurring in Fairfax County, there would be low-cost housing options for those who needed them and that these buildings would be as aesthetically pleasing as other housing options in the area.

One story that has followed Martha Pennino and perhaps best characterizes her style involves former President Jimmy Carter. When then-Governor Jimmy Carter was running for President, Martha Pennino hosted a party for him. During the party, they ran out of ice. As only Martha could, she asked Jimmy Carter to run out and pick up some more ice at the 7–11, and he did.

I would also like to take a minute again to thank my friend and colleague, the gentleman from Virginia (Chairman TOM DAVIS), for his efforts in seeing this legislation come to the floor, and my colleague and friend, the gentleman from Illinois (Mr. DAVIS), who has helped us bring so many good pieces of legislation to the floor. I know that the gentleman from Virginia (Mr. TOM DAVIS) was a close friend of Martha Pennino, and I know that he as well as we regret her passing.

So in honor of her work to help all residents of Fairfax County, for being an instrumental part in managing the growth of the county, I ask that the Reston Post Office be named after Martha Pennino. In doing so, we honor and remember this remarkable woman so future generations can know what one person can do and what this very special person has accomplished for the benefit of her entire community.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, I had the pleasure of serving on the Fairfax Board of Supervisors with Martha Pennino for 12 years. I want to say I am very grateful for the opportunity to have known her and to have worked with her on so many projects. She was a classy lady, and I am going to miss her.

Mr. Speaker, I urge passage of H.R. 5133.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply would want to commend the gentleman from Virginia (Mr. MORAN) and the gentleman from Virginia (Chairman TOM DAVIS) for their leadership in bringing this important measure to the floor. I urge its passage.

Mr. WOLF. Mr. Speaker, I rise today as a co-sponsor and in strong support of H.R. 5133, legislation to designate a United States Postal Service facility in Reston, Virginia, as the Martha Pennino Post Office.

Martha Pennino, known as "Mother Fairfax," passed away on September 17. She was a leader in Fairfax County, and was instrumental in helping the county achieve the success it enjoys today. She served from 1968 to 1991 on the Fairfax Board of Supervisors, and served as the board's vice chairman for 17 years. Under her leadership, Reston became a successful developed community, and several important projects, including the Dulles Toll Road, South Lakes High School, and the Reston Regional Library, were undertaken.

It is Martha Pennino's dedication to those in Fairfax County with the least that will also be remembered. She was committed to the poor in the community, often opening her office at night to allow the homeless to rest their heads in a warm, safe place. Under her leadership, a homeless shelter was opened in her district, and she was an advocate for low-cost housing in Fairfax County, to help ensure that as the county grew, its poorest residents would not be left out of the county's progress. Martha Pennino's desire for Fairfax County to be an inclusive community is also reflected in her work to help establish the Fairfax County Human Rights Commission. Martha Pennino wanted everyone in Fairfax County to feel that they truly belonged to Fairfax County.

Mr. Speaker, I am proud to support H.R. 5133, and proud to commemorate the life of Martha Pennino, an outstanding leader in Fairfax County, and a tireless advocate for those in need.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the bill, H.R. 5133.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SPECIALIST ERIC RAMIREZ POST OFFICE

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5027) to designate the facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, as the "Specialist Eric Ramirez Post Office".

The Clerk read as follows:

H.R. 5027

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIALIST ERIC RAMIREZ POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, shall be known and designated as the "Specialist Eric Ramirez Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Specialist Eric Ramirez Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5027.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5027 pays tribute to the life of a fallen United States hero. Specialist Eric Ulysses Ramirez paid the ultimate sacrifice in defense of this great Nation. Tonight, the House of Representatives remembers his devoted service.

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Specialist Eric Ulysses Ramirez was a model citizen, a husband and a father. He was a sheriff's deputy, and he also served as a National Guardsman.

In February of 2003, Specialist Ramirez and his Guard unit were activated to take part in Operation Iraqi Freedom. Tragically, on February 12 of this year, just 42 days before his tour of duty in Iraq would have been completed, Iraqi insurgents killed Eric in an attack. Eric Ramirez was to have returned from Iraq in March with the 670th Military Police Company.

Eric is survived by his wife, Tracy Bensen-Ramirez, by his young daughter, Isis, and a brand new son, Chase. Last December, Eric was given permission to leave Iraq and return to Florida for his son's, Chase's, birth.

Mr. Speaker, this Post Office at 411 Midway Avenue in Mascotte, Florida, which is Eric's hometown, will be an exceedingly deserved and appropriate commemoration of his life. Eric loved his family. He loved his hometown. He loved this country so much that he fought and struggled and gave his life to defend them.

I strongly urge all Members to join me and also the distinguished gentlewoman from my home State of Florida (Ms. GINNY BROWN-WAITE) to support this legislation that will create the Specialist Eric Ramirez Post Office.

Mr. Speaker, I want to also thank the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) for her efforts and sponsorship of H.R. 5027.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of H.R. 5027, legislation naming the U.S. postal facility in Mascotte, Florida, after Eric Ramirez.

This measure, which was unanimously reported by our committee on September 15, 2004, was introduced by the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) on September 8, 2004. H.R. 5027 enjoys the support and cosponsorship of the entire Florida delegation.

Eric Ulysses Ramirez was born and raised in Florida. He was a graduate of Mount Dora High School in Mount Dora, Florida. He enlisted in the U.S. Navy, served in the National Guard, and was working as a sheriff's deputy in San Diego, California, when his unit was activated. Specialist Ramirez was deployed to Iraq in February 2003.

Sadly, Specialist Ramirez was killed when his unit was attacked. He died on February 12, 2004. He left behind a wife, Tracy; daughter, Isis; and son, Chase.

Mr. Speaker, I commend my colleague for seeking to honor the sacrifice, the diligence and the giving of himself of Eric Ramirez, and I urge passage of this legislation.

Mr. Speaker, at this time, I have no further speakers, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I am pleased to yield such time as she may consume to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), the sponsor of this legislation.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I ask my colleagues to join me in honoring the life of a fallen soldier, a man who made the ultimate sacrifice so that we might live free.

Eric Ulysses Ramirez was killed in action on February 12 of this year. He only had 42 days remaining on his tour of duty when he was killed by a rocket-propelled grenade launched by Iraqi insurgents.

Eric gave his life fighting in the sands of Iraq to secure our liberty while granting a new start to an oppressed people. As his friends and family know, Eric was a man of courage who was willing to fight to preserve a safe future for his children and for his countrymen.

In his lifetime, he was a model citizen, husband, father and son, as well as a sheriff's deputy and National Guardsman. He graduated from the Mount Dora High School which is very near Mascotte, and he planned on attending the University of Central Florida, but instead, he enlisted in the Navy for 4 years. Upon his return, his commitment to public service was evident when he took a job as a sheriff's deputy in San Diego.

Specialist Ramirez answered the call to duty yet again when his unit was activated to fight in Operation Iraqi Freedom in February 2003. Tragically, this would be his last mission.

Since the awful day that took the life of this American hero, I have come to know the family that he left behind. His wife, his children and his parents, Reverend and Mrs. Felix Ramirez, who live in Mascotte.

I attended the funeral of this brave young man, and although I did not know him personally, when I attended the funeral, I felt as if I did know him. I was very obviously struck with emotion when I met his parents and learned that his father, Felix Ramirez, was the minister who was conducting the service for his own son. As he conducted the service, I was awe-struck with his courage and with his belief in our American troops and in what his son did to help make Iraq a free country.

Mr. Speaker, I ask the Members of this body to join me in honoring specialist Eric Ramirez's life and his service by naming the United States Post Office at 411 Midway Avenue in Mascotte, Florida, as the specialist Eric Ramirez Post Office.

The beautiful town of Mascotte is where Eric grew up and where his family now calls home. I believe it is the very least that we can do to honor Eric and to repay his family for the son, husband and father that they lost when he fought to defend our freedom.

Lastly, I want to also thank my Florida colleagues for their willingness to support this measure. Passage of this bill is a tremendous bipartisan effort and shows the true compassion of the Florida delegation.

Mr. Speaker, I urge passage of this resolution.

Mr. MICA. Mr. Speaker, I will conclude, yielding myself the balance of my time.

Mr. Speaker, tonight we rise to recognize Eric Ramirez who was lost in service to this Nation. First, I want to thank again the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) for bringing this naming of this Post Office Building before the House of Representatives and recognizing one who, again, gave his life in service to this Nation.

It was just one week ago, Mr. Speaker, right below the level where you stand tonight, when we heard the Prime Minister of Iraq Allawi tell us that 1 million Iraqis were murdered or missing, his fellow countrymen, and that over 300,000 to date have been found slaughtered in mass graves. Greater love hath no man than to lay down his life for his fellow man, and here Eric Ramirez gave his life in service to this Nation so that, tonight, every American can enjoy the freedoms that they have, and the people that he never knew or never met have the potential to live in freedom and not see a tyrant continue to murder, to maim and slaughter the people of Iraq.

So we give thanks tonight for the life of Eric Ramirez. We ask that God take him in his arms and all of those who served this Nation and lost their lives and their loved ones tonight in his care and remember them.

So, again, I thank the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) for remembering one American hero tonight, Eric Ramirez, and his family with this great honor.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KLINE). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the bill, H.R. 5027.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF CONGRESS REGARDING THE IMPORTANCE OF LIFE INSURANCE, AND RECOGNIZING AND SUPPORTING NATIONAL LIFE INSURANCE AWARENESS MONTH

Mr. MICA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 461) expressing the sense of Congress regarding the importance of life insurance, and recognizing and supporting National Life Insurance Awareness Month.

The Clerk read as follows:

H. CON. RES. 461

Whereas life insurance is an essential part of a sound financial plan;

Whereas life insurance provides financial security for families in the event of a premature death by helping surviving family members to meet immediate and longer-term financial obligations and objectives;

Whereas nearly 50,000,000 Americans say they lack the life insurance coverage needed to ensure a secure financial future for their loved ones;

Whereas recent studies have found that when a premature death occurs, insufficient life insurance coverage on the part of the insured results in three-fourths of surviving family members' having to take measures such as work additional jobs or longer hours, borrow money, withdraw money from savings and investment accounts, and, in too many cases, move to smaller, less expensive housing;

Whereas individuals, families and businesses can benefit greatly from professional insurance and financial planning advice, including the assessment of their life insurance needs; and

Whereas the Life and Health Insurance Foundation for Education (LIFE), the National Association of Insurance and Financial Advisors (NAIFA) and a coalition representing hundreds of leading life insurance companies and organizations have designated September 2004 as "Life Insurance Awareness Month" the goal of which goal is to make consumers more aware of their life insurance needs, seek professional advice, and take the actions necessary to achieve the financial security of their loved ones: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes and supports the goals and ideals of "Life Insurance Awareness Month"; and

(2) requests the President to issue a proclamation calling on the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe "Life Insurance Awareness Month" with appropriate programs and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 461 stresses the importance of life insurance. Frankly, I believe the resolution's message is an important one to convey.

According to the text of the resolution, nearly 50 million Americans do not carry life insurance policies. The implication for these families and their loved ones is clear and worrisome. These individuals run the risk of losing their assets in the event of an unexpected death.

Mr. Speaker, a death in the family is one of the most agonizing things a family or individual can endure. Forfeiting one's assets can compound the horrible grief or, worse, wreck the financial standing of the deceased person's immediate family. Life insurance brings security to millions of Americans and helps families meet many of their short- and long-term financial needs and goals. I urge all Americans to incorporate life insurance into their personal financial portfolios.

I understand hundreds of leading life insurance companies and organizations have designated September 2004 as Life Insurance Awareness Month. On behalf of the House of Representatives and our committee, I am pleased to support the goals and ideals of this commemoration.

Mr. Speaker, I thank the distinguished gentlewoman from Illinois (Mrs. BIGGERT), who is a leader in Congress in encouraging Americans to be prudent with their personal finances. Again, few things are more important for a person or family than effectively managing their financial resources. So I commend my colleague on her efforts to recognize, again, the importance of life insurance in our society.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Con. Res. 461, which expresses the sense of Congress regarding the importance of life insurance and recognizes and supports National Life Insurance Awareness Month.

Like so many Americans, I worry about the financial security and solvency of my own family. With the economy worse than it has been since the early 1990s, many American families are strapped for money and forced to make difficult decisions about where to spend the precious resources they have and still make ends meet.

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During these difficult times, some parents are forced to choose between providing for loved ones now or securing their future. Life insurance is an important financial resource for loved ones in the event of death, and it should not be overlooked when financial resources are limited.

The necessity of life insurance is well documented. Recent studies have found that when a premature death occurs, insufficient life insurance coverage on the part of the deceased often results in the surviving family members being placed under an insurmountable burden. Adult members are forced to work longer hours or take on extra jobs, borrow money, and spend less time with their children. Worse yet, this occurs when it is most important that family members spend time together in order to heal and recover from their tragic loss.

By designating September as Life Insurance Awareness Month we are putting aside a time for families to learn and to educate themselves about life insurance. As a society, we must take steps to make sure that our children are provided for and are safe. Almost 50 million Americans say that they have insufficient life insurance to care adequately for their loved ones in case of death. By supporting Life Insurance Awareness Month, we are signaling to the American people that this is an important issue that they should consider for the well-being of their families.

I know that oftentimes people will come by my office after the death of a loved one, and they will often have insufficient funds even for a burial, and collections are taken up. By making sure that we have life insurance coverage prevents these situations from occurring. I want to commend the maker of this legislation.

Mr. Speaker, I do not believe that I am going to have any additional requests for time, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I am pleased to yield as much time as she may consume to the distinguished gentlewoman from Illinois (Mrs. BIGGERT), a colleague of mine and author of this legislation and resolution.

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today to urge my colleagues to support House Concurrent Resolution 461, which supports the goals and ideals of designating September as National Life Insurance Awareness Month.

I want to thank my friend the gentleman from Pennsylvania (Mr. KANJORSKI), the ranking member of the Committee on Financial Services, for introducing this resolution with me and for his support on this important issue. He could not be here this evening, and I would submit his testimony under general leave.

I also want to thank the gentleman from Virginia (Chairman TOM DAVIS) and the gentleman from Florida (Mr. MICA) for moving this resolution through the Committee on Government Reform expeditiously and, of course, my good friend on the committee the gentleman from Illinois (Mr. DAVIS).

Mr. Speaker, life insurance is too often thought of only when it is too late. How many times have any of us heard friends or loved ones sadly reflect that the deceased had no life insurance or had too little life insurance? Today, only 4 in 10 adult Americans own an individual life insurance policy, and among those who do have life insurance the amount is often too small to safeguard the financial future of their loved ones.

Because of insufficient coverage, family members are often forced to take a second job, to work longer hours, borrow money, or sell the family home. In short, these outcomes are only the symptoms of the crisis of underinsurance that exists in our Nation today.

Mr. Speaker, many of my colleagues on both the Committee on Financial Services and the Committee on Education and the Workforce have been working very hard to increase the level of financial literacy and economic education in this Nation. Understanding how financial products work and how they can work to build financial security are two important ingredients in a complete financial education.

To call attention to the problem of the uninsured and the underinsured, the Life and Health Insurance Foundation for Education, the National Association of Insurance and Financial Advisers, and many other leading insurance companies and organizations designated September 2004 as Life Insurance Awareness Month. They have launched programs to reach out to Americans and educate them about life insurance, and my colleagues might have seen some of their ads on TV.

The goal of this resolution is to further educate Americans about the importance of life insurance to a sound financial plan. Losing a family member is painful enough without it being compounded by financial difficulties.

It is my hope that recognizing Life Insurance Awareness Month will motivate Americans to seek out information about the benefits of life insurance so that if the premature death of a loved one does occur, they will be spared the economic hardships that often accompany tragedy.

I ask my colleagues to join me in supporting designating September 2004 as Life Insurance Awareness Month.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Again, I want to thank the gentlewoman from Illinois for her work and also the gentleman from Pennsylvania (Mr. KANJORSKI) for his efforts in preparing House Concurrent Resolution 461. I urge my colleagues to support this resolution.

Mr. KANJORSKI. Mr. Speaker, I rise today to offer my thoughts about House Concurrent Resolution 461, which I helped to introduce with the gentlelady from Illinois (Mrs. BIGGERT). House Concurrent Resolution 461 would designate September as National Life Insurance Awareness Month.

Life insurance is a financial planning tool that all families should explore. It can provide security in the event of an untimely death. In families where a premature death occurs, surviving family members are often required to work additional jobs or longer hours, borrow money, withdraw money from savings and investment accounts, and, in too many cases, move to smaller, less expensive housing.

By designating September as National Life Insurance Awareness Month, we will hopefully highlight the importance of this financial instrument for the nearly 50 million Americans who presently lack the life insurance coverage needed to meet the long-term financial needs of their families.

In closing, I urge my colleagues to support this important resolution to promote financial literacy.

Mr. MICA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CHOCOLA). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 461.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SERGEANT RIAYAN A. TEJADA POST OFFICE

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4046) to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the "Sergeant Riayan A. Tejada Post Office," as amended.

The Clerk read as follows:

H.R. 4046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SERGEANT RIAYAN A. TEJEDA POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 555 West 180th Street in New York, New York, shall be known and designated as the "Sergeant Riayan A. Tejeda Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Sergeant Riayan A. Tejeda Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4046, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, tonight I rise in support of H.R. 4046. This measure designates a postal facility in New York city as the Sergeant Riayan Tejeda Post Office. Each member of the New York State delegation cosponsored this tribute to one of America's fallen heroes.

On April 11, 2003, 26-year-old Sergeant Riayan Tejeda of the 3rd Battalion, 5th Marines, was tragically killed in combat in Baghdad. He was a true American hero, despite not being a United States citizen.

Riayan was born in the Dominican Republic and moved with his family to the United States as a child. From the time he first arrived in America, he dreamed of becoming a United States marine. Upon graduation from high school in upper Manhattan, he enlisted in the Marine Corps where he served for some 8 years.

Sergeant Tejeda worked hard as a soldier, and he became the best sniper in his regiment. He proudly served in Thailand, South Korea, the Philippines, Australia, East Timor and Iraq.

Sergeant Tejeda never earned United States citizenship during his life but he was awarded posthumously that citizenship of this great Nation.

Sergeant Tejeda is survived by a mother, a father, and two young daughters, ages 3 and 6.

Riayan Tejeda loved being a marine. He loved America. For these reasons and for his service and for his patriotism to his adopted native homeland, I urge my colleagues to join me in honoring Sergeant Riayan A. Tejeda by naming this post office after this hero.

Mr. Speaker, I wish to thank the distinguished gentleman from New York, the sponsor of H.R. 4046, for honoring this tremendously brave young man.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of H.R. 4046, legislation naming a United States postal facility in New York, New York, after Sergeant Riayan Tejeda.

This measure, which was unanimously passed by our committee on September 15, 2004, was introduced by the gentleman from New York (Mr.

RANGEL) on March 25, 2004. H.R. 4046 enjoys the support and cosponsorship of the entire New York delegation.

Riayan A. Tejeda was a Dominican citizen who came to the United States at the age of 12. He graduated from the Fashion and Design High School in New York and joined the United States Marines. He was assigned to the 3rd Battalion, 5th Marine Regiment in Camp Pendleton, California.

Sadly, Staff Sergeant Tejeda was killed in a battle that followed the fall of Baghdad on April 11, 2003. He was awarded the Silver Star, and he later received his citizenship posthumously.

Sergeant Tejeda left behind a wife and two young children.

Mr. Speaker, I commend my good friend and colleague for seeking to honor the sacrifice of Marine Staff Sergeant Riayan Tejeda by naming a United States postal facility in his honor. I know that the gentleman from New York (Mr. RANGEL) had hoped to be here to make some comments relative to this legislation. Unfortunately, he was unable to do so.

Mr. Speaker, I have no further speakers, and I yield back the balance of our time.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume in concluding.

Mr. Speaker, tonight we rise to recognize another fallen hero, one not a native of the United States, a native of the Dominican Republic, but someone who gave his life in service to this Nation, someone who gave his life so that others may live in freedom.

This is a small token of recognition by the Congress to name this post office in New York after Sergeant Riayan Tejeda, but it is an important recognition of his service. It is also important to recognize that he did love this country and that posthumously he was made a citizen of the United States.

So, on behalf of the New York delegation, on behalf of the sponsor, the gentleman from New York (Mr. RANGEL), it is my honor to present to the House this resolution naming the Sergeant Riayan Tejeda Post Office again in New York.

I urge passage of this resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the bill, H.R. 4046, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the 'Sergeant Riayan A. Tejeda Post Office'.".

A motion to reconsider was laid on the table.

EVAN ASA ASHCRAFT POST OFFICE BUILDING

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5147) to designate the facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, as the "Evan Asa Ashcraft Post Office Building".

The Clerk read as follows:

H.R. 5147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EVAN ASA ASHCRAFT POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, shall be known and designated as the "Evan Asa Ashcraft Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Evan Asa Ashcraft Post Office Building.

The SPEAKER pro tempore (Mr. CHOCOLA). Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5147, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support this legislation sponsored by the distinguished ranking member of the Committee on Government Reform, the gentleman from California (Mr. WAXMAN). Upon enactment of H.R. 5147, this post office will forever carry the name of Evan Asa Ashcraft. Evan Asa Ashcraft was an army sergeant with the 101st Airborne Division.

Mr. Speaker, Sergeant Ashcraft was killed in Iraq on July 24, 2003, when his convoy came under attack from Iraqi militants. Sergeant Ashcraft led a division that took part in the assault in northern Iraq that killed Saddam Hussein's sons Uday and Qusay. Evan was 24 years old. All Americans, and those who knew this young man, have felt a terrible loss.

Evan's family said that the West Hills, California, native had planned to join the Los Angeles Police Department on his scheduled discharge from the Army in what would have been January of 2004. His father-in-law, LAPD Lieutenant Loren Farell said the following after Evan passed away, and I quote: "He was a good soldier. He would have made a great cop. As for the rest of us, Evan, you are a hero to all of us and you are a hero to your country." Those are the words of Mr. Farell.

Lieutenant Farell's poignant words speak for all Members of the House tonight. Evan Ashcraft was a proud American soldier and his toils simultaneously helped to liberate a nation from oppression and defend the world from tyranny. Evan is survived by his loving wife, Ashley.

Once again, Mr. Speaker, I urge the pass of this legislation tonight to honor one of our fallen heroes, Evan Ashcraft.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I am pleased to join my colleague, the gentleman from Florida (Mr. MICA), in consideration of H.R. 5147, which names the post office in West Hills, California, after Evan Asa Ashcraft.

Sergeant Ashcraft, a native of West Hills, California, joined the U.S. Army in 2000, specifically the 101st Airborne Division, the Screaming Eagles, based at Fort Campbell, Kentucky. As a member of Company A, 1st Battalion, 327th Infantry of the 101st, Sergeant Ashcraft was deployed to Iraq in March of 2003.

Shortly after his arrival, he rescued two wounded soldiers, saving their lives. Sadly, he lost his life in 2003 after the Humvee he was driving was hit by enemy rockets.

Sergeant Ashcraft was awarded the Silver Star and the Purple Heart. He leaves behind a wife, his parents, a brother, and many other family members. I commend my colleague, the gentleman from California (Mr. WAXMAN), the ranking member of the Committee on Government Reform, for seeking to honor the sacrifice of Evan Asa Ashcraft by naming a postal facility in his hometown, and I urge swift adoption of this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume to conclude.

Mr. Speaker, tonight we have recognized three heroes who lost their lives in service to this Nation. It is a small token of appreciation that this Congress extends to recognize these heroes. One was not a citizen of this country, a native of the Dominican Republic, who we honored with citizenship after he gave his life in service to this country. Evan Asa Ashcraft is being recognized with H.R. 5147.

Each of these are precious lives and each of these are a great sorrow and loss for their families. We must think and reflect upon all of these heroes, some from my district. And I have attended some of those funerals, consoled some of the loved ones who lost their sons. Tonight we do recognize again three heroes who served this Nation and we wonder about the greatness of this Nation, how men and women can go forth and their families can sacrifice them in causes that sometimes seem remote.

I remember speaking to a high school graduation class in central Florida. A young man in that class went in service to this Nation and was murdered 2 years later by terrorists in Khobar Towers, Brian McVeigh, who I never forget, and many other young men and women who have lost their lives both in combat and by accident in service to this Nation in Iraq.

I think of those who lost their lives to remove a thug and a drug dealer from Panama. I think of those who lost their lives in Europe and Kosovo, in that region of the world, to restore stability. And I think how great these American heroes are that not only allow us to live in freedom, with liberty and a system of justice, but to let others have that potential across the globe.

Sometimes it succeeds and sometimes it does not, but they have given their full measure and their families have given their loved ones so that others may have even the potential of enjoying the freedoms that we Americans take for granted.

So tonight we have honored three American heroes, and, finally tonight I ask the House to pass H.R. 5147 and name a post office building in honor of Evan Asa Ashcraft.

Mr. WAXMAN. Mr. Speaker, I rise to ask my colleagues to join me in honoring the life of a young man, Evan Asa Ashcraft, whose life was cut short serving our nation in Iraq. H.R. 5147, which has been cosponsored by the entire California delegation, would name the post office located at 23055 Sherman Way in West Hills, California the "Evan Asa Ashcraft Post Office."

Evan Ashcraft was smart, talented, and energetic. He represented the very best of American values. From an early age, he excelled in school, first at Welby Way Gifted Magnet School in West Hills, then at Nobel Middle School Magnet in Northridge and El Camino Real High School in Woodland Hills.

Evan was devoted to his family—his wife, Ashley, his mother, Jane, his father, Asa, his younger brother, Drew, his stepmother, Beverly, and his two stepsisters, Felicia and Theresa.

By all accounts, Evan was extremely dedicated. Anything he put his mind to, he accomplished in grand fashion, and his service in the military was no exception. He enlisted in the Army at the age of 20, and it did not take long for his superior officers to recognize that he was a gifted soldier. Midway through his basic training, Evan was made a team leader.

Evan enjoyed his time with the 101st Airborne division. As was often the case in his life, however, he sought a greater challenge and volunteered for duty with the elite Army Rangers. Unfortunately, he was injured during training and returned to Company A, 1st Battalion, 327th Infantry of the 101st.

On March 1, 2003, Evan was deployed to Iraq as part of Operation Iraqi Freedom. He saw action quickly, participating in the liberation of Baghdad International Airport and the mission that found two of Saddam Hussein's sons, Uday and Usay.

A month later, the Humvee Evan was riding in hit a land mind and came under enemy fire. Both soldiers accompanying Evan were badly wounded and in desperate need of medical attention. Showing no regard for his own safety, Evan risked his life to pull the two men to safety. According to others on hand that day, were it not for Evan's quick and decisive action, both men would have died.

One of the men Evan saved that day, Sergeant Arcebuce, said, "Evan was always there for his men. He was a natural born leader."

Like so many soldiers in Iraq, Evan had big dreams for his life after the war. He planned to move back to California with his wife, Ashley, start a family, and join the Los Angeles police force. His reason for doing so was simple according to Ashley: "He was a person who really wanted to help other people, to protect them."

Evan was not able to realize his dreams. He was killed with two other soldiers on July 24, 2003, when his Humvee was attacked during a reconnasisssance mission near Mosul.

To the people who knew him, Evan represented hope for America's future. After he died, his mother wrote, "This loss is not just mine, it's the world's loss . . . Evan will always be with us in spirit. He still lives, and will continue to live, in all of us." Evan was awarded the Bronze Star for bravery, and was posthumously awarded the Purple Heart and the rank of Sergeant.

By naming a post office in Evan's honor in his hometown of West Hills, his community and a grateful nation will always be reminded of the life, the contributions, and the ultimate sacrifice of this extraordinary young man.

I urge unanimous support for H.R. 5147.

Mr. MICA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the bill, H.R. 5147.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

The SPEAKER pro tempore laid before the House the following privileged message from the Senate:

SEPTEMBER 14, 2004.

Ordered, That the Secretary be directed to request the return to the Senate (S. 2261) entitled "An Act to expand certain preferential trade treatment for Haiti.", in compliance with a request of the Senate for the return thereof.

Attest:

EMILY J. REYNOLDS,
Secretary.

The SPEAKER pro tempore. Without objection, the request of the Senate is agreed to, and S. 2261 will be returned to the Senate.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members for special order speeches without prejudice to the resumption of legislative business.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ASSAULT WEAPONS BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

Mrs. MCCARTHY of New York. Two weeks ago, this House stood idly as the federal ban on assault weapons expired. The House ignored two-thirds of the public, over half of gun-owners, and nearly every law enforcement organization in America in favor of the NRA's leadership's extreme agenda against common sense.

Fortunately, I live in a state that enforces its own assault weapons ban. While the state ban is not as effective a tool as the federal ban was to keep personal weapons of mass destruction out of the hand of criminals and terrorists, it does make it more difficult for them to acquire assault weapons.

However, this week the House leadership, which pretends to be a friend of the sovereignty of state and local governments, will allow a vote on a bill keeping popularly elected officials form banning assault weapons and other guns from their jurisdictions.

This week the House will vote on legislation introduced by a member from Indiana ending the ban on firearms in the District of Columbia. The popularly elected Mayor, City Council, and U.S. Delegate to the House all oppose ending the ban. Federal courts have upheld the constitutionality of the DC ban. In fact, the only support for ending the DC gun ban comes from politicians that do not represent the District.

The District will go from having the toughest gun laws in America, to becoming the subject of a twisted social experiment brought to us by the NRA. Those listed on terrorist watch lists prohibited form boarding planes at Reagan National Airport will be able to purchase a handgun, AK–47, or TEC–9 only blocks away from the White House or Capitol Building. Just today, I received a letter from the House Sergeant at Arms detailing the new security recommendations put in place to keep our offices safe. Passage of this legislation cannot be viewed as anything other than counterproductive to these efforts.

Proponents of this legislation say the DC ban has not been effective, citing the District's crime rates, which are not unlike many other large urban communities in the United State. However, the homicide rate in the District is at an all time low, thanks to the Metropolitan Police Department's efforts to get guns off the streets. The DC ban has been a valuable took in these efforts, but once again House leadership refuses to listen to those most effected by the ban's end.

Granted, the DC gun ban's effectiveness has been hampered by the District's proximity to gun dealers in Virginia and Maryland, but that is no excuse to make it easier for criminals and terrorists to purchase guns in DC.

And while the House leadership's grasp of basic economic principles has been questionable throughout the 108th Congress, one must acknowledge that once the supply of guns is increased, the prices of these weapons will decrease.

Thanks to this legislation, gang members who could only afford to purchase one gun will most likely be able to get two thanks to increased supply and lower prices.

It it only a matter of time before the first crimes are committed with a gun purchased legally in our nation's capital. When that time occurs, the House Leadership must be prepared to explain to the victims of these crimes why it is so important that the NRA's twisted worldview must come before DC residents' wishes and safety.

ORDER OF BUSINESS

Mr. EMANUEL. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONGRESS SHOULD NAME POST OFFICES, BUT NOT AT EXPENSE OF ITS RESPONSIBILITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, on the subject of the marriage amendment, the House majority leader said earlier today, "It is our job to make the laws in this country. And as easy as life would be for us, if the most controversial bills we had to vote on was to rename a post office, that's not what we were elected to do."

I find it ironic that the majority leader used the naming of post offices, especially for this Congress. I have done my own research. As it turns out, this Republican Congress, the 108th Congress, the House and the other body, has been hard at work at naming post offices. In fact, under the Republican leadership, we have named an impressive 92 post offices, and we just did 4 more today.

We have also named 22 Federal buildings, passed 34 resolutions honoring athletic teams, and introduced 35 resolutions creating commemorative postage stamps. That is in stark contrast to when the Republicans first took control of the House in the 104th Congress. They only managed to name 12 post offices. This Congress has done 92.

In the 106th Congress, they only squeaked out a pitiful three resolutions honoring sports teams and sports achievements. Clearly, the 108th Congress, this Republican Congress, has proven to be the most adept at naming post offices and Federal buildings, and honoring sports achievements and conceiving of new postage stamps.

Now, let me tell you something; it takes a lot of time and effort to name a post office. First, you have to decide which post office. Then you have to figure out what name. Then you have to pick a name and build support for it among your colleagues. The final test is to get a vote on the name, which is no small feat when you consider that, historically, only 1 out of every 100 bills ever sees a floor vote. In this Republican-led Congress, however, 80 percent of the post office naming bills introduced in the House have actually passed. That is something to be proud of.

But while we have spent all this time naming post offices, we could have been dealing with the problems which are facing the American people. After all, while this Congress is busy alleviating the apparent backlog of nameless post offices in America, we have lost 1.7 million private sector jobs. Median household incomes have fallen by more than $1,500. Household bankruptcies have skyrocketed, and today we see in articles that health care costs in America are rising at close to three times the rate of inflation.

□ 2100

In Iraq, more than 1,000 Americans have been killed. Reconstruction has been pushed to the sidelines. There is mounting violence, and we have not found any weapons of mass destruction or had any oversight hearings in this Congress as to why we went to war on that premise.

Mr. Speaker, today the majority leader quoted former President John Kennedy in justifying the votes we had. So in the same spirit, I will quote President Kennedy: "To govern is to choose." And unfortunately this Congress, the Republican Congress, has made some tough choices. Time after time the Republican leadership has been forced to choose at their own making between naming post offices and using its control in the House, Senate, White House, and Supreme Court to improve the lives of millions of Americans. More often than not the Republican Congress has chosen to name post offices.

Please do not misunderstand. I am not opposed to naming post offices. In fact, I cosponsored a few of them myself. Congress should do these things, but we should not do it at the expense of our other responsibilities.

We should not do it as an excuse not to deal with the health care crisis, not to deal with the access to higher education crisis we have in America, not to deal with the fact that wages and income are stagnant in America, not to deal with the fact that we have a war being waged and we do not have a policy or a President that is cognizant of the fact that it is a burning morass, as three leading Republican Senators said last week.

We have only passed one of the 13 appropriations bills we are required to pass. We have not passed a Transportation bill that we are required to pass that would employ millions of Americans. We have not passed a higher education reauthorization bill as we are required to pass. We have not passed a budget under a Republican Congress. We have failed to reauthorize a series of things we are required to do, and yet we have taken on the responsibility of naming 92 new post offices.

Our Nation and economy rely on the most basic functions of this Congress, yet we have failed in both those activities. We can do better. Congress can name post offices and keep our Nation moving forward.

Mr. Speaker, Election Day is only weeks away. I hope when the American people go to the polls, it will reflect on the kind of job this Congress has done. The Republican leadership made their priorities clear. The 108th Congress will be remembered for its leadership on the naming of post offices.

PROSECUTING GLOBAL WAR ON TERROR

The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentleman from Oklahoma (Mr. COLE) is recognized for 5 minutes.

Mr. COLE. Mr. Speaker, I rise today to speak about the tremendous job our soldiers, sailors, airmen, and Marines have been doing in prosecuting our global war on terror.

Just recently, I returned from a trip where I visited both the Afghan and Iraq theater of operations. Last year, I made a similar trip to Iraq, and now I can say with some certainty that we have made demonstrable progress.

Americans should not think we are without friends in this region. President Musharraf of Pakistan has been a brave and determined ally in the fight against terrorism. Strong leaders such as President Karzai and Prime Minister Allawi are beginning to emerge in Afghanistan and Iraq. They have put their lives on the line and trusted the word of the United States. We must not let them down, for our security is linked with their success in rebuilding their countries and defeating terrorists.

Mr. Speaker, with respect to Iraq, U.S. forces are achieving daily successes in confronting terrorists while Iraqi troops and police are starting to undertake the tough everyday work of rebuilding and defending a civil society. In a recent Armed Forces hearing, Army Colonel Michael Linnington, former brigade commander with the 101st Airborne Division, testified that it was not uncommon for his troops to be building schools by day and patrolling for insurgents at night. Or for that matter, it was not uncommon for U.S. troops to be fighting insurgents in one part of a town while helping with elections in another part. The troops believe in their mission and are committed to seeing it through.

Mr. Speaker, our troops have met with daily success in Iraq. However, some observers have not accurately portrayed the results of their efforts. Moreover, it is important to note that we are not the only country suffering casualties in the fight for a free Iraq. In addition to our Coalition allies, hundreds of Iraqi policemen and national guard members have been killed as they fight to ensure the future of their own country.

With respect to Afghanistan, it is quite clear that the Afghani government is progressing in securing modern rights for its people every day. Mr. Speaker, over 10 million people have registered to vote in the upcoming October presidential election in Afghanistan, and 5 million Afghanis are now enrolled in school. There are many civilian-military projects under way, and infrastructure reconstruction is beginning to reappear. The Coalition forces have changed the lives of the Afghanis and are providing them with opportunities that they never dreamed they could have.

Mr. Speaker, in Afghanistan, we met with interim President Hamid Karzai. He was effusive in his thanks to America and the work of U.S. troops. In particular, he praised the work of Oklahoma's 45th Infantry Brigade that has worked so hard to train the Afghan Army. This is just one example of the countless accomplishments of our citizen soldiers from across our Nation. The Afghani Army is now fighting hard and performing well in the hunt for al Qaeda and the Taliban.

Mr. Speaker, I do not pretend to know when our global war on terrorism will end. This is not a war we sought. We engaged in hostilities only after being attacked. This is a war which has far-reaching implications and will determine the kind of world we leave for our children and grandchildren.

America has a clear choice. We can go the way of some who suggest that we withdraw into isolationism, or we can secure the peace for our progeny by expanding the frontiers of liberty and democracy into the Middle East. While the debate surrounding our actions is legitimate, I truly believe that the answer is clear if one takes the time to look at the implications of not vigorously prosecuting this war. To be secure at home, we must act forcefully abroad. In the war on terror, "fortune favors the bold."

Mr. Speaker, I am happy to report that our servicemen and citizen soldiers are doing fine work in representing the very best America has to offer.

THREATS MADE BY AZERBAIJAN AGAINST ARMENIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I want to bring attention to recent statements made by high-ranking government officials in Azerbaijan that threaten the security of Armenia as well as the efforts towards a peaceful settlement over the Nagorno-Karabagh conflict.

This issue, if not compellingly addressed by the administration, has the potential to undermine U.S. interests and American values in the strategically important Caucasus region.

I refer to the recent remarks made by officials in the government of President Aliyev calling into question the very existence of Armenia. For example, as reported by Radio Free Europe, the Azerbaijani Defense Minister spokesman called for Azerbaijan's takeover of the entire territory of Armenia and removal of the entire Armenian population from the Caucasus. He went so far as to say, "Within the next 25 years there will exist no state of Armenia in the south Caucasus." Given Azerbaijan's history of aggression against Armenians, these remarks cannot be dismissed as mere rhetoric.

Furthermore, Azerbaijan recently blocked key NATO exercises in the country, due to their opposition towards having Armenian officers taking part in the exercises. In fact, in June 2003, Armenia served as the host country for similar exercises, to which Azerbaijani military forces were invited, yet refused to participate. This year, Armenia was one of several dozen countries due to participate, yet the initiative was blocked by Azerbaijan, which is continuing its efforts to undermine the prospects for peace in the Caucasus region.

Azerbaijan's threats again Armenia's survival reinforce our commitment to maintaining parity in U.S. military aid to Armenia and Azerbaijan. This arrangement means even more today than when it was first put in place, particularly in light of Baku's increasingly aggressive posture towards Armenia. Any tilt in military spending towards Azerbaijan could, in our view, destabilize the region by emboldening the new Azerbaijani leadership to continue their threats to impose a military solution of the Nagorno-Karabagh conflict.

Just last week, the Republic of Armenia celebrated Independence Day marking 13 years of freedom from Soviet rule. We have seen considerable economic growth in the country. Despite the continuing illegal blockade by Turkey and Azerbaijan, a recent Wall Street Journal study found that Armenia remains the most economically free nation in the region. Today, Armenia is steadfast in its support of the U.S., as exhibited by their recent announcement of plans to send a unit of deminers, doctors and 50 trucks, including staff and drivers, to assist the Coalition forces in Iraq.

It is critical to note that Armenia is today, as it has always been, committed to the peace process and the terms agreed to in the Key West summit. Since the beginning of the Nagorno-Karabagh and Azerbaijan conflict, Armenia has been committed to finding a peaceful resolution. Moreover, I cannot stress enough the crucial role that the U.S. plays in the negotiations over Nagorno-Karabagh to help the people of this region find a lasting and equitable peace. These threats by Azerbaijan undermine these efforts and seriously complicate our diplomacy in the region. A failure on our part to forcefully and publicly confront the Azerbaijan government over these destabilizing threats would, in our view, send extremely dangerous signals to Azerbaijan.

So, Mr. Speaker, I hope that the United States takes action to condemn these remarks by the Azerbaijani government, and that we here in this Chamber do everything we can to ensure that all parties involved in this conflict make a genuine commitment towards peace and stability in the region.

ORDER OF BUSINESS

Mr. RYAN of Ohio. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

TRANSLATION BACKLOG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, I want to extend the remarks of the gentleman from Illinois (Mr. EMANUEL) where he talked about what this Congress has been doing. I think we also should be afraid of what this Congress is not doing. I would like to talk this evening for just a few minutes about an Inspector General's report which has been issued that looked at the behavior of the FBI and their translation of intelligence tapes that they were gathering since September 11.

Now, we found out on September 10, 2001, the day before the horrendous attacks in New York and Pennsylvania and at the Pentagon, that a couple of conversations that were intercepted by the National Security Agency had a couple of messages. One said "Tomorrow is zero hour." Another said, "The match is about to begin."

The problem, Mr. Speaker, is that these messages were not translated into English to be analyzed by the FBI until several days later. So this Congress and this President decided to slightly increase the funding for interpreters and linguists to be able to help gather some of this information because if we were able to gather the information and translate it, we would know what the enemy was thinking.

So the FBI Inspector General did a report analyzing where we are today, several years later. Checked us out. Mr. Speaker, 120,000 hours of tape, of potentially valuable terrorism-related recordings, have not yet been translated. Now potentially valuable terrorism-related recordings means languages associated with terrorism, 120,000 hours not even looked at.

A computer, several computers, supposedly systematically erased some of al Qaeda's recordings. We are erasing them before we even look at them. There is 500,000 hours for all languages not yet translated. That is 30 percent, and 20 percent of the total of the 120,000 hours of potentially valuable terrorism-related recordings.

The rule at the FBI is that audio recordings related to al Qaeda must be reviewed in 12 hours. We obviously learned from what happened on September 10 and September 11 and made this rule that within 12 hours we want all of this translated. The fact of the matter is after the IG's report, 36 percent of al Qaeda recordings were not translated within 12 hours. In fact, there are 50 cases where we missed the deadline of translation by a month.

□ 2115

Why is this important? Obviously because of what we learned on September 10. This President and this Congress says that the central battle, the central front on the war on terrorism was Iraq, and we are stuck in a quagmire with over 1,000 dead soldiers, thousands of wounded soldiers, thousands of dead Iraqis, innocent Iraqis. But another component of this major war on terror was that we were going to overhaul governmental translation capabilities and we have not done it. Those of us who did not think it was a good idea to go to war were saying spend $200 billion securing our ports, securing our airports, making sure we check the cargo that is going in the planes, make sure we hire enough linguists, make sure we are translating all of these tapes. And we are not doing the job in the United States of America.

This is not brain surgery. They are communicating with each other over faxes, e-mails, telephone conversations, cell phones. Why would we not hire enough FBI agents to figure out what they are saying? Because this President had to go to war. This was not glamorous enough for this President, in the trenches, doing what it takes, day by day by day. One hundred twenty thousand hours of tapes that were not even translated. We spent $48 million trying to increase the number of people we hired, and we only hired 300 more, but we have $1.3 billion spent every week in Iraq. Our priorities are screwed up.

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

SMART SECURITY AND IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, all of us who have listened to the suspension debates just before the Special Orders have to acknowledge that there are not nearly enough post offices in this country to honor all of those who have fallen as heroes in Iraq. We have to do something about that. In fact, when it comes to Iraq, the White House does not seem to know which way is up. Instead of relying on facts and truth, the Bush administration has two-timed the American people by relying on doublespeak, innuendos and, worst of all, bald-faced lies.

Last week, Secretary of Defense Donald Rumsfeld stated that Iraq's elections will occur in January of 2005 regardless of what happens on the ground there. Even if half of Iraq's provinces are under the control of insurgents, preventing Iraqis from getting to the polls, elections will still take place. Secretary Rumsfeld validated this type of sham election by saying that, and I quote him, no election is perfect. Does that mean he would endorse an American Presidential election if only 25 of 50 States were able to participate? Then again, perhaps that is exactly what this administration would endorse.

Subsequent to Secretary Rumsfeld's remarks, Secretary of State Colin Powell had to slow down the administration's gears regarding the election issue, stating that the country must be secure for elections to take place. On ABC's "This Week" program, Secretary Powell also stated that, "Yes, it's getting worse in Iraq. We have seen an increase in anti-Americanism in the Muslim world."

Getting worse in Iraq? That is one of the biggest understatements yet from the administration that specializes in understatements. During the past 2 weeks, 29 United States soldiers and at least 250 Iraqis have been killed, not to even mention how many of our troops have been severely wounded. U.S. forces now face 70 attacks by insurgents daily. That is up from 40 to 50 hostile incidents that occurred each day before the U.S. transferred authority to Iraq's interim government.

Contrast Secretary Powell's comments about Iraq with the unnecessarily rosy statements given by President Bush and his mouthpiece in Iraq, interim Iraqi President Ayad Allawi. Despite a disturbing wave of violence in the past several weeks, our President recently stated that Iraq is showing signs of steady progress. He has also made the outrageous claim that only a relative few of the 25 million Iraqis are trying to stop the march of freedom. In fact, there are thousands of insurgents fighting the American forces in Iraq and there are likely many, many more thousands who are sympathetic to the insurgency.

Nobody should be surprised by the Bush administration's doublespeak on this issue, because the White House has actually gotten quite good at lying directly to the American people while somehow managing to keep a straight face.

President Bush delivers only good news, like declaring the mission accomplished aboard a giant Navy ship. He paints an optimistic picture of Iraq, saying that the violence is decreasing in scope and intensity. Then the White House dispatches someone like Colin Powell to deliver the truth that Iraq is actually still mired in chaos and violence and that anti-Americanism is on the rise. It amounts to nothing less than an institutionalized method of a White House that speaks out of both sides of its mouth, telling lies to the American people. Lies instead of truth, in spite of the deaths of more than 1,000 U.S. soldiers, at least 13,000 innocent Iraqi civilians, and let us not forget about the more than 7,000 gravely wounded U.S. troops who have lost arms and legs and an inner peace they may never recover. I wonder if these individuals would agree with President Bush's assessment of steady progress in Iraq.

Mr. Speaker, there has to be a better way of handling the quagmire in Iraq. That is why I have introduced H. Con. Res. 392, a SMART security platform for the 21st century. SMART stands for sensible, multilateral, American response to terrorism. If we had been following the SMART security, we would not be in Iraq in the first place.

EXCHANGE OF SPECIAL ORDER

Mr. STRICKLAND. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Massachusetts (Mr. DELAHUNT).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

WAR ON TERROR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, in just a few short days, the American people will make a decision that will determine the future of our Nation for at least the next 4 years and maybe for the next four decades. We find ourselves in a situation where more and more Americans are losing their health insurance, more of our retirees are in fear that their retirement benefits will be reduced or eliminated, more of our young people are finding it increasingly difficult to afford a college education, more of our senior citizens are finding it impossible to buy the medicines they need, and, sadly, more and more of our American troops are losing their lives on a daily basis in Iraq and literally thousands of our troops have been and continue to be wounded in that war.

We find ourselves with the situation in Afghanistan where the Taliban is reconstituting its authority and power and we face the situation where long after our country was attacked by the terrorists, the mastermind of those attacks that took the lives of our citizens in New York and Pennsylvania and here at the Pentagon in Washington, the mastermind of that attack, of those attacks, Osama bin Laden, is still on the loose. We know not where he is. He is seldom mentioned. Yet the President claims that we are winning the war on terror when the major terrorist has not been apprehended and continues to be free to plan the next attack whenever or wherever that may occur.

The President spoke at the Republican Convention for 63 minutes, quite a long time, and yet he never once mentioned the name of Osama bin Laden. Osama bin Laden, the man who orchestrated the attacks upon our country. Osama bin Laden. Not Saddam Hussein but Osama bin Laden. It is almost as if the President has forgotten how to pronounce that name. I point this out for I think a very legitimate reason. As long as the person who was responsible for attacking our country is still on the loose, has not been apprehended, is it not reasonable to assume that the American people would conclude that we are still threatened by this man?. That regardless of what we have been able to claim in Afghanistan, we have failed in the primary mission?

The President told us shortly after September 11 that Osama bin Laden could run but he could not hide. Those were the President's words. He can run but he cannot hide. The sad truth is that he ran and he has successfully hidden and this night he is somewhere planning the next attack. Symbolically, he is the hero to the terrorists. And as long as Osama bin Laden is on the loose, the terrorists can say they have not yet defeated us.

I get a little tired of hearing the rhetoric that is coming from the White House, that is coming from Secretary Rumsfeld and occasionally from Colin Powell, although he tends to be a little quieter about it. I get a little tired of hearing from Vice President DICK CHENEY that things are going well, that we are winning in Iraq. The fact is that much of Iraq is off limits to our soldiers. They are called no-go zones. Our soldiers cannot go there. Well, they can only go there if the Iraqi interim governmental leadership wants them to or says they should, and in those cases they may wander into those no-go zones. They tell us we are going to have elections in January. Yet with much of Iraq off limits, I wonder, and I think it is a legitimate question to ask, how can we have elections when we cannot even enter large cities in Iraq?

The President needs to come clean with the American people. He needs to tell us the truth. We are capable of dealing with the truth. We are not capable of dealing with misleading deceptions and what I consider manipulation and deceit on the part of this administration.

MEDICARE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROWN of Ohio. Madam Speaker, it is easy to understand why President Bush and the Republicans have had such a hard time selling the Medicare law to the American people. Their Medicare law has more than its fair share of dirty laundry, as we can see from this chart. Cost estimates hidden from Congress, the administration violated ethics laws, Members of Congress strong-armed to change their vote. We know this Medicare bill was passed in the middle of the night. The roll call was kept open an unprecedented 3 hours. One Member was literally bribed on the House floor, he claimed, the next day, or they attempted to bribe him on the House floor, a Republican leader attempting to bribe a Republican Member.

Seventy-eight different drug cards with no guarantee. Breaking the deal on drug reimportation which the gentleman from Illinois (Mr. EMANUEL) will talk about in a moment. And the crowning point was that Medicare Part B premiums increased a record, 39-year history of Medicare record of 17.4 percent.

This bill had big problems from the start, from its passage, as I just pointed out, using threats and bullying to suppress an internal estimate, the middle-of-the-night vote, the bribery on the House floor. The administration then turned around, spending tens of millions of dollars on infomercial-style ads making Medicare almost look like an item for sale on the Home Shopping Network. That bad process, the middle-of-the-night, the bribery, the campaign contributions, the sleazy kind of tactics to get this bill passed, the expenditure of tax dollar money to sell a bad product to the American people, that whole process, that bad process resulted logically in a bad product.

□ 2130

The drug benefit offers a part-time response to a full-time problem, requiring year-round premium payments for drug coverage that ends in August. And the Medicare law is confusing, handing seniors a stack of discount cards and saying if they cannot figure this out, here is an 800 number. The Medicare law does nothing to contain the skyrocketing cost of prescription drugs. Instead, instead, the Republicans and the President went out of their way to write the drug industry a blank check. No surprise there. This bill means $180 billion, with a "b," in extra profits above and beyond what the drug companies' record profits already are, $180 billion in extra profits for this drug bill; and, again no surprise, to complete the circle, the drug companies have given President Bush and Republicans in Congress tens of millions of dollars for their campaign.

We will hear more about these and other serious flaws in the Medicare law from the gentleman from New Jersey (Mr. PALLONE) tonight, from the gentleman from Illinois (Mr. EMANUEL), and from the gentleman from Ohio (Mr. STRICKLAND).

I want to get started by talking for a moment about the Bush Medicare premium hike. We heard about it. It was in the papers. Despite the Bush administration's efforts to keep it as quiet as possible, they released the information about the biggest Medicare hike in history, a 17.4 percent premium hike. They released it on the Friday before Labor Day, hoping people would not notice. But the biggest premium increase in Medicare history, they just cannot keep it quiet. So the news that Saturday was all about the Bush administration's plans, President Bush's plans to impose a 17.4 percent Medicare premium increase. The Republican spin machine is nothing if were not tenacious; so faced with bad news, they did what they always do, they blame the Democrats or they blame someone else. In this case they tried to convince us that Democrats are really the reason the premium hike happened. The fact is Republicans control the House, they have for 10 years, the Republicans control the Senate, the Republicans have had the White House. During the Clinton years, premiums stayed almost even for the last 4 years of the Clinton years, the second term of the Clinton administration, and now they have jumped up.

In fact, before the Bush Medicare bill became law, the nonpartisan Medicare trustees estimated the monthly premium increase for next year would be $2. After the Bush Medicare bill became law, the premium increase jumped to $11.60. That is per month. That is not much to a Member of Congress, but a senior citizen whose Social Security only went up 2, 2¼, 2½ percent, when faced with a 17 percent increase, well over $100, that is a serious amount of money. Five times larger than the premium increase estimated before the Bush Medicare law.

So where is that money? Where is that billions of dollars, the 17 percent increase, the billions of dollars that seniors have to pay out of their pockets? Whose pockets is that money going into? Where does that money go?

The fact is much of it is going into the pockets of Medicare insurance HMOs. The Medicare law creates a $23 billion slush fund that HMOs can use to lure seniors out of traditional Medicare into their private insurance plans. Seniors already spend 25 percent of their income on out-of-pocket health care costs. The Bush Medicare law hands them a giant increase in their Medicare premiums.

HMO profits already this year have jumped 50 percent over last year. Now we are giving them this $23 billion. And here is how it works: Last March the government, taxpayers, gave the first $229 million payment to insurance company HMOs. In April, taxpayers gave another $229 million payment to insurance company HMOs. In May and June, all the way through this year and all the way through next year, $229 million every month from taxpayers to insurance company HMOs. But do my colleagues know something? Seniors do not get the prescription drug benefit until 2006. So $229 million for 22 straight months go from seniors through this premium increase and taxpayers directly into the pockets of insurance company HMOs before they even get a drug benefit.

So it makes us wonder why. And the answer to the question why is insurance companies and drug companies wrote this Medicare bill, insurance companies and drug companies benefit from this Medicare bill, and the President and Republican leaders get major campaign contributions from the drug and insurance industry. It is all pretty simple. It is also corrupt. It is also outrageous. It is also morally reprehensible. And it is also something that we all need to think about when we make a decision this fall, come November 2.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. EMANUEL), who has been a leader particularly in the reimportation issue. One of the most important things this Congress has failed to do; that is, getting the price of prescription drugs down.

Mr. EMANUEL. Mr. Speaker, I thank the gentleman from Ohio for yielding to me.

As he knows, the whole debate about prescription drugs was fundamentally about the price and affordability of those medications. What we all heard in our districts and different areas, at shopping malls, senior centers, and from people at their pharmacies, was that seniors could not afford the medications they needed. And the idea of a prescription drug benefit, when Medicare was first created, prescription drugs as a cost of a senior's health care budget was about 10 percent. Today it is about 60 percent, and yet we did not cover it. And the whole concept here was to deal with the price and affordability of prescription drugs for our seniors. We had this historic opportunity.

Pharmaceutical companies over the next 10 years, the length of this bill, are going to walk away with $140 billion in additional profit just from this legislation. And what do they get? No reimportation, which they did not want. No bulk negotiations, turning Medicare into one giant Sam's Club, negotiating prices like Sam's Club does for consumers, and they got weak provisions as it relies on generic medications coming to market to compete with name-brand drugs. Everything that had to do with price and affordability, pharmaceutical companies got what they wanted, check, check, check, and they got $140 billion in additional profits.

HMOs got an additional $130 billion worth of profit, and they too got what they needed most, which are bigger payments. But yet a GAO study showed on a demonstration project that HMOs and PPOs show no financial advantage to the taxpayers, no medical competition that was supposed to be. In fact, the beneficiaries get few advantages. That is the GAO report on this new benefit. What do they walk away with? A hundred and thirty billion dollars in taxpayer-supported additional profits.

Last week in "The Hill," our journal here in the Capitol, there was an article about a Republican lobbying firm that is paying $4,000, funded by pharmaceutical companies, per senior citizen. They can find who will speak positively about the pharmaceutical prescription drug benefit. A $4,000 bounty. We have a $10 million bounty on Osama bin Laden; so we are now going to add happy seniors to that group of people that Republicans cannot find.

Mr. STRICKLAND. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. STRICKLAND. Mr. Speaker, what I think I heard the gentleman say sounds almost unbelievable.

Mr. EMANUEL. Mr. Speaker, does the gentleman want me to repeat it?

Mr. STRICKLAND. If he would, Mr. Speaker, but what I think I heard him say was that the pharmaceutical companies are offering a senior citizen $4,000 if they will be willing to say something positive about this benefit?

Mr. EMANUEL. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Illinois.

Mr. EMANUEL. Mr. Speaker, in "The Hill" article, our paper, a Republican lobbying firm who has Pharma as its client was offering a bounty of $4,000 per senior if that senior would come forward and say they are having a positive experience under the prescription drug benefit.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, they would prefer that this senior not announce that they are getting the $4,000 from the drug companies when they say that, I would understand.

Mr. EMANUEL. Right. But if the gentleman would continue to yield, Mr. Speaker, that was in the article. And my view is, I mean, it would be better if they gave a $4,000 prescription drug benefit. Maybe it would be much better if they just gave the benefit of $4,000. We would have accomplished what we set out to do.

We introduced in a bipartisan fashion a concept of reimportation, allowing people to get access to the same name-brand drugs that they have in Canada, that we have here, that they have in the United Kingdom, in Ireland, Scotland, Amsterdam, France, Germany. All those medications that we get on our shelves they get for 40 to 50 percent cheaper than we get here. On my Web site, I have a Costco in my district. It is a big discount retailer. There is a Costco in Toronto. I list the ten drugs in the Costco versus the Costco in Toronto. The same store retailer, the same discounter, the same low prices. People save $1,200 if they go to the Costco in Toronto verses the Costco in Chicago for the same ten drugs.

Reimportation brings competition to bear, and the pharmaceutical companies do not want price competition because they see the senior citizens, they see the taxpayers, as their piggybank to fund them. They use the American seniors and our taxpayers as their profit margin. People in Canada, their government is doing their job. They are getting low prices. People in the United Kingdom and France and Germany, their government is representing their people. They are getting low prices. And we are getting the shaft and we have allowed it.

And the amazing thing is that this is not an accident. This is by creation by the government to create artificially high prices to benefit the pharmaceutical companies.

I have no problem with funding the research and development of new drugs. I have a problem when the taxpayer funds those drugs with taxpayer-paid dollars through the National Institutes of Health or the caps on research and development, a 50 percent write-off for R&D. And then I have a problem with turning around and saying to the same people who paid for that research that we are going to charge them twice as much as what the people in Canada and Europe get charged.

If we brought competition, the principles of the free market, to the pharmaceutical products, we would have the same prices as Canada and Europe. Bring some competition. But what do we do? We have got a closed market. We have got artificially high prices, and we have got senior citizens and taxpayers being shafted. That is what this Medicare bill did.

And let me say this: What is happening is not a coincidence. It was done by design. So do not walk up and say how did this happen? My colleagues do not think that the prescription drug companies and pharmaceutical companies pushing for a prescription drug bill did not know what they were getting when they got the $140 billion in additional profit and no restraints on pricing? My colleagues do not think the HMOs were spending the type of money they were spending on lobbyists and contributions to get $130 billion of extra profit and people getting worse care or not as good of care as guaranteed under Medicare? This was done by design. The results we have are the results of what they literally did when they drafted the legislation.

I would like to thank my colleague for allowing me to explain to people this bill. And the good news is our seniors know exactly what they got, which is why they are angry.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, what the gentleman from Ohio (Mr. EMANUEL) said about Costco, think about that. This is the same company, one in Toronto, one in Chicago, the exact same company, and it is not Costco that is marking up the prices in the United States. Obviously they buy their drugs from a U.S. wholesaler connected with the drug companies, and in Canada they buy them from a Canadian wholesaler which has negotiated cheaper prices. And Costco could not buy its drugs that it is selling at the Toronto store and ship them to its Chicago store because the Bush administration will not let them.

That is why this break in the deal on drug importation is so important that we are simply saying, as the gentleman from Illinois (Mr. EMANUEL), the gentleman from New Jersey (Mr. PALLONE), and the gentleman from Ohio (Mr. STRICKLAND) have said many times, that we have NAFTA, we have the North American Free Trade Agreement. We are allowed to buy and sell across country lines, but we are not allowed to go to Canada and buy those prescription drugs, bring them back to the United States, and sell them at a much lower price. The same drugs, the same packaging, the same manufacturers, the same dosage, everything.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. BROWN) and also the gentleman from Illinois (Mr. EMANUEL) for their comments because they are clearly right on point in talking about why this Medicare premium is going to increase so much in the next year and that this is directly the result of President Bush's policy and Republicans in this House's policy with the Medicare bill, the so-called Medicare prescription drug bill that the Republicans passed last year.

Sometimes I do not know whether to laugh or to cry. To laugh because the hoax that is being played by the Republicans and the Bush administration is so ridiculous, or to cry because of the fact of what the consequences are to America's seniors. And we have to understand, and I know all of us do, that this is something that is really going to hurt seniors. They cannot afford a 17.4 percent increase. These are seniors living on fixed income. The Social Security COLA this year, I do not know what it is, 2 percent, 3 percent, something like that.

Mr. BROWN of Ohio. Reclaiming my time, we do not know yet, Mr. Speaker, but it will be less than 3 percent.

Mr. PALLONE. Yes, Mr. Speaker. This Medicare Part B premium is five times the 17.4 percent increase, at least, of what their Social Security COLA would go up to.

Mr. STRICKLAND. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. STRICKLAND. Mr. Speaker, so if a senior is on a fixed income and the Social Security premium goes up less than 3 percent and yet the Medicare premium goes up 17.4 percent, what is that senior on a fixed income to do when they are already living on the edge, they are already having a struggle to buy food and get their medicines, pay their bills, heat their homes? What are they to do? What does this President say to an 80-year-old man or woman who is living at the edge in terms of their income? What does this President say? What do the leaders in this House have to say to those folks?

Mr. PALLONE. Mr. Speaker, if the gentleman will continue to yield, I have to be honest, one of my concerns is, I mean we know that 99 percent of seniors pay the Part B premium because it pays for the doctor bills, but I would not be surprised if we start seeing a significant portion of them that do not even sign up for Part B because they cannot afford the premium. I mean that is my fear.

And the other thing I wanted to follow up on, though, because I think it says so much about what is going on here and shows how the Bush administration and Republicans have caused this premium.

□ 2145

We have got to understand that the gentleman from Ohio (Mr. BROWN) said when President Bush spoke, he tried to give the impression that this was just some natural phenomena, or maybe even worse, it was caused by the Democrats.

This is directly the result of the Bush administration and the Republican Policy Committee, because when they passed that so-called Medicare prescription drug bill, what did they do? Essentially what they are doing is two things: one, giving more money to the insurance companies, particularly to the HMOs, and essentially trying to get Medicare privatized, to get seniors out of traditional Medicare, and this premium increase is a direct result of all that extra money that is going to pay for the HMOs or the other managed care agencies getting this increased money.

The other thing is it is the result of the fact that the Republicans are borrowing from the Social Security and the Medicare trust funds to pay for the deficit that has been the result, again, of their policies. They did all these tax cuts primarily for corporate interests and for wealthy Americans. They had to borrow from the trust funds, including the Medicare trust fund, to pay for those tax cuts, and created a deficit; and that is another significant reason why this premium is going up.

So when the gentleman from Illinois (Mr. EMANUEL) talked about the GAO study, which was in the New York Times, today the New York Times had a article on this GAO study, and it is just incredible, because what it found is that Medicare is spending $650 to $750 more per year for each beneficiary in these private plans, these managed care plans. Even though we are spending all this extra money, which is causing the part B premium to go up so much, we are finding that it is costing the government more.

I just want to read this. It was just amazing to me. The New York Times today, the front page: Federal investigators said Monday that the Bush administration had improperly allowed, once again breaking the law, some private health plans to limit Medicare patients' choice of providers, including doctors, nursing homes and home care agencies. Investigators from the GAO also found that the private plans had increased out-of-pocket costs for the elderly and had not saved money for the government, contrary to predictions by Medicare officials.

They have been saying all along the reason we are giving this extra money to the HMOs and the managed care providers, in this case the preferred provider organizations, is because the beneficiaries are going to save money out of pocket. Now this finds out that that is not true.

So what do we have? We are giving the managed care companies more money. We are causing the part B premium to go up. As a result, the seniors are paying more out of money. And the Bush administration is doing all this illegally because they are limiting seniors their choice of doctors, nursing homes, and home care agencies.

The only person that benefits is the insurance companies and the HMOs. I guess, as the gentleman from Ohio (Mr. BROWN) said, the Republicans benefit, because they get campaign contributions and other things from the insurance companies. But there is nobody that benefits here.

Even with all this going on, McClellan, the administrator of Medicare, insisted that private plans were an attractive option that would save money and improve coverage for beneficiaries. That was his response to the GAO report. Incredible. I just do not know where it ends. It is sickening.

Mr. BROWN of Ohio. Madam Speaker, reclaiming my time, I want to reiterate that this did not have to happen. We have a very good Medicare system. One of the great things about our system is while we do not always rank at the top around the world in our health care system because a lot of people do not have insurance and all that, if you get to 65 in this country, you in fact do have one of the longest life expectancies in the world because you have very good health care, you have Medicare.

You had a shortcoming. You did not have a prescription drug benefit. You still really do not because it is now a privatized insurance plan. But this did not have to happen. We did not have to take Medicare, one of the great programs this country has ever had, and do what the Republicans did.

I want to outline again, first of all, how they did it. If you do something, if you build a house in a way that is not structurally sound, if you do not use a good quality wood, if you cut corners, you are not going to have a very good house at the end. If you do not have good input into any manufacturing process, you are not going to have a very good manufactured product at the end.

Just again look at how the Republicans did it. They first told the American people and the Congress the bill would cost $400 billion over 10 years. It turns out there was an actuary at the Center for Medicare and Medicaid Services who said no, it will cost $534 billion; but he was not allowed to speak out. He was threatened by Tom Skully, the administrator, and I assume by the President also, who had to know this too, that it really costs $534 billion.

Mr. Skully has since moved on to work as a lobbyist for the drug and insurance industry, no surprise there, while the President has taken tens of millions of dollars apparently to thank him for the Medicare bill. We will get to that in a moment. But the cost estimates were hidden from the Congress. They simply did not tell us the truth about how much it was going to cost. Then the administrator violated ethics laws by the way they treated that employee and other ways.

Then the way it passed this Congress, we remember that night, the debate started at midnight, the vote started at 3 o'clock in the morning, the roll call was kept open for 3 hours. They literally tried to bribe one Member.

Mr. PALLONE. Madam Speaker, if the gentleman would yield further, if I could interrupt, the one thing I thought was so significant and maybe was not played up enough, there was a majority of the House of Representatives that voted "no" on that bill, 218, a clear majority. There was absolutely no reason to leave that board open, because a majority had voted "no." So they basically spent, as the gentleman said, 2 or 3 hours persuading the people that voted "no" to switch their vote.

Mr. BROWN of Ohio. Madam Speaker, reclaiming my time, "persuading" is a very nice word. They did well beyond persuading. They arm-twisted, they cut deals, they tried to cut deals, they made offers, they tried the carrot, they tried the stick, they tried to bribe a Republican Member from Michigan, who talked about it the next day.

So this whole process, from the conception of the bill written by the drug and insurance industry to the cost estimates hidden and then lied about, the ethics violations, then the middle-of-the-night vote, then the bribing of a Member of Congress, the attempted bribing of a Member of Congress, and then the bill passing in the middle of the night, it is no surprise that this bill led to a product where seniors got a 17.4 percent premium increase. Again, the largest increase in Medicare history.

In the 1990s, in the second half, the premiums stayed almost the same. It was between about $46 and $50, within a dollar or two, every year for 4 or 5 years. President Bush came into office. Now it is up to $78 and some cents. It has gone up double digits more than once, and this time it went up 17 percent. Why? Because of all these things that happened.

This was not an accident that it went up 17.4 percent. It went up that much because they lied about the cost and they covered it up, the President and the administration and the Office of Medicare, CMS. Then they violated election laws. Then they strong-armed Members. Then they tried to bribe somebody. Then the bill contained a huge payout to the insurance industry, $290 million every month for 22 months before the bill, the drug benefit, was even into effect in 2006. So the increase to seniors was 17.4 percent.

Of course, the Republicans had to collect their money from the drug and insurance industries for their campaign this year. Republicans may have a good year this year in the election because they have so much money from the drug companies and so much money from the insurance companies. But it is morally reprehensible and outrageous how they did it, and even more outrageous, what ultimately happened to this bill.

Mr. STRICKLAND. Madam Speaker, if the gentleman will yield further, I was just standing here thinking if you are a working person, if you are a senior citizen, if you are a veteran in this country, you had better look out, because this administration is out to get you. They are cutting veterans' health care funding. They certainly are not doing anything for the working people, who are seeing the tax burden of this Nation shifted more and more from the very wealthy on to the backs of the working folks. And then when it comes to the older people in this country, when it comes to our senior citizens, they are really getting the shaft.

The fact is that since George Bush became President, Medicare part B premiums have increased 56 percent. In less than 4 years they have increased 56 percent. But back home in Ohio, in Southeastern Ohio, we have an old saying about the chickens coming home to roost. I think the chickens are coming home to roost for the Republicans, because the senior citizens are starting to understand what is happening to them.

A story in the Columbus Dispatch, September 12, it says: "Medicare expense becoming a big issue in the election fight." If I can just share the opening paragraph, it says: "Medicare has emerged as a volatile issue in this year's elections as Democrats vow to roll back a sharp increase in premiums announced this month."

Those premiums are increasing, as has been said here, 17.4 percent. That means that beginning in January, and that is after the election, but beginning in January a senior citizen will be required to pay for part B, their Medicare part B premium, $78.20. That amounts to $938.40 a year.

I repeat to my friend, the gentleman from New Jersey (Mr. PALLONE), the question I asked him a little earlier: If you are a senior citizen and you have health problems that require medication to keep you healthy or to keep you alive, in many cases, and you are on a fixed income, as many of our seniors are, and this President decides to increase your premium 17.4 percent, and your Social Security cost of living increase is less than 3 percent, what can you do? Where can you go to get what you need to buy your medicine, to pay for your food, to heat your home, to pay your rent?

That question is facing hundreds of thousands of American senior citizens tonight, and this President has an obligation to speak to that question, because he is the one who is responsible for putting this additional burden on the backs of our senior citizens.

Mr. PALLONE. Madam Speaker, if the gentleman will yield further, I just want to say two things in response. One is I think we have to keep repeating that this is the policy of the Bush administration and the Republicans in Congress. They have forced this 17.4 percent increase, because of their giving the money back to the insurance companies, the extra money to the HMOs and managed care, and because they are borrowing from the trust fund.

But I want to say I have had a couple of seniors contact me over the last few weeks, because they point out that the costs are even higher. One of the things not mentioned here, and I forgot exactly how much it was, but the Medicare bill actually has an increase in the deductible too. Does it go to $150 instead of $100? I do not know exactly the amount.

But this is the first time in the whole history of the part B program that the deductible is going to increase. So if you add that, and, remember, everybody is going to pay that, because when you go on January 1 and buy your first prescription or your first series of prescriptions, instead of $100, I do not know what it is going up to, it is going up beyond $100. I do not know if it is $150 or whatever at some point. So that is going to be an extra amount of money out of pocket.

Then if you look at what the GAO study says today in terms of the money for these HMOs, what they did is they waived the out-of-pocket limits. So in other words, what this GAO study is saying today, it is costing the senior more if they have joined these PPOs, a form of managed care, because they are going to pay more out of pocket. Think about it: premiums going up, deductibles going up, out-of-pocket expenses going up, because they have waived the requirements.

Mr. STRICKLAND. Madam Speaker, if the gentleman will yield further, I think it is appropriate for us to ask how would this country be without Medicare. There are some people in this administration who never believed in Medicare from the beginning. They opposed it from the very beginning. They think it is something like socialized medicine, and they think that the private sector is not being able to get its fair share.

So, quite frankly, what we face with this administration, and I believe with the President, are individuals who simply do not believe in Medicare as such.

Otherwise when they talked about a prescription drug benefit, they simply would have made this benefit a part of traditional Medicare. They would simply have added A, B, C, and part D and said that is the prescription drug benefit to Medicare. We would have had a modest premium, and it would have been a part of traditional Medicare. But no, no, no, they want to go to the private sector. As a result of going to the private sector, as the gentleman has said, it is costing more, seniors are more limited in their choices, their premiums are going up, their deductibles are going it up, and they will continue to go up.

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This year, it is 17.4 percent. Next year, when there is no election facing the administration, if they happen to retain power, it could be 25 percent. No one knows what is going to happen, because this administration, I believe, fundamentally does not believe in traditional Medicare.

So what do you do when you do not believe in a program? Well, you try to change it fundamentally, and that is what they are trying to do. This is the first step in the privatization of medicare, to relieve the government of this responsibility. And I ask, what would America be like tonight without Medicare? If George Bush and the leadership of this House and the Senate of this country have their way, we may find out what America will be like without Medicare.

Mr. PALLONE. Mr. Speaker, I will just read this one section from this report, and then I will yield back to the gentleman from Ohio (Mr. BROWN). Again, this is the GAO, the Government Accounting Office, nonpartisan; this is not Democrat or Republicans saying this. This is what the report said: "To draw PPOs," which is a form of managed care "into Medicare," the report said, "the Bush administration offered to pay them more, waive stringent standards for the quality of care, and remove limits on the costs that beneficiaries might be required to pay. As a result," the GAO says, "these plans were subject to no statutory or regulatory limits on cost-sharing for beneficiaries."

Quality of care, cost, standards, they do not care. They are just giving money to their friends, the insurance companies.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, the gentleman from New Jersey (Mr. PALLONE) mentioned how premiums are up dramatically, obviously, the 17.4 percent. And before my friends on the other side of the aisle say anything, because I know what they are going to say, because they always say that to this is, well, one of the reasons premiums are up is because they are getting these great new preventive benefits. Well, the fact is preventive benefits cost, and this is all public information, they will add 20 cents to the cost of the premium increase. The premium increase is $11.40. The increase in better benefits, the preventive benefit is 20 cents, so they are getting almost nothing for the $11.40.

So we are seeing the premium increase 17.4 percent; we are seeing the deductible increase, as the gentleman from New Jersey (Mr. PALLONE) says; and once the drug benefit comes into effect, we are seeing accelerated, continuing, quickening, sky-rocketing drug prices.

And the reason for that, again, this stuff does not happen by accident. The reason for that is as a payoff to their drug company contributors, because there is no other explanation that I have heard from anybody, including Republicans privately, is they have a provision in the bill that says that the government may not negotiate the price of drugs on behalf of Medicare beneficiaries with the drug companies.

So in other words, think how easy it would be if the country would simply say, the government would say, we have 41 million Medicare beneficiaries. We are going to use them as one buying pool, one purchasing pool, to bring the cost of drugs down. That is what every other country in the world does. That is why drug prices are one-half, one-third, one-tenth in Germany, Japan, Israel, England, or Canada as they are here, because the government intervenes. It is not price controls; they just simply negotiate the price on behalf of seniors. That is what the Veterans Administration does. They bulk buy. They use the purchasing power of many to get a good price from the drug companies.

For the Republicans to write into this Medicare bill, with all the corrupt and outrageous and morally reprehensible and questionable tactics and ethics violations that went into this bill, for them to write a provision into the bill saying, we cannot negotiate for lower drug prices, that absolutely guarantees the prices will go up. So premiums go up 17 percent this year, maybe, as the gentleman from Ohio (Mr. STRICKLAND) said, another double-digit increase next year, even bigger, without the threat of an election over them, if President Bush wins the election or if Republicans keep control of Congress, premiums go up, deductibles go up, and the cost of prescription drugs keep going way through the roof.

It is by design. It is clearly what they want. They want to privatize Medicare, as the gentleman from Ohio (Mr. STRICKLAND) said; and they move towards a very different system. Back 38 years ago, almost no Republicans supported Medicare, and every time they have had a chance, they have gone after it. They have tried to privatize, take money out of it, tried to underpay providers so that they can rob the system. They have tried to pay off the drug industry and the insurance industry to privatize the system; and now that they control the House, the Senate, and the President, they are able to do all of these things, costing seniors more and seniors getting less; but the drug and insurance companies are doing very well, thank you.

Mr. STRICKLAND. Mr. Speaker, listening to this discussion and listening to the things the gentleman said about this bill and how it came into being, I would say that for a senior citizen to continue to vote for those in power would be not unlike a chicken voting for Colonel Sanders. Now, we all know down in Kentucky and Ohio and around there that Colonel Sanders sells Kentucky Fried Chicken. It is pretty good stuff. But quite frankly, Colonel Sanders is no friend of the chicken, and I believe that this administration is no friend to America's senior citizens.

When we think about what is being discussed here, it is outrageous. It is absolutely outrageous. What we are talking about is not theoretical. We are talking about real people, older Americans. We are talking about tax dollars that are being given to pharmaceutical companies and insurance companies. We are talking about decisions being made that are almost irrational, if we consider them in a serious manner.

This administration pushed through a law that says, we cannot negotiate discounts. I mean, Sam's Club negotiates discounts. As the gentleman said, the gentleman from Ohio, the Veterans Administration negotiates discounts for pharmaceutical medications. Yet, this President and the leadership in this House said oh, no, no, no. Medicare cannot negotiate discounts for our senior citizens. Why? Because the pharmaceutical companies wanted that provision in the law. It is outrageous.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time just for a moment, in this House, a group of us wanted to try to amend the bill to take that out so that even though we did not like the bill overall, at least we could have brought drug prices down by working for that discount by using the power of 41 million people purchasing, a Medicare purchasing pool. We wanted to offer that amendment, and because of the corrupt way this bill was brought to the House floor, from the cost estimates to the ethics law to the middle-of-the-night vote, to the bribery, attempts of bribery on the House floor, we were not even allowed to offer that amendment so we could debate it; and let my friends on the other side try to defend the drug companies, but they did not want to do that in public. Everything they wanted to do would be in the middle of the night or not have to do it at all, so they did not even allow us to offer that amendment to even discuss it.

Mr. STRICKLAND. So it is fair to say that President Bush believes that America's senior citizens should pay more for their drugs than Canadian senior citizens. He believes that American senior citizens should pay more for their drugs than English senior citizens or German senior citizens or Belgium senior citizens or Swedish or French senior citizens. That is what we have. America's senior citizens are paying more, senior citizens in other countries are paying less; and this President says that is the way it ought to be. He is standing in the way, with the leadership in this House, of those of us who feel that this is wrong, having the ability to change it.

Mr. BROWN of Ohio. Mr. Speaker, before yielding for a moment to the gentleman from New Jersey (Mr. PALLONE), one drug in particular, a drug cold Tamoxifen, a breast cancer drug, it is a very effective drug to help women combat breast cancer, costs 10 times in the United States what it costs in France. This is a drug that was developed in large part by U.S. taxpayers, and it is made here. Yet the French pay one-tenth as much for Tamoxifen as do Americans; French women do pay one-tenth as much as American women do. Those are not coincidences; they do not happen by accident. They happen because of the corruption and the violation of ethics laws and the bribery and all that Republicans have engaged in on this medicare prescription drug bill.

If you want to teach a class about how government should not run, if you want to teach a class about how government can be rife with corruption, all you have to do is talk about the Medicare bill. If you explain to students or explain to anyone how this Congress, how this Congress passed this Medicare bill, there is no better example in my 30 years in public office, almost 30 years in public office, there is no better example I have ever seen from either party even at its worst, and both parties do things we sometimes should not do, but we have never seen anything close to the corruption that just permeates this Medicare bill, from the beginning of its process to the 17.4 percent increase, and who knows what in the future.

Mr. PALLONE. Mr. Speaker, I just wanted to add a couple of things about price, because I think it was the gentleman from Illinois (Mr. EMANUEL) who said earlier that what this is all about is price and cost and how much people are paying out of pocket. I mean, the reason that my colleague, the gentleman from Ohio (Mr. BROWN), started this Special Order tonight is because of this 17.4 percent premium increase in Medicare part B, but we have already talked about all of the other additional costs.

One of the things that I think has not been highlighted, and I am not talking about with us, but just in general, is that when this so-called prescription drug benefit, and I do not even like to use the term, kicks in in a couple of years, all of the information that Republicans are giving out relative to the cost, none of it is true. They act as if there is going to be a set premium, that there is going to be a set deductible, that there is going to be some list or formula that is going to include drugs, certain drugs. None of these things are true. There is absolutely nothing in the bill that sets the premium. The premium for the drugs could be $100 a month. Who knows? The deductible, we are thinking because we think of part B that the deductible is $100, the deductible could be $200, $300. There is absolutely nothing in this bill that dictates in any way what the price is going to be for the premiums, for the deductibles, for anything, or that any particular drugs are going to be included. Everything else is true too.

In the interim, we have these so-called drug cards, right? Now, you and I know the seniors are supposed to go on the Internet and figure out whether or not it is worth it to buy one of these drug cards because you look to see whether or not certain drugs that you might want to take are included on these so-called discount drug cards. But we know that that price can change next week. So they could increase the price, and you might find that you sign up and pay for the drug card and then the cost is two or three times. There is nothing here. The idea of not negotiating the price extends not only to the price of the drugs, but to every aspect of this: premium, deductible, you name it.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, that is why the comment of the gentleman from Ohio (Mr. STRICKLAND) earlier was so important. Without the prospect of an election, if President Bush wins this election, if Republicans win the House, it is Katie, bar the door. Premiums, deductibles, copays, who knows what this is going to look like. More insurance company subsidies, more subsidies for the drug companies, two industries that have done so very, very, very well in this country. The drug industry is the most profitable industry in America for 20 years running, with the lowest tax rate. Insurance companies and HMOs had a 50 percent increase in their profits this year over last year, and that is before they got this, before all of this corruption led to their $290 million-a-month payout from taxpayers to HMOs.

Mr. Speaker, the gentleman from Ohio (Mr. STRICKLAND) is right. When there is not an election, if President Bush was willing to increase premiums 17.4 percent, a record increase 2 months before an election, granted, he did it on Labor Day weekend when he hoped nobody would notice, but if he is willing to do that 2 months before an election, a very close election, you can wonder what he is going to do when those shackles are off.

Mr. STRICKLAND. Mr. Speaker, we have talked about the problems with this bill. What is the solution?

Well, I think these problems could be solved if the President would pick up the phone and call the gentleman from Illinois (Speaker HASTERT) and say, Speaker HASTERT, I want a bill that allows the importation of cheaper drugs from Canada into this country. And if the President said to the gentleman from Illinois (Speaker HASTERT), Mr. Speaker, I want a bill that allows our government to negotiate cheaper prices for our senior citizens with the pharmaceutical industry, the President could do that, and I believe the Speaker would accommodate him. A bill could be brought to this floor; and with the President's support, it would pass overwhelmingly.

So what is the problem? The problem is the President is on the wrong side of these two issues. He is on the wrong side of other issues as well regarding this bill, but especially on the issue of importing cheaper drugs from Canada, something that most Americans want. Americans cannot understand, they just simply cannot understand why a drug can be sold in Canada at a profit, at a profit. The drug companies are not losing money when they sell these drugs in Canada. So the American people ask, how can a drug company sell a drug in Canada and make a profit and then sell that same drug in this country for two or three or four times as much as they are charging in Canada? What is right about that, when we have older people on fixed incomes who are desperate?

□ 2215

I do not know if the President, as he is out and about the country campaigning, encounters the same kind of people that I do, but every time I go back to my southeastern and southern Ohio district, I encounter older people who are desperate. They simply do not know how they are going to make it.

It would be so simple. We could accomplish this in a few hours' time if the President would simply take the leadership and do it, but thus far, he is leading in the opposite direction. I think the American people need to know that, that if they are concerned about high drug costs and they are concerned about Canada and France and all these other countries getting the drugs more cheaply, they need to know that the President is one of the reasons for that, because he refuses to speak up and speak out and to provide the leadership.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend, the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from New Jersey (Mr. PALLONE) for joining me and the gentleman from Illinois (Mr. EMANUEL) earlier tonight.

Again, as the gentleman from Ohio (Mr. STRICKLAND) pointed out, we know what has not worked. We know this bill has been an absolute payoff to the drug and insurance industries. We know how this bill became law. We also know what we could do to fix it, and we would offer again tonight, because we should not come down to the floor and only criticize, we really should offer constructive solutions.

The gentleman from Ohio (Mr. STRICKLAND) is exactly right. We should have reimportation. We should run the Medicare prescription drug bill through traditional Medicare, not farm it out to insurance companies, and then have to subsidize those insurance companies to "incentivize" them to offer the prescription drug benefit.

With reimportation, we also ought to be able to use the buying power of the Federal Government on behalf of 41 million Medicare beneficiaries to get the price down so that people could simply open up their purse or their billfold and pull out their Medicare card and go to the local drug mart in Elyria, Ohio and get a price that is 50 or 60 or 70 percent less than we have today.

We can do this if we have the political will. We could do this if the Republican leadership and the President would wean themselves off of drug company and insurance company contributions. That is what we need to continue to push in our country so that seniors are finally treated equitably by their Federal Government.

I thank my friends from New Jersey and Ohio.

9/11 COMMISSION RECOMMENDATIONS

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, the gentleman from Indiana (Mr. SOUDER) is recognized for 60 minutes as the designee of the majority leader.

Mr. SOUDER. Madam Speaker, tomorrow starts an historic process as we move through the 9/11 Commission recommendations and other actions by this Congress in committee to try to address many of the terrorist concerns and how we are going to handle those terrorist concerns with new legislation.

We have already taken many actions in this Congress, we have already taken many actions in the executive branch, but tomorrow we start a committee process where we are going to implement many other historic pieces of legislation.

Madam Speaker, I would now yield to my colleague the gentleman from Illinois (Mr. SHIMKUS) who is going to address a number of the aspects that we will be starting in our deliberations this week.

Mr. SHIMKUS. Madam Speaker, I would like to thank my colleague for yielding to me.

I am going to focus on two issues dealing with the telecommunications arena, and these are very, very important, as we have found since September 11, especially in the arena of communicating between all the different levels of the first responders. This is something the Committee on Energy and Commerce has been focused on for the last few years, especially, as I said, since the terrorist attacks.

We have begun debating legislation that will implement many of the recommendations from the 9/11 Commission report. A number of these recommendations focus on public safety communications. The 9/11 Commission noted in its report that the inability of first responders to talk to each other at the World Trade Center, at the attack on the Pentagon, and at the crash site in Pennsylvania were a critical element in impeding rescue work.

A recent report by the GAO said that the Federal Government still does not know how extensive the lack of effective emergency communication is, mostly because there is no comprehensive policy within the Federal Government that addresses spectrum assignments and plans for interoperable communications technology for public safety.

Homeland Security Secretary Tom Ridge just announced that his department was establishing an office to set national standards for emergency communications so first responders can talk to each other. This office will receive the wide range of public safety interoperability programs and efforts currently spread across Homeland Security. These programs address critical interoperability issues relating to public safety and emergency response, including communications, equipment, training and other areas as needs are identified.

The term "interoperable communications" means the ability of emergency response providers and the relevant Federal, State and local government agencies to communicate with each other. Oftentimes, this is a very difficult task. More and more often, when a public safety officer responds to a call, he or she will arrive at the call site and find out their radio does not work because a private wireless carrier operating in the same spectrum band has a tower close to the call site. The interference is generally a result of the carrier's signal either overpowering or mutating public safety's signal.

The 9/11 report recommends that Congress expedite the increased assignment of radio spectrum for public safety purposes. I believe, as do other Members, that full public safety communications interoperability within the decade should be a national goal. H.R. 10 requires the Secretary of Homeland Security, working with the Secretary of Commerce and the Chairman of the FCC, to establish a program to enhance public safety interoperable communications at all levels of government and to establish a comprehensive national approach to achieve public safety interoperable communications.

There are some 60,000 first responder organizations in the United States, and each one purchases its own equipment. These organizations control more than 40,000 spectrum licenses. Neighboring communities that need to communicate in an emergency often start out with vastly different communication systems and different capacities to fund new equipment, but this is a difficult problem to correct. Many localities are not willing to give up their system so they can have the same one as a neighboring community. They feel the systems they have work best for them in an emergency and feel the cost of switching to a new system is too high. Some first responders worry that a fully integrated system could compromise command-and-control in an emergency by fostering a confusing set of instructions.

States are looking for low-cost solutions that will enable better communication, while avoiding the danger in which the chain of command breaks down in emergencies. We do not want everyone talking to everyone else all the time.

One key is to set a date for the availability of new spectrum. It gives States and cities an incentive to move more quickly on the investments in new equipment needed for interoperability, especially in urban areas where the volume of users can quickly overload the system in an emergency, as it did in New York and the Pentagon on September 11.

There is a lot of uncertainty out there about how Congress and the FCC should acquire this spectrum. Congress passed legislation that included providing some of the needed frequencies. Congress mandated that channels used to broadcast analog television were to be clear, and spectrum at 700 megahertz was to be reallocated for wireless communications, including public safety.

In the Balanced Budget Act of 1997, Congress established 85 percent as the threshold for the percentage of households, by market, that must be able to receive digital signals in order for the FCC to end the licenses for analog over-the-air broadcast and then use those analog licenses for public safety. In this scenario, the 15 percent that lacked digital equipment would, presumably some 16 million homes, quickly lose access to all television programs.

A proposal by the FCC media bureau chief, Kenneth Ferree, known as the Ferree Plan, would include cable and satellite set-top boxes that can accept digital signals and evaluate whether at least 85 percent of a TV market has either digital TV or converters. Such an action would make it possible for the FCC to begin reclaiming spectrum from broadcasters as early as January 2009, but this has been met with some criticism by broadcasters across the country. To date, over 1,400 of the 1,600 plus over-the-air broadcast stations are broadcasting a digital signal.

Another issue I wish to address is the communication problems we are having when people need to call 911 in an emergency, especially on their cell phones. The critical numbers 9–1–1 is our first link to getting lifesaving help or thwarting a terrorist attack. Only a small percentage of the Nation's PSAPs are capable of processing wireless 9/11 calls. Those are public service answering points; most of us know them as the 911 call centers. They are really the government-run answering locations for public safety. An estimated 130 million wireless phones are in use, generating an average of 150,000 calls to 911 each day. Our Nation's communications technology has changed, but our emergency response infrastructure has not been updated. Too many remain needlessly at risk.

The most significant remaining hurdle to ubiquitous E–911 services is PSAP readiness. However, most of the remaining PSAPs lack the funding necessary to upgrade their systems, and many States, like my home State of Illinois, have aggravated the situation by using the subscriber fees collected on phone bills for E–911 services to help cover budget shortfalls.

To address this growing problem, I joined with my colleague in the House, the gentlewoman from California (Ms. ESHOO), she is a Democrat from California, and two U.S. senators, Senator CONRAD BURNS from Montana and Senator CLINTON from New York, to form the Congressional E–911 Caucus. Together, we have pushed legislation that will enhance coordination of E–911 implementation in each State, discouraging the raiding of E–911 funds, and give local PSAPs additional funding to help them finally achieve enhanced 9/11 capability.

I joined the gentlewoman from California (Ms. ESHOO) in introducing H.R. 2898, the E–911 Implementation Act of 2003. The bill passed the House last November and is currently waiting action in the Senate. I believe the 9/11 Commission report legislation would be the perfect vehicle to attach this legislation. The legislation will do four major things to advance E–911 deployment.

First, it authorizes $100 million for 5 years to provide PSAPs with matching grants to help them with much-needed upgrades.

Two, it penalizes States for diverting their E–911 funds. Under the legislation, PSAPs will not be eligible for matching grants until their States certify that they have stopped using their E–911 moneys for other purposes.

To make a long story short, what States are doing are taxing our phone bills, and that money is supposed to be going to implement 911 call services and now enhanced 9/11. States are raiding that fund to pay for budget shortfalls. If the States do not clean up their act, they are not going to be eligible for any grants to help them meet the E–911 requirements.

A third thing it does is creates an E–911 office at the National Telecommunication Information Administration that will serve as a clearinghouse for best practices in the deployment of E–911 and administer the grant program.

Number 4, it also directs the FCC to review its E–911 accuracy requirements for rural areas to determine if they adequately address the complexities associated with providing E–911 services.

E–911 stands for enhanced, and what we are trying to do is make sure that when you use your cell phone and you call 911, people know where you are at, that you can identify yourself or they can be identified on a map. There are countless stories of people not doing that. How it translates into the 9/11 Commission report is that what we have also found is the ability to forward calls from cell phones so that if you had a major terrorist attack and if it was a weaponized anthrax or if it was a radiological, a dirty bomb, and we knew the disbursal area and we knew the wind direction, you could plot that, and then, in essence, use cell phones and call people who are, in essence, downwind and say, go this direction or go that direction and get out of the path of the cloud which is coming your way. That is how this is all tied to the 9/11 Commission report.

□ 2230

And accuracy is very, very important. Accuracy in urban areas is a challenge with high rises. Accuracy in rural areas is a challenge because you have long distances with isolated sectors of the population. So in a rural area you may get away with being accurate up to 100 feet, but in an urban area you may need a more specific and precise location.

What I am highlighting here tonight is a need for Congress and the SEC to act on public safety communication problems. H.R. 10 starts that process moving. There are other fixes like E-911 legislation that could help first responders respond quicker to emergencies and possible terrorist attacks.

These solutions are not easy. Congress and industry are going to have to make difficult decisions, but our goal should be to improve public safety communication systems and ensure that first responders are equipped with the necessary tools to respond to terrorist attacks and other emergency situations.

This is an important time in our country as we are moving forward to address numerous concerns. I really personally applaud the 9/11 Commission report. I think they have done a good job outlining many of the needs that we have to address to make sure that, as the commission so precisely put it, we are as a Nation safer today than we were on September 11; but we are still not safe. So we have to make needed improvements.

I have just talked about the communication aspects and dealing with some of the vague issues of spectrum and then how first line responders can free up spectrum for them to be able to communicate, and also how in using telecommunications we can help the individual citizens as more of our country moves to cell phone communications.

With that, I wish to thank my colleague, the gentleman from Indiana, for yielding to me; and I look forward to following his discussion on this issue.

Mr. SOUDER. Madam Speaker, reclaiming my time, I thank the gentleman from Illinois (Mr. SHIMKUS). There are so many aspects to the 9/11 Commission report and all the many day-to-day activities in fighting terrorism that it is hard to even begin to fathom the number of issues that we have to deal with as we move through the committee process.

Before I continue, I want to make sure that I point out to the gentlewoman from Michigan that I meant no offense by my Notre Dame tie, just because Notre Dame is the champion of Michigan this year, both Michigan and Michigan State. I actually wore my Notre Dame shirt after they lost to Brigham Young at a State park in Michigan when I thought we were in a dismal year. I am a Notre Dame hot dog regardless of the time.

I hope no offense was taken by this wonderful Fighting Irish tie.

Madam Speaker, I would like to talk about another aspect of the 9/11 Commission, but first I would like to say a little bit about how we got here.

I know there are some Members in this body over the next few days, and they have been saying it in the news media, that think that just because there was a commission that somehow we have now checked our voting cards at the door and we are supposed to adopt this report lock, stock and barrel.

I was one who actually opposed this commission at the start, because I was afraid it was going to be overly political. In fact, there were times in the commission hearings that I felt that. For example, in Dick Clarke's self-serving testimony, it became very critical and was more focused on attacking the President than trying to move forward. I felt that not addressing the values of the PATRIOT Act was something that was kind of a gross omission of something we have actually done that has worked extremely well in this country in helping thwart future terrorist attacks.

Overall, however, it is not only an excellent document, but one of the best written government reports you will ever read. It is actually interesting; it is compelling as it goes through the testimony. The fact remains, however, that it is the opinion of a few individuals.

Now, a number of those individuals served in Congress, not many but at least three; and all of them were from the other party. The Republicans appointed to the commission were largely executive branch people at the State or the Federal level. Each of them had their own biases as they came in and had their own committee backgrounds as they came.

So while they have many excellent recommendations, we have to now work through a committee process by elected representatives, people in the House and Senate, who have many other opinions in addition to this commission. But the one thing this commission absolutely accomplished was it forced us to deal with this yet this fall. And it kept the pressure up such that tomorrow we are actually starting markups in multiple committees to try to move through as many things as we can without moving so hastily that we make major mistakes.

One problem with just rushing to judgment in an area as comprehensive as telecommunications and border security and individual liberties and privacy and travel visas, and all sorts of, just an incredible number of issues potentially here, relations with individual countries around the world, how we reorganize defense intelligence, narcotics intelligence, border intelligence, domestic and international intelligence, how you put different bureaucracies together when we are still struggling in the Department of Homeland Security, it is unclear how we absolutely merge Defense intelligence, the CIA, and the FBI. Their cultures are even more pronouncedly different than the cultures that were merged inside DHS, which is taking quite a bit of time. Nevertheless, we need to continue to move ahead.

Let me reiterate one other thing. It is not as though Congress has not been doing anything, not only after 9/11 but before 9/11. On the Committee on Government Reform and Oversight, when I was vice chairman of the subcommittee that now Speaker HASTERT chaired, we went over to Saudi Arabia after Khobar Towers. We heard from the counterintelligence people in many classified as well as public hearings about the increasing attacks on our military and our civilians around the world. Although they had not attacked us, although they had attempted to attack us at the World Trade Center, they had not successfully had a disaster like happened on 9/11. We were already moving to improve and to consolidate, but there was not as much consensus on how to do it.

Then, after 9/11, we went and wiped out terrorist bases in Afghanistan and deprived them of one of the major funding sources and routes to terrorism for al Qaeda through the Taliban. We moved into Iraq, which was not only attempting, if not absolutely having developed, weapons of mass destruction with which to attack us. They not only provided some tangential assistance to al Qaeda and other terrorist networks in "the enemy of my enemy is my friend" theory, but more directly were preparing to be an even bigger threat than al Qaeda itself.

Because we went into Iraq, Mohamar Qadafi decided he did not want to be in a spider hole, and all of a sudden he is fingering Pakistan, that they are providing him with nuclear parts. Then Pakistan moves over and provides some help to us.

As we now look at the potential terrorist nations of Iran and Korea, one of the questions we had when we looked at Iran was, where would you even base Americans. Until we moved into Iraq and Afghanistan and had a change in attitude at least of Pakistan, it was not clear how we would be able to deal with Iran.

So we have to take steps and look at this in a historical perspective of it was not like 9/11 occurred and nothing happened until there was a 9/11 Commission, they do a report, and suddenly there is panic. No, we have been dealing with this steadily and consistently.

My subcommittee, which predominantly deals with narcotics but also deals with immigration and all sorts of criminal justice things, and particularly on the border, spent 2 years focusing on our borders. We did multiple hearings and in July of 2002 issued this border report, which then we used partly as an information base as the Subcommittee on Infrastructure and Border Security of the Select Committee on Homeland Security was organized, because this was the first comprehensive document where we pulled together information on which border crossings are the major truck crossings, which ones are the major car crossings, where do individuals cross, where do we have multiple people putting pressure on our borders, and what things do we need to do to improve our security clearance systems, what things do we do to move the port security away from the U.S. but do the clearances farther out, whether it be Singapore or over in Europe at Rotterdam, for example. How can we preclear these things before they get to our borders?

It is fine to say we are going to add border patrol agents, but we are having trouble recruiting for the existing slots we have. What do we need to do internally to make sure we have an adequate supply of people who are willing to serve in the Department of Homeland Security, at the border and other things? How do we not lose other missions as we work on the border?

So there were a lot of things we were already progressing on at the legislative side. The executive branch has been working diligently to improve, for example, the border security. Let me give some examples related to border security.

It does not do any good to try to have all sorts of different approaches and have electronic systems that can talk to each other, and everybody wants to strengthen emergency response, and I am on the Subcommittee on Emergency Preparedness and Response of the Select Committee on Homeland Security, but that is all dealing with after disasters happen. The goal is to try to prevent a disaster from occurring. To do that, you have to make sure the terrorists do not get into our country; and when they come in, you have to make sure you have some means to track them.

This means that, A, we have to get our borders more secure, both north and south; B, we have to have information systems at the border that can identify the people and give us the ability to track them. That also means that if you are going to have an ID, and this is one of the things that will be moving through this week, you need to have some kind of thing that makes the identification secure.

If we do not have secure IDs, whether it is the U.S. visit program, whether it is from U.S. citizens, whether it is from noncitizens living in the United States, whether it is from people from Mexico or Canada or other countries that are coming in, we are only as safe as the ID system they have. We are only as safe as our birth certificate system is.

If you can forge a birth certificate or a Social Security number and then get a legal ID, the whole system is broken. There is no tracking of money. It does not do us any good to have banking laws. It does not do us any good to have wiretap laws. It does not do us any good to be tracking people who have false IDs. So clearly, we have to get better systems of identification and more secure systems.

Secondly, we need to have machines that talk to each other. You cannot have somebody on the north border with one kind of machine over at the Detroit-Windsor crossing, and somebody with another kind of machine down there at the El Paso-Juarez crossing and find they cannot talk to each other; and if people cross different points, the machines cannot read the same information going into the same information bank.

If somebody gets on at an airport in Europe to come in and we want to precheck them, and somebody is coming in at the Los Angeles airport and our systems cannot cross-check or read each other, what is the point of doing all this? So we have to have better integration. These will be expensive systems, and so we will have to make decisions on which ones will work, and we are testing.

This does not happen real fast. You do not walk into Wal-Mart and say, by the way, we would like 2,000 of these systems tomorrow. They are not there. We have to make some basic decisions, then you have to produce on those decisions, and that is the process we are working through.

We have a multitude of other things. I have two small companies in Angola, Indiana, that are part of the two largest companies that make the container seals. We talk about port security. One of the vulnerabilities we have to nuclear weapons, chemical, and biological weapons is port security.

When something comes into the Los Angeles area or into the New York area, the question is do we know for sure whether there are nuclear, chemical or biological weapons in that container before it blows up the city? The answer is, well, we are preclearing and we are checking the IDs and so on. But if the container seal can be broken, so what if the bill of lading matches? All they do is pull the little sealant loose, put something in, and replace it at whatever point we have precleared.

One of the problems we have, for example, is no international standards on these container seals. Well, why? Partly, bluntly put, China has taken intellectual property rights and are mass producing these seals and they do not want to have anybody check for international standards because what they are making is illegal because they stole somebody's license. So that means that most of the container seals being used right now, are actually pirated and there is no security or way to check to see if those container seals can be modified or changed, or whether the number of seals is out there or whether they have rigged the market where some are on the black market and somebody could change the container seals.

So we can do all this other stuff, but if the container is not sealed and does not have protection, it does not do any good. That is why we talk about layered security. You have preclearance. You even need eventually to move downstream from preclearance, because the things coming in from Singapore are coming in from China and India and other places. You then need to be able to check them on the ship. You need to know that the sealant is there. You need to check the people who are moving these things at the harbor where it is loaded, on the ship as it is moving through, in the harbor as it is unloaded, and on the train.

For example, some stuff comes from China to Singapore to Vancouver, British Columbia, crosses at North Dakota on a train, the seventh biggest crossing is in North Dakota, headed down to Chicago and the Midwest. If it gets precleared in Singapore, think how many places that container could be modified if we do not have checks and have a secured container. So there are lots of different small aspects of this.

Now, let me mention a couple of other things that are difficult. There is a lot of criticism about merging all the different agencies. I do not sit on the Subcommittee on Defense of the Committee on Appropriations, but I want to suggest that there are things that are unique in the different branches of government that make this harder than the simplistic let us consolidate everything.

□ 2245

There are some missions that are more military, some missions that are more antiterrorist. Let me give an example of a couple of other things, and this has been a very bitter controversy in the Committee on Homeland Security as we fight over jurisdiction, and there are reasons we are having fights for jurisdiction. For example, the Coast Guard. The Coast Guard is one of the major ways that we fight narcotics.

If you are from Alaska, the Coast Guard provides some narcotics protection and pipeline protection and harbor protection, but the number one thing is fisheries. If the Coast Guard is not guarding the international waters, the Russian trawlers, among other countries, would take the salmon that do a circular route and they would net those salmon and destroy the salmon industry in the United States. So to Alaska, it is a lot of fisheries.

On the Great Lakes when we think of the Coast Guard, we think to some degree homeland security, to some degree narcotics; but you think search and rescue. The same thing off Florida. It is fine to say I think that those boats ought to be focused on homeland security, but do not let the overturned sailboat people drown. Do not let the narcotics come in. There are multiple missions to the Coast Guard.

We hear all politics are local. No one wants to die. Obviously, if we have a nuclear bomb and we are all destroyed, jobs do not matter much. But ultimately, jobs are the number one local issue. So let us talk about the legacy customs department inside homeland security. Their number one priority is homeland security, but if they allow goods in, I remember one case when I was a staffer, there was a dumping case in Seattle where they were going to dump enough lawn mower motors below the cost of production. It would have put a major company in Indiana out of business. It would have taken 2 years of market.

The goal was to say you cannot illegally dump. If the Customs people had not stopped the ship from unloading, then the unemployment rate in that area would have soared and people would have said to the then-Congressman, it is jobs. How could you let this company go?

Partly in fighting on international customs questions, as well as narcotics questions, the Department of Homeland Security has duties beyond just homeland security. We cannot just by a broad statement of saying oh well, let us just do homeland security, forget there are many reasons that these agencies exist beyond just homeland security. For example, we do not want the FBI just to do homeland security and forget about racketeering, which may or may not be related to al Qaeda, but may in fact result in lots of different deaths in the United States or driving people out of business or terrorizing people. There are other functions for these agencies. This is not going to be worked out in 30 days, but a lot of it is.

What we are seeing is progress in trying to work out a national intelligence director, progress on some new international initiatives, progress on cutting off financial support to terrorists, and isolating different terrorists. There will be bills passed this week in parts of this package regarding border security, international cooperation, government restructuring, and first responders. Much of what is in this report will be moving. The parts that are not moving are things that we have internally through the elected process in the United States said do not make a mistake that is more costly even than the current system.

One other brief point, and then I want to conclude with some remarks on drugs and terrorism.

The weekend before last, I went with the gentleman from Florida (Mr. WELDON) and the gentleman from Arizona (Mr. FRANKS) to Russia. We went to the city of Beslan; and it was the most awful single experience that I have seen. In that school, 32 terrorists attacked a school on the second day of school. They came up on the school yard and drove approximately 1,500 teachers, students, and parents into the school building. Apparently they had planted bombs earlier to go off in different parts of the school if they needed to. Initially, they pushed the kids in.

Immediately, the 22 people they felt most likely to resist, young men and male teachers, were killed and thrown out of a second story window. We were the first Americans. The gentleman from Colorado (Mr. TANCREDO) went a couple days later, and he visited the people in the hospitals and said it was the most emotional experience he had been through because of the brutality of terrorists who seized children and shot them. Many parents were killed and the teachers were killed, and many of the kids were wounded with head wounds and different things as the parents tried to cover them up, and they could not get them covered. They deprived them of water and food for 3 days. At the site in this picture are all of the bottles of water, thousands of bottles of water, because those kids were deprived of water and if they complained, they shot them.

In this burned-out gym, the kids were crying. One man lost his wife and five children. The emotionalism, we felt it was important for us to stand with them. I have been to new graves, but never to a whole new graveyard, 300 some graves, mostly children spread over a big field. We felt it was important to say as Americans, and all of us broke down because it was so emotional.

This man, Speaker of the House, he had a 7-year-old son and a 10-year-old daughter inside. They put one of his children on the telephone. The boy said, "Daddy, if you storm this, they are going to kill me and my sister."

They stalled for a number of days. A bomb went off. A number of people got killed. They put his little boy on the telephone. Meanwhile kids, many were dead, some started to run out of the building. The terrorists started gunning down the children as they left. The parents outside decided to storm as well as the police outside, and they went in.

It was important for us as Americans to stand there and say, look, terrorism is evil wherever it occurs in the world, and we are in this fight together. This might have started as a local battle in Chechnya, but the proclaimed leader went to Afghanistan and he was trained by al Qaeda, and he came back a different man. Instead of fighting for freedom in Chechnya, he decide to murder children and parents and teachers and parent-volunteers in the second day of school, and to kill as many as 500, 600 kids.

Do you think Russia after having two planes go down and this school bombed, after hitting a theater, after hitting a subway, they do not understand the battle we are in right now? One of the things that the gentleman from Pennsylvania (Mr. WELDON) was talking to them about was having a homeland security conference over there and over here as we all look for new technologies to fight this battle because these crazed people who think they can do these suicide attacks on anybody at any time are a different breed. We have to take strong actions.

I want to make sure I make these points tonight that are the connections between narcotics and terrorism. I chair the narcotics committee and have for the last 4 years. And as the 9/11 Commission has pointed out and President Bush has pointed out, there are huge profits through drug trafficking that will continue to finance terrorism throughout the world. As President Bush pointed out in September 2001, "The traffic in drugs finances the work of terror, sustaining terrorists. Terrorists use drug profits to fund their cells to commit acts of murder."

Furthermore, as the U.S. steps up its efforts against more legitimate sources of funding, terrorist organizations will increasingly turn to drugs and similar illegal sources. As the 9/11 Commission has noted, the Federal Government, including DHS, must be able to adapt to these shifting strategies of the terrorists. "Instead of facing a few very dangerous adversaries, the United States confronts a number of less visible challenges that surpass the boundaries of traditional nation-states and call for quick, quick imaginative, and agile responses." That is page 399.

Recognizing the central importance of stopping terrorist financing, the 9/11 Commission reported: "Vigorous efforts to track terrorist financing must remain front and center in U.S. counterterrorism efforts. The government has recognized that information about terrorist money helps us to understand their networks, search them out, and disrupt their operations." Page 382.

The connections between drugs and terrorism are well-documented.

In Afghanistan, our subcommittee was told February 26, 2004, the State Department provided declassified information, which is just the tip of the iceberg, showing in Afghanistan two terrorist insurgent groups are financed by drug money and most likely are provided with logistical support by drug traffickers. Two other groups, al Qaeda and the IMU, probably receive at least logistical support from drug traffickers, and some reports suggest that they receive funds from drug trafficking as well.

Drugs and al Qaeda, in November 2002, Attorney General Ashcroft announced the arrest of three al Qaeda operatives who offered 600 kilograms of heroin and five metric tons of hashish in exchange for four Stinger shoulder anti-aircraft missiles.

With respect to terrorist groups in Colombia, the State Department has noted that the main terrorist organizations are heavily dependent on the funds derived from drug trafficking.

Worldwide, testimony before our subcommittee on May 11, 2004, Donald Semesky, DEA Chief of Financial Operations, stated that drug income is among the sources of revenue for some international terrorist groups, and the Department of Justice has highlighted links between groups and individuals under investigation for drug violations and terrorist organizations. In fact, 47 percent of the 36 foreign terrorist organizations identified and updated by the Department of State in October 2003 are on record with DEA as having possible ties to the drug trade.

Strong DHS action against drug trafficking is vital to overall efforts to stop the financing of terrorist activities. It was for this reason that Congress specifically provided that the primary mission of the Department included the responsibility to "monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking."

For example, the Coast Guard, part of DHS, has seized a record 240,518 pounds of cocaine in fiscal year 2004, shattering the previous record of 138,393 pounds set in 2001. That is nearly double. That is $7.7 billion that will not go into the hands of the narcoterrorists.

Just this month, Federal agencies joined together to make a record seizure of an estimated 27 tons of cocaine on board three fishing vessels in the vicinity of the Galapagos Islands.

These record-breaking seizures, coupled with the record-breaking year, are an excellent example of what can be accomplished if DHS continues to improve intelligence-sharing and interagency cooperation.

As chairman of the Subcommittee on Criminal Justice, Drug Policy and Human Resources, I would like to highlight two provisions of the bill that we are doing this week that address the importance of stopping drug trafficking to homeland security.

The first strengthens and clarifies the role of the counternarcotics officer at the Department of Homeland Security. The second requires that drug enforcement activities be one of the benchmarks for relevant employee performance appraisals at DHS.

I proposed both of these reforms which will improve the Department's anti-drug efforts.

The two provisions promote two key objectives, to deprive terrorists of their means of financing their operations: first, strengthening the effectiveness of the Department's narcotics interdiction efforts; and, second, improving coordination and cooperation among the Department's subdivisions and between the Department and other agencies with counterterrorism missions. As the 9/11 Commission reported: "We recommend significant changes in the organization of the government. Good people can overcome bad structures. They should not have to."

The Counternarcotics Office at DHS, this proviso was added. This office was not in the original draft of the President's bill. Thanks to the gentleman from Illinois (Mr. HASTERT), we were able to put this in the original reorganization of the Department of Homeland Security. This provision will modify that. The first provision, section 5025 of the Speaker's bill, and that could be changed, but that is where it is right now, would add a new section 878 to the Homeland Security Act of 2002, which created the new Department.

□ 2300

The new section replaces the current position of counternarcotics officer that was contained in the original 2002 act with an Office of Counternarcotics Enforcement headed by a director. At present, the counternarcotics officer, which we worked hard to get in, is nevertheless not actually an employee of DHS. Instead, he is a detailee employed by the Office of National Drug Control Policy, ONDCP. Furthermore, he has no authority to hire staff to assist him. The current law also fails to clearly define how the counternarcotics officer is to carry out his responsibilities. The new section 878 would rectify this problem by replacing the CNO with a director of counternarcotics enforcement, subject to Senate confirmation and reporting directly to the Secretary; assigning specific responsibilities to the new director, including oversight of DHS counterdrug activities and the submission of reports to Congress; and authorizing permanent staff assigned to an Office of Counternarcotics Enforcement as well as detailees from relevant agencies to assist the director.

In other words, we need a department with teeth. Quite frankly, there is no antidrug effort if we don't have legacy Customs, legacy Coast Guard, legacy Border Patrol fighting narcotics. We have no protection. Thirty thousand people died last year from narcotics, none from international terrorism, inside the United States. We have to remember, don't throw out the baby with the bath water and when we are doing reorganization, let us stay focused on multiple missions.

Secondly, the use of counternarcotics performance for certain DHS personnel evaluations. The second provision, section 5026 of the Speaker's bill, would add a new section 843 to the 2002 act, ensuring that employees involved in counternarcotics activities will be evaluated in part on the basis of such activities. It is vital that DHS encourage its law enforcement personnel to continue their efforts to stop illegal drug trafficking. Unfortunately, it is unclear whether drug enforcement is being given sufficient consideration by the department in developing its employee performance management system. A word search of the department's proposed new personnel rules, including those for performance management, 69 Federal Registry 8030–01, February 20, 2004 shows that the words "narcotics" and "drugs" do not appear at all. This, in the number one agency that is supposed to protect us.

New section 843 would require DHS to include as one of its criteria in a performance appraisal system for relevant employees performance of counternarcotics duties. In order to encourage such personnel to cooperate and coordinate efforts with other agencies, the new section also requires that this be a factor for consideration in performance appraisals as well.

I was hoping that we could address two things that are critical to our border efforts. One is, we have made some movement on and we are continuing to negotiate with the executive branch on what to do with the air marine division of the legacy Customs. The second is with the shadow wolves. If we cannot get control of the border at the Tohono O'odham or up on the north border in upstate New York where we have Indian nations on those borders and we cannot use creative things like the shadow wolves to do it, we have no protection on the border.

We held a hearing at Sells, Arizona, inside the Tohono O'odham nation. I asked one question of the Border Patrol. I said, when you see the cars go by here, are any of these people here for legitimate purposes? They said, no, we could stop any car and arrest anybody because all of them are pretty much here unless they are a member of the Tohono O'odham nation. What does that mean? It means that at the national park on the border there, we have had a ranger killed, they have closed down some of the best hiking trails in the United States. The day we held our hearing, the previous year they had, I think, 250 or 500 pounds of drug seizure the first 3 months of the year because other parts of the border were sealed off. They had something like 1,000 pounds. And the day of our hearing, when we had all these government officials there, they picked up a load of 300 pounds, 500 pounds, a load of 400 pounds, then got another load of 500 pounds. They took down more in one day while the Federal agents happened to be there for our hearing than they had in the previous 3 months, which was more by double the previous year.

It is an open border in parts of Arizona and Texas right now. And particularly where you have a nation that borders that and you have a functional group, you cannot be so rigid in DHS parliamentary guidelines that you cannot have some flexibility to keep inside these independent nations a group that was working and one of the only things that was working in that area. We need a similar thing up at the Indian nation on the north border in New York.

We are making lots of steps this week. There are many things that I and many other Members of this body would like to have in this bill, but it is an important step, and in fact we are moving with major legislation in multiple committees that will make our country even safer. We have made steady progress prior to 9/11, we have made dramatic progress since 9/11, and this week we are going to make even more dramatic progress working with this administration to make our country safer from terrorists.

Mr. FOSSELLA. Madam Speaker, I believe the ability for public safety officers to communicate to each other is one of the core principles in protecting this nation. Whether it is police officers and firefighters working together to save a child from a burning building or the FBI and local officials stopping terrorists before boarding a plane, the ability for local, State, and Federal public safety officers to communicate should be, and I believe is, one of the goals this Congress and administration diligently works to achieve.

Just Monday, Homeland Security Secretary Ridge announced the launching of an Office of Interoperability and Compatibility. This office will oversee the wide range of public safety interoperability programs and efforts currently spread across Homeland Security. These programs address critical interoperability issues relating to public safety and emergency response, including communications, equipment, training, and other areas as needs are identified.

I want to commend the Secretary for his leadership on this issue and would like to add that it is now Congress's duty to ensure this office has the resources and flexibility it will need to achieve it's goals. Just as importantly as it is to ensure that State firefighters can, and do communicate with State police officers, it is equally important that Congress, through its committees, remains committed to working with Federal agencies in making sure that they not just set goals, but that they accomplish them.

As was discovered in a hearing before the Energy and Commerce subcommittee on Telecommunications and the Internet earlier this month, achieving true interoperability will be one of the more difficult tasks First Responders will encounter in coming years. Despite a clear desire to achieve interoperability, there remain a number of traps that have continued to slow down progress.

One of those traps has been the interference public safety officers receive from some wireless carriers. More and more often, when a public safety officer responds to a call, he or she will arrive at the call site and find out their radio doesn't work because a private wireless carrier operating in the same spectrum band has a tower close to the call site. The interference is generally a result of the carrier's signal either overpowering or mutating public safety's signal.

For more than 3 years, the Federal Communications Commission studied the issue. It was clear that separating public safety spectrum from the interfering private wireless carrier's spectrum was the only solution. During this time, a number of my colleagues and I contacted the FCC to make it clear that whatever solution the FCC was to choose, it must cover all of the costs incurred by public safety. In July of this year, the FCC issued a ruling to address the problem. Since July, details of the proposal have been released and the FCC has continued communication with the interfering company. While it is good to see that the FCC is making progress on their proposal, I continue to believe that the only solution will ensure that public safety no longer receive interference, and that all of their relocation costs are covered in full with no possibility for a funding shortfall.

The second trap that I previously spoke of involves public safety's need for additional spectrum. While Congress and the FCC could spend their time finding and allocating public safety new spectrum, I believe it would be more prudent to eliminate the digital divide and give public safety the 24 MHz of spectrum they've been allocated in the Balanced Budget Act of 1997. The Balanced Budget Act allocates an additional 24MHz of spectrum to public safety when broadcasters operating on their current analog spectrum transition to digital spectrum.

While many broadcasters have prepared for the transition, others have chosen to bet against congressional action and become spectrum squatters, holding hostage the very spectrum that public safety needs to protect this country. It is time for the broadcasters to vacate their analog spectrum, and I believe that under the leadership of Chairman BARTON and my colleagues at the Energy and Commerce Committee, we will be able to offer members the opportunity to vote on legislation that will eliminate the digital divide and get public safety the spectrum that they need to make our communities a safer place to live.

In closing I would like to recognize the public safety officials in our country for that work tirelessly to ensure that our families are safe and able to enjoy the freedoms that this country provides. While our troops abroad are working to ensure we don't see terrorism and war in our streets, it's our public safety officers that prevent and respond to events at home.

Mr. SOUDER. Madam Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. SOUDER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order today.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Is there objection to the request of the gentleman from Indiana?

There was no objection.

IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. MCCOTTER) is recognized until midnight.

Mr. MCCOTTER. Madam Speaker, I would like today to give not a novel, certainly not a unique overview of what I think some of the things we need to do to help win the battle of Iraq constitute. Again many of these things are being done, but I just want to try to put it forward as a comprehensive exposition of what we need to do to win. I think that there are three key areas involved in this struggle along all fronts upon which we have to continue to press: democracy, the economy and, of course, the military.

In terms of diplomacy, I believe everyone understands that the key now is the holding of free elections on time in Iraq. The U.N. has agreed with this, and while their support is welcome, it remains tenuous. We should encourage all member states of the U.N. to rise to the challenge of democracy in Iraq and provide the necessary personnel to defend the monitors and help these elections go forward. For as we know, what is going to happen is that the terrorist counterattack on democracy in Iraq will escalate. They will do everything they can to derail these elections. Yet that violence and terror in and of itself should not be enough to deter us and certainly should not deter the Iraqi people.

And as for the naysayers who claim that absent a perfect election in Iraq, it cannot be deemed a representative success, I would just like to ask those detractors to ask themselves why we demand more from the Iraqi people in a civil war than we demanded from ourselves in our own American civil war; because all one needs to do is to look at the map of 1864 to see that the States in rebellion did not participate in Abraham Lincoln's reelection. Yet I highly doubt that anyone today can say that it was not a representative election nor an election that was worthy of the American people.

In terms of the economy, one of the things that we face in Iraq clearly is the passive-aggressive resistance of the Iraqi people. After years of oppression, after years of being terrorized and after seeing so many international promises fall away, it is very difficult for them to stand up and fight on their own without the assurance that the United States and our coalition partners will be behind them. But it is also important to remember that while we provide them the possibility of a transformational change from tyranny to democracy, we must always remember that in any representative political system there is also a transactional element; for it is one thing to profess ideals to an oppressed people who have been newly liberated, it is another thing to provide concrete, tangible benefits to the populace to show them the investment in their future.

I think that one of the things that we have to do in Iraq is build on the town council model. We have to take a bottom-up approach, a grassroots approach to reconstruction in Iraq. We have to have and invest full decision-making authority into town councils, tribal leaders, religious leaders, and other community organizations that have been set up, let them determine what infrastructure projects in their area must be worked upon, let them figure out the processes by which they will come to these determinations and let them have control of the money to implement these decisions. These are very formative, basic steps along the road to a transition to democracy and to building lasting institutions upon which the Iraqi people can build.

I also think that in conjunction with the grassroots approach to the local control of the decision-making and the implementation of those decisions is that we should adopt an Iraqi oil fund similar to the one that we have in the State of Alaska. The Iraqi oil fund would take portions of the proceeds from the sale of Iraq's oil, place it in a fund and distribute it per capita to the people of Iraq.

The benefits of such a model, which we have seen in Alaska, will be also readily apparent in Iraq. It will provide a direct economic benefit to the people of Iraq, showing them the stake in their future. It will provide an immediate jump-start to the Iraqi economy and get them up to the average per capita spending that is expected to start any semblance of a stable economy. I think we should also use it as spur to register adults to vote in the upcoming elections, for if one is not a registered voter, one cannot receive the benefits of the Iraq oil fund.

I think that this will also prove to help uproot terrorists because no terrorist will be eligible to receive the per capita annual appropriation from the Iraqi oil fund. This will also, in turn, I believe help the Iraqi people further their efforts to defend their oil infrastructure and further their efforts to uproot the terrorists who would disturb it because the money would be being taken out of their mouths. It would be taken out of their children's mouths. In short, it would be an intolerable situation for them to allow to continue.

□ 2310

I think that we would also see a quelling of some of the sectionalism. I think we would begin to see that oil, rather than a divisive force amongst the regions of Iraq, could then be used as a means of unifying them and perhaps give them a greater semblance of an Iraqi national identity.

As we have seen throughout the history of Iraq, oil has often been used as the dictator's tool for fueling his oppression of his people. If this oil fund is written into the Iraqi constitution, not only will it hasten the adoption of an Iraqi constitution, it will safeguard against one individual being able to rise up and usurp control of the oil funds because truly the oil will belong to the people, and I believe the people will jealously guard this right under their new constitution.

I think it will also do one other thing: It will make the people less susceptible to any attempts by the terrorists or any future dictator to prey upon their impoverishment by offering them blandishments or other remunerative items in return for their loyalty to a new regime or to a new movement.

I think from the United States' point of view it will do something very important: It will belie the perception amongst much of the Middle Eastern population and amongst some of Western Europe and amongst some of our own population that the United States is there to take the oil, for we are not. The oil belongs to the Iraqi people. What more tangible, palpable way could that be proven than by having this put into their constitution?

I also believe it has another tangential benefit: that the United States, by being willing to help the Iraqi people establish an oil fund, the oil fund will stand in stark contrast to the Oil for Food scandal that was operated by the U.N. which was perpetrated on the people of Iraq and in which many corrupt politicians in both the U.N. and in Iraq benefited at the expense of the poor Iraqi people.

I think that finally under the economy, we have to look at debt forgiveness. It is one thing for world powers or other members of the world community to claim that a free and stable Iraq is not their problem to the point where they will send troops to help win this battle, but it is another thing to say that they will not forgive the debts they incurred dealing with Saddam Hussein to help further the goal of Iraqi prosperity on the road to democracy. If we think about it, every country that has sold weapons to Saddam Hussein and has outstanding debt on the basis of those weapons is asking the newly liberated Iraqi people to pay the debt for the guns and the weapons that Saddam Hussein used to kill and torture them into submission. I think that is an inhuman request of any government, and I think that unless the world powers that sold these weapons are prepared to forgive these debts, I think it is morally justified by the Iraqi people to repudiate any debts incurred by Saddam Hussein's regime for the acquisition of weapons, be they conventional, be they weapons of mass destruction, or be they dual-use technologies or any instrument of oppression that he applied to his people.

Militarily I think that we have to hone our military and our intelligence to a fine precision. I think we have to prioritize the three threats that we face in Iraq at the present time. They are, one, I think the foreign terrorists clearly, followed by the Baathists and the Sunnis, many of them who are operating with the foreign terrorists, and of course the radical Shiia Iraqis who have come back from the shelter of Iran. I think that these are prioritized by order of importance for the long term.

The foreign terrorists are there to drive the Americans out. I think that over time, the Baathist remnants that currently have a marriage of convenience with them, should the Americans be thrown out, the Baathists and the Sunnis will then immediately turn upon them, which will lead to a blood bath in the short run and could further incite a civil war. We have to start with the foreign terrorists and the Baathists in a simultaneous effort to eradicate them from the terror that they are perpetrating on their country.

Third, we must then face the threat from the radical Shiia movement personified by the radical cleric Moqta al-Sadr. And it is important to remember that at the outset of the Iran-Iraq War, in Saddam Hussein's mind he was fighting a defensive war, for after the Khameni regime attained power through the Iran revolution, they immediately began destabilizing the secular Baath regime and targeting members of the Baath government for assassination and terrorizing them to undermine the Sunni-Baathist secular party and replace it with the Shiia revolutionary government modeled upon Iran.

These people were then forced from the country by Saddam Hussein, where they were sheltered in Iran for decades. They have been returning, and as they return, let there be no doubt that the incidents we see in Najaf and in other areas of the south have been perpetrated in many ways by these people who have come back to continue the quest to establish an Iranian mullah model upon the people in Iraq.

The tactics that we see from all three, predominantly the terrorists and the Sunnis, of course, are very similar to those that were perpetrated by the Colombian cartel drug lord, Pablo Escobar, for, in short, he utilized a private army to terrorize and destabilize the Government of Colombia, and he used largesse to the population to in many cases buy their loyalty or at least their silence and submission. As for the largesse that is handed out, if we can refer back to the economic model that I laid out, I think that will be very helpful in preventing that type of temptation by the Iraqi people.

In terms of his private army and in terms of the efforts to destabilize the Iraqi government, they are very similar to what the Colombian drug lord did. He is targeting the police. He is targeting the army. He is targeting the government, especially law enforcement within the government, including the judiciary and ministers. He is targeting infrastructure. He is doing that to continue to disrupt the supply of oil and continue the impoverishment and the suffering of the Iraqi people. And, of course, they are targeting civilians to generally terrorize the country.

Finally, just as Escobar did, these are designed and geared as much towards inflicting casualties and wanton destruction as they are to influencing the media coverage of their action, and thus having a multiplying effect of their mass murder by bringing it to millions of homes across the globe.

What we have to do to stop this is to understand these tactics and to ourselves adapt to the targeting of these institutions and these individuals and guard against them. We must also make sure that we rely upon the fledgling Iraqi army security forces and citizenry in order to root out their infrastructure and destabilize them in the very same manner that they are trying to destabilize the people of Iraq. We have to address their organization, root and branch. We can do that. I believe we have started to, and I believe we will continue to.

We must also make sure that our coalition partners expediently and decisively strike back in troubled areas, whether or not the Iraqi national guard and security services are prepared, for in the final analysis, we cannot leave a Fallujah to be a hotbed of terrorism. We cannot leave Najaf and the holy shrines in Shiia Islam in the hands of a radical renegade cleric.

It is my belief that the people of Iraq have had enough of this and that what they really need to see is a decisive stand to reestablish order in that country. And if we are not prepared to do that, every day we wait, there is an erosion of confidence in the Iraqi government and in the coalition, and another day's worth of despair that brings Iraqi people closer to a newly implemented dictatorship of terror.

We must also make sure that we, the Nation that brought the world mass communication, fully engage in the battle of ideas and, yes, to use what is often thought a pejorative word, the battle of propaganda. We must get our message out to the Iraqi people. We must get our message out to the Arab world, and we must get our message out to the entire world. It is very critical that the people of Iraq see, through their newly bought satellite dishes, which were outlawed by Saddam Hussein, what freedom is doing and what the suffering and sacrifice of their own fellow Iraqis, notably the police and the military, who have been targeted for death, are doing to win that freedom.

I think we must also press as quickly as we can here in the domestic front to come up with new technologies to combat the tactics, especially the roadside bombs, that are attacking our troops in the field.

I think, finally, we must also make sure that we continue to empower American troops on the ground with the freedom to make combat decisions.

□ 2320

We must allow them to make these combat decisions free of political constraints in order to ensure that they come home to their loved ones with their mission accomplished.

Madam Speaker, in the end, through military, economic and diplomatic means, we must press forward, because our enemy is not only the terrorists, our enemy is time; for while this is a battle of resolve, it is also a battle of reason, and the longer Iraq appears to be irrational and unreasonable and incapable of governance, the time ticks on our keeping our resolve.

At the present time, let us remember that our task is far greater than that of the terrorists. The terrorists have the task of destabilizing a country. We and our coalition partners have the task of stabilizing it. The latter tasks is far harder. It will call upon our every ounce of commitment; it will call upon as well our every ounce of intelligence to come up with a rational plan to win this battle and to secure Iraq in the community of nations.

To anyone, I would welcome their comments. Anyone who has any suggestions, I would welcome them, because, in the end, this is an exposition of what I hope to be a rough outline of a coherent plan. Not having possession of the absolute truth more than anyone else, I would like to know what other people think, because at this time in our nation's history we are not Republicans, we are not Democrats, we are not ideologues, we are all Americans. So let us see what we can come up with, and, as we always have, we will win.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HONDA (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. BARRETT of South Carolina (at the request of Mr. DELAY) for today on account of attending the visitation for Staff Sergeant Tony B. Olaes, USA, who was killed September 20, 2004, in Shkin, Afghanistan.

Mr. BOEHLERT (at the request of Mr. DELAY) for today and the balance of the week on account of heart surgery.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RYAN of Ohio) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY of New York, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. DICKS, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Mr. DELAHUNT, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. INSLEE, for 5 minutes, today.

(The following Members (at the request of Mr. COLE) to revise and extend their remarks and include extraneous material:)

Mr. OSBORNE, for 5 minutes, September 29.

Mr. COLE, for 5 minutes, today.

Mr. NORWOOD, for 5 minutes, today.

Mr. MARIO DIAZ-BALART of Florida, for 5 minutes, September 29.

Mr. SMITH of Michigan, for 5 minutes, today.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House, reports that on September 24, 2004, he presented to the President of the United States, for his approval, the following bills.

H.R. 265. To provide for an adjustment of the boundaries of Mount Rainier National Park, and for other purposes.

H.R. 1521. To provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania, and for other purposes.

H.R. 1616. To authorize the exchange of certain lands within the Martin Luther King, Junior, National Historic Site for lands owned by the City of Atlanta, Georgia, and for other purposes.

H.R. 1648. To authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley Water District and the Montecito Water District.

H.R. 1658. To amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes.

H.R. 1732. To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, and for other purposes.

H.R. 2696. To establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West.

H.R. 3209. To amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project.

H.R. 3249. To extend the term of the Forest Counties Payments Committee.

H.R. 3768. To expand the Timucuan Ecological and Historic Preserve, Florida.

ADJOURNMENT

Mr. McCOTTER. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 21 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 29, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9786. A letter from the Chairman, Advisory Council on Historic Preservation, transmitting a report of a violation of the Antideficiency Act, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

9787. A letter from the Deputy Chief, Programs and Legislative Division, Office of the Legislative Liaison, Department of the Air Force, Department of Defense, transmitting in accordance with the Office of Management and Budget (OMB) Circular No. A-76, "Performance of Commercial Activities," a cost comparison to reduce the cost of the Base Operating Support function at March Air Reserve Base (ARB), California; to the Committee on Armed Services.

9788. A letter from the Deputy Chief of Naval Operations (Manpower and Personnel), Department of Defense, transmitting notification of a decision to implement performance by the Most Efficient Organization (MEO) for the Pacific Northwest Facilities Management in Silverdale, WA (initiative number NC20000653); to the Committee on Armed Services.

9789. A letter from the Acting Deputy Assistant Secretary of Defense for Reserve Affairs (Materiel and Facilities), Department of Defense, transmitting the annual National Guard and Reserve Equipment Report (NGRER) for fiscal year (FY) 2005, pursuant to 10 U.S.C. 10541; to the Committee on Armed Services.

9790. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a report entitled "Office of Juvenile Justice and Delinquency Prevention (OJJDP) Annual Report 2002," pursuant to 42 U.S.C. 5617 and 42 U.S.C. 5601; to the Committee on Education and the Workforce.

9791. A letter from the Secretary, Department of Health and Human Services, transmitting the Annual Report on the Developmental Disabilities Programs for Fiscal Years 2001 and 2002, pursuant to 42 U.S.C. 15005 Public Law 106–402, section 105; to the Committee on Energy and Commerce.

9792. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 08-04 to inform of an intent to sign a Memorandum of Understanding (MOU) between the United States and Australia for Cooperative Development, Production, and Support of the Combat Control System (CCS) AN/BYG-1 Tactical Subsystem, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

9793. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 07-04 which informs of an intent to sign a Project Agreement between the United States, Canada, and the United Kingdom for Plague Vaccine Acquisition, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

9794. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Norway (Transmittal No. DDTC 071-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9795. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Israel (Transmittal No. DDTC 062-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9796. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Kazakhstan (Transmittal No. DDTC 064-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9797. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to the United Kingdom (Transmittal No. DDTC 060-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9798. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan (Transmittal No. DDTC 066-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9799. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Mexico (Transmittal No. DDTC 067-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9800. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed sale of defense articles or defense services to Hungary (Transmittal No. DDTC 063-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9801. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract with Canada (Transmittal No. DDTC 056-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9802. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certifiation of a proposed technical assistance agreement for the export of defense articles or defense services sold to France and Brazil (Transmittal No. DDTC 068-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9803. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification regarding the proposed transfer of major defense equipment from the Government of Singapore (GOS) (Transmittal RSAT-04-04), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9804. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting on behalf of the Secretary of State and the U.S. Representative to the IAEA, a report detailing assistance to Iran from the International Atomic Energy Agency in regards to the Bushehr nuclear power plant during calendar year 2003, pursuant to 22 U.S.C. 2021 note Public Law 107—228 section 1344(a); to the Committee on International Relations.

9805. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9806. A letter from the Under Secretary for Industry and Security, Department of Commerce, transmitting a letter to inform that the Department of Commerce will assume the licensing responsibility for exports and reexports to Iraq, by virtue of the President's termination of Executive Order 12722 relating to the Iraqi invasion of Kuwait. In so doing, the Department is imposing foreign policy-based export controls on exports and reexports to Iraq and transfers within Iraq, of certain items subject to the Export Administration Regulations (EAR); to the Committee on International Relations.

9807. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of export of items to Iraq is in the national interest of the United States pursuant to Section 1504 of the Emergency Wartime Supplemental Appropriation Act, 2003, Pub. L. 108-11 (Transmittal No. DTC 051Z-04); to the Committee on International Relations.

9808. A letter from the Director, Benefit Design and Compliance, AgriBank FCB, transmitting the annual reports disclosing the financial condition of the Retirement Planfor the Employees of the Seventh Farm Credit District, Eleventh Farm Credit District, and Northwest Farm Credit Services as required by Public Law 95-595, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform.

9809. A letter from the Secretary, Department of Transportation, transmitting in accordance with Section 647(b) of Division F of the Consolidated Appropriations Act, FY 2004, Pub. L. 108-199, and the Office of Management and Budget Memorandum 04-07, the Department's report on competitive sourcing efforts for FY 2003; to the Committee on Government Reform.

9810. A letter from the Office of the District of Columbia Auditor, transmitting a report entitled, "Comparative Analysis of Actual Cash Collections to Revised Revenue Estimates Through the 2nd Quarter of Fiscal Year 2004"; to the Committee on Government Reform.

9811. A letter from the Director, Office of Management and Budget, transmitting the 2004 Federal Financial Management Report as required by the Chief Financial Officers (CFO) Act of 1990, marking the 12th report submitted by the Office of Management and Budget (OMB) on the government-wide status of financial management, pursuant to 31 U.S.C. 3512; to the Committee on Government Reform.

9812. A letter from the Secretary, Department of the Interior, transmitting a draft bill "To clarify the authorities for the use of certain National Park Service properties within Golden Gate National Recreation Area and San Francisco Maritime National Historical Park, and for other purposes"; to the Committee on Resources.

9813. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a copy of the Bureau of Justice Statistics report entitled "Data Collections for the Prison Rape Elimination Act of 2003," pursuant to Public Law 108—79, section 4(c)(1) (117 Stat. 977); to the Committee on the Judiciary.

9814. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's Twenty-Sixth Annual Report to Congress and the activities during Fiscal Year 2003 as pursuant to subsection (j) of section 7A of the Clayton Act, pursuant to 15 U.S.C. 18a(j); to the Committee on the Judiciary.

9815. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting a report on the assessment of the general conditions of confined disposal facilities in the Great Lakes, in accordance with Section 513 of the Water Resources Development Act of 1996; to the Committee on Transportation and Infrastructure.

9816. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Fairbury, NE. [Docket No. FAA-2004-18014; Airspace Docket No. 04-ACE-43] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9817. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Jamestown, KY [Docket No. FAA-2004-16904; Airspace Docket No. 04-ASO-2] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9818. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Des Moines, IA [Docket No. FAA-2004-17145; Airspace Docket No. 04-ACE-11] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9819. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Festus, MO [Docket No. FAA-2004-17148; Airspace Docket No. 04-ACE-14] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9820. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Fulton, MO [Docket No. FAA-2004-17149; Airspace Docket No. 04-ACE-15] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9821. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D and E Airspace; Amendment of Class E Airspace; New Smyrna Beach, FL [Docket No. FAA-2004-16919; Airspace Docket No. 04-ASO-3] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9822. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Kimball, NE [Docket No. FAA-2004-17433; Airspace Docket No. 04-ACE-31] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9823. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Tekamah, NE [Docket No. FAA-2004-17431; Airspace Docket No. 04-ACE-29] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9824. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; Kipnuk, AK [Docket No. FAA-2004-17497; Airspace Docket No. 04-AAL-05] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9825. A letter from the Program Analsyt, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and A300 B4; Model A300 B4-600, B4-600R, C4-605R Variant F, and F4-600R (Collectively Called A300-600); and Model A310 Series Airplanes [Docket No. 2003-NM-274-AD; Amendment 39-13701; AD 2004-13-19] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9826. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company Model 390 [Docket No. FAA-2004-18580; Directorate Identifier 2004-CE-12-AD; Amendment 39-13735; AD 2004-15-01] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9827. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes [Docket No. 2003-NM-81-AD; Amendment 3913733; AD 2004-14-24] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9828. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes [Docket No. 2004-NM-48-AD; Amendment 39-13734; AD 2004-14-25] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9829. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319-111, -112, -113, and -114; A320-111, -211, -212, and -214; and A321-111, -112, and -211 Series Airplanes [Docket No. 2002-NM-201-AD; Amendment 39-13732; AD 2004-14-23] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9830. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Air Cruisers Company Emergency Evacuation Slide/Raft System; Correction [Docket No. 99-NE-31-AD; Amendment 39-13445; AD 2004-03-01] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9831. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82(MD-82), DC-9-83 (MD-83), and DC-9-87(MD-87) Airplanes; and Model MD-88 Airplanes; and Model MD-90-30 Airplanes [Docket No. 2003-NM-122-AD; Amendment 39-13497; AD 2004-05-03] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9832. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Mystere-Falcon 900 Series Airplanes [Docket No. 2001-NM-390-AD; Amendment 39-13510; AD 2004-05-15] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9833. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, and -900 Series Airplanes Docket No. 2004-NM-03-AD; Amendment 39-13514; AD 2004-05-19] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9834. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Deutschland (RRD)(Formerly Rolls-Royce, plc) TAY 611-8, TAY 620-15, TAY 650-15, and TAY 651-54 Series Turbofan Engines [Docket No. 2004-NE-11-AD; Amendment 39-13517; AD 2004-05-22] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9835. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS 365 N3 Helicopters [Docket No. 2003-SW-11-AD; Amendment 39-13523; AD 2004-05-28] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9836. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model EC 155B Helicopters [Docket No. 2003-SW-12-AD; Amendment 39-13524, AD 2004-05-29] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9837. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-200 Series Airplanes Modified by Supplemental Type Certificate ST00516AT [Docket No. 2002-NM-238-AD; Amendment 39-13522; AD 2004-05-27] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9838. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777 Series Airplanes [DOcket No. 2002-NM-14-AD; Amendment 39-13521; AD 2004-05-26] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9839. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211 Trent 500 Series Turbofan Engines [Docket No. 2003-NE-56-AD; Amendment 39-13525; AD 2004-05-30] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9840. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, and -900 Series Airplanes [Docket No. 2002-NM-101-AD; Amendment 39-13554; AD 2004-07-10] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9841. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-300, -400, and -500 Series Airplanes [Docket No. 2002-NM-174-AD; Amendment 39-13483; AD 2004-04-03] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9842. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hartzell Propeller Inc. Models HC-B5MP-3C/M10876K Propellers [Docket No. 2003-NE-44-AD; Amendment 39-13569; AD 2004-07-25] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9843. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness DIrectives; Rolls-Royce plc RB211 Trent 500 Series Turbofan Engines; Correction [Docket No. 2003-NE-56-AD; Amendment 39-13525, AD 2004-05-30] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9844. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Manual Requirements in Part 135; Correction [Docket No. FAA-2004-17119] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9845. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model Avro 146-RJ Series Airplanes; and BAE Systems (Operations) Limited Model BAe 146 Series Airplanes [Docket No. 2001-NM-317-AD; Amendment 39-13541; AD 2004-06-15] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9846. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting a report to Congress on the delayed implementation of the revised Office of Management and Budget Circular A-76, "Performance and Commercial Activities," pursuant to 108—136, section 335; jointly to the Committees on Armed Services and Government Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POMBO: Committee on Resources. H.R. 2941. A bill to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes; with an amendment (Rept. 108–701). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO. Committee on Resources. H.R. 4066. A bill to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes; with an amendment (Rept. 108–702). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 4579. A bill to modify the boundary of the Harry S Truman National Historic Site in the State of Missouri, and for other purposes (Rept. 108–703). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 5009. A bill to extend water contracts between the United States and specific irrigation districts and the City of Helena in Montana, and for other purposes (Rept. 108–704). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on Rules. House Resolution 801. Resolution providing for consideration of the joint resolution (H.J. Res. 106) proposing an amendment to the Constitution of the United States relating to marriage (Rept. 108–705). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 802. Resolution providing for consideration of the joint resolution (H.J. Res. 107) making continuing appropriations for the fiscal year 2005, and for other purposes (Rept. 108–706). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 803. Resolution providing for consideration of the bill (H.R. 3193) to restore second amendment rights in the District of Columbia (Rept. 108–707). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. PORTER (for himself, Mr. Gibbons, and Ms. Berkley):

H.R. 5151. A bill to transfer administrative jurisdiction over certain land in Clark County, Nevada, from the Secretary of the Interior to the Secretary of Veterans Affairs; to the Committee on Resources.

By Mr. NORWOOD:

H.R. 5152. A bill to require the Secretary of Defense to take such actions as are necessary to change the reimbursement rates and cost sharing requirements under the TRICARE program to be the same as, or as similar as possible to, the reimbursement rates and cost sharing requirements under the Blue Cross/Blue Shield Standard Plan provided under the Federal Employee Health Benefit program under chapter 89 of title 5, United States Code; to the Committee on Armed Services.

By Ms. HERSETH (for herself, Mr. Evans, Mr. Michaud, Mr. Udall of New Mexico, Mr. Faleomavaega, and Mr. Abercrombie):

H.R. 5153. A bill to amend title 38, United States Code, to extend the Native American veteran housing loan pilot program; to the Committee on Veterans' Affairs.

By Mr. TURNER of Ohio (for himself and Mr. Kline):

H.R. 5154. A bill to amend the Internal Revenue Code of 1986 to clarify the proper treatment of differential wage payments made to employees called to active duty in the uniformed services, and for other purposes; to the Committee on Ways and Means.

By Mr. KUCINICH (for himself, Mr. Owens, Mr. Grijalva, Mr. Conyers, Ms. Lee, Mr. Serrano, Mr. Davis of Illinois, and Mr. Jackson of Illinois):

H.R. 5155. A bill to establish the National Institute for Biomedical Research and Development; to the Committee on Energy and Commerce.

By Mr. GREEN of Texas:

H.R. 5156. A bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes; to the Committee on Ways and Means.

By Mr. NETHERCUTT (for himself and Ms. Dunn):

H.R. 5157. A bill to amend the Public Health Service Act to expand the risk pools that qualify for high risk pool grants; to the Committee on Energy and Commerce.

By Ms. PELOSI (for herself and Mr. Lantos):

H.R. 5158. A bill to clarify the authorities for the use of certain National Park Service properties within Golden Gate National Recreation Area and San Francisco Maritime National Historical Park, and for other purposes; to the Committee on Resources.

By Mr. RAHALL:

H.R. 5159. A bill to authorize the Secretary of Homeland Security to award research and equipment grants, to provide a tax credit for employers who hire temporary workers to replace employees receiving first responder training, to provide school-based mental health training, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Science, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON (for himself, Mr. Smith of New Jersey, and Mr. Andrews):

H.R. 5160. A bill to amend title XIX of the Social Security Act to extend Medicare cost-sharing for the Medicare part B premium for qualifying individuals through September 2005; to the Committee on Energy and Commerce.

By Mrs. TAUSCHER (for herself, Mr. Spratt, and Mr. Meehan):

H.R. 5161. A bill to provide for counterproliferation measures; to the Committee on International Relations.

By Mr. YOUNG of Florida:

H.J. Res. 107. A joint resolution making continuing appropriations for the fiscal year

2005, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COOPER (for himself, Mr. Cole, and Mr. Davis of Tennessee):

H.J. Res. 108. A joint resolution congratulating and commending the Veterans of Foreign Wars; to the Committee on Veterans' Affairs.

By Mr. BURGESS:

H. Con. Res. 500. Concurrent resolution honoring the goals and ideals of National Nurse Practitioners Week; to the Committee on Energy and Commerce.

By Ms. NORTON (for herself, Mr. Conyers, and Mr. Tom Davis of Virginia):

H. Con. Res. 501. Concurrent resolution honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival; to the Committee on Education and the Workforce.

By Mr. MOORE (for himself, Mr. Ryun of Kansas, Mr. Moran of Kansas, Mr. Owens, Mr. Blumenauer, and Mr. Burns):

H. Res. 804. A resolution congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee, acknowledging the commitment of the National Geographic Society to geography education, and recognizing the need to improve geography education in the United States; to the Committee on Education and the Workforce.

By Mr. PORTER (for himself, Mr. Boehner, Mr. Hoekstra, Mrs. Biggert, Mr. Osborne, Mr. Gingrey, Mr. Hinojosa, Mrs. Davis of California, Mr. Grijalva, and Mr. Israel):

H. Res. 805. A resolution supporting efforts to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources, and supports for youth in high-risk situations; to the Committee on Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 104: Mr. Owens.

H.R. 475: Mr. Waxman.

H.R. 623: Mr. McGovern.

H.R. 728: Mr. Deal of Georgia.

H.R. 742: Ms. Majette and Ms. Herseth.

H.R. 792: Mr. Goode and Mr. McCotter.

H.R. 814: Mr. Clyburn.

H.R. 832: Mr. Oberstar, Mr. Hoyer, and Mrs. McCarthy of New York.

H.R. 1105: Mr. Dingell.

H.R. 1231: Mr. Chocola and Mr. Issa.

H.R. 1329: Mr. Nethercutt.

H.R. 1430: Ms. Roybal-Allard.

H.R. 1563: Mr. Pastor, Mr. Crowley, and Mr. Rangel.

H.R. 1713: Ms. Majette.

H.R. 1780: Mr. Sessions.

H.R. 1958: Mr. English, Mr. Berman, Mr. Rangel, Mr. Weiner, Ms. Watson, and Mr. Farr.

H.R. 2141: Ms. DeLauro, Mrs. Maloney, and Mr. Van Hollen.

H.R. 2262: Mr. Lampson.

H.R. 2265: Mr. Carson of Oklahoma and Mr. Brady of Texas.

H.R. 2413: Mr. LaHood.

H.R. 2442: Mr. Clyburn.

H.R. 2680: Mr. Baker, Mr. Bonner, Mrs. Bono, Mr. Deal of Georgia, Mr. Everett, Mr. Gingrey, Mr. Hayworth, Mr. Hyde, Mr. Ney, Mrs. Northup, Mr. Walsh, Mr. Wolf, Ms. Harris, Mrs. Johnson of Connecticut, Mr. McCrery, Mr. Ramstad, Ms. Dunn, Mr. Brady of Texas, Mr. Ryan of Wisconsin, Mr. Isakson, and Ms. Ros-Lehtinen.

H.R. 2852: Mr. Cox.

H.R. 2967: Mr. Simmons.

H.R. 3193: Mrs. Biggert and Ms. Herseth.

H.R. 3420: Mr. Lampson.

H.R. 3438: Mr. Lewis of California, Mr. Chandler, Mr. Mario Diaz-Balart of Florida, and Mr. Meeks of New York.

H.R. 3634: Mrs. Jones of Ohio.

H.R. 3729: Mr. Strickland, Mr. Duncan, Mr. Kucinich, Ms. Eddie Bernice Johnson of Texas, Mr. Doyle, Mr. Sullivan, Mr. Olver, Mr. Conyers, Mr. Pombo, and Mr. Farr.

H.R. 3774: Mr. Holt.

H.R. 3858: Mr. Visclosky.

H.R. 3947: Mr. Bradley of New Hampshire.

H.R. 3952: Mr. Thornberry.

H.R. 3956: Mr. Crowley.

H.R. 3965: Ms. Berkley.

H.R. 4035: Mr. Van Hollen.

H.R. 4067: Ms. Carson of Indiana and Mrs. Maloney.

H.R. 4094: Mrs. McCarthy of New York and Mr. Filner.

H.R. 4113: Mr. Ney.

H.R. 4147: Mrs. Lowey.

H.R. 4214: Mr. Andrews.

H.R. 4256: Mr. Filner.

H.R. 4261: Ms. Majette.

H.R. 4262: Mr. George Miller of California and Ms. Kilpatrick.

H.R. 4264: Mr. Kolbe, Mr. Rangel, and Mr. Moran of Virginia.

H.R. 4343: Mr. Sessions.

H.R. 4413: Mr. Owens.

H.R. 4420: Mr. Rogers of Michigan, Mr. Cole, Mr. Gary G. Miller of California, Mr. Mario Diaz-Balart of Florida, Mr. Pombo, Mr. Wamp, Mr. McIntyre, Mr. Terry, Mr. Gingrey, and Mr. LaHood.

H.R. 4433: Mrs. Napolitano, Mr. Houghton, and Mr. Boehlert.

H.R. 4498: Mr. Emanuel.

H.R. 4547: Mr. Chabot, Mr. Jenkins, Mr. Cannon, Mr. Bachus, Ms. Hart, Mr. Pence, Mr. Hyde, Mr. Keller, Mrs. Blackburn, Mr. Forbes, Mr. Goodlatte, Mr. Hostettler, and Mr. King of Iowa.

H.R. 4578: Mr. Rush, Mr. Manzullo, and Mr. Moran of Virginia.

H.R. 4585: Ms. Watson, Mr. Hinojosa, Mr. Engel, and Mrs. Lowey.

H.R. 4597: Mr. Andrews.

H.R. 4610: Mr. Cunningham, Mr. Kucinich, and Mr. Cardin.

H.R. 4616: Ms. Norton, Mrs. Lowey, and Mr. Wexler.

H.R. 4634: Ms. Hart, Mr. Ney, and Mr. Manzullo.

H.R. 4682: Mrs. Jones of Ohio, Mr. Etheridge, and Mr. Visclosky.

H.R. 4706: Mr. Cardoza and Mr. Kildee.

H.R. 4730: Mr. Hall and Mr. LaHood.

H.R. 4740: Mr. Olver.

H.R. 4772: Ms. Velázquez.

H.R. 4776: Mr. Michaud and Ms. Woosley.

H.R. 4793: Ms. McCarthy of Missouri.

H.R. 4875: Mr. Langevin.

H.R. 4888: Mr. Filner, Mr. Van Hollen, Ms. Woolsey, Mr. Platts, Mr. Green of Texas, Mr. George Miller of California, Mr. Waxman, and Mr. Case.

H.R. 4898: Mr. McDermott, Ms. Roybal-Allard, Mr. Green of Texas, and Mr. Doggett.

H.R. 4924: Mr. Young of Florida, Mr. Putnam, Mr. Weldon of Florida, Mr. Mario Diaz-Balart of Florida, Mr. Miller of Florida, and Mr. Shaw.

H.R. 4936: Mr. Gordon, Ms. Schakowsky, Mr. Edwards, Mr. Snyder, Mr. Davis of Alabama, Mr. Lampson, Mr. Ryan of Ohio, Mr. Meehan, Mr. Sandlin, Mr. Hoeffel, and Mr. Larsen of Washington.

H.R. 4967: Mr. Holt, Mr. McDermott, Mr. Lantos, Ms. DeLauro, Mr. Frost, Mr. Hoeffel, Mr. Wexler, Mr. Kucinich, Mr. Owens, and Mr. King of New York.

H.R. 4985: Mr. Bass.

H.R. 4994: Mrs. Maloney, Mr. Larson of Connecticut, and Mrs. Capps.

H.R. 5022: Mr. Ehlers.

H.R. 5071: Mr. Visclosky, Mr. Hinchey, Mr. Rogers of Alabama, Mr. Crowley, Mr. Andrews, Mr. McNulty, Mr. Cunningham, Ms. Berkley, and Mr. McGovern.

H.R. 5079: Mr. Bachus.

H.R. 5080: Mr. Bachus.

H.R. 5081: Mr. Osborne.

H.R. 5094: Mr. Weldon of Florida.

H.R. 5100: Ms. Jackson-Lee of Texas, Mr. Capuano, Mr. Olver, Mr. Moran of Virginia, Mr. Blumenauer, Mrs. Bono, and Mr. Clay.

H.R. 5130: Mr. Etheridge.

H.R. 5132: Mr. Serrano and Mr. Weiner.

H.R. 5135: Mr. Gilchrest, Mrs. Christensen, Mr. Cardoza, and Mr. Scott of Georgia.

H.R. 5144: Mr. Strickland, Ms. Majette, Mr. Bachus, and Mr. Pallone.

H.R. 5147: Mr. Ose, Mrs. Capps, Ms. Eshoo, Ms. Millender-McDonald, Mr. Farr, Mr. Schiff, Mr. Berman, Mr. Rohrabacher, Mr. Pombo, Mr. Calvert, Mr. Baca, Mr. Filner, Mr. Doolittle, Mrs. Napolitano, Ms. Lofgren, Mrs. Tauscher, Mr. Sherman, Ms. Roybal-Allard, Mr. Hunter, Ms. Waters, Mrs. Bono, Mr. McKeon, Ms. Solis, Mr. Radanovich, Ms. Pelosi, Mr. Honda, Mr. Becerra, Ms. Lee, Mr. Gary G. Miller of California, Mr. Matsui, Mrs. Davis of California, Mr. Cunningham, Mr. Nunes, Ms. Woolsey, Mr. Stark, Mr. Issa, Ms. Harman, Mr. Thompson of California, Mr. Cox, Mr. Royce, Mr. Dreier, Mr. George Miller of California, Ms. Loretta Sanchez of California, Mr. Cardoza, Mr. Dooley of California, Mr. Herger, Mr. Gallegly, and Mr. Thomas.

H.R. 5150: Mr. Simmons, Mr. Hoeffel, Mrs. McCarthy of New York, Mr. Case, Mr. Moore, Mr. Castle, Ms. Jackson-Lee of Texas, Mr. Owens, Mr. Andrews, and Mr. Markey.

H.J. Res. 102: Mr. Abercrombie, Mr. Case, and Mr. McCotter.

H.J. Res. 106: Mr. Aderholt, Mr. Alexander, Mr. Baker, Mr. Barrett of South Carolina, Mr. Bilirakis, Mr. Blunt, Mr. Brady of Texas, Mr. Burns, Mr. Burton of Indiana, Mr. Carter, Mrs. Cubin, Mr. Davis of Tennessee, Mr. DeMint, Mr. Everett, Mr. Forbes, Mr. Garrett of New Jersey, Mr. Goode, Mr. Gutknecht, Mr. Hayworth, Mr. Istook, Mr. King of Iowa, Mr. Manzullo, Mr. Neugebauer, Mr. Nussle, Mr. Oxley, Mr. Pence, Mr. Peterson of Pennsylvania, Mr. Pitts, Mr. Sessions, Mr. Shuster, Mr. Smith of Texas, Mr. Stearns, Mr. Sullivan, Mr. Taylor of Mississippi, Mr. Toomey, Mr. Vitter, Mr. Weldon of Florida, Mr. Wicker, Mr. Akin, Mr. Ballenger, Mr. Bartlett of Maryland, Mr. Beauprez, Mrs. Blackburn, Mr. Boozman, Mr. Brown of South Carolina, Mr. Burgess, Mr. Calvert, Mr. Chocola, Mr. Crane, Mr. Feeney, Mr. Franks of Arizona, Mr. Gingrey, Mr. Hayes, Mr. Hefley, Mr. Hoekstra, Mr. Hunter, Mr. Jones of North Carolina, Mr. Kennedy of Minnesota, Mr. KINGSTON, Mr. MARSHALL, Mr. GARY G. MILLER of California, Mrs. MYRICK, Mr. OSBORNE, Mr. RADANOVICH, Mr. ROGERS of Alabama, Mr. RYUN of Kansas, Mr. SCHROCK, Mr. SHADEGG, Mr. SOUDER, Mr. TANCREDO, Mr. TIAHRT, Mr. WHITFIELD, Mr. WILSON of South Carolina, Mr. DELAY, Mr. BISHOP of Georgia, and Mr. MCKEON.

H. Con. Res. 137: Mr. ETHERIDGE.

H. Con. Res. 461: Mr. LEWIS of California, Mr. MCCOTTER, and Mr. SCOTT of Georgia.

H. Con. Res. 496: Mr. WEXLER, Mr. ETHERIDGE, Mr. CROWLEY, Ms. CORRINE BROWN of Florida, and Mr. RAHALL.

H. Res. 570: Mr. WEXLER and Ms. ROS-LEHTINEN.

H. Res. 737: Ms. LEE, Mr. MCCOTTER, Mr. SNYDER, and Mr. WEXLER.

H. Res. 758: Mr. DELAHUNT and Mr. OLVER.

H. Res. 759: Mr. CALVERT.

H. Res. 782: Mrs. NAPOLITANO, Ms. JACKSON-LEE of Texas, Mr. PAYNE, Mr. BERMAN, Mr. KIND, Mr. SNYDER, Mr. EMANUEL, Ms. LEE, Ms. MCCARTHY of Missouri, Mr. LANTOS, Mr. NADLER, Mr. THOMPSON of California, Mr. OLVER, Mr. ENGEL, Mr. RYAN of Ohio, Mr. INSLEE, Mr. GRIJALVA, Ms. MILLENDER-MCDONALD, and Mr. PALLONE.

H. Res. 784: Mr. MCCOTTER.

H. Res. 799: Mr. SHIMKUS and Mr. SNYDER.

EXTENSIONS OF REMARKS

CELEBRATING THE LIFE OF BIRDELLA STORMENT

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. SHIMKUS. Mr. Speaker, I rise today to pay special tribute to the life of Birdella Storment, known as "Birdie" to those of us who knew and respected her.

"Birdie" was born on April 22, 1912 in Weston, Illinois, the daughter of Edgar and Kathryn. She married Eugene Lester Storment on December 25, 1936 in Peoria, Illinois.

Birdie's life consisted of her love of family, friends, her church, and her country. She was an active member of the New Bethel Presbyterian Church and chaired the Presbyterian Women's Club.

She was a lifelong member of the Republican Party, a precinct committeeman in Stevenson Township for more than 50 years, a county chairwoman, and the President of the Salem Women's Republican Club.

Her civic contributions were secondary only to her devotion to her family. She and Eugene were the parents of Nita Rae Wadley and Larry Storment. They have seven grandchildren, eight great grandchildren, and five great-great grandchildren.

At her passing on September 9 of this year, Birdie was recognized as one of the people who helped to pioneer the involvement of women in today's political arena. More important though, she was recognized as a beloved mother, grandmother and friend to all who had the privilege to know her.

My condolences go to her family and friends. May God bless Birdie and Eugene and may God continue to bless this country that they loved so much.

TRIBUTE TO DANIEL CRAIG MYERS

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. ANDREWS. Mr. Speaker, I rise today in honor of Daniel Craig Myers, a young man who embodies the American principles of hard work, dedication to one's family, and service to one's country. He exudes positive energy and spirit, even through troubled times, which radiate to friends, family, community, and country.

Daniel Myers has been exceptionally active in his local high school: leading his fellow students as part of the student government; participating in numerous school activities; and receiving numerous awards for brilliant academic success. Daniel graduated from Fowlerville High School on June 6, 2004 with honors as Magna Cum Laude.

Daniel's service to his community as part of the Order of DeMolay has been tremendous. He has been involved in his state's DeMolay since 1997, and has held numerous offices. This past August, Daniel was elected as the 69th State Master Councilor of Michigan, the highest elected position possible in the state's DeMolay. Elected by his peers, the State Master Councilor is responsible for representing hundreds of members throughout the state, and overseeing all local chapter activities.

Mr. Speaker, it is a great privilege to honor Daniel C. Myers today for his dedication and leadership within his community. Daniel is an inspiring role model for the young people of this country, and I wish him the best in his future endeavors.

IN HONOR OF THE GLENDALE ASSOCIATION FOR THE RETARDED'S DEDICATION TO THE GLENDALE COMMUNITY

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. SCHIFF. Mr. Speaker, I rise today to congratulate the Glendale Association for the Retarded for 50 years of outstanding service to the Glendale community.

Since 1954, the Glendale Association for the Retarded has provided exceptional services to persons with developmental disabilities. Over the years, GAR has met the changing needs of men and women from the time they were in grade school to their retirement years. The progress that individuals have made as a result of their time spent with GAR is incredible. Some of those who have participated in GAR's programs as youngsters now live in group homes, have jobs, and participate in community activities.

Today, the Association serves 63 adults with vocational training, job placement, adult living skills instruction, recreational activities, residential placement, and a community integration program. Individuals are integrated into the community by competitive employment placements. Work opportunities are offered in the areas of mailings, assembly, recycling, collating, and packaging or by work crews at business sites. GAR provides a comfortable, secure, and loving atmosphere while helping residents develop living skills that will aid them to become more productive and independent.

I ask all Members of Congress to join me today in congratulating the Glendale Association for the Retarded on 50 years of exemplary public service, and for its immense commitment to the empowerment and success of the City of Glendale and its residents.

HONORING CECELIA CUNNINGHAM AND JANET E. LIEBERMAN FOR LIFELONG COMMITMENT TO EDUCATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mrs. MALONEY. Mr. Speaker, I rise today to congratulate Drs. Cecelia Cunningham and Janet E. Lieberman who tonight will receive the prestigious Harold W. McGraw Jr. Prize in Education. Dr. Cunningham founded the Middle College National Consortium at LaGuardia Community College. Dr. Lieberman founded the Middle College High School and co-founded the Early College High School at LaGuardia Community College.

Along with Drs. Cunningham and Lieberman, Robert Moses and Geoffrey Canada are being honored during an awards ceremony at the New York Public Library. The four have been chosen to receive the prestigious 17th annual award for dedicating themselves to closing the achievement gap. These individuals have worked tirelessly and creatively to give children with few advantages the opportunity to achieve, both academically and ultimately professionally.

Dr. Cunningham has spent her entire career educating children and firmly believes all children should be given the opportunity to succeed. This belief is what brought her more than twenty years ago to Middle College High School, an innovative approach to educating at risk students, where Dr. Cunningham served as principal. Out of her work with Middle College High School, Dr. Cunningham founded the Middle College National Consortium to provide professional development for secondary and postsecondary educators who work with underserved students.

Dr. Lieberman believes that you should never underestimate the power of an idea. This belief, combined with the faith that all students can achieve, led her to originate new solutions to old problems, resulting in expanded academic opportunities for minority and underprivileged students. Thirty years ago, Dr. Lieberman designed the first public high school college collaborative model to help underserved students graduate from high school and go to college. Her vision of placing a high school on a college campus with smaller classes, committed teachers, intensive counseling and high expectations would keep students in school and encourage them to go on to college. Dr. Lieberman has proved that students who are placed in a college environment can achieve academically.

I salute Drs. Cunningham and Lieberman and the other honorees for their remarkable and untiring contributions to education. America's youth will reap the rewards of their selfless dedication. They are truly gifted educators

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

who have made a tremendous difference in the lives of so many.

JIM WHAM'S 9TH ANNUAL MEMORIAL DAY SERVICE ADDRESS

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. SHIMKUS. Mr. Speaker, I rise today to submit the 9th Annual Memorial Day Service Address by Jim Wham of Centralia, IL. The address was given by Mr. Wham on May 31, 2004 at 10 a.m.

As usual, readers will find an address filled with the hopes and challenges of our Nation's veterans. Jim Wham's love of his country is clear on each page and in each line of his address.

We are grateful to him for his continued service to his country and for the inspiration he provides in reminding us that freedom is never free.

NINTH ANNUAL MEMORIAL DAY SERVICE, BROWNSTOWN VFW POST 9770, BROWNSTOWN CENTRAL PARK

The greatest crusade for freedom against tyranny in the history of the World was commemorated last Saturday at the dedication of the National World War II Memorial. It will stand forever between the Washington and Lincoln monuments. The costs of that crusade was monumental—400,000 Americans were killed.

Six days from now the 60th anniversary of the Normandy Invasion will command worldwide attention—the greatest invasion of all time had to be made and succeed if the free world was to win the war.

Today in Brownstown and in thousands of towns across the country each Memorial Day is a day of memories. Each Memorial Day is to honor and pay tribute to all Americans who fought and died for their country in the cause of peace and freedom in every war from the Revolution to the present day. Every one of their deaths are special beyond compare.

As Lincoln said at Gettysburg, it is for us, the living "to highly resolve that these dead shall not have died in vain."

Each Memorial Day is also a day to look to the lessons of the past to meet the dangers of the future. During my lifetime, the Armed Forces of the United States have been engaged throughout the world in eight wars: World War I, World War II, Korea, Vietnam, Desert Storm, the Balkans, Afghanistan and now Iraq.

In all of these wars Americans fought against the forces of tyranny and now against the new and vicious barbarians who cut off the heads of living men and crash planes full of innocent people into buildings full of innocent people.

The fanatical terrorists, suicide bombers, and their manipulators who are fueled by a hatred for every American. Fanatical kamikazes with no concern for the miracle of life—even their own. Full of diabolical cunning—cut from the same cloth as those monsters of history—spawned by the likes of Hitler and his gang of criminal degenerates.

Nine-eleven was just the beginning. Today we confront that same brand of terrorist in Iraq. And the terrorists we destroy in Iraq will never assault innocent people. A terrorist killed in Iraq will kill no one over here or anywhere else. But yet, we still hear those ominous words of Plato: "That only the dead have seen the end of war."

Is the human race to be forever victimized and dominated by demented and depraved tyrants and terrorists? Is there no end in sight? The forces of evil won't go away. They never have and they never will. So, what are the forces of good to do about it? Plenty—yet, many self-proclaimed good ones never have learned that you cannot negotiate with mad dogs, terrorists, or tyrants of any stripe. Never have they learned that the good cannot wait for the bad to quit being bad. And quitting the fight in mid-stream is the road to disaster. We cannot quit—even if we wanted to.

The United Nations never learned the lesson from the League of Nations which sat idly by while Hitler overran Europe and for 4 long years the whole world was engulfed in devastation and bloodshed to a depth never before seen in the history of the world.

And now, 60 years later, a new cult of second-guessers of our national fight against tyranny and terrorism has arisen—there are those who seek to sow doubt and discord among Americans, and there are those who have never learned the lesson that they do not really support the troops while publicly condemning and disparaging their Commander. Such only gives encouragement to the enemy. What happened to the doctrine of World War II that politics stops at the water's edge? The talkers and the shouters on national television have ignored that vital doctrine. Every day they criticize every decision of those who are trying their best to lead and protect the Nation in an all-out war against tyrants and terrorists that would destroy the American spirit, as well as lives.

If the Commander in Chief moves forward, the second-guessers say he should have stopped. If the Commander in Chief stops, they say he should have moved forward—or maybe even backward. What would these talkers do if the responsibility to act was theirs? They speak from the sanctuary of nonresponsibility.

Legitimate differences by knowledgeable persons are to be brought to the Commander in person and not by carping critics who sit on the sidelines and jeer. Sometimes I wonder whose side they are on.

There was the same brand of criticism leveled at Abraham Lincoln, the Commander in Chief in that war that preserved the Nation and destroyed the malignancy of slavery. But Lincoln, unshaken in the midst of that war, at Gettysburg summed up the duty of Americans through all ages: ". . . it is for us the living . . . to be . . . dedicated to the great task remaining before us . . ."

The power of Lincoln is felt on every Memorial Day. And he left us this as he concluded his second inaugural address to the Nation at war a month before he was shot from behind by a terrorist named Booth. And these few simple words are vital to all Americans today: ". . . let us strive on to finish the work we've begun."

And that work is always at hand. Each generation must fulfill the destiny of this land of liberty which is all wound up in the cause of peace and freedom. Never can there be peace and freedom without conquering the barbarians of the world—the enemies of peace and freedom.

I have with me today a highly significant painting and I want to give it to the Veterans of Foreign Wars Post 9770 of Brownstown. I have done the same at other veteran organization ceremonies. I do this because of the message it conveys.

It is a picture of a wall, as you can see. It is entitled "reflections" and the reflections are of combat soldiers from a wall of names—the names of all Vietnam veterans who fell in battle. But, that picture tells the story of all American veterans—not just the Vietnam veterans—it tells the story of all American veterans who have made the supreme sacrifice for their country.

Soldiers who did all they could and now pass on to us the unfinished work—the continuing responsibility to preserve this country and its meaning to the world.

Those soldiers of Vietnam in that picture symbolize the passing of the torch—the torch of duty, honor, country—to the living from the dead of every war.

I hope you will hang this picture on the wall of the post because it tells the story of the American veteran of all the wars—veterans who never returned—veterans who pass the torch to those of us who did return—the torch to carry on the fight of good against evil—the fight for peace and freedom against tyranny and terror. The torch that must be kept lit and carried forward by every generation for as long as the star-spangled banner shall wave.

What a shameful epitaph any generation of Americans would write about themselves if they let down these heroes who died to preserve this land and its destiny.

Nations have come and gone. Great empires and nations have eventually ended up on the ash heap of history. They had their day in the sun, and then almost imperceptibly, the twilight creeps in, and before the generations realize it, the sun is gone and that empire and nation has receded back into the darkness of oblivion. This must never happen to the United States of America.

It would be a monumental tragedy for us in the grip of multiple frustrations of today's world to tolerate for an instant a retreat back from the confrontation by free men against terror and tyranny. Such a lack of national resolve would be the rankest of insults to every man who gave his life so that the Nation might live in honor and achieve its destiny of leading the world to freedom.

Television land is saturated with apologizers and cynics. But thank God for the inspired writers of the past and their words of inspiration and appreciation for their native land and the heroes we honor today.

Here is a composite of their great words. We have heard them before, but it is always good to hear them again:

"We sit here in this promised land, but t'was they that won it sword in hand"

"By the rude bridge which arched the flood . . . they fired the shot heard 'round the world . . ."

"They had a rendezvous with death at some disputed barricade on some scarred slope of a battered hill at midnight in some flaming town . . ."

And now: "On fame's eternal camping ground their silent tents are spread and glory guards with silent round the bivouac of the dead . . ."

"Oh wave, banner, wave above each hero's grave . . ."

"In Flanders Field where poppies grow . . ."

And: "From these honored dead we take increased devotion to that cause for which they gave their last full measure of devotion . . ."

"There's a graveyard near the White House where the Unknown Soldier lies"

And then it concludes with this famous line:

"I am the unknown soldier and maybe I died in vain, but if I were alive and my country called, I'd do it all again."—for my country

"My country 'tis of thee, sweet land of liberty . . . long may our land be bright with freedom's holy light. Protect us by Thy might, great God, our King."

My friends, since I came home from World War II I have spoken at many Memorial Day services like this one. And always echoing from the sounding of taps among the crosses of this Nation's heroes is the hope that when this Nation has lived 1,000 years, it can be said of each generation that the Stars and Stripes went forward forever and no discordant bugle ever dared to sound retreat.

Jim Wham is Senior Partner of the law firm of Wham & Wham Lawyers, Centralia, Illinois, which firm has been in existence 115 years and Jim Wham is in his 56th year of active law practice in the Courts of Southern Illinois.

Born in Centralia October 10, 1918, Veteran of World War II, Major in Army Air Corps, served in England, Algeria, Tunisia, Sicily and Italy. Lifetime member of the American Legion. Member of the Veterans of Foreign Wars, Amvets and the Forty and Eight.

Member of the American College of Trial Lawyers. Served as Judge of the Illinois Court of Claims and as Assistant Attorney General, State of Illinois. Received the 1998 Tradition of Excellence Award from the Illinois State Bar Association.

Elected to the 2004 Class of Laureates, Academy of Illinois Lawyers. The Academy was founded in 1999 to recognize Illinois lawyers who personify the greatness of the legal profession.

Adult Sunday school teacher for 45 years, United Methodist Church, Centralia.

Married to Phyllis Wham 61 years. Two daughters, seven grandchildren and two great-grandchildren.

[From the ISBA Bar News and Illinois Courts Bulletin, Feb. 2004]

JAMES WHAM WAS INSPIRATION FOR BIRTH OF LAUREATE IDEA

(By Stephen Anderson)

"This honor you have given me today means more to me than any I have ever received, because it comes from lawyers and judges—and I never met one I didn't like!"

Those words still ring in the ears of many ISBA members who attended the Annual Meeting in St. Louis in 1998. They were in the response of James B. Wham of Centralia as recipient of the General Practice Section Tradition of Excellence Award.

"This is still the greatest profession of them all, because it always deals with rights and duties of man," he continued. That became the spark that kindled formation of an Academy of Illinois Lawyers to recognize our state's icons of lawyering.

A member of the Academy's 2004 class of Laureates, Wham is a partner in Wham & Wham. He graduated in 1946 from the University of Illinois College of Law after service as an Army Air Corps major in Europe and Africa during World War II.

His 58-year legal career includes having been a judge of the Court of Claims for eight years, an assistant attorney general for eight years, and a member of the Supreme Court Committee on Jury Instructions.

A lifelong Republican and frequent speaker at civic and patriotic events, he ran for election in 1990 as the Jim Wham Party for Congress and the Flag. He ran in the first Appellate Court election after judicial reform in 1964 but lost in the Lyndon Johnson landslide.

Wham is a Fellow of the American College of Trial Lawyers and the American Bar Foundation, and a member of the International Society of Barristers.

In his Laureate nomination letter, 4th Circuit Judge Patrick J. Hitpas said that "Jim Wham enjoys being a lawyer more than anybody I know. He exemplifies everything good about lawyers and the legal profession."

Wham's 1998 speech to the ISBA in St. Louis concluded, "The greatest epitaph of a lawyer is this: He never quit; he just wore out and died, doing something for somebody else." An active trial lawyer at age 85, he shows no signs of wearing out.

IN HONOR OF HENRY MELLO

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. FARR. Mr. Speaker, my colleagues and I rise today in honor of a good friend and outstanding public servant, former California State Senator Henry Mello. Henry passed away on September 4, 2004, but will always be remembered for his dedication to the communities of the Central Coast. He will be greatly missed by his family and friends, but his legacy will live on in many ways.

The son of Portuguese immigrants, Henry was born in 1924 in the rural community of Watsonville, where his mother's family had been farming apples since 1874. He had an eye for business and left Hartnell College after one year to work with his family on the apple farms. At the age of 29 Henry founded John C. Mello and Sons Cold Storage and ran it for twenty years before selling it to Del Mar Food Products in 1973. By this time Henry had found his true calling: public service.

In 1966 Henry officially began his political career with his election to the Santa Cruz County Board of Supervisors. He was not afraid of politically charged issues, and in 1972 composed a motion disapproving the United States' involvement in the Vietnam War. Because of his dedication to his constituents and his commitment to the Monterey Bay area, he was elected to the California State Assembly, serving from 1976 to 1980. Henry was then elected to the State Senate, rising quickly to prominent positions, including the majority whip from 1981 to 1992 and the majority leader from 1992 until he left the legislature in 1996.

While in the legislature, Senator Mello was an ardent supporter of many vital segments of our population, especially senior citizens. Senator Mello authored legislation to enact the first programs focusing on Alzheimer's-Respite Care, Adult Day Health Care and the Multipurpose Senior Services Programs. He founded the Senior Legislature and passed legislation to combat elder abuse. In the twenty years that Senator Mello served in the legislature, he authored more than 120 bills on aging and long-term care that have become the law of the land in California.

However, Henry's service and advocacy extended far beyond just one subject. He was also a strong supporter of our ocean's health, authoring legislation to protect fisheries, working to keep off-shore oil away from California's coastline, and petitioning for the Monterey Bay National Marine Sanctuary. He has created many lasting legacies on the Central Coast, including Wilder Ranch and Grey Whale State Parks, which are enjoyed by thousands of people each year. He also supported the creation of the Center for Agroecology and Sustainable Food Systems at the University of California, Santa Cruz, which has made tremendous strides in organic and sustainable farming practices worldwide.

When Fort Ord was slated to be closed by the U.S. Army, Senator Mello introduced legislation to create the Fort Ord Reuse Authority to help the state and the region handle the largest base closure in U.S. history. He was also proactive in transferring this area into civilian use, and helped create the California State University, Monterey Bay on the former base. He was a co-author of the Mello-Roos Act of 1982, which provided funding for education and other public projects through tax-exempt bonds. Following the Loma Prieta earthquake, Henry secured a temporary sales tax increase to help the devastated communities of the Central Coast, a measure which proved to be invaluable to the local governments in their efforts to rebuild. In his hometown, he is perhaps best known to the general public for helping to raise funds to rebuild the performing arts center in Watsonville after it was destroyed in the earthquake. It was opened in 1994 as the Henry J. Mello Center for the Performing Arts, which was particularly fitting because Senator Mello was known for contributing his musical talents on the piano for many state and local functions.

Mr. Speaker, Henry Mello was the consummate public servant and master of the art of compromise. His legacy to the State of California is felt through the landmark legislation that he passed as well as through those whose lives he touched personally. Many of us in the California Congressional Delegation worked closely with Henry throughout our public service careers, and we all wish to extend our deepest sympathies to his wife, Helen, and his sons Stephen, John, Michael and Timothy.

IN MEMORY OF W. HARRINGTON SMITH, JR.

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. WOLF. Mr. Speaker, I would like to call to the attention of the House the passing of W. Harrington Smith, Jr. A longtime public servant, Mr. Smith spent 18 years on the Frederick County Board of Supervisors. I had the pleasure of working with Mr. Smith during this time as he represented the Shawnee district.

It was an honor to have known Harrington Smith, who worked hard and impacted many lives during his service in Frederick County, Virginia. My condolences go out to his family, friends, and colleagues as they mourn the loss of this great man. I would also like to share a recent article from The Winchester Star which commemorates his life and work.

[From The Winchester Star, Aug. 10, 2004]

FREDERICK COUNTY SUPERVISOR HARRINGTON SMITH DIES

(By Laura Arenschield)

One of Frederick County's "old buddies" died on Monday afternoon, leaving a trail of jokes, doting friends, and "Bone-a-lopes" behind him.

W. Harrington Smith Jr., 78, who spent 18 years on the Frederick County Board of Supervisors, died in Winchester Medical Center two weeks after undergoing surgery for a stomach aneurysm.

Smith served on the board from 1988 until his death, representing the Shawnee District. He was known for his "Bone-a-lopes"—trips around the area to talk with the people he represented.

He went to find their problems, and to fix them, and to make people feel comfortable with a grin, a pat on the back, and a "hey, old buddy, hey old friend" for a greeting.

To hear his friends and family tell it, Smith was a friendly, outgoing man who never ran out of time for the people who voted him into office.

"If somebody needed help with a traffic light or a pothole or barking dogs, he would go out and visit them," his son, Harry Smith, said on Monday afternoon. "He would be able to get things done for people."

Harry said his father died "just peacefully, and calmly, and in his own way."

With a nostalgic laugh, he told of his father's intricate jokes:

"They are so long and complex that I—unfortunately, one of the things I had intended to do and never was able to do was to memorize those jokes. And I wish that I had."

In addition to a list of complex jokes only Harrington could remember, the veteran supervisor left a family that included his wife, Barbara Armistead Smith; sons Harry and Michael Smith and Drury Armistead; daughter Beth; and nine grandchildren ranging in age from 5 to 23.

"He had a phenomenal memory for jokes," Dick Kern, an old friend and Harrington's former employer, said on Monday. "His favorite saying was 'God love you.' And he said that all the time."

Kern stifled a chuckle before describing a man fond of parties and a good time.

"He loved a good rum drink," Kern said. "He enjoyed drinking and relaxing and I did, too. So we were great partners."

Party animal or not, Harrington "Smitty" Smith took care of his constituents, Kern said.

"If anybody called him on a road or a fence or any kind of problem, he made it a point to go out and check it himself and take care of the problem," said Kern, a former Winchester City Council member. "And I guess that was another thing I liked about him . . . he was honest and you could rely on him, and you knew he would be there.

"He was a heck of a guy."

Harrington's wife, Barbara, said her husband would do just about anything for just about anybody.

In fact, that's how they met.

"Harrington was part of a local rescue squad bringing a psychiatric patient to the old Cork Street hospital emergency room," she said. "And the patient jumped out the back towards these two women and Harrington tackled him, and the guy wound around and kicked him in the neck."

Barbara had just come to the hospital as a physical therapist. Harrington became her patient.

"Yeah, I cured him, so he married me," she said with a laugh. "At the time, he was just so outstandingly good-looking. And everybody liked him because he was such a good listener and he really, really, really loved people. He really did."

Harry, who served on the Winchester City Council, said he always was amazed at how long his father stayed in public service.

"I wonder what impact he might have had if he had started in elected office, say in his 30s or 40s instead of his 60s," he said. "I think it was always centered around and based around his love of this community."

Harrington Smith the supervisor had a persona most people couldn't figure out.

During his time in office, he switched from Republican to Democrat before becoming an independent.

"I was always surprised by his votes," former Supervisor Sidney "Sid" Reyes said. "I never knew which way he was going to come."

"But he was a gentleman. The ultimate gentleman, I don't think Harrington Smith had an enemy or anyone who spoke ill of him."

The man the public didn't get to see was a little less of an enigma, Harry said.

"If he wasn't out helping constituents, he was probably watching television, sitting on a couch, eating a grilled-cheese sandwich, with his feet propped up, his arm propped up on a pillow, and the cat in his lap," Harry said. "He was a channel flicker. Anywhere from a sports to movies to the History Channel. And it had to be turned up very loud."

Like the volume on him TV set, whenever Harrington had an idea, he put it out with force—especially when it came to state government controlling local decisions.

"You could always count on Harrington with a speech any time the subject came up," Board of Supervisors Chairman Richard C. Shickle said. "He just stated his opinion and didn't pull any punches. . . . You didn't have any trouble understanding Harrington or his positions. He was just blunt."

Frederick County Commonwealth's Attorney Lawrence R. Ambrogi called Harrington Smith "outgoing," "personable," and "unique."

"He was one-of-a-kind, Ambrogi said. "He was 78, he probably put in 200 years of life in that time."

"He sang the national anthem at different political functions, he was an announcer at the (stock car) racetrack.

"It's just sad because he'll never be replaced."

Still, Shawnee residents can't go without representation on the Board of Supervisors.

Ambrogi said the board has 45 days to appoint Harrington's replacement because the next election is less than 120 days away.

Shickle and Ambrogi said the county needs time to grieve before worrying about that, though.

"I lost a friend," Shickle said. "And I think we'll mourn first."

15TH ANNIVERSARY OF RAPIDES HABITAT FOR HUMANITY

HON. DAVID VITTER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. VITTER. Mr. Speaker, I congratulate Rapides Habitat for Humanity on fifteen years of successful service in Rapides Parish, Louisiana.

I rise today to recognize Rapides Parish Habitat for Humanity on its fifteenth anniversary. Rapides Parish is blessed to have such a successful organization with so many dedicated workers and volunteers building a better future. I am proud to report that with the help of over 1,000 volunteers, sixty-seven houses have been built in the surrounding area with two under construction. Now, because of the work of these driven people, over 250 people have sturdy roofs over their heads.

The work of these volunteers led a little girl to exclaim with delight, "Now I can have a slumber party!" Families can now gather around a dining room table to celebrate the holidays, and children can sleep in warm beds rather than on the floor.

I come to the floor of the House of Representatives today to personally commend, honor and thank Rapides Parish Habitat for Humanity. I look forward to the continuous progress that will be made by these hard-working and passionate volunteers.

THANKING MICHAELS OF OREGON

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. OTTER. Mr. Speaker, I rise today to relate an inspiring story of support from the people of Idaho, from a community in my district, for our brave troops being deployed to Iraq.

On August 17, I had the opportunity to visit with some of my constituents at a business in the community of Meridian. The Michaels of Oregon plant in Meridian is a quality manufacturer of gun cleaners, holsters and related equipment for law enforcement personnel and other first responders.

During my tour, General Manufacturing Manager Brian Schroeder handed me a manila envelope. It turns out the employees knew I would be coming out to the plant, so they took up a collection and asked that I get the money in that envelope to the USO to help our troops in the Idaho National Guard's 116th Cavalry Brigade.

As I walked through the plant, I also met Michaels employee Sandra Zimmer, whose son had just returned from Kuwait, and Michelle Carskaddon, whose father was in Iraq. Everyone I met wanted me to pass on to our men and women in uniform just how proud they are of our troops and how proud they are to be Americans.

Let me tell you, I never had a more meaningful visit, and I was never prouder to be an Idahoan. But the thing is, the folks at Michaels are not unique. Meridian, Idaho—like communities all across America—is filled with individuals who care about each other, care about those who serve in our Armed Forces, and care about our country.

Mr. Speaker, it is my great honor and privilege to represent people like that here in the United States House of Representatives. Please join me in thanking the good people at Michaels of Oregon. They are to be commended for their citizenship, patriotism and generosity.

HONORING MRS. PEGI MILLER, LEGISLATIVE LIAISON REPRESENTATIVE

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Mrs. Pegi Miller, who will retire on October 1, 2004, after completing 20 years of Federal Service.

Mrs. Miller began her career in 1976 as a non-appropriated fund employee at the Bolling AFB Child Care Center, where she served as a Clerk/Receptionist until October 1984. She then moved to the Pentagon to work for the Secretary of the Air Force, Office of the General Counsel, for a short time. Mrs. Miller served next in the Office of the Air Force Civil Engineer until 1987, when she assumed her current duties as a Legislative Assistant in the Congressional Inquiries Division, Office of the Secretary of the Air Force, Legislative Liaison Directorate. In this capacity, Mrs. Miller performed superbly across a broad spectrum of Congressional issues, brilliantly and expertly assisting the Directorate in providing timely responses to tens of thousands of inquiries from Congress.

During her 17 years of work in the Office of Legislative Liaison, Mrs. Miller has provided dedicated and professional service to both the United States Senate and the House of Representatives. She has developed close working relationships with many Congressional offices, and her efforts have greatly enhanced Congressional understanding of Air Force issues. The distinctive accomplishments of Mrs. Pegi Miller culminate a distinguished career in the service of the Federal Government, and reflect great credit upon herself and the Department of the Air Force.

CONGRATULATING THE BLOOMSBURG FAIR ON ITS 150TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. KANJORKSKI. Mr. Speaker, for one week each year, the town of Bloomsburg in my district in Pennsylvania welcomes nearly 500,000 visitors to its annual fair. This year, the famous Bloomsburg Fair celebrates its 150th anniversary.

Originally envisioned as an agricultural fair, founder Dr. John Taggert convinced a few of his neighbors to join him in finding exhibitors of fruits, vegetables, and other farm products. Dr. John Ramsey, B.F. Hartman, Caleb Barton, William Neal, and I.W. Hartman joined Dr. Taggert in establishing the fair, for which they charged a ten cent admission fee, most of which was used to pay for police service.

Now expanded to an eight-day event spread out over more than 275 acres, the Bloomsburg Fair still retains much of its original agricultural atmosphere. It now features livestock shows, horse racing, arts and crafts, countless varieties of food, carnival rides, antique shows and an array of other attractions for adults and children alike.

Several years ago, I submitted the Bloomsburg Fair as an excellent example of America's rich cultural diversity for the Library of Congress's Local Legacies program. The Bloomsburg Fair is now permanently memorialized in the collection of the American Folklife Center.

Under the leadership of President Fred Trump, the Bloomsburg Fair Committee works year-round to ensure a successful annual fair. This year was especially challenging in light of the flooding caused by the remnants of Tropical Storm Ivan, which left several feet of water on the fairgrounds just days before its opening. Through the hard work of the Committee and volunteers, the Fair opened as scheduled this past Saturday.

Mr. Speaker, the Bloomsburg Fair represents the best of the American tradition of bringing people together to celebrate the gifts this Nation provides to all of us. I am proud to represent the town of Bloomsburg and the people who make the Bloomsburg Fair an annual tradition for families throughout the region.

PERSONAL EXPLANATION

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. KLECZKA. Mr. Speaker, on Thursday, September 23, I was not present for business on the floor of the House due to personal business and was thereby absent for votes on rollcall Nos. 466 through 472. Had I been present, I would have voted "yea" on rollcall No. 466, "no" on rollcall No. 467, "yea" on rollcall No. 468, "no" on rollcall No. 469, "no" on rollcall No. 470, "no" on rollcall No. 471, and "no" on rollcall No. 472.

RECOGNITION OF COLONEL PERRY L. BRIDGES, IN HONOR OF HIS RETIREMENT AND HIS INVALUABLE SERVICE TO OUR COUNTRY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. PALLONE. Mr. Speaker, I rise today to honor the career and achievements of an exemplary individual, Colonel Perry (Buddy) L. Bridges. Upon his retirement as the Chief of Staff for the U.S. Army Communications-Electronics Command (CECOM) and Fort Monmouth, he left behind a distinguished career, one through which he provided an invaluable service to his country.

Perry L. Bridges first entered the military in May of 1977, and throughout his 27 years of service, he held critical responsibilities through his work with the Army, Department of Defense, international organizations and foreign governments. His commitment to his work earned him the respect of all his colleagues and anyone who was fortunate enough to know him. Today, I would like to take a moment to look back and pay homage to a decorated career.

Colonel Bridges' outstanding career has included several high-ranking and significant command assignments. He served as Brigade Commander of the 1st Signal Brigade and he also served exceptionally as Battalion Commander of HHD, 56th Signal Battalion, 106th Signal Brigade.

From June 1999 to May of 2000, Colonel Bridges performed magnificently as the Commander of the Signal Regiment's Academy and Director of the Signal Regiment's School of Leadership and Professional Development; leading an academy of over 1000 students, instructors, and staff personnel who were responsible for 17 leader and professional development courses.

Through his tenure as Chief of Staff at the Communications-Electronics Command and Fort Monmouth, Colonel Bridges directed and coordinated a functional staff of 600 personnel and the resources of CECOM consisting of 10,000 military and civilian employees and an annual budget of approximately $2.2 billion. Colonel Bridges developed and implemented changes in training and organization that dramatically enhanced and strengthened Fort Monmouth's force protection system so that our enemies will find it more difficult and more costly to interfere with Fort Monmouth's efforts to maintain peace and stability.

As Chief of Staff at the Communications-Electronics Command, Colonel Bridges brought with him a stellar history of service and remarkable leadership ability, integrity and unsurpassed dedication to soldiers, civil servants, the Army and his country. His distinguished military career truly reflects great credit upon himself, the United States Army Material Command, the United States Army and our entire Nation.

A career as notable as this, should not go unrecognized. Colonel Bridges has received numerous awards of recognition throughout his career, which include a Legion of Merit, the Defense Meritorious Service Medal, the Meritorious Service Medal with 4 Oak Leaf Clusters, the Army Commendation Medal with 1 Oak Leaf Cluster, and the Army Achievement Medal, just to name a few.

Once again, Mr. Speaker, I would like to congratulate Colonel Bridges on a storied career and thank him for his vital service to this country. I wish him the best of luck in all his future endeavors.

PERSONAL EXPLANATION

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. ROGERS of Michigan. Mr. Speaker, on the legislative day of Thursday, September 23, 2004, the House had a vote on H.R. 1057. On House rollcall vote No. 468, I was unavoidably detained. Had I been present, I would have voted "yea."

CONGRESSIONAL CONFERENCE ON CIVIL EDUCATION

HON. DAVID WU

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

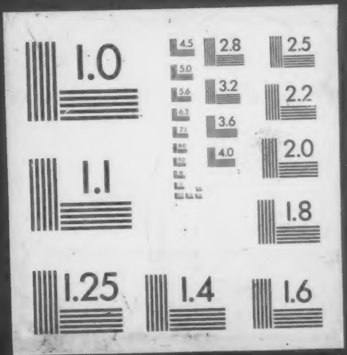
Mr. WU. Mr. Speaker, the Founders of this Nation understood that a free society must rely on the knowledge, skills, and virtue of its citizens and those serving in public office on their behalf. To enable our young people to be effective and responsible citizens we must do everything possible to ensure they receive an adequate civic education.

On September 20–22 of last year, the first annual Congressional Conference on Civic Education was launched. The conference was sponsored by the Alliance for Representative Democracy and co-hosted by the four leaders of the U.S. Congress.

One of the very important outcomes of the congressional conference was the establishment of state delegations that would return to the state to enact specific policies designed to restore the civic mission of our schools.

I would like to recognize, Marilyn Cover, Executive Director of Classroom Law Project, and Barbara Rost, Program Director, the facilitators of the Oregon delegation for their leadership in working to design an action plan to improve civic education in our state. These state action team activities include implementing Oregon's already strong and comprehensive State civic standards. Leaders from the Governor's office, State House and Senate, Department of Education, school districts, and local communities will plan for re-invigorating civic learning in Oregon.

Mr. Speaker, I look forward to the success of the Oregon civic education delegation and their participation this year at the second annual Congressional Conference on Civic Education on December 4–6 of this year.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